

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA  
JUDICIARY SUBCOMMITTEE HEARING

ORIGINAL

IN RE: REGULATION OF COUNTY PRISONS

NORTH OFFICE BUILDING  
HEARING ROOM NO. 1  
HARRISBURG, PENNSYLVANIA

MONDAY, MAY 21, 2001, 10:00 A.M.

BEFORE:

HON. LITA INDZEL COHEN, CHAIRWOMAN  
HON. KELLY LEWIS

ALSO PRESENT:

KAREN DALTON  
MICHAEL RISH

JEAN M. DAVIS  
REPORTER-NOTARY PUBLIC

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1                   CHAIRWOMAN COHEN: Good morning. My  
2 name is Lita Cohen. I'm State Representative from  
3 the 148th district in Montgomery County. I am the  
4 Chair of the Subcommittee on Crime and Corrections.  
5 And at the request of the minority Chairman Kevin  
6 Blaum, we are having this hearing concerning  
7 regulations of county prisons.

8                   The first thing I would like to do is  
9 introduce the folks that are here, that are sitting  
10 up here. We may be joined later on by other members  
11 of the Judiciary Committee. Our court reporter  
12 today is Jean Davis. And I will ask her  
13 periodically if she needs a break. We have to my  
14 left Karen Dalton who is the majority counsel for  
15 the House Judiciary Committee and counsel to the  
16 Subcommittee. And all the way on my left is Mike  
17 Rish, who is the executive director of the minority  
18 staff.

19                   They call me the iron lady out here in  
20 Harrisburg because of the way I run my hearings. We  
21 start on time and we end on time. So we will get  
22 started right away. The first thing I want to do is  
23 put into the record the testimony that I received  
24 from the County Commissioners' Association of  
25 Pennsylvania. They will not be here to testify, but

1 they submitted testimony in writing and we will  
2 submit that and make that part of the record.

3 On that basis, the first person to  
4 appear before us, please come forward. And I  
5 usually ask ahead of time, I'm sorry, because I hate  
6 mispronouncing people's names. Robert Verdeyen.  
7 How close or how far am I?

8 MR. VERDEYEN: Very close.

9 CHAIRWOMAN COHEN: Thank you. Mr.  
10 Verdeyen is the Director, Standards and  
11 Accreditation of the American Correctional  
12 Association. Mr. Verdeyen, welcome. Thank you for  
13 being here. You have to push the button on the  
14 right-hand side of your mike. That is right on the  
15 base. Is the green light lit?

16 MR. VERDEYEN: Yes, ma'am.

17 CHAIRWOMAN COHEN: Sounds good. You  
18 may proceed any time you want. You may read either  
19 your testimony today, and this goes for everyone  
20 testifying today, or -- because we do have a copy in  
21 front of us. And you can read from it or you may  
22 say anything you like and then open us up for  
23 questions. It is your privilege for 20 minutes.

24 MR. VERDEYEN: Outstanding. Madam  
25 Chair, I will not take the full 20 minutes with my

1 presentation but will certainly offer everyone the  
2 opportunity to have some questions.

3           Again, my sincere appreciation for the  
4 invitation. It is not my usual -- part of my  
5 responsibilities to testify before the legislature.  
6 And when I received the invitation, I felt it was a  
7 unique opportunity for me to tell you all as well as  
8 those in the audience about the American  
9 Correctional Association and particularly about what  
10 I do.

11           As background, ACA has a membership of  
12 over 20 thousand members and we have presence in 42  
13 different countries. For those of you who don't  
14 know, we happen to be one of the oldest professional  
15 organizations in the United States, with Rutherford  
16 B. Hayes being our first President who later became  
17 President of the United States. So we have a long  
18 history.

19           For more than 130 years, ACA has been  
20 the driving force in establishing national and  
21 international correctional policies while advocating  
22 safe, humane and effective correctional policies and  
23 practices. Today ACA is recognized as the worldwide  
24 leader on correctional policy and standards,  
25 disseminating the latest information and technical

1 advances to members, policy makers, individual  
2 correctional workers and department of corrections.

3 More specifically, the development of  
4 our program of standards accreditation is recognized  
5 as perhaps one of the most significant improvements  
6 in corrections during this past century. Our major  
7 goal is to continue focus on the development and  
8 implementation of maintenance of correctional  
9 standards, standards that require the adoption of  
10 policies, procedures and practices that lead to  
11 performance which reflects what contemporary  
12 corrections should be.

13 Our strength is the fact that we are  
14 the only organization that accredits total  
15 correctional facility operations, that includes  
16 health care programs. We also offer jurisdictions  
17 the option of accrediting only their health care  
18 programs if that is their choice.

19 Our successes are having in excess of  
20 1,500 facilities and programs that are involved in  
21 our accreditation process. And for most, that  
22 includes their health care programs. That's more  
23 than three times than anyone else involved in  
24 correctional accreditation.

25 Most recently, one of our nation's

1 premiere telemedicine health care providers, the  
2 University of Texas medical branch, which provides  
3 health care services for over 75 percent of the  
4 correctional facilities in the Texas Department of  
5 Criminal Justice, agreed to adopt our performance  
6 base health care standards and enter our  
7 accreditation process.

8 Our standards, outcomes and expected  
9 practices are the collective efforts of a team of  
10 correctional health care professionals that include  
11 representatives from the centers for disease  
12 control, the office of the Surgeon General of the  
13 United States, and several directors and  
14 commissioners representing some of the largest  
15 correctional systems in this country.

16 We accredit more prisons than any  
17 other correctional accrediting organization. And we  
18 are in the forefront of correctional health care  
19 accreditation with the implementation of performance  
20 base standards, a process that measures the  
21 consequences of program activities rather than  
22 measuring just the processes themselves.

23 We believe our approach is not only  
24 innovative but is the right thing to do for our  
25 profession. It goes a long way toward achieving the

1 goal of improving the delivery of health care  
2 services to the offender population, while at the  
3 same time contributing to a healthier work  
4 environment for staff and a further enhancement of  
5 public safety.

6           The benefits of accreditation include  
7 many -- and while I have sited those in my printed  
8 material too, I happen to believe as a former  
9 correctional administrator with over 40 years in  
10 this business that staff involvement is perhaps the  
11 greatest benefit, having staff understand why it is  
12 you're doing what you're doing, why you're doing it  
13 and hopefully some sort of measurement that shows  
14 your successes or even shortfalls that you can work  
15 toward improving those shortfalls.

16           We also have compelling evidence that  
17 accreditation results in significant operating cost  
18 reductions. In at least one jurisdiction, their  
19 office of risk management has bestowed upon them a  
20 significant reduction in their liability insurance  
21 because of their role in accreditation.

22           In conclusion, ACA is proud of its  
23 history and the recognition it has earned as being  
24 the leader in dealing with issues involving the  
25 criminal justice system and the punishment of



1 offenders.

2           Again, throughout our 130-year  
3 history, the advancement of public safety coupled  
4 with humane treatment of offenders and  
5 professionalism of staff has been our hallmark. We  
6 honestly believe our organization brings to the  
7 table the most comprehensive and professional view  
8 of corrections in the United States.

9           Thank you again for the opportunity.  
10 I would be more than happy to respond to any  
11 questions or issues you have.

12           CHAIRWOMAN COHEN: Thank you. We  
13 appreciate you being here and giving us a  
14 comprehensive address. I have to say, Mr. Verdeyen  
15 -- this applies to you as well as to everyone that I  
16 think we will hear today -- I believe that it's our  
17 goal as legislators to put all of you out of  
18 business. I say that because our goal is obviously  
19 to create a perfect society where we don't have  
20 criminals and we don't have prisons.

21           Having said that, it is my personal  
22 opinion that even though we try to create a perfect  
23 world where we don't have crime and we don't have  
24 criminals and where we don't need prisons and  
25 therefore you folks are out of work, while we don't

1 have or until we do achieve our perfect society,  
2 it's up to the legislature to provide you with the  
3 tools to be sure that we don't just throw the key  
4 away on people and that we do make provisions, so  
5 that we are able to rehabilitate as many people as  
6 we can to bring them back into society and make them  
7 productive members of our community.

8 So I thank you. I'm glad you were the  
9 lead-off witness, because this certainly sets the  
10 tone for what we in the legislature are trying to  
11 do. I have no questions. And seeing no other  
12 members present, we want to thank you.

13 Is there anything you want to add to  
14 what you said?

15 MR. VERDEYEN: Madam Chair, I share  
16 your statements and don't disagree with one single  
17 word you said. I think any true corrections  
18 professional would follow the same path that you  
19 laid out for us. And that is a society that is free  
20 from having to incarcerate offenders.

21 Perhaps with your assistance as well  
22 as others on your Committee, maybe corrections  
23 systems in Pennsylvania will become the ideal role  
24 model for the rest of this country.

25 Thank you very much.

1 CHAIRWOMAN COHEN: We hope so. Thank  
2 you. And we will certainly call on you at any time.

3 The next person to appear before us is  
4 William Reznor, Deputy Secretary for  
5 Intergovernmental Relations, Pennsylvania Department  
6 of Corrections.

7 Welcome, Mr. Reznor. We have your  
8 testimony, and again you may read it or just address  
9 us as you please.

10 MR. REZNOR: Thank you very much,  
11 Madam Chairman. On behalf of the Pennsylvania  
12 Department of Corrections, I am pleased to be able  
13 to come before you today and provide testimony.

14 It is also an honor to follow ACA  
15 since the majority of the State institutions and the  
16 community correction centers that are operated by  
17 the Commonwealth are ACA accredited. And we think  
18 accreditation leads to safety and security in our  
19 facilities, which is a primary goal that the  
20 Department of Corrections has.

21 In 1996, Governor Ridge signed  
22 executive order 1996-1, which was an executive order  
23 calling upon all State agencies to review the  
24 regulations in a more user-friendly attitude.

25 Secretary Horne at the time gave to me

1 the responsibilities of reviewing these regulations  
2 as related to the county jails. The DOC team that  
3 we put together to examine these regulations found  
4 in Title 37, Chapter 95 where a group of people who  
5 really wanted to meet the goals and the objectives  
6 of the Governor.

7 In order to do that, we surveyed all  
8 of the counties in Pennsylvania to find out from  
9 them what was the most problematic -- what were the  
10 most concerns of them with our regulations. And  
11 what we were able to do is we were able to determine  
12 12 sections of this minimum standards for county  
13 prison operations as our primary focus of attention.

14 They are reviewed by the county  
15 wardens themselves as the most difficult for them to  
16 deal with. We went ahead and established five  
17 regional workshops across Pennsylvania where the  
18 Department of Corrections went to the counties. The  
19 counties hosted these meetings and these work  
20 sections where we learned firsthand from the  
21 counties what they felt were the real issues for  
22 them.

23 We had county commissioners attend.  
24 We had the County Commissioners' Association attend,  
25 sheriffs attended, District Attorneys attended and,

1 of course, the county wardens attended.

2 From those meetings, we gained a lot  
3 of knowledge. But the biggest piece of information  
4 we gained is something that I know you already know,  
5 and that is how diverse the counties are in  
6 Pennsylvania. As you know, we have a Philadelphia  
7 system that has 6 thousand inmates; we have an  
8 Allegheny County system that has 2 thousand inmates  
9 and we have an Elk County system with 35 inmates.  
10 So one size does not fit all.

11 We decided at that point, that the  
12 most practical way of dealing with regulations  
13 involving counties was to give them a goal and let  
14 them develop through local written policy and  
15 procedure using national standards as a guideline on  
16 how to attain that goal. And so that's what we did.  
17 The first 12 sections of Title 37, Chapter 95, which  
18 went into effect in February of 2000, indeed gave to  
19 counties the responsibility of writing these local  
20 policies.

21 Most of the larger counties already  
22 had the policies and procedures. They didn't seem  
23 to have a difficulty making the transition, but  
24 there were several of the smaller counties that did  
25 not have any written policies and procedures, so

1 what we had to do was provide training for them and  
2 resources for them.

3 We acquired ACA manuals that tell  
4 counties how to write policies and regulations for  
5 their own facilities. We provided them with  
6 in-service training where we went to the counties  
7 and assisted them in writing the policies. And all  
8 of this was done in a way that we did not want to be  
9 intrusive. There was no costs by the Commonwealth  
10 on the counties for that training.

11 When we do inspections now of the  
12 county jail, our way of conducting the inspections  
13 with the new regulations in place are to visit the  
14 county and determine that the regulations that are  
15 written are in compliance with national standards,  
16 and that they are mapped out in a way to achieve  
17 these goals and objectives that we feel are very  
18 important to safety and security of county prisons.  
19 But we take it one step further. We also check to  
20 see if, in fact, they are following their own  
21 policies.

22 Madam Chairman, quite frankly, it is  
23 my belief that if we had inspected the Westmoreland  
24 County Jail in the year 2000 using the scenario of  
25 evaluating whether or not the county was following

1 their own policies, the inspection report would have  
2 been much different than it was in the year 2000.  
3 So we are in the process now of rewriting the  
4 balance of the regulations. We are very close to  
5 having that completed.

6 We believe in the first part of 2002  
7 we will be able to say that all of the regulations  
8 found in Title 37, Chapter 95 have been reviewed,  
9 have been rewritten and have now met our new test  
10 which is to define standards using local policy and  
11 procedures.

12 One of the things that we say,  
13 however, in our new regulations, and this goes back  
14 to the ACA testimony, if there is any question as to  
15 what direction the county -- if there is any  
16 direction that the State is looked at -- looked to  
17 for giving guidance on what direction the county  
18 should go, one of the regulations speaks to the fact  
19 that in the event a county achieves ACA  
20 accreditation, the Commonwealth will waive in its  
21 entirety the inspection of that facility during the  
22 period of time that the accreditation is in place.

23 The department doesn't end with that.  
24 We continue to provide training resources to the  
25 counties. We provide K-9 dogs to do drug sweeps and

1     contraband checks of institutions at the request of  
2     the counties. We provide our CERT team, which is  
3     our Correctional Emergency Response Team, to go in  
4     and be of assistance with shakedowns of county  
5     facilities at the request of the counties. We even  
6     are part of their emergency plans, so that in the  
7     event there be a major evacuation of the county  
8     prison that the State would be able to take those  
9     people from them. So we continue to try to be a  
10    resource.

11                   And one of the key resources that I  
12    think we are able to provide for counties is the  
13    notion that we have a resource library available to  
14    the counties at no charge to the counties. It's a  
15    resource library that has videotapes, publications  
16    and books that are germane to county facilities,  
17    that are made available to the counties at no cost  
18    to the counties. We submit that list of resources  
19    to the counties quarterly so that we are aware of  
20    what we have in place.

21                   So the Department of Corrections  
22    continues to believe that we will be a resource to  
23    county government. We would love to see county  
24    government attain the accreditation standards that  
25    ACA has subscribed to and prescribes, but it is our



1 place to meet the definition of the regulations that  
2 the Commonwealth has in place.

3 That concludes my testimony, Madam  
4 Chair.

5 CHAIRWOMAN COHEN: Thank you, Mr.  
6 Secretary. I just have one question. You talked  
7 about rewriting -- you referred to Westmoreland but  
8 I think that we are really talking in generic form,  
9 so without getting specific into what happened, at  
10 least I prefer to do that.

11 MR. REZNOR: Right.

12 CHAIRWOMAN COHEN: You talked about  
13 rewriting the regulations. Obviously, that would  
14 include inspection, although you then went on to say  
15 that in rewriting the regs you are going to  
16 obviously use the standards to incorporate local  
17 policy regulations. You said that when the -- well,  
18 let me ask.

19 You would not do the inspections if  
20 these county prisons are ACA accredited. Along with  
21 ACA accreditation, is there inspection by ACA?

22 MR. REZNOR: Yes, there is.

23 CHAIRWOMAN COHEN: I see. So that you  
24 would not continue -- you, meaning the State, would  
25 not continue county prison inspections because that

1 would then be forwarded to the ACA as part of the  
2 accreditation program?

3 MR. REZNOR: I think the answer is we  
4 would waive the inspection requirements. The county  
5 may say we wish to have you inspect us as well. All  
6 we are saying is that since you -- if you attain ACA  
7 accreditation and since you are reviewed annually by  
8 ACA to ensure that you are meeting these objectives  
9 and the probation period is for a 3-year period, for  
10 that three years we would waive it. But it doesn't  
11 mean that they couldn't ask for us to still continue  
12 to come in and do annual inspections.

13 CHAIRWOMAN COHEN: And it also doesn't  
14 mean that they are not inspected because now they  
15 are an ACA?

16 MR. REZNOR: Right.

17 CHAIRWOMAN COHEN: Kind of like the  
18 drug commission for hospitals, the same type of  
19 program. I was going to ask you do the counties  
20 know about your video resources, etc., but then you  
21 answered my question. So, indeed, the counties, the  
22 State has made available to the counties all of the  
23 resources that they should need in order to operate  
24 properly?

25 MR. REZNOR: Right. We believe that

1 we are trying to be a good resource and a good  
2 friend to the county operations. It is in your  
3 collective best interest to do that.

4 CHAIRWOMAN COHEN: Thank you. I have  
5 no further questions. Again, my regards to the  
6 Secretary. We really appreciate you being here.

7 MR. REZNOR: Thank you very much,  
8 Madam Chair.

9 CHAIRWOMAN COHEN: Thank you so much.  
10 The next person to appear before us is the Honorable  
11 Edward M. Marsico, Jr., District Attorney, Dauphin  
12 County. And he comes to us representing the  
13 Pennsylvania District Attorneys' Association.

14 I hope this is not a conflict of  
15 interest because you are related to Ron Marsico.

16 MR. MARSICO: No, Madam Chair.  
17 Representative Marsico is my cousin.

18 CHAIRWOMAN COHEN: Okay. Cousins  
19 don't constitute a conflict of interest?

20 MR. MARSICO: No, not a conflict. In  
21 fact, he serves as an valuable resource when we need  
22 to come up here to the legislature and ask to have  
23 certain items introduced as legislation. So it's  
24 worked rather well.

25 CHAIRWOMAN COHEN: Representative

1 Marsico is, indeed, a very valued member, not just  
2 of our caucus but the entire legislature. So having  
3 put that burden upon you, we welcome you and you may  
4 begin at any time.

5 MR. MARSICO: Sure.

6 CHAIRWOMAN COHEN: And as I said  
7 before, you may read from your testimony or just  
8 give us a presentation.

9 MR. MARSICO: Thank you, Madam  
10 Chairman. My name is Ed Marsico. I am the District  
11 Attorney of Dauphin County. I currently serve on  
12 the Dauphin County Prison Board. I am here today to  
13 share my experiences on behalf of the Pennsylvania  
14 District Attorneys' Association.

15 CHAIRWOMAN COHEN: Excuse me. Do you  
16 have your written testimony to present to us?

17 MR. MARSICO: I do have, but I only  
18 have one copy. I apologize. I will get you a copy  
19 as soon as we are done.

20 CHAIRWOMAN COHEN: If you could  
21 forward it to us.

22 MR. MARSICO: I will.

23 CHAIRWOMAN COHEN: We will listen  
24 intently.

25 MR. MARSICO: I apologize.

1 CHAIRWOMAN COHEN: Thank you.

2 MR. MARSICO: I thank you for giving  
3 me the opportunity to appear here today. I have  
4 reviewed the report of the investigating Grand Jury  
5 regarding the problems at the Westmoreland County  
6 Prison. And after reviewing that, it's easy to  
7 conclude that certain changes are necessary within  
8 the county prison structure. Although, as you have  
9 heard earlier, there are various resources  
10 available, especially from the State Department of  
11 Corrections.

12 Counties throughout the Commonwealth  
13 share many of the concerns of the members of this  
14 Committee with respect to county prisons. There are  
15 issues with respect to prison overcrowding, the use  
16 and tracking of drugs within the prison system and  
17 safety for our employees of the prison as well as  
18 the public at large.

19 I included among some of the concerns  
20 the District Attorneys' Association has are the need  
21 for new county prisons and the cost of those  
22 facilities, medical cost and the dispensing of  
23 medicines continue to be a large concern for many  
24 counties. The cost of any medical treatment that an  
25 inmate receives becomes the county's expense.

1 Stories abound of inmates who have serious medical  
2 problems that require huge expenditures.

3 Many times as a prosecutor, I make a  
4 decision to allow someone out on bail that I  
5 otherwise would not feel comfortable putting on the  
6 streets merely to avoid having that expenditure  
7 incurred by the county, which, of course, the  
8 budgetary concerns of the counties are similar to  
9 those shared by you here at the State. Some type of  
10 system or regulations that would address the most  
11 severe costs of medical expenses would be welcome by  
12 District Attorneys as well as by prison boards.

13 With regard to drug trafficking, I  
14 would urge the Committee to study good  
15 behind-the-walls treatment programs, programs that  
16 are innovative and appeal to the inmates to attend  
17 would be a major step forward in combating drug use  
18 not only in the prisons, but would help combat  
19 recidivism that we see when these inmates are  
20 paroled back to the streets of our various counties.

21 Generally, Madam Chair, my experience  
22 has been that the new regulations within the  
23 Pennsylvania Code requiring local policies on  
24 various issues are working well. In Dauphin County,  
25 our prison has adapted the ACA standards which were

1 referred to by a previous witness here today. Of  
2 course, with local policies you are going to see  
3 many different approaches throughout the 67  
4 counties. And those are utilized in various  
5 fashions by the different counties.

6 For example, in the Dauphin County  
7 Prison, inmates are not permitted to have cell  
8 phones nor are they permitted to smoke. Likewise,  
9 staff must smoke outside. Staff is prohibited from  
10 carrying cell phones into the prison. Vendors are  
11 generally escorted when they make their calls  
12 delivering goods to the prison by prison personnel.

13 Inmates are to remain in their cells  
14 for the most part unless they are attending a  
15 specific program. We found this policy creates a  
16 motivation for the prisoners to want to engage in  
17 rehabilitative efforts such as drug treatment,  
18 getting a GED, things of that nature. If you tell  
19 them that they are going to remain in their cells  
20 for the vast majority of the day unless they engage  
21 in these programing activities, you sort of have the  
22 carrot to dangle in front of the inmates to  
23 encourage them to apply themselves to these needed  
24 efforts.

25 Items that are brought into our prison

1 commissary must be in clear plastic bags. And they  
2 are given to prison personnel who look in the bags,  
3 of course, to see if there is any contraband.

4 Newly hired correctional personnel  
5 must pass a drug screen. They are required to  
6 undergo a psychological evaluation. Drug testing of  
7 inmates occurs if there is any suspicion of drug  
8 use. Of course, we are experiencing certain  
9 problems also. We found recently with the  
10 legislature's encouragement of sentences that are  
11 alternative especially work release type sentences,  
12 work release prisoners often fail to return to the  
13 prison. They may have been using drugs while off  
14 prison property. As a greater number of prisoners  
15 are encouraged to serve such sentences, this could  
16 become a significant problem.

17 Additionally, several counties where  
18 prisoners receive a sentence of two to five years  
19 incarceration, a State sentence, are permitted by  
20 county judges to serve that in a county facility.  
21 Again, this creates an additional drain on county  
22 resources. We believe those prisoners may be better  
23 served in the State correctional system.

24 There are also public concerns about  
25 work release inmates being released to the community



1 for a large portion of the day. There will always  
2 be inherent problems in the prison system. We face  
3 an ongoing battle trying to keep our guards on the  
4 straight and narrow as well as the prisoners that  
5 are inmates.

6 We face the same struggle trying to  
7 prevent the introduction of contraband into the  
8 prison. And despite our best efforts, on occasion  
9 we are going to be beaten. Contraband is going to  
10 be smuggled into the prison. When such an incident  
11 occurs in Dauphin County, our Criminal Investigation  
12 Division, which is an arm of the ADA's office,  
13 investigates, files appropriate charges either  
14 against an inmate or staff if that unfortunate  
15 situation occurs.

16 I encourage the legislature to engage  
17 in studies like this. I am glad to see that it is  
18 not a problem that just we in law enforcement are  
19 facing and are concerned about, that the legislature  
20 here in Harrisburg is looking at methods to address  
21 the concerns we have with the county prison system.

22 With the recent special session on  
23 crime -- I guess it's not recent anymore as it was  
24 -- but with the legislation that is being passed  
25 that allows us prosecutors to get tough on crime and

1 put more offenders in prison. Unfortunately, that  
2 is creating increasing demands on the prison system,  
3 and especially on both the State correctional  
4 institutions and the county facilities.

5 As you heard before, 67 different  
6 facilities with various inmate populations,  
7 diversity across this Commonwealth, there are  
8 different concerns. And I think this Committee  
9 addressed that a couple of years ago when you  
10 changed the regs to allow for local policies to be  
11 developed. I think it's a little bit new in the  
12 process for most of the county prisons. Hopefully,  
13 we are on the right track.

14 I thank you for taking a fresh look at  
15 this approach and enabling us to come up here today  
16 and present some of our concerns.

17 CHAIRWOMAN COHEN: Thank you, Mr.  
18 Marsico. That was a fresh look at a difficult  
19 situation. And we appreciate it.

20 I would like to welcome Representative  
21 Kelly Lewis from Monroe County. Welcome.

22 Do you have any questions?

23 REPRESENTATIVE LEWIS: No.

24 CHAIRWOMAN COHEN: Okay. Do you work  
25 with the ACA as well as with the State?

1                   MR. MARSICO: Yes. Our prison board  
2 has decided to adopt the ACA standards. So we work  
3 closely with them in adopting their standards.  
4 We've also used the Department of Corrections as a  
5 resource, as you heard from the previous witness.  
6 You can sort of choose one of the two avenues to go  
7 through with the inspection process.

8                   I welcome the approach we heard from  
9 the prior witness. They are a valuable resource.  
10 They have much more experience than most of the  
11 local prisons do in handling different types of  
12 problems. So that's why we have chosen to adopt the  
13 ACA standards, because they are national in scope.  
14 We have not done that to exclusivity it to prevent  
15 the State from being involved.

16                   CHAIRWOMAN COHEN: Do you find working  
17 with the ACA that their inspection process and  
18 procedures are adequate?

19                   MR. MARSICO: Yes.

20                   CHAIRWOMAN COHEN: Great. Okay. I  
21 was going to ask you if you find any conflict  
22 between the county prisons and the State, but then  
23 you mentioned funding.

24                   MR. MARSICO: I think there is some  
25 conflict in the scheme of things. Oftentimes, we

1 are concerned about funding at a more local level  
2 with the county prisons, so if we can shift some of  
3 that burden to the State which is larger in scope,  
4 we in the counties do that. And that has an impact  
5 upon our friends at the Department of Corrections.

6 But, again, I think we are parochial  
7 in that sense. We are concerned about the county  
8 budget first. And if we shift some of that burden  
9 to the State, we know that puts that in your lap.

10 CHAIRWOMAN COHEN: Where do we shift  
11 it?

12 MR. MARSICO: There is some conflict  
13 in that regard from budgetary concerns from  
14 different programs, different aspects. Both  
15 systems, though, we have seen a great increase in  
16 the number of State sentences that our county is  
17 doling out, which is appropriate to combat the  
18 serious level of crime that we are seeing in Dauphin  
19 County.

20 But, of course, the bills have to be  
21 paid by the Department of Corrections. So while we  
22 are sending more people to the State facilities, it  
23 adds an impact on them. At the same time, our  
24 county facility is busting at the seams, so to  
25 speak. It is overcrowded. There are more people

1 than should be in that facility.

2 Our county prison board is studying at  
3 this time different alternatives perhaps to house  
4 some of the inmates. We developed in Dauphin County  
5 a separate work release that is run by our Adult  
6 Probation Department. It is separate and apart from  
7 the county prison. It prevents some of the problems  
8 that are inherent with the work release setup where  
9 they are now.

10 The work release inmates do not come  
11 back to the prison where you have to worry about  
12 them bringing things into the prison. Now they are  
13 at a separate facility which is just for work  
14 release inmates. These are inmates that crimes  
15 aren't serious that they have been convicted of.  
16 They have jobs. We have been aggressive.

17 They are required to pay room and  
18 board, so to speak, to the county. It's been a  
19 great resource in taking away some of the budgetary  
20 constraints. We've found in the past it has brought  
21 in a lot of money into the county, even though we  
22 had to build a separate facility to do it.

23 We are quite pleased with the way that  
24 is working.

25 CHAIRWOMAN COHEN: Excellent. Now, we

1 have worked -- this is my ninth year as a Member of  
2 the Judiciary Committee. And we have worked with  
3 Gary Tennis from your association. And he has been  
4 very helpful in advising us not only about  
5 legislation that's on the table, but as well as  
6 initiating legislation to help you folks.

7 MR. MARSICO: We are very fortunate to  
8 have Gary Tennis and Kathy McDonnell in the DA's  
9 Association.

10 CHAIRWOMAN COHEN: As are we as  
11 legislators.

12 MR. MARSICO: As an Assistant DA for  
13 over a decade, I realize the value that they provide  
14 not only to the DA's Association, but to all our  
15 citizens.

16 CHAIRWOMAN COHEN: I have no further  
17 questions. We thank you.

18 MR. MARSICO: Thank you very much.

19 CHAIRWOMAN COHEN: And we look forward  
20 to doing business with you in the future.

21 MR. MARSICO: Thank you.

22 CHAIRWOMAN COHEN: Thank you so much.

23 The next person to appear before us is  
24 J. Allen Nesbitt, I guess my neighbor, the Director  
25 of Corrections in Bucks County, neighboring county

1 to Montgomery.

2 Thank you for being here, Mr. Nesbitt.  
3 And, again, we do have your written testimony. Feel  
4 free to read from it or just chat with us.

5 MR. NESBITT: Thank you very much. I  
6 am hopefully going to do a little bit of both.

7 CHAIRWOMAN COHEN: Okay.

8 MR. NESBITT: One of the interesting  
9 things I would just like to comment on, in all the  
10 testimony so far you have heard county prisons  
11 referred to. And I think that's part of the problem  
12 and you'll read that in my testimony.

13 We are actually county jails. And  
14 there is a difference. And that is highlighted in  
15 my opening comments. Pennsylvania's county jails  
16 have unique responsibility of managing and  
17 supervising inmates who have been charged with or  
18 convicted of violating Pennsylvania laws.

19 County jails are required to deal with  
20 new arrestees, many of who are under the influence  
21 of alcohol or drugs. This difficult task includes  
22 working with those exhibiting suicidal behavior,  
23 suffering from mental illness or having any  
24 combination of these conditions.

25 Pennsylvania's county jails are also

1 unique from every other State in the nation, in that  
2 we can hold inmates up to one day less than five  
3 years as a condition of that sentence. So you find  
4 that we are somewhat unique. There are 64 county  
5 jails in Pennsylvania, 67 counties, but 3 of them, I  
6 believe Forest, Fulton and Sullivan, have no  
7 operating budgets for jail operations.

8 The unique part about that is that of  
9 the 64 counties, 36 counties have jails that are  
10 designed for less than 200 inmates. Three-fourths  
11 of the counties are rated capacity of 500 or less,  
12 with only 9 counties having what we call the super  
13 jails of 1000 or more. Typically, county jails in  
14 Pennsylvania are smaller facility operations with  
15 limited staff and limited budgets.

16 The question arises of what do we do?  
17 Pennsylvania county jails could best be described as  
18 the emergency rooms of the criminal justice system.  
19 All those who are arrested and unable to secure bail  
20 are brought through our doors. Likewise, those that  
21 are sentenced by the Court come through our jail.  
22 As new commitments, they are triaged since little is  
23 known about them when they enter our facilities.

24 Having little or no knowledge about  
25 these new commitments puts the county jails at great



1 risk. Although offenders may be committed for  
2 charges such as driving under the influence, they  
3 may have outstanding charges from other States or  
4 other jurisdictions, including murder and aggravated  
5 assaults which we have no knowledge about at the  
6 initial entrance.

7           Likewise, the county jails have no  
8 information concerning the new commitment's medical  
9 history, psychiatric history or drug alcohol  
10 history. Also the possibility of suicide is  
11 extremely high. Within the first 48 hours of any  
12 commitment, the risk of suicide in county jails is  
13 extremely high. That is due to issues such as  
14 medication not being available or violent behavior  
15 being exhibited as well. We also have a number of  
16 people coming through our doors in a state of  
17 detoxification which we have no knowledge of.

18           Once initial information is gathered,  
19 it's up to the county jails to provide the care,  
20 custody and control of that individual. We classify  
21 the individuals, we develop treatment plans in which  
22 we try to develop a plan to make that person's  
23 process through our system effective and look at the  
24 integration of that individual back to the  
25 community. Approximately 99 percent of all those

1 who come to the county facilities stay back in the  
2 community from which they were arrested.

3 We also have options, which are  
4 considered alternatives, known as work release as an  
5 option. Bucks County has the largest work release  
6 center in Pennsylvania. We also consider what's  
7 known as house arrest as an alternative to  
8 incarceration as a movement out of the system.  
9 Bucks County also is the only county which has an  
10 intermediate punishment plan which is run by the  
11 Department of Corrections. We felt that using these  
12 alternatives would eliminate the overcrowding that's  
13 inherent in our problem.

14 What problems are jails facing? The  
15 biggest problem that we are facing right now is the  
16 increase in those with mental illness coming into  
17 our system. Traditionally, there has been a  
18 tendency that whenever there is a failure on the  
19 part of society or other social services to meet the  
20 needs of individuals, jails have been there to pick  
21 up those needs. We've seen it throughout our  
22 history. And we see it currently with the mentally  
23 ill. We do not believe that those suffering from  
24 mental illness as a result of committing an offense  
25 should be put into jail. We believe that

1 alternatives should be offered in that regard.

2 Likewise, 82 percent of the jail's  
3 population consists of inmates who have committed  
4 drug- or alcohol-related offenses. And when we talk  
5 about drug and alcohol-related offenses, we are  
6 talking about being involved immediately with the  
7 drug/alcohol itself or committing an offense to be  
8 able to purchase that drug or alcohol.

9 Similarly, the return of juveniles  
10 into the adult system carries with it a unique set  
11 of problems. County jails were forced to examine  
12 the setting of bringing juveniles back with adults.  
13 We were required to establish redefining our space,  
14 our programming and our staffing to meet those  
15 needs. One example of that, of course, is with  
16 juveniles in the jail who are required to go to a  
17 full-time school. Now, while we had support from  
18 our intermediate units of education, many of the  
19 jails did not have the space that was necessary to  
20 provide that classroom and had to look at that.

21 We have a growing number of violent  
22 offenders and an increasing number of women entering  
23 our system. We are now an equal opportunity  
24 offenders. With this increase in population, as you  
25 heard, some overcrowding classification becomes

1 difficult in the prison type of setting where we try  
2 to put the right individuals with the right  
3 individuals. And subsequently then, the ability to  
4 protect begins to break down. This could be  
5 exhibited in cell searches where homemade weapons or  
6 shanks would be found. Another obvious problem with  
7 overcrowding is a reduction or delay in delivery of  
8 services to the inmate population. If facilities  
9 are only built to hold capacities of 300 and you now  
10 have 500, obviously the infrastructure begins to  
11 break down. Likewise, when you are trying to treat  
12 those same people and you have twice as many as  
13 facility space allows to perform those treatments,  
14 it's difficult to provide that service.

15           What can you do? One of the things  
16 that we would like to have happen is the separation  
17 of county jail parole system from the State prison  
18 parole system. This was on the books some time ago,  
19 and legislation was introduced on a number of  
20 occasions. When the intermediate punishment program  
21 came into being and the sentencing guidelines were  
22 changed, one of the proposals while new population  
23 was being added to the county jails was that the  
24 State system -- or the State max term would be two  
25 years going into the State system, not the five

1 years that they are talking about now.

2 We would like to see that obviously  
3 reduced to a two-year maximum on county jails. All  
4 maximum sentences over two years would be then  
5 confined at the State correctional institutions  
6 under jurisdiction of the Pennsylvania Department of  
7 Corrections. This then would also centralize the  
8 paroling systems. Those that are in county jails  
9 would be in the jurisdiction of the county courts.  
10 Those that are in the State system would then be the  
11 jurisdiction of the Pennsylvania Board of Probation  
12 and Parole.

13 Problems that we run into in this area  
14 is that two inmates, one a State sentence serving in  
15 a county facility and the other a county sentence in  
16 a county facility, complete the same programing,  
17 have the same behavior within the institution.  
18 Their minimum sentence comes forward, the county  
19 judge paroles him because he has met all the  
20 conditions, but the Pennsylvania Board of Parole  
21 does not because they impose conditions outside of  
22 what the original judge had imposed. The question  
23 of parity certainly comes into play. And it's  
24 difficult for us to address that with the inmate  
25 population.

1           We would like to see a development of  
2 a grant-in-aid program for county jails. Currently  
3 there are two examples; one, the adult chiefs of  
4 probation and parol receive grant-in-aid services  
5 from the Pennsylvania Board of Probation and Parole  
6 to develop innovative programs and to add staff.

7           Likewise, the juvenile probation  
8 departments received from the Juvenile Court Judges  
9 Commission funding for grant-in-aid programs so that  
10 they, too, can develop innovative programs and add  
11 additional staff. None of the county jails receive  
12 funding from anywhere outside of the county  
13 jurisdictions.

14           So we would like to see a grant-in-aid  
15 program brought into being. Also, we ask that no  
16 legislation be supported concerning sentencing or  
17 mandates which impact on county jails unless the  
18 financial impact is considered.

19           Now, I also understand this is going  
20 through some of the legislature, I believe it was  
21 Bill 343, and was just recently moved through the  
22 House which asks that an impact statement on jail  
23 overcrowding issues be brought about. And so we  
24 appreciate that. We are looking to expand that a  
25 little bit more, however.

1           We are asking also that support for  
2 alternative sentencing programs and strengthen  
3 support systems financially that impact on the jail  
4 programs. And by that, we mean the alcohol and drug  
5 treatment programs. We also mean the mental health  
6 systems, the securing of secured beds in the  
7 facility for those individuals who have mental  
8 illness problems. And although they committed  
9 criminal offenses is basically because of the mental  
10 illness problems. We also believe that the juvenile  
11 should be removed from the adult system. That had  
12 happened about 25 years ago and now they are back,  
13 and we don't believe it's appropriate.

14           What can jails do? Well, for the past  
15 several years a number of wardens, including myself,  
16 and many across the Commonwealth have been  
17 discussing the needs presented in this testimony.  
18 We have recently as of May of this year formed what  
19 is known as the Pennsylvania County Prison Wardens'  
20 Association. It is our intent to work closely with  
21 our County Commissioners' Association and to pursue  
22 appropriate legislation to support our concerns.

23           We also want to work very closely  
24 again with the Department of Corrections. We  
25 believe that utilizing the resources of the

1 Pennsylvania Department of Corrections, particularly  
2 the jail inspectors, their training academy and  
3 Deputy Secretary for Intergovernmental Relations, in  
4 advisory roles will be effective in developing this  
5 cooperation to move ahead.

6           Clearly it is our intent to make  
7 county jails better. And while we intend to take  
8 the initiative and develop viable strategies, we  
9 need your help to establish these goals.

10           I can open the floor to any questions.

11           CHAIRWOMAN COHEN: Thank you so much.  
12 That was, indeed, a large menu for us. I can't  
13 disagree with your list, your shopping list. We  
14 will do our best certainly, because it's in the best  
15 interest of all of us.

16           I do believe that Representative Lewis  
17 does have a question or two.

18           MR. NESBITT: Yes.

19           REPRESENTATIVE LEWIS: Thank you for  
20 coming today. I just got off a prison board up in  
21 Monroe County as a former county controller, so I'm  
22 very aware of some of the items that you bring up in  
23 your testimony.

24           We about a year or two ago or maybe  
25 it's been three years now, we started an initiative



1 to secure State payment for the, quote-unquote,  
2 State prisoners that county jails house up to that  
3 five-year minimum.

4 Do you know if Bucks County still has  
5 a large number of those classified prisoners?

6 MR. NESBITT: Today we have 202 that  
7 would qualify into that category.

8 REPRESENTATIVE LEWIS: I know in  
9 Monroe County we are exceeding our population and  
10 have prisoners housed in Carbon County now. So we  
11 are paying money to house, quote-unquote, State  
12 prisoners in other county jails now.

13 MR. NESBITT: That terminology --  
14 we've tried to pursue it and to look at funding.  
15 Again, we would prefer that the -- and there is a  
16 conflict there, not only with the State adding those  
17 individuals to our system, but also then the  
18 paroling authority which causes just as much  
19 conflict for us.

20 REPRESENTATIVE LEWIS: Is your  
21 solution more to go to the two-year limit as a  
22 maximum sentence?

23 MR. NESBITT: Yes, sir. We feel very  
24 strongly about that. That was one of the,  
25 quote-unquote, agreements that was made when the

1 sentencing guidelines were changed and the  
2 intermediate punishment law came into effect.

3 More individuals actually came into  
4 the county systems, but the closure side of that was  
5 that the larger end two year max period would also  
6 be imposed, and it never came about through  
7 legislation.

8 REPRESENTATIVE LEWIS: And is there  
9 legislation pending now for that type of minimum  
10 sentence?

11 MR. NESBITT: I do not believe there  
12 is any pending now. There has been several that  
13 have come up and gone through and just never moved.

14 REPRESENTATIVE LEWIS: I know for the  
15 fast-growing counties in the State, that would be  
16 very helpful for county budgets.

17 MR. NESBITT: Yes. In that northeast  
18 area, for example, Lehigh has approximately 200;  
19 Northampton, I believe, has about 100. We have, as  
20 I said, about 202 today. I understand that you do  
21 as well. Interestingly -- and I will just pass  
22 this -- Philadelphia, which has been under court  
23 order, has been sending all of their people to the  
24 State with two years or more.

25 However, the court order is done. And

1 I know Philadelphia's concern is that once it  
2 becomes an alternative to sentencing, the court may  
3 very well begin to sentence again up to the  
4 five-year max. If that happens, we are certainly  
5 concerned that they immediately will go into an  
6 overcrowding situation again. So it is a concern  
7 for the wardens and probably the number one  
8 legislative concern for us.

9 REPRESENTATIVE LEWIS: I appreciate  
10 your testimony. I know for the counties that are  
11 far away from State facilities, it becomes a  
12 fairness issue for sentencing judges so inmates can  
13 see the families. I appreciate your testimony.

14 MR. NESBITT: Yes, sir. Thank you.

15 CHAIRWOMAN COHEN: Thank you,  
16 Representative Lewis.

17 That concludes our testimony, I guess.  
18 We appreciate, again, the input and hope to call  
19 upon you and use you as a resource soon.

20 MR. NESBITT: We will be glad to do  
21 that.

22 CHAIRWOMAN COHEN: Thank you.

23 MR. NESBITT: Thank you.

24 CHAIRWOMAN COHEN: This concludes the  
25 public hearing. Anyone else who is here or not here

1     who wishes to submit some testimony can do so in  
2     writing.  And we will incorporate it in the record.

3                     Again, this concludes this hearing.

4     We thank you all very much for your input.

5                     (The hearing concluded at 10:54 a.m.)

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

*Jean M. Davis*

Jean M. Davis, Reporter  
Notary Public

Notarial Seal  
Jean M. Davis, Notary Public  
Derry Twp., Dauphin County  
My Commission Expires Mar. 29, 2004  
Member, Pennsylvania Association of Notaries

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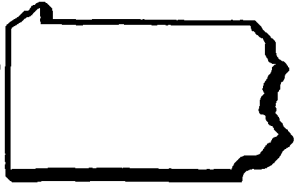
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# COUNTY COMMISSIONERS ASSOCIATION OF PENNSYLVANIA

17 N. FRONT ST. • HARRISBURG, PA 17101-1624 • 717-232-7554 • 717-232-2162 FAX • [www.pacounties.org](http://www.pacounties.org)

May 16, 2001

Ms. Karen L. Dalton  
Counsel  
House Judiciary Committee  
House Box 202020  
Room 24  
Speaker Matthew J. Ryan Office Building  
Harrisburg, PA 17120-2020

Dear Ms. Dalton:

Although we have declined your invitation to present testimony at the public hearing scheduled for May 21, 2001, we would like to offer the following comments with respect to County Prison Regulations.

Since 1729, 100 years prior to the creation of the first state correctional institution, counties have served as the caretakers of their county prisons. This is a huge responsibility, which counties take very seriously. Given this expansive history, counties are well equipped to handle the oversight of their prisons, and do so effectively.

The oversight of a county prison is reflective of two entities: the respective county prison board and the state which it serves, through laws enacted by the state. County prison boards were established in 1921 and are responsible for the safekeeping, discipline, and management of county prisons. County prison boards consist of the president judge of the court of common pleas, the district attorney, the sheriff, the controller, and the county commissioners (Title 61, section 408(a)(1)). One specific duty of the county prison board is to appoint a warden for the prison. The warden, in turn, may appoint a deputy or deputies, or other assistants as is required in order to manage the day-to-day operations of the prison (Title 61, section 409). We believe this system is effective because it takes into consideration the varying needs of all 67 counties, while at the same time adhering to our system of democracy. If the warden fails to perform at an acceptable level, his performance will reflect on the board who appointment him, and the board is ultimately responsible to its electorate.

The oversight of a county prison is also reflective of state statute. The Minimum Standards for Local Adult Correctional Facilities are set forth in Title 37, Chapter 95 of the Pennsylvania Code. The purpose of the regulations is to "encourage county prisons to develop and utilize local policies and procedures that are in keeping with existing State law..." (section 95.220). We believe this method of oversight at the state level works well because it seeks to ensure that county prisons maintain professional standards for prison operations while providing counties



