

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bills 1168, 1169, 1170 & 2698

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House Judiciary Subcommittee
on Crimes and Corrections

The Inn At Nichols Village
1101 Northern Boulevard
Clarks Summit, Pennsylvania

Tuesday, September 22, 1998 - 9:30 a.m.

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BEFORE:

Honorable Jerry Birmelin, Majority Chairperson
Honorable Brett Feese

IN ATTENDANCE:

Honorable Jere Schuler
Honorable Frank Serafini
Honorable J. Scot Chadwick
Honorable Frank Dermody
Honorable Kathy Manderino

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ALSO PRESENT:

James Mann
Majority Research Analyst

Thomas Blikle
Tourism and Recreational Committee

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1 CHAIRPERSON BIRMELIN: I'd like to
2 get started. Good morning. I'm Representative
3 Jerry Birmelin. I'm the Chairman of Judiciary
4 Subcommittee on Crimes and Corrections for the
5 full House Judiciary Committee. We are having a
6 public hearing today on 1168, 1169, 1170 and
7 2698. The author of all those pieces of
8 legislation is Representative Frank Serafini.
9 Representative Serafini, if you would join me
10 here at the table.

11 We're going to begin the meeting as
12 soon we can. We have a schedule of several
13 people who are testifying, and we also had a
14 request from two people who are not on the
15 schedule to testify. We're going to give them,
16 if we can, accommodate them and give them the
17 opportunity to make a few brief remarks.

18 Before we start, I just want to let
19 you know that this hearing is not simply about
20 the bills that we have, but it may encompass
21 some of the other issues about prisons. These
22 particular bills address the issues that, I
23 think, Representative Serafini is trying to
24 address through this legislation in the area of
25 prisons. We're not going to go real far afield,

1 but I will not be opposed to people making
2 comments or asking questions that may deal with
3 issues other than the four bills that are before
4 us.

5 Before we start, I'm going to
6 introduce the members of the committee who are
7 with us here this morning, and then give
8 Representative Serafini an opportunity for some
9 opening remarks. And to my fair right is
10 Representative Kathy Manderino. She's from
11 Philadelphia County. You don't have a
12 microphone.

13 REPRESENTATIVE MANDERINO: That's all
14 right, I'll share.

15 CHAIRPERSON BIRMELIN: Okay.
16 Representative Dermody is next to her and next
17 to me. Representative Dermody is from Allegheny
18 County. To my immediate left is Representative
19 Frank Serafini, the author of the legislation,
20 that will be the basis of our discussion today.
21 Next to him is Representative Brett Feese from
22 Lycoming County, the city of Williamsport. Next
23 to him is Representative Schuler who is from
24 Lancaster County. And to the far left at the
25 end of table is Mr. Jim Mann. Jim Mann is one

1 of our research directors of the House Judiciary
2 Committee. He has put together the hearing
3 today and organizing the agenda.

4 At this time I'm going to turn the
5 meeting over for a few minutes to Representative
6 Frank Serafini for some opening remarks.
7 Representative Serafini.

8 REPRESENTATIVE SERAFINI: Well, I
9 appreciate the opportunity. I didn't know
10 whether you wanted me to testify in front or
11 whether I could do it from here.

12 CHAIRPERSON BIRMELIN: I prefer you
13 did it from here, and also that you stay with us
14 throughout the course of the hearing as best as
15 you are able to.

16 REPRESENTATIVE SERAFINI: Well, I
17 appreciate that. Good morning, Chairman
18 Brimelin, and members of the House Judiciary
19 Committee's Subcommittee on Crimes and
20 Corrections. Welcome to Nichols Village in
21 Clarks Summit, Pennsylvania. In my remarks, I'd
22 like to touch on the intent of the bills under
23 review by the subcommittee and give you a brief
24 explanation of why, I believe, these bills are
25 significant.

1 The four bills before you today all
2 relate to prisoners' accommodations and affect
3 persons held in state correctional institutions,
4 county prisons or jails or any other
5 correctional facility including juvenile
6 facilities. House Bill 1168 prohibits the use
7 of free weights. House Bill 1169 prohibits the
8 sale or serving of caffeinated beverages. House
9 Bill 1170 is more narrowly tailored and only
10 prohibits the sale or serving of coffee; and
11 House Bill 2698 specifically addresses the
12 access to and the use of strength and enhancing
13 equipment and prohibits offenders from
14 participating in programs which would enhance
15 their physical strength or fighting skill. The
16 legislation also establishes a means by which
17 the prison facility management can dispose of
18 the equipment that would be prohibited.

19 This issue was brought to my
20 attention some time ago while I was in Arizonia.
21 A local taxicab driver was describing some
22 recent changes in policy made by a local sheriff
23 in his county jail. Sheriff Joe Arpiao of
24 Maricopa County, Arizonia, runs a strictly no
25 frills facility. His offenders get nothing more

1 than what the United States and Arizona
2 Constitution requires: No weights, no coffee,
3 no television, no personal clothing.

4 Upon further investigation, I was
5 surprised to find that the idea of a no frills
6 prison is not a new one. The Arizona Department
7 of Corrections has, as a matter of Department
8 policy, removed all weight-lifting equipment
9 from its prisons. The State of Louisiana passed
10 the Louisiana State House Bill 226 in 1994 to
11 prohibit inmates from possession of
12 weight-lifting equipment. Mississippi passed
13 similar laws the same year.

14 Ohio passed a Ohio State House Bill
15 152 in 1996. Their law is substantially similar
16 to the provisions contained in my House Bill
17 2698. Illinois and California passed bills in
18 1996 strictly controlling the use of weight-
19 training equipment, and three other states,
20 Kentucky, Rhode Island, and Virginia have
21 similar legislation pending which controls or
22 prohibits weight-training equipment and
23 eliminates programs designed to improve inmates
24 fighting skills.

25 Of course, the natural question and

1 the one before the subcommittee this morning
2 recurs; is this legislation necessary? When you
3 deliberate over the necessity of this type of
4 legislation, I will encourage you to consider
5 the following:

6 Consider the taxpayer cost of
7 providing accommodations to criminals and
8 juvenile delinquents which are neither
9 guaranteed by the Constitution nor necessary for
10 the rehabilitation of the offenders.

11 Consider the number of injuries that
12 occur because of the use and misuse of
13 weight-training equipment.

14 Consider the exposure to liabilities
15 because of injuries incurred by inmates for
16 faulty equipment or injuries incurred by persons
17 assaulted with such equipment.

18 Consider the fact that drug
19 dependent offenders use caffeine products as
20 legal alternatives to achieve a rush similar to
21 their former drug of choice.

22 And, also, consider the story of two
23 young Ohio women savagely raped by an attacker
24 who was recently released from an Ohio State
25 Correctional facility. Robert Blankenship spent

1 the majority of his seven-year term of
2 imprisonment for multiple rape convictions,
3 lifting weight and building muscle mass. Within
4 months of his release, Blankenship had broken
5 into the apartments of Christine Long-Wagner and
6 brutally raped her.

7 In her testimony before the Ohio
8 State House Judiciary Committee, Mrs.
9 Long-Wagner stated, even though he was not much
10 taller than me, he had complete physical control
11 over me and that at no time did I feel I had a
12 chance to make a move and try to escape.

13 Blankenship was not caught until
14 three months later after three women were
15 assaulted and yet another women, a neighbor of
16 Mrs. Long-Wagner's, living in the same apartment
17 complex was raped. The fingerprints found at
18 the crime scene matched the offender's and
19 Blankenship was finally apprehended.

20 In closing, we can all agree that
21 our state, county and juvenile detention
22 facilities are in no way club-med type
23 institutions. It would be naive to think that
24 these institutions are anything like country
25 clubs. I strongly believe, however, that the

1 less like home we let these facilities become,
2 the less likely it will be that offenders will
3 return to a Pennsylvania penal institution.

4 Thank you, Mr. Chairman, and members
5 of the subcommittee on Crime and Corrections.
6 I'm happy to answer any questions at this time.

7 Thank you. I appreciate the
8 opportunity to give my testimony.

9 CHAIRPERSON BIRMELIN: Thank,
10 Representative Serafini. And, again, as I
11 mentioned earlier, you are welcome to stay here
12 throughout the course of this meeting. You may
13 participate as if you were a member.

14 On our schedule, we have scheduled
15 at 9:45 several people from the Department of
16 Corrections. But before we have them come, I'm
17 going to give the opportunity to speak Mr. Ernie
18 Preate, who is a former Attorney General of
19 Pennsylvania, who, as did some others learn of
20 this hearing through the media in the last day
21 or so. And he just wanted to stop by and see
22 what was going on and offer some comments. And,
23 Ernie, I'd like to give you that opportunity and
24 I'm gonna ask you, if you could, to try to keep
25 your remarks to five minutes or less if you

1 could, please.

2 MR. PREATE: Thank you, Mr.

3 Chairman, and members of the committee: I

4 appreciate this chance to come before you this

5 morning. I have learned of this by reading it

6 in the paper yesterday. As you know, I used to

7 be Attorney General of the state and District

8 Attorney and prosecutor and put a lot people in

9 jail. I also went to prison for a year up in

10 Daluff (phonetic) and had an opportunity to see

11 from the inside just what happens to people when

12 they go to an institution where they lose their

13 freedom.

14 One of the things that I found which

15 was extremely important was the fact that I was

16 able to work out while I was in the prison

17 setting. That was important to me for my own

18 personal self-esteem and self-worth. I think

19 that also I saw from the other prisoners,

20 whether they were rich or poor, black or white,

21 whoever they might be, they took advantage of

22 those opportunities that were provided in the

23 prison system to rehabilitate themselves in mind

24 and body. That's important for recidivism

25 purposes.

1 When you have a true rehabilitation,
2 then you're not going to have recidivism at the
3 other end. You are not going to have people
4 come back to prison. You're not going to have
5 them commit more crimes of more serious nature
6 when they're out -- once they're out of prison.

7 I also found talking to people in
8 the federal prison system and the state
9 system -- I have been to two state institutions
10 now. In fact, I was at Coal Township just a
11 week ago talking to the lifers. We had a
12 banquet that was in the gymnasium, right there
13 at Coal Township. And I tell you this, I talked
14 to the staff there and talking to the prisoners,
15 as I have all across the state, they see this as
16 a management -- a very important management
17 tool. It helps the staff of the prison manage
18 the population, keeps down fighting, keeps down
19 the kinds of behavior that Mr. Serafini
20 rightfully talked about.

21 So, as a stress reliever it is very
22 important. Those people that take pride in
23 themselves and try to rehabilitate themselves in
24 mind and body while they're in the prison system
25 ought to be encouraged to do so.

1 The second point that I want to make
2 is that physical conditioning, as we all know,
3 Mr. Serafini is a great example, because I work
4 out with Frank. I know how important he thinks
5 this is. It is a stress reliever. It is also a
6 preventer of illness. That when you're in a
7 prison system where you are so close together,
8 where, if somebody coughs on one tier, somebody
9 gets a cold on the other tier. So, what we're
10 seeing is, if we have an opportunity to maintain
11 good health in the prison system you cut down on
12 the constant going to the medical facility, the
13 constant utilization of medicines in the
14 facility.

15 I think it's a great way to keep
16 good health in the facility. I think also we
17 have to consider that self-esteem is important
18 here. That is, these prisoners may have nothing
19 to offer. They've lost their freedom. They've
20 lost their dignity. They're dehumanized. You
21 cannot possibly understand what it's like to be
22 dehumanized unless you've been in prison.

23 You all sit here, I was there with
24 you at one time. I went through this. I've
25 been through the dehumanization process. It is

1 brutal. To have this one little chance in a
2 day, this one hour a day basically, three days a
3 week is what it was at Coal Township, for
4 example, and to have that -- You don't get to be
5 a huge weight lifter anymore like they used to
6 have. That's a myth. That is no longer
7 possible.

8 But, to have that opportunity for
9 one hour a day, three days a week as they have
10 in Coal Township, I think is really important
11 for people's self-esteem. That helps them when
12 they get out to become non-recidivist. It helps
13 them to -- I think if they have that self-esteem
14 they're going to be rehabilitated, and we need
15 to do more of that.

16 Our recidivism rate is 33 percent.
17 If we had a company that was made by a product
18 that failed 33 percent of the time, that company
19 would not be in business very long. That's
20 what's happening to our prison system right now.

21 The fastest way to reduce the crime
22 rate is not -- to do more in the prevention side
23 and do more on the rehabilitation side. If we
24 can knock our recidivism rate down to 15 percent
25 in the state, we wouldn't have many people in

1 prison like we have been building prisons, we've
2 been doing it for the past 17 years, at the cost
3 of hundreds of millions of dollars in taxpayers.

4 So, in the long run this is, I
5 think, shortsighted. We need to have some kind
6 of facilities for exercise and for working out.

7 Thank you very much. I'll be happy
8 to answer any of your questions. I'm very open
9 about my experience, so don't hesitate to ask me
10 any questions.

11 CHAIRPERSON BIRMELIN: Thank you,
12 Mr. Preate. And since you are not a scheduled
13 testifier, I'm going to ask the members of the
14 panel to restrict their questions to one each.

15 MR. PREATE: Thank you.

16 CHAIRPERSON BIRMELIN: We don't want
17 to back up the program too far. But, I did want
18 to give them an opportunity to ask a question.
19 So, if members of the panel have a question, I'm
20 going to ask you to keep it to one. I know Miss
21 Manderino is an expert at asking a question that
22 probably has several subparts. But, I'm gonna
23 call on her first so she doesn't have a chance
24 to think of all of those subparts.

25 Representative Manderino, do you

1 have a question?

2 REPRESENTATIVE MANDERINO: I'm going
3 to surprise you and just thank Mr. Preate for
4 coming.

5 CHAIRPERSON BIRMELIN: I'm not
6 surprised, I'm shocked. Mr. Dermody.

7 MR. DERMODY: No questions.

8 MR. PREATE: Thank you, Mr.
9 Chairman.

10 CHAIRPERSON BIRMELIN: Frank.

11 REPRESENTATIVE SERAFINI: Ernie, you
12 were a Marine. In the Marines, if I'm not
13 mistaken, there's not a lot of weight lifting.
14 There's calisthenics and push-ups and pull-ups.
15 What do you consider that kind of exercise as
16 opposed to the strict weight lifting and muscle
17 enhancing?

18 MR. PREATE: Well, let me just say
19 that the Marine Corps has calisthenics and it
20 has weight training. It has both; and, of
21 course, then you have a test on the obstacle
22 course which is both a cardio test and a
23 strength test. So, the Marine Corps encourages
24 you to do both. It requires you, of course, to
25 go through with push-ups and pull-ups which is

1 strength training and which, I think, are
2 absolutely essential. I do push-ups and
3 pull-ups all the time to condition myself.
4 That's the basic core of my physical
5 conditioning which I have to do now,
6 particularly because of my accident.

7 But, I think, that there's no
8 question that some kind of weight training is
9 essential for good health, for maintenance of
10 the human body so it can resist particularly in
11 a very close setting like you are in a military
12 facility or in a prison facility or a ship.
13 There's always this encouragement of physical --
14 some kind of physical activity. Frankly, I'd
15 like to see more encouragement of it in the
16 prison system.

17 CHAIRPERSON BIRMELIN: Thank you.
18 Representative Feese.

19 REPRESENTATIVE FEESE: Thank you,
20 Mr. Chairman, and thank you Ernie. I have a
21 question following up along the lines of
22 Representative Serafini.

23 It seems to me that everything that
24 you've talked about achieving can be achieved by
25 calisthenics, push-ups, pull-ups without all the

1 muscle mass enhancing equipment that we've seen
2 outlawed in a number of other states, because I
3 work out also. I can do that type of strength
4 enhancing without weights, as you testified that
5 you are doing with your push-ups and pull-ups.

6 MR. PREATE: And weights.

7 REPRESENTATIVE FEESE: But, can't
8 that be achieved without the weights equipment?

9 MR. PREATE: To you, I and
10 Representative Serafini, maybe we can do that,
11 but not everybody can do pull-ups and not
12 everybody can do push-ups. The machines kind of
13 help you do that.

14 As you know, you are in a gym
15 situation and there's a lot of people who can't
16 do one pull-up. But, they can go on a pull-up
17 machine or a pulley machine and it helps them to
18 do the pulleys, push-ups, the pull-ups, for
19 example, or the push-up -- they can't do
20 push-ups, but they can do one of those machines
21 that encourages you to do a chest development.
22 So, not everybody is as great of shape and so,
23 you have to have at least a broad spectrum of
24 machines that would accomplish the same goal.

25 There's some things that you can't

1 do. There's some muscle groups that you can't
2 exercise with just by push-ups and pull-ups.

3 One of the things I point to is, the
4 biggest part of your body is from your waist
5 down. That doesn't -- push-ups and pull-ups do
6 not work your legs. Those are the biggest
7 muscle groups. They're the ones that burn the
8 fat. They're the ones that determine what kind
9 of strength you have. Just ask Mark McGwire,
10 that's where his strength comes from the waist
11 down.

12 And what we're doing in our prison
13 systems right now, I don't know whether you
14 realize this or not, we are reducing the ability
15 to exercise the legs. Right now what we're
16 doing is building dog kennels. I don't know
17 whether you realize that, but now the new way
18 with people are put into exercise yard is to put
19 them in dog kennels, 10 by 15, or 10 by 20.
20 They stash them right together. So, the only
21 thing that the prisoner can do is walk up and
22 down in a space no bigger than your table, and
23 about the size of the view of the back of the
24 wall. That is not a big facility.

25 What the other thing they're doing,

1 they're not giving them the kind of --
2 particularly the people in S.M.U.'s and
3 restrictive housing units, they're not giving
4 them the sneakers to work out in. So, we're
5 taking a lot of things away from people already
6 in the prison system, preventing them from
7 exercise and that's going to have in the long
8 run a very debilitating effect on them and it's
9 going to have a bad effect, I think you are
10 going to see a lot more of the people concerned
11 about what's going to happen inside those
12 prisons. We need to have a little bit broader
13 spectrum than just push-ups and pull-ups.
14 That's bottom line, Mr. Feese.

15 CHAIRPERSON BIRMELIN:

16 Representative Schuler.

17 REPRESENTATIVE SCHULER: No. No
18 questions.

19 MR. PREATE: Thank you for your
20 indulgence, Mr. Chairman, and members of the
21 committee.

22 CHAIRPERSON BIRMELIN: Thank you for
23 coming. Our next testifiers are from the
24 Department of Corrections, and there are three
25 gentlemen who will come in mass. They are

1 Lester Lewis, the Medical Director of the
2 Pennsylvania Department of Corrections; Mr.
3 Yancey, Harvey Yancey, who is the Major of the
4 Guard at State Correctional Institution at
5 Rockview; Stanley Grabriel, who is the Major of
6 the Guard of the State Correctional Institution
7 at Dallas. And for members of the panel, Mr.
8 Gabriel is to your far left, and Mr. Yancey is
9 in the center and Dr. Lewis is to your far
10 right. I hope that is correct.

11 So, I'm not sure which of you
12 gentlemen is prepared to speak first, second and
13 third, but whichever one wants to be first, you
14 may begin.

15 DOCTOR LEWIS: I will be happy to
16 take the lead on this.

17 CHAIRPERSON BIRMELIN: Dr. Lewis,
18 would you please.

19 DOCTOR LEWIS: Well, good morning,
20 Mr. Chairman, committee members: I thank you
21 for the opportunity to speak with you today. I
22 am Doctor Lester Lewis. I'm the Chief Clinical
23 Services for the Department of Corrections.
24 With me today, as previously announced, are
25 Major Harvey Yancey and Major Stanley Grabriel.

1 Secretary Horn could not be with us today, but
2 he's asked me to read a prepared statement. So,
3 if you would indulge me, I'll do that. We were
4 not able to provide additional copies at this
5 time, but they will be supplied at a later time
6 to each of the committee members. So, I'd like
7 to proceed.

8 The Department of Corrections
9 welcomes the opportunity to discuss the issue of
10 prisoner accommodations. We have reviewed the
11 legislation at hand and offer the following
12 comments:

13 Effective correctional management
14 requires a delicate balancing of public safety
15 and security priorities against overall costs
16 and offender rehabilitation issues.

17 Given the potential volatility of
18 prison environment, prison policy and program
19 changes are introduced maintained and discarded
20 only after a very careful and thorough review
21 process.

22 One of the factors typically
23 considered in this process is the existence of
24 national correctional standards. The majority
25 of Pennsylvania state prisons are accredited by

1 the American Correctional Association, otherwise
2 known as A.C.A., with the remaining prison
3 schedule accreditation in the near future.
4 A.C.A.'s correctional administrators with the
5 benchmark as to nationally recognized standards
6 of correctional practice.

7 A.C.A. supports physical fitness
8 programs appropriate for the correctional
9 setting and that maintains and may help.

10 Further, A.C.A. recommends that
11 facilities provide suitable equipment for these
12 activities.

13 Specifically with respect to the
14 proposal to eliminate various inmate programs,
15 we offer the following comments:

16 Idleness remains one of the most
17 significant issues that today's correctional
18 administrators must address. The Department
19 believes properly administered weight-lifting
20 programs can provide correctional administrators
21 with relatively low cost means by which to
22 reduce inmate idleness and to maintain order in
23 our prisons through structured inmate
24 activities.

25 Inmates who participate in

1 institutional program such as weight lifting
2 must first demonstrate acceptable institutional
3 behavior. Use of exercise equipment is a
4 privilege, and inmates must follow the rules in
5 order to retain this privilege. Acceptable
6 behavior includes compliance with their
7 respective program plan.

8 Further, in terms of rehabilitative
9 value, exercise programs have been shown to
10 assist inmates in developing self-esteem and
11 other pro-social behaviors, such as learning to
12 read and participate in conflict-resolution and
13 other therapeutic programs. These programs also
14 help inmates to learn positive activities that
15 can be used to structure their leisure time upon
16 release from incarceration.

17 Relative to taxpayer costs, prison
18 weight-lifting equipment is not purchased by
19 taxpayer money; rather, purchases were made
20 through the Inmate General Welfare Fund. Within
21 recent years the Department has reduced the
22 I.G.W.F. spending on weight equipment and has
23 instead invested those monies to institutions,
24 chapels, visiting rooms, and libraries. In
25 fact, spending on inmate activity, on such as

1 weights, has been reduced by almost 20 percent
2 since the administration took office. At the
3 same time, spending on libraries, chapels and
4 visiting rooms has been increased.

5 Additionally, exercise programs,
6 including weight lifting, can actually help to
7 decrease medical costs by promoting good health
8 and healthy living habits.

9 As to the other activities addressed
10 in House Bill 2698, the Department has begun to
11 phase out boxing activities, which have been a
12 tradition in our older institutions. At the
13 present time only a few institutions offer
14 boxing as an activity. The type of boxing
15 practiced in our institutions is similar to
16 collegiate style boxing. In the past we have
17 participated in boxing competitions with the
18 Naval Academy, Lock Haven and Pennsylvania
19 universities. Wrestling and martial arts are
20 already prohibited in our institutions.

21 With respect to House Bill 1169 and
22 1170, please be aware that the prohibition of
23 caffeine in our prison would be an extremely
24 difficult task to accomplish with only a minimal
25 benefit in return. Although some items in our

1 same menu to its employees that is provided to
2 its inmates. By removing coffee and caffeine
3 from the inmate menu, the Department would not
4 be able to serve coffee, chocolate or other
5 caffeine containing items to its employees.
6 This would be a problem that we would need to
7 discuss with the organization's representative,
8 our employees.

9 Since 1995, the Department has
10 initiated community work programs, citizenship
11 and parenting courses and has shifted funds into
12 education-related equipment, furniture and
13 libraries. We attempt to keep our institutions
14 civil and productive, and we are not reluctant
15 to take action when it is necessary in order to
16 protect the safety of the public and our staff
17 or run prisons in an orderly and appropriate
18 fashion.

19 Since the Ridge Administration took
20 office, the Department has removed civilian
21 clothing from the institutions; implemented
22 medical co-pay; tightened security by limiting
23 freedom of movement, monitoring telephone calls,
24 conducting frequent searches, and urine testing.

25 This concludes our remarks at this

1 time. If you have any questions, we are all
2 here to answer them. And if we are not able to
3 answer them at this time, we'll certainly assure
4 that we will provide answers at a later time.
5 Thank you.

6 CHAIRPERSON BIRMELIN: Thank you,
7 Doctor Lewis. Major Yancey, did you have
8 anything you'd like to add to Dr. Lewis's
9 comments?

10 MAJOR YANCEY: Gentlemen, Ma'am: I
11 want to thank Mr. Lewis, Mr. Preate, they pretty
12 much covered it. And I'm sure that the topics
13 that they spoke on is viewed by many people who
14 are employed in the Department of Corrections.

15 Myself, as a manager, I believe I
16 read in one of the memos where one of the
17 reasons for the removal of weights was for the
18 protection of the employees. I'm five foot
19 eight, I weigh 135 pounds. The fact that
20 inmates lift weights have never even been a
21 concern of mine. In fact, the inmates that are
22 on the weight program are our best behaved
23 inmates, in most circumstances.

24 I talked to people from our
25 Activities Department during the week who were

1 aware of this upcoming committee, who are also
2 concerned with the removal of weights. At
3 SCI-Rockview our inmate population is 2,100. I
4 would be inclined to say that almost a thousand
5 of them are involved in weights, in one way or
6 another. To say that we're going to put them
7 into some type of regimented military training
8 program doesn't sound very feasible to me.

9 I have 15 years experience in the
10 correctional system. I go in there daily. I
11 put my life on the line like many other
12 employees who go into the institutions. The
13 repercussions of weight removal, I can't give
14 you an answer of what would probably happen.
15 And as a manager, it's a management tool. We
16 can only manage individually one on one to a
17 very limited extreme. But to manage 2,100
18 inmates you need programs that the inmates want
19 to be involved in.

20 Every inmate doesn't want to do
21 calisthenics; every inmate doesn't want to run.
22 A lot of them are so involved in the weight
23 program that they don't have time to get in
24 trouble doing other things.

25 If you take an inmate, you bring

1 them into the prison, you give them a number,
2 he's a loser. He loses self-esteem. He loses
3 family members. He loses friends. He loses
4 just about everything. Weight programs have a
5 way of building self-esteem in men, help them
6 condition their bodies, which is the same thing
7 that they can do on the street. I have never
8 read any statistics where inmates set out to
9 lift weights just so they can go out and commit
10 crime and get away from it or beat up cops.
11 They can do the same thing with the calisthenics
12 program; they can get in same physical
13 condition.

14 Inmates are going to lift something.
15 We may remove the free weights, but you can
16 believe, inmates are so ingenious that they'll
17 find a way to lift weights. They'll make their
18 own; if they have to lift bunks, if they have to
19 lift pots and pans, they'll find a way to lift
20 weights.

21 But, I think, it was pretty much
22 covered by the two gentlemen before me. And
23 like I say, the repercussions of the removal, I
24 have no idea what's happening across the country
25 in weight programs that were removed.

1 You also have to consider the
2 population of inmates that we're talking about
3 removing weights from. Some are smaller. Some
4 of our institutions have 800 or 900 inmates.
5 Some of our institutions go up to 3,500 inmates.
6 We have to consider a lot of things when we talk
7 about removing weights. We also have to keep in
8 mind the safety of the employees that go in
9 there daily when we talk about what we're going
10 to do and what we're not going to do when it
11 concerns inmates.

12 I think that pretty much the weight
13 program has been covered.

14 I would also like to speak on the
15 area -- Can I have five minutes, sir?

16 CHAIRPERSON BIRMELIN: You have all
17 the time you need, within reason.

18 MAJOR YANCEY: Okay. You know, when
19 we speak in terms of coffee, caffeine, you know,
20 institutions have functioned since time began on
21 the manpower of inmates. We restricted the
22 movement of inmates. We restricted the work
23 that they were able to do before.

24 When it comes down to preparing the
25 food for the inmates and the employees, the

1 inmates do it. So, when we go in the morning,
2 the coffee that we drink is the same coffee that
3 the inmates drink. So, when you talk about
4 removing coffee from an institution, you have to
5 consider the effects it's going to have beyond
6 the inmates, which is the employees who work
7 there. We eat the same food, we drink the same
8 coffee.

9 I can't relate coffee to anything
10 detrimental that I can think of, is that, it
11 might make people nervous or make you jittery if
12 you drink too much. But, to restrict that from
13 inmates -- Like I say, you have to consider,
14 when anything is done in an institution you have
15 to consider the repercussions on the employees
16 that work there. But, when I go to work
17 tomorrow morning or the next morning or when I
18 go to Retreat tomorrow, I'm going to look for a
19 cup of coffee.

20 Boxing is another program that is
21 controlled. It's controlled the same as it is
22 in the military. We have people involved in the
23 boxing program that are from outside of the
24 institution. In Rockview we have Lock Haven and
25 State College who brings their boxing into

1 Rockview to train with our boxers. It's a
2 controlled situation. They have three-round
3 fights. It's just like watching amateur boxing
4 on TV.

5 It's a sport that only involves, I
6 think in Rockview approximately 40 inmates, but
7 it's 40 inmates who love the sport of boxing. A
8 lot of inmates aren't dedicated to the training
9 regiment. It's another thing that I personally,
10 I like to go to the shows. I like to go to the
11 weight-lifting shows. We have an inmate that I
12 watch can bench press 950 pounds. In fact, I
13 was walking through the yard with the same
14 inmate the other night before I come down here.

15 But, you know, I can appreciate the
16 concerns of the public. I can appreciate the
17 concerns of the committee on reasons why you
18 feel these things ought to be removed from the
19 institutions. But, as the manager who goes in
20 there every day, I live with those issues
21 comfortably. Thank you.

22 CHAIRPERSON BIRMELIN: Thank you,
23 Major Yancey. Major Gabriel, do you have any
24 comments?

25 MAJOR GABRIEL: Okay. I certainly

1 echo all the comments and opinions of the people
2 that testified before me. Let me go back a
3 little bit here on the weights.

4 I started in this prison system a
5 long time ago, 1959. I stepped in Rockview
6 Prison, and there was weights there in 1959.
7 Only God knows when they were introduced into
8 the prison, probably forever. And it would be
9 hard press for me to go in there and find all
10 the weights removed. I would not be
11 diametrically opposed, but you have to have
12 something that they could replace with -- you
13 know, think about taking the weights out. They
14 are very, very valuable. They are a great
15 activity.

16 The majority of our weight lifters
17 are recreational weight lifters. They go to the
18 yard whenever they get an opportunity.
19 Summertime they could get as much as three times
20 a day, go to the yard. They are actively
21 involved. When we break the doors open to the
22 central yard, don't stand on our compound. It's
23 like a thundering herd, buffalo steaming across
24 that yard just to get to that weight pile.

25 It's a great frustration remover.

1 People go out there and maybe they are angry,
2 they take frustration out on the weight bars and
3 weights. And after a guy, inmate, lifts weights
4 for about an hour, hour and a half, he's too
5 tired to bother anybody. It's a great benefit.

6 As the doctor testified, it's great
7 for building up health. I have seen many
8 inmates over the years come to prison a physical
9 wreck, strung out on alcohol, drugs, and only
10 God knows what. And by weights and exercise
11 they build themselves up. They became healthy
12 individuals and build up their self-esteem.

13 As far as the caffeine, I don't
14 know. Same thing as Major Yancey, I go in in
15 the morning the first thing I look for is a cup
16 of coffee. I scold the person who hasn't got my
17 coffee ready yet for me. So, I actually see
18 nothing detrimental to serving coffee or
19 caffeine products into an institution.

20 So, with that I guess I'll close my
21 comments too.

22 CHAIRPERSON BIRMELIN: I think we
23 are going to have to cut off the guards because
24 they are getting hooked on this caffeine.

25 MAJOR GABRIEL: Yes, indeed. Get

1 around our coffee machine in the morning, prior
2 to shift, you have to wait in line because
3 everybody is there filling their cup of coffee
4 up and taking their blood pressure pill or
5 something.

6 CHAIRPERSON BIRMELIN: I didn't
7 realize the prison coffee was that good that
8 you'd have to wait in line for it.

9 MAJOR YANCEY: Sir, it's not.

10 CHAIRPERSON BIRMELIN: I have been
11 there and had it, I would agree with you.

12 I'm going to turn this over to
13 questions in just a minute. I first want to
14 introduce another member of our panel who has
15 joined us to my far left is Representative Scot
16 Chadwick. You have some of Susquehanna County,
17 but you're still a Bradford County boy, if I
18 recall. They haven't thrown you out yet,
19 anyway. But, Representative Chadwick is also a
20 member of the Judiciary Committee. We welcome
21 him here as well.

22 So, I'm gonna give you the
23 opportunity to answer some questions, gentlemen,
24 if you don't mind. I will begin with
25 Representative Serafini.

1 REPRESENTATIVE SERAFINI: Well, I
2 have a few questions. Relative to the weight
3 enhancing equipment first, doctor, isn't it true
4 that a number of the injuries that you encounter
5 in the prison facility environment are the
6 result of weight lifting? A gentleman I know
7 who --

8 First, maybe I should start off with
9 this. Where are you located? Out of
10 Philadelphia?

11 DOCTOR LEWIS: No, I work out of
12 Camp Hill, Central Office.

13 REPRESENTATIVE SERAFINI: Isn't the
14 prison medical care subcontracted to a medical
15 facility out of Philadelphia?

16 DOCTOR LEWIS: Well, we have three
17 contract medical providers and they're based on
18 geographic region, east, central and western.

19 REPRESENTATIVE SERAFINI: Have you
20 ever determined how many physical injuries
21 medically associated are caused by
22 weight-lifting equipment; rotator cuff problems,
23 bone problems, and joint problems?

24 DOCTOR LEWIS: No, we haven't really
25 looked at that.

1 REPRESENTATIVE SERAFINI: You
2 haven't.

3 DOCTOR LEWIS: We do look at what we
4 consider extraordinary occurrences. Those are
5 documented, let's say, injuries as a result of
6 intentional acts. This is anecdotal. I can't
7 say I can give you figures per se, but I don't
8 recall seeing anyone actually injured with a
9 free weight per se. But, I would say that the
10 potential for injury is there, especially with
11 the free weights, and that is why we are --

12 It's not an official policy, but we
13 are aggressively converting to machines from
14 free weights. That will eliminate the potential
15 for potential assaults using equipment; also,
16 place something between the weight and gravity
17 other than the person who might be under that
18 weight. So, we feel that's really a progressive
19 use on our part to eliminating a lot of those
20 injuries.

21 REPRESENTATIVE SERAFINI: It would
22 appear to me that just as in a health club
23 environment and any environment where free
24 weights are associated from what I have been
25 told, a number of the problems encountered in

1 prisons, and this was the case up in Fairview
2 years ago, they are associated with weight
3 lifting and people trying to lift more weight
4 than they are capable of, that tension reliever
5 environment.

6 What does it cost to maintain a
7 prison in a state correctional facility? Do any
8 of you know the annual costs?

9 DOCTOR LEWIS: I really don't know,
10 on an individual basis. No.

11 REPRESENTATIVE SERAFINI: Does
12 anyone know?

13 MAJOR GABRIEL: Probably over
14 \$16,000 per inmate --

15 REPRESENTATIVE SERAFINI: Per inmate
16 about \$16,000.00.

17 MAJOR GABRIEL: -- per year. That
18 may be a low estimate.

19 REPRESENTATIVE SERAFINI: What would
20 be offensive to the alternative of weight-
21 lifting equipment to the calisthenic kind of
22 equipment and aerobic kind of training?

23 MAJOR YANCEY: You say, what would
24 be offensive?

25 REPRESENTATIVE SERAFINI: Right.

1 What would be offensive to the prisoner
2 environment?

3 MAJOR YANCEY: Number 1 would be
4 probably location and accommodations for the
5 inmates. How many inmates can be involved in it
6 at one time? It would restrict the number that
7 you can allow in an open yard area to lift
8 weights, if you had a controlled under-roof
9 setting.

10 REPRESENTATIVE SERAFINI: Are your
11 inmates put into a small caged in area to lift
12 weights where there's only three or four as
13 Ernie Preate described, space as long as this
14 table to walk in?

15 MAJOR YANCEY: For weight lifting?

16 REPRESENTATIVE SERAFINI: Yes.

17 MAJOR YANCEY: No weights in those
18 types of areas. That's for restrictive housing.

19 REPRESENTATIVE SERAFINI: That's
20 restrictive housing.

21 MAJOR YANCEY: Yes, sir.

22 REPRESENTATIVE SERAFINI: Okay.

23 With regard to weight-lifting equipment, do you
24 find that it's an absolute necessity? Could you
25 live without that weight-lifting equipment? Is

1 it absolute that they need this?

2 MAJOR YANCEY: Number 1, sir --

3 REPRESENTATIVE SERAFINI: I mean, if
4 you took it away, would there be like potential
5 for rioting, et cetera?

6 MAJOR YANCEY: Yes, I would be
7 inclined to say so. I couldn't say certainly,
8 but I would say there's a possibility. Like I
9 said before, I don't know the repercussions that
10 would come about with the removal of weights.

11 And going back to the injuries, I
12 think in comparison to how many inmates we have
13 involved in the weight program and how many
14 injuries is so minusculed that I would have to
15 go dig out documentation to find out who was
16 injured in the last year or six months.

17 REPRESENTATIVE SERAFINI: What do
18 you find the recidivism rate is? Is it 33
19 percent or is it higher? I was told it was
20 higher than that in the State of Pennsylvania.

21 MAJOR GABRIEL: We, as correctional
22 officers, we don't pay too much attention to
23 that. They come to us and we keep them until
24 they are time to go home.

25 So, recidivism is substantial from

1 what I understand. I see many, many inmates
2 over years have done life in prison on the
3 installation plan. They come to jail for four
4 years, go home for two, come back for six, go
5 home for another couple and come back for eight,
6 and once in a while sooner or later they come
7 back and go in for life. It's there.

8 REPRESENTATIVE SERAFINI: It's
9 there. The caffeine, is it -- Has anyone that
10 has testified found that caffeine tends to be a
11 substitute for a drug addiction problem when a
12 prisoner gets into prison, as I was told in
13 Arizona?

14 MAJOR GABRIEL: I have never seen
15 anything like that.

16 MAJOR YANCEY: Never even heard of
17 that.

18 REPRESENTATIVE SERAFINI: Never
19 heard of it.

20 MAJOR GABRIEL: The stuff they used
21 on the street and the stuff they try to smuggle
22 into prison is a heck of a lot stronger than
23 caffeine.

24 REPRESENTATIVE SERAFINI: So, that's
25 not, in your opinion, ever used as an

1 alternative to just get that nervous feeling
2 that Major Yancey described?

3 MAJOR GABRIEL: Never heard of it,
4 sir.

5 REPRESENTATIVE SERAFINI: Never
6 heard of it.

7 MAJOR GABRIEL: If you remove coffee
8 from the prisons, you create another contraband
9 product, something that they are going to try to
10 smuggle in, same as they try to smuggle in
11 alcohol and drugs today.

12 MAJOR YANCEY: So, if it's removed,
13 sir, that means it's removed for us also.

14 MAJOR GABRIEL: I can live with
15 that.

16 MAJOR YANCEY: You notice I keep
17 stressing the employees.

18 REPRESENTATIVE SERAFINI: I
19 understand. But, if it gets you nervous --

20 MAJOR YANCEY: That's if you drink
21 too much of it.

22 REPRESENTATIVE SERAFINI: Okay.

23 MAJOR GABRIEL: Get the cigarettes
24 out of the prison.

25 REPRESENTATIVE SERAFINI: Well, I

1 appreciate your testimony here very much. My
2 problem is with the fact that just as you said,
3 prisoners -- I mean, it's not your statement
4 that convinces me of this. It's the fact that
5 prisoners tend to return to prison, there's got
6 to be a reason for that in an amount that even
7 if Attorney General Preate's testimony is
8 correct that it's 33 percent, it's too high.

9 In Arizona, this no frills prison
10 tends to give an environment where no one would
11 want to return to. It's my hope that creating
12 an environment that eliminates some of the
13 enjoyable characteristics of free life would
14 say, you know what, prison wasn't that good.
15 Maybe I should go on the straight and narrow,
16 and there are a few things in prison that, you
17 know, that freedom allows me that I can't get in
18 prison to maybe tend to eliminate some of this
19 recidivism.

20 I don't know if free weights and
21 caffeine are the answer, but they are a small
22 part of what I think should be entire complex
23 design for eliminating some of the frills that
24 are in prison. I consider that a frill.
25 Caffeine is something that I don't think a

1 prisoner needs. Whether it's just coffee
2 eliminated, I don't think a prisoner needs that
3 product.

4 Free weights, there's no doubt in my
5 mind that free weights -- As Ernie Preate said,
6 the Marines make people take calisthenics and
7 lift weights. They are mean, lean fighting
8 machines and that's what comes down the street
9 after a prisoners released. That's what we fear
10 and that's why I don't want to see prisoners
11 coming out of prison stronger, more capable of
12 fighting and defending themselves than when they
13 went in. To me that's wrong and it should not
14 exist.

15 We have people on the streets who go
16 to college, who take education to relieve their
17 stress and tension, and learn a trade so when
18 they come out of prison besides some self-esteem
19 from weights that you say they get, they would
20 have self-esteem from having a mind that's
21 capable of giving them an opportunity to exist
22 in society. That's far more important in my
23 mind than free weights, caffeine or any of these
24 products that either give a jolt or give muscle
25 to a person those committed a crime and is sent

1 to prison to sacrifice where that crime was
2 committed.

3 CHAIRPERSON BIRMELIN: I took a
4 short break, but I wanted -- I came back with a
5 coffee, and I wanted Representative Serafini to
6 know that I got a decaf.

7 REPRESENTATIVE SERAFINI: Well, I
8 had caffeine this morning. I needed that to.

9 CHAIRPERSON BIRMELIN: I'm not out
10 of control yet.

11 MAJOR YANCEY: Excuse me, sir. I
12 just wanted to say one short note on the
13 recidivism rate. The average inmate that comes
14 back to prison comes back maybe on a technical
15 violation. An inmate may move without reporting
16 to his probation officer. He may go into a bar
17 and get caught in a bar. He may have a can of
18 beer walking down the street.

19 It's not that every inmate that
20 comes back to prison has gone out and committed
21 a rape, robbery, murder. And a lot of the
22 technical violators that come back to prison
23 they may come back for a year, two years.

24 And you have to remember also, sir,
25 that a lot of inmates leave prison leave with

1 the same alcohol problem and the same drug
2 problem that brought them to prison in the first
3 place. We cannot accommodate every inmate with
4 drug and alcohol problem. Although we have
5 treatment programs and we try to do the best
6 that we can, we're just not going to change them
7 all. When they go out and go back to the same
8 environment, go back to the boys on the corner,
9 they're going to get involved into the drugs.
10 They're going to get involved in the alcohol.
11 They're going to get involved in the party life
12 and they're coming back to prison. And most of
13 them that have parole -- Parole is actually a
14 prison on the street. So, I mean, if they're
15 not careful, they're coming right back for the
16 least little thing.

17 CHAIRPERSON BIRMELIN:

18 Representative Dermody.

19 MR. DERMODY: Thank you, Mr.

20 Chairman. Doctor Lewis, you testified that some
21 of you -- you're converting some of the
22 institutions with free weights now to use of
23 machines. I guess I was wondering for any of
24 you what the reaction has been to switching from
25 free weights to machines? I would assume they

1 are safer. You can probably get as many inmates
2 using them and they're not used as weapons or
3 using them as weapons has to be reduced. What's
4 that reaction been and is that a reasonable
5 alternative?

6 DOCTOR LEWIS: Well, first of all,
7 it is a good alternative. You could pretty much
8 engage in the same sort of development of muscle
9 mass with the right training and right
10 orientation with the machines. They are safer,
11 in that, if you reach a point you have exceeded
12 your ability to, let's say, get that weight back
13 on the rack, well, if you let it go there's no
14 harm done. So, it's also more easily graded in
15 terms of gradually increasing the weight. We
16 think it's just a much better alternative to
17 that.

18 As far as the reaction I'll defer to
19 my colleagues.

20 MAJOR GABRIEL: Up at Dallas we have
21 both. We have free weights and we have exercise
22 machinery such as a universal and other types
23 of, you know, machines. The inmates actively
24 use both. I don't think it would be a big
25 problem, not a great reaction if you remove all

1 the free weights and replace it with all viable
2 exercise equipment.

3 The only possible big draw back to
4 all of the equipment is, usually only one person
5 at a time could work on a machine; whereas,
6 weights you have big weight lifting area,
7 there's a lot of people get involved in it.
8 But, I don't think there would be any great
9 reaction, but I would hesitate to say, take all
10 the weights out until you have something to
11 replace them with.

12 MR. DERMODY: You testified that
13 going to the gym or lifting weights is a
14 privilege in the institution. How do you earn
15 the privilege? How do you lose the privilege?

16 MAJOR GABRIEL: To lose a privilege
17 you gotta come into jail, the weights are
18 available. You are out in general population
19 you can go at certain times of the day to areas
20 where the weights are available or the exercise
21 machines.

22 If you get a misconduct, an
23 infraction, and you go under, so to speak,
24 R.H.U. lockup, restricted housing units, there's
25 no weights in there. Our weight lifters know

1 that.

2 As a group they are the most
3 well-behaved inmates in the prison. They know
4 if they get in trouble they go down to R.H.U. 30
5 days, 100 days, two years we've had -- they
6 just -- not gonna get no weights down there.
7 And that's the way it is. That's how to lose a
8 privilege.

9 DOCTOR LEWIS: And they would loose
10 all of the benefits of all of the training they
11 have done up until that time. And so weight
12 training really provides its own disincentive.
13 The purpose of doing that is to be fit and maybe
14 develop some mass. You certainly would loose a
15 lot of that in R.H.U. environment. It think it
16 does have a significant impact on behavior.

17 MR. DERMODY: Thank you very much.

18 CHAIRPERSON BIRMELIN:

19 Representative Feese.

20 REPRESENTATIVE FEESE: Thank you,
21 Mr. Chairman. Just one question answered by any
22 one of you gentlemen, or Doctor Lewis. In the
23 prepared remarks from Commissioner Horn, I
24 believe you mentioned that wrestling and martial
25 arts are now prohibited, and except for a few

1 institutions, boxing is prohibited, and I
2 believe at Rockview you still have some boxing.

3 Setting the boxing aside for a
4 moment, would it be a safe assumption then for
5 me to make that the Department would not object
6 to that portion of Representative Serafini's
7 bill in House Bill 2698, that portion of the
8 bill that says there will be no wrestling and
9 there will be no martial arts to make sure that
10 it is in law and just not at the discretion of
11 the Department?

12 MAJOR YANCEY: Martial arts are
13 prohibited. We don't have wrestling.

14 REPRESENTATIVE FEESE: Prohibited by
15 regulation?

16 MAJOR YANCEY: Right.

17 REPRESENTATIVE FEESE: Okay. But,
18 that regulation or that policy by the Department
19 could be changed.

20 MAJOR GABRIEL: That's exactly what
21 it is. It is a policy.

22 REPRESENTATIVE FEESE: It is a
23 policy.

24 DOCTOR LEWIS: That's correct.

25 MAJOR GABRIEL: It's not a law.

1 DOCTOR LEWIS: It's not our
2 intent -- I've never heard of anybody's intent
3 to introduce anything along those lines at all.
4 As far as the formal opinion of the Department,
5 I would probably defer that to the Secretary,
6 but I can state with a reasonable degree of
7 certainty we have no intention at anytime in the
8 near or distant future to introduce programs of
9 that type.

10 REPRESENTATIVE FEESE: And a
11 position on House Bill 2698 as far as
12 prohibiting boxing, which is also in one of
13 Representative Serafini's bills.

14 MAJOR GABRIEL: Prohibiting boxing?

15 REPRESENTATIVE FEESE: Yes.

16 MAJOR GABRIEL: I can live with
17 that. I got punched in my mouth once in 39
18 years in the prison, and he was a professional
19 boxer. If you want get rid of boxing, go ahead.

20 REPRESENTATIVE FEESE: See, I can
21 understand the argument with weights because
22 there's another motivation. I'm not so sure we
23 should be training inmates to be able to box,
24 or -- I understand it's not a policy, but it
25 could change, to wrestle and trained in martial

1 arts. We're training inmates to be combatants.
2 Weight lifting there is another argument.

3 MAJOR YANCEY: Sir, the truth of the
4 matter is, the majority of the inmates that are
5 involved in the boxing program already knew how
6 to box when they came to prison. Believe me, we
7 have a tremendous number of inmates that can
8 probably jump in the ring tomorrow and do very
9 well that aren't involved in the boxing program.

10 MAJOR GABRIEL: Boxing programs are
11 very, very restrictive too. You have to have an
12 impeccable record before you are allowed in the
13 program.

14 REPRESENTATIVE FEESE: Why?

15 MAJOR GABRIEL: Because you have to
16 control yourself.

17 DOCTOR LEWIS: We have been looking
18 at that issue for some time. We are giving some
19 consideration to maybe phasing that out as well.
20 I can't say for sure that we have determined we
21 would, but we recognize there are some negative
22 aspects to that type of training and we are
23 looking at that.

24 REPRESENTATIVE FEESE: Thank you.

25 Thank you, Mr. Chairman.

1 CHAIRPERSON BIRMELIN:

2 Representative Manderino.

3 REPRESENTATIVE MANDERINO: Thank
4 you. Thank you for testifying. Are there any
5 physical fitness requirements to become a
6 correction officer, and are there any physical
7 fitness requirements to stay a corrections
8 officer?

9 MAJOR GABRIEL: I'll take the last
10 part first. There's no physical requirements to
11 stay. Once you are in, you're in. You have to
12 pass a physical examination plus a physical
13 running, jumping, stuff like that. Drug
14 screening, you are tested for drugs; a blood
15 test. And it's going. It keeps getting bigger
16 and bigger. When I got hired they touched me on
17 the arm and said you are warm, you're in.
18 That's all changed now. There are certain
19 requirements.

20 DOCTOR LEWIS: As a physician who
21 has practiced in a variety of institutions, I
22 would say, historically in the industry, there's
23 been no -- the standards were there, but they
24 were not really based on anything in particular.

25 I have been involved probably for

1 the last, at least, 18 months in the development
2 of a set of standards for new correctional
3 officers. In fact, those will be completed -- I
4 have what I consider a nearly completed draft.
5 This was developed in conjunction with Civil
6 Service and we identified a set of essential
7 tasks that every correctional officer has to
8 perform. Then we looked at those tasks and we
9 based it on the physical standards on the
10 ability to perform those tasks.

11 I would say that, I don't believe
12 there's any other state correctional system that
13 has a set of standards that's based upon
14 function.

15 Prior to this people mimicked
16 military standards and just assume that they are
17 based upon, that we are sort of paramilitary
18 organization, but we've actually refined our
19 evaluation process now to the point where I
20 think it's very valid and appropriate to the
21 specific task of a correctional officer.

22 Now, this only applies to
23 applicants, new applicants. We have not given
24 any consideration to trying to apply those
25 standards to current employees. That is not our

1 intent. But, we did feel that there should be a
2 reason for the development of those standards.
3 I think they're very good.

4 So, that project should come to
5 completion, I would say, in the next maybe 60
6 days. I think it's a really -- for better of
7 the Department of Correctional of Pennsylvania
8 we develop this type of standards.

9 REPRESENTATIVE MANDERINO: I asked
10 that question not because -- to suggest that I
11 think there should be, but it seems to me that
12 you are going to have healthy and strong people
13 of all different ranges of health and strength
14 both in your inmate population and in your
15 employee population. And you are always going
16 to have somebody in the guard population who can
17 run faster than anyone else, and you're always
18 going to have somebody in the inmate population
19 who can run faster than anyone else.

20 So, I'm not quite sure that, and I
21 think it was Major Yancey who said that if the
22 weights aren't there and somebody is intent on
23 lifting, they can lift each other; they can lift
24 beds; they can lift chairs, or whatever. So,
25 I'm not quite sure that the equipment matters so

1 much as what happens as a result.

2 So then, my other question to both
3 Major Yancey and Major Gabriel, at the
4 institutions that you have been at either
5 Rockview and Dallas, or others that you have
6 served at before, how many incidences within the
7 prison have you had where the equipment, for
8 example, free weights have been used as weapons
9 against the staff?

10 MAJOR GABRIEL: Extremely little. I
11 know nothing that ever happened at Dallas. I
12 can only speak for Dallas. Basically, my career
13 has all been there. My recollection, I can't
14 recall a weight bar, a weight disk being used on
15 staff. I have never heard of a baseball bat
16 being used on staff; although, they use baseball
17 bats on each other regularly; not the weights.

18 I don't know what the reason for it
19 is. The weights are something like, we better
20 not fool with these things, because if we do
21 we're gonna lose them. I have no reason to
22 state why they don't use the weights on each
23 other. They're there. We have a lot of
24 weights -- a lot of weights around. They just
25 don't use them on each other, that is. They use

1 them to work out with.

2 MAJOR YANCEY: I can't recall any
3 instances.

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

6 CHAIRPERSON BIRMELIN:
7 Representative Schuler.

8 REPRESENTATIVE SCHULER: Thank you,
9 Mr. Chairman. I think, Doctor, you made
10 reference to the fact that the inmates pay for
11 these weights. Was I correct in my
12 interpretation?

13 DOCTOR LEWIS: Well, it's the Inmate
14 General Welfare Fund that is the source of
15 funding.

16 REPRESENTATIVE SCHULER: And how is
17 that generated? Let's explore that a little
18 bit.

19 MAJOR GABRIEL: Sure. The Inmate
20 General Welfare Fund is built up by various
21 means, but the biggest contributor is the phone
22 system.

23 REPRESENTATIVE SCHULER: The who?

24 MAJOR GABRIEL: The phone system;
25 the telephone system. The inmates have the

1 right to call out certain times of the day to
2 family, friends, whatever. They can only do it
3 collect and in a controlled call. Phone calls
4 are being monitored as we talk here. But, every
5 time that phone call is made, the phone company
6 pays a royalty to the Inmate General Welfare
7 Fund, out of the fee of the call. Whatever the
8 call -- The more the call cost the bigger
9 royalty will be to the funds. It generates a
10 lot of money.

11 REPRESENTATIVE SCHULER: How much is
12 a lot?

13 MAJOR GABRIEL: I have no idea, sir,
14 the fiscal part of it. I know we get quite a
15 bit of mileage from that Inmate Welfare Fund.
16 Every couple of years we refinish the gymnasium
17 floor, buy furniture for the visiting areas,
18 guests house, staff dining room, inmate dining
19 hall.

20 REPRESENTATIVE SCHULER: The money
21 for these exercise machines and free weights all
22 comes out of that fund?

23 MAJOR GABRIEL: Yes, it does.

24 DOCTOR LEWIS: That's correct.

25 REPRESENTATIVE SCHULER: My other

1 question is, has there ever been any liability
2 filed against the state over these things; these
3 free weights?

4 DOCTOR LEWIS: You mean because
5 somebody got hurt?

6 REPRESENTATIVE SCHULER: Some of
7 these prisoners or inmates have come up with
8 some of these fantastic lawsuits. Have we had
9 any of that in regards to weights?

10 DOCTOR LEWIS: I have not seen one.
11 Again, that's based on my personal experience.
12 I have never seen one in any institution that I
13 have worked in where it was generated from the
14 weights per se. They generally complain about
15 access to healthcare, that sort of focus. But,
16 I've never seen it generated specifically from
17 use of weights.

18 REPRESENTATIVE SCHULER: That's all
19 I have, Mr. Chairman. Thank you.

20 CHAIRPERSON BIRMELIN:
21 Representative Chadwick.

22 REPRESENTATIVE CHADWICK: Thank you,
23 Mr. Chairman. I just have a short statement to
24 make. I was struck by something that Major
25 Gabriel said, and I thought it was worthy of

1 comment.

2 Like most of us, I have a family at
3 home. I think a lot of people in Pennsylvania
4 share my concern that we're not particularly
5 comforted by the thought that someone who was
6 sent to prison for five years for aggravated
7 assault and who goes in looking like Pee Wee
8 Herman is going to be turned loose five years
9 later looking like Arnold Schwarzenegger. Also,
10 I don't think they're comforted by the thought
11 that by taking advantage of the boxing program
12 the neighborhood bully can be turned into Mike
13 Tyson.

14 Now, Major Gabriel said he wasn't
15 unequivocally opposed to removing the weights
16 and boxing from the prisons as long as we had
17 something to replace it with. And I think
18 that's the key. I just think our challenge is
19 going to be to find something satisfactory to
20 replace it with. I'm not naive. I don't think
21 spelling bees and quilting contests are going to
22 replace weight lifting. We are going to have to
23 find something that works. I think that's our
24 challenge. But, I do think we ought to
25 seriously look at ways to replace this

1 equipment. Thank you, Mr. Chairman.

2 CHAIRPERSON BIRMELIN: I just have
3 one quick question. Either of the Majors can
4 answer this. When we invited Mr. Preate to give
5 his testimony, he talked about the tendency in
6 most prisons now to go to these dog kennels. I
7 have seen some of these dog kennels. It was my
8 understanding, and maybe wrongly so, that these
9 were not your average prisons. These were
10 probably Level 4 people who you couldn't trust
11 to be -- or Level 5, couldn't trust to be with
12 the general prison population. Is that a
13 correct assumption?

14 MAJOR YANCEY: The inmates that use
15 the so-called dog kennels for recreation, these
16 yard areas are connected to the restrictive
17 housing units that they're housed in. They are
18 in there for disciplinary reasons,
19 administrative reasons, or reasons that they
20 can't be in general population. And that's the
21 only inmates that use the restricted dog kennel
22 type.

23 CHAIRPERSON BIRMELIN: And that
24 would tend to be a rather small percentage of
25 most prison populations?

1 MAJOR YANCEY: Yes, sir.

2 CHAIRPERSON BIRMELIN: It would
3 vary, of course, from prison to prison since
4 some of you have more Level 4's and 5's than
5 anyone else.

6 MAJOR YANCEY: Right.

7 CHAIRPERSON BIRMELIN: Well, we want
8 to thank you gentlemen. I appreciate the time
9 that you have given us. Just a moment, please.

10 REPRESENTATIVE MANDERINO: Mr.
11 Chairman, I apologize. One quick question based
12 on what you just said. If you are on death row,
13 you're automatically in that restricted area?

14 MAJOR YANCEY: Automatically,
15 separated from general population.

16 REPRESENTATIVE MANDERINO: So,
17 somebody who is on death row would be in that
18 kind of situation?

19 MAJOR YANCEY: Yes, ma'am.

20 MAJOR GABRIEL: They are even
21 separated farther beyond what Major Yancey
22 described. They are separated farther away.

23 REPRESENTATIVE MANDERINO: But, if
24 you're a general lifer, but not necessarily on
25 death row, you could be in the general

1 population.

2 MAJOR GABRIEL: Oh, yes.

3 MAJOR YANCEY: The majority of the
4 lifers are in general population.

5 MAJOR GABRIEL: The vast majority of
6 the general population.

7 CHAIRPERSON BIRMELIN: Thank you,
8 gentlemen. We appreciate your testimony and
9 thank you for sharing that with us.

10 DOCTOR LEWIS: Well, on behalf of
11 the Secretary and the staff of the Department of
12 Corrections, thank you very much for your time.
13 Hopefully, we contributed to your understanding
14 of how we operate.

15 CHAIRPERSON BIRMELIN: Thank you,
16 gentlemen. We appreciate that.

17 MAJOR GABRIEL: Thank you,
18 Representatives.

19 CHAIRPERSON BIRMELIN: Our next
20 testifier is Edward Sweeney. He is the Warden
21 of the Lehigh County Prison. Mr. Sweeney, if
22 you would come forward. Adjust that microphone
23 so that it's right in front of you. And when
24 you're prepared to begin your testimony you may
25 do so.

1 MR. SWEENEY: Good morning. My name
2 is Edward Sweeney. I'm Warden of Lehigh County
3 Prison. I'm here this morning not as a
4 representative of Lehigh County, but rather as
5 spokesman for the Pennsylvania Prison Warden's
6 Association. The Pennsylvania Prison Warden's
7 Association is an organization that's composed
8 of chief administrators and wardens for county,
9 state and federal prison facilities across
10 Pennsylvania. On behalf of the Warden's
11 Association, I'd like to thank you for the
12 opportunity to give this testimony this morning.

13 My comments are going to be brief.
14 First of all, I would like to recognize that
15 there are many distinct different points of view
16 and opinions regarding the issues that are on
17 the table today on all four of the bills. Not
18 only is there a great deal of debate among
19 citizens, legislators, county and local
20 officials regarding these topics, but also there
21 is disagreement and debate among corrections
22 professionals, passed to all new topics which
23 are being discussed. There does not appear to
24 be any one definitive right or wrong answer. As
25 I said, there is much discussion and debate.

1 Our organization, however, does have
2 a clear position regarding legislative mandates
3 which dictate blanket regulations, restricting
4 the operation of prison facilities. The
5 operational philosophy of running prison
6 facility at either county or state level is best
7 left to the discretion of the appointed or
8 elected county or official who is charged with
9 managing that entity.

10 Existing law clearly empowers
11 government officials as the exclusive authority
12 to promulgate rules and regulations for the
13 proper operation of the county prison
14 facilities. It doesn't serve anyone's best
15 interest to limit the individual discretion of
16 prison boards who are faced with very unique
17 geographic, budgetary and physical plant
18 facilities.

19 Additionally, the State Department
20 of Corrections is vested with the authority to
21 manage the control over state prisons facilities
22 across the state. The Secretary of Corrections,
23 as a member of the Governor's Cabinet, is
24 responsible for establishment of operational
25 philosophy and policy in accordance with the

1 tempo established by the elected governor. The
2 imposition of reactionary laws, which
3 unilaterally limit the discretion of current and
4 future state officials, could be considered
5 shortsighted and ill-advised.

6 In the 1970's, the correction system
7 across the country was very much in favor of
8 rehabilitation. It was expending a great deal
9 of monies at all levels, county, state and
10 federal in order to educate and rehabilitate
11 prison offenders. Inmates were obtaining
12 college degrees in prison facilities.

13 That, obviously, is not the climate
14 today, but it was the climate in the 1970's. I
15 am happy that the legislators of the 1970's were
16 not successful or did not try to impose
17 legislation which would have carried that
18 philosophy into the future because, as the
19 pendulum swings and citizenry changes, so does
20 operational philosophies of prisons.

21 Lastly, I would like to bring to
22 everyone's attention Governor Ridge's Executive
23 Order 1996-1. This executive order calls for
24 the review of all existing regulations in an
25 effort to reduce the regulatory burden they

1 impose. It is the position of the Pennsylvania
2 Prison Warden's Association that this type of
3 legislation, which restricts operational
4 discretion of county facilities, is in conflict
5 with the 1996 executive order; and furthermore,
6 it erodes the premise of local rule.

7 That's it. My testimony is very
8 brief.

9 CHAIRPERSON BIRMELIN: Thank you,
10 Mr. Sweeney. For the benefit of the members of
11 the committee, Mr. Sweeney was not able to
12 provide copies of his testimony for each of the
13 members, but we'll see that you get it in
14 writing at a later time.

15 I want to give you the opportunity,
16 if you would, to answer some questions that
17 members of our panel may have, and I'll begin
18 with Representative Serafini.

19 REPRESENTATIVE SERAFINI: Well,
20 briefly, the same basic questions I asked
21 before. If a prisoner creates an infraction
22 into the prison system and he's put into a
23 separate environment, from what I understand his
24 weight training would be curtailed as a
25 punishment. Yet, when a person committees a

1 crime against society, he goes to prison and
2 he's got weight training.

3 I mean, why wouldn't the punishment
4 be the greatest when he commits a crime against
5 society as opposed to the punishment being more
6 severe if he commits the crime in prison? I
7 mean, it seems like a contradiction to me to
8 take weight training away from a person that's
9 bad in prison, and yet, give it to them when
10 they're committing a crime against society. How
11 do you justify that?

12 MR. SWEENEY: Well, I think that's a
13 multiple part answer. Specifically for Lehigh
14 County it's a very easy answer. We have chosen
15 Lehigh County to be very restrictive. We do not
16 have weight equipment. We don't have contact
17 visits. We don't have a lot of things in place
18 that a lot of other facilities do have.

19 However, I go back to my original
20 premise as I talked -- as I spoke to, and that
21 is left to the discretion of the local
22 authorities who manage those settings. It's
23 contingent upon having the proper plant facility
24 in order to carry out those type of initiatives.

25 I would certainly agree with you

1 that at face value just with asking the simple
2 question that there appears to be no real logic
3 for the offender who clearly has demonstrated a
4 violent crime to come into the institution where
5 they can make themselves stronger.

6 At the same time, though, I would
7 come back with an argument especially at the
8 county level in most institutions over 60
9 percent of the offenders that are incarcerated
10 have not been found guilty of any crime. They
11 are merely being held because they are unable to
12 make bail, or they have different stipulations
13 or restrictions that are requiring them to be
14 held in that facility.

15 In addition to that, the county
16 resources of a lot of the smaller counties,
17 particularly, are extremely limited. They do
18 not have the funds in order to pay for a
19 full-time education coordinators, treatment
20 programs to come in and help fill those days,
21 especially at some of those smaller counties.
22 And they look for any programming opportunity
23 that will fight the worst enemy that correction
24 official has, which is, ideal time on the part
25 of the inmate.

1 So, for many institutions a one-time
2 purchase of weight equipment could buy them
3 years and years of a program activity which
4 fiscally ends up making a lot of sense.

5 REPRESENTATIVE SERAFINI: Have you
6 ever found a prisoner who has a drug addiction
7 using caffeine or those kinds of products, or
8 even cigarettes, to effectively substantiate --
9 as a substitute for that addiction, like they
10 drink ten cups of coffee in an hour or so and
11 give themselves that nervous high? I have been
12 told that happens.

13 MR. SWEENEY: It could happen
14 perhaps in a kitchen area. And, again, every
15 facility is different. In our setting they may
16 only have the opportunity for one cup of coffee
17 a day because it's delivered to them in that
18 fashion. An inmate who works in the kitchen,
19 however, could certainly give themselves an
20 artificial buzz, so to say, by sitting by the
21 coffee pot and drinking 20 cups a day.

22 REPRESENTATIVE SERAFINI: Thank you
23 very much.

24 MR. SWEENEY: I would expand upon
25 that, just to say, it certainly does perpetuate

1 a behavior, perhaps, in that, I'll use tobacco
2 as an example. We are a no-smoking facility.
3 Inmates are not allowed to have tobacco
4 products. However, the same type of inmates
5 that typically were involved in drug activity on
6 the streets are the same type of inmates who we
7 typically have misconducts against
8 institutionally for trying to smuggle tobacco
9 into the institution. So, one does substitute
10 for the other in some ways.

11 REPRESENTATIVE SERAFINI: Thank you
12 very much.

13 CHAIRPERSON BIRMELIN: Thank you,
14 Mr. Sweeney. None of the other members have
15 questions for you and I appreciate your coming.
16 Thank you for making the trip up here and
17 sharing your testimony. As I indicated earlier,
18 to the members, I will provide written
19 transcript of your testimony that they'll all
20 have as well as the members who are not able to
21 be here today.

22 MR. SWEENEY: Okay. Thank you.

23 CHAIRPERSON BIRMELIN: Thank you
24 very much for coming.

25 Our next testifier was scheduled to

1 be Joseph Rowe from AFSCME, District Council
2 Number 87. I understand he has a replacement
3 here, Mr. Ed Harry. Mr. Harry, are you also
4 from AFSCME District Council Number 87?

5 MR. HARRY: Yes, I am.

6 CHAIRPERSON BIRMELIN: Okay. We
7 thank you for coming here. When you are ready
8 you may begin with your testimony.

9 MR. HARRY: I'm not going to be
10 repetitive on the other examiner's testimony.
11 Although real quick as far as the caffeine and
12 the coffee part, the membership I represent
13 would be upset because they can't have a soda or
14 a coffee at work. People who do work overtime
15 and there is a lot of overtime that is done. If
16 you can't go between shifts or a break because
17 you don't get a regular lunch, if you're there
18 eight hours you work eight hours. You get a
19 chance and you fly to get something to eat or
20 drink. If you are going to do it, then you have
21 to consider that aspect of it. You have got
22 people who are putting in long hours, and I
23 think they need that. So, other considerations
24 should be given.

25 The free weights, probably with my

1 membership--I have two institutions locally that
2 I represent--it's split. I have C.O.'s that
3 probably don't want inmates to have anything,
4 one extreme, and another segment that don't have
5 any problems with the way things are. Are quite
6 happy with some of the stuff that just took
7 place that Doctor Lewis mentioned, about co-pays
8 for physician because everything was free.
9 There should be, was always felt by the
10 membership that inmates should have to pay for
11 services they do get. However little it is, if
12 you are going to rehab somebody, then let's make
13 it legitimate.

14 The aspect that I have got to deal
15 with as far as the free weights go, and Major
16 Gabriel spoke to a little bit, there's got to be
17 alternatives. I'm not going to name the
18 institution, but I oftentimes when I talk to
19 people, my friends in the public, one
20 institution right now has 1,900 inmates. They
21 have got lifers, and it's a bad insti-- You've
22 got some bad inmates there.

23 Right now you have on duty less than
24 a hundred C.O.'s taking care of that
25 institution. People never equate those numbers.

1 Weights and any other programs that the
2 institutions have, allow those inmates time to
3 do activities other than just hanging around on
4 the corner.

5 Problems we have, and we hear at
6 least, I live in Plymouth, Pennsylvania, small
7 town. I have a nephew and niece nothing to do.
8 They hang out. You hang out normally, you find
9 a way to get in trouble.

10 I'm afraid that unless there's some
11 thought given to eliminate another item from
12 those inmates, that the people who deal upfront
13 with upstate inmates are the people that I
14 represent. They're the people that are there
15 that have to break up the fights, with the bat
16 spats that are being swung at each other. Guess
17 what? They get hit trying to break those fights
18 up. They get hit trying to break up a
19 fistfight. It's nice that the people who have
20 programs, the inmates, they know where they are
21 at; they're busy; they're being occupied.

22 To come in now -- And again, I'm not
23 saying one way or the other. I think there's
24 got to be some alternatives for the free weight
25 program. I like the machines, but -- I've been

1 dealing with representing my two institutions,
2 anyway, nine years. I haven't heard of one of
3 my members getting hurt by any inmate using any
4 of the equipment against them. Obviously, the
5 Major hasn't heard of any in his 39 years or 50
6 years, or whatever, that he's been there.
7 That's a private joke between him and I.

8 But, I think you folks have to
9 understand something that all the legislation
10 that you pass, it's meaningful as it may or may
11 not be, and the way you feel about it impacts on
12 the people on the front lines. The second you
13 start removing stuff -- It's a bad enough
14 environment anyway.

15 The nicest thing, for me I should
16 have went to -- had a tour of the prison when I
17 was 16 years old, because once those gates
18 closed and you heard those, it's terrible. I
19 would never do anything in my life to ever live
20 in that environment. I think the more
21 activities that inmates have, the less likely
22 they are to get in trouble.

23 You have got bad people to begin
24 with who are in there. To upset those people
25 even more than what they are to be there to

1 begin with, I think some consideration should be
2 given to either modify or make damn sure that we
3 have some alternatives there to occupy those
4 people. And the testimony by the three
5 representatives from Corrections all say that
6 those -- almost no problems from those people.
7 They're sort of -- It's sacred ground. They do
8 what -- They intend to be the best inmates.

9 The privileges, I don't work there,
10 but my membership relates to me all the time,
11 privileges is the most important thing. Once
12 you start losing privileges as an inmate, your
13 life becomes harder, and it should be harder.
14 You earn by being good the ability to do those
15 things; have those extra special privileges that
16 you're given.

17 To rehab people, I think, it's nicer
18 to have people going out happy than it is to be
19 miserable their whole life and getting in
20 trouble and they, you know, ultimately their
21 sentence is going to be over whether it's for
22 armed robbery or whatever, they're going to go
23 out. And if they've lived in a hole or had
24 trouble the whole time out, you gotta have to
25 leave them out anyway.

1 I have no documentation, but people
2 who don't want to go back there again make sure
3 they do things the right way so their time there
4 isn't as long as it would be if they have no
5 other alternatives. I think that's the part
6 that wasn't touched on that I'm most concerned
7 about is the alternatives for the safety of the
8 people that I represent. Thank you.

9 CHAIRPERSON BIRMELIN: Thank you,
10 Mr. Harry. We'll start our questioning with
11 Representative Serafini.

12 REPRESENTATIVE SERAFINI: Well, I
13 appreciate your testimony. Relative to the
14 caffeine problem, so you would be agreeable with
15 this legislation if it didn't apply to the
16 personnel?

17 MR. HARRY: Again, understand you've
18 got --

19 REPRESENTATIVE SERAFINI: Which was
20 the intention of the bill; not the --

21 MR. HARRY: Well, but it doesn't say
22 that

23 REPRESENTATIVE SERAFINI: To take
24 caffeine away from the employee. In other
25 words, this is to punish the prisoner; not to

1 punish the employee.

2 MR. HARRY: The only problem I have
3 with that is, if you punish the prisoner who's
4 the person they're going to punish to get back
5 at you? He's going to punish the person I
6 represent who's waiting in the cell block with
7 him.

8 REPRESENTATIVE SERAFINI: But, it
9 sounds to me like you want to make prison as
10 nice as it can possibly be.

11 MR. HARRY: Believer me --

12 REPRESENTATIVE SERAFINI: In other
13 words, if we just gave them little condominiums
14 and --

15 MR. HARRY: No, believe me. I
16 don't mean that. That's a stretch of your
17 imagination.

18 REPRESENTATIVE SERAFINI: Just don't
19 pick on me. If you come back, 33 percent of you
20 come back here you're going to end up in a
21 smaller condominium. This is also getting --

22 MR. HARRY: If my testimony sounded
23 like that, believe me, I screwed up in my
24 testimony. That's no intent of my perspective
25 to even hint at that. My only concern is, a lot

1 of times people who aren't there lose sight of
2 what goes on in those places. They are not nice
3 places.

4 REPRESENTATIVE SERAFINI: No, I know
5 that.

6 MR. HARRY: They are not nice
7 places.

8 REPRESENTATIVE SERAFINI: But, some
9 of them are not nice, but they're nicer than
10 they have to be. That's all I'm trying to say.

11 MR. HARRY: Well, again, that's not
12 within my realm to make that decision. You
13 gentlemen would make that decision, along with
14 the Department. My only concern is the people
15 who enforce the laws and the policies that
16 people make are the people that I represent.
17 They're the ones who are the first ones that get
18 struck out towards, or struck out at. It's
19 those people who are there day in and day out,
20 three shifts, 24 hours a day. They get nailed.

21 REPRESENTATIVE SERAFINI: Well, I'm
22 not going to perpetuate this any longer. But,
23 it would appear to me, the people that you
24 represent would rather be struck by a person who
25 is a little weaker than that weight lifter who

1 bench presses 900 pounds than for their own
2 self-protection. I mean, if we're bulking up
3 these people, that punch is going to hurt a
4 little bit more.

5 And it would appear to me that a
6 person who is a little bit high on caffeine
7 would be more susceptible to losing their temper
8 than a person who is calmer and more in control
9 of their emotions. And, a person who is high on
10 caffeine who wants to be up that night or has
11 that caffeine high to keep awake is going to be
12 a little harder to control than the person who
13 is essentially caffeine free.

14 That's the purpose behind what
15 Arizona did and in part of what Ohio did and
16 Louisiana. That's the approach I'm trying to
17 take to this prison reform, as small as it might
18 be. Not to affect in any detrimental way the
19 personnel that you are discussing. It's sad
20 that that would have to be like that, but --

21 MR. HARRY: That's the real world in
22 prison. I mean, they are the people that are
23 struck at first.

24 REPRESENTATIVE SERAFINI: Right.
25 Well, the person they struck at first was the

1 guy on the street. They're the second person.

2 MR. HARRY: Well, I understand that.
3 I understand that.

4 REPRESENTATIVE SERAFINI: Thank you
5 very much.

6 CHAIRPERSON BIRMELIN:
7 Representative Feese.

8 REPRESENTATIVE FEESE: Thank you,
9 Mr. Chairman. Thank you for your testimony, Mr.
10 Harry. Just one question. Do you believe that
11 your membership that you represent would oppose
12 legislation that, one, prohibited boxing; and
13 two, codified the existing Department policy of
14 prohibiting wrestling and martial arts?

15 MR. HARRY: I don't think there
16 would be any disagreement with my membership on
17 those things, no.

18 REPRESENTATIVE FEESE: Thank you.

19 CHAIRPERSON BIRMELIN:
20 Representative Manderino.

21 REPRESENTATIVE MANDERINO: Thank
22 you. I'm assuming it is departmental policy,
23 we've heard from numerous folks, including
24 yourself, that what applies to the inmates
25 applies to the staff, at least, with regard to

1 food service and what's in the prison.

2 Do you have any opinion or comment
3 about the effectiveness of that policy? And if
4 we made a policy that was different, meaning,
5 staff and employees can have caffeine and
6 prisoners can't, what impact, if any, would that
7 have in the work setting?

8 MR. HARRY: There was a -- This past
9 Thursday on, I guess Dateline, there was a show
10 on all of the products that now have caffeine,
11 and coffee mixed in with whatever they end up
12 being. My question -- The first thing that
13 would cross my mind, is number 1, how you would
14 enforce it? Not only that, but then that just
15 complicates the contraband issue that the C.O.'s
16 and the management of every institution deal
17 with daily, is the smuggling of contraband into
18 the institution.

19 When you are dealing with
20 caffeine -- Peanut butter, there's caffeine in
21 peanut butter. Does that mean you can't have
22 peanut butter? And I'm not trying to be smart.
23 Soda, unless it's a 7-Up, every soda that I
24 drink unless it's specifically noncaffeinated, I
25 mean, that becomes contraband at that point in

1 time. People get in trouble.

2 I don't know what the ramifications
3 would be. It would be more work for the C.O.'s,
4 obviously, and the administration. Again, for
5 the life of me, I drank -- I used to drink a lot
6 of soda and I never got strung out on it from a
7 lot of caffeine. It's not healthy, I know that.
8 I have cut down considerably, because I take my
9 walks every now and then.

10 But, again, I don't know if it's
11 caffeine in and of itself is that big of a
12 problem in the institution to where inmates
13 shouldn't have that stuff. Again, I can't sit
14 here and say it is or it isn't, obviously. I
15 hope I answered your question.

16 REPRESENTATIVE MANDERINO: Let me
17 try again. What I'm trying to -- It's clear to
18 me from testimony that we have a current policy
19 operating that says, whatever -- from food stuff
20 point of view, I guess, whatever applies to the
21 inmates apply to the staff, that's I guess a
22 departmental policy.

23 MR. HARRY: I think the Major said
24 that the food that the inmates eat for lunch or
25 whatever is available to the staff that works

1 there also.

2 REPRESENTATIVE MANDERINO: When we
3 visit prisons we have prison food.

4 MR. HARRY: We have got wonderful
5 food. Yes, it's great.

6 REPRESENTATIVE MANDERINO: And
7 others have suggested, well, maybe a way we can
8 accommodate -- this concern is, we say staff can
9 have coffee; prisoners can't. What I was trying
10 to get to is, I'm not suggesting that we adopt
11 that policy. That's not my position. But, if
12 we were to adopt that policy, what impact, if
13 any, would you perceive that would have inside
14 the institutions that may or may not affect the
15 ability of your members to do their job? Again,
16 I'm not suggesting it will. I'm asking, will
17 it --

18 MR. HARRY: I could just -- Just by
19 any one of us, if you can do something that I
20 can't, we're in the same place together,
21 obviously, I'm going to take offense to it. And
22 there's going to be, I would think, that segment
23 of the inmate population who are going to be
24 upset if they can't do it and you are able to do
25 it.

1 And if I'm at a work site, or I'm
2 walking, obviously, inmates are all over us.
3 So, if they see me having coffee and they can't
4 have it, some may -- And like I said before,
5 they're not all nice people to begin with or
6 they wouldn't be there. How they act when
7 something like that is taken away and they're
8 put in that situation, I don't know. I would
9 hope the fear that they have for the
10 ramification of an action they'd take would
11 prohibit them from doing that. But, there's
12 laws on the book that they violated to get in
13 there. So, I don't know.

14 And again, my concern is, do we
15 really have to put the front line troops in that
16 situation where they have to look over their
17 back because of something like that? That's my
18 concern. I'm very concerned about the security
19 of the people that I represent.

20 REPRESENTATIVE MANDERINO: Let me
21 ask you one other thing. The Warden from Lehigh
22 County testified that his county prison is a
23 smoke-free environment. I didn't think to ask
24 him at the time, but I assume that that means
25 not only can prisoners not smoke in the

1 institution, but neither can any staff.

2 MR. HARRY: I don't know.

3 CHAIRPERSON BIRMELIN: He's shaking
4 his head no.

5 REPRESENTATIVE MANDERINO: I don't
6 want to have him testify from afar. Let me ask
7 you, I don't believe we have a similar policy in
8 the state corrections institution; meaning, in
9 the state correctional institute we allow
10 smoking; is that correct?

11 MR. HARRY: There's some
12 institutions now, at least the Commonwealth is
13 in the process, and these gentlemen could
14 correct me. I don't know if it's carte blanche
15 that it's smoke free in every institution, but I
16 know one by one it's getting to that point.
17 That's under the direction of the Department.

18 REPRESENTATIVE MANDERINO: Do you
19 know, Representative Birmelin just told me our
20 newest prison on-line is Chester is smoke free.
21 Does that mean it's smoke free for everyone, or
22 do we have a policy that state prisoners can't
23 smoke, but the staff can smoke?

24 MR. HARRY: I don't know.

25 MAJOR YANCEY: That means everyone,

1 ma'am. Smoke free means smoke free, right.

2 REPRESENTATIVE MANDERINO: Okay.

3 Thank you. I have enough information to make my
4 decision. Thank you.

5 CHAIRPERSON BIRMELIN: I just have a
6 little P.S. to one of the questions that you
7 responded to from Representative Manderino when
8 she talked about removing caffeine, whether or
9 not if you allowed the employees to have it and
10 prisoners didn't that might create a problem. I
11 see the bigger problem is that the staff is
12 allowed to leave at the end of the day and
13 prisoners necessarily aren't.

14 MR. HARRY: Well, they accept that,
15 though.

16 CHAIRPERSON BIRMELIN: That being
17 the paramount consideration, I just wouldn't get
18 too upset if the prisoners saw the corrections
19 officer having a Coke-Cola and they had to have
20 a decaf cola. I mean, you loose a lot of other
21 things, but freedom is paramount --

22 MR. HARRY: I understand that, and
23 some of them get crazy and that punch gets
24 thrown.

25 CHAIRPERSON BIRMELIN: I would

1 assume that if we were to do something like that
2 it might be wise to phase it in, rather than
3 just, today you can have it and tomorrow can't.

4 MR. HARRY: They have done that with
5 clothing and all the other changes that have
6 been made.

7 CHAIRPERSON BIRMELIN: And they were
8 quite upset over that.

9 MR. HARRY: There was a lot of
10 concerns from the administration as well as the
11 staff, the people that I represent, on just how
12 that would go as far as inmates go. It's 1,900
13 versus a hundred people or 200 people carrying
14 everybody else aren't any good odds when you
15 don't have the weapons.

16 CHAIRPERSON BIRMELIN: Well, we
17 appreciate your testimony, Mr. Harry, and thank
18 you for coming in place of Mr. Rowe.

19 MR. HARRY: Thank you.

20 CHAIRPERSON BIRMELIN: I'm going to
21 ask our next testifier, Angus Love, if he would
22 come forward. He's the Executive Director of
23 Pennsylvania Institutional Law Clinic. While
24 he's getting comfortable, let me -- for the
25 benefit of the committee mention three things

1 for you're edification.

2 First of all, we will be adding one
3 more testifier after Mr. Love is done, the
4 gentleman who has asked at the last moment to be
5 added. I'm trying to accommodate him and give
6 him a few minutes to do so. Don't be in a hurry
7 to leave when Mr. Love is done.

8 Secondly, we have a letter that was
9 sent to Representative Serafini but they copied
10 me and Chairman Mr. Gannon. I'm going to ask
11 our stenographer if she would enter it into the
12 record. It's a letter from Pennsylvania Soft
13 Drink Association. It deals with essentially
14 the statistics as they viewed them dealing with
15 what is acceptable levels of caffeine in soft
16 drinks. If any of the members of the committee
17 would like to see that, I'll be more than happy
18 to share it with them. But, if the stenographer
19 would make sure that that's entered into the
20 record I'd appreciate that.

21 (Whereupon Pennsylvania Soft Drink
22 Association letter is contained herein as
23 follows):

24 "Dear Representative Serafini: On
25 behalf of the Pennsylvania Soft Drink

1 Association, I am writing to you to express the
2 Association's opposition to House Bill 1170,
3 prohibiting the sale or serving of any beverage
4 containing caffeine to prisoners.

5 "Caffeine is a safe food ingredient
6 found naturally in tea, coffee, cocoa and other
7 foods and has been part of the human diet for
8 centuries.

9 "Caffeine is one of the most
10 thoroughly studied ingredients in the food
11 supply and is approved by the United States Food
12 & Drug Administration (FDA). Caffeine is
13 generally regarded as a mild stimulant, but the
14 degree of effect is variable and highly
15 dependent on individual sensitivity and the
16 amount consumed. Comprehensive evaluations of
17 all the available research on caffeine have led
18 the National Academy of Sciences, the United
19 States Surgeon General and FDA to conclude that
20 normal caffeine consumption is not associated
21 with any health risks.

22 "Currently, the United States Food &
23 Drug Administration (FDA) regulates caffeine,
24 allowing six milligrams per fluid ounce. Most
25 soft drinks are well below that limit, at

1 approximately three milligrams per ounce, or 18
2 milligrams per six-ounce serving. Caffeine is
3 added in small amounts to colas and some other
4 soft drinks due to its unique flavor. Flavor
5 experts recognize caffeine as a valuable
6 ingredient because it adds a unique bitter taste
7 that blends well with, and complements other
8 flavors and sweeteners.

9 Most major health authorities agree
10 that caffeine is not addictive. Unlike
11 addictive substances, caffeine is not associated
12 with any chronic health problems. The
13 consumption of caffeine does not result in
14 steadily increased use, and it is not difficult
15 to decrease or stop consumption of caffeine.

16 For the foregoing reasons, the PSDA
17 respectfully opposes any and all bans on
18 caffeine. If you have any questions, please
19 feel free to contact me. Thank you for your
20 consideration. Very truly yours, Anthony L.
21 Crisci, Legislative Counsel."

22 CHAIRPERSON BIRMELIN: And thirdly,
23 I want to remind you that tomorrow we have
24 scheduled a tour of Retreat Prison. The Retreat
25 Prison is down in the lower Wilkes-Barre region,

1 valley, and is scheduled to start at 10 o'clock
2 tomorrow and that means we will meet at the
3 prison, front gate, assuming they'll let us in,
4 approximately 10 o'clock tomorrow morning. So,
5 if you're able and willing to go to take a look
6 at Retreat Prison tomorrow, please plan on being
7 there at 10 a.m. If you don't know how to get
8 there, I'll do my best to try to help you find
9 it.

10 Mr. Love, you have been before this
11 subcommittee and the full committee before. We
12 appreciate your willingness to come again. You
13 have testimony prepared for us that we have
14 copies of. If you are prepared to do so,
15 present that at this time.

16 MR. LOVE: Good morning, Chairman
17 Birmelin, and good morning members of the
18 Judiciary Committee. I thank you for the
19 opportunity to testify today on behalf of the
20 Pennsylvania Prison Society. I'm the Policy
21 Director of the Society. We're in opposition to
22 House Bills 1168 1169, 1170 and 2698.

23 Pennsylvania Prison Society was
24 founded in 1787--I'm sorry about that typo in
25 the prepared remarks--by Doctor Benjamin Rush

1 and Benjamin Franklin and several other
2 dignitaries of the Philadelphia community at
3 that time, many of whom are also signatories to
4 the Declaration of Independence. The Prison
5 Society is the nation's oldest prison reform
6 organization and we are empowered with the
7 official visitor status by the Commonwealth of
8 Pennsylvania.

9 We oppose the bills before the
10 committee despite their good intentions because,
11 in our opinion, they will create more problems
12 than they will solve. We are very aware of the
13 public's legitimate concerns regarding the
14 eradication of the crime and we share this
15 important goal.

16 We are also aware of the strategy to
17 make prison life a no frills experience so that
18 its deterrent effect will be maximized. There
19 is considerable debate within the corrections
20 community about the current state of affairs in
21 prisons and jails and whether there is any need
22 for additional need to make the prison
23 experience less palatable.

24 The Pennsylvania Prison Society was
25 originally named the Society to Alleviate the

1 Misery of Prisoners, and we believe that the
2 current conditions are sufficiently harsh to
3 achieve the desired deterrent effect. We are of
4 the opinion that the current climate could be
5 enhanced by a rededication to rehabilitation
6 through educational and vocational
7 opportunities together with treatment for
8 problems such as drugs and alcohol that led to
9 an individual's incarceration.

10 We further believe that legislative
11 efforts such as these attempts to capitalize on
12 the legitimate public fears of crime and their
13 well meaning attempts to reduce the impact of
14 crime on our society. If this were a football
15 game and we were the referees, a flag would be
16 thrown and a penalty would be assessed for
17 unnecessary roughness or piling on.

18 These bills are part of the
19 so-called creature comfort movement that is
20 based on the false premise that our prisons are
21 more akin to a country club than an institution
22 suitable for those who have violated the
23 public's trust. I do not believe that it is
24 mere coincidence that these type of bills often
25 come before the public as Election Day nears.

1 With respect to 1168 and 2698, the
2 benefits, as well as the costs, should be
3 considered. I assume the perceived benefit from
4 removal of exercise equipment is to reduce an
5 inmate's strength and ability to overpower
6 citizens and law enforcement personnel. My
7 common sense tells me that physical fitness is
8 not dependent on access to such equipment.
9 Sit-ups, push-ups, pull-ups and isometric
10 exercise can all achieve the same purpose if an
11 individual is dedicated enough.

12 On the other side, we deprive prison
13 administrators of a program that keeps inmates
14 occupied. I have discussed this topic with many
15 wardens and superintendents and have found
16 little support for the elimination of free
17 weights and related equipment. Many believe
18 that it is wise to keep inmates busy and to
19 allow them to engage in draining aggressively
20 physical exercise as opposed to more
21 unproductive pursuits. As jobs have failed to
22 keep pace with the rapidly expanding prison
23 population, administrators are anxious to keep
24 inmates busy.

25 The elimination of free weights runs

1 contrary to two other important public policy
2 considerations. The medical community has
3 recognized the importance of exercise in
4 reducing health care costs. Health insurers
5 offer rebates to those who are actively enrolled
6 in health clubs. Such activities tend to lower
7 the costs of health care. Thus, this bill may
8 save a few dollars, but may ultimately cost our
9 taxpayers more money due to increased
10 health care costs. The bill also runs contrary
11 to the current trend of allowing greater local
12 autonomy. The bills impose a mandate on our
13 county jails and provide penalties for those who
14 refuse to comply.

15 The recent revisions of Title 37 of
16 the Pennsylvania Code regarding county jail
17 standards has a consistent theme of reducing
18 state-imposed mandates and giving county prison
19 administrators greater autonomy in running their
20 own jails. It was also mentioned by Mr.
21 Sweeney, the 1996 Executive Order of Governor
22 Ridge, is consistent with that philosophy. Is
23 this measure worth going against this trend?

24 The bills aimed at elimination of
25 coffee and/or caffeine serve little purpose.

1 The potential problems far outweigh any possible
2 gain. Caffeine is contained in many products,
3 such as soda, and as previously just mentioned
4 peanut butter, ice tea and many other items.
5 Is it worth regulating to such a minuscule
6 degree? The bill eliminating coffee fails to
7 address the increasingly popular decaffeinated
8 coffee.

9 We fear that elimination would
10 overburden the already burdened correctional
11 officers with one more item of contraband.
12 There is no doubt it will create a black market
13 for the banned items, giving guards another
14 issue that must be dealt with.

15 I thank you, the Chairman, and the
16 committee members for this opportunity to
17 discuss the state of affairs in our prisons and
18 jails. These are serious topics and any
19 discussions are most welcomed.

20 Although we oppose these bills, we
21 would like to end on a positive note. We urge
22 the committee members to examine the need for
23 rehabilitation in prisons. Such efforts would
24 serve many of the same goals these bills
25 mistakenly seek to address. These include

1 keeping inmates busy in productive activities,
2 lessening the burden on taxpayers by teaching
3 them skills necessary to break the cycle of
4 recidivism, and helping the offender become a
5 responsible member of society.

6 Programs that enhance both
7 vocational education opportunities as well as
8 treatment for substance abuse would further
9 these goals. H.B. 1933, which is also before
10 this committee, in which we support it in
11 testimony -- or excuse me, not in testimony, but
12 in letters, would enhance literacy and yield far
13 greater results for all concerned. Thank you
14 for your time.

15 CHAIRPERSON BIRMELIN: Thank you,
16 Mr. Love. We'll ask Representative Serafini to
17 begin the questioning.

18 REPRESENTATIVE SERAFINI: You
19 mentioned recidivism. What is the rate in your
20 opinion? Do you have --

21 MR. LOVE: About 60 percent,
22 depending on what jurisdiction. Nationally, I
23 think it's about 60 percent would be my guess.

24 REPRESENTATIVE SERAFINI: So, 60
25 percent of the prisoners released end up back in

1 prison. What do you think about that?

2 MR. LOVE: I think it's terrible. I
3 think it's a tremendous cost. Unfortunately,
4 it's a lot of the same folks going through the
5 cycle over and over again. If there's a way
6 that we can break that cycle, I think it's high
7 time to do it.

8 REPRESENTATIVE SERAFINI: Do you
9 think that shows -- that that indicates the fear
10 of prison?

11 MR. LOVE: There's a certain amount
12 of that, yes. But, obviously, there's other
13 factors that outweigh that to cause them to go
14 back. I think a lot of that is inability to
15 gain a foothold in society and pursue some
16 productive activity, a job, something of that
17 nature is illusive, and then they fall back
18 under the old ways that led them to prison in
19 the first place.

20 REPRESENTATIVE SERAFINI: So, you
21 don't think free weights in any way are
22 effective with regard to recidivism?

23 MR. LOVE: I don't see how one way
24 or the other --

25 REPRESENTATIVE SERAFINI: It has

1 nothing to with --

2 MR. LOVE: No, I really don't.

3 REPRESENTATIVE SERAFINI: So, by
4 eliminating them, really just eliminates the
5 potential for the person to increase his bulk
6 and size. Is that what you're saying?

7 MR. LOVE: Again, I try to exercise
8 regularly. I don't lift weights. I don't
9 consider myself a physical specimen either.
10 But, I think if you are dedicated to maintaining
11 yourself in good condition, you can do with or
12 without weights.

13 REPRESENTATIVE SERAFINI: So, you
14 would not really have offense to eliminating
15 free weights?

16 MR. LOVE: I just don't know.
17 What's the point of eliminating them?

18 REPRESENTATIVE SERAFINI: In my
19 opinion it tends to create a more muscular
20 stronger person. Exercising for cardiovascular
21 effectiveness, as you said, in your testimony
22 which is recommended by doctors, tends to be
23 inadequate effort as far as physical fitness
24 goes.

25 Free weights -- I mean, I don't know

1 a lot of doctors that recommend that, free
2 weights. The insurance companies, they give you
3 a deduction in their rate because you are a
4 weight lifter.

5 And as far as the medical care goes,
6 do you have statistics that show anything that
7 about the effects of weight lifting on prisoners
8 medical --

9 MR. LOVE: Well, I was talking to a
10 friend recently and told me he was a member of
11 Bellview Health Club in Philadelphia. This is a
12 very expensive club. I said, how can you
13 possibly afford, knowing his income, to be a
14 member of that? He says, because my health
15 insurance gives me \$300 a year, if I agree to go
16 there three times a week and work out. I
17 assumed that the health insurers have made a
18 study and found that individuals who work out
19 have significantly less health costs down the
20 road. I think it makes sense. I think it's a
21 more modern trend. I think it's valid concern.

22 REPRESENTATIVE SERAFINI: Are you
23 aware of what kinds of medical problems are
24 created by weight lifting, rotator cuff
25 problems, joint problems?

1 MR. LOVE: Oh, sure. If you overdo
2 anything, if you run marathons two or three
3 times a year you will have knee problems, ankle
4 problems, hip problems or -- Anything to excess
5 will cause problems. I respect your opinion.
6 But, just I think we are getting, unfortunately,
7 into the same area we have criticized the courts
8 for; that is, micromanaging our prisons. I
9 think these matters should be left to the
10 correctional community.

11 REPRESENTATIVE SERAFINI: Do you
12 know what it cost to maintain a prisoner
13 annually?

14 MR. LOVE: Twenty to thirty
15 thousand.

16 REPRESENTATIVE SERAFINI: Twenty to
17 thirty thousand. Are you against the
18 elimination of smoking in prisons?

19 MR. LOVE: I think that smoking
20 again has -- The reduction of smoking has proven
21 to be a benefit for health care. As such,
22 consistent with my earlier testimony, I think if
23 you eliminated smoking you would reduce your
24 health care costs.

25 REPRESENTATIVE SERAFINI: But, you

1 don't feel the same way about caffeine?

2 MR. LOVE: I admit, I had a cup of
3 coffee just before this hearing. But, I just,
4 again, I think it's micromanaging of a prison.

5 REPRESENTATIVE SERAFINI: Thank you
6 very much for your testimony.

7 CHAIRPERSON BIRMELIN:
8 Representative Chadwick.

9 REPRESENTATIVE CHADWICK: Thank you,
10 Mr. Chairman. Depending on the response I get,
11 I may only have one question. Mr. Love, I sat
12 here this morning and listened to pretty much
13 all of the witnesses, although I was a little
14 late and missed the first one. Particularly, I
15 listened to all wardens who spoke at the state
16 and the county level.

17 First, I want to say I have
18 tremendous respect for the job they're doing.
19 It must be enormously difficult under the
20 conditions that they have to manage those prison
21 populations. And, I think they're doing a
22 terrific job.

23 Yet, at the same time, what I've
24 heard from all of them was that they're
25 supportive of weights because they're a good

1 management tool, and only because they're a good
2 management tool. I didn't hear anything from
3 any of our witnesses that they support weights
4 because they in any way aid in prisoner
5 rehabilitation or have any benefit to society as
6 a whole.

7 Indeed, in view of your testimony
8 that we have a recidivism rate of 60 percent,
9 all we're really doing is turning small weak
10 criminals into large strong criminals because
11 they are going back out on the street and
12 committing additional crimes.

13 Given all of that, my question to
14 you is, and I would be grasping for management
15 tools, too, if I was in their position because
16 they have a very difficult job to do. If we can
17 come up with alternative management tools that
18 don't turn small weak criminals into large
19 strong criminals, that perhaps, do aid in
20 rehabilitation and/or are beneficial to society,
21 would you be opposed to an alternative to
22 weights?

23 MR. LOVE: Not necessarily, because
24 those universal gym sets that are adequate as
25 opposed to free weights. I don't think anybody

1 would dispute that. I don't agree with your
2 premise that we are turning small weak criminals
3 into big, large powerful criminals. I haven't
4 noticed that. I haven't noticed anybody --

5 I have been in jails close to 20
6 years that I knew went in a weakling and came
7 out, you know, Charles Atlas. Most of those
8 folks you see coming out like Charles Atlas went
9 in like Charles Atlas.

10 REPRESENTATIVE CHADWICK: Well,
11 granted I may have exaggerated a little bit to
12 make a point. But, nevertheless, the point is,
13 that weight lifting does increase strength and
14 power, does it not?

15 MR. LOVE: Sure.

16 REPRESENTATIVE CHADWICK: And
17 someone who goes into prison and engages in
18 weight lifting is likely to come out stronger
19 than they went in; are they not?

20 MR. LOVE: I think a lot of those
21 folks, as I say, I don't think they -- I don't
22 think they are any stronger when they go out
23 than when they come in, I really don't. There
24 are a lot of issues here, criminals, I guess,
25 don't tend to work like the rest of us.

1 I noticed a lot of them are big
2 people. Maybe that's why they went into a life
3 of crime. I have no idea. They couldn't do
4 anything else and they were physically strong
5 and they felt, you know, maybe that was a plus
6 in criminal activity. I have no idea, but I
7 just haven't noticed folks coming in and
8 dedicating themselves to become big, powerful
9 and strong people. I just haven't seen it.

10 REPRESENTATIVE CHADWICK: Mr.
11 Chairman, I don't see any point of pursuing that
12 line of questioning any further. Thank you.
13 And thank you, Mr. Love.

14 CHAIRPERSON BIRMELIN: The question
15 you didn't ask, Mr. Chadwick, that I would have
16 asked, is that, is there any correlation between
17 criminals who did involve themselves in a
18 weight-lifting program in their recidivism rate
19 when they came out? I think that would be a
20 telling statistic.

21 And maybe even with other
22 activities, you know, what is that we involve a
23 prisoner in when he's in prison, and we also
24 have a lot of other programs; some of them are
25 carpentry and some are woodworking and shoe

1 repair. All these others that different prisons
2 offer here and there.

3 Wonder what the recidivism rate of
4 those who were actively involved in something in
5 prison as opposed to the general population?
6 I'm not asking you to answer that question, but
7 if you have an answer I would be more than happy
8 to listen to it.

9 MR. LOVE: I have a couple comments.
10 We have a print shop in Huntingdon. We teach
11 people how to print. There could be someone who
12 goes out and becomes a forger, does that mean we
13 should eliminate the print shop? I really don't
14 think so. I think there's different types of
15 criminals, different types of crimes. You are
16 just focusing on one aspect.

17 I mean, how many -- Most of the
18 offenders in jail are not in for violent
19 offenses. I think it's only 30 percent are in
20 for violent offenses; 70 percent are drug or
21 nonviolent offenses. So you're only having 30
22 percent that were even involved in that type of
23 activity. I think it's more important to look
24 at the big picture, get the drug treatment, get
25 the literacy training, get some vocational

1 opportunities, and we all know that it's not
2 going to work with most, but the more it works
3 with, the better off we all are.

4 CHAIRPERSON BIRMELIN: Well, thank
5 you very much, Mr. Love. We appreciate you
6 coming and giving your testimony.

7 Our last testifier is a gentleman
8 from the Scranton area who has asked to come
9 similar to the manner in which Mr. Preate came;
10 that he saw it in the news last night or
11 yesterday somewhere and decided that he'd like
12 to come and give his testimony. We would
13 welcome to the table Mr. Patrick O'Malley who is
14 a Scranton School Board Director and also a
15 resident of the City of Scranton.

16 Mr. O'Malley, since you are the last
17 one to testify, we didn't have you on schedule,
18 I don't want to keep our members too much
19 longer, I'll ask you to give your testimony as
20 briefly as possible. Thank you.

21 MR. O'MALLEY: Thank you, Mr.
22 Chairman, for giving me the opportunity to
23 speak.

24 THE COURT REPORTER: Could you spell
25 your last name?

1 MR. O'MALLEY: O'-M-A-L-L-E-Y. I'm
2 a corrections officer of a local prison. I
3 heard the testimony of some of our state
4 corrections officers who got up and spoke before
5 me, wardens from various county facilities and
6 state facilities.

7 In my eight and a half years
8 experience as a corrections officer, I have seen
9 people come into the prison system 130, 140
10 pounds, heroin addicts, crack addicts, cocaine
11 addicts.

12 I've seen in a matter of six to
13 eight months these people put on incredible
14 amounts of muscle mass, 30, 40 pounds of muscle
15 mass. I'm in a situation daily that we have to
16 deal with these individuals.

17 The caffeine does have some play
18 into that too because the same individuals that
19 are in here, that are in the prisons for drugs
20 and everything else, this is an alternative way
21 for them to get high by large amounts of
22 caffeine and nicotine. What I see is this.

23 As a corrections officer it takes a
24 minimum of four corrections officers to take one
25 of these individuals down. The prison that I

1 work at at this time, we just refurbished and
2 tore down the old prison and we're in a
3 situation where our weight room has been gone
4 for the last eight and a half months. And what
5 I've seen is, some of our more violent inmates
6 that are inside our prison have gotten smaller
7 and they're not in the situation where they want
8 to go out and fight as much. That's what I've
9 seen.

10 They were just talking about another
11 individual who could lift 950 pounds. How would
12 you like it if this person got out of prison and
13 you and your wife were going into a restaurant
14 and he mugged you? I would say someone who
15 could lift 950 pounds could kill you and your
16 wife in a matter of seconds, breaking your neck,
17 breaking some vital part of your body.

18 I am totally for this bill. I have
19 a sister who was killed by her husband who is in
20 a state facility, I know for a fact is lifting
21 weights, and I don't think he should be allowed
22 to lift the weights because my sister is six
23 feet under now.

24 Thank you for your time. If you
25 have any questions, I'm prepared to answer them.

1 CHAIRPERSON BIRMELIN: Repre-
2 sentative Serafini.

3 REPRESENTATIVE SERAFINI: You
4 personally noticed there have been a number of
5 people who are in a prison and used the weights
6 to bulk up. Do you find the recidivism rate
7 among those prisoners when they get out of
8 prison, do you find that they have a tendency to
9 return move often, or are there no statistics on
10 it?

11 MR. O'MALLEY: Usually, the
12 prisoners that I have dealt with, they lift the
13 weights, it was more of a chance of them coming
14 back. A lot of them were bulking up to go back
15 on the streets to take care of a problem they
16 wanted to take care of, like someone, something
17 that got them into the situation that they're
18 in.

19 REPRESENTATIVE SERAFINI: Thank you
20 for your testimony.

21 MR. O'MALLEY: Thank you very much.

22 CHAIRPERSON BIRMELIN: Thank you for
23 your testimony, Mr. O'Malley.

24 This concludes our public hearing,
25 and this meeting is adjourned.

1 (At or about 11:30 a.m. the hearing
2 concluded)

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4
5 C E R T I F I C A T E

6
7 I, Karen J. Meister, Reporter, Notary
8 Public, duly commissioned and qualified in and
9 for the County of York, Commonwealth of
10 Pennsylvania, hereby certify that the foregoing
11 is a true and accurate transcript of my
12 stenotype notes taken by me and subsequently
13 reduced to computer printout under my
14 supervision, and that this copy is a correct
15 record of the same.

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

19 Dated this 11th day of October, 1998.

20
21 *Karen J. Meister (B)*

22 Karen J. Meister - Reporter
23 Notary Public
24
25