

MARSHALL REPORTING
(302-734-7647)

BEFORE THE UNITED STATES COMMISSION ON CIVIL RIGHTS
DELAWARE ADVISORY COMMITTEE

IN RE: FORUM ON LEGAL ASSISTANCE
AVAILABLE TO MINORITY PRISONERS

Meeting of the Delaware Advisory Committee
to the U.S. Commission on Civil Rights held in
Wilmington, Delaware on December 3, 1987 in
conference Room A, 4th Floor, Carvel State
Office Building, Wilmington, Delaware.

COMMITTEE MEMBERS PRESENT:

HENRY H. HEIMAN, VICE CHAIRPERSON
EMILY G. MORRIS, COMMITTEE MEMBER
DR. BLANCHE M. FLEMING, COMMITTEE MEMBER
DR. RAYMOND WOLTERS, COMMITTEE MEMBER
RALPH A. FIGUEROA, COMMITTEE MEMBER
LYNN WILSON, COMMITTEE MEMBER
TINO CALABIA, FIELD REPRESENTATIVE

MARSHALL REPORTING
(302-734-7647)

1 MR. HEIMAN: Good afternoon. This is to
2 be a forum on legal assistance available to minority
3 prisoners. The matter was brought to our attention
4 by one of the members of our committee, Ralph Figueroa
5 at our last meeting, which has lead to a request of
6 several members of the community to talk to us about
7 the problems as Mr. Figueroa has developed them.

8 As part of the forum, we have with us the
9 Delaware Department of Corrections Commissioner,
10 Robert Watson; Professor Larry Connell, Delaware
11 Law School; Sharon Letts, Criminal Systems Specialist
12 Delaware Counsel of Crime and Justice; and Judith
13 Mellen, Director of the American Civil Liberties Union
14 in Delaware.

15 Mr. Figueroa has prepared as part of his
16 Chairmanship of the Governor's Counsel on Hispanic
17 Affairs Prison Committee, a document which I would
18 suggest that we make part of the record, and would
19 ask that Mr. Figueroa perhaps provide us with briefly
20 what he perceives some of the problems to be, then
21 we'll ask the various panel members to comment on
22 them, saving all questions from the Commission and

MARSHALL REPORTING
(302-734-7647)

1 others for later. While, obviously, the committee
2 members will have the opportunity to directly
3 question the Panel Members to the extent we have
4 time, I would ask anyone else who has any questions
5 for them to put them in writing and submit them to
6 me and we will then, to the extent possible, ask
7 the Panel Members to comment on them.

8 Mr. Figueroa, do you want to discuss your
9 perception of the problems?

10 MR. FIGUEROA: I'm Ralph Figueroa, a member
11 of this Committee. These problems were brought to
12 the attention of the Governor's Commission on
13 Hispanic Affairs Prison Committee, of which I am the
14 Chairperson. For some time now, I've been getting
15 telephone calls and mail direct to my office here in
16 Wilmington about different problems with the inmates,
17 especially in Smyrna Prison. Most of them, I tried
18 to help them the best I could by mail, and I answered
19 their letters. Some of them, there was nothing I
20 could do.

21 One of their problems, the prison has a large
22 inmate population of about 1200, and they only have

MARSHALL REPORTING
(302-734-7647)

1 one legal aid worker who works 20 hours a week.

2 I recommend that they should have at
3 least a full time legal aid worker in the prison.

4 Inmates are waiting for their case to go to
5 Court, and those wanting to appeal their case have a
6 long, long wait to get at least a public defender to
7 work on their case. But the public defenders, they
8 don't have enough people and they are loaded with the
9 different cases and it takes a long, long time for
10 them to take care of these people behind bars.

11 I believe the state should try to increase the
12 total of public defenders, if possible.

13 A few years ago, we started to get Haitians
14 in this state, and at that time I was working with the
15 migrant farm workers in the Department of Labor. Ever
16 since we started to have haitians in the state, we ex-
17 pected to have problems like any others coming in
18 the state. Right now we do have haitians in jail,
19 some of them have been sentenced, some are waiting
20 for their trial to come up. In Sussex County they
21 have a haitian community, that's how many stayed
22 behind. Some of these inmate haitians in trouble

MARSHALL REPORTING
(302-734-7647)

1 have been transferred to Smyrna to wait for their
2 trial to come up, when the trial is going to take
3 place in Georgetown Superior Court. The haitian
4 community, I talked to some of them through an
5 interpreter, and they are willing to help their
6 own people if they could.

7 Friends and relatives cannot get in touch
8 or visit with the haitian inmates in Smyrna because
9 of the distance.

10 We recommend that they should be kept in the
11 Georgetown facility while waiting for their case or
12 while serving their sentences. This way they can be
13 closer to their families, friends, and legal advisors,
14 if any, and also their religious leaders. Religious
15 leaders mean a lot to these people behind bars. They
16 do feel much better when they can at least talk to
17 their priests or ministers.

18 Hispanic and Haitians are taken to Court
19 without the proper translation in Spanish or Creole.

20 This problem we've had around the state for
21 many years now. And when I was working down in George-
22 town, I did try as best I could to translate the

MARSHALL REPORTING
(302-734-7647)

1 different cases. I volunteered for that. They do
2 not have enough, around the state, qualified
3 hispanic caucasians. I'm talking about native
4 hispanics, to translate. We have to be very care-
5 ful with some americans who call themselves bi-
6 lingual, and when they do have to translate for
7 these people, the spanish they learn in school is not
8 the spanish they speak day after day. When I
9 translate, I have to find out if it's a mexican, a
10 cuban, because they all use different words. And if
11 I do translate to them with a true castilian, they
12 wouldn't know what I'm talking about.

13 We sent a letter sometime ago, in real good
14 spanish to a farm worker, and then we had to translate
15 the letter from spanish to spanish because he couldn't
16 understand what we wrote down.

17 All right, going back to the translation.
18 We have to be very careful how we translate, when we
19 do offer our services, because just one or two words
20 translated, mean a lot to the future of this indivi-
21 dual when he's sentenced.

22 Native Spanish and Haitians who are

MARSHALL REPORTING
(302-734-7647)

1 bilingual should be appointed to assist the accused
2 during pre-sentence investigation, during the trial
3 and even after they are sentenced if there is an
4 opportunity for them to appeal their case.

5 At present, there are some prisoners in
6 Smyrna prison with mental problems. This I found
7 out this morning from one of the individuals working
8 there, and this is wrong. These prisoners should
9 be separated from others. They are in there waiting
10 for trial, and if there is something wrong mentally,
11 I don't believe they should be together with the
12 rest of them.

13 Spanish and Haitian speaking natives should be
14 appointed to the prison systems, such as psychologists
15 and other health personnel.

16 In an emergency, the Haitian prisoners need
17 help.

18 We recommend that the Department of
19 Corrections should have available in case of any
20 emergency at any time, a qualified Creole-speaking
21 person.

22 Now this is a little hard. When they first

MARSHALL REPORTING
(302-734-7647)

1 came to the states, we felt the Haitians spoke
2 french. The Department of Labor called me and said,
3 "Mr. Figueroa, Ralph, go to Del Tech and learn
4 french." I went to Del Tech for ten days, the
5 Department of Labor called me and said, "Ralph, forget
6 it. These people don't speak french." It's creole.
7 It's a mix. And some of you know that. It is hard to
8 find somebody who speaks such language. Even
9 italian, italian and spanish are so close, we
10 understand quite a bit even if we speak spanish. But
11 creole, we are all mixed up. Now, they might find
12 somebody qualified to translate for these people in
13 this state.

14 There is a need for native spanish/haitian
15 probation and parole officers.

16 A native spanish priest should be added to the
17 Smyrna prison staff.

18 Until recently, there was a spanish speaking
19 priest, I think Father Ciprian from this area, and he
20 could translate. It made these people feel mighty
21 good when they do go to mass to have a priest that
22 speaks their own language. Father Mack was there for

MARSHALL REPORTING
(302-734-7647)

1 many years, but he's out of there. So, it's
2 something we have to think about, and I believe we
3 could check with the Bishop's office here in
4 Wilmington, and they do have some spanish priests
5 in the area to take care of that.

6 Down at the bottom, you will notice I put a
7 note, a native speaker will be better prepared to
8 understand dialects or regional forms of spanish
9 represented by the different nationalities we deal
10 with. Textbook spanish as taught in our schools is
11 predominatnly castilian and does not prepare one for
12 dealing with cuban, mexican, and other ethnic language
13 differences.

14 A few weeks back, I visited the Prison in
15 Smyrna. There was a problem in the commissary. They
16 had all kinds of foods to serve to the inmates, and I
17 stepped in and called the proper office there, and
18 they finally started to serve spanish products. Goya
19 products is very popular with spanish. If they get
20 Goya, they're happy. So, that problem was taken care
21 of.

22 So, those are our findings and our recommenda-

MARSHALL REPORTING
(302-734-7647)

1 tions.

2 MR. HEIMAN: Thank you very much. We
3 certainly appreciate it. Obviously, you have put a
4 great deal of time and thought into this situation,
5 and we appreciate your concern.

6 Commissioner Watson, we appreciate your being
7 with us today, certainly considering all of the other
8 matters that you have on your mind. We would
9 appreciate if you could give us, to the extent
10 possible, an overview of the situation concerning the
11 minority prisoners to the extent that you have had
12 some time to develop such an interest.

13 COMMISSIONER WATSON: I'd like to divide my
14 comments into two parts. First, from the stand point
15 of administration of corrections, it's critical for
16 all programs that we have unrestricted access to the
17 court system and to legal advice. It's a requirement
18 of the opinions of the U.S. Supreme Court. They've
19 prescribed generally what that involves, and I don't
20 if this prison or any other prison totally complies
21 with it, but it is our responsibility, so we accept
22 that, and work to manage the operations to make it

MARSHALL REPORTING
(302-734-7647)

1 come true. The reason it's important, aside from the
2 Supreme Court ruling, is when there are these pending
3 matters, it's essential that they be resolved. It's
4 not good for the prisoners, for the management or the
5 staff in any kind of operation to have these
6 unresolved things over which they have no control
7 denied access. So, we struggle to maintain adequate
8 access for the prisoners. In Smyrna, which is the
9 largest one, they have access daily, and one evening.
10 And the report of the parttime worker is true there.
11 He's very busy in the legal library, and is constantly
12 booked with individuals from a large census working
13 here.

14 In general, for the majority of the inmates
15 that's their access, they get an appointment, they
16 go to the library, they can check some things out,
17 and some they cannot, because of the limited volumes.

18 So, for the most part, their research must
19 occur in the library and by appointment. Their
20 schedules can run for a morning or extended if they
21 have a pending date. But, for the most part, it's
22 work that must be done on site.

MARSHALL REPORTING
(302-734-7647)

1 In the maximum security unit and for the other
2 prisoners aside from Smyrna, they have kind of a book
3 check-out system, and that's something we're looking
4 at now. My familiarity with the Bounds decision of
5 the Supreme Court is that you need more than just a
6 check-out system on site. You need practically
7 another legal library. There are some volumes that
8 are unnecessary.

9 We are consulting with firms that provide
10 those things and will get them screened by our legal
11 advisers to attempt to update those.

12 So, to what extent it's deficient at this
13 moment, I don't know, but we are carefully examining
14 that, because I know the importance of it to our
15 operation.

16 We are crowded. We lack adequate space,
17 particularly in Georgetown and Gander Hill for a
18 library to the extent which we have at Delaware
19 Corrections Center. But with a large number of
20 inmates, we're moving in that direction. The
21 warden, particularly at Georgetown, is looking at
22 relocating the current library to some other

MARSHALL REPORTING
(302-734-7647)

1 facility. He's happily--I can report a slight
2 decrease in the population in the last month of
3 about 75 inmates. So, with some relief like that
4 if we could make it permanent, we could relocate some
5 of those facilities and make it more accessible and
6 under better conditions for the inmates.

7 Now, with regard to DCC in particular, I
8 received a memorandum yesterday from Francisco
9 Rodriquez who signs himself as Hispanic/Haitian
10 Counselor. His comments were specifically for this
11 meeting, and I apologize for not having copies of
12 this and wonder if we can get it done here. But, at
13 least we can make it part of the record. And most
14 of it agrees with Mr. Figueroa's comments. There is
15 a need for translators, some within the system, some
16 out of the system. The haitian community, in par-
17 ticular, is in Sussex County, and he recommends that
18 also. But we'll get copies of this for you so you can
19 see it in greater detail.

20 And again, I apologize for my tardiness, I was
21 out of state and the train connections didn't meet,
22 and I've been trapped by reporters all the way

MARSHALL REPORTING
(302-734-7647)

1 across --

2 (WHEREUPON AN OFF THE RECORD DISCUSSION
3 WAS HELD)

4 MR. HEIMAN: Shall we then defer any further
5 comments until we get the report copied?

6 COMMISSIONER WATSON: Yes, because I would
7 like to go over that with you.

8 MR. HEIMAN: Professor Connell?

9 PROFESSOR CONNELL: Well, I'm not exactly sure
10 where to begin. But, in my perception, inmates' legal
11 problems would seem to fall within three different
12 categories. The first group I would call conditions
13 cases, complaints about conditions in the prison.

14 The second group go towards the validity of
15 their convictions, whether something was properly or
16 improperly suppressed, whatever it may be.

17 The third group, and probably the group of
18 problems that goes most unresolved would be a
19 miscellaneous group, family problems, property
20 problems, landlord problems, inmates who are convicted
21 and given a five year sentence who have apartments
22 with property sitting in them, and obviously they

MARSHALL REPORTING
(302-734-7647)

1 aren't earning any income, and not paying any rent,
2 what happens to the property in the apartments?
3 What happens to their cars out there? What happens
4 to the support obligations to their children, since
5 they are no longer earning any income? What happens
6 when Mommy doesn't want to bring the kids down to
7 Smyrna to see Daddy because it's not the kind of
8 environment she wants the kids to be in? There are
9 problems with visitation and custody arrangements.

10 I've seen a number of problems in each one
11 of those groups. At the Delaware Law School in
12 January of 1986, we started a post-conviction relief
13 clinic, with students trying to assist some inmates
14 in determining whether there were any constitutional
15 claims that might justify filing appropriate applica-
16 tion of petition for habeas corpus to set aside their
17 convictions. When we opened that up, I also found
18 that I received quite a few letters from inmates about
19 conditions cases. And they were not the kinds of
20 matters that we at school were able to handle. And
21 I think, initially, I started sending them off to
22 Judy at the ACLU, and I really to this date don't

MARSHALL REPORTING
(302-734-7647)

1 know if there are any attorneys in Delaware who
2 are assisting inmates on any of those conditions,
3 or claims at this stage.

4 I am also the director of the school's Civil
5 Clinic, which is associated with the Delaware
6 Volunteer Legal Services organization. And I've seen
7 quite a few claims from inmates, men and women,
8 concerning the last group of problems, the property
9 problems, family problems and that things of that
10 sort.

11 I think that's where the real difficulty for
12 the inmates exists, because as far as I know, there
13 is no one on the scene at the individual prisons who
14 can assist the inmates in pursuing petitions for
15 visitation, petitions for modification of support,
16 things of those nature. At DBLS, and Shirley Horowitz
17 is here, she can add or correct me if I misstate
18 anything, we did have a paralegal who would periodic-
19 ally visit the prison and interview the inmates and
20 bring that information back and discuss it with the
21 attorneys in the office to determine whether we could
22 assist in pursuing them, but since that time we've lost

MARSHALL REPORTING
(302-734-7647)

1 that paralegal and we don't have that direct
2 connection to Smyrna or the women's prison now.

3 Occasionally, we get letters from prisoners
4 and if it appears potentially meritorious, we may
5 send one or another of our civil clinic students off
6 on a jaunt to the prison to interview the individual.

7 But, otherwise, they are left pretty much free
8 to just grasp it in different ways, and proceed to
9 address those kinds of problems.

10 In terms of the unrestricted access to the law
11 library, for the most part, I would say that's useless
12 to the vast majority of inmates because they have no
13 idea how to use a library, number one. And even if
14 they do know how to use the library, and I have a
15 quite a few clients who do, they don't have the legal
16 expertise to be able to apply that which they are able
17 to read. So, they are caught in this "Catch 22". If
18 the libraries are complete, we like to think that's
19 sufficient for the inmate. On the other hand, the
20 reality of it is that it isn't. I don't know what the
21 solution to that is. I know a recommendation has been
22 made by Mr. Figueroa to have a legal aid worker, I

MARSHALL REPORTING
(302-734-7647)

1 don't know whether that refers to a paralegal. I have
2 some reservations about letting paralegals loose, so
3 to speak, without supervision by attorneys. Because
4 those paralegals give misinformation just as much as
5 fellow inmates can. I'm not sure what a solution to
6 that would be, but it seems to me that if paralegals
7 are employed in any degree, there needs to be some
8 connection to a lawyer who can monitor and supervise
9 that which the paralegal comes up with.

10 That's essentially it, unless there are ques-
11 tions.

12 MR. HEIMAN: Oh, I'm sure there will be ques-
13 tions, but I think we want to get everyone who has
14 something to say first.

15 Commissioner Watson, we now have in front of
16 us a copy of the memorandum to you from the hispanic/
17 haitian counselor. I think you wanted to make some
18 comments regarding this particular document?

19 COMMISSIONER WATSON: Thank you, Mr. Chairman.
20 I think the important thing, I guess, I would add --
21 you can all read it, of course. But, I think, the
22 number of inmates that are hispanic and haitian, I

MARSHALL REPORTING
(302-734-7647)

1 think is of interest and three haitians at DCC is a
2 matter that the counsel recommends we correct, to
3 move those individuals to Georgetown. And, as a
4 matter of fact, I think, one wrote to me this week.
5 I don't know why he's at DCC, we'll have to look into
6 that.

7 And, as I say, his recommendations, I think,
8 parallel those of Mr. Figueroa with the need for
9 certified Court interpreters, and in the case of the
10 haitians to move them. That we should have available
11 a volunteer creole interpreter.

12 At the top of the back of the page, I think,
13 is a common problem of all inmates, including minority
14 inmates, the difficulty of access to public defenders
15 and the court system due to crowded dockets and other
16 delays that all inmates experience.

17 And also his recommendation for a full time
18 legal aid person in the institution, as well as a
19 volunteer for hispanic inmates.

20 And finally, his general recommendations
21 about native spanish speaking probation and parole
22 officers. I did check on that, and we have two who

MARSHALL REPORTING
(302-734-7647)

1 as Mr. Figueroa says, have taken spanish classes,
2 doesn't guarantee at all that they can communicate
3 with them. They did assign those two individuals
4 to the hispanic caseload, but did not solve the
5 problem. There are still communication problems.

6 So, I just submit this for the information
7 of the Commission.

8 MR. HEIMAN: As a matter of record, is Mr.
9 Francisco Rodriquez a member of your staff?

10 COMMISSIONER WATSON: Yes.

11 MR. HEIMAN: I notice that it says From, and
12 he lists himself as hispanic-haitian counselor
13 but in the body of the letter, he lists himself as
14 the full time hispanic counselor. Is he the haitian
15 counselor merely by default?

16 COMMISSIONER WATSON: I think he's had that
17 added because of the transfer of those haitian
18 prisoners into the system.

19 MR. HEIMAN: That doesn't imbue him with
20 language capability, however?

21 COMMISSIONER WATSON: No.

22 MR. HEIMAN: Thank you very much.

MARSHALL REPORTING
(302-734-7647)

1 Ms. Letts?

2 MS. LETTS: I'm Sharon Letts from the
3 Delaware Council of Crime and Justice. We're an
4 advocacy agency dedicated to improving the adult
5 criminal justice and juvenile criminal justice
6 systems.

7 I'm going to probably jump around a little
8 bit because there are a lot of things that people
9 are addressing and a few gaps I'd like hit.

10 One of those is talking about the pre-trial
11 population. When any inmates, and especially
12 minority, or illiterate, or non-english speaking
13 inmates come into the system, generally they are not
14 very well educated about how the legal system itself
15 works, or what their rights are, or even understanding
16 what kind of hearing they are going to and how that
17 is going to affect them in the future. And that's a
18 serious problem, I think. And there needs to be some
19 sort of education process for inmates, or for pre-
20 trial detainees who are coming in.

21 Other than that, once they get there, I agree
22 the only law library that comes close to being

MARSHALL REPORTING
(302-734-7647)

1 adequate is the one at DCC. I'm a paralegal, and
2 I could not do legal research at the institutions at
3 all if I tried. The only way that you can work
4 that is being able to access the library at DCC,
5 and they'll send up a book upon request and they get
6 to look through it and sent it back, and then they
7 request another book. And that's no way to do legal
8 research. If they were able to do it.

9 They have one paralegal as it mentions here
10 who works at DCC. I do want to mention the man works
11 probably more than that. He only gets paid for twenty
12 hours a week. He works full time or more. He
13 volunteers the rest of his time.

14 The Department, I understand, has requested
15 another paralegal position. But, I think, it has been
16 doubtful whether either position will survive the budget
17 cuts. So, we will probably end up with no paralegal
18 to provide help to the inmates.

19 And also I wanted to include that that is not
20 just for the 1200, that's for the entire 2800 popula-
21 tion that those legal aides are supposed to be
22 assisting.

MARSHALL REPORTING
(302-734-7647)

1 And again, the no instruction, I taught a
2 paralegal course for thirteen weeks down at DCC, and
3 it is extremely difficult, because you have to start
4 right from the beginning, and it's very difficult to
5 help them to understand not only how to use the books
6 and get through them, because that's a process that
7 attorneys take three years or a lifetime to learn.
8 And also the second point is that understanding legal
9 thinking and legal rationale is another thing that
10 takes three years to a lifetime, and we're expecting
11 people who probably have a tenth grade education or
12 less to try to find their way through that puzzle.

13 So, the next thing I want to bring up is what
14 we are attempting to do with that. Russell Dynes who
15 is sitting there, we have hired a Fender Project
16 Coordinator, is that it? He works on the grievance
17 system with the Department of Corrections. I want
18 to explain that he was hired to do the things that
19 I'm going to, with the express consent of the
20 Department of Corrections and with their encouragement
21 that we do this. So, he is working on the grievance
22 system down there.

MARSHALL REPORTING
(302-734-7647)

1 We are also looking at developing a legal
2 clinic, using paralegals from Widener and from Wesley
3 to come in and serve three functions -- to do some
4 grammatical corrections, and phraseology for legal
5 forms; to help them do their legal research and help
6 them fill out forms. So, our intention is to have an
7 attorney connected with that if we can get one from
8 the community to volunteer their services to do that,
9 who will maybe be able to screen some of the cases
10 that come up to see if there are any that have some
11 merit, and to assist in that.

12 We are also involved in developing an inter-
13 preters program for the institutions. This is using
14 University of Delaware students who were involved in
15 the Linguistics Department, and in the interpreters
16 program. Most of those people when we have asked
17 for those interpreters, they have been native, except
18 for creole. We have a spanish woman who has some
19 understanding of it, not very -- or we did have a
20 woman who understood some creole, not a whole lot.
21 So, we were using her for the medical translations,
22 because with hands and a little bit of language, she

MARSHALL REPORTING
(302-734-7647)

1 could get the point across, and it was the best
2 that we had at the time.

3 But, we are hoping that that will develop
4 into a larger program that we can expand to the
5 Courts. Public Defenders' offices use that for
6 legal translation for the hispanic population.
7 That's another thing, in the Public Defender's Office,
8 as far as I know, there are no hispanic speaking or
9 spanish speaking individuals.

10 MS. MELLEEN: There are no minorities in
11 the Public Defender's Office.

12 MS. LETTS: So, not only do we have a
13 language problem, I think we have a cultural problem
14 there.

15 Again, I have a memo from Cathy Blough, who
16 is from the Intake Screening Unit to Jim Cobb, her
17 supervisor, explaining that there is a problem in
18 the spanish detention population, and that they have
19 very little idea about what's going on with it when
20 they're there. And there is no one in the institution
21 that can explain it to them in a language that they
22 can understand.

MARSHALL REPORTING
(302-734-7647)

1 And, I guess that's it for me.

2 MR. HEIMAN: Thank you very much. I'm sure
3 there will be some questions. Ms. Mellen?

4 MS. MELLEN: Just a comment about your problem
5 number two, which will get me into inmates waiting
6 for their case to go to Court, and the recommendation
7 that there should be an increase in the number of
8 public defenders.

9 MR. HEIMAN: Before you do that, do you think
10 you might want to tell us who you are and what you do?

11 MS. MELLEN: Judy Mellen, Executive Director
12 of the American Civil Liberties Union of Delaware.

13 Partly the problem is the limited number of
14 public defenders, but even if that number were
15 adequate, there would still be a log jam in the
16 system, because there aren't enough judges. There
17 is at least one vacancy, and I believe that there
18 has been a request for the Governor to add two more
19 positions on Superior Court, and that's not been
20 acted upon. So, we do have, assuming everything were
21 working properly, we'd still have a narrowing of the
22 tunnel at that point. So, there really is quite a

MARSHALL REPORTING
(302-734-7647)

1 delay getting into Court, and 120 days which is
2 their goal is practically never met.

3 Also, just one more point about the Public
4 Defender's system. The way it's set up in Delaware
5 increases or adds to the confusion because it's a
6 horizontal system. By that, I mean, they are not
7 assigned a public defender at first, and that public
8 defender sees them through the trial. They will see
9 a different public defender at different stages of
10 their trial, or at stages of the proceeding. So, in
11 a horizontal system it requires adjustment by various
12 people, and if there should be a language problem that
13 obviously is all the worse. That's all about the
14 public defenders.

15 The ACLU is not a general provider of legal
16 services, even though almost exclusively, my written
17 mail comes from the prison. Very few letters are not
18 prison-related. However, most of those letters, or
19 a large percentage of those letters, deal with areas
20 that we cannot help them with. As Mr. Connell was
21 saying, they deal with civil matters, or they deal
22 with areas related to their criminal trial, in which

MARSHALL REPORTING
(302-734-7647)

1 case he refers his letters to me and I refer my
2 letters to him. It's a mutual back and forth going
3 on. Condition letters is one area that we can, in
4 some cases, do something about. Most frequently how
5 those are handled, or when they feel that there has
6 been some kind of constitutional violation, we are
7 able to assist in that by asking them to file a
8 grievance, or very frequently a phone call. I told
9 Commissioner Watson when I first met with him that
10 the wardens at the prison have been very receptive to
11 a phone call, in dealing with a specific inmate and
12 a specific problem. That's very limited and very
13 narrow at this point, of course.

14 MR. HEIMAN: I think for the record, you might
15 point out the availability of the ACLU's cooperating
16 attorneys staff on some generalized problems.

17 MS. MELLEEN: Yes, we have been very gratified
18 in the legal community's response to our request for
19 cooperating attorneys, and we have, I think, a very
20 large number for Delaware of attorneys who have volun-
21 teered their time to us for a wide range of cases.
22 And some of them have been involved in criminal

MARSHALL REPORTING
(302-734-7647)

1 justice matters, more often than not though. However,
2 there has been some interest recently, and I'm very
3 interested in what Sharon was saying the DCCJ is
4 doing, because we do have at least two and possibly
5 more attorneys who recognize the problem with the
6 lack of legal assistance in the prison, and they have
7 offered to begin to look at setting something up
8 through the bar association on a rotating volunteer
9 basis. It would have to be a volunteer basis.

10 And possibly we could hook up with something through
11 the paralegals that would work out well. I think it's
12 main purpose is a screening kind of device, what
13 claims are worthy of being pursued, and which just are
14 not, and hopefully referring them elsewhere.

15 MR. HEIMAN: I think that perhaps we could now
16 look to the Committee members to see if there are any
17 questions. Perhaps, Mr. Figueroa, since you are the
18 impetus for our meeting, perhaps if you have some
19 questions for any of the panel members, it might be a
20 good time.

21 MR. FIGUEROA: Are you from the same place
22 where she works?

MARSHALL REPORTING
(302-734-7647)

1 MS. LETTS: No. I'm from the Delaware Council
2 of Crime and Justice.

3 MR. FIGUEROA: And you work in this area?

4 MS. LETTS: Yes, in Wilmington, but I travel
5 up and down the state, as far and wide as the insti-
6 tutions are.

7 MR. FIGUEROA: Then you are in touch with the
8 prisoners in Symrna?

9 MS. LETTS: Yes.

10 MR. FIGUEROA: And do they contact you about
11 problems going on in the prison when they need your
12 assistance?

13 MS. LETTS: Sure, I get letters all the time.

14 MR. FIGUEROA: And you bring that up to the
15 officials?

16 MS. LETTS: Sure. It's one of the things --
17 Most times I find the Department within its ability
18 to cooperate as much as possible.

19 MR. FIGUEROA: Mr. Connell, you say you don't
20 see no sense to have somebody steady, a legal aid
21 worker in the prison? I suggested that instead of
22 twenty hours a week we have somebody permanent.

MARSHALL REPORTING
(302-734-7647)

1 MR. CONNELL: I didn't say I didn't see any
2 sense to it. I see that it's not the panacea or
3 cure-all for the legal problems of inmates. It
4 certainly would be a help to them in preparing
5 pro se petitions to some degree. But even there
6 in the post conviction habeas corpus area, I see
7 that the paralegals have so little knowledge of that
8 area, that they are essentially useless in terms of
9 assisting the inmates to prepare pro se petitions.
10 So, it would be of some help, but I wouldn't want
11 anyone to think that that would be the cure-all.

12 MR. FIGUEROA: Having a legal aid worker
13 there is just like having a minister or a priest in
14 the area. Even if there is not much they can do for
15 the individual, it does make them feel much better to
16 know that there is somebody there listening, who
17 will talk to them instead of just forgetting about
18 them. I talked to some of them and they don't even
19 know which way to go to talk to somebody. They write
20 to me about other problems. I visited the prison a
21 few times. The first thing I tell those people when
22 I go there is, I'm not here to get you out. Because

MARSHALL REPORTING
(302-734-7647)

1 they expect miracles, some of them. I let them
2 know that they are there because of something they
3 have done, and I'm there to listen to their
4 problems and I'll do the best I can once I get
5 outside. And once I get outside, I try the best I
6 can and make some communications to help the indi-
7 vidual. But they complain about this legal aid,
8 "We don't have anyone", and that's the main thing they
9 complain about most of the time. And they want
10 someone to talk to at any time.

11 DR. FLEMING: I'm wondering if we're tied
12 up with words and labels rather than functions.
13 When I hear you say they need some one to talk and as-
14 sociate with to get them started, it seems to me that
15 they are the very initial kind of steps. Taking into
16 consideration steps in the legal procedure, and how
17 you get sophisticated from one level to another, I
18 think I hear Ralph saying that one thing they need is
19 somebody that's very close to their level who could
20 talk to them, and I hear Connell saying, we need a
21 sophisticated kind of service, because this is an
22 arena in which the legal aid is insufficiently quali-

MARSHALL REPORTING
(302-734-7647)

1 fied to help them. I don't see them as being opposed
2 to each other. I think one is where you start, and
3 then another level. And wherever you are, it has to
4 be cost effective. When you say we need these things,
5 then you've got to attach some kind of figure to it.
6 And I would ask Commissioner Watson, is it? How do
7 you view initiating or encouraging or enforcing the
8 service that you have within the ramifications of the
9 budget?

10 COMMISSIONER WATSON: In my experience, for one
11 interval in my career, we had one good legal service
12 that had three parts to it. We had trained legal
13 research by inmates under the supervision of lawyers
14 from outside. They had access to volunteer lawyers
15 as you heard here. And the third part is the civil
16 thing. For women, in particular, losing their
17 children, they can't get to the Court hearing, and
18 they can't handle the custody. That whole area, I
19 don't think, has enough emphasis given to it.

20 We had in our state a full time juvenile
21 service worker right in the prison in the women's
22 prison to deal with all those custody matters and

MARSHALL REPORTING
(302-734-7647)

1 would be escorting people to Court so they could tell
2 their side of the story, and retain at least visita-
3 tion rights and know where their child was and so on.

4 And you need those three parts for these
5 reasons. Some inmates because of the way the system
6 has treated them don't trust staff. They don't even
7 trust other people. They don't trust other inmates.
8 So, you need that inmate contact, and they do have
9 legitimate legal issues they need to raise. So, you
10 need that inmate contact for that group of inmates.

11 For others it's a very complex thing, and
12 they'll just turn to anyone for help, and that's why
13 you need really some trained lawyers to give them
14 that kind of access. And there are all these outside
15 questions of guilt or innocence that have to do with
16 their other matters in their lives which can
17 really affect their ability to rehabilitate themselves
18 and think in terms of their future. They are all
19 tied up in their past. An auto accident, they've
20 got a huge claim, and they are tied up here sometimes
21 for the rest of their lives because they can't get
22 to Court to defend themselves. So, all those things

MARSHALL REPORTING
(302-734-7647)

1 need to be brought to bear. In addition to that,
2 I wasn't here for Sharon's comments, but we do need
3 a fundamentally sound greivance system, so when they
4 have a problem they can come to the Board. They don't
5 know what it is. They don't know if it's a legal
6 issue, or if it's a policy matter, or it it's a mis-
7 conception. So, they need access to someone who can
8 give them a decision. And that underherds this other
9 thing, so that you have a reliable system they can
10 count on to determine whether or not what they have is
11 a legitimate complaint which should go into Court or
12 another direction.

13 In terms of the cost of that, it's very
14 difficult for any Commissioner of Corrections to get
15 that whole thing funded through the general fund.
16 There needs to be some volunteer assistance, interest
17 from some of the universities to say, this is a
18 training opportunity perhaps for new lawyers or
19 students. And, again, it's someone outside the
20 system who they can turn to and talk to and ask dumb
21 questions and feel comfortable when they get some
22 sort of response. So, we need this combination of

MARSHALL REPORTING
(302-734-7647)

1 things, and what that costs in this state, I couldn't
2 tell you. And it's complicated further then by the
3 need for interpreters to translate all the complex
4 business that all of us have into other languages.
5 So, what that would cost, I couldn't tell you, but
6 I think it's fundamentally a responsibility we have
7 and a fundamental need, and we are certainly working
8 in that direction. But we have to go back to square
9 one, what do the libraries look like? How much
10 do we need to expand in order to give inmates
11 reasonable access to it? And I can't answer your
12 question. It is something we're interested in looking
13 at in the pennant of this inquiry and it's an ongoing
14 responsibility we have.

15 MR. HEIMAN: Just two housekeeping matters.
16 One, Commissioner, you indicated a state where
17 things were being discussed, was that the state of
18 Oregon?

19 COMMISSIONER WATSON: Yes.

20 MR. HEIMAN: Was that a larger prison system
21 than this?

22 COMMISSIONER WATSON: Not much. When I left

MARSHALL REPORTING
(302-734-7647)

1 there was about 3300 and we're about 3000 now. It
2 was a much larger state, and we had fewer prisoners
3 per capita.

4 MR. HEIMAN: Ms. Letts, could you tell me
5 whether or not the DCCJ is a state funded
6 organization?

7 MS. LETTS: Oh, no. It's a private, non-
8 profit. We get about 80 percent of our funds from
9 the United Way. We get some federal funding, and we
10 get some funding from IOLTA. And some from churches.
11 And then some private donations from people.

12 MR. HEIMAN: Did you have a statement you
13 wanted to make?

14 MS. HOROWITZ: Judy asked both Larry and I to
15 be on the Panel, and I just didn't think we both
16 needed to be, but Commissioner Watson said something
17 about volunteer attorneys.

18 MR. HEIMAN: Did you want to comment on
19 Delaware volunteer legal --

20 MS. HOROWITZ: If I might, yes.

21 MR. HEIMAN: Briefly, yes.

22 MS. HOROWITZ: My name is Shirley Horowitz,

MARSHALL REPORTING
(302-734-7647)

1 and I'm the pro bono project director of Delaware
2 Volunteer Legal Services, and we, in fact, do have
3 attorneys in private practice that have represented
4 prisoners on civil matters. And we continue to do
5 so. Our problem is the screening, the interviewing
6 and intakes to develop cases which are meritorious.
7 We lost our paralegal as Professor Connell mentioned,
8 and we still have the ability to represent people,
9 but we don't have the capability to go into the prison
10 and find the cases because of the size of the state
11 and other things. But we do receive letters, and
12 sometimes there's enough information to make a deter-
13 mination that it is, in fact, a meritorious case.
14 One big problem they have are the civil problems
15 that ordinary people have on the outside, but because
16 of their incarceration, they are less able to deal
17 with those problems, and I think that that's the most
18 important problem they have, how to reach out to the
19 community where there are attorneys who do and will
20 continue to accept cases. And I just wanted to assure
21 Commissioner Watson that there are pro bono attorneys
22 and we are interested in doing things for prisoners.

MARSHALL REPORTING
(302-734-7647)

1 DR. FLEMING: But, I think Ralph's point, if
2 I get the focus of this meeting, is not just a general
3 need in the prison, but's it's a specific need of the
4 minority group to have what I consider to have a lan-
5 guage barrier. So, I would like to see us kind of
6 focus in on that.

7 MR. HEIMAN: Focus in on that. I think one
8 of the issues that has not been discussed, and I think
9 maybe even Shirley can talk about this, is the number
10 of lawyers in the state of Delaware who are spanish
11 fluent. And I think you would be surprised or maybe
12 not surprised to find out that there's not a lot.

13 DR. FLEMING: Aida is the only one --

14 MR. HEIMAN: There are five that we know of,
15 and the number of creole speaking lawyers can probably
16 be counted on --

17 DR. FLEMING: A finger.

18 MR. HEIMAN: --any fingers of a hand. So,
19 while it is well and good to suggest that there is
20 a need for such people, the fact that they aren't
21 available, it's like crying for meat at a vegetarian
22 convention. It's not there.

MARSHALL REPORTING
(302-734-7647)

1 MR. CONNELL: But that only emphasizes the
2 need for interpreters at all levels. I'm aware of
3 at least one instance where a spanish-speaking
4 invididual was convicted on a felony charge. He had
5 an english speaking attorney but had no interpreter.
6 He had no idea what even transpired in the course of
7 the trial. How does an inmate prepare for trial with
8 english-speaking attorneys if there is no interpreter
9 to facilitate the communication between the two?

10 MS. LETTS: And another problem that goes
11 along with that, I think a lot of prisoners are over-
12 looked because they can speak enough english to
13 function on the street and to make themselves under-
14 tood on a general level. But when they are talking in
15 legal terms, you're talking something that has a lot
16 of nuances, and that's something where they need an
17 interpreter, and it doesn't appear that they need one
18 before hand, because they can speak a fair amount of
19 english. But when it comes to legal matters, it's
20 a different story.

21 MS. MELLEN: There's a case now before the
22 Delaware Supreme Court on that very issue.

MARSHALL REPORTING
(302-734-7647)

1 MS. LETTS: And if you walk into Municipal
2 Court on any day of the week and Judge Frankowski's
3 office, you'll see that there is a hispanic bailiff
4 who interprets for the spanish-speaking people,
5 and I'm not even sure if that's legal to have a
6 state official, or a state employee interpreting for
7 a defendant.

8 MR. HEIMAN: It's better than nothing.

9 MS. LETTS: It's better than nothing, I agree,
10 but it's a problem.

11 ROSENDO MEDINA: Sometimes. Sometimes you
12 hurt them more by not knowing what you're doing.

13 Let me mention something here. I've been
14 involved with this issue for a number of years, and
15 everytime I hear, we need interpreters, we need
16 translators, we always speak of, we need volunteers.
17 See, we never say, we need professionals. This is
18 what we need. And I think as we direct our energies
19 towards this, I think we have to look at this. We
20 need professionals to do the job. That's all I
21 wanted to say.

22 MR. HEIMAN: Professor Wolters, do you

MARSHALL REPORTING
(302-734-7647)

1 PROFESSOR WOLTERS: Not at the moment.

2 MR. HEIMAN: Emily?

3 MS. MORRIS: Not at the moment. I see you
4 are allowing guests to --

5 MR. HEIMAN: I hadn't intended to.

6 MS. MORRIS: Well, that's okay. I have no
7 problem with it really. But, I would like our guests,
8 my guests, to be afforded the same privilege.

9 MR. HEIMAN: Okay, after I go through the
10 Commissioners.

11 Lynn, any questions?

12 MS. WILSON: The ACLU did a study on the
13 public defenders, and we just kind of brushed through
14 that because we were having so many problems with
15 judges as far as the backlog. Could you just tell us
16 briefly what you found out?

17 MS. MELLEEN: The report is not ready for
18 publication, however, there are areas in the public
19 defender system that need, I think, without any de-
20 bate, some improvement.

21 I see as one of the problems, the horizontal
22 system does not exist in many states, and that does

MARSHALL REPORTING
(302-734-7647)

1 cause inevitable problems and, as I said before,
2 the constant readjustment to a different person.

3 At the time of the study, there were no
4 minority public defenders, that may very well be
5 changed, because I know some additional ones have
6 been hired. I do not know who they are.

7 There are hispanic speaking investigators
8 and at the very first, that is the person--their
9 first contact would be with the investigator, and
10 I do believe that some of them are hispanic speaking.

11 MS. WILSON: Because when we talk about the
12 prisoners, they more than likely had a public
13 defender, an attorney, because most of them can't
14 afford to hire a private attorney, so they've had
15 contact with an attorney, we must assume that.
16 But that's after they're convicted and in prison.

17 MS. MORRIS: But while they're waiting, I
18 don't think they have much access from what I'm
19 hearing. They very seldom get to see --

20 MS. LETTS: At Gander Hill, for instance,
21 that's true. As a matter of fact, we hear in
22 my office from people about being denied access to

MARSHALL REPORTING
(302-734-7647)

1 the law library.

2 MS. MORRIS: If you don't get to see your
3 attorney while your case is being prepared, what
4 chance do you have? I think that's the real issue.

5 MS. MELLLEN: That's the most frequent
6 complaint, that they do not get to see their attorney.
7 They're naturally quite anxious, and I think most of
8 them want to help in the preparation of the case, and
9 the frustration of not being able to sometimes even
10 find out who the public defender is at that particular
11 level, is quite frustrating for them.

12 MS. WILSON: Well, are these questions left
13 over? Are these some of the questions that the
14 inmates had which weren't answered to begin with?

15 MS. MELLLEN: I'm afraid it gives them the
16 perception that they have not received adequate
17 representation.

18 MS. LETTS: The other thing is the lack of
19 understanding of how the system works to begin with,
20 so that when they get into the institution, they tell
21 their story, and they say, "No, no, that shouldn't
22 happen this way. It should happen this way." So, I

MARSHALL REPORTING
(302-734-7647)

1 think there's a lack of knowledge about how it works.
2 And the public defender's office doesn't have the
3 time to spend in saying, "This is what you can expect
4 to happen."

5 MS. WILSON: And after they're convicted, they
6 figure out that they might have been caught in a raw
7 deal or --

8 MS. LETTS: Or that it didn't happen the way
9 they thought it would, so, obviously it's not right.

10 MS. MORRIS: Might I say that I think if you
11 would listen to the Public Defenders themselves, they
12 will tell you, they don't feel very good about it
13 either. As a matter of fact, there was a very lengthy
14 article in the Delaware State News. Tino and I tried
15 to get you a copy and perhaps we can get you a copy,
16 just recently, talking about the dilemma within the
17 Public Defender's office. They know that they're not
18 adequately representing the people and they're
19 concerned about it. So, the issue goes far beyond the
20 Public Defender's office, goes far beyond all of us
21 here. But, I think it behooves us to make some very
22 strong statements and some movement to help those

MARSHALL REPORTING
(302-734-7647)

1 agencies and parts of government who are concerned,
2 and all other advocacy groups, to try to do something
3 about it. We're in a position in this state at the
4 moment to do something about some things that need
5 to be done. I think it's high time that we put the
6 pressure on. I really do.

7 DR. FLEMING: I want to follow-up on what
8 you're saying. I'm looking at the Commissioner, and
9 I know that you have many, many problems, and you
10 have to priortize what you're going to do, and where
11 this falls. I don't want to put you on the carpet,
12 but in the scheme of things, in the long run of your
13 planning, where does an issue like this stand in
14 relationship to actually getting something done by
15 way of strategy, something asked for by way of funding
16 to really get into this problem? I think we have
17 discussed, we so often do this, but I'd like to see
18 where your thinking is. You are a head and you have
19 to make some priorities, and if you would share that
20 with us.

21 COMMISSIONER WATSON: My interest in this, as
22 I said, is in the pennant of this inquiry, because

MARSHALL REPORTING
(302-734-7647)

1 I'm familiar with the good results of having an
2 adequate service for inmates. So, I started that.
3 It's not in this budget. We do not have, in this
4 budget that was presented yesterday, this kind of
5 legal service for inmates. It is not addressed.

6 I would see in this next cycle, after an
7 opportunity for me to look at all that, build a
8 grievance system that supports it and helps as
9 somewhat of a screen, and form the connection with the
10 legal communities, so that we've got some ongoing and
11 permanent kind of connection, and try to fill in the
12 gap with perhaps some federal funds or other founda-
13 tion funds, and do things that I'm convinced the
14 General Assembly would not take on as an ongoing thing,
15 but would be receptive if we could use it to build a
16 complete program. I would guess in the next budget
17 cycle I can give some attention to it. It's not in
18 the fundamental things like security and the new
19 SENTAC law, and some of the major gaps, I think, in
20 the operation, that are not addressed at his time.
21 This was not one of them.

22 MR. HEIMAN: Are there any questions from

MARSHALL REPORTING
(302-734-7647)

1 any of the audience? Yes, Ma'm? Would you identify
2 yourself?

3 MS. FOX: I'm Valerie Fox, soon to be an
4 attorney here in Delaware, and I would like to make
5 a statement regarding the topics here today, being
6 the hispanic communications problems that are
7 existing in the prison system, and just say that
8 although this is true and it's more clear perhaps to
9 see through the language barrier that exists, the
10 language differences, a very similar problem exists
11 with the black prison population, in that, in the
12 beginning, from arrest on, there are similar language
13 barriers due to illiteracy, or just language
14 differences. And that a lot of the questions that
15 you brought up are never answered in those early
16 stages all through trial, if they get to trial, due
17 to the problems that we have heard about with the
18 Public Defenders and access to the Public Defenders.
19 And plea bargaining, and the problems there. There
20 are many misunderstandings that go on in the plea
21 bargaining situation. And it never occurs, or it
22 may have occurred to them, but they don't have the

MARSHALL REPORTING
(302-734-7647)

1 access or whatever, until after and they say, "I
2 thought he was saying this." Or, "My understanding
3 of the plea bargain was so forth. And now I'm
4 trying to appeal and it's too late because I never
5 understood what the system was." And I'm not
6 sure of what the population of blacks are exactly
7 here in the prison system, but the problem is much
8 larger than you might think, and I just wanted to
9 make that point that it involves --

10 MR. HEIMAN: Well, we are well aware of
11 the larger problem and have, in fact, on other
12 occasions talked around it. Today's focus was to be
13 on what we considered a rather narrower subject. I
14 appreciate your --

15 MS. FOX: Okay. Well, I would like to
16 suggest then in the same context you're looking
17 for interpreters and persons who would be able to
18 speak directly to and help those with the language
19 barriers, that the black population has the same
20 needs.

21 MR. HEIMAN: I appreciate your concern.
22 Does anybody else have anything to say?

MARSHALL REPORTING
(302-734-7647)

1 MS. MORRIS: Mr. Chairman, a health issue was
2 brought to my attention by Mrs. Harris who visits
3 the prisons quite frequently. I don't know if she
4 would like to share some of that concern.

5 MS. HARRIS: Well, I could, except that I feel
6 a little disarmed in the sense that it's an agenda
7 for minorities and this does involve a black inmate,
8 which is a majority in the prison. So, I have no
9 problem in discussing it. There is a need, there
10 are some serious problems that I have discovered. I
11 am in the prison on a regular basis, and I have faces
12 to identify with. And I see a lot of things that are
13 wrong. I did visit an inmate yesterday that I think
14 needs some immediate medical attention, and I plan to,
15 except that I'm here today, to follow through and try
16 reach Mr. Redman. I think this young man needs to
17 see a doctor immediately. He's being treated somewhat
18 at the facility, but I really don't think they're able
19 to handle these types of cases. He seems to have a
20 circulation problem, and it was really -- I don't
21 know, it would upset anybody to see his condition.
22 Pus was running out of his legs, breaking up, and it

MARSHALL REPORTING
(302-734-7647)

1 was a horrible sight to see. I think he stands the
2 risk of losing his leg if the doesn't get treatment.
3 And the condition has spread all the way up to his
4 hip. He has lumps on his leg all the way up.

5 MR. HEIMAN: Let me ask, could we take this
6 discussion, to the extent that anyone is directly
7 interested in it, and discuss this after we close the
8 meeting? Because I don't think that deals with the
9 topic. I don't want to be insensitive to concerns,
10 and to the obviously larger problems that exist, but
11 obviously within the range of what we have to discuss
12 that is, I think, outside the range--

13 MS. MORRIS: Well, not really. It does speak
14 to conditions.

15 MR. HEIMAN: Would it make a difference if
16 you were black, or white, or red, or green or purple?

17 MS. MORRIS: No, but it's conditions. Let the
18 record speak for itself, Henry, at this point. Okay?

19 MR. HEIMAN: Does anyone have any
20 recommendations--

21 MS. MORRIS: Has she finished?

22 MR. HEIMAN: I think she was.

MARSHALL REPORTING
(302-734-7647)

1 MS. HARRIS: I feel obligated to finish at
2 this point.

3 MR. HEIMAN: As a suggestion and a favor to
4 you, if you want to continue, go ahead.

5 MS. HARRIS: No, I feel comfortable to dis-
6 cuss it with someone who can make a difference. Ob-
7 viously, the Commission doesn't care to do that.

8 MR. HEIMAN: Does anyone on the Commission
9 have any recommendations -- Yes, Mr. Figueroa?

10 MR. FIGUEROA: In the state government here,
11 in Delaware, in the different departments, we have
12 a few of us hispanics working for the state, and
13 we could assist many people if they allow us to do
14 so, to translate. The only way we can do it, is
15 by each department in the state government agreeing
16 to release the worker for this purpose if they
17 are needed. Here in the future if we have enough
18 spanish/english speaking people, and if they allow
19 some of us to do, we could go ahead and help these
20 people in translation in Court, or translating letters
21 or whatever. We don't have too many of us in the
22 government, but we are willing to help with letters.

MARSHALL REPORTING
(302-734-7647)

1 In my department, I translate for them. I
2 have been with them almost nine years now, but outside
3 of the department I can't do it unless the Secretary
4 gives the approval. We we should keep this in mind
5 for the future.

6 DR. FLEMING: Mr. Chairperson, I would suggest
7 that as far as the Advisory Council is concerned, that
8 we would go on record as realizing the seriousness of
9 of this situation and although it's not in the budget
10 and it's not in the Commissioner's plan, that we give
11 our support in every way to make sure that this
12 becomes a part of the program for next year.

13 MR. HEIMAN: Are you specifically talking about
14 the grievance procedure? Or the entirety of the
15 situation.

16 DR. FLEMING: I'm talking about the whole --

17 COMMISSIONER WATSON: The entire situation.

18 MR. HEIMAN: Do you have any dollars that you
19 can put to it? What are we talking about?

20 COMMISSIONER WATSON: I'm talking about the
21 next budget.

22 MR. HEIMAN: How much are we talking about?

MARSHALL REPORTING
(302-734-7647)

1 COMMISSIONER WATSON: I don't know. That has
2 to be developed. The budget was submitted and didn't
3 include it, so I've got the next cycle to examine
4 fully all the ramifications of this, and I would
5 include the women in it particularly. And I don't
6 know what that would be.

7 DR. FLEMING: The budget hasn't gone to JFC?

8 MS. MORRIS: No, it hasn't.

9 DR. FLEMING: JFC hasn't had a hearing yet.
10 What you're doing now is going through preliminaries?

11 COMMISSIONER WATSON: That's right.

12 MR. HEIMAN: I assume though, from what I'm
13 hearing from Commissioner Watson that he does not
14 intend at this JFC meeting to ask them for anything
15 with regard to this, is that a correct statement?

16 COMMISSIONER WATSON: I believe that's true,
17 there may be some assistance, but certainly isn't a
18 comprehensive look at it.

19 MR. HEIMAN: Are you suggesting we should
20 ask Commissioner Watson to do more than he is
21 presently slanted on doing, and that even at this
22 stage try to get something into the present budget

MARSHALL REPORTING
(302-734-7647)

1 at least to give them a taste for what --

2 DR. FLEMING: Yes. And then next year we go
3 full blown to give support. If that's his priority.
4 We only want whatever he sees as priorities.

5 MR. HEIMAN: And are you suggesting that we
6 in some way try to get to JFC our feeling that this
7 is something that we believe is an important matter?

8 DR. FLEMING: Yes. We know JFC members.
9 We go before them with other groups.

10 MR. HEIMAN: Are you asking that the
11 Committee ask or find a means of expressing our
12 concern to them that even at this stage they ought
13 to do something with regard to it?

14 DR. FLEMING: Yes. That's my concern.
15 But, I'd like someone else to --

16 MR. CALABIA: As staff, could I mention, that
17 we are prohibited from lobbying.

18 DR. FLEMING: We're not going to lobby, we're
19 just going to pull a hair or two.

20 MR. CALABIA: As individuals under other hats,
21 I know that you have access to the lawmakers. But, as
22 committee members we wouldn't at this point, be able

MARSHALL REPORTING
(302-734-7647)

1 to approach them with what might be misconstrued as
2 lobbying.

3 DR. FLEMING: How do you view this?

4 DR. WOLTERS: I view this is as a -- I found
5 the discussion very interesting. And there appear to
6 be real problems. As I've said before on this
7 committee, I'm not persuaded that every social problem
8 is a civil rights problem. And it's not my opinion,
9 really, that the Civil Rights Commission should
10 address every -- we had this same debate really when
11 Chrysler was installing robots that impact dispropor-
12 tionately on blacks, was that a civil rights question.

13 I think we ought to discuss whether this is
14 a civil rights question and how we should proceed very
15 carefully and seriously. I think that the purpose of
16 this meeting, for me at least, has been to make me
17 aware of the extent of the problem and the nature of
18 the problem that I wasn't aware of before. But, I
19 would like to have a real discussion among ourselves
20 as to whether this is a civil rights question, and
21 whether this is the proper business of the Civil
22 Rights Commission.

MARSHALL REPORTING
(302-734-7647)

1 MS. MORRIS: I have no problem with the
2 Committee holding a discussion on that after the
3 forum.

4 MS. WILSON: I have one practical recommen-
5 dation before we get into the philosophical
6 discussion. Mr. Figueroa, you mentioned about the
7 inmates who are in New Castle County or DCC instead
8 of Sussex County. Can we ask the Commissioner if
9 there's any problem in transferring those people
10 from New Castle County to Sussex County?

11 COMMISSIONER WATSON: No problem if this is
12 the only issue. If there are convictions in Kent
13 County and they are there for those purposes, to
14 avoid the transportation, we would probably move
15 them to DCC. But if it's because of crowding which
16 is less now at Georgetown, we can move them back.
17 As I said, I had one letter this week, and I'd
18 ask the Bureau Chief, unless there's some reason
19 not to, let's move the person back. That makes sense,
20 to be nearer their family and it would help them.
21 There's no problem with it, if that's the only issue.

22 MS. WILSON: How is it decided where to house

MARSHALL REPORTING
(302-734-7647)

1 prisoners?

2 COMMISSIONER WATSON: Well, they are delivered
3 to us, those who arrest them. And if the crime is in
4 that county, we keep them in that facility.

5 MS. WILSON: Assuming the Sussex County
6 residents committed their crimes in Sussex County--

7 COMMISSIONER WATSON: They would be kept in
8 Sussex County.

9 MS. WILSON: Are they not being kept in Sussex
10 County because of overcrowding? Is that what you're
11 saying?

12 COMMISSIONER WATSON: Maybe. But it also is
13 possible they commit a crime in Kent County, and will
14 be tried in Kent County, though they are a resident
15 of another county. So, that would be the only
16 complications I'm raising. I would have no problem of
17 transferring, if all it is, is to be near their
18 families. If, however, they are being tried in
19 another court, then we would probably not transfer
20 them, just because of the movement problem.

21 MS. MORRIS: Mr. Watson, was another conside-
22 ration maybe for their safety, that they may have been

MARSHALL REPORTING
(302-734-7647)

1 transferred out of Sussex, because of threats or
2 something of that nature?

3 COMMISSIONER WATSON: There could be some
4 complications between witnesses and so forth.
5 As I say, if the only reason was crowding or some-
6 thing, we'd be happy to move them. But, for other
7 reasons, I just want to reserve that right.

8 MS. MORRIS: Sure, I understand that.

9 MR. HEIMAN: How does the question of
10 pre-trial release, in terms of bail, or non-ability
11 of bail, affect the minority situation?

12 COMMISSIONER WATSON: It's probably a dis-
13 proportionate percentage of individuals who are
14 minorities, whose stay in -- first if their bail
15 is higher, their resources or less, their contacts
16 are less, so they stay longer. Statistics also show
17 if you're in jail prior to trial and you've convicted,
18 you're more likely to get a jail sentence than
19 you are to be released.

20 MR. HEIMAN: Isn't this one of the problems
21 with Gander Hill, which originally been developed as
22 a pre-trial detention center, and has now turned

MARSHALL REPORTING
(302-734-7647)

1 into a warehousing facility that is overcrowded and
2 underutilized for the purpose for which it was
3 developed?

4 COMMISSIONER WATSON: Addressing the bail
5 question, if I may, just for a moment, by submit-
6 ting to the Attorney General, Chief Magistrate, and
7 the Public Defender a list weekly of all the people
8 that are grouped by bail amounts, that has helped
9 some, but it still has not resolved the problem.

10 I walked through the other day, and I sympa-
11 thized with the Philadelphia prison people who took
12 the state money and paid the bail, because it was
13 cheaper to pay the bail than it was to keep them.

14 MR. HEIMAN: Well, there's a cost to warehous-
15 ing people beyond the cost of just letting them out?

16 COMMISSIONER WATSON: Sure. A young man
17 showed me the bail for \$100 and he had been there for
18 two weeks.

19 MS. LETTS: We've run a bail project at
20 Gander Hill and at Women's, and we provide bail of
21 \$500 or less, and there are lots of people who are
22 incarcerated because they can't make \$50 or \$100

MARSHALL REPORTING
(302-734-7647)

1 bail.

2 MR. HEIMAN: And I would imagine that the
3 language problem in coming to grips with the bail
4 reduction situation is a difficult problem?

5 COMMISSIONER WATSON: It's a negotiation,
6 and it's difficult.

7 MR. HEIMAN: In the same line, until we run
8 out of paper, the classification, especially at the
9 Women's Prison tends to be somewhat of a problem
10 when somebody goes up to Woodshaven Crews, you have
11 an unclassified group, and before they're classified,
12 they go into a large warehousing type situation.

13 Does that create a problem? Do we have many
14 spanish speaking or haitian women? Or are there none
15 in the system?

16 MR. FIGUEROA: In prison, you mean?

17 MR. HEIMAN: Yes.

18 MR. FIGUEROA: Before I got transferred here
19 from Georgetown, I know only of one up here which I
20 had to come up and visit her because her family could
21 not afford to come and visit here. So, right now I
22 don't know how many they have.

MARSHALL REPORTING
(302-734-7647)

1 COMMISSIONER WATSON: I'm not prepared
2 but we could --

3 MR. FIGUEROA: We could find out, get some
4 figures later.

5 MR. HEIMAN: Is classification a problem at
6 the women's prison or not?

7 COMMISSIOENR WATSON: I think classification
8 is a problem everywhere. It's just a matter of di-
9 verting from its original purpose to trying to
10 manage space. And it's original purpose is to aid in
11 rehabilitation and protect the public's safety, and
12 there is another role now of trying to fit people into
13 scarce space.

14 MS. MORRIS: Is it possible we can get some
15 data on the percentages -- I'm interested in the
16 Professor's -- this gentleman's concern --

17 MR. HEIMAN: Wolters.

18 MS. MORRIS: Professor Wolter's concern. And
19 we will certainly need some data on the percentage of
20 blacks, the percentage of hispanics, percentage of
21 haitians and et cetera. And I'd like to hear from some
22 of the other people as to why there's a

MARSHALL REPORTING
(302-734-7647)

1 disproportionate number of blacks. The question would
2 be, do whites commit crimes? Or whether racists
3 commit crimes? And why does there continue to be
4 a disproportionate number of blacks? I keep hearing
5 that. And I respect your opinion, sir, but I just
6 need a lot more information if I'm going to intelli-
7 gently decide whether this is an issue for the
8 committee or not, or whether it's just a social issue.
9 I just need more information on these questions.

10 MR. HEIMAN: I don't know that we're going
11 to get it from this forum.

12 MR. CALABIA: Would we be able to get it from
13 the Commissioner?

14 MR. HEIMAN: You can get the raw data, but I
15 don't know that you're going to be able to --

16 MS. MORRIS: Somebody must know within the
17 system how many whites are being arrested; how many
18 of them go to prison. They've got to do some com-
19 parison analysis.

20 MS. MELLEEN: That information, I know, is
21 available in Juvenile Corrections. I do not know if
22 it's available in --

MARSHALL REPORTING
(302-734-7647)

1 MS. LETTS: Statistical Analysis will have
2 the data -- they may keep it by race.

3 MS. MORRIS: Who might have it?

4 MS. LETTS: The Statistical Analysis Center
5 in Dover would keep those statistics, I'm pretty
6 sure.

7 MS. MORRIS: You wouldn't have a contact
8 person, would you?

9 MS. LETTS: Not any more. I would call down,
10 and I'm sure they would probably have that data
11 available.

12 If I may address the civil liberties kind of
13 thing you were raising, civil rights; we found, and
14 this isn't unusual, an individual called up, he was
15 Puerto Rican, and he didn't understand how the system
16 works, and he was begging us to get him out of there,
17 he had been in there seven months. And we said, "What
18 stage are you in?" And he said, "I don't know." And
19 they said, "Have you been indicted?" And he said,
20 "No." So, we didn't believe this, and we called up
21 and, in fact, the man had never been indicted.

22 And this is not unusual to sit in jail for

MARSHALL REPORTING
(302-734-7647)

1 three and four months at a time without being charged
2 for a crime. And that is a civil liberties issue.
3 And that in part comes from a lack understanding on
4 the part of the client to know that he isn't supposed
5 to be sitting in jail for three months without being
6 indicted. The man was released the next day after
7 we brought it to the Attorney General's attention.

8 MR. HEIMAN: Professor Connell?

9 PROFESSOR CONNELL: I'm getting a little bit
10 confused here. I understand Professor Wolters'
11 concern, and I'm hearing many people talking about
12 this problem. What I'm hearing is about fifty
13 distinct problems, some of which are perhaps important
14 to the Civil Rights Commission, others of which may
15 not be because they are generally pervasive throughout
16 the system. And it seems to me you need to decide
17 which problems are the civil rights problems and which
18 ones, such as unavailability of civil services or legal
19 services to inmates generally, perhaps may not be.
20 But, to lump all of these together into consideration
21 of "this problem", seems to me to be an assumption
22 that there is one overriding problem.

MARSHALL REPORTING
(302-734-7647)

1 MR. HEIMAN: Well, what specific problems do
2 you perceive --

3 PROFESSOR CONNELL: Well, I think that one
4 specifically is the one that's raised by Mr. Figueroa
5 concerning the lack of interpreters for hispanics
6 within the system. I think that clearly is one that
7 affects a specific minority group within the system.
8 I think that's clear. I don't know about all the rest
9 of them. I haven't thought that much about all the
10 rest of the problems.

11 MR. HEIMAN: Well, I would perceive it a civil
12 liberties issue if you don't get a fair trial. That
13 would be a civil liberties issue beyond doubt, at
14 least to me.

15 MS. MELLEN: But, it's coming full cycle,
16 because you may not get a fair trial because of the
17 lack of --

18 MR. HEIMAN: Well, that's what I'm talking
19 about. I am not convinced myself, I share Professor
20 Wolters' question, that the question of the conditions
21 in prison is necessarily a civil liberties question.
22 I do believe the inability to get a fair trial is un-

MARSHALL REPORTING
(302-734-7647)

1 questionably a civil liberties issue, at least to my
2 mind.

3 MR. CALABIA: Beyond that, the question is
4 whether it's a civil rights issue.

5 MR. HEIMAN: I believe that it is. That's my
6 opinion.

7 MR. CALABIA: I'm just saying that that is a
8 question, I think, that Professor Wolters was address-
9 sing.

10 MS. WILSON: In looking at statistics, as
11 Emily would like to do, if it impacts more on black
12 people or any minority, then I think it's a civil
13 rights issue as well as a civil liberties issue.

14 MS. MORRIS: That's been decided in the
15 Courts. That has stood up in the Courts for a while.
16 It has indeed.

17 MR. HEIMAN: There's a disproportionate impact
18 I believe.

19 COMMISSIONER WATSON: Mr. Chairman, I have
20 national statistics, including Delaware, not for this
21 year and maybe not for last year, but for a series of
22 years that I'd certainly be happy to -- should I

MARSHALL REPORTING
(302-734-7647)

1 send that to this Washington, D.C. address?

2 MR. CALABIA: Yes, and then we'll duplicate
3 it.

4 COMMISSIONER WATSON: The State Corrections
5 Administrators maintain an annual report and the
6 Unitarian Church did an interesting piece on "What
7 color are American Prisons?" pointing out the
8 disparity in the arrest rates and convictions, and
9 I'd be happy to share that with you.

10 MS. MORRIS: That would be very helpful.

11 MR. CALABIA: If you could send that, we'd
12 be happy to duplicate it and circulate it.

13 MS. HEIMAN: Is there anything from anyone
14 else?

15 Okay, I certainly appreciate each of you
16 individuals who were members of the forum for taking
17 your time to come and talk to us and enlighten us,
18 as well as those of you in the audience who have come
19 to contribute. And thank you. Certainly we will
20 make sure that you see the product of that which you
21 have participated in.

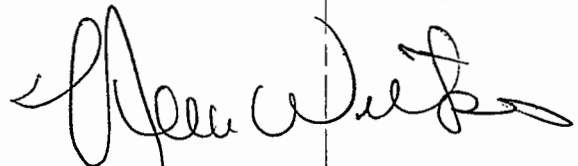
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CERTIFICATE

I, T. ANN WILKES, a Notary Public, do hereby certify that the foregoing meeting was held before me, all witnesses were sworn to tell the truth, the whole truth, and nothing but the truth; that the foregoing hearing was recorded stenographically by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee or attorney of any of the parties, or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this ^{22nd} day of *December* 1987.



T. Ann Wilkes, Notary Public