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# *Committee Meeting*

of

## ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

*"Review and discuss State of New Jersey Parole Board procedures and processes to ensure that parolees are released from incarceration in a timely manner"*

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**LOCATION:** Committee Room 8  
State House Annex  
Trenton, New Jersey

**DATE:** January 26, 2006  
10:00 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Assemblyman William D. Payne, Chair  
Assemblyman Alfred E. Steele, Vice Chair  
Assemblyman Peter J. Barnes Jr.  
Assemblywoman Marcia A. Karrow  
Assemblyman Samuel D. Thompson



### **ALSO PRESENT:**

James F. Vari  
*Office of Legislative Services*  
*Committee Aide*

Elizabeth Stone  
*Assembly Majority*  
*Committee Aide*

Nancy S. Fitterer  
*Assembly Republican*  
*Committee Aide*

***Meeting Recorded and Transcribed by***  
**The Office of Legislative Services, Public Information Office,**  
**Hearing Unit, State House Annex, PO 068, Trenton, New Jersey**

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## TABLE OF CONTENTS

	<u>Page</u>
Judge John D'Amico Jr. Chairman State Parole Board New Jersey Department of Corrections	6
Edward W. Bray Acting Deputy Executive Director State Parole Board New Jersey Department of Corrections	12
Yvonne Smith Segars Public Defender Office of the Public Defender New Jersey Department of Treasury	41
Joan Richardson First Assistant Public Defender Office of the Public Defender New Jersey Department of Treasury	52
Donna Brewer Executive Director Garden State C.U.R.E.	60
Michelle Hammel Legislative Liaison New Jersey Department of Corrections	67
Stacey Kindt Director Redeem-Her	78
Brenda Newland Member Redeem-Her	78
Reverend Sandra Manuel President Euphrates Project, Inc.	87

## TABLE OF CONTENTS (continued)

	<u>Page</u>
Aula Maarufu Sumbry Committee Chair Trenton Northward Action Coalition, and Representing Mercer County Faith Based Reentry & Family Restoration Task Force	91
Elaine G. Selan Cofounder And Justice for All	95
Anne Barron, Ph.D. Project Director Voting Rights for All Project American Civil Liberties Union of New Jersey	101
Gale Muhammad Founder Women Who Never Give Up	107
<b>APPENDIX:</b>	
Testimony submitted by Judge John D'Amico Jr.	1x
Testimony plus attachments submitted by Stacey Kindt	44x
Testimony submitted by Aula Maarufu Sumbry	69x
Testimony submitted by Elaine G. Selan	71x

## **TABLE OF CONTENTS (continued)**

### **APPENDIX (continued):**

	<b><u>Page</u></b>
Testimony submitted by Anne Barron, Ph.D.	75x
Letter plus attachment addressed to Jeffrey A. Newman Acting Clerk Superior Court of New Jersey submitted by Muhammad Hajj Hanifi Ibn Abdullah Private Citizen	79x
lmb: 1-58 rs: 59-113	

**ASSEMBLYMAN WILLIAM D. PAYNE (Chair):** Good morning, everyone. Welcome to this hearing of the Regulatory Oversight Committee. This morning I'm very glad that you have taken the time to be with us.

As you know, this morning we will be reviewing the procedures of the New Jersey Parole Board and a process to ensure that parolees are released from incarceration in a timely manner. Because we recognize delays in assigning paroles to parole officers -- that's contributing to overcrowding jails, etc. We really would like to have an open discussion as to the mission of the Parole Board, the function of the Parole Board, and the impact of the parole system on those who may be affected by it, either as inmates or family members, etc.

But before we go to that, let's see if we can call the roll of the Regulatory Oversight Committee.

**MR. VARI (Committee Aide):** Assemblywoman Karrow?

**ASSEMBLYWOMAN KARROW:** Here.

**MR. VARI:** Assemblyman Thompson?

**ASSEMBLYMAN THOMPSON:** Here.

**MR. VARI:** Assemblyman Barnes?

**ASSEMBLYMAN BARNES:** Here.

**MR. VARI:** Vice Chairman Steele?

**ASSEMBLYMAN STEELE:** Here.

**MR. VARI:** Chairman Payne?

**ASSEMBLYMAN PAYNE:** Here.

Thank you very much.

Let me just say that this role that we play as legislators is a role that we respond to our constituents, respond to the needs of the State of New Jersey. We look to see whether or not, as legislators, there may be some laws, legislation that needs to be introduced in order to address the needs of the citizens of the State of New Jersey. We take our roles very seriously. And that is, that we are here to serve the people of the State of New Jersey and that the many, many agencies that we have are in place to do exactly that -- to serve the people of the State of New Jersey. We do have a role as legislators -- checks and balances -- we have a role to not only pass legislation, but also to follow up to see whether or not the regulations that affect these various agencies and responsibilities are, in fact, being carried out. I think that -- I learned a long time ago, when I was in school -- I guess elementary school maybe -- that--

Peter, that was quite a long time ago, as you probably could imagine.

ASSEMBLYMAN BARNES: I remember you in grammar school. You were a couple of years ahead of me, I think. (laughter)

ASSEMBLYMAN PAYNE: Yes, right. You used to cross me, right -- across the streets, right?

Well, anyway, I learned that this is government of the people, by the people, and for the people. And one of the things that we want to do is make sure that this government that we have is, in fact, a government of the people and for the people. And so what we're here to do is find out whether or not we are functioning the way we should, and find out whether or not those agencies that are doing an excellent job -- that we certainly want to point that out as well. Those agencies that need some help -- we

want to find out what we, as legislators, can do to try to assist those agencies to try to do a better job.

So we're here primarily to serve the citizens of the State of New Jersey, and that's why we're here. We're hearing the Parole Board today, and we want to hear what it is that they're doing and how we can assist them, etc. So, before we call on the first person to testify, I'd like to ask whether any of my colleagues have any comments they'd like to make before we start?

Mr. Steele, the Vice Chair.

ASSEMBLYMAN STEELE: Thank you, Mr. Chairman.

I'm certainly glad to be a part of this Committee and look forward to the process of how we, as legislators, can change or affect policies that's going to benefit the constituents of the State of New Jersey. I look forward to your leadership as Chairman. I'm glad to be a part of the Committee.

Welcome to our new person, Assemblyperson Karrow, and all the Committee. Ready to work, ready to go.

ASSEMBLYMAN PAYNE: Thank you.

Okay, let me just acknowledge the presence of the Speaker, who was just in the room. I don't know whether he's still in the vicinity, but Speaker Roberts is the Speaker of the Assembly, and I'd like to recognize him if he's still here. He can take a wave. I'm sure he's in the vicinity.

And also the Majority Leader.

UNIDENTIFIED PERSON FROM AUDIENCE: They're going to stop back.

ASSEMBLYMAN PAYNE: They're going to stop back. Well, I'm not sure I want them to stop back. (laughter) We'll be in the heat of it at that time. Okay, thank you very much.

I do see the Clerk of the General Assembly, newly appointed, who is Dana Burley. Those of you who do attend the Assembly meetings will note that the person that really and truly controls that chamber happens to be the young lady who will be standing before -- in front of the Speaker, and before all of those who are assembled there. We have to watch her. She really tells us what to do. We're very, very glad. We congratulate you on your new responsibilities, and I'm sure that you're going to do an excellent job. Thank you very, very much.

Now, I'd like to call-- First, let me just point out that among the things that we are responsible for, too, is the fiscal situation in the State of New Jersey. As you have been reading, I'm sure, you hear that there's an awful big budget gap, that there's money that needs to be saved, that we need to cut back on spending, etc. And one of the things we'd want to make sure that we don't cut back on, though, is on human services -- those things that people really need.

One of the things that happened in the past fiscal year is that there had to be an appropriation of, I think -- was it \$22 million -- an additional appropriation of \$22 million that had to be expended so that those counties who are housing State prisoners in their facilities, because there were no beds for them in the Correction system, that there was \$22 million that had to be expended and paid into the county coffers because the counties were holding prisoners who should have been transferred to the State prisons.

Now, we're talking about saving money. We're talking about it everywhere we can. Now, one of the things that we are going to look at is how do we expedite the parole system? How do we move people out of the prisons through parole? Why is it that only 50 percent of the people that come before the Parole Board are released? Why is it that happens? Why is it that many prisoners prefer, really, to max out? Many inmates do not really want to get out, because they have some complaints about the situation that exists if they are paroled. There's something called *maxing out*. Some prefer to max out. They prefer to stay in prison, because they say that being on parole -- they have a saying that's -- I think it's called *trail them, nail them, and jail them*. In other words, inmates say that if, in fact, they are released to the parole officers, that rather than getting the services that they need -- for instance, the jobs and training -- that some of these people are saying that it's like a police action, rather than helpful. And we want to hear whether that's the case or not, because many of the parolees that say, "Well, I'd rather stay in jail, because I'll serve my full time, and that way I don't have to be under the guidance or control of a parole officer" -- that may be good or bad. But anyway, those are some of the things we need.

Primarily, though, two things: We want to find ways to save money. We don't think that we should be spending \$22 million extra to keep these people in jail. We need to move them out of jail, have beds available so that the county prisons won't hold them. That's the one thing. We have to find fiscal responsibility, here, okay? The other is, we have to make sure that we are serving the people who are, maybe, inmates, or

related to -- make sure that we are serving them with proper justice and proper things like that. So that's what we're here about.

Finally, if we can come up with -- if we need legislation to improve this, then that's what we're here for, if we can find out that that's needed.

So with that, I'd like to call Chairman D'Amico, who is the Chairman of the New Jersey State Parole Board, to address some of these issues.

Thank you. Judge, thank you for being here with us.

**JUDGE JOHN D'AMICO JR.:** Thank you very much, Mr. Chairman, and members of the Committee. I want to thank you for permitting us to explain in greater detail what we're doing to address the issues you've raised. With me is Ed Bray, who is the Acting Deputy Executive Director of the Parole Board.

We are going to discuss the measures the New Jersey Parole Board has taken to ensure that parolees are released from incarceration in an appropriate and timely fashion. But I'll also be proposing legislative changes and procedural reforms, that could be implemented by the Parole Board in the Department of Corrections with the help of the Legislature, that would reduce incarceration rates, alleviate overcrowding in the jails, that would foster successful prisoner reentry into society, protect public safety, and could potentially save the taxpayers as much as \$162 million.

As you are aware, Mr. Chairman, through your continued leadership of the Criminal Disposition Commission, the State Parole Board has been striving to meet the standards we have set for ourselves in our mission statement, which states that the New Jersey State Parole Board is

committed to promoting public safety and to fostering rehabilitation of offenders by implementing policies that result in effective parole case management.

I am pleased to report to you that the Parole Board has been recognized as a leader in the area of prisoner reentry, as pointed out by the article in *The Philadelphia Inquirer* dated May 11, 2005, which has been included in your packet, entitled “Drop in New Jersey Prison Population Defies Trend.” The article notes that the population in the prisons has shrunk 14 percent since it reached an all-time high of 31,300 in July of 1999. And State records show that that decline is largely due to a sharp drop in parole violators sent back to prison and a substantial increase in paroles. Other handouts in the package include my article in *Perspectives*, the journal of the American Probation and Parole Association, describing the Parole Board’s prisoner reentry partnership strategies and initiatives. We have conducted regional community partnership conferences in six cities in New Jersey, and we have formed local task forces to address critical prisoner reentry issues such as making cities safer, homelessness, education, employment, physical and mental illness, addiction, gang reduction, faith-based partnerships, and family restoration.

The packet I have given you includes an article entitled, “Call it Faith-Based Parole,” which describes our outreach to the faith-based community; a report to former government management chief Diane Legreide describing the encouraging results from those efforts. Also included in the packet is a description of our supervision procedures, our community programs, the victim input process, our Gang Reduction and

Aggressive Supervised Parole program, our Fiscal Year 2004 annual report, and our Parole handbook.

Now, offenders granted parole by the Board are released at the earliest date allowed by the statutes and administrative code governing parole release. This is not to say, however, that there is not room for improvement. As of Monday, January 23, 2006, the Parole Board had 322 administrative holds in place, and those holds are broken down into six categories: First, holds because of in-state parole plans being not proved out or insufficient, 65; out-of-state parole plans for which we need approval from other states, on hold because we're waiting for 42 states to get back to us on those; additional sentences imposed would cause a hold, and that affects five people in this group; 136 of these individuals committed institutional infractions, and therefore they had to be held so that we could reevaluate their situation; the Division of Youth and Family Services had an interest in 13 cases and were concerned about child abuse issues, and so we had to hold those individuals; and finally, there's another group of about 61 with respect to which we have gotten new confidential information or information not previously considered, or a prereleased condition has not been completed, or there's a Board Placement Review.

Now, that's a group of 322 out of 1,600 inmates who have parole dates within the 13 correctional facilities and county jails. There are times when parole dates must be suspended to ensure that the inmate is still eligible. For instance, if an inmate is found guilty of a serious institutional infraction, a rescission hearing must be conducted to determine if the inmate still meets the criteria for parole.

Administrative holds are placed if an inmate does not have an approved parole plan; and many times an inmate will provide a plan that's not approved by the Division of Parole, and an alternate plan has to be submitted and investigated. To ensure public safety, the Parole Board must suspend the parole until the parole plan is approved. Be assured, however, that the State Parole Board managers review the administrative hold reports on a daily basis -- and I have the head of the Division of Release here, who can describe that process in greater detail, if you want, in the question and answer. And they do it to expedite inmates that are beyond their parole dates while maintaining public safety.

I will comment just briefly on the question of the county inmates and that expenditure. There was, in April, a dip in the parole rate, which I think everyone was concerned about. I expressed my concerns to the Board. We have a 14-member Board sitting in six adult panels of two members each, and one juvenile panel of two members. We addressed the issues that were involved there, and the parole rate is back over 60 percent, which is a more normal rate, and I believe that that will be relieving some of the pressures. But we need to focus, I think, on a broader agenda.

ASSEMBLYMAN PAYNE: Let me just interrupt, if I may--

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: --because some of these things I may forget?

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: You said there was a drop -- I think it was a precipitous drop during that period of time.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: Can you tell me why was the drop-off?

JUDGE D'AMICO: Well, it was a number of factors. I think the principal one is that we had a lot of Board hearings cancelled because of members' illness, or unavailability, or transition, or turnover. We have three new Board members, in fact, being oriented today, and that was part of it. And also, we can't control the nature and the eligibility of the group that comes before. I mean, not every group of inmates is eligible for release. There are some that are more ready for parole than others, and that may have been an aberration or a bad month in terms of the cohort that we were reviewing.

ASSEMBLYMAN PAYNE: It's my understanding that there was a -- for a nine-month period of time, as of January 1 of this year -- the paroles had dropped off, month after month. And we only have so many beds. And the fact that they're not releasing people-- I think there's a 50 percent rejection rate of folks; that that then keeps those beds occupied in the State prisons. And therefore, the county jails must hold onto these people, and therefore we have to pay \$22 million, as we did this time, to take care of those people.

You say that one of the reasons why we're not able to do this is -- what -- that their meetings were cancelled and--

JUDGE D'AMICO: Yes. We had some cancellations.

ASSEMBLYMAN PAYNE: How many?

JUDGE D'AMICO: We had vacancies and so on and so forth.

ASSEMBLYMAN PAYNE: I read about that. I read that there are members of this Board that have not been able to attend as many meetings as they should.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: How many meetings are scheduled, number one? How does that work?

JUDGE D'AMICO: Well, we have -- each Board panel conducts 15 hearings a day.

ASSEMBLYMAN PAYNE: Okay.

JUDGE D'AMICO: And so if one of the two members doesn't show up, is ill or absent for any reason, that slate has to either be filled by an alternate -- and we had some difficulties with the alternates, as well -- and those hearings have to be postponed.

But one of the measures we did take, which also has, I think, brought us back up to speed, is that we were able to get the Governor, Governor Codey, to appoint two temporary alternate members -- Mr. Lugosi and Judge Garrenger. And they were able, in the time subsequent to the period that you're talking about, to get our hearings back on track and to get the parole rate back up. Incidentally, for the record, the period from January 1, '04 to 12/31/04, the parole rate was 57.8.

ASSEMBLYMAN PAYNE: Let me let you finish your testimony. And if we have questions--

ASSEMBLYMAN THOMPSON: Mr. Chairman, may I get a clarification on one point here?

ASSEMBLYMAN PAYNE: Oh, sure. Okay.

Mr. Thompson.

ASSEMBLYMAN THOMPSON: We're speaking of 50 percent rate, 57 percent rate, and so on.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN THOMPSON: Is this 50 percent of the people that have a hearing are approved?

JUDGE D'AMICO: Yes.

ASSEMBLYMAN THOMPSON: Or is this 50 percent of the people that were eligible for having a hearing, including the ones that did not have a hearing, and so on? So would you define what percent of what we're speaking of here?

JUDGE D'AMICO: This would be of--

**E D W A R D W. B R A Y:** Individuals who had a hearing.

JUDGE D'AMICO: Those that had a hearing, yes.

ASSEMBLYMAN THOMPSON: So the ones that you spoke of that the hearings were cancelled, they're not considered in that 50 percent at all?

JUDGE D'AMICO: Right. Yes, yes, yes.

ASSEMBLYMAN PAYNE: Right. Which is a very key point.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: We're talking about a delay. We're talking about people being held in county prisons because their meetings are not being held on a regular basis.

JUDGE D'AMICO: Right.

ASSEMBLYMAN PAYNE: And that you're talking about 15 hearings per session. And how often are these sessions scheduled? Is it once a week, twice a week, three times a week, etc.?

JUDGE D'AMICO: Oh, no. The Board panels meet daily.

ASSEMBLYMAN PAYNE: Every day? Meet daily.

JUDGE D'AMICO: Yes. We have had -- we do 15,000 hearings a year. This is not a small business.

ASSEMBLYMAN PAYNE: Yes, sure. Right. Sure, right. How many should we be doing though? How many meetings have been cancelled, you see, which impacts on those people that are being held? I think that's an important figure that we need to have.

JUDGE D'AMICO: I can submit that to the Chairman. But I will say that the Governor has appointed three new members -- Yolette Ross, Charlie Jones, and Mr. Louis Romano -- and that should help us quite a bit.

But I think we can also affect earlier release and deal with some of these issues in a broader and more comprehensive way, with the help of the Legislature, by various statutory amendments to the Parole Act that I would like to offer for your consideration. I'm going to note, before I get into them, that these are my suggestions -- do not necessarily represent the position of Governor Corzine's administration, because they are under active review by the transition Corrections Policy Group, but have not yet been reviewed by the Governor. But they have -- many of them have been submitted to the Commission to Review Criminal Sentencing.

So, all right, the first of these, and I think the most significant one -- and you mentioned the max out problem earlier, Mr. Chairman -- would be to include a period of community supervision by the Parole Board as the final step of all existing and future State prison sentences. The proposal would be to create, as part of every sentence, a mandatory period

of parole supervision. Adult prisoners sentenced to a term of five years or less who have been denied earlier parole, or who have opted out of parole, would be released to parole supervision six months before the expiration of their sentence. And adult inmates serving a term greater than five years who have been denied earlier parole, or opted out, would be released 12 months prior to sentence expiration.

The statute would exclude, of course, those people released on discretionary parole or who have had their parole revoked. It would exclude community supervision for life or parole supervision for life, which would be the sex offenders or the No Early Release folks, and the mandatory supervision cases.

But what we have now, in terms of the Department of Corrections budget, which is almost a billion dollars is, we have about 4,400 inmates last year, in Fiscal Year '05, or about 367 per month, who served to the end of their sentence and did not come out with supervision. Now, the annual cost of incarcerating that group was slightly over \$145 million, or \$90 per inmate, per day. Now, many of those inmates were not paroled because they were unwilling to cooperate in their rehabilitation or, under our standard, they were evaluated as likely to violate conditions of parole if released. Others chose not to, as you mentioned, have parole supervision.

This group, however, has been shown to recidivate at a higher rate over three years and to be reconvicted of crimes more often than ex-prisoners released on parole. And I have a study that has not yet been published, which I can furnish to you, that documents that.

ASSEMBLYMAN PAYNE: What's the recidivism rate for that group of folks?

JUDGE D'AMICO: The recidivism rate for those maxing out, according to that study, was 70 percent versus 60 percent for those under parole supervision. Now, that doesn't sound like a lot, but the difference would be a 14 percent reduction in the crime rate. So I think it's something that bears watching.

Now, research by the Department of Justice, Bureau of Justice Statistics, and others indicates that releasing offenders from incarceration earlier does not have a negative impact on recidivism -- in fact, can have a positive impact. But the bottom line is that prisoners should not be released without supervision of some kind, which is essential to reduce recidivism and protect public safety, especially when it has the potential to save the State substantial money.

Now, concomitant to that proposal would be a proposal to expand access to community-based programs. Currently, only about 20 percent of inmates are transitioned from prison back to society through community programs. However, as recognized by researchers and criminal justice practitioners, community programs effectively address underlying problems such as addiction, educational deficits, and antisocial thinking; and they also foster effective and successful offender reentry, thereby enhancing public safety.

Now, the Parole Board does have an array of treatment and supervision programs, that are described in the materials I have given you, that could easily be expanded to provide the capacity or service to additional parolees and to manage the anticipated number of offenders released as max outs in New Jersey, as a concomitant to my first proposal. Right now, the Parole Board assigns about 4,800 parolees annually to

community programs, either as a condition of parole at release, or an alternate to parole revocation and reincarceration. In both cases, there is a significant cost avoidance to the State, since these programs cost less than incarceration. The difference is about \$90 a day for incarceration versus the numbers shown on Table 1, of Page 5, of my testimony for the various community programs I'm talking about.

Now, it would cost some additional money to expand those programs. I've shown that in my materials as well. But the net savings of the two proposals, mandating a period of supervision for all max outs now in prison and expanding the community programs to accommodate those individuals, would still give the State the potential for cost-avoidance in the Department of Corrections' budget of 113 million and change.

ASSEMBLYMAN PAYNE: Can I stop you for a moment?

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: Your suggestion that some legislation that might help to correct some of these situations-- Let me--

JUDGE D'AMICO: Yes. And I've attached the proposed bills as attachments to it.

ASSEMBLYMAN PAYNE: All right. And we talk about community placement, etc., for offenders and maybe drug offenders, etc., correct?

JUDGE D'AMICO: Correct.

ASSEMBLYMAN PAYNE: The question we need to know is whether or not -- do we have a track record for those who are in those programs? What's the record? What's their recidivism rate? How effective are these programs? We very often mandate that people should enter into

drug programs, and then when they go, there's no beds for them, there's no room for them, no slots for them, etc. I'd like to know whether or not these programs are, in fact, effective and whether or not it reduces the drug uses by these people, number one. And number two, we say release them to supervision, to parole officers.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: What kind of training is there? One of the complaints we heard earlier is that many of them are released to parole officers. However, what is it -- trail them, nail them, and jail them -- that these guys are saying that they have these people. How effective are they? Are they out there to help these guys or are they out there to trail them, etc.? What kind of training do the parole officers get so that we can--

JUDGE D'AMICO: Okay. All right. On the first one, the most definitive study was done by Drexel University. It was commissioned by former Commissioner Brown, with whom I worked, of course, on these issues and who really thought alike with me on many of these concerns. And that showed, with regard to the residential programs shared by both the Department of Corrections and the Parole Board, a 30 percent improvement in the recidivism rate. Now, you're going to say, "Well, that doesn't seem like a lot." Well, let me tell you something. For every crime avoided, which is what we're talking about in that 30 percent, you're affecting 30 people in a positive rather than a negative way. Because every time a crime is committed, you're impacting not only the victim and the victim's family, and of course the offender and the offender's family, but also the law enforcement, police, the courts, probation, Parole, Corrections,

and so on. So I think that that study, and I can send you a copy of that, does document that that's successful.

As far as the trail them, jail them, and nail them is concerned, I have, ever since I joined the Parole Board in August of 2003, tried to emphasize that we do not want that philosophy. That is not our mission. It's rather a balance between law enforcement and social work in the sense that it is my firm conviction and the principles under which I have been operating my administration that we need to foster the successful reintegration of offenders into society. And my article in the *Perspectives* magazine will document all of the efforts that we've made there.

I will mention, in addition to that, that two days ago and yesterday I addressed the entire Division of Parole with reference to a new initiative of the Parole Board called the Evidence-Based Practices Project. This is based on recommendations of not only the New Jersey Reentry Roundtable, sponsored for the Institute for Social Justice, published in December of '03, but the Re-Entry Policy Council, which was a nationwide reentry analysis conducted by over 100 experts, bipartisan, throughout the country. Both of those organizations recommend and support what we are trying to do by changing the mentality and measuring the success of parole officers not by how many people are arrested and put back in jail, but how many people are placed in meaningful employment, how many people with substance abuse issues had those issues addressed, how many people with learning and vocational deficits have gotten the training, and so on.

That is what our community programs, both residential and day reporting, are all about. And we have been encouraging our parole

officers to utilize those resources in lieu of that law enforcement mentality that you describe.

ASSEMBLYMAN PAYNE: If you can just kind of give us--

JUDGE D'AMICO: I can go quickly through, because it's detailed in my report.

ASSEMBLYMAN PAYNE: Is this your testimony that we have here (indicating)?

JUDGE D'AMICO: Yes.

The next one is reduce the maximum length of incarceration for a technical violation from one year to nine months. Again, that goes to what you're saying. When somebody does mess up, we're finding that you don't need to put that person in jail for a full year to get the message. And there's a three-month leeway, either side. This would reduce to about an average of seven months, which is about as quickly as we can process these with the resources we now have, and that could save the State \$28 million in terms of preventing additional people going back into prison.

Next would be, on Page 8, letter D: "Authorize a parole board panel, upon granting parole release to an inmate, to reduce a previously established future eligibility term imposed upon the denial, rescission, or revocation of parole in order to effectuate the earliest possible release date." And for all of these, we've attached proposed bills. This would really speed things up as well, to the point where we estimate a potential savings to the Department of Corrections of over \$20 million.

The next one, letter E: "The maximum range for future eligibility terms assigned at the denial of parole should be reduced for each offense degree; and the assignment of a future eligibility term outside the

maximum range would be required to be approved by the full Board.” The effect of that change would be to shorten the future eligibility terms for those people initially denied parole, and that would impact substantially, particularly on the third and fourth degree offenders, because it would make them eligible earlier. It would give inmates an incentive to develop or maintain positive short-term goals, such as finding a stable release address, and continuing in the Department of Corrections’ programs, and remaining infraction free. And that would also be a savings.

And on Page 10-- And when I say cost benefit or cost avoidance, obviously these would need to be coordinated with the Department of Corrections’ budget. But the potential of some of these ideas that I have put forth here is to help us look at the possibility of savings of up to \$162 million.

ASSEMBLYMAN PAYNE: You’re talking about savings in the Corrections, as well. The Parole Board has, what, a \$95 million budget, correct?

JUDGE D’AMICO: Yes, that’s right.

ASSEMBLYMAN PAYNE: And if you’re talking about implementing things that are outside of the Parole Board -- aren’t you? You’re talking about implementing things in the Corrections Department whereby we might-- I think the Corrections Department budget is, what, \$1 billion, or something like--

JUDGE D’AMICO: Yes. Yes, that’s right. Somewhat larger than ours.

ASSEMBLYMAN PAYNE: And your budget is 95 million?

JUDGE D’AMICO: Million, right.

ASSEMBLYMAN PAYNE: The recommendation that you're making would impact on the Department of Corrections, correct--

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: --as opposed to your Department? And that's very, very important. We certainly need to look at how we can save money in Corrections as well. One of the reasons for this hearing, however, is to find out how we can expedite the operation of the Parole Board, how we can cut down if, in fact, it impacts on retaining people, how it impacts on those other kinds of things. Your function of your Department, which is in, but not of--

JUDGE D'AMICO: Right. Well, a lot of the things I've already mentioned -- shortening the FETs and the return for technical violations -- would do that, as would Proposal F, on Page 11, which would reduce the nine-month minimum parole eligibility term to six months. That would impact on the county jail situation.

ASSEMBLYMAN PAYNE: Sure.

JUDGE D'AMICO: More specifically, as to the county jail issue that you raised--

ASSEMBLYMAN PAYNE: Right.

JUDGE D'AMICO: --Proposal G, on Page 12 -- "expedite county parole hearings and releases, and reduce the 30-day prosecutor notification of parole release requirement to 15 days in certain county jail cases" -- would help a lot. Now, let me just speak a little bit about that, because you mentioned the county jail overcrowding. We were sensitive to that issue, and I took two steps in November to address that. On November 15, I addressed a meeting of the county jail parole liaisons. I

emphasized the important role that they play in the county parole process. I told them that they were responsible for obtaining the required court documents and institutional reports necessary for a parole hearing, and scheduling the county jail inmates for initial parole release hearings. I mentioned that under the Parole Act, inmates serving 120 to 364 days are entitled to a parole hearing; that there should be an expectation to have a timely parole hearing to give the inmate the opportunity to take advantage of available programs and rehabilitation. The problem being that they need to expedite the paperwork so that we actually can have a due process hearing.

The second thing I did was, I addressed all of the members of the Criminal Division of the Superior Court, at the Judicial College meeting in Teaneck, New Jersey. I impressed on the judges that an offender may be eligible for parole consideration on a county jail sentence shortly after the sentence is imposed. In order for a parole hearing to be conducted in a timely manner, I recommended -- and encouraged the judges -- that a judgment of conviction and the adult presentence report be delivered expeditiously to the county jail authorities. Because if there is a delay, again, in providing that documentation, the hearing might not be conducted on a timely basis. And so, there's that. But then the notification is the other obstacle. And what I'm saying there, we very rarely get a prosecutor's comment on a county parole case.

I'm not talking about the State prison cases, where we would, say, keep the 30-day notice provision. But if you could change the statute on the county cases to reduce the notice period to 15 days, I don't think

that will hurt. There's faxes now. There's e-mail. We can communicate rapidly with the prosecutors if that's necessary.

ASSEMBLYMAN PAYNE: Let's make sure that we continue to zero in on the cost, for instance, on how we can have some cost reductions, etc., with the Parole Board itself. The question, for instance, is how many inmates are currently in county jails that should be in the State prisons? How many, in other words, are being held in backlog? How many are there? Do we have an idea of the number of people that are currently being held in county jails that should not be?

JUDGE D'AMICO: We can furnish that to you, Mr. Chairman.

MR. BRAY: That would be a DOC--

JUDGE D'AMICO: The Department of Corrections can provide the current number, but it's lower than it was when the appropriation was sought. And I submit that these other proposals would have, in effect, solved the problem.

ASSEMBLYMAN PAYNE: Right. Okay.

The purpose of this hearing, of course, is to find out how we can streamline, expedite the mission of the Parole Board. It's one of the situations we seem to have a problem -- is that many of the hearings have not been held. We're talking about 15,000 hearings per panel. I need to know how many were scheduled, how many were cancelled, how many were not held? Because that does contribute, doesn't it, to the backlog that we have? So if we can find that out. And number two, we need to find out how effective the training is for the people once they are released on parole,

whether or not they, in fact, are providing the kind of training that they need to provide, to reduce the recidivism, etc.

JUDGE D'AMICO: All right. Yes, okay. We can give you a report on that. But the point is, with the appointment of the three new Board members--

ASSEMBLYMAN PAYNE: Yes.

JUDGE D'AMICO: --we're in good shape. We still have one vacancy on the Parole Board. And if we can get another Parole Board member appointed to that slot, that will help greatly. We've also asked the Governor to extend the temporary terms of those two alternates that I put in there to get this rate back up. And I think if we do those things that this problem should be alleviated. But we need fundamental legislative change, it seems to me--

ASSEMBLYMAN PAYNE: Sure, sure.

JUDGE D'AMICO: --in these Parole Act provisions.

ASSEMBLYMAN PAYNE: Is there anyone else that has any questions?

Yes. Assemblyman Barnes.

ASSEMBLYMAN BARNES: Thank you very much.

Again, the intent of the Parole Board, and you as the leader of the Parole Board, is to release as many prisoners as possible under the rules and regulations that you operate under, to release as many as possible. Is that correct?

JUDGE D'AMICO: Yes. Consistent with the statutory standard, which the panel must find that the inmate has cooperated in his or her rehabilitation. That's the first of the two branches of the standard.

Obviously, if the individual has violated institutional rules, committed institutional infractions, that may be an indication that would cause the panel to refuse the parole.

ASSEMBLYMAN BARNES: The point is, it's not your intent to keep people in jail?

JUDGE D'AMICO: No. No, no, no.

ASSEMBLYMAN BARNES: Your intent, as the Parole Board--

JUDGE D'AMICO: Exactly.

ASSEMBLYMAN BARNES: --is to put as many parolees on the street and hope that they become good citizens, and that is your mission.

JUDGE D'AMICO: That's true. That's true.

The second part of the standard is that we have to conclude that the inmate would be likely to adhere to the conditions of parole.

ASSEMBLYMAN BARNES: So there would be situations where a person -- parole that does not meet the criteria that's set forth for the parole, correct?

JUDGE D'AMICO: Right. But what I'm saying is that we have an irony here, because the people that we deem to have cooperated in their rehabilitation and who we think are likely to adhere to the conditions of parole do get released on parole, and therefore have the advantage of supervision and also transitional support and reentry support. The people who max out, because they have not cooperated in their rehabilitation and are not likely to adhere to the conditions of parole, do not come out with any supervision, and therefore there's nobody watching them and they're not getting any transitional support or help. And it's my thesis that no one

is beyond redemption and that we can save many of these individuals and reduce the crime rate by subjecting everyone, at some point, to parole supervision and assistance, toward the end that you're talking about -- making them more productive citizens.

ASSEMBLYMAN BARNES: So the person that wants to max out, because he or she does not want to participate in the programs -- they're going to assist the person when they hit the street -- they're the ones that max out. Is that correct?

JUDGE D'AMICO: They're the ones that max out. And the studies show that even if a person is involuntarily placed in a program that -- and again, the Drexel study was one example of that -- that they do benefit from the assistance that those programs provide.

ASSEMBLYMAN BARNES: Now, I have a little professional experience in this area -- the results of a person being in jail and coming out on the street -- and my experience has been that the people that work in the parole system -- from my personal experience, I can't speak for everybody -- that I've heard that trail them, nail them, and jail them. But most of the ones that I'm aware of, the people working in parole, are concerned about the number of cases they have and the amount of workload they have. It kind of flies in the face of my experience that these people have so much leisure time that they trail people that are on parole. This is a new philosophy from my point of view. I'm not saying that it doesn't happen, but the experience that I have in the Legislature and out of the Legislature is that the people that work with the parolees have too much work to do. They don't have time to walk around and start trailing people just to nail them and put them in jail.

JUDGE D'AMICO: Well, the caseload is a concern that we have been addressing. We have a parole recruit class under training, right now, in Sea Girt. As we speak, that's the third in the two-and-a-half years that I've been there, after about a two- or three-year hiatus before I got to the Parole Board. So we're addressing it that way.

Secondly, with this Evidence-Based Practices Project, what we are trying to do is reshape the job of the parole officer so that it is focused on outcomes and results, and not based on counting the number of contacts, or the number of rearrests, or the number of reincarcerations. What we want to measure the performance of our parole officers by is how many people get jobs, how many people with substance abuse issues get treatment, how many people with educational and vocational deficits get the training and the education that they need. So we're in the process of transforming the agency to those paradigms. And if I am fortunate enough to be reappointed in the Spring, we intend to continue that.

ASSEMBLYMAN BARNES: One other point, in my experience, is that when the person comes out and hits the street, there is not -- and I don't think it has anything to do with the parole system -- either the State, the county, or the local government does not have programs in place that really assist the parolee once they're out, whether they max out or whether they're just on parole. And I think therein -- based on my experience, certainly in the Legislature -- therein lies the problem. I think you can go right back to New York, when I was working in law enforcement, that when they closed down some of those prisons in upstate New York, and they were going to help all these folks that come down into Manhattan, and they were going to have all these programs --

and the only program that really ended up being is that people were homeless. That they did not establish the community programs to help the people once they closed those jails in upstate New York. And I think that's one of the areas that maybe this Committee can look at, to bring in strong legislation that would create community programs that can assist. Because in my experience in the Legislature, there has been the fall down--

JUDGE D'AMICO: Yes.

ASSEMBLYMAN BARNES: --on the part of, I think, the State government.

JUDGE D'AMICO: Well, I agree with that, and that's why I'm proposing the expansion of the community programs in B of my proposals. Also, I would point out, in the article that I wrote for *Perspectives* and also the report to the Ms. Legreide, you will see the early results of our community partnership outreach. We have a new unit -- the Community Partnership Unit -- which has been reaching out to the various interest groups, and faith-based institutions, and persons of good will in the six communities that we visited. We've been in Atlantic City, Camden, Paterson, Newark, Mercer County, Vineland, and so on. And you will see in that report the very beginnings of an awakening in the communities to the necessity of their participation in prisoner reentry. And my article in *Perspectives*, describes some of the very encouraging results, particularly with the faith-based community. Because ultimately, unless we turn people around, in terms of how they think in their hearts and minds, to prosocial behavior, we're not going to succeed. And it's the unique, spiritual expertise of the faith-based community, in my opinion, that enables us to turn people around and make them law-abiding citizens.

ASSEMBLYMAN PAYNE: Do you have any empirical data to that, or is it just starting?

JUDGE D'AMICO: Well, it's just starting, but I will give you one example. At our conferences, we allowed the faith-based community representatives of The Most Excellent Way to address the group. The Most Excellent Way is a Christian, biblically-based substance abuse group counseling program, similar to AA or NA. It started in California. There were only, when we began, six chapters in New Jersey, mostly in Monmouth County, where I live, and Middlesex. As a result of our outreach and allowing the faith-based community to present that program throughout our conferences, there are now over 100 chapters throughout the State of New Jersey. Now they serve not only parolees, but probationers and other people with substance abuse issues that don't even get involved in the criminal justice system.

As a result of that program, the results have been so encouraging. Because, again, it goes to the heart and to the spiritual essence of what we're trying to transform here in terms of turning lives around. The Salvation Army, Catholic Charities, Jewish Family Services, and many other organizations have been willing to sponsor successful completers of this program in the following ways: They are willing to advance, in whole or in part, security deposits so that they can secure apartments. They're willing to give them job references and referrals to employers that formerly did not hire parolees and probationers. They have been providing church vans during the week for transportation of parolees without drivers licenses or vehicles. They have been providing free clothing,

furnishings, haircuts, medical care, and other services -- all free of charge to the State of New Jersey. And I'm very encouraged by this trend.

ASSEMBLYMAN PAYNE: Good. We hope as this develops that we'll be able to see some results of these programs that you're talking about.

I think, Vice Chairman Steele, do you have a comment?

ASSEMBLYMAN STEELE: Yes. I just wanted to, first of all, certainly commend you on the work that you've been doing and the leadership of the panel, and hopefully-- Is it at 15 you'll be at full capacity, as far as the membership of the Board?

JUDGE D'AMICO: Yes.

ASSEMBLYMAN STEELE: So there's one more person to be appointed?

JUDGE D'AMICO: One more to be appointed.

ASSEMBLYMAN STEELE: Based on the -- what is the average stay of a prisoner from the moment that he enters into a classification, from the county to the State facility? What is the length of stay that person actually serves in a State facility before they're eligible for parole, or they come up before a parole group?

JUDGE D'AMICO: Average stay would be -- well, a minimum is nine months, by statute.

ASSEMBLYMAN STEELE: Okay.

JUDGE D'AMICO: Which is what I want to address by reducing that to six months.

ASSEMBLYMAN STEELE: And at that point, they come up for a hearing?

JUDGE D'AMICO: Right.

ASSEMBLYMAN STEELE: And the likelihood of that person -- what percentage of those inmates actually -- they qualify to be released on the first visitation, and in how much span of time?

JUDGE D'AMICO: Well, we're at over 50 percent.

ASSEMBLYMAN STEELE: So 50 percent of first-time persons that go up usually go home, or they get a date?

JUDGE D'AMICO: Yes, they do.

ASSEMBLYMAN STEELE: And that date is usually within, like, you're going to be going home in 90 days?

JUDGE D'AMICO: Yes. Depending on the nature of the offense and where they're incarcerated.

MR. BRAY: If I may, Chairman?

ASSEMBLYMAN PAYNE: Sure.

MR. BRAY: Currently, we've been able to schedule out our hearings sufficiently in advance of their actual statutorily dictated eligibility date, so that some individuals will be getting their dates further in advance than, say, 30 or 90 days. But they will be able to be released on that statutorily dictated earliest eligibility date. As an example, the mandatory requirement is about a 30-day delay for notices between a grant of parole and the release date. But because of the efficiencies that our Hearing Division have been able to achieve, we are hearing cases in excess of 30 days in advance. So individuals are being informed that they shall be released on their PED as far as 60 or 90 days in advance. So there is some fluctuation in that. And in some cases, we do see cases even more than 90 days prior to

their eligibility date, but they're being given the date and they're being scheduled to be released on that earliest eligibility date.

ASSEMBLYMAN STEELE: Okay. So you're saying nine months. So if a person is in a county facility and, actually, now he arrives at a State facility, is being classified, and the length of his stay in a county facility, which is -- now because he is a State inmate -- so then he will remain there nine months -- the likelihood -- before he actually gets an opportunity to go home?

MR. BRAY: No. The incarceration period of nine months--

ASSEMBLYMAN PAYNE: Excuse me? I know you were introduced, but give your name and position, please?

MR. BRAY: I'm sorry. My name is Edward Bray. I'm the Acting Deputy Executive Director of the New Jersey State Parole Board.

The time for incarceration starts at the time of sentencing, not differentiated between whether or not they were housed in a county facility versus a State facility. It is the aggregate time that is used.

ASSEMBLYMAN STEELE: Sure. So therefore, so could some be released from county facilities, or do they have to touch base or--

MR. BRAY: It is very unusual. I'm not aware of any case of a State inmate, because of the length of sentence that they have to receive to become a State inmate versus a county inmate, that they would spend enough time in a county facility to have reached their eligibility date for release. Separately, there is county parole for those individuals who are serving sentences of 364 days or less, and we do parole somewhere around 2,500-plus individuals a year from county, on those terms.

ASSEMBLYMAN STEELE: Right. In your opinion, would you say that one of the factors for overcrowdedness is the sentences, as opposed to your ability to have hearings? And either one can address that.

JUDGE D'AMICO: Yes, I think that's true. And that's the basis of my proposal to reduce that nine months to six months, so that it would be an earlier parole consideration.

ASSEMBLYMAN STEELE: And I think I need to highlight that, because when we look at what county facilities are holding state prisoners -- and they will look at the fact that the very sentence itself is going to create an overcrowdedness. So therefore, the eligibility of those who would be permitted to even go home-- You're still going to have an overcrowding problem.

JUDGE D'AMICO: Yes. I am a member of the Sentencing Study Commission, by virtue of my office, and this is one of the issues that that Commission is also considering, along with, as you know, the School Drug Zone Law -- which I support their recommendations and I recommend your support. And I've mentioned that in my remarks. We will also be considering expanding the drug court and ISP as an alternative to incarceration. I think that's very important.

ASSEMBLYMAN STEELE: Absolutely.

JUDGE D'AMICO: The Sentencing Study Commission has been given the proposals, that I have mentioned today, for your consideration.

ASSEMBLYMAN STEELE: Right.

And Mr. Chairman, I wanted to highlight that. Because if we only focus on how we're going to get people out of the State facilities, as

opposed to how do we revert people to actually be made whole from a rehabilitation standpoint, a wholistic standpoint, we're always going to be faced with overcrowdedness, because there's not going to be a way. Because the law itself, the way it's written, is always going to increase the population of those who are going to be in the penal system. And I think we need to be-- So it's going to have to be totally inclusive for the fact that somehow, somewhere along the line we cannot abandon law, but we're going to have to relax the law enough so that we can give power to judges to make an individual decision, as opposed to the letter of the law. If not, we're going to continue to deal with the dynamics that we have today, and this Board would not be able to rectify that.

JUDGE D'AMICO: Right.

ASSEMBLYMAN STEELE: Not even with money, to be quite candidly.

JUDGE D'AMICO: And in line with that, of course, I support the move and recommendation to eliminate the mandatory minimums in conjunction with the drug laws that the Sentencing Study Commission has recommended. Yes.

ASSEMBLYMAN STEELE: Okay. Thank you very much.

ASSEMBLYMAN PAYNE: Thank you.

Assemblyman Thompson.

ASSEMBLYMAN THOMPSON: Am I correct that one of the primary purposes of having early parole available is to provide an incentive to inmates to cooperate, as you've described earlier, to show that they are ready for rehabilitation, etc.? That being so, your proposal here -- you're

saying that those inmates who have been denied parole, or those who seek to max out, would be released early under your proposal here.

JUDGE D'AMICO: At the very end of their sentences, yes.

ASSEMBLYMAN THOMPSON: Yes. But wouldn't that be a disincentive for them to participate, and cooperate, and etc.? Because whether they do or not, they're going to get out early. Particularly, I mean, you're saying they've been denied parole, so obviously they did not cooperate, they misbehaved, etc., and we're going to let you out earlier anyhow.

JUDGE D'AMICO: Well, there still remains the incentive of still earlier release if they were to cooperate. The fact that I'm saying that everyone should come out under supervision does not mean that they could not be paroled earlier. There still is that ability of the Parole Board to parole someone earlier than the very end of the sentence. But what I'm saying is that the studies are showing that if we just ignore this population and let them max out and let them come out without any supervision, we're going to have more crime and more difficulties than if we impose a mandatory supervision. And a number of other states have pursued that same thought.

ASSEMBLYMAN THOMPSON: We were given information saying a March 2005 report from the Urban Institute found that parole supervision has little effect on rearrest rates of released prisoners, and that only certain prisoners benefit from more supervision than others. It seemed, according to that report, only the lesser offenders -- that is, more minor crimes -- seemed to benefit from the supervision. The ones that committed the more serious offenses did not seem to benefit from the

supervision. And of course, these would be the ones more likely to have been denied parole or else to choose to max out.

JUDGE D'AMICO: That study is outdated and has been refuted by more recent studies. The data that that study relied on goes back to 1994, number one. Number two, the more recent studies are showing that we actually should be devoting our resources, in terms of inpatient programming and so forth, to the highest risk individuals. And because of that principle, we have adopted the risk and needs assessment tool called the LSI-R, Level Service of Inventory-Revised tool, that assesses the risks and also determines the needs for remediation of a particular inmate. And our decisions not only are to release parole, if we decide to release parole, but also to mandate to what program that person should be released and what deficits should be addressed programmatically.

ASSEMBLYMAN PAYNE: I'll get to you, Vice Chairman.

ASSEMBLYMAN STEELE: Go right ahead.

ASSEMBLYMAN PAYNE: Much of what we're talking about has to do with inmates while they're incarcerated -- inmates, how to deal with them, etc. Much of what we're talking about has to do not with once they're eligible for parole or when they go on; we're talking about people maxing out, coming out, are not really being prepared for reentry. What was happening during the past four years or so, under the previous Corrections commissioner, was that many, many programs had been developed and implemented to prepare the inmate for reentry. Many of the programs that were going on in the prisons had to do with preparing them through education, through training, etc. And that even though they're being held in prisons, what was happening under the leadership of

Commissioner Brown was they were being prepared for reentry. They were studying for their GEDs. They were -- 80 percent of them were involved in educational programs. And many others -- and I had a whole thing on gangs, etc. So much of what we're talking about has to take place in the correction centers. And I'm hoping what those things that had been started by Commissioner Brown will be institutionalized and will be able to impact on those inmates who are coming out, who will be prepared with education, who will be prepared for a job training, etc. Those are very important.

But to focus really on the Parole Board -- the Parole Board and its mission -- that's one of the things we really want to look at, too. I know they're related.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: But the people coming out of prison, if, in fact, they haven't had any kind of remediation or any kind of help, then of course they're going to go revert to what they're doing. So we have to make sure that what happens there is institutionalized so that we can--

JUDGE D'AMICO: You will see on Page 15 of my testimony -- and I'm not going to read it, but you can look at it -- I agree with the things that the Chairman just said. And I support, and have always supported, Commissioner Brown's efforts to expand these programs. The important point is that there needs to be a continuation--

ASSEMBLYMAN STEELE: That's correct.

ASSEMBLYMAN PAYNE: Of course.

JUDGE D'AMICO: --or a continuum of that kind of care and attention from the prisons to the outside. That's what I'm asking my parole officers to do, my community programs people to do, and so on.

ASSEMBLYMAN PAYNE: Okay, Reverend?

ASSEMBLYMAN STEELE: I was just going to reiterate what was stated, is that housing and a job is the two key issues--

JUDGE D'AMICO: Yes.

ASSEMBLYMAN STEELE: --that actually have to allow a person to facilitate back into the society where they've been structured out of, by virtue of the fact that they have changed their whole thought process. And for a person to make a commitment to make a change, there's also got to be some kind of incentive and commitment on the end. And the faith-based communities are willing to make those kinds of commitments. But I would hope also, because the offer is free, it does not mean that we should not assist in those areas. I think many times when we see faith-based communities step up and say, "We want to be a part of the partnership," it does not mean that they want to be preempted of the funds. (laughter)

JUDGE D'AMICO: Yes, well--

ASSEMBLYMAN PAYNE: Thank you.

Assemblywoman Karrow.

ASSEMBLYWOMAN KARROW: Thank you, Mr. Chair.

I just wanted to make one point of clarification on something you said, Chair D'Amico, earlier, and which Vice Chair Steele just reiterated, is that you had said earlier that you didn't want to put the focus on contact with the Parole Board, but with jobs and with numbers of

parolees who have gone into rehab. You can't deny there's not a correlation with the responsibility that one has to showing up wherever.

JUDGE D'AMICO: Oh, yes, of course.

ASSEMBLYWOMAN KARROW: And that's still important.

JUDGE D'AMICO: Yes, of course. That will remain part of the parole officer's responsibility.

ASSEMBLYWOMAN KARROW: They'd have to show up. Because if they're not showing up to their parole officer, they're not showing up to work.

JUDGE D'AMICO: Right. That's right. And in fact, we have a fugitive unit that goes out to round up people who do not show up.

There's another interesting initiative that we're working on with the Federal Marshall's Office, and that's going to be a program where at a church, which is yet to be designated -- probably in the Camden area -- that we're going to offer, along with the Federal Marshalls, the Department of Corrections, and other law enforcement, a four-day period in which people who have absconded or are not reporting can voluntarily come in. And the fact that they come in will be taken into account. There will be judges on site, parole officers, a parole panel, and so on. It's not quite an amnesty program, but it's sort of the next best thing. It was very successful in Cleveland, and we are working with the Marshall's Office at this time to establish such a program for New Jersey.

ASSEMBLYMAN PAYNE: Chairman D'Amico, thank you very much.

ASSEMBLYMAN BARNES: I have one quick--

ASSEMBLYMAN PAYNE: Oh, I'm sorry, Peter.

ASSEMBLYMAN BARNES: I'm sorry.

If a person doesn't show up to the parole office, he's violated and back in, as we say in the trade, back in the can. There's also another area that I think you're probably aware of. There's an old saying, "the quickest way to bust a Corrections budget is -- or parole officer, is to violate," because it's not in the budget and you're just sending them right back in.

JUDGE D'AMICO: Right.

ASSEMBLYMAN BARNES: So it's an old thing. But if you don't show up for your hearing, you're immediately violated. And I would assume, right back in.

JUDGE D'AMICO: Well, it depends on the nature and the circumstances. If the reason the person didn't (*sic*) violate was because he was in the gutter drunk all the time, we might put him in a program to address that substance abuse problem instead of putting him back in jail.

ASSEMBLYMAN PAYNE: Thank you very much, Chairman. You've been very enlightening.

JUDGE D'AMICO: Thank you.

ASSEMBLYMAN PAYNE: I thank you for your testimony.

JUDGE D'AMICO: Thank you, Mr. Chairman.

ASSEMBLYMAN PAYNE: And we'll follow up on that proposed legislation that you have suggested.

JUDGE D'AMICO: Thank you.

ASSEMBLYMAN PAYNE: Thank you.

Now we'll hear from the Office of the Public Defender, Yvonne Segars, Director; and Assistant Director, Executive Director, Joan Richardson.

**YVONNE SMITH SEGARS:** Good morning, Mr. Chairman, ladies and gentlemen.

**ASSEMBLYMAN PAYNE:** Good morning.

**MS. SMITH SEGARS:** My name is Yvonne Smith Segars. I'm Public Defender for the State of New Jersey. And I thank you for the opportunity to be heard on this issue.

And just as a little historical backdrop, the Office of the Public Defender once upon a time used to represent individuals whose parole had been revoked at parole hearings. That practice was abolished by the Legislature, if I'm correct, around 1993, probably consistent with the time that the Office of the Public Advocate was abolished. Along with that was the abolition of the Office of the Inmate Advocacy. Those two departments, which our office did -- we used to provide that service -- is no longer done. So individuals whose parole -- at the Parole Board, if they're parole is denied at the revocation hearings, they don't have any counsel.

Now, I understand that the Department of Corrections now provides that service, so I can't speak to what happens there. But just to let you know that we used to do it; we don't do it any longer. And so our perspective is a little bit distant from the process at the Department of Corrections or at the Parole Board.

So we'd like to speak to a number of issues from a different perspective: One, at the time people are actually sentenced to prison and what kinds of issues impact on the parole at the point -- that starts at the

point of sentence. When someone is paroled, there are things that happen at the beginning that impact what happens at the end. And what happens at the beginning, we'd like to speak a little bit to that -- to a couple of those issues -- Ms. Richardson will address. And also what happens, kind of, at the beginning of classification, when individuals are sent down to prison. Initially, when their paperwork is introduced into the system, the kinds of issues that occur, that ultimately impacts on their parole. And then of course, at the end what happens for people when they are ready for parole, how ready are they for parole? And I guess, in the middle, what happens along the way that can either make people eligible for parole earlier, what kinds of alternatives are available, and how is that process -- how it differs?

ASSEMBLYMAN PAYNE: Madam Public Defender, let me-- There is, number one, do you have any written testimony for us?

MS. SMITH SEGARS: I don't. No.

ASSEMBLYMAN PAYNE: Okay.

ASSEMBLYMAN STEELE: Would you be able to supply that -- a summary of--

MS. SMITH SEGARS: Oh, yes. Certainly I can.

ASSEMBLYMAN STEELE: Okay. We would certainly welcome that.

ASSEMBLYMAN PAYNE: Perfect segue, however. If I could stop you for one second. You're talking about when somebody is ready for parole and eligible to leave. I wanted to ask the Chairman to come back for a moment. If you could just slide -- let him--

ASSEMBLYMAN STEELE: He can pull up a chair. It's a shared experience.

ASSEMBLYMAN PAYNE: Sure.

It's just one question, if you don't mind. I'm sorry. I apologize for this.

People who are paroled, come out into society, oftentimes try to get a job, and that kind of thing. And sometimes a job requires a driver's license or that kind of business, or maybe they want to register to vote and things like that. I believe part of the role of the Parole Board is to provide -- what is it -- a letter of-- What is it called? A letter -- something that will enable them to go-- Right now, you have too many parolees who come out who do not have the ability to get a driver's license or get other kind of licenses issued back to them. Are they supposed to get a letter that says, "You are now free to register to vote," or "You're now free to get your driver's license." And is that happening?

JUDGE D'AMICO: A couple of things. In terms of working within the structure of what we now have, we are attempting to help parolees to restore their driving privileges. To talk a moment about faith-based initiative, the Euphrates Ministry down in Monmouth County, and others now in other parts of the state, the churches are adopting a parolee for purposes of helping them pay off their fines and surcharges. We found that the average is about \$750 or less. So that's one way to do it.

Another way -- and this is in the proposals that I have set forth in my report on Page 20 -- would be the idea of addressing these suspensions, the Comprehensive Drug Act issue. A bill just did pass to give judges more discretion, but I think there's more than that. We can talk about the conditional driver's licenses. I think that would be extremely helpful. And we could also give -- and I think this is what you're referring

to, Chairman -- certificates of rehabilitation could be strengthened, in terms of the ability of the Parole Board to issue those certificates earlier, rather than waiting until the end of the parole period. If a person is performing well during the course of parole, that a certificate of rehabilitation could be issued at that time. That would also require legislative change, and I could give you some information about that, as well.

ASSEMBLYMAN PAYNE: What do we have now? What do we have now in place? For instance, when a person is paroled, they go to a register to vote, or whatever, often, or they--

JUDGE D'AMICO: Right.

ASSEMBLYMAN PAYNE: They're told that you need a letter of -- whatever it's called?

JUDGE D'AMICO: A certificate of rehabilitation.

ASSEMBLYMAN PAYNE: A certificate of rehabilitation.

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: And that too many of them simply do not have this.

JUDGE D'AMICO: Right.

ASSEMBLYMAN PAYNE: Why is that? Currently, you don't need new legislation for that, right?

JUDGE D'AMICO: The problem is, is that the current legislation is very cumbersome. It requires the entire Board to approve it. It can only be approved upon the completion of parole, and I think those things should be changed. I think a two-member panel should be able to do that. I think a two-member panel should be able to do it in advance of --

during the course of parole, if an individual is performing well. And so I can give you some legislative suggestions on that, as well.

ASSEMBLYMAN PAYNE: There are just a lot of them out there, now, that are frustrated.

JUDGE D'AMICO: Right.

ASSEMBLYMAN PAYNE: They want to go -- and they don't get it. Is there some way they can, retroactively, get this, or is there some way that we can look at those parolees that are out there that simply do not have this document--

JUDGE D'AMICO: Yes.

ASSEMBLYMAN PAYNE: --so they can get their license, they can get a job? Because that's one of the things that cause them to slide back into the behavior that they were in prison for in the first place. If it's already in place, is it being implemented? That's my question.

JUDGE D'AMICO: Not really, because it's so cumbersome and it's really -- it's silly. We really need a legislative change here, in my view.

ASSEMBLYMAN PAYNE: Okay. What is that called? A letter of--

JUDGE D'AMICO: A certificate of rehabilitation.

ASSEMBLYMAN PAYNE: Okay, thank you.

JUDGE D'AMICO: Okay. Thanks.

ASSEMBLYMAN PAYNE: Thank you very much.

MS. SMITH SEGARS: Assemblyman Payne, I just want to say, with respect to the certificate of rehabilitation -- I'll just fast forward.

ASSEMBLYMAN PAYNE: Okay.

MS. SMITH SEGARS: I don't know if there's also something called -- is it something of good conduct?

ASSEMBLYMAN STEELE: Is her mike on? (referring to PA microphone)

JUDGE D'AMICO: Yes. It's the same thing.

MS. SMITH SEGARS: Okay.

ASSEMBLYMAN PAYNE: What is it?

MS. SMITH SEGARS: Yes. It was referred, at one time -- I don't know if they're interchangeable -- a certificate of good conduct.

ASSEMBLYMAN STEELE: I apologize.

Is your mike on? (referring to PA microphone)

ASSEMBLYMAN PAYNE: Your mike, press on it. (referring to PA microphone)

MS. SMITH SEGARS: Oh, I'm sorry. Am I there?

ASSEMBLYMAN STEELE: Red is on, green is not.

MS. SMITH SEGARS: It just wants to do green. (referring to PA microphone) Oh, yours is on. Can I take it back?

ASSEMBLYMAN STEELE: Okay, try it now.

If the Chairman is interfering with the process, I don't want to say anything. (laughter)

ASSEMBLYMAN PAYNE: Not really.

MS. SMITH SEGARS: Can I take over? Somebody's got to turn theirs off. Thank you.

The certificate of rehabilitation, Assemblyman Payne-- We've had conversations before about the kinds of collateral sanctions that have a negative impact on the population when they are back in society. For the

most part, people can't get simple jobs like a landscaper because of tools that they might carry. Those are collateral sanctions. You can't be a barber, or you can't-- There are just basic jobs that one cannot hold because we have, probably, I think, maybe 200 collateral sanctions. And we can provide that information to you -- of all kinds of jobs and licenses that you cannot hold. Certifications that you--

ASSEMBLYMAN BARNES: Housing, too.

MS. SMITH SEGARS: Housing, right. You can't go into places, you can't get jobs. How many -- even getting a job as a State employee, if you have a criminal conviction -- you can be employed, but it's also difficult. People have that negative bias. So to the extent -- and I heard Judge D'Amico earlier talking about the faith-based initiatives and the spiritual programs. But quite frankly, if you can't feed your family, and if you can't feed your kids, and if you can't put a house over your head -- and certainly if it goes to the ego of a person as to their ability to hold down a job and to support their family -- certainly it's going to be much harder to integrate back into society in any meaningful way.

ASSEMBLYMAN PAYNE: The legislation that was suggested would facilitate this, make it quicker. But right now, people who have been released for years and years, they can, in fact, get this certificate of rehabilitation.

MS. SMITH SEGARS: Of rehabilitation.

ASSEMBLYMAN PAYNE: It's cumbersome, or whatever. But they can get it, and they need it, correct?

MS. SMITH SEGARS: And you can put things in place that would make that certificate of rehabilitation contingent upon-- Let's, just

for an example -- participation in an education program while in prison. And quite frankly, right now, those programs exist in the Department of Corrections, but you don't -- I believe you are not eligible for good time credit for those. It seems to me -- it makes logical sense -- that if you go and volunteer-- This is why people don't volunteer for the program, because for them, like, why do it? But there are certainly reasons to be motivated that if I go, particularly if the average person in prison has a fifth grade reading level, there's some incentive for them to go to the program.

And then if they go to the educational program and then they're given good time credit, you are doing a couple of things that go toward good public policy. One, you're returning people to the street who are educated. Two, the likelihood that they'll recidivate back into the system is less because they'll be more likely to be able to get a job or a get a GED. And if that is -- by completing those programs, goes toward their ability to get that certificate of rehabilitation, so that we don't see people back in the system.

So there are a number of ways to -- but I guess I'm jumping a little bit ahead, because I was going to speak to those kinds of programs. But that -- you brought it up early, so I just thought I'd share it with you, my comment.

ASSEMBLYMAN PAYNE: I'd like to cut to the chase, that's all. (laughter) We'd just like to eliminate the dicta, as we say.

MS. SMITH SEGARS: But also, there's the issue of what we call the *parole plan*. I know that people are, when they go toward parole -- and Judge D'Amico, jump in at any time if I'm wrong, because I don't like to speak incorrectly.

ASSEMBLYMAN PAYNE: He's trying to leave. (laughter)  
Just finish your testimony, so-- (laughter)

MS. SMITH SEGARS: But if an individual comes before the Parole Board, if their parole plan is not acceptable to the Parole Board, they'll be denied parole. But what does that involve? That involves getting them -- they have to be ready to hit the street and have housing and have things in place. They have to have all kinds of things. But the Parole Board helps put their plan together, correct? Correct?

JUDGE D'AMICO: Yes.

MS. SMITH SEGARS: Right. So, if the Parole Board helps put the plan together and then they're being denied parole because their plan failed, what's with that? Well, what's with it is that there aren't enough, maybe, programs, or assistance, or community-based programs available in the communities; or two, they're not getting the kind of assistance that they need, or there isn't enough manpower to assist them to put together good plans. Who are their advocates within the system to help them put together sufficient parole plans that then pass muster with the Parole Board, and the Parole Board feels safe and confident that they can release the person to the community because they have housing, and a job, and they're all lined up to go out into the street? So in terms of what happened, in terms of their ability to be released--

But now, let me back up to what happens--

ASSEMBLYMAN PAYNE: Well, who should be their advocate? You said -- who should be their advocate?

MS. SMITH SEGARS: Well, you know, that's a good question. I think now that the Public Advocate has been restored, and I

believe that the Public Advocate will have the Office of Inmate Advocacy that will be a part of their new Department -- if I'm correct -- that the Office of Inmate Advocacy might be the best person at this juncture to step in and to oversee designing and implementing that. Or if the Judge may be able to enlighten us on what those -- what problems exist with respect to the ability of the parolees, possibly, to put together better plans, or what's wrong with the plans, or how come those plans are failing. Why are their plans failing? What is it that -- is it because they're incapable of accessing that support out there, or are we incapable of assisting them with getting that support?

ASSEMBLYMAN PAYNE: Rhetorical questions.

MS. SMITH SEGARS: Right.

ASSEMBLYMAN PAYNE: Let me tell you, let me tell you. The reason for this hearing is to get some specifics on how-- When I ask who could be the advocate, not that we need advocates, I'm trying to get some answers. I really would like to see things that can be implemented, etc. And it's good to discuss these philosophically, but I want to know -- you know, I'm not too bright. I need to know like real -- how do you do it? And what does it take to do it? We say that the plan is what is evaluated by the Parole Board. And if it's not a plan that is acceptable, or whatever, then they don't get paroled.

MS. SMITH SEGARS: Right. Assemblyman Payne, you need specialists who are able to access those institutions and resources within the community, and then to attach them to those individuals. Now who--

ASSEMBLYMAN PAYNE: Of course we do. We need that. But tell me how do we do it? Or where? What's involved? I know we need that.

MS. SMITH SEGARS: Well, I think there are a couple of things. Well, first of all, how do you pay for it?

ASSEMBLYMAN PAYNE: Well, all right. Fine. That's part of it.

MS. SMITH SEGARS: And that's always the question, right? So if you reduce the amount of time that people spend in prison, of course that comes out of the department, the budget of Corrections -- you'll be able to reduce that number of days people spend in jail, and the amount of money can be then diverted to the appropriate department or advocate that can do that. Certainly the Office of Public Defender could do something like that, and/or whether or not the Department of Parole have enough people -- or maybe they have the proper people, but don't have enough of them, or--

ASSEMBLYMAN PAYNE: Okay, all right.

MS. SMITH SEGARS: --they aren't attached. So I think that if those things are in place -- we know what we can do. We just have to be able to do it.

ASSEMBLYMAN PAYNE: Right, sure. Okay.

MS. SMITH SEGARS: On the front end, I would just like to speak a little bit about what happens on the front. Now, I just will say a couple of things, and if you tell me you know all this, just tell me to move on, Ms. Segars, because I don't want to waste your time with just giving a little background information. But at the time that individuals are

sentenced to prison -- I'm going to let Joan speak to some of the things that happen on the front end that have an impact on the back end -- of when people get paroled.

Joan Richardson is my First Assistant Public Defender.

**J O A N R I C H A R D S O N:** Good morning, how are you?

ASSEMBLYMAN PAYNE: Good morning.

MS. RICHARDSON: Again, Joan Richardson.

Let's see if I can get mine to work. How's that? (referring to PA microphone)

ASSEMBLYMAN PAYNE: That's fine.

MS. RICHARDSON: What I did was, Assemblyman Payne, when I received the communication from you, I took the time to poll some of my deputies. We have 22 regional offices across the State of New Jersey. And I asked them what some of their issues were, because I've been kind of removed from the front line, so to speak, for the past almost three years. I wasn't surprised that the issues pretty much were the same as they were when I was trying cases in Essex County. That being, when an individual is sentenced there is a judgment of conviction that is generated and there's a presentence investigation report. The presentence investigation report invariably gives the history of the individual through the juvenile system, if they have a juvenile history, and through the adult system. That is, every arrest, every conviction, every disorderly person's offense, etc.

Oftentimes, the information in the presentence investigation report is wrong. Sometimes, because our clients have a habit of using different aliases and switching one written name -- making a first name a last name or a last name a first name, or using a middle name one time or

the other -- can put you in a whole set of -- make you look like somebody else on the presentence investigation report. Often the information is incorrect. So that is -- let's just say John Jones, who is being sentenced on a third-degree theft that's been reduced from a first-degree armed robbery. John Jones, because his name is kind of common, according to the presentence investigation report, it may say that he has 17 prior indictable convictions -- burglaries, thefts, whatever. But then when the attorney reviews the presentence investigation report with the client, only to find out that it's John D. Jones not John T. Jones, now instead of the 17 indictable convictions, the person only has three. Maybe for, like, a petty theft or maybe for whatever.

So now when the presentence investigation report follows that client down to Department of Corrections' classifications, and ultimately the Parole Board is looking at the PSI, they have in there information that looks -- makes John Jones look like a real busy criminal, when, in fact--

ASSEMBLYMAN PAYNE: Attila the Hun, maybe?

MS. RICHARDSON: Yes, yes. So parole now is, instead of looking at somebody with maybe two or three indictable convictions, is looking at somebody with 17. And often the attorney in court on the day of sentencing will say, "Listen, your Honor, we got -- instead of John D. Jones, is John T. Jones, and instead of 17 indictable convictions there's only three." And let's just say that somebody from Criminal Case Management says, "Oh, yes. We agree to that." The prosecutor says, "Yes, we agree to that." The judges says, "Okay, I'll make the notation." Somehow those notations are not being sent down to classifications. They're not being sent to the Parole Board.

So now when John Jones is looking to get out, after the nine months mandatory on a third-degree crime, he's being told that he's not going to get out, because, "Wow, you've been around the block too many times. You look like a real criminal, and now we're going to give you a hit." Okay? So we find that problem a lot. So then it seems to me there needs to be a protocol designed to ensure that the information, the proper information, gets sent down to the Parole Board.

Now, how do we do that? We can have that conversation. I have some ideas, but that's certainly a problem.

Another problem, with respect to sentencing, is proper credit for jail time. Let's just say John Jones, in that third degree that was reduced from a first-degree robbery -- and I'm going to get to that in a second -- but let's just say John Jones' sentence on that third degree -- sat in the county jail, let's just say, 300 days. And so he should get time for that. But for some reason, the presentence investigation report says he only sat in jail 30 days. There's a zero missing. And of course, the judge in court says, "Okay, I agree with that." Prosecutor says, "We agree with that." Criminal Case Management says, "We agree with that." But somehow that agreed upon proper number doesn't get sent on down.

So now when parole is looking at (indiscernible) eligibility and giving credits, he's not given credits. Of course, John Jones is screaming that "I did 300 days in the county jail. Nobody sees that. Everybody only sees the third." So that's the same sort of problem, in terms of proper communication and the adequate -- the proper information being sent down to Parole, so they can make a decision based on proper information.

Of course, there's another issue, with respect to the information Parole gets with regard to the nature of the conviction, and I'm giving you an extreme example to make my point. But in this case if, say, John Jones went down on third-degree theft, originally he was arrested and, according to the official version, which is on the second page of the presentence investigation report, there's an official version that makes him appear to be guilty of first-degree armed robbery. That's what the police report appears to say. That's what the victim's testimony seems to say, in terms of the original reports. But ultimately, when John Jones -- and the prosecutor has done their investigation, the defense has done their investigation and has made a decision, and the court accepts a plea colloquy for the third-degree theft-- When the Parole Board is making assessment and taking a look at John Jones, the only version that they have to look at is the official version, which is on the second page of the presentence investigation report -- which is what the police officer wrote -- which seems to give a factual scenario for first-degree armed robbery.

So now the Parole Board is looking at John Jones and saying, "Well, you look like you got over here. You came down here on a third-degree theft, and you really should be in here for 20 years. So you're not -- not only are you not getting your real credits, because it only says 30 and you're telling me 300, but we're thinking that since this looks horrible, what you did, and beat somebody, and you had a weapon, and-- We think we're going to give you a hit because of that, too." So this was my experience when I was a trial attorney in Essex. And this is what I'm hearing from the deputies across the state. Not in every region, but certainly enough that I thought I should bring it to your attention.

ASSEMBLYMAN PAYNE: Thank you very much. It's unbelievable. Thank you very much.

ASSEMBLYMAN STEELE: This raises a question now. You raised the issue, but who's responsible for the fact that the paperwork is not being done properly, and that the file is not being kept and it's not being -- moving from point *A* to point *B*?

MS. RICHARDSON: Well, I guess that's the \$10,000 question. Because I think the defense counsels across the state do what they do -- what they've been instructed to do in court. And that is, ask the judge to please make the corrections on his or her documentation so that the typed up judgment and conviction that goes down from chambers is accurate. That sometimes doesn't happen. And I think that if we created (indiscernible), designed to protocol that would ensure that happening, it would go a long way toward the Parole Board getting proper information, and thereby, probably releasing parolees a lot sooner than what they're being released.

ASSEMBLYMAN PAYNE: This is a horror story. How prevalent are these kinds of things -- someone being sentenced to prison because their middle initial is left out? And the judge recognized you're right, etc., etc., etc. It shouldn't happen, but how prevalent is this?

MR. RICHARDSON: It happens enough. If I were to ask for a percentage, based on my own personal experience, I can't necessarily give you statewide.

ASSEMBLYMAN PAYNE: But if it happens once, it's too much.

MR. RICHARDSON: Exactly.

ASSEMBLYMAN PAYNE: And so, therefore, we need to have some direct guidelines as far as what we can implement.

MS. SMITH SEGARS: If I can add, Assemblyman Payne. One thing about the judgment of convictions which are sent to classification, which contain -- some of them are perfect and contain all the information necessary. And what happens is, is that it gets complicated if there are multiple indictments, if there are multiple names, if there are aliases, if there are downgrades, if there are pleas.

Another thing that we have to be mindful of is that, of course, that people sit in county jail. They sit in county jail. The way county jail administrators count time -- what we call *time*, the aggregate time -- is different than how time is counted at the prison, at the State prison. So if you sit in one place, you're counting time one way. If you're sitting another place, you're counting it differently. So there has to be some--

ASSEMBLYMAN STEELE: Some uniformity.

MS. SMITH SEGARS: --uniformity with respect to-- Now, it doesn't mean if you're a county-sentenced prisoner; but if you're a State-sentenced, sitting in county time--

ASSEMBLYMAN PAYNE: Right, right.

MS. SMITH SEGARS: --then you need to count the same way that they count in-- So what happens -- if you're sitting in the county, you lose time. If you're sitting in the State, you get your time. And so whether or not, you get the time. Speaking of time, I also just want to speak to good time credits. Good time credits you get now for day for day, correct Judge?

MS. RICHARDSON: No, he's gone.

MS. SMITH SEGARS: Somebody knows. I think it's day-to-day good time. But what about good time for participating in an educational program?

ASSEMBLYMAN PAYNE: Right, yes.

MS. SMITH SEGARS: What about good time for participating in drug treatment. Drug treatment -- another point -- let me not forget that. You all know that something like 75 or 80 percent of those who are convicted of crimes in this state are there for some drug-driven or drug offense.

ASSEMBLYMAN PAYNE: Sure.

MS. SMITH SEGARS: Now, we know that a good substantial number of those people need to have treatment, and we know anecdotally, I think, roughly 10 percent of the beds in the Department of Corrections are dedicated for substance abuse. If you are going to--

ASSEMBLYMAN PAYNE: Ten percent of the beds?

MS. SMITH SEGARS: Right.

ASSEMBLYMAN PAYNE: Would equal how many beds, and therefore how many are needed?

MS. SMITH SEGARS: Well, we have 23,000 people in State Prison -- okay, 23 percent (*sic*), that's 2,300. If you flip it, you're in need of -- you can do 10 times -- eight times that or seven times that. So, I mean, in terms of having that kind of treatment available to people-- It is one thing to participate in a NA, AA kind of treatment program. And some of you may or may not know that I'm very involved in drug treatment, and I sit on the national board of Association of Drug Court Professionals. And I'm involved in drug courts extensively.

What we know is that people need treatment. And treatment is a continuum. Treatment is not just going to group. And that's part of having NA support, and having your sponsors, and going to meetings in the evening. Treatment also means making sure that you have education, your housing, your health care, all the things. That is what treatment encompasses. Treatment doesn't just mean going to a group session where you're going to have individual psychoanalysis. It means that we have everything from one end to the other, which completes treatment. So treatment is all of those things in the -- that are -- that the parolees need in total. But I think to participate in those things can also inure to the benefit to the parolees, in terms of what they need.

ASSEMBLYMAN PAYNE: Thank you.

Many of the things you're talking about certainly fall under the purview of other departments, Human Services, etc., etc., to try to provide -- or Health and Service -- to provide for training, etc., and treatment centers. But the--

I thank you for your testimony.

MS. SEGARS: You're very welcome.

ASSEMBLYMAN PAYNE: And if, in fact, there are some very specifics that we could follow up on, either legislatively or to follow up on some protocols that would be important, we would definitely appreciate--

Thank you very, very much.

MS. RICHARDSON: Thank you for the opportunity.

MS. SEGARS: Thank you. Have a good day.

ASSEMBLYMAN PAYNE: Thank you very much.

I'm going to ask Ms. Donna Brewer, from Garden State C.U.R.E., to -- who wanted to testify on this hearing -- just to come forward and identify your organization and your relationship to this hearing.

Ms. Donna Brewer, Garden State C.U.R.E.

**D O N N A B R E W E R:** Good morning.

To the Honorable--

ASSEMBLYMAN PAYNE: Let me just say that after-- I should tell you, after this, we will be calling upon the representative from the Department of Corrections, who is also here.

Let's see-- Fine, you're next.

Thank you.

MS. BREWER: Good morning.

ASSEMBLYMAN PAYNE: Good morning.

MS. BREWER: To the Honorable William Payne, members of the panel, colleagues, and all participants here today, good morning.

My name is Donna Brewer. I am the Executive Director of Garden State C.U.R.E. On behalf of International C.U.R.E., Garden State C.U.R.E., all of our members, and the incarcerated citizens in the State of New Jersey, thank you very much for conducting this much needed and long-overdue hearing on the defects and deficiencies of the parole process, as well as the Parole Board for the State of New Jersey.

C.U.R.E., C-U-R-E, is an acronym for Citizens United for the Rehabilitation and Restorations of Errants. C.U.R.E. has its roots in San Antonio, Texas, where, in 1972 -- over 30 years ago -- it was formally constituted as a nonprofit organization by our founders Charles and Pauline Sullivan. In 1985, the organization became national, having a chapter in

almost every state and, in 2005, became international, with consultative status to the United Nations. C.U.R.E. in New Jersey began in 1988, and is currently known as Garden State C.U.R.E., which serves as a unifying voice for individuals and organizations who are committed to criminal justice reform.

I am here today because our members are being directly affected by the policies and practices of the New Jersey Parole Board. The Board has arbitrarily and capriciously denied individuals parole who were not only eligible for parole, but also met all requirements in accordance with the standards of Administrative Code 10A.71 of the New Jersey Parole Act.

Today, I would like to share with you some very brief statements from just a few of the numerous individuals who are being denied parole without just cause.

First, I would like to tell you about my friend Nelson Guzman, a 45-year-old Hispanic man currently incarcerated at East Jersey State Prison. In 1979, at age 17, he was convicted of murder and received a sentence of 25 years to life. During those 25 years, Mr. Guzman has made every effort to turn his life around. He has completed all of the institutional programs ever offered within the time frame, in both English and Spanish, as well as ongoing participation in the Scared Straight program for more than 18 years.

He appeared before the Parole Board in November of 2004, and was recommended for parole. Since the Parole Board cannot give a release date, he was referred to the full panel. He appeared before the full panel in January of 2005. The panel was not satisfied with the decision of the Parole Board, and they deferred him back to rereview his institutional

record, since their decision did not address an allegation of an assault on another inmate 10 years prior.

It is important to note that Mr. Guzman did not receive an infraction -- did not receive an infraction for this alleged altercation. And the referenced inmate was a man who was placed on the same unit with Mr. Guzman after he had raped and brutally murdered Mr. Guzman's sister.

He went back to the Parole Board in the end of January 2005. And after reviewing everything, they recommended him for parole again. In March of 2005, he again appeared before the full panel and received a 10-year future eligibility term. The creative way that he was denied read, "After 25 years of incarceration, you have not shown the requisite amount of rehabilitative progress in reducing the likelihood of future criminal activity."

Since he had already taken every institutional program available -- which included a voluntary transfer to South Woods State Prison to complete the Moral Reconditioning Therapy-- This recommendation is currently being used on everyone once becoming eligible for parole; makes obviously no sense in this particular case. He became eligible for a second review in November of 2005 and, to date, has not been reviewed.

Mr. Frank Brown, an African-American, age 68, currently incarcerated at East Jersey State Prison, was arrested in 1975, and convicted of murder in 1977. He was given a life sentence and became eligible for parole in 1989. He went before the Parole Board in the year 2000 -- 11 years after becoming eligible for parole -- and he was given a 15-year future

eligibility term. It should be noted that according to the 1979 Parole Act, individuals receive a yearly review after their parole eligibility date.

In 1977, a life sentence was not intended for natural life, but instead was completed in 25 years. If a person had a good institutional record, and after receiving commutation credits and work credits during that time, the most time he would serve would be 14 years and eight months.

In this case, by the Parole Board going outside the guidelines and giving this elderly and sick man an additional 15 years, they have in essence turned his life sentence into a natural life sentence or, as some may say, a death sentence, since the average life expectancy for an African-American man is only 67 years.

Mr. Brown had a favorable parole plan. He had plans to live with his sister, thereby taking the burden off of the State. But he was denied parole. Since there isn't any *de novo* reviews, the Parole Board used old records and old files and, in five minutes, they determined a man's fate. The reason for the denial that Mr. Brown was given was the old rubber stamp reason, "likelihood that he would commit another crime." That reason can be, and is, used arbitrarily and indefinitely, even where there is evidence to suggest otherwise.

Then there is Mr. James Johnson, an African-American man currently incarcerated at East Jersey State Prison. He too has been incarcerated since January of 1975. He received a 70-year sentence with no mandatory minimum. He also became parole eligible in 1989. He went before the Parole Board on November 28, 1989, and was given a 10-year future eligibility term. He appealed that decision to the Superior Court,

Appellate Division. And on July 2, 1992, the Court reversed the Parole Board's denial, citing that "murderers, kidnappers, and rapists would be seen at the completion of their future eligibility term no later than 36 months."

The Court ordered a new hearing. The Parole Board issued an eight-year future eligibility term. In January of 1995, he went before the board again, and this time he was informed that he would be released. They said they would defer their decision to ISSP, Intensive Supervision Surveillance Program. This matter went before the full panel, and parole was once again denied, and he was given a six-year future eligibility term.

In 1997, he was eligible for parole again, but the case wasn't heard until August of 2000, three years later. He went before the Board and was deferred to the full panel again. This time, he received a 10-year future eligibility term. Now, keep in mind that the Court has already informed the Parole Board that they could not give him more than 36 months at a time. So, as you can see, this is a cat and mouse game.

In June of 2003 he appealed that decision, and again the Court reversed it and ordered a new hearing within 60 days. The Parole Board complied, and a new hearing was given on July 31, 2003. William McCargo, the then Chairman of the Parole Board, issued a certified release date for September 11, 2003. Seven days later, two members of the full panel called for a new hearing. This request was sent to the then new and current Chairman, Mr. Judge John D'Amico, and on September 10, 2003 -- less than 24 hours before his scheduled release -- he was once again denied parole and given a 15-year future eligibility term.

Since 1989, Mr. Johnson has been given false hope of going home on three separate occasions. This is a man that has completed every institutional program, has not received any infractions, and has a strong family support system in place. This is a man who, in the year 2001, received the Congressional Medal of Honor from President Clinton and was given his Purple Heart in an official ceremony inside the prison. This is a man who has been subject to the bias, prejudice, and vindictive nature of the New Jersey State Parole Board. The reason for the denials each and every time was the old rubber stamp, "likelihood that he would commit another crime."

It is important to note that each of these three men are long-term offenders. Although there are many programs in place, such as electronic monitoring, the satellite program, and Halfway Back programs, none of the long-term offenders are being considered for any of them. They are simply being denied parole and given the exact same reason for the denial. Given the recidivism rate of less than 3 percent for long-term offenders, I would contend, ladies and gentlemen, that the New Jersey Parole Board system is obviously broken.

Thank you very much for your time and consideration, as well as your anticipated action in this matter.

ASSEMBLYMAN PAYNE: Thank you very much, Ms. Brewer. Vice Chairman Steele has a question.

ASSEMBLYMAN STEELE: No, I'm okay.

ASSEMBLYMAN PAYNE: Oh, you don't.

ASSEMBLYMAN STEELE: I just want to thank you for your testimony.

MS. BREWER: Thank you.

ASSEMBLYMAN PAYNE: Anyone else? (no response)

I want to thank you very, very much for this. I really appreciate your taking the time to come here to give us the other side of the picture of corrections. And I'm sure that the testimony will be -- that will be printed, will contain your testimony. We will review it, and we'll see just what we can do.

The Chairman happens to still be here. I'm sure that you probably raised his memory about some of these cases. And I'm sure that he will probably look into it at some future date. I can't speak for him, but I would think that these are some issues that, perhaps, the Parole Board will look at.

I want to thank you very, very much for this.

MS. BREWER: Thank you. (applause)

ASSEMBLYMAN PAYNE: I don't know whether you--

Since you're still sitting here, Mr. Chairman, I didn't know whether you wanted to react at all at this time or not.

JUDGE D'AMICO: I can't comment on any cases.

ASSEMBLYMAN PAYNE: Okay. Thank you very much, Mr. Chairman.

ASSEMBLYMAN STEELE: I don't think it would be-- Yes, it's beyond jurisdiction.

ASSEMBLYMAN PAYNE: Thank you, Mr. Vice Chairman, for your assistance here, but through the Chair if you don't mind. I would really appreciate that. Thank you very much.

ASSEMBLYMAN STEELE: You got that, Mr. Chairman.

ASSEMBLYMAN PAYNE: Michelle Hammel, please, from the Department of Corrections.

Thank you very much.

**MICHELLE HAMMEL:** Good afternoon, Chairman Payne, Vice Chairman Steele, members of the Committee.

My name is Michelle Hammel. I'm the Legislative Liaison from the Department of Corrections. And with me is Donna Sweeney-Elrose.

Most of what the Department had to say was certainly covered by the Chairman in the areas where we coordinate. And I would like to thank the Chairman and the members of the Parole Board for the cooperative relationship that our departments have had. And we look forward to continuing that relationship.

I just want to point out a couple of things that have come up in all of the testimony. The issue that you raised, regarding identification-- The Department of Corrections does provide an ex-offender with ID for short-term identification purposes. And we've recently entered into a memorandum of understanding with the Social Security Administration to allow inmates to apply for replacement of Social Security cards while in custody. So we are working to address some of those identification issues that have been problematic.

You also questioned the number of inmates currently in the county backup. While we were waiting, we called back to the office. And, currently, there are 1,876 State prisoners in county backup as of today.

ASSEMBLYMAN PAYNE: How does that compare with last year, 10 years ago, five years ago? How does that compare?

MS. HAMMEL: Since the fourth quarter of Fiscal Year 2005, there are about a thousand more State prisoners in county backup than originally anticipated for the Fiscal Year 2006 appropriation.

ASSEMBLYMAN PAYNE: One thousand more?

MS. HAMMEL: Yes, for this -- the current appropriation, which is what lead to the \$22 million supplemental that was requested.

I'm really here-- Again, there are other people who are more -- that this is an issue that's not, certainly, a one-department process. You've heard from a lot of people. I'm happy to answer any questions that you have, take anything back.

Again, the Commissioner thanks you for the opportunity for allowing us to be here today. We look forward to continuing to work with you.

ASSEMBLYMAN PAYNE: Let's talk about this backup, this 1,876 that are currently being held and, therefore, require the special appropriation of \$22 million to pay counties for holding State prisoners.

MS. HAMMEL: Actually, just let me clarify. Nineteen million of that is for the current, \$3 million was for the prior.

ASSEMBLYMAN PAYNE: And \$3 million was for prior.

MS. HAMMEL: Correct.

ASSEMBLYMAN PAYNE: Okay. So it's only \$19 million.  
(laughter)

What we're looking for -- several things here. One is that we're looking to find out how we can become more fiscally responsible in the State of New Jersey to save money. One of the chunks of money that we're

looking at, of course, is the fact that we have to appropriate \$19 million for holding prisoners -- State prisoners in county facilities.

And we're looking--

I'm sorry, you were going to say something.

MS. HAMMEL: No, go ahead.

ASSEMBLYMAN PAYNE: And I'm looking-- We're looking for reasons why that occurs, you see. Why is it that we have an increase, number one, in the backlog? I mean, there's a tremendous increase. Why is that? Because that impacts on the entire system.

MS. HAMMEL: Based on the information that we have available, during the first three quarters of Fiscal Year 2005 -- so July 2004 through March of 2005 -- parole releases per month averaged 738. But during the fourth quarter, they dropped to an average of 674, or 64 less per month, a total of 92 less for the quarter. And then during Fiscal Year 2006 -- through December of 2005 -- parole releases have averaged 594, or 144 less per month than the 738 average for the first nine months of Fiscal Year 2005, which is a total of 864 less for the first half of the current fiscal year.

ASSEMBLYMAN PAYNE: Which is something that really needs to be seriously looked at and addressed.

And another reason why we're concerned about this is that the people that are impacted most often are minorities, African-Americans or Hispanics. We have approximately 80-some -- 83 percent of the people that are in our corrections system are African-Americans or minorities. Sixty-six percent of them are African-Americans.

So in addition to the fact that it's costing the State money for -- to hold these prisoners there, costing the State money because we're not

releasing these people on time, my concern happens to be that we have a disproportionate -- more so than any other state in the union. New Jersey has the highest disparity rate of any state in the nation. African-Americans represent 13 percent of the population, yet they represent 66 percent of those in prison.

Now, these are facts, maybe, that have been known or may not have been known. But some people just don't want to address it. But there are human lives that are involved here. And there's-- As I said earlier, this is a government of the people, by the people, and for the people. And these are also -- this part of the population needs to also be addressed.

It impacts on those folks because, for some reason, the system is not working as expeditiously as it should to release these people and thereby open up beds, and thereby take people out of county prisons, etc., etc., etc.

We did hear from the previous -- from the Chairman -- that there have been meetings that have been cancelled. And we're looking for the number of meetings that were cancelled or not held. Because we're talking about 15,000 cases heard per panel, and there are meetings that are cancelled. My God, that's a lot of people. And, in fact, that needs to be corrected. We do know that two people have been appointed, and perhaps that might resolve the problem.

But can you imagine those folks who have been languishing in prison, simply because meetings were cancelled? I mean, that's something that we need addressed.

And I also need addressed the fiscal (indiscernible). I'm sure that Governor Corzine would like to see us being able to, if we could, save

billions of dollars here. And we would like to contribute to that closing of that gap.

I don't know whether anyone else has any comments to make on this.

Vice Chairman Steele.

ASSEMBLYMAN STEELE: Yes, thank you, Mr. Chairman.

I know that there's a partnership in the way we facilitate the housing and the Parole Board. But is it not a fact that the State does not have the capacity to house State prisoners and that, therefore, the county actually has to hold them?

MS. HAMMEL: There was an initial appropriation of \$18 million for--

ASSEMBLYMAN STEELE: I'm speaking, now, not of dollars but of housing. I mean, if the 1,776 was shipped to the county tomorrow, where would they go in State facilities?

MS. HAMMEL: I-- If they--

ASSEMBLYMAN PAYNE: The \$18 million-- Let's--

MS. HAMMEL: Right. Let me just finish.

ASSEMBLYMAN STEELE: No, I'm dealing--

MS. HAMMEL: The \$22 million supplemental was on top of what we had already anticipated for State prisoners who were in the counties until we could get them into State facilities.

ASSEMBLYMAN PAYNE: So this is \$22 million extra--

MS. HAMMEL: Twenty-two million extra, right.

ASSEMBLYMAN PAYNE: --because of the backlog that was there.

MS. HAMMEL: Right.

ASSEMBLYMAN PAYNE: I think the Vice Chairman is asking whether or not-- Would the State be able to-- Let's say be able to--

ASSEMBLYMAN STEELE: I'm speaking now of space, Mr. Chairman.

ASSEMBLYMAN PAYNE: Space, okay. Beds -- what we call beds.

ASSEMBLYMAN STEELE: I'm speaking of space. Does the State, tomorrow, have 1,776 beds?

MS. HAMMEL: I do not believe that we do. I would need to check that.

ASSEMBLYMAN STEELE: Okay. Right.

MS. HAMMEL: That's what I was trying to explain. In our overall departmental budget, there was already \$18 million that was appropriated to house State inmates in county facilities, which--

ASSEMBLYMAN STEELE: Right.

MS. HAMMEL: --required a, then, supplemental on top of that.

ASSEMBLYMAN STEELE: And that's because the State does not have beds to accommodate those.

MS. HAMMEL: That is my understanding. That is correct.

ASSEMBLYMAN PAYNE: And here's the relationship. That is because, connected to that, the Parole Board is not releasing these people, you see.

ASSEMBLYMAN STEELE: That's my point.

ASSEMBLYMAN PAYNE: The Parole Board is not releasing these people as they should have. There's been a down-- We said there's a thousand more there now. So what we're looking at-- It's a kind of-- What is it? It's all connected. It's a domino effect. And so what we're looking for is a way to resolve that. We can save \$22 million perhaps if, in fact, we're able to expeditiously parole people and therefore free up beds, and therefore take these prisoners out of the county prisons, and therefore save \$22 million -- more than \$22 million, because it's \$18 million already. And then on top of that, because of the greater delay, we had to add another \$22 million. So that's what we're talking about. So we're really looking to streamline the parole system. I think the Chairman has made some recommendations as to how he thinks they may be streamlined, and hope--

MS. HAMMEL: And we look forward to working with the Chairman on that legislation and offering any suggestions that may be helpful from our end.

ASSEMBLYMAN PAYNE: Oh, absolutely. Sure.

Assemblyman Thompson.

ASSEMBLYMAN THOMPSON: Actually, your response to the Chairman's question didn't answer the Chairman's question. His question was: How did this 1,800-plus number of inmates in county jails compare historically? What you said was, "It was a thousand more than we projected in our budget." And, of course, people play games with budgets. So you may have underestimated, for whatever reason.

The question though was, how does it historically compare with how many have been in county institutions?

MS. HAMMEL: I do not have all of those historical figures, but I will be happy to provide them to you through the Chair.

ASSEMBLYMAN THOMPSON: So, really, this may not be that -- may not be a thousand more than traditionally has been in county jails.

ASSEMBLYMAN PAYNE: It may be 2,000. Who knows? The numbers can go either way.

ASSEMBLYMAN THOMPSON: Well, if it's 1,800, it can't be 2,000 more.

MS. HAMMEL: Again, the information that I have-- And, again, I will need to talk to our budget people and all of the people. Unfortunately, numbers are not my specialty. And I would hate to give you information that is not accurate. So if you will-- I apologize for not having that historical data all available to you today. But I will certainly get that to you.

ASSEMBLYMAN THOMPSON: And I kind of interpret the question Vice Chairman Steele asked there-- If we had the capacity for these 1,800 in the State-- Well, we wouldn't save \$22 million, because we still have to pay to have them incarcerated in the State facility as opposed to a county facility.

ASSEMBLYMAN PAYNE: Unless, if they're being released through parole. If they're being released as they should be, if they qualify, then you reduce the overall. You wouldn't be paying for that. It's not double money. You release -- you free up the beds. They're out there in these programs, or they're out becoming contributing members of society. That's what we're talking about. That's the purpose of rehabilitation -- so

that these people come out, they're able to get jobs, and get training, etc.

So, no, let's make it clear here. What we're talking about is releasing -- getting rid of the backlog in State prisons, freeing up the beds, releasing them from the county. These people that are paroled are then out there becoming productive citizens. That's what we're talking about. We're not saying adding to them.

ASSEMBLYMAN THOMPSON: I didn't get the impression from the Chairman's testimony that necessarily there were 1,800 people that should have been released on parole last year that didn't get released. Yes, he did say they had postponed hearings. But he didn't say they were postponed indefinitely, that they didn't reschedule these hearings and have them. So I'm not sure that we'd really have 1,800 or 2,000 individuals that should have been paroled that were not. In fact, I think your figures showed maybe about 600 or so on administrative hold, or something like that.

MS. HAMMEL: There are 322 currently on administrative hold. And our figures-- The figures from the Department of Corrections showed Fiscal Year 2006 through December -- so for the first half of the fiscal year, there are 864 less people who have been released on parole than the previous year.

ASSEMBLYMAN THOMPSON: But that was not necessarily because the Parole Board didn't hold hearings, or so on.

MS. HAMMEL: Absolutely not.

ASSEMBLYMAN THOMPSON: It could have been that the people didn't qualify or any variety of reasons.

MS. HAMMEL: The Department of Corrections takes no position as to why that happened. But we're simply stating that it did not happen.

ASSEMBLYMAN PAYNE: Well 50 percent are rejected. I mean, 50 percent of the people that apply for parole are rejected. So we know that some are not qualified, etc., perhaps.

But what we're looking at is beyond that. We're looking at, how do we get those who are eligible to be heard? If, in fact, there are meetings that are cancelled, the ones that are waiting to be heard can't be heard because some of the commissioners have not been able to come to the meetings. So what we need to do is, number one, correct that situation so that they will have these meetings, and so they can hear them. And they will be able to determine whether they are qualified or not. But if, in fact, there are no meetings to hear them, we don't know what the story is.

ASSEMBLYMAN THOMPSON: You will never be able to avoid that, because they do have a fixed number of hearing officers. Hearing officers get sick, one thing or another, accidents happen. There will always be some cancelled because emergencies occur.

ASSEMBLYMAN PAYNE: Thank you.

I'm not here to defend a claim about the Parole Board. I'm not looking to defend. If, in fact, there are things that need to be improved-- We're not here to attack the Parole Board. But we're here to try to eliminate that which may be derelict because of whatever reasons. No meetings -- I think that's a glaring one. That's one of the things I heard. That's important.

So we need to find out what it is we can do to improve, to assist the Parole Board so that several things can happen: that people who have qualified for parole and have not been scheduled to be heard -- that they can be heard. Then let it be determined, if they look at the records properly -- rather than looking at the first arrest record -- the police record. If they looked at that properly-- There's a lot of things here that need to be corrected.

Then we want to be able to free those people. What we're talking about has an impact on the budget of the State, which is one of the things that we're supposed to be concerned about. But also, I'm concerned, in addition to that, by -- they're human beings that are not just numbers, but are people that are waiting, people that have gone through the process, but are waiting to be heard. That's what I'm trying to do. I'm trying to correct-- So they can get out and be able to be contributing members of society. That's what we're looking for.

Ms. Karrow.

ASSEMBLYWOMAN KARROW: Mr. Chairman, may I ask a question?

As a point of clarification on something you just said, and Judge D'Amico. Is qualifying for parole and being parole eligible the same thing?

JUDGE D'AMICO: No.

ASSEMBLYWOMAN KARROW: No, they are not. Okay, thank you.

ASSEMBLYMAN PAYNE: Thank you very much for coming today. We appreciate your input.

MS. HAMMEL: Thank you very much. We look forward to continuing to work with you.

ASSEMBLYMAN PAYNE: Let's see, we have Ms. Stacey Kindt, from Redeem-Her.

**S T A C E Y K I N D T:** Good afternoon.

I'd like to thank you for the opportunity to be here. I have submitted a written testimony. And based on what I've heard so far this morning, I'm really not going to take any time to go into that. Most of it has already been addressed. And just for the sake of efficiency, there's just a few points that I want to hit, based on what I've already heard.

My name is Stacey Kindt, and I'm Inmate No. 451114/698887C. I was released from the Edna Mahan Correctional Facility for Women on September 13, 2004, and will remain on parole until November 27, 2007. I'm also the Director of Redeem-Her, which is a nonprofit. We are a collective of female ex-offenders that are working together to help each other to become valued members of the community.

And I have with me Brenda Newland, who will also be on parole until October--

**B R E N D A N E W L A N D:** Two thousand eight.

MS. KINDT: --2008, and who is also a member of our organization.

I did have issues with my own parole hearing. And I detailed those in my written testimony, and also included the application for emergent relief to the Appellate Court that I eventually filed. But I want to make sure that it's clear that that is not the procedure that is in place if an inmate should not receive their hearing.

The first point that I want to make is that statutorily, there is no process that is in place. If I know my rights, and I know that I'm to have a hearing 60 days prior to my eligibility date, I really have no recourse if that is not to occur, except to contact the Parole Board. So I have included that application here so that you can see the process that I went through when I knew that my rights were being violated.

The reason that you cannot file an application for emergent relief to the Appellate Court is because you must have a final decision of an agency that you wish to appeal. And this is a situation where you don't have a final decision, you have a lack of decision. So I believe that there's an oversight in the statutes in that there is no way for us to ensure that we are receiving due process and that our rights are not being violated.

The points that I wrote down that I want to hit on -- this is going to be a little bit all over the map, because I just wanted to hit things that were already said.

I think it might be a surprise to a lot of people in this room that I would come up here to stand behind probably 95 percent of what Chairman D'Amico said. I'm very mindful of the fact that he has only been in the position since 2003, and that there's going to be a culture that he came into. And even-- Everything that-- Almost everything that he said -- the changes that he outlined that he's working towards -- I have seen those changes, during the time of my incarceration, beginning to come to fruition. And I think it would be a tragedy if we were not allowed to see those play out even further. I think that he is absolutely on the right track. And although I don't agree with everything, I'm generally in support.

ASSEMBLYMAN PAYNE: These changes took place while you were incarcerated?

MS. KINDT: I have seen a change in the culture of the Parole Board during the time I have been incarcerated. On the other hand, I don't know how many people he has under him. I assume it's thousands. And for that change to trickle down to all of them is going to take years.

ASSEMBLYMAN PAYNE: This is after you were paroled, you're saying, that there have been changes, or while you were incarcerated?

MS. KINDT: Well, he took that position while I was incarcerated.

ASSEMBLYMAN PAYNE: But the changes that were brought about while you were incarcerated were implemented and developed by the Corrections Department, correct?

MS. KINDT: No, I'm saying specific changes within the parole process. The Edna Mahan Correctional Facility is basically a small town. There's only 1,200 of us. We know what's going on with everyone. I mean, we hear the experiences that people have while they're on parole. We know why they violate and come back to the institution. So I'm basing it on their experiences, as well.

One thing that I definitely wanted to point out is that I hear a lot of talk about not spending as much money. And I think it's important to make sure that you're not shortsighted. Because you have talked about people leaving and becoming contributing members to society. But statistics don't necessarily support that. I haven't heard talk about the recidivism rate. If 67 percent of the people that we release are going to return to prison, we're not going to really save any money just by getting

people out the door if they're not equipped to become contributing. And so I do think that we are in a situation where, if we were to spend more money on programs that are working, eventually we're going to save money in the Department of Corrections, in parole, in Social Services and Welfare, in the Division of Youth and Family Services. So it may be a situation where we pay now to save later.

ASSEMBLYMAN PAYNE: Right.

MS. KINDT: Because, obviously, with the recidivism rate of 67 percent, we are not coming out prepared to be contributing members of society.

ASSEMBLYMAN PAYNE: No.

MS. KINDT: There's a couple of reasons why I think that is. And I think that the Legislature is in a position to have an impact on that. The number one thing is jobs. You can put more money into educational training, more money into vocational training. But the reality is, if I can come out with a college degree and throw newspapers on the graveyard shift, education is not the answer. I mean, definitely, you're better off with a GED than you are with a fifth-grade reading level. But the reality is, the jobs are a barrier, no matter what type of education we have.

And as far as the vocational training, the only vocational training, in my opinion, that is valuable is training in areas that we know for a fact will hire felons. So just as an example, the Edna Mahan Correctional Facility has a phenomenal office skills program. And I went through that program. And I was able to build a Web site for our organization with that program, which was great. But it didn't help me to get a job, because office jobs are not really available to people that have a

criminal background. So there has to be, one, a correlation between the training that is offered and the jobs that are available. But, two, is there something that can be done, legislatively, to open some of those doors for people who are coming out?

And we had conversations in the hallway about the ins and outs. And I would be foolish to sit here and think that I have the answers, because it is not that simple. It's very complicated. But I can tell you right now, the jobs are the key. Because if I have a job, you don't have to house me. If I have a job, you don't have to transport me. If I have a job, my kids are not on Medicaid. If I have a job, I'm not on Food Stamps. And, right now, that's not what's happening.

I also want to address-- I think that this is critical, based on what I saw during my time of incarceration. We know that roughly 60 percent of the people who are incarcerated have mental health issues or are taking psychotropic medications. We also know the reading level is about sixth grade. I heard fifth grade stated. In America, we have a culture where we take care of the least of these, or however you want to refer to that. And the parole process is not something that is easily understood by the majority of the inmates. They have no one to serve as an advocate.

I heard a lot of talk about parole plans. And I can't speak for everyone's experience, but I know in my experience, parole plan was one question: Do you have an address? And I gave an address, and there was no -- was that a good-- I think what has happened -- and I'm even going to defend the Parole Board in this -- they're just like everyone else. They're so understaffed that parole plan -- it doesn't mean a thing to me. I really don't know what you're talking about when you use that terminology. And I'm

not just speaking just for myself, I'm speaking for hundreds of women that I have had the opportunity to live with and observe their same experiences.

ASSEMBLYMAN PAYNE: Well, let me just say this. We're hearing so much about, "We have parole plans, etc., this is what we utilize, etc." You're telling me that there's no such thing that you experienced? I mean, if there is one--

MS. NEWLAND: I never even-- I was never even asked about a parole plan. There was a-- I guess it was all done by a counselor that I had. I was in Garrett (phonetic spelling) House. I guess it was about 60 days before I was to be released, a parole person came to me and just told me what my plan was. So I was not part of it other than the fact that I was asked at one point, do I have an address. That's about it. And if I didn't have an address, then they were going to look for a placement of some kind.

ASSEMBLYMAN PAYNE: Thank you. I just wanted to clarify that. I just wanted to get that on the record.

MS. NEWLAND: That's about it.

MS. KINDT: There's also an issue that I have not heard brought up at all. And our focus in our organization is, obviously, on the women. We are providing services to women, including ourselves, as far as housing, helping with jobs, and things like that. But something that has not been mentioned at all, that has been absolutely critical to the women who are incarcerated, is the 1997 Adoption and Safe Families Act.

If you're not familiar with it, it was a federally passed law that placed, essentially, a deadline on the amount of time that a child would spend in foster care. And the intention behind it was that children not languish in foster care, which I, of course, agree is a good idea. But what

has happened is that that deadline is 15 months. The average incarceration of women -- many -- the vast majority of whom are primary caretakers of their children -- is longer than 15 months. So what's happening to the women is, these delays in parole -- and I actually have a letter that's attached to my written testimony -- they can very conceivably equal losing your children forever. And the problem for the women is that, that's not something we get up off the mat after that happens.

And I can speak for myself, because my incarceration was over that 15 month period. If I had not had a family member to care for my children, I think that, in all likelihood, I would have lost those children. And that's something that needs to be addressed. And I would go even so far -- I'm going way out on this but -- to say that there needs to be gender-specific considerations in parole. It needs to be a situation-- I mean, I will be very radical, but I firmly believe if a woman is the primary caretaker of her children, and those children are in foster care, she needs to be given a parole date. And if she violates, fine, reincarcerate her. She had the opportunity. But women, as the caretakers of the children, they must at least be given the opportunity, because we are losing our children forever, not a situation where we're able to get them back. Our rights are being terminated, and our children are being adopted into other families. And if anybody in this room could put themselves in that position -- that, to me, is critical and is absolutely worthy of mention.

I think that some key points that -- things that can actually be done-- It's essential that we have an advocate to go through this process. And maybe everyone wouldn't need it. If hearings were happening on time, it wouldn't be utilized. But just the education level-- And, also the

bureaucratic mess of it all. There's no way for us to go through it without an advocate. I went through it with a college degree, with a husband who had been through law school, with family who probably drove these poor people crazy, and still couldn't get out on time.

And I appreciate, very-- I really didn't expect to come here and hear anything meaningful, to be honest with you. And I have been very appreciative of the morning and the things that I have heard. And I really came here with my stated purpose being to make sure that you understood that you're talking about human beings. And I've heard you say that many times. And we have to always remember that, with human beings, there's no small errors. And when you're dealing with tens of thousands of people, there's going to be errors, there's going to be hearings that are missed. But it just can't be the standard operating procedure.

For me, I want to put a human face on it. My parole date -- my parole release date was delayed by eight weeks. And that's not-- Compared to what we're talking about today of people getting hits of 10 years, that's nothing. But for me, what that meant was, when I got a release date, my daughter made -- you know those paper chains that interlock?

ASSEMBLYMAN PAYNE: Right.

MS. KINDT: She made a chain with the paper -- a link for each day until I would be released. And every day, she tore off a link to when my date would come. And that chain was gone, and I wasn't out. And when that happened, I lost something in my relationship with her, because that was my credibility. I had told her, "Mommy will come home on that day," because that's what I had been told. And maybe that was my error in depending on the system to do what it said it was going to do. But

I think that that puts it in perspective, that a 6-year-old girl lost something when that happened. And we can't ever-- It's a huge problem, but we can't ever look at it as just a huge problem. We have to look at it as a lot of individuals that are a part of this.

So in conclusion, I just really want to encourage the Legislature, as they have been doing, to continue to focus on reentry, and to continue to focus on the fact that so long as we come out and are not successful, you're never going to save money. It's just going to-- The revolving door is going to continue. And at this point, we, by and large, are not successful. And the question we need to ask is why, and what can we do to rectify that?

Do you have anything you want to add?

ASSEMBLYMAN PAYNE: Thank you very much, Ms. Kindt.

Would you like to have something--

MS. NEWLAND: I'd like to--

ASSEMBLYMAN PAYNE: Would you introduce yourself and give your name again, please?

MS. NEWLAND: My name is Brenda Newland. I'm also known as Inmate 438236. But I'm also part of Redeem-Her.

And I have to say that I heard them talk about inmates choosing to max out. I have to say that I find it hard for anybody to choose to stay in prison. If you have an opportunity to be paroled, most people would take it.

I did find, though, that some of the women in Edna Mahan would say to me, "I can't parole. It's too difficult -- the requirements of trying to house myself, get a job, go to meetings three times a week, find

babysitters for my children, get transportation.” They violate, and they come back, and they would rather just get their sentence over with.

I don’t know-- Like Stacey said, I’m not sitting here with any answers. But I do know if people are being released earlier -- if they’re going to be released earlier, and they’re going to accept that parole, they do need more support. Once again, it’s back to programming, and what kind of programs we can put in place to help support somebody who is on parole so they can make their meetings, they can make it to parole.

I have to tell you, when I first got my parole plan, and they told me that I would be required to go to some kind of out-patient drug place -- I had to go to be assessed. And I prayed, and I prayed, and I prayed that I would be assessed out of that, because the program would have taken me from my job three nights a week. I wouldn’t have been able to keep the job that I have. And I have done very well with the job, and I’ve gotten five promotions. This was something that I wanted. And it also helps me to become a better part of society and to start working. I ended up being assessed out of it, but a lot of people aren’t.

So that is a-- If the requirements of parole are unrealistic for the person to be able to fulfill, then we’re going to have a lot of violators. That may be something to look at.

ASSEMBLYMAN PAYNE: Thank you. Thank you very much for your testimony. It was very helpful.

Reverend Manuel, Reverend Sandra Manuel.

**R E V E R E N D   S A N D R A   M A N U E L:** Hello.

I hope you can hear me.

ASSEMBLYMAN PAYNE: The red light means we can hear you.

REVEREND MANUEL: Oh, you can hear me now.

ASSEMBLYMAN PAYNE: Yes.

REVEREND MANUEL: I am Reverend Sandra Manuel, and I'm the President of the reentry ministry, Euphrates Project, Inc. And I would like to-- I'm here just to hear the manner of what you're addressing.

But I would also like to say, on behalf of the reentry initiative, that it is very important that it is continued. And through it, Euphrates has been able to put on two conferences at which we were able to bring awareness to our community in Monmouth County about people that were incarcerated and coming home to regain their lives, to reestablish their families.

We work with Pathfinders, with the Parole Board, under the leadership of Judge D'Amico. We also work with Juvenile Justice and chaplaincy services with Reverend Taylor. We were able to recruit volunteers -- faith mentoring volunteers that would assist in other people coming home from incarceration -- and to help in establishing relationships with their families.

It's important to us, because we've been able to mentor people, and to put them in focus, and let them know that we are there for them in the community. A lot of times--

I heard a lot of testimony about how -- what people go through. And we have heard, ourselves, about what people go through. And I, myself, have been privy to it, because my son was incarcerated. And I had to take care of his daughter. And I'm a grandmother raising a child. So I

know what it's like to have to be on the receiving end of trying to get services to benefit my grandchild, because she does have a handicap. And in saying that, I also was able to reach out into my community and to connect the dots. And when I did that, I saw that there were other people that needed it also.

I also, myself -- as a mother -- raising my children by myself. My husband was on drugs. And things happened in my life that I was not proud of, because he was on drugs. And I had to serve some time myself in -- at the time it was called Clinton. But God blessed me, and he restored my life. I didn't have to stay there a long time. And I had people -- significant others -- who were vouching for me, who knew that my character-- And I had a chance to be -- just to touch the system. But it was enough to know that it was something that needed to be addressed. And there are women that have husbands and boyfriends that are luring them into the system, not by any means of their own, but just because they care.

So I'm here on behalf of the reentry. And I am asking you to please consider what Judge D'Amico has started and what Commissioner Devon Brown has started in Corrections, and continue it on. And we do need more--

Even though we are a faith-based ministry, we have helped quite a few people. We do need funds also to keep us going. I heard Assemblyman Steele mention that. And we do need funds to keep us going. But we have a heart for the people of this community and the State of New Jersey. And we want to see the young people, especially our children, be successful, because the gangs are swallowing them up. And we are looking at lives.

I also had the opportunity, in going to school and getting my education-- I became an R.N. I hold a degree in theology. And I'm telling you, it is a problem of the heart. And if we can get people to change, by just administering care to them and showing them that we care, I think our communities can change.

ASSEMBLYMAN PAYNE: Reverend, thank you very much for your testimony.

Let me just ask you a question. How many people do you serve? Because we need to have more centers like yours, more programs like-- How many people does-- How many clients do you have? How many have you serviced? What kind of numbers are we talking about of people that you have been able--

REVEREND MANUEL: Well, at this time, we're only serving like a small number of people. We have been serving about -- maybe about 25 to 30 people. But that's not in-- That's just the adults themselves. That's not including their children. Because, often times, we have to connect families and, also -- have to connect the families. That's another number.

But we're trying. We just started really reaching out. And there's more to be done. We're working with Jewish Family Services, we work with More Excellent Way, we work with Salvation Army, we work-- We just try to connect the dots in every part that we can.

And, also, what you brought up about the job situation-- There are people now-- We are working with a couple of people now that-- One has a degree. But, because of the felony, they're -- it's a hit for them. And the others want to go ahead and get a GED or whatever. But because of the

job situation, they can't because of how they're working. And they're trying to do these menial jobs. But if they go to get jobs that really could suffice them, they can't get them because of their record. So if legislation could be adopted that would help, that would be a great, great asset.

ASSEMBLYMAN PAYNE: There's so many components, obviously, as we heard today -- so many components to this whole area of the criminal justice system, and the parole system in particular. And we need to review all of the testimony we've heard today to see if we can come up with some very specific kinds of remedies, if there are.

I don't like-- As I said earlier, I don't like to just have hearings to hear ourselves talk, but that we can identify the specific kinds of things that we can, in fact, implement, either through legislation or just by tightening up belts or things like that. We need to do that. We don't need to have these hearings and nothing comes from them. And we're going to review the testimony carefully and try to come up--

Assemblyman Steele.

ASSEMBLYMAN STEELE: No, no. I concur, Mr. Chairman.

ASSEMBLYMAN PAYNE: Thank you very much for coming today.

REVEREND MANUEL: Thank you.

ASSEMBLYMAN PAYNE: Let's see, we have two more-- I see about 10 people sitting out there. I don't know whether there's 10 going to speak.

I have Mr. Sumbry, from the New Jersey Mercer County Faith Based Reentry and Family Reconstruction Task Force.

A U L A M A A R U F U S U M B R Y: Yes.

Good morning.

I want to, first of all, say I really appreciated the short talk I had with you the day that we were here demonstrating to keep Devon Brown.

My concern is this: I attended a conference at Princeton University on September 12. At that time, they were having the reentry conference. And I signed up that day for the Faith Based Reentry and Family Reconciliation Task Force.

I felt that what I heard that day was something that I had never heard. I have been involved in prison ministry for 25 years. And I had never heard a chairman of the Parole Board say the types of things that Judge D'Amico was saying that day. And I felt that if these things were indeed true, and were to be followed up on, it would make a difference in somebody's life.

We, in Mercer County -- we have started our task force. And as the Vice Chairman had said earlier, one of the things that I thought about right away was, is this just going to be something on paper, or is it going to be given some teeth, some resources, and supported so that it can make a difference. And I'm here to encourage the Committee to do whatever it can to make sure that there are resources available.

I believe, as one who is a Christian, that the fundamental problem is not just a social problem, not just a problem of crime, but it is a spiritual problem, and that it is about time that someone opened their eyes and heart to let those from the faith-based community get involved in this thing on another level.

So I'm asking that you support the involvement of the faith-based community, and that you not forget that, for many years, there have been people out in the community, in the Neighborhood Watches, in the civic associations who should not be overlooked. Their voice should be heard in this conversation about reentry. And we here, in the city of Trenton -- where I'm from -- through the North Ward Action Coalition, have formed a committee on reentry that is working very closely with the Faith Based committee -- Task Force, from the Parole Board. And it needs to be supported with some resources so it can have some substance to do something with.

The main thing I'd like to -- specific thing that I'd like you to consider-- And that is some kind of funding for reentry centers, for places for individuals to go on a daily basis, once they come home -- that there would be a workforce, computers in there so they could look up jobs, that there would be activities in there so that while they're looking for a job, or between jobs, they would have some place constructive to go and spend their time, and not be left up to hanging out on the street, or going in the bars, or whatever. Some reentry reception centers, or whatever you call them, that would be available for individuals to come to, sit down, have group discussions, do Bible studies if they choose to, or some other constructive, positive activity. And that's what I'd like to contribute to this Committee.

My name is Aula Maarufu Sumbry. I'm a member of Mount Sinai Seventh Day Adventist Church. And I'm part of the Allegany East Prison Ministry Federation.

ASSEMBLYMAN PAYNE: Thank you very much, Reverend.

I would just like--

You're talking to probably at least one of the persons on this panel that might have something to do with the appropriations. I believe--

Are you the Vice Chairman of the Appropriations -- are you a member of the Appropriations Committee?

ASSEMBLYMAN STEELE: No, I'm on Budget.

ASSEMBLYMAN PAYNE: Oh, Budget.

I'm the Vice Chairman of the Budget Committee, so I was going to try to share this-- I thought you were--

We're together on the Budget Committee.

And faith-based initiatives certainly are something that has grown in significance in State government over the last number of years. And certainly, we will see, during the public hearings--

Let me recommend this to you. There will be hearings, budget hearings, public hearings that the Budget Committee will be having -- conducting during the Spring of this year. There will be departmental hearings, but there will also be hearings for the public. And I would recommend that you contact our Assembly Budget staff to find out when these public hearings will be held. And that's where we, the entire Budget Committee, will hear the needs of the things that you are talking about here. That would be one thing. The voices that are heard are the ones that-- The squeaky wheel gets the oil. So I would suggest that we not stop here, that we follow up and come to the Budget hearings, and make your plea there.

Thank you very much for coming.

MR. SUMBRY: Thank you.

ASSEMBLYMAN PAYNE: Last, but not least, is Elaine Selan, And Justice for All, Philadelphia, Pennsylvania.

Are you a citizen of the State of New Jersey, or are you Pennsylvania?

**E L A I N E G. S E L A N:** No, I actually do live in Philadelphia.

ASSEMBLYMAN PAYNE: Do you?

MS. SELAN: Yes, I'm the foreigner here.

ASSEMBLYMAN PAYNE: But you're interested in the citizens of the world, you're interested in everybody in this kind of plight. And we appreciate your coming here to testify.

MS. SELAN: Thank you.

My name is Elaine Selan. I'm cofounder of an organization called And Justice for All. This organization started--

ASSEMBLYMAN PAYNE: Is the red light on there? (referring to PA microphone)

MS. SELAN: Oh, okay.

ASSEMBLYMAN PAYNE: There you go.

MS. SELAN: Thank you.

This organization started back in 1999, when it became apparent to many of us that there was an increasing delay in hearings of the Parole Board.

It was discovered later on, in the year 2000 -- after a class action suit, *Hawker versus Consovoy*, was filed -- that there were over 6,000 individuals in prison in New Jersey who were delayed in hearings, anywhere from a week to five-plus years. That class action suit was successfully settled in early 2001.

Since then, And Justice for All has taken it upon itself to do, as best possible, some oversight, including working with community members, people on parole, and the Parole Board, to ensure that this kind of problem would not occur again. I'm very happy today to hear that this meeting is occurring, that there's an interest to make sure that we create stopgaps that that problem never occur again.

I'd really like to umbrella some of the things that have already been said this morning. In looking at an overall problem-- Problems with the Parole Board, historically, have ebbed and flowed for decades. And they reach a peak, they get some attention, they hit a critical mass, and the problem is handled, and then things go back to business as usual.

We would like to suggest -- and I'm representing a membership of over 500 -- that there be some better oversight and accountability of the Parole Board. Today, the Parole Board answers, in terms of actual functioning, to the Governor. And there's really nothing else in between. As I understand, there's legislation that could be changed, as you're addressing here today. But, otherwise, there's no level of accountability.

This becomes important not just about hearings. This becomes important because, for years, there have been questions about how parole decisions are made. This came up when Consovoy was Parole Board chairman, and questions of who was getting paroled. There's questions about racial disparity. There are questions about how Parole Board members actually do become members. We know that that's at the recommendation of the Governor. In the past, that was often rubber stamping. And we know, from the class action suit, several members left because they did not meet the statutory requirements.

So today they do, but it's a primarily white and a primarily male board. And when you--

As you mentioned before, Assemblyman Payne, you have 86 percent of those in prison in New Jersey that are black and Hispanic, and you have a primarily white, male board. Questions are, naturally, going to come up around disparity.

The statistics that come out from the Board every year meet the Federal Board of Statistics requirements. They do not lay out the racial breakouts of parole. And we know that would have to be done in a racial basis. But yet and still, we don't have that data to even address the question of disparity.

In looking at accountability, things like hearing delays and why that occurs, things about administrative holds-- Those kinds of issues could be addressed in a more rapid way if there was an oversight accountability for the Board's functioning and operations. And this oversight, which I call a *citizens review board* -- and there are other states that have such an animal -- would have subpoena power to be able to really impact what the Board does, how it does it, and support the Chairman in his or her goals for the Board and the activities.

There are a couple of areas, too, that I'd like to address very quickly that has not been covered. One is the one of, what is parole? If you ask people what parole is -- if they are the community, family members, probably 80 percent of the people in prison -- they don't have a clue. And so when people come home, families have no idea of what the expectations are. There's no family education or family involvement in the parole

process, prior to their being paroled. So families can't support what they don't understand.

And people don't understand, "Why do they have to go to this program on parole? What's Halfway Back? What's a MAP program?" They don't have an idea. The handbook-- I have to admit, I haven't seen a recent copy of it. But if you want sure-- If you suffer from insomnia, pick up the parole handbook for those in prison.

ASSEMBLYMAN PAYNE: It's going to put you to sleep.

MS. SELAN: It is a complex process. And people with average IQ would have difficulty. People who are illiterate don't have an advocate, as mentioned before. Families get a visit, and that's when they're told basically a little bit about parole. That could be days or weeks before the person comes out.

It's been mentioned about the backlog in the county jails. And I guess I'm coming from a naïve point of view. But if in the year 1999 and 2000 we had a record number of people in State prisons of over 30,000, and today we have 23,000, somewhere those 6,000 people were housed in State prisons. So I don't understand, on the front end, why 1,800-plus people are in county jails, and that the budget at the DOC has only increased, although the population has significantly decreased.

We know that more money has gone into programs, and that's to be commended. But the number of staff could be appropriated differently, if you have different numbers of prisoners in the system. So that didn't make sense to me, more on the back end. It made more sense to question it from the front end.

Finally, I'd like to talk about two areas -- one that's not a big deal now, but it's going to be a big deal. And that's the area of disabled and aging individuals who are incarcerated. As we sentence more people to life without parole, you're going to have an aging and disabled prison population. Please take note of Pennsylvania, that has 5,000 lifers. And for every lifer who is disabled or infirmed, it costs the state \$64,000 a year, which is double the amount of someone in general population. They could be treated in the community for about \$25,000. That was based on a two-year study that was just completed about six months ago.

As we look at that, there is a provision for medical parole. Good luck. If someone is going to be seeking medical parole, they better have some good advocates on the outside, because you're too sick to do it on the inside. You need two physicians who will say that person is going to die in six months. It's very hard to get two physicians to do that -- just to get into that person to evaluate them, and to put on the dotted line that yes, this person is going to die in six months.

ASSEMBLYMAN STEELE: Yes, it's a little tough.

MS. SELAN: And there are several other steps that are stated in the regulations to get someone medically paroled. This, with the increase of people with hepatitis C and other -- HIV -- as well as an aging population. I think those are some regulations in legislation that actually could be changed to make that process much easier to implement.

Finally, I want to talk about mental health. If someone is bona fide mentally ill, based on a diagnosis, with a pervasive diagnosis, they are the pariah of the criminal justice system, and they are a parole officer's

nightmare. And that is, in part, because of interest level; that's, in part, because of a lack of knowledge; and it's a lack of training.

And you also have people with cognitive deficiencies. They have no advocate for them to get through a parole process, to help them in a parole hearing. And, often, they won't get parole because the services aren't there for them.

If you're medically compromised, and you go on parole, you don't automatically get health-care benefits. So to pay for medications, those kinds of things, are not -- could be a reason why someone will stay in prison. Because at least they know they'll get medical care. They won't get it when they get home.

ASSEMBLYMAN PAYNE: Right.

MS. SELAN: Parole has never been required or should necessarily be asked to pay for medications. But if you want to place someone in a program, and they've got high blood pressure that requires monitoring, or they're diabetic, or they have a moderate mental health issue but still need that reentry program, they're not going there, because those programs are not equipped, or are they funded, to pay for that level of medical care. That's a big barrier to paroling a certain portion of the population.

ASSEMBLYMAN PAYNE: Well, thank you very much. You have brought a different perspective to this thing. And it's something that we really, obviously, need to follow up on.

I don't know whether anybody has any comments or questions.

ASSEMBLYMAN STEELE: I have none, Mr. Chairman.

ASSEMBLYMAN PAYNE: I thank you very much.

MS. SELAN: Thank you for the opportunity.

ASSEMBLYMAN PAYNE: Thank you. It was very valuable.  
Thank you very much.

Now, the last-- There was a last one, but there keeps becoming another last one.

Let's see, Ms. Anne Barron, of ACLU.

I saw you just filling out your form there. I should have taken the forms and collected them a long time ago.

**A N N E B A R R O N, Ph.D.:** I'm sorry. I apologize.

ASSEMBLYMAN PAYNE: No, I'm sure your testimony is going to be very valuable.

DR. BARRON: Well, I'm actually going to reiterate two issues that were already discussed.

My name is Anne Barron, and I'm the Project Director of the ACLU of New Jersey, Voting Rights for All. And I'm sure--

The ACLU New Jersey represents more than 15,000 New Jersey civil libertarians. We have a long history of advocacy around racial and criminal justice issues. We're also active on voting rights. And much of what I'm talking about today will be on voting rights. And we've started an Unlock the Vote campaign in New Jersey, which is dedicated to promoting the voting rights for those entangled in the criminal justice system.

We, first of all, need to thank the Chairman of the State Parole Board, Judge D'Amico, and his staff -- exceptional work getting voting rights education out to people being discharged. We also mark the improvements

that have happened since his tenure began in the State Parole Board -- have been great.

However, of course, there's always room for improvement. So what we'd like to discuss first is the racial disparity in the criminal justice system. And one of the things we would like to see enacted is that the State Parole Board now includes such factors as race and ethnicity in their annual reports, when they're looking at the county and State inmate release reports, as well as those revocation cases at community placement programs. This will help the Board evaluate the extent, if any, of any disparity in its parole decisions, similar to the program that the State Police follow.

The other part is the voting rights part. And, of course, when you look at the discrimination of the criminal justice system, what this has done is had a huge impact and disenfranchisement of many communities in New Jersey. And you had mentioned earlier about the voting rights of parolees. Of course, in New Jersey-- New Jersey is one of 16 states now that doesn't recognize that parolees have voting rights.

ASSEMBLYMAN PAYNE: Does not?

DR. BARRON: Does not have voting rights -- parolees do not, in New Jersey.

There are 18 states that grant parolees and probationers the right to vote. In New Jersey, presently, you cannot vote if you're still serving your sentence. And that includes parole and probation.

However, you had mentioned before something about a certificate of rehabilitation required to get your voting registration. That's actually not needed in New Jersey. The statute that's enacted in New

Jersey for voting rights-- Your voting rights are automatically restored once you've completed your sentence. The day you finish your sentence, you can just go right down and register to vote. And it does-- The statute does say that the Commissioner can request additional information. The Commissioner of each county has all the information they need to find out if a person registering to vote is still serving a conviction or not. They get a list. It's called the *prosecutor's list*. Every month they get this from the prosecutor's office. And it says who has been convicted of a crime, gives the name. And they match the date of birth, and the name, and Social Security if they have that. And it also gives the length of sentence. And then that's coded in their system, in their database. So they know-- The county election offices know when your sentence is done. So you can go register the day after.

ASSEMBLYMAN PAYNE: Yes, but that requires the initiative on the part of the county's election office. Because we do know people are going, and they're told not.

DR. BARRON: Exactly.

ASSEMBLYMAN PAYNE: So they have the legal right to register. However, the county officials, in many instances, do not know it or are telling them no, they're not eligible.

DR. BARRON: Exactly.

ASSEMBLYMAN PAYNE: So there has to be some advocacy to inform these county folks. And, also, the Parole Board has to back this up, as well.

DR. BARRON: Well, actually, the backing we would ask to come from the Attorney General's Office.

We did do a survey of the 21 county offices, as how well they register ex-offenders to vote. Because we were getting complaints. We were doing voter registration efforts. And at the time, there were nine counties who continued to demand discriminatory information from people registering to vote.

Every county office has an investigator. The job of that investigator is to go out and investigate incoming voter registration forms. They already have the information about when that person's sentence is up. All he has to do is simply look in the information that's in the office.

We had a great success in Paterson (*sic*) county. They were originally requiring additional documentation from the people. And we called this *discriminatory*, because--

ASSEMBLYMAN PAYNE: Passaic County?

DR. BARRON: Passaic County. We were very happy to see that they changed.

ASSEMBLYMAN PAYNE: I want to correct that, Reverend. That's your county.

DR. BARRON: It is your county. We really appreciate it.

And they turned-- Once we sat down and discussed the process with them, they said, "You're absolutely right." And they changed the process. Whenever a voter registration form comes in, and they're entered into the system and it comes up coded as this person had been convicted of a crime, they simply look into the database and see when the sentence is up. The only problem may happen if you get an early release. And, of course, you would need a letter from your-- I'm not even sure if it's a probation

office who would give that. It's someone from the Department of Corrections.

ASSEMBLYMAN PAYNE: But if you've served your time, then you're eligible to register to vote.

I believe that Bonnie -- Assemblywoman Bonnie -- Majority Leader now -- Watson Coleman introduced some legislation last year that impacted on this. I don't know whether it was to allow parolees (indiscernible) to-- And it was co-sponsored by Bill Payne, or I did too.

DR. BARRON: I saw your bill.

ASSEMBLYMAN PAYNE: Right, yes.

So if we-- If people are already eligible to vote once they finish their sentence, what seems to be the problem? Is it just the lack of knowledge on the part of-- It's something that, once upon a time, was in effect -- you say 16 states do not recognize parolees as being eligible because they haven't finished their term. Is that what it is?

DR. BARRON: Right. Now there is--

ASSEMBLYMAN PAYNE: But other states do. Eighteen states--

DR. BARRON: But there are 18 states that guarantee your right to vote once you've left the prison, if you're on parole or probation. And that's one of the legislative changes we would like to see here.

We really urge you to recognize that voting has a positive role on reintegration into society. It gives you a democratic voice in your community. And also, when you say to someone, "We want you to vote. You're part of our society," that's a great message to send to someone who is reentering.

What we are asking you to do is to introduce legislation. There's already been legislation introduced to give the voting rights to probationers, which is a large extent of the population. And we would ask that you widen it to probationers. They're working in the community, they're reentering.

I can also speak to the fact that the Human Rights Court and the European Human Rights Court issued an edict in 2002, which correlated the right to vote in a democracy as a human right, and would urge the State to really look at -- would need a compelling reason to deny anyone their right to vote. So probationers, parolees -- you want successful reentry, give them a voice in their community. It's essential.

The other thing we would ask to happen is-- In March of 2004, the Director of Parole did issue a memo, which directs all of the offices doing discharge for people who are leaving parole -- give them a voter registration form, help them fill it out, and then they would turn in that voter registration form. We're asking that this actually becomes institutionalized, that this memo actually becomes policy, and that there's also follow-up to make sure that has happened.

In addition, we have a whole population of people that are sitting in county jails, that have the right to vote, that are being denied ballot access. We would ask that each county jail system would institutionalize ballot access -- voter registration forms would be available, applications for ballot -- absentee ballots would be available.

Essex County just did an amazing institutionalized ballot access process this year. We can share that with people. It worked very well. We were very happy with it. Some of the special treatment units are also doing

this. And we're trying to get all the county correctional facilities to agree to do this. But if it could come from a legislative act, that would put more pressure on the counties to do this.

ASSEMBLYMAN PAYNE: If you could send, to me, the recommendations that you're making, then we'd like to follow up on it.

DR. BARRON: Absolutely. I would love to.

ASSEMBLYMAN PAYNE: I know it will be in the testimony, but it would be helpful if we got--

Essex County is my county, so I'm proud to say that we are following through on this.

DR. BARRON: Yes. It was a wonderful process that they instituted.

And I thank you again for holding this hearing. And we look forward to helping and working with you in any way that we can.

ASSEMBLYMAN PAYNE: Thank you very, very much. We appreciate it.

Ms. Gale Muhammad is the last we'll hear today, unless somebody else wants to give us another slip.

Introduce yourself, and give your organization.

This is a government of the people now, Assemblyman Thompson.

Is the red light on? (referring to PA microphone)

**G A L E M U H A M M A D:** Thank you for letting me sneak a few minutes in, Chairman.

My name is Gale Muhammad. I'm the Founder of an organization -- nonprofit organization called Women Who Never Give Up. We started off as a support group. We are the prisoners' wives.

My colleagues here today went over a lot of things that have -- that I think are important. But one thing I didn't hear, that I think I would like to see this Committee implement through legislation, is to make people who are coming home from these institutions a protected class citizen. If they can--

If we can implement programs in the institution, have successful parole, and still can't find a job -- because they're discriminated against. And I think the only thing that will save this is to have legislation implemented that makes them a protected class citizen, so that when they do try to apply for these jobs, and they have to fill out the application that asks, "Have you ever been incarcerated," and you have to say yes-- I find that a lot of people will not fill out that box, will not say that they were incarcerated to get the job. And then they risk being terminated just to make that portion of income for the short time that they have the opportunity to.

So I think that has to be done, as well, in New Jersey. With 14,000 to 17,000 people coming home annually over the next five years, we can equip them and have them -- homes. But if they can't afford to pay for it, and can't get jobs, that has to be looked at.

ASSEMBLYMAN PAYNE: Some legislation that's being -- that's winding its way through the process now, does deal with striking that requirement out of-- The legislation, that I think I may be one of the sponsors or co-sponsors of, would deal with that, so that there would not be

-- that would be struck, so that wouldn't be one of the things that would preclude them from getting a job.

Protected class citizen -- define that a little bit more. You say--

MS. MUHAMMAD: Something that normal people -- when you're applying for a job-- There are laws against discrimination. I think if there were laws in place for discriminating against someone who was formerly incarcerated -- they completely, successfully -- completed their term, and now have come home-- There should be no reason that they cannot resume an employment career with someone.

ASSEMBLYMAN PAYNE: Sure.

MS. MUHAMMAD: And so I think that that would be very helpful -- if, somehow, we look at that in the Legislature to give them employment opportunities that we all have. Even though they have prior convictions, they've completed their conviction by being incarcerated. It continues to damage the families if they cannot come home and provide for their loved ones.

And that's all I have to say. And I thank you for this time.

ASSEMBLYMAN PAYNE: I want to thank you very much, because you are very active in the community, and you certainly address many of the issues that we've talked about today, and others. And without you and people like you in the communities, serving as a backbone and serving to coordinate these activities to improve our communities, I don't know where we would be.

I want to thank you--

MS. MUHAMMAD: Thank you.

ASSEMBLYMAN PAYNE: --for the work that you've done.

And I want to thank everyone for coming.

Let me just say, in conclusion, that it was pointed out that there is a great disparity in our prisons, that the majority -- vast majority of people in our prisons happen to be African-American or Hispanic, 83 percent all told, 66 percent African-Americans.

And what happens is, people put their head in the sand. People don't want to discuss this. People think, if you don't discuss the disparity, don't discuss the unfairness in our criminal justice system, that it will go away. And so very often, when I speak about these things, I see looks and that kind of thing, and "There he goes again," kind of thing.

But let me make it clear that what we're talking about is something that will improve the entire state. We're talking about-- Not only does it impact on the fiscal health of this state, it impacts on the ability of people that are in prison to make contributions to the community by getting training, etc. -- it impacts on everybody. Whether they live in Democratic districts, or Republican districts, or in the suburbs, or wherever, it impacts on everyone. If we can, in fact, be able to have a system that works for everybody, if we can have a system that prepares people for reentry by providing them with skills that are marketable skills, these people then become contributing members of society. We can reduce the amount of money that we spend for Corrections, for instance. We can reduce the amount of money that we have to spend for those who are reentry, etc.

And for people to make -- to feel uncomfortable, because we dare speak about this, I think have their heads in the sand. And as we can educate the entire population, letting them know that what we're talking

about here today is something that's very positive for everybody -- that as we say, things that we learned a long time ago in elementary school about this government belongs to all of us, and that we're responsible to each other, and that--

It's criminal that 83 percent of the people in prison are African-American and Hispanic. It's criminal. I mean, much of it is because there are no jobs in these communities. Much of it is because they have inferior educations. Much of it are these things. So for anybody to say, "Well, my God, why are we talking about that," or, "That doesn't impact on me" -- it impacts upon the entire community.

And I say we cannot continue to hide our heads in the sand, that, because we can be fiscally responsible, we can save money by doing the right thing, and that we can reduce the disparity that exists.

I think the very interesting point that was made -- that the Parole Board is made up of predominantly white males, I suppose, and those in prison -- it had been in the past. I think that has been changed now. I know there's been some new appointments, etc. Some of the things that happened in the past, under the Judge have been improved. There's no question about it.

But we have a Corrections system that, in fact, is askew, it's crazy. And not just because these people are minorities, but because it hits me in my pocketbook. It hits all of us in our pocketbooks. We shouldn't be spending \$35, \$45 a day to keep somebody in prison. We should be spending \$20,000 -- maybe if that's necessary -- to educate people so that they can, in fact, do -- have jobs to contribute.

I mean, I hear so much talk about we're spending too much money in urban areas for schools. My God, we're spending all that kind of money. The fact is that we refuse to spend \$15,000 to educate a youngster in an urban area, but we'll spend \$35,000 or \$40,000 to put that same kid in jail. Okay? And that's asinine, that's stupid, and that's backwards, and I think that's something that we need to get a look at. (applause)

And this is just common sense. And people should begin to look at this as that. You want to look at it from a financial point of view, let's do that. Listen, if the only thing we're concerned about is saving money, then let's look at it. What we're talking about is investing in the young people to save down the line. I mean, it's stupid, it really is.

And I think it's very, very clear -- it should be clear to everybody -- that what we're talking about here is improving a part of the system -- part of the criminal justice system. And we're doing it with great things there. But the entire system, as the Judge mentioned-- He and I are members of the Criminal Disposition Commission, which deals with the entire spectrum of the criminal justice system, from prior to -- what is it -- reentry; from curbside justice-- Because, very often, people are put in prison because no one takes into consideration, when they're arresting somebody -- evaluate it at the curbside -- whether or not that child or that person should, in fact, be incarcerated, or should there be an alternative. Because what happens is, in inner cities, too many young people, in particular, get records because they're put in prison for those kinds of infractions that a kid in Livingston -- where I live -- I don't live, rather -- my -- I live in Newark -- but in Livingston, and in some suburban wealthy areas,

where the same child -- a child doing the same thing does not get sent to prison -- the exact same infraction.

So what we're talking about now -- and I commend the former Attorney General for having researched this and now implementing -- that there will have to be, when a person -- young people are incarcerated, or even an adult, we review it at the prison -- rather, at the preset. We review it in the beginning. Maybe this person does not need to go to jail. And I think that's a great thing.

So what we're talking about is saving money down the line by not imprisoning so many people, by spending money to train people so that they can train people, etc.

So I want to thank everybody for being here. And I do hope that we'll be able to follow up on some of the recommendations that the Judge made, and also recommendations that the Public Defender made, and others.

So I thank all of you for coming, and I appreciate your testimony.

Thank you.

**(MEETING CONCLUDED)**