

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

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 The Pennsylvania House of :
 Representatives Judiciary :
 Committee Subcommittee on :
 Crime and Corrections :
 Hearing on Inmate Escapes :
 from SCI-Pittsburgh :
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Pages 1 through 112

Visitor's Room
 State Correctional
 Institution-Pittsburgh
 Beaver & Doerr Streets
 Pittsburgh, Pennsylvania

Monday, March 3, 1997

Met, pursuant to notice, at 2:00 p.m.

BEFORE:

- REPRESENTATIVE JERRY BIRMELIN, Chairman
- REPRESENTATIVE HAROLD JAMES
- REPRESENTATIVE TOM CALTIGERONE
- REPRESENTATIVE DONALD WALKO
- REPRESENTATIVE LISA BOSCOLA
- REPRESENTATIVE FRANK DERMODY
- REPRESENTATIVE BABBETTE JOSEPHS
- REPRESENTATIVE JANE ORIE
- REPRESENTATIVE AL MASLAND
- REPRESENTATIVE BRETT FEESE
- REPRESENTATIVE ROBERT REBER
- REPRESENTATIVE KATHY MANDERINO
- REPRESENTATIVE JEFF HABAY
- CHIEF COUNSEL BRIAN J. PRESKI
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SPEAKER

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FORM 1

P R O C E E D I N G S

2:00 p.m.

1
2
3 CHAIRMAN BIRMELIN: Good afternoon. I want to
4 thank all of you folks for coming here this afternoon. The
5 Pennsylvania House of Representatives Judiciary Committee,
6 Subcommittee on Crime and Corrections is having a hearing
7 today on the January 8th, 1997 inmate escapes from this
8 institution. We will be holding hearings for the next few
9 hours, here today and we will also be meeting tomorrow and
10 Wednesday, at the University of Pittsburgh campus. And
11 for those of you who are interested in attending those
12 meetings, as well, you may approach me after this meeting
13 and we will be able to tell you when and where and we will
14 even be able to tell you some of the people who will be
15 testifying.

16 The first question that probably arises in the
17 public's mind is why are we here today and why are we
18 having these meetings and what is the purpose of this
19 organization's tour of the facility and the investigation
20 we are conducting?

21 Let me say, first of all, it is probably a
22 secondary role that the Legislature has, in dealing with
23 the prison system in Pennsylvania, but it is an important
24 one. It's one of oversight. It's one of funding. It's
25 estimated that in the next budget, the prison correction

1 system's budget will exceed \$1 billion, the largest single
2 item of our budget. And so, we're spending a lot of money
3 on the system. We have a lot of prisons in Pennsylvania.
4 I think that the count is somewhere around 23 now. And
5 we, in the Legislature, have to continue to deal with the
6 laws that put the men and women into prison in Pennsylvania,
7 in what conditions they will live and under what conditions
8 they may be allowed to leave. So, while we do not have
9 a hands on running of the prisons' responsibility, we
10 certainly do have an oversight responsibility and we
11 certainly do have a responsibility to make sure that the
12 public is represented in all the decisions that deal with
13 those prisons. And when we have a prison breakout, such
14 as occurred here on January 8th, we feel that it is
15 incumbent upon us to at least, number one, be informed,
16 to know what happened and why it happened. And if we, in
17 the Legislature can do anything to prevent that from
18 happening again, then we ought to take that responsibility
19 seriously and do something.

20 So, we are to receive information today. We're
21 not here necessarily to point fingers. We're not here to
22 blame people. The blame has already been contributed to
23 many, at this point, of course. But we're here to find
24 out, as best we can, why what happened did and how it could
25 be prevented in the future. We may come to the conclusion

1 that there is no Legislative change that's needed or we
2 may see that there is a need for some. But that is our
3 purpose for being here these next three days.

4 And in doing so, I will call collectively upon
5 those who are testifying, to do their best to give us
6 constructive criticism, constructive suggestions of how
7 we can improve our correctional institution system and the
8 Pittsburgh State Correctional Institution, in particular.

9 So, we're going to be hearing from several
10 witnesses, two, perhaps three or four today, several
11 tomorrow and several on Wednesday morning. And it is the
12 hope and the desire of myself, as the Subcommittee Chairman
13 on Crime and Corrections to do that. My name, by the way
14 is Representative Jerry Birmelin. I hail from Wayne and
15 Pike Counties. I'll be shortly introducing the rest of
16 our Panel up here and to leave this place with a better
17 knowledge of how prisons operate and how this particular
18 facility could be run better and how we, as Legislators
19 can help our prison system do a better job.

20 With that in mind, let me establish some brief
21 ground rules. The testifiers who will be before you this
22 afternoon, that we are certain of, are Martin Horn,
23 Commissioner of the Department of Corrections and Mr. L. P.
24 Benning, who was the lead investigator, Deputy for
25 Facilities Management, at the State Correctional Institution

1 Greensburg. He conducted the investigation here for the
2 Correctional Institution System. We may have time for
3 another one or two witnesses, as that transpires.

4 Only those members of the House Judiciary
5 Committee, that is the full House Judiciary Committee, are
6 entitled to ask questions. And we will do so, after each
7 of the people who testify have made their presentations.

8 Now, I don't want to cut anybody short on the
9 Panel here. I don't want to stymie any good questioning.
10 But I also don't want to allow any members to ask a
11 multitude of questions, that then consume a great deal of
12 time that other members feel that they are restrained from
13 doing so. So, if I see that our questioning process is
14 becoming too cumbersome and too lengthy, I will ask the
15 members to keep themselves to one or two or at the most,
16 three pertinent questions.

17 We have before us and it was distributed to all
18 House Judiciary members, the report that the Correctional
19 Institution and State Police put together. Hopefully, our
20 members have taken the time to read it, so that they are
21 familiar with its contents. Most of the members here on
22 the Panel were able to tour the facility, in particular,
23 the escape site this morning. So, we have a good working
24 knowledge, I hope, of that which we are discussing here
25 today.

1 So, I'd like to introduce the members. And I
2 will do so from my left and immediately to the far left.
3 Next to me is Harold James, from Philadelphia County. He
4 is my cohort and Democratic Chairman of the Subcommittee
5 on Crimes and Corrections.

6 Next to him is Representative Tom Caltigerone,
7 from the Reading area, Berks County. He is the Democratic
8 Chairman for the full House Judiciary Committee.

9 Next to him is Representative Don Walko, in whose
10 district we are seated currently.

11 Next to him is Lisa Boscola and Lisa is from
12 Easton, Lehigh County or -- is it Northampton.

13 REPRESENTATIVE BOSCOLA: Northampton. Near
14 Bethlehem.

15 CHAIRMAN BIRMELIN: The City of Bethlehem, I'm
16 sorry.

17 Next to her is Frank Dermody. He is from
18 Allegheny County.

19 Next to him is Representative Babbette Josephs,
20 from Philadelphia.

21 Did I miss anyone? And Dave Krantz, who works
22 on the staff, as Executive Director for Representative
23 Caltigerone and the Democratic staff.

24 To my immediate right is the Executive Director
25 on the Republican side of the House Judiciary Committee,

1 Brian Preski.

2 Next to him is Representative Jane Orié. And
3 Jane, you're from Allegheny County, as well, is that right?

4 REPRESENTATIVE ORIE: Yes.

5 CHAIRMAN BIRMELIN: Next to her is Representative
6 Al Masland, from Cumberland County.

7 Next to him is Brett Feese, from the Williamsport
8 area and he is from Lycoming County.

9 Next to him is Bob Reber. Bob is from Montgomery
10 County, a long-term judiciary member.

11 Next to him is Representative Kathy Manderino,
12 who is from Philadelphia.

13 The only nonmember of the Committee, who is
14 seated with us here today, because he is a local
15 Legislator, is Representative Jeff Habay, also from
16 Allegheny County.

17 At this time, I'm going to invite Mr. Martin Horn,
18 the Commissioner of the Department of Corrections, to come
19 and share with us his testimony. Mr. Horn?

20 COMMISSIONER HORN: Good afternoon, Chairman
21 Birmelin and Committee. Welcome to SCI Pittsburgh. I
22 appreciate the Committee's interest in the operation of SCI
23 Pittsburgh and the events of January 8th, 1997. I don't
24 have a prepared statement and I will try and be brief in
25 my opening remarks.

1 I think at this point, everyone knows that on
2 the morning of January 8th, 1997, six prisoners at this
3 institution escaped, through a tunnel, that apparently,
4 they had been building for several months. The information
5 that we now know establishes that this escape was
6 preventable. It occurred because the practice of security
7 at this institution was inadequate, was contrary to
8 Department policy and because people, up and down the line,
9 were not performing their job adequately. When I say "up
10 and down the line," I include the central office of the
11 Department of Corrections.

12 We know, too, that the security lapses here were
13 not isolated events, that they were the result of a
14 historical and continual failure to institute meaningful
15 security precautions and procedures. And we know that
16 despite knowledge of repeated deficiencies in these
17 procedures, high level management failed to ensure that
18 remedial plans were implemented or the staff adhered to
19 required tool control procedures. These failures were the
20 proximate causes of this escape. However, let's keep in
21 mind that it was the inmates who escaped.

22 The aftermath of this escape has caused us to
23 undertake a series of reform actions here, changing
24 procedures not only at SCI Pittsburgh, but at all of our
25 facilities around the state, based upon the lessons that we

1 have learned. SCI Pittsburgh is Pennsylvania's oldest
2 prison. It stands on 21 acres of land. It is a Level 4
3 facility and historically has housed some of the most
4 serious offenders in the state. The facility has been the
5 site of numerous prior escapes. In fact, there have been
6 more mass escapes from this institution than from any other
7 institution in the Commonwealth. In 1945 and again, in
8 1948, inmates successfully tunneled out of this prison.
9 In 1952, 10 inmates successfully escaped, by climbing over
10 the roof of some of the buildings.

11 On the morning of January the 8th, the six
12 inmates who escaped were Leslie Billingsley, 30-years-old,
13 serving 23-1/2 to 77 years for robbery, conspiracy and
14 aggravated assault; Carmen Keller, a 35-year-old, serving
15 a life sentence for second degree murder; George Conard,
16 a 66-year-old, serving a life sentence for first degree
17 murder; Nuno Pontes, a 30-year-old, serving 10 to 24 years
18 for escape, burglary and conspiracy; Thomas Berkelbaugh,
19 45-years-old, serving 10 to 20 years for robbery and Andrew
20 Heim, serving 4 to 15 for robbery and theft.

21 That this escape would occur, was a personal
22 embarrassment to me and a stain on the reputation of the
23 Pennsylvania Department of Corrections. I believe that,
24 as I have said before, it was preventable, it was
25 avoidable. It was the result of a failure of leadership

1 and a failure of management. We have taken several swift
2 and I think rather decisive actions, with respect to those
3 personnel who we believe let us down, in a fashion that
4 I believe is measured and appropriate to their degree of
5 responsibility and their prior contributions and capacity
6 to make future contributions to the operation of the
7 Commonwealth's prisons. We have learned many lessons, that
8 will improve the operation of Pittsburgh, as well as the
9 operation of our other prisons. And I would be happy to
10 discuss those with you today and answer any questions that
11 you may have.

12 CHAIRMAN BIRMELIN: Thank you, Mr. Horn. First
13 of all, I want to thank you for the cooperation you have
14 given this Committee. It should be pointed out publicly
15 that you have been very cooperative.

16 COMMISSIONER HORN: Thank you.

17 CHAIRMAN BIRMELIN: Everything we asked for, in
18 terms of who we can talk to and as long as they were
19 willing, we were able to proceed. We also thank you for
20 the tour that you gave us of the facility and for the
21 insight that you shared with us with some of the problems.
22 And I will say, for the benefit of the public here today,
23 that Mr. Horn has not been apologetic for the institution
24 and its shortcomings. He has been frank and open, in
25 sharing what he believes were the failings of this

1 institution to have adequate supervision to prevent such
2 an outbreak.

3 All that having been said, of course, the
4 incident did happen. And we want to take a good, hard look
5 at why it happened and hopefully, do something, if not
6 internally, externally, to help that from becoming a repeat
7 performance.

8 I'm going to turn this portion of the hearing
9 now over to questions from the members. And I will, with
10 each person we are having as witnesses turn first of all
11 to my counterpart on the Democratic side, Representative
12 Harold James.

13 REPRESENTATIVE JAMES: Thank you, Mr. Chairman.
14 And thank you, Commissioner. I suffer from a slight cold
15 and I just wanted to commend you today for being out there,
16 in the rain, for all of us being out there, during the
17 tour. You didn't hesitate to stand outside to explain
18 things to us and I appreciate that.

19 Commissioner, how long was the Superintendent,
20 in charge of this prison -- is he called the Superintendent?

21 COMMISSIONER HORN: Yes. The Superintendent at the
22 time of the escape --

23 REPRESENTATIVE JAMES: Yes.

24 COMMISSIONER HORN: -- (continuing) -- he had been
25 the Superintendent here for about two and one-half years.

1 He was, by the way, the fifth Superintendent that this
2 institution had had in seven years.

3 REPRESENTATIVE JAMES: And I know you said in
4 your original remarks, you said something about central --
5 you said all the blame, from the top to the bottom, you
6 said something about central -- central what?

7 COMMISSIONER HORN: The central office of the
8 Department. One of the failures that we found and that
9 we believe contributed to the ability of this group of
10 inmates to succeed in escaping was the failure of one of
11 my Deputy Commissioners to follow through on deficiencies
12 that were identified in an operational inspection that had
13 been done last summer.

14 REPRESENTATIVE JAMES: Was that Superintendent
15 disciplined?

16 COMMISSIONER HORN: Yes.

17 REPRESENTATIVE JAMES: One of the things that
18 bothers me, in terms of the escape and being a former
19 police officer, is the lack of notification to the local
20 police and to the community. How long did it take for the
21 local police or the community to be notified of this
22 escape?

23 COMMISSIONER HORN: From the time that the
24 facility determined that there was an escape, until the
25 time that a teletype message was transmitted to the

1 Pittsburgh City Police, was about 48 minutes. The facility
2 determined that an escape had occurred, at approximately,
3 12:50 p.m. and the notification, which was 10 to 1:00, the
4 notification went out on the teletype at 1:38 p.m. Now,
5 what should have happened and didn't, there was a telephone
6 notification, at about 1:05, to the Pennsylvania State
7 Police. There should have, at that time been a telephone
8 notification to the Pittsburgh City Police. And that was
9 one of the shortcomings. That was a local notification
10 that should have been done and it was not done at the
11 command center here at the facility.

12 REPRESENTATIVE JAMES: Is it the responsibility
13 of the Superintendent, in terms of process, whenever there
14 is an escape, that they need to notify people in the
15 process, how it works?

16 COMMISSIONER HORN: Yes, it is. Yes. Well, the
17 facility, in fact, has an escape checklist and that
18 checklist indicates notification to be made, beginning with
19 the police, then the local media and in fact, in the case
20 of Pittsburgh, to several businesses that are in the
21 immediate proximity to the facility. And those notifica-
22 tions, some were made and some weren't. It was a breakdown
23 in the operation, that occurred on the day of the escape.
24 They did not follow their own escape checklist.

25 REPRESENTATIVE JAMES: Okay. So, were you able

1 to determine when the community was notified?

2 COMMISSIONER HORN: Well, the community was
3 notified in a variety of ways, at different times. I mean,
4 the media were notified. Several media picked it up from
5 the police notification, when the police radios started
6 humming and I think it was probably -- most people agree
7 that they probably heard about it on the radio and TV.

8 REPRESENTATIVE JAMES: And as a result of that,
9 the Commissioner or Superintendent and what happened to
10 him and also, what happened to the Deputy, that you say
11 was out of the central office?

12 COMMISSIONER HORN: The Deputy of central office,
13 he was disciplined, through a salary reduction. The
14 Superintendent was demoted.

15 REPRESENTATIVE JAMES: Okay. Thank you.

16 CHAIRMAN BIRMELIN: Representative Orié?

17 REPRESENTATIVE ORIE: I just have a follow up,
18 in regards to the notification problem. There was one
19 point in time, based upon the report that we have been
20 given from the Department of Corrections, that 18 inmates
21 were originally missing and then, it went down from 18 to
22 six. In your protocol, is there any type of notification,
23 when it was at 18, what would have -- why was nothing done,
24 at that point in time?

25 COMMISSIONER HORN: If you will recall, when we

1 were in E Block, earlier today, there are five ranges of
2 cells. And as Mr. Arensberg explained, an officer goes
3 down the range and then up the other side, with his count
4 sheet and other officers doing that on each of those ranges
5 and he identifies the inmates who are missing. Those go
6 to a central point and there, have to be reconciled, to
7 determine whether or not an inmate is not in his cell,
8 because he is in Medical or out to court or on a visit and
9 so on. It is not uncommon. I did -- if you read the
10 report, I don't think it says that inmates were not
11 missing. The inmates were unaccounted for. And
12 Mr. Arensberg is going to testify tomorrow, but the people
13 who do it can testify better than I, that it is not
14 uncommon. We count the inmates four times a day. When
15 you first do your count, there are going to be
16 discrepancies. And then, the staff -- phone calls go back
17 and forth to different areas of the prison, to ascertain
18 where the inmates are. At the time the escape happened,
19 that was a much more cumbersome procedure than it is today,
20 because several hundred inmates were allowed to be out of
21 their cells during the count, which was a situation unique
22 to this institution.

23 We don't -- our practice does not call for
24 notification, every time there's a discrepancy in the
25 count. Sometimes it's just an arithmetic error and so,

1 you go back and you recount. Sometimes an officer will
2 walk down the range and not check the box correctly, that
3 an inmate was in or not in the cell and then go back and
4 check and say, "Oh, yes, he is here." If we notified the
5 police and the community every time that happened, they
6 would probably be mobilizing every day, at least once. And
7 I'm not sure what purpose it would serve, other than to
8 probably create complacency on their part. So, typically
9 and I think the appropriate practice is to first ascertain
10 that the inmate really isn't inside the facility, before
11 you call it an escape.

12 REPRESENTATIVE ORIE: In regards to again, one
13 of the -- the public notice, the reports and in doing our
14 tour, it became evident that these prisoners were missing
15 at various locations and job sites, where they were
16 supposed to be. What is the protocol in regards to them
17 being missing, at that point? Is there any notification
18 that should be -- that goes beyond that, at that point in
19 time?

20 COMMISSIONER HORN: The practice in all of our
21 other prisons and the practice today in Pittsburgh is
22 different from what the practice was on the morning of
23 January 8th. Prior to January 8th, it was common, here
24 at Pittsburgh, that if an inmate was supposed to be at his
25 or her job assignment and didn't show up, nothing was done

1 about it. Indeed, there was testimony in this very room,
2 by staff at this facility, during the Senate hearings, that
3 if a person had eight inmates assigned to his work crew
4 and only six showed up, rather than notifying anyone he
5 was missing two inmates, that employee would just work with
6 the six that he had. And it was that practice, that had
7 been the traditional practice of -- at this facility, that
8 enabled the inmates to disappear for long periods of time,
9 during the time that they were digging the tunnel, as well
10 as on the day of the escape.

11 REPRESENTATIVE ORIE: And lastly, I think it
12 became evident with the tools, the tools that were
13 available to these inmates, from flashlights to a jack.
14 What type of controls now exist or have you replaced prior
15 procedures?

16 COMMISSIONER HORN: Well, the Department and
17 indeed, the facility, had a good tool control policy. By
18 a "good tool control policy," I mean one where there is
19 strict accountability for tools, where, when a tool is
20 issued, you know who it has been issued to. When it is
21 returned, you know that it has been returned and there's
22 a record of who has held the tools; that there are what
23 we refer to as "shadow boards," that allow the people who
24 are responsible for the tools, to very quickly identify
25 that the tools are accounted for.

1 What we now know to be true was that on January 8,
2 the staff, at this facility and indeed, we knew it as far
3 back as August and that was the failure to correct that
4 problem was one of the reasons that several personnel were
5 disciplined, was that the staff here were not following
6 the tool control policy, in this facility or indeed, the
7 Department's tool control policy. That has now been
8 changed. Every tool is numbered. We have removed -- one
9 of the problems in this facility was that there were more
10 tools than they could possibly keep track of. We removed
11 tools from the Machine Shop, that dated back to the second
12 World War. We removed some 14,000 items and you saw some
13 of them in the warehouse this afternoon, that were far in
14 excess of what the facility needed.

15 One of the things that had happened was that last
16 January, a lot of tools were washed away or damaged or
17 covered with mud, when the facility flooded and so, they
18 went out and bought lots of other tools. And in effect,
19 they were awash in tools. They always had three and four
20 and five tools for every one that they needed. There was
21 no tag system in place, so, you know, it's like going to
22 a -- to the locker room at the town park, where we get --
23 where when you hand in your clothes, you get a little tag.
24 This would operate in reverse. There were no tags being
25 exchanged for the tools. That has all been changed now.

1 We have removed all of the excess tools, so that there are,
2 in fact, fewer tools for them to keep track of. The most
3 powerful tools, what we refer to as "restricted access
4 tools," things like the reciprocating saw and the hammer
5 drill, have been removed from the institution.

6 Also, at the time, the staff were allowing
7 inmates to put tools away, which was contrary to good
8 policy. We also now inventory the tools, twice a day. And
9 we have established tool control officers, in each work
10 area of the facility, as well as facilitywide tool control
11 officers. All things were not in place on January 8th.

12 REPRESENTATIVE ORIE: I guess one of my last
13 questions would pertain to the tools. I believe we saw
14 where you had confiscated 14,000 various types of tools,
15 that were in excess, in various areas. What type of
16 accountability or what type of checks, do you have
17 oversight on the command with -- that these items, in fact,
18 many items could exist within this facility, without any
19 recognition?

20 COMMISSIONER HORN: The Department does an annual
21 operations inspection of each facility, in which staff from
22 other facilities come in and, in effect, audit this
23 facility. And that had been done here and it had
24 identified shortcomings in the tool control practices and
25 directed the facility to correct them. And the facility

1 had not acted to correct them. And the Deputy
2 Commissioner, who was responsible for ensuring that they
3 did, had failed to take action to force them to take action
4 and that was where the breakdown occurred. So, there is
5 an annual audit, to ensure that they have done their
6 inventories, that every tool that is on their master
7 inventory is accounted for, that they are keeping the
8 proper records. And in fact, that had been done. The
9 inspections, the audits had been done. The follow up
10 hadn't been done. The corrective action hadn't been taken
11 and that was part of the problem.

12 REPRESENTATIVE ORIE: Where are those over 14,000
13 tools? Are they primarily in the maintenance room or where --

14 COMMISSIONER HORN: They were all over. They
15 were -- many of them were in different maintenance shops.
16 Many of them were in the boiler plant. Some of them --
17 many of them were in the vocational shops. Some of them
18 were in people's desk drawers, people's -- in Education,
19 in -- an Arts and Crafts Shop might have had too many
20 scissors. Some tools, you know, someone working in a cell
21 block might have just found -- left a screwdriver in his
22 desk, because maybe there was a switch that didn't work
23 and every now and then he had to tweak it a little bit with
24 a screwdriver. So, he just keep that screwdriver in his
25 desk, because it was more convenient than going in and

1 drawing the tools.

2 REPRESENTATIVE ORIE: Commissioner, I don't have
3 any further questions, at this point. I appreciate your
4 cooperation.

5 COMMISSIONER HORN: Thank you.

6 CHAIRMAN BIRMELIN: I'm going to call on Repre-
7 sentative Babbette Josephs next. And the reason I'm
8 calling her next is because she has to leave soon and I'd
9 like to give her an opportunity to ask questions.

10 REPRESENTATIVE JOSEPHS: Thank you very much.
11 I appreciate very much, Mr. Chairman, your indulgence.
12 Thank you, Mr. Commissioner. This was a very complicated
13 escape, complicated over three, four, five months, perhaps,
14 to build. The inmates needed clean clothing, they needed
15 tools, large tools, powerful tools. They had forged passes
16 or they had passes that weren't issued properly, the way
17 that they ought to go out through this process, I think
18 you said in your report. It seems to me clear that person
19 or persons, who did not actually escape were in on this;
20 the one or ones, who made sure that the door where the
21 entrance where the tunnel was entered, within the wall and
22 had locked it, so it looked as though nobody was in there;
23 the person who rang the alarm bell as a diversionary
24 tactic, at the time that the prisoners were escaping,
25 probably. It seems incredible to me, that no other inmates

1 knew that this was going on. It seems also incredible to
2 me, that had they known, that nobody snitched. I know
3 enough about prisons to know that they are run by snitches,
4 in many cases.

5 It seems incredible to me, that if other inmates
6 knew and if there were people telling tales, that they were
7 not correctional officers. Now, we have already
8 established that they could have known. But it seems
9 incredible to me, that there wasn't someone, who did
10 actively, constructively know what was going on. I might
11 have put all of this into a question form. I'm sorry I
12 didn't.

13 How -- how could you -- how can you sit -- what
14 do you think happened there, that nobody talked about it
15 and it didn't come to the attention of anybody who had the
16 authority to do something to stop it?

17 COMMISSIONER HORN: I have been asking myself
18 that very same question, since the day it happened. I'm
19 not sure that I agree that prisoners are run by snitches.
20 In a good prison, a prison is run by the staff. But in
21 a good prison, you know what's going on. A lot of us
22 always thought this was a good prison. I think part of
23 it is that this was going on in an area of the prison,
24 where I think there was a -- there was a real breakdown
25 in communication, between, amongst staff in the institution.

1 I think it was happening in a section of the prison, where
2 the staff who were assigned to the custody of these
3 particular inmates, during large portions of the day, had
4 lost sight of why -- why they were there and that this was
5 a prison. I think it occurred, in an area of the prison
6 where some of the management of the prison had abandoned
7 their responsibilities to supervise the workers in that
8 area, for a variety of reasons, none of them acceptable
9 to me. And I think that also, these inmates, let's give
10 them their due. They were very clever. It is certainly
11 hard for me to believe that this went on for as long as
12 it did, without anyone hearing anything. And no one has
13 yet come to me and said, "We knew this was going on." If
14 people did know and didn't report it, then, that would be
15 an even greater shame. But so far, no one has come forward.
16 So, I can't understand it and I can't explain it.

17 REPRESENTATIVE JOSEPHS: In fact, talk a little
18 bit about the blueprints, which, I understand it now are
19 in the secure procedure. They were not, at the time of
20 the break or before the break. And you come from a system
21 and I got this from your own report, in New York State,
22 where there is a departmentwide policy to deal with blue-
23 print security. Why did you wait for the break, to
24 institute that policy?

25 COMMISSIONER HORN: Quite honestly, I was not

1 aware, until after the break, that they kept blueprints
2 in the engineer's office here. Typically, when I visited
3 this prison or any of the prisons, I went to the areas
4 where the inmates were. I would look in on the dining
5 room, I would go into the yard, I would walk through the
6 cell blocks, go into the gymnasium, if that is where the
7 inmates were. Typically, I would not go into the
8 engineer's office. In fact, it was a practice in this
9 prison, that probably goes -- we can document it going back
10 at least to 1986. In fact, one of the sketches that I have
11 with me here today, was done by an inmate. And I spoke
12 to people here and was assured that this was a very well
13 run prison and that they knew how to run a prison.

14 Now, this Department, when I took it over, had
15 a policy manual that runs for 17 loose-leaf volumes. I
16 don't know if it's in the room. We didn't bring it in here
17 today. I could show it to you. But it's -- it would take
18 a cart to bring it in. It's 17 volumes. And I didn't get
19 through it all, in the almost two years that I had been
20 here.

21 The -- the practice -- it was one of those things
22 that I think I said this before, at this facility, they
23 had lost sight of the forest for the trees. People had
24 lived with these practices for so long, that nobody thought
25 there was anything wrong with it and there had never been

1 a problem. And I certainly was not aware that there was
2 a problem and it was one of those things that you just take
3 for granted wouldn't be done, in a prison where everyone
4 tells you it's a well run prison.

5 REPRESENTATIVE JOSEPHS: I have one more and I
6 appreciate this very much, Mr. Chairman. I'm interested
7 in the kind of reports that go from this facility and other
8 facilities, to -- to you, eventually. For instance, we
9 were shown today and you will recall, I'm sure, the area
10 of the warehouse, where the motion detector system was not
11 functioning. Is there a facilities report? This is only
12 for example. I mean, there are many other questions that
13 I -- that this might apply to. Is there a facilities
14 report, that comes to the attention or is sent, in some
15 periodic fashion, to you or to people directly under you?
16 It also seems very -- I -- I don't understand how things
17 like physical, mechanical machinery doesn't work and it
18 doesn't come to the attention of the central office.

19 COMMISSIONER HORN: Well, many things do and in
20 fact, there is an annual physical plant inspection, that
21 is done. There is a report submitted to the Director of
22 Operations for the Department, who is our Chief Department
23 Engineer and also to -- we -- the state is divided into
24 three Regions. It also goes to the Regional Deputy
25 Commissioner.

1 But I will tell you that, for example, that issue
2 of the intrusion system in the warehouse had been on and
3 off for so long, that people weren't even bothering to
4 report it any more. So, in the four times that I visited
5 this prison, no one said to me that it was broken. And
6 if you look at it, you can't tell that it is broken. And
7 if -- you know, you rely on people who run these prisons,
8 in the final analysis. You have a Deputy Superintendent,
9 who has been here for 27 years and has been a Deputy for
10 eight years. You have the Major of the Guard. You have
11 a Superintendent, who have, in fact, worked in security,
12 far longer than I. And you rely upon them, to bring these
13 things to your attention.

14 I think one of the things that is true about any
15 institution, but particularly here, is that after a while,
16 people get used to the way things are. And so, you know,
17 if you live in a house where the doorbell doesn't work and
18 you always have to knock on the door, after a while, you
19 forget that the doorbell doesn't work.

20 REPRESENTATIVE JOSEPHS: I just want to say thank
21 you to the Chairman and thank you for your answers. I
22 would be very interested, if you would forward that to the
23 Chairman, to have an example of a facilities report.

24 COMMISSIONER HORN: Sure.

25 REPRESENTATIVE JOSEPHS: Thank you.

1 CHAIRMAN BIRMELIN: Representative Masland?

2 REPRESENTATIVE MASLAND: Thank you, Mr. Chairman.

3 Thank you, Commissioner, for being here.

4 I've had the opportunity to visit this prison,
5 which I think I first knew of as Western State Pen, many
6 years ago. And each time I've been here, on each occasion,
7 it has either rained, is foggy or both. And I think that
8 that is appropriate, when you look at the old wall and you
9 look at the old cell block, because the thing that keeps
10 running through my mind is which one was Jimmy Cagney in?

11 Now, I say that seriously, actually, because you
12 talked about some operational changes. And certainly,
13 there are some minor structural changes. There's the micro-
14 wave system, a fence here, block there, gates. But the
15 question that keeps coming to my mind, every time I've been
16 out here is how much longer are we going to get any useful
17 life out of this facility or are we just going to have to
18 tear it down and start over?

19 COMMISSIONER HORN: Mr. Masland, that's an excellent
20 question. I'd like to say a couple of things in response.
21 First of all, I've been very clear, that I will not blame
22 this escape on the physical plant. However, I have said
23 and I said this before the escape, that the physical plant
24 contributes to the management challenge, that you are just
25 always running to keep up and to the extent that people

1 got worn down here, it was just trying to keep this place
2 running.

3 Last year, it flooded. The area where we were
4 in by the cell blocks was underwater, the area that we were
5 in, earlier today. And I think that this facility and I
6 recommended to the Governor, as far back as September, that
7 it had outlived its useful life. Despite the investment
8 that has been made here, over the last 10 years, which I
9 believe were imprudent investments and that to spend more
10 money now would be spending good money after bad.

11 I do not believe that this facility is built in
12 a fashion that can operate as a maximum security prison,
13 by today's standards. This facility continues to be sub-
14 stantially overcrowded. And I believe that the proposals,
15 to invest additional dollars in this facility, to try to
16 make it useable are impractical. They involve the
17 construction of an additional outside yard, outside the
18 wall of the facility, along the river; the utilization of
19 a yard that was built a couple of years ago, outside and
20 along the wall or outside the wall, along the river; they
21 involve the construction of a new building for correctional
22 industries, adjacent to that courtyard outside of the wall;
23 they call for the demolition of the correctional
24 industries' structure, inside the wall, which I believe
25 will further undermine the integrity of this 100-year-old

1 wall; they call for the construction, after that
2 demolition, of a new building, to replace the gymnasium
3 and the dining room and a school and then subsequently,
4 the demolition, right in the middle of the prison yard,
5 essentially, of the auditorium and the gymnasium and the
6 dining room and then finally, a new yard. I believe that
7 the process of undertaking those changes, will undermine
8 the internal security of this facility, will introduce
9 tools and workmen into this facility, dispute the flow,
10 compromise our ability to hold inmates accountable for
11 their comings and goings and will compromise our ability
12 to keep the inmates in and protect the surrounding
13 community. If we are going to continue to use this prison,
14 we are going to have to start using those outside yards.
15 That's what they were built for. If we're going to
16 continue using this building, we're going to have to
17 replace that correctional industries' plant, that manu-
18 factures all of the license plates in the State of Pennsyl-
19 vania. And after we do that, we are going to have to build
20 a new dining room and a new gymnasium. And to think that
21 we are going to build those very large buildings, \$25
22 million worth of construction, inside this wall, which
23 complicates everything, I think is naive.

24 REPRESENTATIVE MASLAND: Thank you. I'm not --
25 I'm not looking for huge building project campaigns all

1 over the state, which, as everybody knows, we have built
2 a number of new prisons. And I don't want to get too far
3 afield, but I would suggest that we have to look at what
4 we are doing with all of the nonviolent offenders, that
5 might free up a little bit of space for some of the violent
6 offenders, which I think you recognize we do house in this
7 facility. And as you said, when we took the tour earlier
8 today, a lot of the problem with this facility, was the
9 ongoing construction projects, that were really required,
10 because you are dealing with an old, old facility.

11 COMMISSIONER HORN: That -- that is exactly right.
12 It created a sense of urgency, it created a sense of
13 complacency about inmates being where they shouldn't have
14 been. It was no longer a constant, with inmates being out
15 of place. It disrupted the day-to-day life of the institu-
16 tion. And so, it -- and I think that also, one of the
17 reasons that the maintenance staff became so dependent and
18 so overly familiar with the inmates, is that the degree
19 of maintenance work that was necessary to keep this place
20 going, just required that they have that.

21 And if you'll allow me, because I think you're
22 right, that we ought to be prudent about spending public
23 dollars, we have built, in the Commonwealth, five or six
24 new prisons, over the last several years, the so-called
25 "prototypicals," places like SCI Greene, SCI Albion, SCI

1 Houtsdale. Greene is a maximum security prison. It houses
2 the largest number of capital cases, it houses our most
3 dangerous offenders and it operates for nearly \$10 million
4 per year less than this prison. Comparable prisons, built
5 on new design, with the new staff pattern, with the new
6 electronics, operate at about \$10 million per year less.
7 I believe that it's like -- it's like putting
8 weatherproofing on your house. It's like replacing the
9 boiler in your house. Yes, it's an investment, but it's
10 an investment that in 10 years will pay for itself and
11 beyond the 10 years, begin to make money for you.

12 REPRESENTATIVE MASLAND: So, in the long run,
13 we're probably looking at some type of new facility. And
14 maybe that will enable us to rent this old place out to
15 Hollywood and we can recoup some money that way. Thank
16 you, Mr. Chairman.

17 CHAIRMAN BIRMELIN: Representative Caltigerone?

18 REPRESENTATIVE CALTIGERONE: Thank you. Commis-
19 sioner, I've served, I guess now 21 years, 11 of those
20 years as Chairman, Democratic Chairman of this Committee.
21 And I must say that on each watch, it seems like somebody
22 has a problem with the system. I do agree with the former
23 speaker, that we have come a long way, with the rush to
24 the mandatories to lock everybody up, even though we now
25 know that that was kind of foolish and it's a lot more

1 cost effective with the intermediate punishment programs
2 and the nonviolent offenders, that we could extricate from
3 our system.

4 We had talked earlier today, prior to the tour
5 about the number of inmates that are currently housed in
6 the facility here. And I'd like to just get it on record,
7 the actual number that this was built to house and the
8 actual number that this facility is maintaining. And this
9 is true, I might say, for the general public, for most of
10 the facilities in the state. We continue to build them
11 and we continue to fill them up and we overfill them. And
12 older facilities like this, have really outlived their
13 usefulness.

14 There's a report that I have read, that you
15 provided me, from 1911, 1944, to the 1950's, I did -- I
16 did read through those, indicating that this facility
17 should be closed down. So, from the turn of the century
18 until the current day, they have indicated, previous admin-
19 istrations, from 1911, that this facility should be closed
20 down and a new one should be built. But the total number
21 of inmates that are currently housed here, the actual
22 capacity, what is it?

23 COMMISSIONER HORN: Well, it -- it fluctuates
24 from day to day, but it is around 1800, 1775, might --
25 might even go down closer to 1700. But it is about 1800.

1 And immediately after the escape, just until things settled
2 down, we stopped transferring inmates in, so that the
3 number went down, but it will come back up.

4 The facility, as it is currently designed, can
5 house, in its cells 1279. So, it is overcrowded, to the
6 tune of about 500, 600 inmates. And in 1954, of course,
7 the Deever's Commission recommended that it be dropped down
8 to 500 inmates. It would obviously run better, with fewer
9 inmates.

10 One of the things that is important to note is
11 that one of the oldest cell block buildings, F block is
12 currently under renovation. And prior to January 8th --
13 and this is renovation that has been undertaken, in
14 response to the shortcomings that the federal report found
15 in the Tillery Case, the sanitation problems, the lack of
16 showers, the fire safety and so on. And that block is
17 being renovated, similar to the block that we were in, E
18 block. And the plan had been, when that block was finished,
19 which is going to be the middle of March, that we were
20 going to add 300 more inmates to this facility and run the
21 population here up to 2100. This facility cannot handle
22 2100 inmates.

23 REPRESENTATIVE CALTIGERONE: Well, you know, the
24 other point and I agree with you there, I think that
25 members of the public and especially, members of this

1 Committee, have got to realize that over the years and I
2 think some of the older members, like Jerry and Bob Reber
3 and others have seen this budget, particularly in the
4 Department and the number of people we have been
5 incarcerating doubled. It looks like we're just about
6 ready to go tripling. The budget, of course has increased
7 accordingly. And somebody rightfully indicated that we're
8 ready to approach a billion dollars this year. And I just
9 want to go on record in saying that you've been very forth-
10 right, very open, very good to work with. And, you know,
11 I am -- I have absolutely found no fault in your handling
12 of this particular situation.

13 Before, all we had to do is think back to Camp
14 Hill. And any of the members who were serving around that
15 time realize only too well what really happened over at
16 Camp Hill. And this -- this incident here is a piece of
17 cake, compared to what happened at Camp Hill. And so, I
18 want the record to show and I want the people to fully
19 understand that it might have happened on your watch. Over
20 the years I've served in the Legislature, it's happened
21 on a lot of other Commissioners' watches. And it's some-
22 thing that nobody can predict. We certainly don't want
23 to see it happen. We are not dealing with choir boys, in
24 these institutions. And it is difficult.

25 Now, I know that the public sometimes, especially

1 those who live in the immediate area of these prisons feel
2 a little bit uncomfortable. And they are very excited
3 about the way that things happen, in the way that these
4 situations develop. But I think that they should be
5 reassured that, from the standpoint of the administration,
6 the guards, you know, the workers at these institutions
7 and we have toured them all. Jerry, I don't think that
8 there is an institution and Harold, that we haven't been
9 in, in the entire system. And we've seen the good, the
10 bad --

11 COMMISSIONER HORN: And the ugly.

12 REPRESENTATIVE CALTIGERONE: -- (continuing) --
13 and the ugly. And this institution here, I mean, you have
14 good people. But I think that it's time that we get on
15 with the business of building a new facility. And I just
16 wanted to say that, Commissioner, you've done a good job
17 and I stand behind you.

18 CHAIRMAN BIRMELIN: Representative Feese?

19 REPRESENTATIVE FEESE: Thank you, Mr. Chairman.
20 Commissioner Horn, during your opening remarks,
21 you mentioned that certain reform actions were taken. And
22 I take exception to that. In the introductory remarks,
23 you discussed the change in the tool control policy. What
24 other reform actions or activities have taken place?

25 COMMISSIONER HORN: Well, in -- in the report, we

1 provided a summary of proposed actions. And I -- I think --
2 I'd be happy to share with you. I think that's also the
3 subject for Wednesday. But just to give you a brief over-
4 view, we have revised the Department's policy, with respect
5 to inmate movement and the use of passes. We've issued
6 a policy that previously did not exist, with respect to
7 control of two-way radios. We revised the Department's
8 policy, with respect to tool control. We have placed a
9 moratorium on the purchase and sale by inmates of civilian
10 clothing. We are working on a policy that, over time,
11 will, hopefully, if we can overcome some legal problems,
12 take inmate clothing out of the hands of inmates.

13 It's worthy of note, in that respect -- one of
14 the problems and I don't want to -- in all fairness, I
15 don't want to dwell and overlie and blame everything on
16 the construction and on the age. I mean, those were all
17 contributing factors. And as I said, I believe that the
18 biggest problem was leadership and management. One of the
19 problems we haven't touched on is the impact of litigation.
20 And there are -- there are three court cases that directly
21 impact on it. This facility is subject to its own Court
22 Order, in the Case of Tillery versus Owens. There's also
23 an earlier consent decree that governs the operation of
24 the state's prisons, called ICU versus Shapp and a more
25 recent settlement agreement, that the state entered into in

1 1994, called Austin versus Lehman. But under Paragraph
2 17 of the consent decree, in ICU versus Shapp, it states,
3 "Defendants," meaning the Commonwealth, "shall provide
4 residents," meaning the inmates, "to wear civilian
5 clothing," et cetera, et cetera, "when residents are housed
6 in general populations," et cetera, et cetera. I am deter-
7 mined to remove civilian clothing from the prisons, but
8 one of the things that I'm going to need to do is to
9 overcome that consent decree. So, while we are taking
10 actions and trying to reform, we have to overcome some of
11 these things.

12 And the Tillery Case, in particular had, I think
13 a very dramatic impact. I thought some of the most
14 compelling testimony in the Senate hearings was when
15 Mr. Arensberg spoke about how, when officers tried to do
16 their jobs in challenging where inmates were going, over
17 the last 10 years, they were told that they were interfering
18 with the state's ability to comply with the requirements
19 of that Court Order and were harassing the inmates and,
20 in effect, began to be afraid to do their jobs.

21 Continuing on, we have issued a new Department
22 policy, with respect to security of facility blueprints,
23 which prohibits blueprints from being in areas with
24 inmates, that prohibits inmates from doing drafting on
25 facility projects. As I indicated earlier, one of the --

1 I -- I have some sketches of the existing facility and also
2 a sketch of some of the changes that we are trying to make
3 here. And one of them, in fact, was done by an inmate.
4 Let me just show you, if I may.

5 Now, this (indicating) is a sketch of the
6 facility, that has been used here for many years. What
7 the sketch shows is we have drawn up specifications and
8 what is shown in the red are video cameras that will go
9 on the outside of the wall, to provide video surveillance.
10 The green are electronic intrusion detection systems. The
11 blue are video cameras that will go on internal parts of
12 the institution, to give us video surveillance in the
13 central control room. But this drawing (indicating), this
14 plot plan of the facility, which was done in, I believe
15 19 -- it looks like 1988, it has the initials of "JPM."
16 That is John Minarik. He is an inmate, who is presently
17 housed in this facility and for many years worked in the
18 engineer's office. That kind of using inmates, to do that
19 kind of work, which, I guess saves the state a couple of
20 bucks, but in the end, I think it would be very costly,
21 has now been prohibited.

22 We have changed the Department's rules, with
23 respect to where inmates are allowed to work. We have
24 changed the rules, with respect to whether or not visitors
25 are allowed to leave cash for inmates. Previously, when

1 visitors came into this visiting room, they would go to
2 the officer and say, "Here, I want to put \$20 on inmate
3 so and so's account." That made it very hard to control
4 whether people even had cash in this room, which they
5 should not have cash. Cash found its way into the hands
6 of inmates and also interfered with the officer's ability
7 to do his job or her job of surveilling the inmates in the
8 visiting room, because they had to make receipts for the
9 cash. And then, of course, there were always questions
10 that the cash didn't get properly credited to the account
11 where it should go. So, we've changed that policy.

12 We have -- we are in the process of rewriting
13 the Department's key control policy. We are zoning all
14 of the walking systems in this institution. We have
15 retrained the facility staff in tool control policies here.
16 I can go on and on.

17 REPRESENTATIVE FEESE: Thank you.

18 CHAIRMAN BIRMELIN: For the benefit of the members,
19 we have asked the gentleman who is in charge of the audio
20 system, to turn it down a little bit, which means that we
21 will have to speak much more forthrightly into the micro-
22 phone and more clearly and I'm sure that the members won't
23 have any trouble doing that. But I just wanted to caution
24 you that since we've turned the system down, you will need
25 to speak more directly into the microphone and Mr. Horn,

1 I will advise you of the same.

2 COMMISSIONER HORN: Okay.

3 CHAIRMAN BIRMELIN: Our next member to have
4 questions is Representative Walko.

5 REPRESENTATIVE WALKO: Thank you, Mr. Chairman.
6 And first of all, I'd like to, for the record and for your
7 edification, say that I toured the facility on January 15th,
8 1997 and I again toured it today. And of course, I
9 represent this area and am very concerned about this
10 situation. And I think in all of the problem areas in the
11 facility, the maintenance area, there have been tremendous
12 improvements. The tool control, the machine shop, the
13 equipment maintenance shop, there is no litter of wood
14 lying about hither and yon. There **are** shadowboxes and tool
15 maintenance facilities, one of them was called the tool
16 crib. And those shadowboxes are being used. So, I think
17 all the staff, jail guards, the new Superintendent, have
18 really done a good job in addressing the various problems.

19 But the one thing that I have a little bit of
20 trouble with is just getting beyond the fact that these
21 problems were either policy breaches or lack of tool
22 control or lack of key control, excessive use of passes.
23 I just have trouble getting beyond the fact that those did
24 exist, prior to this escape. There was no -- no addressing
25 those problems, prior to this escape. And I just wonder

1 if there is a systematic review of what is going on and
2 how the review and findings are implemented and have there
3 been changes in the systematic review mechanisms?

4 It just seems to me that there was no account-
5 ability and no reaction to what is seen as problems. It
6 seems like someone, jail guards had said it and -- the meet
7 and discusses and somehow, as Representative Josephs
8 alluded to earlier, there must have been communication up
9 to the central office. These -- these failures were
10 certainly more than a doorbell that didn't work, meaning
11 the consequences of the alarm system not working, were
12 certainly more heavy than a doorbell not working. And even
13 if prison officials and the prison guards get used to
14 certain things, wasn't **there** a review mechanism and
15 certainly, the more important question for the future is,
16 is there one now in place, to address these problems?

17 COMMISSIONER HORN: I think that's an excellent
18 question. There was a review mechanism. Clearly, audits
19 and inspections were done. And over the years, the Depart-
20 ment had developed and I think appropriately, that there
21 might be some things that, in retrospect, they would
22 change. But by and large, I think that it was an appro-
23 priate range of issues that were audited and inspected.
24 I think the fact is clear and the evidence is clear, that
25 the operations inspection had discovered shortcomings. So,

1 that process clearly was working.

2 Where the process broke down was in the follow
3 through. And I think what you had there were two things
4 operating. And I think the fact that you could see how
5 much progress we've made in the last month is -- we have
6 replaced the entire executive team here. We replaced two
7 Deputy Wardens, the **Warden**, the Major of the Guard and the
8 Chief of Maintenance.

9 I think that there were -- as I said, there were
10 two things. One, I think that there was a lack of follow
11 through, on the part of the responsible staff in central
12 office, to ensure that the shortcomings that were
13 identified in that annual inspection, were corrected. And
14 I think that that was out of difference to the staff. I
15 think perhaps, that was out -- that was as a result of over-
16 familiarity with the involved staff. I think, too, that
17 one of the things that we tend to do in state government
18 is we replace one person. And so, two and one-half years
19 ago, we put in one warden. Well, you can't run this place
20 with one person. And I think that the reason we made the
21 progress that we have is that the warden that we have here
22 now has two deputies and a major and actually, still
23 doesn't have a Maintenance Superintendent. He has brought
24 people in from other facilities, who are committed to
25 making those changes and who are not wed to the way things

1 have always been done and who do not see it as an intrusion
2 upon the way that they've always done business and do not
3 perceive it as a threat to the judgments that they've made
4 in the past. So, I think that that is the difference.

5 In response to the other part of your question,
6 we have done several things. We have changed the format
7 in which the Superintendents report to me, directly, on
8 a weekly basis. That new reporting system becomes
9 effective on April 4th. And it will identify -- it
10 requires the Superintendent to report to me, personally,
11 every week, major, physical plant problems, things that,
12 in their opinion constitute breaches of security, to
13 document their inspections of the facility and so forth.
14 Also, I now require that the Deputy Commissioners report
15 to me, on a quarterly basis and inspect each of their
16 prisons twice during that quarter and report in writing
17 on the results of those inspections.

18 REPRESENTATIVE WALKO: Thank you. I have a
19 specific question about the **Swartz** . Welding Contract.

20 COMMISSIONER HORN: Yes.

21 REPRESENTATIVE WALKO: Which it is suspected that
22 the hydraulic jack was taken from that contract. In any
23 event, I have a specific question: How many inmates or
24 is there documentation of the number of hours put in by
25 inmates on that contract? Is that information available?

1 COMMISSIONER HORN: Let me -- let me check. Yes,
2 we did not specifically tally up the numbers.

3 REPRESENTATIVE WALKO: So, it could have been --
4 the other thing I've heard is that they were working
5 through the night. Is that correct?

6 COMMISSIONER HORN: I think -- I don't know if
7 they were working through the night, but there's no
8 question that there's evidence that they were working at
9 night, in that area and probably unsupervised.

10 REPRESENTATIVE WALKO: Just one other question
11 about the Swartz contract. Is it known how many outside
12 workers were involved in the implementation of that
13 contract or was it all inmates?

14 COMMISSIONER HORN: I -- I don't believe we've
15 established how many staff Swartz had working on the
16 contract.

17 REPRESENTATIVE WALKO: Now, that contract, I
18 believe you had mentioned to me was referred to the
19 Inspector General, is that correct?

20 COMMISSIONER HORN: It has been referred for
21 further investigation, is all I can say, sir.

22 REPRESENTATIVE WALKO: I have one other specific
23 question. Now, Superintendent White was found to have
24 been, I don't want to put words in your mouth, but I don't
25 know whether the word is negligent or -- he was demoted?

1 COMMISSIONER HORN: Yes, sir.

2 REPRESENTATIVE WALKO: What actually is he doing
3 now?

4 COMMISSIONER HORN: He is -- he was demoted to
5 the position that he held prior to being promoted to Super-
6 intendent here, which was as Deputy Superintendent and he
7 has temporarily been assigned to SCI Greene, where we have
8 an opening, because the former Superintendent there has
9 moved up here and his Deputy moved up, to create a vacancy
10 and also, one of his Deputies came here to help.

11 REPRESENTATIVE WALKO: Now --

12 COMMISSIONER HORN: That constituted a substantial
13 decrease in pay, as well.

14 REPRESENTATIVE WALKO: How much was the pay
15 decrease?

16 COMMISSIONER HORN: I believe about \$6,000.

17 REPRESENTATIVE WALKO: \$6,000 from what?

18 COMMISSIONER HORN: Oh, I don't know. I believe
19 it was a cut of about \$6,000 per year.

20 REPRESENTATIVE WALKO: Now, does he still --
21 he actually still maintains -- does he reside in a prison
22 facility?

23 COMMISSIONER HORN: He resides in the house. He
24 has two children, who go to school here and also, under
25 Department policy, an employee who rents a house from the

1 Department is entitled to 90 days notice. And I don't see
2 any reason why his children should be -- have to change
3 schools, at this point in time.

4 REPRESENTATIVE WALKO: He actually pays rent?

5 COMMISSIONER HORN: Yes. He pays rent, as do
6 all of our staff who live in state housing. And the
7 provision of state housing is for the convenience of the
8 state. We want the Superintendent to be nearby.

9 REPRESENTATIVE WALKO: Now, you came up with the
10 discipline that was used, is that correct?

11 COMMISSIONER HORN: Yes, sir.

12 REPRESENTATIVE WALKO: Now, with regard to
13 Fulcomer, who was the --

14 COMMISSIONER HORN: The Deputy Commissioner, yes.

15 REPRESENTATIVE WALKO: -- (continuing) -- he was
16 also disciplined, is that correct?

17 COMMISSIONER HORN: Yes, sir.

18 REPRESENTATIVE WALKO: What was the reason?

19 COMMISSIONER HORN: The reason, primarily was
20 the failure to follow through on the tool control
21 deficiencies identified in the annual operations inspection.

22 REPRESENTATIVE WALKO: And what was his penalty?

23 COMMISSIONER HORN: He -- his salary was reduced
24 \$3500 a year. And that would be a continuing penalty. So,
25 that will accumulate over time.

1 REPRESENTATIVE WALKO: Thank you. No further
2 questions.

3 CHAIRMAN BIRMELIN: Representative Reber?

4 REPRESENTATIVE REBER: Thank you, Mr. Chairman.
5 Commissioner, you've used the words "central office," on
6 a number of occasions. The central office is your office,
7 is that correct?

8 COMMISSIONER HORN: That is correct.

9 REPRESENTATIVE REBER: When the operational
10 inspection took place, according to your testimony, last
11 summer, had this particular escape been in the workings,
12 at that time or was that done prior to the beginning of
13 the attempts to build the tunnel, et cetera?

14 COMMISSIONER HORN: I believe that the inspection
15 was done prior. The information that we have, is that the
16 tunneling began in September and the inspection, I believe
17 was in August.

18 REPRESENTATIVE REBER: August.

19 When these inspections were done and I have some-
20 what of a parochial interest, in light of the fact that
21 a small facility, by the name of Graterford exists immedi-
22 ately adjacent to my particular Legislative District. Are
23 operational inspections done at all of the facilities,
24 Graterford included, of the same caliber that was done
25 here, in August of this year past?

1 COMMISSIONER HORN: Yes. Yes.

2 REPRESENTATIVE REBER: The same type, the same
3 checklist, guidelines, requirements, recommendations, regu-
4 lations, all that kind of thing?

5 COMMISSIONER HORN: Yes, sir.

6 REPRESENTATIVE REBER: Has there been a review
7 of that particular concept, as a result of what has since
8 taken place?

9 COMMISSIONER HORN: Yes.

10 REPRESENTATIVE REBER: Is that operational
11 inspection done by individuals from outside this facility?

12 COMMISSIONER HORN: Yes.

13 REPRESENTATIVE REBER: Is it done in conjunction
14 with any one or individual business facility that aids and
15 assist them or is it done totally blind, by the individuals
16 from outside the facility?

17 COMMISSIONER HORN: Well, I'm not exactly sure
18 I understand what you mean by "totally blind."

19 REPRESENTATIVE REBER: Well, what I mean is, do
20 the individuals who are conducting the inspection come in
21 and do it on their own and then go back and ask for input
22 from individuals from inside this facility?

23 COMMISSIONER HORN: They go -- yes. And you --
24 and Mr. Benning, who is the Deputy at SCI Greensburg and
25 has probably done a few in his career, can address that

1 better than I. But yes, they are done independently. Now,
2 somebody from the facility might accompany them around,
3 to show them around. They don't know their way around.
4 But yes, they are done from -- by outsiders entirely.

5 REPRESENTATIVE REBER: Do the individuals who
6 are carrying out this operational inspection have the
7 opportunity, before, during and after, to ask questions
8 of the members of the staff?

9 COMMISSIONER HORN: Yes.

10 REPRESENTATIVE REBER: They are made available
11 for very open and candid and robust discussion?

12 COMMISSIONER HORN: Yes. Yes.

13 REPRESENTATIVE REBER: In the ICU versus Shapp
14 Case, you mentioned had some concern with a consent decree.
15 Has a petition to modify or otherwise open that consent
16 decree been filed by the Department?

17 COMMISSIONER HORN: Well, we have been -- we have
18 opened discussions with the Attorney General, who repre-
19 sented us on that and have asked that that petition be
20 prepared. I don't know that it has actually been submitted
21 yet.

22 REPRESENTATIVE REBER: So, it has not been
23 submitted?

24 COMMISSIONER HORN: It -- it may well have. As
25 of last week, it had not been. But I -- I told him that I

1 wanted it done post haste. I think there was some
2 discussion with the attorneys about what the best means
3 of doing -- whether to take advantage of the new Federal
4 Prison Litigation Reform Act, whether that was preferable
5 to just petitioning for relief from the Judge and whether
6 to petition for relief from just specific aspects of the
7 consent decree or to ask that the whole thing be lifted,
8 which, because it is more than two-years-old, you can do
9 under the Federal PLRA.

10 REPRESENTATIVE REBER: That was the reason for
11 my question.

12 COMMISSIONER HORN: Yes.

13 REPRESENTATIVE REBER: Refresh my recollection. What
14 was the date when that Decree was entered?

15 COMMISSIONER HORN: ICU versus Shapp? I guess
16 it was during Governor Shaff's term of office and so, it
17 would have been the '70's.

18 REPRESENTATIVE REBER: And finally, one, last
19 question in the area of tool inventory, and it relates to
20 other institutions throughout the Commonwealth. Do you
21 anticipate any kind of problems that have manifested them-
22 selves during this particular episode, to, in any way show
23 up at any other institutions? Do you feel now that we have
24 a handle on the tagging, inventory and what have you or
25 are we going to hear the same story, because I recall some

1 of these same issues arising at the time of the Camp Hill
2 situation and I know that it came very much to light, as
3 a result of many transfers that were made to Graterford
4 and some of the instances came out of that testimony and
5 those particular discussions?

6 COMMISSIONER HORN: Yes, that is certainly a fair
7 question.

8 REPRESENTATIVE REBER: I would hope that all of
9 my questions are fair.

10 COMMISSIONER HORN: Yes. But that one, in
11 particular. I mean -- and I think that the situation at
12 Graterford is an example of what we tried to do. Every-
13 thing that we saw at Graterford told us that we had
14 problems and we acted swiftly. In fact, one of the things
15 that I always say to myself is why didn't -- because we
16 knew that we had weaknesses here. We didn't think that
17 they were severe and everybody from this place, who went
18 out to Graterford and helped us straighten that place out,
19 assured us that they didn't have those problems here. But
20 we probably should have turned around, after Graterford
21 and done the same thing here. Of course, it took us six
22 months to straighten out Graterford and I think we all ran
23 out of a little steam, after that.

24 I have visited all of the prisons, most of them
25 several times now. And in fact, if anything caused me to

1 overlook problems here or to take people's word for it was
2 what I saw at our other prisons. And I think that those
3 members of the Committee, who, last year joined
4 Mr. Bermelin on the tours that you organized of the six
5 prisons, I think will attest that the procedures in most
6 of our prisons are very, very sound, much more tight than
7 they were here, particularly in that area of tool control
8 and the maintenance area. And I think that modern, good
9 practice passed this place by. And I -- I am -- I will
10 never be confident enough. And you're only as good as your
11 people. And, you know, you go into a prison, whether you
12 are a Commissioner, whether you are a Legislator or whether
13 you are an inspector and you can only see so much. You
14 don't live there. And if -- you have no way of knowing
15 if individual staff, at the end of the day -- you know,
16 allow inmates to lock the tools up for you, because you
17 are lazy. I mean, because you -- you -- they don't do that
18 when you're around. And you don't know, at the end of the
19 day, whether or not a tradesman would take his keys off
20 his keyring and hand them to an inmate to use and then take
21 them back and maybe the inmate made an impression of them
22 or copied it or filched a key. There's no way to know when
23 your people are doing silly things like that. And in the
24 final analysis, you have to rely upon people.

25 I believe we have sound procedures. I believe

1 that we auditing them. I believe that we are doing a far
2 better job of insuring that the deficiencies that we
3 identified in the audits are being corrected. But in the
4 final analysis, there is no protection, when individuals
5 blatantly violate every good practice. And it's all sub
6 rosa.

7 REPRESENTATIVE REBER: Commissioner, isn't there
8 something almost somewhat paradoxical in that, though?
9 From the standpoint of the phraseology "operational
10 inspection," I would have to assume that if that practice
11 were ongoing, that a true operational inspection would,
12 in part, at least, bring to light this particular problem-
13 atic situation. And I'm wondering where the operational
14 inspection that we had in the summer was and where,
15 anywhere is the reference in that to investigating that
16 particular type of breakdown?

17 COMMISSIONER HORN: Well, in fact, it did. In
18 fact, as we indicate in the report, the -- the operational
19 inspection identified substantial shortcomings in the
20 practice of tool control in this prison. The problem was
21 with the failure to follow up. It was with respect to the
22 failure to correct the deficiencies that were noted. I
23 just want to find the section.

24 REPRESENTATIVE REBER: That's the '96 operational
25 inspection?

1 COMMISSIONER HORN: Yes.

2 REPRESENTATIVE REBER: How many of those do you
3 have at this facility a year?

4 COMMISSIONER HORN: There is a -- a full opera-
5 tional inspection conducted every year.

6 REPRESENTATIVE REBER: What did the '95 and in
7 '94 -- did they point out any of these deficiencies and
8 was there any follow up, as a result of those particular
9 operational inspections?

10 COMMISSIONER HORN: There was -- there was follow
11 up, but the follow up was inadequate. And that's the
12 problem. And that's why the Deputy Commissioner was
13 disciplined. I'm trying to find -- Page 61? Thank you.
14 Yes. The inspection in '93-94 was conducted. And that
15 report noted, "Good tool control and shadow boards in the
16 Electric Shop, Carpentry Shop and Plumbing Shop. Substan-
17 tial tool control problems in Arts and Crafts. Conditions
18 in the shop totally unacceptable," et cetera, et cetera.
19 "Plan of action was completed. 1994, the report noted two
20 areas for improvement, which relate to this escape." And
21 they noted the repair to the microwave detection system,
22 which gets back to the earlier question about that. And
23 then, in '94-95, it says, "Tool control was nonexistent.
24 Unable to -- " **this** gets to the whole issue of operation.
25 You ask the people whether they are following the practice,

1 whether they know the practice. And it says, "One of the
2 inspectors noted, 'I found that tool control was
3 nonexistent. I was unable to find the tradesman who could
4 show me the tool control policy. There was no standardiza-
5 tion for tool disposal,'" et cetera, et cetera. "'I did
6 not observe any inmates being padded down.'" So, it was
7 an operational inspection.

8 REPRESENTATIVE REBER: So, the empirical data,
9 which you reviewed as a result of the incident, does show
10 that in prior years, there was, to some extent or to a
11 great extent, in place and that in the subsequent year,
12 that it deteriorated?

13 COMMISSIONER HORN: It deteriorated. That's
14 right.

15 REPRESENTATIVE REBER: I think that's very
16 important, because I think that's somewhat justification
17 for the action that was taken to those particular
18 individuals in the chain of command.

19 COMMISSIONER HORN: Yes.

20 REPRESENTATIVE REBER: I thank you very much,
21 Mr. Commissioner, and appreciate your candidness and
22 frankly, your thoroughness of the knowledge of the issue.

23 COMMISSIONER HORN: Thank you.

24 CHAIRMAN BIRMELIN: Representative Boscola?

25 REPRESENTATIVE BOSCOLA: You know what, Representative

1 Reber asked the question that I was concerned about,
2 whether the lessons that you learned through this
3 experience, have you applied that to other institutions.
4 And I gather that the answer is yes. I just want to thank
5 you for letting us come and tour the facility for the first
6 time in Pittsburgh. And I'd like to hear it, because here,
7 it is not snowing and over in the East, it has snowed very
8 hard.

9 The other question that I wanted to ask is when
10 we struggle to figure out what we are going to do with old
11 facilities and struggle with how we are going to build new
12 ones and the cost of that, I often wonder what we are going
13 to do with the facilities that we close. I'm not saying
14 that this facility is going to be closed. But I often
15 wonder if there are other uses for a place like this, such
16 as juvenile facilities, some type of boot camp or female
17 institution of some sort. Have you given any thought to
18 that, as we are talking about building a new facility, with
19 some of the better constructions that are available in
20 electronics and so forth, that you were discussing?

21 COMMISSIONER HORN: I think there are a variety
22 of options available, not the least of which is to operate
23 this facility at the 500-inmate level that was proposed.
24 The fact is that we have a state-of-the-art Medical and
25 Mental Health Unit, which was built here in the last three

1 years and because of its proximity to a very fine hospital
2 infrastructure, far better than that which exists where
3 some of our more rural prisons are located, this might,
4 perhaps become some sort of a central medical or mental
5 health facility. There are a variety of different options.
6 I'm not sure that, in my professional judgment, I would
7 consider it optimal for a juvenile facility, although, that
8 is certainly worthy of contemplation. But I think that
9 the first question that needs to be resolved is just how
10 secure can we make it? And I think that, in my estimation,
11 you have to make a substantial investment, to secure this
12 place.

13 REPRESENTATIVE BOSCOLA: Thank you. Thank you,
14 Mr. Chairman.

15 CHAIRMAN BIRMELIN: Representative Manderino?

16 REPRESENTATIVE MANDERINO: Thank you, Mr. Chairman.
17 Commissioner, am I correct that the annual audit
18 and the operations inspection are the same thing?

19 COMMISSIONER HORN: Yes.

20 REPRESENTATIVE MANDERINO: The facilities report
21 is the written report that results from that inspection?

22 COMMISSIONER HORN: The annual operations inspec-
23 tion report is what results from that. It is this document
24 (indicating).

25 REPRESENTATIVE MANDERINO: What is the facilities

1 report?

2 COMMISSIONER HORN: The facilities report probably
3 is --

4 REPRESENTATIVE MANDERINO: I think you -- I mean,
5 I wrote it down when you were speaking.

6 COMMISSIONER HORN: Yes. I many have just used
7 the term interchangeably.

8 REPRESENTATIVE MANDERINO: Okay. So, there is --

9 COMMISSIONER HORN: There is -- there is a spring
10 inspection, that is an inspection of the physical plant,
11 the physical plant and there is a report submitted on that,
12 to the central office of the Department. That is where
13 you would note where there is deterioration in roofs,
14 whether pipes need to be replaced. You're looking at the
15 infrastructure.

16 REPRESENTATIVE MANDERINO: In your -- one of your
17 responses to Representative Walko, you referred to the fact
18 that audits, annual audits, plural and inspections, plural
19 were done. In addition to the annual operations inspection
20 and -- is that an annual physical plant inspection?

21 COMMISSIONER HORN: Yes.

22 REPRESENTATIVE MANDERINO: What other inspections
23 are done, that are reported all the way back to the central
24 office?

25 COMMISSIONER HORN: Well, for example, we do an

1 audit of the PACT System. The PACT System is the Pennsyl-
2 vania Additive Classification Tool. That is the device
3 by which we classify inmates, to maximum and medium and
4 minimum security and decide whether an inmate can be
5 assigned to work outside, whether he has to be in a maximum
6 security prison and so forth. And in fact, the report
7 reveals that that -- that was audited, as we audit that --
8 we audit just about every aspect. There's a business
9 office audit, there's a training audit that's done, there's
10 a food service audit. Actually, that's done, I think as
11 part of the annual operations inspection. So, every
12 discrete aspect of prison operation is examined. The
13 Personnel Office is audited, by the central office
14 personnel. People -- training is audited. The PACT audit
15 that was done revealed deficiencies in the way that they
16 were classifying inmates in this facility. And the record
17 is clear that the Deputy Commissioner, in that case, had
18 been taking very, very strong action to get the facility
19 to come into compliance with Department policy, but was
20 encountering tremendous, I don't want to say resistance,
21 but the progress wasn't being made and the problems weren't
22 being cleared up. In that case, however, there was a clear
23 record that he had taken follow up action.

24 REPRESENTATIVE MANDERINO: So, there are at least
25 a half a dozen, that I marked down or more reports, that are

1 done, that make it to the central office?

2 COMMISSIONER HORN: Yes, of different aspects.

3 REPRESENTATIVE MANDERINO: Various aspects?

4 COMMISSIONER HORN: Yes.

5 REPRESENTATIVE MANDERINO: Of the operations of
6 each correctional facility?

7 COMMISSIONER HORN: That's correct.

8 REPRESENTATIVE MANDERINO: There is the Deputy
9 Commissioner, who, in this case was disciplined with regard
10 to a demotion -- a decrease in pay. And in your answer,
11 it led me to believe that there are numerous Deputy
12 Commissioners, each of whom have certain facilities
13 assigned to them, for direct overview, is that a correct
14 assumption? Would you explain that?

15 COMMISSIONER HORN: The Department is divided
16 into three Regions: an Eastern Region, Central Region and
17 a Western Region. Each Region has a Regional Deputy
18 Commissioner and the Superintendent of the prisons in those
19 Regions report to that Regional Deputy Commissioner.

20 REPRESENTATIVE MANDERINO: That Regional Deputy
21 Commissioner reports to you?

22 COMMISSIONER HORN: Through an Executive Deputy
23 Commissioner, yes. There's an Executive Deputy Commissioner.

24 REPRESENTATIVE MANDERINO: So, are we talking
25 about the Regional Deputy Commissioner of the Western

1 District?

2 COMMISSIONER HORN: Yes.

3 REPRESENTATIVE MANDERINO: And how many prisons,
4 in addition to Pittsburgh, are in the Western District?

5 COMMISSIONER HORN: I believe eight.

6 REPRESENTATIVE MANDERINO: And how long -- is
7 that person currently the Deputy Commissioner? Did they
8 lose their status, as well as pay?

9 COMMISSIONER HORN: No. Just -- just the cut
10 in pay.

11 REPRESENTATIVE MANDERINO: And how long has that
12 Deputy Commissioner been in that capacity, where he had
13 overview over eight prisons?

14 COMMISSIONER HORN: He was Deputy Commissioner
15 in the prior Administration before I became Commissioner
16 and had been there for several years previous. I'm not
17 sure exactly how many.

18 REPRESENTATIVE MANDERINO: And do you know his
19 total time with the Department of Corrections?

20 COMMISSIONER HORN: Oh, it would probably be in
21 excess of 25 years. Prior to becoming a Deputy
22 Commissioner, he had served as Superintendent of several
23 different institutions.

24 REPRESENTATIVE MANDERINO: If he was -- but the
25 maintenance shed, for example, when we were on the tour,

1 I -- if I remember correctly, it was built in the mid-'80's?

2 COMMISSIONER HORN: No. The maintenance building

3 REPRESENTATIVE MANDERINO: I'm sorry. Not the
4 maintenance building, the warehouse.

5 COMMISSIONER HORN: The warehouse was built in
6 1985.

7 REPRESENTATIVE MANDERINO: 1985. So, prior to
8 the breakout, the warehouse facility was operating 11 years
9 or so?

10 COMMISSIONER HORN: Yes.

11 REPRESENTATIVE MANDERINO: In those 11 years or
12 so, how many of the -- and we can assume that that Deputy
13 Commissioner was responsible for that, for at least two
14 and possibly six or more years. How many times did he
15 receive the report that the microwave security system
16 didn't function correctly?

17 COMMISSIONER HORN: I'm not sure he ever did.

18 REPRESENTATIVE MANDERINO: Who reviewed the
19 annual audits from the facilities? Who in the central
20 office?

21 COMMISSIONER HORN: The Regional Deputy Commissioner.

22 REPRESENTATIVE MANDERINO: So, if there were
23 prior reports that the microwave system was not working,
24 would it not have gone to the Deputy Commissioner?

25 COMMISSIONER HORN: Yes.

1 REPRESENTATIVE MANDERINO: But, it didn't, in
2 this case?

3 COMMISSIONER HORN: No.

4 REPRESENTATIVE MANDERINO: Do you know why?

5 COMMISSIONER HORN: I believe that people did
6 not feel that that aspect of the facility operation was
7 within the secure perimeter of the facility. That ware-
8 house was deemed to be outside the perimeter of the
9 facility and I think people really -- years back, as far
10 back as 1985 and I think it showed in the design of the --
11 of the building, the fact that the locks were not locked
12 from the inside, indicated that that building was not
13 deemed to be part of the secure operation of the prison.

14 REPRESENTATIVE MANDERINO: Yet, it wasn't part
15 of the appropriate range of things to be looked at, during
16 an annual audit?

17 COMMISSIONER HORN: The warehouse?

18 REPRESENTATIVE MANDERINO: Yes.

19 COMMISSIONER HORN: I --

20 REPRESENTATIVE MANDERINO: Otherwise, it wouldn't
21 have shown up in the annual audit, that there -- what we
22 just read on Page 61?

23 COMMISSIONER HORN: Yes.

24 REPRESENTATIVE MANDERINO: It wouldn't have shown
25 up in there, correct?

1 COMMISSIONER HORN: Well but you -- one of the
2 things that you -- you do check is the warehouse, not
3 necessarily from a security point of view, but yes.

4 REPRESENTATIVE MANDERINO: The same -- we would
5 say that things like the Maintenance Shop and places where
6 tools were inside the secured facility?

7 COMMISSIONER HORN: Yes.

8 REPRESENTATIVE MANDERINO: And those showed up
9 in prior reports as having been deficient?

10 COMMISSIONER HORN: Right.

11 REPRESENTATIVE MANDERINO: That's correct. And
12 that is something that would have been to the attention
13 of the Deputy Commissioner, as well?

14 COMMISSIONER HORN: Yes.

15 REPRESENTATIVE MANDERINO: And therefore, to you?

16 COMMISSIONER HORN: No, because, actually, prior
17 to this, those reports stopped with and were handled by
18 the Regional Deputies.

19 REPRESENTATIVE MANDERINO: Okay. One of the
20 things that I was happy to hear you say, in response to,
21 I think Representative Walko, was that new reporting
22 systems, the Superintendents to the Commissioner and all
23 the Deputy Commissioners report to you, on a quarterly
24 basis has been instituted.

25 COMMISSIONER HORN: That is correct.

1 REPRESENTATIVE MANDERINO: However, I did not see
2 those in the written recommendations that were the summary
3 of actions following the escape, for January 29, 1997. So,
4 I was glad to hear that. My question is, is there a reason
5 that those weren't committed to writing, as well as the
6 report?

7 COMMISSIONER HORN: Well, actually, I think that
8 in the -- in the summary of actions --

9 REPRESENTATIVE MANDERINO: I apologize. No. 16.

10 COMMISSIONER HORN: No. 16, that's right. Also,
11 we reserve the right, as we go along, to discover new
12 things. And, you know, you just can't think of everything,
13 at one time.

14 REPRESENTATIVE MANDERINO: I understand that. My
15 concern is that when I -- when I read this report, the
16 piece that I found so glaringly missing was the communica-
17 tion cycle that went from an individual institution to
18 central office. And when we were touring the warehouse
19 and again, I must clarify, you know, whether it was the
20 microwave system was or wasn't in some places we considered
21 secure, I mean, the same thing could hold again for the
22 tool practices, et cetera. One of the comments that you
23 made is that, "Yeah, everyone knew there was a problem,
24 but somebody has to tell us, for us to know that there was
25 a problem." So, I'm saying, isn't that a big part of what

1 we need to -- I'm suggesting that one of the things that
2 we also need to look to correct is not just what needs to
3 be improved at Pittsburgh, but what needs to be improved
4 in the communication line, all the way up and down.

5 COMMISSIONER HORN: Absolutely and that is what
6 we are endeavoring to do. I think again, the -- the annual
7 operations inspection, in 1994, clearly identified the
8 shortcomings with the microwave detection system. I think
9 that where the breakdown was, was in the direction from
10 central office, to the institution, to get it fixed and
11 then, the communication back from the facility, with
12 respect to their inability to get it fixed or their
13 determination to get it fixed. And I think that part of
14 what we are seeing here is that when people make up their
15 minds to get things done, to break through the bureaucracy,
16 to pick up the phone and call DGS or to -- or to do some-
17 thing else, things happen. And those things weren't
18 happening previously.

19 REPRESENTATIVE MANDERINO: I guess the -- the other
20 thing that bothers me about the lack of communication,
21 again, it's nice that it was picked up in the '94 report.
22 It's not nice that there wasn't any follow up. It appears
23 that there were problems way before '94 and that wasn't
24 on your watch and I'm not suggesting that it was, but it
25 just seems that there wasn't only a systemic problem with

1 how we do things in Pittsburgh, that's been alluded to so
2 much today, but a systemic problem with how we communicate,
3 all the way to the top. That is only point that I was
4 trying to make.

5 COMMISSIONER HORN: I think -- can I respond to
6 that for a minute, because I think that that is an
7 excellent point?

8 I think -- one of the problems that I struggle
9 with and in some ways, this escape was a watershed event
10 for me, is that historically in this state and it gets to
11 the way that prisons were originally set up. Prisons were
12 set up. You had Eastern Penitentiary, you had Western
13 Penitentiary. They ran pretty independently. And there
14 is a tremendous tradition in this state of autonomy, on
15 the part of the individual prisons and a tremendous
16 tradition of deference. And so, when you say, "Well,
17 we're going to do something" and I've had this experience,
18 in the two years that I've been here or I'll come in and
19 I'll say, "I want to make this policy" and everybody will
20 say, "Well, Warden so and so says it won't work here. And
21 Warden so and so wants to do it a little bit differently
22 here." And, you know, you find yourself and I found myself
23 getting sucked into the trap of wanting to defer to their
24 judgment. You say, "Well, they know their prisons best.
25 And they have lots of reasons why it won't work here: 'Well,

1 we don't have enough staff' or 'Our physical plant wasn't
2 built the same way as the new prisons.'" So, you can't
3 make rules work at Pittsburgh, the way that they work at
4 Houtsdale. Or "We've got a tougher type of inmate and so,
5 that won't work here." Or "We're subject to this court
6 decree and so, that won't work here." And so, there's
7 always a million reasons why you can't have one rule that
8 everybody follows and why you can't give direction. And
9 I -- I will confess, myself, being the new kid in town,
10 to having been very differential, prior to January 8th.
11 And I can assure you that that's changed.

12 REPRESENTATIVE MANDERINO: In that line then,
13 I'm wondering if any thought has been given to who is part
14 of the annual audit and operational inspection. Again,
15 if things were so unique to Pittsburgh, in how they were
16 operating and other facilities didn't seem to have the same
17 systemic problems, whether it dealt with the movement of
18 the inmates across the yards or the inventory of the tools
19 or whatever, it would seem that teams coming in to audit,
20 made up of only people from outside Pittsburgh would have
21 brought to the attention that they are doing it like the
22 rest of us don't do it. So, my question is, is there a
23 change of thought, with regard to deference to an individual
24 institution's way of doing things, is there a change in
25 thought, vis-a-vis how the annual -- what -- what's

1 appropriate to get a thorough and unbiased -- I don't know
2 if unbiased is the word, I don't really mean that, but an
3 objective picture of the annual operations inspection?

4 COMMISSIONER HORN: Well, I have to say that I
5 feel that the operations inspections that were done were
6 good and in fact, are done by people out -- from outside
7 the facility, who can compare it. The whole idea is to
8 compare it, presumably, to good practices in other prisons.
9 And I think that the results of those annual inspections
10 that we cited here and -- and the actual inspection
11 reports, themselves, which we would be happy to make avail-
12 able and we have made available in the present, indicate
13 that the review was good and was adequate. Again, the
14 problem was in the response. And I think that the
15 distinction is that in other facilities -- and I -- I would
16 not sit here before you and say that the annual inspections
17 that have been done of all of our other prisons have found
18 them to be free of deficiencies. The difference is that
19 when the deficiencies are noted and in any operation this
20 large and this complex, you are talking all of these
21 prisons are \$30 million, \$40 million a year operations,
22 involving hundreds of personnel, from year to year, things
23 slip, personnel change, people forget, people get sloppy.
24 The idea is that you fix the deficiencies, that you catch
25 them early and you always stay on top of your game. The

1 difference between this place and elsewhere was that the
2 deficiencies that were noted elsewhere were acted upon and
3 corrected and here, year after year, they weren't.

4 REPRESENTATIVE MANDERINO: Finally, a very simple
5 question. SCI Pittsburgh is, as currently designed,
6 "designed," your wording, holds 1200 inmates.

7 COMMISSIONER HORN: No. It has the capacity for
8 1200. It holds 1800.

9 REPRESENTATIVE MANDERINO: I'm sorry. It is
10 currently designed and has the capacity for 1200. Does
11 "as currently designed" mean the capacity it was built for
12 or how we are housing them now, vis-a-vis some of the
13 blocks, not like the block we saw, where we saw the E block
14 that had single bunks, there were ones that had been
15 doubled up, et cetera, does "as currently designed" mean
16 as we doubled them in or is that the same as the number
17 that it was originally built for?

18 COMMISSIONER HORN: No. That -- that is a single
19 cell capacity. That is -- I mean, what it was originally
20 designed for, in 1881, I'm not sure. I know, as originally
21 designed, the north block had 640 cells and the south
22 block had 500. So, right there is a capacity for 1140
23 inmates. I think that we've diminished that somewhat, over
24 time. So, 1200 is probably an appropriate level of inmates
25 to house here. And in a -- in a good -- in an optimum

1 situation, you always want to have some empty cells, so
2 that you can move the inmates around, so that you can --
3 if inmates violate rules, you can -- you have ample disci-
4 plinary custody space. One of the biggest problems here
5 is not enough, what we refer to as "RHU space." So, 1200,
6 I -- I think, is a single cell capacity. It's not a double
7 cell capacity.

8 REPRESENTATIVE MANDERINO: Thank you.

9 CHAIRMAN BIRMELIN: Representative Dermody?

10 REPRESENTATIVE DERMODY: Thank you, Mr. Chairman.

11 Commissioner, I'd like to follow up a little bit
12 and just a few questions on these deficiency reports and
13 I'll try not to bore anybody.

14 An operating inspection is conducted and let's --
15 it's reported back to the central office, is that correct?

16 COMMISSIONER HORN: Yes, sir.

17 REPRESENTATIVE DERMODY: In '96, I believe you
18 said it was reported once again, deficiencies in the way
19 that the tools -- accounting and tool policy, correct?

20 COMMISSIONER HORN: Yes, sir.

21 REPRESENTATIVE DERMODY: How is that information
22 transmitted back to the people at the institution?

23 COMMISSIONER HORN: They receive a copy of the
24 audit and then, they are responsible for submitting a plan
25 of action to the Deputy Commissioner and follow up.

1 REPRESENTATIVE DERMODY: So, in that particular
2 report in '96, the tool deficiencies, the tool reporting
3 or accounting deficiencies were noted. The Superintendent
4 here is required -- he gets a copy of the deficiency
5 report.

6 COMMISSIONER HORN: It was sent to him on July 29,
7 1996.

8 REPRESENTATIVE DERMODY: And did he -- did that
9 person send back to you an actual report that --

10 COMMISSIONER HORN: He submitted it, on
11 September 20th -- he submitted a plan of action.

12 REPRESENTATIVE DERMODY: Is there any -- do you
13 recall a follow up on that plan of action?

14 COMMISSIONER HORN: That's the problem. In fact,
15 in the plan of action, it was noted that tool sign out
16 sheets had been initiated in all Maintenance Shops and that
17 shadow board updates were in progress.

18 REPRESENTATIVE DERMODY: Whose responsibility should
19 it be or was it to follow up on the institution's progress
20 again, in complying with --

21 COMMISSIONER HORN: Well, you know, the Super-
22 intendent is responsible for running his prison. He's a
23 very highly paid, highly experienced executive of a \$50
24 million a year operation. You expect that a person at that
25 level will do what policy of the parent organization calls

1 for and will correct deficiencies when they are brought
2 to his attention. Ultimately, however, he reports to a
3 Deputy Commissioner, whose job it is to make sure that he
4 is doing that job.

5 REPRESENTATIVE DERMODY: So, it is the Deputy
6 Commissioner's responsibility to follow up, to see whether
7 or not the institution has complied with it?

8 COMMISSIONER HORN: That the representation --

9 REPRESENTATIVE DERMODY: Has complied with --
10 has satisfied the deficiency report?

11 COMMISSIONER HORN: Yes. Yes.

12 REPRESENTATIVE DERMODY: All right. And that
13 wasn't done in this case, is that right?

14 COMMISSIONER HORN: That's correct.

15 REPRESENTATIVE DERMODY: The capacity here, we
16 just discussed is -- is 1200 and you have 1800 inmates,
17 correct?

18 COMMISSIONER HORN: Yes.

19 REPRESENTATIVE DERMODY: How many guards?

20 COMMISSIONER HORN: About 450.

21 REPRESENTATIVE DERMODY: And I believe Greene,
22 you mentioned is another maximum security institution,
23 correct?

24 COMMISSIONER HORN: Yes.

25 REPRESENTATIVE DERMODY: They are about 140 percent

1 of capacity, are they not? Is that correct?

2 COMMISSIONER HORN: Yes.

3 REPRESENTATIVE DERMODY: And the State Correctional
4 facility in Pittsburgh is about 160 percent of capacity,
5 is that correct?

6 COMMISSIONER HORN: Yes.

7 REPRESENTATIVE DERMODY: Greene County just
8 recently opened, is that right?

9 COMMISSIONER HORN: 1993, I believe.

10 REPRESENTATIVE DERMODY: How many guards at
11 Greene County?

12 COMMISSIONER HORN: Gee, I don't know offhand.
13 Fewer -- about 100 fewer.

14 REPRESENTATIVE DERMODY: About 100 fewer?

15 COMMISSIONER HORN: Yes.

16 REPRESENTATIVE DERMODY: And how many inmates
17 are there?

18 COMMISSIONER HORN: About 1600.

19 REPRESENTATIVE DERMODY: What's the salary of
20 the guards, say a starting salary?

21 COMMISSIONER HORN: About \$20,000.

22 REPRESENTATIVE DERMODY: About \$20,000. After
23 five years?

24 COMMISSIONER HORN: \$25,000.

25 REPRESENTATIVE DERMODY: Just a couple of follow-up

1 questions. I believe that Representative Reber discussed
2 with you regarding uniforms?

3 COMMISSIONER HORN: Yes.

4 REPRESENTATIVE DERMODY: You are filing a petition?

5 COMMISSIONER HORN: Yes, we will be -- yes.

6 REPRESENTATIVE DERMODY: You will be filing a
7 petition to change that, is that correct?

8 COMMISSIONER HORN: Yes.

9 REPRESENTATIVE DERMODY: Now, the other point
10 that you made and I may have just misunderstood you, but
11 in the much earlier consent decree, you mentioned that the
12 jail guards are intimidated, if asking inmates where they
13 are going in the institution? I find that hard to believe.
14 And if that is so, I -- I can't believe that it is a
15 specific requirement.

16 COMMISSIONER HORN: Well, no, the -- the consent
17 decree did not require that. I think that it was the
18 interpretation that was laid on it by successive adminis-
19 trations. It's a subsequent one. The first -- the earlier
20 one was ICU versus Shapp. Subsequent to ICU versus Shapp,
21 in the early '80's, there was Tillery versus Owens, which
22 was specific to Pittsburgh. ICU versus Shapp governed
23 several facilities. And Tillery was specific to the
24 conditions at this prison.

25 One of the shortcomings in the Tillery Case was

1 inmate access to medical care. And it required that we
2 document and provide a very high level of access to medical
3 care for inmates.

4 REPRESENTATIVE DERMODY: Is that the Allegheny
5 County Case?

6 COMMISSIONER HORN: No.

7 REPRESENTATIVE DERMODY: No.

8 COMMISSIONER HORN: That's different.

9 REPRESENTATIVE DERMODY: All right.

10 COMMISSIONER HORN: That's a Federal Court Case,
11 specific to Western Penitentiary.

12 REPRESENTATIVE DERMODY: All right. Okay.

13 COMMISSIONER HORN: And -- and, as I -- as it
14 has been recounted to me and maybe the folks who work here
15 can tell you that better, they -- they tell stories that
16 in the past, when an inmate came -- I don't know if you
17 were with us on the tour, but when they came to that --
18 that yard gate, if they would stop inmates who were saying,
19 "I'm going here, I'm going there, I have to go to Medical"
20 or whatever, they would be -- complaints would be filed
21 and subsequently, the management of the prison would
22 castigate them for holding up inmate movement or harassing
23 inmates. And as a result, they became reluctant to assert
24 their authority.

25 REPRESENTATIVE DERMODY: You have taken care of

1 that, I hope?

2 COMMISSIONER HORN: Yes, I believe we have.

3 REPRESENTATIVE DERMODY: I hope so, also. It
4 seems outrageous to me that the guards would have any
5 problem, whatsoever, trying to determine where an inmate
6 is going and why.

7 COMMISSIONER HORN: Me, too.

8 REPRESENTATIVE DERMODY: You have 1800 inmates
9 and 450 jail guards. In your opinion, is that a sufficient
10 number of guards to take care of the inmates, the type of
11 inmates that we have in this institution? At a maximum
12 security prison, as you said and I know, fortunately --
13 unfortunately, I've been through this far too many times.
14 But I see a rapid rise in prosecuting cases. We have some
15 of the worst inmates and the nastiest inmates in the
16 County. Is that a sufficient number?

17 COMMISSIONER HORN: It's the highest ratio of
18 any facility in the state. We're in the process of doing
19 a very systematic manpower study now and determining where
20 the appropriate posts are. You know, if I say that it is,
21 then, I'll never get any additional staff and if I say that
22 it's not, I -- it -- it's a very difficult question to
23 answer, because the number of officers that you need
24 depends on how you run the prison. It depends on how you
25 move your inmates, from position to position; from housing

1 unit to shop, housing unit to school, from housing unit
2 to dining room. It depends on how you feed the inmates.
3 A lot of the staffing of this facility is driven by the
4 court in the Tillery Case, which required us to add
5 correction officers.

6 Let me give you an example. In the Tillery Case,
7 the court required that we position five correction
8 officers, I believe in the auditorium, because back at the
9 time of the Case, there were a lot of problems. Inmates
10 were being beaten up by other inmates or stabbed or
11 sodomized in the auditorium. So, the court, as part of
12 the consent decree and I guess the state agreed to it,
13 since it was a consent decree, said that there had to be
14 five officers in the auditorium. Well, that's -- we had
15 to put five officers in the auditorium, when we have three
16 inmates there or whether we have 300 inmates there. And
17 so, that's eating up staff. Now, if we could redeploy some
18 of those officers, when there was only a small number of
19 inmates in the auditorium, we might be able to deploy them
20 better and provide better security.

21 We made a decision to assign 20 additional
22 officers to this prison. And we are transferring personnel
23 from other prisons already. And until that -- we've done
24 that post analysis and looked at the best way to move the
25 inmates and the best way to observe and control the inmates,

1 I would be reluctant to answer that question definitively.

2 REPRESENTATIVE DERMODY: I don't think that I
3 expected you to. But you know the kind of inmates we have
4 here. It's the highest ratio in the system. It's an old
5 prison but we have to live with it. And you talk about
6 situations in the area where this incident took place and
7 where these inmates were housed by jail guards, becoming
8 familiar with them, maybe too familiar. It's probably due
9 to survive -- due to the need to survive and the wanting
10 to survive. They have to get along, too and live in this
11 institution. They've got to work every day with them. And
12 I think that's part of the problem. There's too few --
13 there's too many inmates and too few guards. And they've
14 got to get by with it. And I think that that should be
15 a consideration.

16 COMMISSIONER HORN: I absolutely agree. And I
17 think that a prison should be appropriately staffed and
18 it should be staffed to run safely, it should be staffed
19 so that the officers can do their jobs, know that their
20 backs are covered and the facility should be organized,
21 in a way that enhances their ability to do it, rather than
22 detracts from it. I think that the problem becomes, given
23 the disparity in the cost of operating this prison, as
24 compared to the cost of operating the newer prisons, that
25 if you say, "Well, yes, we need to get more officers," it

1 runs the cost up. I'm running prisons today, with as many
2 inmates, in fact, with more inmates, for \$10 million a year
3 less. Now, if I add officers, it's only going to make that
4 spread bigger. That's going to, over time, cost the
5 taxpayers far more.

6 REPRESENTATIVE DERMODY: The prison break cost
7 the taxpayers a lot, too.

8 COMMISSIONER HORN: Not as much as the manpower
9 is costing year in and year out.

10 REPRESENTATIVE DERMODY: But if we have to do
11 that in the meantime, I'm saying that is what we will do.

12 COMMISSIONER HORN: Absolutely.

13 REPRESENTATIVE DERMODY: Thank you very much.

14 CHAIRMAN BIRMELIN: We recognize Representative
15 James for one follow-up question.

16 REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

17 It just seems to me, in listening to the questions
18 and the responses and also, in the observation that --
19 the little tour, it bothers me that the Superintendent of
20 the prison is not here to testify. And it seems to me and
21 this may be a gut reaction, a gut feeling, that at this
22 time, are we trying to protect him, because, based upon
23 everything I've seen here, it just seems that there were
24 certain inmates who had certain jobs, who became cozy with
25 certain staff and that -- and that the overall responsibility

1 of the Superintendent, in deference to you, should have
2 caught that, even based upon the audits that they had in
3 August. So, I think that the Superintendent should be held
4 accountable. And I just don't know why he -- he didn't
5 retire?

6 COMMISSIONER HORN: No.

7 REPRESENTATIVE JAMES: Then, I think that we'd
8 probably have a better determination later on. But I
9 think that there should have been a much more severe disci-
10 pline, based on the fact of what has happened here. And
11 if someone had been killed, I'm sure that the discipline
12 would have been different. And so, I just think that we
13 should take that into account, based upon the continuing
14 hearings. I think I'd better be able to make a determina-
15 tion by Wednesday. But I think that he needs to be here
16 to testify. Thank you.

17 CHAIRMAN BIRMELIN: Commissioner Horn, would you
18 turn to Page 3 of your -- excuse me, Page 2 of your summary
19 of actions, Point No. 9?

20 COMMISSIONER HORN: Yes.

21 CHAIRMAN BIRMELIN: "SCI Pittsburgh will achieve
22 compliance with Department policy, relative to the classi-
23 fication of inmates."

24 COMMISSIONER HORN: Yes.

25 CHAIRMAN BIRMELIN: Would you explain to us if or

1 what that had to do with the escape?

2 COMMISSIONER HORN: If you -- in the report --
3 I'm trying to find it here. On Page 75 of the report, we
4 describe the problems with the classification -- we
5 describe the Department's system for classifying inmates
6 to various security levels. And those security levels
7 dictate where inmates are allowed to work and the kinds
8 of movement, whether it is restricted or unrestricted, that
9 they're allowed to have a degree of observation and super-
10 vision over those inmates and it also talks about how
11 inmates get reclassified over time. And then it goes on,
12 on Pages 77 and so on, to describe that several of the
13 escapees were not appropriately supervised. Billingsley
14 was a Class 3 and should have been a Class 4. Heim was
15 appropriate. Pontes was a Class 3. He should have been
16 a Class 4. Keller should have been a Class 4. And so --
17 and also, we -- we mentioned the fact that there had been
18 an audit of -- and I indicated to Representative Manderino,
19 that the audit of the Department, that had been done the
20 prior summer, on the facilities classification, had
21 indicated shortcomings with their internal inmate classi-
22 fication procedures, that the Deputy Commissioner was, in
23 fact working to get them to come into compliance and --
24 and we've now shorten the time frame for allowing them to
25 do so. But you have to essentially go back and reclassify

1 and ensure that all 1800 inmates are classified properly.
2 That's a rather time consuming process.

3 CHAIRMAN BIRMELIN: Thank you for your response.

4 In closing, I have asked the counsel for the
5 Committee to make a request to you and/or your staff, for
6 certain pieces of information. Chief Counsel Preski?

7 MR. PRESKI: Yes. Commissioner, there are
8 certain things that the Subcommittee, as it prepares its
9 report on this escape, would like to have. Again, I would
10 like to refer you to the summary of actions. You talk
11 about having eliminated the past runner system and you will
12 establish a call out method. Could we have a copy of that
13 new policy?

14 COMMISSIONER HORN: Yes.

15 MR. PRESKI: Also, the revised tool control policy?

16 COMMISSIONER HORN: Yes.

17 MR. PRESKI: The Code of Ethics?

18 COMMISSIONER HORN: Yes.

19 MR. PRESKI: In No. 5, you talk about assigning
20 jobs to inmates through the Inmate Employment Office. If
21 there's any policies or procedures from that Office?

22 COMMISSIONER HORN: Yes.

23 MR. PRESKI: And then, finally, I see in No. 11,
24 you will be pursuing ACA, I assume that that is the American
25 Correctional Association?

1 COMMISSIONER HORN: Yes.

2 MR. PRESKI: Accreditation?

3 COMMISSIONER HORN: Yes.

4 MR. PRESKI: Do we have any materials related
5 to that?

6 COMMISSIONER HORN: The facility has begun to
7 organize its records and has assigned staff to prepare for
8 the accreditation. I don't believe that they've actually
9 made their application yet.

10 MR. PRESKI: Thank you, Commissioner.

11 CHAIRMAN BIRMELIN: Thank you, Commissioner Horn.
12 And at this time, we would ask to have Mr. L. P. Benning,
13 the investigator for the Department of Corrections to come
14 forward.

15 While he is coming forward, I would ask the --
16 remind the members of the Committee that the Division of
17 Labor in a prison includes those who have been -- I guess
18 the investigators refer to the guards as being correction
19 officers and the other staff who are not that. So, we
20 would appreciate in your questioning of Mr. Benning, to
21 make sure that you refer to the correctional officers and
22 so forth.

23 Mr. Benning, are you presenting a videotape to
24 us?

25 MR. BENNING: No, sir, I'm not. No, sir, I'm not.

1 CHAIRMAN BIRMELIN: I'm told that you are.

2 MR. BENNING: Unfortunately, I am.

3 CHAIRMAN BIRMELIN: The videotape that you are
4 going to see is approximately, nine minutes long. And it
5 is of the tunnel through which the prisoners escaped.

6 (Videotape played.)

7 CHAIRMAN BIRMELIN: We'll get started again with
8 Mr. L. P. Benning, who was the lead investigator for the
9 State Correctional Institution, in dealing with this
10 problem. Mr. Benning has just shown us a short video of
11 the tunnel area, which I am sure that the Department has
12 available for viewing, for those who want to see it.

13 MR. BENNING: That's correct.

14 CHAIRMAN BIRMELIN: And we'd ask Mr. Benning to
15 give his statement, to say whatever it is that he would
16 like to say and then to stay for some brief interrogation.

17 MR. BENNING: Very good. I presume everybody
18 hears me well up front. Okay. A little bit closer?

19 CHAIRMAN BIRMELIN: A little bit closer to the
20 microphone.

21 MR. BENNING: How's this?

22 REPRESENTATIVE MANDERINO: Yes.

23 MR. BENNING: Good afternoon, Ladies and Gentlemen.
24 I am L. P. Benning. I am permanently assigned to the State
25 Correctional Institution at Greensburg, Pennsylvania, in

1 the capacity of Deputy Superintendent of Facility Management.
2 In that capacity, I'm responsible for the overall security,
3 safety, sanitation and unit management programs for that
4 institution.

5 My career in corrections began in 1970, as a
6 corrections officer for the State Correctional Institution
7 at Camp Hill, where I was promoted through the classifica-
8 tions of Officer, Sergeant, Lieutenant and Captain.

9 In 1981, I was asked by then Commissioner Ronald
10 Marks, to join his staff up at central office, as the Chief
11 of Security for the State of Pennsylvania. I served in
12 that capacity until 1985, at which time I was promoted to
13 the Deputy Superintendent's position and that is where I
14 am currently at, at Greensburg institution and I remain
15 in that position.

16 In regards to the escape of six inmates from the
17 Pittsburgh institution, from January 9th to February 7th
18 of this year, I was asked by Mr. Horn to function in the
19 capacity as the officer in charge of the DOC Investigative
20 Team, which was charged with looking into the who, what,
21 where, when and why the escape had happened here at
22 Pittsburgh.

23 I would, with your permission like to share some
24 foundation information with you, to hopefully bridge some
25 of the gaps that occasionally pop up in one's mind, when

1 they listen to a person like me.

2 And I would like to present it in somewhat of
3 a five-stated area, if I could. And those being the Depart-
4 ment of Corrections Investigative Team's composition and
5 Commissioner Horn's seven objectives, which were very
6 important to us. This was the ground rules by which we
7 operated our investigative teams. I'll talk about the
8 functions of the investigative team and those are the
9 support mechanisms, that were called into service, as a
10 result of this crisis. I'll take a look at the standard
11 investigative process of correcting the classification of
12 evidence and then finish up by indicating our contributions
13 to the DOC investigative report, which was collected,
14 collated and presented by Mr. Horn, to the Governor, on
15 January 23rd.

16 The investigative team, itself, was originally
17 called to order and commissioned on January 9th, by
18 Mr. Horn. There were four of us who were involved. Some-
19 where around January 14th, four more investigators joined
20 the team, due to the large volume and the scope of this
21 particular investigation. We would serve in that capacity
22 until February 7th, 1997.

23 The Commissioner, on January 9th, met with us
24 and he charged us with what I refer to as seven objectives,
25 goals and standards. And bear with me, as I share them

1 with you.

2 The first one was how did Pittsburgh get to this
3 point? He was very pointed, in this particular section
4 here. He wanted to know what was going on in Pittsburgh,
5 who was responsible and to what degree, was his second
6 request.

7 Now, his third request was that the investigation
8 be unbiased, objective and evidence driven.

9 The fourth one was to interview all of the staff,
10 including top managers, labor relations representatives
11 and all relevant **staff, have** all inmates, who were
12 associated with this incident interviewed.

13 No. 5 was to include in the investigation the
14 causational factors which adversely impacted the security
15 systems, particularly tool control, key control, inmate
16 accountability and other relevant factors contributing,
17 to provide focus in this incident.

18 No. 6 was to prepare recommendations for those
19 personnel, where violations of the Department of
20 Corrections policies, ethics and/or law will determine.
21 Those identified will be subject to the appropriate and
22 applicable due process formats and forms.

23 No. 7, the Department of Corrections Investigative
24 Team report should be ready for submission to the Department,
25 by January for inclusion into the Department's report to the

1 Governor on January 23rd. Having received these objectives
2 and goals, for the next 11 days, we worked nonstop,
3 basically, to bring about evidence which the Commissioner
4 could assimilate into his process and make ready for the
5 Governor's report.

6 The investigative team's structure and related
7 services, in addition to the Department of Corrections'
8 four members and then expanded investigative team, we were
9 also assigned, in a similar way, with the Pennsylvania
10 State Police. They had a team of investigators, who were
11 working with us. Basically, their assignment was to get
12 the apprehension of the inmates. It was our charge --
13 **our** charge was to find out who, what, when, where and why
14 what happened in Pittsburgh.

15 Now, while these objectives sound somewhat
16 separate, we were reinforced by our respective
17 Commissioners, that they were not mutually exclusive and
18 that we were to cooperate with each other and exchange
19 information and move quickly -- as quickly as we could,
20 to the apprehension of the inmates, as well as satisfy
21 Commissioner Horn's objectives.

22 The investigative teams were also joined by
23 several crisis response teams, crisis correction, emergency
24 and response teams. There were several of those, which
25 joined us here at the institution, to conduct institutional

1 and institutionwide searches and cell inmate searches.
2 They were joined by the canine, the drug dog teams from
3 the Department.

4 As an aside, it was during one of these searches,
5 that the canine team discovered a stash of marijuana here,
6 within the institution, although it was subsequently
7 evaluated and determined that it was related to the escape.
8 That was just part of the products that came out of this
9 institutionwide search. All other contraband which was
10 found during that time, was of basically a general
11 nuisance-type contraband: extra clothing, extra cell
12 furniture, such as boxes, papers, magazines, whatever have
13 you. It amounted to, however, somewhere around three dump
14 trucks full of trash and debris.

15 The mechanics of the investigation took in the
16 classification and collection of evidence. We took that
17 basically from four areas. And that was a tour of the
18 institution, the incident site, staff and inmate interviews,
19 physical evidence which was accumulated and miscellaneous
20 and peripheral evidence. Much like yourselves, going back
21 to No. 8, the tour of the incident sites, we toured not
22 only the incident site, which we perceived as being --
23 termed as the epicenter of the incident, that is, the
24 powerhouse and all of the shops that were related to it,
25 but we also ventured throughout the institution, in our

1 quest to try to get to the bottom of the who, what, when,
2 where and how.

3 Our staff and inmate interviews, though, totaled
4 over 250, during that 11-day period and during that period
5 and being honest with you, several of those people were
6 interviewed twice and so, it wasn't 250 people, but 250
7 interviews were conducted. We conducted -- they -- they
8 were very time consuming and probably represented the bulk
9 of our evidence in this particular Case.

10 The physical evidence, which we took from part
11 of the hole that you saw out there, the tunnel and other
12 locations around the institution, were over 300 pieces of
13 evidence. They were marked, identified and secured in
14 place in the Security Office here, inside Pittsburgh, for
15 future litigation.

16 Miscellaneous peripheral evidence, that took in
17 everything that we haven't done in A, B or C; basically,
18 memos, incident reports, annual reports, responses, meeting
19 minutes, labor relations minutes. All of these things were
20 collected, evaluated and weighed, as we presented our
21 findings to the Commissioner.

22 One of the categories that the Commissioner asked
23 us to take a look at was to hold people accountable by
24 making recommendations of violations of rules and regula-
25 tions. After the Deputy Superintendent, the Major and the

1 Superintendent had been addressed, we looked at our
2 findings and we initially forwarded 40 people into the fact
3 finding phase of the process for employee discipline. From
4 those 40 people, it was determined that 11 were culpable,
5 in some way, shape or form, of alleged Department of
6 Corrections rules, regulations, policies, Code of Ethics
7 violations. We continued to hold predisciplinary
8 conferences and of those people who were mentioned, various
9 levels of culpability were found and sanctions were issued
10 and -- and that satisfied the Commissioner's request, along
11 that line, in holding those people accountable, responsible,
12 in such a fashion.

13 On January 20th, we teamed up -- the Department
14 of Corrections Investigative Team teamed up with the
15 Central Office Team and collated our information, prepared
16 all of the intelligence which we gathered, the evidence
17 which we had gathered and prepared our statement for the
18 Commissioner.

19 On January 23rd, the Commissioner made his pre-
20 sentation to the Governor, at which time he accepted, I
21 believe a copy of this report, which you have in your
22 possession here this afternoon.

23 On February 7th of this year, having satisfied
24 all of the Commissioner's seven points, standards and
25 objectives he had for this particular investigative team,

1 we asked permission to decommission our particular investi-
2 gative team and we returned to our institution.

3 Thank you. That concludes my opening statement
4 and I'll be glad to answer any of your questions.

5 CHAIRMAN BIRMELIN: Representative Manderino? We
6 are going to go in reverse order this time.

7 REPRESENTATIVE MANDERINO: Thank you, Mr. Chairman.

8 Mr. Benning, the number of the objectives that
9 the Commissioner asked you to look at, what I wrote down
10 was who was responsible and to what degree and also,
11 prepare recommendations with regards to what would happen
12 to the responsible personnel. I did hear that correctly,
13 right?

14 MR. BENNING: Yes, ma'am. Yes, ma'am.

15 REPRESENTATIVE MANDERINO: And you said that as
16 a result, recommendations were made, vis-a-vis the Deputy
17 Superintendent and a few other folks and then 40 more
18 people. Would you repeat that part again?

19 MR. BENNING: Well, basically, our jurisdiction
20 was with those people below the Major of the Guard. We
21 would take --

22 REPRESENTATIVE MANDERINO: Below?

23 MR. BENNING: Below the level of the Deputy Super-
24 intendent and the Major of the Guard. We were focused in
25 on the Facility Maintenance Manager and the shops and those

1 people who had basic hands-on responsibility.

2 REPRESENTATIVE MANDERINO: To your knowledge, who,
3 if anybody was responsible for reviewing the culpability
4 of people above the Deputy Superintendent?

5 MR. BENNING: Well, I think that the characteri-
6 zation, which our Commissioner gave you is accurate, at
7 this point in time. I couldn't expound upon it better.

8 REPRESENTATIVE MANDERINO: So, you made recommen-
9 dations, I guess it is fair to be characterized as down
10 the ranks, but not up the ranks?

11 MR. BENNING: That's correct.

12 REPRESENTATIVE MANDERINO: The investigative team
13 that you were the head of, this (indicating) is the report
14 that you prepared?

15 MR. BENNING: We did not prepare that report,
16 solely in and of itself. We made contributions to, in the
17 form of our evidence.

18 REPRESENTATIVE MANDERINO: The one that was the
19 result of teaming up with the central office?

20 MR. BENNING: That's correct.

21 REPRESENTATIVE MANDERINO: And that Central Office
22 Team was whom or who?

23 MR. BENNING: Well, it was the Commissioner,
24 Executive Deputy Commissioner, the Regional Deputy
25 Commissioner and many of his administrative assistants and

1 various department heads.

2 REPRESENTATIVE MANDERINO: Of the folks who were
3 on your investigative team, I think you said it started
4 out as four and grew to eight?

5 MR. BENNING: Yes, ma'am.

6 REPRESENTATIVE MANDERINO: How many of those were
7 from the Western Regional District?

8 MR. BENNING: Five of the eight.

9 REPRESENTATIVE MANDERINO: Thank you.

10 I am correct, though, vis-a-vis your position
11 as Deputy Facilities Management in Greensburg, you reported
12 directly to the Superintendent of the Greensburg facility?

13 MR. BENNING: Yes, ma'am.

14 REPRESENTATIVE MANDERINO: Who reports to the
15 Deputy Commissioner for the Western Region, who reports
16 to the Executive Deputy Commissioner, who reports to the
17 Commissioner.

18 MR. BENNING: That's correct.

19 REPRESENTATIVE MANDERINO: Thank you.

20 My only other question is, with regard to the --
21 this isn't directy about the report, but you would -- with
22 regard to the audit team, the other audit teams that we
23 heard about, that are -- that go to various prisons once
24 a year and are made up of people outside of that particular
25 prison facility, have you, in the past been part of audit

1 teams in other facilities?

2 MR. BENNING: I have not. Several of the members
3 of my team have.

4 REPRESENTATIVE MANDERINO: Several of the members
5 of your team were?

6 MR. BENNING: Yes, ma'am.

7 REPRESENTATIVE MANDERINO: In the past. Do you
8 know if any of them had been on a prior audit team in
9 Pittsburgh?

10 MR. BENNING: No, I do not.

11 REPRESENTATIVE MANDERINO: Thank you. No more
12 questions. Thank you.

13 CHAIRMAN BIRMELIN: Thank you.

14 Representative Boscola?

15 REPRESENTATIVE BOSCOLA: No questions.

16 CHAIRMAN BIRMELIN: Representative Reber?

17 REPRESENTATIVE REBER: Thank you, Mr. Chairman.

18 Mr. Benning, in the course of your acting as
19 lead investigator, did you have occasion and authority to
20 investigate the central office and its relationship to how,
21 if in any way they may have been a party to this particular
22 escape situation? And when I say that, to the extent that
23 there may be some need for oversight in that area, as well
24 or was your investigation just only here at the facility?

25 MR. BENNING: Ours focused on Pittsburgh, sir;

1 the Pittsburgh institution.

2 REPRESENTATIVE REBER: To your knowledge, was
3 there any investigation at the central office, itself, as
4 it related to an evaluation of the past -- past operational
5 inspections and how they might be treated at the central
6 office level?

7 MR. BENNING: I have no personal knowledge of
8 that, no, sir.

9 REPRESENTATIVE REBER: Thank you very much.
10 Thank you, Mr. Chairman.

11 CHAIRMAN BIRMELIN: Representative Walko?

12 REPRESENTATIVE WALKO: Thank you, Mr. Chairman.

13 Do you feel that the failure of notification of
14 the community has adequately been addressed? In other
15 words, in your investigation, did you determine the party
16 responsible for the failure of notification of the local
17 police? I believe that -- is there a checklist of those
18 to be notified?

19 MR. BENNING: Yes, sir, an emergency plan. There
20 is a check of things that have to be accomplished, when
21 a state of emergency or specifically an escape has been
22 determined by the officer in charge of the institution.
23 In this case, it was the Superintendent.

24 REPRESENTATIVE WALKO: The Superintendent had
25 the duty to make those notifications?

1 MR. BENNING: Yes, sir, he was the ultimate
2 culpable commander, at that time, yes.

3 REPRESENTATIVE WALKO: With regard to the central
4 office involvement, to your knowledge, has the operation
5 of the central office been reviewed and I know you didn't,
6 but has it been reviewed, in this matter?

7 MR. BENNING: I have no personal knowledge of
8 that, sir.

9 REPRESENTATIVE WALKO: No further questions.

10 CHAIRMAN BIRMELIN: Representative Orie?

11 REPRESENTATIVE ORIE: With regards to the 40
12 employees that you had indicated that it was 40 and then
13 dropped down to 11, is that right?

14 MR. BENNING: That's right.

15 REPRESENTATIVE ORIE: How many of them were
16 involved as Department heads, in the facility management
17 or these different areas? Was this really primarily where
18 it all came from?

19 MR. BENNING: If -- if you -- if I can explain
20 or respond to your question this way, our system, our due
21 process system dealing with labor and how we deal with
22 disciplinary problems in the Department is that once there
23 is a suspicion that people may be involved, we begin what
24 we call the "initial phase" and that is fact finding. That
25 is the gathering of information, evidence and whatever have

1 you, to see, indeed if there is a -- some kind of
2 violation, alleged violation. Forty people were identified
3 as falling into that particular grouping. From that, after
4 fact finding was completed, I believe we had -- did I say
5 11? Okay. Eleven people were identified, as proceeding
6 into the next phase, which we would call the "predisciplinary
7 conference phase."

8 The predisciplinary conference phase goes into
9 two subcategories. One is a three-part panel, headed up
10 by the Deputy Superintendent and usually a personnel
11 manager and another management level staff person. Or it
12 could go down to what we call the "shift level," where the
13 Department head is the person who is originally responsible
14 for reviewing the fact finding that was presented and come
15 to a determination.

16 Now, of those 11 people, nine went before the
17 formal three-part panel and two went down to the shift
18 level.

19 Then, getting back directly to your question,
20 how many were Department heads? Bear with me, while I do
21 a little mental count. There was one Supervisor and three
22 management level employees, as I recall.

23 REPRESENTATIVE ORIE: And this would have been
24 within the facility where the tools were kept or is this --

25 MR. BENNING: Yes, ma'am, it would have been.

1 REPRESENTATIVE ORIE: I have nothing further.

2 CHAIRMAN BIRMELIN: Representative Caltigerone,
3 any questions?

4 REPRESENTATIVE CALTIGERONE: No questions.

5 CHAIRMAN BIRMELIN: Is there anyone on the Panel
6 I missed?

7 (No response.)

8 CHAIRMAN BIRMELIN: I just have a couple of quick
9 questions for you, Mr. Benning. Throughout the tour and
10 Commissioner Horn's explanation of what happened and some
11 of the contributing information that we are receiving would
12 lead me to think that there were a multitude of problems,
13 maybe none of which distinctly would have resulted in this
14 outbreak happening, but that compounded, you know, tool
15 policies and freedom of movement for prisoners and lack
16 of security and things of that sort, altogether, probably,
17 created a climate that was a ripe or at least could be used
18 by someone as ingenious as these six men were, to make this
19 escape. But in your investigation, as you looked at the
20 total picture and you saw all of the problems that were
21 present here, what, in your opinion was the single most
22 glaring deficiency here in security, that allowed this to
23 happen?

24 MR. BENNING: The single most?

25 CHAIRMAN BIRMELIN: As in one.

1 MR. BENNING: Yes. That is why I am going to
2 take a little bit of time to think about that, if I could,
3 sir.

4 CHAIRMAN BIRMELIN: Okay. Well, let me ask you
5 another question.

6 MR. BENNING: The reason -- I'm not trying to
7 put you off, sir. The reason is that I think that you've
8 almost answered your own question. This was not a singular
9 element. There were basic security breakdowns, in tool
10 control, inmate accountability. But to go into that, would
11 be going into an investigation blindly. And I could not,
12 honestly, as an investigator on this team tell you that
13 those were the two primary. Was there -- was there a sense
14 of overwhelmingness, when you say two and a half, three
15 years to rebuild an institution that is overcrowded? I
16 think -- I don't want to repeat what our Commissioner has
17 already laid out on the chart. I think that that is more
18 than appropriate.

19 Could it be assigned to one person? No one
20 person, while he may be assigned and responsible for the
21 overall management of this institution, he cannot do it
22 alone.

23 Was it apathy? We saw that, too. We saw an
24 awful lot of people, who wanted to do the job the right
25 way and move forward.

1 But it is very difficult to put your finger on
2 one particular item, in such a catastrophic event. With
3 six inmates, it took them four months to do it and a lot
4 of people were involved with it. In retrospect, it's very
5 difficult to put it on one item and one item alone.

6 CHAIRMAN BIRMELIN: I guess I was looking for
7 you to confirm what, in my mind is, I think the overriding
8 factor and that is the attitude of those in charge of the
9 prisoners, being improper and very lax, irregardless of
10 a tool policy. But the attitude of those who were in
11 charge of them, the maintenance officers or whoever, to
12 me is the overriding factor, that no matter how clever
13 these six prisoners could have been, if you had those who
14 were supervising them, doing it properly, none of it would
15 have happened. Would you agree with that?

16 MR. BENNING: That's a fair statement, yes, sir.
17 This is a people business.

18 CHAIRMAN BIRMELIN: The second question that I
19 have for you and my last is -- I guess it has nothing to
20 do with the prison escape and so, I'm not going to spend
21 a lot of time with it, but it is the search that you did
22 at a later time, when you found the marijuana. Apparently,
23 there was a substantial amount?

24 MR. BENNING: I believe it was around one ounce,
25 which is about as big as my hand.

1 CHAIRMAN BIRMELIN: That was the total amount?

2 MR. BENNING: Yes, sir.

3 CHAIRMAN BIRMELIN: How would you hypothesize
4 that it got into the institution?

5 MR. BENNING: Well, the most convenient way was
6 that someone brought it in, for example, either through
7 a visit or through a staff person or through an inmate who
8 worked outside had concealed it in one of the body
9 cavities, introduced it that way. Those are usually the
10 most convenient vehicles.

11 CHAIRMAN BIRMELIN: Are you familiar enough with
12 this institution, to know whether or not that has been a
13 past problem?

14 MR. BENNING: No, I do not.

15 CHAIRMAN BIRMELIN: I won't ask any further
16 questions on that. Thank you very much, Mr. Benning. We
17 appreciate it.

18 Representative Manderino, do you have another
19 question?

20 REPRESENTATIVE MANDERINO: Thank you, Mr. Chairman.

21 Mr. Benning, I apologize. I didn't follow far
22 enough in one of my questions, when I asked you about the
23 report. This is not the report that -- that you referred
24 to, that is exclusively of the investigative team, but was
25 there a report that was your team's report, that is

1 different than this document (indicating)?

2 MR. BENNING: I would say that what we reported
3 is in that document (indicating).

4 REPRESENTATIVE MANDERINO: But there was some-
5 thing that you reported, in written form?

6 MR. BENNING: Yes.

7 REPRESENTATIVE MANDERINO: I -- I would like --
8 I don't know if any other members of the Committee are
9 interested, but I am interested in that report, as well.
10 I'd like to get a copy of that.

11 You said that what you reported is in this report
12 (indicating). And I take it from that then, that you would
13 -- there would not be anything that you feel was in your
14 report, that is not in this report (indicating) or that
15 is substantially different in either of them, which
16 included your report, that isn't here or is different from
17 what you found in your report?

18 MR. BENNING: What I found in this report
19 (indicating) accurately reflects what we provided to the
20 Department on January 20th and 21st of this year.

21 REPRESENTATIVE MANDERINO: Thank you. Thank you,
22 Mr. Chairman.

23 CHAIRMAN BIRMELIN: Thank you, Mr. Benning.

24 MR. BENNING: Thank you, sir.

25 CHAIRMAN BIRMELIN: We have one other testifier.

1 I was approached at the beginning of the meeting by
2 Mr. James Bushinsky, from the Brighton Heights Citizens Group
3 if he could make a statement. Mr. Bushinsky, would you
4 take that seat (indicating) and please feel free to do so?

5 MR. BUSHINSKY: Members of the Judiciary Committee,
6 I thank you for letting me speak.

7 Number one, I want to approach the time limit
8 that they notified the people. I live right up the street
9 there, in an area that is covered by at least five grade
10 schools, minimum. Forty-eight minutes! You know, this
11 is unheard of. This is what they say, but we didn't find
12 out until about five, six, seven hours later. And I wish,
13 right now, that you would put in this system, where there
14 is a prison break, anywhere in the state, the local areas
15 be notified, the same as a tornado warning, on radio and
16 TV, to alert the residents, if they have kids in school,
17 can they pick them up.

18 The issue of clothing. You say you have a court
19 case coming up about this. I am not a criminal. I have
20 no record, whatsoever. I buy a hunting license. I go
21 hunting. I am fined if I don't have 250 square inches of
22 blaze orange on my back and head. So, you can throw that
23 out the window.

24 The number of guards you have down here was
25 quoted by whoever was here, if he's the Commissioner or

1 what, 450, which breaks down to approximately, 115 per
2 shift. You have nine guards, right in this room, right
3 now. So, if you take guards that are placed in other areas
4 of this prison, now you're talking about maybe one guard,
5 each shift, per every 18 to possibly 30 inmates. You can't
6 do it. You have guards who walk around this prison, trying
7 to correct inmates for being out of the area that they are
8 supposed to be, carrying unauthorized tools, that they
9 should have never had and were told to mind their own
10 business. If you would sit or set up some type of
11 anonymous phone call from the guards, to the Judiciary
12 Committee, to report these incidents, you will find out.

13 The contractor, who hired the inmates, should
14 be put in jail. Number one, he violated the prevailing
15 wage rate, that is given to contractors when they bid on
16 state contracts. He hired inmates. Not only did it take
17 away from able people outside the wall, able to work, he
18 didn't pay the prevailing rate. What did he do with the
19 money? He ripped the state off. That's what he did.

20 I look at the walls on this building. I lived
21 here for 65 years. I played football inside these walls;
22 not as an inmate, but playing against the inmates. These
23 walls will be here for 500 years. You don't need to build
24 a new prison, like the gentleman from Lycoming County says.
25 What we do, we need to hire the guards and let the higher

1 echelon of prison reform enforce it; enforce what these
2 guards are supposed to be doing, but not allowed to be
3 doing. I look at this prison here as something that is
4 not going to get away, because you abandon it. Somebody's
5 going to say, "Let's declare it an historic landmark." And
6 now we're stuck with an empty building. We don't even have
7 riverboat gambling, so the casinos won't buy it.

8 But I want you gentlemen to go back and weigh
9 everything. And please, put in something that eliminates
10 hiring of inmates by private contractors, doing state work.
11 It's a big joke. That should be on Loony Tunes.

12 And I -- like I say, there -- there's so many
13 things here. This should have never happened. An inmate
14 putting in a surveillance system? For what? So they have
15 upfront knowledge of everything that's going on here in
16 the prison. Get out some qualified prisons. You can look
17 at Long Pawk and you can look at Leavenworth. These are
18 military prisons. You don't have this problem there. Do
19 you know why? Because these people do the job right. We
20 don't need a patronage man to come in here and say, "We're
21 going to do this." Get out a qualified man. We don't care
22 what it costs. Get us more guards."

23 Now, I went down there last year, when it was
24 freezing, when they took the guards off the corner wall
25 and put razor wire up. If you put inmates, with no guards,

1 inside the pyramids, they'll be out of there in a month.
2 Get the security. Let these men do their job and give them
3 an anonymous number to call, if they are being intimidated
4 by what you call a "whistle blowing act" or something that.
5 Give them that little one. And do you know what? They'll
6 make your job easier and it will make us feel safer here.

7 I want to thank you for your time. There's a
8 lot more that I could go on about, but we don't need to
9 replace this. Give us the guards, give us somebody that's
10 not afraid to run it and not afraid to stand up for their
11 workers. Don't tell the workers don't check -- these are
12 inmates. These aren't grade school kids. These are
13 murderers, bank robbers, whatever you have here. And I
14 thank you for your time.

15 CHAIRMAN BIRMELIN: Thank you, Mr. Bushinsky.

16 MR. BUSHINSKY: If you have any questions, I'll
17 be in the neighborhood, if you have any questions. Thank
18 you.

19 CHAIRMAN BIRMELIN: Representative Walko?

20 REPRESENTATIVE WALKO: Thank you, Mr. Chairman.

21 Mr. Bushinsky, thank you for coming down here.
22 I just wanted to mention one thing to you, that either
23 tomorrow or the next day, a local block watch president
24 will be speaking specifically about the notification issue.
25 And with regard to your learning of this meeting, I just

1 informally wrote you a letter. But thank you for coming.
2 And the -- the Judiciary Committee did, however, publish --
3 notify the media of this event. So, I just wanted to make
4 it clear that there was public notification.

5 MR. BUSHINSKY: Well then, I apologize to you.

6 REPRESENTATIVE WALKO: And I very much sympathize
7 with what you're saying, concerning inmate labor. I'll
8 be testifying tomorrow about that issue. And as a parent
9 with a son, what happened a mile away from here, at the
10 elementary school, I deeply appreciate you bringing that
11 point emotionally before this panel. Thank you.

12 MR. BUSHINSKY: Thank you.

13 CHAIRMAN BIRMELIN: Thank you.

14 MR. BUSHINSKY: Thank you again for letting me
15 speak.

16 CHAIRMAN BIRMELIN: You're welcome.

17 For the benefit of the public and especially the
18 members of the Committee, just let me inform you that
19 tomorrow, this Committee meets at 9:30 a.m., at the
20 University of Pittsburgh Ballroom, William Pitt Union. And
21 we hope to conclude the day tomorrow by 4:00 p.m., although
22 no promises are made.

23 Wednesday, we will also be meeting at the same
24 location, on the University of Pittsburgh campus, at
25 9:30 a.m., but that will be a little more abbreviated

1 schedule and it should be over somewhere in the neighbor-
2 hood of 12:30 in the afternoon.

3 Tomorrow, the agenda includes the State Police
4 Area Commander, who conducted the investigation of the
5 breakout; three of the -- two of the corrections officers
6 and one of the labor foreman from here in the prison and
7 a representative from ACLU, a representative from the
8 Pennsylvania Prison Society; Representative Walko, who has
9 already mentioned that he will be testifying; Councilman
10 Dan Onorato, from the City Council of Pittsburgh and a
11 Legislator, from the House of Representatives, Harry
12 Readshaw.

13 On Wednesday, we are going to have the Executive
14 Producer of WPGH, who will be with us; a deputy Police
15 Chief from the City Police Department of Pittsburgh and
16 then, Representative Walko and then, the President of the
17 Marshall-Brighton Block Watch and Robert Fadzen, Chief of
18 Security for the Pittsburgh School System. And then we
19 are going to give the new Superintendent of this facility,
20 Jim Price and also, Commissioner Horn, an opportunity,
21 after all of the testimony is over and done with, to come
22 back and to share with us what they have gained or learned
23 from this testimony and what their responses are to those
24 comments that were made. So, that will conclude the
25 meeting Wednesday, somewhere in the neighborhood of around

1 12:30.

2 You are all welcome to come back tomorrow and/or
3 Wednesday morning at 9:30, at the University of Pittsburgh
4 campus. If you have any questions, I'll ask Counsel Preski
5 to try to answer them for you and we'll stick around for
6 a few minutes for you.

7 Hearing no further business before the Committee,
8 we will now recess until 9:30 tomorrow morning.

9 -----

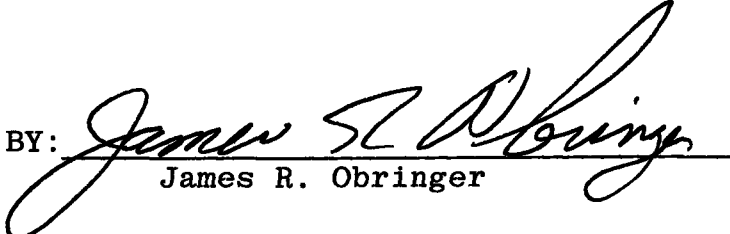
10 (Whereupon, at 4:45 p.m., the hearing was
11 adjourned, to reconvene at 9:30 a.m., on Tuesday, March 4,
12 1997, in Pittsburgh, Pennsylvania.)

13 -----

14 C E R T I F I C A T E

15 I hereby certify, as the stenographic reporter, that
16 the foregoing proceedings were reported stenographically by
17 me, and thereafter reduced to typewriting by me or under my
18 direction; and that this transcript is a true and accurate
19 record to the best of my ability.

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24 James R. Obringer

FORM 1