

# Committee Meeting

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## SENATE LAW AND PUBLIC SAFETY COMMITTEE

"To receive testimony from Commissioner of Corrections, William H. Fauver, and the Chairman of the State Parole Board, Louis Nickolopoulos, regarding the assignment of State prison inmates and parolees to the Electronic Monitoring/Home Confinement Program administered by the Department of Corrections."

**LOCATION:** Room 6  
Legislative Office Bldg.  
Trenton, New Jersey

**DATE:** October 8, 1992  
10:00 a.m.

### MEMBERS OF COMMITTEE PRESENT:

Senator Louis F. Kosco, Chairman  
Senator John J. Matheussen, Vice-Chairman  
Senator John P. Scott  
Senator Bradford S. Smith  
Senator Thomas F. Cowan  
Senator John A. Girgenti



### ALSO PRESENT:

Assemblyman Frank Catania  
District 35

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

**Hearing Recorded and Transcribed by**  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068

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LOUIS F. KOSCO  
Chairman  
JOHN J. MATHEUSSEN  
Vice-Chairman  
JOHN P. SCOTT  
BRADFORD S. SMITH  
THOMAS F. COWAN  
JOHN A. GIRGENTI

## New Jersey State Legislature

### SENATE LAW AND PUBLIC SAFETY COMMITTEE

LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NEW JERSEY 08625-0068  
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### COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE LAW AND PUBLIC SAFETY  
COMMITTEE

FROM: SENATOR LOUIS F. KOSCO, CHAIRMAN

SUBJECT: COMMITTEE MEETING - October 8, 1992

*The public may address comments and questions to Aggie Szilagyi, Committee Aide, or make bill status and scheduling inquiries to Kathleen Espieg, secretary, at (609) 984-0231.*

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The Senate Law and Public Safety Committee will meet on Thursday, October 8, 1992 at 10:00 A.M. in Room 6 of the Legislative Office Building, Trenton.

The committee will receive testimony from Commissioner of Corrections, William H. Fauver, and the Chairman of the State Parole Board, Louis Nickolopoulos, regarding the assignment of State prison inmates and parolees to the Electronic Monitoring/Home Confinement Program administered by the Department of Corrections. Specifically, the Commissioner of Corrections will discuss with the committee the addition of new prison inmates to the program, thereby ending the freeze on program admissions imposed last spring.

In addition, the following bills will be considered:

S-614 Ewing	Authorizes operation of brew pubs; dedicates alcoholic beverage tax proceeds to prevention of alcohol and drug abuse.
S-1056 Kosco	Requires Administrative Director of the courts to provide to Legislature estimates on number of persons to be incarcerated in accordance with certain legislation.
S-1073 Kosco	Permits denial of driver's license to person who is in violation of federal immigration laws.

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Louis Nickolopoulos Chairman New Jersey State Parole Board	18

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MEMORANDUM FOR THE RECORD

On 10/10/54, the following information was received from the [redacted] regarding the [redacted] of the [redacted] in the [redacted] area. The [redacted] was [redacted] and [redacted] on [redacted] at [redacted] hours. The [redacted] was [redacted] and [redacted] on [redacted] at [redacted] hours. The [redacted] was [redacted] and [redacted] on [redacted] at [redacted] hours.

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On 10/12/54, the following information was received from the [redacted] regarding the [redacted] of the [redacted] in the [redacted] area. The [redacted] was [redacted] and [redacted] on [redacted] at [redacted] hours. The [redacted] was [redacted] and [redacted] on [redacted] at [redacted] hours. The [redacted] was [redacted] and [redacted] on [redacted] at [redacted] hours.

**SENATOR LOUIS F. KOSCO (Chairman):** As we open today's hearing, I want to thank my colleagues from the Senate Law and Public Safety Committee for their role in working to address the problems in the New Jersey Department of Corrections Home Confinement/Electronic Monitoring Program.

Today's hearing will focus on choices, and the choice is whether or not the DOC-run Electronic Monitoring Program should be expanded and continued. We intend to listen closely to the Department officials, and I will reserve my right to make a formal recommendation until the end of the hearing today.

I would like to announce that on October 22, the author of the independent consultant report which assessed the DOC electronic bracelet program will appear before our Committee. Dr. Joseph B. Vaughn is a Professor in the Criminal Justice Department of the Central Missouri State University in Warrensburg, Missouri. His expert testimony and evaluation regarding the changes and improvements made in the Electronic Monitoring Program by the DOC should prove invaluable to the Committee in its deliberations.

Assemblyman, you're welcome to join us at that hearing on the 22nd.

**ASSEMBLYMAN CATANIA:** Thank you.

**SENATOR KOSCO:** It's going to be very enlightening, because he is going to review the changes that have been made as they relate to the recommendations that he made in his reports. We will all benefit from this information.

Additionally, I would like to note that we have many notes and many letters from police chiefs throughout the State of New Jersey, particularly Chief Betten in Rochelle Park, and Chief Sprengel in Oradell, Little Ferry Chief Don Fleming, and a number of other police chiefs supporting the legislation that we have proposed making the corrections that we have -- Senator Girgenti and myself, bill S-805. They are all in support of that plan. We sent them all letters asking them their opinion, along with the prosecutors from most of the counties.

As you know, our bill would require mandatory notification to all police chiefs and county prosecutors who will receive inmates in the electronic bracelet program. Furthermore, the bill, prior to its amendment before the Assembly Judiciary Committee, would have given the local officials the right to veto, with justification, the placement of individuals into the electronic bracelet program and returning them to their home communities.

May we begin our hearing by listening to the Commissioner as to whether the final changes have been made in the program to warrant the proposed expansions at this time?

I would like for Commissioner Fauver and his staff to describe the consequences of a present expansion versus no expansion at all.

I'm also calling on Deputy Speaker Frank Catania to be here with us, because I know he has a number of comments because of his concerns.

Commissioner, you're up.

**COMMISSIONER WILLIAM H. FAUVER:**  
Mr. Chairman, thank you.

Just a brief statement: The total number of people under the jurisdiction of the Department of Corrections are roughly, between those in and those on parole, about 40,000 people. In this program as it exists today, we're down to 100 people who will be attrited and be completely out of the program within the next two months. It is my judgment that I intend to stop the program as far as assigning prisoners to the program.

We have roughly 37 to 39 parole officers involved with this program who I intend to reassign to regular caseloads, particularly the drug caseloads which need more intensive supervision.

So the bracelet program, as far as any inmates in it, will be eliminated, and the future of it, I don't know whether we at some point see a different clientele that can fit.

Possibly we will do that. We're looking at the options of utilizing this with technical parole violators, if that can be worked out. That would be with the concurrence of the Board.

But as far as assigning people to the program, the numbers of staff people, and the number of parole officers, particularly, that are taken up with this small number of people -- and I don't see it realistically growing -- have led to this determination.

I think the issues of how people go into the program become moot at this point, because they won't be going into the program.

SENATOR KOSCO: What's the reason for your decision to eliminate the program?

COMMISSIONER FAUVER: The numbers, I think, are just too small to justify the expenditures to do this.

SENATOR KOSCO: The number of people that you would make available?

COMMISSIONER FAUVER: The number of people that would be available in the program, yes.

SENATOR KOSCO: Why?

COMMISSIONER FAUVER: Because when we discussed this before, I think a lot of the people that you are suggesting -- you singularly and you as a Committee -- are perfect fits, but they are not in the State system; they're in the county jail systems. I think we are going to encourage the county jails to make more use of the program themselves. We will continue the monitoring unit -- the central communications unit, rather -- for the foreseeable future. We at least have to do it -- We have contracted with a couple of counties to do that, and we will continue to keep that open.

SENATOR KOSCO: Out of the approximately 700 inmates less that you have in the program right now --

COMMISSIONER FAUVER: No, I have 100 inmates in the program.

SENATOR KOSCO: That's what I said. You had 800 in the program, right?

COMMISSIONER FAUVER: Close, yes.

SENATOR KOSCO: So now you're down 700.

COMMISSIONER FAUVER: Down 700.

SENATOR KOSCO: So there's 700 less in the program right now than there were a couple of months ago when this all started. That's correct?

COMMISSIONER FAUVER: Correct.

SENATOR KOSCO: Out of those 700, are you telling me that 650 of them were drug dealers?

COMMISSIONER FAUVER: No, no. I didn't say that at all.

SENATOR KOSCO: Okay. Approximately how many of them were drug dealers?

COMMISSIONER FAUVER: I don't know.

SENATOR KOSCO: Because if your understanding is the same as the media's understanding, which is absolutely wrong, we are not suggesting that people involved in drugs do not be put into the program. Our suggestion is that people who are drug dealers -- dealers in drugs, not users of drugs, dealers. Now, if you were putting 700 people into this program that were drug dealers, that's wrong, and that's what we're trying to eliminate.

But no one on this Committee, to the best of my knowledge, including myself, ever said, "We don't want people involved in drugs," which is the terminology that the newspapers used. We said, "We don't want dealers, people who deal in drugs involved in the program."

COMMISSIONER FAUVER: Right.

SENATOR KOSCO: Now is that your understanding, or was that not your understanding?

COMMISSIONER FAUVER: No, that's my understanding--

SENATOR KOSCO: That's your understanding.

COMMISSIONER FAUVER: --that it was people who sold drugs.

SENATOR KOSCO: So, even if you were going-- So you would still not have enough people to put into this program?

COMMISSIONER FAUVER: Well, I don't think that we would. Roughly 80 percent of our population has used and sold drugs in the sense of selling them because of -- for incidental-- You know, they sell--

SENATOR KOSCO: I'm talking about convicted drug dealers. I'm not talking about what we don't know or are guessing. We're talking about people who are sentenced to jail because they sold drugs.

COMMISSIONER FAUVER: No, I understand that they were not to be in the program. I understand that.

SENATOR KOSCO: Okay. That's the only people; not people who were convicted of using drugs.

Senator Girgenti?

SENATOR GIRGENTI: Commissioner, if I understand you correctly then, at this point in time, you're going to do away with the program? You're going to phase it out? Whatever is in existence right now--

COMMISSIONER FAUVER: We're going to phase it out. Correct, Senator. What's in existence will stay, and our commitments to the counties that have contracted with us for bracelets for county inmates will continue.

SENATOR GIRGENTI: All right. Are you going to continue to examine this? Obviously, we have a lot of material and information here as a result of the consultant's report, the result of a lot of the hearings we've had. Is this going to be an ongoing thing in terms of you're not shutting the door on it in the future, but at this point in time, you feel that this is what has happened? Or are you just on a course that you feel that the program is no longer going to be something that we will have in New Jersey?

COMMISSIONER FAUVER: No. It's, maybe, something that we would come back to. You know, never say never on anything. But I think that if we did, recognizing the concerns of the Committee, I would come back to the Committee before doing anything. But as of right now, it's going to just phase out through attrition, so that way nobody on the program gets hurt. And as I said, I can utilize the parole officers to help reduce the very high caseloads.

SENATOR KOSCO: Does anyone have any questions?

ASSEMBLYMAN CATANIA: Senator, if I could?

SENATOR KOSCO: Assemblyman?

ASSEMBLYMAN CATANIA: Thank you for inviting me. I appreciate that. We had a hearing in the Assembly last week, and there were some concerns and some amendments with regard to the bill.

SENATOR KOSCO: The notification bill?

ASSEMBLYMAN CATANIA: The notification part of it. Today, actually, that part of the bill would no longer be-- The bill itself would be moot, and the concerns with regard to notification to the county prosecutors and the chiefs of police would no longer have any effect.

However, if I might suggest, if and when you do decide to reinstitute this program, that you do so in conjunction with negotiations and discussions with the Senate and the Assembly in order to prepare the appropriate legislation so that we can put this into effect without having the problems that we've had.

My concerns, as I'm sure Senator Girgenti's concerns, are that our county-- In our district, we had some major violations. We had a murder committed by a person who was out on home confinement on December 2, 1991. We had another inmate on May 26 of this year, while under house arrest more or less, had inflicted a violent beating at a picnic. Another man had also slipped out of his bracelet, went out, and was selling drugs again.

So I think before the program is reinstated, that discussions with the Legislature, particularly this Committee and its counterpart in the Assembly, would be in order.

COMMISSIONER FAUVER: Fine. And I have no-- You know, I don't mean to -- to any legislation that's in motion, you know, fine. It should continue, in my opinion, so that if there is, as Senator Girgenti asked me, a chance of restarting it, that will all be in place.

SENATOR GIRGENTI: If I may, I think we should proceed with the legislation and have it in place, because the safeguards that we want, we want them for the future. And obviously, if we head toward this kind of program again, I want to make sure that that's in place. You know, the concern, number one, with everybody is safety.

SENATOR KOSCO: I agree with you.

I have a simple question: What's happened in three weeks to make the Department decide that from this being a tremendous program that would provide an outstanding amount of relief to the prisoners, to a program that's not of any value anymore? What has happened in three weeks?

COMMISSIONER FAUVER: I'm not suggesting it's not of any value. I'm suggesting that the resources that go toward what I don't envision ever being more now than a very small number of inmates can better be used in trying to reduce caseloads on parole that are over 100, and get them down to where they used to be, to 70 or 80, and to, particularly, with the people that are on parole who have drug histories who need to be monitored more closely.

So, as I said, I think that an inordinate amount of resources were going toward what would be a very small number of the total people under the jurisdiction of the Department. So that's the reason for the decision.

SENATOR KOSCO: What you really talk about is not eliminating the program, but using it in a different form, and

that's to monitor those people who are out on parole? Is that what you're saying?

COMMISSIONER FAUVER: No, not on the bracelets. We'd cut down the caseloads of the number of parolees per parole officer, not necessarily using a bracelet, just in their supervision.

SENATOR KOSCO: Would this include not renewing the contract you have with the company that supplies us with the bracelets?

COMMISSIONER FAUVER: Well, I would see where we are with that, because we did sign contracts with at least two counties to provide the central monitoring for them for the bracelet program. I think they were one-year contracts, so I would honor that commitment to the counties. But I would not enter into any negotiations for extensions of the program.

SENATOR KOSCO: Thank you.

SENATOR SCOTT: Commissioner, you asked a question before: I'm rather surprised that you seem to be walking away from this program. Having had the opportunity, since we started this Committee and gotten into this monitoring, I talked to several sheriffs' departments and so on, and they seem to feel that it was a good program in order to alleviate the overcrowding in prisons, in the county in particular. The monitoring and tightening up the security and so on is what I thought we were really working toward to see if we could come up with a system that actually would work, whereby the county-- And I'm thinking right now, in particular, of Bergen County, which is heavily overpopulated in the county prison with State prisoners. And now we're actually walking away, to an extent.

Bergen County-- Do you have a contract with Bergen?

COMMISSIONER FAUVER: No, we do not have a contract with Bergen. But I would not exclude any of the counties contracting with us because, obviously, one of the advantages

we have now is, we have the equipment that we can give them to let them utilize. And I think the kinds of people that have been talked about in the past to go onto this program do exist in the counties.

SENATOR SCOTT: Commissioner -- if I may, Mr. Chairman -- what I would like to see is real strong cooperation with the sheriffs' departments -- people who have a heavy population of State prisoners in the counties -- that first of all, according to them are not being paid enough to house them, so the county residents actually end up paying higher taxes to accommodate State prisoners. And I know you have a problem; you don't have room for them. I understand that.

That's why after talking to various sheriffs and police, I find that they're not objecting to that. They think it's a rather good program. However, having stated that, they also realize that the problem that happened in Paterson that brought everything to a head, and subsequently in Trenton, I believe, we had somebody-- If we were to tighten the program -- and that's what I've been looking at here, to see if there's a way of tightening it up to where the program is doable throughout the State, because it would save, as you stated and everybody else told me, a lot of money. And with the prison overpopulation, it would be the time to take a look at it.

COMMISSIONER FAUVER: Let me mention on part of that, Senator. We do recognize the probable need for better funding for the State inmates that are in the county jails, and that's being looked at by the administration now -- to see if there's any way to increase that per diem rate. We have had a number of sheriffs contact me, personally, about it, and we're going to see if we can't do something about that.

SENATOR SCOTT: Mr. Chairman, one thing, if I may ask to the Chair itself: In line with this, can we encourage the sheriffs' departments in the various counties to come up with something that they feel would be doable to keep a program like

this alive? I had some very positive responses, and for that reason, if it is that good, if the people who are in the business think it's good and think it can be tightened up to a point where it would be acceptable, I think it would behoove us to work toward that end.

SENATOR KOSCO: I think that would be probably a good subject for some hearings throughout the State: to discuss it with different sheriffs throughout the State, to find out what their ideas are.

The simplest way is to call every sheriff and to say, "Hey, we're going to fund the program for you from the State," and you'll see how many suggestions you'll get as to how you can do it. But you and I both know that's not going to happen.

But I think it's certainly something we can look into.

Senator Girgenti?

SENATOR GIRGENTI: On the incidents with the parole situation now: Are these going to be continued to be used by parolees, the electronic monitoring, for a person who is getting out? Or is that going to be eliminated, too?

COMMISSIONER FAUVER: No, that would be eliminated also.

SENATOR GIRGENTI: All right. Commissioner--

SENATOR KOSCO: Excuse me. We're going to hear from Lou, the Chairman of the Parole Board, and get his ideas.

SENATOR GIRGENTI: No, I was just curious if that decision--

You know that I'm not too disappointed with the decision, I have to tell you. You know that the concerns have been there. I think, probably, you're doing the right thing today, because we've had a number of tragedies that have occurred already.

I think if the program ever did come back I would want to see that program streamlined very, very thoroughly, and changed radically. I don't want to see individuals on that

program, as we've spelled out before, that I felt did not belong in that type of a program in the first place. Even, as we pointed out, one of the criteria last time was that somebody had been convicted of murder a number of years ago, but was back in for another sentence, he would be able to get out. That was not my idea of that type of program.

Now, I know you've worked on it, and probably if we do come back, we'll see radical changes in it. But I would want to see that, plus I would want to see the legislation implemented. I know that our county prosecutors are--

The individuals that should be aware of this type of information should really get it in the future. I know you're making efforts to do that now. You're trying to correct it.

Right now you're doing the right thing, and I think in the future if we want to bring it back, it should be a radically different program with the legislation in effect that we talked about.

COMMISSIONER FAUVER: If I may, Mr. Chairman, a comment on that: I don't want a misunderstanding about, you know, when you asked me a question about parole. You know, I think there is a misunderstanding on this. The parolees that were requested to be put on the bracelet program by the Parole Board, that was an extra protection. It was not that that was the condition for them getting out. They were being paroled anyway. They asked to put them on this because of the--

SENATOR GIRGENTI: It's a monitoring.

COMMISSIONER FAUVER: It's an extra monitoring kind of control.

SENATOR KOSCO: I think we understand that now.

COMMISSIONER FAUVER: Okay.

SENATOR GIRGENTI: I think that was a positive, if anything in that sense, because at least you're having some kind of control over the individual where he could be actually out without--

SENATOR KOSCO: That can still be done through the county program.

SENATOR GIRGENTI: Yes. That was a positive.

SENATOR MATHEUSSEN: There's something that I want-- Senator Scott had touched on it before, and I'd like to expand on a little bit more.

I don't think it was ever the intent of this Committee to kill a good program.

COMMISSIONER FAUVER: And I'm not suggesting it was, Senator.

SENATOR MATHEUSSEN: Right. No, I know you're not.

And that's why I think we all fall short if we walk out of here today, having the program somewhat dismantled from the State's perspective, and don't encourage and foster the relationship that you've already created with two counties. I think it's incumbent upon the State, not so often Trenton dictating what counties should do, but also, perhaps, Trenton putting out their hand and saying, "We have something here for the counties to share in that can hold down your costs, as well."

Quite often when I go back to my district, which is a little bit further away from Trenton than some other districts are, the people down there don't understand what happens in Trenton. So it's incumbent upon us to bring the message to them.

I think in this particular case, since the Attorney General oversees, I believe, the sheriffs of all the counties, it might be a good idea for the Attorney General to get involved and put the message out.

The message from you today is that we have a system that can be in place, that can work very well for the counties, and that it's available through contracting with the State, to help keep your prison population down.

I think it would save the counties money, but unless we communicate it with them, they're going to say, "We never knew about it." I think we need to take an active role in fostering that relationship, because I truly think that helping the counties out is going to help keep property taxes down, which means a benefit to the entire State.

So I'd like to pursue if we could, somehow, continuing that communication that's so much needed between Trenton and the various counties that don't know about the system, or don't know that it's there.

COMMISSIONER FAUVER: Well, we can do that.

SENATOR MATHEUSSEN: In the form of a question: How can we do that? How would you suggest the best way that we could do that?

COMMISSIONER FAUVER: I can notify-- You see, we did this around the inception of this whole program. I think one of the reasons for the reluctance on some of the counties is, you know, they're not used to, like, "We're here from Trenton, and we want to help you."

SENATOR MATHEUSSEN: Right, right.

COMMISSIONER FAUVER: So they were leery of that. I think that what we will do, we'll recontact the county administrators of this program, and either do demos, or just to see if they're interested.

I agree with you 100 percent. That could cut down on the county cost tremendously, and put the least risk prisoners in this community.

SENATOR MATHEUSSEN: If it's not too much to ask, Commissioner, I would like, as a member of this Committee, to be copied on any communication that goes out to the sheriffs, because quite frankly, I'd like to be involved in the meetings. I would like to talk up the program--

COMMISSIONER FAUVER: Okay.

SENATOR MATHEUSSEN: --because I think it's a good program. And certainly, with the two counties that I represent, I'd like to help foster the relationship between Trenton and the counties so that they understand that you're there to help, and not necessarily dictate what needs to be done.

COMMISSIONER FAUVER: I'd be glad to do that.

SENATOR MATHEUSSEN: Thank you.

SENATOR KOSCO: Senator Smith?

SENATOR SMITH: I may have missed this when I stepped out of the room briefly, but am I correct in understanding that your basic conclusion after all these hearings and examining the system, and the kinds of prisoners that we did not want to see in this system, that basically, State prisoners, there's not too many of them that are suited for this kind of a program? Is that what your conclusion is?

COMMISSIONER FAUVER: Well, yes, basically it is; that there's not going to be enough of a pool ever to justify the expense. We have under sentence in the State of New Jersey, over 100,000 people. That counts those on probation, those on parole, and those in. So if it's over 100,000, and 20-some thousand of that 100,000 are the only ones sentenced, you know, it's a pretty hard-core group. You know, it's not tough to find a rose in a field of weeds.

SENATOR SMITH: In State prisons-- Most of those, if there are roses out there, I guess they would be in county jails, probably?

COMMISSIONER FAUVER: I would suspect.

SENATOR SMITH: So you feel that directing the programs to the county prison population is probably the more viable means of using this kind of program?

COMMISSIONER FAUVER: I think so. Again, if there's a change, if I see it for other reasons, whatever it might be. There may be geriatric cases, for example, or there may be

health cases that we want to put out, but don't want to put completely out. If we run into those kinds of things and decide that that's worth doing or trying to do, why, we'll come back.

SENATOR SMITH: Last question: Do you know how many counties have this program right now?

COMMISSIONER FAUVER: Two, right now.

SENATOR SMITH: Only two?

COMMISSIONER FAUVER: Only two.

SENATOR SMITH: When I say, "this program," the same program as the State was running?

COMMISSIONER FAUVER: The same program in the sense that they're hooked up to our central communication and--

SENATOR SMITH: Okay. But do other counties utilize bracelet programs on their own that are not related to the State?

COMMISSIONER FAUVER: Yes. Cape May was using it unrelated to the State.

SENATOR KOSCO: Bergen County uses it.

COMMISSIONER FAUVER: No. Cape May was the only one that I can think of.

SENATOR SMITH: Was Burlington County using it? We had talked about it years ago.

COMMISSIONER FAUVER: I don't think so.

SENATOR KOSCO: Bergen County has a program.

COMMISSIONER FAUVER: Do they, for themselves?

SENATOR SMITH: Perhaps with all that your Department has learned throughout this process, one of the benefits that you really could give the counties is your knowledge, advice, and information with respect to implementing systems like this.

COMMISSIONER FAUVER: Well, we also have enough manuals that we can share with them now, too.

SENATOR SMITH: Thank you.

SENATOR KOSCO: Okay. So now my understanding, and our understanding is that at this point, the program is on hold. Through attrition it's going to go away, and that you're not going to add any more people to the program until further notice?

COMMISSIONER FAUVER: Right.

SENATOR KOSCO: And you're going to continue to look into whether or not it would be feasible to continue the program?

COMMISSIONER FAUVER: Yes, and we will do the encouragement of the counties to try to get the counties involved.

SENATOR KOSCO: Okay. Basically what you're-- First of all, I'm very shocked at your decision, and surprised, because just a couple of weeks ago it was everything-- All the systems were on go. We thought that it was coming to the point where it was going to work. It was always our intention from a Committee standpoint to make the system work and work properly.

However, if the Department's decision is that it's not going to be feasible and that it won't benefit the State of New Jersey, then I commend you for making that decision. It also will then-- The experience that we have come up with from the system -- from the program -- and the information that we have had up till now, I think, will be very beneficial to fit into stage two of my recommendation, which is to use the program as an alternative to sentencing.

And the expertise that your Department has developed up to this point would certainly be utilized there with the monitoring system and the bracelet program, because it's been my contention since I learned about this program that the bracelet program -- what's become known now as the bracelet program -- should be used, in my opinion, as an alternative to sentencing for nonviolent crimes rather than put that person in jail in the first place for whatever, lack of child support,

cashing bad checks, selling tickets to the Meadowlands down on Route 17, you know, where at this point, people get convicted repetitively and they end up in jail. Those are the types of white-collar criminals and white-collar crimes that in my opinion, at least, should be subjected to the bracelet program rather than incarceration and keeping the jails open for the criminal, as we think of a criminal -- a violent criminal.

I was surprised to learn that by taking the drug dealers out of the program, we would remove that many people from the program. So if we learned anything from the program, we maybe learned that we were having problems because we had the wrong people in the program.

SENATOR GIRGENTI: Just one thing, Lou. I just want to say, Commissioner, again, I do have to say that I commend you in a sense, because really, you're sitting on a time bomb with this program in terms of you don't know when something is going happen and you're really responsible for it. And I think that when some of the situations that have happened in the past, you're probably doing the right thing at this point in time in terms of the overall program because in the end you're accountable in terms of your Department and so forth.

COMMISSIONER FAUVER: Right.

SENATOR GIRGENTI: And an incident like this happens, and next week another incident can happen, until we tighten up the program and really evaluate it in a sense of talking about doing something with it, because I think it is a useful tool. I think there was never a disagreement on that. I just felt that I was concerned with the type of individuals that have been getting in the program, and in some cases, you probably had no control over it, either, in the sense that it happened that way.

So I think it's good to sit back and evaluate it with the idea that you're looking to it as a future tool in terms of an overall program.

When will this program be completely phased out in your opinion?

COMMISSIONER FAUVER: I would think within the next two months, because we're down to the last 100, and the outside time on that is around seven months.

SENATOR GIRGENTI: As you have said already, you've made a commitment to continue to look into it and try to develop a program that probably would meet your needs as well as our needs at this point in time? You haven't given up total faith in this type of a program?

COMMISSIONER FAUVER: No, I think there may be cases that would fit. But I think the thrust now is, we're going to try to get the counties involved because it not only helps the taxpayers in the counties, as was said, but it also keeps people out of the system who are clogging up the system.

SENATOR GIRGENTI: And now you've developed a great deal of expertise, I'm sure, with staff and all, even within the past few months in terms of the knowledge that you have. As was said, you're really a resource that could be a very big help to those people who want to get into this type of program.

COMMISSIONER FAUVER: I think so.

SENATOR KOSCO: Thank you. We would like to ask Louis to join us up here now. Lou?

Commissioner, thank you very, very much.

COMMISSIONER FAUVER: Thank you.

LOUIS NICKOLOPOULOS: Mr. Chairman.

SENATOR KOSCO: How do you do? Did you sell your house yet?

MR. NICKOLOPOULOS: No, not yet. It's still on the block. If anybody is interested, let me know.

SENATOR KOSCO: One day I'm down at the shore, and I'm minding my own business, and I'm working on my boat or something, and Lou comes-- And I met him. He lives two houses away from me down at the shore. I never knew him before.

SENATOR SCOTT: Well, buy his house, Lou.

SENATOR KOSCO: I'll sell him mine.

MR. NICKOLOPOULOS: I tried to get him. He just won't swing for it.

It's almost a moot point, I guess, sitting here and discussing this.

SENATOR KOSCO: Yes. Well, maybe a question that we might have is, would you like to continue your program that you use with the extra monitoring program through the counties?

MR. NICKOLOPOULOS: Right. I don't know how it would work with the counties. It possibly could. But let me just say at the outset, we've only used about 10 prisoners in this entire system as far as electronic monitoring goes.

And let me just say, maybe for the press and maybe for the Committee, let me differentiate between the two programs: One is home confinement, and the other one is electronic monitoring. The home confinement is, let's say, a decreasing of the supervision of an inmate and putting him out in the street.

Ours is an enhancement of parole. So what we're doing is we're actually tightening up on parole. We've only used it about 10 times, and I think we have three people left who are going to finish the program in about three months. So we don't really use it that much. It really is not a program that we're--

Yes?

SENATOR GIRGENTI: Where do you find the necessity to use it? What would make you in those 10 cases? Just give me an example.

MR. NICKOLOPOULOS: See, we have to parole on substantial likelihood. We have to determine whether or not we feel, or we can justify, that a person may commit a crime out on the street, and that's the way we can hold them in. If we

can't find anything, using 22 different things to make a determination, if we can't determine that the man is likely to commit another crime, we have to parole him.

But sometimes you sit there and you get a visceral reaction, or you feel that he's been in jail too long and he might have trouble adjusting, or maybe his drug problem isn't quite satisfied and so forth. We want a little tighter control on him; we would put him in there.

SENATOR GIRGENTI: So that becomes a condition of parole for a period of time?

MR. NICKOLOPOULOS: That becomes a condition of parole for a period of time.

We have other alternatives. We have drug programs where we can put him in for six months, alcohol programs for three. We can also put him into intensive parole supervision, or ISSP, where the parole officer will see him several times a week instead of once or twice or three times a month.

So there are many other alternatives.

SENATOR GIRGENTI: In this program, the individual can work? He leaves the home, actually, in this program?

MR. NICKOLOPOULOS: In which program?

SENATOR GIRGENTI: This one that we're talking about, the 10 individuals that you have in that program. They can leave the home; they can work? They go through their normal routine?

MR. NICKOLOPOULOS: Yes. There will be preset conditions, possibly attending NA or AA meetings, or drug counseling, or mental health counseling, or whatever, until we feel that they've made some type of an adjustment, possibly getting a job and getting their head together a little bit.

And let me just say that, formerly, I was a sheriff. I did have control of a jail. And prior to coming into this job, I did explore the electronic monitoring and home confinement, and I felt it was a good program. I can

understand where the Commissioner is coming from. He says he has 100 people in it, and he's got 39 people supervising it. Well, that's not cost-effective.

So there is a problem there. But I think at the county level, the sheriffs would probably cooperate with you. You'd have to include the sheriffs and some county administrators, because the sheriffs only control about half of the jails in the State, and the rest are controlled by the counties themselves. But it's something that's worthwhile looking into, I think.

SENATOR KOSCO: Does anyone have any more questions?  
(no response)

Okay, thank you.

MR. NICKOLOPOULOS: Thank you.

SENATOR KOSCO: All right. Needless to say, I'm sure that this was an interesting hearing, and the results were not exactly what we expected. However, if your hard work -- and I'm talking to the Committee now and the people who have done the research with us -- can really be satisfied with the work of this Committee, because we went from a department telling us, "Everything was perfect," to that, "Everything was almost perfect," to, "Let's study it and see what we're doing," to "Holy mackerel, we have 24 problems, and now we can't solve them at this point satisfactory to everybody."

I think that as a result of this Committee and this Committee's work, that New Jersey will have approximately 900 less problems on the street this week than they had a couple of months ago when we started this. So I think this Committee should be very proud of the work that we've accomplished. Even though we didn't come out with the result that we had all expected, we did end up with a result that makes the streets safer for the people in the State of New Jersey.

Hopefully this program will blossom into what we expect it to do; and that's as an alternative sentencing program to help the overcrowding problems in the jails.

With that, we're going to switch gears now, and go to S-1073, which permits denial of a driver's license to a person who is in violation of Federal immigration laws.

**(MEETING CONCLUDED)**



