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PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

SENATE BILL NO. 2241

(Requires creation of shock incarceration selection committee in each State adult correctional facility)

and

PROPOSED SENATE COMMITTEE SUBSTITUTE

for

SENATE BILL NO. 893

(Requires establishment of shock incarceration program by Department of Corrections)

March 6, 1990
New Jersey Medical School
University of Medicine and
Dentistry of New Jersey
Newark, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Vice Chairman
Senator Thomas F. Cowan
Senator Joseph L. Bubba

ALSO PRESENT:

Aggie Szilagyi
Office of Legislative Services
Aide, Senate Law, Public Safety and
Defense Committee

* * * * *

Hearing Recorded and Transcribed by
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Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

New Jersey State Library

PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

SENATE BILL NO. 2241

(Requires: revision of shock incarceration selection committee in each State adult correctional facility)

and

PROPOSED SENATE COMMITTEE SUBSTITUTE

for

SENATE BILL NO. 893

(Requires establishment of shock incarceration program by Department of Corrections)

March 21, 1990

New Jersey Medical School
University of Medicine and
Dentistry of New Jersey
Newark, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Vice Chairman
Senator Thomas F. Cowan
Senator Joseph L. Bardo

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New Jersey State Legislature

**SENATE LAW, PUBLIC SAFETY
AND DEFENSE COMMITTEE**

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Chairman

RONALD L. RICE
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Thomas F. Cowan
C. LOUIS BASSANO
JOSEPH BUBBA

NOTICE OF PUBLIC HEARING

The
Senate Law, Public Safety and Defense Committee
will hold a public hearing on
Tuesday, March 6, 1990 beginning at 10:30 a.m.
Room C-600
UMDNJ - New Jersey Medical School
185 S. Orange Avenue
Newark, New Jersey

The purpose of this public hearing is to discuss the following bills:

10:30 a.m. to 12:00 noon

S-2342	Prohibits the advertising of tobacco products on
Graves	billboards.
(pending	
referral)	

1:00 p.m. to 3:30 p.m.

S-2241	Requires creation of shock incarceration selection
Graves	committee in each State adult correctional facility.
Proposed	Requires establishment of shock incarceration program
SCS for	by Department of Corrections.
S-893	
Rice	

The public may address comments and questions to Aggie Szilagyi, committee aide, and persons wishing to testify should contact Norma Morales, secretary, at (609) 984-0231. Persons presenting written testimony should provide 10 copies to the committee on the day of the hearing. Copies of the proposed Senate Committee Substitute for S-893 may be obtained by calling Ms. Morales.

Issued 2/16/90

(Paid valet parking for the public will be available at
the entrance of Parking Lot #1 located on S. Orange Avenue
in front of the Medical School.)

S2241

2

1 State adult correctional facility may participate in the shock
2 incarceration program if the inmate (1) is at least 18 years of age
3 but not more than 26 years of age at the time of conviction; (2) is
4 not sentenced to a mandatory minimum term of imprisonment
5 and would be eligible for release on parole within three years; (3)
6 has not previously been convicted of a crime as an adult or as a
7 juvenile for which a term of incarceration was imposed and
8 served; (4) is physically and mentally capable of strenuous
9 physical activity; and (5) is free of contagious disease and has no
10 medical condition or illness that would prevent, or be aggravated
11 by, strenuous physical activity.

Sec. 2

Shock
incarceration
program

S2241

4

1 that I may be removed from the program at the discretion of the
2 Department of Corrections.

3 I accept the foregoing program and agree to be bound by the
4 terms and conditions thereof. I understand that my participation
5 in the program is a privilege that may be revoked at the sole
6 discretion of the Department of Corrections. I understand that I
7 must successfully complete the entire program to be entitled to
8 parole release upon the completion of the program, and in the
9 event that I do not successfully complete the program, for any
10 reason, I will be returned to a non-shock incarceration
11 correctional facility to continue service of my sentence.

12 5. Upon the successful completion of the shock incarceration
13 program, the inmate shall be eligible for immediate parole
14 release in accordance with the procedures set forth in the
15 "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et al.) and
16 in accordance with the conditions set forth in P.L.
17 (C.)(now pending before the Legislature as Senate Bill 393
18 of 1990).

Sec. 3

Shock
incarceration
program

19 6. The Department of Corrections shall promulgate rules and
20 regulations pursuant to the "Administrative Procedure Act,"
21 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes
22 of this act. The rules and regulations shall include, but not be

PROPOSED

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 893

STATE OF NEW JERSEY

By Senator Rice

AN ACT requiring the establishment of a shock incarceration program and facility by the Department of Corrections and supplementing Title 30 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that the primary goal of a shock incarceration program is to divert young criminal offenders from long-term incarceration by providing a short term period of punishment in a confined setting which impresses upon young offenders the harsh realities of prison confinement, controls and closely supervises in a rigidly structured environment young offenders who have never experienced total restriction in their lives, and expresses society's unwillingness to accept or condone their criminal behavior.

Shock incarceration programs first appeared only five years ago, yet today there are currently 15 such programs operating in 12 states, with many others in the discussion and development stage. New Jersey should follow the lead set by other states which have been experimenting successfully with such regimented inmate discipline programs. A shock incarceration program, patterned on military "boot camps," involves demanding regimentation and discipline, military-style drill and ceremony, physical activity, and structured work programs as well as a disciplined atmosphere for vocational training, education, and counseling for young and impressionable criminal offenders.

A shock incarceration program fosters self control, self-respect, maturity, teamwork, and improved work habits for such offenders to enable to return to society as law-abiding citizens; it provides young offenders with a rehabilitation experience which will positively influence their behavior and help thwart future criminal activity upon their release from correctional system. A shock incarceration program provides punishment for young offenders, but allows for a more creative use of correctional facilities than the simple warehousing of prisoners which leads to intolerably high rates of

Sec 1
legislative
findings
and
Statement
of
purpose

recidivism. Such a program minimizes the negative effect of institutionalization on these offenders by segregating them from the general prison population where they may be subject to abuse, exploitation, and corruption and providing them with a rehabilitation program designed to ensure that they will not return to crime after release.

There is an urgent need to reduce the general State prison population by shortening the average length of confinement for certain offenders. A shock incarceration program is an alternative to the sentencing of young criminal offenders to lengthy terms of incarceration because it provides a custodial term which is significantly shorter than the length of the custodial term which the offender would have serve under the current statutory scheme.

A shock incarceration program for young criminal offenders will relieve the pressure on overcrowded State prison facilities and will result in substantial long-term savings to the State in prison capital and operational costs.

2. The Department of Corrections shall establish, staff, and maintain a shock incarceration correctional facility within this State. The Department of Corrections shall also develop the administrative, supervisory, and custodial procedures for the facility and the structure of the daily program to be implemented by the staff and followed by the inmates within the facility.

The shock incarceration facility shall accept inmates selected pursuant to P.L., c. ... (C.)(now pending before the Legislature as Senate Bill of 1989). A shock incarceration program, as developed by the Department of Corrections, shall consist of 180 days of a highly structured, disciplined, and regimented daily routine. The program shall be designed as a resocialization and learning period, with an inmate expected to participate in physical work, exercise, counseling, and educational programs. The inmate schedule at a shock incarceration facility shall include, but shall not be limited to, an early morning regimen of physical training, military style drilling, cleaning of residence areas, at least four hours of physical work which shall be, whenever possible, community service related, daily support group meetings and counseling sessions, high school equivalency education, substance abuse counseling, and organized physical recreation.

An inmate shall be expected to adhere to a strict standard of discipline within the shock incarceration facility. Attendance at all scheduled activities shall be mandatory, except upon an approved excuse.

Sec 2

creation
of
shock
facility

program
content

disciplin

The procedures and guidelines to be established by the Department of Corrections shall include, but shall not be limited to, written policies governing the conditions for expulsion from the program and for voluntary termination of program participation by the inmate, disciplinary policies, policies on summary punishments for disciplinary violations, policies for rule and discipline enforcement by facility staff.

DOC
procedures
and
guidelines

3. a. An inmate in a shock incarceration facility shall be evaluated at frequent and regular intervals in order to obtain an objective assessment of the inmate's participation and progress. An inmate shall be evaluated in writing at least once every 14 days by appropriate facility staff members who have direct daily contact with the inmate and the evaluations shall be sent to the facility's review committee.

Sec 3
inmate
evaluation

The chief executive officer of the facility shall establish a shock incarceration review committee which shall review the evaluations of each inmate and which shall make recommendations to the chief executive officer on the removal from the program of any participant who is making unsatisfactory progress.

shock
review
committees

b. If an inmate is making unsatisfactory progress in the program, has been subject to disciplinary measures for a violation of regulations, deliberately refuses to participate in the program, or has requested release from the program, the review committee shall evaluate the case and schedule a meeting and an interview with the inmate. The review committee shall give the inmate who is the subject of meeting a written statement of the reasons for the meeting at least 24 hours before the date of the meeting. The purpose of the interview shall be to give the inmate the opportunity to discuss his evaluations and participation in the program.

unsatisfac
tory
progress
by inmate

c. The review committee shall then make a recommendation to the chief executive officer of the facility, after the interview with the inmate and a review of all materials the committee deems appropriate to review, on whether the inmate should be removed from the program. The chief executive officer of the facility shall make the final decision on the removal of any participant.

removal
decision

4. A participant who is removed from the facility shall be transferred back to general confinement in the State adult correctional facility to which the inmate was originally sentenced to continue the term of imprisonment imposed by the sentencing court. The inmate shall be given credit toward the term of imprisonment at the State adult correctional facility for the time spent in the shock incarceration facility.

Sec 4
after
removal
from
shock

At any time, an inmate may request in writing removal from the program and the inmate shall be transferred back to general confinement.

5. Upon completion of the shock incarceration program, an inmate shall be eligible for immediate parole release in accordance with the procedures set forth in the "Parole Act of 1979," P.L. 1979, c. 441 (C. 30:4-123.45 et seq.). The Department of Corrections shall calculate the parole expiration date in accordance with the procedures used for the calculation of such dates based on the length of sentence imposed by the court less any credit earned or awarded. In addition, to the contacts with a parole officer, the conditions of parole for persons who successfully complete the shock incarceration program shall include assignment by the Department of Corrections to a community based agency or organization and successful compliance with the program established by the agency or organization for the parolee. The agency or organization shall design a program which shall include, but not be limited to, a course of study at an educational institution or vocational training, gainful employment, and counseling for drug and alcohol use or dependence. In addition, the program may include a curfew, community service work, a schedule for the payment of all financial obligations, and abstinence from alcohol and unlawful drugs. The program shall correlate as closely as possible with the education, training, work, and counseling provided at the shock incarceration facility. The agency or organization shall assign a mentor who along with the parole officer shall supervise compliance and progress.

Sec 5
completion
of shock
t

parole
and
"mentor"
program

6. No later than 13 months following the effective date of this act and at annual intervals thereafter, the Commissioner of Corrections shall submit a written report to the Legislature and the Governor describing the implementation and operation of the shock incarceration facility and program and assessing its performance. The report shall include any recommendations for administrative changes to the facility or program and for the enactment of any legislation deemed necessary for the more effective operation of the facility or program.

Sec 6
Doc
report on
shock
program

7. The Commissioner of Corrections shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), to effectuate the purposes of this act. The rules and regulations shall include, but shall not be limited to, those regarding the establishment, staffing, and operation of the shock incarceration facility, the daily

Sec 7
Doc
rules and
regulation

programs and schedules to be followed by inmates in the facility, the creation and procedures for the shock incarceration review committees, the procedures for evaluation of inmates' progress in the program, disciplinary procedures, and a procedure to monitor the effectiveness of the program for purposes of compiling the reports to be submitted to the Governor and the Legislature pursuant to section 6 of this act.

8. There is appropriated from the General Fund to the Department of Corrections \$_____ to effectuate the purposes of this act.

9. This act shall take effect immediately, but shall remain inoperative until the enactment of P.L. _____ c. _____ (C. _____)(now pending before the Legislature as Senate Bill 2241 of 1990).

Sec 8

funding

Sec 9

effective date.

PUBLIC SAFETY

Requires establishment of shock incarceration program by DOC.

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dmw: 1-60

SENATOR RONALD L. RICE (Vice Chairman): While we are waiting, let me just say to those who are here, this Committee is kind of in low spirits because we have lost our leader. I know that most of you, if not all of you, have read or heard that Senator Graves is deceased. I think the arrangements are being made for Thursday in terms of the funeral. We did not cancel this particular hearing primarily because of the way I know Senator Graves, as Chairman and as a friend, and the way the Committee knows him-- He would not have wanted us to do that, particularly since so many people were notified. We did, however, remove from the agenda the 10:00 session dealing with the billboard advertisement of cigarettes as products. So hopefully there is no one here to address that. You know if you are. We just want to be sure that you understand we are not addressing that.

Also as we start the meeting, you have Senate Bill No. 2342, Senator Graves' bill -- actually it's S-2241 -- also my bill which is S-893-- We won't discuss them individually; we'll incorporate them -- in terms of the discussion -- as one piece of legislation because, in fact, they are just that -- one whole piece of legislation. So my point is that if you have any response that is directed at one of those "numbered" bills versus another section, don't worry about it when you come up and speak. Just say what you have to say.

SENATOR BUBBA: Excuse me, Mr. Chairman, for being late.

SENATOR RICE: That's okay. We're just getting started. First of all, let me just introduce my colleague from the Passaic/Bergen County area, and Essex also?

SENATOR BUBBA: Yes, Essex -- Passaic/Essex.

SENATOR RICE: Passaic/Essex, Senator Bubba. I do expect at least one other colleague here. What I will do is maybe just have the staff and everyone go down the line and identify themselves so you'll know who you are dealing with here.

MR. CORMAN (Assembly Minority staff): Randy Corman, Assembly Republican staff.

MS. SZILAGYI (Committee Aide): Aggie Szilagyi, I'm the Aide to the Senate Law and Public Safety Committee.

MR. DEVANEY (Senate Majority staff): I'm George Devaney from the Senate Democratic staff.

SENATOR RICE: Okay. Once again, welcome and let me thank Dr. Bergen and the UMDNJ staff and Board of Trustees for giving us the opportunity to be here. Once again, thank all of you for taking time out from your busy schedules to be here.

We're not going to be talking to you that much. You may get responses from the Senators relating to questions, etc. We're not here to debate you on the issue of boot camp or shock incarceration. We're here to get your input.

I do want to say to you that I feel very strongly, as one of the sponsors of this legislation who has spent some time going back and forth with the Essex County Prosecutor and others to take a look at boot camp shock incarceration, that hopefully, with the Governor's support and the support of our colleagues in Trenton, we will have in the near future some form of shock incarceration boot camp scenario. I think those of us who live in the State of New Jersey, particularly urban cities, cities that are plagued very seriously and substantially with high crime statistics, know that we have to do something else.

I think those of you who work in law enforcement, whether it's the youth house scenario, Jamesburg -- I see Mr. Ike Hopkins here -- know those numbers. The one thing that those of us who are criminal justice professionals, or like to think of ourselves as criminal justice professionals -- I say that because it's my background-- We can all agree on what does not work. We can never agree on what will work, but to continue to take taxpayers' dollars in the State of New Jersey, which is literally millions of dollars, and throw them into

systems that are not doing the job at all, or getting near it, I think is foolish. We need to look in new directions.

Our judges are telling us as we arrest and take people into the juvenile system or the adult institution system, that they are crowded. Their preference is to be humanitarians. That definition to me -- when I hear it coming from judges, based on their actions -- turning some bad folks loose and letting them do injustices to people in our society, to do property damage, etc., because they have no place to put them--

I happen to know this State very well. I've learned more of it since I've been in the Senate. The one thing I can say about New Jersey is, they call it the Garden State because we have a lot of land. We also have a lot of military installations. I say we could do things a little bit differently. We could put some people to work. We could make people think about the types of crimes they commit, and repent for those crimes, while at the same time not rehabilitating them, but trying to strengthen their character, give them focus, and hopefully, some new value systems.

With that, I'm going to call up the first speaker. First of all before I do that, let me just find out if Senator Bubba has anything to say. Do you want to hold, Senator Bubba? (nods in the affirmative) Why don't we just call up the Essex County Prosecutor, Herb Tate, to testify? You are being recorded. Everybody who comes up here, I want you to know that.

SENATOR BUBBA: This is great. We get a chance to record--

H E R B E R T H. T A T E, JR.: That's generally my line, Senator. I would like to thank Senator Rice, Senator Bubba, and the Committee for inviting me today to express my views and comments regarding the bills that are under consideration by this Committee. I also would like to express

my condolences, obviously, for the fact of Senator Graves' untimely passing which doesn't allow him to be part of this process.

I came to know and admire Senator Graves through this experience of boot camp and his commitment. He was known as the number one law enforcement Senator in the State, but he was also a man who had a rather tremendous vision in terms of rehabilitation and wanting people not to have to go through the present system. With those comments, I would like to then begin.

The boot camp incarceration program for nonviolent young adult offenders who may be facing incarceration for the first time, is a much needed program. We believe that this would be a constructive form of punishment for those convicted of property or drug offenses. The boot camp program would last for approximately 180 days, combining a highly regimented environment and planned activities, with discipline, education, and psychological and substance abuse counseling.

We feel that this program is a multi-disciplined approach and probably the most progressive that is designed in the country. As many are aware, there are about 10 to 12 states around the country right now that are utilizing boot camp or shock incarceration programs. They vary widely in their approach.

The plan that is before this Committee, through the bills -- S-2241 and S-893, I think they are -- incorporates probably the most progressive elements of all the boot camp and shock incarceration programs from around the country, and then takes it one step further with the mentorship program.

Senator Graves' bill, S-2241, enumerates the eligibility requirements for participation in the shock incarceration program. Young adult criminal offenders who have received a period of incarceration for nonviolent crimes would be considered for the program. As written, the bill would require that the inmate be at least 18 years of age but no more than 26 years of age at the time of conviction.

For clarity, since only those sentenced for commission of crimes as adults, and not as juveniles, could participate-- The legislation should be worded that those within the age range "at the time of commission of the crime" are eligible. Otherwise, those sentenced as juveniles might mistakenly be eligible. Young adult offenders would be most receptive to the boot camp experience which instills discipline while providing education, counseling, and vocational training. Young, nonviolent inmates would be rehabilitated in a regimented, military-style environment.

The bill currently states that an inmate convicted of a first or second degree crime, a third or a fourth degree crime which resulted in personal injury to, or death of another person, or which was committed under circumstances involving a substantial risk of death or personal injury to another person, would not be includable; or crimes involving the use of firearms, would not be eligible for participation in the boot camp.

To ensure the success of the shock incarceration program, offenders who have participated in violent and sexual crimes must not be allowed to participate. Only nonviolent property offenders and drug offenders of the third and fourth degree would be appropriate candidates for eligibility into this program. A list of offenses for which convictions would be excluded -- which would exclude an inmate -- are listed in my testimony. I don't want to go over them specifically, but everybody has that to refer to and incorporate into the record.

Senator Graves' proposal currently states that the inmate must not have previously been convicted of a crime as an adult or as a juvenile for which a term of incarceration was imposed and served. As drafted, not only are those persons who had previously been incarcerated as adults prohibited from participating in the boot camp, but those who had been incarcerated as juveniles in a juvenile correctional facility

also would be disqualified. Those previously incarcerated for nonviolent offenses as juveniles in juvenile correctional facilities, we feel, should be eligible for boot camp. The reason for that is that since New Jersey cannot, like New York and some other states, mix the juveniles with the adults, it is important now that we don't miss the category or class of offender -- youthful offender -- who may have had one experience of incarceration in a juvenile facility. If, in fact, we were able to extend this program to juveniles who were being incarcerated for the first time as property offenders and as drug offenders, then I would say that the fact that they may have experienced an incarcerated setting as a juvenile, then later as an adult, should exclude them. But if we are not going to deal with juveniles, and we still have to deal with a youthful offender who may have been to a youth correctional facility one time previous in his history, I think it's important that those persons still remain eligible as young adult offenders.

Prohibiting those who had been incarcerated, as I stated, would severely restrict the number of eligible inmates in the youthful category. We are dealing now with an age range of 18 to 26. Many of us who work in criminal justice understand that when persons commit property offenses and drug offenses that are crimes of the third and fourth degree, the sentencing provisions of 2C now give a presumption of non-incarceration for those youthful offenders. So, in most cases, judges are reluctant to sentence these offenders to any type of incarcerated setting until a second conviction as an adult. We may be narrowing our pull even more if we're not going to allow adult offenders or youthful offenders who may have served some time as juvenile offenders, so it is important that we keep our options open.

A juvenile adjudication is a factor which may be considered under the history, character, and condition of the

defendant to overcome the presumption of non-incarceration. Therefore, that may make a judge more willing to place in an incarcerated setting, as an adult, a youthful offender if he had a juvenile record. Again, it's a question of what category of offender we want to reach. If we are serious about trying to reach those between the ages of 18 and 21, I think it's important that we allow for those who have been in a juvenile facility as youthful offenders under the age of 18.

As written, an inmate must not be sentenced to a mandatory minimum term of imprisonment, and must be eligible for release or parole within three years. The chief executive officer of each State correctional facility for adult inmates shall appoint a five-member shock incarceration selection committee. This committee shall review the record of every inmate sentenced to the facility within five days after the inmate's arrival. If this committee determines that the inmate meets the eligibility requirements, the committee shall notify the inmate of its findings and permit the inmate to decide if he wishes to participate in the program. A central committee located at the Prison Reception Unit could more expeditiously review the record of inmates who arrive for processing. This central committee would result in more expedient classification of inmates, since time frames for the transfer of inmates from county jails to the Prison Reception Unit, to a correctional facility, are sometimes quite lengthy. Additionally, inmates who are housed at county jails for extended periods per agreement could be reviewed by a central committee. Reviews regarding shock incarceration eligibility and suitability could easily be incorporated into the current classification committee's role at the Prison Reception Unit.

Senator Rice's bill, S-893, would establish a six-month, 180-day, shock incarceration program. This boot camp would consist of a highly structured, disciplined, and regimented daily routine for inmates. The boot camp would

incorporate punishment as well as rehabilitation. The program shall be designed as a resocialization and a learning period, with an inmate expected to participate in physical work, exercise, counseling, and educational programs. Such a program would enable these inmates to return to society, we believe, as law-abiding citizens, since the boot camp fosters self-control, self-respect, maturity, teamwork, and improved work habits.

The vocational training, education, and counseling which would be provided to these offenders, would enable them to adjust to the problems which they would face following incarceration.

A major goal of this proposal is to divert young offenders from long-term incarceration, thereby lessening the burden on overcrowded State prison facilities. This should result in substantial long-term savings to the State in prison capital and operating costs.

Under Senator Rice's bill, the Department of Corrections shall establish, staff, and maintain the boot camp within the State of New Jersey. The Department of Corrections shall develop the daily operations of the facility as well. The DOC shall establish written policies governing expulsion of an inmate from the program and voluntary termination of participation in the boot camp by the inmate. An inmate who is removed from the program shall be transferred back to the State adult correctional facility to which the inmate was originally sentenced, and continue the term of imprisonment imposed by the sentencing court.

The most unique aspect of the program established by both bills is the requirement of a mentorship program. We believe that if an inmate successfully completes the shock incarceration program, he will be eligible for immediate parole release with calculated parole dates based on the length of the sentence originally imposed by the court.

We are looking along with the parole an offender would be assigned by the Department of Corrections, to a community-based agency -- which would be a mentorship agency -- which must successfully comply with the program of work, education, and counseling that would be established by this agency. This mentorship program would last for the length of the parole of the offender's remaining parole eligibility.

According to Senator Rice's bill, upon completion of the shock incarceration program, an inmate shall be eligible for immediate parole release in accordance with the procedures set forth in the Parole Act of 1979. Under the Parole Act of 1979, parole eligibility is calculated by a specific formula for prison sentences. It would be better to ensure parole release for inmates who successfully finish the boot camp. As written, the legislation provides for parole eligibility after the six-month boot camp. If the Parole Board denied parole release to an inmate who successfully completed the program, that inmate might regress. Parole release should be automatic upon completion of the shock incarceration program. Specific sanctions for parole violations should be included in the legislation. A maximum time for the length of parole should be written into the bill. The Parole Board could review a parolee's progress after one year on parole, to determine whether the parolee had satisfactorily adjusted to life after the boot camp. A provision for automatic review for early release from parole could be established such that at one year intervals, a parolee from the boot camp could be considered for release from parole.

It's important that-- The reason why we mention having a specific term and automatic review, is that for parole supervision to be effective in this type of a setting, the caseload of parole officers must be restricted. I think now parole officers are carrying caseloads of parolees of 75, sometimes 100.

New York said no more than 30 parolees to any one parole officer makes the program effective for supervisory purposes. If parole is continued too long, I envision that these parole caseloads are going to get so large that it's going to become an unworkable situation.

Those are my remarks -- prepared remarks. If the Committee has any questions, I will be glad to embellish on anything, or clarify any comments.

SENATOR RICE: Senator Bubba?

SENATOR BUBBA: Just one point: It would seem to me that at least the people that we're directing our efforts at, are people who would not normally be incarcerated in an adult facility. Is that correct?

MR. TATE: That's not necessarily so, Senator. There are quite a number of youthful offenders who have a juvenile record, and have some incarceration in the juvenile facility, who may overcome that presumption, and a judge sentenced him to a youthful or an adult facility for their first conviction as an adult on a third or fourth degree crime.

Again, I don't have specific numbers, but I do know that if they don't have any type of juvenile history, they probably would not be eligible for the first conviction. However, we are still dealing with the category of offender that stretches from 18 to 26. I can tell you in Essex County that we have a significant population of inmates who have a second adult conviction, who are going to State or county jails for the first time within that category.

SENATOR RICE: First of all before I go any further, let me just acknowledge that Senator Cowan -- to my left here -- has arrived. Senator, do you have anything you want to say at this point?

SENATOR COWAN: Not at this time.

SENATOR RICE: Okay, is that it, Senator Bubba?

SENATOR BUBBA: Yes.

SENATOR RICE: Mr. Prosecutor-- Prosecutor Tate, let me just say that -- and I read this legislation over and over and over -- many of the concerns you had that were not incorporated in the Graves bill, were, in my estimation, not there because -- probably because of an oversight, and my not communicating.

Initially the bill was put into motion by myself. The intent was to have many of those things in it. I can assure you that I'll start to move to draft many of those amendments. A couple of things that were picked up on in S-893 today -- that I will go back and take a look at -- make good sense to me. That was also an oversight. That's the idea of having a public hearing, so we can try to tighten up legislation in such a way that it is successful, get it moved to the Governor's desk, and get it signed and supported. Hopefully we can put a program in in this State that will be superior to those that exist presently; but most importantly, will be successful. I just want to thank you for taking the time to come here and testify.

MR. TATE: Thank you very much, Senators Rice, Bubba, and Cowan, for inviting me here today.

SENATOR RICE: Next we're going to have Charles Karox from the Essex County Sheriff's Department.

C H A R L E S K A R O X: Thank you, Senator Rice, Senator Cowan, and Senator Bubba. It is indeed a pleasure for me to be here today to represent the greatest Sheriff in the world, Thomas J. DeAlessio. We were both here at 10:30 this morning. We were not aware of the fact that there had been a cancellation, certainly for good reason. He had a scheduling conflict, so I am here to speak on his behalf, as well as on my behalf.

As Senator Rice notes, I was one of the people that was privileged to go up and look at the shock incarceration treatment facility in Summit, New York, along with Prosecutor

Tate and several others. I personally had some reservations about this whole shock incarceration, boot camp idea until I saw that particular facility in operation. Needless to say, I'm here to speak on behalf of Senator Rice's bill, and on behalf of the Sheriff, who also supports it. After what we saw up there, we were extremely impressed with the kind of impact that the facility had on the inmates that were there. We certainly believe that there should be, if not a duplication -- at least a duplication or something better, implemented here in the State of New Jersey.

Members of the Committee, I'm Charles Karox. I would like to add my voice to those supporting S-893, sponsored by Senator Ron Rice. As head of the second oldest narcotics unit in the State, I know the need for, and the value of, this legislation. Every year our Sheriff's Bureau of Narcotics arrests more and more juvenile offenders. Because of the severe overcrowding problems of our current jail system, we've watched these juveniles go through a revolving door. That is our current juvenile justice system in New Jersey.

The idea of jail as a deterrent has become a joke to our young offenders. A system that was designed to impress upon young people the serious consequences of violating the law has become an empty threat. The idea of jails providing a disciplined environment for meaningful rehabilitation simply isn't happening. Our jails are simply warehousing juveniles at best, and serving as schools for crime, at worst. The current experiments in other states with shock incarceration programs are encouraging enough for New Jersey to follow suit.

We in Essex County are under a court order to reduce our jail population; and we've been heavily fined for not doing so. Shock incarceration will help reduce the pressure on our overcrowded jails and prison facilities. It will reduce costs to the State by requiring less capital outlays for prison buildings.

Most importantly, shock incarceration programs will provide a true formal punishment for young offenders, and at the same time, offer a real chance at rehabilitation.

All of the experts tell us that these young people lack self-control, self-respect, maturity, teamwork, good work habits, and a sense of inner discipline. I can tell you honestly, from my own experience, that these necessary survival skills are not being taught in our present jails. The model described in this legislation states that a shock incarceration program will provide physical training, not unlike the armed services: physical labor requirements; mandatory community service; professional counseling; high school equivalency classes; and substantive abuse assistance. A sense of discipline is the backbone of the shock incarceration program.

Another important provision of this bill that must be pointed out, is the after-care plan. Once paroled, the shock incarceration inmate will be followed up and provided with continued educational opportunities, drug counseling, and help in finding gainful employment. The young offender's progress will be carefully reviewed and evaluated. They will not simply be released and forgotten; forgotten until they are arrested again, as is so often the case now.

I urge the members of this Committee to look favorably upon S-893. Senator Rice has been working closely with law enforcement authorities and listening to their concerns. This legislation is the result of his deep interest in the thousands of juvenile offenders who pass through our system. This is an opportunity to revamp a system that is not able to deal with them effectively. I hope you will implement this innovative idea, and keep New Jersey in the forefront of the criminal justice advances.

Thank you for this opportunity to testify on behalf of S-893.

SENATOR RICE: Thank you, Chief Karox. Are there any questions for Chief Karox -- Senator Bubba, Senator Cowan?

SENATOR COWAN: No, thank you.

SENATOR RICE: Any comments? (no response) Chief Karox, let me thank you, and give my thanks to the Essex County Sheriff, for coming this morning. We apologize for that. Is it possible you could make certain that a copy of your statement is either left with the staff or sent to the staff, so it can be shared with the Committee?

MR. KAROX: Absolutely.

SENATOR RICE: Okay, thank you very much. Any other comments? (no response)

MR. KAROX: Thank you.

SENATOR RICE: The next person we're going to hear from is Dale Jones, from the Public Advocate's Office.

SENATOR BUBBA: What's your name, Dow Jones?

D A L E J O N E S E S Q . : Dale -- D-A-L-E.

SENATOR BUBBA: Oh, because I was going to ask him for some tips on the stock market. (laughter)

MR. JONES: Vice Chairman Rice, Senator Bubba, Senator Cowan, and other members of the staff, thank you for this opportunity to comment on S-893, sponsored by Senator Rice, and S-2241--

MS. SZILAGYI: Please pull that microphone toward you.

MR. JONES: Sure. --sponsored by the late Senator Graves. On behalf of the Department of the Public Advocate, we extend our condolences to the colleagues, family, and friends of the late Senator.

The Office of the Public Defender, established within the Department of the Public Advocate, is mandated to represent indigent adults and juveniles in criminal matters. The Office of Inmate Advocacy has the statutory authority to represent inmates at municipal, county, State correctional, and detention facilities in matters related to conditions of incarceration which affect inmates as a class. The Parole Revocation Defense Program has the statutory authority to represent inmates and parolees, on a statewide basis, at parole probable cause

hearings, parole rescission hearings, and parole revocation hearings. Each of these offices has reviewed this legislation and analyzed its effectiveness as a post-dispositional alternative to incarceration.

S-2241 requires the creation of a shock incarceration selection committee in each State adult correctional facility. First, a review of this bill raises a question about its applicability when a mandatory minimum sentence has been imposed. The eligibility requirements in section 2a. of S-2241 clearly bar participation in the program if the inmate has been sentenced to a mandatory minimum term of imprisonment. This may unduly restrict the program.

Further, there are several other restrictive eligibility requirements in S-2241 which may act to thwart the goal of providing discipline to youthful offenders, who in the past have had little or no discipline at all.

Of particular concern to this Department is the provision in section 2a. of S-2241 which bars participation by an inmate who served a term of incarceration as a juvenile. Prosecutor Tate in his recent testimony before this Committee also had this recommendation to make.

The Department of the Public Advocate's experience is that denying participation in an innovative program to someone simply because he or she has been incarcerated before the age of 18 may be shortsighted. Indeed, that particular group may prove to be the most amenable to such a program.

The Department of the Public Advocate also believes it is essential that inmates be thoroughly informed about the selection process as well as the program itself. For example, the Department of Corrections instituted the Intensive Supervision and Surveillance Program -- ISSP -- a few years ago. Since that time, our Department's Parole Revocation Unit has been involved in several parole hearings that involved such cases. In many instances, it appeared that the failure of the

individual to complete the program was directly related to the practices utilized in selecting the participant, coupled with the fact that the participant was not properly counseled as to what would be expected of him or her.

Section 1b. of S-2241 requires that the inmate make a decision as to whether or not to participate in the program within approximately 10 days after arrival at a State correctional facility. There are five working days for the Committee to determine eligibility, and five days for the inmate to respond. This may not be enough time for someone incarcerated for the first time to make an informed choice, particularly if the inmate is illiterate. Perhaps the time frame should be expanded and/or an instructional class established that would familiarize the inmate with the program, by providing him or her with detailed information. We believe that strengthening the efforts in the selection process would be rewarded by a higher rate of successful completion.

The program agreement which all participants must sign, provided for in section 4 of S-2241, may be unduly harsh in that it insists on limited religious services. This provision may deter an inmate from participating by forcing the inmate to choose between his or her religion and the program.

Certainly another keystone to the Shock Incarceration Program Agreement, is the provision that promises immediate parole release upon successful completion of the program. This concern was also addressed by Prosecutor Tate a few minutes ago. We share that concern.

In order to effectuate this provision, it would appear that a special priority would have to be given to inmates in this program. At present, there are hundreds of inmates eligible for parole whose cases have not been reached simply due to volume. In order for the Department of Corrections to fulfill this obligation, they will either have to drastically improve their present performance, or set these matters down as

a special priority. Of course, establishing a special priority for these cases would only add to their already mountainous backlog of other cases, thereby continuing to hold inmates in prison longer than necessary simply by their failure to provide them with a timely hearing.

With respect to S-893, section 4b.'s post-incarceration provisions for assignment to a community-based agency or organization would appear to be an important follow-up to any shock incarceration program. However, the Department of the Public Advocate is concerned about the lack of such community-based agencies and the Department's clients are constantly frustrated by the lack of both residential or outpatient drug treatment programs. This legislation does not establish, nor does it appropriate, any funds for these community-based programs.

Relying on volunteer or privately funded agencies may not ensure that the provisions of this Act are effectuated, particularly given the economic realities of our times. It would be a disservice to the inmate to offer the hope of rehabilitation by participation in an innovative program, only to have him meet with closed doors of opportunity upon release. Supplying a mentor without offering gainful employment or substance abuse counseling may not benefit the inmate to the extent anticipated.

In addition, the inability of parolees even to obtain housing -- if their family cannot supply same -- or to qualify for public assistance upon release, may well relegate this well-intentioned program to failure. Community programs need financial support and incentives in order to permit this program to function properly.

Finally, given the disciplinary orientation of the program, the Department of the Public Advocate wants to express its concern that the staffing requirements of this program be met with the highest caliber of individual available. The boot

camp environment would appear fraught with the opportunity for physical abuse. It is a rare day when the Office of Inmate Advocacy does not receive a complaint about physical abuse by a corrections officer in this State system.

The Department of the Public Advocate urges the Committee to set forth specific requirements in this legislation which would ensure that the shock incarceration program employs highly qualified trained staff.

I thank you for the opportunity to comment on this legislation.

SENATOR RICE: Okay, do any of the Senators have any questions for the speaker?

SENATOR COWAN: Just-- Mr. Jones, in dealing with this time factor that you mentioned, so far as it not being adequate, I assume you are familiar with the Intensive Supervision and Surveillance Program--

MR. JONES: Yes, sir.

SENATOR COWAN: --as to how that functions. If I recollect, you cannot apply for the first 30 days, and you have to apply after that up until 60 days.

MR. JONES: That's correct.

SENATOR COWAN: Has that worked well in the sense as far as what your knowledge of it is?

MR. JONES: It has been the failure of that to work properly that raised our concerns here. Very often we would have clients complain to us that they did not understand, or were not told about certain things that were expected of them during the program. I'm not so sure that it is the time frame itself that matters so much, as it is the quality of information and instruction they're given about the program itself.

I would think that 10 days may be too short a time to expect someone to make a serious decision about turning their life around. However, if the Committee is concerned with

keeping that time frame compressed to 10 days or less, we would urge that at the very least an instructional class or some sort of thorough instruction be given to anyone who considers application to the program. I think if we make the effort and the input at the very beginning with respect to familiarizing people with what's expected of them, it's going to pay off by those persons completing the program.

SENATOR COWAN: Insofar as the intensive supervision, has that worked adequately? Have they had people there-- I'm referring back to that, perhaps, from an example of what can be learned from this, in the sense that it has worked well. Have they had competent people? Have they had enough enlightenment as to what the program is?

MR. JONES: We believe that the ISSP Program has worked very well, but it is also very limited. We would like to see it expanded. Again, that's been a very innovative program, suffering from restrictions, as we all have, of finite resources.

SENATOR COWAN: Thank you.

SENATOR RICE: Let me just-- Senator Bubba, do you have any questions?

SENATOR BUBBA: No.

SENATOR RICE: Let me just say that I want to thank you and indicate to you that I don't think it's the time frame we need to be concerned with at this point. First of all, we don't want to keep them in there too long, we only have a six-month program. I think that your mention of a very rigid, comprehensive, or well-thought-out orientation program is what's more important. It's intended that it should be done. We're sure going to take that suggestion back and interact it into the legislation.

There was one other thing you mentioned. It related to what happens after the six months when they go on parole. There should be some jobs available. That was certainly an

oversight and neglect in the legislation, but I understand that's being addressed. The whole program, the way I see it -- the effect of it -- is the aftercare piece. I've been around long enough, and know enough about programs, to know when you have aftercare, that means that someone is basically hanging out there looking for jobs themselves, not getting the proper orientation, or not getting the proper help. Then they wind up back inside.

What we've found in New York -- the New York model, in Albany -- is that when you go on parole there is a job there. Even if the state has to temporarily employ you, or local government has to employ you in the sanitation department, on a crane, or someplace else, there's a job available until you get permanently fixed up. That is why I see this program as going a little beyond just what you're reading. I could see a program of this magnitude, if implemented correctly, taking the knots out, where we could actually have inmates rebuild cities like Camden, where you have housing units that low-income and poor people need, but developers won't go in to develop. The State of New Jersey could actually set up a 501 C3 type of an organization that could fund, train, and actually help some of these inmates to become employed on the State payroll under this organization, with an annual salary. They could rehabilitate houses in depressed areas, purchase them, and move in to raise their own families, and sell them back to low-income families. We can see a lot of directions we could move into. Job opportunity -- job mandate -- has to be a part of this legislation. Let me assure you it will be. We'll be seeking the cooperation of not only the government, but corporate America.

I would like to also take the time right now to say to those who have spoken, and those who will be speaking, that we are taking down your suggestions and recommendations. If there is something else you think of in your travels from here to

where you are going, or with the various organizations you interact with or work for, if you would jot them down and send them to us at the State House, we will take a look at them. There may be some things we need to incorporate. Thank you once again, Mr. Jones.

MR. JONES: Thank you, Senator.

SENATOR RICE: Our next speaker is Ms. Karen A. Spinner from the New Jersey Association on Correction.

MR. JONES: I'll send you a copy.

SENATOR RICE: Okay.

K A R E N A . S P I N N E R: Good afternoon, Senators. Thank you for allowing us to share our ideas about these bills today. For the record, my name is Karen Spinner. I'm the Director of Public Education and Policy for the New Jersey Association on Correction. We are a statewide citizens' organization. We've been involved in working for the improvement of criminal justice and corrections in New Jersey for almost 30 years now.

We have looked at these bills very carefully. We have probably been one of the foremost critics of the prison policies in New Jersey over the years. We have constantly criticized the Department for not looking at alternatives. While we do not wholeheartedly buy into the idea of boot camps and shock incarceration, we believe that these programs may be suitable for certain types of offenders. Certainly, they couldn't be any worse than what we are doing today. We have had 200 years of prisons. This is the 200th year of prisons in the United States. They were an experiment that, we feel, has failed completely. We feel that the boot camps that are being discussed in these bills today may offer us an opportunity to do, perhaps, what the Quakers had envisioned 200 years ago -- rehabilitate. Certainly, our current system isn't doing that at all.

We find that the research findings on boot camps have been somewhat disappointing in that their recidivism rates have not been substantially lower than regular incarceration. But we do see the positives. These happen to be the shortening of the sentence in particular. This means the prison space turns over, and our incarceration has grown tremendously. So, we need to see that turnover in space. But also, we see that there is no greater risk to the community by having a six-month term than having somebody in there for four or five or six years, because the recidivism rates are about the same.

We also feel that inmates will have less exposure to the debilitating effects of being in prison. We know that even a short period of incarceration damages people, sometimes beyond repair.

The other issues where we've seen-- We've looked very carefully at the New York program as well. We have access to their January 4 report -- which was massive -- which I believe the Committee also had access to. We think that if New Jersey can look at New York's experience, and profit by it, perhaps we will have a better program than New York's, which is probably the best there is right now.

One of the other things we feel that's important about the boot camp experience -- despite some of our reservations -- is that it promotes the concept of teamwork and discipline which are valuable life skills as we all know. Most of the people who have been incarcerated lack certain of these elements. They certainly lack discipline and respect for life and for the value system that most of us hold dear.

We are then in support of these bills. However, we would like to offer some suggestions on what we could do to make them better, the first of which has to do with -- and it has been raised before -- having a centralized shock selection committee as opposed to having 12 different committees. We really feel this would lead to too much confusion, less

uniformity -- which we believe is very important -- and greater consistency in the screening. It also would permit the over 2000 inmates in the county jails -- many of whom will never get to a State prison -- to be considered for the program. They probably are the prime candidates, since by and large, the people kept in the county jails are those with lesser crimes and lesser tendencies to, perhaps, act out.

We feel that it's important that this particular group or population of inmates be included in this program, because as the bills currently are written, the way you get selected for shock incarceration is being sent to a State facility, and many people don't get there.

We also feel that use of a computerized system would be very helpful, that at least the eligibles for shock incarceration could be selected rather rapidly upon sentencing. The time frame isn't that much of a problem if we're using a computerized system based on the criteria that exists. We also think the screening committee should include, perhaps, some civilians such as are used by the ISSP Program. It's not just corrections professionals, but there are interested citizens as well who assist in the screening process. We feel that this would make the process somewhat more open and give a better chance to select appropriate candidates, with the final recommendation, of course, being left -- or selection -- to the administrator, as currently stated in the bill.

We also are concerned about eligibility for the shock program. Currently, anybody with a mandatory sentence is excluded. The late Senator Graves -- at the Committee meeting in January -- indicated at that time that he might be willing to consider moderating the mandatories in some way to allow these individuals to be eligible for the shock program. We would encourage movement in that direction, because we are concerned -- as the Public Advocate indicated -- that we're

going to end up with a very small group of people eligible for the shock program. In a way, it looks like it might almost mimic what ISSP -- the kinds of people that are eligible for the ISSP Program. We would like to see this expanded so that we don't end up with just -- excuse the expression -- "the cream of the crop" of the inmates. We want to deal with people who need to be in this kind of program. In New York, in particular, they have allowed some older inmates into the program. If we cannot bring ourselves to moderate the mandatories to a certain extent, perhaps we could use their scheme, which is to make them serve one year of their incarcerated sentence and then allow them to go into shock. This way we would have, perhaps, an element of both -- a piece of the mandatory, and a short-term program which would allow the rehabilitation effects to take place.

We also have some concerns with the agreement that the inmate would be required to sign -- not specifically anything-- We believe there should be an agreement. However, we have some concerns about the total prohibition of jewelry. We would like to see that moderated to, perhaps, allow people to wear wedding rings, and at least allow some religious symbols. We feel this could bring a great comfort in a particularly trying and stressful program, which the shock program we see-- It is designed to be stressful in its own right. So we feel that those kinds of exceptions might be included in that agreement.

Our other concern is on page 4 of the bill, which is part of the agreement. In the last paragraph of section 4, it states, "I understand that my participation in the program is a privilege that may be revoked at the sole discretion of the Department of Corrections." We'd like to just note this implies that an individual could be removed from the program without cause. We would suggest the addition of the words "for cause," so that an inmate going in knows that he won't

arbitrarily be removed. It will be because of his behavior or for his failure to comply with the program. So, we feel the need for the words, "for cause." We would be more comfortable with that.

In section 6, on page 5 -- this is, again, in Senator Graves' bill -- we would propose to include language which would direct the Department of Corrections to utilize the standards promulgated by the Commission on Accreditation for Corrections. These are the standards that have been established for forestry camps, work camps, and intensive short-term incarceration units. This, we believe, would give the Department guidance on how to run a program that meets professional standards. Instead of reinventing the wheel, there are these standards that exist. We would urge the legislation include this so that they do meet standards; so that they could be accredited in a fairly short-term period. We feel that that's very important.

With respect to Senator Rice's bill, we again look to the New York program as a model. We are particularly concerned that DOC establish serious safeguards for staff selection. We do see that there are opportunities for abuse in this particular kind of program. So we would like to have careful screening -- physical and psychological -- for the inmates and for the officers who are in charge of it. We feel that they also should have mental professionals available for both inmates and for staff. This kind of program would be very stressful for the staff as well. Sometimes we forget to include the staff when we develop programs. It's important that they be the best possible, and that they be given the help they need in dealing with the program.

We also are concerned that there are significant counseling programs. The State of New York Department of Corrections has a fairly substantial track record in drug and alcohol programs in their correctional facilities. We do not

have that kind of track record in New Jersey. We would like to carefully look at, or consider, the New York programs, and definitely try to replicate, if we can, the programs that have worked successfully in another state system. We also believe that in-house Alcoholics Anonymous and Narcotics Anonymous should be included, as well as individualized treatment plans for inmates who need significant drug and alcohol programming.

We then move to the aftercare. We recommend that all individuals released from the shock program be assigned to the existing Intensive Supervision and Surveillance Program of the Bureau of Parole. These individuals are not going to make it on regular parole with the caseloads that now run about 75 to 85 people. They need to be on a small caseload with intensive supervision. We're moving for a very structured program. They won't make it on regular parole. There's just not a chance. I think the track record with the ISSP Program is fairly good, although there are always problems. But we really feel that there's a need for us to go into that program and expand it.

We also have some concerns about the discussion of community agencies being assigned to work with the released shock parolees. New York, again, has some excellent programs that are already in place. The VERA Institute has their Vocational Development Program and their Neighborhood Work Project that help inmates find immediate employment and learn the skills that you need to find and keep employment after a short-term jobs program. We don't have that in New Jersey. We need it if we're going to make the program work.

While we believe the mentorship program that is in the legislation is very good, it's not going to be enough. We need to have significant programs with structures, and funding for those programs. There aren't that many community agencies that deal specifically with offenders. I can probably name six, maybe a few more, in the State. But there really are not that many working with offenders as a priority. So we need to look

at, you know, will there be special offenders -- people working with offenders -- in a New Jersey job service? I mean, certainly we don't want to reinvent job employment services, but will there be specialists? There used to be back in the '70s, when there was a lot of LEAA money, but these people seem to have fizzled off in the times of austerity. We need to look at that, and we also need to give community agencies adequate resources. If it is not there, the programs are not going to work. While the volunteer mentors may work for free, it is not free to train them, and to provide them with resources. We need to have well structured programs.

Research findings in New York have indicated that shock parolees need a lot of support. We need to be able to provide those in community programs of whatever nature.

Another issue I haven't heard mentioned particularly, is the sites of the facilities. We would like to strongly go on record for finding facilities that don't need to be build from the ground up, perhaps using unused buildings at psychiatric hospitals or at military installations, if we can find them.

I recently read yesterday, that there's a possibility of using a military installation somewhere near Old Bridge. Already the cry is being raised among the citizenry, "We don't want them. We don't want prisons." I think that we need to be very strong and look at what is best for the country. You can't have it both ways. You can't be hard on crime and say you don't want them in your backyard.

I understand the anxiety of citizens not to have the program on their doorstep. However, this is the type of structured program-- We need to be sensitive to the citizens' concerns, but we also need to make it clear to them that you can't have it both ways. We're looking at people who are going back into the community in six months. These are not terrible risks. We need to strongly say -- the Department of

Corrections needs to strongly say -- "You have to help us with this. You have to work with us." You can't always say, "Not in my community," because otherwise you are going to end up putting them down in the boonies, and that is not going to help. Most of the people that will be participants in the program, will come from urban areas. It doesn't help them to be down in Cumberland County, way off the beaten track. They need to be close at hand, so they can work in some of the community service kinds of things, Senator Rice, that you were speaking about; like rehabbing in the cities. They need to be close to those places.

One of our last concerns, I guess, comes from the disciplinary parts of the program. We feel that there needs to be safeguards built in to permit inmates a level of redress if they feel they have been mistreated. I know the Public Advocate mentioned that. That's a concern of ours. We have numerous complaints from inmates, constantly, about different prisons, about what is happening to them, what is not happening to them. They should also have access to the Ombudsman. I know that the New York program seems to eliminate, perhaps, some of the access to redress, and we would like to, at least, have New Jersey consider that a priority.

Basically, those are our concerns. We would join Prosecutor Tate in hoping that we would not eliminate those juveniles who've served an incarcerated term as a juvenile, from the program, because I do think we are going to end up with not enough people to fill a facility if we do that. We cannot stress enough the need for significant appropriations for aftercare, whether it is through RFPs to community agencies or whether it's to Parole so they can do their ISSP programs.

Without aftercare, this program will not succeed. We believe that it deserves a chance, but in order to do it right-- To do it -- meaning to do it right -- we just can't get a little bit of money and hope that it does a good job.

We've been fairly, I think-- The Legislature has been fairly generous in providing for prisons -- giving money for prisons. We need to do this with that kind of a program -- give the money -- so we do it right. Thank you.

SENATOR RICE: Any other Senators have any questions or comments to make? (no response) Let me just say to you that what was said to us has been heard and recorded. I want to say also that I do agree with some of your comments. One I may agree or disagree with, depending on what state you are talking about.

I just want to say that we know the criminal justice system. Once again, it's not how long you stay in an institution; the question is whether or not the promise of punishment is going to be swift, immediate, and most important, certain. I think the copping out of the criminal justice system of, "We're going to lock you up; we're going to lock you up" is teasing, when folks know it is not going to happen. Then you have the special interest groups. Meanwhile the community says, "Well, we are being less than humanitarians." Therefore, we have to put all of these other things in there, and that is really what has taken the criminal justice system back.

I keep hearing -- and maybe it's just a term that all of us use today, because we hear it all of the time-- But I will never believe that the prison institution is meant for rehabilitation. Only society can rehabilitate. That is because the opportunities that are necessary, only society can provide. We can never have the scenario or setting at any facility that provides all of the kinds of things you need for rehabilitation, because their social and psychological needs have to be just as satisfied as biological needs, etc.

This legislation was not intended, by me, to deal with rehabilitation. It was, once again, dealt with to try to redirect some folks on some things that I really think they

have-- First of all, God gave people five senses. Unless they are handicapped, or have some type of disability that we are not aware of, they can think. I think it is a matter of us pushing them in the right direction, or bringing them back to the right direction, so they can come into society, then making those things available for rehabilitation that take place in society. I think that once we start to look at this term "rehabilitation," and even remove the term, or give a different definition to it, because it certainly does not mean, in my estimation, what people think it means, then we can move in the right direction.

Another thing I want to say is that I concur with your concern about the selection of the officers to run this program. One thing about New York, the Department of Corrections, the Governor, and all involved, are very much committed -- you can tell, all the way down to the person at the typewriter -- in that facility. I did not sense that from the Department of Corrections here. I've said that publicly; I will be saying that again to the Commissioner. We intend to go forward, but there will be some selectivity. There will be a very stringent process to make sure it works.

At the Albany model, all of the corrections officers there, including Dr. Burke who runs the organization, go through shock themselves. So it is not the type of program where you observe it and you think you know what is going on. They physically go through the shock program prior to being assigned, or during their period of assignment there. I think that does make a difference, because this way they can lead by example, and they can also understand what is taking place.

The other thing I would just like to say is that when we talk about the "NIMBY" syndrome -- Not In My Back Yard-- The one thing I have always disagreed with is that in the majority of this selection process, the inmates may very well come from urban cities. I never agreed that because one can

commit a crime in urban cities predominantly, or have drug problems in urban cities predominantly, that that is where the setting should be. Sometimes fresh air, green lands, mountains, and being away from their environment helps get things together. I think that one of the advantages of the Albany program is that of the setting itself -- where it is located -- at least the shock incarceration piece. I think as you try to resocialize, if you will, or redirect once the shock incarceration piece is over, and you start to deal with probation -- parole rather -- then you are talking about maybe a whole different scenario in terms of work locations, transportation, etc. But this is not meant to be a honeymoon. It is meant to be repenting, redirecting, and punishment -- if you will -- no TV, no ice cream, no candy bars. The jury stuff may not fly. We don't need to let people think about the wealth of life. It may have some meaning to some people.

The religious piece-- We discussed that, myself, Prosecutor Tate, and some others. I believe the problem with Albany is their geographic location. Although I think it is predominantly Catholic in the area, the inmates are able to participate in whatever service they basically want to. It may be moments of meditation, going over and finding East and doing your thing, or what have you. There are some freedoms there. There may not be a particular minister to come in to address it. We are cognizant of those needs. I'm cognizant of them because I really believe that all of those things that you are talking about, are those things that are defined, at least in the sociological perspective -- the background I come from, in terms of the real world -- as some of those social psychological needs that need to be satisfied. If, in fact, they are not satisfied, they could be just as detrimental to you as being denied biological needs that are not met.

I just want to say we thank you for that. We are going to take a very serious look. I think your points are

very valid. Hopefully, you will stay on board with us in moving this legislation. Thank you.

MS. SPINNER: Thank you.

SENATOR RICE: Our next speaker is Mr. Sharif Saad Ahmad. Let me see, he is from Futurity Associates. Mr. Ahmad--
S H A R I F S A A D A H M A D: Thank you very much for this opportunity to present the concerns of the Futurity Associates.

Before I read the statement and make some personal observations regarding the pending legislation, I would first like to extend my condolences at the passing of your colleague, Senator Frank Graves. It is my understanding that Senator Graves was the Chairman or Co-Chairman of this Committee. Senator Graves was well-known in the criminal community.

My name is Sharif Saad Ahmad. I am the founder and principal consultant of Futurity Associates, an educational prevention firm that deals in the area of criminal behavior and substance abuse. The uniqueness of our firm is that it is primarily comprised of former prison offenders and ex-substance abusers who have eradicated these destructive forces from their lives and are now living productive lives.

If this Committee would be so kind as to indulge me, I would first like to read a prepared statement for the record, and then perhaps, if time allows, make some personal comments.

Although I have not read the pending bill in its entirety, it is the position of Futurity Associates that shock boot camps, per se, are a good idea. However, they must incorporate other supportive services during incarceration and extensive follow-up once released. The most important of these services is the development of interpersonal and problem-solving skills.

In understanding criminal behavior, it is the realization that criminal behavior is behavior, and as such it follows the same rules and can be understood and modified to

the same extent as any other kind of behavior. As I worked with juveniles who have been involved with the criminal justice system, and prisoners who have been a part of the PPP cycle for most of their lives, the common parallel is that neither has developed any interpersonal or problem-solving skills. Hence, when faced with peer pressure, financial difficulties, and similar situations, the end result is always bad judgment. Unfortunately for some, the bad judgment manifests itself in robberies, rape, murder, and drug dealing.

Boot camp training won't fill the void of poor, or no problem-solving skills and interpersonal communication. Hence, any new incarceration experience should, most certainly, be laced with the development of the mental and emotional apparatus in addition to the physical activities. It could probably be achieved by utilizing the institutions already functioning in the arms of the Department of Corrections, by deluxurizing the current facilities: Take away the TVs, radios, minimize recreational time, and end the practice of food packages from home; in essence, make incarceration as least pleasant as possible, such as substitute basketball for group dynamics, and attach contingency management to behavior. Contingency management is the relationship between behavior and its consequence. Positive reinforcement is presented after the behavior is admitted. Negative reinforcement is removed after the behavior is admitted. Brutal force will not work, and will only make some juveniles more hateful and resentful. Again, this will manifest into robbery, rape, etc., once a juvenile is released.

Futurity Associates is also concerned that shock boot camps may not be appropriate for all juveniles, particularly those who have a history of emotional, psychological, and mental difficulties. Hence it is imperative if this bill is approved, that a rider should be attached that stipulates a screening process for all potential candidates, including psychological testing and investigation of social history.

Finally, as mentioned previously, any personnel who will staff said boot camps should be tested in the same manner as in any other employment that gives one human being control of another. Putting the wrong staffing in a facility of this type could open up Pandora's box in New Jersey. New Jersey may not be ready to deal with it.

I would like to thank you for the opportunity to make these comments. If there are any questions regarding this statement, I would feel more than happy to answer them. If not, if time allows, I would like to make some additional personal comments.

SENATOR RICE: Why don't you go on with the additional personal comments then?

MR. AHMAD: One of the things, as an ex-offender myself, that concerns me about boot camp, is that there has to be a clear and distinct line between degradation and regimentation. What we have found, or what I have found as an individual who has been in the prison system, not once, but a couple of times, is that coming out of an environment which is already filled with degradation, and being placed in a situation where you are degraded, only enhances one's ability to get even, or for revenge. There is a common term which was used by a former social reformer, Malcolm X, "by any means necessary."

Children and juveniles today have taken that saying and misconstrued and distorted it. They say now that, "by any means necessary" means by any means necessary to get wealth, money, and whatever they want. So therefore, in order for them to understand, there has to be a clear distinction of value clarifications. Though the bill spells out that there is going to be counseling, the bill is vague. It has to be stipulated that the counseling incorporates situational problem-solving skills, value clarifications, etc. Without those, this shock incarceration will probably be a failure, or to some extent, there will be a large return to the main facility.

As juveniles, we provide juvenile recreation but not societal direction. Therefore, citizenship also should be a part of the program of shock treatment. I think that a part of the community aspect -- of getting them as a part of the community, making them responsible to the community -- in terms of community activity, is very important.

Our society does not provide an adequate transition from childhood to adulthood. In Jewish cultures there is a process in which a boy reaches maturity. There's a process for him to learn how to become a man, and what his responsibilities are. In the African culture it is the same. Being here in America where we have a multitude of cultures, we don't have this. As such, children or juveniles do not know when it's time to distinguish themselves as juveniles as opposed to adults. The program needs to have that incorporated into it. We have to understand that many juveniles have been miseducated in terms of the street. They feel that robbery and drug dealing is acceptable behavior. They feel that they have a right to sell drugs, or rob you, or steal your car. Those are values that they obtain from the street. Values clarification, hence, is extremely important in a program like this. Children have to understand that the values that they have learned in the street -- values of street mentality -- are not acceptable values. They must learn or be taught values that are more appropriate for our society.

Finally, in regard to shock incarceration-- Senator Rice has addressed this concern of mine, but for the record I would just like to reiterate. The program agreement, number 32, stipulates restricted religious services. As a Muslim myself, whose religion of Islam played a very significant part in my rehabilitation, and as for Muslims throughout the State of New Jersey -- and there are a number of them incarcerated-- Muslims have an obligation to pray five times a day. They have a restricted religious diet in terms of eating or consuming

pork. One of the things that Muslims who are in prison do, is that they use the commissary as a substitute for their religious diets. When there is pork on the menu in institutions, most Muslims have commissary-- They can eat cookies or potato chips as opposed to eating pork. With restricted commissary privileges, that might be a hardship for some individuals who wish to maintain their religious beliefs, or to gain control of that aspect of their religion.

Again, I would like to thank you for this opportunity. I would like to present you, Senator Rice -- since I am from your area -- with a copy of the things that Futurity is doing, and perhaps get your comments on them at some future point.

Again, I think that the program is a good program, but it must incorporate problem-solving and values clarification skills. When I say it must incorporate them, I mean it has to be spelled out. Constantly in Rahway and Trenton, it is simply a bunch of inmates getting together and talking about the Cadillacs they had, and the persons they robbed. It is nothing but a rap session. There is no intensive counseling going on in the Department of Corrections. Though there are a number of programs going on, the counseling aspects have no substance. The substance abuse programs that are available in the prisons have no substance. It is important that situational problem-solving skills and values clarifications as written previously are taught.

Contrary to popular belief, most people in prison do not know how to think. I know that may be shocking to some, but with most individuals, if you read the records of some of their crimes, you will say to yourself, "Well, how could you do something this stupid?" The reason for that is that most of them have no decision-making skills. They don't know a good decision from a bad decision. Therefore, it is important that those life skills be taught in this situation, and taken advantage of. Thank you very much.

SENATOR RICE: First of all, let me just thank you for a presentation well-done. I really believe your background and experience have added a lot to this hearing. I was looking at your address. I'm not only your Senator, I am your Councilman, too, so I will definitely be in touch with you. I would like to do more locally.

Let me just ask the Senators if they have anything to say? Any comments whatsoever? (no response) I think some of the concerns you have are our concerns. Once again, if the legislation does not clearly define or express those concerns, they will be clearly expressed. I learned a long time ago, that legislators are like lawyers. They can write clearly. They can write what they mean and mean what they write, if they want to. We intend to do it with this package. I am sure that those who have been supportive, such as the Essex County Prosecutor and the correctional organizations, understand that also.

Once again, I won't even get into the institutions we have. I am hoping this Committee, someday in the future, will be able to investigate all of the statewide institutions, because some of the things that are happening at those institutions are draining our dollars. I think you have kind of indirectly pointed to some of them. I think you also made a suggestion. I'm not so sure-- We have to take a look at all of our facilities, because you are right, there may be some facilities in the corrections system presently, that when you take away some of those things such as TV, etc., and exchange them for some other programs, it may provide some additional space for some boot camp scenarios and shock incarceration. Once again, thank you very much.

MR. AHMAD: Thank you very much.

SENATOR RICE: Our next speaker -- and we're getting to the end here -- is Vernal C. Cox, Parole Officer, Parole Officers Benevolent Association -- PBA. Is that correct?

V E R N A L C. C O X: Parole Officers Benevolent Association -- PBA No. 326.

SENATOR RICE: Is that a good pick-it number?

MR. COX: That's a pretty good ticket number right there.

SENATOR RICE: I can do that here now. The Lottery is legal, right?

MR. COX: All right. First of all I would like to thank Senators Rice, Bubba, Cowan, and the Committee for allowing me to speak here today. My name is Vernal Cox, and I am the Executive Vice President of PBA No. 326, which is the Parole Officers Benevolent Association. I am here to speak on behalf of Senator Rice's and Senator Graves' bills. Those bills are S-893 and S-2241.

As you know, our jails have become overcrowded and are schools of crime. Many of our young offenders come out of jails better educated in how to continue their criminal careers than when they went in. That is something that we must address now. I think that is being addressed through Senator Rice's and Senator Graves' bills.

The bills offer the youthful offender an avenue to constructive rehabilitation through degrees of structured and self-discipline. They offer them an opportunity to gain valuable vocational and educational training. The program, as stated in the bills, would foster self-discipline, self-respect, a sense of belonging, teamwork, maturity, and would embed a strong work ethic into our young people. That's something that is strongly needed. Coming from the South, I could tell you what the work ethic is all about. It's early in the morning to late at night.

SENATOR RICE: That's right.

MR. COX: The shock incarceration program would greatly reduce prison and county correctional facility overcrowding. The program is deemed to be cost-effective

because of its high impact. In other words, the stress is on regimentation and the short-termness of it, which is 180 days.

The parole component would provide long-term supervision or supervision as needed, after release from this program. Suggestions along those lines would be the establishment of -- I know this was a question that has been our concern, and it has been thrown around a bit -- caseloads. A suggestion would be to have caseloads of, say, no more than 20 to 25 people, per caseload. By providing a cap on these caseloads, it would ensure that the individuals released from shock incarceration would receive the kind of concentrated supervision that is necessary for a successful reentry of these persons back into the mainstream of society.

The Parole Officers Benevolent Association stands ready to assist the Committee in any way possible in the passing of these bills. Thank you.

SENATOR COWAN: Thank you.

MR. COX: I appreciate it.

SENATOR RICE: Thank you. I was here listening to what he was saying. Any questions, Senator?

SENATOR BUBBA: Just one question, Mr. Chairman: What is your feeling on what you have heard about your span of control? If you represent -- what is it--

MR. COX: Parole Officers, right.

SENATOR BUBBA: --the Parole Officers. What do you feel is a good span of control for you?

MR. COX: As to numbers?

SENATOR BUBBA: Yeah. How many prisoners or parolees?

MR. COX: Right. I would say that the present-- Okay, we are about to, right now, go into a situation called "clustering." That means simply that it would be categories. We have intensive supervision and regular supervision. Intensive supervision means that the person would report twice a month and require two home visits a month. Regular

supervision would require one office visit per month and one home visit per month. That's Cluster 1, with a cap that went from 55; now it is 73.

SENATOR BUBBA: Seventy-three individuals?

MR. COX: Seventy-three individuals. That's kind of a lot. That's a lot for one person, and it's not workable. I don't think that it's workable. Maybe I'm not giving it the chance that I should.

SENATOR BUBBA: You have to visit them twice a month?

MR. COX: Twice a month.

SENATOR BUBBA: So that means-- Let's make it 50-50 in the cluster. So that means that you have to make about 75 visits to the intensive in a month, and about-- You have got to make over 100 visits at the house?

MR. COX: Absolutely, at the house.

SENATOR BUBBA: Then there are 100 visits in your office?

MR. COX: Right. This does not include the paperwork that we have to do, casework supervision, actual recording, and arrest reports. If your case happens to be in a high crime area, okay, you are going to have a tendency towards more arrests. You have to go and retrieve the reports; you have to do the arrest reports; then you have to do follow-ups, and things like that.

The next cluster would be Cluster 2, which would be semiannual, annual, or quarterly. Quarterly -- once every three months -- you make a visit at the home.

SENATOR BUBBA: You'd have to have 1500 people in that group.

MR. COX: But there's a cap on that, a very high cap on that also, you see. So I wouldn't suggest placing anyone released from the shock incarceration program into what you may call a traditional caseload. I would definitely concentrate on specialized caseloads.

SENATOR RICE: Senators, do you have any questions? (no response) I would like to thank you also. I think the message is loud and clear. Once again, I just want to remind some of you that I do come from a background of criminal justice, but I also come from a military background. It's no different in corporate America. I think we can all share the experience that we recognize the span of control of any organizational structure is very important as to what the end result is going to be, whether it's a manufactured product coming off the assembly line, or a human resource you are trying to develop. So we do know and we have heard over and over, over the years, from people working in your field, what is happening with these caseloads, why folks aren't getting to see people, and not keeping up. That really impacts on the crime we are having and the recidivism rate, too. Once again, we thank you. If you could, maybe, send a copy of your statement or testimony to staff, so it could be incorporated--

MR. COX: I sure will. I would just like to add one other thing, too: That is, another way, maybe, to ensure success when it comes down to the parole component, is that when you have a caseload of the shock incarceration people -- who are released from shock incarceration -- you have to emphasize that these caseloads require constant supervision, because if there is a gap in supervision-- You see where I am coming from?

SENATOR RICE: Yes.

MR. COX: There is a fall. You see, once the person falls, it's kind of hard to pick him up again.

SENATOR RICE: Right.

MR. COX: It may not be his fault. You know it's his fault to a degree, but supervision should be constant.

SENATOR RICE: Let me just say to you that the experience we had in Albany was that the parole officers were officers who worked in the criminal justice system --

corrections system -- for a number of years. They have traditionally worked with "the Trenton State, Rahway, Northern types." Something new came about and they were those who decided to go in that direction, no expectations. In fact, they did have expectations. The expectation was that the parolee who comes out of, say, Trenton State, and the parolee who comes out of shock are no different, but it gave them, as parole officers, a different environment or opportunity. So they were amazed and surprised to know that there was a difference. They could actually identify two individuals of like character, like crimes, like everything, but because of the shock incarceration follow-up program, the follow-through program, there was a difference of night and day. They think that is why the numbers look as though you may be cutting the New York program's recidivism rate by 50% if those numbers hold.

There's also a dedication that may not initially be there to start with, but because of that change of observation by the parole officers, they are just as committed to making shock incarceration in Albany work, as is the director of the program, as is the Commissioner, and the workers. There is a total commitment in New York. That involves funding, personnel, and responsibility.

So I just wanted to tell you that is what we are looking at. We're not trying to put something on paper to just say we have something. We don't need that. We need something that will work, or at least will have an opportunity to work. Thank you again.

MR. COX: Absolutely. Okay, thank you. I appreciate it.

SENATOR RICE: The next speaker is Mr. Ike Hopkins, New Jersey State Training.

I K E H O P K I N S: Thank you for inviting me to this session today. I am in an excellent position because I heard all of the other gentlemen. I'm going to present, perhaps, a

different perspective. Being that I am a New Jersey resident, let me give you some credibility factors so you can better understand why I am making some statements.

Thirty-one years ago I started working at Jamesburg as a corrections officer. I also lived at the institution for five years, and I had 80 boys living in the building with me -- youthful offenders. One officer and 80 boys -- 80 youthful offenders. I was promoted to Area Supervisor at Jamesburg. I left Jamesburg and moved into what was considered a very comfortable area working for New Jersey Bell. But that didn't mean anything because I was appointed Chairman of the Board of Trustees where they had girls incarcerated, and I was the paroling authority there. Then I was appointed chairman of the boys and girls by the Parole Board at that time. I am constantly serving as Chairman of the Board of Trustees in the State of New Jersey. I served on the Advisory Board of Intensive Supervision. I have expertise in the area of electronic monitoring. I have visited many shock incarceration programs in Mainland, China, Puerto Rico, the Dominican Republic, and the Soviet Union. So I have some idea about shock incarceration. It's not an alien concept to me.

I've heard a lot of things today, and I am in agreement with everything all of the people have said. That is very unique. But there is something else that needs to be brought out. It wasn't even mentioned. It's very, very-- I don't understand it, really. So I am going to bring it out now.

There are some cultural and ethnic considerations and implications involved in all of this shock incarceration, or in any form of incarceration; that is, 70% to 80% of all of the people incarcerated in the State of New Jersey -- which is probably the highest of any other state in this nation -- happen to be African-Americans. You have to take that under consideration in terms of selecting. I heard you talking about selecting, but no one mentioned that factor. That is a very interesting factor.

One other thing: I have attended several criminal justice schools. I have made speeches in Canada, Florida, Kansas, Illinois, Maryland, and even our beloved Capital. One factor comes out clear in all shock incarceration programs that fail. It is that there is a discrepancy in the terms of the people who work at the institutions. Quite frankly, among the most people who are incarcerated in the State of New Jersey, the majority are black. Whenever you have most people who are incarcerated being black, and you have people that are non-black running the shock incarceration program, that would contribute to a failure factor. I don't know how you can have any kind of a hearing unless you bring that to light.

Now it is very interesting, I have heard people say, "We won't have enough people to put in these programs." I don't know where they live. Right here in this city, we have 1000 people waiting for bail, who have been caught by narcotics police officers, who will surely be convicted. I don't know where you think you are going to put them?

Now, I want to talk about Newark. I know this brother's county is heavily loaded. His county is one of the counties that send more youthful offenders to jail than any other county in this State. I didn't want to distinguish you like that, Senator Bubba, but that happens to be the truth.

SENATOR BUBBA: That's okay.

MR. HOPKINS: Yes, these programs can work, but they have to have content. Shock incarceration-- We should kill those words and make it, "shock orientation." It is very unique that we want to come up with a new program of shock incarceration, when we have juvenile institutions that are being run like country clubs. Do you know what's going to happen? You are going to offer a person the opportunity to go to shock incarceration or go to a Jamesburg, and you know what he will say? I will tell you what: "I'll take the one year at Jamesburg and you keep the six months of shock incarceration," especially when you have cable TV.

The bills concerning shock incarceration should definitely include -- written down in your legislation -- that the advisory boards of the shock incarceration program should reflect the ethnic group that is being incarcerated. That should be put in there. There is nothing racist about that. That is pro-American. That is what I'm talking about.

The other thing that we need to do-- We're not talking about 100 people here. Everybody is all shook up about getting 100 people into shock incarceration. We have a waiting list of 1000 kids coming into juvenile institutions. We have kids going to jail since they were eight years old, nine years old, ten years old. There are people bringing their children to the Family Court now, at age five, because they can't do anything with their children. And from five to 18 is 13 years. You just better come up, gentlemen, with some kind of a program that's going to deal with 12-, 13-, and 14-year-olds in this State.

Like I said, I'm very happy I had the opportunity to speak last, because all of the other gentlemen in front of me said almost basically what I wanted to say.

I want to go on record as supporting the shock incarceration program with those amendments that I spoke of. Thank you very much.

SENATOR RICE: Thank you.

SENATOR BUBBA: Mr. Chairman?

SENATOR RICE: Yes, Senator Bubba?

SENATOR BUBBA: Ike, first of all, I am pleased and proud to know that you are also a member of the telephone company. I don't know whether you know it or not, but so am I.

MR. HOPKINS: I know.

SENATOR BUBBA: We only have the best. I think some of your comments are very interesting, particularly those comments that indicate that when we talk about those people who are in charge of the program, they should be, let's say,

ethnically viable with those people who are in prison, or in the camps. I agree with that. I think there was another-- I think Mr. Ahmad made a comment that he is of the Muslim religion.

MR. HOPKINS: Yes.

SENATOR BUBBA: Well, I think that factor would be brought out if there were some consideration given to the ethnicity of those people who are incarcerated.

But I want you to think back, because I know you are probably 10 or 15 years younger than I-- Let's presume that we are in the same age category. I remember when I was a kid and I hung on the corner. A police officer came by and tapped me on the rear end and sent me home. You know, if I went home and told my father, he would have given me another tap. In addition to that, I went to Catholic school. I was in the company of a priest one day who said that Catholic school was a school where women dressed up in funny clothes and beat the heck out of the students. It is a funny remark, but that, from time to time, did happen.

What I am saying is that we grew up in an environment where our parents provided this "constant supervision" which the parole officer spoke about a moment ago. That is constant supervision. Our parents provided it, the teacher provided it, the police provided it. In today's environment-- The thing that we have to move away from is that all of a sudden our children have become "Philadelphia lawyers." If, God forbid, you should yell at them, they have already got a Civil Rights attorney, and an advocate, and who knows what else. I think we are all working toward a common good. If we could ever bring back those days of the teacher being active, and the teacher not being afraid to correct the student in class without the fear of being sued, I think we would be in better shape. That's the constant supervision that we are all talking about and would like to have.

SENATOR RICE: Thank you, Senator. Senator Cowan, do you have any questions?

SENATOR COWAN: I think the entire presentation was well capsulized in your statements. Your experience certainly goes to force, by all parties involved, a very strong consideration to your remarks.

SENATOR RICE: Ike, let me just say to you-- Let me thank you for testifying. You and I go back a long way. I very seldom see you smile. Every other word out of your mouth is, "What is happening to the youngsters in the State of New Jersey -- the juveniles, particularly that minority population you were speaking of?" Let me also assure you that, as I continue trying to work with my colleagues to architect and design this legislation prior to implementation -- if we can get that far with it -- we recognize that mix. Some of the observations you have made--

In Albany the question was raised -- as to the relationship between the number of minorities that participate in the shock incarceration versus the staffing -- is there a problem? First of all, the person who ran that program happened to be a very well-qualified black female who is also an administrator with a Ph.D., I believe. I think she comes from the health field and is a Lieutenant Colonel in the military, so she is pretty much together. But she indicated that with some of the things she observed, that once in a while there may be a problem. In most cases there was not, even though the majority of the workers there were non-minority. The reason they were non-minority in that particular setting is only because geographically where it is located, folks did not want to transfer, etc.

I think New Jersey is a little different situation in terms of our makeup, availability to mobilize transportation, etc., but the reflection of the selection committee or council -- whatever we call it-- That should be an easy thing for us

to do. My concern, from my experience, would be that any person on a committee of this sort:

- 1) has to be committed to making the concept work; and
- 2) has to bring some real talent to it. It doesn't necessarily have to be academic talent all of the time; it could be some good old common sense, but come into it with some balance in terms of their own cultural experience, their own life experience -- being a part of what is there.

All too often we have people appointed to committees who are just political folks, who really have nothing to offer the committee. They just want to be on the committee. That is commendable for those legislators and Governors, and people who appoint folks, but I just think committees should have some people who have something to offer. Not that you are going to agree all of the time, but you can add something to the process.

We want to thank you also for coming. If you could, maybe, submit your comments at a future date to our staff, we would certainly like to incorporate them. I know New Jersey Bell doesn't give you guys a lot of secretaries, so whenever it could get done--

SENATOR BUBBA: All we do is work all day long.

MR. HOPKINS: Right, work all day.

SENATOR RICE: You could Fax yours now. The next speaker, and it looks as though it is the final speaker-- Let me just ask, is there anyone else who did not sign up, who is here to speak today; someone who might have come in late? (no response) Okay, the final speaker I have here is Tom Allena. Is that correct?

T H O M A S A L L E N A: That is correct.

SENATOR BUBBA: Tom, as you come down, I noticed on your slip here-- There is a block marked "opposed" and a block marked "for," and you made a square in the middle with an "X" in it.

MR. ALLENA: Yeah, I am going to address that.

SENATOR BUBBA: Oh, okay. He's in the middle.

SENATOR RICE: I didn't notice that

MR. ALLENA: I'm a good politician. First of all I want to thank Senator Rice, Senator Bubba, and Senator Cowe for the opportunity to speak this afternoon. I want to apologize. I have been out of the State for the last week and I don't have any prepared remarks. Subsequently, what I would have said has probably been said already. I just want to make a few general remarks.

First of all, I want to lead off by stressing to you my personal condolences on the passing of your colleague, Senator Graves. I didn't always agree with Senator Graves in terms of positions he took, but I admired him for his sense of vision. I think that needs to be acknowledged. I extend that to you and your colleagues.

I would like, just very briefly, to tell you who I am and what I do, because I am somewhat of an in-the-middle-type of entity. My company, Allena and Associates, is a private firm. We provide individualized sentencing reports in the court that look at different types of alternatives. We use a concept called, "restore to justice." Our plans, that we present on behalf of individual offenders, address issues that are related to victims, the community, and obviously to the offenders themselves.

I am also involved in consulting with a number of state governments, including Delaware, North Carolina, and at the present time, New Mexico as well, in looking at alternative sentencing strategies.

I would like to lead off by saying with respect to this bill, which I have not had an opportunity to review in-depth, that I support the concept of shock incarceration as a concept. My problem with it is, however, the application of that concept as it was proposed here. I draw that conclusion just based upon the direction in which we have been going in

the last 10 years, which is jail as a first alternative. I would suggest to you-- I don't think I would be out of line in saying that our correctional approach -- our get tough approach -- has been nothing short of a dismal failure; that since 1980 when we had 6500 people incarcerated -- adults incarcerated -- in this State, we have grown from 6500 to just about 24,000 today, with no appreciable increase in crime. . .

My concern is that we basically have two tracks. We've got a probation track and we've got a prison track. What we need to be developing, I would believe, as most other states -- many of the states which I have been involved with -- is a range of intermediate sanctions.

My concern is that a program such as shock incarceration, which is certainly a need in this State, particularly for young offenders-- You have to go to jail in order to get it. What we won't give people in the communities, we have to encourage them to go to jail to get. I would suggest that many first offenders that will be channeled into this program, could just as easily have gotten the program without having gone through the criminal justice process in order to get it.

I will share with you a personal experience. It illustrates, to a small degree, my concern. Senator Rice, you may be delighted, or not so delighted, to know that I moved into your constituency. I moved to Newark in the last month or so. I moved my business up here and I reside up here.

SENATOR RICE: You moved into my voting district, or just my city? There is a difference.

MR. ALLENA: Just your city.

SENATOR RICE: Oh.

MR. ALLENA: You are in the West Ward, is that correct?

SENATOR RICE: West Ward, 28th District.

MR. ALLENA: Yeah. I am in the Ironbound section. I guess that would be Mr. Martinez.

SENATOR RICE: That is Senator Lipman. But you can go on; this way I can nod away your remarks. (laughter)

MR. ALLENA: One of my greetings to the City of Newark a few weeks ago, involved being robbed at gunpoint. I had spent many years working in this city through the Public Defender's Office years ago. I have walked through every project, up every step in the city from the early '70s. Never has that happened before.

The thing that concerned me about that was after being robbed at gunpoint by four young men, what I later learned the next day, was that these four young men were killed in a car accident. Two of them were killed in a car accident on South 18th Street later the same day. My concern is this: These were individuals who have to get tracked through the criminal justice system -- unfortunately, these are ones who didn't make it -- in order to get the services that we are talking about here.

What I am suggesting is that we get away from this track as jails as a first alternative, and develop a range of intermediate sanctions between regular probation on one hand, and total custody on the other; that they be developed to consider the needs of the victims, offenders, and as important, the needs of the community. The needs would include: structured restitution programs, structured community service programs, vocational, rehabilitational, and things such as house arrest on a regular basis. Again, in order to get house arrest in this State with electronic monitoring, you have to go to prison first to get it.

I suggest that we use these, because my sense is that one day, the citizens of this State; -- I suspect it is going to be during this administration -- are going to wake up and smell the burnt toast. They are going to find out what we are spending on corrections -- I don't think the public is clearly aware of it yet -- what has been spent, and what we have gotten

from it. What we have gotten is a bigger problem. Yet, I feel it is unfair to lay this dog at the doorstep of either the Legislature or even the criminal justice system in general, because I think what we are talking about here -- what is missing -- is a total comprehensive community approach. What I mean by that is that it's all aspects of the community, not just a criminal justice problem. It's a corporate America problem; it's a private sector problem; it's the religious community's problem; it's the community organization's problem; it's a parental problem; and it's a school problem.

I'll share with you one experience: I had the opportunity to work in the State of North Carolina, which on first face most of us would think is a rather backward-type of state. The truth of the matter is, North Carolina's prison population stayed stable in the last six years, whereas ours has increased fourfold. One of the reasons for that, is that the legislature, with the Governor of North Carolina, back in, I believe it was 1975, had the good sense to draft a proposal, a total community approach that pulled in a blue-ribbon committee consisting of key legislators, key bureaucrats in the system, the private sector, corporate America, and the religious community. R.J. Reynolds was a big underwriter of this.

What came out of it was a model piece of legislation called the "Community Penalties Act," that set aside substantial amounts of money to divert people from prisons -- to not send them there in order to get programs. It was an extremely cost-effective program that was represented by the community. What it did was set up a series of nonprofit groups in geographical regions around the State of North Carolina that were housed by local boards, but they were responsible to the state for funding, and were overseen by the Department of Corrections. They were targeted for nonviolent first offenders, many of whom we have in our system now. It was a

very cost-effective and very successful model that I would suggest, at some point, we start taking a look at here in New Jersey.

What it incorporates is a sense of vision that I think we are lacking in this State. Our tendency is to develop isolated programs and quick fixes, none of which seem to have any measurable impact. I applaud efforts such as ISSP. I am a big supporter of it. I was involved in developing certain aspects of that program when I worked in the Administrative Office of the Courts. I think we need more efforts like that. My concern is that we need more programs to divert people from the system and not send them through.

One of the ways I think-- Again, I am way beyond the scope of what your legislation is. I thoroughly thank you for indulging these comments at this time. But one of the points in the process where I think we are missing the boat, is something called "sentencing." I think that's the point where judges make their biggest mark. If we could craft sentences that address victims, the community, a variety of issues related to the offenders, and not use jail as the first alternative, but use it only in cases where nothing else has worked-- I believe that we can punish people in the communities where the crimes have been committed, and not put the community at any more significant risk.

Three years ago, I had a foundation grant and some money from Washington -- first ever money that was issued through the National Institute of Corrections -- to do a pilot program here in New Jersey on alternative sentencing. We housed it inside one of the Public Defender agencies -- within their system. It was enormously successful. It was supported by the judges, probation, and was most supported -- more so than by anybody else -- by the Middlesex County Adult Corrections Center, because we were taking bodies from them. I use the word "bodies" simply rhetorically.

I am doing some consulting now with the New Jersey Department of Corrections. I had occasion, a few months ago, to sit with one of the Assistant Superintendents, discussing some of the problems that they are facing. He looked at me and said very candidly, "Tom, we're in the business of body storage. That's what we do here. We neither correct nor rehabilitate. We simply store bodies, and we move them around to facilitate the overcrowding crisis that we really are in"; which leads me to the thought that we are building a bigger net. I believe that this concept of shock incarceration -- or shock orientation, as one of my colleagues before me put it -- is appropriate. I think it is a very good concept. But all we are doing is building a bigger net, building more prisons, which we know does not work. It is very costly and it has brought very questionable results to us.

I would refer to a recent study in the fall of 1989 put out by the National Institute of Justice, that looked at recidivism with the boot camp concepts. They studied, actually, Oklahoma and Georgia -- their programs. While not using carefully selected control groups, this is a quote: "We found that boot camp graduates returned to prison at about the same rate or worse, than offenders released from other prisons."

Summing up the current state of knowledge, the NIJ report concludes that at present: "We don't know whether shock incarceration changes offenders' attitudes or whether it deters or rehabilitates more or less effectively than institutional or community-based options."

The last point I would like to address is a recent study that you may or may not have heard of, that made a big splash in the media last week. It is a study put out by the Sentencing Project entitled "Young Black Men in the Criminal Justice System." It shocked many of us, but it didn't surprise us. It was very shocking to hear -- and I would suggest that programs of this nature might simply widen the net for black

males -- that at any point in time, as we sit here today, one in four black males between the ages of 20 and 29, are under the control of the criminal justice system. That's one in four who are either in prison, on probation, or parole, versus one in 16 whites in our society.

I don't think the crime rates substantiate the wide discrepancy in the incarceration, probation, and parole rates. What this says is what we have done and what we are continuing to do is create an entire lost generation of black males that is going to have a tremendous, tremendous impact down the road -- that one out of four black males is currently under the control of the justice system. What that does is, it is a tremendous drain on the leadership and the resources in our black communities in this State, and other states as well.

I would suggest, in closing, that we look at this issue, and that we begin developing programs that address the inherent racism that exists in our system today. I would also suggest that crime is a community problem. The solving of these problems involves all aspects of the community -- corporate, private sector, community groups, religious organizations, students, and teachers. The criminal justice system is ill-equipped on its own to deal with these. We need to begin marshaling the resources of these groups in a coordinated effort; an effort that has some sense of vision where we are not running off half-cocked with good ideas, very good ideas such as this one, isolated from other types of approaches. It needs to be a coordinated effort with graduated stages of different types of intermediate sanctions such as this one.

The last point I want to make is that we need to develop these intermediate sanctions that bridge probation and total custody. We need to begin to develop community-based alternatives that still address punishment, public safety, restitution, and rehabilitation. I would propose in the

sentencing plans that myself and a number of other companies -- companies that are privately and publicly providing other states -- would be a very effective means of making the most out of our tax dollars without increasing the risk to public safety.

SENATOR RICE: Mr. Allena, let me help you conclude your statement here, for the sake of time. I would like to say I appreciate your comments. Let me also just be the first to respond. I think you gave some information you have received, that I really do not disagree with. Let's take them a piece at a time.

See, the danger of looking at studies and looking at information is not looking far enough. You are correct. It is interesting to note that every study that has been done thus far, every review that has been done thus far relating to boot camp shock incarceration as an alternative, tends to discuss the failures or the observed failures, in the statistics of the Georgias, Michigans, and the others. But you get one or two lines about Albany and it is not in the negative. It is always, "We're not sure yet."

The reason they are not certain, is because we look at those numbers also. See, we don't want to brush it off; we want to pay attention when we analyze -- we, meaning individuals like myself, since you are going to be in Newark -- who happen to come from a criminal justice background of practicing, teaching, and understanding some of the dynamics. That program is working. Will it prove it's way out over the next five or 10 years? We don't know. That is the danger of following statistics. But we can't say that about the other programs.

When you look at the variables and the elements in each program, you can see the difference. We are trying to build upon something that is working.

Let me go back a little further to something you said. The advantage of being a sponsor of this legislation, and the reason I am so into it, is because: number one, my background; and number two, I am a former police officer. I have lived in this city since 1955. I've watched those numbers increase. And the one out of four is not shocking or surprising to me. There are inherent biases in the system, but there are some other parts of the system that do not speak. See, the one thing I like about mandatory sentences if we are going to have to incarcerate, is no one will get an opportunity to play political games with judges, spend dollars, etc. If you do that, you will see that some of those numbers will be a little different. We just don't have the place to put anybody.

The point I want to make is that we have tried, and we are still trying-- I can document in this city alone-- I can document in Passaic, because I used to take PSE&G Community Affairs money up there, along with Ike Hopkins taking New Jersey Bell money, to help support some of those nonprofit programs that were receiving criminal justice dollars-- I have also been to Hudson.

The problem is some of those programs -- most of those programs -- are not working. They are not working either because of the individuals who are running them, lack of whatever, lack of funding, a combination of both, or not enough oversight. I am not sure. That does not mean that we stop trying. I concur. I believe in prevention. I don't think that we should have a system known as correction. I think everybody should be angels, you know, God-sent children. That is how we start out. But that is the utopian society, not the real world.

My point is that we are talking about people who, when I put in legislation, Senator Bubba puts in legislation, Senator Cowan puts in legislation, say, "Look, give us more dollars for education, recreation opportunities, and job

opportunities." Until the government responds to those requests and others, we are not going to have, or be able to do some of those things you said to do. In the interim, someone in the City of Newark, Jersey City, Passaic, Camden, you name it, even in Summit and West Caldwell -- and I read something in the paper today -- is dying from folks that we haven't provided anything good for. But by the same token, we are not providing another avenue either.

This is not something that is not thought of, overlooking those priorities that you were speaking of -- those things that should be primary. We are working on those, too. I believe that parents should be held accountable. But the thing is, I cannot legislate -- as much as I would like to -- the spiritual value systems, and more responsibility. I can write laws to make people walk a tightrope and hold them accountable. I have legislation in -- I can't get to first base with some of it -- addressing community service time. I think we could use those human resources like the old chain gang, cleaning up avenues, and cleaning up communities.

Boot camps tend to address some of that. When you talk about some of the things you want to do, there are other counties saying, "Wait a minute now. We don't even have the mechanism to even give community service time." I disagree with them for a lot of reasons. But then you have judges who don't want to give it. We appoint the judges, by the way. But then after we appoint them, they do what they want to do.

We can't keep copping out. I guess what I am saying is that what I have seen in my experience in government and other entities, is that we don't want to do one thing because something else is not being done. It's not because we are not trying to do it, it's not being done. I'm saying we can't operate the world that way. We can't wait, as long as people are dying and cities are plagued with this drug scenario. There has to be a clear message that regardless of what you do

outside of our social norms, our rules and regulations, you are going to pay for it. You are not going to do those things. The subculture group accepts their own norms. You know that; you are a consultant. That's the group that started to make their little subculture value system our value system. We are prisoners. Seniors can't go out. We can barely go to work. I hope you parked up on the platform over here, so you have your cars when you get out of here.

I might sound facetious, but I am being for real. The cry of the taxpayers out there to Senator Bubba, Senator Graves -- God bless him -- Senators Cowan and Rice, is, "Do something. If you can't do those things, do something else." That's what we intend to do. We are hoping that such a program will start to resolve some of the problems of those people who get so far into the justice system that we can't correct them. But in the meantime, we want to send a message that we are going to be doing something else. Those other things will come in due time.

That is why, hopefully, given the testimony that you have given, and some of the things that go beyond this particular legislation, you will rethink and be more supportive of this type of legislation, because you will recognize, as a consultant more than anyone else, that we need this -- Rahway, the piece you are talking about, and about 99 other alternatives -- because we could never fit everyone who is violating some norm, some rule, regulation, or law, into any one specific mode in the first place.

I just want to thank you for your testimony. Senator Bubba, do you have anything to say?

SENATOR BUBBA: No, thank you very much.

MR. ALLENA: Thank you, gentlemen.

SENATOR COWAN: No, very interesting.

SENATOR RICE: That will conclude the testimony. I just want to thank everybody for being so patient and I hope

this has been a learning experience for some, too. Senator Bubba and Senator Cowan, thank you very much for coming up.

SENATOR BUBBA: Senator Rice, thank you for your hospitality. I appreciate it.

(HEARING CONCLUDED)

APPENDIX

TESTIMONY OF ESSEX COUNTY PROSECUTOR
HERBERT H. TATE, JR. BEFORE THE
NEW JERSEY SENATE LAW, PUBLIC SAFETY
AND DEFENSE COMMITTEE

MARCH 6, 1990
SHOCK INCARCERATION LEGISLATION

I. SELECTION OF INMATES FOR PARTICIPATION
IN SHOCK INCARCERATION PROGRAM

Senator Graves' bill (S-2241) enumerates the eligibility requirements for participation in the Shock Incarceration Program. Young adult criminal offenders who have received a period of incarceration for non-violent crimes would be considered for the program. As written, the bill would require that the inmate be "at least 18 years of age but not more than 26 years of age at the time of conviction." Graves' bill, p.2. For clarity, since only those sentenced for commission of crimes as adults, and not as juveniles, could participate, the legislation should be worded that those within that age range "at the time of commission of the crime" are eligible. Otherwise, those sentenced as juveniles might mistakenly be eligible. Young adult offenders would be most receptive to the bootcamp experience which instills discipline while providing education, counseling and vocational training. Young, non-violent inmates would be rehabilitated in a regimented, military - style environment.

The bill currently states that an inmate convicted of a first or second degree crime; a third or fourth degree crime which resulted in personal injury to or death of another person or which was committed under circumstances involving a substantial risk of death or personal injury to another person; or a crime involving the use of a firearm would not be eligible for participation in the bootcamp. Graves' bill, p.2. To ensure success of the shock incarceration program, offenders who have participated in violent or sexual crimes must not be allowed to participate. Non-violent, property offenses and drug offenses of the third and fourth degree would be appropriate crimes for inmate eligibility. A list of offenses for which conviction would exclude an inmate from eligibility should be included in any legislation to avoid an inmate convicted of criminal sexual contact or terroristic threats from consideration. Additionally, it should be clearly stated that disorderly persons offenses are excluded.

EXCLUDED OFFENSES

Robbery
Homicide
Sexual Offenses
Aggravated Assault
Terroristic Threats
Weapons Offenses
Kidnapping
Arson
Child Abuse
Domestic Violence

INCLUDED OFFENSES

Burglary
Larceny
Criminal Mischief
Theft & Related Offenses
Motor Vehicle Theft
Forgery & Fraudulent Practices
Drug Offenses of the Third
and Fourth Degree

Senator Graves' proposal currently states that the inmate must not have previously been convicted of a crime as an adult or as a juvenile for which a term of incarceration was imposed and served. Graves' bill, p.2. As drafted, not only are those persons who had previously been incarcerated as adults prohibited from participating in the bootcamp, but those who had been incarcerated as juveniles in a juvenile correctional facility are also disqualified. Those previously incarcerated for non-violent offenses as juveniles in a juvenile correctional facility should be eligible for the bootcamp.

Prohibiting those who had been incarcerated as juveniles from participating in the bootcamp would severely restrict the number of eligible inmates. Only adults convicted of 3rd or 4th degree non-violent offenses are eligible for the bootcamp and the presumption of non-incarceration applies to those who had not previously been convicted. N.J.S.A. 2C:44-1e. A prior juvenile adjudication is not a factor which will automatically overcome this presumption of non-incarceration since such an adjudication is not considered a prior conviction for purposes of N.J.S.A. 2C:44-1e. However, a juvenile adjudication is a factor which may be considered under the "history, character and condition of the defendant" to overcome this presumption of non-incarceration. If

persons who were in a juvenile correctional facility could not participate in the program, numerous eligible inmates would be disqualified. Those previously adjudicated delinquent should only be eligible for the bootcamp if the prior offense was one of the offenses included in the list of non-violent offenses which enable one to participate in the program.

An inmate must not be sentenced to a mandatory minimum term of imprisonment and must be eligible for release on parole within three years. Graves' bill, p.2.

As written, the chief executive officer of each state correctional facility for adult inmates shall appoint a five-member shock incarceration selection committee. This committee shall review the record of every inmate sentenced to the facility within five days after the inmate's arrival. If this committee determines that the inmate meets the eligibility requirements, the committee shall notify the inmate of its finding and permit the inmate to decide if he wishes to participate in the program. A central committee located at the Prison Reception Unit could more expeditiously review the record of inmates who arrive for processing. This central committee would result in more expedient classification of inmates since time frames for the transfer of

inmates from county jails to the Prison Reception Unit to a correctional facility are sometimes lengthy. Additionally, inmates who are housed at county jails for extended periods per agreement could be reviewed by a central committee. Reviews regarding shock incarceration eligibility and suitability could easily be incorporated into the current classification committee's role at the Prison Reception Unit.

II. FUNCTIONING OF SHOCK INCARCERATION PROGRAM

Senator Rice's bill (S-893) would establish a 6-month (180-day) Shock Incarceration Program. Rice's bill, p. 2. This bootcamp would consist of a highly structured, disciplined, and regimented daily routine for inmates. The bootcamp would incorporate punishment and rehabilitation. "The program shall be designed as a resocialization and learning period, with an inmate expected to participate in physical work, exercise, counseling, and educational programs." Rice's bill, p. 2. Such a program would enable these inmates to return to society as law-abiding citizens since the bootcamp fosters "self-control, self-respect, maturity, teamwork, and improved work habits." Rice's bill, p. 1. The vocational training, education, and counseling which would be

provided to these offenders would enable them to adjust to the problems which they would face following incarceration.

A major goal of this proposal is to divert young offenders from long-term incarceration, thereby lessening the burden on overcrowded State prison facilities. This should result in substantial long-term savings to the State in prison capital and operational costs. Rice's bill, p. 2.

Under Senator Rice's bill, the Department of Corrections (DOC) shall establish, staff, and maintain the bootcamp within the State of New Jersey. The DOC shall develop the daily operations of the facility. Rice's bill, p. 2.

The DOC shall establish written policies governing expulsion of an inmate from the program and voluntary termination of participation in the bootcamp by the inmate. An inmate who is removed from the program shall be transferred back to the State adult correctional facility to which the inmate was originally sentenced to continue the term of imprisonment imposed by the sentencing court. Rice's bill, pp. 3-3¹/₂.

III. PAROLE RELEASE AND MENTORSHIP PROGRAM

If an inmate successfully completes the Shock Incarceration Program, he will be eligible for immediate parole release with calculation of parole dates based on the length of the sentence originally imposed by the court. Along with parole, an offender will be assigned by the DOC to a community-based agency and must successfully comply with the program of work, education, and counseling established by this agency. This "mentorship" program would last for the length of the offender's parole. Rice's bill, p. 4.

According to Senator Rice's bill, "upon completion of the Shock Incarceration Program, an inmate shall be eligible for immediate parole release in accordance with the procedures set forth in the Parole Act of 1979, P.L. 1979, c. 441. (N.J.S.A. 30:4-123.45 et seq.). Under the Parole Act of 1979, parole eligibility is calculated by specific formula for prison sentences. It would be better to ensure parole release for inmates who successfully finish the bootcamp. As written, the legislation only provides for parole "eligibility" after the 6-month bootcamp. If the Parole Board denied parole release to an inmate who successfully completed the program, that inmate may regress. Parole release should be

automatic upon completion of Shock Incarceration. Specific sanctions for parole violation should be included in the legislation.

A maximum time for the length of parole should be written into the bill. The Parole Board could review a parolee's progress after one year on parole to determine whether the parolee has satisfactorily adjusted to life after the bootcamp. A provision for automatic review for early release from parole could be established such that at one year intervals a parolee from the bootcamp could be considered for release from parole.

EM-H/md

TESTIMONY BEFORE THE
SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE
SENATE BILLS 893 AND 2241

THOMAS S. SMITH,
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DEPARTMENT OF THE PUBLIC ADVOCATE
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March 6, 1990

Good morning Chairman Graves and members of the Senate Law and Public Safety Committee. Thank you for this opportunity to comment on Senate Bill 893 sponsored by Senator Rice and Senate Bill 2241 sponsored by Senator Graves.

The Office of the Public Defender, established within the Department of the Public Advocate, is mandated to represent indigent adults and juveniles in criminal matters. The Office of Inmate Advocacy has statutory authority to represent inmates at municipal, county and state correctional and detention facilities in matters related to conditions of incarceration which affect inmates as a class. The Parole Revocation Defense Program has statutory authority to represent inmates and parolees, on a statewide basis, at parole probable cause hearings, parole rescissions hearings and parole revocation hearings. They include administrative and Superior Court, Appellate Division hearings. Each of these offices has reviewed this legislation and analyzed its effectiveness as a post-dispositional alternative to incarceration.

Senate Bill 2241 requires the creation of a shock incarceration selection committee in each State adult correctional facility. First, a review of this bill raises a question about its applicability when a mandatory minimum sentence has been imposed. The eligibility requirements in sections 2a. of S-2241 clearly bar participation in the program if the inmate has been sentenced to a mandatory minimum term of imprisonment. This may unduly restrict the program.

Furthermore, there are several other restrictive eligibility requirements in S-2241 which may act to thwart the goal of providing discipline to youthful offenders who, in the past, have had little or none. Of particular concern is the provision in section 2a. of S-2241 which bars participation by an inmate who served a term of incarceration as a juvenile. The Department of the Public Advocate's experience is that denying participation in an innovative program to someone simply because he or she has been incarcerated before the age of eighteen may be shortsighted. Indeed, that particular group may prove to be the most amenable to such a program.

Next, the Department of the Public Advocate thinks that inmates must be informed about the selection process, as well as the program itself. For example, the Department of Corrections instituted the Intensive Supervision and Surveillance Program (ISSP) a few years ago. Since that time, the Department's Parole Revocation Unit has been involved in several parole hearings that involved ISSP cases. In many instances, it appeared that the failure of the individual to complete the program was directly related to the practices utilized in selecting the participant, coupled with the fact that the participant was not properly counseled as to what would be expected of him or her.

In section 1b. Senate Bill 2241 requires that an inmate make the decision as to whether or not to participate in the program within approximately 10 days after arrival at a State correctional facility, that (five (5) working days for the committee to determine eligibility and five (5) days for the inmate to respond). This may not be enough time for someone incarcerated for the first time to make an informed choice, particularly if the inmate is illiterate. Perhaps the time frame should be expanded and/or a class established that would familiarize the inmate by providing him or her with detailed information on the program. Strengthening the efforts in the selection process will be rewarded by a higher rate of successful completion.

The agreement provided for in section 4 of the bill may be unduly harsh in that it insists on "limited" religious services. This provision may deter an inmate from participating by forcing the inmate to choose between his or her religion and the program.

Another keystone to the "Shock Incarceration Program Agreement" is the provision that promises immediate parole release upon successful completion of the program. In order to effectuate this provision, a special priority would have to be given to inmates in this program. At present, there are hundreds of inmates eligible for parole whose cases have not been reached simply due to volume. In order for the Department of Corrections to fulfill its obligation, they will either have to drastically improve their present performance or set these matters down as a special priority. Establishing a special priority will, of course, only add to their already mountainous backlog thereby continuing to hold inmates in prison longer than necessary simply by their failure to provide them with a timely hearing.

In terms of Senate Bill 893, section 4b.'s post-incarceration provisions for "assignment to a community-based agency or organization" would appear to be an important follow-up to any shock-incarceration program. However, the Department of the Public Advocate is concerned about the lack of such agencies and is constantly frustrated by the lack of both residential or out-patient drug treatment programs. This legislation does not establish nor does it appropriate any funds for these community based programs. Relying on volunteer or privately funded agencies may not ensure that the provisions of this act are effectuated, particularly given the economic realities of our times. It would be a disservice to the inmate to offer the hope of rehabilitation by participation in an innovative program only to have them meet with closed doors of opportunity upon release. Supplying a "mentor" without offering gainful employment or substance abuse counseling may not benefit the inmate to the extent anticipated. In addition, the inability of parolees to obtain housing (if their family is not involved) or to qualify for public assistance upon release may well relegate this well-intentioned program to failure. Community programs need financial support and incentives in order to permit this program to function properly.

Finally, given the disciplinary orientation of the program, the Department of the Public Advocate wants to express its concern that the staffing requirements of this program should be met with the highest caliber of individual available. The "boot camp" environment would appear fraught with the opportunity for physical abuse. It is rare for a day to pass in our Office of Inmate Advocacy without an instance of physical abuse by a corrections officer being reported. The Department of the Public Advocate urges the Committee to set forth specific requirements in this legislation which would ensure that the shock-incarceration program employs highly qualified trained staff.

Thank you for the opportunity to comment upon this legislation.

*Testimony Before the Senate Law, Public Safety and Defense Committee
on Shock Incarceration Programs
March 6, 1990*

My name is Karen Spinner and I am Director of Public Education and Policy for the New Jersey Association on Correction. The Association is a statewide not-for-profit citizens' organization which is concerned with the enormous economic, social and human costs of the criminal justice and corrections systems in New Jersey.

The Association appreciates the opportunity to comment on S2241 and the committee substitute for S-893. Prison overcrowding continues unabated and NJAC has been in the forefront with criticism that the State has not moved expeditiously to explore alternatives to prison construction for law breakers. While we do not wholeheartedly support shock incarceration or "boot camps", we believe that these programs may be suitable for some offenders. Research findings have been disappointing in the sense that recidivism rates are quite similar to those who are punished by a regular term of incarceration. However, there are several positives which we believe will work to the advantage of the criminal justice system and to the inmate himself.

First and foremost, it shortens the sentence. Prison space turns over twice each year, allowing more individuals to be punished utilizing the same spaces with no greater risk to the community in terms of recidivism. There is also some evidence, at least with the program in New York, that participants in the Shock program were more likely to be returned for technical violations than new offenses.

From a humane perspective, offenders will have less exposure to the debilitating effects of the prison experience, i.e., exposure to a more hardened type of criminal, extended period of isolation from the community, break down in familial and community ties. The "boot camp" experience also teaches and promotes the concepts of teamwork and discipline which are valuable life skills.

With respect to the bills themselves, we would like to offer a number of suggestions which we believe will make the proposals better. We have reviewed the January 4, 1990 report of the New York Shock Incarceration Program at length and feel that any program proposed in New Jersey should profit from their experience.

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Our first recommendation is specifically directed to Senator Graves Bill, S-2241, which would set up twelve shock incarceration selection committees, one in each of the adult correctional facilities. The State of New York originally operated their program in this way but recently went to a centralized shock screening and orientation facility. The improvements included greater consistency in screening process and in the information provided to potential participants. While we are not suggesting a facility, we believe that a centralized selection committee would be more efficient and would not exclude the over 2000 inmates housed in county jails, many of whom would be prime candidates for a program of this kind. Many state sentenced inmates with shorter sentences currently spend almost their entire sentence in county jails. They are not permitted to participate in many programs available to inmates in state facilities. The current language in Section 1a would exclude them since consideration for participation in the program is predicated on their arrival in a state facility.

A centralized screening process could review all inmate records as the sentence is imposed and determine eligibles on a timely basis. Use of a computerized process could expedite the process instead of making selection of "shock incarceration" participants a burden on already busy staff in the institutions. A small central staff could be responsible for handling the paperwork and providing consistent information to offenders and others interested in the programs. A screening committee similar to the one used by the ISP program which includes civilians as well as criminal justice practitioners could be used to make recommendations with the administrator of the "shock" facility making the final selection.

With respect to eligibility for the shock program, we would like to see the prohibition against those with mandatory sentences removed. When these bills were originally discussed at a committee meeting in January, the late Senator Graves indicated that he might be willing to consider moderating the mandatory sentence for the shock program. In many cases, especially drug related offenses, this may be the individual's first incarceration, making him a prime candidate for the program. If not a complete removal of the prohibition against those with mandatory sentences, then perhaps a moderation could be devised such as the scheme utilized in New York for older offenders which requires a year of incarceration and then the shock program.

While we concur that a signed agreement with the participant is essential, there are two issues in the proposed agreement which concern us. The first is the total prohibition of jewelry. We are suggesting an exception to this rule which would allow the wearing of wedding rings and one religious symbol.

The second deals with Page 4 of the bill. In the last paragraph of section 4, it states that "I understand that my participation in the program is a privilege that may be revoked at the sole discretion of the Department of Corrections". Does this imply an individual can be removed from the program without cause? We would suggest the addition of the words "for cause", in that sentence to clearly state that no one will be arbitrarily removed from the program for reasons other than program failure.

In Section 6, on page 5, we would propose to include language which would direct the Department of Corrections to utilize the standards promulgated by the Commission on Accreditation for Corrections. These are the Standards for Forestry Camps - Work Camps and Intensive Short Term Incarceration Units and would give guidance to organize a program that meets professional standards.

S-893 deals with the substance of the shock incarceration program. Again we look to the New York program as a model for this program. We are particularly concerned that DOC establish serious safeguards in the program. Staff selection is key to avoid those individuals who would abuse inmates in a program where staff has a significant opportunity to exercise discipline. Careful screening (physical and psychological) is essential to ensure that individuals who might have a tendency to abuse their authority will be screened out. There should be mental health professionals available not only to assist program participants but also to assist staff in dealing with the pressures of operating a highly structured and intensive program. In New York, staff goes through a version of the shock program as part of their training.

We are also interested in assuring that the program includes a significant counseling program, particularly for substance abuse. In New York, the DOC has a well established track record utilizing a drug and alcohol program throughout its institutions. New Jersey does not have the advantage of an existing in-house drug treatment system but should consider the New York models that have demonstrated success in correctional facilities. In-house Alcoholics Anonymous and Narcotics Anonymous groups should also be included as well as individualized treatment plans.

With respect to aftercare programs, we recommend that all individuals released from the shock program be assigned to the existing Intensive Supervision and Surveillance Program of the Bureau of Parole. Regular parole supervision will be inadequate to assist parolees who are being released from a highly structured program which stressed teamwork and interdependence. At least in the initial stages, they will require significant follow-up.

They will also need agencies in the community which can assist them in finding and keeping employment. In New York, the VERA Institute has the Vocational Development Program and the Neighborhood Work Project which help inmates find immediate employment and learn skills to find and maintain employment. They also provide support groups for shock program graduates in the community. While having a mentor, as proposed in this bill, is a highly laudable goal, mentors alone are not sufficient to assist shock parolees in making the transition to the streets. In order to accomplish this, programs with significant amounts of structure need to be funded. For example, will there be offender specialists assigned to the NJ Jobs Service? Will there be requests for proposals (RFPs) for community agencies to develop proposals? Community agencies cannot be expected to fill this kind of role without adequate resources being committed. Volunteer mentors may work for free but training them and providing support for them has a price. Research findings from the New York program indicate that shock parolees have significant needs for support in a group setting. Without this support, they have difficulty in maintaining themselves in a community where all the temptations of a criminal life-style are ever present.

Another issue that we have not formally addressed is the siting for the shock facility. We would recommend that such a facility be located, perhaps in surplus buildings at existing state facilities, such as the psychiatric hospitals or on the grounds of state correctional facilities provided that they are separate and distinct from the regular institution. We would like to encourage state officials not to be stampeded by those with the NIMBY (Not in my back yard) syndrome, who cause significant delays in the siting of any correctional facility. Shock participants have been rigorously screened for offense history and will be returning

to the community in six months. The community cannot have it both ways -hard line on crime, but unwilling to accept placement of a facility in their community. The military aspects of the program should help in selling the idea to the community.

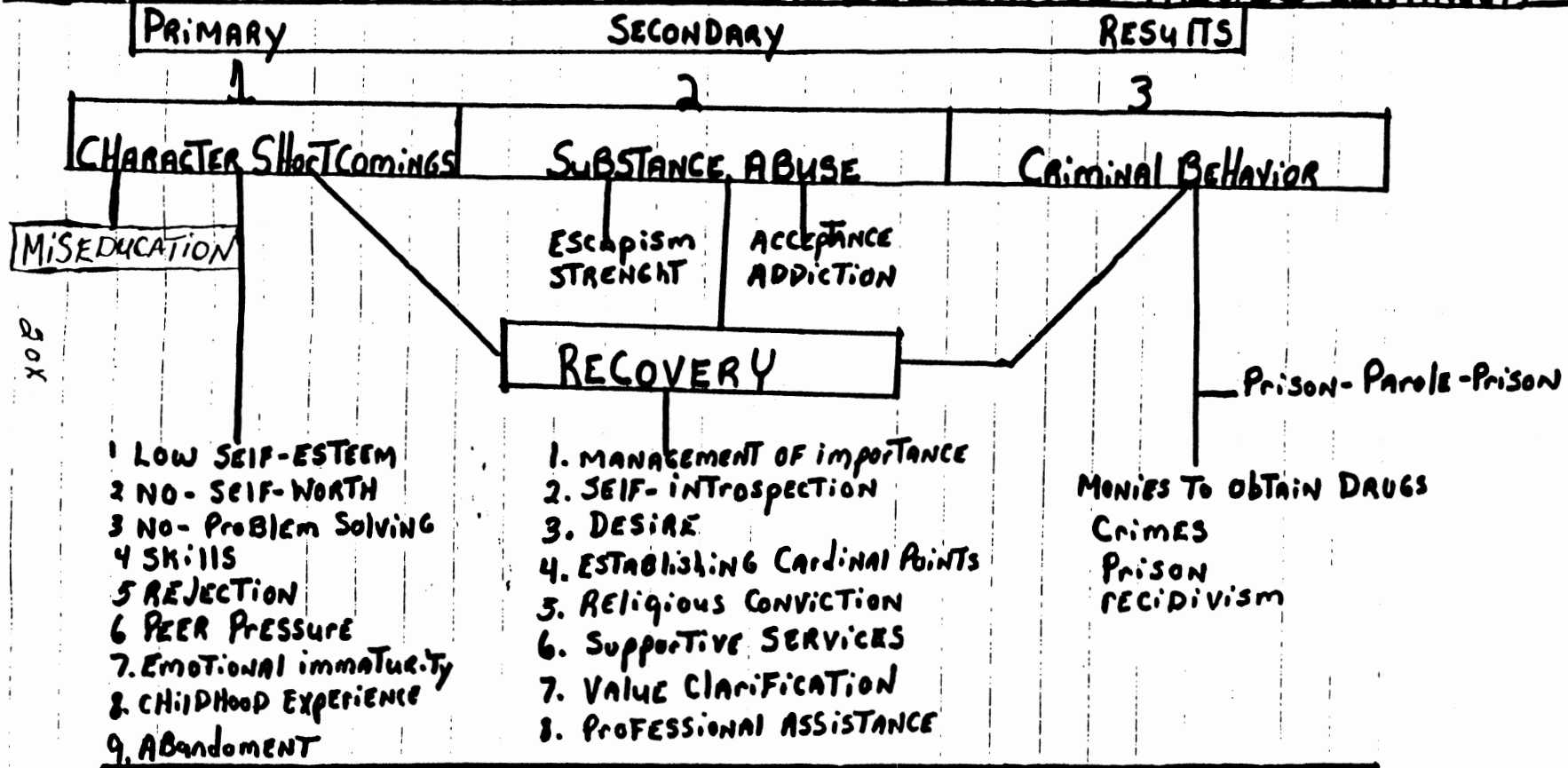
A final point to consider is the disciplinary program. There should be safeguards built in to permit inmates a level of redress if they feel they have been mistreated. They should also have access to the ombudsman in order to make complaints about the program.

Again, we thank you for the opportunity to provide our input on these bills. We cannot stress enough the need for a significant appropriation for community based agencies to provide aftercare services to shock parolees. Without aftercare, shock parolees will not be able to maintain themselves in the community in law abiding ways.

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AHMAD'S MODEL

THE PHILOSOPHICAL ASPECTS OF SUBSTANCE ABUSE CONTINUUM



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