
Public Hearing

before

NEW JERSEY DEATH PENALTY STUDY COMMISSION

"Testimony concerning whether the death penalty serves a legitimate penological intent, such as deterrence; whether the penological interest in executing some of those guilty of murder is sufficiently compelling that the risk of an irreversible mistake is acceptable; whether the death penalty is consistent with evolving standards of decency"

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: July 19, 2006
2:00 p.m.

MEMBERS OF COMMISSION PRESENT:

Reverend M. William Howard Jr., Chair
James P. Abbott
James H. Coleman Jr.
Edward J. DeFazio
Zulima Farber
Kathleen Garcia
Eddie Hicks
Thomas F. Kelaher
Senator John F. Russo
Rabbi Robert Scheinberg
Yvonne Smith Segars
Miles S. Winder III

ALSO PRESENT:

Gabriel R. Neville
Commission Aide

Miriam Bavati
Counsel



Hearing Recorded and Transcribed by
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REVEREND M. WILLIAM HOWARD JR. (Chair): Each of us has a vested interest in this important work. So I'm going to ask for your cooperation as we try to begin, without any further delay, our public hearing.

That means that we're going to have to really speak loudly. The technicians will continue to try and solve the amplification problem, not only for our sake now, but also for the recording that can be a part of our record on the Web. So it is vital, for a number of reasons, that we have the benefit of the technology. But I think we can begin, with your help, and do the best we can.

Are you in agreement with that? (affirmative responses)

All right, let's start.

I'm going to offer a few remarks. First of all, my name is Bill Howard, and I will be chairing the Commission in these weeks. And I am honored to be surrounded by extraordinary citizens of our state, who have a great deal to offer this work. And I feel indebted to them, just to be able to serve with them. I assure you that if we are biased, unanimously, in one way, it is that the public will be heard. And it is our task to submit to our elected officials an informed report that has the benefit of your contribution, the contribution of persons who have worked in the courts, who have written extensively. We have, also, tentatively determined to do some polling. So we will work to ensure that the voices of our people have been heard fully.

And you are here for the opening of this exercise. We have, naturally, a limitation of time. So given our commitment that everyone will be heard, I should also announce that not everyone may be heard today. If

we run out of time, we will then reschedule. But our aim is to try and have everyone, especially those who have registered previously. We aim to give you an opportunity to be heard.

Now, let me say, for those of you who have been notified that you will be talking to the Commission today, if you have yet to submit written testimony, that doesn't disqualify you from speaking. But I do hope you will submit written testimony so that the Commission will have the benefit of a full airing of your views on this subject.

Now, having said that -- especially for those of you who have submitted written testimony -- I'm going to ask you please not to rehearse the full text of what you have submitted. If you can give us a cogent summary, being sure to touch all points, we would appreciate that.

Another thing we're going to ask, because we are a team here-- We're going to ask you, if you hear a preceding speaker articulate exactly your views, I'm going to prayerfully (laughter) request that you not come and say the same thing. I will invite you to come and say, "Susan or John has said exactly what I wanted to say," and then have the courage to sit down. (laughter) That way, we will have as full a perspective, or spectrum of perspectives, as we might garner from this group of those assembled.

Now, we had targeted, because of the very pressing schedules -- I suspect of some of you, as well as members of the Commission -- a target time of adjournment, which we have now determine to move one half hour forward. Our initial target time of adjournment was 4:00 p.m., but now 4:30.

And I'm going to ask each one of you who will come to talk to speak for five full minutes. And anyone who speaks beyond five minutes,

we will know is not a team player. Right? (laughter) And I understand this is a subject that stirs a great deal of legitimate passion. And this Commission does not want to suppress or contain any passion. But in order to get the work done, there must be limits of time.

Also, we intend to conduct future public hearings. And today the subject of our public hearings is focused on three of the seven charges given us by the Legislature. So if you are interested in talking about a subject that is not on the agenda today, I hope you will be kind enough to reschedule to meet when the focus of your concern is on the agenda.

If there are persons here who are not aware of the items of our focus today, would you be kind enough to raise your hand? Okay. Then since there are only two that I can see, I'm going to ask Gabe Neville if he would visit you and let you know. If you don't intend to speak, it doesn't matter, I think. But for those who aim to speak, we want to be sure that you understand the agenda.

Now, having said that, I think we should move into the content of our program. For those of you who are going to speak today unannounced-- How many of you aim to speak and you haven't told anyone of your plan? Is there anyone here who wants to speak who has not submitted a request to speak? (no response) Wonderful.

All right, let us proceed.

First, I'm going to ask the Most Reverend John M. Smith if he would come. And I'm going to ask Ms. Sharon Hazard-Johnson to come to the front table. And let's see if we might, with another chair, invite Mr. Larry Peterson and Mr. Barry Scheck to join with these colleagues here.

And we will take the testimonies in that order. But, for the sake of time, we would like to have these chairs filled.

Mr. Peterson, please take your chair.

And Mr. Scheck is bringing his own chair. All right. (laughter)

And the moment these mikes are working, we will inform you.

But in the meantime, Bishop, we're going to have to ask you to speak with your preaching voice.

BISHOP JOHN M. SMITH: That I will be happy to do.

REVEREND HOWARD: Thank you, sir.

BISHOP SMITH: I am Bishop John M. Smith, the Roman Catholic Bishop of the Diocese of Trenton. And I'm very grateful for this opportunity to appear before this distinguished Commission of fellow citizens of New Jersey.

I speak on behalf of the seven Catholic Bishops of the State of New Jersey. My purpose is to signify to the Commission that the death penalty, in our view, is not consistent with evolving standards of human decency.

Because the State of New Jersey has other means to redress the injustices caused by crime, and to effectively prevent crime by rendering the one who has committed the offense incapable of doing further harm, and because we recognize the dignity of all human life, we continue to consistently and vigorously oppose the use of the death penalty.

The Catholic Bishops of our State of New Jersey spoke to this issue most recently in our collaborative statement of February 4, 2005, which is set forth later in this statement. And on Holy Thursday of 2005, the United States Catholic Conference of Bishops, representing all the

Bishops of the United States, launched a new campaign to end capital punishment in the United States of America, following the example of many European countries where capital punishment does not exist.

The Bishops' statements said the death penalty diminishes all of us. Its use ought to be abandoned, not only for what it does to those who are executed, but also for what it does to us as a society. We cannot teach respect for life by taking life.

According to a December 2004 Zogby International survey, of 1,700 American Catholics, only 48 percent of Catholic Americans now support the death penalty. When given a choice, the majority of New Jerseyans who regularly attend religious services, 54 percent, prefer life without parole over the death penalty for murder.

While I'm encouraged -- and we Bishops are encouraged -- by these poll numbers of the present, I believe the trend against the imposition of the death penalty will grow in our communities, as people learn and grow in their understanding that the death penalty is inconsistent with standards of human decency throughout the world.

As death-row inmates exhaust their appeals, and possibility of execution draws near, we, the Catholic Bishops of New Jersey, wish, before this august committee, to reiterate our opposition to the death penalty. We are guided by our belief that every human person has an inalienable right to life, because each human being is made in the image and likeness of God, who alone is the absolute Lord of Life from its beginning to its natural end.

We acknowledge that the subject of capital punishment is controversial and extraordinarily emotional. All murders are violent and shocking. Some are even savage. They stir our emotions with revulsion and

anger. We grieve for the victims of murder and for the brutalization and loss of life they have incurred. We commiserate with families and friends of victims--

REVEREND HOWARD: Two minutes, Bishop.

BISHOP SMITH: --who must suffer with their loss of loved ones for years and years, never to be forgotten.

We affirm that the State has the duty to punish criminals and to prevent the repetition of occurrences of crime. But we believe that greater efforts must be made to bring the criminal to repentance and rehabilitation. We believe that our society is sufficiently developed to protect itself and to redress injustices caused by criminals without resorting to the use of the death penalty.

One alternative is life without the possibility of parole. In 1992, at the 30th anniversary of the opening of the Second Vatican Council, the Catholic Church, under the aegis of Pope John Paul II, of happy memory, issued--

REVEREND HOWARD: Bishop, I'm going to have to call turn.

BISHOP SMITH: I respect your position.

REVEREND HOWARD: Yes.

Do you want to offer a summary statement there?

BISHOP SMITH: The summary statement is that the new Catechism of the Catholic Church acknowledges the right of the State, but also says that in the real world of today, capital punishment would be extraordinarily irregular, because there are other ways in which to protect society and to sustain the criminal element in the prison system. And so

the Catholic Church says that Catholic -- capital punishment should not be used in civilized nations at this time.

REVEREND HOWARD: Thank you very much. Thank you.

Sharon is here? Where is she?

Bishop, please don't leave us yet.

BISHOP SMITH: Oh, fine.

REVEREND HOWARD: We were merely calling time on your presentation.

But Sharon Hazard-Johnson is going to be next.

Would you like to take your seat? That gentleman is giving you the seat.

Bishop, we'd like to have the privilege of offering some queries, if you don't mind.

BISHOP SMITH: I would be delighted.

REVEREND HOWARD: Okay.

Senator, would you like to speak first?

SENATOR RUSSO: Good morning, Bishop -- or good afternoon.

I just wanted to emphasize, if I could, on what you said -- the point that this view of the Catholic Conference of Bishops is a current view, and has not always been the view. Is that basically correct?

BISHOP SMITH: Well, there is no real change in our theological position, Senator, because the Church acknowledges the fact that the State does have the right, for its own protection, to take a life. The issue is, in today's society, with the penal system so extraordinarily well

developed, is that penalty ever really necessary to protect society from the criminal element?

SENATOR RUSSO: You're not expressing a theological view, are you, of the Church? If I, as a practicing Catholic-- I think I stated correctly that, when it comes down, in matters of dogma, we're bound by it. But this is a view of the current Council of Bishops. Is that basically correct?

BISHOP SMITH: Well, it's the view of the Catholic Church, internationally, because it comes through our Holy Father that this is not a necessary penalty.

SENATOR RUSSO: When the Catholic Conference of Bishops adopted the view in favor of the death penalty back in the '80s, there was a minority view of one-third of the bishops. Is that basically--

BISHOP SMITH: I don't think the Catholic bishops -- I could stand for correction -- ever accepted and recommended the death penalty. We have not changed our view. We acknowledge the fact that the State has that right. However, at this time, whether that right should ever be exercised, or is really necessary to be exercised, is the area that we question.

SENATOR RUSSO: I guess what I'm trying to get to is, you don't suggest that a Catholic who supports the death penalty is not a -- might not be an otherwise good Catholic?

BISHOP SMITH: I wouldn't say that somebody who supports the death penalty would necessarily be a bad Catholic. But I would say that they're probably not attuned to what the current thought in the Church is today.

SENATOR RUSSO: Current.

BISHOP SMITH: Right.

SENATOR RUSSO: Okay. Thank you, Bishop, very much.

REVEREND HOWARD: Are there other questions? (no response)

Bishop, we deeply appreciate the time you've taken. We realize that you're on a tight schedule. And we're happy to have had you come.

And I think there was a question of written testimony. Will you please be sure to supply us with that, if you haven't yet?

BISHOP SMITH: I believe, Doctor, we've already done that. And all the members of your Commission have it.

And I was honored to be asked to be here this afternoon. And I wish you well in this extraordinarily important undertaking for the State of New Jersey.

REVEREND HOWARD: Thank you so much.

Now you may be excused.

BISHOP SMITH: Thank you so much.

You mean I have to go back to work? (laughter)

REVEREND HOWARD: The Chair welcomes Sharon Hazard-Johnson. And, Ms. Johnson, you were -- I think you arrived after the guidelines of our proceedings. We hope that you can give us a summary statement, perhaps an excerpt of your written testimony, in five minutes. And then we'd like to have an opportunity to ask questions.

And, unfortunately, our technology is not working, so we'll have to ask you to speak a little louder.

S H A R O N H A Z A R D - J O H N S O N: Okay.

My name is Sharon Hazard-Johnson. Me and my family -- two of my siblings are here today. We are victim survivors of Richard and Shirley Hazard, from Pleasantville, New Jersey.

We're not death penalty experts. We learned the process of the death penalty the hard way. Our parents -- Richard, age 70, a retired naval officer and electrician; and Shirley Hazard, age 65, a retired postal worker -- were murdered in their home by intruder Brian P. Wakefield, who is on New Jersey's death row today. In our case, there is DNA and physical evidence, substantial witness testimony, and confessions.

We've seen the process in action. We learned that it's very hard for a murderer and most likely impossible for an innocent person to be charged with a capital offense, let alone get a unanimous jury verdict for the death penalty and to be justly executed.

Our position is that our parents' murderer must be executed by the State of New Jersey. The death penalty is one of New Jersey's statutes. It's the law.

When our parents' murderer is executed by the State, it will be a sad day. But it won't be anywhere near as sad as the day that he willfully, knowingly, and purposefully terrorized and murdered them. He purposely and knowingly took their lives. This person, who commented that, "She" -- our mother -- "was strong. She just wouldn't die"-- Is this personal? Yes, it is. But he is the one who performed the acts that got him and me where I am today.

We have a message to the Commission. During our trial, we learned that in order to sit on a capital trial case, a potential juror must prove to be death qualified. This means they have to be willing and able to

listen only to the facts of the trial, and render a vote based solely on the facts and the law, not their personal opinion or agenda.

We are concerned that this Commission is stacked with anti-death penalty persons whose ultimate goal is to have New Jersey's death penalty discarded by its legislators and Governor.

But if you can honestly seek the facts -- all of them, both pros and cons -- confirm and validate your findings -- don't blindly accept the claims of either side -- and submit your recommendations in a manner that is true to yourself, the State, its laws, its residents, and without a hidden agenda, then you're probably qualified to sit on this Commission.

Today's agenda addresses three topics: whether the death penalty serves a legitimate, penological intent such as deterrence-- This really is not rocket science. What penalty, great or small, does not deter some? But deterrence is not the only intent of the death penalty, or any other penalty. There's justice for crimes committed on others. There's retribution in lieu of revenge. There's rehabilitation which, ultimately, is a choice. And, of course, there's enhanced incapacitation and enhanced deterrence. The death penalty is meant for the worst murderers.

The second issue is whether the penological interest in executing some of those guilty of murder is sufficiently compelling that the risk of an irreversible mistake is acceptable.

REVEREND HOWARD: One minute.

MS. HAZARD-JOHNSON: This makes a mockery of the justice system. All sentences and penalties that are imposed are irreversible. Today, there's DNA evidence. Defendants get mandatory appeals. It's

almost impossible to get a conviction, let alone a sentence, of an innocent person.

Evolving standards of decency-- Standards of decency are evolving to a state where it's mandatory to have the imposition or the potential of imposing the death penalty. Crimes are becoming more violent and inhumane. And New Jersey's murderers are blatantly making a verbal mockery of the death penalty in this state.

How much really has to be said about standards of decency? In today's age, the death penalty method is probably rendered in the most humane way as it ever will be.

REVEREND HOWARD: Thank you.

Do you feel the need to make just one summary statement?

MS. HAZARD-JOHNSON: I do.

Although me and my family are here as victim survivors of murders that happen to have defendants, or perpetrators, on death row, we have been in touch with other victim survivors in the state. And we come with a brief message.

There was a murder, back in the '60s, of a couple that is eerily similar to ours.

REVEREND HOWARD: Ms. Hazard-Johnson, may I interrupt you? If you have a statement from others, would you be willing to submit that to us?

MS. HAZARD-JOHNSON: Yes.

REVEREND HOWARD: Because we will read carefully all the written documents that you provide.

But we thank you for your statement.

MS. HAZARD-JOHNSON: If I may just make one last, brief statement--

REVEREND HOWARD: Please, brief.

MS. HAZARD-JOHNSON: --because I was asked to.

REVEREND HOWARD: Sure.

MS. HAZARD-JOHNSON: Maureen Kanka just wanted us to convey that she regrets that she wasn't able to make it to today's meeting. But she is in support of the death penalty and does not believe that the public has changed its opinion for it.

REVEREND HOWARD: Thank you.

Now, please-- I hope you will be open to some questions from the Commission.

MS. HAZARD-JOHNSON: Sure.

REVEREND HOWARD: Yes, thank you.

Are there questions?

Yes.

JUDGE COLEMAN: Can you tell us, briefly, why you say that an execution would also be a sad day in New Jersey?

MS. HAZARD-JOHNSON: An execution--

REVEREND HOWARD: Would you speak a little louder? We weren't able to hear.

JUDGE COLEMAN: The question is, would you tell us why you say an execution in New Jersey would also -- because your parents have been killed -- also be a sad day?

MS. HAZARD-JOHNSON: I say that because the taking of a life is always a sad day. But the person that committed a murder -- a

willful, intentional murder -- should be held responsible for their crime. I won't be happy to see Brian Wakefield executed. I will be relieved. It won't be a happy day. It will be a sad day. But he is the person that got us to where we are today. He's the person that got him where he is today.

REVEREND HOWARD: Justice, do you want to follow up?

(no response)

Please.

MS. GARCIA: Ms. Hazard-Johnson, I'm very sorry about your parents. And I thank you for your testimony.

I was just wondering how much you've looked into the background of what happens with these cases in New Jersey -- other death penalty cases.

MS. HAZARD-JOHNSON: Yes, I have. I'm no death penalty expert. But I can see the writing that's already on the walls. I've looked into the background. And, in fact, I know just earlier this month another death sentence was overturned.

It seems to me that the death penalty is a very difficult cause, and it should be a difficult cause. Taking of a life can never be easy. I would suspect that even murderers may find it difficult. But they don't find it difficult until after the act is rendered, after they've put themselves in the position to perform that act.

MS. GARCIA: My concern is -- and I've been an advocate in this field since 1984 -- another survivor of watching what -- cases being overturned, and retried -- what that does to the surviving family members. And you being five years out, not 10 or 15 -- and how horrible it is to go through one trial, no less two or three.

MS. HAZARD-JOHNSON: I can only imagine, because I haven't gotten there yet. But I've spoken with people who have. And my position is, I have to go as far as I can. I'm sure they went as far as they could. I have to keep going. I still have the life in me to keep pursuing this.

MS. GARCIA: Thank you.

REVEREND HOWARD: Let me thank you, once again, for your views and your passion. We very much appreciate your appearing. And we hope that you're going to -- if you haven't yet -- supply us with a written copy of your statements so that we might digest it and deliberate about it. Would you please?

MS. HAZARD-JOHNSON: Sure. I have multiple copies. I didn't get a chance to go through everything, of course. But I do have statements from Maureen Kanka, Dudley Sharp from Texas. And I would like everybody to get a copy of this.

REVEREND HOWARD: We would like to have all of your written information. And, if you would, we would like to have you remain in place. We invite, now--

Let me ask: How are we doing in the audience? Are you able to hear reasonably well?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Louder is better.

REVEREND HOWARD: Louder is better. Let's try to let everyone hear as best we can. And we continue to work on the amplification.

Mr. Peterson, would you dare to offer us your summary statement? We, of course, I think may have your testimony written. But we would like to have your summary oral statement, if you would.

LARRY PETERSON: I'm Larry Peterson.

September 22, 1987, I was charged and convicted for a rape-murder that I did not commit. March 1989, I was sentenced to 50 years to life in prison without parole. Since then-- September 4 -- September 2004, I was allowed to have a DNA test which proved my innocence.

There were various stages that I had to go through, while being in prison, of being rejected from having this test to prove my innocence. Time and time again, the prosecutors -- the State of New Jersey had denied me this DNA test to prove my innocence.

Upon this DNA test, it proves that neither hair, nor skin, nor saliva, nor semen belonged to me.

It had taken away my life -- 18 years of my life. It had taken away the love that I had for my kids -- not exactly the love that I had for my kids, but seeing my kids grow to adulthood. It took away the freedom, the memories that could have been created.

So today, if they had took my life -- it would have been within a distance of 14 years. I was incarcerated for 18 years. If the State would have made the mistake of executing me, it would have been an irreversible mistake that the State would have been doing. If you take a life, you can't turn around and correct the wrong. But if you place a man in prison for life, and later find out that he's innocent, you can correct the wrong.

So today I would encourage the committee council to really consider giving people an alternative to life in prison instead of the death

penalty. Prison is not a pretty place to be. It is hell unimaginable, and getting worse every day. To give someone the death penalty is just relieving them of their miseries. It's an easy way out for them. But life in prison is hell every day -- to wake up to clanging doors, to the brutality that goes on, to the pestilence that's there. Life in prison is hell within itself.

And I would just like to encourage the committee today to consider life in prison instead of the death penalty.

Thank you.

REVEREND HOWARD: Thank you.

I understand that, Mr. Scheck, you are accompanying Mr. Peterson. Would you care to make some independent remarks before we invite the Commission to raise questions?

B A R R Y C. S C H E C K, ESQ.: I submitted testimony. I have a full five minutes, if you--

REVEREND HOWARD: Okay.

MR. SCHECK: I don't know how much time Larry took. Can I take some of his time?

REVEREND HOWARD: Two minutes. (laughter)

MR. SCHECK: Two minutes of his time.

REVEREND HOWARD: Now, there's no point in moving, because you can't be heard on the microphone.

MR. SCHECK: Oh, okay.

REVEREND HOWARD: And you may stand if you'd like.

MR. SCHECK: That might help.

I submitted this testimony.

REVEREND HOWARD: It's better that you sit, because the reporter apparently, here, can hear through her mike, but not the amplification.

MR. SCHECK: I'm Co-Director of the Innocence Project, which is an organization that uses post-conviction DNA testing to prove people innocent. There have been 182 individuals in the United States who have been exonerated with post-conviction DNA testing. Fourteen of them were sentenced to death.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Louder, please.

MR. SCHECK: Fourteen of them were sentenced to death.

Larry Peterson was on trial and convicted. And there was a jury that was deliberating, here in New Jersey, about whether he should be executed. That was a close call.

When we originally asked for the DNA testing in this case, the prosecutor believed that there was no way in the world that the results could come out favorable and raise a reasonable probability of a different outcome. A trial judge agreed. That was reversed in the Appellate Court. When it came down, and the DNA tests were done, there was more evidence of innocence than even we expected.

For example, there was an oral swab that had semen on it. Nobody even thought there was semen on it. We proved his innocence with the DNA matching semen in the oral swab, excluding him on hairs, fingernail scrapings. And then to his credit, Mr. Bernardi -- the Burlington County Prosecutor, originally opposed this -- he vacated the conviction. Then, upon reviewing further testimony of witnesses, the so-called

confession that he made -- that Mr. Peterson was alleged to have made to three individuals -- that fell apart. And he decided not to re prosecute the case.

Now, what I really want to emphasize to the Commission -- because it goes to this issue of what is the risk of executing an innocent--

Senator Russo, when you proposed the death penalty bill, it was a different era. We are now in the DNA era. First, let me tell you that DNA is not a panacea for what ails the criminal justice system or the issue of convicting the innocent, and sentencing to death, and executing them. Because there is DNA in only 10 percent of serious criminal cases. So most of them are going to go to trial with confessions, mistaken eyewitness identification, potentially other forms of forensic science that are not necessarily reliable. We have proven all of this in these post-conviction DNA exonerations.

What I and my partner, Peter Neufeld, have learned-- When our cases come in and I look at them-- And I've been a criminal defense lawyer since 1975, and a law professor for 30 years. I look at these cases, and I try to figure which ones are going to turn out to be innocent, which ones are guilty. I'm wrong all the time. The people that I think are going to be innocent turn out to be guilty. The ones I think are going to be guilty turn out to be innocent. Cases of supposedly overwhelming evidence-- I have learned humility.

I think Mr. Bernardi had to learn humility. And that's why he dismissed the case. That's what DNA is teaching us. You cannot afford to ignore this lesson.

In the audience, Kirk Bloodsworth -- a United States Marine--
Five eyewitnesses said that he came from the scene of a murder of a 9-year-
old girl. DNA testing proved him innocent. The prosecutor vacated the
conviction. For five years she resisted our efforts to do post-conviction
DNA testing. The real perpetrator was identified.

Ray Krone sits next to him. United States Air Force--

REVEREND HOWARD: Your point is well taken.

MR. SCHECK: --exonerated from death row in Phoenix,
Arizona.

REVEREND HOWARD: Thank you.

MR. SCHECK: Did I get the two minutes, or did I get the five
minutes?

REVEREND HOWARD: No, no, you've exhausted the time.
(laughter) But you can squeeze in a few points in the q-and-a.

We're going to invite the members of the Commission to speak,
to raise questions for clarification of Mr. Peterson and Mr. Scheck at this
time.

Are there any questions?

Please.

MS. GARCIA: Mr. Scheck, I'm from Burlington County. I'm
pretty familiar with that case. And it's a shame Mr. Bernardi isn't here to
speak for himself.

But wouldn't you say that it's nearly impossible, 18, 20 years
later, to get a conviction? And that's the problem we face. I think in that
case -- from my knowledge of that case -- a lot of the reason that Prosecutor
Bernardi didn't proceed was because of witnesses. And that's what happens

with witnesses. As time goes on, they forget. They have illnesses, whatever. But there was other evidence in that case besides the DNA.

MR. SCHECK: Well, there were three individuals that claimed that Mr. Peterson admitted the murder to them. And one of them recanted and also indicated that he was fed information.

Now, my point--

MS. GARCIA: So when were they telling the truth? Then or now?

MR. SCHECK: I'm sorry?

MS. GARCIA: When are they telling the truth? Then or now?

MR. SCHECK: Well, the point about all of that is, that that testimony is completely contrary to the forensic evidence that clearly points to a third party. And I think that there was no question that the conviction had to be vacated. And even if one could harbor some illusion that he's guilty -- which I don't really think you can when you fairly look at the hard forensic evidence in the case -- you will see that this was an innocent man wrongly convicted. But even if you don't fully accept that -- and I think if you study the case you will go by that proposition.

My real point to you is, when you look at all these exoneration cases, they are unbelievable. They're unbelievable. And we find, in 63 of these cases -- like Ray Krone, like Kirk Bloodsworth -- the real perpetrator.

Last point I want to make about the question, as you posed it-- It looks-- The one I'm supposed to be answering about: weighing the dangers of an irreversible mistake against penological purpose-- I'm not discussing deterrence. You'll get a separate discussion of that. I'm not

discussing actual cost. It's all in my testimony. I think you should really look into that.

What I'd like to do, just very briefly, is talk, however, about opportunity costs.

REVEREND HOWARD: No, no, no, please. If this is reflected in your testimony--

MR. SCHECK: Yes, it is.

REVEREND HOWARD: --we're going to be limiting others from testifying.

Mr. Peterson, do you have a summary comment you'd like to make? If not--

I think, Ms. Segars, you wanted to ask a question.

MS. SMITH SEGARS: Yes, I'd like to ask a question of Mr. Scheck.

REVEREND HOWARD: Okay.

Mr. Peterson, do you care to make a statement?

MR. PETERSON: No.

REVEREND HOWARD: Please.

MS. SMITH SEGARS: Mr. Scheck, can you tell us, out of the -- I briefly looked at your testimony -- that 14 of the people were proven innocent by DNA that were on death row. Do you know of, or do you believe, that anyone who was executed was innocent?

MR. SCHECK: Yes. As I cover in the testimony, just in the last year, there are cases you should really look into. Cameron Willingham, convicted and executed in Texas, based on junk arson science. We have a report by the leading arson experts in America, before a Texas forensic

science commission, that proves this. And it's available on our Web site. Ruben Cantu, in San Antonio, Texas-- A *Houston Chronicle* report, being investigated by a prosecutor now -- substantial evidence of an innocent executed.

REVEREND HOWARD: And these are illustrations to the point, the question.

MR. SCHECK: Yes, and only in the last year. And they're in the testimony. But you really should look at it.

REVEREND HOWARD: Thank you.

MS. SMITH SEGARS: And I have one more question.

And, actually, this is directed at Ms. Hazard-Johnson.

Given what I've just heard from Mr. Peterson -- from your perspective, is there any place that you can recognize life without the possibility of parole as a sufficient punishment in -- from sitting in the chair that you sit?

MS. HAZARD-JOHNSON: From where I sit today, if the voters voted it that way, I could accept that.

MS. SMITH SEGARS: Thank you.

REVEREND HOWARD: Thank you.

This has been very helpful.

MR. DeFAZIO: Mr. Chairman, may I just--

REVEREND HOWARD: Oh, yes, please.

MR. DeFAZIO: May I ask one question to Mr. Scheck?

Just to make your written testimony clear -- because I know many people don't have it -- there has not been an exoneration of anyone who has been sentenced to death in New Jersey, correct?

MR. SCHECK: Right.

MR. DeFAZIO: All right, just to make it clear, sir.

REVEREND HOWARD: Thank you.

We very much appreciate your willingness to come and share with us. I assure you that your contribution has enhanced the capacity of this Commission to discharge its responsibility.

Thank you.

Now, the Chair would like to invite--

Rabbi Zelizer will come. He will be the next speaker.

We'd like to invite Mr. Larry (*sic*) Post -- I'm sorry, Lorry Post -- please excuse me -- and Kate Germond. We invite you to come as swiftly as you can.

I think we have amplification now, I guess. Now that we can be heard, we want to be sure that what we say is worthy of amplification.

Would you please test your mikes? Would everyone just test your mikes?

Now, the next person.

I think we're together.

How about members of the Commission? (affirmative responses)

I think we're good. One at a time.

We're going to start, now, with Rabbi Zelizer, please.

R A B B I G E R A L D L. Z E L I Z E R: My name is Gerald Zelizer. I am the Rabbi at the Congregation of Neve Shalom, in Metuchen, Edison, New Jersey. And I'm also the past president of the International Rabbinical Assembly, which are conservative rabbis.

The Rabbinical Assembly, which is an assembly of conservative rabbis, which has approximately 60 or 70 here, in New Jersey, and over 1,600 rabbis nationally and internationally, has passed, in the last 10 years, several resolutions advocating the elimination of the death penalty as violating our religious principles.

And in my testimony -- I'm not going to read the resolution, you have it in front of you. But I want to elaborate some of the reasons that we have passed those resolutions. And also the reform rabbinate, which is the more liberal wing of Judaism, has passed similar resolutions. So we're talking about the rabbis who represent 90 percent of New Jersey Jewry and American Jewry, advocating, together, this position. You have our resolution in front of you.

Neither the rabbis or the laity that we deal with -- which are approximately, collectively again, 90 percent of American and New Jersey Jewry, who are affiliated with synagogues -- are insensitive to respond to crime, especially such violent aspects as murder. But the resolution you have in hand, and others, expresses a conviction that to have a strong hand, in our data, does not mean execution. And I'm not going to go into the reasons it doesn't mean that. It's been said before, so I will skip that. Some of the earlier speakers have said why it does not necessarily mean execution.

What I want to dwell upon in the few minutes I have is, that what's important here is that Judaism itself has gone through the same process of evolving standards of decency, and have led to these resolutions, which is the process that I understand we're discussing here, today. I want to take one minute to give you a quick tour of how that happened.

I think that many of you are aware that, in the Torah -- which is the Five Books of Moses and the most sacred source of Judaism -- it contains statements like, "If one sheds blood, his blood shall be shed," or, "An eye for an eye." So, in the beginnings of my religion, that certainly meant execution for murderers. There's no doubt about it.

But what happened in Judaism is that as Judaism evolved -- and I'm talking, already by the 1st and 2nd century, in the time of the Roman Empire in Israel and Palestine -- the second source of Jewish values, which is called the Talmud, fundamentally eliminated the possibility of execution. What it did was restrict execution to such limited circumstances that, literally, our sacred books at that time say that if there was one execution in 70 years, that court is considered a killing court. And scholars who studied the evolution of Judaism all agree -- and the rabbis who have passed these resolutions -- that the standard of decency in Judaism regarding punishment evolved to this second stage.

I bring that up because it's the same process that I think we're discussing here, in the State of New Jersey -- how standards have evolved to a new level. And, of course, that's because of two reasons: one, the fear of executing innocent people; and, secondly, the fact that there are other ways to deal with criminals.

What is striking to me is that the immorality of the death penalty is one, I would say, of three or four issues that all faiths agree to, who fundamentally disagree on many other moral and ethical issues here in New Jersey.

So I would urge the Legislature to rescind the death penalty and to substitute, when appropriate, life without parole. The religious

leaders of 90 percent of affiliated Jewry in New Jersey advocate this, as well as, I hear, the majority -- if not all -- of the laity in our congregations that I deal with.

REVEREND HOWARD: Would you like to make one summary statement?

RABBI ZELIZER: My summary statement is that, whereas the death penalty might have been advocated in Judaism at an earlier state, today, undeniably, it does not adhere to our religious standards. And that is expressed in the resolutions of rabbis and the sympathies of the bulk of the laity in our congregation.

REVEREND HOWARD: Thank you very much.

I hope you will remain with the rest of the colleagues.

Perhaps we shall have the three presenters, and then have questions from the Commission.

Is that satisfactory? (affirmative responses)

Please.

L O R R Y W. P O S T: Good afternoon, Mr. Chairman, ladies and gentlemen.

I presented -- I offered two documents in the testimony. One is my own statement. And the second one, which may be even more important than that, is a statement by, I think, 30 or 30-some other folks in my position, which I'll explain in a few minutes.

So I hope, Mr. Chairman, you will accept both.

I also offered three copies of a green booklet called "Not in Our Name," and I'll explain that in a minute. I'm sorry I did not have 15 copies. I only had three.

My beloved daughter, Lisa, was stabbed in the back by her husband, back in 1988. She was the love of my life. Her husband received a 20-year sentence. I would like to have seen him get a life sentence, but he only got a 20-year sentence. I did not want him killed. That is not what I would have wanted or Lisa would have wanted.

I'm here to honor my child, Lisa -- her memory. If I would ask for the killing of her killer, or any other killer, I would, in effect, be dishonoring her memory.

I stand against the death penalty as a matter of principle. But you can see from my statement that we've evolved so much that there are many other reasons why people have moved against the death penalty. And I would just like -- these five bullet points -- real quickly read them or summarize them.

The nonfinality -- this drags on for years, and how it hurts the victim's family members. It drains resources that we could be using for victims. It creates a false sense of justice. And this one -- creates a hierarchy among victims. My wife and I -- and my wife's in this room with me -- are very upset about the idea of some murderers deserving the death penalty and other murderers not deserving the death penalty. That makes no sense to us. My wife didn't know how she felt about the death penalty until a gentleman by the name of Pedro Medina -- who stabbed a woman to death -- who was convicted of that -- we felt he was innocent, but he was-- His head was set on fire by the state of Florida, in a Florida execution, for stabbing a woman to death. Our daughter was stabbed to death, and yet this fellow will be out in a couple of years from now. My wife turned totally against the death penalty then, because of the unfairness of it.

Risk of executing innocent persons-- You heard Mr. Peterson here, Mr. Scheck-- And Ms. Germond may say other things about that subject.

I don't know where my time is, but I just want to maybe summarize what I'm asking of this body. I'm asking this body to do what other people are asking here -- which Rabbi Zelizer just did. And that is to recommend to the Legislature the way to protect our society against the violent criminals out there. And that is to impose life without the possibility of parole, and get rid of this thing called the *death penalty*, which creates more killings, and creates a culture of killings, and is a horrible, horrible thing; which almost matches the horror of what some of us have lost by murder by other individuals.

My time is about up. Let me just--

As my summary statement, I'd like to, if I may-- I tried to save your time. Trying to save your time, there are other people in this room who are in my position, family members of victims who oppose the death penalty. So instead of each of us presenting written testimony, that second document that I gave you is a document -- a letter executed by them. And there's, I think -- I haven't seen the final count. Talk about evolving standards. There was 28 when this was written up, and it's now, I believe, 30 or more. So folks just keep coming forward, without us recruiting them, who do not want the death penalty, even for the killers of their loved ones.

I would like, if I may, Mr. Chairman-- The reason I was standing is to ask the folks in this room who lost loved ones to murder, but yet feel as I do about the death penalty, to kindly stand to be recognized.

Would you do so? (audience members stand)

REVEREND HOWARD: Thank you very much.

Thank you.

MR. POST: Thank you so much.

REVEREND HOWARD: Thank you.

Thank you, Mr. Post.

MR. POST: Thank you, Mr. Chairman.

REVEREND HOWARD: Ms. Germond, please.

KATE HILL GERMOND: Hi.

My name is Kate Germond. I'm from Centurion Ministries.

I have a brief statement to read.

To date, Centurion Ministries has freed 35 innocent people. Of those 35, two were freed from death row; four were given death, and then, in 1972, resentenced to life without parole; one came within a vote of being given the death penalty; and 17 were convicted of heinous murders that easily could have been converted into capital cases with slight variations on their circumstances. Of note, of those 35 people, seven of them were New Jersey wrongful convictions.

The point is, our tiny organization alone has freed 35 innocent people from life and death sentences. It would be catastrophic and foolhardy to presume that our organization, along with the various innocence projects around the country, have caught and will catch all the wrongful conviction cases. It's just not possible. We're overwhelmed.

The huge number of exonerations across the country tells us the judicial system is flawed. To our credit, New Jersey has been at the forefront in protecting the rights of its citizens by evolving the way it examines, assesses, and tries criminal cases. Given that we all agree that no

innocent person should be convicted, let alone be convicted of a capital crime, abolishing the death penalty should be another of these protections that we employ.

We cannot rely on the system to catch the errors, nor can we rely on overburdened, not-for-profit organizations to save the ones who are innocent and in prison. Reversing these wrongful convictions takes years, especially as, if, in the case of most of them, there is no evidence to DNA test. The new eyewitness procedures do not ensure no errors, but they certainly impede error.

Abolishing the death penalty will not ensure no innocent person will be convicted, but it would ensure that no innocent person will be killed by the State. Surely that is as important to everyone as any issue surrounding the criminal justice system.

Centurion is only about the work of freeing the wrongly convicted. We are abolitionists, in part because of the very real potential to execute an innocent person. We normally do not participate in these types of forums, because we do not want to politicize what we do. However, this is our state. This is a subject we know something about, namely the incarceration of innocent people. Therefore, we are lending our voice to this chorus of people who are asking, in the simple name of justice, that the death penalty be abolished in New Jersey.

Thank you.

REVEREND HOWARD: Thank you very much.

Now we invite members of the panel to ask of our panelists those things that they would like to know.

Senator Russo.

SENATOR RUSSO: Just one brief question.

You had mentioned that a number of convictions were found on death row to be not proper. Any of those come from New Jersey?

MS. HILL GERMOND: No.

SENATOR RUSSO: Thank you.

REVEREND HOWARD: Any further questions? (no response)

Again, we want, on behalf of the Commission, to thank you for your willingness to come and offer your views.

Oh, I'm sorry.

MS. GARCIA: Rabbi, I noticed in your written testimony you used the word *closure*, and that when there is an execution, or when there's a sentence--

RABBI ZELIZER: I can't hear. I'm sorry.

MS. GARCIA: I'm sorry.

I said, I noticed in your written testimony that you used the word *closure*, and indicated that there is closure when there is an execution for the family, or when there's, you know -- when they receive life without parole. I think any survivor will tell you that there is no such thing as closure. There can only be justice.

My concern is, if the death penalty were to be eliminated in the State of New Jersey, will these families receive -- truly receive justice, where they won't see the people that killed -- the person that killed their loved one out on the streets again, which is what we see under the current system.

RABBI ZELIZER: There are two points: First of all, I didn't read that part of my testimony about closure. But the point is exactly the opposite. It was based on an editorial that I wrote in the *New York Times* on

this subject about seven years ago. And I quoted Lorry Post, who said that it did not bring him closure. That was my point.

Secondly, justice-- I would assume that if a criminal really is put into a -- a murderer is put into prison without possibly -- without the possibility of parole and being out on the street, as you say, they won't be out on the street. And that is justice.

MS. GARCIA: Well, under the current system, they're supposed to be executed, and they're being freed. So how will survivors know -- have the assurance -- that these people will never walk the streets again? And maybe someone that's going to testify later on can answer in their direct testimony.

RABBI ZELIZER: I can't answer that, because I'm not an expert of the law. I mean, it would seem that the law would not allow that possibility. But you would have to ask a legal person.

MR. POST: May I try it in one sentence?

REVEREND HOWARD: Sure.

MR. POST: In California, they've had life without the possibility of parole for a long time. And they have hundreds--

REVEREND HOWARD: Mr. Post, please activate your microphone.

MR. POST: We've been sharing.

In California, they've had life without the possibility of parole for years and years. And they've had hundreds -- thousands. My understanding is no one has been released, unless they've been found to be innocent, of course. So it's not a problem. If the law says life without the possibility of parole, then it's life without the possibility of parole.

MS. GARCIA: We have a death penalty and, you know, I think the -- Mr. Trantino is out walking the streets. And that family, I'm sure, never expected to see that. And they're not the only family.

MR. POST: But he didn't have that sentence, life without the possibility of parole. That was the difference.

MS. GARCIA: Okay. Thank you.

MR. POST: Thank you.

REVEREND HOWARD: Justice Coleman.

JUDGE COLEMAN: Rabbi Zelizer, in 1982, when the New Jersey Legislature passed the Death Penalty Act, it incorporated, as part of the history, a statement indicating that the evolving community standard in 1982 was okay with the death penalty.

Can you be a little more precise in your statement to us as to how, in your view, the community standard of decency has evolved since 1982, to now permit the conclusion that it is no longer decent -- that it is no longer a decent standard?

RABBI ZELIZER: If that was incorporated into the law in 1982 I assume it was prior to the possibility -- to all these possibilities of DNA and other kinds of discovery. So once these new methods are incorporated, it seems to me that the community -- the standards of the community need to be developed to a new standard of decency, commensurate with the new technologies which are available.

JUDGE COLEMAN: Thank you.

REVEREND HOWARD: Again let me, on behalf of the Commission, thank you for your willingness to appear here and to offer your perspectives. And if you have not submitted your written testimony--

And, furthermore, if you have additional things that you think might be of use to the Commission during its life, we hope you'll submit them to the staff.

Thank you very much.

At this time, I'd like to invite Mr. Jack -- Reverend Jack Johnson, Mr. Richard Dieter, and Dr. Matthew Johnson. If those three persons would be kind enough to come forward.

Reverend Johnson, are you here?

REVEREND JACK JOHNSON: Yes.

REVEREND HOWARD: All right.

Mr. Dieter?

RICHARD C. DIETER: Yes.

REVEREND HOWARD: Okay.

So, now, Dr. Matthew Johnson, are you approaching?

(affirmative response)

Thank you.

First, we want to hear from Reverend Johnson, then Mr. Dieter and Dr. Johnson, in that order.

REVEREND JOHNSON: Thank you very much.

My name is Jack Johnson. I'm a United Methodist clergyman, presently serving as the President of the Coalition of Religious Leaders; also representing today the New Jersey Council of Churches, some 19 Protestant denominations here in our state; as well as Co-Chair of the Board of Church and Society for the Greater New Jersey annual conference, some 585 United Methodist Churches here in the state.

As a summary--

REVEREND HOWARD: One moment. Be sure that your microphone is activated. And I'm the culprit here. I have the override, so I have--

REVEREND JOHNSON: You have, before you, my statement.

I just want to underscore that this is an issue, we've already heard, that persons of faith, through their judicatory position papers, do share a consensus.

I would share with you though, for the record, a publication of the death penalty -- the religious community calls for action, some 32 statements of opposition by representatives of religious organizations. And might I add, all these organizations have faith communities in the State of New Jersey.

What I wish to stress, though, this afternoon, is the position of faith denominations are now, more than ever, being embraced by residents of the State of New Jersey who are affiliated with faith communities. Resolutions, congregational forums, ecumenical agendas, teach-ins, study groups, and petitions reveal a continued change of attitude and positions by the majority of congregants on this issue.

And while some of the reasons for change have already been stated, might I also assume that we are understanding -- as persons of faith -- that there is also a change in attitude in our understanding of faith that it's wrong to take the life of a person.

Such a change in attitude is consistent with the evolving standard of decency. People of faith, people in the pews, believe that capital punishment -- taking of life by the state -- is cruel and unusual.

There is clearly an emerging moral indignation and repugnancy by persons of a faith, an evolving standard of decency that precludes the death penalty.

My point to you, as Commissioners, this day is to note the change in attitude and belief by a significant segment of persons who affiliate themselves with faith communities. I would suggest that such a change is evidence of an evolving standard of decency that precludes the death penalty.

Might I share, anecdotally, the fact that United Methodists in New Jersey gather annually for a conference, some 1,200 -- 1,300. Debates of all kinds are on the floor. Historically, some 20 years ago, when this was introduced, the debate was divided. Just recently, again, a resolution before us regarding the death penalty was put on what we call a *consensus calendar*, meaning there was no discussion on the matter. The matter was overwhelmingly affirmed in opposition to the death penalty.

I, again, would suggest that there is clearly a change in attitude by people of faith and a consensus on that issue.

I thank the Commission for hearing me this day.

REVEREND HOWARD: Thank you.

Now, you'll remain with us.

Thank you.

MR. DIETER: Mr. Chairman, members of the Commission, thank you for this opportunity to appear before you.

My name is Richard Dieter. I'm the Executive Director of the Death Penalty Information Center, which is a nonprofit organization that does research on national trends on the death penalty, in Washington, D.C.

I have submitted a written copy of my testimony, which I hope you have in front of you, or that is available to you. So I will keep my remarks brief and will be happy to answer any questions either now or at any other time.

I wanted to spend a couple minutes on the three questions which I understand the Commission is attempting to answer by its hearings. The first has to do with: Does the death penalty serve a penological intent, such as deterrence. Obviously, that's wide open. But any kind of purpose to the death penalty should be understood in light of one very important fact. And that is that the death penalty, in our country, is very rarely applied. Last year, we had about 16,000 murders in this country. We had about 125 death sentences. And less than half of that number -- people executed. So the death penalty is applied to less than 1 percent of those who commit murders.

If there is a penological intent, such as retribution or deterrence, it is only applied to a very small percentage. And I think that throws doubt on the legitimacy of that as an intent. If we really believe that we need retribution for heinous murders, or if we really believe that the death penalty is a deterrent, then we should be seeing many, many more times more executions than we do see -- many more death sentences. And, in fact, the trend in our country is exactly in the opposite direction, as I'll talk about in a little bit. But, certainly, these intents must be seen in that light.

Secondly, some of the specific intents are things like deterrence. I think Dr. Fagan, from Columbia University, has submitted testimony. He is more of an expert on deterrence. But there certainly is a lot of confusion

and uncertainty about deterrence. It is a thin reed upon which to rest the future of the death penalty. The experts, such as Dr. Fagan, have concluded that what we've seen, in the social studies, is the antithesis of what social scientists and economists demand. That is a consistency in findings. There is not a consistency when it comes to deterrence studies. And other experts have concluded the same thing.

What we do know is that the death penalty has come back -- has been in existence for 30 years. Over that period of time, the states that do not have the death penalty have far lower murder rates than states that do have the death penalty. And the South, which carries out 80 percent of the executions in this country, has the highest murder rate of our four geographical regions. The Northeast, which New Jersey is a part, carries out less than 1 percent of the executions, and has the lowest murder rate.

So I presume I have one minute. Is that correct? (affirmative response)

Moving on to the risks of executing the innocent people-- I would just briefly say, there have now been 123 people who were sentenced to death, around the country, who have now been exonerated and freed. Certainly, that speaks to the risk. And I know the Commission is trying to balance those risks against this penological intent, which I think is small.

And, finally, I think the Commission is trying to determine, have our standards of decency evolved? As I say, the death penalty is losing its grip on society. Executions have dropped by 50 percent. Death sentences around the country have dropped by 60 percent. A number of states have imposed a moratorium on the death penalty. All of these are numbers--

I would only conclude, if I may, with a final statement. And that is from a son of New Jersey, former Justice William Brennan, who said, “The State, even as it punishes, must treat its members with respect for their intrinsic worth as human beings. A punishment is cruel and unusual, therefore, if it does not comport with human dignity.” That is the standards of decency that, I think, you need to consider in evaluating the death penalty.

Thank you.

REVEREND HOWARD: Thank you, Mr. Dieter.

Dr. Johnson.

MATTHEW B. JOHNSON, Ph.D.: Good afternoon.

Thank you, Chairman Reverend Howard.

I’m going to make a brief -- I have a brief statement that I’d like to make. I’m also submitting an article that touches upon this issue.

I am an opponent of the death penalty. But, this afternoon, I’m not here to talk about my personal opposition. Many other people have addressed those issues and have articulated them quite well.

Chairman Howard and distinguished members of the State of New Jersey Death Penalty Study Commission, I am a licensed psychologist and life-long resident of the State of New Jersey. I am also a tenured professor at John Jay College of Criminal Justice, in New York. I recently co-authored an article that focused on the adverse effects of state executions -- the effects that it has on judges, jurors, judicial staff, attorneys, correctional staff, journalists, clergy and spiritual advisors, as well as family members of both the condemned and the victim. The article was published

in the *Journal of Psychiatry and Law*, and is being submitted along with this statement.

The conclusion from our review of research and literature is that secondary trauma from state executions warrants consideration within the overall public policy regarding state executions. It is evident that the execution process invites risks to individuals other than the condemned. Judges, jurors, attorneys, and others are intimately involved in a process that may eventuate in the killing of another person.

In addition, very little attention has been paid to the correctional staff who actually take the inmate to his death. Often, these correctional officers have multiyear relationships with condemned inmates before they take part in the state-sanctioned killing.

Clergy and executioners have published anecdotes and memoirs describing the profound anxiety, grief, and somatic reactions among various parties. One clergy member, who served on death row, noted that executions “create another set of victims.” Murder victim family members, and family members of the condemned, are exposed to prolonged involvement with the legal system, and the press, through years of hearings, appeals, and execution stays. Thus, there are multiple secondary sources of trauma and adversity associated with state executions.

I hope that the Commission will carefully consider all of these elements, as noted in the article, in formulating the public policy recommendations.

Thank you.

REVEREND HOWARD: Thank you very much.

I want to commend those who don't have to be gaveled.
(laughter)

DR. M. JOHNSON: Thank you, Reverend.

REVEREND HOWARD: And I want to, on behalf of my colleague Senator Russo, apologize for his early departure. That was known beforehand. And he has assured us that he will plow through all the written testimony and the recorded testimony, as well.

I invite my colleagues now to raise any questions they may have of those who have addressed us.

MR. WINDER: Mr. Dieter, I'm Miles Winder, a member of the Commission. And in the *Star-Ledger*, this morning, there was an article about this hearing today. And in the article, without a substantiation, so far as I can see, it suggested that the death penalty would only be a deterrent if it was carried out on a regular basis. So places like Texas, where there have been numbers of executions, locally-- It would have some deterrent value.

Would you care to comment on that?

MR. DIETER: Well, as far as I understand, those were comments from a researcher who purported to show that there was some deterrent effect. As I said, the studies have gone both ways on that. It's inconclusive. But she, herself, was saying, in a country such as ours -- or in a state like New Jersey, where the death penalty is rarely applied, it actually could have a worsening effect; that is, it could brutalize and not deter. So this is a voice of someone who would support deterrence, but finds that not so much with our death penalty -- the death penalty as it's practiced. We

would have to have hundreds, perhaps, times as many executions for it to have a deterrent effect.

MR. WINDER: Thank you.

MS. GARCIA: Dr. Johnson, in layman's terms, could you expand on how these--

Dr. Johnson, could you please explain to us, in layman's terms, how the delays or lack of sentence being carried out impacts the surviving family members?

DR. M. JOHNSON: Sure.

Am I on? (referring to PA microphone)

Let me say this: The effect that the delays have on families varies. It's a very personal issue that we're dealing with. And as a psychologist, I recognize that all families do not react in the same way.

We've heard testimony from different members of surviving victims family members today. But the fact that there is a prolonged period where there are appeals -- several appeals over many years, state appeals, Federal appeals. Whenever there are appeals, the family members are often approached by the press. There's doubt as to any conclusive ending of the trauma -- is prolonged. And this, many people find to be quite aggravating to their grief and trauma.

REVEREND HOWARD: Thank you.

Are there further questions? (no response)

If not, let me, on behalf of our Commission, thank you for your wisdom and insight into this subject; your scholarly writing, in some cases.

I have one question for Mr. Dieter.

Tell me this: Are you able to articulate your motivation for being involved in this work?

MR. DIETER: Well, I represent, of course, the Death Penalty Information Center. We do not have a position on the death penalty, per se, but have been critical of the way the death penalty is applied. We're speaking nationally, here, because of the inequality of the way it's applied, mistakes, the costs, issues like that.

I personally have been involved in this issue in more ways for about 30 years, out of personal commitment. But, here, I represent the Death Penalty Information Center.

REVEREND HOWARD: Thank you.

We have one additional question from the panel.

MR. HICKS: Dr. Johnson, you mentioned the family members of the condemned. We very rarely hear anyone mention the family members of the condemned. In a way, aren't they also innocent victims? And I'm sure they probably go through quite a bit also.

DR. M. JOHNSON: Yes.

Am I on? (referring to PA microphone)

The article that I submitted for the Commission's review does address published literature that describes the impact on the family members of the condemned. And, actually, there are some parallels, in terms of what they endure and suffer, with the family members of the victim.

So on both sides, there are costs -- emotional costs that, I think, certainly should be considered in the equation, with regard to the public policy about state executions.

MR. HICKS: Thank you.

REVEREND HOWARD: Thank you.

Again, you may be excused.

Thank you very much for your participation.

The Chair would like to invite, now, Ms. Sandra Manning, Esq.; Ms. Edith Frank to please come forward.

Ms. Manning, we invite you to offer us your summary statement. And in fairness to you, when you hear that light tap, it means you have two minutes.

S A N D R A K. M A N N I N G, E S Q.: I'll keep that in mind.

Thank you, Mr. Chairman and members of this Commission.

My name is Sandra Manning. Since 2001, I have been privileged to chair New Jerseyans for Alternatives to the Death Penalty. Our organization grew from five members at its inception to approximately 10,000 now.

I am also here-- I submitted various things to this committee. I submitted a report: *Innocence Lost in New Jersey*, which I am one of the co-authors. It details cases in New Jersey of wrongful convictions, of questionable convictions, and of questionable arrests. It shows that some of the--

I also submitted my written testimony. And I also submitted a poll done by NJADP, in 2005, on New Jerseyans' attitudes towards the death penalty. And I also submitted a list of organizations which have supported our organization.

Briefly, on my report, there are 25 individuals listed as exonerated who were convicted of serious crimes in New Jersey. Some of

those individuals are here in the -- present at this hearing. I'd like to ask some of them to stand. You already heard from Mr. Peterson. I'd like to recognize Nate Walker. Nate was convicted of rape. He could have been exonerated by a simple blood test, which his lawyer didn't think to do. He was--

I would like to also note -- comment on the case of Jimmy Landano. Jimmy was convicted of the murder of a police officer at a time when New Jersey did not have a death penalty. He tried, for 23 years, to prove his innocence. In an Appellate decision that had a 54-page decision commenting on multiple prosecutorial misconduct, and pointing to the wrongful -- the probability that the State's prime witness had been the murderer. He died a little bit -- a few years after being exonerated. His widow traveled here to be with us today. I'd like her to stand, please.

I want to also emphasize that, had this been -- had Jimmy been convicted at a point when New Jersey had the death penalty -- because this was the death of a police officer -- this most certainly would have been a capital trial.

I'd like to ask Earl Berryman -- with no prior criminal record, who was identified by a rape victim who changed the description of her attacker several times. Earl traveled from Virginia to be with us today.

Anyone else I missed? (no response)

I believe Kirk Bloodsworth and Ray Krone, who were death penalty -- on death row in other states -- were already recognized.

New Jersey has the same sort of problems that result in the conviction of the innocent that other states have. People misidentify other people. This State has instituted a fine, new system to try to cut down on

eyewitness mistake. It's a new system for lineups and photo identifications. Using that fine system in 2003, four eyewitnesses to somebody called -- who was known as the "Bus Stop Rapist," here in the city of Trenton, picked out the man -- using our new techniques -- and were certain that was the man who had raped them. Had this been a robbery with a gunshot, and no DNA, that man would be in prison. Had it been a capital crime -- could be on death row. As it was, it was a rape. We had DNA come back. All four witnesses, using our four new techniques, were wrong.

I want to--

REVEREND HOWARD: You have one summary statement. Your time is concluded.

MS. MANNING: Okay. Thank you.

EDITH FRANK: Did you want a summary statement?

MS. MANNING: Oh, a summary statement.

I want to say that, the fact that we have not had someone on death row who has been exonerated has been luck, not anything else. We very nearly had Larry Peterson here on death row -- Larry Peterson, whose innocence was proved by the fact that the DNA from semen and fingernail scrapings pointed to the same man, and the same man was not Larry.

Jimmy Landano could have been on death row. We have been lucky. We will not always be lucky. We will make mistakes.

REVEREND HOWARD: Thank you.

Ms. Frank.

MS. FRANK: Thank you.

Good afternoon.

My name is Edith Frank. I'm a member of the Board of Directors of the League of Women Voters of New Jersey, as well as an officer in the Morristown area League of Women Voters, where I reside.

I am here to testify on behalf of the League of Women Voters in New Jersey. In addition, on a personal level, I am the family member of a murder victim. My nephew was murdered in another state. And I'm grateful that the person responsible has been sentenced to a very, very long prison term, so that my family is not required to continuously confront the horror in long, drawn out court proceedings.

The League of Women Voters is a nonpartisan, political organization, which encourages the informed and active participation of citizens in government, and influences public policy through education and advocacy. It neither supports or opposes any political candidate, but comes to a position in favor of, or in opposition to, specific legislation after study and substantial agreement among its neighbors and members.

In the year 2004, the New Jersey League adopted a position in support of replacing the death penalty with a sentence of life without parole. This position was reached after a study and consensus process which obtained membership agreement throughout the state. And I have a written copy of the League's position to present to your committee.

In June of this year, the League of Women Voters of the United States, at its national convention, voted to adopt a new national position favoring the abolition of the death penalty. This issue was studied by Leagues of Women Voters in several states. And the National Board of the League of Women Voters recommended that it become a position agreed upon by all states. The hundreds of delegates in attendance voted

unanimously to adopt this position: that the League of Women Voters of the United States concur with those states' Leagues who oppose the death penalty in favor of life without parole. This is, indeed, evidence of growing national consensus for abolition of the death penalty.

I have been a member of the League of Women Voters for over 40 years. And I know that the death penalty has been very controversial during that time. The fact that the National League of Women Voters has reached this decision, without discussion, without opposition, to oppose the death penalty in favor of life without parole, in the year 2006, definitely reflects a national opinion that acknowledges all the various problems with the capital punishment system -- that it should be abolished and replaced by a sentence of life without parole. This is clearly consistent with evolving standards of decency in our state.

Thank you.

REVEREND HOWARD: Thank you very much.

I hope that you are now available for some questions from members of the Commission.

Then we invite members to raise their questions at this time, if there are any. (no response)

Well, you've made things perfectly clear. (laughter)

Thank you very much.

MS. FRANK: Thank you.

REVEREND HOWARD: The Chair would like to invite forward Ms. Marilyn Zdobinski.

And I see that we have Mr. Michael Murphy scheduled to speak. And I note that the Chair of his organization has just spoken.

Mr. Murphy, are you still here?

MICHAEL MURPHY, ESQ.: I am, Your Honor.

REVEREND HOWARD: Do you have a burning desire to testify, despite the fact that your Chair has spoken?

MR. MURPHY: This may come as a shock to you Reverend Chairman, but I think I can be brief.

REVEREND HOWARD: No, but you're evading my question.
(laughter)

MR. MURPHY: Well, I can do that, too.

REVEREND HOWARD: Not easily.

MR. MURPHY: I do have a desire, but I will--

REVEREND HOWARD: You will confine your remarks, let's say, to two minutes. I bet you can do that.

MR. MURPHY: Two minutes? I'll do my very best, Mr. Chairman.

REVEREND HOWARD: But we will begin with Ms. Zdobinski.

Am I saying your name correctly?

MARILYN ZDOBINSKI, ESQ.: Yes, Zdobinski. (indicating pronunciation)

REVEREND HOWARD: Good.

MS. ZDOBINSKI: Thank you.

My name is Marilyn Zdobinski. I'm a retired prosecutor. I became an assistant prosecutor in 1973, and spent my career in Union County in the 1970s, and I was in Passaic County in the '80s. And I remember, in 1982, when the death penalty was enacted. And at that time,

all career prosecutors realized that the death penalty wasn't going to be imposed in a matter of months, years, maybe even decades. Because we live in New Jersey. We're not in Texas, we're not in Florida, we're not in Illinois. We're not in any other state. We're in New Jersey. And we can be so proud of the system here.

The only thing I would like to do, before I begin about the system, is to give out what I did bring, which is -- and this is the only national study -- I think I have two national studies I wanted to refer to. I have a copy of the Gallup Poll. It's dated May 4, 2006. The Gallup Poll shows support for death penalty, strong and steady. I also have the first page of a Web site, DPINFO, the accurate source for death penalty information. I didn't make copies of this, because it's only the first page. And the Web site indicates there are seven recent studies indicating that the death penalty is, indeed, a strong deterrent. And I'd like to give that to you, too.

But in terms of deterrence-- It's difficult to talk about deterrence, in terms of proving what people didn't do. But I think of a name, Edgar Smith, who killed Victoria Zielinski when she was a teenager, up in Bergen County, when the death penalty was still here from the old system. And his conviction was eventually overturned. And he was eventually released, having previously been convicted and given the death penalty for that murder.

He was released. He went to California. I'm sure several of you have heard of him, because he became very famous. And, but for a woman who fought for her life in California, he is now incarcerated in California for attempted murder, because he kidnapped and stabbed that

woman; but he didn't kill her like he killed Victoria Zielinski, because she fought for her life. But you know what he told them when he came up for a parole hearing in California? "Blame New Jersey. They let me go." That's documented.

I tried John Martini in 1990, in Bergen County. And I came to know Marilyn Flax. And I came here to read a letter. If I read her whole letter, that's going to take up my time, isn't it?

REVEREND HOWARD: It probably will exceed your time.

MS. ZDOBINSKI: Okay. But I passed out copies.

REVEREND HOWARD: And what I want to assure you is that I have a copy of your letter here. And I will read it, as I'm sure other members of the Commission will.

MS. ZDOBINSKI: Okay. I appreciate that. Because Marilyn Flax went through what no other person should have to go through. But it made her a member of the terrible, terrible club, because-- And if you heard her testimony at trial, when she had to testify about trying to save her husband's life by bringing the ransom money to the Forum Diner, in Paramus-- Her husband was murdered, executed by John Martini. And, of course, you have the letter. And you know that she has been waiting for justice for, now, 17 years.

In the last two sentences, she says, "We are able to endure all that the system puts before us, because there is a promise of justice at the end." You have the ability to assure her that justice delayed is not justice denied. Well, this is a quote, "The death penalty means nothing in New Jersey, because those put on death row are not executed." Those aren't my words. Those aren't the words of anyone here. They're the words of John

Martini. He told that to a reporter in 1990, as he sat awaiting trial in Bergen County Jail -- awaiting his capital trial.

And, indeed, his actions behind bars have certainly lived up to his attitude. He threatened to kill his codefendant's attorney. He conveyed those threats through his own public defender. It caused the assignment judge to have to appoint new counsel, both for himself and his codefendant. He was caught with three other inmates in a scheme to assemble a bomb in order to escape. But the plot was uncovered. By the use of a girlfriend outside, he bribed a guard to bring in food and liquor for him, and lived quite well in the Bergen County Jail. He eventually induced--

REVEREND HOWARD: I'm going to have to ask you to offer us a summary. Your time is concluded.

But give us -- as difficult as this might be -- a kind of wrap-up sentence that really makes the point that you're driving home.

MS. ZDOBINSKI: New Jersey puts a higher price on the system than any other state. We are more exacting, more cautious, and more careful so that only the worst of the worst make it. Only the New Jersey Supreme Court let's people sit on death row who are truly guilty and who deserve the death penalty.

John Martini, as the example-- While he was-- After he was convicted -- and that jury never knew he was on the run from two murders in Arizona. He pled guilty to those murders, and he was found guilty of another murder in Philadelphia. And he's also suspected of lots more murders. But this State does it better than anybody.

REVEREND HOWARD: Let me suggest that you remain with us, because I think you'll have an opportunity to say a bit more. But in fairness to your colleagues, I think we should--

MS. ZDOBINSKI: I apologize.

REVEREND HOWARD: No, no, that's okay.

Mr. Murphy, before you begin, I want to apologize to Dr. Robert Johnson, a Professor at American University.

Dr. Johnson, are you here?

ROBERT JOHNSON, Ph.D.: Yes.

REVEREND HOWARD: I want to apologize. If you see all of the distinguished Johnsons on our list, you can understand. (laughter)

Please, would you take your seat and be a part of this panel?

And now we will hear, by his own promise, Mr. Michael Murphy -- a brief statement.

MR. MURPHY: I don't know if the microphone here is working.

MR. HICKS: Push the button.

MR. MURPHY: Thank you.

Reverend Chairman, distinguished Commission members, with the limited time that I have, I'll briefly introduce myself. I used to refer to myself as somebody who needs no introduction. With the passage of time, I think I do need an introduction.

I'm a former county prosecutor, a former public defender, head of the Public Defender's Office; I've been an assistant prosecutor and public defender. Some people think I've had a varied and interesting career, or I just can't keep a job for very long.

My testimony today will be anecdotal, if I may. My family's history is both personal and professional. My own personal history, and that of my late stepfather, Governor Richard J. Hughes -- and Chief Justice Hughes.

When Chief Justice Hughes was an adolescent, his father, my grandfather, was the keeper -- the warden of the Trenton State Prison. And his mother would have people into the parlor at the Trenton State Prison when it was time for executions. And she would have the family of the people to be executed into her parlor. And she would sit with them, and they would often pray. And she would try to comfort them. And she was a very religious and spiritual woman. And then, when the lights flickered, she would just simply say, "It's done." And shortly thereafter, they would leave.

In 1963 -- is the last time that the State had executed anyone. And Richard J. Hughes, my late stepfather, was Governor of the State of New Jersey and passed on the opportunity to extend Ralph Hudson's life. That was a torturous decision for him, and one that he regretted for many, many years.

When I became the county prosecutor in 1990, a couple of years later I chose to prosecute a murder case -- not my staff, or not some of the assistants -- but I, myself, prosecuted a murder case, *State versus Miller*. Miller had laid in wait for his paramour in a parking lot. And as she left a supermarket, her last conscious act was to push her 5-year-old daughter out of harm's way, as Miller's car bore down on her, ran her over. He jumped out of the car and thrust a butcher knife through her body several times.

I had the responsibility of talking with the family members -- the deceased's family members about options, with regard to the death

penalty, then on the books as it is now in New Jersey. And I explained to them that New Jersey -- it takes weeks -- strike that, years, decades to actually execute somebody. And that has rarely -- and in fact had never happened since 1963. There was a split in the family as to whether or not that was an appropriate option or not. And some family members felt that their sister's, daughter's, mother's murderer should be executed. Others did not feel that way.

We proceeded on a first degree murder, but not capital case. Miller was convicted, after a jury trial. And just about a little over a year ago, I was at a hearing at the Department of Corrections. And a young woman walked up to me, and she said, "I haven't seen you in about 12 years. I want to thank you." I said, "Well, I'm very grateful, but I can't remember who you are." And she said, "You prosecuted my sister's murderer." I said, "Oh, now I remember." And she said, "Yeah, we miss Cathy. But you gave us good advice. Our matter is closed now. I am now an opponent of the death penalty. And I see these other cases where people wait decades and decades for resolution. James Miller is away in prison. I wish he was away for life without parole. But he is away for life imprisonment, as we understand it in New Jersey."

Life without parole, in my humble estimation, is a punishment whose time has come. I ask this Commission to recommend to the Legislature that we adopt life without parole in lieu of the death penalty in New Jersey.

REVEREND HOWARD: Thank you very much.

Dr. Johnson.

DR. R. JOHNSON: Is that on now? (referring to PA microphone)

REVEREND HOWARD: It is, yes.

DR. R. JOHNSON: I am Dr. Robert Johnson, a Professor of Justice, Law, and Society at American University, in Washington, D.C. I have been invited to testify today, on behalf of New Jerseyans for Alternatives to the Death Penalty.

I understand the Commission is examining whether the death penalty is a deterrent. One consideration is whether the death penalty is necessary to deter violence within prisons. I believe it is not. Life without the possibility of parole, I will argue, is an effective deterrent to prison violence.

Life without parole is sometimes called a *true-life* sentence, because the offender is sentenced to spend the remainder of his or her life in prison. A better name for this sentence might be *death by incarceration*, since these persons are, in effect, sentenced to die in prison. These inmates are often called *lifers*, because their lives are slated to end in prison. Now, please be aware that when I use the term *life* here, I mean only life without parole, not life with eligibility for parole.

A possible objection to replacing death by execution with death by incarceration relates to public safety. After all, executed prisoners are dead. Dead prisoners pose no threats. Whereas, lifers are at least potential dangers to others in the prison. Some proponents of the death penalty warn us that lifers will feel that they have nothing to lose and will be uncontrollably violent, injuring or killing officers and inmates at will. In the

absence of the death penalty, the speculation goes, what more can we do to deter them from violence?

As appealing as this scenario may seem, it is dead wrong. In fact, the opposite is true. A substantial body of empirical research supports the claim that lifers are less likely -- often much less likely -- than the average inmate to break prison rules, including prison rules prohibiting violence.

The premier study on this subject was conducted in Missouri and covered an 11-year period. For our purposes, the populations under study included inmates serving sentences of life without parole for first degree murder -- there were 1,054 of them followed for 11 years -- and inmates serving parole-eligible sentences -- there were 2,199 of them followed for 11 years. All inmates were housed in maximum security, the level just below supermax prisons. Lifers were significantly less likely than parole-eligible inmates to be involved in violent misconduct. Only one of the 1,054 life-without-parole prisoners killed in prison. There was one murder, over 11 years, committed by an inmate with this sentence. Moreover, prisoners eligible for parole were almost twice as likely to commit acts of violence as were life-without-parole prisoners, and were almost four times as likely to commit major assaults.

There is every reason to believe that the findings from this extensive body of research -- of which this study is simply one example -- would apply to New Jersey prisons. New Jersey prisons, like those in other states, have many lifers -- about 1,000 right now -- but little or no lethal violence.

The vast majority of lifers are manageable prisoners, even model prisoners. The reason is simple: Prison is their home for life. Accordingly, they strive to make the most of the limited life that is available to them behind bars. Self-interest guides them to avoid trouble, because trouble jeopardizes the few privileges that they can secure in the prison world.

For those few lifers who prove violent, secure systems of custodial segregation can be deployed to control them. In New Jersey, the high security unit is called the Management Control Unit, and is located in New Jersey State Prison, in Trenton. The regimen there, as I have seen firsthand, is strict and controlling. This unit is sufficient to contain and constrain any life-sentence prisoners sent there for special confinement. And this view is shared by the warden, who made that very clear to me.

So, does New Jersey need the death penalty to ensure that its prisons are safe? The simple answer is no. There are better ways to keep your prisons safe without the threat of the death penalty.

Thank you.

REVEREND HOWARD: Thank you.

Thank you very much.

I invite the Commissioners, now, to offer any questions of these persons who've come.

Yes.

MR. DeFAZIO: Mr. Murphy--

MR. MURPHY: Mr. Prosecutor.

MR. DeFAZIO: Based on your long experience in the criminal justice system, as both a prosecutor and a public defender, you, more than

most, realize that criminal cases are very fact-sensitive. And I'm just wondering, since you brought up a personal experience--

In the case that you referenced, let's suppose that Mr. Miller not only killed his -- was it wife or estranged girlfriend?

MR. MURPHY: It was a paramour.

MR. DeFAZIO: Paramour -- that he didn't -- he killed not only the girlfriend, but the child. You would admit that that would present, perhaps, a much different set of facts. And maybe your advice to the family at that time would be different.

MR. MURPHY: Perhaps. Each of these cases, Mr. Prosecutor, as you know, are fact-sensitive. And I'm trying to look back over 15 years. The facts that we established at the time of the trial of that case were only consistent with his desire to kill his paramour and not the little girl. But it certainly would have made it a much more difficult case. We knew, at the time, however, that this was going to be a -- an insanity defense was going to be interposed. And it was brief reactive psychosis -- which was what was raised and was tried before a jury. But these are very challenging and difficult decisions.

MR. DeFAZIO: Thank you.

REVEREND HOWARD: Are there other questions? (no response)

If not, this--

DR. R. JOHNSON: Could I make a comment?

REVEREND HOWARD: Sure.

DR. R. JOHNSON: I realize that the person who was going to discuss deterrence is not here today -- Dr. Fagan. I just wanted to urge you,

when you look at his work, to keep in mind that deterrence has been studied as a matter of statistics. But for most of us, we are only deterred by things that impinge on our lives. When you go to Trenton State Prison, you meet many people who are there because they didn't expect to be caught, and they didn't expect to be punished. They're very hard to deter for that reason.

But if prison contains life-without-parole inmates, who grow old and die there, those people are very much a part of the lives of people in prison today. And I think it's reasonable to think that future murderers are coming, in large measure -- or in some considerable measure -- from the people we have now doing shorter terms in our prisons. So life without parole should be thought of as, potentially, a potent deterrent, because it's an intimate fact in the lives of people who, otherwise, don't feel very vulnerable to the justice system.

REVEREND HOWARD: So you're suggesting, in your last comment, that lifers, in your terminology, are agents of deterrence?

DR. R. JOHNSON: They could well be, because they very vividly age; they very vividly become vulnerable; they lead a lonely, desolate existence; and they're very much a part of that world. So people see the wages of sin, or the wages of punishment, right before their eyes. And I think most people are more deterred by things that affect them directly than by laws that we pass here, in this august building.

REVEREND HOWARD: I think that's the introduction of a new line of thinking.

Is there a member of the Commission who wants to comment or question that? (no response)

If not, I want to thank not only those who have brought testimony, but those who've come to be a part of our hearing -- members of the Commission.

Please be on the alert for future announcements of public meetings. We shall address other issues in public meetings going forward. And we want your help in letting those who have something to contribute to our work know about this process.

We thank you very much.

(HEARING CONCLUDED)