

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

House Bill 2278

House Judiciary Subcommittee on Crime and Corrections

Main Capitol Building
Room 60, East Wing
Harrisburg, Pennsylvania

Thursday, April 16, 1998, 9:30 a.m.

--o0o--

BEFORE:

Honorable Jerry Birmelin, Majority Chairperson
Honorable Al Masland
Honorable Kathleen Manderino

IN ATTENDANCE:

Honorable Jere Schuler
Honorable Thomas Caltagirone

KEY REPORTERS

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

1998-096

1 **ALSO PRESENT:**

2 **James Mann**
3 **Majority Research Analyst**

4 **John Ryan, Esquire**
5 **Minority Chief Counsel**

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

C O N T E N T S

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

WITNESSES	PAGE
Martin Horn, Commissioner Pennsylvania Department of Corrections	5
Michael Fox, Director AFSCME, District Council 89	24
Leon Sides Legislative Committee - SCI - Retreat	47
Greg Griffin Legislative Committee - SCI - Retreat	51
Frank Rittenhouse Legislative Committee - SCI - Graterford	65
Eugene O'Neal Legislative Committee - SCI - Graterford	66
Andrew Lefever, Director of State Legislative Affairs Law Enforcement Alliance of America	72

1 CHAIRPERSON BIRMELIN: Good morning. I'm
2 Representative Birmelin. I'm the chairman of the
3 Pennsylvania House of Representatives Judiciary Subcommittee
4 on Crime and Corrections.

5 We're having a hearing today on House Bill 2278,
6 and we have some people here to testify with us this
7 morning. We're going to call them in order. And before I
8 do that, I'd like the members of the committee who are with
9 me to introduce themselves beginning with the far left.

10 REPRESENTATIVE MASLAND: I'm Representative Al
11 Masland from Cumberland and York Counties.

12 REPRESENTATIVE CALTAGIRONE: I'm Representative
13 Tom Caltagirone, Democratic Chair of the House Judiciary
14 Committee.

15 CHAIRPERSON BIRMELIN: There may be other
16 committee members who will come and go during the morning.
17 There are other committee meetings being held this morning
18 and since members sit on more than one committee, they often
19 times do the committee room shuffle and we may see some
20 other members and I will try to introduce them as they come
21 in.

22 Also I want to assure those of you who are
23 testifying that the written testimony that you prepared for
24 the committee will be submitted to the other members of the
25 committee who are not here today. So they'll all get a copy

1 of what you have to say in print. They will not, of course,
2 get your answers to the questions that we may ask of you,
3 which is their loss, but the good citizens of Pennsylvania
4 through the courtesy of the Pennsylvania Cable Network will
5 get to see and hear much of what you have to say today. And
6 many people watch it believe it or not. Not just capital
7 political folks, but other people do as well. So your
8 message is seen and heard much further than the few people
9 who sit in this room.

10 Our first testifier today is Martin Horn,
11 Commissioner of the Department of Corrections. Commissioner
12 Horn, if you would come forward and share with us your
13 testimony we'd appreciate it. And thank you for coming this
14 morning.

15 COMMISSIONER HORN: Thank you very much, Mr.
16 Chairman. Good morning. Representative Birmelin and the
17 Subcommittee on Crime and Corrections, I appreciate this
18 opportunity to speak to you regarding House Bill 2278.

19 House Bill 2278 will provide corrections
20 officers with the authority to perform certain peace officer
21 duties. In my opinion a corrections officer's position with
22 the department does not necessitate that the office have
23 peace officer status, and the implementation of this bill
24 will be costly to the Commonwealth.

25 Pursuant to Pennsylvania law, the head of each

1 administrative department has the authority to certify to
2 the governor the names of employees that may act as police
3 officers. There are currently several employees within the
4 Department of Corrections that have been certified to act as
5 police officers. Where it is necessary, we do not hesitate
6 to confer that authority.

7 We believe corrections officers currently
8 possess the powers necessary to carry out their duties
9 associated with guarding inmates and protecting the state
10 institutions. Under Pennsylvania law a peace officer has
11 the duty to maintain public order and make arrests for
12 offenses. Wardens or other authorized officials of a
13 correctional institution have the authority to use that
14 force which is necessary for the purpose of enforcing the
15 laws or rules or procedures of the institution. For
16 example, a corrections officer today is justified in use of
17 force, including deadly physical force, when he reasonably
18 believes it necessary to prevent an escape from a
19 correctional institution.

20 All private citizens are authorized to use force
21 to effectuate a lawful arrest if it would have been
22 justified in using force if someone were directed by a peace
23 officer to make such an arrest. For example, corrections
24 officers would be justified in using force to detain a
25 civilian who has brought contraband onto prison property

1 while awaiting the arrival of the state police to make the
2 arrest.

3 The additional powers that a corrections officer
4 would receive by becoming a peace officer are the ability to
5 make warrantless arrests and to carry firearms off duty
6 without a license. Again a corrections officer's position
7 does not necessitate that the officer have these powers.

8 The Pennsylvania State Police have been
9 responsive to the department when their support has been
10 requested in situations that may require an arrest or
11 extradition of an escapee.

12 We are also concerned about the potential
13 liability for failure to train if an officer uses a weapon
14 off duty and the potential for proliferation of firearms
15 through loss. In 1987 the New York State Commission on
16 Criminal Justice on the use of force examined the use of
17 firearms by corrections officers who are peace officers in
18 that state. They determined that the use of deadly force by
19 corrections officers on duty is extremely rare. During the
20 four-year period 1981 through 1985, state correction
21 officers there used firearms to effect valid arrests off
22 duty on fewer than twelve occasions. However, discharge of
23 firearms -- they discharged firearms off duty on 104
24 occasions of which slightly less than half, 48, were
25 characterized by their agency as for personal rather than

1 law enforcement purposes.

2 They displayed firearms off duty on 101
3 occasions of which more than three quarters or 84 were
4 characterized by the agency as for personal rather than law
5 enforcement purposes, and they reported 153 authorized
6 off-duty firearms lost or stolen.

7 The other issue of concern regarding House Bill
8 2278 is the fiscal impact. My staff have determined it will
9 cost the Commonwealth an estimated \$9.97 million to provide
10 the training hours required in the bill at the present
11 time. This includes the cost of 40 hours of training for
12 current staff, instructors for the 40-hour training,
13 personnel costs of having 1,000 correction officer trainees
14 in training for 160 hours and the training costs for the
15 1,000 trainees.

16 The annual cost of providing new correctional
17 officers with 160 hours of training is estimated at \$3.8
18 million a year thereafter. Furthermore, upon making arrests
19 correctional officers will need to be available for court
20 proceedings and will need to be trained to testify at these
21 proceedings. This will result in loss of staff time and
22 overtime. They will not be available to guard the inmates.

23 The state police are already trained to testify
24 and are staffed to allow such. Therefore we should leave
25 this duty to the state police.

1 I thank your for this opportunity to testify
2 regarding House Bill 2278 and will be happy to answer any of
3 your questions at this time.

4 CHAIRPERSON BIRMELIN: Let me refer to page two,
5 the last paragraph. You're concerned about the potential
6 liability for failure to train if an officer uses a weapon
7 off duty and the potential for proliferation of firearms
8 through loss. I'm not quite sure what you're saying
9 there -- in support of proliferation of firearms through
10 loss.

11 COMMISSIONER HORN: I'm saying that we have
12 roughly 8,000 corrections officers, we have 8,000 personnel
13 who will now have firearms, sidearms, and it increases the
14 statistical likelihood that weapons will be lost and fall
15 into the hands of criminals. I think that's an issue we
16 should be concerned about.

17 CHAIRPERSON BIRMELIN: The legislation that we
18 have currently before us, House Bill 2278, it's my
19 understanding it's been promoted by the chief sponsor of the
20 bill at the urging of members of the corrections
21 institutions -- the word is guards, and I'm not supposed to
22 use --

23 COMMISSIONER HORN: Corrections officers.

24 CHAIRPERSON BIRMELIN: Corrections officers.

25 Can I ask you what the history is of this request on their

1 part vis-a-vis you and the administration? Have they ever
2 approached you -- I don't mean you personally, but have the
3 corrections officers ever approached you about seeking this
4 sort of training and authority?

5 I know it would have to be by legislation
6 anyway, but has there been any interfacing between you and
7 corrections officers on this issue prior to this hearing
8 today?

9 COMMISSIONER HORN: The matter has been
10 discussed in labor management form, in labor management
11 meetings, and the interests of corrections officers in
12 obtaining this status and authority has been discussed.

13 CHAIRPERSON BIRMELIN: And?

14 COMMISSIONER HORN: Well, my position is as
15 stated in my statement, I don't believe that it's
16 necessary.

17 CHAIRPERSON BIRMELIN: And that's what you've
18 told them?

19 COMMISSIONER HORN: Yes.

20 CHAIRPERSON BIRMELIN: And that's in
21 negotiations?

22 COMMISSIONER HORN: Yes. I wouldn't
23 characterize them as negotiations. Discussions.

24 CHAIRPERSON BIRMELIN: Discussions?

25 COMMISSIONER HORN: Yes.

1 CHAIRPERSON BIRMELIN: Are these the only
2 reasons that you're primarily concerned about it? It
3 appears to be, number one, you think the state police can do
4 what they're asking to do, and number two, there's a cost
5 factor, and number three is the misuse of the weapons off
6 duty?

7 COMMISSIONER HORN: Yes.

8 CHAIRPERSON BIRMELIN: And in your discussions
9 with the corrections officers I assume you broached all
10 three areas?

11 COMMISSIONER HORN: Yes.

12 CHAIRPERSON BIRMELIN: Did they have any
13 responses to you about why they felt that they were not
14 legitimate concerns or that they dealt with --

15 COMMISSIONER HORN: Well, I'd prefer to let you
16 hear from them. I'd prefer to let them speak for
17 themselves, but certainly they take a contrary point of
18 view.

19 CHAIRPERSON BIRMELIN: I'll ask them the same
20 questions.

21 COMMISSIONER HORN: Yeah. I mean certainly they
22 disagree. Reasonable men can differ.

23 CHAIRPERSON BIRMELIN: That's what we say here
24 in Harrisburg too. I'll turn it over to other members of
25 the panel if they wish to ask any questions. I'll turn to

1 Representative Caltagirone first.

2 REPRESENTATIVE CALTAGIRONE: Commissioner, you
3 had indicated in your fourth paragraph on page one that
4 wardens and other authorized officials of correctional
5 institutions have the authority to use that force which is
6 necessary for the purpose of enforcing all the rules and
7 procedures of the institution. Do you have a number of how
8 many authorized officers there would be in the total number
9 of facilities under your control right now?

10 COMMISSIONER HORN: All officers are authorized
11 to use force. All of the correctional officers are
12 authorized to use force to enforce the rules of the
13 institution.

14 REPRESENTATIVE CALTAGIRONE: Are there any that
15 have law enforcement capabilities above and beyond what they
16 have within the institution?

17 MR. HORN: As I indicated in the preceding
18 paragraph, they do have some employees who have been
19 commissioned as police officers.

20 REPRESENTATIVE CALTAGIRONE: Have they been
21 trained and certified by either state or local police?

22 COMMISSIONER HORN: Yes.

23 REPRESENTATIVE CALTAGIRONE: Have they gone
24 through the number of hours of weapons training and whatnot?

25 COMMISSIONER HORN: All of our corrections

1 officers are trained in the use of weapons. They are
2 trained in the use of shotguns and handguns, trained in the
3 use of deadly physical force.

4 REPRESENTATIVE CALTAGIRONE: That was the next
5 question. You do have an arsenal or something like an
6 arsenal at each one of the institutions where if they need
7 to get the riot gear or whatever or weapons they would be
8 stored on the premises, that they would have access to them
9 and could be able to utilize that in particular situations?

10 COMMISSIONER HORN: Yes. And in addition in
11 most institutions, certainly in all the level three and
12 level four institutions, there are always officers on duty
13 who are armed from the time they're on duty, perimeter
14 control officers, the vehicles and reservation officers
15 patrolling reservations are armed with sidearms and a long
16 weapon perhaps, officers in towers, officers who escort
17 inmates into the community on important trips and so on.

18 REPRESENTATIVE CALTAGIRONE: Do you have the
19 yearly training on the use of weapons?

20 COMMISSIONER HORN: Yes.

21 REPRESENTATIVE CALTAGIRONE: Or other types of
22 training concerning the use of force?

23 COMMISSIONER HORN: Yes, they have all that.
24 They all have to be qualified and authorized on weapons.

25 REPRESENTATIVE CALTAGIRONE: And one final

1 area. You had indicated about the liability and the cost
2 that would have to be incurred by the Commonwealth. When
3 you calculated those figures, how did you arrive at the
4 figures -- almost ten-million-dollar figure?

5 COMMISSIONER HORN: I can explain that.
6 \$4,000,032 is accounted for by the staff wages and salaries
7 to relieve the current staff of some 8,000 employees. A
8 large number of people for a 40-hour block of time to
9 undergo the required training, an additional \$376,000 is
10 accounted for by the instructor wage costs for this 40-hour
11 training if it is completed as in-service, and that does not
12 include the cost of training materials, only the personnel
13 wages. A 1,660,000 is the student personnel cost for
14 training 1,000 trainees and 160-hour peace officer cost.

15 This assumes a thousand trainees in a year. A
16 million and a half is the training cost for training the
17 thousand officer trainees in the 160-hour peace officer
18 cost. This includes their training materials, equipment,
19 lodging and meals while attending the training.

20 So the total cost for the first year without
21 personnel benefits is \$7,600,000, an additional 30 or 40
22 percent is added to that for benefits package which bring
23 the costs to \$9.97 million. The annual cost is \$1.66
24 million which is the cost of the wages for the trainees
25 during 160 hours of training. A million five is the cost of

1 the training materials, the trainers, equipment, the lodging
2 and the meals while they attend the four-week training
3 program. So that brings it to 3.16 training cost annually
4 and when you add benefits that comes to 3.825 million
5 annually.

6 REPRESENTATIVE CALTAGIRONE: Your budget request
7 for this year just peaked over a billion dollars I noticed
8 in the appropriations request. How much of an increase was
9 that over the last year's budget, roughly the percentage
10 increase?

11 COMMISSIONER HORN: Five percent.

12 REPRESENTATIVE CALTAGIRONE: And in the
13 foreseeable future, I think we've all been pretty well aware
14 that your budget compared to all the other departments will
15 continue to grow, and you don't see that's going to stop
16 growing any time soon; do you?

17 COMMISSIONER HORN: Well, there are projections
18 that indicate some slowing down in the rate of growth of the
19 inmate population. But because the department has grown so
20 much and is so large, there is a certain built-in growth
21 factor. Just negotiated salary increases and inflation are
22 going to drive cost increases each year into multi millions
23 of dollars because the base is so large.

24 REPRESENTATIVE CALTAGIRONE: The point that I
25 was getting to is that this is going to add up the cost the

1 percentage even greater?

2 COMMISSIONER HORN: Yes, sir. If I might point
3 out our total training budget for 1997-98 is \$4.3 million.
4 This would almost double it.

5 REPRESENTATIVE CALTAGIRONE: It's always the
6 question when is the bubble going to pop. We've been on a
7 very good upswing right now with revenues, but at some point
8 in the future, it could happen next year or a year or two or
9 three down the line, revenue projections will probably start
10 going on a downslide and then we get into nutcracking time
11 around here.

12 COMMISSIONER HORN: Yes. And let me say two
13 things. One is I think that we have fine corrections
14 officers. I think we have extraordinary corrections
15 officers. And so my position on this is not in any way a
16 reflection of the judgments that I make about them. It's
17 about a managerial operational judgment that I make about
18 what it takes to run this department.

19 I would love to double my training budget. If I
20 were able to double my training budget, I'm not sure this
21 would be my priority of where I would spend it. I think
22 training is important. Training is something that you do to
23 help your employees get better every day and it is something
24 that you do to make an investment in people who are
25 important to you and something that you do to help protect

1 the employees and protect the public. So I would love to
2 have an additional \$3.85 million every year for training.
3 If I did, I'm not sure this is how I would choose to invest
4 it.

5 REPRESENTATIVE CALTAGIRONE: One final area,
6 Commissioner, is the policy of the department -- when you
7 hire corrections officers, can they and do they in fact
8 let's say serve also outside as constables or deputy
9 sheriffs or any other type of employment involving law
10 enforcement?

11 COMMISSIONER HORN: They may. If they follow
12 the Commonwealth's procedures to obtain approval for outside
13 employment they may.

14 REPRESENTATIVE CALTAGIRONE: Or security
15 guards. Do you know how many of them, if any of them, are
16 involved in that area?

17 COMMISSIONER HORN: I believe that many of them
18 are.

19 REPRESENTATIVE CALTAGIRONE: Thank you,
20 Commissioner.

21 CHAIRPERSON BIRMELIN: Representative Masland.

22 REPRESENTATIVE MASLAND: Thank you. It's my
23 understanding that county prison guards do have some peace
24 officer authority based on a 1921 law. I don't know if
25 you're aware of that. But my question is I'm assuming there

1 have not been any problems with respect to that. Maybe
2 there's a difference in the scope of the peace officer
3 powers that they have. Can you comment on that? Are you
4 aware of that?

5 COMMISSIONER HORN: I have no awareness of that.

6 REPRESENTATIVE MASLAND: That's obviously
7 something that we need to look into. Maybe you could look
8 into assuming that county officers have these powers, I
9 don't how much they exercise them and how much training is
10 involved, but I would think if it was a significant problem
11 we would know about it.

12 I'm assuming that the employees within the
13 department who have been certified as police officers are
14 those who are in the security department within the
15 correctional institution; is that correct?

16 COMMISSIONER HORN: Some, yes.

17 REPRESENTATIVE MASLAND: Who --

18 COMMISSIONER HORN: Others in the internal
19 affairs unit.

20 REPRESENTATIVE MASLAND: Are all -- for that
21 matter, are all officers in the security staff within the
22 institution, are those officers all certified?

23 COMMISSIONER HORN: No. The judgment is made on
24 a case-by-case basis.

25 REPRESENTATIVE MASLAND: So maybe the head of

1 security and some other people but not all of those in that
2 office?

3 COMMISSIONER HORN: Right.

4 REPRESENTATIVE MASLAND: You mentioned that you
5 have to train these correctional officers to testify. And
6 for some reason I'm just maybe missing something here. If a
7 correctional officer observes something occurring in the
8 prison that is going to give rise to a criminal charge,
9 whether or not that person has peace officer capability,
10 whether or not you have to call state police in and to act
11 as a advocate who brings the charges formally in court, that
12 correctional officer is still going to have to testify.

13 I've worked with many correctional officers who
14 did testify in court after the Camp Hill prison riots. I
15 don't know that they received any special training. I don't
16 know that they needed to receive any special training. So
17 what are you really getting at there?

18 COMMISSIONER HORN: Well, it is my understanding
19 that the standard routine and an ongoing part of the
20 training for police officers is training in how they should
21 appear and present themselves in Court. And if correctional
22 officers are going to be making arrests, off-duty
23 warrantless arrests, that is an area that they're not
24 presently trained in that they presently don't have
25 experience in and it's something that you get better at by

1 doing it I believe. And if this is the purpose of giving
2 them this status, then it would seem to me the Commonwealth
3 would want to do it in an appropriate way so that they
4 understand the laws concerning giving honest testimony and
5 so on.

6 REPRESENTATIVE MASLAND: Well, I think that's a
7 course in Common Sense 101, that it shouldn't take a whole
8 lot of time and \$9 million in training. Let me finish up.
9 We're going to hear from people who differ in their opinion
10 regarding this bill from you, but based on the fact that you
11 have conversations with staff and administrative meetings,
12 what is your understanding of the reason for this bill?
13 What is it that the officers are interested in doing?
14 What's really at the heart of it as far as your
15 understanding behind this bill?

16 COMMISSIONER HORN: I think that we have the
17 finest, bravest corrections officers. I think they are
18 overwhelmingly a fine group of men and women. I think that
19 it is an unfortunate reality that our correction officers do
20 not receive the respect and recognition publicly that are
21 purported to other personnel who work in the law enforcement
22 field such as the state police, and personally I believe
23 that has lots to do with it.

24 REPRESENTATIVE MASLAND: You think it's a
25 question of respect at some level?

1 COMMISSIONER HORN: On some level, yes.

2 REPRESENTATIVE MASLAND: Okay. Thank you.

3 CHAIRPERSON BIRMELIN: Commissioner Horn, let me
4 ask you one or two follow-up questions. If this law were or
5 this bill were amended to say that this law enforcement bill
6 which includes use of firearms apparently was restricted to
7 the corrections officers only when on duty, does that
8 eliminate the concern about off-duty activities and what
9 happens?

10 COMMISSIONER HORN: It would eliminate that
11 concern, yes. But in that case I would question its utility
12 and necessity since we believe that correctional officers
13 today have the authority and power necessary to do their
14 jobs. As Representative Masland said there's been no
15 problems. We've been doing a job fine. When we have to
16 detain a visitor who brings contraband into an institution,
17 we can and we do. When we have to use deadly physical force
18 to prevent or apprehend, we can and we will.

19 So I'm not -- when you impose that limitation,
20 I'm not sure what the purpose is served by the bill. And it
21 still leaves the training cost which is substantial.

22 CHAIRPERSON BIRMELIN: I understand that. This
23 is an increase in training cost. Do you really -- do you
24 have some sort of a ball park figure as to what you spend on
25 training per year?

1 COMMISSIONER HORN: Our training budget
2 for '97-'98 is \$4.3 million.

3 CHAIRPERSON BIRMELIN: For the entire
4 department?

5 COMMISSIONER HORN: For the entire department.
6 That is the budget for the training academy. That does not
7 count the salaries of the officers while they are attending
8 the training.

9 CHAIRPERSON BIRMELIN: This doesn't count the
10 yearly upgrading training?

11 COMMISSIONER HORN: Yes, that includes the cost
12 of providing the in-service training.

13 CHAIRPERSON BIRMELIN: So a billion dollar
14 budget, \$4 million on training?

15 COMMISSIONER HORN: That's the direct cost of
16 delivering the training. That does not include costs of the
17 officers' salaries during the time they are in training. It
18 probably does not include the room and board costs while
19 they are at the training academy.

20 CHAIRPERSON BIRMELIN: If you had to put a price
21 tag on it, what would you say that ultimately would cost?

22 COMMISSIONER HORN: I would have to get back to
23 you. I don't want to give you a wrong number because it
24 really -- it's probably a substantial number when you factor
25 in the salary costs. When an officer goes to training,

1 somebody has to relieve or cover that officer's post, maybe
2 paid on an overtime basis, so I wouldn't want to be
3 misleading.

4 CHAIRPERSON BIRMELIN: I'm just -- you know,
5 when you say \$4 million --

6 COMMISSIONER HORN: That's the cost. That's the
7 line in our budget for training. Not enough.

8 CHAIRPERSON BIRMELIN: That's the
9 administrative --

10 COMMISSIONER HORN: I would love to double
11 that. But then in that case I'm not sure I would spend it
12 on --

13 CHAIRPERSON BIRMELIN: I understand. I'm just
14 trying to get a handle on what you already spend on your
15 training compared to what this could cost additionally.

16 COMMISSIONER HORN: If you look in the executive
17 budget under training, it will say \$4.3 million. As I say
18 the costs of the officers' salaries shows up in the
19 personnel costs of each individual prison. Their room and
20 board, cost of travel, cost of expenses when they go to
21 training shows up in the other than personnel service costs
22 so it's hard to get your arms around that total number.

23 CHAIRPERSON BIRMELIN: One last question for
24 you. If this bill were to become law, would you see it
25 benefitting your department at all?

1 COMMISSIONER HORN: I can't say that I do, no.

2 CHAIRPERSON BIRMELIN: Okay. We want to thank
3 you very much for your testimony. I appreciate your being
4 here with us.

5 Our next testifier is Michael Fox, Director of
6 AFSCME District Council 89. Mr. Fox, welcome.

7 MR. FOX: Good morning.

8 CHAIRPERSON BIRMELIN: And we have your prepared
9 testimony before us and you may proceed.

10 MR. FOX: Good morning. My name is Michael Fox.
11 And I am the director of AFSCME's District Council 89.
12 AFSCME represents over 6,000 corrections officers in the
13 Department of Corrections.

14 I have reviewed this bill with the elected
15 representatives of each correctional institution, and it is
16 with their guidance and upon their request that I'm here
17 today to testify in support of House Bill 2278.

18 Corrections officers, who I'll refer to after
19 this as CO's, perform the most difficult and dangerous job
20 in the law enforcement community and do so with the least
21 amount of recognition and authority. I believe that this
22 lack of recognition and the reluctance to grant them the
23 needed authority has a lot to do with the fact that most of
24 us do not understand the duties and responsibilities of a CO
25 and under what conditions they must work.

1 These men and women work in institutions that
2 are overcrowded with the worst individuals society has to
3 offer. And they maintain order and control armed with
4 nothing more than their wits and the hope that their
5 actions -- that the actions they take will be supported not
6 only by their superiors but also by the law.

7 Correction officers perform a wide variety of
8 functions in accomplishing their goals and ensuring the laws
9 of the Commonwealth of Pennsylvania are not violated. CO's
10 are involved in the searching of inmates and visitors in
11 order to control the influx of contraband. In performing
12 this function CO's use drug dogs, ion scanning machines and
13 the time-tested patdown and strip-down searches. Upon the
14 discovery of contraband on a visitor, CO's believe that they
15 lack the authority to arrest a violator even if the
16 contraband is drugs. Their only option is to attempt to
17 hold the violator until the state police arrive. The
18 question is by what authority do they do this.

19 CO's on a daily basis search inmates and their
20 cells for contraband, weapons and drugs particularly. Upon
21 discovery of contraband the inmate is subject to the
22 internal discipline procedures of the DOC, but they should
23 also be arrested, charged and prosecuted. And the CO's
24 should have the authority to make that arrest.

25 Upon an escape from an institution, CO's are

1 issued weapons and assigned to search outside the
2 institution which may include into the community
3 neighborhoods as well as setting up checkpoints along roads
4 to and from the institution. All this is done without the
5 legal authority to do the job right. At the checkpoints the
6 CO's can only peer into the window. They have no authority
7 to detain and search a suspicious vehicle to ensure the
8 escapee is not hiding under something.

9 CO's escort inmates into the community, for
10 example, in the community hospitals that obviously lack the
11 level of security that one would like for housing convicted
12 felons. This is accomplished with two CO's, one armed,
13 until the inmate is admitted into the hospital, then one CO
14 is assigned to stay with the inmate. That CO is armed. The
15 room the inmate is in is a regular hospital room with easy
16 access to anyone who would choose to enter.

17 In fact I was recently told of a situation when
18 an inmate was taken from his room for tests and, of course,
19 the CO accompanied him. Upon their return to the room they
20 were greeted by a roomful of people that the CO did not
21 know. Fortunately they were there to see another patient
22 and had gone into the wrong room, but it illustrates the
23 potential danger the CO faces in this type of setting.

24 CO's from Graterford were assigned into the
25 community one year following a severe storm to supervise

1 inmates who were helping in the cleanup, and the CO's were
2 also to perform traffic and crowd control responsibilities.
3 It was not clear to me then, nor is it clear to me now, by
4 what authority they performed crowd and traffic control, but
5 with peace officer status there would be no question.

6 Due to the limits of time, I will not give you
7 any more examples of the CO's job, but I will say that
8 inside these correctional institutions we have small cities
9 inhabited by thousands of people who are all criminals. In
10 these cities we have factories for inmates to work, we have
11 commissaries for them to shop. We have infirmaries for them
12 to get treatment when they are ill. We have schools for
13 them to get educated. We have recreation areas for their
14 amusement and relaxation, and we have crime like any other
15 city. The one thing we don't have is a police force
16 recognized as such by the law to effectively enforce the
17 laws of the Commonwealth.

18 When you consider the environment within which
19 these men and women work, is the granting of peace officer
20 status that unreasonable when you consider the fact that a
21 park policeman in a third-class county has it.

22 In conclusion I would like to say these men and
23 women deserve and need official recognition of their duties,
24 responsibilities and authority.

25 Members of the committee, often times I hear the

1 Pennsylvania State Police referred to as Pennsylvania's
2 finest. And they are a fine organization. But I've been
3 working closely with the employees of the Department of
4 Corrections for over 15 years, and I find them to be not
5 only Pennsylvania's finest but I believe Pennsylvania's best
6 and bravest. For they do a job very few of us would be
7 willing to do.

8 I want to thank you for this time, and I would
9 urge you to support House Bill 2278. And at this time I
10 would be happy to answer any questions that you have.

11 CHAIRPERSON BIRMELIN: I'm sure we have.

12 MR. FOX: I'm sure you do.

13 CHAIRPERSON BIRMELIN: Let me start off with
14 page one, second paragraph, corrections officers perform the
15 most difficult and dangerous job in the law enforcement
16 community with the least amount of recognition and
17 authority. I believe that this lack of recognition and the
18 reluctance to grant the needed authority has a lot to do
19 with the fact that most of us do not understand the duties
20 and responsibilities of a CO and under what conditions they
21 must work.

22 Why do you feel that recognition by whomever is
23 a reason for a change in the law?

24 MR. FOX: Well, I think the commissioner said a
25 little bit, and that is that it's an illustration of the

1 respect for the duties that they are called upon to perform
2 and the authority that they are -- you know, I heard the
3 commissioner say expected to exercise. You know, the
4 commissioner said that within the setting of the
5 correctional institution and currently it's provided by
6 policy correctional officers have the right to exercise
7 force to detain visitors who are caught with contraband to
8 prevent escapes.

9 Interestingly enough the corrections officers,
10 the people that I talk to, don't believe that. You know,
11 because they're the ones who said to me when a visitor is
12 caught with contraband, we don't have the actual authority
13 to hold that person until the state police comes. We try to
14 trick them. We may divert them to another room and tell
15 them that we need to go check some papers to try to delay
16 their leaving until the state police come, but they don't
17 believe that they have the authority either under the law or
18 the policy to detain those people who they have caught
19 trying to smuggle contraband into the institution.

20 And in addition these employees are called upon
21 to perform duties and responsibilities not only within the
22 institution but outside. I mentioned they go out to
23 hospital details. They go transport into the community for
24 court. In some institutions, Rockview, for example, they
25 will escort inmates to college graduation ceremonies because

1 inmates are permitted to attend college and may graduate.

2 The question would be in terms of public and
3 responding to a corrections officer who may need to exercise
4 some authority in the field. You know, think of your own
5 situation. If you were in a shopping mall and approached by
6 a Globe security person who is not a police officer, who is
7 just a private security person, and asked to do something
8 versus being approached by a state police officer, most
9 people will react much more quickly to the recognized police
10 officer than as some people refer to them as the
11 rent-a-cop.

12 So it's a recognition and a respect that I
13 believe is necessary because these people often times are
14 called upon to go into the community to perform their
15 duties. And, you know, whenever I say most of us don't
16 understand their duties, when I talk to people that I come
17 in contact with in my personal life, their vision of a
18 corrections officer, you know, is Jimmy Cagney movies that
19 is the screw who controls the key to unlock and lock the
20 gates. They don't understand the scope of the duties and
21 responsibilities of a corrections officer and the skills
22 necessary to do their job correctly.

23 So I think any bit of authority or recognition
24 that can be given to them I think helps them in performing
25 their duties on behalf of the citizens of the Commonwealth.

1 CHAIRPERSON BIRMELIN: In hearing your testimony
2 and comparing it with what Commissioner Horn has said, I
3 guess I would tend to agree with you in situations that are
4 outside of the prison.

5 And you've cited several instances. You've
6 talked about escorting them to graduations or traffic
7 control, things of that sort. But I'm struck by a
8 continuing remark that you make is that CO's questioned by
9 what authority they have to do this. All this is done with
10 the legal authority to do the job right. What is the status
11 of the CO's and response to traffic and crowd control. Why
12 is there uncertainty? Why is there a difference of opinion,
13 if nothing else, between the commissioner who says we have
14 people who can do and have the authority to do these things
15 and your corrections officers are saying we don't think we
16 have?

17 Now, there's got to be an answer here somewhere
18 that, yes, you do, or, no, you don't. Here's why and here's
19 why not. Why is that an uncertain? Why are we hearing a
20 conflict in testimony here?

21 MR. FOX: I think the major reason behind that
22 is, you know, the commissioner may believe that under
23 his -- with his understanding of the policies and ours as
24 corrections officers that they now have this authority. The
25 problem may be, as I often see in my dealings with the

1 corrections institutions around the state, is when that
2 direction leaves the secretary's corrections office and
3 travels through the bureaucracy in Camp Hill within the
4 headquarters and then filters out to the institutions and
5 the superintendents and the deputy superintendents and the
6 majors and the captains, by the time it gets down to the
7 corrections officer, it may not be the same message that is
8 being communicated from the top.

9 And you may have the reluctance, quite frankly,
10 of people at that institutional level to exercise a power or
11 an authority that they hear someone telling them they can do
12 it, but they're really not sure why they can do it. And
13 because they see every day, you know, when they take an
14 action the only time you see corrections in the newspapers,
15 it isn't for when the corrections officer intervenes and
16 saves the life of another corrections officer or an inmate,
17 you don't read about that in the paper, that happens every
18 day in our institution. The only time you see their names
19 in the paper is when they are doing something -- for
20 example, we are experiencing it now at Green SCI where
21 corrections officers believed they're doing their job but
22 someone decides, no, you went beyond what we've given you
23 the authority to do. And now you're going to face
24 discipline and you may face criminal charges.

25 So it's a nervousness because they're not quite

1 sure where that line is in terms of their authority. They
2 know every day that they could look at an inmate wrong and
3 they're going to have a suit filed against them. And the
4 Department of Corrections -- and it's no different today
5 than it was 16 years ago when I first started dealing with
6 the department -- are very, very concerned about inmate
7 lawsuits. They try to avoid them. They try to limit them.

8 And, you know, I can understand that because
9 it's expensive to defend them, but it creates an atmosphere
10 of uncertainty and hesitancy among the line staff because
11 they're just not sure where their authority begins and ends.

12 CHAIRPERSON BIRMELIN: That's my point. That
13 shouldn't be the case.

14 MR. FOX: I agree with you.

15 CHAIRPERSON BIRMELIN: There must be a mechanism
16 either through training or through these discussions -- I
17 know they only have them once a month in each
18 prison -- through labor and negotiation, there must be some
19 way to resolve that problem of knowing exactly what you can
20 and can't do, what you have the authority to do and not do.

21 To me it's sort of inconceivable that we can
22 have an organization as large as this and people don't know
23 what their authority is. Something is missing here if that
24 is the case. If we have the commissioner of the Department
25 of Correction telling us our people have the authority to do

1 thus, thus and thus, and you guys come in and say, gee, I
2 don't know, we're not sure, we don't know where he stand,
3 there's a problem here. I'm not sure legislation resolves
4 it, but that is my point.

5 Let me ask you one last question. The
6 commissioner referred to New York State as a state in which
7 some of the corrections officers have peace officer status.
8 To the best of your knowledge, and I'm not sure if you can
9 answer this question or not, you tell me if you can. If you
10 can't, you can't. Is it system-wide that all corrections
11 officers in New York have this authority?

12 MR. FOX: My understanding is that's correct.

13 CHAIRPERSON BIRMELIN: Are there any other
14 states that do?

15 MR. FOX: That I couldn't tell you for sure. My
16 understanding is that New Jersey has, if not all of them, a
17 large percentage of them, and I believe there are some other
18 states that granted peace officer status to the corrections
19 officers. But today I couldn't tell you that for sure. I'd
20 be more than happy to get that information.

21 CHAIRPERSON BIRMELIN: I'd appreciate it if you
22 write me a letter and indicate on the letter how many states
23 currently have what House Bill 2278 is looking to get, at
24 least in some form.

25 MR. FOX: Okay.

1 CHAIRPERSON BIRMELIN: Representative Schuler.

2 REPRESENTATIVE SCHULER: Thank you, Mr.

3 Chairman. In the act there are three things that are stated
4 that you would have on behalf of Bill 2278. Then you refer
5 to this situation at Graterford. They were performing
6 traffic -- directing traffic and crowd control. My question
7 is, sir, where would that fit into what the bill states?

8 MR. FOX: Well, I fit this in if they have peace
9 officer status, they go into that duty and responsibility
10 with some legal authority to exercise, you know, control
11 over the citizens of the Commonwealth.

12 REPRESENTATIVE SCHULER: My question is number
13 one says guarding, protecting and delivering prisoners,
14 enforcing the laws of the Commonwealth on property owned and
15 operated under the jurisdiction of the department. And the
16 third, enforcing the laws of this Commonwealth as directed
17 by the governor.

18 MR. FOX: Right there, sir, they were directed
19 by the governor to go into the community for the purposes of
20 this crowd control.

21 REPRESENTATIVE SCHULER: The governor of
22 Pennsylvania gave them the right to go in --

23 MR. FOX: Gave them, the Department of
24 Corrections, the authority to send corrections officers into
25 to the community for purposes of assisting in cleanup and

1 performing crowd control and traffic control.

2 REPRESENTATIVE SCHULER: That's what I wanted to
3 find out, where that came from. It's under number three.

4 MR. FOX: Correct.

5 REPRESENTATIVE SCHULER: It seems to me that the
6 governor must have had some basis for doing that. They felt
7 it was correct to do that.

8 MR. FOX: I'm not challenging -- I'm not
9 challenging the governor's position to do that. It was
10 probably a wise move.

11 REPRESENTATIVE SCHULER: The legal authority to
12 do it.

13 MR. FOX: Well, the legal authority to send them
14 out. Let me just very briefly give you my involvement in
15 that. At the time it happened I got a call from the
16 corrections officer who was our local union president down
17 at Graterford at the time. He said, listen, this is what
18 they're sending them out to do, do we have the authority to
19 do that.

20 So I called the Department of Corrections at the
21 time because I had never heard of a corrections officer
22 being used in that capacity before. I called the Department
23 of Corrections, talked with the executive secretary at that
24 time, and he couldn't tell me at that moment by what
25 authority they were out there doing that.

1 He said, listen, I'll have to check and get back
2 to you. Now, this was the executive deputy secretary of the
3 department did not know. About an hour, an hour and a half
4 later, he got back and he says, listen, I'm told that they
5 have all the authority that they need to go out and perform
6 this function.

7 REPRESENTATIVE SCHULER: That came from the
8 governor's office?

9 MR. FOX: No That response came from --

10 REPRESENTATIVE SCHULER: Where did he get that
11 from?

12 MR. FOX: He did not tell me.

13 REPRESENTATIVE SCHULER: Okay.

14 MR. FOX: And that's why I say in my statement I
15 still don't know by what authority they were out there and
16 could have done anything effectively. If they're out there
17 to exercise crowd control, I've seen police officers in
18 settings where they're exercising crowd control and they
19 have the authority if someone's getting out of line they're
20 going to tell them one more step, I'm going to put you in
21 jail. Now, can a corrections officer do that? No, he
22 can't.

23 REPRESENTATIVE SCHULER: Well, it seems to me
24 maybe we ought to clarify whether we do or we do not have
25 authority. It seems to me to be a communications problem

1 here.

2 MR. FOX: And some of that's present, yes.

3 REPRESENTATIVE SCHULER: That's all I have.

4 CHAIRPERSON BIRMELIN: Representative Masland.

5 REPRESENTATIVE MASLAND: Thank you, Mr.

6 Chairman. I would agree that there are certainly situations
7 when if you're out there doing crowd control you would have
8 questionable authority. I would suggest though that when
9 you're within the prison and you find somebody with
10 contraband that you're certainly within your authority to
11 detain that person, the person in the prison. And I would
12 be surprised if there was a case out there that held that a
13 correction officer did not have such authority. I doubt
14 very seriously that there is.

15 And I guess when it comes down to those types of
16 situations within the prison, I would think that there would
17 have been some type of legal opinion either from a district
18 attorney or department or some attorney, even a court
19 ruling, that would clarify what the authority is within the
20 prison. You're not aware of any?

21 MR. FOX: No one has ever shared that with us.
22 And I might add I think it was the chairman may have asked
23 the commissioner about whether this issue had been raised
24 with him by the union, and he correctly said that it had
25 been. In fact the union has been raising this issue on

1 behalf of the employees of the Department of Corrections
2 since the first term of the Casey Administration. In fact
3 our course of action beginning back then up through the
4 present has been to seek an attorney general -- have the
5 administration seek an attorney general's opinion with
6 regard to these employees coverage.

7 I think Representative Masland, was it you that
8 questioned about the 1921 bill?

9 REPRESENTATIVE MASLAND: Yes.

10 MR. FOX: Is that the one that talked about
11 deputy wardens? And I think that's the bill you're talking
12 about. And there was some belief by us that that bill could
13 extend to state corrections officers, and we were seeking
14 the administration -- we requested from the Casey
15 Administration and we made the request of the Ridge
16 Administration because as, you know, they are the only ones
17 who can request that type of opinion, have the Attorney
18 General give an opinion regarding that matter. Which both
19 administrations were unwilling to do.

20 So we've been attempting to clarify this
21 authority -- you know, seek assistance on it for over ten
22 years.

23 REPRESENTATIVE MASLAND: Okay. I guess getting
24 back to the original point, I don't think you have to really
25 trick anybody to stay there once you find contraband. I

1 would think you'd just say, sit down in this room, you have
2 to stay here until the state police come, and if anybody
3 objects, just close the door. I can't imagine a court
4 throwing out a conviction or an arrest on the grounds that
5 you didn't have the authority to exercise or to, if nothing
6 else, to enforce security within the prison, let alone
7 enforce the laws.

8 MR. FOX: Representative Masland, given your
9 background, I would not debate with you on that. The
10 problem is, as I was saying with the chairman, the
11 corrections officers do not believe they have that
12 authority. It was they who described to me how they detain
13 these people and that is we trick them. And this is done
14 with captains and lieutenants and majors of the guard
15 participating in the tricking. So it's not just the line
16 corrections officer who does not believe that they have the
17 authority to physically restrain a visitor. It's as high up
18 in some instances as deputy superintendent.

19 REPRESENTATIVE MASLAND: Well, then there
20 probably should be, as you say, some type of opinion given
21 to the corrections officers that they do have authority
22 under existing law.

23 Now, Representative Schuler was focusing on the
24 three general areas in which the duties of the police
25 officer could be performed under House Bill 2278. As I read

1 that, although the third one is fairly broad, it could be
2 interpreted as broad, it's basically within the scope of
3 employment while somebody is working because they're
4 guarding and protecting and delivering prisoners, they are
5 enforcing the laws of the Commonwealth on prison property or
6 enforcing the laws of the Commonwealth as directed by the
7 governor.

8 Now, that may be what Commissioner Horn is a
9 little bit concerned about in terms of how broad the scope
10 is. From what you've testified today, it appears that the
11 interest and the intent of the correction officers is
12 basically to have this ability to act as a peace officer
13 while they are working, not that they're not interested in
14 doing traffic stops as they travel down the interstates or
15 the turnpike.

16 MR. FOX: That's correct.

17 REPRESENTATIVE MASLAND: Unrelated work
18 situations. If it's not related to work, then they're not
19 interested in using this. Is that correct?

20 MR. FOX: The corrections officers I've talked
21 to, that is correct.

22 REPRESENTATIVE MASLAND: Thank you.

23 CHAIRPERSON BIRMELIN: Chief Counsel for the
24 Democratic side of the aisle has some.

25 MR. RYAN: Normally are there individuals who

1 are designated as police officers as the commissioner
2 indicated on duty in all the institutions?

3 MR. FOX: Well, I have to be very honest with
4 you, sir, hearing that this morning, that's the first time
5 I'm aware that that is the case. And I made a note to
6 myself to ask him when I get back to my office who those
7 people are.

8 MR. RYAN: You used also as far as the emergency
9 situation where the governor had declared an emergency
10 situation because of a snowstorm; wasn't it?

11 MR. FOX: I believe that's correct. It may have
12 been a flood.

13 MR. RYAN: A natural disaster.

14 MR. FOX: There are officers from Graterford,
15 and as I recall it may have been related to a flood or a
16 tornado or something that went through one of the areas down
17 there.

18 MR. RYAN: Under the governor's emergency powers
19 he pressed, as he could any state employee to do, to call up
20 the National Guard concerning that authority. That's only
21 been one circumstance in the last 20 years.

22 MR. FOX: Well, in that area. However, as I
23 said, I didn't get into all of the different duties of
24 corrections officers. Over the past couple of years a new
25 team of corrections officers have been created. It's the

1 K-9 team. These are officers who have been trained with
2 dogs for the purposes of sniffing out drugs in the
3 institutions.

4 However, it was told to us whenever we were
5 first meeting over the creation of these teams that these
6 teams may also be lent out to the community where a school
7 may call and say, listen, could you send your dog team over
8 here to sniff out drugs in our lockers, or they may be
9 called upon to help search for a lost child.

10 So there are other duties that corrections
11 officers perform, and this is one area where they may be
12 called into the community outside of the scope of what we
13 would normally expect a correction officer to do to begin
14 exercising authority over citizens of the Commonwealth, in
15 this case potential law abiding citizens.

16 When they're behind the walls and the fences,
17 these people are all criminals. But when you go into the
18 community, now you're dealing with citizens who are innocent
19 until proven guilty, and, you know, I think appropriate
20 training must accompany those types of responsibilities.

21 MR. RYAN: Let me ask you, probably I think it's
22 been danced around a little bit, but I think it's very
23 practical terms, what happens in the situation where a
24 corrections officer decides he has criminal conduct on an
25 inmate's part and it normally would be the institution's

1 hierarchy procedure to just handle that manner in an
2 administrative punishment matter by putting somebody in the
3 hole by making further record where it's going to parole.
4 Does that officer have the right then to make that arrest
5 even if the head of the institution --

6 MR. FOX: Now?

7 MR. RYAN: No. If under this change would the
8 corrections officer be able to go ahead and perhaps go
9 against what the general policy of the institution is in
10 handling what I know is a very large number of internal
11 disciplinary matters? I say this with some background
12 because I was a prosecutor and in the head of trials
13 division in Montgomery County which happens to house
14 Graterford, and I can't tell you how many cases I've had to
15 prosecute of inmates charged with guard assaults and
16 otherwise.

17 But I also know that there are literally
18 thousands of cases in the course of a year that would
19 involve potential criminal activity which are handled
20 administratively. And are the officers then going to make
21 these arrests without consideration of what is generally --

22 MR. FOX: No, I don't think so. And I say that
23 based upon a limited -- and I'm emphasizing the word
24 limited -- understanding of how a police force works.

25 You know, it's my understanding that a police

1 officer on the street could because of whatever may be going
2 on within a police department be told, listen, I don't want
3 you arresting that person, that person is a snitch or some
4 other investigation, and could be directed not to arrest
5 someone who has committed a crime.

6 And I would say the same rules and policies
7 would apply. These are still employees of the Department of
8 Corrections, still subject to the policies and control of
9 their employer and would be compelled to follow the orders
10 of their superiors.

11 That doesn't change with this status. Now,
12 there are some crimes committed behind the prisons where I
13 would say, yes, they would do that. Under our contract with
14 the Commonwealth of Pennsylvania, any assaults on
15 corrections officers are to be referred for criminal
16 charges. There's no ambiguity there. And if the Department
17 of Corrections chooses not to do that, then that's a
18 violation of the agreement that they negotiated with us.
19 And if the union can't do something to enforce it, then I
20 would hope that if a corrections officer has that power of
21 arrest that they would do that because that's required by
22 the collective bargaining agreement.

23 You know, this legislature just recently passed
24 a law which we have been working on for a number of years
25 with members of the General Assembly that makes it a felony

1 for an inmate to throw urine, feces, semen, any bodily fluid
2 infected from an AIDS-infected inmate on an employee and
3 requires that they be prosecuted. If a situation like that
4 arises, yes, I would hope that a corrections officer would
5 exercise that authority.

6 But if you're talking they find a bag of pot in
7 someone's cell and the department says, listen, I don't want
8 to prosecute this, we're going to handle it through our
9 internal processes, would they still exercise that kind of
10 authority? Yes, I believe they could.

11 CHAIRPERSON BIRMELIN: Thank you, Mr. Fox, for
12 your testimony. I appreciate your time here. And I would
13 also ask you if you would follow up on the request I made to
14 find out what other states correction officers have similar
15 authority.

16 MR. FOX: I'll do that right away.

17 CHAIRPERSON BIRMELIN: And my address and name
18 are on the letterhead.

19 MR. FOX: I know where you're at, Mr. Chairman.

20 CHAIRPERSON BIRMELIN: We had scheduled -- your
21 agenda says there are three corrections officers here, but
22 in reality there are five. What I'm going to do is ask them
23 to come in two shifts. I'm going to ask first if Leon Sides
24 and Greg Griffin from SCI Retreat, which is in Northeastern
25 Pennsylvania, I believe in Luzerne County, but these two

1 gentleman will be first. Then we will have three gentlemen
2 from Graterford Prison, the boyhood home of Attorney Ryan.
3 They will testify at a little bit later. Not the prison,
4 the county. I'm sorry.

5 And for the benefit of those testifying, I'm
6 sure Representative Schuler is a regular visitor to prisons
7 I was at Camp Hill him visiting. When you testify before
8 us, we're not completely unfamiliar with prisons, how they
9 operate or, you know, what is going on in prisons. And we
10 certainly don't have the depth of knowledge that you
11 gentlemen do, but we're not complete neophytes on the
12 subject.

13 So with all that having been said, let me
14 introduce to the left of the panel is Leon Sides, and to his
15 left and to your right is Greg Griffin. Leon, if you'd like
16 to start first, you may begin.

17 MR. SIDES: Good morning, Mr. Chairman,
18 Committee Members. As you already indicated, my name is
19 Leon Sides, and I have been a corrections officer for almost
20 six years now and I have worked in two different states
21 institutions, with my present duty most being SCI Retreat in
22 Luzerne County.

23 I would like to take a few minutes to precede my
24 fellow officer Greg Griffin who will be presenting our main
25 testimony to read an article into the record written by a

1 fellow corrections officer that we feel hits very much close
2 to home about the reality of the public's perception of our
3 occupation:

4 Gentlemen, please meet the forgotten cop. What
5 would the average citizen say if it were proposed that
6 police officers be assigned to a neighborhood which was
7 inhabited by no one but criminals and those officers would
8 be unarmed, patrol on foot and be heavily outnumbered? I
9 wager that the overwhelming public response would be that
10 officers would have to be crazy to accept such an
11 assignment. However, even as you hear this, such a scenario
12 is being played out in all areas of the country.

13 I am a corrections officers, not a guard. A
14 guard is a person that watches the school crossings. I work
15 in a correctional facility. I am empowered by the state to
16 enforce its penal laws and the rules and regulations of the
17 Department of Corrections.

18 In short I am a policeman inside the wall. My
19 beat is totally inhabited by convicted felons who by
20 definition are people who tend to break the laws, rules and
21 regulations. I am outnumbered by as much as 20, 30, and
22 even 40 to one at various times during my workday. At
23 Pennsylvania's prototypical prisons that ratio can be 190 to
24 one. And contrary to popular belief, I work without a
25 sidearm. In short my neck is on the line every minute of

1 every day.

2 A correctional facility is a very misunderstood
3 environment. The average person has little knowledge of its
4 workings. Society sends its criminals to correctional
5 facilities and as time passes each criminal's crime fades
6 from our memory until the collective prison population
7 becomes a vision of hordes of bad people being warehoused
8 away from society in a place where they can cause no further
9 harm.

10 There is also the convoluted notion that prison
11 inmates cease to be a problem after they are incarcerated.
12 The truth is correctional facilities are full of violence
13 perpetrated by the prison population against each other and
14 the facility staffs. Felonies are committed daily, but they
15 are called unusual incidents and rarely result in public
16 prosecution. Discipline is handled internally, and as a
17 rule the public is never informed of these crimes.

18 In the course of maintaining order in these
19 facilities, many officers have endured the humiliation of
20 being spit upon and having urine and feces thrown at them.
21 Uncounted corrections officers have been punched and kicked,
22 bitten, stabbed and slashed with homemade weapons, taken
23 hostage, and even murdered in the line of duty, all the
24 while being legally mandated to maintain full professional
25 composure and refraining from any retaliation which could be

1 the basis for inmate lawsuits against them or more so,
2 dismissal from service.

3 In addition to these dangers, corrections
4 officers face hidden dangers in the form of HIV, AIDS,
5 tuberculosis, hepatitis B and hepatitis C. Factor in the
6 Court's imposing longer sentences, and it becomes more than
7 evident that the prison population is increasing far beyond
8 the system's designed capacity.

9 As the public demands more police on the streets
10 and gets them, governments everywhere are cuffing the police
11 inside the wire where violence reigns supreme, jeopardizing
12 all those still working behind the prison walls.

13 Although you will never see me on Rescue 911 or
14 Top Cops, I am a law enforcement professional. I am the
15 forgotten cop. Hidden from public view doing dangerous,
16 thankless duty on the world's most dangerous beat, hoping
17 someday to receive the respect of and the approval from the
18 public who I silently serve.

19 That finishes the statement, but as a
20 postscript, gentlemen, every year nationwide 16,000
21 corrections officers are assaulted. Last year in
22 Pennsylvania 853 corrections officers were assaulted. Over
23 the last two years nationwide nine corrections officers were
24 killed.

25 Thank you for your attention. Officer Griffin

1 will now continue our presentation.

2 MR. GRIFFIN: Thank you, Officer Sides. Good
3 morning, Mr. Chairman and Committee Members. I am State
4 Corrections Officer Greg Griffin, and I have been assigned
5 to State Correctional Institution at Retreat in Luzerne
6 County for the past eight years.

7 I want to thank you for allowing corrections
8 officers the opportunity to appear before your committee to
9 give testimony in support of House Bill 2278.

10 House Bill 2278 would grant correctional
11 officers in the Department of Corrections the powers of
12 peace officers in the performance of their duties which
13 would include the following: Number one, guarding,
14 protecting and delivering prisoners; number two, enforcing
15 the laws of this Commonwealth on any property operated under
16 the jurisdiction of the Department of Corrections; number
17 three, enforcing the laws of this Commonwealth as directed
18 by the governor.

19 In preparation for testimony our committee
20 searched how a peace officer is defined in the Pennsylvania
21 Crimes Code under Section 501. A peace officer is any
22 person who by virtue of his office or public employment is
23 vested by law with a duty to make arrests for offenses. We
24 also discovered case law in the Commonwealth of Pennsylvania
25 versus Knauss, 1992, in which three judges ruled that a

1 correction officer had powers of arrest.

2 Furthermore, we found that the Pennsylvania
3 Statute 61 - 409.1 authorizes corrections officers the power
4 of peace officers in the performance of their duties
5 generally guarding, protecting and delivering prisoners,
6 protecting property and in capturing and returning prisoners
7 that may have escaped.

8 That evidence not withstanding, there is a
9 question as to what powers corrections officers have and
10 where they exactly fit in the law enforcement scheme of
11 things.

12 House Bill 2278 I believe answers that question
13 once and for all by defining the duties and responsibilities
14 of Pennsylvania's corrections officers and mandating a peace
15 officer course of study in training for them with an
16 appropriate curriculum formulated by a committee of three
17 persons each from the Department of Corrections and the
18 Pennsylvania State Police.

19 Seven progressive states have already set an
20 example by committing their corrections departments to
21 training their officers to peace officer standards, namely,
22 New York, New Jersey, California, Rhode Island, Florida,
23 Oklahoma and Nevada. Besides the standard corrections
24 officer academy training, these seven states provide their
25 officers with additional training such as laws of arrest,

1 crime scene preservation, civil law, criminal law, court
2 testimony, suspect interrogation, interviewing witnesses and
3 intensive firearms training in order to properly equip their
4 officers to function as effective peace officers within
5 their prisons.

6 Pennsylvania for many years was recognized
7 across the country as the example to follow in corrections
8 training, policies and procedures. However, our current
9 ranking of 31st out of 50 states would seem to indicate
10 Pennsylvania is no longer the benchmark for training
11 guidelines when 30 other states give their officers more
12 intensive training.

13 Pennsylvania's corrections officers deserve the
14 best training possible given the harsh realities of having
15 to deal with working in our overcrowded prisons, and we view
16 House Bill 2278 as our vehicle of change to attain this
17 necessary training.

18 House Bill 2278 would establish a committee
19 blend of three departments, Corrections, and three
20 Pennsylvania State Police personnel which hopefully would
21 ensure for many years to come that our officers would
22 continue to receive the most comprehensive basic training
23 and training updates as necessary to equip them with the
24 skills required to meet the ever-changing challenges inside
25 the growing number of Pennsylvania's correctional

1 institutions.

2 Gentlemen, we are more than guards. Our
3 environment continually demands more of us. Allow us to
4 achieve more by providing us with the means to do so. And
5 that is House Bill 2278.

6 Thank you. I will not be happy to respond to
7 any questions you may have.

8 CHAIRPERSON BIRMELIN: Thank you, Officer Sides
9 and Griffin. I do have a couple of questions I'd like to
10 ask.

11 Mr. Griffin, on page 5 of your testimony, after
12 you gave us the background of the research that you have
13 done, Pennsylvania Crimes Codes section in the second
14 paragraph, you say that evidence notwithstanding there is
15 still the question of as to what power those corrections
16 officers will have, where they exactly fit in the scheme of
17 things.

18 Are these the same questions raised by Mr. Fox
19 that dealt primarily with outside of the institution, crowd
20 control?

21 MR. GRIFFIN: Well, sir, before we embarked on
22 our research, the corrections officers, there was a question
23 in our minds. There's not a question now. It appears that
24 there's been several case studies and case laws established
25 that I believe now that we do have peace officer status

1 now. As far as the outside, I believe we have peace officer
2 powers as we transport to hospitals to and from, and to and
3 from court.

4 The problem I see that we're not training to
5 peace officer standards, and that's where you can have a
6 problem. We have officers performing all these duties. And
7 as the other seven states have committed themselves to
8 training their officers, our state has remained in the
9 background and, of course, 31st now.

10 And that's how I look at 2278, as something very
11 progressive for corrections officers.

12 CHAIRPERSON BIRMELIN: What percentage of the
13 corrections officers are involved in official duties outside
14 of the prison itself, escorting to doctors --

15 MR. GRIFFIN: It's a smaller percentage.
16 Sometimes there's a detail simply for that where the regular
17 officers do that every day.

18 CHAIRPERSON BIRMELIN: What's the percentage?

19 MR. GRIFFIN: I would say 5 percent, if it's
20 even that. Transporting, it happens, but it depends whether
21 an inmate needs treatment or whether it's a court date. But
22 you never know when. It could be a lot this week in our
23 prison, and it could be none. And, of course, it could be
24 me if they ask me if I want the overtime. So it could be
25 any one of the officers could be asked to be transport

1 officers.

2 CHAIRPERSON BIRMELIN: On that same page, two
3 paragraphs later, you talk about seven states that have
4 already set an example.

5 MR. GRIFFIN: Yes, sir.

6 CHAIRPERSON BIRMELIN: Is that the answer to the
7 question that I asked Mr. Fox?

8 MR. GRIFFIN: Well, I hope so. And anything
9 else you would need, we could provide it, sir.

10 CHAIRPERSON BIRMELIN: My compliments to Mr. Fox
11 on the quick response he got for us.

12 The next page, on page six, second full
13 paragraph, you indicate that your ranking in training among
14 other states is 31st out of 50. Who made that ranking? Who
15 makes that determination?

16 MR. GRIFFIN: We received that with our
17 affiliation with the Corrections and Criminal Justice
18 Coalition which is a national coalition of corrections
19 officers. They supplied us with the information which came
20 from the Criminal Justice Institute, South Salem, New York.
21 And it's a national collection of every state department of
22 corrections training standards.

23 CHAIRPERSON BIRMELIN: Is that because of the
24 fact that you're not trained as peace officers is a portion
25 of what determines your ranking?

1 MR. GRIFFIN: Well, it could be. See the peace
2 officer course is only 40 hours. I don't know where
3 Commissioner Horn received his figures as far as nine
4 million for the course, but it's only a 40-hour course. And
5 we provided that on pages 17 through it's -- we just
6 provided some from New York State for you to look at.

7 CHAIRPERSON BIRMELIN: My question gets to the
8 point is the fact that you're 31st out of 50 is because you
9 don't offer peace officer training, in the group that
10 assessed you this ranking would lower your standards or
11 lower your ranking because you don't have any?

12 MR. GRIFFIN: No, sir. This accounting here is
13 pure hours of academy training for new trainees.

14 CHAIRPERSON BIRMELIN: Is that based on hours
15 only?

16 MR. GRIFFIN: Yes. But generally the peace
17 officer states are one of the highest.

18 CHAIRPERSON BIRMELIN: That means they're
19 ranking you 31st out of 50 because of the number of hours
20 you spend in training, not because of the quality of the
21 training?

22 MR. GRIFFIN: We're ranking our department.
23 They didn't exactly say that. We're looking at the hours as
24 far as the hours are compared for new hires, we're 31st.
25 Apparently our department is not training our officers -- we

1 get four weeks.

2 CHAIRPERSON BIRMELIN: Well, then let me go back
3 to my original question. Who made this determination that
4 you're 31st out of 50?

5 MR. GRIFFIN: I did.

6 CHAIRPERSON BIRMELIN: You did?

7 MR. GRIFFIN: Yes, sir. By looking at the
8 figures.

9 CHAIRPERSON BIRMELIN: Okay. That sheds a
10 different light. The last question I have for you is
11 similar to the one that I asked -- and either gentlemen can
12 answer this question -- is similar to the question I asked
13 Commissioner Horn. You have gone to him or to those who
14 work for him in higher levels of management and you brought
15 before them your request that you now have in legislative
16 form. Was the response similar to what Commissioner Horn
17 has indicated to you, that it's simply unnecessary? What is
18 your take on their response to your request? We've heard
19 his. I want to get the other side of the story.

20 MR. GRIFFIN: Well, I believe that Commissioner
21 Horn has spoken in the negative as far as 2278. And
22 basically because he doesn't believe we need it. And, of
23 course, I disagree with him on that. I think it's
24 imperative that we get it.

25 Some of the -- just the basic peace officer

1 training which is 40 hours, I believe our training is rock
2 bottom. The New York State corrections officers, their
3 peace officers, they train the 40-hour course concerning
4 peace officer powers, introduction to law, criminal justice
5 system, deadly physical force, use of force, search and
6 seizure, testifying in court, civil law, penal law,
7 preliminary investigations, interrogations and witness
8 identification.

9 These are all valuable tools for us. And I
10 can't remember the last time I received that training, and
11 it's been eight years that I'm a corrections officer. And
12 we need these tools.

13 Our environment is becoming increasingly
14 overcrowded and dangerous. We arrive at homicide scenes
15 every day -- not every day, but we do in some of the other
16 prisons in the state. We haven't had any homicides in my
17 prison. But we have to be able to react. We have to be
18 able to preserve a crime scene. We have to be able to -- I
19 have not been informed on how to Mirandize anyone, and, of
20 course, we're very familiar with initial statements besides
21 the spontaneous utterance. Everything else may not be
22 admissible. And I would be the first officer arriving, and
23 if an inmate killed, another inmate, unfortunately we could
24 because of bad handling initially we may not be able to use
25 his statement.

1 CHAIRPERSON BIRMELIN: Thank you. Would you
2 affirm to me that there is a distinction being made here
3 between having the authority to be a police officer and
4 having the training that a police officer has? Is that your
5 distinction? Or if this is a true distinction, that your
6 emphasis is on the training?

7 MR. GRIFFIN: Absolutely. We look at this as a
8 must. We look at House Bill 2278 as very progressive and
9 something positive is going to happen out of this. We hope
10 that it is better training. We hope we can get more hours
11 to professionalize our officers in some of these areas that
12 the other states have passed us out in because these are
13 necessary skills that we must have. And our training is
14 woefully inadequate in my opinion.

15 CHAIRPERSON BIRMELIN: If Commissioner Horn was
16 to rank you, where do you think he would rank you out of 50?

17 MR. GRIFFIN: Well, he says we're very brave,
18 and, of course, we're very brave. And I don't want this to
19 be misunderstood. I consider my fellow Pennsylvania State
20 corrections officers some of the finest in the nation, and I
21 would place my life in their hands any day. They have the
22 highest work ethic, but we are inadequately trained.
23 There's no two ways around it.

24 CHAIRPERSON BIRMELIN: Commissioner Horn said
25 that he would like to spend more money on training than he

1 does, so I think he's in agreement with you on the need for
2 more training. I just don't know whether he's in a position
3 to do that given the problems that he has with the budget
4 and the dollars that he has to work with. Just an
5 observation.

6 MR. GRIFFIN: I think there's money there.

7 CHAIRPERSON BIRMELIN: We'll turn this over to
8 the rest of the panel for their questions. Representative
9 Masland.

10 REPRESENTATIVE MASLAND: Thank you, Mr.
11 Chairman. From listening to your testimony, Officer Sides,
12 I guess that the reason for the bill -- part of the reason
13 for this bill is indeed, as the Commissioner said, for a
14 sense of respect.

15 MR. SIDES: We're doing the job. And we're
16 behind the wire every day. We are inside the wire, behind
17 the walls, and what we are doing sometimes just gets lost in
18 the public image. No one knows what goes on behind the
19 walls. We are peace officers behind the wire taking care of
20 those in a dangerous facility.

21 REPRESENTATIVE MASLAND: Now, obviously you want
22 respect, you want to be able to protect yourselves and
23 enforce the laws when you are on duty. And I take it that
24 when you say you want peace officer status, is your primary
25 interest when you are on duty?

1 MR. SIDES: That's my understanding, yes.

2 REPRESENTATIVE MASLAND: Whether it was in the
3 article that you read or in your testimony, maybe it was Mr.
4 Griffin for that matter who mentioned it, about not having a
5 sidearm. Would you want sidearms in the prison? Normally
6 there are no sidearms within the prison, you carry no
7 weapon. Obviously you're outnumbered. A sidearm may be
8 taken from you and used against you.

9 MR. SIDES: We have bats.

10 REPRESENTATIVE MASLAND: Thank you.

11 CHAIRPERSON BIRMELIN: Representative
12 Caltagirone.

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

15 In the legislation on the first page, line 15,
16 number three, it says enforcing the laws of this
17 Commonwealth as directed by the governor.

18 Do you take that or it is your understanding
19 that the governor can at any time direct you even outside
20 the facility to enforce the laws of the Commonwealth?

21 MR. GRIFFIN: Yes, sir. We believe that the
22 governor has the authority now to do that. He has already
23 done that, and, of course, we're all ready to serve,
24 wherever we're required to.

25 REPRESENTATIVE CALTAGIRONE: Well, is it your

1 opinion or it is your thought that you, if you receive this
2 training, if this bill were to become law you would receive
3 this training, you would then have the full weight of a law
4 enforcement officer behind you, that you could make arrests
5 outside the institution?

6 MR. GRIFFIN: Well, we already have those powers
7 based on case law. And like I said, if we received
8 training, we would be very well equipped to do that if the
9 situation arose. We do not think that House Bill 2278 is a
10 bill to make correction officers police officers, but
11 definitely even every citizen has the power to make arrests
12 for breach of peace. Now, of course, we would use our
13 powers and training to serve the citizens.

14 REPRESENTATIVE CALTAGIRONE: Non-job related?
15 Off duty at home?

16 MR. GRIFFIN: Well, sir, if I as a corrections
17 officer drove by a scene where a state police officer has a
18 car stopped there and a suspect is on top of him in the
19 middle of the road, I would not drive around. I would stop,
20 of course.

21 REPRESENTATIVE CALTAGIRONE: Then as far as the
22 laws are concerned, if you saw an armed robbery taking place
23 or speeding going down the highway or other situations,
24 would you say you definitely would like to have the same
25 authorization of arrest powers?

1 MR. GRIFFIN: Absolutely not.

2 REPRESENTATIVE CALTAGIRONE: Specifically in the
3 institution only?

4 MR. GRIFFIN: Yes, sir. We would not be
5 involved in traffic stops.

6 But, no, we don't want to become police
7 officers. The point of House Bill 2278 is we're trained to
8 be law enforcement -- police officers inside the wire. And
9 2278 would give us the training to be able to do those
10 duties.

11 REPRESENTATIVE CALTAGIRONE: And assist law
12 enforcement when needed?

13 MR. GRIFFIN: If they -- like I would never
14 drive by a situation where a police officer is in distress.
15 Right now we are labeled corrections officer. I think the
16 community would expect me to stop. And, of course, I would.
17 And the rest of the correction officers that work with me
18 would do the same I believe, but with the training do it
19 better.

20 REPRESENTATIVE CALTAGIRONE: But you do not want
21 the authority of a regular police officer; correct?

22 MR. GRIFFIN: No, sir. Now, House Bill 2278
23 specifically says within the scope of our employment when
24 transporting inmates and under the authority of the
25 governor. We don't want to be police officers. But we

1 would do it with the police officer training which is four
2 blocks of instruction to bring us up to speed for criminal
3 investigations that occur inside our wire every day.

4 REPRESENTATIVE CALTAGIRONE: Thank you.

5 CHAIRPERSON BIRMELIN: Thank you two gentlemen
6 for testifying. We appreciate your being here.

7 With us next I'd like to call two of the
8 corrections officers from Graterford, Mr. O'Neal and Mr.
9 Rittenhouse.

10 MR. RITTENHOUSE: Good morning, Chairman and
11 Members of the House Judiciary Committee. I am Frank
12 Rittenhouse, a correctional officer and member of the
13 Legislative Committee at SCI Graterford.

14 I want to thank you for allowing me to speak
15 today on House Bill 2278. I've been a correctional officer
16 for about two years.

17 I want you to know how I and other correctional
18 officers feel about this bill. Most are in favor of this
19 very positive change for correctional officers. The passage
20 of this bill will bring the PA DOC forward into the
21 millennium prepared to meet and prevail over the mounting
22 challenges of a prison population which is experiencing
23 exponential growth.

24 We want to have the PA DOC to be the best in the
25 nation. I think Secretary Horn would feel the same way. I

1 know I would if I was Secretary of Corrections.

2 This Bill 2278 will give the Commonwealth
3 approximately 8,000 more peace officers. This bill will
4 help remove some of the burden from the state police in
5 regard to incidents that occur at state correctional
6 institutes. This Bill 2278 will help in keeping costs down.

7 Correctional officers in Pennsylvania will get
8 the additional training needed to perform the tough job they
9 have now. The correctional officer can help in states of
10 emergency affecting the communities that surround their
11 institutions.

12 As a Civil Service employee, taxpayer and voter
13 in this great Commonwealth, I take pride in my job and in my
14 citizen responsibilities.

15 John Rockefeller once said in a 1941 speech: I
16 believe that every right implies a responsibility; every
17 opportunity, an obligation; every possession, a duty.

18 As in corrections, professionalism is not just a
19 uniform, it's what's inside the uniform.

20 MR. O'NEAL: Good morning, Mr. Chairman and
21 members of the committee.

22 I appreciate the opportunity to appear before
23 you today to discuss House Bill 2287.

24 There were some questions as to what powers
25 corrections officers have or have not, a lot of discussion,

1 do they have the power, don't they have the power. There
2 was a survey put out by the union and by Lane F. Williams
3 and defines the powers of corrections officers by the
4 statute. And police officers and corrections officers,
5 specifically police officers, are those employed by a
6 governmental entity who are empowered by specific statute to
7 exercise the powers which are specifically enumerated in the
8 statute.

9 Correctional officers are statutorily empowered
10 to arrest for all offenses and the statute provides as
11 follows: Each employee shall exercise and have full power
12 to make arrests, without warrant, for all violations of law
13 which they witness upon any part of the premises of the
14 institution in which they are employed, and to serve and
15 execute warrants issued by the proper local authorities for
16 any violation of law committed thereon, and to arrest, with
17 or without warrant, any inmate of such institution that may
18 have escaped therefrom, and to return him or her thereto.

19 Correction officers have a statutory power of
20 arrest within the scope of their employment. The Court
21 allows the search of visitors on the premises because of
22 special security concerns in the prison.

23 Corrections officers do not have the peace
24 officer training so they have to comply with the statute
25 they are governed by. An example is a corrections officer

1 who's on patrol, approximately 700 acres, who is armed. The
2 corrections officer does not have the basic training to
3 Mirandize a perpetrator. A corrections officer at
4 Graterford and many other institutions that witnesses a
5 stabbing, a homicide, corrections officers do not have basic
6 training to secure a crime scene, keep the crime scene
7 secure so the chain of evidence isn't broken.

8 Frank and myself work side by side. Frank may
9 be very unfortunate, and Frank gets killed one day, and if I
10 don't have the training necessary to secure a crime scene in
11 those correctional facilities would mean Frank's death would
12 be in vain.

13 The Department of Corrections has many
14 specialties. One of the teams I would like to talk about is
15 our CERT or emergency response team. In the year 1994 there
16 was a tornado that took place within eight miles of the
17 Graterford facility. The tornado caused extensive loss of
18 property and life. The corrections emergency response team
19 of Graterford was activated in this type of community
20 emergency. To my knowledge our CERT team at Graterford
21 assisted in patrolling the perimeter to prevent looting of
22 the neighborhood devastated in the tornado.

23 Well, that activation of special teams during a
24 crisis nearby opened my eyes to a whole new area of roles
25 corrections officers may perform in the future.

1 With the passage of House Bill 2278, the
2 committee would bring corrections officers one step closer
3 to reaching the level of professionalism that the public
4 deserves. We are officers behind the wall, we are the
5 officers behind the wire.

6 Mr. Chairman, and committee members, no child
7 grows up wanting to be a corrections officer. We're here to
8 try to change this impression of our profession. As
9 president of Local 249 and an officer in the profession, my
10 role is to ask the chairman of the committee and every
11 member for the support of the committee in passing House
12 Bill 2278.

13 If the chairman and any others have any
14 questions, I would be more than happy to try to answer them
15 for you. Thank you.

16 CHAIRPERSON BIRMELIN: Thank you. And, Mr.
17 Rittenhouse, I have one question I'd like to ask Mr.
18 O'Neal. Turn to page two if you would, please. First it
19 talks about the general rules of corrections in Pennsylvania
20 and then about the course of police officer instruction, a
21 minimum of 160 hours of classroom study.

22 I'm a little bit unclear as to where that fits
23 in with the number of hours that was mentioned here
24 previously, that Section B which line -- eight through
25 thirteen. Talking about 40-hour police training. What is

1 the difference between that and the 160 hours?

2 MR. O'NEAL: I believe 160 hours is for new
3 people that are coming on board, and included with the
4 training they receive annual 40 hours.

5 CHAIRPERSON BIRMELIN: Really not an increase in
6 the 40 hours of what they're already getting?

7 MR. O'NEAL: Right.

8 CHAIRPERSON BIRMELIN: Having listened to
9 everyone who spoke today, I get the impression that all the
10 people I've heard that most know what the authority is, what
11 isn't, from the research done on the part of the other
12 officers in the state. Either of you.

13 MR. O'NEAL: I believe I know where my authority
14 lies. I am certain where the liability lies without the
15 training.

16 CHAIRPERSON BIRMELIN: Mr. Rittenhouse.

17 MR. RITTENHOUSE: I feel the same as Mr. O'Neal.
18 Knowing our job, if we act in our job and a possible
19 liability comes up, like I said, we sometimes have the
20 possibility of being sued or being disciplined in some way
21 for not performing well.

22 CHAIRPERSON BIRMELIN: Some of the attorneys
23 sitting here would tell you you could actually be sued by
24 anybody. I'll turn the questioning over to Jere Schuler.

25 REPRESENTATIVE SCHULER: Thank you. I have to

1 leave, but I just want to clarify in my own mind your
2 testimony and the two gentlemen your opinion. Do you
3 believe that you are peace officers under the existing law
4 and court decisions?

5 MR. O'NEAL: In my opinion, sir, the Crimes Code
6 is specific about what law enforcement officers are. It is
7 law that defines that law enforcement do fall into a single
8 category -- guarding, protection, delivering prisoners,
9 enforcing the laws of the Commonwealth on property under the
10 jurisdiction of the Department of Corrections, when directed
11 by the governor, such as the use, for example, in a disaster
12 in the community. That is where you would have a problem.

13 One concern that I had regarding the role of the
14 corrections officer may be playing into the future. That
15 may be just the on-the-job crime scene preservation. I have
16 armed officers that patrol a reservation, and he perhaps has
17 over 1700 acres. There's times also during the week where
18 our M.D.'s may use him to be a security guard to transfer
19 from the institution out to a local branch in the
20 community. And I don't even know where liability lies.

21 REPRESENTATIVE SCHULER: But did you make
22 attempts find out what liability --

23 MR. O'NEAL: Yes, sir.

24 REPRESENTATIVE SCHULER: The other concern in
25 dealing with the liability is that you feel that, as you

1 say, you are police officers, that you should have the
2 training established by this committee?

3 MR. O'NEAL: Yes, sir. I think that would put
4 us in compliance.

5 REPRESENTATIVE SCHULER: That's all I have.
6 Thank you.

7 CHAIRPERSON BIRMELIN: Represent Caltagirone.

8 REPRESENTATIVE CALTAGIRONE: No questions.

9 CHAIRPERSON BIRMELIN: Gentlemen, thank you for
10 testimony. I appreciate your knowledge.

11 Our last testifier for this morning is Andrew
12 LeFevre.

13 MR. LEFEVRE: Good morning, and thank you, Mr.
14 Chairman and members of the committee, for providing me with
15 the opportunity to discuss a bill which will help to enhance
16 the safety of correctional officers who live in the
17 Commonwealth of Pennsylvania.

18 My name is Andrew LeFevre, and I am the Director
19 of State and Local Affairs for the Law Enforcement Alliance
20 of America, more commonly known as LEAA. LEAA is the
21 nation's largest coalition of law enforcement officers,
22 crime victims, and law-abiding citizens dedicated to finding
23 effective, common sense solutions to the problems facing our
24 country's criminal justice system. LEAA represents 65,000
25 members and supporters across America.

1 The reason why LEAA supports House Bill 2278 is
2 simple. Law enforcement is the only profession in the
3 United States that is required to interact on a daily basis
4 with the most dangerous and violent segment of our society.
5 After criminals are taken off of our streets, there is a
6 tendency by most people to forget about them.

7 Unfortunately, as we all know, criminals don't
8 disappear. They must be housed in jails, penitentiaries,
9 and as they are more commonly called today, correctional
10 facilities. Once these less reputable members of society
11 are safely behind bars, it becomes the job of correctional
12 officers to watch them until their release.

13 As I'm sure you've heard from correctional
14 officers themselves, walking a cellblock can truly be
15 considered walking one of the toughest beats in America.
16 We must give our law enforcement officers -- and that
17 includes corrections officers -- the tools they need to keep
18 themselves, as well as our streets safe.

19 House Bill 2278 will empower select officers
20 within the Pennsylvania Department of Corrections with peace
21 officer powers.

22 I thank you for the opportunity to testify, and
23 I am happy to answer any questions you might have.

24 CHAIRPERSON BIRMELIN: Thank you, Mr. Lefever.
25 Correction officers, are they the majority of the members of

1 your organization?

2 MR. LEFEVER: Our organization is made up of
3 individual members, 83 percent are from law enforcement
4 throughout the country. I would say we -- I couldn't give
5 an exact number, but we have thousands of correctional
6 officers who are members of our organization across the
7 country, including police associations, that is their state
8 associations that represent their correctional officers,
9 over 25,000 of which have police officer status.

10 CHAIRPERSON BIRMELIN: The fact that this is a
11 national organization, does that give you insight as to the
12 states that do have peace officer status for their
13 corrections officers? Have you done any research of the
14 differences between states?

15 MR. LEFEVER: I think what we're seeing is
16 general trends that as people become tougher on crime that
17 law enforcement be able to act in certain circumstances. I
18 think you've seen some states address that.

19 New York and other states are saying we have a
20 vast pool of people out there with some training -- a little
21 additional training, they could be available to help out in
22 circumstances, help protect the public.

23 CHAIRPERSON BIRMELIN: Turn this over to the
24 other members of the committee. Representative Caltagirone.

25 REPRESENTATIVE CALTAGIRONE: Yes. In your

1 sheet you had alluded to House Bill 2278 would allow
2 corrections officers to use their training and help keep
3 neighborhoods safe by having the powers to arrest in certain
4 circumstances. What circumstances?

5 MR. LEFEVER: My understanding of the law would
6 be that they be given peace officer status to enable us to
7 enforce the laws of the Commonwealth similar to being
8 allowed to make arrests if someone breaches the peace. I
9 guess how it was said today, I think what you would see if
10 these officers would be given this training they would be
11 better able to intercede if there is a serious situation,
12 better able to hold them till the state police arrive,
13 better able to secure a crime scene, whatever it may be.

14 REPRESENTATIVE CALTAGIRONE: Job related?

15 MR. LEFEVER: I see with dealing with officers
16 from around the country, when people are professionals, I
17 think what you see from the officers, is that as stated
18 earlier, the willingness to intercede if there is something
19 they're viewing going down, a bank robbery, another law
20 enforcement officer who needs help. I don't think we're
21 traffic cops.

22 Giving the corrections officers the training and
23 recognition of a peace officer would just expand the pool
24 available of law enforcement personnel and generally
25 increase safety.

1 REPRESENTATIVE CALTAGIRONE: Often a citizen can
2 and does do that. I was faced down with a gun with a
3 constable trying to make an arrest. This just happened in
4 the last few years. I knew the man, knew he was fully
5 armed, I was unarmed, and I went in and talked to him and
6 got him to put the gun away.

7 MR. LEFEVER: I don't know if Joe average
8 citizen or mom and pop down the street would want to go into
9 that situation. I think this is just giving us an
10 additional tool that we may need to take part in that kind
11 of circumstance.

12 REPRESENTATIVE CALTAGIRONE: What about carrying
13 a firearm? You can go into a sheriff's office in the county
14 that you live in, and without a great deal of hassle, if you
15 have a clean record, you can get a license to carry it now,
16 a concealed deadly weapon.

17 MR. LEFEVER: I think that this bill just
18 recognizes the training -- the additional training
19 corrections officers would receive to carry and use
20 firearms. Recognizing that the training probably would
21 exceed the training that is required for a person -- for the
22 average citizen to carry a concealed firearm, basically safe
23 to say we recognize you've met those standards, we are
24 allowing you, if you choose, to carry firearms like the
25 other law enforcement peace officers in Pennsylvania already

1 can.

2 REPRESENTATIVE CALTAGIRONE: But if carrying
3 firearms is a danger, why would you have firearms on the
4 job?

5 MR. LEFEVER: Yes, sir, I agree. We're seeing
6 from our organization, from our national organization,
7 general trends in an increase by criminals who go to jail,
8 gets out of jail to perhaps seek revenge against the officer
9 who put them in jail, maybe it was a guard in jail. And I
10 think that I would just recognize that there is a need for
11 correctional officers because of their very job to have a
12 greater level of protection available to themselves, their
13 families. Because criminals could be anywhere once they're
14 out of prison.

15 REPRESENTATIVE CALTAGIRONE: Thank you.

16 CHAIRPERSON BIRMELIN: Representative Mandarino.

17 REPRESENTATIVE MANDARINO: This is probably not
18 an appropriate question for you, but I was just at another
19 committee hearing and here is the only place where I can ask
20 it. I understand the firearms issue. And I understand your
21 point. I understand the point the speakers were making, and
22 I think that nothing stops correctional officers now from
23 going through the procedures that you would go through if
24 you wanted to carry firearms; correct?

25 MR. LEFEVER: Yes, that's correct.

1 REPRESENTATIVE MANDARINO: Okay. Do you know
2 what the enhancements in training would be other than with
3 firearms if you had status? I kind of briefly went through
4 the prior testimony and I see references to, you know, 40
5 hours of training. I wasn't sure how that compared to what
6 correctional officers get now.

7 MR. LEFEVER: I don't know all the details
8 fully. I think one of the other speakers said giving them
9 greater training in areas such as crime scene -- securing a
10 crime scene, Mirandizing people, would generally allow them
11 to be able to prosecute a crime. I'm sure there are many
12 cases of which I'm not aware of.

13 REPRESENTATIVE MANDARINO: Do those skills come
14 into play -- are those situations inside the correctional
15 facility or only outside?

16 MR. LEFEVER: I think both. I think they're
17 more used inside the facility. It was stated earlier the
18 prisons are cities filled with nothing but criminals, lots
19 of criminals inside. Giving corrections officers the
20 additional training would enable them, if they come upon a
21 crime scene within the prison, to secure it.

22 REPRESENTATIVE MANDARINO: Thank you, Mr.
23 Chairman.

24 CHAIRPERSON BIRMELIN: Thank you for coming here
25 today to give your testimony. That will conclude our

1 hearing this morning. This meeting is adjourned.

2 (Whereupon, the hearing was adjourned at 11:27
3 a.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

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

Pamela L. Packer

Pamela L. Packer
Court Reporter-Notary Public