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PUBLIC HEARING

before

THE SUBCOMMITTEE ON PRISON OVERCROWDING

of the

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

to

Examine possible solutions to the problem of overcrowding in
correctional facilities statewide and the effectiveness of various
alternatives to incarceration for nonviolent criminals

Held:
March 28, 1985
Room 348
State House Annex
Trenton, New Jersey

MEMBERS OF SUBCOMMITTEE PRESENT:

Assemblyman George J. Otlowski, Acting Chairman
Assemblyman Garabed "Chuck" Haytaian

ALSO PRESENT:

David Price
Office of Legislative Services
Aide, Subcommittee on Prison Overcrowding

New Jersey State Library

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ASSEMBLYMAN GEORGE J. OTLOWSKI (Acting Chairman): May we please come to order? Good morning. Assemblyman Visotcky can't be here because he hasn't been feeling well. Assemblyman Felice isn't able to be here either. Something important has prevented his presence. So, Assemblyman Haytaian and I will be conducting this hearing.

I think everyone in the room knows Assemblyman Haytaian, who is sitting to my left. Sitting next to me on one side is David Price, our Committee Aide, and sitting on my other side is Peter Guzzo, from the Assembly Majority Office. The rest of the people are Dave Mattos from the Majority Office and Greg Edwards from the Minority Office. At least we know who's here now.

We are about ready to begin, but I have a statement here I would like to make before we get started.

This is the second in a series of public hearings being held by the Subcommittee on Prison Overcrowding of the Assembly Corrections, Health, and Human Services Committee. This Subcommittee held its first hearing on January 11, 1985. At that time we heard testimony from the Speaker of the General Assembly, the Commissioner of the New Jersey Department of Corrections, the Chairman of the State Parole Board, the Administrative Office of the Courts, the New Jersey Association on Correction, Project H.O.P.E., and other private organizations.

The purpose of these hearings is to examine issues relating to the growing problem of prison overcrowding in our State, including the enormous cost of prison construction and the cost effectiveness of various alternatives to incarceration for nonviolent crimes. These include: restitution, community services, house arrest, deferred suspended sentences, fines, pretrial intervention, and, in particular, the Intensive Supervision Program. This Subcommittee has been charged by the Committee Chairman -- who incidentally is presiding today -- with the responsibility for holding these hearings for the purpose of gathering information about the prison overcrowding problem and examining the possible solutions that may be presented to the full Committee as recommendations for its consideration.

The Subcommittee hopes that the testimony presented today will shed light on these issues and will clarify any questions we may have about the conditions that exist and the possible solutions. As a matter of fact, when this Subcommittee concludes its hearings, it will report to the full Committee; the full Committee will then examine the report of the Subcommittee; and then, undoubtedly, the full Committee will be ready to make legislative recommendations. Any number of Committee bills may come up as a result of what we learn from these hearings, and the kind of position and the kind of policy we are going to establish.

So, these hearings and the work we are going to do will have great significance. All of us are mindful that this could have a tremendous impact on the entire State and the manner in which we are going to be conducting our penal institutions and our other methods of correction.

I am sorry for the delay, but with that we are ready. I would just like to make one point so that we won't be too inconvenienced. If you have a written statement, please submit it to the Subcommittee and our staff members. Frankly, I wish you wouldn't read your written statement when you testify. You may use the statement, you know, to give you a guideline in your testimony, but if we have the written testimony and you read it, it is absolutely redundant and a waste of time. So, please, just use the written testimony to refresh your memory and to act as a guide.

I am going to have to limit the time that each person is given to testify, and I am going to use my judgment on that as I see the direction the testimony takes. No one will be given more than 12 minutes. In any event, with that as a guideline, I am going to call on Assemblyman Buddy Fortunato. Assemblyman, we are ready for you. All right?

ASSEMBLYMAN BUDDY FORTUNATO: Mr. Chairman, thank you. Good morning to the Subcommittee members. I appreciate the opportunity to be here before you this morning, Mr. Chairman. I think we are all here essentially for the same thing, and that is, to attempt to deal with the overcrowding which exists in our prisons.

As a legislator, I recognize, as you recognize, that we do have problems in our State, and that we should make this one of the priorities of the State in the coming year. I'm sure you would agree with me that prison overcrowding is a danger. Overcrowding is an unsafe means of incarceration. By increasing the likelihood of inmate disturbances, I'm sure you would agree with me that the overcrowding would present a menace to even the correctional officers. That would indicate to me that we could have an increase in, and possible reasons for, escape by the inmates.

I hope the prisons today are dealing with some type of rehabilitation; that should be a consideration too. I think what I am trying to say is that the State must do whatever it can, whatever is necessary, to maintain safe, humane conditions for our correctional officers, and to maintain the front line of our defense against criminals.

According to our most recent figures, Mr. Chairman, reported by the Ad Hoc Committee on Prison Population Projections, New Jersey will have an 1,800 bed-space deficit by January, 1987, in spite of the anticipated opening of the Camden and Newark facilities. The Governor indicated in his 1985 Budget Message that he will be asking for yet another \$60 million for the rapid addition of cells. If the Legislature appropriates this request, approximately \$300 million will have been spent on prison bed space since 1980, without even coming close to resolving the problem.

While the focus of the Subcommittee has been on alternative sentencing to incarceration, if I may I would like to redirect your attention for a few minutes to an approach which I believe holds great potential for reducing prison overcrowding, and that is, privately run institutions. Faced with record increases in the prisoner population, bureaucratic delays, lawsuits, and money shortages, several states and Federal administrators have begun turning to private enterprise to help them fill the need for this space and, also, to respond to the ballooning escalation of costs.

In the 1970s, we saw that the private sector entered the prison scene by providing a range of newly popular alternatives to

prisons under contracts with governments. Companies have set up thousands of successful halfway houses, drug treatment programs, and group homes, most of them on a nonprofit basis. More recently, private companies, sensing a market, have begun to play a larger role in our prison system. There are now about two dozen major correctional facilities under private ownership or operation in the United States, the newest facility being a 175-bed detention center for illegal aliens operated by the Corrections Corporation of America for the Immigration and Naturalization Service in Laredo, Texas. That same company also runs a 325-bed jail in Chattanooga, Tennessee, and the inmates range from drunken drivers to murderers.

There are many advantages to privately run prisons. For example, with a record increase, Mr. Chairman, in the prisoner population, overcrowding, bureaucratic delays, and lawsuits, private prisons would help to fill some of the need for prisons with modern management techniques and private capital. Considering that governments nationwide may spend as much as \$10 billion this year on corrections, if private prisons were allowed, businesses would have the incentive to build institutions much faster, at less expense, and run them more efficiently than government.

If New Jersey continues to build prisons, this may result in excess bed space in the future if the prison population declines. The private sector can respond to this much more quickly through the marketplace. The State, however, would be left with unused prisons on its hands. The opportunities for privately run prisons ought to be explored, but thoughtfully monitored. The State must continue to set the standards for prisons. I am not advocating giving up our prisons or handing them over to an avaricious group that no one is going to be watching. Private enterprise would be expected to run prisons in a manner similar to the way it now operates hospitals, drug and alcohol treatment programs, or job training programs for government. This approach envisions a partnership between the private and public sectors.

Mr. Chairman, while I feel strongly that private prisons offer New Jersey the best, most efficient, and least costly hope for

alleviating our prison overcrowding crisis, caution is the better part of my nature on this issue. Thus, as the National Governors Association did in early March of this year, I, too, cautiously -- cautiously -- endorse privately run prisons. What I will propose by way of legislation before the Legislature breaks for the summer, is for the Commissioner of the Department of Corrections to include in any blueprint for additional prison bed space, the operation of a privately run prison for minimum, medium, or maximum security inmates. We don't need a commission to study the feasibility of privately run prisons. Only through the operation of such a facility can we make a comparison with existing prison facilities. We can also learn from existing privately run prisons in other jurisdictions. This is why I intend to visit several private prisons prior to drafting my legislation.

I know you agree with me that we need to take bold, imaginative, and cost-effective measures to eliminate the shortage of prison bed space in New Jersey. I sincerely hope, Mr. Chairman, that you will consider and offer input to my legislation as an alternative remedy to alleviating the prison crisis when it reaches the full Assembly Corrections, Health, and Human Services Committee. When the pool of unqualified nonviolent offenders for alternative sentencing is exhausted, and prisons are still overcrowded, private prisons may be our best hope.

I thank you for allowing me to appear before the Subcommittee. I realize you have a full docket.

ASSEMBLYMAN OTLOWSKI: We particularly want to express our appreciation to you, Assemblyman. I know personally that you have given this a lot of thought, and that it has been one of your interests for the past few years. We are very, very happy about the contribution you have made here. What you are proposing, of course, is something that is unique, something that is novel in nature, but something, as you point out, that has great merit. You can be sure that the Subcommittee will give that the kind of consideration it deserves.

Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, it's unique to New Jersey, but it is not unique, as the Assemblyman indicated, to the rest

of the country. In fact, my professional business is architectural and engineering in nature, and we deal in correctional institutions and privatization. I can tell you that it works, and it works very effectively. It is being done throughout the nation because of the fact that counties and municipalities in some instances, and states, cannot go through the bonding mechanism since the taxpayers are saying, "You cannot spend any more money." Therefore, they are going to privatization, and it is absolutely working.

Buddy, I would ask that when you make these visits, possibly the Chairman could include me in on that tour. I think I could lend some expertise in that area.

ASSEMBLYMAN OTLOWSKI: Great.

ASSEMBLYMAN FORTUNATO: I would welcome your input, Assemblyman, and any direction and cosponsorship. I invite that.

ASSEMBLYMAN HAYTAIAN: I may have a problem with that because that would appear to benefit the company I work for.

ASSEMBLYMAN FORTUNATO: Okay, I can understand that.

ASSEMBLYMAN HAYTAIAN: However, I would like to take part in any discussions and observations you make throughout the country. There are areas in this country that have gone to the privatization concept, as we are going to the privatization concept in waste water facilities and, also, solid waste facilities. It appears that that will be the way to go in the future, rather than to build it through the State government mechanism.

ASSEMBLYMAN FORTUNATO: Thank you, and thank you, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Thank you very much, Assemblyman Fortunato. May we have Commissioner Fauver now, please? Good morning, Commissioner.

COMMISSIONER WILLIAM H. FAUVER: Good morning, Mr. Chairman. I don't have a statement. I will be brief and then I will be around if there are questions.

ASSEMBLYMAN OTLOWSKI: Before you make any kind of a statement, I think in view of what the Assemblyman said— Do you have any comments to make on what Assemblyman Fortunato just testified to?

They would be gratuitous, but nevertheless, I think it would be interesting at this point to hear any off-the-cuff comments you may have on his testimony.

COMMISSIONER FAUVER: Well, at the last hearing, Mr. Chairman, the Subcommittee asked for three sets of information from us. One set of information was on the privatization issue. We submitted that in writing to the Subcommittee.

ASSEMBLYMAN OTLOWSKI: Oh, it's in the record?

COMMISSIONER FAUVER: Yes, sir. It was submitted to the Subcommittee. There were three things you asked for, the—

ASSEMBLYMAN OTLOWSKI: (interrupting) Just for my own information, what was the tenor of that comment?

COMMISSIONER FAUVER: Well, the tenor was that we felt that where it was, in effect, as basically has been indicated, was at the county level or municipal level, and that the security factor is an issue where we are basically talking about minimum security inmates, although there are murderers who are in county jails. So, medium security, or maximum security, whatever it might be called— We have been contacted by some organizations on this issue asking if we would be willing to contract if things could be worked out. We have indicated an interest. I think that if Assemblyman Fortunato—

ASSEMBLYMAN OTLOWSKI: (interrupting) You're saying that you are already exploring it?

COMMISSIONER FAUVER: We're exploring it, but I think we may need help. If the Assemblyman would introduce legislation that would, you know, be kind of enabling legislation allowing us to do this, we would be glad to do it.

ASSEMBLYMAN OTLOWSKI: But, you're looking into it?

COMMISSIONER FAUVER: Yes, sir.

ASSEMBLYMAN OTLOWSKI: Would you please go on with what you have to add?

COMMISSIONER FAUVER: Okay. I was just going to add that our comments are in the record on the county jail issue. We were asked to supply some information as to costs and what would be the recommendations of the Department. There are other people here to

testify on this issue also, but we are really responding that with our estimates cost-wise, it would not be a good move for the State. Whether it would be good management-wise, we didn't really address. However, we estimate the cost of the takeover of the county facilities would run around \$100 million.

The third thing that was asked for by the Subcommittee was the Department's master plan which was established a number of years ago. That has also been submitted.

Subsequent to the last hearing, the only thing we received by way of a request for additional information was on some bid waivers on site evaluations at several sites throughout the State, and on the purchase of vehicles. There are people here who are better prepared to talk about that than I am. Director Ton from DBC is here and Mr. Mazzone from Purchase and Property is also here. So, if there are questions on those issues--

ASSEMBLYMAN OTLOWSKI: (interrupting) Excuse me, let's just backtrack. The Subcommittee wanted some additional information on county costs?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN OTLOWSKI: I understand the Chairman of the Subcommittee proposed that the State take over the county institutions. Are you submitting some comments on that?

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN OTLOWSKI: And that is in writing for the record?

COMMISSIONER FAUVER: Yes, it is.

ASSEMBLYMAN OTLOWSKI: Just for Chuck's and my information, what was your recommendation on that, just briefly?

COMMISSIONER FAUVER: Well, the recommendation was that we were looking at it strictly on a cost basis, and that it would be too expensive. I think we indicated it would cost about \$100 million if the State were to take over the counties. I know other studies have been done on costs by others who will testify later.

ASSEMBLYMAN OTLOWSKI: What you're saying is that you are hesitant because of the cost. It would shift the cost?

COMMISSIONER FAUVER: It would shift the cost.

ASSEMBLYMAN OTLOWSKI: What was the other thing they wanted?

COMMISSIONER FAUVER: It was on the privatization, and we have submitted that. The third thing was the Department's master plan, which was developed a number of years ago. I'm not sure-- The reason I haven't gotten any questions on it is because we just submitted the plan.

ASSEMBLYMAN OTLOWSKI: But, has the master plan been submitted as part of the record?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN OTLOWSKI: It is part of the record?

COMMISSIONER FAUVER: Yes, it is.

ASSEMBLYMAN OTLOWSKI: I don't have any more questions. (Assemblyman Otlowski confers with a member of staff.) I have been prompted to inquire about the last plan that was made. When was the last master plan made? Off the top of your head, do you know the year?

COMMISSIONER FAUVER: I'm not sure. There was an update on prison projections by the Ad Hoc Committee on Corrections just this year, which projected--

ASSEMBLYMAN OTLOWSKI: (interrupting) In 1985?

COMMISSIONER FAUVER: Yes. It projected numbers which included people from the Department, the Administrative Office of the Courts, and Criminal Justice. I believe that was submitted at the last hearing, although I am not sure. If it wasn't, we will get it to you.

ASSEMBLYMAN OTLOWSKI: But the master plan that you now submit is the most recent, the one that has been updated, the one that you said is already in the record?

COMMISSIONER FAUVER: It is in the record, yes. But let me explain something, Mr. Chairman. The master plan-- We are getting the terminology confused here. The plan that was submitted recently, which I described as this year's, strictly dealt with projections on inmate population and how that would grow over a period of time. The master plan that was done back in 1976 dealt with projections, but also with proposed solutions to the projections, how many people would go into different categories, how many people would fit in county jails -- how many would be placed in county jails -- how many would fit in halfway houses -- alternative placements -- and what kinds of construction.

That plan, I would point out, was done prior to the new Criminal Code, which is a more severe Criminal Code.

ASSEMBLYMAN OTLOWSKI: I just want to point something out, and I think that because of Chuck's background in government service, he is probably thinking the same way as I am. You're saying that the State is very hesitant about taking over the county institutions because of the great costs. Off the top of your head, you say that it could be \$100 million. The truth is, counties only get their money from one source primarily, and that is from the homeowners. It is based upon the real estate tax. Any other moneys they get are usually grants or some other kinds of subsidies that are funneled to the counties. Most of that money now is being cut back by the Federal government. A lot of it will be cut back-- Other moneys will be cut back by the State.

How are the counties going to cope with these costs when their only source of revenue is from the homeowners? What will we do, move everyone out of his or her home into a prison so that everyone will have a place to live? If we keep doing this to them with increased taxes-- Chuck, do you have any comment on that?

ASSEMBLYMAN HAYTAIAN: Well, maybe the Commissioner ought to comment on that. I have a few questions I would like to ask, but maybe he would like to comment on that first.

COMMISSIONER FAUVER: This fiscal year, the counties will receive approximately \$21 million from the State for the housing of county inmates. That will certainly go a long way toward helping them. They also have--

ASSEMBLYMAN OTLOWSKI: (interrupting) Is that figure now based upon their costs, is it equal to the kind of payment the State projects prisons cost the State, or is it a figure that is downgraded?

COMMISSIONER FAUVER: It was the State figure for what it costs us to house an inmate at Trenton State Prison per day. That is the same figure, yes.

ASSEMBLYMAN HAYTAIAN: Commissioner, I would like to get this clarified because I don't believe it includes the construction costs of the prison itself. It only includes the operation.

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN HAYTAIAN: That is not the true figure; \$45.00 a day can't be the true figure. When I was a Freeholder, we were talking -- with construction costs -- more like \$85.00 a day; that was with food, the operating costs and, also, the paying of the bonding.

COMMISSIONER FAUVER: Well, there is no construction cost involvement. Basically, we are talking about the county jails which are in existence. The county jails that did add on or build new jails had the opportunity -- and 14 counties took advantage of that -- to get State aid money, which was--

ASSEMBLYMAN OTLOWSKI: (interrupting) Yes, but how much money did the counties spend for that capitalization? The counties spent-- I don't know. Do we have the figures on what the counties spent?

UNKNOWN PERSON AT COMMITTEE TABLE: There was a projection of \$65 million.

ASSEMBLYMAN OTLOWSKI: The counties spent \$65 million of their own money. Now, that is a lot of money for the counties to come up with.

ASSEMBLYMAN HAYTAIAN: Except that-- Mr. Chairman, just to back off a little bit-- We understand that the State prisoners who are in county institutions awaiting space for them in the State institutions number, according to your figures, approximately 1,200 or 1,100. That number is more like 1,500 from what I understand. It has gone up. What we are talking about, State aid for the counties, is just for those inmates, not for county-related inmates, which are charges of a lesser degree.

In other words, the counties have a responsibility at the present time to house inmates, but not State inmates. They are being paid for those State inmates who should be in correctional institutions run by the State.

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN HAYTAIAN: That's \$45.00 a day?

COMMISSIONER FAUVER: That's \$45.00 a day. If I may add, Mr. Chairman, you can project costs on county construction as \$65 million from the counties. The State aid to that was \$36 million, so there was a considerable--

ASSEMBLYMAN OTLOWSKI: (interrupting) Are you saying that out of the total \$65 million the counties spent, that that was reduced by--

COMMISSIONER FAUVER: (interrupting) I don't know what they spent.

ASSEMBLYMAN OTLOWSKI: Well, my information is that the counties spent \$65 million of their own money.

ASSEMBLYMAN HAYTAIAN: For instance, I don't believe-- I can take my own district. Warren County is presently building a jail. Sussex County built one recently, about four years ago, maybe five. I don't believe they received any State aid. In Sussex County, they are housing a full floor of, I believe, 16 or 32 inmates. In fact, I was talking to the warden yesterday at a DWI conference. They are receiving \$45.00 a day. That doesn't take into account the cost of building that jail. That \$45.00 a day is operating costs.

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN HAYTAIAN: Now, there are some institutions, as I have read in the newspapers, and some sheriffs, who have said they are making money by housing State inmates. Well, that may be true in one or two counties because they may have quite an overcrowding problem in their own county institutions. The point is, \$45.00 is not enough, in my estimation, on a county level. What the Chairman is alluding to is that the counties have to pay so much a year, whereas the State-- I don't believe the State should take it over, Mr. Chairman. I have to differ with the Subcommittee Chairman on this. Counties have a certain responsibility, but I don't believe that responsibility is to pay or subsidize the State for the prisoners they now hold, the \$45.00 they are, in fact, subsidizing.

ASSEMBLYMAN OTLOWSKI: If the State did take over totally -- and I am mindful of the differences of opinion -- would there be a savings? Would we be able to eliminate some of the county jails, and would we be able to save money by centralization?

COMMISSIONER FAUVER: There have been some Federal studies done on this, and one of the things they suggest is regionalization of county jails. This was talked about when Sussex County was building.

They talked about whether it would be with Morris, Sussex, and Warren Counties.

ASSEMBLYMAN HAYTAIAN: I was involved with that, by the way.

COMMISSIONER FAUVER: It was never resolved because the location became an issue, which I think will always be an issue.

ASSEMBLYMAN HAYTAIAN: But, also — excuse me for interrupting, Commissioner -- it became an impossibility because of the State, the assignment judges, and the jurisdiction of the courts. It really wasn't the counties that broke this idea down; it was the State bureaucracy and the judicial system that caused the three counties involved to forget about their plans. I was very involved at that time.

COMMISSIONER FAUVER: Yes, I remember. I think, though, that with the issue in the counties, there is one additional thing. Some of the counties that went into building did not do so other than for the fact that they were under a court order to do it. You know, that was an obligation put on them, not by the State, and not by the Department, but by the courts.

ASSEMBLYMAN OTLOWSKI: What about the big questions you were supposed to develop today, some of the questions that were raised by the Subcommittee?

COMMISSIONER FAUVER: On the waivers?

ASSEMBLYMAN OTLOWSKI: Yes. You said you had a comment.

COMMISSIONER FAUVER: Yes. We have Director Ton from the Division of Building and Construction here, as well as Mr. Mazzone from Purchase and Property. They will deal with those.

ASSEMBLYMAN OTLOWSKI: But, let me ask you this. Is there anything you would like to say for the record about the whole thing, about the bidding process and how that could be improved? Or, would you like them to testify to that?

COMMISSIONER FAUVER: Well, I would rather have them testify. However, I would just comment that I think the waivers were necessary.

ASSEMBLYMAN OTLOWSKI: All right. What we are going to do, Commissioner-- I will get back to you on that, but in the meantime, I

want to extend the courtesy to Mr. William G. McMahon, Chairman, New York State Commission of Correction. Is Mr. McMahon here? (affirmative response) I want to extend the courtesy to him.

COMMISSIONER FAUVER: I'll be here, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Would you, please?

COMMISSIONER FAUVER: Sure.

ASSEMBLYMAN OTLOWSKI: Good morning, Mr. McMahon.

WILLIAM G. McMAHON: Good morning, Mr. Chairman. I bring you greetings from Mario Cuomo, Governor of the State of New York, and from Lawrence T. Kurlander, Director of Criminal Justice. I am very pleased to be here to testify before this Subcommittee. I didn't realize that you would be dealing with as many issues as you have brought up this morning, but I will try, if I may, to give you some of the experiences we have had in New York State, and I will try to answer any questions you may have.

First of all, it's not any consolation to you, but overcrowding is a universal problem in the United States of America and we are all trying to deal with it. In New York State, we have upwards of 50,000 inmates in our over 400 institutions -- the 51 state institutions, the 57 county jails, and the 300 local detention facilities throughout the State of New York. So, we're having some real problems with it. When Mario Cuomo first came into office in January, 1983, he wanted to deal with the severity of the problem because, first of all, he had some concerns about the overcrowded conditions and all of the implications of the overcrowded conditions. The first thing he did was to appropriate \$650 million to build 8,600 prison beds. That began in 1983 and, to this point in time, we have put on 4,600 beds. We will be putting 6,000 beds on this year and, hopefully, 2,000 beds next year, and we will be able to deal with what we hope to be the peaking overcrowding problem and move on.

Concurrently, he also started to look at the Alternatives to Incarceration Programs that were available in New York State. When he took office, he came in with a budget that he did not build. It was built for him, and they had appropriated \$1.2 million for alternatives to incarceration. In Fiscal Year 1983-1984, he developed a \$4.5

million Alternatives to Incarceration Program. In this year, 1984-1985, that will conclude the end of this month--

ASSEMBLYMAN OTLOWSKI: (interrupting) What did those alternatives include?

MR. McMAHON: They included a whole number of issues that dealt with pretrial detention from the very earliest entry into the system, and then some specific planning and some Alternatives to Incarceration Programs, the same as have been spoken about here today. Alternatives to incarceration is not a new phenomenon, other than looking at community restitution, community service, and some of those areas. But, in New York State, we have had the luxury of institutions initiating the first bail programs, where they were using-- We started the appearance ticket system, and I think that has caught on throughout the United States. We take it right from pretrial, or even when they first arrest people, to trying to get them diverted out of the system, right through to the other end of the system, where we transition them back into the community through parole transition centers and halfway houses, and all of the other things that have been discussed here today.

We are trying to function, or focus, primarily on community-based alternatives, and that is what we are doing with the \$16.3 million. It is my understanding -- I am not involved in the budget negotiations -- that our fiscal year begins April 1, and I think, with a maintenance of effort, we will probably be devoting about \$16.3 million to alternatives to incarceration.

Another problem we had was that in New York State--

ASSEMBLYMAN OTLOWSKI: (interrupting) You started with \$1 million and you are up to about \$16 million?

MR. McMAHON: Sixteen million dollars, yes. It is starting to peak now. I think we've come to a point where we think we are dealing as best we can with the alternatives problem because some people think that no one should be in prison. I do not share that view; I think prisons are there for a specific purpose. What we are trying to do is get the people who should not be in there out of the system as best we can, divert them early on, or assist them

programmatically while they are in the system, so that if someone has a drug abuse problem, or an alcohol abuse problem, we can work through that problem programmatically and get him out of the system. That is what we are trying to deal with at the present time in New York State.

We are looking very seriously at rehabilitative services and effective supervision. In this year's budget, our Governor is proposing 140 new parole officers, for example, so we can have what we call "differential supervision," because it is our experience that the first 15 months that a person is out of prison is when the vast majority of them will be returning. It is our feeling that if we can devote some time to this intensive supervision at that point in time, we can stop them from recycling back into the system.

There are a number of issues you raised this morning which are coming into the forefront, such as the whole privatization issue that Assemblyman Haytaian was discussing. I, too -- as the first speaker said -- take a cautious view of that because of a lot of the implications of the privatization, not that the private sector can't handle those things, but some of the experiences I have been reading about indicate that the program services are not adequate. Although they are reducing costs, they are not paying attention to areas to get people out of the system.

Another concern I have with the privatization issue is, I don't really know where President Reagan's tax plan is going to go. There may not be the savings or the incentives for the private sector to get into privatization because of all the tax plans that are being proposed. So, we're looking at it very carefully and cautiously. We have some constitutional restrictions in New York State. Constitutionally, the sheriff cannot give up his right to maintain security in a county jail. So, that creates a problem. We feel, in New York State, that privatization can take place. Private contractors can build facilities and turn them over to the communities, but they have to be run by the county sheriffs. The whole issue is now coming into the fore in New York State and we are trying to deal with it.

ASSEMBLYMAN HAYTAIAN: Excuse me, Mr. Chairman. It could be operated both ways. With the privatization concept, you could have it

State run, privately built, and on a lease basis, rather than having the municipality or county putting out the bonding mechanism, which would be easier for those government sectors to operate under, or you could have it built privately and then turn it over to the municipality, county, or State-run facility.

MR. McMAHON: You are absolutely correct. Of course, in New York State, I represent a regulatory body. I am a watchdog agency for the state. I don't run the Department of Corrections in the State of New York; that is another person. I make sure that the state, county, and local facilities are run properly and that they are securely, safely, and humanely operated. So, we could look at that.

ASSEMBLYMAN HAYTAIAN: Mr. McMahon, one of the areas you touched on was, you said you didn't know what was going to happen with the Federal program. Are you getting Federal dollars for prison building?

MR. McMAHON: No. I was talking about President Reagan's proposed tax plan and whether it would be an incentive for the private sector. Will they make money doing it? Will it be profitable?

ASSEMBLYMAN HAYTAIAN: Okay, understood. Thank you.

ASSEMBLYMAN OTLOWSKI: What kind of crimes does your alternative program cover?

MR. McMAHON: There are certain restrictions; you know, with violent crimes, we are less likely--

ASSEMBLYMAN OTLOWSKI: (interrupting) They are nonviolent crimes.

MR. McMAHON: It would be mostly nonviolent crimes, yes.

ASSEMBLYMAN OTLOWSKI: It is a big increase from \$1 million to \$16 million. Did you really pursue that?

MR. McMAHON: Yes. What happened was, we did a two-year study. The Governor, when he appointed Lawrence Kurlander as Director of Criminal Justice, concurrently made him the chairperson of an Alternatives to Incarceration Task Force. We brought in a number of professional people from probation, parole, and the Community Supervision Program. We have a Correctional Association in New York that had an interest, and the Sheriffs Association participated. We developed a plan jointly.

ASSEMBLYMAN OTLOWSKI: That's been going on since 1983?

MR. McMAHON: Yes, sir.

ASSEMBLYMAN OTLOWSKI: So, it's two years now?

MR. McMAHON: That is correct.

ASSEMBLYMAN OTLOWSKI: From your vantage point, what do you think of it? Do you think you are on the right track, or do you think you got on that track by mistake?

MR. McMAHON: No, I'm absolutely convinced that alternatives to incarceration is the answer to the big problem. Prison construction is not going to stop crime from happening; it is only going to contain the people who are--

ASSEMBLYMAN OTLOWSKI: (interrupting) You unhesitatingly recommend this use?

MR. McMAHON: Oh, there is no question about it. We are totally committed to alternatives to incarceration in the State of New York, and I am sure that Governor Cuomo is going to pursue it in the future.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, I would be cautious here because we don't have a track record. We don't know the repeats, the offenders who get into the alternative methods of incarceration, because two years is just not enough time. I'm sure you will agree with that.

MR. McMAHON: Absolutely; I agree with you. But, we have gotten some immediate returns. We know that if someone commits a nonviolent, not serious crime, if someone gets arrested for drunken driving— It is not that drunken driving isn't a serious crime, but it is a crime where we can turn that person back into the community with a reasonable assurance that, number one, he is going to return to court and answer his charge, and, number two, we are going to be able to process him. So, the Pretrial Release Program is very effective. The Appearance Ticket Program in New York State has proven to be very, very effective. It reduces our overcrowding problem at the local jail, and, in turn, reduces our problems in the prison system.

ASSEMBLYMAN HAYTAIAN: I'm glad you mentioned drunken driving. Maybe we can lobby a little bit, since you are from New York

State, and hopefully reduce some of our younger prison population because of drunk driving offenses, those youths between 19 and 21 who go over to New York to drink and then come back into our State. Possibly you could lobby for us to raise the age to make it uniform throughout the tri-state area.

MR. McMAHON: Governor Cuomo is totally committed to the age of 21. As you know, he pursued the legislation last year. He was unsuccessful, but he is going to do the same thing this year.

ASSEMBLYMAN OTLOWSKI: Thank you. Mr. McMahon, one other thing. Would you make available for the purpose of the Subcommittee records, the 1983 experience with alternative sentencing, the 1984 experience, and whatever you have on 1985, so that that will become a part of the record? Could we get that from you?

MR. McMAHON: I have already left a number of pieces of material with David Price, and I think that is included. If there is anything else you need, please don't hesitate to get in touch with me.

ASSEMBLYMAN OTLOWSKI: As a matter of fact, we may call on you again before we terminate our hearings. At this point, we just want to express our very, very deep thanks to you for making yourself available and for spending your time to give us the benefit of your experience. Thank you very, very much.

MR. McMAHON: You're quite welcome, and good luck.

ASSEMBLYMAN OTLOWSKI: Thank you again. May we have Judge John Marzulli? Am I pronouncing that correctly?

JUDGE JOHN A. MARZULLI: That's very close.

ASSEMBLYMAN OTLOWSKI: You pronounce it with an Italian accent, and I pronounce it with a Polish accent. There's very little difference.

JUDGE MARZULLI: That's true. Very frankly, Mr. Chairman, when I came here I thought I was going to be subjected to a nice comfortable round-table discussion with a few very knowledgeable gentlemen, and that I would then be subjected to some questions. I didn't know I would be asked to make a statement. However, having instructed juries for some 19 years, I can't say that I am at a loss for words. The first thing I have to say is--

ASSEMBLYMAN OTLOWSKI: (interrupting) Do you have a written statement, Judge?

JUDGE MARZULLI: No, I don't. I'm sorry, I didn't know I was supposed to have a written statement.

ASSEMBLYMAN OTLOWSKI: You don't, all right.

JUDGE MARZULLI: The first thing I would like to say is that the views I express are my own. I am not the spokesman for--

ASSEMBLYMAN OTLOWSKI: (interrupting) Judge, just for the purpose of the record, you know, so we can get a better perspective of where you are coming from, you sit as a judge in what county, what area?

JUDGE MARZULLI: I am a Superior Court Judge assigned to Essex County. I am the Chairman of the Advisory Committee on the Intensive Supervision Program; I am one of the judges assigned to the Intensive Supervision Panel; and, I am the Chairman of the committee that published the Trial Judges' Bench Manual for the Handling of Capital Causes. I have been the Chairman of the Sentencing Disparity Study; I was the Chairman and one of the judges involved in the development of the sentencing guidelines under the old law; and, I am the present Chairman of the committee looking into the Sentence Effectiveness Study. I guess that is where I come from.

ASSEMBLYMAN OTLOWSKI: All right, we know where you are coming from now. Thank you. I wanted that to be part of the record.

JUDGE MARZULLI: Incidentally, I sit on civil cases. But in any event, what I am saying is, I will answer any questions as honestly as I possibly can. What I say will be my personal views, not those of the court. I am not a spokesman for the court.

I recently attended a conference at the Judicial College in Nevada, which was attended by two judges from each state and one member of either the legislature or the correctional system of each state. The sole purpose of that conference was to discuss the question of prison overcrowding. I know that New Jersey has a serious problem, and I am not attempting to minimize that problem. However, our problem is certainly not as great as some of the other states. Much to my surprise, at that conference I found that there are 38 states which are

presently under Federal court order regarding the administration of their prisons. Thank goodness -- we have had some Federal court involvement on the county level, but not on the State level.

There is one state that has been forced to adopt a policy that if you send one person to jail, you have to let one person out at the other end. So, nine in, nine out; 20 in, 20 out. I was also very happy to learn that New Jersey is truly in the forefront of alternatives to incarceration. What we are already doing, many states are now proposing or suggesting. You know we have a PTI; you permitted us to have it. You know we have a Predisposition Conference, a PDC conference. That was also permitted by you. We have a bail review hearing, which is similar to what the gentleman from New York was talking about. We have addressed the problem not only on the State level, but on the county level. When the Governor suggested the adoption of an ISP program as a result of a conference on probation-- If you recall, a few years ago I happened to be Chairman of Subcommittee #7, which proposed the ISP program. The Legislature, in its wisdom, funded it, and we immediately adopted it. I have the format of the program here, and, fortunately, I also have the track record for the program here, because not only was the program followed by the AOC's office, but the Federal government was so interested in the program that they gave a grant to Rutgers University to study the effectiveness of it. They have recently given us a grant-- I believe, I should say I got it through the grapevine, that a grant is going to be given to allow us to follow the people after discharge from the program for the two years you are talking about -- after discharge.

We have a track record in the program. Now, ISP -- and I am not trying to be a salesman, believe me, I am trying to give you what I know factually -- has been a partial answer to the prison overcrowding situation, but only a partial answer. In my estimation, it has been a rather effective answer.

ASSEMBLYMAN OTLOWSKI: Judge, would you develop that for the record? What does that program consist of?

JUDGE MARZULLI: Okay. The program is available to any person who has not committed a murder, a rape, a homicide robbery, a

sex offense, or an offense which contains a mandatory minimum parole ineligibility period.

ASSEMBLYMAN OTLOWSKI: And that consists of what, Judge?

JUDGE MARZULLI: Those are bars to the program, automatically.

ASSEMBLYMAN OTLOWSKI: Automatically.

JUDGE MARZULLI: Any other person can apply for the program.

ASSEMBLYMAN OTLOWSKI: And, what happens under that program?

JUDGE MARZULLI: Okay. I was going to give you this book, but I will go through it. There is a seven-level screening process. The process begins with an application being made by the person. That application then goes to an ISP officer, who reviews it to make sure that there are no reasons for disqualification. It then proceeds down the line and it goes to a Screening Committee. The Screening Board consists of a representative of the Commissioner of the Department of Corrections, a representative of the ISP officer, and a citizen — a citizen member of the Screening Board. The Screening Board looks at the application and determines whether or not it should proceed further, whether or not this is the type of person who would present an acceptable risk to society, someone for whom house arrest would be considered sufficiently punitive in the eyes of the public, whether or not the intensiveness of supervision in the program would meet the reasonable expectations of the public regarding the punishment aspects — because it is a punitive program — and, lastly, whether or not, taking into consideration the legislative mandate regarding sentencing policy, when you consider the aggravating and mitigating guidelines set forth by the Legislature, this would be adequate punishment under those guidelines.

The Screening Board then passes the application on to the Resentencing Panel. The person, in order to qualify for admission to the ISP program, must have a community sponsor, an individual who will be responsible for him. He must have a job or get a job within 30 days, or he is returned to prison. So far, we have returned no one for not being employed. We have made exceptions for full-time students, and a few exceptions for people who are physically incapable of

working. But in those cases, we increased community service, which is another concept in the program.

After he has developed his network team, he then comes before the Resentencing Panel. The Resentencing Panel then reviews his application and the Resentencing Panel judges, after considering the legislative mandate, the risk to society, and the public expectation, determine if that person would be a suitable candidate for ISP. His release plan is gone over with him, he signs a contract regarding that release plan, and he is then released to the ISP officer.

ASSEMBLYMAN OTLOWSKI: Judge, at this point I would just like to ask you a question. Obviously, from what you just said, it is a very comprehensive program, and a very far-reaching program. Are you satisfied with the way it is working? In your opinion, from your vantage point, and from the background you have, are you satisfied with the way it's working?

JUDGE MARZULLI: May I ask you this? May I bore you with just a few statistics which I think you might find interesting?

ASSEMBLYMAN OTLOWSKI: You've raised a very interesting concept here, and one of the things I want to find out that would be interesting to the Committee is, in your opinion, how is it working, how can it be made to work better, and what are some of the things you need to make it work? Let's develop those things after you get finished with what you want to say.

JUDGE MARZULLI: Okay. This is as of February 20, 1985. We processed a total of 2,152 applications to the program. We accepted 287.

ASSEMBLYMAN OTLOWSKI: When you say we, do you mean throughout the whole State?

JUDGE MARZULLI: That is correct.

ASSEMBLYMAN OTLOWSKI: Throughout the whole State.

JUDGE MARZULLI: Right. Out of the 287, approximately 95% have been employed full-time. The people who have been in the program have earned approximately \$1.2 million. Instead of costing taxpayers money, they have been paying taxes. They have paid a total of \$160,000 in Federal taxes and \$23,000 in State taxes. In addition to that, they

have paid \$40,000 in fines and \$20,000 in restitution. You know, one of the things that is wonderful about the program is that the victim of a crime gets the \$14.00 to pay for the window, or the \$36.00 to pay for the lock on the door, or so many other things, those little bits of money they have been out and they have felt violated about.

We have had a great deal of success in getting them to support the program. Sixteen thousand dollars in child support; \$10,000 in VCCB penalties. Now, you asked me how you could make the program better. This is my own personal view; it is not the view of the court. You have to expand it. It's a good program. Oh, let me give you another statistic which I think you will find rather interesting. We have returned, as of February, 51 people. Only 51 people have violated the program in the year and a half that it has existed. Of those 51, only three were returned for indictable offenses. Seven were returned for disorderly persons offenses, and 41 were returned for violations of curfew, using narcotics — for programmatic violations. We do urine tests, even for marijuana.

ASSEMBLYMAN HAYTAIAN: Judge, that was 51 out of 287?

JUDGE MARZULLI: Out of 287, yes, which is less than the 17% recidivism rate which, if you read the Rand Report, is a phenomenal rate. And, you have to understand, the program was started as a response to prison overcrowding, not as a rehabilitation program. This is a side effect which we never really anticipated. I think — and this is a personal criticism — that we don't take enough of a risk. We make a risk analysis of the individual, and unless we are satisfied that the person will not constitute — pretty clearly not constitute — a risk to society, we do not take a risk. We don't let him into the program.

The other thing is, I can understand that minimum periods of parole and eligibility should constitute a bar to the program. The Legislature has mandated that a person who has committed a certain offense must serve a minimum period of time, and that is perfectly within your province; you have the right to do that. But, there are many minimum parole and eligibility terms imposed for third- and fourth-degree offenses which are not mandated, but which are

discretionary with the trial judge. They have been automatically eliminated. I think we should be able to consider them, with the understanding that we will be very circumspect about whom we will let out, looking at the reasons given for it.

When I was out in Reno, one of the-- There are about four or five states that really have an Intensive Supervision Program in effect; however, there are really none as good as ours. I am not just bragging; that's so because their supervision is not as intensive. Some of them had -- in addition to the concept of the person who had recently been sentenced to a state prison, let him make an application within 60 days, and then we will let him into the program -- developed an Intensive Supervision Program at the other end. They had developed an Early Parole Release Program. The way I understand it works -- and maybe this would be better addressed by the Chairman of the Parole Board or Commissioner Fauver -- is if the institution and the parole authority feel a person can be released to society after serving a number of years without constituting an inordinate risk under an Intensive Supervision Program, he will earn early release, or correctional supervision in the community, which would be more appropriate to call it. He would remain under correctional supervision in the community, a system of house arrest, for the balance of his parole eligibility term under intensive supervision similar to this. I think that is another concept we should look into.

With that-- I don't know if I was a salesman or not; I guess I might have been a little bit, but I didn't mean to be. I am open to any questions you may wish to ask.

ASSEMBLYMAN OTLOWSKI: There is something I think we ought to get into the record. What is the difference between the cost of this program and keeping a person in prison, roughly, individually?

JUDGE MARZULLI: I can only give you this off the top of my head. My understanding is that it costs anywhere from \$18,000 to \$22,000 to keep a person in jail. To keep a person under house arrest under this program, with all of the benefits which flow, would cost about \$7,000 less than the benefits that have flown. I don't know that that is--

ASSEMBLYMAN OTLOWSKI: (interrupting) About \$7,000 less.

JUDGE MARZULLI: No, no, \$7,000, so the difference would be--

ASSEMBLYMAN OTLOWSKI: (interrupting) So it would be \$7,000 versus, say, \$22,000?

JUDGE MARZULLI: Right, less the benefits. Don't forget you get a lot of benefits.

ASSEMBLYMAN OTLOWSKI: Let me ask you this: What kind of money are you talking about to expand the program? What kind of money are you talking about, roughly, off the top of your head? Do you know?

JUDGE MARZULLI: I really don't know. We have 25 intensive supervision officers at the present time. We have a limited number of people they supervise. We are looking into the concept of a wrist bracelet or an ankle bracelet so we will know where they are at all times, especially anyone who has had a programmatic violation which we feel is not serious enough to send him back.

I would say-- You have presently funded us with what, \$1.5 million? Yes, a million and a half. That is what you are talking about if you want to expend it, \$1.5 million or \$2 million.

ASSEMBLYMAN OTLOWSKI: Oh, you feel that \$2 million more would give it the kind of expansion that would make sense and would allow you to gear it up.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman?

ASSEMBLYMAN OTLOWSKI: Yes, Assemblyman Haytaian.

ASSEMBLYMAN HAYTAIAN: I just want to make sure I have the figures right. A million and a half dollars to this point for 287 people.

JUDGE MARZULLI: We haven't spent all of that.

ASSEMBLYMAN HAYTAIAN: Oh, okay.

JUDGE MARZULLI: We haven't even put the 25 officers on board because we have been so selective about who we will take. So, we haven't spent that money, nor have we put on the 25 officers. We have only put on the people we needed in order to take care of the people we have put in.

ASSEMBLYMAN HAYTAIAN: If I understood you correctly, the 287 earned \$1.2 million. I thought that was what you said, and they paid about \$116,000 in Federal taxes.

JUDGE MARZULLI: It was \$160,000 in Federal taxes, \$23,000 in State taxes, \$40,000 in fines, \$20,000 in restitution, \$10,000 in VCCB, and \$16,000 in child support. The other thing we don't have, which I asked them to get for me, is, if someone who is going into the ISP program goes home to his family, his family can't be on welfare. I really don't know what the welfare savings are, as far as taking people off the welfare rolls or the Aid to Dependent Children rolls.

ASSEMBLYMAN HAYTAIAN: Whereas, if they were incarcerated, the families, most probably, would be on welfare.

JUDGE MARZULLI: Well, they are, when we see them. When they come out, they have to get a job within 30 days and the family has to go off welfare.

ASSEMBLYMAN HAYTAIAN: Right. Do we have copies of that, Mr. Chairman?

JUDGE MARZULLI: I brought them for you.

ASSEMBLYMAN HAYTAIAN: The tan one? Okay, thank you.

ASSEMBLYMAN OTLOWSKI: Judge, you have been very, very helpful, and we are very, very grateful that you have spent this time with us and that you have given us the benefit of your experience. Obviously, from the questions that were asked, you see that as far as we are concerned, the program has great merit. Thank you very, very much.

JUDGE MARZULLI: Thank you for inviting me. I enjoyed being here.

ASSEMBLYMAN OTLOWSKI: May we have Mr. Dale Parent, Deputy Director, National Institute for Sentencing Alternatives, Brandeis University, Waltham, Massachusetts?

DALE G. PARENT: Mr. Chairman and members of the Committee: It is a pleasure to have been invited here today. My name is Dale Parent; I am the Deputy Director of the National Institute for Sentencing Alternatives at Brandeis University.

I would like to take a minute, if I may, before I get down to the subject of my remarks to say a few words about the Institute. It is a public policy center located within the Florence Heller Graduate School at Brandeis University devoted to the issues of sentencing

reform and prison and jail overcrowding. We work on a national scale with jurisdictions around the United States as they work on these various problems.

The Institute is not a prison abolition organization. We don't have any commitment to opposing prison construction particularly. We think that prison construction is, in some cases and some jurisdictions, a necessary piece of the solution to overcrowding. We believe, however, that it is a very, very difficult and very, very long-range movement to embark on a massive construction program and that that should be done only after a state has done some very, very careful assessment of what can be done in other areas to relieve the problem without incurring the long-range capital and operating costs of prison construction.

I would also like to say a few words about myself just to indicate my background and experience. Before coming to the Institute in 1984 — January, 1984 — I was Director of the Minnesota Sentencing Guidelines Commission. Before that, I was a Criminal Justice and Corrections Planner in various capacities in Minnesota for about another 10 years.

I think the subject of my remarks today will really be about national patterns and national initiatives in the area of prison and jail overcrowding. Those involve, in some cases, a direct application of sentencing alternative concepts. There are some other things I will talk about which have to do with other forms of population management activity.

I did not come prepared today to describe and talk specifically about activities, events, and options underway in New Jersey, but perhaps some of the remarks about things that are occurring in other states will be very relevant.

Obviously there are three ways, we think, to deal with prison and jail overcrowding issues, the first being capacity expansion, and we are certainly, around the United States, engaged in a massive effort in that direction. I won't bore you with the specifics too much, except to note that given the rather large increase in correctional expenditures over the past decade, it has about quadrupled from

approximately \$1.3 billion to a little over almost \$7.2 billion. The proportion of that cost that is going to construction has increased from about 6% to about 24%, so we are really investing extremely heavily around the nation and building more and more prison and jail cells.

The other two principal avenues for dealing with the problem I would like to talk about today are population management techniques -- which include sentencing alternatives that include some other administrative applications -- and sentencing reform mechanisms that have been used to deal with prison and jail overcrowding. The notion of population management really basically deals with two issues: trying to alter the in/out decision in the sentencing pattern so that there are fewer people being sent to confinement sanctions, or, for those who go to prison or to jail, to deal with the duration of confinement so that they are there for shorter periods of time.

I would like to cover, very briefly, three initiatives that have been employed around the country to deal with the durational issue for those who have gone to prison or jail, principally prison. I think the most significant recent legislative activity in a number of states has been to pass what is called an "Emergency Powers Act," which provides a mechanism that is theoretically a non-discretionary application or implication of an emergency release process whenever prison capacity exceeds a certain level for a particular period of time. The prototype of this was enacted, I believe, in 1981 or 1982 in Michigan. It has been used quite liberally there for the last two or three years, and has resulted in the Michigan prison population remaining below their rate of capacity for about the last year and a half.

Unfortunately, that particular mechanism has really been the only vehicle that the State of Michigan has developed in a substantial manner to attempt to deal with their prison overcrowding problem and, as a result, the use of the Emergency Powers Act has generated increasing political heat in Michigan. It appears now that there is a concerted move underfoot from a number of criminal justice organizations to seek legislative repeal of that act. So, I guess the

lesson from that is, perhaps it is not too wise to put all of your eggs in one basket and try to solve your problem by one particular mechanism.

ASSEMBLYMAN HAYTAIAN: And, that mechanism is letting the prisoner out on the street.

MR. PARENT: It is an early release program. It applies across the board to all inmates. Every time the Governor invokes a prison overcrowding emergency, the eligibility for release is reduced by 90 days, and that creates a new pool of potentially eligible releasees from which the Parole Board then makes a discretionary paroling decision. If that doesn't reduce the population below the capacity figure, then another overcrowding emergency is declared, and that reduces everyone's eligibility another 90 days, so it just successively cuts the minimum eligibility for parole.

ASSEMBLYMAN HAYTAIAN: They could reduce it significantly initially by not sentencing anyone to jail. I mean, that is really all they can do.

MR. PARENT: Or, by sentencing differently than they do now.

The other initiatives underway involve, as the previous speakers have indicated, the use of effective intensive supervision programs for parole release, thereby getting the offenders who are deemed to be eligible out under parole supervision more quickly.

We have seen a tendency for a number of years to cut good time allowances, to reduce the range of good time that was permitted in the course of a general sentencing reform. Some states have begun to expand that to some degree, again, to create, particularly in states with determinate or presumptive sentencing laws-- They have begun to consider expansions of good times, so that that again brings people up for release somewhat sooner than they would be brought up otherwise.

The other category of population management devices would fall into what we call the diversionary category. The key question here -- which the previous speaker touched on -- was our mandatory minimums in a particular jurisdiction really cutting the pool of potentially divertible offenders to such a small degree that there is no room to divert. If that is occurring, I think the State has to take

a very, very hard look at the range and type of offenses that are receiving mandatory sentences.

There are several examples, special programs such as the Intensive Supervision Program here in New Jersey, and in Texas, Georgia, Arizona particularly, and New York, which are intended specifically to divert offenders from prison confinement. A law was mentioned briefly by one of your earlier speakers -- the Alternatives to Incarceration law in New York -- which is a little bit different than the Intensive Supervision Program, in that it creates a county-based planning system. Every county that wants to participate creates an advisory body whose membership is specified in a statute. They analyze their local jail overcrowding problem and devise alternative sentencing programs to help to relieve that problem. The State, on which the plan is approved, awards that county a State aid payment to help to implement the plan. That law is now going into effect in New York, and I think it has great promise for relieving, at least in its particular configuration, jail overcrowding to the degree that jail overcrowding is reduced. There are some possibilities for sentencing patterns being changed to perhaps use jail for different kinds of offenders and, to some degree, to also have an effect on the mix of offenders going into prison.

A similar kind of concept, but a little bit more broadly based, is the Community Corrections Act concept, passed in about three or four states now. It creates, again, a county-based planning program. The effort here is to divert offenders from prison, not from jail. Counties receive a subsidy payment, which helps them to implement their plan for expanding alternatives to incarceration, but in the Community Corrections Act concept, they are also penalized for every offender they send to state prisons who is supposedly divertible according to the statute's definition. In Minnesota, for example, anyone who was convicted of a property crime was deemed to be a divertible offender. So, if you were in a Community Corrections Act county and you committed a property crime and a judge sent you to prison, then that county would pay the room and board costs to the State Department of Corrections for keeping the person in the state

prison. That would be deducted from their subsidy and would serve as a disincentive to use state imprisonment for those classes of offenders.

Another emerging initiative which bears watching is one that has not yet been enacted, but is being considered by the Massachusetts Legislature at this time. That is a population management commission which would be part of a general sentencing reform act that is being considered. The commission would consist of judges, prosecutors, defenders, the Commissioner of Corrections, probation, etc., all the key actors in the system. They would be required by law to analyze the overcrowding situation and to recommend to the legislature changes in the law, policies, and procedures that would be needed to keep prison populations within the capacity limit. The advantage of that particular formulation, we think, is that it would make all the key decision-makers and the key actors responsible to meet, discuss, and talk about the problem and to statutorily seek solutions to the overcrowding situation.

The final major item I would like to talk about is the use of sentencing commissions as a means of resolving prison overcrowding problems. This was first done with the Minnesota Sentencing Guidelines Commission; later done by the Washington State Sentencing Guidelines Commission. I believe there have been two more commissions where the legislatures saw fit to direct the commissions to develop guidelines that would operate within the limits of existing capacity. I believe those states were South Carolina and Florida. The South Carolina Legislature is now considering the report from their Commission, so we don't know how that is going to go. Florida has, I think, just implemented their guidelines within the last month or so. Minnesota's have been in effect for four years; Washington's for about a year and a half. In Minnesota and Washington, the only two states with any track record, it appears that the guidelines have, indeed, been successful in stabilizing the growth of prison populations and keeping them below the capacity figures of those two systems.

In Minnesota, the Commission took the existing capacity that was on line and operational as of the date they created the guidelines as the limit. In Washington, they took as their limit the expected

capacity for prisons that were already in the planning process. So, they took two different approaches to define what the capacity figure was. But, it is important to note that in both of those applications, what the states did was use the sentencing reform process to achieve a number of objectives, to achieve certainty, equity, and regularity in sentencing. They also altered the distribution of sentencing so that violent person offenders were treated more harshly than in the past, and the nonviolent property offenders less harshly in the context of those kinds of major policy changes. They also fine-tuned their sentencing policies so that the prison overcrowding problem could be addressed. It wasn't that prison overcrowding was the reason why those guidelines were developed. It became a very ancillary and secondary, but nonetheless very important, outcome.

At this point, I think I will stop and open it to questions. I really have not dealt with describing specific sentencing alternative models, such as victim-offender reconciliation or client specific planning. We have heard quite a bit about intensive supervision this morning. I think it is important in the array of sanctions provided, that there be these options to be used singularly or in combination. ISP programs, for example, typically take a number of these alternative sentencing programs -- restitution, fines, community service, house arrest -- and lump them together for a very, very tough, yet affordable, community sanction for some very high risk and potentially high visibility type cases. That is not to suggest that every community corrections type sentence needs that degree of rigor, but the options should be available to provide that appropriate continuum of sanctions throughout the system.

ASSEMBLYMAN OTLOWSKI: You're suggesting throughout your testimony that there be a real broad approach to this alternative sentencing. As a matter of fact, that it not only be broadened, but that it be intensified, that it be expanded. That is your position, isn't it?

MR. PARENT: Yes. I believe the key question in each of these decisions about developing alternatives goes back to the question of, who is the target population? You can develop alternatives to

incarceration — you can develop sentencing alternatives, let's put it that way. Let's say a community service program, a restitution program, an intensive supervision program, and use them in ways that are not alternatives to incarceration.

ASSEMBLYMAN OTLOWSKI: But, again, we're talking about a certain classification of prisoners.

MR. PARENT: That's right.

ASSEMBLYMAN OTLOWSKI: We're not talking about the violent crime actor; we're talking about most of the other situations. Chuck, do you have anything?

ASSEMBLYMAN HAYTAIAN: No, thank you.

ASSEMBLYMAN OTLOWSKI: Mr. Parent, thank you very, very much. We would like to hear now from Mr. Richard Russo, Assistant Commissioner, Alcohol, Narcotic, and Drug Abuse Unit, New Jersey Department of Health, just to see what he has to say.

RICHARD J. RUSSO: Thank you very much for allowing me the opportunity to speak to you today. I do have a prepared statement which I will present to you, and I will abide by your recommendation—

ASSEMBLYMAN OTLOWSKI: (interrupting) Do you have copies?

MR. RUSSO: Yes, I have copies.

ASSEMBLYMAN OTLOWSKI: May we have the copies, please?
(witness complies)

MR. RUSSO: I would like to just highlight my written statement.

ASSEMBLYMAN OTLOWSKI: Would you, please?

MR. RUSSO: First of all, as you know, the State Department of Health's alcohol and drug activities have primary responsibility for attempting to treat and administer a whole network of treatment facilities in New Jersey. There are about 150 nonprofit residential and outpatient facilities in New Jersey. What is interesting is that we treat approximately 30,000 men and women in these facilities every year.

The statewide network serves an important noncustodial alternative for nonviolent criminals. Approximately 20%, or 6,000, of the individuals who enter our treatment system in New Jersey every year

are referred from the criminal justice system. Each criminal justice referral is diverted from every point of the adult and juvenile justice system, including pretrial intervention, regular probation, intensive supervision, directly from prison, and those on parole. In addition, the alcohol and drug activity community networks continue to work closely with local and State correctional staffs to improve their understanding of alcohol and drug problems, the relationship of these problems to criminal behavior, and so forth and so on.

What I would like to do is hone in on two major points this morning. First of all, the community alcohol and drug abuse programs already help to reduce correctional overcrowding. I think that is a given. But, there is still a substantial number of nonviolent State and county inmates with alcohol and drug problems who are taking up correctional space that we think could be more effectively served in a community treatment alternative program, which several speakers have already mentioned this morning.

I would like to expand on community programs to further reduce the overcrowding, but, of course, as with every one of these expansions, there are additional resources needed. I would like to highlight briefly for you this morning a recent development in substance abuse treatment in this country and the availability of a new drug called Naltrexone, which is a nonaddictive drug. It is a true antagonist, and I will go into that in a little more detail because I think it is the kind of a drug that can help substantially in alternative treatment community-based activities.

First of all, as you know, the correctional facilities together house about 18,000 folks right now, about 10,000 of them in State facilities, and about 7,500 in county jails. Fourteen thousand of these are serving sentences, while the rest are awaiting trial or are awaiting sentencing in the county jails.

ASSEMBLYMAN OTLOWSKI: How many in the county jails?

MR. RUSSO: About 7,500, based on the information we received from the Department of Corrections.

ASSEMBLYMAN OTLOWSKI: Seventy-five?

MR. RUSSO: Seven thousand, five hundred.

ASSEMBLYMAN OTLOWSKI: How many?

MR. RUSSO: Seven thousand, five hundred.

ASSEMBLYMAN OTLOWSKI: How many are in State prisons?

MR. RUSSO: Oh, about 10,000. And of course then, there is a proportion of them who are waiting in the county jails who haven't been sentenced yet. The Department of Corrections estimates that 20% to 25%, or 2,000 to 3,000, of the State inmates are serving sentences for nonviolent crimes. I think that is what I want to hone in on, the nonviolent individuals. Most of the other people serving county jail sentences have also been convicted for nonviolent crimes, so at the moment there are approximately -- and I think this is the critical thing based on our data -- 4,000 nonviolent criminals who are using up correctional space. They are the ones we want to talk about.

We know that a substantial number of these nonviolent inmates have either an alcohol or a drug problem. You can look at national statistics and the statistics in this State, and about half of those folks -- about half of the 4,000 -- have a serious alcohol or drug problem, or had a serious alcohol or drug problem before they became incarcerated. So, we are conservatively talking about whittling it down to about 2,000 nonviolent State or county inmates right now who are taking up space who have a serious alcohol or drug problem. If they do not receive some rehabilitation services, they will go back to using alcohol or drugs when they go back on the streets.

Now, what we are recommending is networking some minor increased funding to provide additional resources for these 2,000 nonviolent individuals who are now incarcerated. This is not to say that we hunt 100% support. We hope you will continue to support the PTI, the TASC program, the Intensive Supervision Program, the new Mutual Agreement Program -- all of those diversional programs which are in place. We think they are meaningful and helpful and should be encouraged.

ASSEMBLYMAN HAYTAIAN: Dick, before you go on, out of the 2,000 nonviolent State and county inmates, can you break that down further as to how many of the 2,000 are in State institutions and how many are county inmates, approximately?

MR. RUSSO: We can't; I don't have it broken down right now. I don't know.

ASSEMBLYMAN HAYTAIAN: Is it 60/40, 30/70?

MR. RUSSO: A large percentage of them are in county institutions.

ASSEMBLYMAN HAYTAIAN: In the county institutions?

MR. RUSSO: Yes, which makes it a little easier in terms of our suggestion for community-based alternatives. I can get that, but I'm sorry I don't have it right now.

ASSEMBLYMAN HAYTAIAN: No, no, that's all right. That's fine.

MR. RUSSO: Let me return to the other alternative which I think is most critical, and that is the recent development of this new drug called Naltrexone. Naltrexone was released a month or so ago by the Food and Drug Administration. It is a nonaddictive chemical that is what you would call a true antagonist. A true antagonist is something like the drug that most of you are familiar with called Antabuse. Essentially, this drug is an antagonist for an opiate. So, if you have an opiate user -- a heroin user, or some other opiate user -- and you place the individual on this antagonist, if he uses the opiate at any point in time, he becomes very, very sick, not deathly sick, but violently sick in terms of his feelings. He regurgitates, he has tremendous pains throughout his body, and he thinks he is going to die, but it is not life-threatening. This drug has been used experimentally up in Nassau County in an Early Release Program very, very successfully. We could take a substantial portion of the 2,000 persons, maybe 1,000 of them -- and we are now whittling it down to about 1,000 folks -- who had serious opiate problems before they were incarcerated, who are nonviolent offenders, and we could probably fold them into an existing outpatient after-care program using this drug Naltrexone. Once you put an individual on Naltrexone and you also provide supportive therapy -- and you must provide supportive therapy, through job counseling, individual counseling, family counseling, and so forth and so on -- there is a very, very good chance of rehabilitating this individual and making him or her-- I should say him, not her, because you cannot use Naltrexone for women. It hasn't been approved for women because it hasn't been tested sufficiently in

women in terms of reproduction, and so forth and so on. It is only used for men, so that restricts it to some extent. But, we could substantially take 1,000 or so individuals out of correctional institutions and place them into existing community-based services, using the new drug Naltrexone and using existing community-based resources.

ASSEMBLYMAN OTLOWSKI: What would the difference in the cost be, you know, between keeping such a person in prison or putting him on this program you're describing?

MR. RUSSO: Well, it would cost an average of about \$2,500 for an outpatient program. So, if we are talking about 1,000 people, George, we are talking about \$2.5 million for those 1,000 people. Now, what does it cost to keep 1,000 people in a correctional institution? I heard \$18,000 a year this morning.

ASSEMBLYMAN OTLOWSKI: Eighteen thousand dollars to \$22,000.

MR. RUSSO: So, we're talking approximately \$18,000 down to \$2,500, a significant reduction in terms of cost, and we would also be placing these people back into the communities. Again, they are nonviolent offenders. So, from a cost-effective point of view, there is no question about it. By providing this drug — and this drug, by the way, is a long-acting drug which lasts for about 72 hours, or three days — essentially what you are doing is putting a person in outpatient substance abuse treatment, and you get him back three times a week to give him this particular drug and to provide all the necessary counseling, and so forth and so on, that he needs to rejoin society and become a productive member of that society.

It is a rehabilitation effort; it's helping to reduce the population effort in terms of the correctional institutions; and, conservatively, you know, whittling these figures that I gave you down. We're talking about 1,000 folks who we think we could actually have this tremendous impact on, in terms of moving them out of the correctional institutions and giving them some meaningful rehabilitation therapy, at a rough estimate cost of \$2,500 per individual per year, a significant reduction in cost.

I would be happy to expand upon this in writing or at any time with the Subcommittee. This is another alternative that we haven't looked into, which I think is a viable alternative that can help the overcrowding situation.

ASSEMBLYMAN OTLOWSKI: But, you're looking into it further, and you will make a more specific recommendation to the Subcommittee?

MR. RUSSO: I can make a recommendation to the Subcommittee right now.

ASSEMBLYMAN OTLOWSKI: What is that recommendation?

MR. RUSSO: The recommendation is that the Subcommittee seriously consider providing resources up to about \$2.5 million, with the mandate that we, as a governmental agency, sit down with the Department of Corrections, the Parole Board, and so forth and so on, to work out a release system to get at least 1,000 nonviolent individuals back into community-based programs.

ASSEMBLYMAN OTLOWSKI: If this program is effective, you're saying that the cost would be about \$2,500, as opposed to the \$18,000 or \$20,000 for incarceration?

MR. RUSSO: Yes, whatever the cost is right now. This is an outpatient program; it is not a residential program. So, the individuals, when they leave the correctional institutions, would go back to their normal residences, you know, or any other community-based residential facilities.

ASSEMBLYMAN OTLOWSKI: You have been watering them down from 4,000 to 1,000. Is it easy to identify this group of 4,000 and whittle it down to 3,000, to 2,000, to 1,000? Is it easy to identify those people to determine if they are suitable for the program?

MR. RUSSO: No, it is not easy, George, but it's possible. You have to work with the correctional system in first getting the initial identification, and we would have to send a team of "experts" in to evaluate—

ASSEMBLYMAN OTLOWSKI: (interrupting) It is doable and workable?

MR. RUSSO: Oh, it's doable and workable. It's not a wave of the wand. You have to interview each one of these individuals, first

of all, to ascertain if he is telling the truth, because an incarcerated individual would like this kind of a program, particularly if he could get out of the incarceration process a little earlier.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, I am a little confused. We're talking about prison overcrowding today, and you're saying there are 1,000 people in prison today who we could put on a certain drug and then put them out on the streets.

MR. RUSSO: Right.

ASSEMBLYMAN HAYTAIAN: Are you saying they are presently incarcerated and still dependent on drugs?

MR. RUSSO: No. I'm saying they are presently incarcerated, and there is definite evidence that if an individual was a daily opiate user and he went into a correctional institution, particularly to a county institution where he hasn't been in too long, in a period of six months, a year, two years, or less, as soon as he goes back out on the street, he will go right back on drugs. In fact, there is documented evidence, as you know, that with an opiate user, one of the first signs that he is not taking an opiate, is the running of his nose. It is a pharmacological response. In most cases, their noses will begin to run as soon as they go out on the street. They are going to go out and pick up a drug again. There is documented evidence that this occurs. That doesn't say that they are getting the drug in the institution, but the potential for them going back to that same drug which put them in the institution in the first place is extremely high.

ASSEMBLYMAN OTLOWSKI: Richard, you speak with great confidence about this program. You feel it is a good program and, as you said, workable and doable. Why is it that we have been cutting back in the drug rehabilitation programs, cutting back with money, and resorting-- As you put it, there are 4,000 people who should be examined to determine if they are eligible for this program. Has it been made known, dramatically and effectively, that here is a program that is not only a money saver, but here is a program that -- as you say, and as you are evidently convinced -- is effective. Why haven't you been able--

MR. RUSSO: (interrupting) I guess it has been made dramatically, but not effectively, because you're right, the funding for substance abuse in this country has been reduced. We got a \$5-million reduction in 1981 from the Federal level. From our own Legislature, we got a \$1-million reduction at that point in time. There have been some significant reductions. In the wisdom of the decision-makers, George, I can't say why, but maybe we haven't been able to sell the case that we have a product which I think is a very, very viable product in terms of helping communities and helping the substance abusers.

ASSEMBLYMAN OTLOWSKI: I think, just on what you have said— Could an effort be made for a better approach to make it more understandable so that legislators and money policy-makers could get a better understanding of this, and so that moneys could be made available for a program?

MR. RUSSO: One of the things I am trying to do today is to hopefully make you understand, as two important legislators, that in the system there are alternatives that are cost effective and that do work.

ASSEMBLYMAN OTLOWSKI: Richard, thank you very, very much. May we have Mr. Gerald Silliphant now? He wants to get back to another hearing.

GERALD D. SILLIPHANT: Good afternoon, Chairman Otlowski, Assemblyman Haytaian.

ASSEMBLYMAN OTLOWSKI: Good afternoon. Please proceed; we're ready.

MR. SILLIPHANT: Assemblyman, I was asked by Assemblyman Visotcky to prepare for the Subcommittee, estimates of the cost of a potential takeover of the county penal and correctional system by the State. The testimony you have before you details our estimates. There is a table attached to the text. If you will follow along with that during my remarks, I think it will make the estimates clear.

What we have done is look into both county budget documents and data supplied by the Department of Corrections. As the table you are looking at now shows, current annual net county correctional and

penal operational costs are estimated to be between \$94 million and \$102.4 million. In a moment or two, I will differentiate between those two figures.

These represent the base estimated additional operating costs the State would assume if it took over the operations of the county facilities. These costs include an estimate for fringe benefits that would be attributable to employees of the county penal system. They also include as a minus, an offsetting amount for a range of State aid which is paid to the counties for State-sentenced inmates housed in the county facilities in excess of a period of 15 days.

The budget information we have displayed on this table was obtained from the proposed county budgets on file in the Division of Local Government Services, and for a couple of the budgets not on file, we telephoned the counties themselves.

If you will look at the table, you will see that the total estimated 1985 county correctional penal costs are \$115,759,631, less \$13.3 million, an estimated State revenue, or State aid, if you will, for a net cost of \$102.4 million. Within this total of \$102.4 million net, salaries are estimated to be \$77.6 million. Non-salary or other category costs, exclusive of fringe benefits, are estimated at \$18.6 million. The fringe benefits themselves, which, as you know, include Social Security, pension, insurance, and health benefits costs would add another \$19.5 million, approximately.

Now, estimated State revenues are the State Fiscal Year 1985 amounts, which are annualized through the end of the fiscal year based on amounts actually paid to the counties through February 28, 1985. For purposes of illustration to show the potential effect of the pending supplemental appropriations bill for additional State aid to the counties, we have shown two alternate totals for 1985. First we have shown estimated State revenues at \$21.7 million. This is derived by adding to the \$13.3 million which is already booked for State payments to the counties, an additional lump sum of \$9,724,000 for the same purpose, the purchase of service for State-sentenced inmates who are incarcerated in the county penal facilities. This is contained within a supplemental bill -- Senate Bill 2614 -- that has passed the

Senate and is now in the Assembly, as you know. This would mean then that the net cost of \$102.4 million would be reduced to \$94 million, if this supplemental appropriations bill was actually passed.

ASSEMBLYMAN HAYTAIAN: Gerry, \$9 million and \$13 million— In fact, \$13.3 million and \$9.724 comes to about \$23 million. You have \$21 million. What happened to the additional \$2 million?

MR. SILLIPHANT: This is an internal adjustment; perhaps staff could help me with that.

UNIDENTIFIED MEMBER OF STAFF (from audience): Yes. The \$13 million is an annualized estimate of the total cost. The current appropriation is about \$12 million, so the \$9 (remainder of answer inaudible since member of staff was not near a microphone).

ASSEMBLYMAN HAYTAIAN: Thank you.

MR. SILLIPHANT: What we have had to do, Assemblyman, is annualize actual expenditures for the full year.

ASSEMBLYMAN HAYTAIAN: I thought maybe the State was keeping back \$2 million from the counties.

MR. SILLIPHANT: No. We tried that before, but that doesn't work too well. (laughter) The actual costs -- although I have given you two levels of additional State costs -- could be higher. There are several reasons for this. First of all, the average annual salary for a correctional officer at the county level is now \$17,874. Correctional officers at the State level are now paid an average of \$22,029 annually. This is a difference of \$4,155 per year, and with approximately 2,000 correctional officers--

ASSEMBLYMAN OTLOWSKI: (interrupting) The salary differential is substantial.

MR. SILLIPHANT: Yes, it is substantial, \$4,155 a year. This means that if the State were to take over the county system and were to upgrade the salaries of the county correctional officers to those of the State officers, there would be an additional cost of about \$8.4 million per year. This is based on approximately 2,000 county level correctional officers.

ASSEMBLYMAN HAYTAIAN: But, you're assuming that the State and county officers handle the same type of inmate, which is not a good assumption.

MR. SILLIPHANT: Well, no, I am not suggesting that, sir, except, of course, to the extent that there are resident, right now, some 1,300 State-sentenced inmates in the county correctional system. So, I am not really making a comment on the policy determination that would have to be made. I am simply making an illustration of an example of the additional cost elements that might be included.

Now, if that salary increase were actually part of a State takeover, this would mean, of course, that fringe benefit costs would go up as well. That would be an estimated \$2.1 million additional. This does not include a differential for the supervisory correctional personnel at the county level. There is a similar salary differential between the State and the counties, but I don't have the precise figure. That would have to be determined also by the Department.

Another area of possible additional cost would be the cost to upgrade the county penal facilities to State standards. This would certainly include items such as the food service programs and facilities, educational programs, and medical services. I can't give you an estimate on those costs. They would have to be determined after a comprehensive survey and a determination of the comparability factors between State and local levels. As far as facilities' costs are concerned, here again there would have to be actual inspections of the county facilities, surveys performed by qualified personnel, to determine what additional would have to be done to those facilities and, also, a policy decision as to whether the State would actually take over any debt service obligations that the counties now have for existing correctional facilities.

The county budgets we examined did not specifically identify the debt service component for correctional facilities. It is a lump sum; however, we attempted to make an estimate. Debt service, identified as other debt service on notes and undifferentiated debt service, totalled \$85.3 million in the current county budgets, an indeterminate part of which could be attributable to the facility costs. Here, to get a precise figure, we would have to do a county-by-county survey, break down those debt service costs, and allocate them to the facilities themselves.

So, to wrap up my brief remarks on this, our estimates at this point, based on the information available to us, are that the additional cost to the State, if there is a takeover of the county system, will be no less than \$94 million, and could range up to \$102.4 million, depending upon the disposition of this pending supplemental appropriation. The cost could range above that, depending upon facilities and program upgrading, and the assumption of debt service costs.

ASSEMBLYMAN OTLOWSKI: You're giving us the increases here, and the increases run about \$100 million, roughly. How many county institutions would be eliminated in this kind of a process? Would we eliminate, say, 50% of them, or better?

MR. SILLIPHANT: I'm not in a position to make a judgment on that. I think this could only be done by a comprehensive survey of the total structure, a new universe, which would include the 7,500 inmates who are now at the county level.

ASSEMBLYMAN OTLOWSKI: If you're talking about centralization, and if you're talking about an additional \$100 million, then we should also be talking about wiping out a number of the county institutions -- wiping them out totally -- so that that cost is eliminated.

MR. SILLIPHANT: Well, I think it is fair to say, Assemblyman, that if this decision were to be made today and a plan implemented for the takeover within the next few months, that kind of action would not be possible because there are not sufficient alternative facilities at the State level. So, it would seem to me that there would be no choice but to continue with the county facilities, and then on a planned basis, perhaps phase out--

ASSEMBLYMAN OTLOWSKI: (interrupting) But, there would have to be some kind of an accelerated program to get rid of those county institutions.

MR. SILLIPHANT: If that is the policy decision that is made, yes.

ASSEMBLYMAN OTLOWSKI: That would be a policy decision; there is no question about it. But, we would also have to be shown that it

was possible, that it could be done, so that of the \$100 million that would be raised, possibly \$60 million could be dropped off, or \$70 million could be dropped off at the county level.

MR. SILLIPHANT: That is a possibility, certainly. But, again, this would have to be the product of a very detailed and intensive survey and study of this whole situation of whether that would result in a determination that State-level facilities located at alternate areas, such as the expansion of existing State facilities, would be preferable to a continuation of the county institutions.

ASSEMBLYMAN OTLOWSKI: Then you are getting into an area that is fraught with all kinds of political questions, all kinds of local jealousies, and everything else. I suppose when you take the whole picture into account, particularly the \$100-million increase, we certainly should be taking a look at that.

MR. SILLIPHANT: I agree totally.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much.

MR. SILLIPHANT: Thank you, Assemblyman Otlowski, and Assemblyman Haytaian.

ASSEMBLYMAN OTLOWSKI: May we have Sheriff Froelich now, please? Good morning, Sheriff.

RALPH FROELICH: Good morning, Mr. Chairman. I'm learning a great deal by just listening. I am Sheriff Froelich.

ASSEMBLYMAN OTLOWSKI: You're speaking for the New Jersey Sheriffs Association?

SHERIFF FROELICH: Yes, sir, I am the President of the New Jersey Sheriffs Association. Before becoming a sheriff, I was a police officer in the City of Elizabeth for 20 years. It has certainly been educational to me to listen today to what is going on. I appreciate being invited. I was here seven years ago to speak on jail conditions and jail overcrowding, and I think the only thing that has changed is just that there has been an increase in the number of inmates in the jails. Perhaps we will have a little more luck this time.

I hope I am in the right ball park; I really do. I have listened, and I certainly understand your problem, but I think you are going to have to broaden your research, look a little bit deeper, and

break it down. Certainly, Mr. Fauver is concerned with State inmates; he is concerned with the recidivist rate. We, in the counties, have a different form of population. We now have the State inmates, but originally we only had those who were sentenced for minor crimes, awaiting bail, awaiting trial, and things of that nature. Now, they are almost State institutions. It is very nice to say, "All right, let's release some of our inmates," and we agree. We, the sheriffs, agree that there are people in jail who should not be there, or who at least should be reevaluated to see if they can be allowed back into society.

We have heard some very fine speakers, one of them the gentleman who just spoke on alcoholism and drugs. There is potential to release some of our inmates, but we are not doing a very basic thing; we are not stopping the source. Until we do something about stopping the source, all that humanity will be going through that great big funnel into our institutions. Bill Fauver is going to have problems; Joe Carroll from Union County is going to have problems; I'm going to have problems; and, you're going to have problems. So far, I haven't heard a soul speak about stopping the source of people coming into the jails. The first thing you are going to say is, "What source, Ralph?" The recidivist rate for one. When an individual is released from jail, his potential of going back is great.

Let me explain something to you right now. There are two bills, one in the Assembly, and one in the Senate.

ASSEMBLYMAN OTLOWSKI: Sheriff, you've hit on a very, very sensitive spot. Let's just take a little better look at that. When you're talking about the source, the source, of course, becomes very, very complex because in many instances there are countries whose very economy depends upon the users in the United States. The fact of the matter is, it's a very delicate thing, but yet it is a very widespread thing, and the countries are known to everyone. We know who the exporters are — the problems we have with Columbia, the problems we have with Mexico, the problems we have with Nicaragua. We could go on and on naming the countries that make it a part of their business and a part of their economy. Their present way of life, of course, is to get drugs here to the American population.

I think that is something that should be of special interest to this Subcommittee because it reflects, as you say, on a good part of the population. I think that when you are talking about prison and you're talking about the business of dealing with the offender, the biggest problem that faces the country is the drug problem. That has ramifications with almost every other single crime, with every part of the criminal element. I think that probably this Subcommittee may want to hold special hearings on that to determine if everything is being done that can be done in the area of enforcement.

I would just like to leave that because I think it should be treated separately. It is a very, very important thing. As a matter of fact, I am very, very happy that you mentioned it and emphasized it.

SHERIFF FROELICH: Apparently there was something I missed in there. I'm not even talking about drugs or narcotics. The source I'm talking about is the source of individuals -- young men and women -- who come into our criminal justice system and subsequently into our county and State jails. That is the source we have to spend more time stopping. How do we do that? As I began to say, these bills, which have already been introduced and which look very, very successful -- the safe streets' bills that have been introduced by Senator Graves and, I think, by Assemblyman Villane -- will put more police officers out in the streets if the municipalities pick up some of that cost. We could do the same thing to help to keep our county and State inmates from coming back. We could have some kind of legislation introduced whereby if we in Union County wanted to keep our young people from coming back, we could have more probation and parole officers, and sources. Our parole and probation people are overworked; they cannot give us the quality we need and, as a result, we lose fish through the net.

The other group are your kids, your grandchildren, your nieces and nephews, who have not been involved in the criminal justice system yet, but their potential is high. The potential is high because if you check with most of the municipalities and your county governments, you will see that the first thing that is broken down or eliminated is crime prevention -- and I don't mean locking your doors

and locking your windows; I mean dealing with youth. When dealing with youth, we have been grossly negligent. Union County has a very active juvenile facility, but it is understaffed as far as the professionals needed is concerned. There is where you stop your overcrowding.

ASSEMBLYMAN OTLOWSKI: I don't know if we have been grossly negligent, but, you know, I suppose it is a matter of the choice of words. All kinds of money have been spent; all kinds of talent have been engaged. Yet, the problem gets worse. I don't know. Maybe that is not the correct choice of words when you say we are grossly negligent. Maybe the better thing to say would be that we are a total flop.

SHERIFF FROELICH: We swung at the ball and missed.

ASSEMBLYMAN OTLOWSKI: I'm sorry.

SHERIFF FROELICH: That's all right, but those are the areas. I know, Assemblyman, that you want to get into the issue of sheriffs and takeover, because I have heard you speak about this takeover a number of times.

ASSEMBLYMAN OTLOWSKI: Would you speak about that for a moment?

SHERIFF FROELICH: The research we have done is pretty much the same as was expressed by a prior speaker. It would be quite expensive to implement a takeover. A hundred million dollars is a lot of money. The first thing we worked on was the base salary of our correctional officers in the county versus the base salary of our correctional officers in the State. Now, I heard the Assemblyman respond by asking, "What kind of inmates do you deal with in the counties versus the State?" The answer is, the same ones who go into the State facilities. They have to go through our system first. The handicap our county officers have is that, unfortunately, most of our county jails are not maximum security facilities. It is even more difficult for our county officers to handle people under certain conditions than it is for the officers in the State facilities.

ASSEMBLYMAN HAYTAIAN: But, Sheriff, aren't most of the people in the county system now those people awaiting trial, rather than those who have been convicted and sentenced?

SHERIFF FROELICH: I think there are representatives from Union County here and they will probably testify that we have upwards of, or close to, 100 State inmates in our county jail. I have eight murderers awaiting trial right now, so that is a pretty good indication of what our population happens to be. Just because someone has not been convicted does not mean that he is not as much of a security risk. On the contrary, usually once someone is convicted, he settles back down. Prior to conviction, he is still looking for a way out the door.

ASSEMBLYMAN OTLOWSKI: Is there anything else, Chuck?

ASSEMBLYMAN HAYTAIAN: No, thank you.

ASSEMBLYMAN OTLOWSKI: From a sheriff's point of view, you have great misgivings and serious questions about--

SHERIFF FROELICH: (interrupting) About the takeover? Absolutely. We have many concerns, and there are many questions that would have to be answered. For instance, here is a very simple morale problem, and it could take place if the State were to take over all of the county institutions. Where would the officers live? You and I understand -- and I am not talking about the legitimate politics we have here in our State House -- about the politics inside an institution. If I were not a good boy at work, would I perhaps be assigned to a facility in Cape May if I lived in the City of Elizabeth? These are some very legitimate concerns, but they are things that would have to be answered.

ASSEMBLYMAN OTLOWSKI: Sheriff, thank you very, very much. Did you give us anything in writing?

SHERIFF FROELICH: No, sir, I didn't.

ASSEMBLYMAN OTLOWSKI: All right. You know, frankly, I wish you would do us a favor. Would you make sure that the Sheriffs Association submits a written narrative to us so that we can make your position, some of your misgivings, and some of the fears you have a part of the record?

SHERIFF FROELICH: Yes, sir, I will take care of that.

ASSEMBLYMAN OTLOWSKI: I just want to tell you one thing, and I keep repeating this. The counties and the sheriffs -- their primary money comes from the guy who owns a house.

SHERIFF FROELICH: That's right.

ASSEMBLYMAN OTLOWSKI: You can't keep increasing the services, or bettering the services and increasing the costs, and shifting them onto the homeowners, because we are going to drive that guy out. That is something for you to consider.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, as an alternative to that, rather than a takeover, and I am opposed to a takeover as I told you initially— As a substitute to a takeover, we could look at State aid for the counties for their costs. That is really where I think the sheriffs are coming from. That is where the Freeholders would be coming from. I think even the people who live in the State would rather see that than see the State take over. I doubt if the Commissioner would advocate a State takeover of the county institutions; I'm sure he would not.

I think what we are talking about is the possibility of the State looking at the whole perspective of who is in prison, where should the dollars go, and how much should go, rather than just giving dollars for State inmates.

SHERIFF FROELICH: Absolutely. We all have to take part of the expense.

ASSEMBLYMAN HAYTAIAN: Sure.

SHERIFF FROELICH: I heard—

ASSEMBLYMAN OTLOWSKI: (interrupting) Excuse me, Sheriff. Would you include what the Assemblyman just developed in the narrative I asked you to submit? That may be one of the ways out, to save whatever there is to be saved in county government.

SHERIFF FROELICH: I heard a number referred to before. It costs over \$18,000 just to house an inmate in a State institution — \$18,000 a year. Imagine, if that were broken down, how many young people we could deal with — how many advisers, how many social workers, how many special juvenile officers could be hired for that \$18,000? That would be saving a lot of money, and saving a lot of lives.

ASSEMBLYMAN OTLOWSKI: Sheriff, would you let us have that, please?

SHERIFF FROELICH: Yes, sir.

ASSEMBLYMAN OTLOWSKI: Okay? Thank you very, very much. I would like to take a two-minute break now.

(RECESS)

AFTER RECESS

ASSEMBLYMAN OTLOWSKI: May we have the people who are supposed to give us the figures on the waivers, please?

COMMISSIONER FAUVER: Yes, they're here. This is Mr. Ton, Director, Division of Building and Construction.

ASSEMBLYMAN OTLOWSKI: What the Subcommittee is particularly interested in, and what we would like you to make available to us, is just a brief statement about some of the waivers in bidding, who authorizes the waivers, how do you go about them, what is the justification for them, and what is the need. Will you give us that, please?

JAMES G. TON: With regard to the waivers that were questioned in DBC, this concerns the engaging of the professional services of three firms, plus some feasibility studies. I will give you some specific answers to some of the questions. The one who approves the waivers is Treasurer Horn. The procedures we use normally for professional services are for specific purposes.

ASSEMBLYMAN OTLOWSKI: Professional services such as what?

MR. TON: Okay. They are for conducting feasibility studies to determine— In this case, the Department of Corrections came to us last fall and said they wanted some feasibility studies conducted to help them in the decision-making process with regard to housing up to 1,000 prisoners. This was because of their concern with the backup of the prisoners.

ASSEMBLYMAN OTLOWSKI: They wanted studies?

MR. TON: They wanted these studies to be performed.

ASSEMBLYMAN OTLOWSKI: And then the bidding process was waived?

MR. TON: Yes, because they were professional services.

ASSEMBLYMAN OTLOWSKI: Why was the bidding process waived for those studies?

MR. TON: We waive the bidding process for professional services because normally we cannot define precisely what we want done. We're asking a firm to come in and look at the technical, the economical, and the operational aspects, and to develop options so that a decision can be made by the Department of Corrections and the State. You cannot define it in precise terms so that everyone can come in and bid on that particular item.

ASSEMBLYMAN HAYTAIAN: Mr. Ton, you can't put it in an RFP, is that what you're saying?

MR. TON: Not in an RFP where they can bid on it, not in feasibility.

ASSEMBLYMAN HAYTAIAN: For professional services? It's done all the time.

MR. TON: In some types of professional services, yes, but in feasibility studies such as this, I'd say it is not possible because you don't know— It is difficult to define precisely what you want looked at. You don't know how many times they would have to come back to talk to Corrections. You don't know how many times they would have to come back to look at the site. You are developing this as you go along. Corrections says, "We're building a prison up at Newark, and we want them to look at expanding another 500 beds up there."

ASSEMBLYMAN OTLOWSKI: Why didn't we get into that before we got the money for the prisons? Why didn't we get into that beforehand?

MR. TON: I think the Department of Corrections can best answer that, but I think it was due to some preliminary planning so that the best decision could be made as to where these 1,000 additional beds ought to go. They were talking about trying to do this in a very, very short time frame. They wanted to get the 1,000 additional beds sometime during the early part of 1986. We're talking about conventional construction; we're talking about putting something in in 15 or 16 months, so we're talking about something that is going to be fast track, something to be done in a big hurry. We had to get at least some preliminary planning done so we could come up with the

appropriate recommendations and selections about where these ought to go.

ASSEMBLYMAN HAYTAIAN: Are the firms which are going to be conducting the prison feasibility studies going to be excluded from the possibility of being consultants for the--

MR. TON: (interrupting) No.

ASSEMBLYMAN HAYTAIAN: Why?

MR. TON: Well, if--

ASSEMBLYMAN OTLOWSKI: (interrupting) If they are preparing the feasibility studies, are they also going to be given the opportunity to bid?

ASSEMBLYMAN HAYTAIAN: And yet, you have never had those companies go through the process?

ASSEMBLYMAN OTLOWSKI: Or do the work?

MR. TON: Well, normally in the selection of AE services, it is done by a waiver process anyway, because normally you are trying to select a firm-- For example, in these cases, what firms have we looked at? We have looked at firms that have had experience in prison construction. They had to be large enough to take on large projects such as we have here. They had to have a large enough work force and a good track record so that they could produce and look at these things in a very, very short time frame. Now, there is a limited number--

ASSEMBLYMAN OTLOWSKI: (interrupting) Excuse me. Assemblyman Haytaian asked a very pertinent question that has to be developed more fully. If you get someone to do a study and that person does the study, is he then qualified later on to do the work under that study for a separate fee? That is what you're saying.

MR. TON: Normally, the selection process is done by a Selection Board consisting of anywhere from five to eight people. In the case of these feasibility studies, we had a Selection Board. It consisted of five professionals -- engineers, architects, and construction people -- from the Division of Building and Construction, and three people from the Department of Corrections.

ASSEMBLYMAN OTLOWSKI: But, unfortunately, all of the five or six people are human beings, with all of the frailties and weaknesses

that human beings have. You're talking about a very delicate area here.

MR. TON: Precisely, but these people— During the selection process, if I may describe it for you, these people went through the files of all the firms on our prequalified list which were qualified and able to do this work. Based upon that, they came up with five firms which were then interviewed. Based upon those interviews, three firms were selected for the three sites we were studying — Newark, Camden, and Trenton State Prison.

Now, they are conducting the feasibility studies. They have no say-so in the decision as to where those facilities are going to go. That decision is going to be made by the Department of Corrections and the Administration, along with the Legislature. Once that decision is made, the Selection Board will meet once again. If in the eyes of the Selection Board the firm that did the feasibility studies is the most qualified to perform the architectural engineering services, then that will be their judgment, but it will be a separate selection process.

ASSEMBLYMAN OTLOWSKI: Excuse me. I thought this was going to be a whole lot simpler than this.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, may I just ask one question that may be pertinent to this?

ASSEMBLYMAN OTLOWSKI: Sure.

ASSEMBLYMAN HAYTAIAN: Is that the same selection system that was used on the Justice Complex?

MR. TON: No, there was no selection process on the Justice Complex.

ASSEMBLYMAN HAYTAIAN: There was not?

MR. TON: There was not. I was not here at that time; I am not familiar with it, but my understanding is that it was not a selection process such as I just described.

The Selection Board comes up with their selection. They make a recommendation to me which I approve, disapprove, or change, depending upon the circumstances, and then once we enter into a contract, the waiver must be signed by the Treasurer to approve the selection of that particular firm to perform this work.

ASSEMBLYMAN HAYTAIAN: Jim, with due respect to your position, since I have an awful lot of experience in this area, I just can't believe that you can tell me, honestly and seriously, that you can't put out an RFP on what you want for a feasibility study. I just can't believe that. You know, I can follow that through all of my experience in the profession, all of my experience in local government, and the experience I have had in State government. To me, that type of selection process opens the floodgates, as the Chairman indicated, to a lot of problems. In my estimation, you will not get the best-qualified firms at a good price. That doesn't mean for a minute that you must go with the lowest bid. I am not advocating that. But, it does not give you the option of putting it out to 10 or 15 firms and then short-listing them so that you can do it. You can do it through the RFP process. Absolutely, it can be done. I don't know why your Department insists that it can't be done, especially in a situation like this.

MR. TON: Well, the procedure which I just described has been in effect or in force in the State for about five years, and it has been very successful. I come from the Federal government, from the Corps of Engineers, where we let billions of dollars of contracts. This is almost precisely the same.

ASSEMBLYMAN HAYTAIAN: There are lots of problems with the Corps of Engineers; don't use that as an example.

ASSEMBLYMAN OTLOWSKI: I wouldn't use that for an example right now either.

ASSEMBLYMAN HAYTAIAN: I'll give you the Tocks Island project as an example of the Corps of Engineers.

ASSEMBLYMAN OTLOWSKI: Let me just say this.

MR. TON: I'm saying that this is a process that is recognized—

ASSEMBLYMAN OTLOWSKI: (interrupting) May I have your attention, please? Frankly, I just had a moment to consult with Assemblyman Haytaian, and both of us have other commitments. I am going to have to adjourn this hearing at this point until another date. When we come back, we will go into this in great depth, because

as I said -- and the Assemblyman agrees with me -- we are in a very, very sensitive area here. As he put it, and he put it well, there are all kinds of potentials built in for evil. I don't think you want to be a part of that; I don't think you want us to be a part of that. I think we have to take a real good look at it.

I am going to adjourn this hearing. The date when the Subcommittee will reconvene will be announced within the next few days. Thank you very much.

(HEARING CONCLUDED)

APPENDIX



WILLIAM H. FAUVER
COMMISSIONER

STATE OF NEW JERSEY
DEPARTMENT OF CORRECTIONS
P. O. Box 7387
TRENTON, N. J. 08628

March 18, 1985

The Honorable Richard F. Visotcky
Chairman
Sub-Committee on Prison Overcrowding of
The Assembly Corrections, Health and
Human Services Committee
State House
CN-042
Trenton, NJ 08625

Dear Assemblyman Visotcky:

This is in response to your request of January 11, 1985 regarding information on privately operated prisons. Enclosed are the most recent reports on this subject prepared by the National Institute of Corrections and the National Institute of Justice.

In general, most privately operated correctional facilities are used to house juvenile offenders, non-violent county jail offenders or state sentenced minimum security offenders serving the final portion of their sentence at a half-way house in the community. To our knowledge, there are no large scale facilities operated by a private corporation used to incarcerate medium or maximum security offenders. The Department of Corrections would be interested in contracting with the private sector for selected groups of offenders, however, at this time, the lack of sufficient experience of private corporations in managing correctional facilities would preclude us from making a commitment to do this on an expanded basis.

The following summarizes the attached reports. In addition, I have provided a brief summary of this department's experience with contracting for services.

In terms of private sector contracting for correctional services, a wide spectrum is covered. The range of involvement includes provision of specific services (i.e. medical services, food services, training, etc.) construction/lease-back of facilities, operation of existing facilities and construction/operation of new facilities.

Assemblyman Visotcky
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To date, most contracting experience has focused on provision of specific services with private providers. Contracts for housing of juvenile or adult offenders have typically involved half-way houses with relatively small numbers of residents. While there has been some activity recently where private providers have been awarded contracts for major facilities, those for adults most often house minimum security offenders.

There are still no jurisdictions where a state correctional agency has contracted with a private provider to house a large number of adult state offenders. To the best of our knowledge, neither are any jurisdictions pursuing such arrangements. Some states have provided legislative authority to pursue lease-back arrangements, whereby private providers will use their own capital to construct a correctional facility and then lease the facility to the state. In a lease-back arrangement, the jurisdiction leasing the facility assumes responsibility for staffing and operation.

New Jersey's Experience with Private Providers

Like many other states, New Jersey has long utilized private non-profit providers for half-way house purposes. For more than seven years the department has contracted with several non-profit organizations, such as the New Jersey Association on Corrections; the Volunteers of America etc., to house adult offenders in various halfway house and community treatment centers. During the past three years these contract halfway houses had an average daily population of over 85 adult offenders. As of the end of February, approximately 100 state inmates were housed in five private non-profit facilities throughout the state. By July, 1985, current negotiations will result in a capacity to house 200 inmates in nine contract facilities.

New Jersey's primary need for additional prison space is for housing of medium/maximum security inmates. This is precisely the area where private providers have little or no proven experience.

The department's immediate interest in private contract services would be for special service offenders such as protective custody cases, geriatric offenders and other inmates affiliated with gangs or special interest groups within the prison setting. Until contract services have been demonstrated on a large scale basis on the medium/maximum custody level the department would consider its use only on a limited basis for a selected group of the inmate population.

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In recent months, the department has been negotiating with a New Jersey based private corporation that is interested in developing a facility to house 120 medium security offenders with histories of substance abuse problems. If negotiations are successful, the firm is optimistic that a facility can be brought on line in a period of 12 to 15 months.

Should you wish additional information on privately operated prisons do not hesitate to contact me.

Very truly yours,



William H. Fauver
Commissioner

SR:cd

**COMMENTS RELATIVE TO A UNIFIED
STATE/COUNTY CORRECTIONAL SYSTEM**

**NEW JERSEY DEPARTMENT OF CORRECTIONS
WILLIAM H. FAUVER, COMMISSIONER**

MARCH 1985

INTRODUCTION

At the Sub-Committee's January 11, 1985 hearing, I was asked to prepare a report concerning state assumption of the county jail system. As is well known, the state houses a substantial number of inmates in county facilities at considerable expense. It was postulated that release of county inmates to non-custodial alternatives could free up bedspaces for housing of additional state inmates and that if the state operated the county jails, costs might be less than what the state is currently paying the counties in the form of per diem reimbursement for housing of state inmates. This report does not support that position.

SUMMARY

The counties have direct jurisdiction over approximately 6,200 inmates, 450 of whom are serving week-end sentences. (This does not include over 1,200 state-sentenced offenders awaiting entrance into Department of Corrections' facilities.) This leaves a population of 5,750 inmates housed on a daily basis in facilities with a capacity of 5,600. If, very optimistically, 20% of these county inmates could be diverted from custody through various pre-trial or post-sentence diversion programs, approximately 1,100 county beds could be made available for housing of state inmates.

If state takeover of county facilities is the means by which those 1,100 hypothetical beds are secured, the state would assume costs for 4,650 county jurisdiction inmates in addition to the 1,100. This would be accomplished at a cost probably well in excess of \$100 million per year for operating expenditures, alone. Additional costs would be required for upgrading the county jail physical plant in order to comply with standards for state correctional facilities and for the programs to which the diverted county inmates would be assigned.

To assume that these 1,100 beds vacated by county inmates could be used for housing additional state inmates ignores the fact that over 1,200 state inmates are already housed in county facilities. These are inmates sentenced to the Department of Corrections who are awaiting admission into overcrowded departmental facilities. As long as that population remains substantial, it is unlikely that the counties could accomodate additional state inmates.

Assuming that at some future time a reduction in the state back-up population and a reduction of the county jurisdiction population would permit housing of longer term state inmates in county facilities, per diem payments to the counties would be a less expensive alternative to state takeover of the entire county jail system. At the per diem rate of \$45.00/day currently paid by the Department, the annual cost for housing 1,100 state inmates would be approximately \$18 million. This is far less than the \$100 million per year that state takeover might require. If cost is a primary determinant, unification does not appear to be a cost-effective alternative.

BACKGROUND

In May 1984, the Washington-based Advisory Commission on Intergovernmental Relations (ACIR) released a report entitled Jails: Intergovernmental Dimensions of a Local Problem. Most of the information in this section is derived from pages 85-129 of that report.

County jails in this country evolved from the tradition of England and its common law system. The nation's first jail was established in Jamestown, Virginia. Legislation of the General Assembly in 1642 codified the system of county jails, with Virginia establishing a pattern followed by the other colonies.

Today, only six states have unified correctional systems, (i.e. the state is responsible for all correctional facilities). Those states are: Alaska, Connecticut, Delaware, Hawaii, Rhode Island and Vermont.

These six states share several common denominators. All are small, either geographically or in population. In each, either the state is clearly dominant in state-local financing/responsibility or county government is weak or non-existent. Rhode Island and Connecticut abolished their county government systems in 1956 and 1960, respectively. County government in Vermont is weak and in Alaska, Delaware and Hawaii the state is the clearly dominant governmental entity in terms of local financing and spending. It should be strongly underscored that none of these factors are characteristic of New Jersey.

The ACIR report indicates that in 1973, the report of the National Advisory Commission on Criminal Justice Standards and Goals recommended state assumption of all local detention and correctional functions by 1982. The six states noted above all had unified systems prior to issuance of that report. Since that recommendation was made, no jurisdiction has opted to unify their state and local correctional systems.

The ACIR Report summarizes arguments for and against state takeover (p. 122). Arguments favoring takeover include:

-County governments suffer from an unavoidable lag in ability to cope with critical jail problems due to:

.Patronage systems often being used to staff jails;

.Fragmentation of responsibility, which holds neither the county board nor the sheriff accountable; and,

.Inadequacy of the tax base.

-States have greater fiscal resources and broader powers to better coordinate an integrated system.

-With greater powers, responsibilities and resources, states can:

- .Attract, hold and train competent personnel;
- .Exercise flexibility in transferring inmates among facilities;
- .Achieve management economies; and,
- .Assure statewide uniformity of offender treatment.

Arguments against takeover include:

-The jail function is a logical local function because of:

- .The local orientation of law enforcement;
- .Desirability of easy access to detainees by family, friends and lawyers; and,
- .The type of offender detained.

-Better financing is not assured by the state.

- .The state has greater resources but also greater needs.
- .Adequate jail funds will depend on competition with other segments of the total correction system and competition with other non-correction agencies.

-Movement away from ties with the community runs counter to a trend toward community-based corrections.

-Virtues of state takeover can be achieved by less drastic measures, including:

- .Regionalization (For example, construction of a regional correctional center for several counties.)
- .State subsidies (New Jersey's County Assistance Program would be an example. State funds were provided to various counties for jail construction, renovation and expansion in return for agreement to house approximately 700 state inmates in their completed facilities.)
- .Technical Assistance (The Department's Bureau of County Assistance provides review and planning assistance to counties contemplating jail construction projects.)

.Training (The Department's Correction Officer Training Academy provides training of county correction officers. Over 2,100 county officers have been trained since 1972.

ASSESSMENT OF STATE ADMINISTERED SYSTEM IN NEW JERSEY

No genuine assessment of the efficacy of state takeover of the county jails can be made without some notion of the outcome to be achieved. If cost savings is a primary concern, state takeover is likely to be a costly endeavor.

COUNTY JAIL POPULATION

As of February 26, 1985 there were 7,471 inmates housed in the various county correctional facilities with a capacity of 5,588. This figure included 3,682 pre-sentenced detainees, 2,318 sentenced to county jail terms, 1,288 state inmates housed in county facilities awaiting admission to state correctional facilities and 183 state inmates housed under various contracts with the Department of Corrections.

Of those inmates over whom the counties have direct jurisdiction (6,000 as of February 26), 58% are pre-sentence and pre-trial detainees. The other 42% are serving county sentences.

PRE-TRIAL POPULATION

Very little is known about the characteristics of the pre-trial population (i.e. arrest offense, amount of bail set, previous criminal history, etc.). Since bail standards are not uniform from county to county, it is possible that defendants jailed for pre-trial detainment in one county might be released on recognizance or low bail in another. Experience in other states indicates that uniform pre-trial release standards would probably serve to reduce pre-trial populations state-wide. Without an adequate data base, any estimate of the extent to which this population might be reduced would be highly speculative. The pre-trial population, however, appears to hold the greatest potential for reduction of county jail populations.

SENTENCED POPULATION

Of the 2,318 inmates serving county sentences, 450 are serving weekend sentences, only. This leaves approximately 1,850 inmates serving regular sentences. Some of these are serving sentences imposed at the municipal level, while others are sentenced from superior court. Little data is available for the municipally sentenced population, however, the Administrative Office of the Courts does maintain offense data for those sentenced from superior court.

During calendar 1983, there were 3,444 superior court sentences to the county jails. Following is a summary of offenses for those sentenced.

**Superior Court Sentences to County Facilities
Calendar Year 1983**

Offense Type	Number	Per Centage
Violent Crimes (Homocide, Kidnapping, Sex Offenses, Robbery)	490	14.2%
Burglary/Theft	1229	35.7%
Firearms/Weapons	282	8.2%
Drugs/Narcotic Violations	991	28.8%
Other Crimes (Fraud, Perjury, Gambling Misconduct in Office, Public Indecency)	452	13.1%
Total	3444	100%

It appears from this data that many of the inmates sentenced to county jails from superior courts are already serving lesser sentences for offenses that could have resulted in incarceration at the state level. In essence, the county jail sentence serves as an alternative to state incarceration. It is doubtful that many of these offenders would be suitable for non-custodial sanctions as an even less restrictive alternative.

If a substantial number of pre-trial or sentenced county inmates could be diverted to non-custodial sanctions, state administration of the jails could assure that the vacated beds would be used to house state inmates. If we assume, probably quite optimistically, that 20% of the county jurisdiction population could be diverted, this would vacate approximately 1,100 beds. A speculative assessment of the cost for these beds follows.

COSTS ATTENDANT TO STATE TAKEOVER

PHYSICAL PLANT

Historically in the United States, the purpose of a county jail has been to house offenders who are awaiting court adjudication (pre-trial) or to house offenders serving short-term sentences, generally of one year or less. The architectural design of a county jail reflects this purpose and, as such, generally does not include program or service areas for housing or treating offenders who are committed for lengthier terms. State facilities, on the other hand, do include these program and treatment areas in their design, and, as a rule, are more costly

to build than a facility which is designed primarily for detention.

New Jersey's county jails are not unlike those in other jurisdictions. They were constructed for housing pre-trial detainees on a short-term basis and those sentenced to short custodial terms for lesser offenses. Neither the physical plant nor staffing reflect requirements for housing long-term inmates serving time for major offenses. Inmate classification is virtually non-existent and treatment and educational services and staff are far less than would be seen and expected in state correctional facilities.

The Department's Bureau of County Services is responsible for auditing compliance of state-wide county jail standards. The standards that currently are in force were developed based, in part, on the premise that county jails primarily house offenders for a relatively short period of time. Many of the standards, therefore, require less than would be required for state facilities. If county facilities were to be used for housing state inmates for longer periods of time, more comprehensive standards would have to be applied.

For this report, the Bureau of County Services assessed various physical plant characteristics of the 30 facilities that currently house inmates at the county level. A judgement was made as to compliance or non-compliance for each characteristic based on standards for state correctional facilities. In many instances, a county might be compliant based on standards for county correctional facilities but non-compliant when the stricter standards for state facilities are applied.

The following table summarizes assessment results.

**COUNTY JAIL COMPLIANCE
AND NON-COMPLIANCE TALLY**

	Compliant	Non-Compliant
Primary Security	7	23
Internal Security	15	15
Armory*	13	12
Staff Office Space	16	14
Dining Facilities	19	11
Medical Facilities	24	6
Multi-Purpose Rooms	18	12
Indoor Recreation	20	10
Outdoor Recreation	17	13
Contact Visiting Facility	14	16
Non-Contact Visiting Facility	27	3
Library	16	14
Classroom	16	14

*This item not included for Ocean (existing and new), Passaic, Salem and Somerset Counties.

The level of non-compliance is significant. With state takeover and increased use of county facilities for housing state inmates, who are on the average serving much lengthier sentences, it is likely that the stricter state facility standards would apply. While we cannot cite a cost factor at this time relative to upgrading county facilities to meet standards for state facilities, it is likely that costs might be prohibitive. A more detailed analysis and study would be required in order to develop an estimate of those costs.

STAFFING

Recent county jail cost data is not readily available. It is possible, though, to gain some insight into custody costs that would result from state assumption of county jail operations.

There are approximately 2,030 county corrections officers employed state-wide. In addition, there are 275 sergeants, 89 Lieutenants and 54 Captains. Base county correction officer salaries range from \$10,800 to \$19,094. Maximum salaries range from \$16,000 to \$28,897. The average mid-range salary is \$17,874. State Senior Correction Officer salary is \$18,749 to \$25,309 with a mid-range of \$22,029 (Range L-18 fourth-step).

If we apply the mid-range salary for state correction officer titles to the current complement of county correction officers, we can derive a rough estimate of custody costs that would result from state takeover.

Rank	No. of County Officers	Mid-Range for State Officers	Annual Salary Cost
Correction Officer	2,030	\$22,029	\$44,718,870
Sergeant	275	\$23,773	6,537,575
Lieutenant	89	\$27,521	2,449,369
Captain	54	\$29,278	1,581,012
			<hr/>
			\$55,286,826

The figure cited is for salary, only. Overtime costs are not included, nor is an estimate for fringe benefits. Although fringe benefits would not be a direct cost for the Department in the event of a takeover, the state, through the Department of the Treasury, would have to bear that expense.

Overall state costs for county custody salaries would be significantly higher than the counties' current expenditures. Parity would be the primary reason for the cost differential.

While parity with state officers would probably be welcomed by many county officers, there are several counties with salary schedules for correction officers that exceed the state salary range. It is likely that officers in those counties would vigorously oppose parity if it means a reduction in salary.

OTHER COSTS

Whatever current county correctional costs are, salary parity with state correctional staff would cause state costs to exceed current county costs with no increase in staff, programs and services. To develop programs and services and to add staff, as would be required for housing long term state inmates, would boost costs even further. It would not be surprising to find operating costs for state takeover exceeding \$100 million per year.

In addition to costs for physical plant modifications and operating expenses, funding would also have to be available to develop and implement the programs to which the diverted county offenders would be assigned. Supervised pre-trial release and some form of intensive probation supervision appear to be appropriate programs for this purpose. Whether these programs would be funded at the state or county level, the fact that funding would be required should not be ignored.

CONCLUSION

While this is certainly not a comprehensive analysis, state takeover could possibly result in making additional beds available for state inmates. The number of beds to be gained is speculative, with 1,100 appearing to be an optimistic "guesstimate." The costs, however, would be considerable. A minimum of \$100 million per year for operating expenses plus costs for physical plant modifications and requisite diversion programs.

As an alternative, the state may wish to consider provision of subsidies to the counties for development of diversionary programs to reduce the number of county jurisdiction inmates. The Department could then place state inmates in the vacated beds at the prevailing per diem rate. The combined costs would be far less than the \$100 million dollars - plus required for state assumption of fiscal responsibility for the entire county inmate population. At the current per diem rate of \$45 per day, a budget of \$25 million would be sufficient to cover costs for diversion subsidies and per diem expenses for 1,100 inmates.

This review does not address the potential issue posed by housing a large number of state inmates in county facilities on a long term basis while the counties continue to house an equally large number of state inmates on an emergency basis. Of the 7,471 inmates housed in county facilities on February 26, 1985, 1,288 were state inmates awaiting admission to Department of Corrections facilities. If 1,100 county jurisdiction inmates

could be diverted, population would drop to 6,400, a number still in excess of the counties' 5,600 inmate capacity. While it is justifiable to house the backed-up state inmates in over-crowded county facilities for short periods under emergency conditions, it would be difficult to justify placement of additional state inmates for long-term housing while a substantial back-up population continues to be housed. This means that even if substantial numbers of county jurisdiction inmates can be diverted, the Department may not be able to place any more inmates than are currently being housed.

In addition to these concerns, state takeover may face strong opposition at the county level. New Jersey has a strong county government system characterized by the concept of "home rule." State takeover would also impact on local patronage, further eroding support for unification.

**NEW JERSEY DEPARTMENT OF CORRECTIONS
WILLIAM H. FAUVER, COMMISSIONER**

ARREST AND CONVICTION DATA

ADULT OFFENDERS

JANUARY, 1985

**Division of Policy and Planning
March 22, 1985**

**ARREST AND CONVICTION DATA
ON ADULT OFFENDERS OF THE DEPARTMENT OF CORRECTIONS**

January, 1985

INTRODUCTION

During January, 1985, the Department of Corrections (DOC), in conjunction with the Law and Public Safety (L&PS) data center, compiled statistics on arrests and convictions of offenders who were incarcerated in state institutions as of January 16, 1985. Computer files produced by the Department's Offender Based State Correctional Information System (OBSCIS), were matched to the State Police Offender Based Transaction System - Computerized Criminal History (OBTS-CCH) files. The State Bureau Identification number (SBI) was the primary method of matching the two computer files.

As a result of the match, more than 8,500 DOC records were matched to the OBTS-CCH files for arrest and conviction with the exclusion of state sentenced offenders housed in county jails and other DOC inmates for whom SBI numbers are not available. This represented approximately 75% of the Department's inmate population. It should be noted that conviction data may, if anything, be somewhat understated because of data collection problems. As a result, actual convictions may be higher than what is reported here.

For the purpose of this study, violent crimes include murder, rape, armed robbery, robbery, assault and other sexual assaults.

The following data summarizes the results of this computer match for all offenders incarcerated on January 16, 1985.

I. Arrest Data - All offenders (includes indictable and non-indictable arrests)

The average number of arrests for all offenders was 8.5 for a total number of 72,448 arrests.

The median number of arrests was 6.0.

More than 70% of all offenders have been arrested four times or more (including the instant offense) with more than thirty percent recording 10 or more arrests.

II. Conviction Data - All Offenders (includes indictable and non-indictable convictions)

The average number of convictions for all offenders was 4.7.

The median number of convictions was 3.0.

Almost 80% of all adult offenders have had two or more convictions, including their current conviction, with nearly 50% having four or more convictions.

III. Arrest Data on Offenders Currently Incarcerated for Non-Violent Crimes (includes indictable and non-indictable arrests)

The average number of arrests for all offenders currently committed for non-violent crimes was 10.6 for a total number of 34,500 arrests.

The median number of arrests for this group was 8.0.

More than 70% of all non-violent offenders were arrested five (5) or more times, including their current arrest, with over 40% recording 10 arrests or more.

IV. Conviction Data on Offenders Currently Incarcerated for Non-Violent Crimes (includes indictable and non-indictable convictions)

The average number of convictions for this group was 5.7.

The median number of convictions was 4.0.

Approximately 50% of this group recorded five (5) convictions or more.

For those offenders who are currently incarcerated for a non-violent crime, more than sixty percent have had a prior arrest for a violent crime. Moreover, of this percentage, about half have resulted in a prior conviction for a violent crime.

Summary

In summary, this report underscores the following major points of offenders currently incarcerated by the Department including:

All Offenders

- The average number of arrests was 8.5
- The average number of convictions was about 4.7

Non-Violent Offenders

-The average number of arrests (10.6) and the average number of convictions (5.7) for non-violent offenders was higher than that for all offenders. It may be inferred that the non-violent offender population has a significant higher arrest and conviction rate than our violent offenders.

-The majority (61%) of current non-violent offenders have had a prior arrest for a violent crime, almost one half of which resulted in a prior conviction for a violent offense.

Based upon this information and current offense information for inmates committed to the Department, nearly two-thirds of State sentenced prisoners are committed for violent crimes. Of the one-third who are "non-violent" offenders, the overwhelming majority are repeat offenders (an average of 10.5 arrests and 8.0 convictions), many of whom have a history of arrests and convictions for violent crimes.

As a result, the Department estimates that approximately 97% of all inmates in State prison are either in for violent crimes, have a history of a violent crime or have an extensive criminal background (repeat offenders) which would preclude them from diversion to community based programs. It has been estimated that no more than 2% to 3% of the prison population could potentially be placed in alternative programs, but even many of these are committed for crimes which cannot easily be considered for these programs, such as sale of drugs and/or non-violent sex offenses.

The State of



New Jersey

**INTENSIVE
SUPERVISION
PROGRAM**

*A Program of the
Administrative Office
of the Courts*



Justice Complex
CN-037
Trenton, N.J.
08625

REPORT
To The
ADVISORY COMMITTEE
FEBRUARY 20, 1985

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

ROBERT D. LIPSCHER
ADMINISTRATIVE DIRECTOR OF THE COURTS

HARVEY M. GOLDSTEIN
ASSISTANT DIRECTOR FOR PROBATION



CN 037
TRENTON, NEW JERSEY 08625
(609) 292-1500

Richard B. Talty
Director of ISP

February 20, 1985

Dear Advisory Board Member:

Welcome to the ISP Advisory Board meeting. I look forward to sharing with you the accomplishments and development of our program since our last Board meeting in August, 1984.

ISP has traveled a long distance since the Resentencing Panel released our first participants in September, 1983. Your continuing support, encouragement and recommendations have helped make ISP the success it is.

Finally, I extend a special welcome to a new member of the Board and ISP's first Director, Bill Brown.

Best regards,

Richard B. Talty
Richard B. Talty, Director
Intensive Supervision Program

RBT:lo

INTENSIVE SUPERVISION PROGRAM
STATUS REPORT

As of February 15, 287 clients have been released into the Intensive Supervision Program since its inception in 1983. Fifty-one clients have been returned to prison: 37 solely due to technical violations of the program's requirements. Of the remaining 14, 11 were returned due to technical violations and/or being charged with disorderly person offenses and 3 were returned due to technical violations and/or being charged with indictable offenses. One client has died while under supervision.

Sixteen clients have successfully graduated from the program to date.

INTENSIVE SUPERVISION PROGRAM
STATUS AS OF FEBRUARY 11, 1985

NUMBER RETURNED: 51

Programmatic Enforcement: 41

New Offenses: 10

>>Disorderly persons: 7

>>Indictable offenses: 3

NUMBER SUCCESSFULLY GRADUATED: 16

NUMBER UNDER SUPERVISION: 219

ISP APPLICATIONS FLOW

The following table indicates the flow of applications through the various levels of screening of ISP.

Applications may be rejected due to the nature of the current offense (robbery, murder, or sexual crimes), parole ineligibility, or out-of-state residence.

Rejection by the Screening Board before an assessment report is written may be caused by violence in the current offense, a history of violence in the applicant's past record, or evidence of an ongoing criminal activity.

Rejection by the Screening Board after an assessment report is written may be due to an inability to work out an acceptable treatment program, recommendation by the ISP officer, insufficient motivation on the part of the applicant or other significant reason.

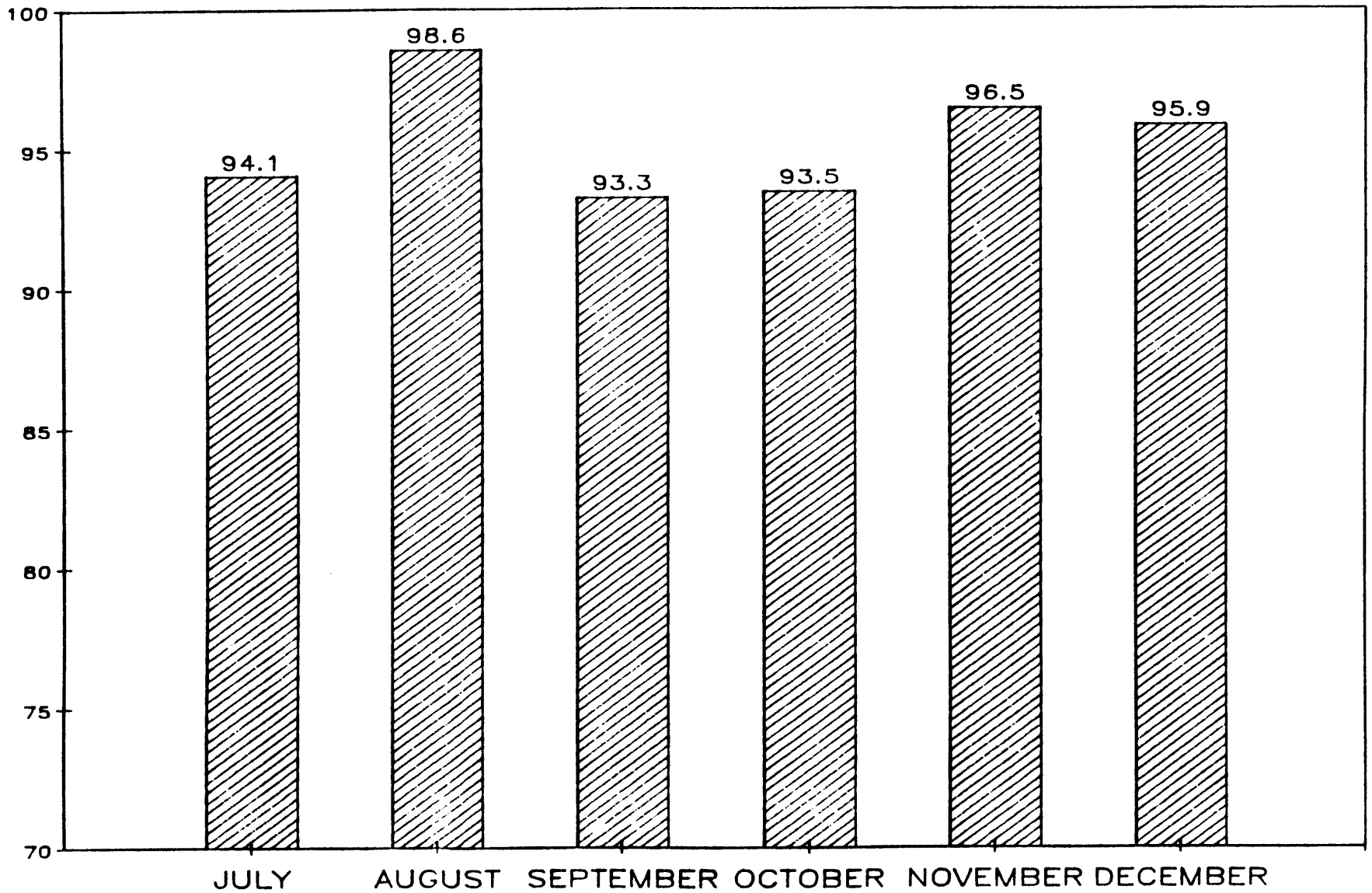
INTENSIVE SUPERVISION PROGRAM

APPLICATIONS FLOW

SEPTEMBER, 1983 -- JANUARY, 1985

TOTAL APPLICATIONS RECEIVED	2152
REJECTED DUE TO NATURE OF OFFENSE, OUT-OF-STATE RESIDENCE, ETC	455
REJECTED BY SCREENING BOARD BEFORE ASSESSMENT REPORT WRITTEN	704
REJECTED BY SCREENING BOARD AFTER ASSESSMENT REPORT WRITTEN	110
REJECTED BY ACTION OF THE RESENTENCING PANEL	39
TOTAL APPLICATIONS WITHDRAWN	114
TOTAL ADMITTED INTO I.S.P.	287

I.S.P. PARTICIPANT EMPLOYMENT PERCENT EMPLOYED



24X

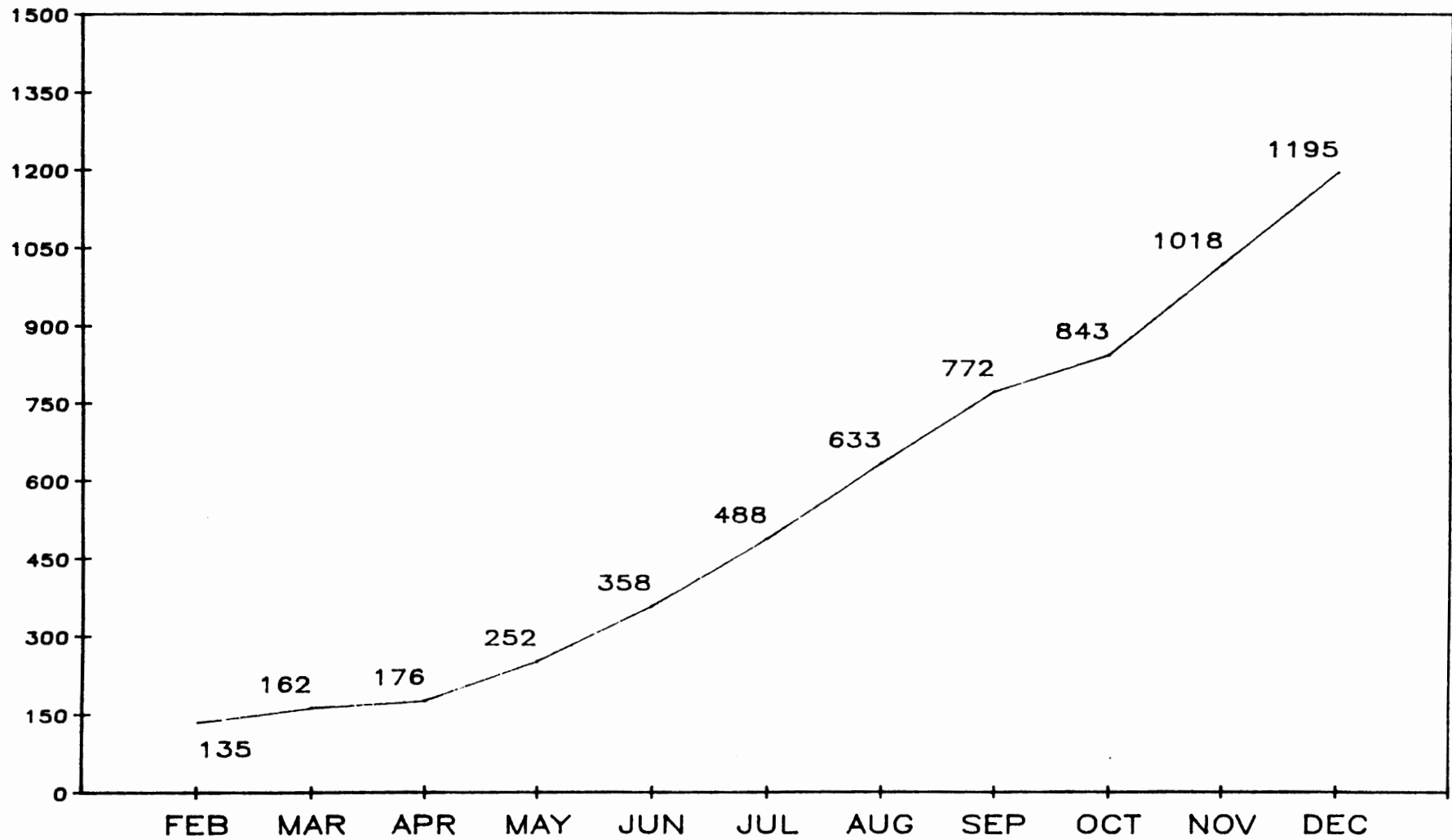
ISP PARTICIPANT EMPLOYMENT

Employment is a requirement of ISP. With the assistance of their ISP officers, program participants have consistently compiled an excellent rate of employment, much higher than ordinary probationers, and also higher than the general public. The current employment rate is slightly higher than 95%. ISP credits this high employment rate, in substantial part, to the workable caseloads which have not been afforded to traditional Probation Departments.

ISP PARTICIPANT EARNINGS

Clients in ISP have cumulatively earned nearly 1.2 million dollars. To put this figure in context, during December ISP clients earned over \$177,000. This converts to an average annualized income of \$9,500.

CUMULATIVE EARNINGS OF I.S.P. PARTICIPANTS (x \$1,000)



Cumulative earnings since 9/83

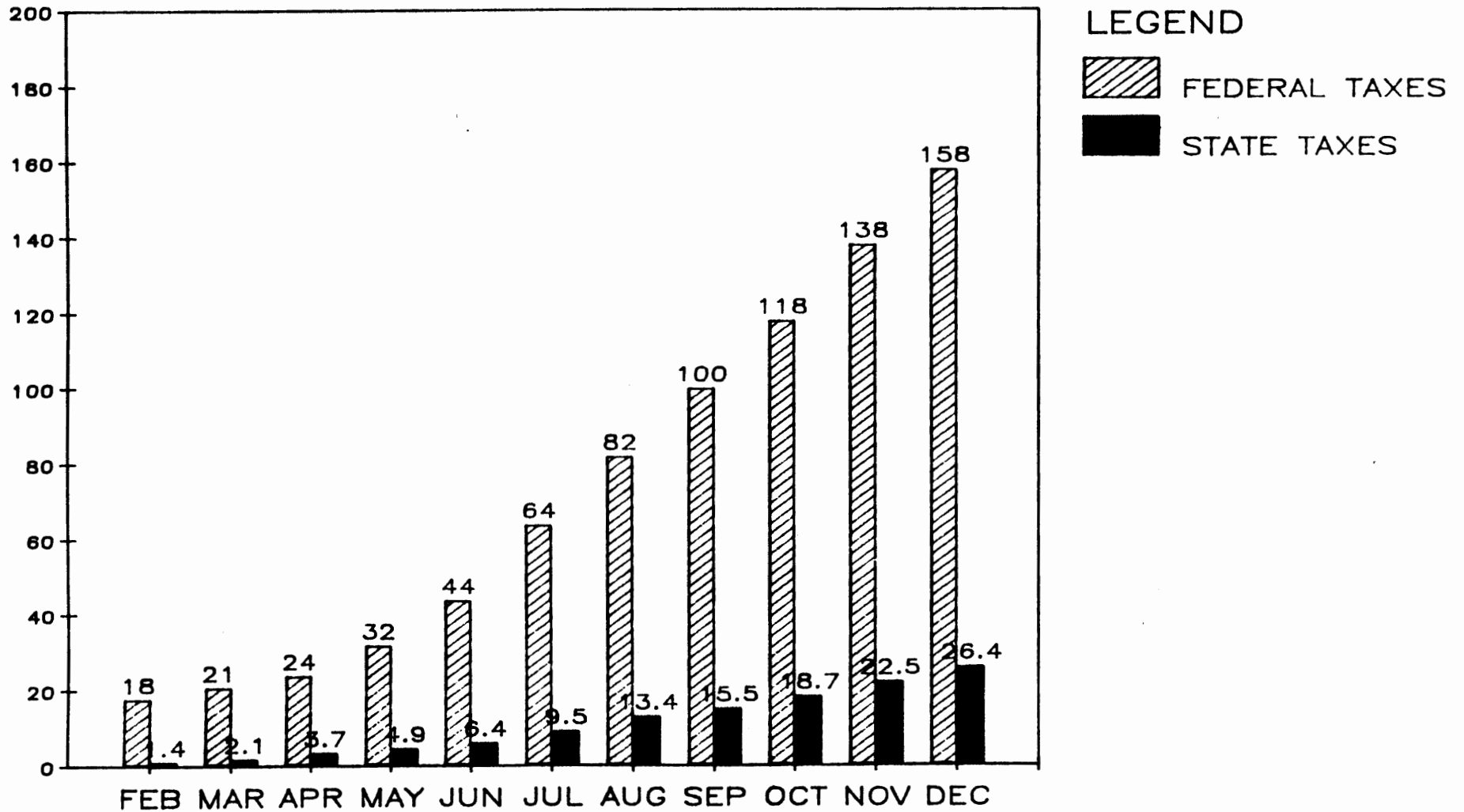
27X

TAXES PAID BY ISP PARTICIPANTS

As the previous chart has indicated, ISP participants are productive members of society, employed and earning a legitimate living. As such, they are contributing to society through the taxes which they are paying.

To date, over \$160,000 has been paid in federal taxes, and nearly \$23,000 has been paid in New Jersey state taxes.

CUMULATIVE TAXES PAID BY I.S.P. PARTICIPANTS (x \$1,000)



Cumulative figures since 9/83

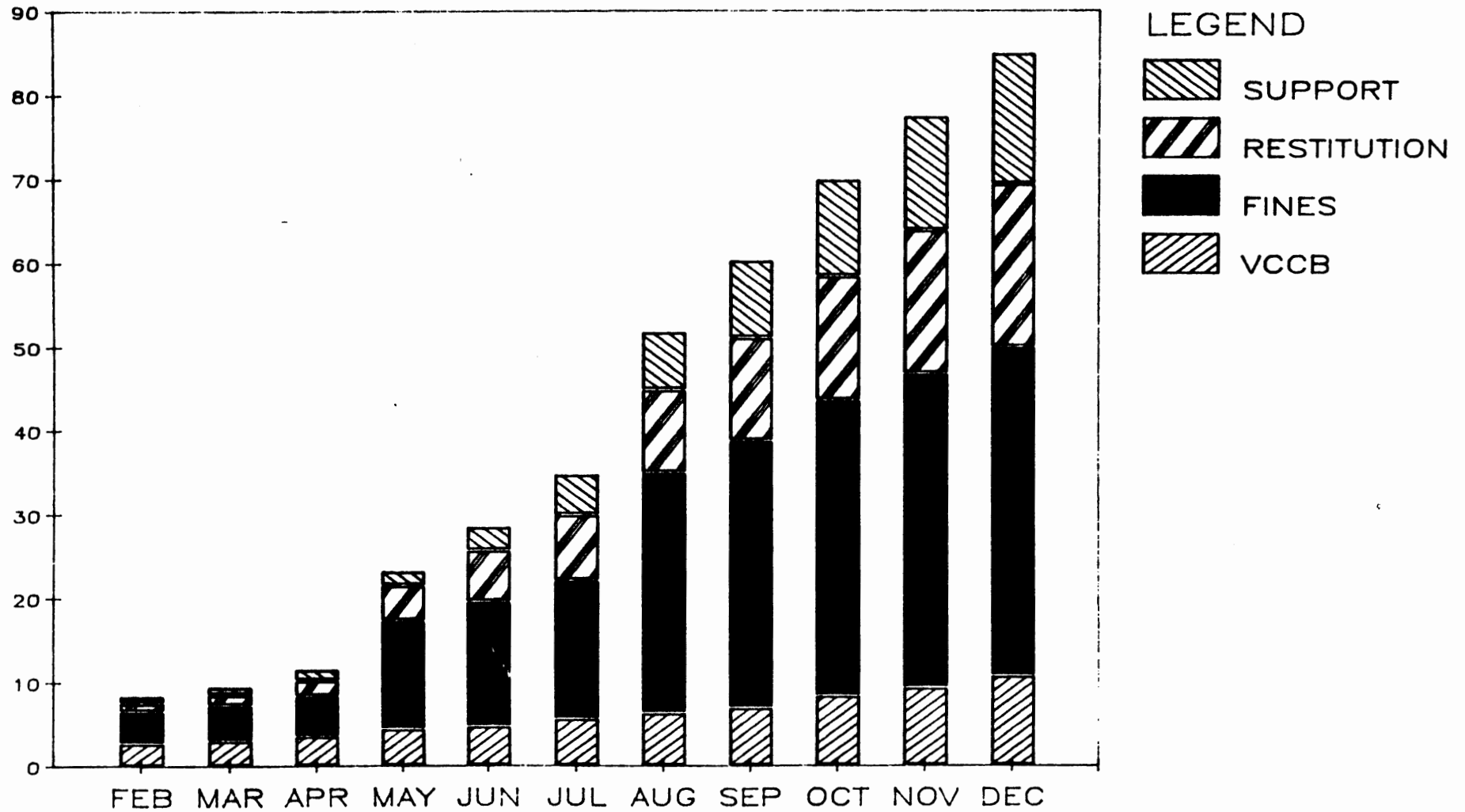
29X

PAYMENTS MADE BY ISP PARTICIPANTS
TOWARD FINANCIAL OBLIGATIONS

ISP participants are required as part of their treatment plan to meet their court imposed financial obligations. By their payments to the Violent Crimes Compensation Board and through restitution payments, they help to make whole the victims of their crimes.

The following table illustrates that ISP clients have paid nearly \$40,000 in fines, \$20,000 in restitution, \$16,000 in child support, and \$10,000 in payment to the VCCB fund.

PAYMENT OF COURT-ORDERED FINANCIAL OBLIGATIONS (x \$1,000)



Cumulative figures since 9/83

31X

ISP PARTICIPANT COMMUNITY SERVICE

A minimum of 16 hours of community service per month is required of program participants. To date, over 25,000 hours of such service have been performed for various governmental, civic, and religious agencies throughout the state.

Based on a study conducted by the Camden County Probation Department, this time is worth approximately \$8.00 per hour, indicating that ISP clients have contributed in excess of \$200,000 of service to the community.

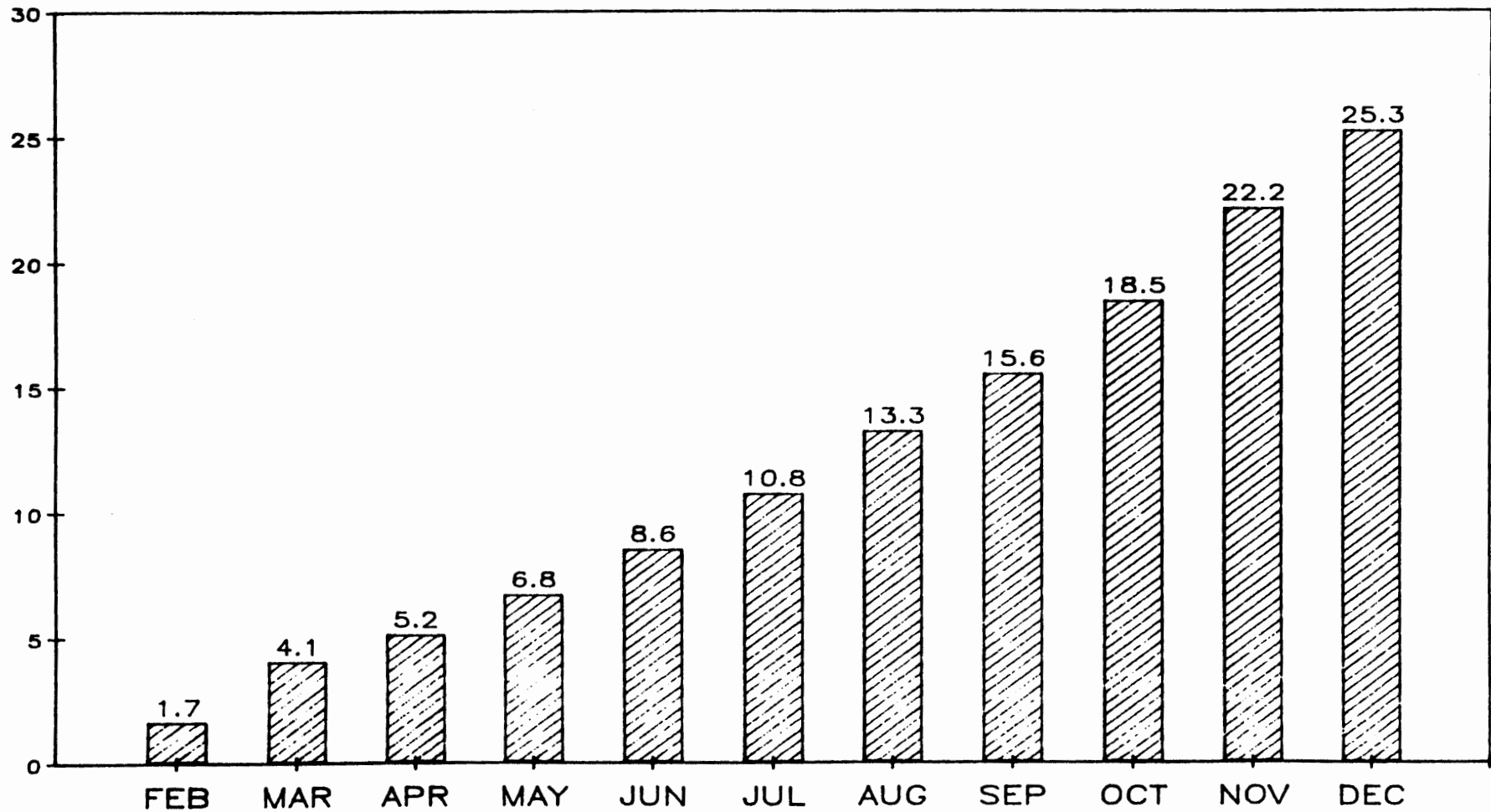
ISP presently operates five weekend group community service sites. At present, ISP participants are involved in rehabilitating cottages at a Department of Corrections residential facility, repainting buildings at a college, refurbishing a school in a impoverished Newark parish, painting the interior of a YMCA and providing parks cleanup for a Bergen County municipality. These sites are also available to county community service participants.

Most of the ISP participants perform their community service at individual sites throughout the state. The nature of community service encompasses almost every type of work imaginable. Orderly and maintenance work at hospitals, nursing homes and geriatric institutions; cleaning municipal vehicles; picking up litter at parks and roadways; painting, carpentry, plumbing, GED tutoring, day care center monitoring, and clerical services for charitable organizations are among the functions performed.

Community service is increased for participants who are unemployed and increased community service is imposed as a punitive measure for many participants who commit technical violations.

COMMUNITY SERVICE HOURS PERFORMED BY I.S.P. PARTICIPANTS (x 1,000 hours)

Total value of community service: \$200,000



Cumulative figures since 9/83

THE COSTS AND BENEFITS OF ISP

As the preceding charts have indicated, program participants have made significant contributions to society, through the payment of Federal and State taxes, payment of court-ordered financial obligations, and through the performance of community service work.

Participation in ISP has other direct benefits to the State, however. The cost of supervising an ISP client is approximately \$7,000. The Department of Correction estimates that it costs between \$15,000 and \$23,000 per year to keep one person incarcerated. ISP is therefore roughly one-third the cost of incarceration. In addition, the 200+ beds that these program participants would otherwise be occupying in prison would have cost between \$70,000 and \$100,000 per cell in construction and bonding costs.

Research is presently under way to determine the actual number of days of incarceration which release into ISP saves. A preliminary examination of projected parole eligibility dates (PED) indicates that clients are released into ISP an average of 206 days prior to their PED.

PRELIMINARY EVALUATION OF PROGRAM PERFORMANCE

The goals of ISP, as put forward in the Blue Book, are straight forward:

1. To reduce the number of offenders serving state prison sentences by permitting them to be resentenced to an intermediate form of punishment.
2. To improve utilization of correctional resources by making available additional bed spaces for violent criminals.
3. To test whether correctional supervision of selected offenders in the community can be less costly and more effective than traditional prison sentences.

How well have these goals been met? On the basis of internal evaluations, and external examination by Drs. Jackson Toby and Frank Pearson of Rutgers University, the program is meeting or exceeding its goals and requirements. Prison population has been reduced by over 200 persons, more space has been made available in prisons for violent offenders, and community supervision of selected offenders has been shown to be a safe and effective alternative to traditional prison sentences.

The program has a number of substantive requirements for its clients, violation of which subject the client to possible revocation of program status and return to prison.

<u>REQUIREMENT</u>	<u>ACTUAL PERFORMANCE</u>
Minimum of 20 contacts per month with ISP officer	Average of 25 total contacts
Minimum of 16 hours of community service	Average of 17 hours per client
Curfew of 10 pm - 6 am	All client on <u>at least</u> 10-6 curfew
Daily and weekend curfew checks	Average of 5 curfew checks per month
Urine monitoring	86% of all clients monitored
Full-time employment or schooling	96% of clients employed or in school

SUPERIOR COURT OF NEW JERSEY



CHAMBERS OF
JOHN A. MARZULLI
JUDGE

ESSEX COUNTY COURTS BLDG.
NEWARK, N. J. 07102

April 11, 1985

Hon. George J. Otlowski
Chairman of Assembly On Corrections
Health & Human Services Community
717 Convery Blvd.
Perth Amboy N.J. 08861

Dear Assemblyman Otlowski:

Again, let me express my appreciation for permitting me to appear before your committee on Prison Overcrowding. As is usual, after returning to my chambers, I thought of the many things I should have said but did not.

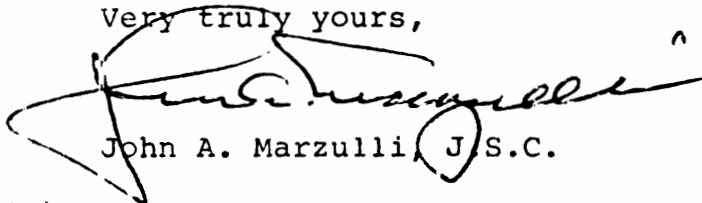
During the course of my testimony I indicated, among other things, that the Intensive Supervision Program should be permitted to take greater risks regarding the individuals allowed into the program. What I meant by that was, not that the public should be placed at greater risk, but that the criteria for entry into the program should be relaxed to allow us to accept more people without endangering the community.

Here is an idea that might be useful. I believe that an important step to accomplish ISP expansion might be to establish a Residential Center which would provide a more structured and supervised setting for people who require it. With such a Center some persons who otherwise would not be considered could be successfully released to the program. Some categories of persons might include people who met other criteria for release but did not have a suitable living situation, or persons who have something in their background or personality which suggests that a highly structured living arrangement is necessary.

I also see a Residential Center providing an alternative, short of prison, to be used for current participants who violate aspects of the program such as continued drug use, or whose living situation deteriorates. Instead of returning them to prison as is now done, the Center would provide an even more intensive level of supervision. It is estimated that nearly one-half of ISP participants who are returned as programmatic violators could have remained under community supervision, had this option been available.

As ISP has been a joint effort of the executive, legislature and judicial branches, it seems likely that the development of an expanded program would require that same cooperation. I am glad to have played a part in this important program, and thank you for the opportunity to share my ideas with you.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Marzulli". The signature is written in a cursive style with a large, sweeping initial "J".

John A. Marzulli, J.S.C.

cc: Hon. Richard F. Visotcky
104 Midland Avenue
Garfield, N.J.

Hon. Nicholas R. Felice
16-05 Fair Lawn Avenue
Fair Lawn, N.J.

NATIONAL
INSTITUTE FOR
SENTENCING
ALTERNATIVES



BRANDEIS UNIVERSITY
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**TESTIMONY TO THE JOINT COMMITTEE ON OVERCROWDING
NEW JERSEY STATE ASSEMBLY**

by

Dale G. Parent
Deputy Director

National Institute for Sentencing Alternatives
4-D Sydemann Hall
Brandeis University
Waltham, Massachusetts 02254

(617) 893-4014

March 28, 1985

Mister Chairman and Members of the Committee:

It is a pleasure to be invited here today to present an overview of state policy responses to overcrowding across the nation. The National Institute for Sentencing Alternatives is a public policy center devoted to the issues of sentencing reform and prison and jail overcrowding, and located within the Florence Heller Graduate School at Brandeis University in Waltham, Massachusetts. The Institute does not position itself against prison construction. We recognize that building may be part of the solution to overcrowding in some jurisdictions.

But all citizens should be concerned when jurisdictions like New York City spend nearly a quarter of a billion dollars in jail construction, but have only \$1 million available for new alternatives to divert jail-bound offenders. That scenario is being repeated in jurisdiction after jurisdiction. Today's prison and jail construction dollars become tomorrow's operational budget, increasingly draining scarce public resources from non-institutional corrections and from other important social priorities. If we try to build our way out of overcrowding, the future of corrections will be cast in steel and mortar well into the 21st century.

In the past decade prison populations have more than doubled, and correctional costs—including capital outlays—have almost quadrupled. In 1983 43 state prison systems officially were overcrowded—that is, operated with average daily populations in excess of rated capacity. The concern for costs is driving states to seek new policy approaches to sentencing which reduce the use of imprisonment and expand the availability of non-confinement options that are safe, tough, and affordable.

Demographers attribute the drop in crime rates over the past three years to a decline portion of the population in the most crime prone age bracket (15-30), and not to incapacitation effects of increased use of prisons. Moreover, they predict that prison populations will begin to drop in the early 1990's, due to the same demographic factors. If they are right, then new prisons authorized in 1985 or 1986 will become operational in the early 1990's when overcrowding should begin to ease.

We should view these demographic predictions with caution for two reasons. First, they may lull legislatures into doing nothing, and to let fiscally and politically costless events solve the problem in due course. That "hands off" approach would have considerable appeal to elected officials—provided, of course, that demographers are correct in their predictions. The second reason for concern is that they may not be correct. The demographers ignore the effect of policy decisions on prison population levels. Changes in sentencing laws, shifts in prosecutorial practices, trends in judicial sentencing, and changes in parole or correctional practices all have a much more profound and direct effect on prison population levels than population trends. Demography contributes to, but is not the driving force behind imprisonment practices.

The upshot is that prison population levels are subject to policy control, if we are willing to use the policy making process to achieve that end. Indeed, the policy process is being used to generate policies that are contributing to the severity of the overcrowding problem. Among these are (a) mandatory sentencing, for a variety of offenders—from habitual violent felons to drunk drivers to spouse abusers—and (b) determinate sentencing reforms which increase rates of confinement and the duration of prison terms.

CATEGORIES OF POLICY DEVELOPMENT

A. Diversion

1. Laws establishing a particular sentencing option or options, and which provide that the option be used to divert confinement-bound offenders.

Example: Intensive Probation Supervision statute in Arizona. Due to prison overcrowding, the 1984 Arizona Legislature created 600 ISP slots to be used for offenders who otherwise would have gotten prison sentences. They also decided to build several hundred new prison cells. One year after enactment, the statewide ISP program was nearing operational status, but the construction initiative was stymied due to siting problems. The Legislature is now considering a bill to triple the number of ISP slots.

ISP provides tightly structured supervision of prison-bound offenders, who typically have a high risk of recidivism. ISP provides a large number of direct contacts between the probationer and the probation officer (in some programs, 3 to 5 per week), plus collateral contacts. Typically, the offender is required to be employed or seeking a job. During non-working hours offenders may be placed on curfew, with random spot checks. Often they must perform community service or pay restitution.

ISP is a tough, punitive sentence. Initial evaluations show that recidivism by offenders on ISP is lower than offenders on traditional probation, even though they are a higher risk population.

2. Laws which provide incentives for development of alternative sentencing.

Example: In 1984 New York passed an Alternatives to Incarceration Law, aimed at reducing jail crowding by giving counties incentives to devise and implement plans which would reduce inappropriate confinement. The incentives were: (a) a simplified jail classification system,

and (b) state aid [matched on a 50/50 basis by the local government] to finance new programs. The law did not require counties to participate, but if they did, they had to form an advisory board representing key criminal justice and community leaders, to analyze their local confinement practices, identify problems, and devise solutions.

The law directed the Division of Criminal Justice Services) to set standards for local planning, approve or disapprove submitted plans, and to administer state aid payments.

Initial funding was minimal—about \$3 million, with expansion likely in the future. By comparison, in 1984 New York State authorized \$650 million for new prison construction.

3. Laws which rely on both incentives and disincentives to expand alternative sentences.

Example: Community Corrections Acts (Minnesota, Oregon, Kansas). The structure is similar in many respects to the above New York law, except that:

- (a) the statute contains a standard by which to judge whether confinement is or is not appropriate. For example, in Minnesota Law, if statutory maximum sentence for the conviction offense was 5 years or less, confinement was not deemed appropriate.
- (b) the statute applies penalties to participating counties who engage in inappropriate confinement. In most cases, the counties are billed for per diem costs of confining inappropriate prison commitments. The billing is automatically deducted from their subsidy payments.
- (c) participating counties assume costs of providing all correctional services formerly provided by the state.

Evaluations have shown that CCA's can reduce prison commitments, although results were less than dramatic, and in jurisdictions with low imprisonment rates to begin with, reductions in imprisonment was marginal.

CCA's do produce a strong local constituency for alternative sentencing. That constituency becomes a political advocates for alternative programs in the future.

B. Cutting Durations

1. Emergency Release Acts (ERA) [Texas, Michigan, Florida]

These acts in theory automatically invoke a releasing procedure whenever prisons are overcapacity for a given period of time. In practice, if prison populations are over 100% of capacity for a 30 day period despite administrative efforts to reduce it, the Commissioner of Corrections notifies the Governor. The Governor investigates and, if he or she finds that the Commissioner has exhausted administrative remedies, is required by law to declare an overcrowding emergency. Eligible inmates have parole eligibility dates advanced by 90 days. This increases the pool of parole-eligibles, who are then subject to discretionary parole release. If there are successive overcrowding emergencies, the 90-day advances cumulate.

Critics of ERA charge it is a non-policy, encouraging officials to avoid making tough decisions on who should be imprisoned, and for how long. Advocates note that overcrowding is "losing issue" for public officials; ERA's automatic provisions shield them from public criticism for responding to overcrowding.

ERA may have a place as an ultimate safety valve in extreme situations. But recent events in Michigan suggests that over-reliance on ERA creates a political backlash.

2. Good Time

In many states the recent trend has been to reduce good time awards, so that they become less important in controlling population levels. In some situations, however, they can have an important effect. For example, in 1983 Minnesota approved a law granting good time off mandatory minimum sentences. The law was sold on "equity" grounds—to put all inmates on the same good time formula—but it cut about 5 months off the average prison term and avoided a projected 200 bed shortfall by 1986.

3. Reducing Mandatory Minimums.

Many states have enacted so many mandatory minimum sentences that the pool of offenders eligible for diversion from prison is so small that alternatives can play little role in solving the overcrowding problem. It may be necessary to reexamine the use of mandatory sentencing.

C. Sentencing Reform

1. Sentencing Commissions directed to take prison capacity into consideration in guideline drafting.

Example: Minnesota, Washington, New York, South Carolina, Florida.

Typically sentencing commissions consist of 9 to 13 members who represent different criminal justice interests and the public. Legislators may or may not be represented on the membership. Generally, the members are appointed by the Governor, the Chief Justice, and, if legislators are members, by legislative leaders. The Governor names a chair.

They are directed by law to devise presumptive guidelines governing when imprisonment is and is not appropriate, and when it is appropriate, to govern its duration. Judges are permitted to depart from the presumptive guidelines in individual cases, if they give reasons why a more or less severe sentence was warranted. Beyond that basic framework, sentencing commission laws vary considerably.

One key feature contained in some sentencing commission laws, is a directive to take prison capacity into consideration when drafting the guidelines. Note that if we want to control prison populations, we must control only two factors—the numbers admitted to prison, and how long they stay there. Those are precisely the elements of presumptive sentences that sentencing commissions are required to establish.

Its also important to note that controlling prison populations was not the sole or even the most important objective leading to creation of sentencing commissions. They were intended to make sentencing more equitable, more uniform, more certain, and more tough for selected categories of offenders. Each of these objectives attracted support from different segments of justice interests. Controlling prison population levels became

a peripheral benefit of guidelines, and, thus, if handled properly by a sentencing commission, generated relatively little political controversy.

STATEMENT OF

Richard J. Russo, M.S.P.H.
Assistant Commissioner
Alcohol, Narcotic and Drug Abuse
New Jersey State Department of Health

AT HEARING BEFORE THE
SUBCOMMITTEE ON PRISON OVERCROWDING
OF THE
ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE

State House Annex
Trenton, New Jersey

March 28, 1985

Assemblyman Visotcky and members of the subcommittee, my name is Richard J. Russo, and I am Assistant Commissioner, Alcohol, Narcotic and Drug Abuse, in the State Department of Health.

I appreciate the opportunity to appear today to assist the Assembly in highlighting possible solutions to the problem of State and county correctional overcrowding through alternatives to incarceration for nonviolent criminals.

As you know, the State Health Department's Division of Alcoholism and Division of Narcotic and Drug Abuse Control are responsible for planning, funding, and regulating alcoholism and drug abuse prevention and treatment programs throughout New Jersey. By far the largest part of the State and federal funds we administer support a network of approximately 150 nonprofit residential and outpatient alcoholism and drug abuse programs serving every county and legislative district in New Jersey. These community-based agencies provide treatment and rehabilitation services to approximately 30,000 men and women with alcohol and drug abuse problems each year.

This Statewide treatment network already serves as an important noncustodial alternative for nonviolent criminals. Approximately 20% or 6,000 of the individuals who enter New Jersey alcoholism and drug abuse programs each year are referred by criminal justice agencies. These criminal justice referrals are diverted from every point of the adult and juvenile justice system, including pretrial intervention, regular probation, intensive supervision, directly from prison, and on parole. Many of these referrals to our community agencies would otherwise take up State and county correctional space.

In addition, both our State Divisions and the community treatment programs have worked and continue to work closely with State and local judicial and correctional staff to improve their understanding of alcohol and drug problems, the relationship of these problems to criminal behavior, and the case identification and supervision systems necessary for community agencies to serve as effective alternative for nonviolent offenders.

Today, I would like to highlight two major points with you as you consider the variety of alternative programs for nonviolent offenders:

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One -- Although community alcoholism and drug abuse programs already help reduce correctional overcrowding, there are still a substantial number of nonviolent State and county inmates with alcohol or drug problems taking up correctional space who could be more effectively served by community treatment programs.

Two -- We can expand the use of community programs to further reduce overcrowding, but we do need additional funds. The treatment programs need additional support; the supervision programs need additional support; and both programs need continuing legislative, judicial and executive agency cooperation to accomplish reduced overcrowding.

In addition, I would like to highlight for you a recent development in drug abuse treatment--the availability of a new nonaddictive drug called Naltrexone. Used appropriately, this new federally approved drug for opiate abuse treatment could assist county jails in particular to reduce overcrowding for a number of selected heroin addicted nonviolent criminals.

Let me expand for a moment on each of these points.

First, as you know, our State and county correctional facilities together currently house more than 18,000 men and women, of whom more than 10,000 are in State facilities, and 7,500 in county jails. About 14,000 of this total are actually serving sentences in the State and county facilities. The rest are awaiting trial or sentencing in county jails.

The Department of Corrections estimates that 20 - 25%, that is, 2,000 - 3,000 of State inmates are serving sentences for nonviolent crimes. Most of the additional 2,500 people serving county jail sentences were also convicted for nonviolent offenses. So, at the moment, approximately 4,000 nonviolent criminals are still using State and county correctional space.

We also know that a substantial number of these nonviolent inmates have an alcohol or drug problem or both. Although we don't have exact figures, our best conservative estimates by the Department of Corrections and the Federal Bureau of Justice statistics suggest that at least half of sentenced State and county inmates have

an alcohol or drug problem, regardless of what crime they were actually convicted of. Conservatively--that's 2,000 nonviolent State and county inmates with an alcohol or drug problem still taking up prison and jail space.

Second, as I mentioned, our State network of alcoholism and drug abuse treatment programs already serves as a less costly and more effective alternative for some non-violent offenders. With additional funding for this network and for the diversion/supervision programs already authorized by the Legislature, community alcohol and drug programs could take more of the 2,000 nonviolent inmates still using prison and jail space.

Among the diversion mechanisms already established and funded by the Legislature are the pretrial intervention (PTI) and TASC (Treatment Alternatives to Street Crime) programs in each county, the Intensive Supervision Program (ISP) started in 1983, and the Mutual Agreement Program (MAP) for nonviolent State inmates with alcohol problems. Each of these mechanisms already helps divert some offenders with alcohol and drug problems to community alternatives. Each can be expanded to do more.

As the Legislature has already recognized, community treatment programs and the diversion and supervision staff necessary to their effective operation are not cost free. However, our general experience is that the direct cost of community-based alcohol and drug abuse treatment plus their support systems is much less than the direct cost of prison and jail confinement. Community alternatives do require an investment, but pay off in both direct short term cost savings, and in longer term cost and effectiveness.

Finally, I would like to return to highlight for you a recent development in drug abuse treatment. The Food and Drug Administration (FDA) has now released a new drug--Naltrexone--for unrestricted use by the medical profession. Naltrexone can be a new approach to the selective management of heroin addiction. It is manufactured by Dupont Pharmaceuticals, and until recently, was only used experimentally. One such experiment was a jail work release program in Nassau County, New York, which had very positive results. As an addendum to my remarks this morning, I have attached a short article on this New York work release program which I believe is worthy of the

Assembly's review and discussion.

After these hearings and your review, I would be happy to meet again with you and other appropriate agencies to explore implementing a similar work release program for New Jersey.

Thank you for your consideration, and I would now be happy to answer any questions.

STATEMENT BY GERALD D. SILLIPHANT BEFORE THE

ASSEMBLY SUBCOMMITTEE ON ALTERNATIVE SENTENCING

MARCH 28, 1985

CHAIRMAN VISOTCKY, MEMBERS OF THE SUBCOMMITTEE, FOR THE RECORD MY NAME IS GERALD D. SILLIPHANT. I AM THE LEGISLATIVE BUDGET OFFICER AND THE DIRECTOR OF THE DIVISION OF BUDGET AND PROGRAM REVIEW IN THE OFFICE OF LEGISLATIVE SERVICES.

I HAVE BEEN ASKED TO APPEAR BEFORE THE SUBCOMMITTEE TO PROVIDE YOU WITH AN ESTIMATE OF THE COST TO THE STATE OF TAKING OVER AND OPERATING COUNTY CORRECTIONAL FACILITIES AS PART OF THE STATE PRISON SYSTEM. TWO MAJOR DATA SOURCES WERE USED TO DEVELOP OUR ESTIMATE - COUNTY BUDGETS AND THE DEPARTMENT OF CORRECTIONS.

AS THE ATTACHED TABLE SHOWS, CURRENT ANNUAL NET COUNTY CORRECTIONAL AND PENAL OPERATIONAL COSTS ARE ESTIMATED TO BE BETWEEN \$94 AND \$102.4 MILLION, WHICH WOULD BE THE BASE ESTIMATED ADDITIONAL OPERATING COSTS THE STATE WOULD ASSUME IF IT TOOK OVER THE OPERATIONS OF THE COUNTY FACILITIES. THESE COSTS INCLUDE AN ESTIMATE FOR FRINGE BENEFITS THAT WOULD BE

ATTRIBUTABLE TO THE PERSONNEL IN THE COUNTY SYSTEMS AND AN OFFSETTING AMOUNT FOR A RANGE OF STATE AID THAT IS PAID TO THE COUNTIES FOR STATE SENTENCED INMATES HOUSED IN THE COUNTY FACILITIES IN EXCESS OF FIFTEEN DAYS.

THE BUDGET INFORMATION APPEARING ON THE TABLE WAS OBTAINED FROM PROPOSED COUNTY BUDGETS, FOR THE 1985 BUDGET YEAR, ON FILE IN THE DIVISION OF LOCAL GOVERNMENT SERVICES AS OF MARCH 18, 1985. FOR THOSE BUDGETS NOT ON FILE, TELEPHONE CALLS WERE MADE TO THE COUNTIES TO OBTAIN THE INFORMATION. REFERENCE TO THE TABLE SHOWS TOTAL ESTIMATED 1985 COUNTY CORRECTIONAL AND PENAL COSTS OF \$115,759,631 LESS \$13,325,188 IN ESTIMATED STATE REVENUE, OR STATE AID, FOR A NET COST OF \$102,434,443. WITHIN THIS TOTAL, SALARIES ARE ESTIMATED AT \$77,657,008. NON-SALARY OR "OTHER" COSTS, EXCLUSIVE OF FRINGE BENEFITS ARE ESTIMATED AT \$18,621,737.

ESTIMATED FRINGE BENEFITS COSTS OF \$19,480,886 INCLUDE SUCH ITEMS AS SOCIAL SECURITY, PENSION, AND WHERE IDENTIFIABLE, PERSONAL TYPES OF INSURANCE SUCH AS HEALTH BENEFITS.

ESTIMATED STATE REVENUES ARE STATE FISCAL YEAR 1985 AMOUNTS ANNUALIZED THROUGH THE END OF THE FISCAL YEAR, BASED ON AMOUNTS ACTUALLY PAID TO

THE COUNTIES BY THE STATE THROUGH FEBRUARY 28, 1985.

FOR PURPOSE OF ILLUSTRATION, TWO ALTERNATE 1985 TOTALS ARE SHOWN ON THE TABLE. FIRST, FOR ESTIMATED STATE REVENUES OF \$21,742,000, AND SECOND, FOR ESTIMATED NET COUNTY COSTS OF \$94,016,631. THESE ALTERNATE TOTALS WOULD MATERIALIZE IF A PENDING SUPPLEMENTAL APPROPRIATION BILL S-2614 IS ENACTED. THIS BILL CONTAINS A LUMP SUM AMOUNT OF \$9,724,000 FOR THE PURCHASE OF SERVICE FOR INMATES INCARCERATED IN COUNTY PENAL FACILITIES.

THE COSTS TO THE STATE COULD BE GREATER THAN THE AMOUNTS CITED ABOVE BUT WOULD DEPEND ON HOW THE STATE IMPLEMENTED THE ASSUMPTION OF THE OPERATIONAL COSTS. ACCORDING TO INFORMATION FROM THE STATE DEPARTMENT OF CORRECTIONS, DURING 1984, THE DIFFERENTIAL BETWEEN THE ESTIMATED AVERAGE ANNUAL SALARY OF COUNTY CORRECTIONAL OFFICERS AND STATE CORRECTIONAL OFFICERS NOT INCLUDING SUPERVISORY PERSONNEL, IS ABOUT \$4,155 OR \$17,874 COUNTY COMPARED WITH \$22,029 STATE. IF THE STATE UPGRADED THE COUNTY SALARY LEVELS TO BE COMPARABLE TO THOSE PAID TO STATE CORRECTIONAL OFFICERS, THE ESTIMATED ADDED COSTS FOR THE APPROXIMATELY 2000 COUNTY CORRECTIONAL OFFICERS WOULD BE ABOUT \$8.4 MILLION, WITH AN ESTIMATED

ADDITIONAL \$2.1 MILLION FOR FRINGE BENEFITS. IT IS PROBABLE THAT THERE IS A SIMILAR SALARY DIFFERENTIAL BETWEEN THE 418 COUNTY SUPERVISORY CORRECTIONAL PERSONNEL AND THEIR STATE COUNTERPARTS BUT THAT INFORMATION HAS NOT BEEN COLLECTED BY THE DEPARTMENT.

ANOTHER AREA OF POSSIBLE ADDITIONAL COST TO THE STATE WOULD BE ANY COSTS TO UPGRADE EXISTING COUNTY CORRECTIONAL PROGRAMS AND FACILITIES TO STATE STANDARDS. THIS WOULD INCLUDE ITEMS SUCH AS FOOD SERVICE, EDUCATIONAL PROGRAMS, AND MEDICAL SERVICES. THESE COSTS COULD ONLY BE DETERMINED AFTER A COMPREHENSIVE SURVEY. IN TERMS OF FACILITIES COSTS, THESE WOULD HAVE TO BE DETERMINED BY ACTUAL INSPECTION AND SURVEY BY QUALIFIED PERSONNEL. A POLICY DECISION AS TO WHETHER THE STATE WOULD ASSUME DEBT SERVICE COSTS, IF ANY, THAT ARE PART OF THE COUNTY BUDGETS AND ATTRIBUTABLE TO THE CORRECTIONAL FACILITIES WOULD ALSO HAVE TO BE MADE. THE COUNTY BUDGETS DO NOT SPECIFICALLY IDENTIFY DEBT SERVICE COSTS FOR CORRECTIONAL FACILITIES. HOWEVER, DEBT SERVICE IDENTIFIED AS "OTHER", DEBT SERVICE ON NOTES AND UNDIFFERENTIATED DEBT SERVICE TOTALLED \$85.3 MILLION IN THE CURRENT COUNTY BUDGETS, AN INDETERMINATE PART OF WHICH COULD BE ATTRIBUTABLE TO CORRECTIONAL FACILITY COSTS. A COUNTY BY COUNTY SURVEY

WOULD BE REQUIRED TO DETERMINE DEBT SERVICE ALLOCATIONS SINCE THEY ARE NOT DISPLAYED IN THE BUDGETS THEMSELVES.

IN SUMMARY, IF THE STATE ASSUMED THE OPERATIONAL COSTS OF THE COUNTY CORRECTIONAL FACILITIES, THE ADDITIONAL COST TO THE STATE WOULD PROBABLY BE NO LESS THAN \$94 MILLION WITH A RANGE OF ADDITIONAL COSTS UP TO \$102.4 MILLION OR MORE DEPENDING ON THE CONDITIONS UNDER WHICH THE STATE ASSUMES THOSE COSTS.

STAFF AND I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS THE SUBCOMMITTEE MAY HAVE.

COUNTY	SALARIES	OTHER	FRINGE BFT. COSTS	TOTAL	STATE REVENUES	NET COSTS
ATLANTIC	\$2,389,101	\$196,631	\$582,809	\$3,168,541	\$568,663	\$2,599,878
BERGEN	4,941,879	1,323,000	811,254	7,076,133	2,181,384	4,914,748
BURLINGTON	3,089,352	644,911	782,477	4,516,740	238,773	4,277,967
CAMDEN	4,882,399	1,087,695	1,573,620	7,543,714	62,862	7,490,862
CAPE MAY	542,067	278,550	168,553	989,170	369,951	619,219
CUMBERLAND*#	2,085,413	653,901	232,213	2,971,527	78,321	2,893,206
ESSEX*#	17,224,011	2,657,933	2,730,990	22,612,934	162,321	22,450,613
GLOUCESTER	1,800,236	489,460	465,178	2,754,874	265,785	2,499,089
HUDSON	4,795,084	1,340,950	1,395,518	7,531,552	849,262	6,682,300
HUNTERDON	750,000	144,900	214,655	1,109,555	11,812	1,097,743
MERCER	3,902,719	1,675,119	1,137,158	6,714,996	2,221,351	4,493,645
MIDDLESEX	6,243,400	2,494,779	1,701,293	10,439,472	617,737	9,821,735
MONMOUTH	4,303,818	1,115,535	1,260,612	6,679,965	536,655	6,143,310
MORRIS	2,671,631	339,785	646,967	3,658,383	303,365	3,355,018
OCEAN	2,150,000	475,000	547,196	3,172,196	55,230	3,116,966
PASSAIC	5,890,000	1,280,000	2,270,202	9,440,202	3,088,929	6,353,274
SALEM	873,192	320,000	216,001	1,409,193	197,715	1,211,478
SOMERSET	1,306,955	387,803	334,301	2,029,059	173,140	1,855,919
SUSSEX	1,398,374	530,980	386,291	2,315,645	468,177	1,847,468
UNION*	5,361,215	960,000	1,775,794	8,097,009	878,850	7,218,159
WARREN	1,056,162	224,805	247,803	1,528,770	38,922	1,491,847
TOTAL	\$77,657,008	\$18,621,737	\$19,480,886	\$115,759,631	\$13,325,188	\$102,434,443
					\$21,742,000*	\$94,016,631

highest
and

Source for salary, other and fringe benefit data; county budgets on file in the Division of Local Government Services as of March 10, 1985 except data for Counties marked with an * for which the data was obtained by phone.

Fringe benefit costs were estimated by multiplying the percentage that correctional salaries are to total salaries by total fringe benefit costs. Total fringe benefit costs are those identifiable costs in the county budgets such as social security, pension and personal types of insurance such as health and hospital.

Fringe benefits based on 1984 data.

Estimated revenues are the State fiscal year 1985 payments to the counties annualized from actual payments made through February 28, 1985

* Estimated revenues based on supplemental appropriation of \$9,724,000 requested by the Department

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May 1, 1985

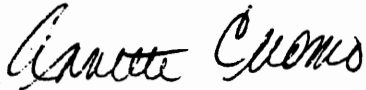
Mr. David Price
Office of Legislative Services
State House Annex
CN-042
Room 311
Trenton, NJ 08625

Dear Mr. Price:

Enclosed please find eight (8) copies of Mr. Joseph DiPaolo's testimony. This is the testimony that Mr. DiPaolo would have given at the March 28, 1985 Public Hearing had the meeting not been adjourned before he was called upon to testify.

If you require any additional information, please do not hesitate to contact me.

Very truly yours,



Annette Cuomo
Executive Administrator

AC/
Enc.

MODULAR
CORRECTIONAL
SYSTEMS INC.

20 WATERSIDE PLAZA
NEW YORK, N.Y. 10010
(212) 889-9848

March 28, 1985 - PUBLIC HEARING ON PRISON OVERCROWDING
STATE HOUSE ANNEX, TRENTON, NEW JERSEY

Testimony given by Mr. Joseph R. DiPaolo, Executive Vice President, MCSI

Mr. Chairman, Representatives of this Sub-Committee on Prison
Overcrowding of the Assembly Corrections, Health and Humane
Services Committee, Ladies and Gentlemen:

Thank you for inviting me to your sub-committee meeting this
morning and affording me an opportunity to talk about Modular
Correctional Systems, Inc. and our unique premanufactured
steel reinforced concrete inmate housing system.

MCSI was incorporated under the laws of New York on March 30, 1983
by myself and Mr. Vincent DeSimone. Mr. DeSimone is a structural
engineer and is President of Modular Correctional Systems, Inc.
He also heads a structural design engineering firm, DeSimone,
Chaplin & Associates Consulting Engineers, P.C. which has
completed structural designs for high rise concrete and steel
buildings in Florida, New Jersey, Oregon, New York and China.

My most recent background has been in banking as Director of
Facilities and Engineering Management. While at Citibank, I
pioneered the design of modular banking buildings for use with
electronic banking systems and for consumer banking services.
I also have extensive experience in computer systems design,
communications systems design and in construction management.

Our premanufactured inmate modular housing system was developed
during the George Romney Project breakthrough initiative. This
modular approach has been successfully applied to the construction
of more than 14,000 housing units in the Caribbean and South
America. This very same patented technology is used by MCSI to
fabricate our inmate housing modules.

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NEW YORK, N.Y. 10010
(212) 889-9848

In the summer of 1983, MCSI raised about \$300,000 in private capital and used these funds to prepare designs and build prototypical modules in our contract plant in Cranbury, New Jersey. In June, 1984, we went to the investment community and, through the vehicle of a public issue, we raised an additional \$2,800,000 of working capital. In addition to our Cranbury, New Jersey Plant, we have a fabrication plant in Florida City, Florida and by First Quarter, 1986, we will have fabrication capability in Dallas, Texas; San Diego, California as well as a second plant in Central Florida.

Our product uses concrete and steel, materials which are indigenous to jail and prison construction. We accomplish 95% of the cell fabrication in our plant and ship a cell unit complete with all doors, locks, bunks, shelves, lavatory, commode, windows, etc. all mounted in place. All cell wall surfaces, both interior and exterior are finished prior to shipping. With our medium-maximum cells, your Department of Corrections decides on size of cell, types of furnishings, fixtures, hardware and windows that may be required for any specific project. Our system provides full flexibility to your designers and engineers in choosing any contemporary architectural configuration to meet a specific operational plan. Our modules can be used to build a vertical prison or jail up to 42 stories high in a seismic '4' zone; with no change in module design or increase in shipping weight.

Our fabrication system is a flat panel concrete casting process using steel bar joists and mesh for reinforcement.

The panels are erected to form a cell. The bar joists are full penetration welded to each other at the corners of the module and form a series of steel hoops about the concrete unit. Each concrete panel is also welded to the adjoining panel using mating steel imbeds. All windows, fixtures and furnishings are welded to steel

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imbeds which are cast into the concrete panels during the casting process. The panel joints are packed with an epoxy grout which will give a compressive strength of 7,000 psi minimum, and a tensile shear of at least 1,800 psi. The units are shipped complete with a cell front panel which can be set up for swinging or sliding door operation together with a chase closure panel complete with door, lock, etc.

We ship two units on a flatbed truck and we erect these units on the job site at a rate of between 30 and 50 modules a week.

We fabricate our units in Cranbury, New Jersey using New Jersey labor and material suppliers.

Our premanufactured inmate housing system can save up to 30% of construction cost for inmate housing, and we can reduce construction time cycles to a matter of months, with time savings often exceeding 50% when compared to conventional construction cycles. In addition, two nationwide investment bankers have reviewed our product and have committed to providing alternative financing for states and local communities who are financially strapped, or elect not to seek public bonding.

We are affiliated with the General Construction and Construction Management Company of Ebasco Constructors Inc. located in Lyndhurst, New Jersey. This corporation has a bonding capacity in excess of 3 billion dollars, and will bond time and performance on a 100% basis. In concert with Ebasco Constructors Inc., MCSI can bid on housing only or on an entire prison project, as a General Contractor, as Construction Manager, as Product Supplier or on a turnkey construction basis.

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NEW YORK, N.Y. 10010
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In conclusion, our premanufactured medium and maximum security cells, can provide the State of New Jersey with a flexible, cost and time saving prison housing construction system which is fabricated in your state, is made of 5,000 psi concrete, reinforced with steel and is built by New Jersey labor. Our housing system will meet all life safety and energy codes. With this system, your statewide and county Department of Corrections can expand inmate housing on the same footprint with little or no cost penalties or operational inconveniences. This is accomplished simply by lifting the roof panels and stacking a second housing cluster on top of the existing lower cluster, of course providing the footings are initially designed with this possibility of vertical expansion in mind.

I wish to thank you for inviting me and listening to my story about a unique cost and time savings system that we believe is a construction systems approach whose time has come in the correctional field.



HARD J. CONDON
COMMISSIONER

STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
Executive Park Tower
Stuyvesant Plaza
Albany, New York 12203

February 1, 1985

Mr. David Price
Corrections, Health & Human
Services Committee
New Jersey Office of Legislative
Services
CN-042 - Room 311
Trenton, New Jersey 08625

Dear Mr. Price:

You recently requested information regarding New York State's efforts to develop effective alternatives to incarceration. I hope that the following information is of value to your committee.

New York State has been faced with severe overcrowding in recent years, both in our state prison system and within our local jails. Three years ago, efforts were begun to develop new alternative programs which might impact on this overcrowding. These efforts have expanded significantly since Governor Cuomo took office. In Fiscal Year 1982-83, only \$1.2 million was appropriated for such efforts. In Fiscal Year 1983-84, this funding was increased to \$4.5 million. Last year, as a result of recommendations by the Governor's Task Force on Alternatives to Incarceration, the level of state support was increased to \$16.3 million. We anticipate at least a maintenance of effort in the coming year.

Efforts to develop alternatives to incarceration in this state have been carried out in a variety of contexts and through several state agencies. My agency has been administering a series of demonstration projects which are operated by non-profit service providers and which receive 100% state funding. (I have enclosed some literature on some of these programs for your review). These programs can be divided into three general categories:

(1) Community Service Programs

These programs deal with non-violent offenders who are sentenced to perform a specified number of hours of

free service to the community in lieu of a jail sentence. The programs screen potential clients for acceptance, arrange for placement with the service sites, and then monitor offender compliance with what is intended to be an alternative form of punishment. The number of hours of community service is tied to the severity of the crime and, in some cases, is computed on the basis of the length of jail sentence for which program placement is substituted.

(2) Individualized Sentencing Plan Programs

These programs present individualized sentencing plans to the courts on selected defendants. Based upon extensive investigations of the offender's background, current circumstances and needs, a comprehensive plan is developed, including alternative punishments (primarily community service and restitution), supervision options, and treatment recommendations. Several of these programs are based on the "client specific planning" model developed by the National Center on Institutions and Alternatives. In all of these efforts, referrals are made exclusively by defense attorneys and the programs serve, essentially, to improve the scope and quality of sentencing advocacy by defense counsel. Should a court agree with the recommendations of the sentencing plan, these recommendations are then made conditions of the non-incarcerative sentence that is imposed.

(3) Offender Rehabilitation Programs

New York State has funded a number of programs designed to provide treatment services, counseling and referrals to offenders, participation in which may be made a condition of probation. These programs typically offer a broad range of diagnostic, vocational, educational and counseling services and, in some instances, may offer residential care. Some of the programs focus on special defendant populations, such as recidivist DWI offenders, women offenders, or youths.

In addition to these demonstration programs, state efforts to develop alternative programs took a major step forward this past year as a result of legislation that made funding available to all counties based upon submission of detailed plans. We refer to this legislation as the "classification/alternatives" bill, and I have enclosed for your reference a variety of materials pertaining to the planning process now underway. The bill provides for a rather unique marriage between alternatives to incarceration and classification in the local jails. It reduces the number of mandated classi

fications from twelve to four, a change which local corrections officials had long sought. However, in order for a county to take advantage of this reduced classification system, it must prepare an alternatives to incarceration service plan and implement programs that will reduce inappropriate confinement. State funding is made available under this legislation for each county, based upon the county's population.

This new legislation represents a novel and important new approach in our efforts to promote alternatives. Most significant is the requirement that each county undertake a comprehensive planning process designed to identify just who is in the jail and for what kinds of offenses, what system changes might be made to reduce incarceration, etc. If you review the enclosed materials, I am sure that you will get a sense of the relevance of these efforts. It is important to note, however, that the thrust of this bill and, therefore, of the programs that will be developed as a result, is local jail overcrowding, as opposed to state prison overcrowding. One can assume, therefore, that program participants will be drawn primarily from the ranks of misdemeanor offenders (albeit those clearly identified as likely to serve a jail sentence).

Beyond those efforts undertaken directly by my office, New York State has also implemented a number of other interesting and important approaches. We have an intensive supervision/alternative sentencing program operated through the State Division of Probation. This program has developed various risk assessment mechanisms designed to identify offenders who are either at risk of being incarcerated or at risk of failing on traditional probation. Such offenders are then placed on specialized caseloads which find no probation officer supervising more than 25 offenders. Our ISP/ASP efforts have been well received and have begun to have an impact in terms of capturing prison-bound offenders. I would suggest that you contact Ms. Marion Goldberg of the Division of Probation who is in charge of this program statewide. Ms. Goldberg can be reached at (212) 587-4672.

New York State's Division of Parole has also been active in developing programs that are, essentially, alternatives to retention in state prison. Known as parole resource centers, these programs offer short-term residential and counseling services for inmates whose release might otherwise be delayed because of inadequate post-release resources. Parole has also implemented a number of "parole transition facilities" which are designed as alternatives for parolees who commit technical violations of the conditions of their release (as opposed to new crimes). Again, these facilities offer short-term residential and crisis intervention services. Mr. Ed Elwin, Executive Director of the Division of Parole, can provide you with more details regarding these programs. He can be reached at (518) 473-9672.

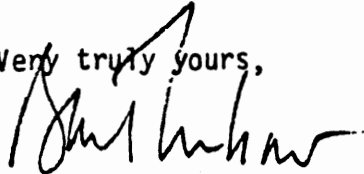
Until recently, the Department of Correctional Services offered a unique and very successful program also designed to facilitate release of inmates. Known as the "community contract facilities program", this effort identified alcohol or substance abusing inmates who were within one year of parole eligibility and, if they met some fairly stringent criteria, placed

these inmates in community-based treatment centers. The program was well supervised and offered a sensible approach to reintegration of inmates. Unfortunately, the enabling legislation for this initiative lapsed last year, primarily as a consequence of political factors (as opposed to program failures).

These, then, are the broad outlines of New York State's recent efforts. If I can be of further assistance, please feel free to contact me. If New Jersey has any printed materials on its efforts to develop alternatives, including any analyses or policy papers, we would be very interested in receiving copies.

Best of luck in your endeavors.

Very truly yours,



Bart Lubow
Director
Alternatives to Incarceration

BL/cc