

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE HEARING

STATE CAPITOL
HARRISBURG, PA

MAIN CAPITOL BUILDING
ROOM 8E-B EAST WING

MONDAY, DECEMBER 7, 2015
10:30 A.M.

PRESENTATION ON SB 859 (GREENLEAF)
CONSOLIDATING THE PA DEPARTMENT OF CORRECTIONS
AND THE PA BOARD OF PROBATION AND PAROLE
INTO THE PA DEPARTMENT OF
CORRECTIONS AND REHABILITATION

BEFORE:

HONORABLE RONALD MARSICO, MAJORITY CHAIRMAN
HONORABLE SHERYL M. DELOZIER
HONORABLE BARRY JOZWIAK
HONORABLE MARK KELLER
HONORABLE KATE KLUNK
HONORABLE TEDD NESBIT
HONORABLE MIKE REGAN
HONORABLE RICK SACCONI
HONORABLE TARA TOOHIL
HONORABLE MIKE VEREB

* * * * *

*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

BEFORE (continued):

HONORABLE JOSEPH PETRARCA, DEMOCRATIC CHAIRMAN
HONORABLE BRYAN BARBIN
HONORABLE TIM BRIGGS
HONORABLE DOM COSTA
HONORABLE TINA DAVIS
HONORABLE JASON DAWKINS
HONORABLE MADELEINE DEAN
HONORABLE DANIEL MILLER
HONORABLE GERALD MULLERY

COMMITTEE STAFF PRESENT:

THOMAS DYMEK
 MAJORITY EXECUTIVE DIRECTOR
MICHAEL KANE
 MAJORITY SENIOR COUNSEL, RESEARCH
JEN DURALJA
 MAJORITY COMMITTEE SECRETARY, RESEARCH
MICHELLE MOORE
 MAJORITY ADMINISTRATIVE ASSISTANT
MIKE FINK
 MAJORITY RESEARCH ANALYST

SARAH SPEED
 DEMOCRATIC EXECUTIVE DIRECTOR
KRISTEN BERNARD
 DEMOCRATIC LEGISLATIVE ASSISTANT
TIM CLAWGES
 DEMOCRATIC LEGAL COUNSEL

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SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

P R O C E E D I N G S

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3 MAJORITY CHAIRMAN MARSICO: Welcome to the public
4 hearing of the House Judiciary Committee.

5 We are here today to discuss Senate Bill 859 in a
6 Senate hearing room. How about that? Probably for the
7 first time with this committee.

8 Can you hear me back there? Okay.

9 Senate Bill 859 is sponsored by Senator
10 Greenleaf. This bill involves consolidating the
11 Pennsylvania Department of Corrections and the Pennsylvania
12 Board of Probation and Parole into a new State agency to be
13 called the Department of Corrections and Rehabilitation.

14 Four years ago the General Assembly passed the
15 Justice Reinvestment Initiative, which was another historic
16 correctional system reform. The goal of JRI was to reduce
17 recidivism, reduce crime, and therefore, over time, reduce
18 correctional costs.

19 Senate Bill 859 proposes another major change to
20 the current correctional system in Pennsylvania. I
21 understand that the bill is not just a mere consolidation
22 of two current agencies but also includes a number of
23 substantial changes to Pennsylvania law.

24 So we look forward to the hearing today, to the
25 testifiers, not just about what effect it will be

1 consolidating the Department of Corrections into what is
2 currently an independent Board of Probation and Parole but
3 also in hearing about what other changes might be.

4 Before we get started, I would like to ask
5 everyone to silence your cell phones. The meeting is being
6 recorded.

7 And today, before we get started with the
8 testifiers, I would like to have the Members introduce
9 themselves, as well as staff.

10 Let's start down here with Madeleine --
11 Representative Dean.

12 REPRESENTATIVE DEAN: Good morning.

13 Madeleine Dean, Montgomery County.

14 REPRESENTATIVE BRIGGS: Tim Briggs, Montgomery
15 County.

16 REPRESENTATIVE MILLER: Dan Miller, Allegheny
17 County.

18 REPRESENTATIVE VEREB: Mike Vereb, Montgomery
19 County.

20 MAJORITY CHAIRMAN MARSICO: Sheryl.

21 REPRESENTATIVE DELOZIER: Sheryl Delozier,
22 88th District, Cumberland County.

23 MR. KANE: Mike Kane, Legal Counsel to the
24 Majority Judiciary Committee.

25 MR. DYMEK: Tom Dymek, Executive Director.

1 MAJORITY CHAIRMAN MARSICO: Ron Marsico, Chair.

2 MINORITY CHAIRMAN PETRARCA: Joe Petrarca,
3 Democratic Chair, Westmoreland, Armstrong, and Indiana
4 Counties.

5 MS. SPEED: Sarah Speed, Democratic Executive
6 Director.

7 REPRESENTATIVE NESBIT: Tedd Nesbit, Mercer and
8 Butler Counties.

9 REPRESENTATIVE KLUNK: Good morning.
10 I'm Kate Klunk, and I represent southern York
11 County.

12 REPRESENTATIVE JOZWIAK: Good morning.
13 Barry Jozwiak, Berks County.

14 REPRESENTATIVE REGAN: Good morning.
15 Mike Regan, Cumberland and York Counties.

16 REPRESENTATIVE COSTA: Good morning.
17 Dom Costa, Allegheny County.

18 REPRESENTATIVE DAVIS: Good morning.
19 Tina Davis, Bucks County.

20 REPRESENTATIVE KELLER: Good morning.
21 Mark Keller, Perry and Cumberland Counties.

22 REPRESENTATIVE MULLERY: Gerry Mullery, Luzerne
23 County.

24 MAJORITY CHAIRMAN MARSICO: Thank you, Members.
25 Today we are joined by a number of testifiers,

1 all with deep experience with the Commonwealth's criminal
2 justice system: the Secretary of Corrections, John Wetzel;
3 and current Pennsylvania Board of Probation and Parole
4 Chairman, Michael Green.

5 Come on up, and I'm going to introduce the
6 other testifiers, but you guys can certainly have a seat
7 awhile.

8 Also with us are the DAs from the DAs Association
9 of Pennsylvania: Dave Freed representing Cumberland
10 County; Ed Marsico representing Dauphin County. Good
11 morning, and welcome.

12 Also with us today to testify would be the
13 Pennsylvania Board of Probation and Parole Members
14 Jeffrey Imboden, Leslie Grey, and Craig McKay.

15 I would also like to add that the committee
16 invited the Secretary of the Budget, the Administration,
17 Randy Albright, in order to ask him about what effect, if
18 any, Senate Bill 859 might have on the current fiscal
19 year's budget. Secretary Albright, however, declined our
20 invitation.

21 With that, we have, like I said, we have three
22 panels. Secretary Wetzel and Chairman Green are our first
23 panel. Welcome, and you may begin.

24 CHAIRMAN GREEN: Good morning.

25 I believe, Mr. Chairman and Committee Members,

1 you have my testimony. I just will start with an
2 overarching statement regarding Senate Bill 859.

3 It provides a framework, in my view, to retain an
4 independent Parole Board, a discretionary Parole Board,
5 while expanding the number of agents in a more coordinated,
6 seamless organizational structure. It will enhance the
7 reentry process, and I believe with enhancing the number of
8 agents, public safety will be maintained and, the way the
9 proposal is structured and the feedback I've been given,
10 with no loss of current employees.

11 That's my opening statement. And I certainly can
12 read my testimony, but I'll defer to what the committee
13 would want.

14 MAJORITY CHAIRMAN MARSICO: Well, Secretary
15 Wetzel, do you have comments?

16 SECRETARY WETZEL: Sure. And again, first of
17 all, thank you for this opportunity.

18 My testimony also was submitted, and I'll just
19 kind of sum up some general thoughts.

20 You know, this bill is like every criminal
21 justice bill that comes through here. There are a lot of
22 strong feelings on both sides of it, and I think that the
23 citizens of Pennsylvania really need to understand that.

24 Our process is a good process. And, Chairman, I
25 appreciate the opportunity to have a hearing so these

1 issues can be vetted appropriately.

2 And the one thing I'll say about everybody who is
3 testifying and everybody who has worked on all these, from
4 the Justice Reinvestment process a couple years ago to
5 this, is that everybody is coming to the table with the
6 same goal in mind, and that's to continue to enhance public
7 safety.

8 And so while we often have a difference of
9 opinions and different takes on how to achieve that, I can
10 say without a doubt that every single person you're going
11 to hear from today really wants the same thing, and that's
12 to continue to make improvements in our corrections system.

13 And when I say "corrections system," I mean it
14 literally. We take our role of creating an environment,
15 where people can come out and be less likely to commit a
16 crime and be more likely to be successful citizens, we take
17 that very seriously.

18 And we have the numbers to back it up. I
19 remember having a very similar process around the Justice
20 Reinvestment Initiative, and we had lots of disagreements.
21 And the good news is, our population is down significantly,
22 and crime is down, and more importantly, recidivism is down
23 to the tune where last year, in 2014, we had over a
24 thousand individuals less that either recidivated, or came
25 back inside the prison, or committed a new crime. That's

1 important.

2 And I'll also tell you that we wouldn't be
3 sitting here, this isn't just a financial bill, although we
4 believe it will save money, but this is a bill that
5 improves outcomes, and that's what we're focused on,
6 improving outcomes.

7 So I look forward to answering any questions
8 anyone has, and again, thank you for the opportunity.

9 MAJORITY CHAIRMAN MARSICO: Well, thank you for
10 your testimony and being here, like I said before.

11 Any questions? Representative Vereb.

12 REPRESENTATIVE VEREB: Thank you, Mr. Speaker.

13 Chairman Green, I realize you did a summary
14 opening, but I'm a little concerned, there was no mention
15 of victims.

16 (Inaudible.) But my first question is, in your
17 opening statement, and I realize it's a very brief summary,
18 but are we focused on the victims?

19 CHAIRMAN GREEN: Absolutely. And we have
20 expanded our focus and attention on victims in a very
21 structured manner. We have face-to-face interviews monthly
22 with the Board and victims who come forward to testify
23 concerning their wishes regarding parole or not parole,
24 whatever the case may be.

25 But moreover, it provides a forum for victim

1 input, which I think this bill will allow to continue, and
2 I personally am committed to seeing that happen.

3 I was part of the delegation that went to
4 New York State to look at their model, and we adapted
5 elements of that. However, I think we have taken it to the
6 outer limits in terms of its functioning and so forth. And
7 we worked very, very well with the OVA staff, and the Board
8 will continue to do so.

9 REPRESENTATIVE VEREB: Yeah, and I think you did
10 that as the result of a (inaudible).

11 CHAIRMAN GREEN: Yes; absolutely.

12 REPRESENTATIVE VEREB: Let me follow up.

13 CHAIRMAN GREEN: All right.

14 REPRESENTATIVE VEREB: So when Secretary Wetzel
15 goes on to bigger and brighter things in the future --
16 8 years, 4 years, 3 months, whatever it might be -- and the
17 new Secretary comes in and starts to change the atmosphere,
18 the desire to revoke people on the streets, parole, and
19 starts changing, you know, the strategy of limiting who
20 gets incarcerated for purposes of other reasons down the
21 road, what is the Chairman of the Parole Board doing to
22 anticipate when, from the second floor of this Capitol to
23 your building over there, the pressure starts coming down
24 from the top that we need to change the way we do things?

25 I think that's a concern. It's not the concern

1 with Secretary Wetzel, and I don't even know if it's a
2 concern of Governor Wolf, but what do we do when that top
3 down, one person is calling the shots and starts changing
4 the structure of those folks on the street that need to go
5 back in the system?

6 CHAIRMAN GREEN: Well, I think that's one
7 critical reason for having an independent Parole Board,
8 because I believe---

9 REPRESENTATIVE VEREB: I mean, in this structure,
10 are you wholly independent or do you answer to the
11 Secretary?

12 CHAIRMAN GREEN: The Parole Board and its
13 Chairman answer to the Governor in the way this is
14 constructed.

15 The other part of it is, there are statutes,
16 there are policies, procedures, best practices, that we can
17 lean to -- lean on and advocate for. What the bill allows
18 is for not only parole discretionary decisionmaking but
19 also as it pertains to revocations and the like, and I
20 think that is a key aspect of having an independent,
21 discretionary Parole Board.

22 REPRESENTATIVE VEREB: Well, we have that
23 currently, though.

24 CHAIRMAN GREEN: Yes. Yes, sir.

25 REPRESENTATIVE VEREB: So then -- and I'm

1 misunderstanding maybe parts of it -- you still would
2 report in this model to the Secretary of Corrections?

3 CHAIRMAN GREEN: No.

4 REPRESENTATIVE VEREB: No?

5 CHAIRMAN GREEN: From what I understand, and I've
6 read the bill, unless there are some changes that I'm
7 unaware of, the Parole Board is appointed by the Governor,
8 confirmed by the Senate. The Chairman is appointed by the
9 Governor and reports to the Governor's Office.

10 REPRESENTATIVE VEREB: (Inaudible). That's my
11 concern. Not with his style, the way he manages the
12 Department. But in the future, if he decides it's a good
13 idea to close a prison in Pennsylvania to save money in the
14 budget (inaudible).

15 SECRETARY WETZEL: Can I respond to that?

16 I can't. I tried.

17 You know, I think that Pennsylvania has a history
18 of these positions not being politicos. There is a history
19 of these positions being criminal justice practitioners.

20 You and I have both been in the system a long
21 time, and again, different practitioners believe in
22 delivering justice differently. The focus is always on
23 getting those outcomes.

24 And I think that, especially the amended bill
25 that passed, it still maintains the independence of the

1 Board. I think that's essential that the Board is
2 independent, and in their decisionmaking, especially as it
3 relates to releases, is independent. I think that is
4 essential. For the Office of Victim Advocate to be
5 independent, again, I think that's essential.

6 And as I shared with you, you know, historically
7 there was the Office of Victim Advocate and then the
8 Department of Corrections had our own kind of office of
9 victim advocate that kind of dual reported. We
10 consolidated that under Ms. Storm, because that makes
11 sense, and this is kind of the same model.

12 CHAIRMAN GREEN: Further, with regard to the
13 physical structure, that OVA center is expanding at the
14 Parole Board. So there is seamless interaction. There's a
15 great deal of need to interact, not only amongst themselves
16 but with the Board and so forth. So we retain that, we
17 have it built in, and it will continue.

18 MAJORITY CHAIRMAN MARSICO: Well, let me ask,
19 going back to your point about the Governor, it's my
20 understanding that the Governor would select the Board.

21 CHAIRMAN GREEN: Yes, sir.

22 MAJORITY CHAIRMAN MARSICO: Correct?

23 CHAIRMAN GREEN: Yes.

24 MAJORITY CHAIRMAN MARSICO: But the supervisory
25 duties would be with the Corrections Secretary.

1 CHAIRMAN GREEN: Now, that's not my
2 understanding, but---

3 SECRETARY WETZEL: That's not my understanding
4 either.

5 MAJORITY CHAIRMAN MARSICO: Is that how the bill
6 reads?

7 SECRETARY WETZEL: I think---

8 MAJORITY CHAIRMAN MARSICO: Oh; the parole agents
9 would be under the supervision---

10 SECRETARY WETZEL: Yes.

11 MAJORITY CHAIRMAN MARSICO: ---of the Secretary.

12 SECRETARY WETZEL: The supervision aspect, yes.

13 MAJORITY CHAIRMAN MARSICO: Yes. Yeah.

14 SECRETARY WETZEL: But the Board itself, the
15 Board proper, the Board Members---

16 MAJORITY CHAIRMAN MARSICO: Right.

17 SECRETARY WETZEL: ---the decisionmaking is what
18 is independent.

19 MAJORITY CHAIRMAN MARSICO: Okay. Well---
20 Do you want to -- Counsel Kane.

21 MR. KANE: Thank you, Mr. Chairman.

22 Good morning, Mr. Secretary.

23 SECRETARY WETZEL: How are you doing?

24 MR. KANE: On this issue of independence, from my
25 reading of the bill, the Board is independent, but it

1 becomes a departmental administrative agency within the
2 Department. But some of the other changes that are made in
3 the bill maybe you could comment on.

4 SECRETARY WETZEL: Okay.

5 MR. KANE: The shifting the supervision from the
6 Board to the Department of Corrections, do you see any, or
7 could the fact that the Board would no longer be involved
8 in the supervision, could that affect the independence that
9 they have? Because when they're making decisions, they're
10 going to be making decisions based on the fact that they're
11 not going to have responsibility for the individual once
12 they leave the prison door.

13 SECRETARY WETZEL: I mean, it's certainly a
14 different model than currently, but it's also the model in
15 more than 80 percent of the country. This is not
16 groundbreaking stuff. There are over 40 States that have
17 this exact model where the supervision is part of the
18 Department of Corrections. And in many cases, the Board
19 itself is independent; in some cases, the Board isn't even
20 independent.

21 So it seems very different to us because this is
22 how we've always done it, but it's not a super unique
23 model. And I don't believe that that would impact the
24 independence of the Board. Again, it's different, but I
25 don't think different in a bad way.

1 MR. KANE: What about the fact that the bill
2 would take what is currently in the law -- the Chairman has
3 responsibility to direct the operations, management, and
4 administration of the Board -- that is taken out of the
5 duties of the Chairman and placed under the Department of
6 Corrections. Do you think that having Corrections in
7 charge of the operations, management, and administration of
8 the Board could have an impact on the Board's independence
9 from the Department?

10 SECRETARY WETZEL: I think that the intent of it
11 has the Board as it relates to day-to-day decisionmaking
12 completely independent. So I think that refers to more
13 like the human resources, IT, that kind of function, and
14 the financial aspect. But the intent is that the Board has
15 its own line item, that they don't take direction from the
16 Secretary, and that they are truly an independent board.

17 MR. KANE: But all their employees, though, their
18 staff, move under the Department of Corrections under this
19 model, so they no longer have the ability to hire staff.
20 Their chief counsel moves from working for the Board
21 Chairman to being a part of the Governor's Office of
22 General Counsel. The Board's Secretary becomes an at-will
23 employee of the Secretary of Corrections.

24 All these things change, so the staffing changes,
25 even though the line item for the Board's, I guess and the

1 salaries for the Members, but all these administrative
2 roles under this bill change and become part of the
3 Secretary of Corrections' responsibilities.

4 SECRETARY WETZEL: Actually, that was not my
5 understanding of the bill. My understanding was that
6 everything as it relates to Board decisionmaking to include
7 -- well, first of all, general counsel right now, all
8 general counsels kind of do a dual report to the Office of
9 General Counsel and to the agency. But this contemplates
10 that the Board would still maintain, or have a general
11 counsel independent, as would the Office of Victim
12 Assistance, and I believe -- or Office of Victim Advocate.
13 And I believe that one of the amendments, one of the
14 Rafferty amendments, really works out the language to
15 ensure that the Board is truly independent.

16 CHAIRMAN GREEN: From what I understand, the
17 Board Secretary's office, as the Secretary says, remains
18 with the Parole Board, as well as other functions that are
19 related to that office. That's my reading of the bill, but
20 the Board does retain staffing.

21 SECRETARY WETZEL: And I would just add, that
22 should be the intent, if that language doesn't meet muster
23 for what you're saying. It really, the intent is that the
24 Board, as it relates to everything decisionmaking, is
25 independent, period -- no ifs, ands, and no buts about it.

1 From hiring the support staff necessary to deliver
2 decisionmaking, all that, the intent is for that to be
3 truly independent.

4 Again, I thought that the bill achieved that.
5 I'm certainly not an attorney.

6 MR. KANE: Well, I just -- it's on page 48 of the
7 bill. Section 6116 strikes language now making the Board
8 Secretary responsible to the Chairman and changes that to
9 make the Secretary an at-will employee of the Department.
10 So if that's the case, the Secretary and the counsel and
11 the staff, you don't have any concerns that that could
12 impact, because the power of the purse is going to be, all
13 the administrative support is going to go from the Board to
14 the Department. So the Board may have a line item for
15 their salaries, but beyond that, all those other line items
16 are going to come under the Secretary. So is that a
17 concern, and if it is a concern, should that be changed in
18 the bill?

19 SECRETARY WETZEL: Again, the intent is that the
20 Board and all the support that they require to deliver the
21 decisionmaking be independent, do not report to the
22 Secretary, are not selected by the Secretary. They work
23 for that entity. That was the intent of the bill.

24 MR. KANE: Well, if it says otherwise, then we
25 would have to change that, I guess.

1 MAJORITY CHAIRMAN MARSICO: Let's move on to
2 Representative Nesbit for a question.

3 REPRESENTATIVE NESBIT: Thank you, Mr. Chairman.

4 I represent one of the two counties that doesn't
5 have its own adult probation department. The way I would
6 read this, can you provide me like some sort of guarantee
7 that this won't affect our counties having to make a
8 probation department or the State unilaterally deciding not
9 to do adult probation for those counties?

10 SECRETARY WETZEL: Yes. There's no intent to do
11 that. The intent is just to shift the supervision function
12 under this new department, not to change who they are
13 supervising.

14 REPRESENTATIVE NESBIT: Okay.

15 Mr. Chairman, if I may ask another question.

16 And also looking through the paperwork provided,
17 you had indicated there are two sets of orientations and
18 two sets of expectations currently in the system. Could
19 you describe what you meant by that?

20 SECRETARY WETZEL: Yeah. So when you have two
21 agencies kind of overseeing the same people, while we're
22 both kind of trying to achieve the same things, we deliver
23 it differently.

24 So the sloppiest part of our system, if you will,
25 is in community corrections, where you'll have people --

1 the community corrections providers are contracted with the
2 Department of Corrections. The individuals in those
3 centers, as a byproduct of one of the changes made during
4 Justice Reinvestment, eliminating pre-release and making
5 everyone in the centers parolees, there are people who are
6 on parole, so they are kind of dually overseen by both
7 Corrections and Parole, many times with different rules --
8 similar rules but different. So that really just describes
9 that nexus of those two agencies.

10 And I think the real key is, what we know about
11 everybody who is going to recidivate, 50 percent are going
12 to recidivate in that first year. So the argument can be
13 made that that first year is critical, and any barrier to
14 an individual being successful in that first year really
15 impacts our bottom line when the bottom line is outcomes.
16 And so when you have communication issues at that point,
17 that's a concern.

18 I would also, and certainly can provide the
19 2009 study done by Ed Latessa on the community corrections
20 system that many of you -- I see the Chairman shaking his
21 head -- that basically said that 95 percent of the centers
22 were failing, but then it really led to some of the major
23 changes in Senate Bill 100 and led to us being the only
24 system in the country to have a performance contract and
25 have really good outcomes.

1 One of the five recommendations was to address
2 some of those communication issues. We believe that this
3 accomplishes that, and it's one of the driving forces
4 behind this approach.

5 REPRESENTATIVE NESBIT: I guess as a follow-up to
6 that, one of my concerns would be, because of, you know,
7 economic crunches, the Department of Corrections might be
8 trying to get as many people out as possible, whereas
9 Probation, with technical violations, might have an
10 opposite expectation. Can you address those concerns?

11 SECRETARY WETZEL: Yeah. I think we have the
12 same, we have the same goal. Our outcome is less crime.
13 That's what we've measured. That's what -- you know more
14 about corrections outcomes today than you ever have in the
15 history of this Commonwealth. Everything is on our
16 website. We annually report recidivism, and not just
17 recidivism returning but also report new crime. We have
18 become an outcome-based organization. You are aware of the
19 outcomes. Our bottom line will always be crime.

20 The reality in criminal justice policy is that
21 when you have better practices, crime goes down and your
22 spend goes down. So you don't save money by letting the
23 wrong people out the back door.

24 One of the things I'm very proud of, our approach
25 with Justice Reinvestment, is that we didn't do, kind of

1 rearrange deck chairs on the Titanic and make a bunch of
2 bad decisions and see crime spike because we're just trying
3 to save the bottom line. We looked at who needed to come
4 in, but more importantly, we focused on outcomes, and we
5 have said our long game -- our focus is on the long game.
6 The long game is having people come out and stay out and
7 not commit new crimes. So that's consistent with whoever
8 is supervising these offenders.

9 I mean, quite frankly, there's a lot of talk and
10 I hear a lot of rumbles about not violating people. I
11 think you can expect quite the opposite. I think if you
12 look, and we cited the Washington example of Swift,
13 Certain, & Fair, I think you can anticipate more people
14 getting locked up for a shorter period of time. That's the
15 way that systems have achieved outcomes.

16 We're taking that approach and replicating that
17 inside our prisons today. That Swift, Certain we're
18 piloting at SCI Somerset, working with the guy who came up
19 with it, Mark Kleiman. A similar approach, the Ceasefire
20 approach that you may be familiar with, David Kennedy, that
21 happened, started in Boston, where again, you lay specific
22 rules out. When these specific rules are violated, there's
23 accountability. That's the approach that you can expect
24 for us to take.

25 Again, I think criminal justice practitioners

1 often disagree about how to deliver justice, but everybody
2 is focused on those outcomes, and so you can be very
3 confident that that's the approach we'll take, and more
4 importantly, that you'll know exactly what we're doing.

5 REPRESENTATIVE NESBIT: Thank you.

6 MAJORITY CHAIRMAN MARSICO: Before I recognize
7 Representative Keller, I want to acknowledge that
8 Representative Dawkins and Representative Toohil,
9 Representative Barbin, have joined us.

10 Representative Keller.

11 REPRESENTATIVE KELLER: Thank you, Mr. Chairman.

12 Chairman Green---

13 CHAIRMAN GREEN: Yes, sir?

14 REPRESENTATIVE KELLER: ---was the Board
15 consulted in any manner in the development of this bill?

16 CHAIRMAN GREEN: From my knowledge of it, the
17 Board had two representatives that were part of the
18 committee that looked at the concept and provided input
19 and/or assessment of the opinions regarding it.

20 REPRESENTATIVE KELLER: Okay. Shifting the
21 administrative personnel from the Board to the Department,
22 how is that going to impact the Board's work?

23 CHAIRMAN GREEN: As has been said here by the
24 Secretary and the bill itself, the parole agent supervision
25 function would be shifted into an overall, overarching

1 community-based correctional organization. So it would
2 shift the Board's work in that sense but retain
3 decisionmaking both in terms of parole decisionmaking as
4 well as violation matters.

5 REPRESENTATIVE KELLER: Okay.

6 Mr. Chairman, if I may.

7 Secretary Wetzel, coming from county government,
8 of course, you know, I'm always very protective of the
9 counties, and I see in the bill that Section 9764 states
10 that prior to release from the county prisons to the State
11 probation and parole supervision, the county institution
12 needs to provide the Board with information about the
13 person.

14 Now, since the Department of Corrections will
15 handle the supervisions, wouldn't you think that's where
16 that information should go, not to the Parole Board?

17 SECRETARY WETZEL: I think we'll still share a
18 database.

19 Actually, one of the things we've been working
20 towards for the past couple of years is kind of a joint
21 database. So I don't really think who gets it is critical.
22 I think that the assumption is that the function of
23 overseeing, overseeing auditing, getting reporting from
24 county parole, I believe that still stays with the Board,
25 but I don't think it's a deal breaker one way or the other.

1 REPRESENTATIVE KELLER: Well, one of the concerns
2 I have in coming from county government in the past is
3 this: that when that information is to be shared, you
4 know, I think they need a clearer distinctive of, okay, who
5 needs it? So, you know, I'm thinking that we ought to be a
6 little more clear in the bill as to exactly what should
7 happen here, you know?

8 SECRETARY WETZEL: Yeah. We can---

9 REPRESENTATIVE KELLER: So that there's no
10 question on the county side.

11 SECRETARY WETZEL: Right. Yep, and we'd
12 certainly be happy to work with you to make sure that
13 language reflects that.

14 REPRESENTATIVE KELLER: All right.

15 Thank you, Mr. Chairman.

16 SECRETARY WETZEL: Thank you.

17 MAJORITY CHAIRMAN MARSICO: Representative Costa,
18 a question?

19 REPRESENTATIVE COSTA: Yeah. Thank you,
20 Mr. Chairman. I got a comment and a question, if it's okay
21 with you.

22 The comment is, I was confused when I got here.
23 I'm getting a little bit more confused. I'm reading some
24 of the stuff that we have -- and I got all due respect for
25 both of you gentlemen. I thank you for being here. I have

1 the ultimate respect for you, Secretary -- you're not sure
2 of what's in the bill, or you're not sure of how it's going
3 to play out.

4 Now, you know, I think we need to do a lot of
5 work before we even think about moving this forward,
6 because I think it's New Jersey did it and undid it because
7 it wasn't working, all right? So not that I'm against it;
8 I just want to make sure that we cross our t's and dot our
9 i's.

10 But I understand the parole side of it. The
11 probation side of it, as a former police officer, I don't
12 want anything restricting our officers out there, be it you
13 as a Secretary or a new Secretary, from doing what they're
14 supposed to do: put violators back in prison.

15 Your job, Mr. Secretary, with all due respect, is
16 to get them out, and hopefully they won't come back. But I
17 want to make sure that there's an independent agency
18 supervising our probation officers to make sure that they
19 have that ability.

20 As a police officer, you kind of follow the lead
21 of your leadership. I mean, and it doesn't have to be --
22 they don't come right out and say, don't do this; don't
23 write tickets on this street, but they make it very clear
24 that they don't want it that way, and if you do, you're
25 going to pay for it one way or the other.

1 So I want to make sure that our probation
2 officers have the independence that is required so that
3 no one interferes with them. If they're going to put
4 somebody back in, I expect that to happen, and I expect it
5 to be in a reasonable manner.

6 Their job is just what you said your job is, is
7 to try to help people. And I believe most of them, the
8 ones I have worked with, have been phenomenal as far as
9 trying to help people. They have bent over backwards.

10 Now, I can't -- you know, I understand there are
11 limits on how we can let people out, and that's fine. But
12 once they're out, if our probation officers feel that they
13 have to go back in, I want to make sure that they have the
14 independence to do that. So thank you.

15 SECRETARY WETZEL: And so do I.

16 REPRESENTATIVE COSTA: Thank you, Secretary.

17 SECRETARY WETZEL: So do I. Yep.

18 MAJORITY CHAIRMAN MARSICO: Representative
19 Barbin, a question?

20 REPRESENTATIVE BARBIN: Thank you, Secretary.

21 (Inaudible.) I don't see how we're helping.
22 Anything in another State that you can amend into this bill
23 to make sure that if there is a violation, that person
24 knows that at least they're going somewhere outside of the
25 metropolitan area.

1 SECRETARY WETZEL: Yeah. I think the portion of
2 the bill that talks about Swift, Certain, & Fair really
3 gets to your point that there needs to be accountability
4 for inappropriate behavior.

5 And the experience of that in Hawaii, in
6 particular, was specifically focused on drug offenders,
7 specifically people using methamphetamines. And what they
8 found was that this Swift & Certain, when they tested
9 positive, the fact that they knew they were going to go
10 back and they knew they were going to go back for a
11 relatively short period of time in itself reduced the
12 amount of people who were testing positive.

13 And in addition to that, Hawaii was able to use
14 that as a mechanism to identify who really needed
15 treatment. I mean, if after the third time you have been
16 brought back for a short period of time, then a longer
17 period of time, then a longer period of time, then they
18 invested in the drug and alcohol treatment.

19 As far as the metropolitan area versus the rural
20 area, I'm not familiar of any -- I couldn't answer that as
21 far as what other States are doing as it relates to that.

22 In general, we like to keep people closer to
23 their home. It's one of the big changes we made to the
24 halfway house system in particular. It used to be you got
25 sent to a halfway house anywhere in the Commonwealth. Now

1 we keep you within your district.

2 Ideally we would make those districts even
3 smaller, but there are sometimes some economies of scale.
4 So I hope that answered your question.

5 REPRESENTATIVE BARBIN: (Inaudible.)

6 MAJORITY CHAIRMAN MARSICO: Chairman Petrarca.

7 MINORITY CHAIRMAN PETRARCA: Thank you, Chairman.
8 And thank you, gentlemen, for being here.

9 I'm glad to hear, Secretary, that you say
10 recidivism is down, prison population is down. I think
11 that is obviously, obviously good news. I think we are
12 then heading in the right direction, and I think some
13 Members are questioning why, why we want to make
14 substantial changes to what is going on with Probation and
15 Parole.

16 Quick. You know, we're all obviously concerned
17 about, as Representative Vereb said, victims -- victims,
18 law enforcement, obviously taxpayers, the Department of
19 Corrections' and Probation and Parole personnel -- so I
20 think we have a lot of questions as we move forward with
21 this.

22 I had a quick question for you on parole
23 violators. Can you go through -- and I think you touched
24 on that a little bit -- can you go through what happens
25 with a parole violator and who makes what decisions

1 regarding what happens after there is a violation.

2 SECRETARY WETZEL: Yeah. So the changes to --
3 the changes that were part of Justice Reinvestment really
4 laid out a path for parole violators. Those who met this
5 criteria that's included in my testimony -- we call it the
6 Fab Five among Corrections and Parole -- who meet one of
7 these five criteria are violated back to a State prison for
8 a dictated period of time based on how many violations they
9 have.

10 So the first time they come back for one of these
11 Fab Five violations---

12 CHAIRMAN GREEN: Six months.

13 SECRETARY WETZEL: ---is 6 months. The second
14 time is---

15 CHAIRMAN GREEN: Nine.

16 SECRETARY WETZEL: Nine months, and then 12.

17 CHAIRMAN GREEN: The third, 12.

18 SECRETARY WETZEL: Yeah.

19 MINORITY CHAIRMAN PETRARCA: And is there
20 discretion in that decisionmaking? Are your parole agents
21 playing a part in that?

22 SECRETARY WETZEL: Absolutely. I mean, so if you
23 see the behavior, they're supposed to come back. But in
24 every step of the criminal justice continuum, you have
25 individuals making discretionary decisions, right? And

1 that's why training and oversight and all that stuff is so
2 important.

3 We don't -- again, I think if you would lay out
4 and if you would look at what the current approach is and
5 what the current practice is, you would see that the most
6 frequent response to something that's not a Fab Five or not
7 one of the five things that lands someone back in prison,
8 the most frequent response is a written warning. The
9 second most frequent is someone coming back to prison.

10 So when I talked about Swift & Certain and using
11 the parole violation centers, which we have, and using
12 contracted county jails to provide a quicker response for
13 things that aren't the Fab Five -- so in other words, more
14 accountability earlier on -- would be the strategy that we
15 lay out as far as Swift & Certain.

16 MINORITY CHAIRMAN PETRARCA: And would any of
17 that change if these agencies or departments were merged?
18 And do you have any concern that parole agents answering or
19 being supervised by the Department of Corrections would
20 have any effect on their decisionmaking or their discretion
21 or their independence?

22 SECRETARY WETZEL: No, I don't. I mean, I hear
23 that -- you know, we are proposing a big shift, and so in
24 criminal justice, we don't like big shifts, okay? So I get
25 that. But no, I don't see that at all.

1 And I think that putting checks and balances in
2 place makes sense. I think putting reporting -- I think in
3 one of the amendments that went in, there was a provision
4 to have research done on the outcomes. I believe it's
5 2 years after the merger happens. I think that's a great
6 idea. We started doing that in-house. We do program
7 evaluations on different programs. If it's not working,
8 change it. I think you can put checks and balances in
9 place to assuage some of the concerns.

10 By the same token, I don't think you can ignore
11 the fact that we have administrative overlap, and there's
12 at least \$6 million of administrative overlap. And any
13 cent that's being spent in our system that doesn't go to
14 boots on the ground and doesn't go to supervision doesn't
15 make sense in these financial times.

16 And I'm not saying no one in this room would say
17 that we should spend less money if it's going to mean bad
18 outcomes and it's going to mean more victims and those
19 kinds of things. That's not what we're saying. We're
20 saying you can spend less money. We can take that money --
21 and, you know, every Chairman who sat next to me in a
22 budget hearing has said, we need more parole officers.
23 This is a mechanism to save money and add more parole
24 officers.

25 So I hear consistently the concerns, and don't

1 take it lightly, but I think that we can put checks and
2 balances in place where you get more reporting than you get
3 now.

4 MINORITY CHAIRMAN PETRARCA: Under -- two
5 follow-ups.

6 Under this legislation, how many parole agents do
7 you think you will be able to hire and how many do you
8 need?

9 SECRETARY WETZEL: Yeah. It depends on -- so the
10 first budget number that we submitted, I don't know where
11 we're at on what the numbers look like. And I don't know
12 if anybody does, frankly.

13 MINORITY CHAIRMAN PETRARCA: I don't know that we
14 do either.

15 SECRETARY WETZEL: But from the first thing that
16 we proposed, we were assuming somewhere in the 50 ballpark.

17 MINORITY CHAIRMAN PETRARCA: Right.

18 SECRETARY WETZEL: But again, I'm hesitant to
19 give you a real number because I don't know what a number
20 looks like right now.

21 MINORITY CHAIRMAN PETRARCA: And is that what
22 your need is?

23 CHAIRMAN GREEN: The idea is to increase the
24 number of agents on the street incrementally. Fifty-plus
25 during the next fiscal year is projected, and with a focus

1 on working toward specialized caseloads.

2 Specialized caseloads do exist, and there are
3 some parole agents that are doing an excellent job. The
4 idea is to expand the number of agents within this
5 framework that would allow for more mental health
6 caseloads, sex offender caseloads, higher risk caseloads,
7 and coming up with ways to having lower risk individuals on
8 administrative caseloads, and I believe the bill does
9 allude to that.

10 And it is, after a year or so, PCCD will do an
11 overall evaluation of this program once it's in place.

12 SECRETARY WETZEL: And Chairman, one of the
13 things that I have to stress is we don't anticipate laying
14 anybody off as a byproduct of this. That's not the intent.

15 And what you also need to be aware of is when you
16 say, oh, how can you increase this many staff, keep in
17 mind, the Department of Corrections itself, we turn over
18 more than 90 individuals a month, right? So when you talk
19 about eliminating overlap, you kind of ride that attrition
20 cycle. So 90 a month times 12 -- I can't do math that
21 quick so I'm not going to throw a number out there, but
22 somebody has a calculator they can pull out -- it sounds
23 like a lot of people to me, right?

24 So we have the ability to still achieve the
25 savings and to reallocate those resources where it needs.

1 These high-risk caseloads -- sex offenders, violent
2 offenders -- they should be on very small caseloads and
3 they should be supervised tightly. They should -- those
4 specialty caseloads should be as small as possible. This
5 is the most reasonable mechanism to achieve that, period.

6 MINORITY CHAIRMAN PETRARCA: And again, the
7 Department of Corrections is not going to have input into
8 the discretion of the agents on how they handle
9 revocations?

10 SECRETARY WETZEL: Well, I mean, the agents, the
11 agents report to the Department of Corrections. So we
12 have, right now we have, it would be no different than our
13 correctional officers or our superintendents. They
14 certainly report to us, but we rely on them to make
15 discretionary decisions that are in the best interests of
16 public safety.

17 MINORITY CHAIRMAN PETRARCA: Thank you. That's
18 all.

19 MAJORITY CHAIRMAN MARSICO: Representative Klunk.

20 REPRESENTATIVE KLUNK: Thank you, Mr. Chairman,
21 and thank you, gentlemen, for joining us today.

22 I echo some of the concerns of my colleagues with
23 regards to the independence of the Parole Board. I see
24 that as one of the main concerns moving forward, is
25 ensuring that independence. Because I do think while you

1 have some similar mission statements and goals, I do think
2 at the end of the day there are some differences between
3 some of the end goals and some of your day-to-day duties,
4 and the independence of the Parole Board I think is of the
5 utmost importance in making those decisions.

6 But my question, we have kind of been talking
7 around this a little bit, is the money and the cost
8 savings. In the middle of our current situation in
9 Pennsylvania with our budget, any cost savings is always a
10 good thing. Unfortunately, the Budget Secretary couldn't
11 be here nor send any staff, so the questions will go to you
12 guys.

13 In some of the documentation that has been
14 provided, it says that this proposal for a merger will save
15 approximately \$10 million a year. I know you have alluded
16 to some of the administrative redundancies, but you're
17 saying we're not going to be reducing staff. How are you
18 really going to get to that number?

19 And two, why aren't you doing some of these
20 things now when it comes to technology, working together.
21 Why do we need this legislation to actually implement this
22 when it seems like you guys have a really good working
23 relationship right now. Why can't we achieve this without
24 this type of legislation?

25 SECRETARY WETZEL: Yeah. So let me break down

1 the two parts of this.

2 So 6.1 million, I think somewhere in that
3 ballpark, is what we see as administrative overlap. That's
4 achieved by eliminating the redundancy, period. And to do
5 that without laying off staff is where you use that
6 attrition of 900 -- or 90, 90 people a month. So you
7 reallocate vacant positions. That's how you achieve that
8 administrative savings and administrative overlap. And we
9 believe, we feel very confident with that number.

10 The other part of the savings was calculated
11 based on the experience of Washington when they initiated
12 the Swift & Certain and saw a 20- to 30-percent reduction
13 in their recidivism. So the other part is a modification
14 of the strategy for supervising offenders. So that's how
15 we achieve it.

16 But the 6.1 million you only achieve by
17 eliminating the administrative redundancy. The other part
18 the Board certainly could do today, no doubt about that.

19 REPRESENTATIVE KLUNK: And a follow-up on the
20 technology.

21 I know technology has been a large part of this
22 and modernizing the use of technology. Are you currently
23 working together? It's my understanding that you are in
24 some technology sharing and information sharing. Why can't
25 we achieve that now, and why do we need to do this bill to

1 get to where you need to be? Why can't you do that without
2 this bill?

3 SECRETARY WETZEL: Yeah. We are working together
4 now. We're working together as good as these departments,
5 I believe, have ever worked, but I'll let others who have
6 been here longer talk about that. But we are, and we'll
7 continue to. No matter what happens with this bill, we
8 still have the same goals.

9 But I think the reality is, again, the
10 administrative overlap doesn't make sense to me, frankly.
11 The technology, we're working on it -- a joint system where
12 we're doing a better job of sharing. But having two
13 separate agencies kind of with the same function leads to
14 inherent communi--- We're never going to be on the same
15 page completely. We'll be similar working together.

16 And again, if the wheels would completely fall
17 off and this wouldn't happen, I wouldn't sit here and tell
18 you we have a horrible system. I think the numbers that we
19 present in front of you, Pennsylvania should be proud of
20 the current system. And this bill is not about what Parole
21 isn't or what DOC isn't; it's what we could be together.
22 And I think to maximize the efficiency and the
23 effectiveness of this system, this makes sense.

24 REPRESENTATIVE KLUNK: Well, thank you.

25 In the interim, until, you know, this bill is

1 considered, because I think we have a large number of
2 questions about it, I would urge you to continue to work
3 together to achieve some of these cost savings that you
4 have claimed that you can achieve through this bill on your
5 own where you can, and the taxpayers of Pennsylvania would
6 certainly appreciate that.

7 Thank you.

8 SECRETARY WETZEL: Thank you.

9 MAJORITY CHAIRMAN MARSICO: Representative
10 Delozier.

11 REPRESENTATIVE DELOZIER: Thank you,
12 Mr. Chairman.

13 Thank you for both of you being here. A lot of
14 information is getting talked about, and I think that's
15 good to find out where we have questions.

16 And to that end, the same job; I think we've
17 clarified the agents themselves will be doing the same job,
18 just being under the Department of Corrections. So in that
19 line, I guess my question is, in taking a look at the bill,
20 in certain areas of the bill it mentions the fact that some
21 of the protections, in order for the POs to do, the parole
22 officers to do their job safely with everything the same,
23 it says "appointed by the Board." Since they'll now be
24 appointed by the Department, wouldn't we need to change
25 that in the bill?

1 SECRETARY WETZEL: I believe so.

2 REPRESENTATIVE DELOZIER: Okay. So we need to
3 change that language then to allow for the fact, since
4 language now says that it's for the parole officers
5 appointed by the Board, which they will no longer be,
6 correct?

7 SECRETARY WETZEL: Right.

8 REPRESENTATIVE DELOZIER: So they would be
9 appointed by the Department and so we need to change that
10 so they could have--- It was dealing with the issue of
11 immunity and those types of things---

12 SECRETARY WETZEL: Yes.

13 REPRESENTATIVE DELOZIER: ---that the officers
14 have. Okay. Thank you.

15 And along with that, as you well know, I
16 represent Camp Hill SCI, so I have an interest in both
17 sides of this issue. When you're talking about the
18 savings, and this is probably directed more at you,
19 Secretary, in the sense that talking about the savings and
20 absolutely, wholeheartedly support any overlap we can
21 eliminate, because law enforcement needs all the dollars to
22 go to the right places, as you had mentioned.

23 When we're talking about the savings, we're
24 talking about just using that money for parole officers, or
25 are we also talking about possibly assisting in additional

1 correctional officers?

2 SECRETARY WETZEL: Yeah. I would say the
3 immediate would be to make sure that the highest risk
4 offenders who are being supervised, that those parole
5 officers have reasonable caseloads. I think that, in
6 looking at the system right now, and again, sitting next to
7 the Chairman, I think that my guess would be, once we get
8 under the hood, that would be the most immediate need. I
9 think this gives us the ability to put resources where
10 they're needed, certainly.

11 And with the corrections population continuing to
12 go down again this year, hopefully, hopefully we have the
13 resources or we're getting closer to the resource we need
14 in the facilities.

15 But again, I think the money needs to follow the
16 offenders and it needs to follow where their needs are.

17 REPRESENTATIVE DELOZIER: Absolutely.

18 CHAIRMAN GREEN: Caseload growth has -- we have
19 such a thing as caseload overcrowding, and our caseloads
20 have grown. The whole idea is to stabilize and reduce
21 that. With smaller caseloads and more reasonable
22 workloads, we can do things, I think, in a more effective
23 manner. So that's part of the reason.

24 As our caseload has grown, our complement has not
25 kept pace with that. So 31 percent on one hand versus

1 12 percent in terms of staff growth. So we need to do
2 something about that. That's why we need to increase the
3 number of agents.

4 SECRETARY WETZEL: And one other thing about
5 that. Also, our budget proposal did not change as it
6 relates to, we've been incrementally increasing our staff,
7 both security staff and mental health staff, as a result of
8 the settlement by the Disability Rights Network. That is
9 still in there.

10 So the continued increase in staff around our
11 mental health system, which the plan was to phase it in
12 over, I believe, 3 years, that's still in there. So we're
13 still increasing the staff around those.

14 REPRESENTATIVE DELOZIER: You took the words out
15 of my mouth.

16 SECRETARY WETZEL: Yep.

17 REPRESENTATIVE DELOZIER: That was my next
18 question, was the fact that, you know, with the
19 correctional officers, obviously on their side, I think,
20 you know, we need to keep them safe and have low overtime,
21 have a proportion to inmate per correctional officer, just
22 like we need the caseload for those that are following them
23 afterwards to be reasonable. I agree with that. I just
24 don't want to lose sight as to the fact they have to get
25 out of our correctional institutions first---

1 SECRETARY WETZEL: Yeah.

2 REPRESENTATIVE DELOZIER: ---before they can be
3 productive in our community.

4 And then dealing with that, with those dollars, I
5 guess I would just encourage to take a look at the huge
6 issue of mental health training to both our correctional
7 officers and our probation and parole officers, because
8 they are dealing with that issue right now, as we've seen
9 in our nation as well. But the more that we can draw
10 attention to the fact that it's a needed training for
11 anyone in law enforcement at this point in time, I would
12 just stress that as much as possible.

13 Thank you.

14 SECRETARY WETZEL: Thank you.

15 MAJORITY CHAIRMAN MARSICO: Representative Regan,
16 a question.

17 REPRESENTATIVE REGAN: Thank you, Chairman
18 Marsico.

19 Thank you, Secretary, Mr. Chairman.

20 I think one of the really great and brilliant
21 things that the Board has done over the last decade or so
22 was detail parole agents out into the law enforcement
23 community with their participation in task forces and
24 different things where I think that they have been able to
25 interact with all levels of law enforcement -- Federal,

1 State, and local, and even the county probation and parole
2 offices, which I think has been so immensely successful.
3 Under your model, the new model, do you foresee this
4 continuing?

5 SECRETARY WETZEL: Absolutely. When we do
6 similar things with the Joint Terrorism Task Force and
7 stuff with our staff, there's no reason to change that. In
8 particular, there are a lot of advantages to shared
9 information between all law enforcement entities,
10 especially in these times with the importance of
11 intelligence. Absolutely.

12 REPRESENTATIVE REGAN: Okay. I guess the only
13 thing that kind of concerns me a little is, you know, the
14 philosophy of Corrections is one thing and the philosophy
15 of law enforcement may be another, and like it or not, I
16 mean, even though there is the rehabilitative aspect of a
17 parole officer's position, because of the society we live
18 in, their responsibilities have become very much
19 law enforcement related and they are interacting daily with
20 the law enforcement community.

21 Having Corrections personnel supervising guys who
22 are out on the street interacting with law enforcement I
23 think is a little bit of a conflict, and I just don't know
24 if, you know, because when you're dealing with people who
25 have had this type of training through the corrections

1 system, can they make decisions? Can they see the big
2 picture? Can they do the things that relates to the
3 law enforcement officer's job out on the street, you know?
4 I'm just not sure. Could you waylay my fears there.

5 SECRETARY WETZEL: Yeah. So first of all, you're
6 talking about the same people, right? We're not talking
7 about all of a sudden taking people who are working in a
8 prison and saying you have to work out there. But also, I
9 don't think the notion of accountability---

10 REPRESENTATIVE REGAN: But it's just from a
11 supervisory perspective I'm talking about; guys,
12 Corrections supervising guys who are out on the street.

13 SECRETARY WETZEL: Yeah. I think you're talking
14 about--- So I think if you would ask what an org chart
15 would look like, it would look the same except they both go
16 to one person, which would be the Secretary of Corrections.
17 But I think the org chart would be the same. Obviously, it
18 would be less people in the org chart.

19 But the notion of accountability is a part of
20 rehabilitation, and so when you talk about, you know,
21 locking people up, listen, when people aren't behaving
22 correctly, if you don't -- in order to change their
23 behavior, there has to be accountability. I think that
24 what you have in front of you in this plan actually
25 anticipates and expects that that happen more often, that

1 actually more people are locked up, but for a shorter
2 period of time, and I think that is consistent.

3 I mean, there was a lot of concern when we made
4 the provisions in the Justice Reinvestment Initiative to
5 abbreviate the time that a violator was in, and what we've
6 seen, the trend we've seen as far as the rate is we've
7 actually seen the rate of technical parole violations go up
8 and we've seen the rate of CPVs, or convicted parole
9 violations, go down. That's good. That's what we want.
10 So I don't -- rehabilitation and accountability are not
11 competing interests. You can't achieve one without the
12 other.

13 REPRESENTATIVE REGAN: Chairman Marsico---

14 CHAIRMAN GREEN: It needs to be a balanced
15 approach---

16 REPRESENTATIVE REGAN: Okay. I'm sorry.

17 CHAIRMAN GREEN: ---in any case. Historically,
18 that's the way it has been in probation, parole, across the
19 nation, and within the State in particular. That is that
20 it's strictly not just a law enforcement, public-safety
21 perspective in the classic way people would describe it,
22 but it's also a helping, counseling, social work kind of
23 perspective. So it's that balanced approach that we're
24 looking for.

25 Our agents do that each and every day, and I

1 don't see why they would not continue to do that. They
2 have been trained in mental health, interventions, you name
3 it, across the board, to make them good, effective
4 professionals, and that should continue under this model.

5 REPRESENTATIVE REGAN: Mr. Chairman, can I follow
6 up, just briefly.

7 MAJORITY CHAIRMAN MARSICO: Sure.

8 REPRESENTATIVE REGAN: Thank you, sir.

9 You know, I've had the opportunity to work with
10 many parole agents over the years, and their
11 professionalism is personified. There's no question about
12 that. They do a great job. But I was wondering why we
13 aren't looking, I mean, duplication of effort, I think, is
14 something that every State agency needs to look at, you
15 know, from top to bottom, and I think it's important that
16 we look at that. But wouldn't it be, in this particular
17 case, wise just to stop there? Remove the duplication of
18 it and just leave everything else the way it is. Has that
19 been talked about?

20 SECRETARY WETZEL: Yeah. I think we have worked
21 towards that over the past, I mean, almost 5 years now. We
22 have certainly created kind of a committee -- I mean, I
23 hate to say "create committees," but created joint
24 committees to really look at the reduction in redundancy.

25 At some point, you reach as much as you're going

1 to reach. And I'm not saying we're there yet. And again,
2 regardless of what happens, we're going to continue to work
3 and try to be as efficient as possible.

4 I think this is the logical next step, and I
5 believe that we can take this logical next step and put the
6 checks and balances in place clearly here that everybody is
7 looking for and ultimately have a better system at the back
8 end. I think that's what we all want.

9 REPRESENTATIVE REGAN: Thank you very much.

10 MAJORITY CHAIRMAN MARSICO: Representative
11 Toohil.

12 REPRESENTATIVE TOOHLIL: Thank you, Mr. Chairman.

13 Thank you, Secretary Wetzel. We have worked
14 together before, quite a bit.

15 I wanted to see, in this bill, is there going to
16 be -- it seems like obviously good that we're working on
17 the overlap and pinpointing overlap and saving money there.
18 But is there going to be an expansion somehow on the back
19 end of the number rolling in?

20 SECRETARY WETZEL: Well, we've been experiencing
21 an expansion as a result of the Justice Reinvestment. So
22 the population in the Department of Corrections continues
23 to go down, and there's a subsequent shift in that
24 population to parole.

25 And I think one of the strengths of this model is

1 that the model makes it more seamless to shift resources
2 and have the resources follow where the population is
3 going. It's not two different agencies; it's one agency.
4 So if we have more people in the field, then, you know, the
5 money can kind of follow the offender and the resources can
6 follow the offender.

7 I think that's one of the, clearly one of the
8 strengths of this model, is that it's not now the
9 population -- let's say this year we're on pace for about
10 500 or 600 less inmates, assuming we have a, knock on wood,
11 a last good month of the year. So we could in next year's
12 budget proposal when we're two different agencies, the
13 Board could then subsequently request more people to meet
14 that need, but then if the train goes the other way, we
15 don't have the ability to just kind of shift to follow what
16 the trends say.

17 In 2009 with the parole moratorium is a good
18 illustration, where Governor Rendell issued a parole
19 moratorium. Population ultimately in prisons went up about
20 2,200 inmates. You end up sending prisoners out of State.
21 This would allow the budget to adjust and the resources to
22 follow those offenders.

23 I mean, hopefully that wouldn't happen again and
24 all that kind of stuff. But this model really, I think
25 that's one of the strengths of this model.

1 REPRESENTATIVE TOOHL: Okay. So if we're going
2 to have more parolees, are we going to then have more of
3 these group homes that are going to have to be built, and
4 community-based services, are there going to be more
5 contracts for community center services?

6 SECRETARY WETZEL: I don't think necessarily.
7 Certainly we didn't, we didn't put in an expansion of
8 those. I think that we have a sufficient community
9 corrections continuum currently. We didn't anticipate
10 that.

11 REPRESENTATIVE TOOHL: Just one more question, I
12 think, Mr. Chairman, if you'll allow me.

13 In the current community correctional facilities
14 that we do have, are they not meeting their numbers? Is
15 there vacancy, or, I mean, are their numbers down and they
16 need more parolees?

17 SECRETARY WETZEL: I---

18 REPRESENTATIVE TOOHL: There is room right now
19 for you to put, if we have like an increase -- I don't know
20 what the estimated increase would be in parolees with this
21 bill, but if we do get that estimated increase, they're
22 going to just be able to go into current facilities.

23 SECRETARY WETZEL: Yeah. We have sufficient
24 capacity. I mean, if you ask the providers, they'd say we
25 don't have enough people in halfway houses.

1 REPRESENTATIVE TOOHL: Right.

2 SECRETARY WETZEL: We have sufficient resources
3 in community corrections.

4 REPRESENTATIVE TOOHL: And then I would just
5 echo the comments of Representative Barbin. That is
6 completely the way that -- it's very demonstrative of what
7 goes on in my community as well, and I think across the
8 Commonwealth of Pennsylvania, with regard to the heroin
9 epidemic.

10 And right now we are finding so many people are
11 coming out of these correctional facilities and maybe
12 they're -- or out of community corrections, or they're in
13 our community at the community corrections, and they are
14 dealing with the need for rehabilitation, and I know that
15 specifically with regard to drugs. And I know in this bill
16 -- I was just looking at it -- that it's going to change
17 the name of the Department of Corrections. It will be the
18 Department of Corrections and Rehabilitation. But I think
19 that maybe if we're in this, that we have this opportunity,
20 that we can look at specific rehabilitation. Because these
21 people are back in their homes; they are out of jail. They
22 are back with their kids and in our communities. I mean,
23 we're not doing enough with Children and Youth. I mean,
24 these children are having to live with drug-addict parents,
25 overdosing stepmothers. I mean, it's really, really bad

1 what they're going through, and those children, they aren't
2 having a chance when they're being faced with lack of
3 parenting, drugs in the home, and everything that's going
4 on.

5 SECRETARY WETZEL: And to respect the time, I
6 won't get into the Administration's new approach to
7 addiction, and heroin in particular with medication-
8 assisted treatment, but I would be happy to follow up with
9 information on -- and you can just go to the Department of
10 Corrections' website. We have a whole page dedicated to
11 medication-assisted treatment, one of the first systems in
12 the country to pilot using Vivitrol -- and Chairman, you're
13 very familiar; I think I testified about this a couple
14 years ago at Harrisburg High -- where we give the first
15 shot before they get out. We just expanded that to men.

16 This Administration has a really good game plan
17 that you'll see early next year, and I'd love to follow up
18 with you guys on our plan for heroin addiction. But, I
19 mean, the number of people coming in addicted to heroin has
20 doubled from 6 percent to 12 percent. We're certainly
21 seeing it.

22 The one thing that Representative Barbin pointed
23 out that I would respectfully disagree with is that it's
24 hitting everywhere. It's not urban versus rural; it's very
25 unique. It's all over the place. We're all feeling the

1 effects.

2 MAJORITY CHAIRMAN MARSICO: Representative
3 Jozwiak.

4 REPRESENTATIVE JOZWIAK: Thank you, Mr. Chairman.
5 Mr. Secretary and Chairman, thanks for being
6 here.

7 You mentioned the word "technical parole
8 violator." What is that?

9 SECRETARY WETZEL: A technical parole violator is
10 someone who violates one of the terms of their condition
11 but does not commit a new crime.

12 REPRESENTATIVE JOZWIAK: So if a guy commits a
13 technical violation, he has to have a hearing within
14 48 hours, and you can't hold him more than 15 days. Is
15 that correct?

16 SECRETARY WETZEL: Yeah---

17 CHAIRMAN GREEN: There are due process
18 requirements. You've got to give notice and so forth. So
19 it's a regular violation process that must be gone through.
20 Unless the individual waives, they have the right to a
21 hearing to determine that they are in fact a technical
22 parole violator and can be placed in a parole violator
23 center, placed in a county prison that has a contract with
24 the Department of Corrections, or placed back in the State
25 prison.

1 All of this is calibrated to the nature of the
2 violation. So if it's an assaultive technical parole
3 violation, then the person is likely to be looking at some
4 sort of confinement; for example, domestic violence. They
5 are taken off the street and they go through the process I
6 just described to you.

7 REPRESENTATIVE JOZWIAK: So how many technical
8 violations do you let occur before you actually put these
9 people back in the system?

10 CHAIRMAN GREEN: Well, we do have a progressive
11 discipline approach to it. If it's a violent offense or
12 one that is a danger to that person or to the public, then
13 the action is swift. If there are opportunities to place
14 an individual in a halfway back for drug treatment, alcohol
15 treatment, and the like, that's what agents do. If it's a
16 more immediate threat, as I said, they will act quicker.

17 REPRESENTATIVE JOZWIAK: Are you saying assaults,
18 drug use, are technical violations?

19 CHAIRMAN GREEN: No, no. Assaultive -- no. If
20 someone is arrested for an assault, that is a convicted
21 parole violator. What I'm saying, if the person is not
22 actually arrested and charged by the police but their
23 behavior -- for example, one we often see is in centers
24 where an individual may be aggressive and moving in an
25 aggressive manner toward staff that we could characterize

1 as such. If we see evidence of aggressive or assaultive
2 behavior and go through the hearing process and see a
3 preponderance of evidence indicating that that was that
4 type of behavior, then we place that person in a technical
5 parole violation status.

6 However, if there's an arrest, then that
7 individual not only faces accountability for that new
8 arrest but also for violating his parole in terms of parole
9 conditions.

10 REPRESENTATIVE JOZWIAK: So you're saying you can
11 put him back into a community-based center or you put him
12 in a county jail or a State prison. Which -- what do you
13 do?

14 CHAIRMAN GREEN: It depends on the nature of that
15 violation. So if it's behavior that we see as one of those
16 Fab Five that are very serious violations that are a threat
17 to the public safety and public order, then we will choose
18 to put them in the county system or right back with the
19 State as well.

20 REPRESENTATIVE JOZWIAK: How many people are in
21 the county jail systems right now from the State?

22 CHAIRMAN GREEN: In the county, I don't have that
23 figure in the county jail system, but I can certainly find
24 that out.

25 SECRETARY WETZEL: We can get that to you. I

1 think it's around 900, but we can get that to you.

2 REPRESENTATIVE JOZWIAK: Okay. And what would be
3 a caseload for a parole agent?

4 CHAIRMAN GREEN: Seventy, high seventies,
5 eighties. Our goal is to get it down to fifties, in the
6 fifties. And with very specialized caseloads, lower than
7 that as well.

8 REPRESENTATIVE JOZWIAK: Thank you, gentlemen.
9 Thank you, Mr. Chairman.

10 MAJORITY CHAIRMAN MARSICO: I recognize
11 Representative Saccone.

12 Let's see; Counsel Dymek has a few questions.
13 Before he goes, though, I have a question.

14 I'm still not clear on the responsibility or the
15 role of the Parole Board and what their compensation would
16 be and their workload and their responsibility under this
17 legislation.

18 CHAIRMAN GREEN: Well, under the legislation as I
19 see it, and I'm not quite sure of all of the questions, but
20 the way it's structured, it is an independent Parole Board
21 appointed by the Governor, confirmed by the Senate, in the
22 same manner, and there is a line item of dollars that is
23 applied to it to do its operations and its functions. So
24 whatever that salary rate that is set in the current
25 manner, it presumably will be so in the future.

1 MAJORITY CHAIRMAN MARSICO: So their
2 responsibility would be the same. Their workload would be
3 around the same---

4 CHAIRMAN GREEN: Yes.

5 MAJORITY CHAIRMAN MARSICO: ---and their
6 responsibility would be the same.

7 CHAIRMAN GREEN: I would say so. Yes.

8 MAJORITY CHAIRMAN MARSICO: But they're not
9 supervising agents?

10 CHAIRMAN GREEN: No.

11 MAJORITY CHAIRMAN MARSICO: Right. Okay.

12 All right. Counsel Dymek.

13 MR. DYMEK: Thank you.

14 Real quick. I know we've been doing this
15 awhile.

16 I just wanted to ask about the time horizon on
17 the projected savings that are involved here. I see from
18 each of your testimony, the agencies project about
19 \$10 million in combined savings, and that's -- right?
20 \$10 million? Is that correct?

21 SECRETARY WETZEL: Yes.

22 MR. DYMEK: Okay. Not \$100 million, correct?

23 SECRETARY WETZEL: No, not 100 million.

24 MR. DYMEK: \$10 million; okay.

25 SECRETARY WETZEL: Yeah.

1 MR. DYMEK: And the \$10 million, I'm looking at
2 the Senate fiscal note about this. I just want to make
3 sure this information is still accurate.

4 The Senate said that the Governor's Office of the
5 Budget projects no cost savings in the current fiscal year.
6 Is that correct?

7 SECRETARY WETZEL: Yes.

8 MR. DYMEK: Okay. And the 10 million would be
9 realized during the first full year of implementation, and
10 that's still accurate?

11 SECRETARY WETZEL: Yes.

12 MR. DYMEK: Now, the first full year of
13 implementation, if the bill has a 1-year date on when it
14 becomes effective, would that mean that the full 10 million
15 is not realized in '16-17, that would be realized -- there
16 would be a portion of that realized?

17 SECRETARY WETZEL: Yeah, there would be a portion
18 of it. When this was contemplated, the assumption was it
19 would be June, July-ish

20 MR. DYMEK: Right.

21 SECRETARY WETZEL: So we'd have -- I'm trying to
22 tread lightly here. So I think that we're still in a
23 window where we could abbreviate the process, and our goal
24 would -- I mean, 6 months I think would be reasonable. It
25 would be a heck of a lot of work to work through it. But I

1 think we could realize some savings in '16-17. I mean, if
2 we would slip beyond that---

3 MR. DYMEK: Right. But the full comparison might
4 be '17-18 compared to current. That is, you would fully
5 realize that at least by '17-18.

6 SECRETARY WETZEL: Yes. Certainly in '17-18---

7 MR. DYMEK: But a portion---

8 SECRETARY WETZEL: ---save a portion, and whether
9 that means 9 months or 12 months or 10 months would be
10 contingent on how good that process works over 6 months.

11 MR. DYMEK: Okay. And a portion in '16-17 and
12 nothing in '15-16, correct? The current fiscal year would
13 be---

14 SECRETARY WETZEL: Yeah, current. Yeah; we're in
15 '15-16 now.

16 MR. DYMEK: Okay.

17 SECRETARY WETZEL: Yeah. I'm sorry.

18 MR. DYMEK: That's all. Thank you.

19 MAJORITY CHAIRMAN MARSICO: Thank you.

20 SECRETARY WETZEL: As you said, I've been up here
21 a little bit.

22 MAJORITY CHAIRMAN MARSICO: Thank you, gentlemen,
23 for your testifying.

24 SECRETARY WETZEL: All right. Thank you.

25 CHAIRMAN GREEN: Thank you, Mr. Chairman.

1 MAJORITY CHAIRMAN MARSICO: I just want to say
2 one thing: I think the Members of the Committee had some
3 excellent questions, and I anticipate those questions
4 continuing. So stay tuned.

5 SECRETARY WETZEL: And Chairman, as always,
6 whatever you need, we would be happy to work with you or
7 any of the Members individually to get to a place where
8 everybody feels good about what we're doing.

9 MAJORITY CHAIRMAN MARSICO: Thank you.

10 SECRETARY WETZEL: Thank you so much.

11 MAJORITY CHAIRMAN MARSICO: Thank you for your
12 time.

13 The next panel is the District Attorneys -- from
14 Dauphin County, Ed Marsico; and also Cumberland County,
15 Dave Freed -- from the District Attorneys Association of
16 Pennsylvania.

17 Ed and Dave, you may begin. You've been here
18 before. Good to see you.

19 DISTRICT ATTORNEY MARSICO: Thank you,
20 Mr. Chairman.

21 DISTRICT ATTORNEY FREED: Thank you. Good
22 morning.

23 DISTRICT ATTORNEY MARSICO: I want to thank the
24 Chairman and Chairman Petrarca for having us here today.

25 As you know, with me here is Dave Freed, the

1 Cumberland County District Attorney, currently President of
2 the Pennsylvania District Attorneys Institute.

3 I wanted to talk, since we've submitted written
4 testimony, and I just want to lay out a little bit about
5 how things work based on the questions that I heard from
6 the Committee Members of Secretary Wetzel a few minutes
7 ago.

8 Pennsylvania is what we call an indeterminate
9 sentencing State, which means someone that is sentenced to
10 what we call a State sentence has a minimum and a maximum
11 sentence. So a common sentence might be a minimum 2- to
12 4-year sentence would be what we have. Other States have
13 determinate sentencing. Somebody gets a flat sentence;
14 say, 5 years would be a sentence that is issued.

15 In Pennsylvania, we also have dual systems. We
16 have county jails and State prisons. The State sentence is
17 a sentence of 1 to 2 years or greater. Anything less than
18 1 to 2 years, basically there are a couple of exceptions,
19 but usually anything less than 1 to 2 years would be served
20 in the county jail. So a sentence of 11 ½ to 23 months
21 would go to the county and 9 to 23 months goes to the
22 county, and obviously we're dealing here today with State
23 sentences and the impact Senate Bill 859 would have on
24 those. So we're talking about sentences of 1 to 2 years or
25 greater, and what happens is, at the expiration of that

1 person's minimum sentence, they become eligible for a
2 parole.

3 The way things are structured now, the Parole
4 Board makes the decision as to whether or not somebody
5 should be paroled, either at the expiration of their
6 minimum, sometime later during their sentence, or, as we
7 know, some individuals max out, serve their entire
8 sentence, if parole is not granted by the Parole Board.

9 Senate Bill 859 as amended preserves that parole
10 decisionmaking process, the "getting out of jail," so to
11 speak, process, with the Parole Board. However, what
12 changes dramatically is who supervises those offenders on
13 the street; as currently structured, its agents under the
14 guise of the Pennsylvania Board of Probation and Parole.
15 Their decisionmaking process determines whether somebody
16 goes back to jail, whether they're either a technical
17 parole violator, as we've heard about, or in some cases a
18 convicted parole violator, so someone charged with a new
19 crime going back to jail.

20 Under Senate Bill 859, those agents on the street
21 would now be employees of the Department of Corrections.
22 So the Parole Board would still retain who gets out of
23 jail, but who goes back to jail would now shift from
24 independent parole agents to Department of Corrections
25 employees.

1 I want to start out by saying the bill is vastly
2 improved from its initial state. The Senate added several
3 amendments that resolved many issues that our association
4 had and why we still opposed the bill. I would be remiss,
5 Dave and I would be, if we didn't note the changes made to
6 the bill and acknowledge the Senate's willingness to work
7 with us, and Secretary Wetzel for his willingness to allow
8 the bill to be amended.

9 But really, the salient issue for us is, should
10 DOC assume that supervisory and sanctioning responsibility
11 for these State-sentenced inmates who are out on the
12 streets, out on parole, and unfortunately, our answer is
13 no.

14 And why do I say "unfortunately"? Yeah, it's
15 unfortunate, because we have tremendous faith in Secretary
16 Wetzel. He has improved our corrections system. Dave and
17 I consider him a good friend, a colleague. He has done
18 things that we never imagined could happen with our
19 corrections system here in Pennsylvania.

20 His staff is outstanding. Many of them are here
21 today. They rely on data, and they have complete integrity
22 as they try -- as Secretary Wetzel said, everybody here
23 testifying today wants the same outcomes, as does everybody
24 in the General Assembly. You know, we want to see less
25 recidivism; safer streets; improve public safety at a lower

1 cost.

2 If Secretary Wetzel, you know, was going to be
3 Secretary for life, which I know he won't be, I would have
4 a different comfort level with this legislation. But as
5 the legislation currently stands, you know, it's really a
6 philosophical difference: Do we want the Department of
7 Corrections, you know, supervising those parole agents who
8 have the authority to determine whether someone goes back
9 to State prison, or do we want it in an independent agency?
10 Because many of the other questions that Members had I
11 think have been adequately addressed by the amendments in
12 the Senate.

13 We've been down this road before. In 2008, we
14 enacted RRRI. In 2012, we did Justice Reinvestment. You
15 know, good pieces of legislation, thought out over a long
16 process, and especially in the House, as well as the Senate
17 Judiciary Committee, both of those committees taking
18 leadership roles.

19 You know, we are all for progressive, new
20 approaches, evidence-based practices that are going to
21 reduce our recidivism rate and improve public safety. You
22 know, we've advocated for more treatment. We've advocated
23 for problem-solving courts and will continue, you know, to
24 do so. But we believe that having two agencies, you know,
25 sort of a checks and balance involved in the decisionmaking

1 process, has provided the appropriate balance.

2 And while we can look at other States for
3 guidance, we can't confuse apples and oranges. We are an
4 indeterminate, as I said, sentencing State. Not all those
5 other States that have one single agency have that
6 indeterminate sentencing structure that I believe works
7 rather well.

8 We have a robust and excellent Sentencing
9 Commission here that, like DOC and like the Board, relies
10 on data, utilizes data to inform our decisionmaking
11 process.

12 You know, we're seeing some benefits from the
13 legislation you had passed before. I think there are
14 things that we can do better. Certainly administrative
15 overlaps, you know, should be eliminated where they can be.
16 But the fundamental structure of shifting parole agent
17 supervision from the Board to DOC is something that, at
18 this point, our association is opposed to, and I'll let
19 Dave weigh in with a few comments before we take any
20 questions.

21 DISTRICT ATTORNEY FREED: All right. Thanks, Ed.

22 And good morning, Mr. Chairman, Members of the
23 Committee. I'm always so pleased to see my Cumberland
24 County Representatives sitting before me. We must be doing
25 something right there if we get three on the committee.

1 It is a unique position to be here in opposition
2 to our friend, John Wetzel, who, as Eddie said, runs a
3 great department. We've been through these battles for
4 many years, and believe me, privately and publicly we have
5 had battles. We are not remotely where we used to be in
6 terms of our relationship with the Department of
7 Corrections.

8 And I can't stress enough a point that Ed made,
9 which is their reliance on data and the professionalism in
10 that department, and they really are a pleasure to work
11 with. And I just personally have learned so much about
12 corrections from just watching what they do.

13 Ed made the points already. We believe that the
14 system as it is currently constituted can certainly be
15 improved. However, we are concerned that appropriate
16 checks and balances are in play, especially when it comes
17 to who is going back in after they have been paroled and
18 they have violated, who is going back in and how is that
19 process working.

20 And frankly, that's a process that we're much
21 closer to as prosecutors because we're dealing with the
22 people on the street. The initial parole decision, we
23 certainly have input. I think the Department and the
24 Board, frankly, do a tremendous job with that right now,
25 and I think you can see that in the results.

1 Another point that I think is very important is
2 to remember that we are not unreformed. Frankly, we've
3 done a lot over the past few years. This Legislature has
4 done a lot from RRRI to Justice Reinvestment -- big things
5 and also small things that have really put us in a good
6 position to not only control but reduce prison population.

7 And frankly, I'll echo one more point and then
8 we'll be happy to take questions, and that is, we want to
9 enhance public safety also -- we certainly always do -- and
10 protect public safety, but we want to reduce recidivism.

11 It's a different -- you hear us often say, I
12 don't think District Attorney Marsico and I have the jobs
13 necessarily that we thought we would have even when we ran
14 the first time, and the job of a District Attorney has
15 changed very much and we all have to be on the same team
16 about reducing recidivism. I think we're always going to
17 have enough work to do. So if we can keep people from
18 coming back into the system, that's a laudable goal that
19 everybody shares.

20 So thank you again for having us.

21 MAJORITY CHAIRMAN MARSICO: Representative Regan
22 for a question.

23 REPRESENTATIVE REGAN: Thank you, Mr. Chairman.

24 Thank you, guys, for being here. I appreciate
25 you. Good to see you.

1 Just a quick question regarding the question I
2 asked Secretary Wetzel. And by the way, I agree; I think
3 he's a great guy and I think he's an outstanding Secretary
4 and has done great things for the Commonwealth. But my
5 question to him was about different philosophies between
6 Corrections and law enforcement, and you touched upon it a
7 little bit, Mr. Marsico, in your statement.

8 But I think that leads to the conflict, and I
9 think, you know, with regard to this taking place, I think
10 this is one of the biggest issues we have to address, is,
11 you know, Corrections' motive is to rehabilitate and
12 release, and then when that person re-offends out there,
13 you know, it kind of makes them seem like they're not doing
14 their job correctly, so you have Corrections then
15 supervising the people who are making the arrests. It just
16 seems like it's a huge conflict of interest. Can you just
17 go into that a little bit deeper.

18 DISTRICT ATTORNEY MARSICO: Well, Representative
19 Regan, as you well know from your time as U.S. Marshal, a
20 lot of the crime that we see, you know, on the streets is
21 unfortunately committed by recidivists, by, you know, those
22 who are on parole from a State prison sentence. And those
23 parole agents have to be well versed in law enforcement and
24 work closely with local, whether it's municipal --
25 Representative Costa knows, you know, has a good background

1 -- you know, has to work closely with the local authorities
2 or State Police, you know, whatever jurisdiction we're
3 talking about.

4 While those parole agents, you know, still share
5 and need to work towards rehabilitation of those
6 individuals, and as Dave said, our jobs have changed.
7 We're much more advocates of, you know, things like
8 treatment and things like that. At the same time, there
9 has to be that accountability aspect. I mean, Secretary
10 Wetzel acknowledged that in his testimony, you know, that
11 those agents on the street -- and they're used to doing
12 that. It would be a sea change, you know, to go to a
13 different system, because they do; they have to work
14 closely with law enforcement when offenders are back out
15 there committing crimes, you know, have illegal weapons,
16 selling heroin, you know, those types of things. You know,
17 that cooperation is essential. And you're right; you know,
18 if it's one department, that could be an issue.

19 REPRESENTATIVE REGAN: You know, it always makes
20 headlines when someone who is a parole violator commits a
21 murder or does something heinous in the public and then it
22 directly goes to, well, why was this guy out there? Why
23 wasn't he being closely supervised? And I think that if we
24 have this divergence of philosophies, I think it's more
25 likely that that will be a more regular occurrence instead

1 of just having this agency parole out there with the
2 U.S. Marshals, with the local police departments, tracking
3 down these guys who are in violation and expeditiously
4 arresting them. I think we're going to have a problem down
5 the road.

6 DISTRICT ATTORNEY MARSICO: Well, I think no
7 matter what system we have, unfortunately, you know, we're
8 going to have that occurrence.

9 I worry about the same thing at a local level
10 when we agree to release somebody on bail, you know, and
11 then that person goes--- You know, we can't fill our local
12 prison with everybody that is charged with a crime. You
13 know, most need to be out on bail. But when my office
14 agrees to that, then should one of those people that we
15 agreed to let out on bail kill somebody, you know,
16 certainly we're ripe for second-guessing.

17 But, you know, there's decisionmaking,
18 discretion, at all levels of the process, and with the
19 human element, mistakes are going to be made. I think the
20 important thing is not to overreact when that happens, to
21 look for answers. But I think the best thing we can do is
22 to minimize the chances of that, and checks and balances
23 are a good way of minimizing that.

24 REPRESENTATIVE REGAN: And that minimization
25 would come as a result of, in your opinion, keeping things

1 the way they are.

2 DISTRICT ATTORNEY MARSICO: I think the checks
3 and balances we have now work rather well. And again, I'm
4 not saying -- it has happened. We know it has happened
5 under the current system.

6 REPRESENTATIVE REGAN: Right.

7 DISTRICT ATTORNEY MARSICO: If we switch, it will
8 happen. But it is, what do we think is the best way of
9 doing that?

10 REPRESENTATIVE REGAN: Thank you.

11 DISTRICT ATTORNEY FREED: You know, I think
12 sometimes the headlines should be how much and how often
13 Probation and Parole gets it right. But just in your, I
14 think, in your district in the last couple of weeks, we had
15 a parolee take a shot at a police officer, and we know
16 these things happen.

17 The tension that is inherent in the system now
18 is, to our mind, an appropriate tension. The moratorium
19 was mentioned earlier, and I think the moratorium was a
20 reaction, probably a necessary reaction, to maybe people
21 had gotten a little bit sloppy. But that's the kind of
22 thing that we're worried about, and I think that tension,
23 if you have tension between a couple of sides or maybe, you
24 know, three entities, that tension is healthy and keeps
25 people on their toes.

1 REPRESENTATIVE REGAN: Thank you.

2 MAJORITY CHAIRMAN MARSICO: Representative
3 Nesbit.

4 REPRESENTATIVE NESBIT: Thank you, Mr. Chairman.
5 And thank you for your testimony.

6 I guess my question would be the 40 other States
7 that have tried it. You had mentioned discretionary
8 sentencing, and sentencing is so complicated. You have
9 mentioned RRRI. As somebody that was in that practice,
10 that was so confusing to try to figure out on a daily
11 basis.

12 But the other 40 States, are any of those
13 discretionary sentences that you know of, and have we seen
14 an example of where this has worked? Because I share the
15 Representative's concerns about the conflict.

16 DISTRICT ATTORNEY MARSICO: Right.

17 REPRESENTATIVE NESBIT: But have we seen that it
18 could work?

19 DISTRICT ATTORNEY MARSICO: I'm sure some of
20 those are. And you are correct. I mean, I started doing
21 this job as an Assistant DA over 25 years ago now.
22 Sentencing used to be pretty easy. You know, while we've
23 made some good reforms to try and reduce our prison
24 population, sentencing is complicated now. I mean, it's
25 very, you know, burdensome for practitioners to learn all

1 the ins and outs that now exist.

2 I don't know if we have that, but that's
3 something I'd like to see, too. You know, I'm sure we can
4 probably get that data as to which of those States, you
5 know, have a system similar to ours and have one
6 consolidated agency. I don't know, Tom, if you know
7 offhand, or Mike, if you know that, but I think that would
8 be something to take a good look at.

9 DISTRICT ATTORNEY FREED: Yeah. I think it's
10 always instructive to look at other States. And I know
11 there's some good work being done -- I think Washington is
12 one of them -- on the HOPE model, which started in Hawaii
13 with low-level offenders. You know, that, of course, cuts
14 both ways. You know, if we're going to look at other
15 States, I'd like to see, you know, one-party consent, and
16 I'd like to buy a beer at the Sheetz, but I know we don't
17 do it that way necessarily in Pennsylvania.

18 You know, one great example is, we had, if you
19 look at the Castle Doctrine, the "stand your ground" law,
20 you know, we had statutes come in from other States, and we
21 looked at what they did and then, I think, ended up with
22 the best one in the country after putting a little bit of a
23 Pennsylvania spin on it.

24 But there's some great work that's being done
25 out there. I mentioned that HOPE program, and that's a

1 Swift & Certain justice program, and it has been built on
2 -- it started with low-level offenders, mostly meth users
3 in Hawaii, and that concept has been expanded.

4 And I think some of that is built into this. It
5 doesn't address, though, necessarily who's making that
6 decision on revocation.

7 REPRESENTATIVE NESBIT: Thank you.

8 Thank you, Mr. Chairman.

9 MAJORITY CHAIRMAN MARSICO: Representative
10 Delozier.

11 REPRESENTATIVE DELOZIER: Thank you.

12 I have a real quick question. It deals with the
13 issue of mental health within the two agencies and the
14 training of, whether it be correctional officers and/or
15 probation officers.

16 You know, when we see the TV shows and all the
17 things that, you know, get written up about and everything
18 else, and those that have, you know, some sort of mental
19 handicap are supposed to go and get help and they are
20 sentenced to, you know, a psychiatric unit of some sort,
21 that accessibility is not exactly there. And having
22 probation officers dealing with people that might have a
23 mental disability of some sort in the sense of needing
24 psychiatric treatment of some sort, medicine to stay on
25 track, whatever the issue may be, how do you see that as an

1 impact? You see them back. You know, if they commit
2 another crime, they come and you have to try it again.

3 I guess I just put it out there in the sense of
4 having folks that are under Corrections training. Where
5 would you say is the best to move forward with training on
6 mental health would be, using some of these savings to make
7 sure that they understand who they are dealing with?

8 DISTRICT ATTORNEY MARSICO: Right. Well, and I
9 think that would be a great place to put some of the
10 savings. I think mental health is one area where we're
11 probably all in agreement. Whether it's the Board, you
12 know, the Secretary, or those of us, you know, we're doing
13 better than we used to. We have things like mental health
14 courts and, you know, we are tuned in to the offenders, but
15 we could do a lot more.

16 I know, you know, that the DOC's stats on mental
17 health are staggering when you see the numbers of offenders
18 with mental health issues in DOC, and we replicate that at
19 a county level. You know, whether it's Cumberland County
20 Prison, Dauphin County Prison, you know, we see the same
21 thing.

22 I know, you know, both the parole agents and
23 correctional officers are now, you know, better than we
24 were 5, 10 years ago in getting that training, but I think
25 it's one area where I agree there's probably a lot more we

1 can do and we need to do.

2 DISTRICT ATTORNEY FREED: I think that close
3 relationship with the training and between DOC and
4 Probation and Parole is vital in terms of the mental health
5 aspect of this.

6 Cumberland County's Treatment Court, we're a
7 little bit of a -- you know, we don't quite have the
8 caseload Dauphin County has. We're sort of a
9 one-size-fits-all in the sense that we take a lot of
10 different offenders and different issues. But we are a
11 substance-abuse court mostly, but north of 75 percent of
12 our participants have co-occurring disorders. So think
13 about that. Those are people that would otherwise be in
14 State prison.

15 So think about the numbers that DOC is dealing
16 with and that we're going to have to deal with when they
17 get out on the street, and you can't simply just say, well,
18 we're just not going to parole all the people that have
19 mental health issues because you wouldn't be able to parole
20 anybody. So that's a tough one.

21 And to the extent that anything we do in terms of
22 reform can promote savings and get more people out on the
23 street and more money into not only training the agents but
24 the treatment, that's the key. You know, treatment works,
25 but it has to be lengthy and it has to be sustained, and

1 sometimes it's as simple as supervising these people enough
2 to make sure they're taking their medication.

3 REPRESENTATIVE DELOZIER: Thank you. I just make
4 the comment for the safety of the correctional officers
5 inside that deal with people that have an issue, and then
6 those, our agents, once they're out, and then the community
7 that they, you know, have to--- They should be accepted;
8 they should get their treatment. It's just something that
9 is concerning for those that, you know, have to deal with
10 them.

11 Thank you.

12 MAJORITY CHAIRMAN MARSICO: Chairman Petrarca.

13 MINORITY CHAIRMAN PETRARCA: Thank you, Ron.

14 A quick question. Thank you, gentlemen, for
15 being here.

16 I heard you say that you oppose this, and I think
17 that there are a lot of questions that Members have. I
18 certainly understand that. I have a number of questions
19 myself.

20 I think certainly part of this legislation is to
21 streamline the process and maybe get people to where they
22 need to be in terms of, when you look at Probation and
23 Parole, to get people into a situation where they can be --
24 they can be released.

25 And I know we've talked about backlogs and

1 certain things like that. Do you agree that there are
2 issues and problems with backlogs and those kinds of
3 problems, and if we don't do this legislation, what should
4 we be doing? Is it just as simple as combining the
5 administrative functions of these departments or agencies
6 so that we save dollars, or what else could we or should we
7 be looking at?

8 DISTRICT ATTORNEY MARSICO: Sure.

9 Well, Mr. Chairman, I think this is something
10 that, you know, it needs studied. I applaud you guys for,
11 you know, having a public hearing, taking time to get
12 information. I think we need more information before we
13 make this type of change. And the administrative stuff,
14 you know, we can agree on.

15 What should we be doing? I think the things we
16 all are doing. You know, I have met probably with
17 Secretary Wetzel, you know, a couple times in just the last
18 2 months about different ideas, or he'll email me at 5:30
19 in the morning with something.

20 I know this Administration is looking towards
21 another Justice Reinvestment approach, you know, for what
22 can we do to stop the recidivism rate from climbing or
23 reduce the recidivism rate. And I think this is a piece of
24 that puzzle, you know, that we look at something like this
25 as we look at different alternatives, you know, with this

1 new study.

2 What can we do? I wish I knew the answer, you
3 know, because we have got, what we're doing now, we have
4 gotten better. You know, we've gotten a lot better, but
5 there's a lot of work to be done. And I think this is one
6 component where we need to study it and say, okay, maybe it
7 would work, maybe it wouldn't, and make an informed choice,
8 you know, as to where we go.

9 And as I said, this bill is dramatically better
10 than its initial incarnation.

11 DISTRICT ATTORNEY FREED: And I think if you
12 consider, even during your tenure on this committee, if you
13 consider the method that we've used on legislation, you
14 know, we don't either support or oppose things lightly, and
15 when we do, it doesn't mean that we stop working with the
16 interested parties or stop working on the bill.

17 So, you know, we'll continue to do that in
18 whatever form it's in. As Eddie mentioned at the outset,
19 you know, we've been very pleased with the changes that
20 have already been made to the bill and, you know, certainly
21 thank the Senate for allowing the amendments to happen and
22 for considering those and voting on them.

23 We have the expertise, I think certainly in DOC
24 and in Probation and Parole, to try to figure out how to do
25 things in a more streamlined manner.

1 MINORITY CHAIRMAN PETRARCA: Thank you.

2 MAJORITY CHAIRMAN MARSICO: Counsel Kane.

3 MR. KANE: Thank you, Mr. Chairman. Just one
4 follow-up.

5 I think, Mr. Marsico, earlier you talked about
6 how your comfort level with this Secretary is pretty high,
7 and I think everybody has the greatest respect for
8 Secretary Wetzel. But you have been around a long time and
9 have been through---

10 DISTRICT ATTORNEY MARSICO: Sure.

11 MR. KANE: ---other Administrations with other
12 Secretaries and can envision how things might be in the
13 future.

14 I really want to kind of cut down to the bottom
15 line of this by asking, in a State where budget is always
16 an issue, as we always know, and the Department of
17 Corrections is a \$2 billion operation, do you see a risk
18 that budget decisions could, maybe not directly, but at
19 least influence the decisions and the policies that are
20 made if the Corrections Department, which has the big
21 budget, has to reduce costs but yet at the same time has
22 basically the front door on who gets referred for probation
23 or parole revocation? Do you see that as a problem?

24 DISTRICT ATTORNEY MARSICO: I mean, absolutely,
25 Counsel. That's, you know, probably what this all comes

1 down to, you know, is that.

2 Now, I mean, the good thing is, with the
3 amendments, you know, the initial decision on parole is
4 preserved with an independent authority, as I've read the
5 bill, and it's a complicated read, and you guys know it
6 much better than I do, but, you know, that was always a
7 concern. If the Governor wants to save money, the
8 Secretary of Corrections is, you know, in the future
9 listening to the Governor, and if they had that initial
10 authority to let people out of jail for budgetary concerns,
11 I mean, that would be insane, you know.

12 So now we're looking at the other end: Who goes
13 back? And again, if that agency, you know, it's one
14 consolidated monolithic agency that now is worried about
15 its budget, you know, there can't help but be influence,
16 you know, even subconsciously, on those, you know, those
17 making the "going back to jail" decisionmaking process;
18 that wow, you know, this isn't going to really endear me to
19 the powers that be that I'm saying these people should go
20 back to State prison at a time when we're trying to cut
21 costs. So, yeah, that's definitely a concern.

22 And it's really just a philosophical difference,
23 you know. As Secretary Wetzel said, we all want the same
24 thing, but how do we best achieve that?

25 MAJORITY CHAIRMAN MARSICO: Thank you.

1 Thank you, gentlemen. Thanks for your time.

2 DISTRICT ATTORNEY FREED: Thank you.

3 DISTRICT ATTORNEY MARSICO: Thanks.

4 MAJORITY CHAIRMAN MARSICO: We appreciate it.

5 Our next panel is the Pennsylvania Board of
6 Probation and Parole Board Members: Jeffrey Imboden,
7 Leslie Grey, and Craig McKay. Please step forward.

8 Is it afternoon or morning now? I don't even
9 know. Good afternoon.

10 MS. GREY: It's afternoon now. I wanted to make
11 sure that you are -- I was hoping you would be able to see
12 this. This is a large version of our mission statement.

13 MAJORITY CHAIRMAN MARSICO: Okay.

14 MS. GREY: And to point out that public safety is
15 the first item of concern for us -- front, center, and
16 first in line.

17 MAJORITY CHAIRMAN MARSICO: Okay.

18 MS. GREY: It is attached to my written
19 testimony, but I'm not sure what I have for my prop here,
20 but.

21 MAJORITY CHAIRMAN MARSICO: Okay.

22 MS. GREY: I'm not sure how you want to handle
23 that. Whatever you would like to do then, that would be
24 fine.

25 MAJORITY CHAIRMAN MARSICO: Okay.

1 MS. GREY: I just wanted to make sure you had
2 that and so that you know that that's the Parole Board's,
3 that is our focus. There has been some discussion about
4 tension in the missions or the checks and balances aspect.
5 So thank you, sir.

6 MAJORITY CHAIRMAN MARSICO: Okay. You may begin.

7 MR. IMBODEN: Thank you.

8 And Representative Marsico, thank you, and the
9 Committee Members for having this dialogue.

10 The Board from day one, that's all we've asked
11 for, is a dialogue. This is the first opportunity for the
12 dialogue. In fact, contrary to what Chairman Green said, I
13 don't know which two people were consulted in the drafting
14 and the crafting of this legislation, and I've been a Board
15 Member for 12 years.

16 And my term will end next week, at which point I
17 will retire. But I'm here because I'm very passionate
18 about this issue. I, too, think Secretary Wetzel is
19 amazing -- amazing -- and I think his work in corrections
20 has been amazing and somewhat unprecedented. But when it
21 comes to community supervision, it's what DA Marsico said
22 in terms of a wide difference in philosophy, a huge
23 difference in philosophy.

24 This is the fourth time in my career that this
25 has been considered in Pennsylvania, going back to when

1 Camp Hill burned for 3 days and it was considered.
2 Different Administrations, different Secretaries of
3 Corrections, Commissioners, Secretaries, have thought of
4 this and proposed this. The reason it has not succeeded so
5 far has been consistent, and that is public safety issues.

6 Contrary to what was said earlier, our records
7 show that our convicted parole-violator rate, and that is
8 people on State parole who have been convicted of new
9 crimes, which translates into more victims, is up
10 18 percent since the start of Act 122, very contrary to the
11 information presented earlier. Which as I'm sitting back
12 here getting frustrated, but I retire in a week, it is
13 again, to me, the reason why you should have a checks and
14 balances system. That is the essence of this.

15 I was county chief for 6 years, and I banged
16 heads often with the warden of the county prison, who I was
17 good friends with, because philosophically, we were
18 operating at different areas. His was financial budget,
19 too many people in prison, and mine was community safety,
20 community safety, community safety.

21 It was mentioned, technological changes and
22 improvements. Well, the Bureau of Information and
23 Technology was merged in 2006. We don't have an
24 information and technology department anymore. It's under
25 the Department of Corrections.

1 A quote from earlier today: We are never on the
2 same page. Well, we shouldn't be. And I say that again,
3 after all my years in the county level and the State level:
4 We shouldn't be. This is about banging heads. As
5 frustrating, as maddening as that is -- and it is -- it's
6 necessary.

7 All the Board Members, including a Board Member
8 who was, up until a month ago, Chairman of the Board,
9 certainly one of the finest individuals that I've ever
10 worked with in my 38 years, all the Board Members are
11 opposed to this with the exception of the present Chairman.
12 All of us come from different walks of life but are very
13 passionate and serious about this, about this business.

14 As you can see from my report, I do present a
15 historical perspective of how this has been considered
16 before. One of the things I brought with me, and I have
17 used this often, this is a report of the Governor's
18 Commission to Study the Probation and Parole Systems of
19 Pennsylvania, submitted to His Excellency, George H. Earle,
20 Governor of the Commonwealth, December 1938: It is
21 essential that the parole system be shielded as completely
22 as possible from the baneful effects of political and other
23 subversive influences. Every witness who appeared before
24 the Commission, without a single exception, emphasized this
25 as the most important safeguard for the efficient

1 administration of parole. A parole administration will
2 never be universally successful in the formation of a
3 character. If the powerful and beneficent influences of
4 religion, family, environment, and good example have so
5 often failed to make law-abiding men law abiding, it would
6 be folly to expect complete success from the best of parole
7 systems.

8 We have the best of parole systems in
9 Pennsylvania. Again, it was said comparing apples and
10 oranges. I'm not that concerned with other States, other
11 than I know this State, in the 12 years I've been a Board
12 Member, we have worked so hard with national consultants to
13 stay up to date with risk and needs assessments, actuarial
14 tools. We have been on the cutting edge of community
15 supervision to the point where we are held up as a role
16 model throughout the United States in terms of our
17 decisionmaking process and in terms of our community
18 supervision.

19 It has been mentioned before Dr. Ed Latessa's
20 scathing audit of the bureau of corrections system. I
21 would sit here today and testify I don't think it has
22 changed that much since that audit came out.

23 You have heard from the District Attorney's
24 Office, the District Attorneys Association. You have a
25 letter, I think, from the Fraternal Order of Police, and

1 you're hearing from us. I also want another population to
2 be heard, and that is the criminal population, the parolees
3 that we supervise.

4 A number of years ago in Pennsylvania, and this
5 was somewhat unprecedented and cutting edge, we came up
6 with a system where those individuals that were arrested
7 could waive their hearing, sign a piece of paper and waive
8 their hearings. Now, that means they are pleading guilty
9 to everything the Board has charged them with, and they're
10 saying, I don't want a hearing.

11 So if there is a perception that we don't treat
12 these people properly, we don't work with them long enough
13 in the community, and part of the legislation requiring
14 social work training is somewhat appalling to me. I have
15 taught at the academy for 30 years and I teach street
16 supervision skills, and part of my teaching is a balanced
17 approach. You need to be a counselor, but you need to be a
18 cop. You need to know when, as best you can in predicting
19 human behavior, when somebody needs to be out of the
20 community, where rehabilitation ends and incarceration
21 begins.

22 As was mentioned with the HOPE project, it is
23 low-level offenders. The majority of our people are not
24 low-level offenders. I would ask you, do you want somebody
25 who is on parole for a violent offense and is caught with a

1 gun to be incarcerated for 2 weeks and then back out? Do
2 you want somebody who has been involved in domestic
3 violence, who now is arrested as a technical parole
4 violator for assaultive behavior in domestic violence, to
5 be back in the community in 2 weeks or less? I don't.
6 None of us do.

7 I think there's a total misperception of
8 "technical parole violators." I think there always has
9 been and I think there always will be. Yesterday I talked
10 to former Chairman of the Board Fred Jacobs, the longest
11 tenured Board Chairman in the history of this agency, and
12 he told me that after Camp Hill burned, he was confronted
13 by a Senator who said that Camp Hill was burning because of
14 parole violators, at which point Chairman Jacobs said, what
15 do you think they would do in the community? which I think
16 is an excellent point. There is a reason why the Board had
17 put them in prison.

18 I cover the northeast corridor of Pennsylvania as
19 a Board Member. Several months ago one of our agents
20 attempted to arrest a technical parole violator. He went
21 over to the car. He told the individual he wanted to talk
22 to him. The individual started the car, and the agent held
23 on. He drug the agent, drug the agent several yards down
24 the street before the agent was able to roll away. This
25 individual was stopped by the police, and 425 bags of

1 heroin and 1 gram of cocaine were found in the car.

2 Another agent in Scranton, along with a police
3 officer, were attempting to make an arrest on a parolee, a
4 parole violator. They boxed him in. He and another
5 fugitive -- and by the way, our fugitive rate, our
6 absconder rate, has gone up 38 percent since the
7 implementation of Act 122. In Scranton and the Scranton
8 district alone, it has tripled. As they attempted to
9 arrest these two absconders, the fugitives rammed the
10 vehicle with the agent and the police officer. The agent
11 suffered a concussion and crushed, crushed his hand. Both
12 agents I just spoke of are on indefinite leave, medical
13 leave.

14 We had an agent in the Wernersville halfway house
15 3 weeks ago knocked unconscious. These are not low-level
16 offenders we are dealing with. These are very -- it's a
17 very difficult population, and both we as Board Members,
18 decisionmakers, have the responsibility of trying to decide
19 and predict human behavior in the decisions we make to
20 release people or not release people.

21 From an agent's point of view, and I spent
22 20 years as an agent, and God bless them, they, too, are
23 tasked with trying to predict human behavior.

24 When I was reconfirmed as a Board Member for my
25 second term, a Senator shook his finger in my face and very

1 loudly said, these technical parole violators have to stop;
2 they are clogging up our prisons. Well, no, technical
3 parole violators don't clog up prisons nationally. Five
4 minutes later he said, now, that parolee that shot and
5 killed that police officer, he'll get what's coming to him.
6 Well, I knew that case. I knew that case. We had caught
7 that parolee violating the conditions of his parole six
8 times -- six times -- and had sanctioned him but did not
9 take him back as a technical parole violator.

10 Our agents do an outstanding job, a miraculous
11 job. They risk their lives each and every day to protect
12 the citizens of Pennsylvania.

13 I'll end with this: One of the Board Members and
14 I in May were out at the Association of Paroling
15 Authorities International. We were selected to go out and
16 give a presentation, and this is Board Members at this
17 conference from all over the world. We were selected to do
18 a presentation on how Pennsylvania does what they do.

19 During a break in that conference, we were in the
20 hallway. Dr. Richard Stroker from the National Parole
21 Resource Center in Washington, DC, came up to us and said,
22 "Guys, the people in Pennsylvania, do they realize that you
23 all are the superstars of parole systems in the United
24 States?" and that's a quote. My response was, well,
25 Dr. Stroker, thank you very much for the compliment, but

1 I'm not sure I can answer your question.

2 Again, Representative Marsico, I really, really
3 appreciate this as I get ready to walk out the door, just
4 having a dialogue, just having the ability to have an
5 exchange of ideas and talk about different philosophies,
6 and I hope that this continues to be looked into,
7 discussed, and possibly debated.

8 Thank you very much.

9 MR. MCKAY: My name is Craig R. McKay---

10 MAJORITY CHAIRMAN MARSICO: Bring the mic over.
11 Go ahead.

12 MR. MCKAY: Thank you.

13 My name is Craig R. McKay. I am a Board Member
14 of the Pennsylvania Probation and Parole Board.

15 Thank you for the opportunity to present my
16 testimony and voice my concerns today and my objections to
17 Senate Bill 859, the proposed merger of the Pennsylvania
18 Department of Corrections with the Pennsylvania Parole
19 Board.

20 I believe that the proposed merger is not in the
21 best interests of public safety and the citizens of the
22 Commonwealth of Pennsylvania and should not be adopted.

23 By way of background, I am an attorney licensed
24 to practice law in the Commonwealth of Pennsylvania. I
25 have over 41 years of criminal law experience, which

1 includes positions held as a former Assistant United States
2 Attorney, First Assistant District Attorney in Washington
3 County, and also in private practice.

4 While it is not widely publicized, as Jeffrey
5 told you, it is well known in professional circles that the
6 Pennsylvania Parole Board in this Commonwealth is one of
7 the premier independent parole boards in the United States.
8 The Board has been recognized by national experts and
9 organizations as one of the finest parole agencies in this
10 country.

11 While some parole boards are part of the
12 Department of Corrections, and that is true, that is really
13 of no value or consequence here. It is simply a Department
14 of Corrections' national model which is subject to
15 disagreement.

16 Not too long ago, as I recall, New Jersey
17 combined the two agencies, and they found it didn't work at
18 all and they separated, so it ebbs and flows. But the fact
19 remains that the Parole Board, or this Parole Board, has a
20 65-year legacy of being unique and effective as an
21 independent agency which functions at the highest level of
22 expertise.

23 I have often said, and I have been around in the
24 Federal system. I've been in State systems. I have been
25 in private practice. I can assure you, I have never seen

1 people so dedicated and work so hard in my life, and I have
2 been around. The Board serves the citizens of this
3 Commonwealth well.

4 It is my belief there is no justifiable reason
5 for the Parole Board to be merged, or really taken over.
6 That's what's going on here. This is a takeover by the
7 Department of Corrections. This is not the correct thing
8 to do, in my view, and I don't think it's good government.

9 As stated by my colleagues in the District
10 Attorneys Association, the merger of the Parole Board with
11 the Department of Corrections would drastically change the
12 criminal justice system in the Commonwealth. It would
13 eliminate the Parole Board as an independent agency and
14 reduce the Board to simply a departmental board within the
15 DOC. The bill would give the Department of Corrections
16 total and absolute power over inmate incarceration, parole,
17 and parole supervision. In my view, this concentration of
18 power could pose a public safety concern.

19 The Parole Board, this Parole Board, has always
20 been -- always been -- an independent, stand-alone agency
21 in the Commonwealth. Its parole decisions have never been
22 subject -- never -- to outside influences or pressures.
23 The Board utilizes what they call evidence-based practices
24 and techniques in making its decision whether or not an
25 inmate is ready to be paroled to the community. The parole

1 decision is based solely -- solely -- on public safety
2 factors and not on prison cost savings considerations. To
3 do otherwise I really believe will place the safety of the
4 citizens of the Commonwealth at risk.

5 The Department of Corrections does well, and
6 John Wetzel does a wonderful job, in its primary mission of
7 managing the care, custody, and control of the prison
8 population in the Commonwealth. The Department's education
9 and training programs are well known. However, the
10 front-line public safety mission of the Parole Board is
11 different than the public safety prison population
12 management mission of the Department of Corrections, and
13 this is where the missions of the two distinct agencies
14 sometimes collide. This is the compelling reason why the
15 Parole Board and the Department of Corrections should not
16 be combined.

17 And it has been mentioned before, maintaining
18 checks and balances between the Parole Board and the
19 Department of Corrections is critical, in my view. In this
20 regard, the public safety of the citizens of the
21 Commonwealth mandates that the Parole Board and the
22 Department of Corrections remain separate agencies, as they
23 are today. I believe that Senate Bill 859 is flawed to the
24 extent that it combines two agencies whose primary missions
25 are different.

1 I have read the Department of Corrections
2 position paper titled "Reducing Costs, Reducing Crime."
3 The Department's position paper, in my opinion, does not
4 advance any parole supervision practices or techniques that
5 the Parole Board is not currently using every day. The
6 Parole Board has numerous, I assure you, inpatient and
7 outpatient drug treatment and mental health initiatives.
8 It utilizes what they call cognitive training, education,
9 and employment practices. The Parole Board programs are
10 proven effective and nationally recognized.

11 The Parole Board supervision staff includes over
12 1,000 highly trained and skilled field and institutional
13 agents. They are proud of their service and committed to
14 making Pennsylvania safe. The Parole Board and its field
15 agents want the offenders to succeed on parole, return to
16 their families, and become productive members of their
17 communities.

18 We are moving forward to add additional field
19 agents to meet our expanding caseloads. Our supervision
20 practices are always evolving and focused on success, not
21 failure.

22 In point of fact, the Department of Corrections
23 recently issued a public statement that the recidivism rate
24 for offenders on parole is at an all-time low. The
25 lowering of the recidivism rate is in no small measure

1 directly attributable to the sound supervision practices of
2 the Parole Board and its fine agents.

3 In making its decision whether or not to parole
4 an individual, the Board uses sound, evidence-based factors
5 in conjunction with the direct interview of the offender.
6 We sit down with the offender and talk face to face. The
7 Board also reviews the opinions of the presiding judge and
8 the District Attorney's Office.

9 And the Board also conducts face-to-face
10 interviews with crime victims in this State. We see them
11 every single month. As I've often told people, we have
12 approximately, say, 50,000 individuals in prisons in the
13 State, the Commonwealth of Pennsylvania, but that number is
14 going down, but we have 40,000 on parole. If you add 50
15 and 40, that means there are 90,000 victims -- 90,000
16 victims. We talk to these people every single month. The
17 Board then makes its parole decision based upon all
18 available information.

19 In the end, the decision whether or not to parole
20 an offender is solely a public safety decision, which is
21 not based upon saving money or reducing the prison
22 population. The Department of Corrections' position paper
23 talks extensively about saving money, and that's well and
24 good, by combining the two agencies. However, the
25 Department's cost analysis, I believe, is speculative at

1 this point. To my knowledge, there has never been a
2 definitive study to support any cost savings at all --
3 never.

4 Further, I believe the original decision to
5 combine the Parole Board with the Department of Corrections
6 was basically unilaterally made without any discussion with
7 members of the Parole Board or any cost savings analysis.

8 This is our first opportunity that we have had to
9 talk with anybody. We were told, this is what it's going
10 to be and that's it. So I thank you for the opportunity
11 for talking to us today for the first time, and I'll
12 conclude.

13 I have spoken to numerous members of the Parole
14 Board, the administrative staff, and the field agents
15 regarding this proposed merger, because I work with them
16 every single day. The vast majority of these fine men and
17 women oppose this merger. They believe that the merger is
18 not in the best interests of the safety for the citizens of
19 the Commonwealth.

20 In conclusion -- and I'm almost done -- I would
21 like to thank this committee for the opportunity to provide
22 my testimony on Senate Bill 859. Finally, I would like to
23 address this committee solely as a citizen of the
24 Commonwealth and not as a member of the Pennsylvania Parole
25 Board.

1 I know that life is filled with difficult
2 decisions and changes, both good and sometimes bad. The
3 proposal to change our criminal justice system and
4 essentially mute the Parole Board cannot be a business
5 financial decision. It must be a public safety decision,
6 and that is why I believe that the public safety of this
7 Commonwealth demands that you say no to Senate Bill 859.

8 Thank you.

9 MS. GREY: Good afternoon to the committee.

10 My name is Leslie Grey, and I, too, am a member,
11 a Board Member, with the Pennsylvania Board of Probation
12 and Parole.

13 I, too, want to thank you for the opportunity to
14 provide testimony to the committee and voice my concerns
15 and objections to Senate Bill 859, which would squarely
16 place the Board under the purview of the Department of
17 Corrections.

18 I do want to echo what my two colleagues have
19 said. I certainly was not consulted. I never attended any
20 meetings. My thoughts -- I'm an attorney, if nothing else.
21 My thoughts regarding the proposed merger or the
22 legislation, you know, generated under that idea were not
23 sought at all.

24 I, too, am not aware of any studies being
25 conducted as to the appropriateness of efficiency or

1 whether or not real cost savings are going to happen.

2 Like my colleague, Mr. McKay, though, I am an
3 attorney. I have been licensed to practice in the
4 Commonwealth of Pennsylvania for nearly 30 years. Prior to
5 my current service as a Parole Board Member, I served in
6 law enforcement for 14 years with the Pennsylvania Office
7 of Attorney General and another 16 years in private
8 practice.

9 The Parole Board, I will add my voice and say, is
10 widely recognized as a national model of good practices
11 among parole boards and parole agencies. That recognition
12 grows from our use of evidence-based practices in
13 decisionmaking and in supervision. I will share my story
14 with regards to that.

15 When I first joined the Parole Board, I was
16 dispatched to a training orientation program in Denver,
17 Colorado, to a Federal agency that dealt in supervision,
18 and what I learned there was there was a long list of good
19 practices that are utilized by a model parole board, and
20 what I learned was, Pennsylvania was already doing every
21 one of them except one, which was in the works. So it was
22 really quite remarkable.

23 I have periodically gotten inquiries from people
24 in other States regarding, how do you do it, from our
25 decisionmaking model, to day reporting centers, to the

1 various supports available, and to our victims' input as
2 well.

3 Our eyes are always focused on the public safety
4 mission, as Mr. McKay and Mr. Imboden said, using
5 statistical analysis. And the fact is, this analysis is
6 done and redone. We are always examining and always
7 looking to improve our methods, and this has been going on
8 status quo. This is what we do. We are always looking to
9 see what we're doing right, what we can do better.

10 In my opinion, there is no rationale for this
11 merger, or "takeover" more accurately, at all. The Parole
12 Board and the DOC simply do not share identical missions.
13 The DOC does its work of care, custody, and management of
14 offenders; the Parole Board determines whether, within the
15 parameters of sentencing imposed by the court and under
16 what conditions, an offender may be returned to the
17 community without undue risk.

18 First and foremost, the Parole Board must
19 maintain full independence in all of its decisionmaking,
20 and I will echo my colleagues' comments to the point. And
21 I want to -- I attached to my written testimony two
22 articles that came out of the State of Nebraska with what
23 their experience was. So while we do not have a crystal
24 ball, sometimes we can look and see what has happened in
25 other places, and what happened in those places was the

1 Parole Board Members began to be pressured to release
2 inmates more for population-control reasons.

3 So in addition, as you are, I guess, becoming
4 well versed in, we oversee the practices and methods of our
5 agents who supervise the offenders and work to ensure that
6 the Board-set conditions are maintained. Which is another
7 problem as I noticed in this legislation, that the
8 conditions that the Board imposes would become suggestions,
9 essentially, that would become optional after a 6-month
10 period of time. So there are some conditions that the
11 Board insists on and that I myself don't feel comfortable
12 turning a person into the community without knowing that,
13 you know, certain conditions are being imposed and enforced
14 upon and being adhered to.

15 Again, there may be a perception that the Parole
16 Board operates in a vacuum, but that's far from the truth.
17 As has been said, we do face-to-face interviews with
18 inmates and institutions. I go into institutions in the
19 great northwest, and so I visit places like Albion,
20 Cambridge Springs. I go to Forest and to SCI Mercer. I
21 can tell you, SCI Forest and SCI Albion are high security,
22 high-risk offender prisons. There are very difficult
23 inmates there. I salute the staff who works there. I
24 salute our staff who are trying to get these people ready
25 for their return to the community.

1 But we do interview offenders in prison. And
2 also one day, we spend one very difficult day taking
3 testimony from crime victims face to face as part of the
4 decisionmaking process for their offenders. As you know,
5 victim impact, by law, is part of our consideration, and we
6 do take that very seriously. I have attached another
7 attachment, so I don't need to go into all of that.

8 Another factor is, of course, as you've heard,
9 the input from the District Attorneys and from the involved
10 judges. So truly we hear from everybody. We hear from the
11 entire community. I believe in that sense, the Parole
12 Board operates as the voice of the community in making
13 these decisions, and the decision is whether or not the
14 offender may safely -- safely -- be returned to the
15 community, weighing these many factors, the input from all
16 of these interested parties.

17 Lastly, the Board Members, whether we work from
18 Harrisburg or keep offices out in the districts, have
19 routine ongoing interaction with the agents who work in the
20 SCIs, because I go in there, and who work in the community,
21 because I share an office with these good people. This
22 sort of interaction, in my mind, allows the Board Members
23 another opportunity to observe and consider the real-world
24 demands on the agents as they work to supervise the
25 offenders and ensure public safety, and that includes their

1 own safety as well. They also work to provide services and
2 direction for the offenders as they rejoin the community.

3 I, too, have reviewed the DOC's "Reducing Costs,
4 Reducing Crime" document and echo my colleague's, Mr.
5 McKay's comments on that document, and I would like to
6 expand on those comments regarding the Parole Board's fine
7 team of dedicated agents and the excellent work they do in
8 supervising offenders released on parole.

9 The Parole Board currently works very hard to
10 target its resources to high-risk offenders and to address
11 specific crime-causing needs. For example, the Parole
12 Board does do field supervision with agents who specialize
13 in supervising sex offenders and other specialized field
14 agents who supervise offenders with mental health issues.

15 As noted in the DOC document, many offenders are
16 impacted by drug addiction and by alcoholism with or
17 without a co-occurring mental health disorder, and these
18 conditions, without appropriate treatment or medication,
19 not only result in a drug-addicted person but it also
20 results in new crimes and new victims.

21 I also can tell you, I have not talked to anyone
22 in a prison who was there because they were a drug addict.
23 They were there because they were a drug addict and
24 committed a crime in furtherance of obtaining money or
25 because they were doing things they might not ordinarily be

1 inclined to do. But there is a victim there. They are not
2 there because of their status as a drug addict. There is
3 always a victim attached.

4 For example, the Parole Board agents have long
5 worked with such offenders, and our district directors work
6 to maintain partnerships with existing community resources.
7 We do participate in reentry committees, different
8 legislative public safety committees, and the like.

9 For example, in the Erie district office, since
10 2001 -- so this is not a late coming thing -- the Erie
11 district office has been an active participant in what is
12 known as the CROMISA program, and that is Community
13 Reintegration for Offenders with Mental Illness and
14 Substance Abuse. CROMISA provides treatment, housing, and
15 reentry services for these offenders. So I would invite
16 you to take a quick look at that, and perhaps your staff
17 can help you find out more. But that is what's going on in
18 the great northwest and has been for 15 years now, and
19 there are other programs elsewhere that our people
20 participate in.

21 I do want to mention the Parole Board utilizes
22 agents called ASCRAs who assist with locating other
23 community resources for agents to utilize for their
24 offenders. So it's a dedicated person looking for
25 resources that can be used to assist offenders.

1 Finally, my last few points.

2 The Parole Board is keenly aware that its funding
3 comes from the taxpayers and that all funding must be used
4 wisely to benefit the public safety. However, releasing
5 offenders based primarily on financial concerns or SCI
6 institutional needs rather than providing for public safety
7 does not serve the public interest and it just doesn't
8 constitute good government. Again, I echo my colleges'
9 comments on that point, and public safety must always come
10 first.

11 It should be noted, there has been a lot of talk
12 about additional agent hires, but additional agent hires
13 are currently funded, but the hiring process itself can be
14 slow and difficult and cumbersome. So simply merging the
15 Parole Board into the DOC is not going to alleviate the
16 hiring delays that are just simply an inherent part of the
17 government hiring process. It's just a reality.

18 The DOC document in support of the
19 merger/takeover proposal, in my mind, simply asserts its
20 premise and amounts to a bald conclusion that cost savings
21 will somehow be achieved but really fails to prevent a
22 scintilla of factual information in support of that
23 conclusion. We don't have budget testimony here today, and
24 there is nothing in those documents.

25 It should be noted that one of the main areas of

1 operation which the DOC document asserts its savings may be
2 realized is through, quote, "streamlining...and modernizing
3 our use of technology," close quote. In fact, as has been
4 mentioned by Mr. Imboden, in 2006 the DOC took operational
5 control of the IT systems of the Parole Board in order to
6 unify it with the DOC and streamline technology and
7 administrative processes. Since that time, the most
8 conservative estimates are that \$20 million have been spent
9 on that effort to date with no operational system in place
10 as we speak now.

11 The merger bill was conceived and drafted without
12 any meaningful consultation or notice to the Parole Board,
13 and I might add, I found out about this hearing because
14 Mr. Imboden told me. It did not come through official
15 channels at all, okay?

16 MAJORITY CHAIRMAN MARSICO: (Inaudible.)

17 MS. GREY: Thank you, sir. I am so delighted to
18 be here, as are my colleagues, because when we say this is
19 our first chance to be heard, it's truly our first chance
20 to be heard, and we do gratefully appreciate it.

21 But more importantly, the merger as proposed in
22 Senate Bill 859 was conceived and drafted without
23 conducting any professional inquiry or objective study
24 regarding how to achieve meaningful cost savings without
25 sacrificing the public safety.

1 And again, I want to thank you for this
2 opportunity to voice my opinion of Senate Bill 859 and to
3 state my opposition.

4 MAJORITY CHAIRMAN MARSICO: Representative
5 Costa.

6 REPRESENTATIVE COSTA: Thank you, Mr. Chairman.

7 First off, I would like to thank the three Board
8 Members for having the courage to step forward and come up
9 here. I totally agree that what we're looking at is saving
10 money in lieu of public safety, and there is no money
11 savings that would jeopardize public safety as far as I'm
12 concerned. It just doesn't amount to anything.

13 Mr. McKay, I want to thank you. I think your
14 numbers are off a little bit. You said 90,000 people out
15 there, 90,000 victims? Well, I've been a police officer
16 28 years, and I can guarantee you, there's probably
17 millions of victims out there for those 90,000 offenders,
18 so, you know, and I totally thank you.

19 And Mr. Imboden, I thank you for your service,
20 sir.

21 And Chairman, thank you for having this important
22 meeting.

23 MAJORITY CHAIRMAN MARSICO: Representative
24 Keller.

25 REPRESENTATIVE KELLER: Thank you, Mr. Chairman.

1 To the Parole Board, a quick question here for
2 you: In your opinion, will the parole agents under the
3 Department rather than the Board save money?

4 MR. IMBODEN: I'm sorry?

5 REPRESENTATIVE KELLER: In your opinion, placing
6 the parole agents under the Department, will that save
7 money?

8 MR. IMBODEN: Will that save money? I don't see
9 how it would save any money.

10 REPRESENTATIVE KELLER: Okay.

11 MR. MCKAY: I agree. I spoke with the parole
12 agents, and they're happy and proud where they are.

13 MR. IMBODEN: I would add to that, Representative
14 Keller, again, it was said earlier about adding 53 agents.
15 Well, we have asked, the Board has asked, for an increase
16 in the number of agents. You don't need to move the agency
17 to the Department of Corrections; you can just give the
18 Parole Board an additional 53 agents.

19 REPRESENTATIVE KELLER: One last question I have
20 for you is, will placing the Board's chief counsel under
21 the Governor's counsel have any impact on how the Board
22 works?

23 MR. IMBODEN: I think any time you have an
24 opportunity for any influence on what, since 1940, has been
25 a totally independent agency, that's just not a good thing

1 and it's not a safe thing. Any political influence on this
2 agency, either decisionmaking at our end as Board Members
3 or at the agent's end is not good for the State and the
4 safety of Pennsylvania.

5 And I would just add to that, to highlight what I
6 said before, I don't think when 83 percent, 83 percent of
7 the people we arrest say, I'm guilty of everything you have
8 charged me with and I don't want to have a hearing, that,
9 to me, is profound, and that is 83 percent of our
10 population saying, you know, my agents treated me fairly;
11 they worked with me; and yes, now it's time that I'm off
12 the streets. That's what that says to me.

13 REPRESENTATIVE KELLER: Well, I want to thank
14 you. Thank you for your testimony, all three of you today.
15 And also, I was very happy to hear the fact that you also
16 in your decisions interview the actual victims. That is so
17 important to me, and I thank you for that.

18 Thank you, Mr. Chairman.

19 MAJORITY CHAIRMAN MARSICO: Thank you.

20 I want to also say thank you for taking the time
21 to come here. We're glad we were able to provide you the
22 opportunity to comment on this bill. So we thank you for
23 your service as well to the citizens of the Commonwealth of
24 Pennsylvania.

25 MR. IMBODEN: Thank you, sir.

1 MAJORITY CHAIRMAN MARSICO: So I appreciate, once
2 again, you being here, and good luck to you. And best
3 wishes to you, Jeff, in your retirement.

4 MR. IMBODEN: Thank you. Thank you.

5 MAJORITY CHAIRMAN MARSICO: Thank you.

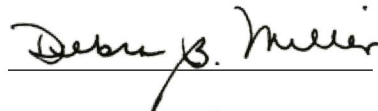
6 This concludes the hearing. Thank you.

7 MS. GREY: Thank you, sir.

8

9 (At 12:56 p.m., the hearing concluded.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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8 *Debra B. Miller*

9 *Transcriptionist*

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