
Public Hearing

before

SENATE LAW AND PUBLIC SAFETY COMMITTEE

SENATE BILL No. 855

“No Early Release Act”

LOCATION: Monmouth County Hall of Records
Freeholders Meeting Room
Freehold, New Jersey

DATE: April 24, 1996
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Louis F. Kosco, Chairman
Senator James S. Cafiero, Vice-Chairman
Senator John O. Bennett

ALSO PRESENT:

Anne M. Stefane
Office of Legislative Services
Aide, Senate Law and Public Safety Committee



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SENATOR LOUIS F. KOSCO (Chairman): We're going to call this meeting to order. We are waiting for Senator Bennett to be here, and as soon as he gets here, he will join us up here as part of the Committee today. He's been appointed by Senator Don DiFrancesco as a voting member of this Committee today. So we will have a quorum and enough votes hopefully to release this bill from Committee after all the testimony is heard.

Just as all law-abiding citizens of New Jersey, I have always felt very strongly that the punishment should fit the crime. It's heartbreaking to hear about the never ending stories of pain felt by the victims and their families throughout New Jersey. Their emotional torture continues long after the assailant who's caused their grief is released from prison. That's why I have cosponsored this bill along with Senator Bennett.

This measure cannot change the past, but it can help to ensure justice in the future and can assist in alleviating some of the pain that is felt by the thousands of victims. This measure will make certain that criminals who commit first and second degree crimes serve more time in prison. This legislation requires that they serve 85 percent of their sentence, regardless of how many work or custody credits or any other types of credits that they have received. Serving the majority of their sentence means that more offenders will be kept off the streets for a longer period of time. Also, knowing they will serve longer jail sentences may provide incentives for many individuals to end their criminal lifestyle.

I hope that this measure will assist in comforting the many victims and their families whose lives have been destroyed by violent crime. And I also hope that it will send a very strong message to the judges throughout the State

and throughout the country that we mean business. The message is very clear. Let the punishment fit the crime, no more and no less. We have a long list of people here. So I would appreciate it as the hearing goes on that -- so in order to get to everyone and listen to what they have to say that you do not repeat what has already been said by someone else because that will not serve any purpose. We hear it once, we listen, and we can digest it. So we don't have to keep repeating the same thing.

I would like to first call as our first one, Diane Allen, our Assemblywoman, from Burlington. Welcome.

ASSEMBLYWOMAN DIANE ALLEN: Thank you very much, Mr. Chairman. In speaking with the people of my district and listening to the people of New Jersey, it seems that on everybody's mind is the issue of protecting people from criminals, and it would be hard to say that there were very many other issues that were as important in this society.

There's no greater challenge for all of us than finding a way to reform the criminal justice system so we have no more excuses, no more exceptions, that we follow a clear-cut rule. The rule is outlined in the bill, sponsored by myself and Assemblyman Carmine DeSopo, in the Assembly, and also by Senator Bennett and by you, Mr. Chairman, here, and the bill is the No Early Release Act. Where else can we have a clear-cut standard that makes certain that judges and others understand the first and second degree violent offenders should not be released early from prison?

When we worked to put this bill together, I was thinking of crime victims, in particular the Reddish case of murder and domestic violence. That happened in Burlington Township, in my district, this past summer. Charlie

Reddish -- Crazy Eddie is what he is being called, what he goes by apparently -- was let out of prison on an armed robbery charge after serving just 16 months of a 5-to-10-year sentence. He got out, he went to the Burlington Township home of his girlfriend, hacked her to death with an axe, and raped her 12-year-old daughter. If this bill, the No Early Release Act, had been law at that time, he'd still be in jail today, the woman would be alive, and the child would be surviving in a much different atmosphere than she now lives.

I'm proud to support the rights of crime victims. I'm proud that we have so many crime victims groups behind us on this bill. Cathy Garcia of the South Jersey Crime Victims Survivors Organization hoped to be here today; she was unable to. She sent a letter in support of the No Early Release bill. I'm proud that organizations like the Coalition for Crime Victims Rights Organizations of New Jersey, the New Jersey Crime Victims Law Center, The Voices for Victims, and many families, including the mother and grandfather of Amanda Wengert, all support S-855, which is the identical companion bill in the Senate to ours in the Assembly.

Our bill goes beyond truth in sentencing. We need to insure that those violent offenders who commit the crimes like manslaughter, attempted murder, kidnapping, aggravated assault, arson for hire, aggravated sexual assault, and vehicular manslaughter are held accountable. We want to give judges the tools to enforce the will of the people.

The opinion that says that if you do the crime, you do the time is something that the people of New Jersey seem to agree with. We also want to hold judges accountable, make them keep prisoners in jail without getting out of jail just because they, for once in their lives, cause no trouble. Sometimes

the parole system is based on that. After the first parole hearing goes by, they only look at that period of time between the first parole hearing and the second hearing to determine if you've at least not done anything wrong. If you at least seem to be living by the rules and, if so, you're paroled, whether you've spent one-third of your sentence, one-half of your sentence, we say that's not a good judge. Eighty-five percent should be the rule. We have some choices to make: the No Early Release Act or letting prisoners get out of prison early and insult crime victims and their families.

This past Sunday I marched with crime victims. I was at a crime victims breakfast this morning. As you know, this is Crime Victims Week here in New Jersey. I've seen what crime victims go through. I've spent 25 years as a reporter on television in Philadelphia and Chicago. I've been to more crime scenes than I can describe. I've seen what happens: The police leave, the reporters leave, and the crime victim is left there alone often. In this bill we can say to crime victims, "You are not alone. We stand with you. We stand against excuses. We stand against exceptions, and we stand for the No Early Release bill."

SENATOR KOSCO: Thank you very much.

ASSEMBLYWOMAN ALLEN: Mr. Chairman, thank you.

SENATOR KOSCO: Welcome, Senator Bennett --

SENATOR BENNETT: Thank you very much.

SENATOR KOSCO: --the cosponsor of this legislation. And at this point, I would like to have our legislators up here, our two Senators, who would like to have a comment-- Senator Cafiero?

SENATOR CAFIERO: Nothing, sir.

SENATOR KOSCO: Senator Bennett.

SENATOR BENNETT: You want me to give my remarks now?

SENATOR KOSCO: Sure.

SENATOR BENNETT: Okay. Should I go down there and do it?

SENATOR KOSCO: Whichever way you feel more comfortable.

SENATOR BENNETT: Okay, then I will do it from here, and, Mr. Chairman, first of all, I would like to thank you and Senator Cafiero for coming today, as well as all the audience. I would like to thank Freeholder Narozanick on behalf of all the freeholders who made arrangements for us to have this facility, in having a hearing on a very important piece of legislation right here in Monmouth County.

We have seen all too much tragedies occur here, but we also have responded by having, I think, one of the most activist rights of the victims, and I'm glad to say that Mrs. Wengert is here today. She and Bill Thomas are certainly outspoken people from Monmouth County that have been there. And, Assemblywoman, I thank you so much for coming up from South Jersey. You have certainly been a leader in this area. Senator Kosco and I, in the Senate, are most appreciative of the efforts that are being done on this particular piece of legislation.

I had an occasion last night to be at a woman's crisis dinner up in Hunterdon County where Denise Brown was the spokesperson and another example of a victim's family that has gone out and been able to become a spokesperson and been able to raise the consciousness of so many other people as to what exactly can happen to the families. This bill is designed to help prevent some of those families from having to go through those parole

hearings, to those early releases, and to avert that -- to place the emphasis on those people that commit the crime have to do the time.

This week a juvenile justice study announced that crime costs Americans \$430 billion annually. Earlier in the year, a Princeton professor of politics and public affairs published an op-ed that ran in The New York Times, as well as nationally. In the piece, Dr. DiIulio argues that prison is cost effective. By keeping prisoners in jail, incarceration is a solution to reducing crime and restraining known criminals from repeating their crimes.

Behind the monetary cost of crime are people, the victims of crime. When someone is murdered or violently attacked by a criminal, the pain never goes away. If the person survives, the memory lives on in the victim and the family. If the person is killed, the family suffers a life sentence, a life sentence of pain, of loss, and of grief.

That's why I'm pleased to sponsor, together with Senator Kosco, the No Early Release Act. The bill known as S-855 tells the victims of violent crimes that their loss is our loss, that their pain is our pain, that we will remember the violation of human life, and that we hold their attacker accountable. That rule is outlined in the bill that is sponsored by the Chairman of this Committee, as well as myself, and known as the No Early Release Act.

The current system of justice does not hold all violent offenders who commit first or second degree crimes accountable. Getting out of jail early is not accountability. Getting out of jail for manslaughter with only serving one-third or, in some cases, one-fifth of their sentence is not accountability. Making crime victims and their families suffer the humiliation of early release

is not accountability. The No Early Release Act is accountability. Offenders will have to serve a minimum of 85 percent of their sentence before they are eligible for parole, period. As my colleague Diane Allen said, “No excuses, no exceptions.” We all believe that these criminals need to serve the time for their crimes. Frankly, the surviving victims and their families are under a life sentence of pain. The criminals have to be sent a message. You can’t work the system any more when our bill becomes law.

I’m honored that families of murdered victims have joined in supporting this bill, Karen Wengert and Bill Thomas. Also, I am grateful that Maureen Kanka has extended her support to this bill. Two national centers are on board: the California based Victims & Friends United and The National Center for Exploited and Missing Children. Dick Kramer, of Voices for Victims; Jim O’Brien, of New Jersey Coalition of Crime Victims Rights Organization; Maria Esteves, whose relatives were killed due to vehicular manslaughter. She called our office to support the bill, and she’s here today. Kathy Maloney, a local Monmouth County woman, who was violently robbed, supports our bill. The New Jersey Law Center for Crime Victims supports S-855. Gloria Broder, of End Violence Now, supports it and is here today to speak. Former Attorney General Cary Edwards, Evelyn Ortner, of The Unity Group, representing five hundred people, support the bill. The Monmouth County Prosecutor John Kaye and the Monmouth County Sheriff, Joe Oxley, support the bill. Monmouth University Police Chief, Thomas Zambrano, supports the bill. The Home News editorial board issued two editorials endorsing the bill since April 2. But most importantly, the citizens around this State are calling to support this bill.

And now we are all receiving petitions from all over the State. We are witnessing a grassroots crescendo of support, and it is overwhelming. I know that in South Jersey the same response is coming into the Assemblywoman's office.

Mr. Chairman, I am honored that you are the prime sponsor of the No Early Release Act. We need to insure that those violent offenders who commit crimes, including manslaughter, attempted murder, kidnapping, aggravated assault, arson for hire, aggravated sexual assault, and vehicular manslaughter, are held accountable. At this time we know that murder is exempted from our bill, because since 1982, it carries a mandatory minimum sentence of 30 years without parole. But every violent category fits in, and if someone fails to tell us that the bill has missed a category, we will amend it.

Let me conclude by saying that if the public wants to build more prisons that I support that effort. That's why I'm on record as a cosponsor endorsing Senator Gormley's bill that would have the voters vote this November for a prison bond act. The criteria necessary for matching Federal funds is that New Jersey must have an 85 percent rule to keep prisoners of violent crimes in jail. We need the No Early Release Act. We have a choice to make: truth in sentencing and the No Early Release Act or letting offenders get out of prison early and insult crime victims and their families. I will support the rights of crime victims any day over violent offenders. Won't you?

This is National Crime Victims Rights Week, Mr. Chairman. We sponsored a proclamation with Assemblywoman Allen, Assemblyman DeSopo, and Assemblywoman Heck, who presented during the New Jersey Crime Victims Rights March this past Sunday. We supported victims, their families,

and the survivors of murdered loved ones. We know that our bill will make a difference. And to you, Senator Kosco, let me personally thank you for all your leadership and advocacy on behalf of crime victims, not only today, but every single day. I ask that you all vote today to release S-855. Thank you for having this hearing here in Monmouth County.

SENATOR KOSCO: Thank you, Senator.

We have a number of people here. I'm going to begin with calling on a couple of the chiefs first, just in case they have to get back to work. So I'll start with Chief Vernon Henderson, from Spring Lake Heights.

V E R N O N L. H E N D E R S O N: Could you possibly take Chief Carter first?

SENATOR KOSCO: I could take Chief Carter first. I just figured he was from Freehold and he was the closest. I was going to leave him till last.
(laughter)

C H I E F R O N A L D C A R T E R: Thank you, Mr. Chairman. My name is Chief Ronald Carter, from the Howell Township Police Department, and I am here representing the Monmouth County Police Chief's Association. I have a brief statement to read and then I'll be done. The Monmouth County Chiefs of Police support this legislation as violent criminals should not be released back into our communities after serving only a small part of their sentence. Senator Bennett's proposed legislation will help keep violent criminals from further victimizing innocent people. By assuring that violent criminals serve 85 percent of their court-ordered sentence, they will not be in a position to prey on our communities. The Monmouth County Chiefs of Police respectfully request that this Committee support this bill.

SENATOR KOSCO: Thank you.

Chief Henderson?

CHIEF HENDERSON: I'm Chief Vernon L. Henderson, of the Spring Lake Heights Police Department. I would like to both personally and from our Monmouth County Police Chief's Association thank you for your sponsorship of this bill.

Without reiterating what Chief Carter had to say, I can tell you that from a law enforcement standpoint, it's very discouraging to go through the time and trouble of prosecuting a case against a violent criminal only to have him back out on the street in a relatively short period of time for the acts that he has committed. Not to downplay the importance of a violation of any law, but this bill doesn't deal with a simple disorderly persons violation. It deals with the violent criminal. It deals with someone who has the potential to strike again, and as well, it deals with and takes into consideration the victims and their families. And, again, in reiterating what Chief Carter did say, the Monmouth County Police Chiefs Association and unofficially I would have to say all of law enforcement in Monmouth County I feel would probably be behind a bill of this magnitude. Thank you very much.

SENATOR KOSCO: Thank you very much. Chief O'Neil, from the Fraternal Order of Police?

DEPUTY CHIEF HOWARD O'NEIL: Mr. Chairman, members of the New Jersey State Senate Law and Public Safety Committee, I'm Deputy Chief Howard O'Neil, of the Neptune Township Police Department. I'm also the Chaplain of the Fraternal Order of Police, State

Lodge. I'm here today representing the FOP to testify in support of this bill, S-855, sponsored by Senator John Bennett and Senator Louis Kosco.

The New Jersey Fraternal Order of Police, State Lodge consists of 14,000 police officers and law enforcement officials. These individuals are organized into 136 lodges throughout the State. The number one concern of the people of New Jersey and the FOP is public safety. The release of Senate Bill No. 855 from Committee today and its subsequent enactment into law will send a clear message to the people of New Jersey and all law enforcement officials that the number one concern of the New Jersey State Legislature is public safety.

Let's look at the facts of the bill. It mandates that a person convicted of a crime of the first or second degree involving violence must serve a minimum of 85 percent of his court-ordered term of incarceration, regardless of the number of computation credits, work credits, or minimum custody credits earned, before being eligible for parole. Remember, the bill applies only to the crimes of the first and second degree involving violence. We are looking at manslaughter, kidnapping, aggravated sexual assault, just to name a few of the choice crimes under this bill. What is the rush to put these people back on the streets? The FOP believes that prison time for offenders committing the most serious crimes in society should be increased, not reduced.

Let's look at the facts. According to whose data you look at, the overall recidivism rate in New Jersey varies from 25 percent upward. This is according to a report published in The Trenton Times, January 1995. Isn't it disturbing to think that a violent offender convicted of the most serious crimes in society can now earn credit for parole? And once released on parole, the

chances are at least one in four that this parolee will commit another serious crime. This bill will send a clear message: You commit the crime, you will do 85 percent of the time. On behalf of the New Jersey Fraternal Order of Police, State Lodge, the citizens of New Jersey whom we protect, thank you for allowing me to testify on this bill.

SENATOR KOSCO: Thank you, Chief.

Next, we will have Bill Thomas and Karen Wengert, from the Amanda Foundation.

WILLIAM THOMAS: Good morning.

KAREN WENGERT: Good morning.

SENATOR KOSCO: Good morning.

MS. WENGERT: I'm here today to offer my support for the No Early Release Act sponsored by Senator John Bennett and Louis Kosco. Violent offenders should not be released from our prison system without serving the majority of their sentences. People who commit these violent crimes need to know that they will serve at least 85 percent of their sentences before being eligible for parole. No violent offender will be out on our street in just a few short years. They will be behind prison walls where they belong.

The other day I read an article in the newspaper about an aggravated manslaughter case. The judge sentenced the offender to 18 years saying that he must serve six years before being released on parole. In six years the family of the victim will still feel the tremendous pain of the loss of their loved one while the killer resumes a normal life. Is this justice? My daughter, Amanda, was just 6 years old when she was murdered two years ago. Her killer

was 19 when he committed this act, and he will be 74 years old before becoming eligible for parole. I am relieved that he will spend most of his adult life in prison. Society needs to know that the people who commit these horrific acts will serve longer sentences as a result of this change in our justice system. There's no justice in our court system when violent offenders serve only 20 to 30 percent of their sentences. We must make the No Early Release Act a reality. Thank you.

SENATOR KOSCO: Thank you. Bill?

MR. THOMAS: Good morning. Needless to say, I'm very proud of my daughter. But my granddaughter was kidnaped and murdered in 1994. On behalf of the Friends of Amanda Foundation, I have spent much of the past 18 months talking and visiting those people who are involved in our criminal justice system, not only in the State of New Jersey, but in many other states as well, my purpose being to better protect our innocent children in reducing the number of crime victims by restoring some sort of safety to our streets. The people care, they really do. And I have found very strong support from people of all ages, meaning kids in high school and all walks of life. This support has really been strong. We need to protect our citizens. We must make changes to do so. This is very important.

Last week I read an Associated Press article covering a New Jersey Senate Budget hearing that was held in Trenton. The Department of Corrections at that time stated that their new budget of \$752 million to hold 27,600 prisoners of which 4,000 are being retained in county jails -- the county is being reimbursed by the State. But this budget does not include any plan for improving or enlarging our prison system. There aren't any plans in the

works to enlarge our facilities. The only thing that's going to happen is that the new prison that's been under construction for a number of years will be opened in the Spring of 1997. Now, at the present time, our prisons are 143 percent to capacity. And probably next year they'll go to 145 percent. But the Commissioner of Corrections expects the prison population to shrink in the coming years as a larger part of the prison population will be nearing parole and early release. The Commissioner also states that the Department is developing alternatives to incarceration such as drug treatment facilities established in the community and, also, electronically monitoring prisoners for house arrest programs. In other words, wear a bracelet, go back out, and meet the public or serve 25 percent of your time and be released.

We're just not sending the right message. We're making ways and counting on it of letting these people go. We can't do that. The No Early Release bill is something that tells it like it should be. If you commit a violent crime, you're going to serve 85 percent of your time. And that's the message we have to get across, not a message that more people are going to be released because they behave in prison. They never behaved before in their life, and they probably never will again. But I'm getting carried away.

I'm proud to be here. I appreciate your inviting me and thank you. And I will support this bill with my family and with the Friends of Amanda Foundation to make sure that the people of New Jersey know what we are trying to do and what we are going to do. And I've talked all over the State and, believe me, people want this. Thank you very much.

SENATOR KOSCO: Thank you. I think that it is important that we recognize the fact that our goal is not to try to see how many people we can

put in prison. Our goal is to see how many people we can stop from being put into that position in the first place. Our goal is, by eliminating criminals, we are going to be eliminating victims. Because every time a crime is committed, there is more than one victim. We all know that. We've done enough research on this to know that for every one crime that's committed there are many victims that are involved, the persons themselves that were violated plus their family and everyone that goes along with it.

Our goal is not to see how many prisons we can build to put people in, but how we can readjust peoples thinking to not want to go out and commit that crime in the first place. And if we can accomplish that through making tough legislation, we have already noticed that crime in the State of New Jersey has decreased.

The so-called experts have told us that it is not because of the tough laws that we have passed in the past two or three years in the State Senate, but they can't tell us why it has decreased. So, if it didn't decrease and we did absolutely nothing, we would have taken the blame for it. But it did decrease and no one can tell us why, so we are going to have to take the credit for it.

So this is what our goal is. This is what our continuing goal is going to be, not just to see how many people we can put away, but how many people we can put away, and then, when they come out, they are not going to go out and get recommitted all over again. The recidivism rate is what's screwing up our whole system, in plain English. People are going out of jail, and we are rearresting them, we're re-prosecuting them and we're re-defending them. And it is costing you from both ends as a taxpayer. It costs you to

apprehend them, it's costing you to prosecute them, and it's costing you to defend them.

And to the Department of Corrections Commissioner, I can say the only thing that I say to the Department of Education Commissioner that if money was the answer, our major cities in the State of New Jersey would have the greatest educational system in the United States. And if money was the answer in solving all the crime problems, we would probably have no crime at all because we spend a tremendous amount of money. That's not the answer. The answer is what you do with the money.

I would like now to call Maria Esteves from the -- who has a statement. Thank you, Maria.

MARIA ESTEVES: Thank you for having me here and thank you for amending the bill to include vehicular homicide.

April 20, 1991 my 8-year-old daughter, Rosemary Esteves, and my Uncle Manuel were crossing the street when a driver who was intoxicated hit them, projected their bodies 70 feet through the air, and killed them. He was arrested for DWI and for the incident. And a year later he was indicted, and another year later he went to trial, and a jury found him guilty of two counts of reckless manslaughter and two counts of death by auto. He was ordered to jail April 21, 1993, in which he is in jail right now. This man, who was intoxicated and speeding at the time, during his trial testified on his behalf and never said that he was sorry, never recognized that what he did was a crime. In January of 1995, he had his first parole hearing and we went. And, thank God, that it was denied, so he is still in jail. April 30, in a few days, he will have his second hearing and we will testify.

I am here to ask to please pass this bill because it is very painful to go through the first parole hearing. He had only served less than two years when his first hearing came up. The judge gave him seven years for each victim but merged the terms and, instead of 14 years, only gave him seven years, leaving no mandatory time to be served, which left it open for the Department of Corrections to let him go after credits of good behavior and working in the jail. He can come out earlier.

I am here to ask, please, pass this bill. Our family will never stop hurting. This individual, if he is let out at this early time, which is only three years of time served, I am sure that he will come out and commit another crime. The reason I'm saying this is because a little over a year after he killed my daughter -- his license had been suspended from that time -- he drove his car and committed another violation. He took a red light. Thank God there was a police officer there who saw him and stopped him. We happened to be shopping at the time and saw him standing on the corner as his car was being towed away. We told the police officer who he was and that he should be arrested. They told us to go to the police station, in which we went, but they could not arrest him. All they could do is give him a summons. There was a hearing to have his bail revoked, but he was allowed to keep bail and remain free.

My daughter was 8 years old; she would have been 13 years old now. She did not deserve to die that way. He made a conscious decision to drink and then drive his car; therefore, he is the one who killed her. He is at fault. She could have been alive today. Our family will suffer endlessly and

forever. Her loss is great. I cannot describe it to you because you would have to have someone in your family also die in order to feel my pain.

But I ask you, please, pass this bill, do everything necessary to pass this bill. Avoid another family like myself to go through parole, go through the hearings, go through court, go through parole and ask them not to let him out. It is-- The anguish in us is unbearable, and if the 85 percent of time served passes, there will be more justification to the sentence. We wish he could be there the full seven years, but we know that he will not be. And a death by auto is violent. If you think about it, it is violent.

This is what my daughter looked like. (shows picture) I can only imagine what she would have looked like today. I'm in full support of this bill, and again, I'm asking you to please pass it. Thank you.

SENATOR KOSCO: Thank you very much.

SENATOR BENNETT: Thank you for being here.

SENATOR KOSCO: Second Assistant Prosecutor Robert Honecker from Monmouth County.

2ND ASST. PROS. ROBERT HONECKER JR.: Thank you, Mr. Chairman. Mr. Chairman, on behalf of Prosecutor John Kaye, I would like to thank you for giving the Monmouth County Prosecutor's Office an opportunity to present testimony concerning Senate Bill No. 855. Prosecutor Kaye intended to give his remarks personally to the Committee. However, the President of the United States requested that he be present today at the White House for the signing today of another piece of very important legislation, the Anti-Terrorism Act, also designed to protect our citizens. But

for a request of the President of the United States, Prosecutor Kaye would have been here to indicate his personal--

SENATOR KOSCO: We take second place to them? (laughter)

MR. HONECKER: Yes, I guess so today. --personal support for this legislation. He knew that Senator Kosco has a lot of influence, but he decided to send me instead. Senate Bill 855, also known as the No Early Release Act, requires that an inmate convicted of a first or second degree crime involving violence and sentenced to prison to-- (beeper goes off)

SENATOR CAFIERO: It's the prosecutor calling.

MR. HONECKER: It's the prosecutor calling from Washington, that's correct.

SENATOR KOSCO: They wanted you instead of him in Washington. (laughter)

MR. HONECKER: That's correct. --to serve 85 percent of his or her sentence before parole. This piece of legislation represents a market difference from the amount of time criminals actually serve in New Jersey. Although New Jersey law requires a criminal to serve at least one-third of their sentence before becoming eligible for parole, in reality, these criminals are only serving one-fifth of their sentence based on various programs of good time credit. Consequently, a criminal sentenced to a 20-year term of imprisonment will actually serve four years. And if you can just take a look at the charts presented by this Committee, a 20-year sentence represents only four years of incarceration for some of our most heinous crimes committed in the State of New Jersey.

In regards to the No Early Release Act, a criminal sentenced to a 20-year sentence would have to serve 17 years before becoming eligible for parole. This bill is designed to foster truth in sentencing. Victims of crime, as well as the public, should know that when a criminal is sentenced to a term of imprisonment, he or she will serve a majority of that term in prison rather than on the streets. When a judge says 10 years, it should mean that a majority of that sentence should be served in prison. Additionally, this bill will effectuate the legislators' intent concerning the terms of imprisonment. N.J.S.A. 2C:43-6 provides that for a crime of the first degree, a defendant should be sentenced to a term of imprisonment between 10 and 20 years, not a term of 2 to 5 years. The oftentime quoted belief that prisons are full of nonviolent, first time offenders is false. Ninety-four percent of the prison population are violent, repeat offenders, the ones who are most deserving of incarceration and the ones most dangerous to society. Shouldn't these criminals be required to serve the sentence that was imposed upon them?

Currently, for every three incarcerated convicts, seven are doing their time out on the street with little or no supervision. Additionally, these are the criminals that are committing offenses in our community. In 1991, the latest statistics available, 45 percent of State prisoners were on probation or parole at the time they committed their latest crime. Specifically, 43 percent of inmates are rearrested within three years of their release from prison. A third of all violent crimes in this country are committed by known criminals whom the system has repeatedly had in hand but has repeatedly let go.

Opponents of this bill will argue that the cost of constructing new prisons to house all prisoners is too great. However, the cost of recidivism has

been a grater on society, as Mr. William Thomas who testified prior to me has indicated, a grandfather of a 6-year-old murder victim. Our focus should be on reducing the number of victims and the right of the victim to know that their assailant will spend the majority of his or her sentence in prison, not on how much it will cost.

This bill's purpose is to prevent the second crime by requiring criminals to serve at least 85 percent of their full sentence. By increasing the amount of time that criminals are required to spend in prison, we effectively negate their opportunity to commit the second the crime. This legislation assures victims of violent crime that the criminals responsible for those crimes will be held more accountable, and New Jersey's citizens will be better protected. Prosecutor John Kaye and the Monmouth County Prosecutor's Office strongly support Senate 855 and respectfully requests this Committee to do likewise. Thank you.

SENATOR KOSCO: Thank you very much. Incidentally, Senator Cafiero's district recently experienced some of those statistics that you're talking about with a person who only served a year-and-a-half, came out on parole, and committed another murder.

SENATOR CAFIERO: Couple of questions, Prosecutor?

MR. HONECKER: Yes, sir.

SENATOR CAFIERO: You said from that chart, and I can't see it-- I guess the average sentence for first degree crime calls for 10 to 20, averages 15, about 4 or 4-and-a-half.

MR. HONECKER: That's correct, the presumptive term is 15 years; the normal sentence actually served four years.

SENATOR CAFIERO: And second degree 5 to 10, average sentence, 7, out in 2 point something or other.

MR. HONECKER: That's absolutely correct.

SENATOR CAFIERO: This bill does not mandate what the judges do to impose this sentence, so what's going to stop the judges from making the recalculation and saying, "Okay, if I want this fellow to serve 4, I'll give him an average of 5. That would take care of the first degree offenders. And the second degree offenders, I'll give an average of 3, so it will get them out in the same 2-and-a-half years." Anything to stop that?

MR. HONECKER: Yes, there is. Currently, in the State statutes, the New Jersey Criminal Code, a judge may not impose a sentence for a first or second degree crime unless he can find there would be a manifest injustice that would require the judge to impose that sentence. He has to list a number of mitigating factors. Also, if a judge does deviate from the crime of the first or second degree and imposes a lesser sentence to a third or fourth degree crime, the prosecutor has a right to appeal that decision by the judge. That appellate decision has been supported by the State courts of New Jersey that a person who is sentenced to a first degree or second degree crime should not have their sentence reduced unless there has been a manifest injustice, a very tough standard for a judge to meet. And prosecutors throughout this State, I know, will, if this law is enacted, appeal any issue concerning the reduction of sentences for these types of crimes. These are violent crimes which should have very serious penalties imposed.

SENATOR CAFIERO: Now, if this bill were to pass and we sign into law, what would its impact be upon those currently serving sentences?

MR. HONECKER: Well, I believe that it would have no impact on those individuals who are currently serving their sentence because of the nature of ex post facto law where-- You are probably familiar now with controversy surrounding Megan's law whether or not it can be applied retroactively to certain prisoners. I believe that the courts would declare that you could not go back and have this law imposed on individuals who have been sentenced prior to the enactment date of this legislation.

SENATOR CAFIERO: So their eligibility will all be determined by what the law is as of the moment. So those that are in there for the 15-year average are still going to be eligible to get out in 4-and-a-half. This bill's impact is going to be prospective only.

MR. HONECKER: I would believe that would be the case, that it would be prospective.

SENATOR CAFIERO: Mr. Sponsor, would that be your understanding?

SENATOR KOSCO: Yes.

SENATOR BENNETT: I'm not certain of that, to be honest. The sentence itself isn't what's being changed, it's the eligibility as to when they would be eligible for parole. So I could make an argument that in fact, since the sentence isn't being altered and it's only the parole aspect of it that conceivably anyone that has not come up for parole yet could be covered. I don't know. I haven't had an opinion on that. But, frankly, that would be my argument. I would like it to be as applicable to as many people as possible. So I don't know for certain, but I would like to make that argument.

SENATOR CAFIERO: But I think the tenor of all the conversation to date is that those who are in are going to be not benefited. The public is going to be benefited by this bill with reference to those who are in. So I think it behooves us, and you, too, as sponsors, and me as someone who's going to support it, that if there's anything in this bill that we can do to amend it, to clarify it, and protect it to make sure that it applies to those fellows, we ought to do it in some timely fashion, because everybody's going to be disappointed if those who are in are going to still get out in four-and-a-half years.

SENATOR BENNETT: That's a good point, Senator.

SENATOR KOSCO: I believe it is our intention that this bill would apply to those who are in. But, in the real world with today's court system, I don't know how that would stand up. That would be my problem.

SENATOR CAFIERO: Whatever we could do to tighten the court's grip with this bill before its gets voted on, I think we ought to do. Thank you, sir.

SENATOR KOSCO: Ann is going to be thinking about an amendment for that as we sit here. Thank you.

I see former Attorney General Cary Edwards, who's third on the list, came in, and I would like to call on you now, Cary.

SENATOR CAFIERO: I didn't see you, Cary. I would have saved those questions for you, my friend.

W. CARY EDWARDS: Thank you, Senator. I appreciate that very much. How are you all? It's good to see you today.

SENATOR KOSCO: You heard that question?

MR. EDWARDS: Is it prospective or retroactive?

Well, thank you very much. It is good to see you all. How would you like to proceed? I have a couple comments I would like to make about the bill if it would be all right.

SENATOR KOSCO: Make your comments.

MR. EDWARDS: During my years as Attorney General and sitting in some of your seats or same types of seats trying to make some of the same kind of decisions and then moving to the executive branch with reference to the enforcement of the laws, I became very much aware and very much frustrated by what has been historically New Jersey's system of law enforcement and punishment. We say certain things to society: "If you do 'A' and it's wrong and it's a crime, you are going to get punished with 'B'." And then we give them "Z", and we don't give them "B".

We did a number of studies and evaluations of attitudes about crime and why people commit crimes in our society. And we found that in walking the streets, particularly among young people, and I classify young people as those under 25 years of age, not juveniles necessarily, they firmly believe and have believed for a long period of time that they can commit a crime, get arrested, and if they happen to be unlucky enough to get caught and get arrested, it really doesn't matter because they can one way or another beat the rap. They are not going to be punished at the level that public policy has dictated they would be. Therefore, they believe in their hearts they can beat this. And if they happen to get caught, they are going to serve a minimal amount of time, and they'll be able to get out of the system. Because we, as a society, not the Legislature or law enforcement or any one person, had made

a certain set of rules. We say a certain thing and we do something different.

It is very important that there be consistency in punishment for crimes that we say punishment is going to be. We say you are going to serve 10 years in jail if you do -- if you commit a felony or a certain crime, and then we let them serve 2 years. We are sending a message that we don't mean what we say, and we don't mean what we say in a very broad sense. Consequently, there is a belief that if it is to my benefit, I can beat the rap. We need to be consistent, and we need to be tough and say what we do and do what we say. I find this particular measure, and I congratulate Senator Bennett and Senator Kosco for putting it together, is designed to straighten that out.

The Federal government, in its new sentencing guidelines and processes and procedures, has tightened up our enforcement rules. It is now well known I think, and I gather this from defense lawyers across the State and outside of New Jersey and some of my colleagues across the country, that if you are caught committing and are being prosecuted for a Federal crime, there is a degree of certainty that if you are convicted, what that punishment will be. It is in the 85 percent area of what they say it will be. Not to completely diminish the capacity to operate our prison systems to make sentencing consistent, but sentencing is, in fact, consistent. So that if I get 10 years in jail, I'm going to be serving 8.3 or 8.6 years in jail in that particular system.

In New Jersey, that's not the case. The defendants would rather be prosecuted in New Jersey for State crimes rather than prosecuted for Federal crimes, because there is a lack of consistency in that sentencing and realness. We need to send two messages. One, if we say you are going to serve

10 years and you do the crime, you should do that time or a reasonable prospect that's associated with that. The Federal government has done that. New Jersey has not. Your charts and my review of this particular bill clearly indicate that you are going to do maybe 20 percent of that time. That disparage sends that message that it's okay to commit a crime, especially those young people out there who are uninitiated necessarily in the long-term consequences of their activities and the lack of benefit they receive and the punishment they receive for it. So it is absolutely vital, I think, for us to send the message in New Jersey: We, the people, through the legislative process, that when we say, "You are going to be punished 'X', then you are going to be punished 'X'."

There is a lot of debate one could have as to the severity of mandatory minimum sentencing and mandatory sentencing and the level of sentencing that we say people are going to get and whether that is right or wrong. That's not the issue in this bill. That's a different issue. That's an issue to be decided on each and every piece of legislation in our criminal sentencing amount, not necessarily the guidelines as to how we enforce that sentencing. Once we've decided there will be a punishment for a crime, we had better deliver on what we say or we're sending a message that it's okay to break the law and it's okay to commit a crime because I can get away with it. As opposed to the message that I think has been coined by Senator Bennett and Senator Kosco that if you commit the crime, you're going to actually do the time, whatever that time would be.

So I would applaud this Committee, the sponsors, and the Legislature for taking this particular issue up and sincerely hope that either this

one or a combination bill that deals with this particular issue becomes a law and becomes the law that is enforced in this particular State with reference to crime. The victims and the citizens of this State and those who are hearing a lot from victims in our society, and rightfully so -- but we are all potential victims of a crime. And for all the people of New Jersey, I think we need to stop crime and not promote it, and by being inconsistent, we promote crime, we don't stop it, no matter how tough our rhetoric is.

So I would commend you, the sponsors of this Committee and the Legislature, for seriously taking a look at this issue and doing something about it and fixing a part of this system that has reverberated down across New Jersey. Many of the victims that you hear in this room and we've heard many, many times over the last 15 years would not be victims if we were to pass this particular piece of legislation. So I thank you for doing it, and I thank you for the opportunity for letting me speak out on it. I'll answer any questions you have about my history about it or anything else.

SENATOR KOSCO: Thank you. Any questions?

SENATOR BENNETT: Thank you very much for being here.

MR. EDWARDS: Thank you and congratulations. Good seeing you all.

SENATOR KOSCO: Gloria Broder, from End Violence Now.

GLORIA BRODER: We live with fear. Crime has become a part of our life. We have a judicial system that caters to the criminal, does everything possible to see that he is not punished for his crime, and yet, treats the victim as a nonentity. We have plea bargaining which is nothing more than crime pardoning. We have concurrent sentencing even though he committed three

horrible crimes. Four or more, he's tried for only one, then the others are just pushed aside. We have mitigating factors versus aggravating factors.

We have appeals. We have appeals that are going on for 20 years. Oh, not because evidence of innocence has been found, it would be over in no time, but because of technicalities: The judge did not properly charge the jury; he left the sentence out so the crime is mitigated immediately. Other things had happened. All kinds of little things like the Miranda was read after he confessed, not before. We are so careful to dot the "i's" and cross the "t's" that the crime has taken third place, you would say.

All right, all these little tricks failed, and the paid jury by the taxpayer finds the defendant guilty. The judge imposes a sentence. He is sent to prison as punishment, but not for punishment. There he receives amenities that are things that he could not possibly get on the outside besides room and board: television, library, college education, medical expenses. He gets all kinds of exercise equipment which, in turn, have him go back on medical expenses and increasing taxpayers' costs. He gets all kinds of theater, pornographic literature, conjugal visits. He has all kinds of goodies, even special meals in jail.

In addition, he has constitutional rights. Why, I'll never know. He has the right to sue the Federal government. In 1993, 33,000 cases were presented. In 1994, 53,320 cases, all at our expense. Here in Jersey, a criminal sued the Federal government because his cookie was cracked. Now it sounds ridiculous and you say, "Oh well, it will be thrown out"--

SENATOR KOSCO: Excuse me, excuse me, excuse me, Gloria. We all know that, but that's not part of this legislation.

MS. BRODER: All right. Okay, I'm going on.

SENATOR KOSCO: Let's stick to this legislation or we'll be here to 4:00 this afternoon talking about broken cookies.

MS. BRODER: I appreciate that, let me finish. But I'm angry, that's all.

SENATOR KOSCO: We are, too, but we are discussing this legislation.

MS. BRODER: All right, what comes up next? He gets points for being good in jail. Points for just being there. Points for not punching a guard in the nose that day. Points for not doing anything bad or just working. Now, why do we need a carrot dangling in front of his nose to make him behave and get time off? The point is we should give him more time if he misbehaves. Well, this is all against the victims of the people.

Now, what's being done. Fortunately, we have Senator Bennett and Senator Kosco who are doing something about it. Senate Bill No. 855 is a must. It's long past overdue. It's a step in the right direction. It must be addressed. Remember, this is supposed to be a government of the people, by the people, and for the people, and please note, we are the people. Pass this bill, protect us. Thank you.

SENATOR KOSCO: Thank you.

SENATOR BENNETT: Thank you.

SENATOR KOSCO: John McGuire, Monmouth County Undersheriff?

JOHN M c G U I R E: Mr. Chairman, members of the Committee: I'm Undersheriff John McGuire, and I'm testifying on behalf of Monmouth

County Sheriff Joseph W. Oxley and the entire Monmouth County Sheriff's Office. As Senator Bennett knows, because I'm a retired chief from his district, I have over 30 years in Monmouth County law enforcement, and I could share with this Committee horror stories which I personally witnessed. But there is no way that I could be as eloquent as the victims that have already spoken, so I would like to direct my testimony to one specific point.

Sheriff Joe Oxley and I are adamantly in favor of this legislation, and we have been very public about it. And we have been asked sometimes by fellow professionals, "Wait a minute, you guys, you're in charge of a correctional institution. How can you come out and be in favor of legislation which is mandating that people cannot be released before a certain time when you're controlling a correctional institution that is in danger of overcrowding?" Our answer is this, and it's short, it's sweet, and it's from the heart. We are stating that in a time when perhaps we may need more correctional institutions, when, certainly, we have correctional institutions that are overcrowded, it is more important than ever that we have a sensible, sound way of determining who is released when.

Now, as we all know, there are guidelines in place and have been in place in New Jersey for years that are basically commonsense guidelines on who should be released when. The reason we are all here today is those guidelines have been consistently ignored. The reason the Sheriff and I are so supportive of this legislation is basically you gentlemen are proposing to substitute for guidelines that have proven to be unworkable, clear directives and clear mandates on how we should prioritize the prisoners that are within the criminal justice system. And what you are saying here this morning is the

last people to be released, the last people to hit the streets should be violent criminals who have already crossed that line once where they are prepared to commit violence against their fellow citizens. And once you cross that awful line, as the Prosecutor has pointed out in his statistics, it seems to be easier to do it again and again. Therefore, it is very clear to us that this legislation is needed now in our overcrowded times more than ever. We urge you to move this legislation and make it law.

Thank you.

SENATOR BENNETT: Thank you.

SENATOR KOSCO: Thank you very much.

I see Senator McGreevey came in. Senator, would you like to make a comment?

SENATOR JAMES E. MCGREEVEY: I just would like to publicly commend the Chairman consistently supporting legislation which addresses the need that sentencing is meaningful. I would like to commend the Senate sponsor, Senator Bennett, not only as a State Senator, but formally as the Executive Director of the New Jersey State Parole Board during the Kean administration.

As Executive Director, my responsibility was to administer the agency and not to participate in parole decisions. It is particularly frustrating when one would review that serious criminal offenders do not serve, as the chart so amply describes, even a substantial portion of their sentence. Indeed, with the present structure of the New Jersey State Parole Board, the onus was actually upon the State to set forth the reasons why the potential parolee ought not be paroled. The difficulty with presumptive parole is not only that the

legal onus is placed upon the State, but ironically, the inmate does not have to demonstrate, in the least, his or her corrective measures to address previously bad behavior.

It also goes-- I think Senator Bennett's legislation and I, join with him in -- companion legislation. It also goes to the question of truth in sentencing, not only for the benefit of the general society, but particularly, the victims. When a judge meets out a particular sentence, that sentence ought to be meaningful. It ought to be significant. And clearly, truth in sentencing must require minimum threshold of 85 percent of the prison term for violent offenders. If we do not sustain this legislation -- I know Senator Kosco is a strong supporter of Senator Bennett's legislation -- if we do not support this type of legislation, we do two things. One, we jeopardize the integrity of the criminal justice system, as well as sentencing measures. And secondly, New Jersey once again fails to send a strong, clear definitive message to violent offenders that prisoners will be required to serve the bulk of their sentence. So not only as a former assistant prosecutor, but as a former Executive Director of the State Parole Board, and I know Senator Kosco has long favored this legislation, I would just again applaud Senator Bennett.

I think this is critically needed legislation. The legislation is common sense on its face. The time for debate is over. When you look at these horrific schedule in showing the difference -- comparison between sentence and real time, we are approaching the absurd. We need to do what sentencing was meant to do, and that is to incarcerate the prisoners for the length of time which a judge believes was fair and equitable. To do less is not only to jeopardize the integrity of the criminal justice system, but to do a

serious disservice to those victims who were subjected to the violent acts of these offenders. Thank you.

SENATOR KOSCO: Thank you very much, Senator.

SENATOR BENNETT: Thank you, Senator.

SENATOR KOSCO: Dr. Louise Riscalla?

LOUISE MEAD RISCALLA, Ph.D.: I've been employed by the State and county government for over 30 years. My experience included being the Director of Psychology at the New Jersey State Diagnostic Center where I was involved in the diagnosis and treatment of juvenile and adult offenders. I was part of the team which examined sex offenders prior to the opening of the Adult Diagnostic Center at Avenel, and I presented testimony at the Joint Legislative Task Force Hearing on February 1, 1995 regarding the Adult Diagnostic Center. At that time, I was privileged to meet Mr. Thomas. I was on the staff of Greystone Park Psychiatric Hospital for 14 years where my work included diagnosis, treatment, staff development, and training and supervision of psychology staff and interns. My experience also included evaluation and treatment of Krol patients. Those are patients who are judged not guilty by reason of insanity, and sex offenders. I have done a lot of work in publications and other things.

Well, I'm here today because, as a professional, as a taxpayer, and senior citizen, I would like to contribute my experience and expertise with the intent that it can be of some use and benefit to all of you. My approach will be from the mental health perspective rather than the apparently current punitive, correction one.

There are consequences for every thought and behavior. Enlightenment usually occurs through wisdom or suffering, and suffering can be a motivation for change. Under the current system, the laws are often so lenient that there is little or no motivation for the offender to change. There is a risk of a state of anarchy in society largely due to the lack of deterrents and crime. In addition, the problems of the victim caused by offenders are often neglected or overlooked. Shortly after presenting my testimony regarding the Adult Diagnostic Center, I met with Senator McGreevey about my concerns regarding the apparent leniency in the correctional treatment of sex offenders, including probation, which, in short, I thought was countertherapeutic and could be harmful to society. I do not go out at night unless it is essential or I am with someone because of the risk of attack. I have examined these men. I know what they are like. They have told me where they hang out, where they hide, and it's frightening.

I learned that in March of 1995, Senator McGreevey introduced legislation requiring violent offenders to serve at least 85 percent of their sentence before becoming eligible for release from prison. I have reason to believe that Senator Bennett's legislation requiring that violent sex offenders serve 85 percent of their time before becoming eligible for parole is a step in the right direction because it might help the offenders become more aware of the consequences of their errant behavior and possibly be more of a deterrent. The fact that Senators from both political parties recognize the need to strengthen legislation and have taken remedial action indicates, in my opinion, a healthy response to problems confronting all of us, including the offenders. Some of these men are really asking to be locked up. And quite frankly,

gentlemen, I think that there are some men who you need to lock up and throw away the key. And I don't mean this in the punitive sense, I mean it in a very strong therapeutic sense.

In the future, I hope that the current parole system will be abolished. There should be an immediate preparation for release to society upon incarceration through an assessment unit, a treatment unit, and a community -- what I call a community reentry unit within the prison system. After serving the maximum or legally permitted sentence, instead of parole, there would be a gradual release, including visits to the community and trial placement. A place to live and gainful employment must be mandatory for release. I'm saying this because very often a man is released from prison, he has no place to go, no job, so he goes out and commits another crime. At least he comes back, and he has three square meals and a roof over his head. I think that's what cut down the recidivism rate.

Follow-up should be required. Support services must be available for community reentry purposes. Offenders who could not benefit from or did not want treatment should be placed in an area where they could work to help defray the cost of imprisonment. This is costing the taxpayers a fortune keeping these men locked up. Medical, mental health, and vocational services would be available at their request. So they have it there, but they have to want it. You can't treat people who don't want to be treated. We have what I call the Ganser syndrome, where it is called fake. Where they all request treatment in order to get some benefits. I think this should be a no-strings-attached deal with them.

This alternative, I think, to the current parole system could reduce recidivism by providing the offender with a means of returning to the community in a lawful, constructive manner. It could also result in a substantial savings to the taxpayer and protection of the community. I am very grateful to see the response here today, to hear what you all have to say. Mr. Thomas and hearing the prosecutors speak -- this is all to me like a breath of fresh air. I think you all should be commended.

SENATOR KOSCO: Thank you, Doctor.

Karen Spinner?

KAREN SPINNER: Good afternoon, members of the Committee, and thank you for the opportunity for allowing me to speak. My name is Karen Spinner. I am the Director of Public Education and Policy for the New Jersey Association on Correction. The Association on Correction is a criminal justice reform organization interested in the improvement of the criminal justice and correction system.

I've spent the morning and part of the afternoon now listening to victims of crime talk about their pain. I understand and I appreciate the pain that they have suffered. However, we do believe that at the Association that this piece of legislation is ill advised. The reason for saying that, having an individual serve 85 percent of their sentence and then having good time credits effectively eliminates any opportunity for these men to be paroled. What 85 percent service of sentence will do will return violent offenders to the community without the advantages of parole supervision. I don't think that this is a good direction for public safety.

People who have been locked up for violent crimes are the ones who need to have parole supervision. I certainly would agree that our parole system needs to be overhauled. There is no question that there are problems with it and that it needs to be reformed. However, this kind of reform, without the substantial reform of parole from looking at it from A to Z, such as the bill that Senator Kosco has introduced, I think is counterproductive. This is piecemeal change.

I'm looking at this chart because, and I know that this is true for some people, but I also know that there are substantial numbers of offenders who serve time, who have been given sentences in the 10-, 15-, 20-, 25- and 30-year range who are doing substantial periods of time of incarceration. To allow the idea to be put forth in the press that everybody who's serving 20 years is getting out in 4 is not true, because there are many people who serve substantially longer, and they should. I am not suggesting that people should not be held accountable for what they do, but we are reemphasizing a criminal justice system and incarcerating people in a system that we have to know doesn't work, because we do have a serious recidivism rate.

I'm not suggesting that we don't have problems. But just building more prisons and counting on the Federal government to give us the dollars to build the prisons is not going to solve our problems. We don't seem to have any money for prevention, and what we need to do is stop these kids, because that's where it starts, it starts with juveniles. We need to stop them from getting into the system. Making people serve 85 percent of their sentence is not going to stop that kid on the street who is about to commit the crime.

The criminal justice system is not the solution to our crime problem. I think we need to stop looking at the tail end of it, because that's where we put all our money, all our time, and all our energy. I'm not suggesting that perhaps people should spend more time in jail, but 85 percent is overkill. We lose the benefits that we have through the parole system. And if the parole system would be effectively changed so that we can provide significant services so we do have the transition and the aftercare, then we would have a system of criminal justice, I think, that would lead to better public safety.

This bill, in and of itself, will not achieve that purpose. I think for that reason we need to rethink how we go about it and work for comprehensive reform of parole, not piecemeal and just chasing after those Federal dollars. Because in the end, those dollars won't mean a hill of beans when we have to pay for it year in and year out, and our taxes are used for that purpose. Meaning that we are going to end up with other things that our citizens don't get because we are locking people up, but not dealing with the problem.

Thank you.

SENATOR KOSCO: Thank you.

Ray Kalainikas?

To clarify one thing with what you were saying, this bill does not say that at the end of 85 percent of your sentence you go away. It says at the end of 85 percent, you are then eligible for the same parole that you may have been eligible for earlier. So that follow-up is there. The parole oversight is still there according to this legislation.

MS. SPINNER: But Senator, when you have allowed people to earn their good time credits after you served 8- and-a-half years, your good time credits will amount to what will end up being the max of your sentence.

SENATOR KOSCO: That's been one of our problems.

MS. SPINNER: So I think that this bill, as it exists, will create that problem of releasing people without parole supervision. And I think that that needs to be looked at.

SENATOR KOSCO: Okay. It won't but that's okay. I'm not going to change your thinking on that.

MS. SPINNER: That's true.

SENATOR KOSCO: It doesn't say that. Ray.

RAY KALAINIKAS: Gentlemen -- ladies and gentlemen, I've listened to the previous speakers, and as Karen Spinner mentioned, it was all on one side of the fence. I happen to hold to the understanding that was expressed 2000 years ago. You've heard it said to hate your enemies, and I say to you to love your enemies. It is an understanding that has yet to be understood in our society. A person's meaning of life produces a person's political understanding. It produces a person's judicial and, you might say, penal understanding with respect to how we deal with people. This particular understanding, I think, by our government as a whole is not understood. This concept, you've heard it said, hate you enemy. I say to you, "Love your enemy."

In a few words, this individual 2000 years ago expressed the motivation for that understanding when he essentially said the concept of turn the other cheek. You've heard it said, "An eye for an eye and a tooth for a

tooth,” but I say to you, “Do not resist the evildoer. On the contrary, if someone slaps you on one cheek, give him the other.” The meaning behind that being that our responsibility as human beings is to build a life-giving movement of the essence of life, namely, God, within the--

SENATOR KOSCO: Excuse me, excuse me, excuse me, Ray. Let’s talk about this legislation. My responsibility and the reason that I’m here is that I am a New Jersey State Senator, and I took an oath of office and my oath of office specifically does not teach you the scriptures or anything else but to protect the people of the State of New Jersey. That’s my main concern. Now, let’s talk about this legislation, and I am not going to allow you to sit there and talk about anything else except this legislation. And if you continue to do that, I will just stop you and go to the next person.

MR. KALAINIKAS: Okay, let’s get right to this--

SENATOR KOSCO: So let’s get right to this bill. This bill -- 855.

MR. KALAINIKAS: Okay, we’ll get right to this bill. First of all, in one of these handouts, it was assistant prosecutor who said that 94 percent of the people in our prisons are of a violent nature or there for violent crimes. I attended a public hearing dealing with parole, dealing with the whole parole process, and Holzapfel was down in Ocean County, and he put out information saying in effect that half or less than half are there for actual violent crimes. So we really have to get this information straight for the public. It’s not really straight how much or how many of the people in our prison systems are there of a nonviolent nature. Then they shouldn’t be there. Why are we spending \$30,000 more or less of the taxpayers money every year to

keep those people there when they should not be in that situation? The taxpayer should not be paying to have them in that situation. And I guess--

SENATOR BENNETT: The bill only deals with violent crimes.

MR. KALAINIKAS: I understand that, I understand that. And I guess what I'm saying indirectly is, if you put all of those people of a nonviolent nature out on the street, that money currently being saved could be used with respect to rehabilitation and help to those who are there of a violent nature. One of the things, John, if you are going to really be fair, is we should put back out in the public those who are in prison for nonviolent offenses. And that money currently being used to keep those people there could be shifted to those who are in our prison system with regard to rehabilitation for violent crimes.

What I'm also saying here is, as I listen to you, people who go into prison for violent crimes, in three or four years, are back out on the street again committing violent crimes. What does that say about the system? It says it's not rehabilitating or helping. It's actually helping the mentality of violence to foster itself. And so you are saying that by keeping him in prison for a longer amount of time, that's going to solve the problem. I'll tell what it's going to do, it's going to put a heavier burden on the taxpayer. You know that and I know that. You're punishing the taxpayer doubly and triply now while, at the same time, still allowing this violent mentality to exist within those individuals who are there for violent offenses.

I would like to see a situation, if at all possible, whereby people who commit violent crimes, and it's certain their crimes are violent, they are

allowed into a self-containment community where they have to actually support the community--

SENATOR KOSCO: That's not what this bill says.

MR. KALAINIKAS: I understand that, but what I--

SENATOR KOSCO: Let's talk about this bill. The good points, the bad points of this bill. Give me them and I'll have to go on to the next person.

MR. KALAINIKAS: The bad point of this bill, in plain English, ladies and gentlemen, it's predicated on the concept of hate your enemy. You have the death penalty our people in government support, three strikes and you are in for life--

SENATOR KOSCO: That's correct.

MR. KALAINIKAS: --mandated sentencing -- this is all predicated on hate your enemy, ladies and gentlemen, not predicated on the concept of love your enemy, espoused by that individual 2000 years ago, which most of you seem to think is ridiculous, nonsense, idealistic. I do not, but you do not want to hear the rational behind love your enemy. You don't want to hear that, do you?

SENATOR KOSCO: That's correct.

MR. KALAINIKAS: That's very important because--

SENATOR KOSCO: Excuse me. Okay--

MR. KALAINIKAS: This gentleman doesn't understand the rational because you are not going to let him--

SENATOR KOSCO: Okay, would you speak about the bill or stop speaking? You have a choice: speak about the bill or stop speaking and go back and sit down. That's your choice, take it.

MR. KALAINIKAS: Are you allowing me to--

SENATOR KOSCO: I am asking you to speak about this bill. Do you have anything--

MR. KALAINIKAS: You know I reject the bill, you know I reject the bill.

SENATOR KOSCO: We accept that you reject the bill. What else do you have to say about the bill, not about my philosophy of life?

MR. KALAINIKAS: What about an alternative to what he's proposing. You don't want to hear that?

SENATOR KOSCO: We are talking about this piece of legislation.

MR. KALAINIKAS: You're saying that if I reject it and why I reject it and that's it. You don't want to hear an alternative.

SENATOR KOSCO: That's correct, at this point.

MR. KALAINIKAS: That's what you're telling me, you don't want to hear an alternative.

SENATOR KOSCO: Yes, that's correct.

MR. KALAINIKAS: So the public hearing is simply PR for the bill.

SENATOR KOSCO: Okay, thank you.

John Budzash.

JOHN BUDZASH: Hi, I'm John Budzash and we are in favor of the bill. Okay, we are the only tax organization, I believe, that is in favor of the bill. And I guess that's probably because the other ones didn't even think about it.

The bottom line is dollar wise. Taxpayers are a lot better off if you keep them in jail for a longer period of time, instead of sending them through the justice system again and having to pay all over again for the long list of cost of police; prosecutor; public defender; judge; jury; probation workers; the loss of property; the victims' loss of time from work due to injuries; the lifelong trauma that the victim suffers because of injuries, loss of life. Then again, you have to include the cost of insurance losses to society that result in higher premiums to all of us, as well as the cost of uninsured losses that are experienced by people. And plus, how can you replace a life? How can you replace a serious injury? You can't. At least keeping a person in jail for a little bit longer keeps them off the street and away from the good citizens of the State of New Jersey.

The lady that spoke before spoke about deterring children. Well, that's very true. You do have to deter children. That is a joke, that chart right there. It's a joke. Kids today in the urban area and suburban areas all see their older children in their community or young adults in their community commit crimes, be sentenced to 20 years in jail, 50 years in jail, a couple of years later, they are out on the street again. How is that a deterrent to these children? They're looking at a guy who got over -- hey, he's making big money selling drugs. So he shot a person. So he stabbed a person. So what? He's out. He's out in 2 years. He was sentenced to 10 years. He was arrested for murder,

plea-bargained down to manslaughter, sentenced to 10 years, and got out in 2. Come on, there is no deterrent here unless you actually put people away for violent crimes and keep them there.

We, as a society, have failed if we continue to put the rights of the criminals above the rights of the victims, and above the rights of the people so that they can't feel safe in their own homes, their own communities, and their own state. Who owns the State? It's not the citizens. It's the criminals because they have all of the rights and the victims don't. Rehabilitation is not a right. It's what a criminal must do for themselves in order to fit back into society and to stay out of prison. That's their reward. The reward should not be going to jail for 2 years instead of 10 if they are sentenced to 10.

The victims must live forever with the crime. They do not get an early release from their injuries or from their mental anguish. Those against mandatory or longer sentences correctly argue that long prison terms have proven to have little effect on deterring crime. So why keep them in jail longer? Quite simply because early release has also proven not to work and society is, if nothing else, safer as long as these people are in jail. It's said that 90 percent of all crimes is committed by only 10 percent of the criminals. Well, how can they do so much? Because you keep letting them out. They get out. They have the opportunity to go and create more crimes which again starts the system all over again. You start having to hire police to go out to chase the criminals, to eventually find them, and again public defenders, prosecutors, and so on, and so forth. Again, monumental costs to the taxpayers.

The victims don't get a second chance. No one reads them their rights before a crime. Victims cannot appeal a ruling if a criminal gets off on a technicality or the prosecutor does a bad job. The victims cannot reject a plea bargain. There is no ACLU to defend the victim. No one pays the victims a salary for their suffering, yet the criminal gets paid in jail. And if the victim needs medical treatment, they or their insurance must pay for it. Yet, death row inmates such as Bagenwald (phonetic spelling) was given a triple bypass operation at the taxpayers expense. If the victim needs physical exercise equipment to rehabilitate themselves, they must buy it. Yet, violent criminals have full weight and exercise facilities for them at the jails to make them bigger, stronger, and more powerful when they get out to do what -- create another crime.

Today is time to end this insanity. This bill is a tiny first step in the right direction. We urge you to pass it out of Committee, send it to the floor for a vote, and then vote in favor of it, and do everything in your power to get everyone else on both sides of the aisle because it does appear that it has good bipartisan support to vote in favor of it. When Ray Kalainikas spoke about not hating your enemy and this is all about hating your enemy -- it's not about hating anyone, it's about protecting yourself. It's about stopping the criminal from getting out and harming another little child, harming another elderly person, or harming anyone of any age. The victims are the ones that need the rights, not the criminals. They create a crime, let them, as they say, do the time. Thank you.

SENATOR KOSCO: Thank you very much.

SENATOR BENNETT: Thank you.

SENATOR KOSCO: That concludes all our hearings and all the people who I had listed to testify. I think, Senator Cafiero, do you have anything else to add?

SENATOR CAFIERO: Nothing, sir, fine.

SENATOR KOSCO: Senator Bennett, do you have anything else you would like to add?

SENATOR BENNETT: I would like to thank everyone who came today including my colleagues, one from one end of the State and one from the other end of the State, who came and their staff. I think it's a very important piece of legislation. I think those that spoke in favor of it, I appreciate your comments. Those of you that raised comments and opposition -- it's healthy, it's what makes us have the abilities to be able to respond and to have the answers. I think that's all part of the process, having people to participate in it.

I feel very strongly though that this is a piece of legislation that is the right thing to do for the citizens of our State comprehensively and across the board. It follows through on our commitments as to what we have to do for the protection of all citizens. In the real world and the world that we are elected to be officials, this is part of the overall scheme as to what we have to do to assure the safety of the public and the general welfare of the people that are out there. That's what I feel very strongly about. So, Mr. Chairman, if I could make a motion, would that be appropriate?

SENATOR KOSCO: Yes. I just want to make a statement to let everyone here know-- First of all, thank you all for being here. Those of you

who spoke in favor of the bill and those of you who spoke against the bill -- that's the purpose of these hearings.

This is just a part of a plan of a long-range plan that began three years ago. We are putting this plan together, and the indications that we see are that the plan that we have been working on is working. We started it and some of the legislation was mentioned here before: The Three Strikes legislation. We've completed that and that's the law right now. The boot camp, the rehabilitation programs for our young people, that's already in place. That is working and is working very successfully. Our Juvenile Justice Commission that is in place and is working. And as you've been -- if you've read the papers lately, you have seen that we are now addressing the issue that we have with -- the juvenile problems we are having with our young women in the State of New Jersey. We are setting up a place for that correctional facility for that to take place. We are working on rehabilitation programs.

As I said before, we're spending the money. It's not that anyone doesn't have the money. We're not spending it properly. Some of us believe we are not spending it properly. We spend millions and, literally, millions and millions of dollars a year on rehabilitation programs, which you spoke about before. We are, again, not accomplishing as much as we want to accomplish, even close to what we want to accomplish. We are working on a tremendous program for reevaluating and completely reforming a comprehensive reform program for parole. You are going to be hearing about that very shortly. This Committee is going to be working on it and has been working on it. We have a whole package that's been put together, and we presented it to the committee that the Governor established to redo parole. Someone said that we should

eliminate parole. That's been tried. We've studied that program, it didn't work. Wherever it was tried, it failed, because they took people right from jail and sent them back out. And so it failed, we are not going to do something that's going to fail.

This type of legislation will succeed. This type of legislation is something that we've been working on, it didn't just come from the top of our head all of a sudden. This is part of a comprehensive plan that we are working on for our system -- for our penal system. People want to continue to call it criminal justice, and I have a problem with that term of criminal justice. I think it's the penal system. They go to jail to be punished. Let's understand that. The secondary phase is to rehabilitate them if we possibly can. But we don't take people who've committed a violent crime and send them to prison so we can treat them real nice. It's not the purpose. Penal system is the penal system. The rehabilitation system is the rehabilitation system. And at some point after they've served their time, we try to rehab them. The new programs are going to work, and you are going to see it within the next year as it all unfolds. So, again, I will entertain a motion to move the bill with a change. Ann, would you say what the change was?

MS. STEFANE (Committee Aide): Yes, the effective date--

SENATOR KOSCO: Senator Cafiero, this is your amendment, thank you.

MS. STEFANE: The effective date would be amended to state, "This act shall take effect immediately," and then we are inserting, "and shall be applicable to any person who shall become eligible for parole after the effected date."

SENATOR KOSCO: Okay?

SENATOR CAFIERO: It's okay with me as long as it's okay with you, John.

SENATOR BENNETT: It is fine with me, absolutely.

SENATOR KOSCO: Motion?

SENATOR BENNETT: I'd like to move that bill as amended.

SENATOR CAFIERO: Second it.

MS. STEFANE: On the bill as amended, S-855. Senator Bennett?

SENATOR BENNETT: Yes.

MS. STEFANE: Senator Cafiero?

SENATOR CAFIERO: Yes.

MS. STEFANE: Senator Kosco?

SENATOR KOSCO: Yes.

MS. STEFANE: The bill is released.

SENATOR BENNETT: Thank you all very much.

SENATOR KOSCO: Thank you.

(HEARING CONCLUDED)