

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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Hearing on Inmate Escape

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House Judiciary Subcommittee
on Crime and Corrections

State Correctional Institution
1100 Pike Street
Huntingdon, Pennsylvania

Thursday, October 14, 1999 - 9:05 a.m.

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BEFORE:

Honorable Jerry Birmelin, Majority Chairperson
Honorable James Harold, Minority Chairperson
Honorable Kathy Manderino

IN ATTENDANCE:

Honorable Larry Sather
Honorable Babette Josephs
Honorable Donald Walko

KEY REPORTERS

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ALSO PRESENT:

Brian Preski, Esquire
Majority Chief Counsel

Michael Rish
Minority Executive Director

Cathy Hudson
Minority Committee Secretary

Susan Thomas
Executive Secretary for Representative Blaum.

C O N T E N T S

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1 CHAIRPERSON BIRMELIN: I'd like to
2 have your attention for a minute and then we can
3 get started. I want to welcome you this morning
4 to the Pennsylvania House of Representatives
5 Subcommittee on Crime and Correction's hearing
6 and we are today discussing and receiving
7 testimony on an event that occurred here at
8 SCI-Huntingdon on August the 2nd of this year,
9 the escape of an inmate named Norman Johnston.

10 We have a rather full agenda that's
11 going to keep us busy perhaps through 12:30 or
12 one o'clock today. I'm going to do my best to
13 make sure that those who are testifying are
14 testifying on time and have the opportunity to
15 answer questions during their time -- If any of
16 you are interested in an agenda, we have some up
17 here on the front table and you may feel free to
18 help yourselves. Try not to block the camera
19 angles if you would, please.

20 I'm Representative Birmelin. I come
21 from Wayne and Pike Counties, and I'm the
22 Chairman of the Subcommittee, and I will ask the
23 members and staff who are with me today if
24 they'll introduce themselves, starting with my
25 far right.

1 REPRESENTATIVE MANDERINO: Kathy
2 Manderino from Philadelphia County.

3 REPRESENTATIVE SATHER: Larry Sather
4 from the 81st District of Huntingdon and
5 Northern Blair.

6 REPRESENTATIVE WALKO: Don Walko,
7 Pittsburgh.

8 REPRESENTATIVE JOSEPHS: Babette
9 Josephs, Philadelphia County.

10 MR. RISH: I'm Mike Rish, staff for
11 the Democratic Judiciary Committee.

12 MR. PRESKI: Good morning. Brian
13 Preski, Chief Counsel for the committee.

14 CHAIRPERSON BIRMELIN: We do have at
15 least one other member who will be here and
16 maybe others, and as they are arriving I will do
17 my best to introduce them so that you in the
18 audience know who everybody is.

19 Without further ado, I'll ask the
20 first testifiers to come forward and to present
21 their testimony for us. The Secretary of
22 Corrections for Pennsylvania is Martin Horn and
23 he is going to be testifying this morning along
24 with Frederick Frank, who's the superintendent
25 here at SCI-Huntingdon.

1 Gentlemen, we welcome you and we
2 know that you have prepared written remarks. I
3 would also suggest for the members of the
4 audience who are interested in the Secretary's
5 remarks, we do have some extra copies. If
6 you'll see the gentleman waving to the right
7 over here, he can give you a copy of those
8 prepared remarks.

9 Secretary Horn, we welcome you here
10 today and Superintendent Frank. It's my
11 understanding, Secretary Horn, you're going to
12 begin and you may do so when you're ready.

13 SECRETARY HORN: Thank you, very
14 much, Chairman Birmelin, and members of the
15 committee. I have a prepared statement. I've
16 amended it from my spoken remarks, and I'll try
17 and abbreviate them for you.

18 Mr. Chairman, members of the
19 committee: I appreciate the opportunity to
20 appear before you to review the escape of Inmate
21 Norman Johnston from SCI-Huntingdon on August 2,
22 1999. Johnston was committed to the Department
23 to serve four consecutive life sentences and a
24 consecutive 12 and a half to 25-year sentence
25 for criminal conspiracy and aggravated assault.

1 It was the clear intention of the
2 Commonwealth that he never be allowed to walk
3 the streets again. That he was able to escape
4 from a restricted housing unit in a maximum
5 security prison represents a substantial failure
6 of SCI-Huntingdon and my department to fulfill
7 its most fundamental responsibility to securely
8 confine the inmates committed to it.

9 He was able to succeed because
10 certain staff, in violation of clear Department
11 policy, allowed themselves to be used by this
12 inmate. He was clever enough to organize a ring
13 of confederates who maintained strict silence
14 and aided him in securing escape implements.
15 The Department through the years had accorded
16 preferential treatment to legal mail.

17 Staff in the housing unit where he
18 was confined did not perform their duties in a
19 thorough and effective manner. A design flaw in
20 the construction of the housing unit allowed him
21 to conceal his activities. Changes made to the
22 construction of SCI-Huntingdon in previous years
23 had compromised the original structural
24 integrity of the facility; and, certain
25 management staff and middle management staff

1 failed to fulfill their responsibilities in
2 certain areas to ensure that department
3 procedure was being followed and that good
4 security practices were utilized.

5 For many years, until the Camp Hill
6 Special Management Unit and SCI-Greene opened,
7 Huntingdon was the end of the line in the
8 corrections system, housing the most
9 intransigent and dangerous inmates. The
10 building from which Johnston escaped, G Block,
11 is the Restricted Housing Unit. This unit
12 houses inmates in disciplinary custody for
13 violating institutional rules and administrative
14 custody inmates held in restricted housing for
15 protection, investigation, or other security
16 reasons.

17 When G Block was built in 1991, it
18 was deemed to be the most secure housing unit at
19 Huntingdon. The building was believed to be
20 more than adequate security for RHU inmates
21 because the construction of the building itself
22 provides high security without secondary
23 perimeters.

24 Before G Block was built, RHU
25 inmates were confined in B Block. B Block is

1 one of the facility's original housing units,
2 and given its age, the mortar between the blocks
3 had begun to deteriorate. In May 1984, two
4 inmates were found to have cut their cell door
5 bars in an escape attempt. Approximately three
6 months before that, two inmates were discovered
7 out of their cells.

8 Before 1993, inmates broke through
9 the mortar of the brick walls in D Block, a
10 similar block, and gained access to the pipe
11 chase and from there exited to the basement.
12 Consequently, the RHU was moved to G Block,
13 although B Block continued to be utilized as
14 extra restricted housing cell space when there
15 were more inmates than could be accommodated
16 in G.

17 Because RHU inmates are segregated
18 from contact with general population, are
19 searched frequently, and are always handcuffed
20 and escorted during any movement, it was
21 believed that G Block and its construction would
22 provide adequate security for them.

23 Johnston was confined to the G Block
24 RHU since August 14, 1998, when he was charged
25 with attempting to convey a legal brief, which

1 had been carved out and which contained six bags
2 of marijuana and a security screwdriver tip, to
3 another inmate in the RHU. And I have a -- I
4 actually have that legal brief and the cutout
5 here with me today for the committee to take a
6 look at, and you can bring it up and you might
7 want to pass it around, take a look at it. Ten
8 days later on August 24, 1998, Johnston
9 attempted to obtain four nails concealed in a
10 tube of toothpaste. This was intercepted and he
11 received a misconduct report for this
12 contraband.

13 Johnston was able to escape because
14 he was able to defeat the physical security of
15 the G Block structure. He did this by gaining
16 access to two implements, both of which were
17 required for this escape to be successful.

18 First, he needed to obtain a
19 screwdriver implement capable of unfastening the
20 screws which held the wire mesh security screen
21 covering the window. Secondly, he needed to
22 obtain something with which to cut through the
23 bar that subdivided the 12-inch-wide window.
24 Without either one of these items he could not
25 have successfully escaped.

1 While there were other lapses that
2 contributed to his ability to escape, the most
3 fundamental reason why this escape occurred was
4 his access to these items.

5 These items were probably introduced
6 into the facility concealed in legal materials
7 mailed to other inmates, not to Johnston.

8 Johnston himself was found guilty of misconduct
9 a year earlier for attempting to smuggle just
10 such a legal brief with a security screwdriver
11 tip concealed in it to another inmate, perhaps
12 in an effort to begin the escape process then.

13 Our investigation indicates that
14 neither of these items were obtained from
15 facility inventory. Facility tool control
16 practices were sound and were followed, and the
17 inventory was correct. A piece of a blade,
18 either from a hacksaw or a mechanical saw, was
19 found near the fence through which Johnston
20 exited the facility, and it wasn't from the
21 facility inventory. Therefore, we do not
22 believe that these items were introduced into
23 the facility by staff smuggling them in or by
24 theft from facility inventories.

25 Once these items were inside the

1 facility, Johnston utilized one of several
2 methods to get them delivered to him in RHU. It
3 is possible that other inmates carried these
4 items into the RHU on their persons or concealed
5 in body cavities when they themselves were
6 placed in the RHU. In addition, other inmates
7 could have delivered items when they entered the
8 RHU to perform work such as cleaning or
9 barbering.

10 More likely, however, Johnston
11 relied on staff. Officer Ezequiel Ruiz admitted
12 to us that he has been delivering items to
13 inmates in the RHU from general population and
14 between RHU inmates for more than three years.
15 Inmates involved in the delivery of this
16 contraband have corroborated his statement.

17 Office Ruiz admitted that he made
18 numerous deliveries, 12 to 18 of which were made
19 to Johnston while he was confined within the
20 RHU. He told us he believed that he was
21 delivering coffee, cigarettes or tobacco,
22 written and oral messages, magazines and loose
23 papers, but he admits he never checked. An
24 inmate from whom he obtained these items has
25 told us that when Johnston's associates wanted

1 to get contraband to Johnston in the RHU they
2 would give it to this inmate, and he gave it to
3 Ruiz for delivery.

4 Officer Ruiz was regularly assigned
5 to work in the RHU. He often visited even when
6 it was not his assignment. He denies receiving
7 payments for the delivery, but an inmate has
8 told us that Johnston would give Ruiz 50 dollar
9 bills, quote, just to keep him happy, closed
10 quote. We have also been told that Ruiz would
11 occasionally provide Johnston with notice of
12 cell searches and remove contraband from
13 Johnston's cell prior to the search.

14 Nurse Wendy Randolph admitted to our
15 investigators that she delivered items from
16 general population inmates to the inmates in the
17 RHU on seven occasions since December 1997,
18 including at least one delivery to Johnston.
19 She told us the deliveries were made in antacid
20 bottles given to her by inmates. Those bottles
21 contained an inmate number written on the top of
22 the bottle. She then gave the bottles to the
23 designated RHU inmates. She believed that these
24 bottles contained coffee, tobacco, or messages.
25 She, too, never checked.

1 Inmates in population would approach
2 Nurse Randolph and ask her to deliver items to
3 RHU inmates. An inmate involved in these
4 deliveries has told us that marijuana was
5 frequently packaged in the antacid bottles given
6 to Nurse Randolph for delivery. We have been
7 unable to prove conclusively that the specific
8 items used in this escape were conveyed to
9 Johnston by Officer Ruiz or Nurse Randolph.

10 The statute regarding prison
11 contraband and the statute addressing
12 facilitation of escape require that we be able
13 to prove beyond a reasonable doubt that the
14 items were delivered to Johnston by the
15 employee. For that reason, while we believe
16 this is how Johnston obtained these materials,
17 it may not be possible to obtain a criminal
18 conviction in this matter because we cannot
19 prove which employee actually delivered escape
20 implements to Johnston.

21 A design flaw in the RHU cell window
22 is that the safety mesh window screens, which
23 are designed to prevent the inmates from
24 actually breaking the glass, prevent cell block
25 officers from adequately checking the window bar

1 which is behind it and separated from the
2 outside by glass. The frame of the mesh screen
3 concealed from the view of the officer the
4 uppermost and bottom-most portions of the
5 vertical tubular impost that enabled Johnston to
6 conceal the cuts he made.

7 We believe that because he had
8 access to a security screwdriver implement,
9 Johnston was able to remove the security screws.
10 This allowed him to take the screen off at
11 night, do his cutting and then return the wire
12 mesh screen to its proper location before
13 daylight. The security screwdriver implement
14 which we believe he used has never been found.

15 A small piece of hacksaw blade,
16 approximately two inches in length, was found at
17 the exterior perimeter fence through which
18 Johnston was able to escape by making some 22
19 cuts. It was a carbide blade different from
20 those used in the facility, but similar to
21 blades that had been found in a typewriter in
22 the chaplain's office in June of this year.
23 Another inmate has been criminally charged with
24 possession of this contraband. However, prior
25 to the escape no connection was made between

1 Inmate Romansky's possession of these blades
2 outside the RHU and Johnston.

3 We believe that by using the
4 security screwdriver implement to remove the
5 wire mesh screen and the hacksaw blade to cut
6 through the seven-eighth inch diameter
7 tool-resistant steel bar in the window, Johnston
8 was able to exit his cell and defeat the
9 physical security of the building. You can give
10 this to them. This is a bar that he cut. He
11 was able to accomplish this because staff
12 allowed themselves to be used by Johnston in
13 violation of Department policy and gave him
14 access to these two necessary items.

15 His cutting of the bars should have
16 been detected during security cell inspections.
17 Department policy mandates that inmate cells be
18 checked weekly and that all security devices
19 such as bars, locks, windows, doors, and alarms
20 be inspected. The inspections are to be logged
21 and the staff member who conducted the
22 inspection are to be identified in the log.
23 Huntingdon's RHU manual mandates that all cells
24 in the RHU are to be inspected every three days
25 on a regular basis.

1 Although the log indicated that the
2 cells were checked for security on a daily basis
3 during the exercise period or every three days
4 when an inmate refused yard, no record was kept
5 regarding who checked the cell. Huntingdon's
6 records indicate that Johnston's cell was
7 checked on July 19th, 22nd, 23rd, 26th, 29th and
8 30th. However, the cutting of the bars was not
9 detected. Although the mesh screen made
10 checking the bar difficult, it was not
11 impossible. More importantly, a good inspection
12 might have revealed that the screen had been
13 tampered with.

14 Once he exited the building,
15 Johnston gained access to the area containing
16 the individual exercise units formerly utilized
17 for RHU inmates. The layer upon layer of wire
18 mesh fabric which made up these individual
19 exercise units served to partially obscure the
20 observation of the officer in Tower 3, who
21 should have otherwise been able to observe the
22 building line along which Johnston would have
23 had to move once he exited his cell.

24 Johnston, presumably using the
25 hacksaw blade, was able to cut the interior

1 fence on the back of the first individual
2 exercise unit closest to his cell and unravel
3 the fencing. This gave him access to an area
4 between that inside perimeter fence and the
5 second perimeter fence. He first turned right
6 and attempted to cut through the exterior
7 perimeter fence, which is 14 feet high and made
8 of higher gauge metal, in an area just under the
9 windows of the RHU. We found a single cut in
10 this area. We believe that he moved away from
11 this area because he feared being discovered
12 either by officers making rounds and looking
13 through the windows of the RHU, or by officers
14 in the adjacent parking lot area.

15 (Power outage occurred)

16 CHAIRPERSON BIRMELIN: Recess time
17 is over. Come on back in off the playground and
18 we'll get started again with the hearing. I
19 apologize for this. I guess we have not
20 appropriated enough money to DOC so they could
21 have adequate wiring for their visitor rooms.
22 We're going to do the best we can here.

23 SECRETARY HORN: Mr. Chairman, thank
24 you. I apologize for that, but it is an old
25 facility and was not equipped for this purpose.

1 We'll hopefully have full power restored
2 shortly.

3 Following the 1997 escape from SCI
4 Pittsburgh, the Department evaluated all of its
5 perimeters. As a result of that evaluation, we
6 identified the perimeter here at Huntingdon as
7 vulnerable. Consequently, in October 1997, a
8 capital budget project in the amount of
9 \$7.9 million was requested for security
10 improvements at Huntingdon. This included the
11 addition of a dual technology perimeter
12 intrusion system on the RHU fence. Other
13 security enhancements included a perimeter
14 intrusion detection system on the perimeter
15 wall, additional fencing with razor wire, and
16 closed circuit television video surveillance
17 monitoring.

18 An additional \$1.6 million was added
19 to the capital project for fiscal '99-2000. To
20 expedite the project, the Department allocated
21 197,000 in fiscal '98-99 operating funds for
22 perimeter intrusion detection system
23 enhancements and \$76,000 for video surveillance.
24 We did this because we felt that the upgrades
25 were too important to wait for the capital

1 budget project.

2 Prior to the escape, Huntingdon had
3 already ordered \$197,000 worth of perimeter
4 intrusion detection system enhancements,
5 including a dual detection system around the
6 original wall, the yard and E, F, and G blocks.
7 The contract was awarded prior to the escape,
8 and completion of that project is expected
9 before the end of the year.

10 To attempt this escape Johnston not
11 only had to believe that he could cut through
12 the bars undetected, but also that he could
13 absent himself from the cell for a period of
14 time without detection.

15 Huntingdon's RHU manual requires
16 that all tiers and quadrants be patrolled in
17 such a manner that all inmates in the RHU are
18 personally observed by a correctional officer at
19 least every 30 minutes, but on an irregular
20 schedule. During the required tier checks, the
21 corrections officers use a Morse watchman punch
22 station system. This is used to punch in the
23 time an officer performs a tier check. A record
24 of the punch is maintained.

25 A review of the records of this

1 system revealed disparity among the various
2 officers making the required tours. Some took
3 as long as 45 minutes to complete the check and
4 another was completed within seven minutes.
5 Despite the fact that policy requires that these
6 tours be conducted at least every 30 minutes,
7 there were several officers who did not meet
8 this standard, and in one case the interval was
9 70 minutes.

10 Department of Corrections' policy
11 requires that officers see flesh or movement for
12 an inmate to be recorded as present during a
13 count. Huntingdon's local policy requires
14 inmate counts at 1 a.m., 5 a.m., 10 a.m., 4 p.m.
15 and 9:15 p.m. daily. And while facility policy
16 and the Department policy require inmates to
17 stand for the 10 a.m., 4 p.m. and 9:15 p.m.
18 counts, Huntingdon's RHU manual only requires
19 the inmates to stand for the 10 a.m. count.
20 More importantly, we have subsequently learned
21 that it was the practice of officers in the RHU
22 not to require inmates to stand even for the
23 10 a.m. count.

24 It is clear from the events of
25 August 2, 1999 that the 5 a.m. and 10 a.m.

1 counts were faulty. No flesh or movement could
2 have been observed from Johnston. Yet, Officer
3 Corley recorded him as present for the 5 a.m.
4 count and Officer Tress recorded him as present
5 for the 10 a.m. count.

6 Subsequent investigation also
7 revealed that, despite facility policy
8 prohibiting inmates from affixing anything to
9 lights, cell walls or windows, numerous lights
10 had been altered by the inmates by covering the
11 lights, resulting in dark cells, making
12 inspection difficult. Security inspections
13 should have addressed this violation and
14 required maintenance to make repairs. However,
15 this was not done.

16 RHU staff also breached RHU
17 in-processing policies. Huntingdon's RHU manual
18 requires a thorough search of every cell prior
19 to placing an inmate in that cell, and further
20 requires that the condition of the cells be
21 recorded on a cell condition form. RHU staff
22 failed to follow this policy. Inmates were
23 placed into cells without the cells being
24 searched in advance, and there was poor
25 documentation. Consequently, it cannot be

1 determined exactly when the last search of
2 Johnston's cell was conducted.

3 Following the escape, we determined
4 that Johnston possessed an excessive number of
5 items in clear violation of policy. This
6 occurred despite the fact that there was a
7 search of the entire facility, including the
8 RHU, on December 21, 1998, and an RHU shakedown
9 conducted on March 13, 1999.

10 Had these inspections and searches
11 been conducted as required, and had the staff
12 performing them performed them in an adequate
13 fashion, the compromise of the wire mesh screen
14 and cell bar should have been detected prior to
15 the escape.

16 More importantly, however, without
17 the ability to import the hacksaw blade and
18 security screw implement into the RHU, Johnston
19 would not have been able to escape. Had the
20 officers on the block been making tier checks in
21 an acceptable fashion and conducting the count
22 in accordance with Department policy, his escape
23 certainly would have been discovered far earlier
24 than it was. Had his cell been properly
25 searched and inspected, this escape could have

1 been prevented. That these practices were
2 allowed to erode is the responsibility of middle
3 and upper management.

4 We must accept the physical
5 realities of the facility in which we inherit.
6 The Department recognized the weaknesses in the
7 Huntingdon perimeter and took reasonable and
8 prudent steps to correct them. Could the
9 Department have moved more quickly? Certainly,
10 in hindsight, I believe we should have.
11 Nonetheless, our decision to use operating funds
12 rather than capital monies indicates the urgency
13 which we assign to improving the Huntingdon
14 perimeter.

15 No doubt there was also an
16 intelligence failure of major proportions at
17 Huntingdon which allowed this escape to occur.
18 No connection was made between the discovery of
19 hacksaw blades in the facility chapel several
20 months earlier and the August 1998 discovery of
21 a security screwdriver tip in a legal brief and
22 concerns raised by the union at labor management
23 meetings about screws on security screens being
24 tampered with in the RHU.

25 Moreover, staff admitted passing

1 items to inmates on perhaps as many as 300
2 occasions, 18 of them to Johnston, and at least
3 half a dozen other inmates knew of and
4 participated in this network. This should have
5 been revealed through good investigation by the
6 facility security office. We must, however,
7 acknowledge that in the last several years the
8 workload of facility security offices has
9 increased substantially. We are reevaluating
10 the staffing in these units.

11 Escapes occur when multiple systems
12 break down and multiple members of staff fail to
13 perform their duties in the prescribed fashion.
14 This is what happened here. No single system
15 effectively guards against escape and no
16 multiple systems are entirely foolproof. The
17 escape-proof prison has yet to be built.

18 While we cannot prevent all escapes,
19 our Department is in the business of reducing
20 the possibility that an escape will occur, and
21 we do that by layer upon layer of redundancy.
22 The perimeter is our last line of defense. Good
23 prison security begins inside the facility.
24 This escape occurred primarily because staff
25 compromised their integrity, but it also

1 occurred because of the failure of physical
2 barriers and lax attitudes and complacency on
3 the part of staff beginning well inside the
4 perimeter. This was exploited by a dangerous,
5 devious and intelligent inmate.

6 We have expedited the installation
7 of video surveillance cameras. We have posted
8 additional foot patrols around the RHU. We are
9 spending substantial overtime here and elsewhere
10 to address all physical plant shortcomings, and,
11 while cost should not be determinative where
12 public safety is concerned, the total cost of
13 operating a corrections system is a matter of
14 concern to all of us. We must consider other
15 solutions.

16 Our systems are only as good as the
17 people who observe the inmates, the people who
18 maintain the facility, and the people who
19 supervise the staff within these prisons. We
20 have a sound training program, but we have to
21 recognize that these jobs are tedious and
22 oftentimes unpleasant. Staff sometimes lose
23 their focus. The challenge to prison
24 administrators is to continually energize our
25 staff, to help them to understand the importance

1 of what they do no matter how repetitive and
2 mundane it may seem.

3 The public should recognize that
4 escape happens rarely. The statistics are
5 clear. This was the first successful escape
6 from this prison in ten years. Compared to
7 comparable states, Pennsylvania has far fewer
8 escapes. Our goal is to have no escapes. The
9 public should be confident that the system is
10 overwhelmingly operated by conscientious men and
11 women who are alert and vigilant and have public
12 safety first in their minds.

13 Throughout this last year I have
14 said repeatedly, including before this body, how
15 proud I am of the 13,000 men and women of the
16 Department of Corrections. Most of them perform
17 extraordinary tasks under trying circumstances
18 for little recognition day in and day out.

19 It is not my purpose here today to
20 make excuses. Rather, I have tried to lay out
21 the facts to you as we know them, to share with
22 you my conclusions about why this escape
23 occurred, and to outline steps we have already
24 taken to prevent future escapes.

25 On behalf of the 13,000 men and

1 women of the Department of Corrections, I
2 apologize to the citizens of Huntingdon, as well
3 as to the communities in southeastern
4 Pennsylvania who were traumatized by Johnston's
5 return to their communities. With the support
6 of the Governor and the General Assembly, we
7 will continue to strive to improve the security
8 of our prisons and prevent events such as this
9 from occurring again. Thank you.

10 CHAIRPERSON BIRMELIN: Thank you,
11 Secretary Horn. I have a few questions for you.
12 And before I ask my questions, I want to share
13 with the committee members who are seated here
14 with me a couple of ground rules, if I could.
15 We've lost 20 minutes because of the power
16 outage, so I'll certainly keep that in mind as
17 we try to keep to the schedule that we have.

18 I would ask the members to make sure
19 that the questions that they ask are questions
20 that were not in writing and presented to them
21 so that we're not asking for information we've
22 already received. I'll also ask the members to
23 indicate to me ahead of time whether or not they
24 have any questions so that I don't have to ask
25 each of you if you have questions.

1 And thirdly, I would ask the members
2 to make sure that their questions are to the
3 point and to the issues that are before us and
4 not straying off into subjects that may have
5 very little to do with this particular subject
6 at hand. All that having been said, let me ask
7 you a couple questions, if I could, Secretary
8 Horn.

9 In the opening page of your
10 statement, your first sub-point says that
11 certain staff in violation of clear Department
12 policy allowed themselves to be used by this
13 inmate. Are you referring only to the two who
14 are mentioned, Ruiz and the Randolph woman, or
15 are you referring to others?

16 SECRETARY HORN: Yes, just those two
17 at this point.

18 CHAIRPERSON BIRMELIN: The people
19 who normally occupy RHU, is that a
20 representative sample of the prison population
21 as a whole in terms of what level prisoners they
22 are and/or their racial makeup?

23 SECRETARY HORN: Yes.

24 CHAIRPERSON BIRMELIN: In this
25 prison I believe it's somewhere in the

1 neighborhood of
2 60 percent minorities; is that correct?

3 SECRETARY HORN: Yes.

4 CHAIRPERSON BIRMELIN: One of the
5 suggestions that was made to me was that part of
6 the problem may have been that the -- And I'm
7 not giving this any credence and I'm not denying
8 it. I'm saying that part of the problem may be
9 that the RHU COs are primarily white and you
10 have a 60 percent or higher RHU population that
11 is black. And that sometimes the officers are
12 more suspicious of and more carefully watching
13 those who are black as opposed to those who are
14 white, who they may feel some more infinity or
15 kinship to.

16 Is that a credible, at least a
17 factor in why Johnston may not have been given
18 the scrutiny that he should have been given?

19 SECRETARY HORN: I don't think that
20 there's evidence to indicate that that's the
21 case.

22 CHAIRPERSON BIRMELIN: Okay. One of
23 the things that you did not comment on is the
24 fact that, I believe it's you and the Governor,
25 have agreed to formulate a committee outside of

1 DOC, people from other states, as a matter of
2 fact, who are doing an intensive evaluation of
3 all of our security in all of our prisons in
4 Pennsylvania.

5 Could you just give us a brief
6 comment as to where we are in that process, and
7 if it's true that -- what you're looking for
8 from them?

9 SECRETARY HORN: Yes. I asked that
10 the president of the American Correctional
11 Association, Richard Stalder, who is the
12 Secretary of Public Safety for the State of
13 Louisiana, name the panel so that it would not
14 be named by myself. The panel is made up of
15 Lane McCotter, who has a distinguished career.
16 He was the warden of the United States Military
17 Disciplinary Barracks at Fort Lebanworth,
18 Kansas; Director of Corrections in New Mexico,
19 Texas, Utah. He's chairing the panel.

20 The other members are Larry Dubois,
21 the former Director of Corrections in the State
22 of Massachusetts, and previous to that, a career
23 employee of the Federal Bureau of Prisons; Bob
24 Brown, who for six years was the Director of
25 Corrections in Michigan; and Steve Puckett, who

1 was previously Commissioner of Corrections in
2 the State of Mississippi and before that the
3 warden at Parchment Prison.

4 They will be visiting 12 of our 24
5 prisons. They will visit all of the maximum
6 security prisons. They will visit several of
7 the prototypicals. They have been asked, first
8 of all, to look at these two escapes, the
9 Huntingdon escape and the Daniel McCloskey
10 escape from Dallas, and determine whether they
11 occurred because of substantial systemic
12 problems in the Department or isolated
13 occurrences. They've also been asked to look at
14 the fundamental security practices of our
15 Department and evaluate them.

16 They are visiting these facilities.
17 They are meeting individually, with no Central
18 Office staff present, with the superintendent,
19 the staff of those facilities, union
20 representatives and at each facility five
21 inmates chosen at random in private. They are
22 inspecting those facilities. They are reviewing
23 our policies. They're going to be reviewing our
24 staff training.

25 They will be submitting a report to

1 me and to the Governor not later than January
2 31st. Their contract does provide that at the
3 direction of the Governor they will appear
4 before or meet with legislative committees once
5 the Governor has had a chance to review their
6 findings, so we hope to have that process
7 complete.

8 They're in their second week of
9 visits. They completed one week in which they
10 visited, I believe four facilities. They're
11 visiting four additional facilities this week,
12 and then they're coming back in November to
13 visit four other facilities.

14 CHAIRPERSON BIRMELIN: Thank you.
15 We are currently in the House District of
16 Representative Larry Sather, who is not on the
17 Judiciary Committee but who we have invited and
18 asked to be a part of the hearings that we have
19 here because it resides in his district. I'm
20 going to begin the questioning with letting
21 Representative Sather ask his.

22 REPRESENTATIVE SATHER: Thank you,
23 Mr. Chairman. I have many questions, but I'm
24 not going to due to the good panel here.

25 The most common asked question of me

1 from my constituents, the period of time from
2 the escape until that was acknowledged by this
3 prison community, you have testified here about
4 some of that. But again, this flesh or
5 movement, is that prescribed or is that designed
6 because of concerns others have raised about
7 unfair treatment of actually walking into a cell
8 and making sure somebody is there?

9 What's driving this? And can you
10 elaborate in a few words why, in your opinion
11 and others' opinions, what you have been able to
12 gather thus far, why it took so long?

13 SECRETARY HORN: That is an issue in
14 which we are always attempting to strike a
15 balance. It is not ever our purpose to do
16 things for the purpose of inconveniencing
17 inmates or going out of our way to make life
18 miserable, and over the years accommodations get
19 made.

20 So, for example, since 1989 the
21 Department had a policy that there would be --
22 You can do a count by requiring the inmate to
23 stand up or sit up so that you can see for sure
24 that it's him or her and that they're there.
25 Or, if the inmate is lying down, you say the

1 officer has to at least see flesh or movement.
2 And for years the policy of the Department was
3 not to require a standing count prior to 7 a.m.
4 in the morning to allow the inmates to sleep in.
5 An argument could be made that that's a
6 reasonable thing to do.

7 We have since changed the policy, so
8 now there is a count prior to the facility
9 opening up to serve its breakfast meal, which
10 means we're doing a count at around six in the
11 morning.

12 REPRESENTATIVE SATHER: When did
13 that take place? When did you --

14 SECRETARY HORN: We instituted that
15 -- we changed that policy after this escape
16 because we were basically going from 10 o'clock
17 at night until sometime after 7 a.m. without a
18 standing count.

19 The requirement for flesh or
20 movement has been Department policy of long
21 duration. Officers are trained when they come
22 to our training academy that that is the
23 requirement when doing a count, and it's part of
24 the ongoing training which they receive as part
25 of their in-service training program each year.

1 In this case, and I can pass around
2 for you copies of the officers' -- The two
3 counts that are in question here are the 5 a.m.
4 count. Prior to 5 a.m. there were supposed to
5 have been tier checks, and those are not
6 technically counts. While I believe that had
7 they been done properly, that the officers
8 should have seen Johnston playing around with
9 the security mesh screen, trying to get through
10 the window -- This didn't just happen in the
11 blink of an eye, and had they been made, I think
12 it would have been more difficult. He counted
13 on the fact that those tier checks were not
14 being made or the intervals were longer than
15 they should have been.

16 But, the 5 a.m. count, I believe,
17 should have been a flesh or movement count. By
18 policy it was a flesh or movement count. It
19 should have seen Johnston there. Now, while
20 Johnston had a dummy, and it was a good dummy,
21 it was not flesh or movement. Had that count
22 been done properly, we would have known that he
23 was gone a good five, five and a half hours
24 sooner than we did.

25 And even the 10 a.m. count, which

1 was supposed to be a standing count, was not
2 done properly. The reason for that was that,
3 historically, the inmates in the RHU refuse to
4 stand for the count, and once the inmate's in
5 the RHU, there's not a whole lot more you can
6 do. You can keep giving him paper, you can put
7 misconducts on him. For many of the inmates
8 they prefer to be in the RHU. For some inmates
9 it's a safer place to be. So, what do you do if
10 they don't stand?

11 And I think that over time, and with
12 the knowledge of middle management certainly,
13 the practice had become that they weren't
14 requiring the inmates to stand for the 10 a.m.
15 counts. So, again, we would have discovered his
16 absence sooner than we did. We discovered it at
17 about 10:30 a.m, but it should have clearly have
18 been discovered at 5 a.m.

19 I can pass around for the
20 committee's view, pictures looking into the cell
21 and a picture of the dummy. It was a good
22 dummy. There was human hair on it. The
23 officers believed that they saw a live human
24 being in that cell. It was not flesh. There
25 was no movement.

1 REPRESENTATIVE SATHER: Thank you in
2 that regard. This one I hope we can shorten the
3 answer because I know how tied we are, but I
4 have heard from individuals inside who are COs
5 here that Johnston was to be moved by you or the
6 superintendent and he refused to be moved, and
7 had that taken place maybe this would not have
8 gone down.

9 SECRETARY HORN: Several weeks prior
10 to the escape, Johnston's status was to be
11 changed and he was scheduled not to be moved
12 from the facility, but he was supposed to be
13 moved to a different cell.

14 Occasionally, inmates refuse to move
15 and when they do that we use force. As I
16 understand the situation, the RHU lieutenant
17 made a judgment call. Rather than using force
18 and running the risk that Johnston would be
19 injured or that staff would be injured -- Now,
20 I don't think the likelihood of staff being
21 injured is great because we do equip our staff
22 well. We use a sufficient number of staff, and
23 we're pretty good at doing these cell
24 extractions.

25 But, nonetheless, the lieutenant

1 made a discretionary decision not to move
2 Johnston from the cell since the change would
3 have not resulted in him moving to a different
4 section. He was moving from administrative
5 custody to disciplinary custody. He was going
6 to remain in the RHU anyway.

7 I think that, certainly, he would
8 have made an appropriate decision if he had
9 chosen to move him, but I can't fault him for
10 choosing not to move him and avoiding the risk
11 of injury. However, having made the decision
12 not to move him, I believe that common sense and
13 good judgment should have caused an alarm to go
14 off in his head to say, why isn't this inmate
15 willing to move, and caused him to force the
16 issue of at least searching the cell more
17 thoroughly, and I think there was a failure of
18 judgment in that case.

19 REPRESENTATIVE SATHER: Thank you.

20 CHAIRPERSON BIRMELIN: My
21 counterpart on the Democratic side of this
22 committee is Representative Harold James from
23 Philadelphia. He was a little bit late in
24 arriving and did not get a chance to introduce
25 himself. So I'll introduce him and also give

1 him the opportunity to ask questions at this
2 time.

3 REPRESENTATIVE JAMES: Thank, Mr.
4 Chairman, and thank you, Commissioner, for
5 testifying. Commissioner, I just want to
6 commend you for -- I think that you acted
7 properly in terms of responding to this
8 situation. I know that either -- I think right
9 after we were going to visit another institution
10 and you were right there, and we thought that
11 you would not be able to make it but you were
12 there and you -- I think that you took the
13 responsibility that was needed and addressed it
14 in a manner which I think was appropriate.

15 One of the things that came out of
16 the escape, and I had indicated that I thought
17 that staff might have been involved, and I know
18 during these investigations you found that to be
19 true. I just think that from what I've seen
20 that it probably involves more than just the two
21 staff people that have been identified, and
22 that, of course, will come out in the
23 investigation. It just appears that it has to
24 be more people involved in this kind of a
25 situation.

1 Do you think in terms of addressing
2 that, that there is a possibility of when
3 certain people work in the same area, the same
4 place over a certain length of time, that either
5 transferring or assignments could be -- help in
6 term of alleviating some of this or transferring
7 from other institutions? Has that been
8 considered?

9 SECRETARY HORN: We've certainly
10 considered that. I think certainly with respect
11 to some posts there is definitely a good
12 argument to be made for rotation at least within
13 the facility. The jobs do become tedious. I
14 think standing in a tower eight hours a day, day
15 after day, after awhile one loses one's focus.

16 I think that with respect to the
17 officers who work in cell blocks, there are two
18 sides to that argument. There are those who
19 would argue that what you lose is, officers get
20 to know their inmates and they know whose who
21 and what's what. They get to know -- they know
22 what the life of the organism is, so they know
23 when something's amiss, so there are two sides.

24 I also think that it's probably
25 unrealistic and impractical to talk about

1 transferring officers around from institution to
2 institution. The distances are great. It would
3 be terribly unfair to families and would make
4 the job even more unattractive than it is.

5 REPRESENTATIVE JAMES: Well, I
6 wouldn't go that far, you know, like from
7 Pittsburgh to Philadelphia, but I'll just say
8 like you have Smithfield and you have here, you
9 know, officers back and forth to institutions
10 with that kind of closeness.

11 SECRETARY HORN: That's something we
12 would certainly have to negotiate. I think that
13 would be covered under the collective bargaining
14 agreement. That would be a term and condition
15 of employment that I think would have to be
16 negotiated by the state, and I suspect that it
17 would not be something easily accomplished.

18 REPRESENTATIVE JAMES: Probably not.
19 I mean, change is always hard to take until you
20 do it and find out that it works out or it
21 doesn't work out. But anyway, thanks for the
22 response.

23 The other response, I noticed that
24 in the escape here it always seems that the
25 inmate becomes real -- or that the staff becomes

1 real satisfied with the inmate. They become
2 cozy and it seems that then something happens
3 and that seemed to happen like in the Pittsburgh
4 escape; you know, that the staff became -- you
5 know, it became routine. They trusted with a
6 certain gain and then something happened.

7 I would just -- And I appreciate the
8 question that the Chairman asked earlier. It
9 seems that minorities are not in enough
10 policy-making positions within the institution.
11 I notice I don't see any here, and I just wonder
12 if there's any kind of effort on the part of the
13 administration to try to increase minority
14 policy makers in the institutions?

15 SECRETARY HORN: Yes. And let me
16 just say that, I think that while we believe
17 clearly Ruiz and Randolph were too close or
18 over-identified with the inmate, in fact, others
19 within the facility clearly were not close to
20 Johnston and were doing everything to keep their
21 thumb on him.

22 I think that we need to have a
23 diverse work force at all levels of the
24 Department, and we have tried very hard to do
25 that. The facilities are where the facilities

1 are. They are in communities where there are
2 not large representations of minority group
3 members in the general population, and it is
4 very difficult for us to recruit people from
5 cultural minorities and ethnic minorities to
6 relocate from the state's urban centers to these
7 areas.

8 Our Department has tried very hard
9 to increase minority representation at all
10 levels. We've expanded our recruiting. We've
11 changed the way we do testing. It used to be
12 that if we had openings for positions here in
13 Huntingdon, we would give the test in the
14 Huntingdon area. We now give the test statewide
15 in Philadelphia, in Harrisburg, in Pittsburgh,
16 in Altoona, throughout the state, and we
17 advertise that there are openings in Huntingdon,
18 and we encourage people to try to relocate where
19 these jobs are.

20 Additionally, we recruit in
21 predominantly minority colleges. We attend job
22 fairs in minority areas. More importantly, as
23 you know, we have provided recruiting material
24 to every member of the Black Caucus and asked
25 them to distribute it to their constituents in

1 their neighborhoods. We advertise in the
2 Philadelphia Tribune and in the Sun and in the
3 Courier in Pittsburgh. We advertise in
4 Hispanic, in Spanish-language newspapers. We
5 are doing everything that we know how to do
6 within the state's system to recruit minorities.
7 It is a struggle and we need help.

8 REPRESENTATIVE JAMES: Well, we
9 would like to offer you the help and I would
10 hope that you would talk to some of us
11 legislators in terms of trying to extend that
12 outreach, but I think that we can help on that
13 if we work together at it.

14 The final question is that, Johnston
15 going into the RHU unit, it appears that you
16 think that he possibly may have known of the
17 fact that you were getting this equipment
18 because of his relationship with some of the
19 staff people and that this was ordered? Then
20 all of a sudden he had to do this by a certain
21 time or period. Has that been checked?

22 SECRETARY HORN: Well, I think, in
23 fact, it was public knowledge that we were
24 installing the perimeter system enhancements.
25 As you know, it's not uncommon when an

1 appropriation gets made in a legislative
2 district for a press release to be issued and
3 for it to appear in the local newspapers and on
4 the local TV. So the fact that there was a nine
5 million dollar appropriation for perimeter
6 security enhancements at SCI-Huntingdon was
7 public knowledge.

8 REPRESENTATIVE JAMES: All right.
9 Thank you. And for the sake of time I'm not
10 going to ask you anymore questions. I'd just
11 like to ask the Chairman's permission that we
12 can, you know, continue our communications if
13 any questions arise that we can share.

14 SECRETARY HORN: Certainly, sir.

15 CHAIRPERSON BIRMELIN:
16 Representative Josephs.

17 REPRESENTATIVE JOSEPHS: Thank you,
18 Mr. Chairman. Thank you, Mr. Secretary.

19 We just had a power outage here.
20 We're in the prison, we're in the visitors'
21 room. Can you tell us what happened -- and it
22 was for about 20 minutes, as our Chairman just
23 indicated. Can you tell us what happened in the
24 rest of the prison? It concerns me because, I
25 understand that all of this perimeter security

1 and other security you're talking about is
2 electrically powered; is it not?

3 SECRETARY HORN: That's correct.
4 What happened was that a single breaker that
5 affects this side of this room burnt out because
6 it's not built for all the circuitry, all the
7 drain that the cameras and the microphones and
8 so on require. The rest of the facility
9 continued to operate. So it was just like
10 blowing a fuse in a section of your own home.

11 The facility -- In fact, all of our
12 facilities have back-up generators that are
13 interconnected to the facility's electrical
14 system and geared to kick in automatically if
15 there is a power outage, and those generators
16 are supposed to be checked, I believe, every
17 week and every month under load; that is, to try
18 and run the facility fully.

19 But, it's absolutely true, and among
20 our capital project requests, not at Huntingdon
21 but at other facilities, our requests to
22 upgrade electrical systems because, unless you
23 invest in that electrical infrastructure what
24 good are all these technological systems?

25 REPRESENTATIVE JOSEPHS: Speaking of

1 the technology, I was surprised coming here to
2 see how close homes are to the prison. None of
3 the other places that I have been in
4 Pennsylvania have we had this set up. Are any
5 of these systems every tripped by civilians or
6 by, for instance, by kids, teenagers or other
7 kids running around in this area close to the
8 perimeters?

9 SECRETARY HORN: They're more often
10 tripped by animals, birds, sometimes by strong
11 winds. I think that members of the community by
12 and large know to stay away.

13 Also, the intrusion systems
14 typically are on the interior perimeter fencing;
15 not on the exterior perimeter fencing, so it
16 would not -- Although some of the systems that
17 we're putting in, we're going to have systems on
18 both in some of the new systems that we're
19 putting in.

20 REPRESENTATIVE JOSEPHS: If the
21 system is tripped by some wildlife, let's say,
22 or perhaps some nuisance animals that live here,
23 I'm sure they do because they live every place,
24 what's the response? Is there a policy on how
25 you respond to that?

1 SECRETARY HORN: Where we have
2 electronic intrusion systems we respond to every
3 alarm and investigate it and reset the system.
4 So, where we have these systems there is a
5 mobile perimeter vehicle that travels around.
6 Typically, that vehicle has what we refer to as
7 an annunciator board in it that has a map of the
8 facility and a light that shows up showing the
9 zone where the intrusion occurs and they respond
10 to that zone, and they investigate and try and
11 determine the reason for it.

12 One of the things that you try to
13 balance in these systems is the sensitivity.
14 You don't want it to be so sensitive that every
15 sparrow that lands on it sets it off. But on
16 the other hand, you want it to be sensitive
17 enough that if a small inmate tries to climb it
18 that it will go off.

19 The more false alarms you have, the
20 more staff become themselves desensitized. They
21 say, oh, it's a sparrow again. So you're always
22 trying to achieve that balance.

23 Electronic systems will never
24 substitute for the human element. I also think
25 one of the things we've learned is that, you --

1 and this is something we've started to do, you
2 need to integrate video surveillance. If you
3 have a camera system, a video camera you can
4 very quickly focus that video camera, they move
5 around, and focus right in on the area where the
6 intrusion is and immediately determine whether
7 it's a true intrusion. And typically, you can
8 respond with a camera far faster than a vehicle
9 can respond.

10 REPRESENTATIVE JOSEPHS: I take your
11 more true -- the mark that I respond to more
12 than the talk of video camera is the fact that
13 systems don't really create the security. It's
14 the personnel and the policy and the way people
15 respond to it. We looked into a cell. I mean,
16 it could have been an eye or a video camera and
17 we still had a problem. So I agree with you
18 entirely that it has to do with the human
19 element, and that you could have a system that
20 was not safe at all with all of this electronic.

21 I'm interested in policy that has to
22 do with the fact that, according to your
23 testimony, about a year before this present
24 escape, Johnston was found twice within the
25 month of August with implements which would

1 indicate clearly to anybody that he was well
2 into planning some kind of escape.

3 What policy is there with treating
4 such a person like that, and if there is policy,
5 how was that followed or not followed?

6 SECRETARY HORN: Well, where we have
7 an inmate who is an escape risk, our response is
8 to place him in administrative custody,
9 irrespective of whether he's committed a
10 misconduct violation, which puts him in what you
11 refer to as the hole or solitary confinement,
12 which we've heard so many complaints about, and
13 we keep him there as long as we consider him to
14 be an escape risk. And that was one of the
15 reasons why Johnston, in fact, spent 900 days
16 total in RHU throughout the time he's been with
17 us, nearly three years; not consecutively.

18 When in RHU status, his cell is
19 supposed to be checked every three days. He is
20 not taken out of his cell except in handcuffs,
21 always under escort by two officers. He
22 exercises individually. He only gets visits
23 through noncontact visiting. So, his
24 opportunities to escape are very, very severely
25 limited in that situation, and that was the case

1 here.

2 What no one anticipates or expects
3 is that, he can actually defeat the physical
4 security of a poured concrete building with
5 steel bars and go undetected. He didn't achieve
6 that compromise of the physical security in that
7 cell block overnight. It happened over a period
8 of weeks.

9 REPRESENTATIVE JOSEPHS: Clearly.
10 He had a car. He left here in a car. The car,
11 as I remember from press reports, it almost
12 sounded to me as if it was sitting there waiting
13 for him. Are we -- Is anybody investigating
14 that part of this escape? Do we have any
15 conclusions you can make public?

16 SECRETARY HORN: I don't investigate
17 what happens after he gets out. You'll be
18 hearing from the State Police and from the
19 District Attorney, and I'm sure they have
20 investigated that and I think they're in a
21 better position to comment on that.

22 REPRESENTATIVE JOSEPHS: Okay. I
23 have one -- just one more question. We saw here
24 this elaborate device to bring an illegal drug
25 into the system. It's a drug that has a pretty

1 distinctive odor if it's used. If it was used
2 in this system, how is it that nobody smelled
3 it, do you think?

4 SECRETARY HORN: Oh, well. Listen,
5 we find drugs lots of times. Remember, we found
6 that one. The one you saw was the one that we
7 found and intercepted. The one that may have
8 gotten into Johnston might not have contained
9 the drugs. It might have only contained the
10 screwdriver implement or the hacksaw.

11 We use K-9 teams. We use the Ion
12 (phonetic) scan, but I only have eight or nine
13 dogs for the whole system of 24 prisons.

14 REPRESENTATIVE JOSEPHS: People can
15 smell this drug when it's used.

16 SECRETARY HORN: Yes, and our
17 officers are trained in drug identification.
18 But again -- And you were in the cell block
19 yesterday. At night when the inmates are locked
20 in their cells and the officers are in the
21 patrol room, there's no officer in that area and
22 the smell can dissipate. But certainly,
23 marijuana has a distinct smell.

24 I will tell you, however, that in
25 our Department we do more testing and searching

1 for drugs than just about any corrections
2 department in the country. We did a study in
3 1995 with the National Institute of Justice that
4 found that on a random testing basis, using hair
5 samples, nearly eight percent of the inmates who
6 were tested tested positive.

7 We replicated that study in 1997 and
8 found that we had reduced that through our drug
9 interdiction efforts to almost one percent. We
10 now do nearly 6,000 random urine samples every
11 month on inmates. Over a hundred thousand tests
12 a year are performed, both random and targeted.

13 On the random testing, which is a
14 very good measure of the extent of drug use
15 among inmates, in the last year there has never
16 been more than eight-tenths of one percent
17 testing positive, and the most recent month only
18 fourth-tenths of one percent tested positive.
19 And everyone that I have heard from and every
20 person who has talked to inmates will tell you
21 that we have made it very, very -- much more
22 difficult for inmates to obtain drugs in our
23 prisons, but I've always said, there will always
24 be a certain amount leaking in.

25 But I think that in Pennsylvania we

1 should feel very good, and you've given us the
2 tools. The General Assembly has given us the
3 tools with telephone monitoring, statutes in
4 increasing the penalty for people who bring
5 contraband drugs into prisons, to wage that
6 fight and it is that one we have waged
7 successfully.

8 REPRESENTATIVE JOSEPHS: Thank you.
9 Thank you, Mr. Chairman.

10 CHAIRPERSON BIRMELIN:
11 Representative Walko.

12 REPRESENTATIVE WALKO: Thank you,
13 Mr. Chairman. Secretary Horn, in the -- For the
14 report on capacity in the prisons and crowding
15 as of September 30, 1999 indicates that our
16 system is at 145 percent of capacity. I
17 understand there are 1800 inmates here and I was
18 wondering about the capacity level here.

19 And the larger question is, is the
20 fact that by those statistics our prison system
21 is overcrowded, is that causing -- is that
22 leading to tension and problems relating to
23 these escapes; this escape, and perhaps, the
24 other one at Dallas?

25 SECRETARY HORN: On the day of the

1 escape there were 1,868 inmates here and the
2 prison capacity is 1,274. The prison was
3 46.6 percent over its designed capacity.

4 Obviously, every prison administrator would like
5 to run a system that is operating at less than a
6 hundred percent. You'd always like to have a
7 little bit of margin. And clearly, the number
8 of inmates creates strains.

9 It reduces our options for moving
10 inmates. It requires us to house two inmates in
11 a cell. It causes the state, the Commonwealth
12 to do things as it had to do in 1991, such as
13 building a housing unit like G Block and there
14 was no place to put it inside so it got built
15 outside. It causes us to make some of the
16 changes that we've made at the other prisons.
17 Clearly, I would prefer to run a system that was
18 less crowded.

19 REPRESENTATIVE WALKO: And also
20 relating to that issue and also tension in the
21 prison system, do you believe that the current
22 policy regarding parole is hurting or adding too
23 much tension to our system and even giving more
24 incentive to inmates to attempt escapes, and
25 Lord knows how many escapes are attempted that

1 don't occur. Do you think that our policy on
2 pardons; in other words, slamming the door shut,
3 is affecting your ability to run this system?

4 SECRETARY HORN: That's a difficult
5 question to answer, Mr. Walko. One way of
6 looking at it is that, the inmates who escape
7 have hope. Johnston was a guy who had a lot of
8 hope.

9 But I think, you know -- One of the
10 things you need to keep in mind, Pennsylvania
11 has the largest number of inmates serving a
12 sentence of life without parole of any state in
13 the union. I think that's a very little known
14 fact. We've got more -- You know, everybody
15 thinks that the southern states, Texas, Florida
16 have these -- In fact, the numeric number -- I'm
17 not talking about a percentage. The absolute
18 number, we have the largest number of lifers.
19 Now, that's been true in Pennsylvania for many
20 years. That didn't start today. That's always
21 been the case.

22 And even before the frequency with
23 which pardons were granted changed, it was not
24 something that happened frequently. I mean,
25 even in the best year, maybe eight inmates got a

1 pardon. So there were always -- and there were
2 always inmates who knew that it was never going
3 to be them who got those pardons.

4 An inmate serving a life term, and
5 in this case, and in the case of at least one of
6 the two inmates at Dallas and in the case at
7 Pittsburgh, the inmates are often lifers. When
8 a lifer escapes, he doesn't have a whole lot to
9 lose. As long as he doesn't kill someone,
10 however long he's out, ten days, two weeks,
11 three days, he's got a little vacation, comes
12 back, goes back to serving life.

13 REPRESENTATIVE WALKO: Regarding the
14 count, what happened here it seems like there
15 were a number of policies and procedures not
16 being followed it's clear. I was wondering on a
17 system-wide level from the perspective of the
18 central administration at Camp Hill, what is
19 being done to ensure that the systems are
20 operating? In other words, ensure that people
21 are looking at flesh or movement; ensure that
22 they're looking at bars, and ensure that if
23 there are screens with broken screws that there
24 is some follow-up. And I believe there are 23
25 institutions in Pennsylvania or 24.

1 SECRETARY HORN: Twenty-four.

2 REPRESENTATIVE WALKO: And I just
3 wonder from the central administration point of
4 view on down to the prison floor, what is being
5 done to make sure that these procedures are
6 being followed? It seems like it's their
7 failure to be -- the lack of them being followed
8 that has led to this escape and, perhaps, to
9 some degree at Pittsburgh and others.

10 SECRETARY HORN: Mr. Walko, you no
11 doubt have heard of the so-called Hawthorne
12 effect, that when workers are on a production
13 line are observed they tend to work better and
14 you don't get a good sample.

15 In fact, in Pennsylvania we do a
16 great deal of auditing and checking and
17 inspecting of our facilities far more in recent
18 years. Let me give you some examples.

19 First of all, I receive every week a
20 report from every institution from every
21 superintendent, and I brought along a copy of it
22 and it's summarized. You can just pass this
23 around and you can page through that first
24 thing. Certification from every facility
25 superintendent every week that they are in

1 compliance with every policy, with Megan's Law,
2 with the DNA rules. They report on the number
3 of searches that are performed. They report on
4 the number of telephone calls that are
5 monitored. That is received and reviewed by
6 myself and my deputies weekly.

7 My deputy secretaries are required
8 to visit each of the facilities in their region
9 on a quarterly basis. And since the Pittsburgh
10 escape in 1997, we have given each of them what
11 we refer to as an inspection lieutenant who goes
12 out and checks on those policies and appends
13 their report each quarter, and I review those
14 reports. In addition, each year we do
15 operations inspections which inspect all of our
16 facilities.

17 But, it is in the nature of audits
18 that, first of all, you spot check a
19 representative sample. Secondly, you're
20 checking records. And as in this case, if you
21 check the log at Huntingdon, it shows that the
22 cells were checked. But, unless on each day
23 you're in the cell with the officers, and I've
24 gone into cells and I've asked officers, show me
25 how you do a cell check. I've stood there while

1 they do a cell inspection. I've stood on a cell
2 block while the count is being done. And I will
3 tell you that, when I stand there, it is done by
4 the book. But I can't tell you how it's done at
5 five in the morning when I'm not there day after
6 day after day.

7 I think in the final analysis, we
8 are dependent upon the assiduousness with which
9 our staff perform their duties, and our biggest
10 challenge is to help our staff to understand how
11 important it is to do that job conscientiously
12 every time they do it, even --

13 You know, every day, every night an
14 officer working on a cell block walks around,
15 does his tier checks and nothing happens. After
16 awhile they say, well, so what if I don't do it
17 tonight?

18 REPRESENTATIVE WALKO: Thank you,
19 Mr. Secretary, Mr. Chairman.

20 CHAIRPERSON BIRMELIN:
21 Representative Manderino.

22 REPRESENTATIVE MANDERINO: Thank
23 you. Representative Walko actually asked some
24 of my questions, but let me just be a little bit
25 more specific because I'm mostly interested in

1 the human systems and not the technological or
2 equipment systems.

3 But, in the case here at Huntingdon
4 where you told us that the Morse watchman punch
5 station system that was being used showed such
6 variations that it could be done in seven
7 minutes or in 45 minutes, that is something that
8 could have or couldn't have been picked up by
9 the audits you are doing? Question number 1.

10 And more importantly, what changes
11 have been made in terms of retraining,
12 reeducation, reorientation to proper
13 departmental procedure since this discovery?

14 SECRETARY HORN: The facility staff
15 here have been instructed to monitor -- I think
16 one of the problems -- and this gets partly to
17 the overcrowding question that we were asked,
18 and I think I mentioned in my testimony the
19 workload on our facility security offices.

20 The reports that are generated from
21 this system, and I believe the system operates
22 not just in the RHU, but in other cell blocks as
23 well, the volume of data that is generated from
24 this system each night, all the officers in the
25 facility make their punches, comes out on some

1 sort of a computerized printout that goes to the
2 security office, the facility's security office
3 each day and is supposed to be reviewed there.
4 Somebody is supposed to go through it and,
5 arguably, somebody should say, gee, here's an
6 officer who's not doing his check every 30
7 minutes. It's not being done on a regular
8 basis.

9 The fact is that, the facility's
10 security office consists of a captain and a
11 lieutenant. Over the years, particularly as a
12 result -- We are the victims of our own success
13 to a certain extent. We've placed so much
14 workload on these facility's security officers
15 in terms of drug testing and the eye on scan,
16 the searching that we're doing, and a lot of
17 paperwork and documentation that, quite frankly,
18 they were not capable of going through these
19 voluminous reports in an efficient way and
20 checking on it.

21 We are reevaluating the staffing in
22 those security offices. We are also looking
23 at -- One of the things we have not done is
24 provide clerical staff, and we found captains
25 and lieutenants who were spending an enormous

1 amount of time doing clerical work rather than
2 getting out and around.

3 You know, typically, in a
4 correctional institution, at night on the 10 to
5 6 shift, it is staffed with a captain and a
6 lieutenant, and everybody else are corrections
7 officers and sergeants. One of those, either
8 the captain or the lieutenant, is supposed to
9 stay in the control center at all times while
10 the other one goes around. That means that
11 there's really one supervisor walking around
12 this entire facility. And the reality is, you
13 have to supervise people on the job, and we are
14 thin on supervision. We are attempting to
15 correct that.

16 REPRESENTATIVE MANDERINO: But on my
17 tour not only yesterday, but this summer we did
18 lots of different institution tours, not only
19 are there correction officers on each cell block
20 several, but there is always, is it a sergeant,
21 one person who's in charge of that block. Do
22 they have any responsibility in terms of how the
23 counts and watches on their station were done
24 before that data even gets submitted to a
25 central guy who is overloaded?

1 SECRETARY HORN: No, no. In our
2 system, the sergeant is a lead worker, but is
3 technically not a supervisor and has really no
4 supervisory authority over these corrections
5 officers. He or she is supposed to be the more
6 experienced officer. The lead worker is the
7 term that we use.

8 REPRESENTATIVE MANDERINO: On the
9 issue of the count and the flesh movement and
10 also the watch, if I understood your testimony
11 correctly, there were policies at Huntingdon
12 that were different and not as strict as
13 policies coming out of the Central Office. How
14 does something like that happen and what changes
15 have been made in that regard?

16 SECRETARY HORN: Well, some of it
17 happens sub rosa. I mean, the fact that -- It
18 happens at lots of levels. The one thing that
19 was the matter of greatest concern to us was
20 that they were not requiring the inmates to
21 stand for the 10 a.m. count in the RHU. Even
22 though, if you look at the papers and the
23 policies, it was required, but as a matter of
24 practice it wasn't being done because people,
25 including middle-level supervisors had just

1 given giving up on forcing the issue with the
2 inmates. The inmates had worn us down.

3 REPRESENTATIVE MANDERINO: I
4 understood that. Maybe I misunderstood the
5 testimony. I thought that on the flesh and
6 movement, or maybe it was on the watchman, that
7 what was in your books in terms of standard
8 operating procedure and what was in Huntingdon's
9 books in terms of standard operating procedure,
10 regardless of whether they were followed or not,
11 were different.

12 SECRETARY HORN: That was true with
13 respect to the count. The Department policy and
14 the overall Huntingdon policy requires that the
15 counts between 7 a.m. and 10 p.m. be standing
16 counts. Huntingdon's written RHU manual only
17 required that the 10 a.m. count be a standing
18 count.

19 REPRESENTATIVE MANDERINO: So if I'm
20 an officer, CO at Huntingdon, I'm trained on
21 what Huntingdon's, in their books and not what's
22 in your books.

23 SECRETARY HORN: Right. And what
24 I'm saying is, it goes down to level of that
25 specific housing unit, that specific RHU manual

1 is out of compliance. That is something that we
2 failed to pick up, no question. We should have
3 picked that up. We have since changed that and
4 they are in conformance, and we are making
5 inmates stand for the count in accordance with
6 Department policy.

7 REPRESENTATIVE MANDERINO: I heard
8 you refer to the training at the academy that
9 officers get in the beginning and then I heard
10 you refer to ongoing training, but I don't have
11 a sense of what that ongoing training is about.
12 Is it done on the institution level? Is it done
13 as a result of audits that we've done of this
14 institution so that they may --

15 You know, this institution, we
16 discovered, as in human systems it's apt to
17 happen, is having more problems with how they're
18 doing their count than some other institution,
19 so at this institution this year's retraining is
20 going to be on the count and at some other
21 institution it may be on some other issue. Can
22 you give me some insight?

23 SECRETARY HORN: Each institution is
24 required to provide on-site in-service training
25 each year. That training includes for every

1 corrections officer fundamentals of security and
2 inmate accountability. These courses require
3 the staff be able to comprehend the inmate count
4 system, including the fact that flesh and
5 movement must be viewed during non-standing
6 counts.

7 They also receive training on drug
8 awareness. One of the course objectives
9 includes the analysis of men to smuggle and
10 conceal drugs within an institution. They also
11 receive a mandatory annual course on
12 professionalism and ethics, which includes a
13 discussion of inappropriate relationships
14 between staff and inmates. Also, they receive
15 training on contraband and searches, instruction
16 on the nine methods in which contraband is
17 commonly introduced as well as ways to conduct
18 personal and cell searches. That is given to
19 every staff person all the time.

20 REPRESENTATIVE MANDERINO: My last
21 question--and I have concerns on both ends--
22 deals with the contraband issue and in this
23 particular case, treatment of legal mail. On
24 the one hand, we see how that can be compromised
25 in terms of smuggling in contraband. On the

1 other hand, I'm also equally concerned that we
2 don't institute a policy that then does not
3 allow people access to the legal system and
4 their legal mail.

5 What changes, if any, are you
6 contemplating or have you already made with
7 regard to how legal mail is treated within our
8 institutions?

9 SECRETARY HORN: The District
10 Attorney who is going to testify I think has his
11 own observations on this issue, and as an
12 attorney I'll defer that to him. But typically,
13 over the years the courts have required that we
14 give deference to correspondence between an
15 inmate and his or her attorney, that we not
16 interfere with their access to the courts.

17 But, when we stop to think about it
18 in the wake of this, we said, why do we give
19 such a great -- You know, there's lots of
20 privileges. There's a marital privilege.
21 There's a clerical privilege, and yet, we think
22 nothing of reading an inmate's mail between
23 himself and his spouse. Yet, we attach a higher
24 privilege to what we consider to be legal mail.

25 Additionally, one of the things that

1 occurred to us is, anything that comes in from
2 an attorney we treat as legal mail and,
3 therefore, privileged. And we treat it very
4 gingerly and go out of our way to make sure that
5 we're not reading it. So we just kind of page
6 through it to make sure that there's nothing
7 concealed. But as you saw from the example,
8 when you do that, if you hold it by the binding
9 and sort of just flip through it you're not
10 going to find the contraband.

11 As Mr. Stewart has pointed out to
12 me, this kind of an item, a legal brief, is
13 something that's been entered into the court
14 record. It's not even privileged. It's public
15 record. It's different from a letter from an
16 attorney that explains legal strategy that says
17 here's what we're going to do, here's the
18 evidence, or whatever, here's what our witnesses
19 are going to say.

20 We have done several things. We've
21 instructed our staff, of course now, to more
22 thoroughly examine all legal mail without
23 compromising the attorney-client privilege.
24 Secondly, included in a supplemental budget
25 request that we hope to be submitting to the

1 legislature will be funding for X-ray machines
2 and additional metal detectors so that we can
3 look at this stuff on a mass basis.

4 One of the problems we have is the
5 shear volume of mail. We've got 37,000 inmates.
6 That's a lot of mail coming into our prisons, so
7 we're going to need those sort of conveyor
8 belts, X-ray machines, such as they have at
9 airports, which we've never done before. Also,
10 we are considering requiring that when attorneys
11 mail things into inmates that they not be bound;
12 that they be held together with a rubber band so
13 that they can easily be inspected.

14 Also, we're going to provide inmates
15 with alternative means for their privileged
16 conversations. They can do it through telephone
17 calls. Our policy already allows collect phone
18 calls to the attorneys, or also conversations,
19 private conversations in the visiting room. We
20 give attorneys private areas to speak to their
21 clients in the visiting room, so it doesn't all
22 have to be conducted through the mail.

23 REPRESENTATIVE MANDERINO: Thank
24 you, Mr. Chairman. Thank you.

25 CHAIRPERSON BIRMELIN: I want to

1 thank you, Secretary Horn and Superintendent
2 Frank, for being here this morning with your
3 testimony.

4 SECRETARY HORN: Thank you.

5 CHAIRPERSON BIRMELIN: Our next
6 testifier is Captain Henry Oleyniczak, who is
7 the Troop Commander of the Lancaster State
8 Police barracks, and Captain Joseph Holmberg,
9 who is the Troop Commander here in Huntingdon.
10 Gentlemen, if you would please come forward at
11 this time.

12 I'm going to ask Captain Holmberg if
13 he would present his testimony first. As I just
14 indicated, he's the Troop Commander for the
15 Huntingdon Pennsylvania State Police.

16 CAPTAIN HOLMBERG: Good morning. On
17 August 2, 1999, at approximately 10:45 a.m, the
18 State Police, Troop G, Huntingdon received a
19 telephone call from personnel at the State
20 Correctional Institution at Huntingdon advising
21 a possible escape had occurred as one inmate was
22 not in his cell in the Restrictive Housing Unit.
23 Investigators from the Huntingdon Station were
24 dispatched to SCI-Huntingdon, with the primary
25 investigator arriving at 11:00 a.m.

1 To ensure immediate notification and
2 timely updates of other law enforcement
3 agencies, frequent contacts were made between
4 the Huntingdon Station, the primary investigator
5 and the Department of Corrections staff. The
6 first CLEAN Message, which is Commonwealth Law
7 Enforcement Assistance Network, was sent at
8 11:11 a.m., with subsequent messages sent on
9 August 2, 1999, at 12:27 p.m., 3:03 p.m., and
10 4:35 p.m.

11 It was confirmed that Inmate
12 Johnston was not in his cell. A mannequin was
13 on his bed, and the cell window had been
14 removed. It was also discovered that two prison
15 fences had been cut and it was determined that
16 Johnston had crawled under the concertina wire
17 between the first and second fences.

18 On the morning of August 2nd, State
19 Police Huntingdon received a report that a motor
20 vehicle had been stolen from a residence located
21 across the street from the prison. Subsequent
22 investigation revealed the vehicle had been
23 stolen sometime between 6:30 p.m. on August 1st
24 and 6:30 a.m. on August 2nd.

25 At 12:30 p.m. an investigative

1 command post was established at the Huntingdon
2 State Police Station. Aerial assistance was
3 requested from the Pennsylvania State Police
4 Bureau of Emergency and Special Operations,
5 Aviation Division, who dispatched a helicopter
6 to patrol the highways and remote areas in
7 search of Johnston or the vehicle thought to be
8 associated with the escape.

9 The probable escape route and
10 surrounding areas were searched by members of
11 the Pennsylvania State Police, Huntingdon County
12 Sheriff's Office and Department of Corrections
13 staff. SCI-Huntingdon personnel duplicated
14 photographs and information concerning Inmate
15 Johnston. Once provided to the Pennsylvania
16 State Police, the information was disseminated
17 to station personnel, roving patrols, the news
18 media, and placed throughout the county in local
19 business establishments.

20 Arrangements were also made to have
21 Johnston's photograph and description, as well
22 as a photo of the stolen vehicle, placed on the
23 Pennsylvania State Police web site, which would
24 make it instantly available to law enforcement
25 agencies, media outlets, and citizens. Later

1 arrangements were made so Johnston's finger-
2 prints could be accessed by law enforcement via
3 E-mail from the Huntingdon State Police Station.

4 Troopers were assigned to alert and
5 interview local residents near the prison to
6 determine if they had observed anything
7 pertinent to the escape, or if any items had
8 been stolen from their property. The
9 investigation was a two-pronged effort; one
10 facet centered on the capture of Johnston, the
11 second facet centered on the escape itself.

12 An investigative team was formed,
13 comprised of Troop G members and the
14 Pennsylvania State Police Fugitive Unit. The
15 team began conducting interviews of Department
16 of Corrections staff and inmates to ascertain if
17 anyone had information concerning the escape or
18 Johnston's possible whereabouts, associates, and
19 background information.

20 As a result of these interviews, it
21 was a determined that two employees of
22 SCI-Huntingdon were involved with Johnston.
23 Both employees were extensively interviewed.
24 One, a licensed practical nurse, admitted to
25 delivering items to Johnston while he was in the

1 Restrictive Housing Unit. The nurse advised the
2 deliveries were usually in a Mylanta container
3 and that she never looked inside the bottles.
4 She denied having any knowledge of Johnston's
5 escape or his current whereabouts.

6 The second staff member, a
7 corrections officer, admitted to making over 300
8 deliveries between prisoners; the items being
9 coffee, cigarettes, tobacco, et cetera. He
10 denied ever delivering any implement of escape
11 or having any knowledge of the escape. The
12 investigation into the activities of these two
13 SCI employees is continuing.

14 The Pennsylvania State Police Crime
15 Lab was requested to have an examiner report to
16 SCI-Huntingdon in an attempt to determine if the
17 fence had been cut from the inside or the
18 outside. That could not be immediately
19 determined, and the pieces of the fence were
20 retained and sent to the lab for further
21 examination. The examiner later advised he
22 could make no determination about that issue.

23 A list was developed containing
24 Johnston's former associates and relatives both
25 within and outside the prison system, along with

1 witnesses and former investigating law
2 enforcement officials. All persons on that list
3 were interviewed to determine if they could
4 provide any information pertinent to the
5 investigation. Potential victims of retaliation
6 by Johnston were contacted to warn them of his
7 escape. As information was learned regarding
8 other associates, friends, and family members,
9 it was relayed to the appropriate law
10 enforcement entity for investigation.

11 On August 6, 1999, a sighting by
12 park rangers was confirmed in the Nottingham
13 County Park, Chester County. State Police,
14 Troop G, Investigative Team Members were
15 assigned to assist the apprehension and
16 investigative effort in that area.

17 When Inmate Johnston was captured,
18 he was returned to Huntingdon County and
19 arraigned on charges of escape and motor vehicle
20 theft. It was confirmed the motor vehicle
21 stolen from a residence near the prison had been
22 stolen by Johnston. The vehicle was recovered
23 by the Pennsylvania State Police, Gettysburg
24 Station, in a peach orchard located in Butler
25 Township, Adams County, and has been returned to

1 the owner.

2 At this time Captain Oleyniczak can
3 testify as to the apprehension efforts in
4 eastern Pennsylvania.

5 CAPTAIN OLEYNICZAK: Good morning,
6 I'm Captain Henry Oleyniczak, Commanding
7 Officer, Troop J, Lancaster, Pennsylvania State
8 Police. I'm pleased to have this opportunity to
9 address the efforts of the Norman Johnston
10 Fugitive Task Force before the committee.

11 On August 2, 1999, four-time
12 convicted killer, Norman Johnston, escaped from
13 the Restricted Housing Unit at the State
14 Correctional Institution in Huntingdon,
15 Pennsylvania. The escape had a particular
16 impact on the residents living in Chester
17 County, Pennsylvania; Cecil County, Maryland;
18 and New Castle County, Delaware. Extraordinary
19 community concern arose due to the well
20 remembered and significant criminal exploits of
21 the Johnston Gang in the 1970's, the obvious
22 planning and assistance involved in the escape,
23 and the large number of family members who still
24 lived in the area.

25 The Pennsylvania State Police at the

1 Avondale Station, which are responsible for
2 southern Chester County, immediately reacted to
3 this escape with the assistance of the
4 Pennsylvania State Police Fugitive Unit, Bureau
5 of Criminal Investigation, and investigators
6 from Troop G, Hollidaysburg. Specific family
7 members, former victims, prosecutors, and
8 retired police officers that were involved in
9 the original investigation were notified of the
10 escape. Intelligence information was gathered
11 regarding safe havens and individuals that may
12 provide assistance to Johnston.

13 Wanted fliers and photographs of
14 Johnston and the stolen vehicle he was to be
15 operating were produced and distributed. The
16 media interest was immediate and liaison was
17 established in order to keep the public
18 informed. As the investigation progressed,
19 requests for security details were received and
20 granted for specific individuals who feared
21 retaliation by Johnston.

22 On August 6, 1999, at approximately
23 8:30 p.m, Johnston was approached by a park
24 ranger in Nottingham County Park, West
25 Nottingham Township, Chester County,

1 Pennsylvania. As the park ranger approached, he
2 recognized Johnston from a wanted flier
3 photograph. After a short conversation, a
4 struggle ensued and Johnston was able to flee
5 into the park on foot.

6 A large scale manhunt was initiated
7 in the area of the park, which is approximately
8 600 acres in size. It involved approximately
9 100 officers from the Pennsylvania State Police,
10 17 Chester County municipal departments and
11 several New Castle County, Delaware K-9 units.
12 Air support was provided by the Pennsylvania
13 State Police Aviation Unit and additional
14 logistical support was provided by Chester
15 County Communications and the Oxford Fire
16 Company.

17 A stolen vehicle was reported near
18 the area of the park that next morning. It was
19 recovered quickly, but a second vehicle was
20 reported stolen near the recovery location. A
21 phone call made at the scene by Johnston was
22 traced to a nearby residence of a relative.
23 Contact with that relative confirmed it was
24 Johnston. The search continued through noon of
25 the following day without success.

1 In the late afternoon of August 7,
2 1999, the second stolen vehicle was recovered at
3 Nottingham Towers, an apartment complex where
4 Johnston used to live. The apartment complex is
5 located on the Maryland state line in East
6 Nottingham, Chester County, Pennsylvania and is
7 close to the Nottingham County Park.

8 At approximately 10:30 p.m. on
9 August 7, 1999, Johnston was reported to be
10 sighted by a resident of the Nottingham Towers
11 Apartments. A second large scale manhunt was
12 initiated involving approximately 75 officers.
13 In addition to the Pennsylvania State Police, 12
14 Chester County municipal police departments and
15 several New Castle County, Delaware K-9 units,
16 the search team now included the Maryland State
17 Police and Cecil County, Maryland Sheriff's
18 Office due to the location being on the
19 Pennsylvania-Maryland state line. Air support
20 was provided by the Maryland State Police and
21 Pennsylvania State Police Aviation Units. The
22 search was halted at 9 a.m. on August 8, 1999,
23 when no additional leads were uncovered.

24 On August 8, 1999, at approximately
25 12:30 p.m., Johnston was reported to have been

1 sighted in Fair Hill, Maryland, just south of
2 the Pennsylvania state line. Pennsylvania State
3 Police and one Chester County municipal police
4 department assisted the Maryland State Police,
5 Cecil County Sheriff's Office and the Maryland
6 Natural Resource Police in a search of the area.
7 Logistical support was provided by the Maryland
8 State Forrest and Parks Service and air support
9 was provided by the Maryland State Police. This
10 search was terminated after a few hours as the
11 sighting could not be confirmed and Johnston was
12 not located or observed by other individuals in
13 the area.

14 Media attention had grown
15 tremendously as a result of the first confirmed
16 sighting in Nottingham Park and the two
17 subsequent searches in the same geographic area.
18 Citizens were advised to keep their doors
19 locked, keys kept out of their vehicles, to keep
20 an eye on their neighbors and to contact the
21 police if they observed any suspicious activity.

22 Because of the geographical area
23 involved, the reported sightings, the location
24 of friends, family and associates of Johnston
25 living in the three-state area, and the need to

1 maintain a focused investigation, a full-time
2 multiagency, multistate 40-member fugitive task
3 force was formed. Formal task force operations
4 began on August 10, 1999.

5 The Norman Johnston Fugitive Task
6 Force operated out of the Avondale Station and I
7 had the privilege to be the Task Force
8 Commander. The task force consisted of
9 Pennsylvania State Police personnel from Troop
10 J, Lancaster; Troop K, Philadelphia; Troop M,
11 Bethlehem; Troop G, Hollidaysburg; and the
12 Bureau of Criminal Investigation Fugitive Unit.

13 Members outside of the forum
14 included the Chester County Detectives; Maryland
15 State Police; Cecil County, Maryland Sheriff's
16 Office; Delaware State Police; New Castle,
17 Delaware Police Department; and the Federal
18 Bureau of Investigation from the Wilmington,
19 Newtown Square and Philadelphia offices.

20 The task force focused its efforts
21 on organization of intelligence information,
22 following up on the hundreds of reported
23 sightings and multiple leads that were being
24 reported to the police in the three-state area.
25 Efforts were placed on keeping both overt and

1 covert pressure on those individuals who would
2 be identified as most likely to assist Johnston
3 or those individuals who Johnston might contact.
4 Daily briefings were held at the Avondale
5 Station so information gathered by task force
6 members was shared and new assignments could be
7 given.

8 On August 12, 1999, at approximately
9 12 p.m, task force members observed an
10 individual believed to be Johnston at one of the
11 target residences under surveillance in Cherry
12 Hill, Maryland. Another large-scale search was
13 initiated involving approximately 100 police
14 officers from the three-state area and included
15 all of the task force members. Additional
16 personnel were provided by the Federal Bureau of
17 Investigation and the Cecil County Sheriff's
18 Office pulled its cadets from their police
19 academy to assist in the ground search.

20 The Pennsylvania State Police,
21 Delaware State Police, and Maryland State Police
22 Aviation Units provided air support. Logistical
23 support was provided by Cecil County
24 Communications, Maryland State Police
25 Communications Unit, Cherry Hill School District

1 and the Singerly Fire Company. Bloodhounds were
2 provided on a volunteer basis by the Red Rose
3 Search and Rescue of Strasburg, Pennsylvania.

4 Four members of the Pennsylvania
5 State Police Mounted Unit arrived the next
6 morning to assist in searching the area. The
7 search was called off on Friday, August 13, 1999
8 at approximately 5 p.m., after an extensive
9 search of the area and the service of a search
10 warrant at the target residence found no further
11 evidence regarding Johnston's whereabouts.

12 Johnston's escape was featured as
13 the lead story on America's Most Wanted on
14 Saturday evening, August 14, 1999.

15 Approximately 60 leads were received. However,
16 no significant information was provided
17 regarding Johnston's current location.

18 Concurrently with the broadcast of America's
19 Most Wanted, the media was advised that the
20 reward for the return of Johnston to prison had
21 been increased to \$40,000.

22 On August 16, 1999, at approximately
23 10 p.m., Johnston was sighted in Newark,
24 Delaware, and scuffled with an unarmed
25 University of Delaware police officer. Although

1 receiving three blows from the officer's baton,
2 Johnston managed to escape. A search of the
3 area by the Delaware State Police, New Castle
4 County Delaware Police, University of Delaware
5 Police, and the Newark Delaware Police
6 Department proved negative. Fingerprint
7 evidence confirmed Johnston's presence at that
8 location. Johnston's knapsack was also
9 recovered near the site of the scuffle and
10 provided information as to his pattern of
11 behavior in the area. A member of the Newark
12 Police Department was requested and was added to
13 the task force.

14 On August 17 the task force focused
15 its investigation in the Newark area. Based on
16 the confirmed sightings and intelligence
17 information gathered, including the recovered
18 knapsack, it appeared that Johnston was
19 traveling late at night, using railroad tracks
20 and dry or low creek beds to travel. The
21 weather had been excellent for staying outdoors
22 and the drought conditions made traveling along
23 the creeks much easier, but made it very
24 difficult for tracking dogs to follow a scent.

25 On the night of August 17, 1999, and

1 into the early morning hours of August 18, 1999,
2 one portion of the task force searched the Fair
3 Hill Natural Resource Management Area, which is
4 5,613 acres in size which is in Fair Hill,
5 Maryland, while the second portion of the task
6 force used bloodhounds to retrace the potential
7 escape route used by Johnston from Newark,
8 Delaware. The Natural Resource Management Area
9 was a logical and easy place for Johnston to
10 hide as it connected Cherry Hill, Maryland, and
11 Newark, Delaware, by creek bed and railroad
12 tracks.

13 Blue Mountain and Ryan Township
14 Search and Rescue provided bloodhounds on a
15 volunteer basis from northern Pennsylvania. An
16 additional search dog was provided by the
17 Chester County Sheriff's Office. Hand-held
18 night vision and infrared equipment had been
19 acquired from other police departments or the
20 military. Assistance and logistical support was
21 provided by the Maryland State Forrest and Parks
22 Service, the Maryland Natural Resource Police
23 and Cecil County Communications. This search
24 was proactive in nature but also yielded
25 negative results.

1 On August 18, 1999, the
2 investigation focused on a vehicle reported
3 stolen from a residence on Delaware Route 896
4 just south of the Pennsylvania state line. This
5 vehicle and an individual reported to fit
6 Johnston's description was observed at a
7 mini-mart on Pennsylvania Route 896 just north
8 of the Pennsylvania state line. A video
9 surveillance tape at the mini-mart appeared to
10 confirm this individual as Johnston.
11 Unfortunately, the information was not provided
12 to police until almost 24 hours had passed. The
13 stolen vehicle information had been immediately
14 reported to the media.

15 On August 19, 1999, at approximately
16 9:30 p.m, the stolen vehicle was reported
17 sighted by a resident near Kennett Square,
18 Pennsylvania. Troopers were dispatched to the
19 area but did not initially locate the vehicle.
20 A trooper who remained in the area observed
21 Johnston and the stolen vehicle near the initial
22 reported location at approximately 10:30.
23 Johnston observed the police vehicle and fled.
24 The trooper initiated a pursuit that eventually
25 ended in a dead-end development just off of

1 Pennsylvania Route 52. Johnston lost control of
2 his vehicle, went over a slight embankment and
3 almost crashed into a house. Johnston abandoned
4 his vehicle and fled on foot. This action took
5 place in Mendenhall, Pennsbury Township, Chester
6 County, Pennsylvania.

7 Within an hour, a nine-square mile
8 perimeter had been established and over 100
9 police officers responded from the three-state
10 area, and now included additional Pennsylvania
11 State Police officers from Troop K, Media and
12 several Delaware County municipal departments.
13 Delaware State Police officers maintained a
14 strong presence along the Pennsylvania/Delaware
15 border.

16 The Pennsylvania State Police
17 provided air support and bloodhounds were
18 provided by the Red Rose Search and Rescue. An
19 additional dog team was provided by Darby
20 Township Police Department, Delaware County.
21 Logistical support was provided by Chester
22 County Communications and the Kennett Square
23 Fire Company. A detailed search pattern was
24 established involving stationary patrols, roving
25 patrols by quadrant, creek teams with K-9

1 support, railroad track teams with night vision
2 equipment, Longwood Gardens fixed teams with
3 night vision equipment, vehicle searches, and
4 the three-dog teams.

5 At approximately 4 a.m. on August
6 20, 1999, it was determined that Johnston could
7 have not escaped from the area and arrangements
8 were made for replacement personnel to be on
9 site by 6 a.m. These individuals would be doing
10 a focused door-to-door search. However, at
11 approximately 5:30 a.m. residents of Hickory
12 Hill Road, just north of the crash site,
13 reported suspicious noises to Chester County 911
14 center. Troopers responded to the residence and
15 subsequently observed and apprehended Johnston
16 without incident at approximately 5:45 a.m.

17 The level of inter-agency
18 cooperation exhibited by the many involved
19 police departments and officers was phenomenal.
20 Even though many of the incidents took members
21 of the Pennsylvania State Police into Maryland
22 and Delaware, every courtesy was provided by
23 officials and citizenry alike. No request went
24 unmet, and time after time assistance was
25 provided before an official request was made.

1 I am proud to be part of a
2 profession where the common good was immediately
3 recognized and every effort was made to return
4 Norman Johnston to prison as quickly as
5 possible. I believe the triad of media,
6 citizens and police was instrumental in the
7 successful resolution of this matter without any
8 injuries to the public or to law enforcement
9 personnel.

10 This concludes my testimony. I
11 appreciate the opportunity to make this
12 presentation regarding the activities of the
13 Norman Johnston Fugitive Task Force in Chester
14 County and will be glad to answer any questions
15 the committee may have regarding my testimony.

16 CHAIRPERSON BIRMELIN: I want to
17 thank both of you for your testimony and being
18 here with us today. On behalf of this
19 committee, at least, and maybe on behalf of the
20 legislature, if it hasn't been said to you
21 before, we want to thank you for what we
22 consider to be a very professional and
23 expeditious job of retrieving a very dangerous
24 and rather clever and illusive criminal. The
25 fact that he was able to escape the grasp of a

1 park ranger, and a police officer and others,
2 and remain uncaught for a period of time that he
3 was for three weeks just indicated how tough a
4 job you had.

5 I think we, in the legislature, owe
6 you a big thank you for the work that you did
7 and we appreciate all that the Pennsylvania
8 State Police have done, not only with this,
9 escape but in others in the past, and I
10 congratulate you on that.

11 I'm going to give the opportunity
12 now to ask questions to members of the panel.
13 And again, with the idea in mind that we're
14 running approximately 50 minutes late, I would
15 ask that these questions be to the point and not
16 anything other than questions. I know that they
17 are capable of doing that and will do that.

18 Representative Manderino, I'll give
19 you the first opportunity to ask questions.

20 REPRESENTATIVE MANDERINO: Thank
21 you. Thank you for being here. My questions
22 are to Captain Holmberg.

23 With regard to your investigation,
24 you said that you interviewed local residents
25 near the prison to determine if they had

1 observed anything or whether any items had been
2 stolen from their property, but you didn't tell
3 us what the results of that was, and I am most
4 interested in hearing about the car, about what
5 you discovered about the car, about what was
6 inside or not inside the car, and about what
7 kind of fingerprints evidence, if any, you found
8 to the extent that you can share that
9 information with us?

10 CAPTAIN HOLMBERG: The vehicle, I
11 believe, was reported to us at 6:30 in the
12 morning. It was reported to us stolen before we
13 were notified of the escape. The institution
14 wasn't aware of the escape yet.

15 Basically, our trooper had gone out
16 and done the investigative report on the stolen
17 vehicle. The subsequent re-interview of the
18 neighbors revealed nothing of substance that
19 was -- any of them had seen or anything had been
20 taken which would have been indicative that the
21 inmate had stolen, like a change of clothes, or
22 a firearm, or something along those lines.
23 There was nothing in those interviews of those
24 neighbors that produced any information like
25 that.

1 REPRESENTATIVE MANDERINO: Was the
2 car unlocked? Were the keys in the car? Was
3 there other property that belonged to the car
4 owner that was in the car that was reported to
5 you?

6 CAPTAIN HOLMBERG: We have
7 information that there was another vehicle in
8 the area that had been tampered with, and a lot
9 of this information that we got about the car
10 came in some casual conversations with Johnston.
11 He indicated, I believe, that because of the
12 length of time he had been in the institution,
13 he wasn't familiar with the later model cars and
14 he had to search around for a car that he could
15 steal.

16 REPRESENTATIVE MANDERINO: So this
17 car was hot wired? There weren't keys in it?

18 CAPTAIN HOLMBERG: I don't know
19 exactly. I could get that information for you
20 if you need that. The keys may have been on the
21 floor, but I can get that information for you if
22 you'd like.

23 REPRESENTATIVE MANDERINO: Did you
24 do fingerprinting of the car and the steering
25 wheel, and were there prints other than the

1 owner's and Johnston's?

2 CAPTAIN HOLMBERG: That would have
3 been Gettysburg. Did we get the report on that
4 yet?

5 REPRESENTATIVE MANDERINO: The first
6 car, that was stolen from the neighbor.

7 CAPTAIN HOLMBERG: The Gettysburg
8 station when they recovered the vehicle did
9 process it for fingerprints. The exact amount
10 of prints that they got, I don't have that
11 report in front of me. I can get that for you
12 if you'd like that.

13 REPRESENTATIVE MANDERINO: We saw
14 yesterday on our tour the section of the fence,
15 the last section of the fence that had been cut
16 that then gave Johnston access to the outside.
17 And again, you mentioned that you had sent that
18 section of the fence to the lab because there
19 was a question as to whether it had been cut
20 from the inside or the outside; that the
21 examiner was not able to make a definitive
22 determination about that. And I wondered
23 whether or not the examiner looked at and was
24 able to determine other pieces of information,
25 such as, were they able to determine what

1 exactly it was cut with?

2 And also, while I realize that those
3 fence links are pretty small, I would assume as
4 a layperson, maybe I'm wrong, that you couldn't
5 get fingerprint evidence of any kind of -- thing
6 off of something so small. I also noticed it
7 was down so close in a corner where there was a
8 thicker post and I wondered if that area had
9 been fingerprinted, and again, if you found any
10 kind of fingerprint evidence along that fence to
11 either determine that there were only Johnston
12 fingerprints there or there were no fingerprints
13 there, or there were two fingerprints there; we
14 just don't know who the other set belongs to?

15 CAPTAIN HOLMBERG: No, we didn't get
16 any fingerprints off the fence area.

17 REPRESENTATIVE MANDERINO: Meaning
18 it was fingerprinted and we didn't get any or it
19 was not fingerprinted?

20 CAPTAIN HOLMBERG: Well, I don't
21 know that -- I don't know that we even processed
22 it because of the fact it was outdoors. And as
23 you said, there's such a small area to process,
24 and the fact that through the investigation at
25 the institution there were probably numerous

1 people that had touched that.

2 REPRESENTATIVE MANDERINO: You mean
3 touched it during their investigation?

4 CAPTAIN HOLMBERG: During their
5 investigation, looking at it, pulling it up to
6 see if there were --

7 REPRESENTATIVE MANDERINO: Okay. I
8 was going to say, it is in such a little corner
9 I can't imagine that getting a casual touching.

10 And in terms of whether or not it
11 was able to be determined what it was cut with.
12 Do we have any conclusive evidence on that?

13 CAPTAIN HOLMBERG: We haven't gotten
14 anything back conclusively from the laboratory.
15 Our immediate concern in having someone from the
16 lab come up and look was to find out if there
17 was outside help, then we would know -- If they
18 could say, yes, this was definitely cut from the
19 outside, then we would know someone had assisted
20 Johnston in the escape.

21 REPRESENTATIVE MANDERINO: And you
22 were not able to determine that one way or
23 another?

24 CAPTAIN HOLMBERG: Right.

25 REPRESENTATIVE MANDERINO: Thank

1 you. Thank you, Mr. Chairman. Representative
2 Josephs.

3 REPRESENTATIVE JOSEPHS: Thank you,
4 Mr. Chairman. Thank you. I think this is also
5 to Captain Holmberg. You said that when you
6 entered the cell you saw in Johnston's cot bed a
7 mannequin. Can you describe more what you
8 actually saw there? What was it?

9 CAPTAIN HOLMBERG: I didn't go to
10 the institution. I'm testifying from the
11 investigative information. According to the
12 investigators, it was a very life-like looking
13 mannequin. I personally didn't see it. They
14 told me that it was a very good mannequin, had
15 been well prepared for its purpose.

16 REPRESENTATIVE JOSEPHS: See, I
17 would be very interested in what exactly that
18 was, and if there is that information either
19 from you, or perhaps we should have asked the
20 prison authorities, because that, it seems to
21 me, would tell us something about what kind of
22 materials were being brought into that cell and
23 what use was made of them.

24 CAPTAIN HOLMBERG: It was paper
25 bags, sheets, hair and plastic to construct a

1 mannequin, and toilet paper.

2 REPRESENTATIVE JOSEPHS: Thank you.
3 And I will ask other witnesses who may have also
4 some information about that.

5 I listened to the number of people
6 involved in and the amount of equipment and the
7 cooperation and the time, the hours over, and I
8 guess maybe for Captain Oleyniczak, how much do
9 you think that cost the State of Pennsylvania?
10 I'm also on the Appropriations Committee.

11 CAPTAIN OLEYNICZAK: I have the
12 release that was provided from the Department,
13 and they have a figure of state services that
14 they spent 103,000 in overtime and approximately
15 10,200 in extraordinary helicopter equipment
16 cost. I also have, if you're interested, though
17 that's the entire operation, I have some figures
18 for the Chester County portion of it, if you'd
19 like to know that as well.

20 REPRESENTATIVE JOSEPHS: Well, I
21 think if you would forward those figures to the
22 Chairman and he can have them distributed. I
23 won't ask any more questions at this point.
24 Thank you, Mr. Chairman.

25 CHAIRPERSON BIRMELIN: Chief Counsel

1 Preski has a question.

2 MR. PRESKI: My question is this and
3 I guess it's directed to you, Mr. Holmberg.
4 After the Pittsburgh escapes, one of the
5 greatest concerns that we had was from the
6 residents concerning the timing of their notice.
7 You talk in here that troopers were assigned to
8 alert and interview local residents. If I
9 assume that the first notice went out at 11:11,
10 that's when you knew that the escape was here
11 and he was gone and it wasn't just a miscount,
12 what was the timing of your notice to the people
13 across the street and to the local community?

14 CAPTAIN HOLMBERG: The siren warning
15 of the escape was sounded by the institution and
16 our investigator -- or our team of troopers that
17 were probably an hour after the original
18 notification.

19 MR. PRESKI: So somewhere around
20 noontime?

21 CAPTAIN HOLMBERG: Yes.

22 MR. PRESKI: Okay. Thank you.

23 CHAIRPERSON BIRMELIN: Gentlemen, we
24 want to thank you for your testimony and we
25 appreciate you coming here today.

1 At this time I'm going to ask
2 Subcommittee Chairman Harold James to conduct
3 the meeting. I'll be busy with some other
4 business for just a few minutes. Representative
5 James, would you call our next witness, please?

6 ACTING CHAIRPERSON JAMES: Thank
7 you, Mr. Chairman. Can we call the Huntingdon
8 County District Attorney, Robert Stewart?

9 MR. STEWART: Mr. Chairman, members
10 of the committee, colleagues and guests, I'm
11 Robert B. Stewart, Third, District Attorney of
12 Huntingdon County.

13 My testimony touches and concerns
14 the probable manner, whereby, Inmate Johnston
15 received the implements used by him in making
16 this escape.

17 Following Inmate Johnston's escape,
18 I consulted extensively with the Pennsylvania
19 State Police at Huntingdon, the State Police
20 Fugitive Task Force, and present and former law
21 enforcement personnel in Chester County,
22 Pennsylvania. Because of my prior service as an
23 Assistant District Attorney in Chester County, I
24 knew of the Johnstons and I know the police
25 officers and former prosecutors who worked on

1 the cases against the Johnstons in the late
2 1970's and early 1980's.

3 As a result of discussions with
4 Chester County Detective Ted Schneider and PSP
5 Corporal Doug Grimes of the Fugitive Task Force,
6 I secured letters written from Norman Johnston
7 at SCI-Huntingdon to his brother, David, at
8 another prison. Several readings of those
9 letters convinced me that they were written in
10 code. Various pieces of information I received
11 from DOC personnel, the State Police and Chester
12 County authorities were helpful and assisted me
13 in partially deciphering Johnston's code.

14 In those letters he refers to
15 various DOC employees by noncomplimentary
16 nicknames and writes about wanting to file his
17 quote, habeas corpus, unquote, before certain
18 DOC personnel retire. He also writes about
19 certain, quote, research, unquote, and quote,
20 research material, unquote, being provided by
21 the lawyer, and that's in quotes, or lawyer
22 company, also in quotations.

23 From the vantage of 20-20 hindsight
24 and information provided by DOC investigators
25 who were familiar with Johnston's behaviors in

1 prison, I came to the conclusion that the term
2 habeas corpus in those letters actually meant a
3 breakout escape. Research material meant
4 implements of escape, and lawyer or lawyer
5 company meant someone on the outside who was
6 sending escape tools into the prison.

7 I then personally searched the
8 property of Inmate Johnston and some of his
9 associates to see if I could find additional
10 clues as to how the escape implements got into
11 SCI-Huntingdon, or once inside, how they got to
12 Inmate Johnston.

13 The investigations of the State
14 Police, the DOC investigators, along with my own
15 work have convinced me that there were a group
16 of inmates who, along with Inmate Johnston,
17 arranged to move various implements from various
18 locations inside SCI-Huntingdon and ultimately
19 to Inmate Johnston.

20 SCI employees do not appear to have
21 been the manner in which these implements got
22 inside. One of Johnston's associates received
23 legal mail from one of the Johnston's lawyers on
24 the same day that Norman Johnston wrote to his
25 brother that he received research from the

1 lawyer company. This particular inmate received
2 legal mail supposedly from this lawyer on two
3 occasions.

4 I personally checked the logs of
5 legal mail that go into the institution. There
6 is no way, looking at those records, that you
7 can determine whether or not the legal mail is
8 actually from a lawyer. What happens is, the
9 items are written down on a form as to where
10 they are from. The envelopes are not kept, but
11 then that probably wouldn't be possible. But in
12 these days of computers, when you can do
13 envelopes from anyone, there is no way that a
14 corrections officer or a mail room staff person
15 receiving that mail can know that that's real
16 legal mail.

17 I personally know the lawyer from
18 whose office this legal mail was purportedly to
19 have been sent. I checked with the Attorney
20 General's office and the DA's office which
21 convicted this inmate associate of Johnston, and
22 I was not able to find any connection between
23 this lawyer and this particular inmate, and
24 that caused me to be suspicious of these pieces
25 of legal mail.

1 Inmate Johnston had previously used
2 a legal brief as a method of smuggling drugs and
3 escape tools last year, and you've seen that. A
4 search conducted by me of this associate's
5 property revealed 36 pages of paper, supposedly
6 legal materials which were hot glued together
7 and were ripped out of a plastic binder. Those
8 36 pages contained the same material that
9 Johnston used in smuggling -- in his smuggling
10 the year before.

11 Although I do not have sufficient
12 evidence to take into a courtroom against other
13 persons at this time, I am convinced that some
14 of the escape implements used by Inmate Johnston
15 were mailed into SCI-Huntingdon by someone
16 probably using or making an attorney's envelope,
17 and mailing a fictitious brief. The brief
18 containing these implements was handed over to
19 the associate with the contraband hidden inside
20 the pages which were bound and glued together.
21 Once inside the prison, this material was moved
22 by inmates or possibly staff, or both, until it
23 reached its destination, Inmate Johnston.

24 Under the present regulations,
25 inmate legal mail can be opened in the presence

1 of the inmate recipient and examined for
2 contraband, then handed over to that inmate.
3 Legal mail cannot be read by DOC personnel. In
4 my opinion, if that mail had been read, even in
5 a cursory fashion, almost anyone would have seen
6 that this brief was legal nonsense, and upon
7 further investigation, these escape tools might
8 have been discovered.

9 I have included with my testimony
10 copies of pages from Johnston's associate's
11 property and copies of pages from the brief
12 Johnston used in 1998, and you can see when you
13 examine these pages that they are legal
14 nonsense. They do not flow together. They are
15 not a part of a legal argument. It is simply
16 miscellaneous papers put together in no
17 particular order.

18 Because I am continuing to
19 investigate, along with the Pennsylvania State
20 Police, the involvement of other persons in
21 Inmate Johnston's acquisition of escape
22 materials, I am not willing today to identify
23 further the subjects of my investigation.

24 I do recommend that the regulations
25 governing legal mail be amended to assure that

1 legal mail for inmates is coming from legitimate
2 legal sources and that inmates' proper access to
3 lawyers and legal materials is not being used as
4 a method of smuggling contraband.

5 Briefs and transcripts, which are
6 not confidential and are matters of public
7 record, should be able to be read by
8 appropriately trained staff. No legal material
9 sent to any inmate needs to be bound. Inmate
10 mail should be able to be x-rayed or
11 fluoroscoped.

12 After my service in the Chester
13 County DA's office, I came home to Huntingdon
14 and was a defense attorney here for 16 years,
15 including 10 years in the Public Defender's
16 Office in service as Chief Public Defender.
17 During that time I represented many inmates
18 charged with crimes at SCI-Huntingdon and
19 Smithfield and handled many parole cases at both
20 institutions.

21 I recite this experience so that you
22 will understand that lawyers would not send
23 confidential materials into inmates in briefs or
24 transcripts. These types of things are filed in
25 courts of record and are available for

1 prosecutors and the public, in general, to read.
2 The changes that I support will not diminish the
3 procedural and substantive rights that any of
4 our citizens, including inmates, have.

5 This escape occurred as a result of
6 a serious and concerted effort by a group of
7 inmates. To the extent that law enforcement in
8 this county can secure credible evidence against
9 all persons involved, all legally appropriate
10 prosecution will be filed and brought to
11 completion.

12 To the extent that your committee
13 has oversight over the statutes and regulations
14 that govern state prisons, I recommend that you
15 consider the changes that I have proposed, as
16 well as the changes in the law recommended by
17 Secretary Horn.

18 Once Johnston effected his escape,
19 the response of state, local, and federal law
20 enforcement was immediate and direct. Although
21 Johnston got away from two park police officers,
22 the relentless pressure put on both him and his
23 associates led directly to his apprehension. I
24 became personally aware of a great volume of
25 information which went to the Fugitive Task

1 Force first at Huntingdon, then in southern
2 Chester County, including information developed
3 by the state police here, by my office and by
4 DOC investigators.

5 In my opinion, SCI-Huntingdon has
6 been and generally is a well-run, well-
7 administered prison. The people who work here
8 take great pride in their professionalism and
9 sincerely regret the combination of factors
10 which led to this escape, some of those factors
11 such as the inmate legal mail rules being beyond
12 their ability to control. No prison is escape
13 proof. When escapes have occurred, the response
14 of law enforcement in Huntingdon County has been
15 swift and usually effective. It will continue
16 to be so.

17 In conclusion, I wish to thank you
18 for this opportunity to testify, and I will
19 answer questions to the extent that I can.

20 ACTING CHAIRPERSON JAMES: Thank
21 you, District Attorney. You have an extensive
22 background in terms of practice that I think is
23 very good.

24 In your review, as we get the
25 questions together, in your review so far, have

1 you made or submitted any suggestions as it
2 relates to legal mail yet to any DOC officials?

3 MR. STEWART: I've discussed the
4 recommendations that I brought to you with
5 Secretary Horn.

6 ACTING CHAIRPERSON JAMES: Thank
7 you. Representative Walko.

8 REPRESENTATIVE WALKO: Thank you,
9 Mr. Chairman. Mr. Stewart, at what stage is the
10 escape prosecution? I'm a little confused about
11 that.

12 MR. STEWART: The escape charges
13 have gone to a preliminary hearing, prima facie
14 case was held. Mr. Johnston is on a regular
15 schedule for formal arraignment, which will take
16 place probably within 45 days. When the actual
17 trial will be is another story altogether. That
18 will depend on what my colleague on the defense
19 side does in terms of pretrial motions and that
20 sort of thing.

21 REPRESENTATIVE WALKO: Is there any
22 evidence of complicity of anyone owning or
23 having access to the automobile that was taken?
24 Is there any indication --

25 MR. STEWART: Are you asking me if

1 the victim of the theft was involved?

2 REPRESENTATIVE WALKO: Yes.

3 MR. STEWART: No. No, he was not.

4 REPRESENTATIVE WALKO: That's all.

5 Thank you.

6 ACTING CHAIRPERSON JAMES: Thank
7 you. Representative Josephs.

8 REPRESENTATIVE JOSEPHS: I think
9 that my questions were covered. Thank you.
10 Thank you, Mr. Chairman.

11 ACTING CHAIRPERSON JAMES: Chief
12 Counsel Preski.

13 MR. PRESKI: Mr. Stewart, my
14 questions just simply go back to your proposal,
15 I guess, for the legal briefs. It's my
16 understanding that the reason why DOC has the
17 regulations all come out of court cases where
18 they've been sued for either looking at the
19 legal mail or they've done other things and then
20 there's been a lawsuit, and you get an order
21 from a judge that now says you can't read it.

22 I saw that you were here for the
23 Commissioner's testimony. Do you think
24 something like the X-ray machine will provide
25 the adequate security? I just seem to think it

1 might be hard to be able to train a corrections
2 officer to be able to look at a brief and say,
3 okay, this is nonsense, this is good, when
4 they're looking at what the Commissioner says
5 are thousands of pieces of mail a day.

6 MR. STEWART: I agree that it may be
7 difficult. I don't think you actually have to
8 sit down and read every legal brief. When you
9 look at the excerpts that I provided to you, and
10 these are representatives, and you see that
11 there is no connection between one page and the
12 next. You'll see that this was not a real
13 brief. It doesn't take a rocket scientist to
14 understand that.

15 Now, do I think the fluoroscope or
16 an X-ray machine will help? Sure it will help.
17 Do I think that not putting these things in
18 binders will help? Sure I think it will help.
19 But, I don't think there's any machine or
20 technology that takes the place of a sensible
21 human being taking a look at this stuff.

22 When you rely on the toys, when you
23 rely on the gadgets, you stop using your brain,
24 and the best piece of security, the best
25 security instrument we have at this institution

1 is the lump of brain matter between every
2 officer's ears. Now that's what I think people
3 ought to be doing instead of relying on
4 technology. I think they ought to be using
5 their brains.

6 MR. PRESKI: Thank you.

7 ACTING CHAIRPERSON JAMES: Did they
8 determine--and maybe I missed it--that when the
9 report of -- the report of the car theft was
10 reported to the State Police prior to the report
11 of the prison escape; is that correct?

12 MR. STEWART: That's right. The car
13 theft was reported at 6 o'clock, or thereabouts.
14 The prison escape wasn't determined, as I
15 understand it, until somewhere around 10:40.

16 ACTING CHAIRPERSON JAMES: And there
17 was no -- Was there any discussion from the
18 police or to the police to the prison as to, is
19 there anything wrong that you may be aware of?

20 MR. STEWART: With the car theft?

21 ACTING CHAIRPERSON JAMES: Yes.

22 MR. STEWART: I don't believe that
23 there was. I don't believe that the car theft
24 in the immediate area of the prison triggered a
25 police response to say, did somebody escape? We

1 have car thefts in Smithfield on occasions other
2 than when prisoners escape from SCI-Huntingdon
3 or Smithfield.

4 ACTING CHAIRPERSON JAMES: Any other
5 questions from the committee? (No response).
6 Thank you, Mr. District Attorney.

7 Next witness is Michael Fox, Council
8 Director of AFSCME, District Council 89.

9 MR. FOX: My name is Michael Fox.
10 I'm AFSCME's Council Director of District
11 Counsel 89.

12 MR. DIEHL: I'm Robert Diehl. I'm
13 the president here of SCI-Huntingdon for the
14 local union.

15 MR. FOX: Good afternoon. As I said
16 my name is Michael Fox. I'm the Council
17 Director of AFSCME District Council 89. I'm
18 here on behalf of approximately 10,000 AFSCME
19 members who work in the Department of
20 Corrections and the Department of Public Welfare
21 Forensic Units across Pennsylvania.

22 I'll begin by addressing a question
23 that was asked to me by a reporter following the
24 escape at Dallas. He asked me if I believe that
25 the recent escapes at Dallas and Huntingdon

1 illustrated a system-wide security breakdown in
2 the Commonwealth's correctional institutions. I
3 answered him with an emphatic no. I went on to
4 say that these escapes were an aberration.

5 The prisons in the Commonwealth of
6 Pennsylvania are secure, and this fact is due to
7 the professionalism and commitment of the men
8 and women who work in these dangerously
9 overcrowded facilities. These men and women
10 work under some of the most dangerous and
11 stressful conditions you can imagine, and when
12 you look at the whole picture, we should stand
13 and give them a round of applause for the job
14 they do and not judge them and the system they
15 hold together on these isolated occurrences.

16 At the time of these escapes there
17 were approximately 36,000 inmates in the state
18 prisons, and everyone of them wants out. But
19 through the vigilance and hard work of the
20 staff, they are held day in and day out securely
21 within the walls and fences of our prisons.
22 That's the norm and that's a good job.

23 The reporter didn't print a word I
24 said. I guess he thought a condemnation of the
25 system and the men and women who work there

1 would be more exciting than the truth.

2 Although, as I said earlier, the
3 prisons are secure, that does not mean that
4 AFSCME and its members do not believe more can
5 and needs to be done. First, our prisons are
6 understaffed. According to the 1998 Corrections
7 Yearbook, Pennsylvania ranks around 25th in the
8 nation in inmate to staff ratio at 5.3 to 1, and
9 since 1994, the rate of increase in staff has
10 lagged behind the increase in the inmate
11 population.

12 There are correction officers who
13 work alone in housing units with as many as 200
14 inmates. We have two-story housing units at
15 Cambridge Springs that one CO must cover. At
16 Pittsburgh we need additional officers in the
17 only yard outside the walls, but because of the
18 cameras management doesn't agree. Towers at
19 institutions that have them go unmanned. At
20 some institutions posts that have been
21 determined necessary by the Department of
22 Corrections post surveys for the security of the
23 institution go unmanned.

24 Oftentimes these decisions are being
25 made based upon cost considerations, not what

1 would be in the best interest of security.
2 By that I mean, management might agree with us
3 that increasing staff in a certain area is a
4 good idea, but because of the fiscal constraints
5 being put on them, they essentially have to
6 compromise on security decisions. Being
7 concerned with cost is important and necessary.
8 We all understand that, but when cost becomes
9 the overriding consideration, conditions occur
10 that allow incidents like escapes.

11 A few years ago a decision was made
12 as a part of a program to reduce overtime to
13 de-man towers, including the towers at Dallas.
14 The union objected to that decision, and even
15 went to arbitration in an attempt to have the
16 decision overturned. We were not successful
17 because the arbitrator could only consider the
18 question of whether the Department of
19 Corrections gave due regard to the safety of the
20 employees in making their decision. He could
21 not consider the security issues which were of a
22 major concern to us.

23 We attempted to have the towers
24 re-manned through negotiations, but since pure
25 staffing issues are not considered mandatory

1 subjects of bargaining and is a right reserved
2 exclusively to management, we were also
3 unsuccessful in resolving the matter there. We
4 were right. Had the towers been manned at
5 Dallas, that escape would have, in all
6 probability, been thwarted.

7 In February 1993, the AFSCME local
8 union here at Huntingdon raised with the
9 superintendent the issue of constructing a tower
10 to observe what is now G Block due to the
11 existing tower's obstructed view. It was again
12 raised with the superintendent in July 1993.
13 Had the recommendation of the AFSCME local been
14 implemented, the escape of Inmate Johnston might
15 not have occurred.

16 My point here is not to say that the
17 Department of Corrections officials disregard
18 security issues, because they don't. I believe
19 they find themselves quite often having to
20 choose between what might do the job and save
21 some money versus what would be the best way to
22 do the job but might be more costly.

23 When making decisions about security
24 in the prisons it should be about security and
25 safety; not money. If the professionals, my

1 members and the prison administrators believe
2 something is necessary for the security of the
3 prison, then it should be funded, or when
4 escapes like this occur, we should all be
5 willing to accept them as a cost of frugality.

6 We believe the Department of
7 Corrections in their quest to cut costs is
8 making too many staffing decisions based upon
9 the introduction of electronics. We believe
10 that the electronic devices can be a valuable
11 tool to assist correction officers, but the
12 devices should not replace live bodies. A live
13 body in the tower at Dallas would have seen the
14 escapees when the motion detection devices
15 failed.

16 When we argue that one CO in the
17 housing unit with 200 inmates is unsafe, we are
18 told that their personal alarm when activated
19 will result in assistance within minutes. When
20 we argue for more help in the yard, we are told
21 that the cameras are watching and if something
22 happens, help will be sent.

23 The problems are, one, the personal
24 alarms do not always work, and an officer who is
25 responsible for watching the camera monitors

1 also has other duties and may not notice the
2 incident quickly enough;

3 And two, think about being beaten
4 for just 30 seconds while help is being sent.
5 (Silence in the room). That silence wasn't even
6 30 seconds, but can you imagine being beaten by
7 an inmate for just those 30 seconds while help
8 is on the way? I've been told by COs all across
9 the state that if there is more than one CO in
10 the area, an incident that might otherwise end
11 in an assault of a CO might not because an
12 aggressive inmate will think twice about taking
13 on two or more COs when he might be willing to
14 take his shot at a CO working alone.

15 This, from our perspective, is a
16 safety issue but it is also an issue of
17 security. It is the staff who keep these
18 institutions under control. It's not a personal
19 alarm that is going to intercede to stop inmates
20 from fighting and possibly escalating into
21 something more serious. It's not a camera that
22 will use its experience and expertise to uncover
23 escape attempts or hidden weapons. It wasn't a
24 perimeter motion detector that protected a CO
25 from being killed at Camp Hill in 1989 or caught

1 the escapees at Dallas.

2 In addition, you have heard many
3 times in the past that corrections security is
4 about redundancy. To satisfy this requirement,
5 sufficient staff is necessary; to be a show of
6 force and strength in the housing units and
7 throughout the grounds of the interiors of the
8 institutions; to patrol the external perimeter
9 to ensure no external breaches exist and be in a
10 position to respond to any threats to the
11 security of the perimeter; and to staff the
12 towers that oversee the whole operation.

13 As I said earlier, had a tower been
14 built that had been suggested and staffed, the
15 Dallas escape might have been thwarted and the
16 escape here at Huntingdon may also have been
17 thwarted. The fact that the tower was manned at
18 Camp Hill in 1989, a corrections officer's life
19 was saved. Having the necessary staff can and
20 should be complimented; not replaced by the
21 electronic devices.

22 Another area of concern for our
23 members is the unit management system that was
24 implemented under Secretary Lehman. We opposed
25 the plan then and continue to oppose it because

1 we believed then and continue to believe that it
2 makes security secondary. AFSCME and the
3 members we represent are not opposed to
4 treatment, but we believe that security should
5 be the first consideration.

6 A critical factor in maintaining
7 security is maintaining discipline, and it has
8 been reported to me that counselors and unit
9 managers who now work directly in the housing
10 units override a COs decision to write up an
11 inmate for misconduct because it wouldn't be
12 conducive to his or her treatment program. This
13 should not occur. We believe programs and
14 treatment should take place in the appropriate
15 areas of the institutions; not on the blocks or
16 in the housing units where the COs should be in
17 charge.

18 Mr. Chairman, I have mentioned areas
19 of disagreement between us and the Department of
20 Corrections, but I would be remiss if I did not
21 say that there have been many times when we have
22 worked together on issues to enhance security,
23 safety and increase staff. There has been more
24 than one occasion when Secretary Horn and I have
25 joined forces to seek approval to hire

1 additional staff.

2 The Secretary and I reached an
3 agreement that the policy establishing the
4 procedure to analyze what posts are necessary at
5 an institution will include input from the
6 AFSCME local union. The Secretary, acting on a
7 recommendation from the then AFSCME local union
8 president at Dallas, instituted twice a year
9 mandatory lock-down drills. And there have been
10 many other occasions when the Secretary has
11 worked with us on many issues of security.

12 In fact, in my 17 years of dealing
13 with the Department of Corrections, Secretary
14 Horn has been the most responsive and accessible
15 secretary that I have had to work with.
16 Unfortunately, he cannot be at each institution,
17 and that is where we have concerns about
18 management giving the views of the line officers
19 appropriate consideration.

20 Had the management at Dallas
21 listened to our members, the recommendation to
22 the Secretary would not have been that they
23 could do without the towers being manned seven
24 days a week, 24 hours a day. It was shown that
25 had management listened to the concerns of our

1 members at Pittsburgh, the conditions that
2 existed that lead to that escape would have been
3 changed. Had management listened to our members
4 at Huntingdon in 1993, the escape of Inmate
5 Johnston quite possibly would have been
6 thwarted.

7 Unfortunately, the lesson that no
8 one knows the job better than those who do it is
9 slow to be learned. I can recall that in 1989
10 some of the decisions that were made by
11 management that lead to the riot were opposed by
12 our members. Someday, I believe, the voice of
13 the men and women who do this dangerous job will
14 be listened to if we can have an environment
15 where the right security decision is made even
16 if it might increase cost.

17 Mr. Chairman, in 1994, I testified
18 in front of the House Judiciary Committee as a
19 member of the Governor's Commission on
20 Corrections Planning and I would like to repeat
21 something I said then because, unfortunately, it
22 continues to be appropriate.

23 I participated on this commission as
24 a representative of the men and women who work
25 in the state prisons and county jails.

1 Oftentimes, these dedicated hard-working
2 professionals are overlooked in the ongoing
3 debate over crime and punishment. Over the past
4 several years, and continuing today, the
5 politically popular message is to lock more
6 criminals up and do it for longer periods of
7 time. One can debate, as we did in the
8 commission, over whether or not this policy will
9 solve the crime problem, but for now it appears
10 that will continue to be the direction of public
11 policy.

12 In pursuing this course of action,
13 lawmakers and policymakers must pay attention to
14 all the necessary components, including
15 adequately staffing the state correctional
16 institutions and county jails needed to house
17 this ever-increasing inmate population. This is
18 imperative to ensure the public safety as well
19 as the safety of the men and women who perform
20 the thankless and often overlooked jobs of
21 maintaining the security of these institutions.

22 Thank you for the opportunity to
23 address you. At this time I'll turn it over to
24 Corrections Officer Diehl for some remarks, and
25 then both of us will be available for any

1 questions.

2 CHAIRPERSON BIRMELIN: Officer
3 Diehl.

4 MR. DIEHL: Thanks for this
5 opportunity to speak to you. I might reiterate
6 some of the things that Mike said, but I just
7 wanted to bring some points out to you and to
8 the community.

9 I believe SCI-Huntingdon has its
10 foundation built on the integrity of its
11 employees. Huntingdon has been a secure
12 institution over the years because of the
13 commitment of staff to keep it so, and I believe
14 that their professionalism is evident in all
15 phases of the operation at this jail. You know,
16 we're usually busy from the time we come in
17 until we go home. There's always something to
18 do.

19 Our commitment is also to the
20 community, and it's to retain those in our care,
21 custody and control. We all have friends, we
22 all have family in the communities, and we hope
23 we have their support, you know, in what we're
24 doing here.

25 Am I correct in going back to

1 yesterday, were there were two questions that we
2 were asked about this: Why did Johnston escape
3 and what can be done to prevent another escape?
4 Were those the two questions that were asked?

5 CHAIRPERSON BIRMELIN: Among others,
6 yes.

7 MR. DIEHL: Because I was trying to
8 tailor this to what you want to hear.

9 CHAIRPERSON BIRMELIN: Don't tell us
10 what we want to hear. Tell us what you want to
11 say.

12 MR. DIEHL: I'm working on it here.
13 Johnston escaped because he wanted to leave.
14 You know, he had four life sentences and in PA
15 that offers no hope. He found the door and he
16 left. He concealed his intent from everyone,
17 you know. If there were signals that were
18 given, you know, such as weight loss, you know,
19 or some security screwdriver bits or, you know,
20 things that, you know, we were seeing, the
21 signals were missed, you know.

22 The employees, and I speak about
23 employees, everyone, correction officers and the
24 trades, secretaries, we make recommendations to
25 management, you know. We try to keep them

1 abreast of how we feel about things that are
2 happening, you know, whether it be the H Tower;
3 whether it be moving Johnston, you know, when he
4 refused to move, you know, if we had concerns
5 that we saw. We try to convey that.

6 Our problem in doing this is what's
7 called communication problem. It's how
8 communication goes from the bottom to the top
9 and how it comes from the top to the bottom, and
10 I have talked to Mr. Horn about this. He's
11 willing to look at different avenues to enhance
12 this, and that moves me into what can be done to
13 prevent another escape, which I feel
14 communication is on top of the list.

15 I feel detailed post orders and
16 directives, detailed policies and procedures,
17 you know. When we're out in G Block is an
18 example and we're doing a tier check or we're
19 counting and we get into a situation where we
20 don't see the inmate moving, detail post orders
21 don't give us direction past seeing flesh and
22 movement.

23 You know, I can ad-lib and I can
24 say, well, I'll kick the door, you know, or I'll
25 bound on the plexiglass. That might work for me

1 on the 2-to-10 shift. Whenever you're on the
2 10-to-6 shift, the guys are sleeping. You know,
3 we're going to have a fight and there's going to
4 be a problem. So, that is a problem. What do
5 we do?

6 Can we get clear direction, you
7 know, on what they want? Because, if we can get
8 it, we'll surely do it because post orders,
9 policies, procedures and directives are what we
10 have for direction in doing our jobs, and we try
11 to do our jobs.

12 I heard an issue of money. Whenever
13 we get funding or an allotment of money is
14 slated to an institution or to corrections for a
15 specific issue, it sounded like that might not
16 be spent, or there's a possibility it could go
17 somewhere else if the priority dictates it
18 should go so.

19 Well, I would like to suggest that
20 whenever we have monies allotted for specific
21 things that there's some accountability that
22 they go to those specific things and that we get
23 what we're supposed to get. Because, whenever
24 we look at security we don't want to see it on
25 the bottom rung of the ladder. We want to see

1 it at the top of the ladder. And I might add,
2 that we feel the corrections officers sometimes
3 are down there on the bottom rung of that ladder
4 sitting with security.

5 There's some things I think might be
6 done to prevent another escape and to make
7 things work better at the institutions or to
8 motivate the employees: open lines of
9 communication; receive staff suggestions and
10 legitimately look at the feasibility of all of
11 them; pay attention, close attention to the
12 morale in the institution, because, if you have
13 a motivated corrections officer, if you have a
14 motivated employee, you're going to get more out
15 of them than you're going to get out of somebody
16 who is coming in and doing eight and hitting the
17 gate, as it's called.

18 So, I thank you for letting me talk.
19 If you have any questions.

20 CHAIRPERSON BIRMELIN: How long have
21 you been a corrections officers?

22 MR. DIEHL: I've been a corrections
23 officer for -- it will be eight years in
24 December, and I've spent all my time here at
25 SCI-Huntingdon.

1 CHAIRPERSON BIRMELIN: In your
2 experience, were the activities of Correction
3 Officer Ruiz and the nurse in question, have you
4 seen them duplicated in other corrections
5 officers or other employees here?

6 MR. DIEHL: Well, I'll answer this
7 in two parts because, what they did, as far as
8 taking contraband from either what's called
9 general population and into the RHU, that's not
10 an accepted behavior. And if anyone saw them
11 doing it, you know, it would be on us to report
12 that.

13 CHAIRPERSON BIRMELIN: Have you
14 observed it?

15 MR. DIEHL: No, sir. No.

16 CHAIRPERSON BIRMELIN: Are you
17 aware, at least through third parties, that it
18 had occurred?

19 MR. DIEHL: Well, we all know what
20 hearsay is, okay? I'm not going to -- I'm not
21 going to --

22 CHAIRPERSON BIRMELIN: Prisons
23 thrive on hearsay and innuendo, but --

24 MR. DIEHL: That's unfortunate.

25 CHAIRPERSON BIRMELIN: Can I assume

1 then that you were somewhat aware that these
2 types of events were happening?

3 MR. DIEHL: Well, like I said, it
4 was two parts. Sometimes people look at
5 something that's happening in an institution and
6 they view it as odd or they say, you know, that
7 shouldn't be. But having worked here, you know,
8 I know that passing is something that's going on
9 within the confines of the RHU. Okay?

10 Not everybody will pass, you know,
11 and items that were passed were all to be
12 searched. You were accountable for what you
13 were taking from one cell to another cell.
14 Okay? They didn't recommend passing food items.
15 Things that you could pass would be like legal
16 material, you know, if you went through it, and
17 I've seen newspapers and, you know, some other
18 books, you know, passed; not library books, but
19 they have personal books.

20 CHAIRPERSON BIRMELIN: More
21 specifically, my question is, were you aware of
22 any activities similar to what Ruiz and the
23 nurse did that you knew were wrong or in
24 violation of policy?

25 MR. DIEHL: Definitely not. And if

1 I would have been aware of it, I'd have had to
2 report it, you know. That's not common
3 practice. You know, it's not allowed.

4 CHAIRPERSON BIRMELIN: You have been
5 here eight years and knew of nothing else, no
6 one else who was doing that?

7 MR. DIEHL: Well, I know that
8 there's people who tried and were stopped at the
9 door of the RHU, you know.

10 CHAIRPERSON BIRMELIN: Were these
11 employees?

12 MR. DIEHL: Uh-hum, and they ended
13 up in disciplinary situations for what they
14 tried.

15 CHAIRPERSON BIRMELIN: You've never
16 personally seen or reported anyone for those
17 activities?

18 MR. DIEHL: No, sir.

19 CHAIRPERSON BIRMELIN: It's my
20 understanding that the two employees in question
21 were fired, but that no further action is going
22 to be taken against them. Would you recommend
23 that the law be changed so that they could be
24 criminally culpable for their actions?

25 MR. DIEHL: Well, I don't think that

1 they should be criminally culpable for what they
2 did. I don't think there's anything to justify,
3 you know, bringing charges against them. If we
4 had -- If there was evidence that they had
5 taken, you know, something in with knowledge,
6 then, you know, to aid in the escape, then you
7 have something to work with.

8 CHAIRPERSON BIRMELIN: We're dealing
9 with the definition of negligence here; not
10 necessarily what they knew what was there. But
11 for an employee to, at least in Ruiz's case, to
12 bring in at least on 18 occasions, which is
13 documented, articles that he had no idea what
14 was in there, to me that's a little bit higher
15 standard than to give him a stick of gum or
16 something else like that.

17 To me, you're dealing with an issue
18 in which you're dealing with dangerous people
19 who are here in the first place because they're
20 dangerous, but who also are capable of dangerous
21 activity within the prison, and you're telling
22 me that you don't think that the employees are
23 criminally negligible for what they did? Is
24 that your answer?

25 MR. DIEHL: If they would have known

1 what was contained, if there was something in
2 there. We're doing a lot of if's here, okay?
3 Is there a possibility something was in there?
4 Maybe. I'm going to leave that up --

5 CHAIRPERSON BIRMELIN: Of course
6 there was a possibility because they didn't know
7 what was in there. They claimed they didn't
8 know what was in there.

9 MR. DIEHL: I don't believe I'm in a
10 capacity to even make a suggestion on where to
11 go with that. But I think, you know, Mr. Horn
12 and them --

13 CHAIRPERSON BIRMELIN: Well, I think
14 you are. I think because you've been here for
15 eight years you have a good idea of what is
16 acceptable and unacceptable behavior on the part
17 of other COs, and you speak for those other COs.
18 I would suggest to you that if you know this is
19 occurring, as a representative of other COs, you
20 would be upset that they are jeopardizing the
21 integrity of the system and your reputation as a
22 CO yourself.

23 MR. DIEHL: Let me reiterate, that I
24 don't think it's acceptable behavior for what
25 they did take as far as taking the contraband in

1 from the population block into the RHU.

2 CHAIRPERSON BIRMELIN: I agree with
3 you and I know that you said that, but that's
4 not my point. My point is, do you think they
5 are criminally negligible and ought to be
6 prosecuted for having done something that
7 jeopardizes the health and safety of people,
8 especially when -- It could also jeopardize you.

9 I mean, suppose Norman Johnston had
10 a weapon that was brought into him by CO Ruiz
11 and he attacked one of your fellow COs. How
12 would you feel about that?

13 MR. DIEHL: I wouldn't feel good
14 about it, okay?

15 CHAIRPERSON BIRMELIN: But you don't
16 think that CO Ruiz should be criminally
17 negligible for bringing in a weapon to him? Is
18 that what you're telling me?

19 MR. DIEHL: I think there's already
20 laws in place to take care of it.

21 CHAIRPERSON BIRMELIN: My
22 understanding is there isn't.

23 MR. DIEHL: If there's evidence to
24 support what you're saying then, you know --

25 CHAIRPERSON BIRMELIN: It's my

1 understanding that he's not criminally
2 negligible.

3 MR. FOX: Mr. Chairman, if I can,
4 the example that you use, Officer Diehl nor I
5 are attorneys. But, the example you used, if
6 Officer Ruiz would have smuggled in a weapon
7 that could then be used or would then be used to
8 assault someone with, my understanding is -- You
9 know, my limited understanding of criminal law
10 is, he could be charged as an accessory to that
11 assault given the fact that he's the one that
12 provided the weapon.

13 Now, if the question is, should a
14 corrections officer be criminally liable for
15 passing coffee, passing Maylox, cigarettes,
16 that's a whole different question and, you know,
17 something that I think would need to be
18 discussed and debated. But I think drugs, just
19 recently or within the past couple years there
20 was legislation to make the introduction of
21 drugs into an institution by staff criminally
22 prosecutable and AFSCME and its members
23 supported that. I think we sent letters in
24 support of that legislation.

25 Our members believe wholeheartedly,

1 in the principle that you stated, that when
2 these types of things occur, their safety and
3 security are in jeopardy as well. But I think
4 we have to take a look at what we're talking
5 about when we get down to criminal culpability.

6 CHAIRPERSON BIRMELIN: My point is,
7 Ruiz didn't know what he was giving to Johnston.
8 He claims in his testimony, which is
9 corroborated here by the state police, that he
10 didn't know. He never looked. The nurse never
11 looked.

12 MR. FOX: And that's wrong.

13 CHAIRPERSON BIRMELIN: There's a
14 problem here.

15 MR. FOX: I agree with you there's a
16 problem.

17 CHAIRPERSON BIRMELIN: And
18 personally I think it goes beyond the fact that
19 you should just lose your job over it because of
20 the sensitive nature of who you are dealing
21 with. You're dealing with criminals here.

22 MR. FOX: And you may be absolutely
23 right, Mr. Chairman. All I'm saying is that, I
24 think we have to examine that, you know, fairly
25 closely. You know, I don't want to see -- I

1 wouldn't want to see a corrections officer or
2 any other employee be subject to serving time in
3 jail because they may have given an inmate a
4 pack of cigarettes.

5 CHAIRPERSON BIRMELIN: I don't
6 either.

7 MR. FOX: Now, maybe they should --
8 maybe they might lose their job for that, but
9 should someone go to jail for that? I mean,
10 we're overcrowded as it is. I don't think if we
11 want to start putting people in jail for
12 something like that.

13 Now, if they -- if they brought in a
14 pack of cigarettes that they didn't check and
15 that pack of cigarettes included a weapon that
16 could then be used and may have been used to
17 assault a staff or another inmate, then, as I
18 said before, I think they're criminally
19 negligent at that time and they're an accessory
20 to an assault on a staff or another inmate and
21 can be prosecuted in that regard.

22 You know, I would want us to be very
23 careful in looking at that type of an issue and
24 not overreact.

25 CHAIRPERSON BIRMELIN: I think

1 you're agreeing with what I just said. If we
2 found out that what Ruiz brought in or the nurse
3 brought into Johnston led to his escape -- You
4 know, they say they didn't know. Let's assume
5 even if they didn't know that it was in there
6 and we can prove that, I think there's criminal
7 culpability.

8 MR. FOX: You might be right.

9 CHAIRPERSON BIRMELIN: But
10 currently, it's my understanding that the law
11 does not --

12 MR. FOX: Well, I'm not so sure
13 about that. I think Secretary Horn's testimony
14 said this, that the reason they're not pursuing
15 criminal charges against Ruiz and the nurse is
16 because they are unable to prove that anything
17 they brought into G Block contained instruments
18 of escape.

19 But I think existing law -- And you
20 may know it better than I, Mr. Chairman. I
21 think existing law makes it illegal and you're
22 subject to criminal charges if it can be proven
23 you brought in instruments of escape. I think
24 that's currently a violation of law. I might be
25 wrong.

1 CHAIRPERSON BIRMELIN: I'm going to
2 ask Counsel Preski to give us a clarification.

3 MR. PRESKI: Just for the
4 committee's edification, my understanding of the
5 law, and I don't have the statutes in front of
6 me, are basically that Mr. Fox is correct. If
7 someone would bring a weapon in and that weapon
8 would be used in an assault or an implement of
9 escape, it would be used in an escape, they
10 could then, if the D.A. so decided, to bring
11 charges basically for helping the escape.

12 I think what the Chairman is getting
13 at, is that, and this is the difference, is that
14 assuming inside those Maylox bottles there were
15 knives and the COs caught them with the knives
16 before there was an assault or before there was
17 an escape, I think what the Chairman is saying
18 is that, because the corrections officer didn't
19 open up the bottle to make sure that the bottle
20 of Maylox had Maylox in it, but it had something
21 else, should that give rise to a criminal
22 culpability?

23 Basically, let's not wait until the
24 corrections officer gets stabbed. Let's get it
25 when the things are in there. That's where I

1 think the deficiency in the law is.

2 Basically, because the person who
3 hands over that bottle was negligent, that they
4 didn't look inside the bottle when they had the
5 opportunity, that's where our law falls down.
6 And I see -- Just to clarify what the Chairman
7 is asking, your testimony has basically been, if
8 the guy gets stabbed we have no problem at all
9 with the additional charges being brought by the
10 district attorney in the county.

11 I think his question is that, what
12 if we get the guy when he has the knife in his
13 hand before he has the ability to do anything or
14 if he has the screws in his hand before he
15 releases the gate? That's where the criminal
16 culpability for the CO or anybody else who
17 brought the implement in, and I think that's his
18 question. That's where our law falls down,
19 because they didn't open the bottle and look.

20 MR. FOX: Okay. Well, in the
21 example that you gave, you know, those may be
22 some areas where, once we're able to take a look
23 at the proposal, we may agree.

24 My concern, and this is all that I'm
25 saying, is, I'm not saying I disagree with you,

1 Mr. Chairman. All I'm saying is, I think the
2 issue would need to be examined very closely
3 because, clearly, you know, we advocate and we
4 have advocated for years, we should not wait
5 until somebody gets killed, hurt or maimed to be
6 able to react to something. I agree 100 percent
7 with you on that.

8 But, the other side of the coin is,
9 and I don't -- You know, if that Maylox bottle
10 is not to be brought in to an inmate, but it is,
11 and all the bottle contains is Maylox, you know,
12 I don't want -- I would hate to see us begin
13 prosecuting and putting people in jail for those
14 types of things.

15 Now, clearly, the bringing in of
16 weapons, you probably wouldn't find a
17 corrections officer in the state who probably
18 wouldn't try to prosecute that case themselves,
19 because you're absolutely right. Their lives
20 and their safety are in jeopardy when implements
21 of assault are brought in and put into the hands
22 of inmates.

23 CHAIRPERSON BIRMELIN: And I would
24 include implements of escape.

25 MR. FOX: I will too. Drugs, as I

1 said before, we supported the legislation to
2 make it, I think it was a second degree felony
3 for the smuggling of drugs into the institution
4 by staff. AFSCME and its members supported
5 that, so we're not opposed to placing criminal
6 responsibility when it's appropriate.

7 All that I'm saying, Mr. Chairman,
8 is, we would want to take a look at it and have
9 detailed discussion with you over it so that
10 we're not overreacting, but we are addressing
11 those clear threats to the safety and security
12 of the institution and to the safety and
13 security of the public.

14 CHAIRPERSON BIRMELIN: I'm sure I
15 will give you that opportunity to work with me
16 on that.

17 MR. FOX: We would be more than
18 happy to, Mr. Chairman.

19 CHAIRPERSON BIRMELIN: Thank you.
20 I'm going to ask the members of the panel if
21 they have any questions. Representative James.

22 REPRESENTATIVE JAMES: Thank you,
23 Mr. Chairman. Thank you both for testifying.
24 Your last name, I'm sorry, officer is Diehl?

25 MR. DIEHL: Yes, sir.

1 REPRESENTATIVE JAMES: What is the
2 process that you are aware of as it relates to,
3 let's say as a correction officer you have a
4 problem with an inmate and you want to make a
5 complaint, or whatever. What is the process
6 that you have to go through in order to do that?
7 And also, what is the process that inmates have
8 to make a complaint against correction officers?

9 MR. DIEHL: Are you asking if I have
10 a problem with an inmate, what's the process I
11 go through?

12 REPRESENTATIVE JAMES: Yes.

13 MR. DIEHL: It could be anything
14 from a verbal correction; you know, try to work
15 with him to get him on the right track. If I
16 need to go further, if it's a serious enough of
17 an infraction, I can take it to a misconduct.

18 REPRESENTATIVE JAMES: Taking it to
19 a misconduct includes you writing something up?

20 MR. DIEHL: Yes, documentation on
21 what occurred and what the infraction would be,
22 you know, listed, and then he has to go to the
23 examiner and get it straightened out.

24 Then you asked what their route is?

25 REPRESENTATIVE JAMES: Yes.

1 MR. DIEHL: That would be the
2 grievance process, the inmate grievance process.
3 They also have an obligation under that to try
4 to straighten the grievance or the problem out
5 with us before they move into a formal filing of
6 a grievance, a verbal approach again. They
7 might have to talk to their sergeant, the block
8 sergeant, you know, and/or counselor, unit
9 manager about the problems before they file
10 their grievance.

11 REPRESENTATIVE JAMES: You said they
12 speak to a sergeant. You mean a sergeant --

13 MR. DIEHL: CO, a corrections
14 officer to -- A sergeant is assigned to the
15 block. He's sort of over that area, directing
16 the work force.

17 REPRESENTATIVE JAMES: Have you seen
18 in the last few years, have you seen a rise in
19 complaints against correction officers or either
20 misconduct?

21 MR. DIEHL: I think sometimes they
22 occur for various reasons. Sometimes they're
23 justified; sometimes they're not justified. I
24 don't think I've seen a rise to it, but I
25 believe that Diana Bane handles the grievances

1 and she could give you a real, you know, a good
2 breakdown on statistics.

3 REPRESENTATIVE JAMES: Are you aware
4 of associations like hate groups or
5 organizations with the inmates that they might
6 belong to? I understand or heard that Johnston
7 was part of one of these hate groups. Were you
8 aware of that?

9 MR. DIEHL: I wasn't aware that
10 Johnston was a member of a hate group, but we
11 have the white guys. We have black guys. We
12 have the Hispanic guys, you know. Each one of
13 them has got their group, whether it be the
14 white supremacists or, you know, various other
15 ones. For some reason it seems like everybody
16 needs one, you know.

17 REPRESENTATIVE HAROLD: Thank you.
18 Thank you, Mr. Chairman.

19 CHAIRPERSON BIRMELIN:
20 Representative Walko.

21 REPRESENTATIVE WALKO: Thank you,
22 Mr. Chairman. Mr. Fox, you did indicate that in
23 1993 the union requested that a new tower be
24 built to make it possible to see Block G. And
25 what I was wondering, first of all, obviously,

1 that recommendation was ignored. What was the
2 process and how did the Central Office have --
3 How did they respond to that request?

4 MR. FOX: While the request actually
5 never made it out of the institution, and in
6 fact -- See, the request was on the agenda for a
7 regular monthly labor management meeting that's
8 held at each of the institutions. We
9 discovered -- Officer Diehl who is now the
10 president of the local, he did some research of
11 past minutes of meetings and that's how we
12 discovered this. It's been brought to their
13 attention.

14 Very rarely are, or back then
15 anyway, were minutes or agendas of labor
16 management meetings processed up through the
17 system. I guess it was around 1994, or
18 thereabouts, or '95, we enacted a formalized
19 process within the Department of Corrections
20 where, at the local level, we have monthly upper
21 management meetings. We then schedule regional
22 labor management meetings with the regional
23 deputy secretaries with the Department of
24 Corrections, and issues that were discussed and
25 unresolved locally can then be brought to the

1 deputy secretaries. Then annually we meet with
2 the Secretary, and issues that were left
3 unresolved at the regional level can then be
4 presented to the Secretary.

5 But, in 1993, that process didn't
6 exist, and the issues that didn't get resolved
7 locally and it came into -- came to Harrisburg
8 on a hit-and-miss basis. And, quite frankly,
9 that issue -- And I have been working with
10 Corrections out of Harrisburg since 1982, and
11 that issue to my knowledge was never brought to
12 the headquarters level.

13 REPRESENTATIVE WALKO: I guess I
14 just find it hard to believe that -- First of
15 all, I believe that the buck stops with the
16 Governor, because the Governor is the boss. He
17 represents the people. I don't care -- I don't
18 think you can delegate that responsibility when
19 the safety of the citizens of Pennsylvania is at
20 stake.

21 It just seems to me that a
22 recommendation about a tower is so intertwined
23 with security, and if you can't have a view of a
24 major block with maximum security, that just
25 seems to be such a major failure; that that

1 should have been communicated to Central Office,
2 to the Governor, the boss, who then would have
3 to respond.

4 I mean, I find it hard to believe
5 that that issue would have been dropped back in
6 1993. It just seems to me that it would have
7 been in meets and discusses and then always sent
8 to Harrisburg.

9 MR. DIEHL: Well, our process and
10 labor management meeting are meet and discuss
11 isn't always a fun process. Quite frankly, up
12 until about a month ago, it's remained that way.
13 People don't even want to have the meetings
14 because there's so much contention about issues.

15 I have the minutes from that meeting
16 in '93. Just paraphrasing it, they were -- it
17 was prioritized, you know, as not one of the
18 priorities. So, it was not looked at.

19 When we bring something up at a
20 labor management meeting -- Things are changing.
21 We've got a new deputy here now and he seems to
22 be a real fair man and things -- We've had more
23 progress with him in just this last meeting than
24 we've had in probably eight years.

25 But, we would will always get noes.

1 Sometimes you wouldn't get justifications, you
2 know. A lot of times it just didn't seem like
3 our recommendations and our concerns were looked
4 at, you know, from an unbiased viewpoint.

5 REPRESENTATIVE WALKO: Thanks,
6 Officer Diehl. I can sympathize with the
7 tensions that might be involved in these
8 meetings. I'm a member of the Democratic Caucus
9 in the House. Some of our caucus meetings are
10 rather tense and contentious.

11 I have another question regarding
12 staff and you indicated that the system is
13 understaffed, and I was wondering if there's a
14 difference between staffing a traditional
15 facility like Huntingdon or SCI-Pittsburgh or
16 the new prototypes?

17 Some jail guards have told me,
18 correction officers, that they feel bad for
19 guards at prototypes. Would you comment on the
20 staffing levels and the different kinds of
21 institutions?

22 MR. FOX: Sure. The short answer to
23 your question is, yes, there are differences.
24 We don't believe that they're appropriate.
25 Whether it's a block at Mahanoy or a block here

1 at Huntingdon, comparing one of the older
2 institutions to one of the newer institutions
3 that has 200 or 300 inmates on it, we believe
4 one CO is inappropriate, and it doesn't matter
5 if you're in a prototypical institution or one
6 of the older institutions.

7 The problem that we run into in the
8 prototypicals, as I said in my testimony, is,
9 they're probably at this juncture more reliant
10 because that's how they were built on
11 electronics. And the electronic complement in
12 the prototypicals, you know, are used to justify
13 maybe less staff in a block.

14 Whereas, in the older institutions,
15 although it's beginning to creep in, it wasn't
16 from the beginning. From our perspective, we
17 don't believe there should be a difference. If
18 you have 200 inmates on a block, one CO alone is
19 not appropriate whether it's in a brand-new
20 institution or an older institution.

21 REPRESENTATIVE WALKO: Thank you.
22 One other question regarding unit management.
23 You said, Officer Diehl, I believe you might
24 have mentioned it, that a unit management -- or
25 maybe it was Mr. Fox, that security decisions or

1 security issues are sometimes overruled by
2 treatment officers or counselors, and I was
3 wondering if you had any examples of that.

4 MR. FOX: It's a very -- I think
5 you're referring to my testimony, Representative
6 Walko. What I said was that, corrections
7 officers from around the state, since unit
8 management came into place under Secretary
9 Lehman, have reported to me many times where
10 they wanted to write up an inmate with a
11 misconduct, and their decision to do that was
12 overridden by counselor or unit manager on the
13 basis that it wasn't conducive to the treatment
14 program.

15 Today I do not have any specific
16 examples. Mr. Diehl would like to address the
17 question.

18 MR. DIEHL: Thank you. I think it
19 comes back to management, you know, having their
20 hand in things and knowing what's going on and
21 accepting responsibility and accountability for
22 how things are working with unit management.
23 We've got unit managers at SCI-Huntingdon that
24 work hand in hand with the corrections officers
25 and they will back us up and do the right thing.

1 And we've got other unit managers who we've
2 fought them.

3 They have given us orders to violate
4 policies and procedures. It was their place and
5 they wanted it run the way they wanted it run.
6 So, policies and procedures were pushed aside.
7 Block rules were changed to accommodate, you
8 know, what they wanted. Sergeants were given
9 orders and, you know, threatened or intimidated,
10 if they didn't do what, you know, was supposed
11 to be done the way they wanted it done. And
12 they were backed up by higher-level management
13 people who got behind the unit managers to
14 restrain the sergeants from actually acting upon
15 what they were supposed to.

16 What I'm saying is, it really
17 depends on where you're at. It can work -- You
18 know, one guy will work it the right way and one
19 guy will work it the wrong way, but whose fault
20 is it? It rests with management to make sure
21 that it's working the right way.

22 MR. FOX: And also, just from a
23 general perspective with regard to unit
24 management, one of our concerns back when it was
25 first introduced--well, actually a couple of our

1 concerns--one, it's a program that had been put
2 into place in some other states. I don't recall
3 them offhand, but there had never been one study
4 done anywhere to determine its effectiveness, so
5 we were actually implementing a program that no
6 one knew for sure that it would be effective.

7 Secondly, when it was introduced,
8 the unit managers were being described by, you
9 know, Secretary Lehman at the time and the high-
10 level officials as actually mini-superintendents
11 within the institutions. I think they're
12 described that way today, which, you know,
13 describing them in that way in and of itself is
14 going to create a confusion with regard to lines
15 of authority.

16 You know, if that unit manager is
17 being described to corrections officers as a
18 mini-superintendent, but at the same time saying
19 all security matters, though, will be handled by
20 the shift lieutenant or shift captain, you still
21 have that confusion because the staff is being
22 told this person here is a mini-superintendent
23 and they are trained and they are raised in a
24 system that says, you know, the superintendent
25 is in charge, and if we have a

1 mini-superintendent, that's who's in charge.

2 REPRESENTATIVE WALKO: Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRPERSON BIRMELIN:

5 Representative Josephs.

6 REPRESENTATIVE JOSEPHS: Just a
7 short question. We were talking about looking
8 into cells, I guess Officer Diehl, and seeing
9 flesh. Does hair count as flesh? Or was that
10 one of the confusions in communication that you
11 would be talking about?

12 MR. DIEHL: We've got disciplinary
13 hearings that have raised the same question.
14 I've got guys that are waiting for replies from
15 PDCs last month that were involved in this.

16 REPRESENTATIVE JOSEPHS: PDCs?

17 MR. DIEHL: Pre-disciplinary
18 conferences to determine if they're guilty of
19 what happened or not. That's a question that
20 was raised in there, you know.

21 I can give you my opinion, but
22 that's actual testimony out of a hearing, you
23 know, to where that's one of the issues one of
24 our people raised. So, you know, I can give you
25 an opinion that I have, but I don't want to

1 prejudice that guy.

2 REPRESENTATIVE JOSEPHS: Sure. No,
3 I understand that. I think your answer is --

4 MR. DIEHL: You said something about
5 flesh or movement, is that what you're saying?

6 REPRESENTATIVE JOSEPHS: Well, does
7 hair count as flesh? And as I understand this
8 person, Johnston, cut his own hair?

9 MR. DIEHL: No, I don't believe it
10 was his hair. They do barbering or get
11 barbering out in the RHU in a certain area. You
12 know, it's speculation as to how he got it;
13 whether somebody walked and drugged bits of hair
14 to his cell or whether an inmate actually who
15 was a worker there could gather some up and get
16 it into him. It's speculation on my part as to
17 how he got it.

18 REPRESENTATIVE JOSEPHS: But there
19 is a question in the regulations and the policy
20 about whether flesh is hair, enough of a
21 question that people are, perhaps, going to be
22 disciplined for it I guess is the answer.

23 MR. FOX: Yes, employees may be
24 disciplined with it. As Officer Diehl said,
25 we're in kind of a sensitive position with

1 regard to that issue because we have a
2 responsibility to represent these folks, and
3 what we may say here could always be introduced
4 in arbitration.

5 REPRESENTATIVE JOSEPHS: I
6 understand that. To me the answer is, again,
7 what the officer has said that there's a
8 communications problem about exactly what
9 officers are supposed to do in exact precise
10 situations.

11 MR. FOX: That could very well be.
12 That is correct.

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

15 CHAIRPERSON BIRMELIN:
16 Representative Manderino.

17 REPRESENTATIVE MANDERINO: Thanks.
18 Actually, my question was asked, but I still
19 don't understand the answer, so let me just ask
20 it one more time.

21 It's lost on me what the -- Either I
22 don't understand what the unit management system
23 is, or I don't understand what decisions that
24 are compromising security are being overruled.
25 That whole part of your testimony is lost on me.

1 MR. FOX: The unit management system
2 is a -- I guess simply put, prior to a unit
3 management system being put into an institution,
4 when an inmate would want to visit with a
5 counselor or participate in a treatment program,
6 there was another place in the institution that
7 they went to. On the block, the employees who
8 worked the block were correction officers,
9 uniform officers.

10 When the unit management system was
11 put into place, what it did was, it actually put
12 the counselors on the blocks. It put clerical
13 employees on the blocks. It put unit managers
14 who were at that time described as -- Their role
15 was to oversee and control and make decisions on
16 all issues except security.

17 Now, we were told back then because,
18 you know, our concern was a confusion between
19 the lines of authority, and we were told that
20 when it came to a security decision, that that
21 decision still would be made by a lieutenant or
22 a captain if there was a question.

23 REPRESENTATIVE MANDERINO: Okay.
24 Let me stop you right there because you may have
25 hit on part of my misunderstanding. I thought I

1 understood from prior testimony that there were
2 correction officers and then there was a
3 lieutenant, who was still not a management
4 employee, but kind of like the head correction
5 officer, the guy with the most experience. Now,
6 he or she is somebody different than the unit
7 manager who is somebody from a management level
8 employee and who always performed that function
9 in the institution, but now instead of being in
10 the central administrative offices is out on the
11 block.

12 MR. FOX: Partly correct,
13 Representative. First off, let me say, the
14 lieutenant is a management level employee. It's
15 a sergeant who is not. The lieutenant is the
16 first-level management in a correctional
17 institution.

18 REPRESENTATIVE MANDERINO: So when I
19 asked the question earlier with regard to the
20 checking system and the punch-out system about
21 who on that block may have been there to look
22 and say, gee, this correction officer always
23 completes this round in seven minutes, whereas,
24 other people do it in 45 minutes, isn't somebody
25 looking at the data off that block, I was told

1 that's an inappropriate question because that
2 lieutenant is really just the most senior guy.

3 But, there is somebody else who is
4 more senior who is a management person that sees
5 what goes to the Central Office from this
6 particular block before it goes there. That's
7 what you're telling me now?

8 MR. FOX: Well, I don't know about
9 the specific card you're talking about. You
10 know, maybe Mr. Diehl can answer it. I couldn't
11 hear real well from the part of the room I was.

12 REPRESENTATIVE MANDERINO: And it
13 wasn't your testimony. I'm putting together
14 pieces of different people's testimony to try to
15 understand who is there on site.

16 MR. FOX: What I recall, the
17 description you gave seems to be the answer
18 Secretary Horn gave you with regard to what a
19 sergeant is. A sergeant is a lead worker and
20 not technically a supervisor, and it's the
21 supervisor's responsibility, and in this case
22 the first level would be a lieutenant.

23 Now, the unit manager, that's a
24 person who always existed but maybe just at a
25 different part of the institution one time.

1 Now, when unit management came into being, those
2 were brand-new positions that --

3 REPRESENTATIVE MANDERINO: Those are
4 new mid-level managers.

5 MR. FOX: Correct.

6 MR. DIEHL: It was about the level
7 of a captain.

8 REPRESENTATIVE MANDERINO: And now
9 these mid-level managers who were never there to
10 overrule whether or not you gave an inmate a
11 disciplinary misconduct that goes on his record
12 is now making those kinds of decisions? Is that
13 the problem with unit management?

14 MR. DIEHL: I haven't ever -- I
15 haven't had a unit manager try to keep anyone
16 that I know of from filing a misconduct. There
17 may be an instance, you know. There may be
18 something that's causing it to happen.

19 REPRESENTATIVE MANDERINO: Okay.
20 And you didn't say that. That was Mr. Fox's
21 testimony. At least this isn't happening with
22 any frequency at Huntingdon.

23 MR. FOX: I'm not that saying that
24 it happens with a great deal of frequency. My
25 point, though, is, that when we're talking about

1 the security of any institution, that's got to
2 be the priority.

3 REPRESENTATIVE MANDERINO: Let me
4 ask Officer Diehl. Unit management, as it's
5 being practiced, implemented at Huntingdon is
6 not something that's undermining the security of
7 correction officers as you see it?

8 MR. DIEHL: No. It has. It has. I
9 explained that it's working someplaces, you
10 know, and someplaces it's not. I don't even
11 have an accurate account as to what's going on
12 right now, you know, with the people. I haven't
13 had anyone coming to me and telling me they're
14 having problems with their unit managers, you
15 know, lately.

16 Like I said, it's management's
17 responsibility to manage, and if they know
18 what's going on, they're going to straighten out
19 the situation.

20 I think there's a lot of things that
21 you have to look at here. You have to look at
22 cell place being taken up with unit management
23 instead of being allowed for an inmate to be in
24 there. Each one of those costs some money. How
25 the people are getting along, the unit team as

1 they call it, is supposed to be a team and
2 they're supposed to be adhesiveness with the COs
3 and the unit managers and the counselors. It
4 may work on one block and another one it might
5 not. I don't have the things to really go any
6 further with that, but the fact --

7 REPRESENTATIVE MANDERINO: In your
8 experience, being that you have been here for
9 eight years, you probably haven't experienced
10 another system much before unit managers, so
11 your experience has always been with unit
12 management. So you're not in a position to say
13 that it's less secure because of that?

14 MR. DIEHL: That came shortly after
15 I was here, but I was in training and stuff.

16 MR. FOX: So Huntingdon and a number
17 of the older institutions had to be kind of
18 retrofitted for unit management. The
19 prototypicals were pretty much constructed with
20 unit management in mind.

21 For example, one of the --

22 REPRESENTATIVE MANDERINO: I've been
23 to a prototypical. They're all up in that space
24 station kind of place.

25 MR. FOX: Right. Whenever I was up

1 at the hearing at Dallas, we talked about unit
2 management there. And just to give you an
3 example of one of the problems we ran into, as
4 Officer Diehl said, valuable cell space gets
5 eaten up because you have to move offices now
6 into the block areas. We went up and we
7 examined the constructions going on at Dallas
8 where they were putting a unit management system
9 into a block and it was being put into the back
10 part of the block.

11 There were two very glaring issues
12 that came up. One, they constructed a fence, a
13 chain fence between the block and where these
14 offices would be from floor to ceiling and put a
15 door in. Our local president up there at the
16 time had raised issues about it, going back to
17 labor management issues, raised issues about the
18 door because he pulled out his credit card and
19 was able to open the door from the inmate side
20 with the credit card. You know, that issue
21 wasn't being addressed. We all can well image
22 that there are plenty of folks in those prisons
23 who would know how to get that kind of a lock
24 opened very easily.

25 In addition, they put clerical

1 employees on the blocks in these units now. And
2 in that instance to get to their office, the
3 clerical people had to walk the length of the
4 housing unit, and she had in her possession the
5 security keys of the institution.

6 Now, this is not an inmate-contact
7 employee. This is not a security employee.
8 But, none of that was of a concern at that time.
9 Those are the issues we have become concerned
10 about and were concerned about with regard to
11 unit management, because it was more important
12 to get the system in place because someone
13 thought that this would better rehabilitate
14 inmates, reduce violence in the prisons.

15 What I would like to see done is a
16 study to see if, in fact, it's done what the
17 proponents said it was going to do because it's
18 been costly. It's been costly.

19 REPRESENTATIVE MANDERINO: We're
20 kind of mixing apples and oranges because you're
21 not suggesting -- I started because it was in
22 your testimony thinking you were suggesting this
23 was something that compromised security at
24 Huntingdon that dealt with this incident.
25 You're not saying that?

1 MR. FOX: No, I'm not.

2 MR. DIEHL: On the transfer issue
3 that you brought up, I don't see -- I don't want
4 to think about that, if it's where I think
5 you're going with it. It's sort of scary. Let
6 me give you something you might be able to use.

7 REPRESENTATIVE JAMES: Which part of
8 the transfer are you talking about?

9 MR. DIEHL: Transferring officers
10 throughout the state.

11 REPRESENTATIVE JAMES: Like
12 Smithfield to Huntingdon.

13 MR. DIEHL: We have officer here
14 that live in Johnstown. We have one of those in
15 Greensburg. We have got officers that live out
16 maybe towards State College. They might be able
17 to get something, some movement through mutual
18 exchange systems where, if it was amicable, or
19 if we want them and they want them, we can do a
20 flip-flop and increase your morale. You will be
21 putting people in situations with more family
22 time and less traveling. We have guys that
23 travel from Lock Haven to here today. It's
24 about 80 miles, an hour and 30 minutes. We have
25 people that live in Pittsburgh that drove to

1 work here.

2 CHAIRPERSON BIRMELIN: If you can
3 try to keep your questions and comments directed
4 to the issue at hand, I'd appreciate it.

5 REPRESENTATIVE JAMES: In response
6 to, and I understand that all can be worked out
7 through negotiations and bargaining. What do
8 you think of the correction officers in the
9 institution if you switched their jobs, do you
10 think that might help, switching their jobs
11 within it?

12 MR. DIEHL: No, sir. I don't think
13 that would help. I think that one of the
14 strongest things that they have to reward
15 somebody is to allow them in the job that they
16 bid. It just helps their faith in the system
17 and shows that they have -- they're utilizing
18 the seniority issue.

19 CHAIRPERSON BIRMELIN: Counsel
20 Preski.

21 MR. PRESKI: Mr. Fox, my question is
22 simple. You cited the 1998 Corrections Yearbook
23 which ranks Pennsylvania 25th with an inmate to
24 staff ratio of 5.3 to 1. Do you know what
25 number 1 is or what number 50 is? I mean, are

1 we talking the difference between 1 to 1 or 5.2
2 to 1 when you're up to the higher numbers?

3 MR. FOX: I couldn't tell you
4 exactly, but the range is larger than that. I
5 can get that information.

6 MR. PRESKI: Okay. Thank you.

7 CHAIRPERSON BIRMELIN: Thank you,
8 gentlemen, for your testimony. We appreciate
9 it.

10 (A short recess occurred).

11 CHAIRPERSON BIRMELIN: Let's pick up
12 where we left off. We have with us today three
13 corrections officers, Ed McConnell, Greg Griffin
14 and Bill Reighard. Mr. Griffin, I believe
15 you're going to give your testimony first and
16 then introduce the other two gentlemen with you.
17 You may begin.

18 MR. GRIFFIN: Thank you. Good
19 morning, members of the House Judiciary
20 Committee. I'm Gregory Griffin, a state
21 corrections officer and Vice President of the
22 Pennsylvania State Corrections Officers
23 Association. With me are state corrections
24 officers Ed McConnell from SCI-Rockview and Bill
25 Reighard from SCI-Huntingdon. Thank you for

1 allowing corrections officers an opportunity to
2 speak and contribute towards the solutions which
3 will ensure increased public safety at our State
4 Correctional Institutions.

5 I want to take this opportunity to
6 thank Representative Perzel, the House Majority
7 Leader, Representative DeWeese, the House
8 Minority Leader, Representative Veon and
9 Representative Argall for their assistance in
10 furthering corrections legislation that will
11 make our state institutions safer.

12 Two very important pieces of
13 legislation are House Bill 6, the Corrections
14 Peace Officer Bill, which has cleared the House
15 Judiciary Committee unanimously, and the 50 to 1
16 Inmate to Corrections Officer Ratio Bill. House
17 Bill 6 would provide corrections officers with
18 additional updated law enforcement training, as
19 seven other states have already enacted into
20 law. The 50 to 1 bill would provide additional
21 officers inside our desperately overcrowded
22 institutions.

23 At the two State Correctional
24 Institutions where escapes have occurred,
25 SCI-Huntingdon is at 137 percent capacity and

1 SCI-Dallas is at 155 percent capacity.

2 Undermanning of crucial correction officer posts
3 is at a dangerous level at many of our state
4 institutions with odds as high as 180 to 1.

5 Inadequate training is another
6 serious issue that must be addressed. Our
7 corrections officers are 27th in the nation in
8 training hours which new officers receive at the
9 training academy. For example, California
10 officers receive eight weeks training; Michigan,
11 16 weeks; New Jersey officers, 10 weeks; New
12 York officers, 11 weeks; Utah officers receive
13 12 weeks training; Pennsylvania officers receive
14 five weeks training.

15 The public has the right to expect
16 the safest institutions possible. The
17 legislature and the taxpayers have provided the
18 Pennsylvania Department of Corrections with the
19 highest budget in history, which is
20 \$1.1 billion.

21 Pennsylvania is fourth in the nation
22 in corrections officer assaults, many
23 institutions are close to 200 percent capacity,
24 state corrections officers 27th in the nation
25 training hours, the recent escapes at Camp Hill,

1 Pittsburgh, Dallas and Huntingdon. These are
2 all troubling facts and figures which, if not
3 addressed, will guarantee many more escape
4 hearings.

5 State correction officers look to
6 you, the members of the House Judiciary
7 Committee, to join with us to ensure that
8 through legislation that the 25 State
9 Correctional Institutions and the communities
10 where they are located will be made safer
11 starting here, starting today.

12 Thank you for the consideration of
13 the matters at hand. I would now like to
14 introduce to you Corrections Officer Ed
15 McConnell.

16 MR. McCONNELL: Good morning. My
17 name is Edward McConnell. I have been a
18 correction officer for more than 20 years. I
19 want to say to you that we as corrections
20 officers are an untapped resource for the
21 Department, especially in the area of feedback
22 on issues affecting security.

23 For instance, when female
24 corrections officers first began working in male
25 institutions, inmate complaints about privacy

1 resulted in curtains and privacy panels being
2 made available for purchase through the
3 commissary. A cell with privacy panels and
4 curtains has an obvious impact on security,
5 unrelated to the complaint they were intending
6 to address.

7 A more insidious problem is the
8 issue of personal property, on which there are
9 supposed to be limits. If a misconduct report
10 is written for excess commissary or excess mail,
11 it is often not taken seriously by the hearing
12 examiner, who reduces it to a lesser charge and
13 imposes minimal sanctions. Inmates are not
14 deterred by these, and as a result, corrections
15 officers tend not to write the misconducts.
16 Cells then become so full of commissary and
17 personal items that it is nearly impossible to
18 find small, easily concealed things, such as
19 hacksaw blades.

20 It's often a long way from the men
21 in the trenches to upper management. We in the
22 Pennsylvania State Corrections Officers
23 Association believe that a dialog needs to be
24 opened and maintained between those two levels
25 so that security at the institutions and the

1 professionalism of corrections officers can be
2 enhanced by working with, not against, each
3 other.

4 That concludes my presentation and I
5 am available for questions.

6 CHAIRPERSON BIRMELIN: Mr. Reighard,
7 are you prepared to make any statement?

8 MR. REIGHARD: No, Mr. Chairman.
9 I'm not making a presentation. I'm here to
10 answer any questions if you have any of me.

11 CHAIRPERSON BIRMELIN: Members of
12 the panel, do you have any questions?
13 Representative James.

14 REPRESENTATIVE JAMES: Thank you.
15 Thank you, Mr. Chairman. How does this
16 association differ from the people that just
17 testified?

18 MR. GRIFFIN: A very good question,
19 Representative James. The Pennsylvania State
20 Corrections Officers Association is not a
21 collective bargaining unit. Our members, which
22 number 2,300 corrections officers right now,
23 state corrections officers, we're an association
24 that's dedicated to furthering the corrections
25 officer's profession. We're also dedicating

1 ourselves to furthering legislation that will
2 make our institution safer for staff,
3 corrections officers and inmates in communities
4 alike.

5 Our association is spearheading
6 attempts to highlight problems inside the
7 institutions and then work towards solutions
8 through legislation or work with the Department
9 of Corrections to prevent these hearings that
10 we're having today.

11 REPRESENTATIVE JAMES: Do you see in
12 your association the fact that complaints both
13 against officers and complaints against inmates
14 for misconduct of inmates seem to be rising in
15 the last three years?

16 MR. GRIFFIN: All I can tell you,
17 sir, is, the amount of lawsuits are tremendous.
18 Usually if there's a lawsuit, it means that
19 somebody feels that their rights were violated,
20 and -- I'm trying to look here on the page.

21 I believe in the last two years we
22 have had over 700 lawsuits on the Pennsylvania
23 Department of Corrections by inmates. So,
24 obviously, the inmates feel that their rights
25 have been violated in some way.

1 REPRESENTATIVE JAMES: Are you aware
2 if any of the state institutions do any updating
3 of photos of inmates?

4 MR. GRIFFIN: I'm not aware of it
5 specifically. I know that they're planning on
6 doing that, sir.

7 REPRESENTATIVE JAMES: Thank you.
8 Thank you, Mr. Chairman.

9 CHAIRPERSON BIRMELIN:
10 Representative Manderino.

11 REPRESENTATIVE MANDERINO: Thank
12 you. My question is to Mr. McConnell. One of
13 the issues that you raised is that the privacy
14 panels and curtains are a security concern of
15 yours. But, you don't raise a suggestion about
16 what you think either should or shouldn't happen
17 as a result of the current policy.

18 MR. MCCONNELL: Well, my opinion is
19 that they should be eliminated. The Supreme
20 Court in 1984 ruled that inmates have no right
21 to privacy in their cells. I can understand an
22 inmate who doesn't want a female corrections
23 officer looking in his cell, but he is in
24 prison. Curtains covering barrels or privacy
25 panels obstructing the view of inmates in their

1 cell are definitely a problem for corrections
2 officers.

3 REPRESENTATIVE MANDERINO: So you're
4 suggesting that whether they are female guards
5 in a male prison or male guards in a female
6 prison that privacy panels, even when somebody
7 is using the toilet, is something that we should
8 not allow?

9 MR. MCCONNELL: That's a difficult
10 question. I would say that, perhaps, the size
11 of the panel could be adjusted to afford a
12 minimal amount of privacy, but I don't believe
13 the panel should be large enough that the inmate
14 can be concealed.

15 REPRESENTATIVE MANDERINO: Thank
16 you, Mr. Chairman.

17 CHAIRPERSON BIRMELIN: One of the
18 questions I asked of the previous testifier I
19 would like to repeat to you gentlemen. That
20 concerned the particular case in Huntingdon
21 where two of the employees were bringing in
22 contraband to not only escapee Mr. Johnston, but
23 many other prisoners. I suggested that they
24 ought to be held criminally liable if it were
25 proven that what they brought in as contraband

1 contained either items of an escape or an item
2 of assault. How do you feel about that?

3 MR. GRIFFIN: Representative
4 Birmelin, I believe every corrections officer in
5 the state would agree that if you could show
6 that a staff member intentionally and knowingly
7 committed --

8 CHAIRPERSON BIRMELIN: No, I'm not
9 saying intentionally or knowingly. I'm saying
10 they brought in things that they didn't know
11 what was in there, but later was been proven to
12 have been weapons or items of assault or escape.

13 MR. GRIFFIN: Right. If they would
14 have intentionally or knowingly brought in
15 something that they were not sure could cause
16 harm, I believe they should be prosecuted to the
17 full extent of the law.

18 CHAIRPERSON BIRMELIN: There is no
19 extent of the law currently. We would need to
20 change the law. That's the problem.

21 MR. GRIFFIN: We would be glad to
22 work with the legislature to get a law like that
23 passed so we could make our institutions safer.
24 And, of course, making laws is your job, and we
25 would be glad to support you in any legislation

1 that would make our institutions safer by
2 arresting any staff member that was convicted of
3 bringing in contraband. Because, as we can see,
4 it creates an enormous security problem.

5 I have to reiterate here,
6 corrections officers across the state, I believe
7 they are the most conscious, security conscious
8 and highest work ethic, but if it could be
9 proven for any person, yes, I would definitely
10 work with the legislature on it. I'm sure the
11 association members would support that.

12 CHAIRPERSON BIRMELIN: I agree with
13 your assessment that 99 plus percent of
14 corrections officers are fine, upstanding
15 employees that do their job. It's those few
16 people like Officer Ruiz who I think we ought to
17 weed out.

18 I think it's not just a case of
19 firing them for violating policy, but it should
20 also be criminal intent, or criminal culpability
21 is a better word, for providing instruments of
22 escape or of assault because they didn't bother
23 to check out these things. Later found out, as
24 was in the case of Johnson, that that may have
25 happened, even though we can't prove it at this

1 point. But if it were provable, that would be
2 my suggestion.

3 MR. GRIFFIN: If a jury convicted
4 somebody of doing that, definitely it would be
5 justified for the association to endorse a bill
6 like that.

7 CHAIRPERSON BIRMELIN: Counsel
8 Preski.

9 MR. PRESKI: My question is this,
10 and it's in relation to your testimony. House
11 Bill 6 is one of the bills that you pushed.
12 It's peace officer status for corrections
13 officers.

14 We're here at a prison after an
15 escape. If you were peace officers at the time
16 of this escape and you had the status that you
17 desired, would anything that happened with the
18 investigation or with your officers inside these
19 walls have changed?

20 MR. GRIFFIN: I believe so, sir.
21 Being 27th in the nation in training hours is
22 indicative of officers that should be provided
23 with --

24 MR. PRESKI: I'm not asking about
25 training hours. Peace officer status.

1 MR. GRIFFIN: Peace officer status
2 would provide more training hours in the areas
3 of search and seizure, crime scene preservation
4 or crime scene detection. Officers that are
5 better trained, and don't miss understand me, we
6 do have the best officers I believe in the
7 country. But, we're not being given the tools.
8 Twenty-seventh in the nation, five weeks'
9 training at the academy I believe is a disgrace.

10 MR. PRESKI: Then we don't need to
11 give you the status. All we need to do is
12 increase your training.

13 MR. GRIFFIN: I believe the status
14 is very important because, we had a problem, and
15 it's on page 1 of your handout, where officers
16 were dispatched to the community with shotguns
17 and also at road blocks, and there's a gray area
18 on whether they have the authority to stop a car
19 and search it. So, the peace officer bill would
20 cover that.

21 MR. PRESKI: Okay. Thank you.

22 CHAIRPERSON BIRMELIN: Gentleman, we
23 want to thank you for your testimony. We
24 appreciate you coming. Thank you very much.

25 Our last testifier for the day is

1 William DiMascio. He's the Executive Director
2 of the Pennsylvania Prison Society, and I know
3 that he's been patiently waiting for quite some
4 time to testify. We appreciate your patience.
5 We all have copies of your testimony, so when
6 you're prepared to give that, you may do so.

7 MR. DIMASCIO: Chairman Birmelin,
8 distinguished committee members: I'm Bill
9 DiMascio, Executive Director of the Pennsylvania
10 Prison Society, and on behalf of our board and
11 members statewide, I thank you for the
12 opportunity to testify here today on these
13 important issues that have surfaced from the
14 escapes of this past summer.

15 The Pennsylvania Prison Society is
16 the oldest prison reform organization in the
17 nation, perhaps in the world. It was
18 established in 1787 by what was then the cream
19 of colonial America, many of the same people who
20 signed the Declaration of Independence, and
21 really helped to lay the foundation of a new
22 American democracy.

23 These were people who believed
24 deeply in the value of the human dignity and
25 personal liberty, and those beliefs spurred them

1 to launch a revolution in the field of penology,
2 at the same time that the United States was
3 revolutionizing their government, governments
4 were being formed.

5 The Pennsylvania Prison Society led
6 the civilized world away from corporal
7 punishment. In fact, it helped to establish the
8 use of confinement as a form of punishment in
9 itself. As a result of its efforts, prisons
10 ceased to be holding facilities where people
11 were kept until they could be beaten or
12 subjected to some other physical punishment. It
13 is impossible today to open a serious study of
14 penology and not find mention of the impact of
15 these early American reformers.

16 I mention this bit of history of the
17 Prison Society merely to provide a context for
18 our testimony today. We have a sound
19 appreciation of the role of prisons in our
20 society.

21 Let me say at the outset that while
22 our advocacy frequently puts us at odds with the
23 Department of Corrections, we take no joy in
24 these breaches. Escapes always signal a
25 breakdown in the smooth working order of

1 correctional systems. And when the system
2 breaks down, danger arises for everyone; for the
3 general public to be sure, but for the inmates
4 and the correctional staff as well.

5 The fact that the escapees are back
6 in custody and that no physical harm was done to
7 anyone during their days on the run is a relief
8 insofar as the public is concerned. But we, in
9 fact, have continuing concerns about what is
10 being done to correct the problems that allowed
11 these escapes to occur, and we are deeply
12 troubled by some of the repercussions inflicted
13 on the 36,500 men, women, and in some cases
14 children who make up the inmate population which
15 had nothing to do with these escapes.

16 We know from Secretary Horn's
17 testimony before the Senate Judiciary Committee
18 that the escapes involved significant failings
19 on the part of both correctional and maintenance
20 staffs with respect to taking thorough counts,
21 performing visual surveillance while on mobile
22 patrol, using the electronic detection equipment
23 and performing periodic tests of the integrity
24 of the bars cutting the inmates. That's a lot
25 of individuals not doing their jobs, and it

1 raises serious questions about staff training,
2 leadership, discipline and motivation.

3 Three senior officials have lost
4 their jobs. Maybe that was appropriate, maybe
5 that had to be. But, laxity and complacency are
6 like viruses that infect the organizational
7 culture of these institutions. Merely replacing
8 those individuals and hiring more staff are
9 unlikely to solve the underlying problems. In
10 fact, these measures may actually deflect
11 attention from where it is needed.

12 The Prison Society has more than 300
13 volunteers who, in their roles as official
14 prison visitors, call on state and county
15 institutions throughout the Commonwealth every
16 day. We see conditions in the prisons
17 firsthand. We also hear directly from prisoners
18 during these visits and by mail. Here are a few
19 of the troubling things that we've been hearing
20 since the escapes.

21 First, during the initial lockdown
22 here at Huntingdon, a CERT team was sent in to
23 search the cells. My understanding is, this is
24 standard operating procedure. But we have
25 letters from a number of inmates, who had

1 nothing to do with Johnston's escape, about the
2 way their meager personal belongings were
3 trashed by the CERT teams, from incidental
4 toiletries that they have to purchase with their
5 own very limited funds, to valued photographs of
6 family members.

7 The searchers showed little respect
8 for the personal property of others, which leads
9 us to ask, how can the system teach inmates
10 respect for private property when its own
11 representatives treat property with so little
12 respect? How can staff be expected to perform
13 with discipline when such reckless conduct is
14 permitted? And what does destroying these sorts
15 of belongings have to do with preventing
16 escapes?

17 One inmate said the searchers wore
18 stocking masks to hide their identities.
19 Another complained in graphic detail about his
20 embarrassment of being strip-searched in front
21 of a female videographer. These displays of
22 ruthlessness should not be confused with
23 discipline. They are degrading and counter-
24 productive and they send the wrong message to
25 the very people that the system is trying to

1 correct.

2 Next, the 6 a.m. standing count of
3 inmates was certain to be unpopular, especially
4 with prisoners who work shifts into the early
5 morning hours. Standing immediately upon waking
6 is never pleasant, and it is impossible, in
7 fact, for some prisoners who are on psychotropic
8 medications. We've heard of at least one inmate
9 with this problem who has been consigned to the
10 Restricted Housing Unit because he could not
11 comply in a timely-enough fashion.

12 This count, which harasses inmates,
13 seems to have been imposed solely because guards
14 were lax in performing the two overnight counts
15 at both Huntingdon and Dallas. An additional
16 count makes no sense when the previous counts
17 were not insufficient; just poorly executed.

18 Furthermore, this additional count
19 is perceived by almost all the prisoners as not
20 only annoying, but unfair. In the scholarly
21 literature of prison disturbances, incidents
22 that create widespread feelings of unfair
23 treatment are significant and we would do well
24 to keep this in mind. I don't intend to address
25 that particular item, that is prison

1 disturbances, but I did provide a separate
2 monograph on that issue which provides some very
3 interesting reading.

4 Finally, women incarcerated at
5 SCI-Muncy have complained about the removal of
6 shades from the outside windows. This misguided
7 step leaves these women exposed to view by
8 anyone passing outside the housing units,
9 including male staff and guards. This includes
10 their most private moments when they're
11 dressing, undressing.

12 We were told on inquiry that it was
13 necessary for the guards to be able to see the
14 bars. We were also told, absurdly, that the
15 guards restrict their scrutiny to the bars alone
16 and do not look through the windows the bars
17 cover. In any case, the security value of this
18 sort of visual inspection is unclear, given that
19 Secretary Horn has said that the only way to
20 assure the integrity of the bars is by having
21 the maintenance staff bang on them with a
22 hammer.

23 It is also noteworthy that this step
24 was never thought necessary during the years
25 that Muncy had a female superintendent. We

1 think this measure was callous and insensitive
2 and deprives these women of a most fundamental
3 shred of human decency. Allowing this indignity
4 to continue is demeaning to all Pennsylvanians.

5 In each of these instances prisoners
6 have been collectively punished for the purely
7 administrative failings which occasioned the
8 escapes. It may be easy for some to justify
9 these types of actions in light of the
10 embarrassment to the Department of Corrections,
11 but agencies of the Commonwealth should be more
12 restrained.

13 There is a distinction between
14 discipline and ruthlessness, between toughness
15 and hysteria, and these differences are
16 significant in the development of an
17 organizational culture. The culture at work
18 here confuses institutional security with taking
19 away small human comforts. It misdirects
20 frustration over lax attitudes of correctional
21 officers towards curtailment of inmate programs.
22 It compensates for maintenance failings by
23 stripping away prisoners' dignity, and it wreaks
24 retribution for administrative shortcomings on
25 thousands of inmates who had no involvement

1 whatsoever in either escape.

2 Secretary Horn is fond of saying
3 that the correctional staff performs a difficult
4 job well under trying circumstances, and we
5 agree with that for the most part, but we know
6 that the work is not always performed well. We
7 also know that curing staff discipline and
8 morale problems will be difficult and time
9 consuming, so let's not think we can simply
10 throw money at this problem and fix it quickly.

11 Furthermore, we believe this
12 disconnect is symptomatic of deeper problems,
13 problems that stem from the unintended
14 consequences of legislative actions as well as
15 executive decisions.

16 Over the past five years alone, the
17 state legislature has made significant
18 investments in the Department of Corrections.
19 Its annual budget is now more than a billion
20 dollars a year. At the same time, mandatory
21 minimum sentencing schemes and other policies
22 have helped to cause the prison population to
23 increase by 35 percent during those years.

24 Other policies have made
25 commutations virtually impossible for

1 life-sentenced inmates. Obtaining parole is
2 twice as difficult as it used to be.

3 Maintaining family bonds is one of
4 the most significant aides to inmate
5 rehabilitation; yet, inmates are imprisoned far
6 from home and prison telephone calls are
7 outrageously expensive. Education is also
8 important to rehabilitation; yet, we have severe
9 restrictions on educational programming and how
10 strictly -- and now we strictly limit the number
11 of books inmates may keep in their cells. These
12 steps and others engender despair, hopelessness
13 and a nothing-to-lose attitude among prisoners.

14 Illustrating this point, one of the
15 escapees from Dallas, Michael McCloskey, was
16 quoted in the Wilkes-Barre Times Leader saying
17 that the restrictions contributed to his
18 decision to escape. He said, and I quote, they
19 started tightening the jails up, taking away
20 privileges, making everything more difficult, a
21 lot of little stuff that means a lot to
22 prisoners, especially if you have got a lot of
23 time. The escape probably would never have
24 happened if they didn't start doing what they
25 were doing, end quote.

1 We ought to be concerned about this
2 situation, if for no other reason than the state
3 is spending more than a billion dollars a year
4 on the system which few people see as correcting
5 anything.

6 I want to end by noting that there
7 is a federal prison in McKean County,
8 Pennsylvania, and it's won the accolades of no
9 less than John DiIulio, the conservative
10 criminologist criminologist, who calls it
11 probably the best managed prison in the country.
12 Since it opened in 1989, McKean has had no
13 escapes, no homicides, no sexual assaults and no
14 suicides. Last year, McKean operated at a cost
15 of about \$17,000 per inmate, well under the
16 federal average of \$22,000 and a remarkable
17 40 percent below Pennsylvania's average of
18 \$29,000 for the same period.

19 In a 1995 article in The Atlantic
20 Monthly, McKean's former warden, Dennis Luther,
21 said his success stemmed from two important
22 principles. First, he worked hard to apply
23 sound business management concepts to all prison
24 operations. Second, he always insisted on
25 maintaining respect for the inmates as human

1 beings.

2 The Pennsylvania Department of
3 Corrections is capable of achieving that same
4 standard. The administration here includes
5 corrections professionals who have excellent
6 management skills, an awareness of the
7 importance of humane treatment, and the ample
8 generous resources of this state behind them.
9 We have almost every reason to expect that the
10 Pennsylvania correctional system can be the best
11 in the country. Even now Pennsylvania's escape
12 rate is among the lowest among states with
13 comparable prison populations.

14 This summer's escapes occurred
15 largely because of the complacency of a handful
16 of administrators and staff. The other inmates,
17 those who didn't escape, are not to blame.

18 Let us be wary of the zeal that
19 leads us to respond to these escapes in a way
20 that scapegoats inmates for the failings of
21 others. Let us remember that those least
22 responsible for the escapes should not be held
23 most accountable. Let us remember the lesson of
24 this summer's escapes, and of virtually every
25 other prison escape and disturbance ever

1 studied, and that is, that these problems occur
2 because of administrative breakdown and staff
3 complacency and not because prisoners are
4 treated humanely. Thank you.

5 CHAIRPERSON BIRMELIN: Thank you,
6 Mr. DiMascio. Representative Manderino.

7 REPRESENTATIVE MANDERINO: Thank
8 you. I do have a few questions with regard to
9 some of the specifics that you cited after the
10 escape.

11 The purported incident involving
12 stocking masks to hide COs' identities, where
13 did that happen?

14 MR. DIMASCIO: Here.

15 REPRESENTATIVE MANDERINO: Your
16 beginning testimony acknowledged that one of the
17 problems that led to the escapes at both Dallas
18 and Huntingdon dealt with not thoroughly
19 following procedures with regard to inmate
20 counts, but then you also criticized the
21 implementations of the counts according to
22 Department of Corrections procedure, and
23 particularly the standing counts afterwards.

24 I guess my question is: What do you
25 think -- If you think the standing count is

1 unreasonable, what do you think is reasonable
2 and can still make sure that we don't breach
3 security and have a thorough and accurate count?

4 MR. DIMASCIO: Well, I think that
5 the concept of simply adding another count when
6 two earlier counts are done and done
7 ineffectively, adding another one is not going
8 to make that much difference.

9 REPRESENTATIVE MANDERINO: But the
10 earlier counts that were ineffective, and one of
11 them was in what you would consider the middle
12 of the night or the prime sleeping hours in
13 which many people might think a standing count
14 is not what you should do, wake somebody up.
15 And the other one was clearly a violation at
16 10 a.m. because it should have been a standing
17 count and it wasn't.

18 So I guess, maybe I'm missing your
19 point. I thought your point was standing counts
20 were harassing.

21 MR. DIMASCIO: Well, I think that
22 they're -- standing counts are necessary at
23 different times of the day. I think adding
24 another one is not going to be helpful unless we
25 are doing -- performing the duties properly.

1 REPRESENTATIVE MANDERINO: So you
2 weren't criticizing standing counts. You were
3 just saying, adding an additional count isn't
4 the measure.

5 MR. DIMASCIO: That's right.

6 REPRESENTATIVE MANDERINO: Okay.
7 And my final question dealt with the issue of
8 the window coverings at Muncy being taken away
9 after the security checks were done in all
10 prisons.

11 I have not been to Muncy. I've been
12 to more than half a dozen prisons in just the
13 past year, but Muncy is not one of them. I have
14 been to, and I realize that each prison is
15 designed differently, et cetera. I also admit
16 to being very concerned when I got the Prison
17 Society's letter to legislators about that.

18 But I have to say that having walked
19 through Huntingdon yesterday and saw the use of
20 the privacy panels both on the front gates and
21 on the windows when somebody was using the
22 toilet or doing something else when they wanted
23 privacy, to me were a reasonable measure that
24 both ensured the inmate's privacy, but also the
25 guard's ability to secure the prison. You could

1 still see the person's feet. If you had any
2 question about them not responding, you could
3 still look over the top, but at first glance you
4 really couldn't see in.

5 It's my understanding that that is
6 available to the women at Muncy. I guess we did
7 have a little conversation yesterday about the
8 fact that the kind of drapes that they have here
9 at Huntingdon haven't been manufactured yet for
10 Muncy. Maybe we could argue about whether they
11 were premature in taking off whatever had been
12 there before they had something reasonable to
13 put in its place.

14 But, I guess what I'm asking is:
15 What is unreasonable about the provisions that
16 they have made at Muncy and are you -- Maybe we
17 can just encourage the Department to expedite
18 those privacy panels if they aren't there for
19 the women prisoners just like they have them
20 here for the male prisoners at Huntingdon.

21 MR. DIMASCIO: I certainly would
22 have no problem with some sort of a compromise
23 that would enable the security staff to be able
24 to do their job, while ensuring, at least for
25 the time it takes for someone to change their

1 clothing is some measure of privacy. I mean,
2 this is ridiculous that we should stoop to this
3 kind of action in our haste. There's not been
4 any --

5 Nobody's sawed their way out of
6 Muncy recently. When Mary Leftridge Byrd was
7 superintendent there, she never saw a need to do
8 this to maintain security, so I don't understand
9 now.

10 So I think, maybe at the core of my
11 testimony, is what I see as sort of an
12 unreasonable rush now. This is what we always
13 do. We have a problem, and then we get beside
14 ourselves trying to solve it, and we adopt a lot
15 of faulty policies. This thing sends a lot of
16 wrong messages and takes away that element of
17 human decency I think.

18 REPRESENTATIVE MANDERINO: Thank
19 you.

20 CHAIRPERSON BIRMELIN: Repre-
21 sentative Josephs.

22 REPRESENTATIVE JOSEPHS: Thank you.
23 I don't really want to ask a question, but I do
24 want to say that I agree with you entirely that
25 the responsibility for this goes all the way up

1 to the top, to the Governor, and to the
2 legislature because we have been sending too
3 many people to jail for too long for the wrong
4 reasons.

5 But, I also wanted to say that, we
6 have in our Subcommittee Chairman here,
7 Representative Birmelin, a person who has been
8 working very insidiously to try and divert
9 people from the system, from the prison system
10 when it's appropriate and to try and get to the
11 root of the problem, as you have defined it.

12 I don't want this hearing to go by
13 without saying that a number of us have been
14 working very hard on his legislation, and we
15 hope that there will be mechanisms so that
16 particularly young people who are not violent do
17 not end up in these kinds of situations and
18 these kinds of institutions.

19 And that, ultimately, I think that
20 is the long-range solution for the kind of
21 problems that we cannot really solve with the
22 overcrowding that we have here and at every
23 other institution, and with the responsibility
24 of the upper level which is not being
25 acknowledged. Thank you. Thank you very much

1 for being here.

2 CHAIRPERSON BIRMELIN: Very accurate
3 and profound words, Representative Josephs.
4 Thank you very much. Representative James.

5 REPRESENTATIVE JAMES: Thank you,
6 Mr. Chairman. I must say that in light of the
7 previous testifier, talking about the training
8 for correction officers, it seems that some
9 correction officers are trained very well,
10 particularly those at Muncy who only restrict
11 their scrutiny to looking through the bars.
12 They must have gotten some extra training that
13 we need to really review.

14 The other part is that, Mr.
15 Chairman, in looking at the statistics from
16 McKean, maybe we need to visit McKean if we can,
17 or either talk to them to see how they're doing
18 what they're doing there. And as you say, that
19 could be duplicated here. I think it can also.

20 I would like to ask a question.
21 Have you noticed in your position any increased
22 rate of suicides or deaths in the institutions?

23 MR. DIMASCIO: It is very difficult
24 for us to track that kind of information. We
25 don't have access to it. We hear -- It's the

1 kinds of things we hear that come in secondhand
2 and I cannot confirm always. There seems to be.

3 I guess I was at a meeting a couple
4 weeks ago when we were talking about county
5 prison facilities. One of the deputies who was
6 making a presentation there said there had been
7 209, I believe, suicides in county jails this
8 year--this year. It was an astounding number.

9 The real problem here is that, a lot
10 of this information never gets out to the
11 public. It's all private. I think that's
12 unfortunate because if the public doesn't know
13 what's going on on the inside, there's really no
14 check. There's no way of proving it.

15 REPRESENTATIVE JAMES: Do you go
16 over with those statistics at all with the DOC
17 of Pennsylvania?

18 MR. DIMASCIO: I'm sorry.

19 REPRESENTATIVE JAMES: Are they
20 shared with you in Pennsylvania, the Department
21 of Corrections in terms of deaths or suicides?

22 MR. DIMASCIO: No. Well, I have to
23 say, I think I may have asked on a single
24 occasion. I have not made a concerted effort by
25 going to the Secretary and asked him to provide

1 those.

2 REPRESENTATIVE JAMES: Maybe that's
3 something probably that, Mr. Chairman, we
4 probably want to look at because I have been
5 hearing and getting letters as it relates to an
6 increased rise of suicides or deaths in
7 institutions.

8 MR. DIMASCIO: I think there may
9 have been also something of an increase as a
10 result of the increased number of people with
11 mental illnesses that are coming into our
12 prisons and jails. This is really a very
13 serious situation that we have that's kind of in
14 the making.

15 There was a -- There was an incident
16 in Lancaster County jail a couple months ago. I
17 won't get into that. That will divert attention
18 from where we are. But, I believe the issue of
19 mentally-ill inmates is a very serious and
20 emerging issue and we need to pay attention to
21 it.

22 REPRESENTATIVE JAMES: What about,
23 are you aware of incidents of violence in the
24 RHU unit here?

25 MR. DIMASCIO: Not to the point that

1 I could comment with any credibility.

2 REPRESENTATIVE JAMES: So you don't
3 get official notices? It's just something that
4 you hear?

5 MR. DIMASCIO: We get mail all the
6 time from inmates telling us they have been
7 beaten, abused, and whatnot. It's very
8 difficult, obviously, to sit in Philadelphia and
9 read a letter and try to say, this one is
10 credible and this one isn't. So, I don't know.

11 If we hear about -- What we do hear
12 about from time to time will be, we'll hear from
13 different inmates about situations and we'll
14 start to see the same names of staff people
15 being mentioned over and over. When we see
16 these names three, four, five times, then we
17 start to bring this back to the attention of the
18 superintendent and try to call attention to it
19 at the local level and hope that that does some
20 good.

21 REPRESENTATIVE JAMES: Do you feel
22 the superintendent, once you reveal those names
23 because they come up or seem to reassemble a
24 pattern, that the superintendents respond
25 positively?

1 MR. DIMASCIO: Some do, some don't.

2 REPRESENTATIVE JAMES: Okay. Maybe
3 what you can also do is, that kind of
4 information that you get and those names as they
5 come up, if you can share that with our Chairman
6 since we have some oversight over corrections,
7 that we can look into that also.

8 Other thing I want to ask you about,
9 have you seen or noticed a rise of hate groups
10 of different organizations with inmates or
11 correction officers in institutions?

12 MR. DIMASCIO: I know they exist.
13 They exist, I believe, in just about all the
14 prisons. Which ones are more active or more
15 aggressive than others I couldn't really say.
16 I'm just aware that they do exist.

17 REPRESENTATIVE JAMES: Do you get
18 any complaints of correction officers being part
19 of that?

20 MR. DIMASCIO: Yes.

21 REPRESENTATIVE JAMES: What do you
22 do then when you get that information?

23 MR. DIMASCIO: We bring that back to
24 the local superintendent. If we don't seem to
25 be getting anywhere with it, we bring it up to

1 Central Office. We don't always get --

2 I mean, the response is that, this
3 is under investigation and whatnot. I think we
4 are willing to go some distance in terms of
5 belief that the Department is willing to deal
6 with those situations. I believe that they do.
7 Maybe not always the same way we would, but
8 hopefully, in a positive way.

9 REPRESENTATIVE JAMES: Okay. Thank
10 you. Thank you, Mr. Chairman.

11 CHAIRPERSON BIRMELIN: Thank you,
12 Mr. DiMascio. We appreciate your testimony
13 today. Mr. DiMascio is our last testifier.

14 I want to make two quick
15 announcements before I adjourn this meeting.
16 First is, copies of the testimony given by those
17 who were here today will be given to members of
18 the Judiciary Committee who were not able to
19 attend.

20 Also, there will be a written report
21 that will summarize basically what we all heard
22 today. That should be prepared somewhere in the
23 neighborhood of the next three to four weeks.
24 If you wish to have a copy of that and have that
25 mailed to you, you need to see me after I

1 adjourn this meeting or write to my office in
2 Harrisburg. If you have a copy of the agenda
3 that's on my letterhead. My address is listed
4 there. You can similarly write and ask for a
5 copy of this report when it's published. It
6 takes awhile to put together because we have to
7 wait for the stenographer's record, et cetera.
8 It will be mid-November before we can get it.
9 We'll be glad to provide that for you if you
10 wish to have a copy of that.

11 All of our testimony having been
12 given, we appreciate those of you who came, not
13 only to give testimony but to be present at this
14 meeting. This meeting is now adjourned.

15 (AT or about 1:10 p.m., the public
16 hearing concluded).

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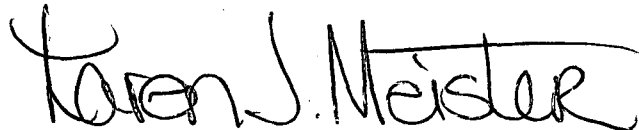
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I, Karen J. Meister, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently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

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Dated this 24th day of October, 1999.



Karen J. Meister - Reporter
Notary Public

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