

P U B L I C H E A R I N G

before

SENATE COMMITTEE ON INSTITUTIONS, HEALTH AND WELFARE

on

SENATE BILL NO. 1122 (OCR)
(Sentencing and Parole)

Held:
June 21, 1973
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Garrett W. Hagedorn (Chairman)
Senator Joseph Hirkala

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SENATE, No. 1122

STATE OF NEW JERSEY

INTRODUCED JULY 17, 1972

By Senator MARAZITI

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning the **State Parole Board, the** sentencing and parole of persons convicted of misdemeanors or high misdemeanors and amending R. S. 30:4-107, 30:4-108 and P. L. 1948, c. 84, ***[and]*** repealing sections 12 and 14 of P. L. 1948, c. 84 **and making an appropriation**.

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

1 1. At the time of sentencing a person convicted of a misdemeanor
2 or a high misdemeanor, the court by whom such person is to be
3 sentenced shall provide a statement indicating the reason for the
4 specific sentence imposed **and the extent to which the court has*
5 *considered the provisions of section 10 of P. L. 1948, c. 84*
6 *(C. 30:4-123.10) which relate to the parole at the expiration of the*
7 *adjusted minimum sentence or 1/2 of the adjusted maximum*
8 *sentence**. Such sentence may be for a fixed minimum and maxi-
9 mum term; however, any such minimum term shall be considered
10 by the parole board as merely advisory in nature. Any such per-
11 son so sentenced shall be otherwise eligible for consideration for
12 parole in accordance with the other provisions of this amenda-
13 tory act.

1 2. R. S. 30:4-107 is amended to read as follows:

2 30:4-107. A patient admitted to any institution in this State,
3 other than a correctional institution, may be paroled or discharged
4 therefrom in accordance with the rules and regulations prescribed
5 by the board of managers or the board of chosen freeholders or
6 the proper committee thereof, as the case may be. In all cases
7 where the patient shall have been transferred to the institution
8 from a correctional institution he shall **[not]** be paroled or dis-
9 charged therefrom *in accordance with the other provisions of this*
10 *amendatory act* **[prior to the expiration of the maximum period of**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

11 detention]. The chief executive officer of any State institution,
 12 other than a correctional institution, subject to regulations of the
 13 [State Board of Control] *Department of Institutions and Agencies*,
 14 may make arrangements with suitable families for the care, main-
 15 tenance and treatment of patients of the institution and may place
 16 at board on parole in a family with whom any such arrangements
 17 have been made, any patient for whom family care may be deemed
 18 beneficial. Patients so placed on parole in family care shall be re-
 19 turned to the institution at any time upon order of the chief execu-
 20 tive officer. Subject to such regulations, provision may be made
 21 by the chief executive officer for payment of the necessary expenses
 22 for the board and care of such patients in a suitable family, over
 23 and above the value of any service rendered by such patient; pro-
 24 vided, that such net cost shall not exceed the daily per capita cost
 25 of maintaining any such patient within the institution. All such
 26 patients placed in family care shall be and remain patients of the
 27 institution until discharged therefrom as provided for in this
 28 chapter.

29 The legal jurisdiction of the professional staff of the hospital
 30 over any person discharged therefrom shall terminate at the time
 31 of discharge of the person from inpatient status. However, upon
 32 recommendation of the professional staff of the hospital, patients
 33 so discharged may continue to receive further professional services
 34 on an outpatient basis or may be assisted in securing continued
 35 treatment from other community resources.

36 The chief executive officer is empowered to negotiate with the
 37 legally responsible relatives of any such patient for the purpose
 38 of securing payment to the institution or to a suitable family of
 39 all or a portion of the net cost of maintaining such patient in such
 40 family placement or providing services on an outpatient basis after
 41 discharge.

1 3. R. S. 30:4-108 is amended to read as follows:

2 30:4-108. Conditions of parole; procedure. The [State board]
 3 *State Parole Board* shall in accordance with the other provisions
 4 of this amendatory act prescribe by rules formally adopted the
 5 terms, conditions and procedure for granting a parole and, subject
 6 to the provisions of section 30:4-109 of this Title, for securing to
 7 the parolee in proper cases permission to reside without the State.

1 *4. Section 1 of P. L. 1948, c. 84 (C. 30:4-123.1) is amended to
 2 read as follows:

3 1. There is hereby created and established within the Depart-
 4 ment of Institutions and Agencies a State Parole Board which shall
 5 consist of three members: a chairman and two associate members.

6 *The chairman and the associate members of the board shall be*
 7 *appointed by the Governor with the advice and consent of the*
 8 *Senate, from persons of recognized ability in the field of penology,*
 9 *with special training or experience in law, sociology, psychology*
 10 *or related branches of social sciences, for terms of 6 years; except*
 11 *that the first associate members of the board shall be appointed,*
 12 *one for a term of 4 years and one for a term of 2 years. Each*
 13 *member of the board shall serve until his successor is appointed*
 14 *and shall qualify.*

15 *In addition to the chairman and associate members of the State*
 16 *Parole Board the Governor may appoint with the advice and con-*
 17 *sent of the Senate to, serve at his pleasure no more than six pro-*
 18 *visional members of the board as may be necessary to implement*
 19 *this act. Such provisional members shall have the same qualifica-*
 20 *tions as other members of the board, shall be appointed without*
 21 *regard to the provisions of Title 11 of the Revised Statutes*
 22 *(Civil Service) and shall perform such duties as directed by the*
 23 *chairman. Provisional members shall receive the same salary as*
 24 *associate members for full-time service or a proportionate amount*
 25 *thereof per diem for part-time service. The term of office of any*
 26 *provisional member appointed hereunder shall expire no later than*
 27 *2 years after the effective date of this act.*

28 *In the event that any member of the board or provisional mem-*
 29 *ber shall be unable for any reason to perform [rendered incapable*
 30 *of performing] his duties, the Governor shall appoint a suitable*
 31 *person to act in his stead during the period of his unavailability*
 32 *[incapacity].*

33 *Any vacancy occurring in the membership of the board or pro-*
 34 *visional member, otherwise than by expiration of term, shall be*
 35 *filled in the same manner as those occurring by expiration of term,*
 36 *but for the unexpired term only*.*

1 ***[4.]** *5.* Section 5 of P. L. 1948, c. 84 (C. 30:4-123.5) is
 2 amended to read as follows:

3 5. It shall be the duty of the **[board]** *State Parole Board* to
 4 determine when, and under what conditions, subject to the pro-
 5 visions of this act, *and in accordance with the other provisions of*
 6 *this amendatory act* persons now or hereafter serving sentences
 7 having fixed minimum and maximum terms or serving sentences for
 8 life, in the several penal and correctional institutions of this State
 9 may be released upon parole.

10 In addition thereto, the board shall have full and complete
 11 jurisdiction over all persons sentenced to any penal or correctional
 12 institution of this State for minimum and maximum terms who

13 have been paroled by the board of managers of any penal or cor-
 14 rectional institution of this State, for and during the term of such
 15 parole and pursuant to the terms, conditions and limitations thereof,
 16 and the powers, functions and duties formerly exercised by and
 17 conferred upon any such board of managers for revoking paroles
 18 in such cases hereby are continued and are transferred to, and
 19 vested in, said board.

20 The board shall have such other powers and jurisdictions as are
 21 provided in this act.

1 ***[5.]*** *6.* Section 6 of P. L. 1948, c. 84 (C. 30:4-123.6) is
 2 amended to read as follows:

3 6. The board is empowered and authorized to promulgate rea-
 4 sonable rules and regulations *in accordance with the other provi-*
 5 *sions of this amendatory act* which shall establish the general condi-
 6 tions under which parole shall be granted and revoked and shall
 7 have authority to adopt special rules to govern particular cases.
 8 Such rules and regulations, both general and special, may include,
 9 among other things, a requirement that the parolee shall not leave
 10 the State without the written consent of the board, that he shall
 11 contribute to the support of his dependents, that he shall make
 12 restitution for his crime, that he shall abandon evil associates and
 13 ways, that he shall conduct himself in society in compliance with
 14 the law and with due regard for moral standards, that he shall
 15 carry out the general and special instructions of his parole officer
 16 and give evidence of good conduct at all times and satisfactory
 17 proof that he is a fit person to be at liberty.

1 ***[6.]*** *7.* Section 10 of P. L. 1948, c. 84 (C. 30:4-123.10) is
 2 amended to read as follows:

3 10. **[No]** *Each* inmate of a penal or correctional institution serv-
 4 ing a sentence for a fixed minimum and maximum term shall be
 5 eligible for consideration for release on parole *immediately after*
 6 *commitment and being received at such institution, and shall appear*
 7 *before the parole board within 6 months after being received by*
 8 *State institutional authorities. *In no event shall a prisoner be*
 9 *released on parole until he has served a minimum of 6 months.**
 10 *However, after a prisoner shall have* **[until he has]** *served*
 10A *his minimum sentence or* **[1/3]** *1/2 of his fixed maximum*
 10B *sentence, less, in each instance, commutation time there-*
 11 *from for good behavior and for diligent application to work assign-*
 12 *ments, whichever occurs sooner, [subject to the provisions of sec-*
 13 *tion 12 hereof.] he shall appear before the parole board as soon*
 14 *thereafter as conveniently possible and shall be released on parole*
 15 *unless the parole board shall* ***[find]*** **in its discretion determine**

16 *that "in its opinion" there is a reasonable probability*
 16A *that release on parole at that time would endanger the*
 17 *community with respect to the safety of persons or the security*
 18 *of property or that the purposes of the sentence as specifically*
 19 *stated by the sentencing court have not been accomplished.*

20 **[No]* "Prior to serving his minimum sentence or 1/2 of his*
 21 *fixed maximum sentence as adjusted for good behavior and dili-*
 22 *gent application to work assignments, no" prisoner shall be re-*
 23 *leased on parole merely as a reward for good conduct or efficient*
 24 *performance of duties assigned while under sentence, but only if*
 25 *the board is of the opinion that "based upon the materials presented*
 26 *there is an affirmative indication that if such prisoner is released,**
 26A *there is reasonable probability "[that, if such prisoner is re-*
 26B *leased,]" he will assume his proper and rightful place in society,*
 26C *without violation of the law, and that his release is not incompatible*
 26D *with the welfare of society.*

27 Whenever, after the effective date of this act, two or more sen-
 28 tences to run consecutively are imposed at the same time by any
 29 court of this State upon any person convicted of crime herein, there
 30 shall be deemed to be imposed upon such person a sentence the
 31 minimum of which shall be the total of the minimum limits of the
 32 several sentences so imposed, and the maximum of which shall be
 33 the total of the maximum limits of such sentences. [For purposes
 34 of determining the date upon which such a person shall be eligible
 35 for consideration for release on parole, the board shall consider
 36 the minimum sentence of such person to be the total aggregate of
 37 all the minimum limits of such consecutive sentences and the maxi-
 38 mum sentence of such person to be the total aggregate of all of the
 39 maximum limits of such consecutive sentences.]

40 With regard to consecutive sentences imposed upon prisoners
 41 prior to July 3, 1950, and also with regard to consecutive sentences
 42 imposed upon prisoners subsequent to July 3, 1950, by different
 43 courts at different times, all such consecutive sentences, with the
 44 consent of the prisoner, may be aggregated by the board to produce
 45 a single sentence, the minimum and maximum of which shall con-
 46 sist of the total of the minima and maxima of such consecutive sen-
 47 tences. [Such aggregation shall be for the purpose of establishing
 48 the date upon which such prisoner shall be eligible for consider-
 49 ation for release on parole.]

50 When any such prisoner is released on parole the period of his
 51 supervision under parole shall be measured by the aggregated max-
 52 ima of his consecutive sentences.

53 Notwithstanding any of the other provisions of this act, whenever
 54 it shall appear that the date upon which a prisoner shall be eligible
 55 for consideration for release on parole occurs later than the date
 56 upon which he would be so eligible if a life sentence had been im-
 57 posed upon him, then, and in such case, he shall be deemed eligible
 58 for consideration for release on parole after having served 25 years
 59 of his sentence, or sentences, less commutation time for good
 60 behavior and time credits earned and allowed by reason of diligent
 61 application to work assignments.

1 ***[7.]*** *8.* Section 24 of P. L. 1948, c. 84 (C. 30:4-123.24) is
 2 amended to read as follows:

3 24. A prisoner, whose parole has been revoked because of ***[a**
 4 violation of a condition of parole or]**]*** commission of an offense
 5 which subsequently results in conviction of a crime committed while
 6 on parole, even though such conviction be subsequent to the date of
 7 revocation of parole, shall be required, unless said revocation is
 8 rescinded, or unless sooner reparaoled by the board, to serve the
 9 balance of time due on his sentence to be computed from the date
 10 of **[his original release on parole]** ***[such violation of condition**
 11 **or]*** commission of *such* offense. If parole is revoked for reasons
 12 other than subsequent conviction for crime while on parole then
 13 the parolee, unless said revocation is rescinded, or unless reparaoled
 14 by the board, shall be required to serve the balance of time due on
 15 his sentence to be computed as of the date that he was declared
 16 delinquent on parole.

1 *9. Section 19 of P. L. 1948, c. 84 (C. 30:4-123.19) is amended
 2 to read as follows:

3 19. Before reaching a final decision to release any prisoner on
 4 parole, the board or a duly appointed representative, who may be
 5 a single board member or a provisional member, shall cause the
 6 prisoner to appear before it and shall personally interview him to
 7 consider his ultimate fitness for parole, and verify as far as pos-
 8 sible, the information furnished it from other sources, provided
 9 however that if the prisoner is physically unable to appear for a
 10 personal interview, then the board may proceed to consider his
 11 case in his absence. The board shall reach its own conclusions as
 12 to the desirability of releasing the prisoner on parole and no release
 13 on parole shall be effected except by majority vote of the board,
 14 or of a three-member panel of the board which may be composed
 15 all or in part of provisional members appointed hereunder,
 16 **[unanimous vote of the entire board,]** nor unless the board is
 17 reasonably satisfied that the prisoner has a suitable community
 18 parole plan with visible means of support or is likely to be suitably

19 *employed in self-sustaining employment on his release. The*
 20 *prisoner, after any appearance before the board, shall be promptly*
 21 *notified by the board of its decision in his case. If the board, in its*
 22 *judgment, determines to release such prisoner, it shall promptly*
 23 *give public notice of the name of such prisoner and the county from*
 24 *which and crime for which, he was committed. If the board, in its*
 25 *judgment, determines that the prisoner is not to be released on*
 26 *parole when his case is considered, then it shall notify him of such*
 27 *decision and the date when his case will again be considered.**

1 **10. The State Parole Board in addition to any other power*
 2 *heretofore granted to it shall have the power to remit fines of per-*
 3 *sons released on parole in amounts up to \$200.00.**

1 **[8.]* *11.* Section 12 of P. L. 1948, c. 84 (C. 30:4-123.12) and*
 2 *section 14 of P. L. 1948, c. 84 (C. 30:4-123.14) are repealed.*

1 **[9.]* *12.* The parole eligibility and qualifications of those in-*
 2 *mates who, prior to the effective date of this act, have received*
 3 *“fixed” minimum or maximum sentences or who are otherwise*
 4 *subject to the jurisdiction of the parole board on said effective date*
 5 *shall be governed by this act, provided however that those inmates*
 6 *who are immediately eligible for hearing or rehearing shall be*
 7 *considered by the board and decision rendered within *[1 year]**
 8 **6 months* from the effective date hereof.*

9 The parole board may adopt such regulations and procedures
 10 as may be necessary to implement this act which are consistent with
 11 due process of law.

1 **12. There is hereby appropriated to the Department of In-*
 2 *stitutions and Agencies the sum of \$80,000.00 to carry out the pur-*
 3 *poses of this act.**

1 **[10.]* *13.* This act shall take effect 60 days after enactment.*

SENATOR GARRETT W. HAGEDORN (Chairman): Good morning. I would now like to open the public hearing on S 1122, known as the Parole Reform Bill. This bill, of course, has been revised considerably by the Senate Committee since the time that it was introduced.

The members of the Legislature, law enforcement officials throughout the State, as well as the general public, have manifested concern with the liberal approach to parole indicated in the original bill. Although the bill was ready for floor vote in the Senate, the members of the Senate as well as the members of the Committee continued to register their dissatisfaction with the present concept and, therefore, voted to return the measure to the Committee for a public hearing.

It is my opinion that those responsible for the original bill did not consider all aspects of parole or consult with the various agencies that are responsible for and involved in this problem on a day-to-day basis, such as Prosecutors, law enforcement officials, as well as the people who supervise parole.

The purpose of this public hearing is to afford everyone concerned an opportunity to present their views and concerns. Therefore, we have invited everyone involved to express to this Committee and to the members of the Legislature their ideas. Hopefully, with this testimony, the Committee will be enabled to develop a meaningful rehabilitation and parole measure that will provide fair treatment for those confined in our penal system and insure an adequate parole supervision system that will assist these citizens as they re-enter the mainstream of life and give further assurances that the parole plan adopted will not endanger society.

Members of the Rahway Prisoners' Council had requested that they be permitted to testify at this hearing and the Committee had hoped to make this possible.

Unfortunately, the gentlemen responsible for our penal custody system did not agree, indicating their concern for security risks. I don't really share this concern, but sufficient time was not available to explore other avenues by which to bring these men to these chambers so that they would be enabled to submit their testimony at this same forum.

The only alternative, of course, is to hold another public hearing at the Rahway Prison, which the members intend to do. We have been assured that the members of the press will be permitted to attend this public hearing, the date of which will be announced very shortly.

The first gentleman that will testify this morning is the Honorable Stanley C. Van Ness, the Public Defender, from Trenton, New Jersey.

S T A N L E Y C. V A N N E S S: Thank you, Senator Hagedorn, for the opportunity to make my views known on this legislation. I would also like to thank the staff of the Committee for allowing me to come up early. This promises to be a hectic day and this is the only time I really could have made it. So I express my appreciation to the staff and, of course, to the Committee.

Senator, I am not among those who have not had an opportunity to state their views on this subject. You may recall that last December 1st, I took the liberty of writing the Chairman and sending copies to the members of the Committee, expressing my support for Senate 1122. It is not my purpose today to repeat everything that I said in that letter. I am sure that it is available to the Committee to make whatever use of it it chooses to do.

I would - and perhaps this will be somewhat repetitious - like to point to two problem areas that I have observed in my tenure as the Public Defender,

to which I believe 1122 addresses itself and addresses itself in an affirmative way.

It has been my experience that one of the major impediments to the successful rehabilitation of many offenders is the belief that they have, real or imagined, that in the first instance they were unfairly sentenced. They point to other people who have committed ostensibly the same kind of offense and point to the gross disparity of treatment between themselves and the other person.

Now I don't mean to suggest that every sentence which is different is necessarily disparate. It would be ridiculous for me to say that ever robberywho had one prior conviction should receive an identical sentence. Our courts, of course, have told us that one of the principles of sentencing is the individualizing of treatment to the extent that it is possible, considering motivation, considering work record, considering family support or lack of it, drug involvement or its absence, all of the aspects of the human condition that distinguish one inmate or one potential inmate from another. These things are to be considered and properly so. But I think any observer of our system, after considering the individualized treatment that is intended, would have to conclude that there remains a residue of sentences that are totally irrational, that cannot be explained by any past history of the respective defendants and really do fall in the category of disparate sentences.

I would like to call the Committee's attention to one case in point. I don't suggest that this case is typical, commonplace or even frequent, but it is one and it is not the only one that has come to our attention in the four years that I have been the Public Defender.

About three years ago a young man in one of our southern counties was arrested and charged with

possession of narcotics, to wit, \$2.50 worth of marijuana on the open market - a 19-year-old lad, had never been in trouble before, was a high school graduate attending a community college at night, living with his mother and four or five siblings. This youngster was sent to the New Jersey State Prison for two to three years, not to a reformatory, not placed on probation, but sentenced to the New Jersey State Prison on Second Street here in Trenton for two to three years.

When I first saw the young man he had been incarcerated approximately five months. In that five-month period of time, he had twice been removed to the Vroom Building for the Criminally Insane, and transferred back to the State Prison. While the young man never affirmatively stated it, it was obvious - in fact it had been told to us by corrections officials - that he was under severe homosexual pressures.

This lad was transferred at the time we argued an appeal in the Appellate Division to Yardville. The court took it upon itself to effectuate that transfer. But he was then for a third time sent to the Hospital for the Criminally Insane. It took us two months to have him transferred from the Hospital for the Criminally Insane to the civil side of the State Hospital. Finally, after 13 months, we secured his release altogether.

Now this young man did not deserve to spend a single night in the New Jersey State Prison. People all over the State at the same time that were being picked up and charged with narcotics possession, marijuana and sometimes more serious drugs, were being treated as disorderly persons and placed on probation, but this one young man was sent to the State Prison.

The first feature of Section 10 of Senate Bill 1122, allowing the Parole Board after six months to release someone, would partially address itself to that kind of problem.

At the time I wrote the Committee and expressed my support, the bill had not yet been amended to include the six-month minimum. At that time it provided for release at the first day. And in my judgment, the young man that I described certainly should have been released at the first day. While I would support 1122 in its present form as a half measure, a half step in the right direction, if it is not too late - and it is my understanding that it is not too late - I would urge upon the Committee reconsideration of the amendment that was added in November so as to make for immediate eligibility.

It has been suggested in some quarters that the bill as originally introduced or even as amended represents some sort of general jail delivery and that murderers and rapists would be turned loose on society after six months. Well, it is not surprising to hear those kinds of assertions, particularly in a political year, but I don't think that any of them would stand even the most cursory examination. In another day and in another role, I had occasion to advise then Governor Hughes on matters of executive clemency and that advice was premised, at least in the first instance, upon recommendations from the State Parole Board. On no occasion did I find those recommendations to be ultra liberal or for that matter even liberal. I think if there was any error at all, if there was any criticism that I would offer at all, it was that the Board erred on the conservative side, on the side of protection of society against any possible release of a person who would be dangerous.

In the years since, in my present role, I have seen nothing to suggest that that has changed at all.

I note in one of the newspaper articles -- as an aside I would say I am very sorry that the inmates were not allowed to testify here and I do hope that

they will be given a full opportunity to state their own views. I am not stating their views. I am stating my own, based on my experience with people who have been incarcerated and people that we represent. But I do note from one of the newspaper articles that the Inmates' Council has suggested that this bill is perhaps an illusion for inmates, this six-month release thing, and I think that is largely true. There are not going to be very many inmates released after six months. So to the vast majority, it is an illusion. But I do think that that provision and more preferably the original provision would enable the Parole Board to take care of the aberrational sentence, the one that I think all of us upon reflection would agree is just totally out of whack and out of kilter. I think that is all that that bill does or that portion of the bill does. But I think it is something that we should allow the parole board to do.

The other problem which I think the bill addresses itself to is the problem of overcrowding in institutions by providing that after a service of a minimum sentence or one-half of a maximum sentence the Parole Board should then be put to some test before continuing the incarceration of an individual. By definition, the person has then served the minimum term that the sentencing judge thought would be appropriate and one-half of the maximum.

If we are concerned with overcrowding and, if we aren't, we should be, this would enable the Parole Board at that point -- in fact, require the Parole Board at that point to take into account whether indeed this person is a person who is going to be dangerous in way to society and to release those who are not.

I think it is widely accepted among people who have looked at the problem of penology in this country that here we are imposing sentences of such length as to be totally out of whack with anything that is being

done in any other civilized country. You look at the sentences imposed by the courts in Western Europe and you find that they are sending people to institutions for a much shorter period of time. And while there probably would not be the universality of agreement, there is a respectable body of opinion which would suggest that that in and of itself is self-defeating and that a person when he is sent to prison reaches a point at some time, varying from individual to individual, a year or two or three or four or five years, when he is most susceptible to redirection and that laying on the twenty and thirty and fifty years and in some instances in some parts of this country, fifteen hundred years, is not conducive to any sort of readjustment in his behavior.

I think we should not feel that by asking a Parole Board to merely decide whether this person is dangerous or not at the time that he has served his minimum or one-half of his maximum that we are, in fact, releasing a lot of dangerous desperados among us.

That, Senator, basically is the position of my office on the bill. It is not a perfect bill. It does not go far enough in some regards. I am particularly concerned about the fact that the problem of people serving life sentences is not addressed. The measure leaves unchanged the provision which requires a lifer to serve 25 years less his commutation credits.

I would point out to the Committee that many of our states have started to recognize that even a person who has committed a murder and been sentenced to life imprisonment might very well be released at an earlier time without in any way jeopardizing the safety of society. I believe in California the minimum period is seven years when at least he can be considered for eligibility. I think again the statistics would bear

out in terms of recivism, it is lowest among people who have committed the kind of crimes that result in life sentences. To my knowledge there has only been one person who was convicted of a murder here in the State of New Jersey, was paroled and was subsequently convicted of another murder. There may have been others, but they have escaped my attention.

One last thing I would like to say in support of the bill is that in its first section, it requires a sentencing judge to set forth the reasons for his sentence. Now that used to be part of the court rules. The judges were required at one time to state the reasons for a custodial sentence. And it is my understanding it was so honored in the breach that the rule was made permissive. I think that the very least that a judge could do when he is sentencing a man to prison for five or ten years is to take the time to set down on paper the reasons which occasioned that action. And I would very much support the mandatory aspect of this bill which would require the judges to do so.

I would submit myself to any questions that the members of the Committee might have. That basically summarizes the position of our office on this measure.

SENATOR HAGEDORN: Thank you, Mr. Van Ness.

Before we proceed, I would like to introduce the gentleman on my left, Senator Hirkala, a member of the Committee.

I have one question, Mr. Van Ness. How extensive from your experience is the disparity of sentences would you say?

MR. VAN NESS: That is a question that is almost impossible to answer, Senator Hagedorn. I think everyone associated will admit that there are disparate sentences and then you will start to get into arguable areas. I would venture to say that roughly 25 percent

of the appeals from the Office of Public Defender are appeals that are really addressed to the excessiveness of sentence. That doesn't mean that all of those are disparate sentences, but it does mean that the defendant feels aggrieved in about 25 percent of those cases about the sentence. That is about the best I could do in terms of giving you even a rough yardstick. I think it is a problem. I think it has been recognized as a problem in all jurisdictions, but I don't know that it can be quantified.

SENATOR HAGEDORN: Do you feel the fact we will require the judges to indicate the reason for their sentence will help to overcome that disparity?

MR. VAN NESS: I think so, Senator. I think it is a sort of check. I know personally I find that if I take the time to put down on paper my thoughts, I sometimes find out at the end of that exercise that my opinions change a little bit because the logic starts to falter along the way.

I certainly think that it would require the judges to give considerable thought. I am not suggesting that they don't give considerable thought to sentencing. I would suspect it is the hardest thing that a judge has to do. Taking the next step though I think would be a balance, a check against perhaps the wrath of the moment or some other consideration that might have intruded upon the judge on a given day.

I recall a situation. I certainly don't want to personalize this thing too much. But I recall a situation from my days as a prosecutor in which a youngster was sentenced to the Federal penitentiary almost purely because of the activities of his defense counsel. Defense counsel had been so remiss in terms of showing up, being on time, that the trial judge was thoroughly infuriated with the defense attorney and imposed a

custodial sentence. We spoke to the judge shortly thereafter and expressed to him our view that maybe that is what happened in this case and he immediately agreed, recalled the youngster and sentenced him to a probationary sentence.

These things can happen in the stress of a court day. I think a judge might be tempted to react in a way that he would not act in if he were asked to calmly sit down and state the reasons why he was going to impose a particular sentence. It is certainly not a cureall for the problem, but one which I think might serve as a slight check on the possibility of a disparate or irrational sentence.

SENATOR HAGEDORN: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: Just one, Mr. Chairman. Mr. Van Ness, in the statement to the bill, I am going to read a sentence from paragraph 7: "Inmates serving as second, third, or fourth offenders would be eligible for parole consideration on the same basis as all other convicts."

Now do you feel this is a desirable objective, allowing a fourth offender the same regulatory benefits that would be granted to a first offender?

MR. VAN NESS: In that regard, I think I would put the confidence in the Parole Board to make these determinations. If we don't have the confidence in the Parole Board to exercise its discretion in a reasonable fashion, then I think we should be considering legislation which would abolish the Parole Board, Senator. These men are now making decisions as to when people are to be released. The only thing we are saying is that they can consider it at an earlier period of time.

I don't think that the record of the Parole Board over the years would sustain the thought that it has been lax, that it has been liberal, that it has turned

loose bad risks. They are under a fierce glare of publicity when they release a person who does go wrong, and it happens occasionally. I would not want to be a member of the Parole Board on that occasion. I think they are really pressured by the public when something like that happens and it has been my experience that they exercise their discretion on the very conservative side. So I would not be troubled by that. I would not think they would be releasing second offenders on the same basis that they would be releasing first offenders or third or fourth.

SENATOR HIRKALA: Thank you.

SENATOR HAGEDORN: We thank you, Mr. Van Ness, and we certainly are mindful of the many contributions that you are making with respect to the welfare of prisoners. I think the State is very fortunate having a person of your dedication and ability in that responsibility and we appreciate your comments which I am sure the Committee will seriously consider.

SENATOR HAGEDORN: Thank you very much, sir.

SENATOR HAGEDORN: The next gentleman to testify will be Mr. Nicholas Heil, who is Chairman of the State Parole Board.

N I C H O L A S H E I L: Mr. Chairman and distinguished members of the Committee, having spoken with you at various non-public meetings about this bill, I thought that perhaps my best role today would be to respond to any questions you might have. But there are several brief points that I would like to make.

Basically, the present system of paroling people based on offender status does not work. It is not logical and it is not rational. As you know, a first offender has to serve one-third of his maximum sentence; the second offender, one-half; a third offender, two-thirds; and a fourth, three-quarters, and so on. But actually if you look at what happens in practice, the

county jail sentence doesn't count. So we see men with 14 or 15 county jail commitments coming up before the Board and they are technically first offenders.

Conversely, we see men coming before the Board with one minor conviction which may have been 10 or 20 years ago, and his present conviction rates him as a second offender and, therefore, he has to serve one-half of his maximum sentence.

So if you look at it from the standpoint of the prisoner, the man alongside of him is going out at an earlier date than he is and he can't even be considered for parole because of his mandatory and arbitrary limitation.

Secondly, separate counts of offenses resulting in a single commitment do not count. So it is possible that a person who is convicted, say, of one breaking and entering in 1950 and then is again convicted in 1970 is a second offender, but a person who may not have been caught until 1970 and may have been committing all sorts of burglaries and armed robberies or what have you, if it is under a single indictment and if there is plea bargaining involved, he is a first offender, and that doesn't make a lot of sense.

As I indicated, there is no relationship of offenses that count as a second offender. For example, a man may have made a mistake and been involved in a minor gambling charge. It may have been a card game; it may have been a dice game. He may have been picked up and given a State Prison sentence for it. It has happened. He at some point twenty years later may have become involved in an argument in a bar and get a 12- to 15-year sentence. Because of his prior conviction on a completely unrelated type of offense, he will have to do one-half of it, whereas another person who didn't have that type of thing in his background would not have to do it.

So the present law is not geared to looking at why a person commits a crime, the reasons for crime, the reasons for his incarceration. It certainly is not geared to any rehabilitation that might take place.

If I can respond directly to the Senator's question: Should a fourth offender be accorded the same sort of treatment as a first offender? Let me give you one of our more current problems. We had worked with the Division of Drug Abuse here in New Jersey in trying to set up an experimental program that would conclusively demonstrate the validity of methadone maintenance treatment. We had approached the people in Lexington, Kentucky, through the National Institute of Mental Health. They had set up a program where we would have inmates who had been long-time heroin addicts sent down to Kentucky, built up on methadone. They had tremendous resources in terms of diagnostic facilities. They had anthropologists, sociologists and doctors and they were willing to do a very intensive analysis of these people and then we would bring them back to New Jersey, maintain them on parole. Through the Division of Drug Abuse, they would be maintained on methadone. Then with the cooperation of the State Police and with the cooperation of the Bureau of Parole, we would get case histories to conclusively demonstrate in certain types of cases whether methadone maintenance is good or whether it is bad.

We found that the people who were long-time heroin addicts were also long-term offenders. They were fourth offenders, fifth offenders, sixth offenders, and the reason was their drug addiction. But yet we could not parole them to the Lexington treatment program. Although they were right in prison, pushing a broom, cleaning up, they weren't eligible under this mandatory limitation.

So there are instances where there is a valid

purpose in paroling somebody who is a long-time offender if he has been rehabilitated or if there is a chance to rehabilitate him. If the social services are available, it makes little sense for him to stay in jail.

Therefore, in the limited number of instances, yes, but I think what the bill would do would give us a discretion to release a man at an earlier point in time. Of course, criminal history is one of the most important factors that we take into consideration. This was upheld in the Beckworth appeals. A group of inmates, represented by the Public Defender's Office in Legal Services, had brought a legal attack against the Parole Board's statement of reasons that it was giving for denial. And I think implicit in that was an attack on the standard of reasoning we were using or criteria. The court did uphold, as I read it, strong consideration of criminal history.

It gives us the discretion to choose at the most logical time. There are several other examples where a fourth offender or a third offender or even a first offender should not have to serve his mandatory point in time. There is a process of burning out in many, what they call, sociopaths. These are people where no psychopathology is involved, but they just have attitudes where they feel they are entitled to steal. There comes a point in many of these men's careers where they say, "no more." They have had it and they have burned out. It is a pretty dramatic type of thing. You can watch their institutional records. They have been tearing up the institution, had fights with officers and all sorts of problems. All of a sudden, it just stops. And if you watch that for a year or so, you can see that the man is a burned-out sociopath. At that point, society benefits little by keeping him in and the taxpayer is just charged more

money.

Another case is where we have adequate social services. There are some men that have medical problems, of course, that commit crimes - speech impediments, hare-lip, deformities of one sort or another. I have seen cases where a man's hand has not been functional and where he has had an operation that has enabled him to work. He is ready to go out. Again the mandatory requirements prevent us from even considering these types of men for parole.

Educational programs is another thing. There are some men that could benefit by the community-based corrections concept. There is nothing wrong with them except that they haven't been able to find a job and because of the job market that they are in, they just have not worked. There are a lot of social services out there, State, Federal and county, that these men could employ and there could be close supervision kept over them. There is no need to provide them with maximum or even medium type of custody because that is expensive as long as they are kept under relatively careful supervision.

Then there are some men who just don't belong in jail. I think one of the classic cases is a boy really who was sentenced to our youth facility for painting a statue of the local town hero back in the Civil War red or blue or some color. He painted it and the judge thought he should go away. Well, he just didn't belong in that type of environment. I think if the judges were more familiar with what was happening inside the prison and what prison can actually do to a person in a detrimental sense, that they would exercise more hesitation in sending some of these younger men to jail.

But I think we ought to be given the opportunity to review the case and in the light of the realities and

in the light of knowing what is available in the prison be able to make that kind of an early determination.

Another thing we would be able to do if this bill were passed is just take a look, to do what any businessman would do in a sound business, take a look at what he is dealing with at an early date and point out what could be done or what the man could do in prison to make parole. Again the court in Monks back in May of '71 told the Parole Board that we had to give reasons that would be not unreasonable, not arbitrary, and, secondly, that they try to point out to the men what they might do in prison in terms of taking advantage of programs, in terms of work assignments, in terms of lining up a parole plan, that would improve their chances of parole. If we could do this within six months of a time a man comes into prison, it gives him a greater degree of certainty. This is not contract. This is not the contract for parole system nor does it imply any rigid guidelines.

I don't know whether it is in the scope of these hearings or not to give you my personal views about the contract system. I think the inmates, when you hear their testimony, will argue that contract parole should be arranged and I think you will hear this from some of the institutional people. It is a very simple arrangement and it gives a very firm basis. A guy knows when he is going to get out. But I don't think it protects society as well as it might. But I will leave that to your judgment whether that is the subject of these hearings.

Basically what this legislation does is it follows the New Jersey Criminal Law Revision Commission's recommendations for an immediate eligibility for parole and an indeterminate sentence with a fixed maximum. But unlike the New Jersey Report recommendations, it

retains greater discretion in the sentencing judge and, in fact, when we drafted some suggestions for the legislation and were looking at suggestions for the legislation, we decided that it would be better to limit the Parole Board's discretion in certain aspects. And that is why the advisory minimum is retained for the judge. The judge would be able to set an advisory minimum and it would also require the judge to file a statement of reasons. A lot of times we will get a call from a judge saying, "I understand you turned down such and such for parole. I know I gave him a 25- to 30-year sentence, but I thought he was going to get out at one-third of his eligibility." Another judge will call up and say, "I understand you paroled such and such. I thought he was going to do his minimum sentence."

The judges themselves have some questions about when a man comes up for parole. According to the Sentencing Judge's Manual, the judge is not supposed to consider the statutory eligibility date because parole, according to the manual, is a post-sentencing factor. The judge is just supposed to say in his judgment, this man should stay in prison for x number of years to x number of years.

You have this confusion and lack of communication within the Parole Board, this triad of parole, corrections and the sentencing court. This would straighten this out a bit because the judge would be required to say why he was sentencing a man to jail and certainly he is in a much better position to fix the punitive and deterrent aspects of the sentence.

The New Jersey Law Revision Commission I believe retains the punitive and deterrent aspects of the sentence, but it vests that discretion in the Parole Board. This bill, S 1122, would vest that discretion in the sentencing court and give the Parole Board the power to

review it, allowing wide latitude. Now the judge is privy to the testimony at the trial. He is more familiar with the local community sentiment. These are things that the Parole Board really has very little ability to make a good and rational judgment on.

That is basically the meat of the bill, if you will. There are some provisions in the bill that I would like to see passed just from an administrative standpoint; for example, the appointment of a provisional member where the other members are unavailable. Right now he has to be completely ill or sick or unavailable, and this would lessen that standard and allow the Governor to appoint an interim member or a provisional member where the other member would simply be unavailable for one reason or another. For good cause, I think it says.

Another provision is the provision for remission of fines up to \$200. That is Section 10. I really think that this is an important thing because there has been some understanding among the judges that any man convicted of a narcotics offense should be given a 25 or 30 dollar fine. It is a nominal fine. A man comes out of prison usually with minimal resources and after two or three years in jail, he has a 25 or 30 dollar fine. The Bureau of Parole spends more time checking with the County Probation Departments to find out whether the fine has actually been paid than it is worth. Secondly, there is little reason to impose that kind of fine as a punitive thing when the guy is down anyway in my opinion.

So there are some other separate provisions in the legislation, apart from the idea of immediate eligibility, that should be considered.

I thank you, Senators, and will respond to any questions.

SENATOR HAGEDORN: Mr. Heil, do you see any

problem with the amendment change that was made by the Committee providing for a six-months minimum as contrasted to your original proposal of immediate eligibility?

MR. HEIL: On balance and after consideration, Senator, I think that it is a wise provision. In other words, it is not the pure concept of the bill strictly from a theoretical sense, but I think from an administrative sense, it will give us an opportunity to receive the man's materials from court and it will make it an easier bill to administrate, as well as serving the additional purpose of a minimum amount of time that the man would have to serve. So the answer would be, no, I don't see any problem with that.

SENATOR HAGEDORN: In other words, you would consider that an improvement?

MR. HEIL: Yes, sir.

SENATOR HAGEDORN: Then you mentioned that we refer to Lexington many people for treatment. What is the reason for referring them to Lexington? Does that mean that in New Jersey we have inadequate facilities?

MR. HEIL: This is a special project in which the National Institute of Mental Health had considerable resources and it was all located at their drug treatment center in Lexington. So the locus was in Kentucky and the diagnostic resources were there.

SENATOR HAGEDORN: Would you have any kind of an estimate of the number of prisoners that would be eligible for parole, let's say, within six months, assuming that 1122 was passed in some form?

MR. HEIL: I don't have a current estimate of it. When I looked at the bill in December, it was indicated there would be 2,400 to 2,800 inmates who would be eligible for a rehearing. That would be that they would be eligible for parole. Many of these men are eligible for parole now, but because of the changes in

the different assumptions that the bill makes, everybody would be practically, except those who had not served six months, eligible for a hearing by the Board. As far as those who would actually be granted parole, I couldn't give you that now.

SENATOR HAGEDORN: Assuming that a fair amount would be eligible and be released, do you feel that we have sufficient personnel to supervise the parole activity to guarantee, or at least make a real effort to do so, that they would be accepted as members of society and would not be invited in some way to return to criminal activity?

MR. HEIL: I think the Bureau of Parole has been understaffed. I can't speak for Mr. Arluke, the Bureau Chief, and I guess it is in his budget request. This legislation would result in a higher degree of parole; to what extent, I don't know. I would imagine since caseloads in some instances are 40 and 50 men to one caseworker that there would have to be some consideration given to increasing the number of parole officers.

Let me say this, that we are mindful of those limitations when we make a decision to parole. If we don't feel that the man can be adequately supervised within the limitations of personnel and it is questionable, then we would not parole that man.

SENATOR HAGEDORN: Wait a minute. Shouldn't he get the same privilege as anyone else who is eligible for parole? If we get to the point where because we have inadequate staff we are going to keep a man in prison, is that fair? Is that what you are saying?

MR. HEIL: That's right.

SENATOR HAGEDORN: Well, that would defeat the whole purpose of 1122, wouldn't it?

MR. HEIL: There are degrees of risks to society. In other words, if a man were the type of

person who would require, let's say, psychiatric treatment and you could arrange for the psychiatric treatment, but you wanted to make sure that he would show up every time and there might be a degree of question in one of the Board member's mind about whether this man would actually show up and it would have to be a Parole Officer's supervision, it may be in those limited number of occasions that you would say, "No, we can't parole this man because the social services are not available."

SENATOR HAGEDORN: How about the man who doesn't require social services and we don't have the personnel to provide proper supervision?

MR. HEIL: His supervision in that case, if he didn't require social services, would be minimal and would be the normal type of supervision and in his case there would be no problem.

SENATOR HAGEDORN: What I am really trying to say is this: Should this bill also incorporate in it the provision that we do provide adequate staff for supervision? If we are going to make parole work, it would seem to me that we have to have the supervisory staff to accommodate it.

MR. HEIL: I don't think so at this time. The problem right now is not with the supervision. In other words, that is a problem and in honesty to you I would have to say it is a problem. But the more critical problem is the inequities in the parole statute itself. In other words, there are men who are in there now awaiting their eligibility date that should be paroled. They should be on the street from what we can see and they present no danger to society. They require minimal supervision. It is not a question of not having enough people to supervise them. It is the inequities in the present parole law that is critical.

I would not want to see this legislation carry

with it a mandatory number of parole officers or a provision relating to the size of the staff. In other words, I wouldn't want to see this pegged to an increase in Parole Officers. I would rather see that the subject of separate budgetary consideration.

SENATOR HAGEDORN: You mentioned this young fellow who disfigured the monument and was placed in jail. And I have to agree with your opinion on that. But do you feel he should be punished in some measure?

MR. HEIL: I think an appropriate punishment could be devised and I think some of the creative sentencing judges are doing this. Five or six hours every Saturday at the fire house cleaning up may be an old-fashioned notion, but I think that it would not be so bad in this case.

SENATOR HAGEDORN: I am happy to hear you agree that there should be some punishment. And I agree it should not be in jail.

Do I gather from your testimony that judges in many cases are not familiar with our parole system and shouldn't they be?

MR. HEIL: Yes. I would have to say, yes, that there are problems of liaison between the courts and the parole system. Actually, as far as parole criteria, as far as eligibility, in the very long run I think the courts are probably where we would get the most dispassionate objective look at parole and sentencing. The courts are introspecting right now. There are several sentencing conferences.

One of the major problems is that we don't know why the judges are sentencing in certain cases and the judges themselves will call up and say, "I didn't intend with this 25- to 30-year sentence that the guy would have to stay in any longer than the one-third of his eligibility." Then in another case if a man is

paroled at one-third of his eligibility, they say, "I gave him a 25- to 30-year sentence and I never thought that he would be paroled at one-third of his eligibility." Well, that is a judgment that we make.

The problem is there is some lack of communication with the courts about what keys parole, in other words, what the eligibility date is. The pre-sentencing manual says that the judges shouldn't even consider when a man will be granted parole. In other words, his sentence should be completely independent of the statute that provides for parole eligibility and that it is up to the Parole Board to make its own determination. But as a matter of practice, when plea bargaining enters into it, when the judge is looking at how soon this man could get out, he does consider this in many instances it has been my experience.

So the answer to your question is, yes, sir.

SENATOR HAGEDORN: In the original bill it was provided that one member could make a judgment with respect to parole. This was changed by the Committee to a minimum of two members. Do you see any problem with that?

MR. HEIL: No, sir. I think the original provision was that one member could serve as a hearing officer and that he would report back to the two other members and there would be a normal decision made on the case based on his report as a hearing officer. But I think this is also an improvement because what it would really mean is that three men would sit down. With this provision in the legislation, the three men would hear it and I think it is a good provision.

SENATOR HAGEDORN: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: Mr. Heil, as far as you know, has there been a great degree of opposition to the bill in various law enforcement agencies, for instance,

State Police, the State Patrolmen's Benevolent Association, local police organizations, etc.?

MR. HEIL: To my knowledge, no. I haven't seen any official resolutions opposing it. And I haven't been personally involved with that aspect of the bill, although I did attend meetings with the prosecutors. I understood that there were a group of prosecutors within the Prosecutors' Association who opposed the legislation, but that it was resolved at a meeting with the prosecutors and that they voted either not to take a position on the bill or to support it. I am not sure which, but it is my understanding they did not oppose the legislation.

As far as the various PBA organizations, I don't know that they have taken a position on the bill. I think the Parole Officers in the Bureau of Parole have taken a position - at least there was some talk about their taking a position against the bill because they felt that it would result in too heavy a workload. And I don't think that is done with as much consideration as might be taken.

SENATOR HIRKALA: Under our present parole laws, how would you compare us with our neighboring states and then, if this bill were enacted into law, how would our parole laws compare with our neighboring states?

MR. HEIL: I think that both Pennsylvania and New York are operating on the basis of a mandatory eligibility system in most cases. I think they have special exception for youthful offenders and sex offenders, as we have. So it is my understanding that basically New York and Pennsylvania are operating as we operate now. In Pennsylvania you have to serve -- an inmate would have to serve his minimum sentence before he could even be considered for parole. And I think there are similar requirements in New York. So I think this bill would place us far ahead of New York and Pennsylvania

in terms of providing the basis for an equitable and more rational way of handling criminal sentencing.

As far as states like California and Wisconsin, they have been relatively progressive. Minnesota has been relatively progressive. They have made mistakes, sure. They have put money into things that maybe they shouldn't have put money into. But I think we can learn a lot from the experience in California and in Wisconsin and this bill certainly is not going to cost any money. So I would think it puts us in a very favorable comparable position.

SENATOR HIRKALA: Are all the present Parole Board members in favor of the bill as it is presently written?

MR. HEIL: I know that Mr. Rodriguez is. Mr. Henry was appointed some three weeks ago and I know that he had read the bill and entered some comments. So I can't really speak for him and I haven't discussed this bill in depth with him. But he has only been aboard now for three weeks. I think he has been concentrating on handling cases and getting familiarized with procedures.

SENATOR HIRKALA: Thank you.

SENATOR HAGEDORN: We thank you very much, Mr. Heil, for your testimony and suggestions. We are also mindful of the work you are doing to properly consider the parole requests from those that are in confinement. So I thank you for your presentation.

MR. HEIL: Thank you.

SENATOR HAGEDORN: Is Mr. Mathesius present from the Mercer County Prosecutor's Office?

W I L B U R H. M A T H E S I U S: Senator, when I originally spoke to you, I indicated that I had prepared a letter that I was to present. I would like to read from a part of that letter as part of my presentation and my argument with respect to the views

of the Mercer County Prosecutor's Office.

I indicated that Prosecutor Schragger was interested in testifying. He is presently out of the country and unavailable at this date. That is why I have taken the liberty of writing the letter and appearing before this present tribunal.

Senator, the bill, upon analysis, appears to have as its foremost objective the lowering of the prison population in the State of New Jersey. The objective of minimizing the input and maximizing the egress of incarcerated individuals does not, in the opinion of this office, appear to have the best interests of the people of New Jersey at heart.

Effectually, under this bill, the State Parole Board will operate in a super-judiciary capacity without having before it factors upon which a court relies in making a considered judgment as to a particular sentence imposed. That is to say, the court, after a trial, has before it all circumstances relevant to sentence, both evidentiary and non-evidentiary, which generally include, inter alia, the prior criminal history of a defendant, the circumstances of the offense in question, and a pre-sentence report. All factors, both mitigating and aggravating, are synthesized in the ultimate imposition of that sentence, be that sentence term or non-term. Notwithstanding this veritable catalogue of information, the sentence in question is rarely, if ever, fully served by the defendant so sentenced. A multitude of factors control the duration of an individual's actual time served which, at best, are factors only tangentially related to the actual sentence ultimately imposed despite the reasoning therefor. However, the parole bill presently under consideration now serves to remove in the opinion of the Mercer County Prosecutor's Office whatever relevance a court's determination as to sentence had been and allows that parole board to consider for release on

parole any inmate (quoting from the bill) "immediately after commitment . . . and shall (require that each inmate) . . . appear before the parole board within six months after being received by State institutional authorities."

The subsequent language of the bill, which places the burden of reasoning upon the State Parole Board to deny parole, will have in the opinion of the Mercer County Prosecutor's Office the ultimate effect of allowing release on parole to those inmates whose histories the State Parole Board could not have considered from the vantage point of the sentencing court. Instead, it would appear the individual inmate will be judged primarily on the virtues of his deportment while in the institution itself. Naturally, the "good behavior" of an inmate will be referred to as evidence of "rehabilitation." In fact, as the bill provides, the State Parole Board must find affirmatively that there is a ". . . reasonable probability that release on parole at that time would endanger the community with respect to the safety of persons or the security of property or that the purposes of the sentence as specifically stated by the sentencing court have not been accomplished." It is submitted that it is unreasonable to suggest that the courts have so abused their sentencing prerogatives that such a presumption of inadequacy may be countenanced. In fact, quite the contrary is generally the case. It should be recognized that the courts are generally cognizant of their responsibilities and approach their task of sentencing with painstaking and compassionate deliberation. In almost every instance only hardened criminals, perpetrators of vicious crimes, or those defendants involved in organized criminal activity go to jail. In instances where term sentences are given to individuals convicted of crimes against property (as opposed to what the Morrow Association refers to as "people to people crimes of violence"), which I personally find

a bit euphemistic, the vast majority of those sentenced have been on a probation-parole-suspended sentence situation prior to the ultimate incarceration. The patience of the court is reflected in the fact that in these instances opportunity upon opportunity is afforded a given defendant only to result in a reappearance before the bench of that same individual on yet another charge. I ask you, Senator, and I asked in my letter: What greater attestation is necessary to accent the impotence of the parole system? Yet it is this system, in expanded version, which advocates of Bill 1122 suggest should be foisted upon a basically unknowing citizenry.

There are two considerations of relatively minor importance which have to date received no attention whatsoever but should nonetheless be taken into account. Firstly, in crimes committed by combinations of individuals, there is in the possibility of extended incarceration, by virtue of a lengthy sentence, a real incentive for cooperation with the State by a member or members of such a criminal federation. It is this precise sword which has enabled a special prosecutor to bring to justice a number of conspirators in the Yablonski murders in Pennsylvania. And I believe I can even refer to Watergate and the situation that has developed in Washington with respect to individuals who are in fear of lengthy incarceration without the possibility of a six-month parole provision. That is what has opened the door to Watergate. That is what has opened the door to the Yablonski situation. Similarly, the prospect of a lengthy term sentence has served the ends of justice in New Jersey as well. And I would refer to a situation that has recently developed in Mercer County itself where the Prosecutor's Office was able to break a complex conspiracy involving robbery and kidnapping only - and I say "only" with emphasis - only by virtue of the

fact that the prime operatives were facing a minimum-mandatory 30-year sentence. It was that alone which permitted us to arrest five additional members, one a member of the Bar, I might add, who was involved in that crime. Naturally, this potentiality in like crimes in New Jersey would effectually be nullified by the present legislation.

I continue with my second reasoning of minor importance reflecting upon what I consider to be a magnification of the appellate processes with which we are presently concerned. And it would appear to me that Sections 1 and 10 requiring reasons by the court and the Parole Board for sentencing imposed and denying parole, respectively, would open new avenues of appeal and I say that those avenues of appeal, if opened, would additionally complicate the morass we presently have of multiple appeals presently extant.

In conclusion then, the major difficulties with the pending legislation which concern the Mercer County Prosecutor's Office are, primarily, the provision allowing parole possibility after six months incarceration notwithstanding the crime itself and, secondly, the provision putting the burden of persuasion upon the parole board in denying parole. This is not to say that the Prosecutor's Office does not appreciate progressive legislation but rather that it is our sincere belief that the provisions alluded to serve, to a greater extent, to endanger society and put the law-abiding citizen at a true disadvantage. As prosecutors, our concern lies foremost in our efforts to protect society as well as to deter the potential law-breaker. Our job has been made more difficult by the zeal in which the illusory concept of rehabilitation is placed upon the altar, seemingly without due regard to the needs of the remainder of society. It is our firm conviction that the passage of Senate Bill 1122 will result in a

true disservice to the people of the State of New Jersey.

Senator, that is at least a paraphrase of my letter to you. And beyond those four considerations which I urge in my letter, I believe, sir, that this body is undertaking a study of what amounts to a drastic revision without sufficient analysis of what parole has brought to us at this point.

I think there has been a presumption by sociologists, psychologists and other social behavior theorists that there is a direct correlation between recidivism and lengthy-term sentence. I know of no study which bears that out, but rather the fact that I alluded to in my letter, the fact that there are so many instances of non-term sentences given and ultimately an individual is sentenced to a term proposition attests to the absolute weakness and inefficiency of parole which is expanded by Bill 1122.

As I understand the present parole situation, individuals who are incarcerated for the first time in the State Prison generally serve what amounts to 20 percent of their actual sentence time. In a 30-year sentence, that amounts to a sentence of 6 years. There is no regard given in a parole situation in the State Prison to any prior sentences other than to a maximum institution; that is, prior incarceration in Yardville or minor institutions, if I may refer to them as such, are not taken into consideration in computing parole time.

The situation has given prosecutor's offices in the State of New Jersey, particularly our office because we have seen fit to attempt to determine what an organized position from our fellow prosecutors is, great concern. Sentencing and parole do need revision, but I would suggest to you, Senator, that a study of the parole system as it is, not as how it will be under this provision, but as it is, indicates a hopelessly

inadequate situation and will indicate that moving people out and shorter terms seem to be the obsession.

I think that primarily advocates of this bill are fundamentally unacquainted with criminal behavior. I say that after reading and analyzing the approaches taken by certain people who do advocate its passage.

I say to you simply, Senator, that liberalization is not a synonym for progression. We are interested in progressive legislation but I do not think that will be accomplished by this present bill.

SENATOR HAGEDORN: Do I understand the thrust of your statement is that long sentences deter crime or conversely short sentences will encourage crime?

MR. MATHESIUS: To answer that, sir, I would say, firstly, that there is no study that I know of or no factual hard information that I can refer to that indicates one or the other is the case. Certainly from my experience of 3 1/2 years as a Federal Prosecutor, a year in the State Commission of Investigation and 3 years in the Prosecutor's Office as First Assistant, I do know that the duration of sentence does not bear a relationship to not deterring crime; that is to say, the lengthy sentences I would certainly suggest do have a deterrent quality. People are concerned about facing terms in jail - absolutely. There is no question about that. I can only conclude from that, without being an analyst of everyone's mind in the State Prison, that if they would have known that they would subject themselves to certain terms of sentences, they would not have committed the crime or at least taken more pains not to be caught.

SENATOR HAGEDORN: What in your opinion is the inadequacy of the present parole system?

MR. MATHESIUS: I think the inadequacy is the obsession with considering a person rehabilitated or, using another term, safe to be returned to society, when

that individual is absolutely not safe. And I can only allude to at least three instances in the past six months where individuals were given parole despite the fact that those individuals, prior to being given parole and while being on a furlough situation, committed crimes of rape. That occurred at least once in Mercer County and twice, I believe, in Camden County. But they were individuals that were in jail, one doing a 15- to 30-year sentence who was going to be released after three and a half years, and while on furlough prior to parole raped a woman in Trenton. Nevertheless parole was granted to that individual. He is being held on detainer.

But I cannot conceive, Senator, how someone can be granted parole in light of the fact that he committed another high misdemeanor while not even being ultimately freed from the place of incarceration where he was kept.

There is another instance that I would indicate that I had personal experience with. That was with an individual who was tried and convicted of armed robbery after, I would say, a multitude of chances being given that individual, he having been given three or four times suspended sentences for crimes against property. He was finally apprehended in an armed robbery, was convicted after a three-week trial for that armed robbery, and was given a sentence, after subsequently entering a plea to four other armed robberies - in other words, after he fell once, he went for the other four to clear those up -- was given a sentence of fifteen years, the max being waived, in Yardville. He was out again in nine months and was re-arrested for possession and sale of narcotics. To me - and I have difficulty finding a word - that is a heinous abuse of our processes, that an individual who is so dangerous to society is released

in nine months only to commit crimes again.

SENATOR HAGEDORN: What was his original sentence?

MR. MATHESIUS: His original sentence was, I believe, what they call an indeterminate sentence in Yardville of 15 years, the max of 5 years being waived. So while it sounds nice that an individual after committing five armed robberies with a pistol, moreover, was given 15 years - and 15 years is a long time to be in prison - but he was out on the streets 9 months in a parole status.

SENATOR HAGEDORN: To me it is almost inconceivable that a man could be released in 9 months time. Does our present law provide that this can happen?

MR. MATHESIUS: It was a reformatory proposition. He didn't graduate to the State Prison. He couldn't have been because he was 19 years old, I believe, and they always get one shot at Yardville. It is inconceivable. It was only conceivable to me after I tried that case and found the name of the man appearing on my desk again as another violator.

SENATOR HAGEDORN: Do your comments represent the opinions of the Mercer County Prosecutor's Office or do they go beyond that to represent the Association?

MR. MATHESIUS: My comments are necessarily limited to the Mercer County Prosecutor's Office. As for the Association, I believe I can represent there is majority agreement. There are a number of individuals who took no position. There are other individuals who took a qualified position. And there are other individuals - I think two or three prosecutors - who would support the bill. That would leave approximately 18 or 19 individual prosecutors who either took a qualified support position because they felt some type of revision was necessary or they took an unqualified opposition.

SENATOR HAGEDORN: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: I would like to explore for a moment Mercer County. For instance, in the sentencing of convicted gamblers, whether it is for bookmaking or keeping a gambling establishment, is there any one single judge who imposes sentences?

MR. MATHESIUS: Yes, there is. I believe under the mandate of the Supreme Court there is one judge who imposes sentences involving gambling and like convictions.

SENATOR HIRKALA: Is there any set policy? For instance, in Passaic County the sentencing judge almost without exception sentences the convicted person to jail. Is there any set policy in Mercer County?

MR. MATHESIUS: The policy is a little more vague than an automatic sentence once a person is convicted. What the prosecutor is able to do is downgrade situations to disorderly persons when those individuals do not form the hierarchy of the organized proposition we were investigating. In other words, if those individuals are convicted or arrested and charged with crimes that relate to what we call sitting or running or making book, then they are sometimes given lesser charges such as disorderly persons. However, when we charge and convict or charge and obtain guilty pleas from individuals who are in the upper echelons of the organization that we are investigating, then they would generally always go to jail, yes.

SENATOR HIRKALA: In Mercer County, if you can categorize it, what do you think is your biggest problem in fighting crime? Organized crime, the problem of narcotics or gambling or whatever?

MR. MATHESIUS: Senator, I am at a real loss to say what is the biggest problem. I see them in lumps of big problems. I see the crime on the streets and the attempted murder of policemen and crimes of real violence as a horrendous proposition that we have

difficulty in trying to enmesh black and white factors in a given town - investigation. That's difficult.

The organized crime certainly exists. We have difficulty. With reference to my own remarks, I say that organized crime was dealt a blow with respect to that 30-year mandatory sentence for kidnapping. I alluded to that. That is the difficulty.

It would seem, sir, in Mercer County from my vantage point that narcotics have been easing off to a certain degree because we were able to make arrests of a number of individuals who were, in our opinion, major suppliers. I think that we have possibly seen a peaking out of that particular crime. The difficulties are too multifarious to enumerate.

SENATOR HIRKALA: In your opening statement, you seemed to indicate that if this bill were enacted into law, it would be an instrumentality, as you said, in lowering our prison population. In essence, would you just give us a short summary of your highlights in opposing this bill?

MR. MATHESIUS: With particular respect firstly to your question of lowering the population, I think our prison systems are extremely bad and I think we need to build more prisons.

My major opposition to this particular bill relates to that six-month provision which I think will do more harm in so many areas. I attempted to expand on only four. But I think that six-month provision is extremely dangerous and difficult for the prosecutor's office to work with.

I think the fact that the Parole Board has the burden of reasoning why it should deny parole will not only complicate the situation within a smaller group of individuals - not the judges -- but it will move to the Parole Board itself and the Parole Board will have

a concentrated amount of power. I can allude to the William King situation where a psychiatrist, I believe, in the State Prison was recently indicted for collaborating with inmates with respect to attempting to get those inmates to arrange a murder for him. So I put no great faith in the sociology-psychology theories that have been profounded to free everybody because jail is bad. Jail is bad. Jail should be bad to a certain extent. But I think the improvement of jail facilities would to a certain extent alleviate the problems.

Thirdly, the key-bargaining situation I alluded to is of prime consideration as well as the appellate processes that will be made more complex.

Beyond those situations, I would just ask that this body consider the real ramifications of parole as they have existed to this point. That would require a greater analysis of what has happened up to this point - what degree of recidivism - what degree of control has there been by the parole legislation as it stands.

From that point I would say that it appears to me inconceivable that an expansion of that particular situation could be countenanced. I think if that analysis is made, it will show inadequacies in parole and it will show inadequacies in sentencing which can be handled by progressive legislation, not merely liberalized legislation.

SENATOR HIRKALA: No further questions.

SENATOR HAGEDORN: Mr. Prosecutor, do you feel the practice of plea bargaining by prosecutors in some way contributes to recidivism or would be in contrast to your concern for short sentences? Don't they get short sentences out of a plea bargaining setup?

MR. MATHESIUS: First of all, under our present system if we are going to abide by the Constitution and provide for jury trials, the multifarious appellate processes that are attendant to every conviction and

the complexities that are given to us by virtue of the Constitution, plea bargaining is an absolute and fundamental necessity. Because the courts are absolutely incapable of handling the 90 to 95 percent of individuals who eventually are given term sentences or probation or whatever as a result of plea bargaining. Plea bargaining situations, as long as we have jury trials, are going to be with us. It gives us a position when we see an individual with a rap sheet of a number of crimes and we indicate that we want certain things out of that plea bargaining. It gives us a degree of control. But it is again ultimately up to the courts to follow our recommendations and in most cases they do not. In most cases, as I said in my prepared statement, they are very loath to incarcerate somebody for any period of time. There is a genuine repulsion on the part of the court, except for the most heinous crimes, to give a stiff sentence.

When you take that stiff sentence and reduce it to the 20 percent that most individuals will serve, we are not doing anything; we are spinning wheels.

SENATOR HAGEDORN: We thank you very much for your testimony and your contributions, Mr. Mathesius.

MR. MATHESIUS: May I thank you for the opportunity to appear.

SENATOR HAGEDORN: I will now declare a recess of five minutes.

After the recess, I will call on Mr. Samuel Petrillo, who is the President of the Parole Officers Union, Local 2310.

(Short Recess)

(After Recess)

SENATOR HAGEDORN: We will call the hearing to order and I will now call upon Samuel Petrillo to testify.

S A M U E L P E T R I L L O: The need to review the function of the Department of Institutions and Agencies, namely the Department of Corrections in the Bureau of Parole, as you are aware, is long overdue.

We have been operating under a system of corrections that has seen no major innovations in the past 25 years. Those individuals responsible to carry out the mandates of the Legislature and deliver the appropriate treatment and training in the institutions in the Bureau of Parole have produced, at best, a pseudo efficiency. The Bureau of Parole has elected to substitute change of administrative titles as a form of innovation. Correctional institutions have been without the benefit of meaningful, vocational and treatment programs in spite of large expenditures approved by the Legislature.

Parole Bureau personnel is overly excess in numbers, engaged in administrative and clerical duties. Approximately one in three of its personnel is engaged in field work.

A parole officer has the duty and responsibility of supervising released inmates from correctional, penal and training schools. Our responsibilities and functions are numerous. Primarily we see ourselves as trying to make successes out of institutional failures.

The Bureau of Parole, under Title I - which went out of existence six months ago - initiated a program that was in existence for a period of five years, centering on specialized cases, namely narcotics and recidivists. This program has not been funded due to the lack of other variables including a design that would aid individuals.

We, as a group, feel there is a better way

to deliver services and increase the productivity of our units. The elimination of ineffective approaches is our prime concern. The Bureau of Parole has merely been one that has labeled decentralization as a goal but has not incorporated decision-making on a lower level.

We have at present a Bureau of Operations and Programing, comprised of high-salaried personnel, in operation approximately ten years, that has produced no master plan for correction or parole in the State of New Jersey. We have a lack, and this word is overused, of communication with coordinators of our present programs, resulting in confusion on all levels within the Bureau. Programs added to a traditional type agency, such as Parole, cannot be effective when lacking communication and coordinators who do not understand the functions and needs of the parolee in society. This was apparent to the inmates of the State Prison when they elected to join the ranks of the parole officers, prosecutors, P.B.A., in helping to defeat piecemeal legislation that would release inmates from prison in six months.

In 1971 we proposed in an open letter that the Department of Corrections and the Bureau had a lack of meaningful vocational training and treatment in its institutions. At that time, and at present, we feel the early release would be inhumane to the prisoners. In order for an individual to sustain himself in society it is necessary to be properly treated and trained to adjust to the highly industrial labor market.

No one in the professional ranks, or society, believes in violence. However the riots in the institutions have shown a need for restructuring the correctional system with programs that are necessary to the human rehabilitative services.

The Bureau of Corrections has not, as of this

date, produced a master plan for eliminating inefficiency, lack of programing or coordinating of the present programs. We are well aware that criticism in itself does not produce appropriate time measures to insure rehabilitation. Constructive programing, first based on research and experience, is the only sure basis for this dilemma.

We propose the following as necessary, not only to the rehabilitative services and the protection of society but also as an alternative to spending vast sums of money that result in inefficiency:

1. The dismantling of the Department of Institutions and Agencies. Our first suggestion is to dismantle the Department of Institutions and Agencies and combine services of like nature. Agencies engaged in counseling that have overlapping roles with parole should be coordinated. We propose that corrections and parole be taken from the Department of I and A and placed under the Attorney General's office. This would provide a continued program incorporating all steps from arrest to rehabilitation.

The correctional system, as presently administered, is not in keeping with the needs of the individual or the demands of society.

2. Training schools for boys and girls. We would propose that training schools for girls and training schools for boys be combined. Placing these institutions under one similar management would save the taxpayer an increase in delivery of services at these institutions. We further suggest that they be removed from the jurisdiction of correction and parole and placed under the Bureau of Youth and Family Services. The creation of this school district would insure additional funding and, by placing it under the Division of Youth and Family Services, could, in all probability, lead to federal assistance.

As this Committee is aware, the present

structure for boys and girls has, roughly, a ratio in their institutions, of one employee for every inmate.

Addiction. The need to combine narcotics and alcoholic divisions into one bureau is long overdue. Alcohol has long been considered as potent a drug as narcotics. By combining these bureaus, whose goals are similar, there would be a continuity of delivery of services. Programs presently in use by the Bureau of Narcotics have failed to take into consideration the needs of parolees and are presently considered by some in the narcotics field to be a failure.

I might point out, as an example, the methadone program. When a man is released to a northern part of the State, or if an individual is transferred to the central part of the State of New Jersey, the Bureau of Narcotics fails to transfer his methadone supply to this area resulting in the individual traveling four hours a day - some 60 miles - to receive methadone. Now the prime purpose of the methadone program was to put people back to work. If a man is going to spend four hours a day commuting, he cannot obtain a job.

That is just one of a number of examples and I won't go into all that. We have documentation on anything we say at this hearing.

Specialization of correctional institutions. Ninety percent of all inmates in correctional institutions are found to have an addiction or double addiction. Specialization of one or more of the correctional institutions should address itself to the problem of addiction only. The need for treatment while the individual is incarcerated is important not only to the inmates but to society.

The institutions should gear their programming to what is necessary for the individual to make a successful reentry into society. Classification material received by the parole officers regarding the physical, and

mental condition of the parolee is, in many cases, lacking. In order to render a decision to aid an individual in reentering society the parole officer must have factual information.

Paroling of inmates. We propose that the State Parole Board be enlarged and have under its authority the paroling of inmates from correctional institutions as well as penal. The present system of paroling from correctional and penal institutions has numerous paroling boards. This has resulted in various sets of parole rules and conditions resulting in confusion within the Bureau and among parolees.

Centralization - and this is one of the few times where we think centralization is important to the taxpayers, along with a continuity of thinking, when the parole authority is one within the State of New Jersey.

Now, we have the following two alternatives: Case loads should be limited to that of 40 and there have been numerous documents presented to the Committee and made public, during the past two years, relating to that. The Federal authorities have 35 as their top amount and the Bureau of Parole, under our own system - under specialized narcotics handling - has 20 as a maximum number, with most of the parole officers carrying anywhere from, at the present, 80 with 90% of their clientele under the influence of, or having had a problem with, narcotics or addiction in the form of alcohol, or double addiction, which would be alcohol and drugs.

The second alternative to this is a unit system of supervision. The present system of operations in the State of New Jersey has proved costly. Each succeeding year the need for more parole officers creates a dilemma in the Department of Institutions and Agencies for additional funds.

We respectfully suggest that the proposal submitted in January of 1971, creating a unit system

of supervision be reconsidered at this time. A unit system of supervision would increase productivity, eliminate unnecessary paper work, increase professionalization of the Bureau. The how of this program would be, briefly, one, eliminate case loads. Two, incorporate a classification system of individuals under supervision. This is different from the classification system within the institutions. This is based on studies made in California where large percentages of men released from the institutions did not need the same type of supervision that other individuals needed. There was another portion, approximately one-third, that needed a more intense program of supervision.

By incorporating a classification system under units with no case loads, we could focus our supervision on individuals that need it. It would result in large savings of money.

Combining the services of volunteer programs and traditional type agencies in a continuity of counseling. Now we have - and under the unit system it could be eliminated - individuals released, particularly out of Jamesburg, with three different agencies counseling the individual at one time. The fact is we stumbled over one of the men counseling an individual from the Monmouth County Welfare. Another was connected with the juvenile alternative program at Jamesburg, whatever that was - we were unable to find out as of this date but we know there is one down there.

In addition, this unit system has proposed, in 1971 to the Bureau, a system of hearings for parolees. The Morris A. Berg decision mandated a process of hearing to all State parole bureaus. This program I submitted in January of 1971 was 18 months before the Supreme Court mandated a hearing for parolees and it was two years before the Bureau implemented it.

Priority revision and policy revised. Today the Bureau of Parole and Correction is implementing

numerous programs with any meaningful continuity, incorporating a worn-out, antiquated delivery of services due to the lack of evaluating the present policies and standards.

Now an administrative cop-out to this is that we lack funds to implement programs. To this we reply that by reviewing your priorities there would be sufficient funding without asking for additional funds from the Legislature to reconstruct portions of the delivery of services in the Bureau of Parole.

Academic training and professional development. Throughout the past 25 years, resistance to change can be attributed to the lack of additional academic training by the administrators of parole. In a complex society that is highly industrialized, bordering on cybernation, the necessity of training, innovation and implementation is a prime factor in staying ahead of the problems of parolees. The strongest deterrent to a meaningful alternative and total programing is found in the lack of professional development of the hierarchy.

The procedure of promotions. This Committee might want to look into methods by which men are promoted. This is a strong factor in the lack of programing in the State, and lack of coordinating, and has been mentioned here this morning by our various heads of departments who are responsible for communication. They have been complaining that there is a lack of communication and that the procedure of promotion, as administered under the personnel bureau of Civil Service, should be given a new coat. In other words, determine how and what the criteria are for advancing and placing these individuals in positions other than those that have produced no meaningful programs in 10 years. Thank you.

SENATOR HAGEDORN: Thank you very much.

The unit system that you were talking about, is there a copy of that available for the record?

MR. PETRILLO: I am sorry, I am having difficulty hearing you.

SENATOR HAGEDORN: You advocated the unit system.

MR. PETRILLO: Yes, sir.

SENATOR HAGEDORN: Is there a copy of that available for the record?

MR. PETRILLO: Yes, I think I have a copy in my file. There are two copies in the central office, one in the Bureau and one in the Commissioner's office. It is a proposed outline. It was designed in 1970 when I was at Rutgers, under the Special Development Act, and it was submitted to the Bureau the first month I was released - or rather graduated, released would probably be a better word - from that institution.

SENATOR HAGEDORN: You indicated there was a lack of information supplied to the parole officers on the parolees. What do you attribute that to?

MR. PETRILLO: Lack of classification material?

SENATOR HAGEDORN: Lack of information--

MR. PETRILLO: Lack of information?

SENATOR HAGEDORN:--that would help you to properly supervise a parolee.

MR. PETRILLO: Correct, sir. The classification material coming from the institutions - in many cases we do not receive for weeks after we have received the investigation for release of the individual.

In many cases the classification is geared to the functions of the institution, whereas it should be focused on the individual. In other words we need an up-to-date psychiatric, we need an up-to-date physical, etc. They are requesting men to go into the methadone program. We have no recommendations from the doctors whether this individual should or should not go into this program. It is who perceives what as to what is needed and this is where we lack the information.

Parole has not been getting that sort of necessary information.

SENATOR HAGEDORN: What is your present case load?

MR. PETRILLO: Mine is 87.

SENATOR HAGEDORN: Is that normal for all the members of the parole officers group?

MR. PETRILLO: With the exception of the specialized cases, which are 20, most parole officers are in the neighborhood of 80 to 85. We have some 8,000 parolees on the street with 100 parole field officers doing the supervision, out of a total of 248 to 250 members in the Bureau of Parole.

SENATOR HAGEDORN: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: Yes. Perhaps I missed it, Mr. Petrillo, but I would like to know whether you are opposed to this bill or whether you are in support of this bill.

MR. PETRILLO: I thought I mentioned that. We are opposed to the bill on the basis that it does not go far enough in the protection of society. It overlaps into the judicial role - of course these things have been made known by others. It does not take into consideration, prior to release, the need of personnel to handle the work-load. It says we are going to put this through, we are going to release these people and then maybe we will get some additional personnel.

SENATOR HIRKALA: You have made various recommendations. Can you tell me whether you have prior hereto given these recommendations to any official board, body, bureau, agency or department of government?

MR. PETRILLO: Yes.

SENATOR HIRKALA: And to whom have you made these recommendations?

MR. PETRILLO: I first initiated this recom-

mendation to the Chief of the Bureau of Parole in January of 1971. The Chief at that time was Mr. Arluke.

I went through normal procedure. I sent the second copy to Mr. Russoniello, who is Deputy in charge of corrections. My third copy went to the Commissioner of the Department of Institutions and Agencies.

SENATOR HIRKALA: Now after you submitted these recommendations in writing to these three heads, had you every been called in to give an oral report or to discuss those recommendations?

MR. PETRILLO: No, sir.

SENATOR HIRKALA: Thank you, no further questions.

SENATOR HAGEDORN: I can't help but observe one comment you made and that is that penal custody should be separated out of this massive I and A Department. I would feel that you and I are in complete agreement in that area.

I want to thank you very much, Mr. Petrillo, for your contributions and I am sure the Committee will definitely be interested in this recommended unit system.

MR. PETRILLO: Incidentally, I would like to add, during the period of 1925 to 1929 the New Jersey Joint Legislative Committee found - and this is on file - on pages 216 to 336, I think the pages are, I have them written down, that the Bureau of Parole at that time was inefficient, that there were too many in management in the institutions controlling parole, and that there was a need to upgrade the juvenile services.

I thought that was rather interesting because it laid the ground work after 44 years for exactly what we are doing here today. Thank you.

SENATOR HAGEDORN: Thank you very much.

Mr. Joyce? For the record, will you give your name, address and with whom you are affiliated?

J A M E S J O Y C E: My name is James Joyce. I am a parole officer with the New Jersey Bureau of Parole. I am employed in the district parole office located in Newark. I am also a Vice President of the Parole Officers Union.

I might start by saying, Senator, that you probably more than anybody, are aware of the efforts of the Parole Officers Union to initiate these public hearings. We did this primarily because we felt there should be some input from parole and from the inmates as well. We did this also because we felt that this bill was prepared without knowing all the facts. So, we are grateful for this public hearing.

I am going to confine my remarks to the rehabilitation and employment of parolees - the problem, as it exists today, what is being done about it currently and also what we feel could be done further about this problem of rehabilitation and employment.

The problem as it exists today is not only in this State, of course, it is nationwide. Institutional rehabilitation is considered a failure. I'd like you to consider a few facts just within this State. These statistics were provided by the New Jersey Division of Correction. Fifty-one percent of the inmates in our institutions today, our state institutions, have been there before for committing serious, or major, crimes. If you consider those inmates who are in institutions today and have committed less serious crimes, the total rises to 90%. Nine out of ten men in our institutions are considered recidivists.

A study, last year, in Essex County, where I work, of Essex County offenders-- Of the 500 offenders that were studied a random sampling of these offenders showed that 87% were second, third and fourth offenders and beyond. In fact, 30% of these Essex County offenders were considered six-time offenders, or worse.

Now when we talk about why men return to crime - what are the causes - I can only state from my own experience and the experience of my fellow parole officers. Our experience indicates that when these inmates are released to us on parole the major problem seems to be that they have too low an achievement level in reading and mathematics in order to take advantage of the programs that are offered to them in the community. The average parolee has a fifth or sixth grade achievement level in reading and math. The Division of Vocational Rehabilitation Services, to whom we refer many of our parolees, feel that, in their experience, a parolee should have at least an eighth grade achievement level in order for them to benefit from their services. Beyond that, many who are released are genuinely and seriously disturbed. They are psychologically and emotionally handicapped. These emotional problems also contribute to recidivism and hinder their rehabilitation.

This bill allows parole eligibility within six months. One of the reasons we oppose this is we feel that the offender can best be worked with in this area of his problems in the institution. Our experience has been that when they are released with these problems and they are referred to agencies to seek treatment they simply don't go, for whatever the reasons, for whatever the motivations, or whatever the distractions. They simply don't seek out the services and I noted in the papers that the inmates Council at Rahway - one of their proposals was to set goals for inmates when they initially enter the institution and to work towards achieving those goals.

It seems to me this might well be one of the keys because this could then provide the motivation for their parole.

I want to give a brief quote here from Dr. Sullivan, the newly appointed director, or superintendent,

of the school district created for New Jersey's penal institutions. "Half of the approximately six thousand two-hundred people in our State Institutions never finish grammar school. Only about 10% ever finish high school. The average reading level is of a functional illiterate." These are the people that we are attempting to help and for that reason I would encourage the Legislature to provide money, and any other help available, to Dr. Sullivan to help him achieve his goals. He has been quoted as saying that one of his major goals is the improvement of reading and math skills among the inmates. I think this is a very important consideration, from our own experience.

Another factor I wanted to mention is the change in character of the incarcerated offender. Many people consider him more hard-core today - he's got more problems - and therefore the parole officer, if he is going to help him, has to devote more attention to each case. Why is, perhaps, the inmate today more hard-core? Well, there are many diversionary programs today. Programs designed to divert men from the prison system and they take the so-called "cream of the offender class." The men left, those that make it to prisons I think could be considered more difficult cases.

Also, another consideration, what about the parole officers to whom the parolees are looking for help and counsel? I think the current situation puts the parolee at a disadvantage because he is dealing with a parole officer who is a member of a staff that averages, in the past four years, a rate of turnover of 29%. This, in itself, causes other problems. The interruption of service to the parolee is a consideration.

It is interesting to note that in the last fiscal year, for which figures are available, the number of parolees who became missing from supervision increased 31%. In other words it increased from 582 to 762

men who just disappeared and walked away. The reasons? You could say inadequate supervision, due to high case loads.

Specifically, to the six-month provision, I think it gives a false hope. In fact I was talking to a couple of fellows in the last two weeks who were released from Rahway and my impression was they felt it would give them false hope of entering and maybe getting parole within six months and then, when the reality hit them that they weren't getting paroled, leading to a morale problem.

Also the six-month provision doesn't allow sufficient time for the providing of the services that we mentioned before.

My final comment is that no matter how many, or how good, the programs are in the institutions, unless the atmosphere is right my feeling is that they won't work. I think one indication that the atmosphere isn't right is the fact that the representatives of the inmate council refused permission to testify here today. I think this is a contributing factor to any hostility or feelings of tension, perhaps, that may be present in that institution.

SENATOR HAGEDORN: Thank you, Mr. Joyce.

Did I understand you to say that there is a 29% turnover in parole officers?

MR. JOYCE: That is the average for the past four years. Last year it was 35%. This past year it was-- Pardon me, the year before last it was 35% and this past year it was 25%.

SENATOR HAGEDORN: You also mentioned the terrific number of recidivists - second, third, fourth and fifth offenders. The thing I would like to emphasize is that while we are working on parole and developing a better parole system, you indicated we should also be working on home environment, education and cultural

environment as methods that should be employed to avoid any criminal activity whatsoever.

Did I understand you have another recommendation - that is that parole officers should not begin to function after the parolee is dismissed but should be working with that potential parolee in the prison some months, or some period before he comes up for a decision, is that correct?

MR. JOYCE: I didn't say that but I can see that that would have many advantages.

SENATOR HAGEDORN: I understood you to have said that.

Senator Hirkala, do you have any questions?

SENATOR HIRKALA: No, Mr. Chairman, I just want to make a preliminary statement.

Mr. Joyce, I think you made a very effective point in saying that we are so inclined to give instant parole, sending men back into society when they are not equipped as yet, and perhaps our alternative is to make sure that they can get that kind of an education and that kind of training that will give them that much greater chance of being able to get into society and become useful individuals. I think that is a telling point and I think this Committee is going to have to go into that phase of the question.

MR. JOYCE: I think it is worth a try. I believe that in the state prisons there was no vocational training whatsoever up until one year ago. I say let's give it a try.

SENATOR HIRKALA: I would like to ask you whether, under present circumstances and within the limitations of your time and with the case load that you know the parole officers have, are they able to do an effective job?

MR. JOYCE: I don't believe so.

SENATOR HIRKALA: Do you think they have too

much to do under the present situation?

MR. JOYCE: As I indicated, the type of people that we are dealing with are very difficult to work with. They have many problems. It is almost, I would say, in the majority of cases, a hopeless task and I think the figures, 90% recidivism, would bear that out. We are not effective.

SENATOR HIRKALA: In your experiences do you feel that the hardest part of your job is to try to find some avenue where a man can gain employment? Is that the hardest thing?

MR. JOYCE: Yes.

SENATOR HIRKALA: Thank you very much.

SENATOR HAGEDORN: We thank you very much, Mr. Joyce, for your contribution which I am sure we will give serious consideration to.

Mr. Robert Steede? Is Mr. Steede in the room?
(no response)

I will then call upon the next witness, Mr. Stewart R. Resnick.

S T E W A R T R . R E S N I C K: I am Stewart Resnick, Parole Officer for the State of New Jersey. I work out of the Clifton office which supervises Passaic County, Paterson specifically - parts of Paterson.

One thing I'd like to mention before I give a statement regarding certain portions of the parole bill itself regards some things that were said here about methadone by a few people. Many times we see, when a man is released, it says as part of special conditions of his parole this man must go on methadone. Now, as a parole officer and as a person that is not a doctor, I, in good conscience, have refused, and I have so put in reports, to specifically tell somebody, "you must go on methadone." First of all, most experts in the field of methadone will tell you that if a person hasn't been using drugs for the last year, or the last six

months, or whatever, he shouldn't be on methadone. Second of all, I refer him to a drug program and I leave it to the man and the drug program to decide what kind of a program he needs - methadone or whatever else. I don't think we should see methadone as a panacea for everybody that is on drugs in the institutions - just say "well, we will put him in Lexington or send him out to the parole office and they will put him on methadone." Many times a man will violate parole and say, "I don't want to go on methadone." That's it. He signed his papers and said he would go on methadone. He does anything to get out fo that institution.

Now regarding the bill itself, we, from the onset, have called for public hearings on it. We never said we were against it because we feel there should be a bill but not as this bill was written. It failed to provide for additional parole officers to supervise the additional cases that would be released. This was already covered. Federal guidelines suggest a case load consist of 35 cases. Presently they are averaging 80.

The bill calls for a six month eligibility before granting parole. Presently, a man must serve one-third of his sentence before being granted parole. We believe that there should be a consideration of the sentence received regarding the granting of the parole; right now it is one-third, whether it would be one-fourth or one-fifth, you have to take the sentence itself into consideration. Why else would the State statutes call for the judges to impose certain sentences? So we feel that the parole should be based on some part of the sentence. We think it should be one-third but that you would have to debate. Just granting six months flat--no state has it. A man was up here this morning and said, well, our neighboring states have it - they don't have it and I don't think we should.

Now we talk about a perfect prisoner. I think I'd be a perfect prisoner if I killed my wife. I have

had jobs; I have lots of good background. I'd be a perfect prisoner. Does that mean I should be released in six months? I don't think so.

So, what I am saying is there should be a punitive portion of the sentence. The best parolees are murderers. They did the big thing once but still there should be, in that regard, a punitive portion of the sentence.

The bill provides that only one State Parole Board member need be present to hear the case and three should decide the question regarding a parole. We believe that more than one person should be there to hear the case. I don't see any reason why State Parole Board members who are being paid, I think, fairly large salaries, from what I understand-- I don't know why two of them can't be there; in fact all three of them should be there.

Also the Board has to give reason, in writing, why a man is denied parole. We think it also should give reason why he is granted parole, so it has something on the record for anybody to see - you have done this or you have done that or you have done that - for the man's own benefit. It would show that we think he deserves this chance to go out into society and improve himself.

Before granting parole, surely, a certain amount of rehabilitation should have taken place. Mr. Joyce already covered the part about the rehabilitation and employment. The bill failed to address itself to any of these points. A man today is paroled many times with less than \$50 in his pocket. There is a statute, written a couple of years ago, regarding gate money. A man was eligible to receive this within three weeks from the time he was paroled. Many times we called the institutions - the man was in need of money - and they told us, "well, by July we are going to run out of it so we can't grant it to this man even though he has no place to live tonight. We do have a place for

him to go." Somebody can tell you we have a place for him to go but it only holds 15 people. That has been proved in Jersey City. Many times a person is not eligible to go there because the place is overcrowded and it is in Jersey City, which is the only one in the State. We feel there should be some kind of fund at the office level. If a man needs \$10 just to sustain himself for the night we should have some kind of a fund, write him a check and give him the money.

Governor Hughes has, in the papers - many times I have read this - spoken on parole and he has said, and I quote this, "these same offenders should be supervised adequately under a good parole system for about \$1,000 a year." Now I can't say exactly how much New Jersey is spending but I'd say it is way under \$500 anyway - maybe \$200 or \$300 but it is no way near \$1,000 a year being spent on a parolee. It costs \$10,000 annually to keep a prisoner in the institution. Of course, we are only talking about the State Parole Board; we believe the reformatories should all go under the same guidelines. Right now a lot of these people are receiving sentences. Judges are imposing harsher sentences, I think, because a man appears before him today and he gives him an indeterminate sentence then six months later the guy is out again from the reformatory and has committed a new crime. So now if the judge sees him again - he has been on parole two, three or four times - and the judge has only been sitting on the bench for maybe two years but within that two year period he has seen the same guy committing crime six different times, he gives him a harsher sentence.

One of the things in the bill I would like to point out is that as far as the State Parole Board is concerned - there are more qualified people than me to speak about it but I would just like to point it out to the Committee - the bill says that the Chairman and the associate members of the Board shall be appointed

by the Governor with the advice and consent of the Senate, from persons of recognized ability in the field of penology with special training or experience in law, sociology, psychology or related branches of social services, for terms of six years, except that the first associate member of the Board shall be appointed, one for a terms of four years and one for a term of two years. I believe this is with the consent of the Senate. I'd just like to point that out.

That is basically all I have to say. If there are any questions, I'd like to answer them.

SENATOR HAGEDORN: You mentioned, or you advocated, a reason be given as to why a parole is granted. Shouldn't that information also be part of the package that the parole officer receives in supervising the parolee?

MR. RESNICK: Yes. There are many things that we don't receive, some of them were already pointed out. I have had that problem many times. For instance, if somebody is supposed to go to the mental health services, a juvenile especially, if, for various reasons, the institution felt he should go to the mental health services, we would see the man when he first comes in - he is supposed to report - and at that time we would refer him if we knew that he was supposed to go to the mental health clinic, or whatever. Sometimes we do not get the thing from the institution until two weeks later telling us that he is supposed to go to the mental health services. Now we have to-- Not that we can't find him but it would have been much better, as far as counseling is concerned, to tell him, when you first saw him and had to explain everything to him - all the rules and regulations he had to follow - to go to the mental health clinic, that it is a requirement of his parole. You could then explain how to contact them or you could call up and make an appointment for him, or whatever, at that time.

SENATOR HAGEDORN: In other words, there is a lack of communication and coordination on the part of all elements in bringing proper information to you?

MR. RESNICK: Definitely.

SENATOR HAGEDORN: Has that ever been presented to your superiors as a problem?

MR. RESNICK: In various phases, definitely. In various different ways. For instance, talking about this pre-parole thing, information material that we get from the institution, there is a cover sheet attached to it and on a couple of occasions I got just the cover sheet saying that-- it was marked "urgent", I was supposed to go out and do it right away and I refused to do it. I felt as a social worker I should know something about the person's house that I am going to. I just wrote a letter to that effect, that I will not do this report until I receive the material on this person.

The institution tells me to interview "John Jones' wife" in the community. He is going back to live with her. I didn't have any information on him. I have had occasions where I have gone to the man's wife and found out that he is in jail for raping his daughter. Now this did not happen without my having classification material. I had classification material on him. I already knew this. I didn't think the woman was going to take the man back and she didn't. But this is an example of what could happen if we were not provided with adequate information to do our job.

SENATOR HAGEDORN: You mentioned one objection to the bill and that is that only one member of the Parole Board would interview the possible parolee. That has been amended to two.

MR. RESNICK: That has been amended to two? That's good.

SENATOR HAGEDORN: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: Yes. Mr. Resnick, Mr. Joyce brought out the difficulty in having the parolees find jobs. I wonder if you have any knowledge on the percentage of parolees who do not have a decent home to go to when they are paroled?

MR. RESNICK: Well, when we say decent, I--

SENATOR HIRKALA: Let's say a home then. How many don't actually have a home to go to?

MR. RESNICK: I really couldn't say. I'd say 10%, maybe, with the qualification that sometimes there are certain ones that are paroled that are called placement cases. Those would be strictly the ones without any home to go to. But other times we have them going to their family but it is a situation where they are going to their family - an aunt or an uncle or even a mother and father - but within two weeks they have to find a job and get out of that home.

So, including those cases where a lot of them want to be independent and on their own, which I think is better, especially for the older men from the State prison - 25 years and older - I would say 10%, just taking a guess.

SENATOR HIRKALA: Now in the event they didn't have a home, you mentioned placement services. What would that include? For instance does that include the Salvation Army or a church or social organization? Do they have a place for these men to live?

MR. RESNICK: That is a very good question; I am glad you brought that up.

The Salvation Army - now I will not bring anybody to the Salvation Army. I have done it before. You bring somebody to the Salvation Army and they cannot work or they work there at 25¢ a day - I don't know exactly what they pay - but they would have to stay there forever; they would never get into a situation where they would accumulate any money with the way the Salvation Army works it. They would never be able to accumulate

enough money to be able to go out and get their own place. So when somebody comes out as a placement we are supposed to assist them in finding a place to live. There is only one place that was in the State of New Jersey called the Robert Bruce House in Newark, which I was a parole officer for for about two years. That was disbanded by the Department of Institutions and Agencies. I believe they are looking for another site for the last, God knows how long - about a year and one-half. There is only one other place right now called PROOF - Parole Resource Office and Orientation Facility which is in Jersey City. That only holds 15 people and that is only in one part of the State and 15 people isn't a heck of a lot of people.

So when they come out and it says we are supposed to place them, we more or less say to them, do you have a place to go? It is hard to bring them to a hotel. If I brought them, they know the area better than I do. These guys know the area better than any parole officer does. If I had to bring them, I would bring them - and I have had this situation before-- He has \$40 in his pocket and I have to bring him to a hotel where he has to pay \$35, that leaves him with \$5. Now what is he supposed to do for the rest of the week? I can't get any more money for him.

SENATOR HIRKALA: With the experience you have, do you feel that New Jersey would be better off under present conditions of parole rather than if we were operating under this bill if it were enacted into law?

MR. RESNICK: Definitely. If it were enacted into law just as it were written, we would be better off just as we were. I think we should write a bill but if I had the choice I would say yes basically because of the six-month provision. We would be even more indiscriminately just releasing people. We have had cases that were released today and didn't report to the

office, committed a bank robbery two days later just as the-- I couldn't disagree with anything the Mercer County Prosecutor had to say before.

SENATOR HIRKALA: Do you think within the last five to ten years that New Jersey has made any kind of progress at all on the rehabilitation and education and vocational training of our prisoners?

MR. RESNICK: I will speak for five years because I have been at this job for five years - no.

SENATOR HIRKALA: You don't feel that we have made any progress?

MR. RESNICK: No, no progress whatsoever.

SENATOR HIRKALA: In any event you would say that we certainly have not made substantial progress?

MR. RESNICK: Correct.

SENATOR HIRKALA: To get the proper staffing of parole officers, what increase in manpower would we need under present conditions - 10%, 20%, 30%? Would you give us some indication of what you think would be required so that we would have an effective system as far as our parole officers are concerned in relationship to the work they have to do.

MR. RESNICK: As of right now, the way things are going, I'd say 40% or 50% - doubling the size of the staff would be required. That would be fine, I could say just that but you have to take into consideration other things, proper training, salaries, schooling and employment. We don't have-- Probation officers in the State have what they call "job banks" where they can refer probationers to various jobs. We don't have that. We have rehabilitation which works in that area - the New Jersey Rehabilitation Services - but basically the parolees we handle that go through that need more than an eighth grade education so it only helps the ones who have a better education.

SENATOR HIRKALA: What do you feel is the

stalemate? Is it primarily financial? Is is some department head cutting down requests? Is it the executive branch of government that cuts down the requests for proper staffing? Where do you feel we are being stalemated?

MR. RESNICK: Well, it is difficult for the executive branch, I'd say - when I say the executive branch I mean the Governor the Senators and so forth - to be knowledgeable of everything. You know, there are a lot of things happening at once. So, somebody has to educate them and to me some of these people in the field of correction are out of touch with the people in the field. They have not been in the field for 20 or 25 years. They are not qualified penologists. I think they should go through some kind of training. I think the people who are running the programs just don't know what is happening out there. I am out there every day, I know what is happening out there. I don't think they do.

SENATOR HIRKALA: From your experience, under the present laws of New Jersey, do you think the State Parole Board is doing an adequate job?

MR. RESNICK: Am I being granted immunity?

SENATOR HAGEDORN: I think that is an unfair question, Senator.

SENATOR HIRKALA: I will withdraw it, Mr. Chairman, if you think it is unfair.

No further questions. Thank you Mr. Resnick.

SENATOR HAGEDORN: We thank you very much, Mr. Resnick, for your contributions and your great interest in what is a very complexing problem.

I will now declare a recess until 1:30.

(Recess for Lunch)

(Afternoon session)

SENATOR HAGEDORN: We will resume the public hearing and our first witness will be Mr. Nat Arluke, Chief of the Bureau of Parole.

N A T R. A R L U K E: I am Nat Arluke, Chief of the Bureau of Parole. I have worked in every institution in the State of New Jersey except one - male institution, that is, - and I have been in the Bureau of Parole for 30 years.

I am in favor of the Bill, with certain suggestions.

First, I think it has to be known that the whole philosophy of parole is based on release at the optimum time. A person released too early is just as bad as a person released too late. An adequate parole board can do this if it's not subject to population pressures.

The current Parole Board has, in effect, done this in that the last time I checked was a year ago at which time 40% of the releases from the State Prison were without parole, that is at the expiration of the maximum sentence. A check made a month ago showed that this had been reduced to some 25% being released from the institution at expiration of maximum sentence, indicating that some 75% of all the State Prison cases are being released under a form of supervision.

The choice as to whether or not a person should be released on parole is a major one. There are a number of states, for instance, who will release a statistic which shows that a majority of the people paroled are successes, that is they haven't been involved in any other serious crime. What they don't show is that those who have been paroled are considered the best bets in that it may have been a first conviction for some crime that didn't involve violence and this person has a fine community situation, a trade, and the whole bit. New Jersey is a little different in that it releases a much greater percentage on parole than other states, with the

philosophy that a person might be better off with some form of supervision on his release even though he may provide some form of threat to the community, than releasing him totally without any form of supervision.

We have taken this into account and have recently received the approval from SLEPA, the State Law Enforcement Program Administration, for funds to provide two parole officers who will do nothing but work with ex-max releases to provide them for orientation in the community, to get them set up and organized, - a short-term program where the parole officer does not act in any sanction manner, he can't return him to the institution or anything else, he simply needs help.

I know this is not a forum for debate but I want to point out that in the case of one of the Parole Officers who spoke prior, he mentioned the fact that he had provided some sort of a program - I forget what it was - and it had been ignored or thrown away or something else, I wanted to clarify that. He also complained about the lack of educational opportunity. He had just completed his Master's degree at the expense of the State of New Jersey and at the expense of other Parole Officers in his district office who carried his caseload for some 18 months.

At my request, he submitted suggestions. I asked him for suggestions and he submitted that. That paper was reviewed by me and reviewed by the Deputy Director of the Division of Correction & Parole, and finally reviewed by the Commissioner. In between time, I had that paper reviewed by three of my regional supervisory staff who are top members, also reviewed by the Chief of another Bureau of Programs, and it was the unanimous decision that it had no particular value as far as we were concerned.

To get back to the Bill, the average male caseload now is 71. That is based on the fact that if all

positions are filled. There are some positions that are still vacant pending certification by the Department of Civil Service.

With the addition of 41 new positions in July, budgeted positions, it will drop our caseloads down to 52, on the assumption that no more cases are added to the caseload.

There is no question to the fact our caseloads are increasing and are over 8,000 now as against a total of about 5500 in all the penal and correctional institutions in the State of New Jersey, and that this bill will add to the caseload that we have. How many it will add, I have no idea. I do know that I checked the records for the past fiscal year for those cases who were paroled by the State Parole Board on date of eligibility. It came down to 15 out of 1250 who were paroled, or a percentage of 1.2% paroled at eligibility date.

The fear that most of the opponents of this bill seem to have is that everybody is going to be paroled at date of eligibility, or six months. That's rather ridiculous because it just doesn't happen. The date of eligibility has no connection with the date of parole. It may have, but the limitations are great. Eligibility merely means that the person has the opportunity to appear before the Parole Board; it does not necessarily indicate parole. Now why people seem to assume that the date of eligibility is synonymous with the date of parole, I don't know.

Reduced caseloads - we're hopeful to reach an average of 50 - will permit parole officers to provide the services required in the field of employment, rehabilitation, and so on.

Someone made mention this morning of a job bank. Our own experience in that regard is that the parole

officer with an adequate caseload can provide all the assistance required. At one time we did have people who specialized in securing employment and it just didn't work out.

There was a comment about the necessity for vocational training and a number of the officers who spoke indicated that this was a necessity. Obviously, a person on parole who has a good job and an income has a better chance than a person who doesn't have. But, by all means, this has never been - and experience will show it - the answer to recidivism at all. The fact that a person becomes a plumber in the institution and he was a burglar in the first place, when he's out he can still be a plumber who is still a good burglar. What it comes down to is there must be some changes in attitude toward legally acceptable employment, toward work and toward people as a whole.

The narcotic situation is similar to that. Where Lexington has shown 2 to 4% success rate, but in an institution that specializes purely in this it's easy to detoxify, but when the person is returned to his own community the temptation of getting back into the narcotic's business remains the same.

Regarding funds on release, the standards do provide for up to \$150, depending on the amount of money in the institution. The institutions run out of money, we run out of funds, as far as parole is concerned, and this does provide a detriment to our situation where funds have to be provided either through the parole officer himself or some other way. We have been provided some \$8600 in our budget for emergency mental health services and we use that rather broadly for those people who need help immediately and are unable to pay for it.

There is one portion of the bill which nobody has mentioned yet. As it stands now, a person who has his

parole revoked as the result of a commission of a new crime, conviction for a new crime, loses all of his street time from the date he was paroled. If, for instance, he had five years on parole and after four years of serving that he's convicted for a crime, as such, he would lose all of that four years he had on parole and would still have five years to do after he completed whatever new sentence he got. The bill now states that when parole is revoked for commission of a crime he is to "serve the balance of time due on his sentence to be computed from the date of commission of such offense", which means that he will be given credit for the time he did on the street on parole up to the time he was involved with that particular crime for which he was recommitted.

The parole, to make a rather obvious similarity, can be considered as a house with a contractor who is a good contractor and a poor carpenter who builds a bad setup afterward. And that situation can be reversed. This parole business is the same thing. Without a good parole board - and that has been proven up to this point - and without a good parole bureau which supervises and investigates, it just doesn't work.

I have just finished a survey which indicates something that I am talking about as far as what New Jersey does do. This is a survey taken by the National Probation and Parole Institutes. It was an analysis of parole outcome over a two year period of the people in the whole country, taken from 1969-70 and '71, they followed that group out. In that it was notable that 37% of New Jersey inmates with a prior drug abuse history were paroled as against 11% nationally. This is an indication of what New Jersey does do. It has paroled more than three times as many with narcotic abuse histories as was done nationally.

Now that was true in each of the categories. There were some five categories. In each category New Jersey paroled more than was done nationally. Despite this, the percentage of parolees committing new major offense, 12% was true for New Jersey as it was for all the other states, which indicates the fact that although we're paroling more, they're not doing any worse than people who are being paroled - you know, they are saving the poor bets and paroling only the best bets -- they're doing just as well in New Jersey with the system that we have right here. And that's over a two-year period.

SENATOR HAGEDORN: Mr. Arluke, just getting back to the last statement you have made, that the percentage remains the same, but it's conceivable, inasmuch as we are paroling 32%, that there would be more out in society that could be injurious to society. Isn't that true?

MR. ARLUKE: But practically it doesn't work out because we have the same percentage as nationally, 12% return for commission of a new offense. So they're doing just as well. Now why they're doing just as well, I don't know. Which means that we may be keeping a lot more people in institutions that could be paroled. And this bill indicates that it does give a parole board that opportunity to let more people go who are ready to go and who can be adequately supervised.

SENATOR HAGEDORN: You originally indicated that you favor the bill. Do you favor the bill as originally introduced or in its present form?

MR. ARLUKE: In its present form. I don't have the original bill in front of me at this time but in reading that I felt that the revision was a much better one. At this point I don't have my comparison.

SENATOR HAGEDORN: If the bill is passed in

its present form, do you feel that we will have sufficient staff to provide the proper supervision, taking into account that the budget does provide, I think, for some forty new members?

MR. ARLUKE: I think that my original budgetary request was for 78 new officers in anticipation of a much greater load than we have now. Currently there is a tendency for a lesser increase in caseload per year than there was. It jumped higher but it's beginning to level off a little bit. I feel that if - working on 1974-75 budget at this time -- if what I request at that point is granted, we will have no particular difficulty in managing with what we have in addition to the SLEPA grants which we are getting.

SENATOR HAGEDORN: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: Mr. Arluke, you mentioned that the average caseload is 71 if all the positions were filled. What is the average caseload, taking into account that all the positions are not filled?

MR. ARLUKE: It would probably be in the 80 area.

SENATOR HIRKALA: Now you mentioned that a year ago of all those who were granted parole 40% had served the maximum sentence. Do you mean that to indicate if a person was sentenced to a term of 15 to 25 years that some of those that you mentioned serving their maximum sentence served the 25 years?

MR. ARLUKE: No, because of the fact that at the prison level a person is entitled to work time and commutation time. Work time is, roughly, a day a week, and so on. Commutation times comes to some hundred days for the first year and increases after that. So on a 25 year sentence a person would have earned off down to about 14 years, released at the expiration of maximum at about 14 years, the same as a minimum requirement for life.

SENATOR HIRKALA: But this time off for good behavior, you are subtracting that not from the 15 year period but from the 25 year period.

MR. ARLUKE: Yes, from the maximum.

SENATOR HIRKALA: Why do you think that up until a year ago 40% of those who were granted parole had to wait until their maximum sentence was served?

MR. ARLUKE: I don't think I could explain why they were held to maximum. Now it may have been for the type of crime that was committed, for the fact that facilities were not particularly available in the community or that the person was committed toward crime and indicated that in his record or in his appearance before the Parole Board. I don't know. I couldn't say why they were held to maximum.

SENATOR HIRKALA: Now, in our efforts to obtain a better parole system, do you feel that State Government has a role to play and can do a better job in taking care of our prison population by doing something while they are still in custody?

MR. ARLUKE: There is no question, Senator, that whatever opportunities can be made available for a person in an institution should certainly be made available. Otherwise, you might just as well have a series of cabins or caves and throw them in and forget about them. There must be an attempt to change some attitude. That's a contradictory thing because the question as to whether institutions help or hurt is up in the air. The only thing, apparently, that institutions can do is keep people away from the community and that's all. It will protect the community. What it actually does for the person in the institution is a big question.

The point of philosophy of the reformatory and training school level is to keep a person in an institution as little as possible, on the basis of the fact that the

less contact he has with others, the less possibility he has of being further involved. And that situation tied in with the community gives him a much better opportunity. The current philosophy is not to build major institutions away from the community as a whole but to build smaller institutions within the community so that, since a person is going to have to live there anyway, the sooner he can be tied to the community and be accepted by the community the better his chances are.

SENATOR HIRKALA: In your effort to provide additional staffing, leaving aside for the moment the cost factor, do you have any difficulty in recruiting qualified personnel?

MR. ARLUKE: At this point there is no difficulty at all. We have a long list of parole officer trainees, which is the entrance level, and parole officers. They are on file. The reason we haven't filled a number of positions, about a dozen positions we have now, is that apparently there is some hangup in Civil Service and we don't have the certifications. As soon as we receive the certification, we will fill whatever vacancies we have immediately. There is no difficulty whatever.

SENATOR HIRKALA: Thank you. No further questions, Mr. Chairman.

SENATOR HAGEDORN: Thank you very much, Mr. Arluke, for your testimony.

The next witness will be Leora Mosston. I understand that Leora Mosston is not present. I will ask then that David Rothenberg, representing The Fortune Society, Executive Director, testify.

D A V I D R O T H E N B E R G: My name is David Rothenberg. I am with Fortune Society, and during the last year I have been a member of a citizens' committee Parole Task Force, a national committee headed by Ramsey Clark, the former Attorney General. I have a brief,

general statement that I would like to read, if I may.

Parole reform has been long overdue in the State of New Jersey. It is ironic as the Senate entertains new legislation that the very concept of parole is being challenged as anachronistic and irrelevant.

When parole was originally introduced to the prison system, it was a forward-looking 19th century notion - allowing for prisoners to finish their sentence on the street, under supervision and guidance.

Parole is no longer guidance, instructive or helpful. A prisoner goes before the Parole Board after a period of institutionalization, regimentation, and a continuing negative atmosphere. A group of people, the Parole Board, then attempts to determine what will be the future behavior of the individual. This decision is based on the prisoner's adaptation to an environment which is unlike the society to which he or she will be returning.

Over the years, prisoners have come to understand that parole decisions have less to do with their potential as civilians than it does with the political protection needed by the Parole Board.

In that context, and as parole exists, modifications and adjustments, without coming to grips with what is basically parole, can provide political satisfaction but no qualitative difference to prisoners, to crime, or to our greater society.

Institutions within a democracy must be within a continuing state of self-examination. Parole, as applied and as conceived, no longer can be the rule of measure. And it's within that framework that I would like to comment on the bill.

I am terribly ambivalent about the bill and I wasn't sure if ambivalence was a valid position to

put forward but I decided, after hearing some of the previous speakers who seemed to be equally ambivalent, that the ambivalence itself is valid.

I guess if I were a Legislator and had to vote, I would vote in favor of this; but also if I were a Legislator, I would have the right to do more than just vote, I would be in a position to try to effect some qualitative change in institutional concepts, like prison and parole.

I've been teaching at Rahway for two years - I was - and I've talked with prisoners there about it, and I went to Trenton this morning to talk to a group of prisoners trying to get their reaction. The Rahway prisoners seem to be against the bill and the Trenton prisoners seem to be in favor of the bill, at least the groups that I spoke with. All of them hoped that they would have the opportunity to come or be heard by the Committee in some shape or form. Those that were in favor of it were in favor with great qualifications, and those against it felt that the bill itself had some merits but overall they couldn't support it.

I am concerned about - there seems to be an emphasis about what happens to the man who comes out. I received a letter from a prisoner in Leesburg who is coming out without any parole supervision and he's asking the State of New Jersey, or he's asking us what does the State of New Jersey care about him when he comes out. He doesn't know where to begin. He's typical of many men who come out who are maxing out, who have either been denied parole or back in as parole violators and finishing up their sentence.

The State asserts that there is concern and yet there are men who come out of prison without any direction signal saying this is where you begin for welfare to get sustained until you find a job, this is how you can find housing, - and this man doesn't know

how to begin. So it seems that the State poses a concern when a man comes out on parole but it's not a consistent one. And I think that has to be looked into.

There is something called The Minnesota Plan - are you familiar with that? - something that Mr. Fogel in Minnesota set up, and that was where prisoners coming in entered into a contract where they state parole institutes certain conditions that makes a man eligible for parole in terms of vocational training, education - the one thing about the Minnesota plan is that the state recognizes that there are certain guidelines that they insist upon for a man to achieve and if they sign the contract both sides have to be held accountable to it.

I guess the important aspect of the new legislation is the six month aspect, the fact that every six months there will be a review. And that would be the reason, if I were voting, I would vote in favor of it because there would be people that would benefit by it. There are men wasting away because of sentences passed ten or fifteen years ago. We've gone through enormous changes and they are still held back by the laws. But I think that the kind of unrest you get in a prison will not be affected by that six month review because there is still no criteria in New Jersey to determine what somebody's future behavior is going to be based on their present performance, when their present performance is one of regimentation which has nothing to do with decision-making out here. I think you are in a very difficult position. I think something has to be done on parole and you have a bill here but I don't think you should anticipate any qualitative difference, any lessening of prisoner unrest as a result of legislation such as this.

I am certainly open to any inquiry you may have

of me.

SENATOR HAGEDORN: Do you have any questions, Senator?

SENATOR HIRKALA: Mr. Rothenberg, you said you spoke to prisoners in Rahway and prisoners in Trenton and the prisoners in Rahway were in favor, with some reservations.

MR. ROTHENBERG: No, the reverse. The prisoners in Rahway - the Inmate Council was against it in Rahway.

SENATOR HIRKALA: Oh, excuse me. The Rahway prisoners were against it. Would you tell us what were the primary reasons for their being opposed to the bill?

MR. ROTHENBERG: They have a written statement. Have you ever received a copy of the Rahway --

SENATOR HIRKALA: Well I would like to have it put into the record.

MR. ROTHENBERG: The Rahway Prisoners' Council does not accept the idea and philosophy as given under the parole bill S-1122 as to every man being eligible for parole after six months of incarceration. The Rahway Prisoners' Council takes the position that this parole bill is a frivolous dream and would, in fact, over a period of time create a tinderbox situation placing every prison official and officer's life in jeopardy throughout the entire New Jersey Prison system.

SENATOR HAGEDORN: I would just like to inject this, Senator Hirkala, and also to Mr. Rothenberg, that I would prefer not to take any of the testimony of the Rahway Prisoners' Council for the reason that I think we would be usurping their prerogative. And I would ask that we withhold that because we intend to listen to the prisoners of Rahway Council, whether it be in this Chamber or in the Prison, as the Commissioner has recommended, and I would not in any way like to usurp their prerogative.

MR. ROTHENBERG: I wouldn't attempt to speak for them, either. I went to speak to them just because I was interested in their viewpoint. But I don't think anyone but prisoners should speak for prisoners.

SENATOR HAGEDORN: Do you have any further questions, Senator?

SENATOR HIRKALA: Can you tell me substantially why the prisoners in Trenton were for the bill? from your discussions.

MR. ROTHENBERG: They felt - and it was a handful of men who seemed to be actively concerned with prison legislation -- they seemed to feel that although philosophically they felt that the bill itself didn't come to grips with the real issues that there would be some men who would benefit and, as a result, society would benefit, and they said "when you have nothing you accept crumbs."

SENATOR HIRKALA: In your discussion with the prisoners in Rahway and Trenton, would you say they were more concerned with parole or more concerned with conditions within their environment inside the prison?

MR. ROTHENBERG: I think most prisoners, their first consideration is getting out. And I think, particularly among recidivists, they find that their conditions in prison don't give them the equipment for coming out and, therefore, they are kind of perplexed about what questions parole people are asking them because there doesn't seem to be any correlation between their prison life and what is going to happen in the future.

I heard one man express it very well. He was talking about not being able to predict who what going to make it because, he said, "who knows what pressures or predicaments I'm going to find myself in tomorrow? I may have everything going for me today but some new

pressure may come about tomorrow which makes me irresponsible and incapable of dealing and there is no way anybody can predict that."

SENATOR HIRKALA: I would say that then the problem is pretty well intertwined.

MR. ROTHENBERG: Very much.

SENATOR HIRKALA: You can't take care of one without doing something about the other.

MR. ROTHENBERG: Exactly. The danger of doing something about parole without doing anything about the prisons is that you are holding out a false carrot. I think it reeks of hypocrisy then and it creates anxiety and anger and frustration on the part of the prisoner.

SENATOR HIRKALA: Thank you.

SENATOR HAGEDORN: Mr. Rothenberg, I'm a little confused as to your real position on this bill and I was wondering whether or not you could reiterate that in a few words.

MR. ROTHENBERG: My real position is that I am confused about the bill. I think what's needed is structural change as far as parole as a concept and as implemented is concerned. But I am realistic enough to know that right now structural change is not existing. So the bill itself, in an imperfect structure, is better than what is right now.

SENATOR HAGEDORN: Well, what do you recommend as the alternative?

MR. ROTHENBERG: I would hate to say a study because I think we may have exhausted our studies, but I think that parole has to recognize that it's an inevitable result of the prison system itself and that it's as relevant as the prison system is, and when the prison system isn't dealing with the behavior patterns, thoughts and the habits of men and women inside it can't

be a relevant factor.

Some of the men in Rahway have said that they are there for punishment, they are not there for rehabilitation, there are token rehabilitation programs but that ostensibly they're not going through any change. What they wanted was to know how long would the punishment be, and stop the game of going before arbitrary boards that would say that because of A, B and C, you will now be released or not be released. I think the position, from some of the men in Rahway, was just tell us when we get here how long will the punishment be. Until the prison system itself changes then parole considerations aren't effective.

SENATOR HAGEDORN: In other words, we agree that our great emphasis immediately should be upon a rehabilitation program with preparation for re-entering society, and that should begin the day they enter prison.

MR. ROTHENBERG: And to what it is that they're entering into, whether it should be prison or not, of course, is another issue. Prisons as they now exist, I don't think could do it. They are too big. They're too negative. They don't bring into focus why people are there. Then parole is the route of getting out and therefore it becomes a manipulative game just to score points when you go before the Parole Board. And it's almost negative manipulation that is contradictory to the whole concept of what in fact parole should be.

SENATOR HAGEDORN: You mentioned the contract system in Minnesota. Do you know how long that has been in effect?

MR. ROTHENBERG: No. I only know that from a meeting with Mr. Fogel who used to be the head of correction in Minnesota. It was something that he implemented and I don't know -- and he's trying to

implement it in Illinois now where he now is. I only know it based on conversations with him. It's something that we probably all should know more about. It apparently is something that's been implemented with success.

SENATOR HAGEDORN: I am going to ask Mr. Moore to write for information with respect to that program.

Do you have any further questions, Senator?

SENATOR HIRKALA: No.

SENATOR HAGEDORN: Thank you very much, David, for your contribution.

I would like to call upon Dinah Stevens representing the American Civil Liberties Union.

D I N A H S T E V E N S: I am very pleased to be here. Thank you for inviting us to come. I am afraid I am not the resident expert on parole. I'm a stand-in. I have a prepared statement by our experts on parole which I will read for you.

If there are any questions that I can't answer, I can take them back and make sure you are provided with greater detail by letter.

SENATOR HAGEDORN: Thank you.

MISS STEVENS: The American Civil Liberties Union strongly supports the objective of a number of the bills before this Sub-Committee which seek to set standards and procedures to govern the grant and revocation of parole. Our experience in dealing with numerous prison disturbances and especially the Rahway disorder of Thanksgiving day, 1971 convinces us that parole, its availability and its loss, constitute a major, if not the major irritant in our prison system. The secrecy and arbitrariness which mark the system often destroy whatever rehabilitation potential it has. The process must be characterized instead by openness, so that inmates are not isolated from these basic decisions which so fundamentally affect their lives.

We, therefore, believe that the committee's efforts to improve the parole system fill an urgent need. We believe that S.1122 deals with some of the range of problems present in this area. We do, however, have improvements to suggest in the bill. A number of our suggestions appear at the conclusion of this statement. In addition, we would appreciate any opportunity to submit more detailed recommendations to the Committee at a later time on consideration of this or future parole bills.

Before summarizing our recommendations to this committee, it may be valuable to review briefly some parole procedure.

Parole is ordinarily granted or denied largely upon information and impressions obtained from the prisoner's file and a brief personal interview. Under present procedures the prisoner has no direct knowledge of what is in his file, and is only rarely given even some indication of the file's contents by the institutional staff or the Parole Board members. The primary document in the file is usually the pre-sentence report prepared by a probation officer, his institutional record including infractions within the institution.

Frequently, the Board conducts the parole "hearing" or interview at the prison. The interview is conducted, after examination of the file, with the prisoner. Counsel for the prisoner is not allowed. The Board's recommendation is dictated after the prisoner leaves.

The reasons for Board denial are outlined in the Notice of Decision sent to the prisoner sometime thereafter.

Our State parole system does not provide many of the procedural safeguards for prisoners that criminal defendants are universally granted

during the trial process, or that parties to agency proceedings are commonly granted under the law of administrative procedure.

The Supreme Court has recently held in Morrissey v. Brewer, 92 U.S. (No. 71-5103, June 29, 1972) that parole revocation hearings must be conducted in accordance with due process, much like a criminal trial. In this case, obviously with implication for parole granting, the court determined that the Due Process Clause of the Fourteenth Amendment requires that a state afford an individual some opportunity to be heard prior to revoking his parole. The court then set forth the following minimum procedural safeguards.

1. Some minimal inquiry be conducted at or near the place of the alleged parole violation or arrest and as promptly as convenient after arrest.
2. This preliminary hearing to determine probable cause of a parole violation should be conducted and the determination made by some one not directly involved in the case.
3. With respect to this preliminary hearing, the parolee must be given notice of the hearing and its purpose; the notice should state the alleged violation; the parolee must be given the opportunity to appear and present evidence on his own behalf and persons who have given adverse information are to be made available for questioning in his presence.
4. The hearing officer shall make a summary of the evidence and must state the reasons for his determination.
5. There must also be an opportunity for a hearing, if it is desired by the parolee, prior to the final decision on revocation by the parole authority. This hearing must be the basis for more than determining probable cause ; it must lead to a final evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation. The parolee must have an opportunity to be heard and to show, if he can, that he did not violate the conditions, or, if he did, that circumstances in mitigation suggest the violation does not warrant revocation. The revocation hearing must be tendered within a reasonable time after the parolee is taken into custody.

We recommend that any legislation include the Morrissey procedural safeguards, as well as the right to retained or appointed counsel, in both parole granting and parole revocation hearings.

Any parole bill must recognize that the decision to grant parole must be made on the basis of a hearing in which the prisoner participates.

This is essential to transform the current unfettered discretion into a rational and fair system.

Current parole practice places enormous reliance upon the good judgement and diligence of the members of the Parole Board. However, as we have indicated above, the "near-absolute-discretion" that has been judicially conferred on the Board is undesirable and unnecessary. The usual rationale for distinguishing parole grant from revocation is that while the latter generally involves a question of fact, i.e., whether a parole condition has been violated, the former requires broad judgment. This distinction is misplaced. It is true that a variety of judgmental factors go into the initial decision to grant parole. However, the individual's need to insure the accuracy of the underlying facts is no different in either granting or revocation. The right to counsel, access to the information to be evaluated, the right to present evidence, and cross-examine witnesses insures accuracy and completeness. Requiring the decision and the reasons to be recorded cuts down on arbitrary decisions and makes for more meaningful review.

Moreover, Board members reach judgments not only on individual parole cases, but they are allowed to prescribe the entire range of procedures and nonprocedures whereby many decisions affecting the life,

existing safeguards against arbitrariness; there is no way of knowing how rampant the "arbitrariness" is and there is no way for a court to know whether the most basic violations of State statutory and constitutional law have occurred.

This secrecy and arbitrariness cause tension, discontent and hostility among inmates and ex-inmates and defeats the concept of rehabilitation which purportedly is the basis of our correction and parole system. Creation of a system governed by due process of law should go a long way toward correcting this situation.

The following are a number of suggestions and observations specific to S. 1122.

The Eligibility Provision for all inmates after six months (as amended in committee November, 1972) has created considerable furor among some correction's staff and County Prosecutors office according to the media. This provision places N.J. parole law more in Keeping "with established concepts of Rehabilitation" (in the words of Governor Cahill)

This bill does not alter the concept of parole as a privilege of inmates and No Duty is created in the Parole Board to grant parole to any inmate who is eligible to be considered after six months.

Clearly, inmates whose prior records, institutional conduct and demonstrable rehabilitation do not support parole, can be denied it under the proposed law as under existing law.

S. 1122 merely, provides an inmates access to the Board's consideration to demonstrate rehabilitation and his plan "to assume his proper

and rightful place in Society" close enough to his incarceration to 1) effect daily prison conduct, 2) to make rehabilitation, study, planning and maintenance of family ties practically and functionally realistic.

The Board need not release to parole, under S.1122 after an inmate has completed his minimum sentence any more readily than under existing law if probation reports and judicial intent, and other indices contra-indicate and can retain him in custody until maximum sentence is served or until rehabilitation is demonstrated.

Street Time. In New Jersey existing statutes describe parole as a "conditional release" on the one hand, although the parolee remains in "legal custody" on the other with revocation considered as a return to active custody, N. J. Rev. Stat. 80 L4-110 (1964). S.1122 by providing credit to "Street Time" at the revocation, makes the law consistent with the reality of parole which places the parolee under the constraints and control of the State even though technically released. Current law provides for forfeiture of parole time served as if he had been at absolute freedom and not under State supervision for the parole period. The issue of credit for "Street Time" has been raised in all the disturbances, uprisings and workstoppages in New Jersey State Prison, including Clinton Farms. The current failure to give credit for time served between parole release and revocation gives the Parole Board a judicial sentencing power which the American Civil Liberties Union view as unconstitutional. The rationale for current practice is that incarceration improves the prospects for rehabilitation. Correctional officers or administrators would be hard put to justify that notion given current statistics on recidivism. This provision of S.1122 moves the State correctional system forward to a reconciliation of some of the contradictions embodied in current parole law.

As we discussed earlier, current parole practices place absolute reliance on the discretion of the Parole Board to implement the intent of the law without specific mandates or guidelines spelled out by the legislature.

The major criticism of S. 1122 is its absence of specificity of the duties, responsibilities and procedures of the Parole Board in keeping with due process requirements in the three major areas of the Board's responsibility: the decision to grant or deny parole; conditions imposed on the parolee; parole revocation.

The duties and responsibilities which the bill does not specify in keeping with current law are:

I. Parole Grant,

A. Due Process in the parole determination process, Menechino v. Oswald, 430 F 2d 403 (1970)

- 1) Promulgation of applicable rules and regulations
- 2) Right to counsel
- 3) Inmate access to his file

B. Denials

- 1) Criteria for Parole
- 2) Notification to inmate of reasons for denial. (Monks v. N.J. State Parole Board, 227 A. 2d. 193 (1972)).

II. Parole Conditions

- A. Travel
- B. First Amendment
- C. Association
- D. Privacy.

III. Revocation

A. Criteria

B. Due Process

- 1) Hearing- Morrissey v. Brewer, U.S. _____, 92 Super. Court 2593 (1972).
- 2) Counsel- U.S. Ex Rel Bey v. Connecticut, State Board of Parole, 443 F. 2d 1079 (1971)
- 3) Bail-

Suggestions for Improvement of S. 1122

1. The incorporation of legal guidelines into the duties of the Parole Board as discussed above.
2. Provisions for an advocate of their choice by inmates in parole grant appearances, including attorneys. Indigency should be no bar to such representation .
3. The enumerated right should be included to appear in person before the parole board of any inmate under its jurisdiction including Sex Offenders and residents of the State Hospital for the Criminally insane.
4. Right to appeal to a different three panel parole board from parole denial resulting from a hearing before a single Parole Board member, ~~decided~~ by any three regular or provisional members.
5. The inclusion of a full panoply of vocational, educational, psychological services to the institution which would provide a rational basis upon which the Parole Board can mandate a "parole plan" and which can result in meaningful rehabilitation while incarcerated,
6. Composition of the Parole Board. Should include required representation by Black and Spanish speaking members of the lay community and of so-called helping professions i. e., Education, Psychology, medicine ~~interal~~. on the board as both regular and provisional members to ensure informed participation in decision making about inmates, the majority of whom are Black, Spanish Speaking and poor. The legislature's decision about the advisability of such minority group participation should not be left to the discretion of the Governor, but spelled out specifically within the statute.

SENATOR HAGEDORN: Well, we thank you very much. I am sure there are some very excellent suggestions in your presentation, which we certainly will put before the Committee.

Senator Hirkala, do you have any questions?

SENATOR HIRKALA: Just one, Mr. Chairman.

On the listing of suggestions, number six, "Composition of the Parole Board. Should include required representation by Black and Spanish speaking members of the lay community and of so-called helping professions, i.e., Education, Psychology, medicine." Would you be opposed to any suggestion that perhaps the composition should include somebody in law enforcement?

MISS STEVENS: Not at all.

SENATOR HIRKALA: Thank you.

SENATOR HAGEDORN: Thank you very much for your testimony.

MISS STEVENS: Thank you.

SENATOR HAGEDORN: I would like to call upon Mr. Showell, New Jersey Association on Correction.

P H I L I P S H O W E L L: My name is Philip Showell. I am Executive Director of the New Jersey Association on Correction. I have a very brief statement to read.

First of all, we hope the brevity of our statement concerning S-1122 will not be construed as an indication either of any lack of concern about the subject of parole reform or of any inclination to temporize in remedying obvious inequities in the parole system as it presently exists.

In fact, our Board of Directors is engaged right now in a comprehensive study of parole procedures which we hope to complete for submission to and consideration by this Committee by October 1 of this year. No other association project has a higher priority.

Parenthetically I might add, our Moral Projects

Division, which is a direct service division of the Association, operates two halfway house operations and soon will be the administering agency for the Newark high-impact anti-crime programs man-to-man project which expects to deal with up to 900 parolees from the Newark area. So our concern is imminent in that sense through our direct service division.

Since we gave qualified endorsement to the measure last December 5, much heat and more than a little light has been generated by the debates concerning S-1122. However, the deficiencies detailed in our earlier statement submitted to this Committee, and others since noted by other organizations, remain to be dealt with, and we believe it will prove difficult to do so within the framework of the present draft.

In addition, it is our understanding that it will be virtually impossible to obtain passage of any amended form of S-1122 by both Houses of the Legislature before the end of this year.

For these reasons we respectfully suggest that the Committee consider drafting a new and, hopefully, more comprehensive version of S-1122 for introduction, simultaneously, when the Senate and Assembly convene in 1974.

In making this recommendation we want to acknowledge with appreciation the contribution of members of the Administration to the original draft of S-1122 and the time and effort expended by members of this Committee in consideration and amendment of the measure.

Further, we would maintain that all of us - concerned legislators and citizens alike - inherit the pledge made in November, 1971 by Governor Cahill to give prompt and substantive attention to the manifest inequities in this State's parole system. To date, in all candor, it must be observed that we are in default on this pledge, at least in terms of the promptness with which corrective measures have been taken.

On the other hand, we hope you will agree that,

given the complex nature of the problem, - and I think we've heard a great deal today to suggest that it is a complex problem - the time that has elapsed since introduction of S-1122 need not be viewed as time lost, provided that any new version of the bill incorporates at least some of the constructive suggestions made in the interim.

Should such a new version be introduced for approval in the next session of the Legislature, we believe it should enjoy greater support by virtue of the broader participation in its development than was the case with the original bill.

In closing, we would like to express our serious disappointment at the denial of permission for representatives of the Rahway Inmates' Council to appear today in this Chamber to present their views on a measure which directly and very fundamentally affects them and their lives. And we would also like, at the same time, to commend the Chairman of this Committee for his efforts to reverse this decision and thereby provide the Rahway Inmates' Council an opportunity to responsibly exercise their First Amendment rights.

In any case, we know that the Committee will give the Council's views, whenever and wherever they may be presented, the same consideration as those of other organizations whose representatives were able to be present today in this Chamber.

I hope you understand, Mr. Chairman and Senator Hirkala, that we have a lot more to say on this subject but in view of a really serious and comprehensive effort under way, and it will go in to many of the topics that have been mentioned today - unit supervision, parole contract, it may even go into such fundamental questions as to whether or not a parole board is a proper entity for supervision of the grant or denial of parole. We are giving it high priority. Your Committee will be one of the first to receive the report when it is completed.

That is the best explanation I can give for why we are referring back to our earlier statement, in effect, to the bill with one added comment which is that since we filed that statement the Committee did make at least two amendments to the bill. And were that the issue presently before our Association, as it is not, we believe that the bill is better in the form in which it presently exists than when it was originally commented upon.

If you have any questions, I will be glad to answer them.

SENATOR HAGEDORN: Have you any questions, Senator Hirkala?

SENATOR HIRKALA: Just one, Mr. Chairman.

Would you say that generally the inmates are conversant with the provisions of the bill?

MR. SHOWELL: I believe they are. I have had a great deal of correspondence, and not only from the Rahway Inmates' Council, which suggests they have been following this issue closely. I am sure anything that appears in public print - they may go to the ball scores first but they are tracking it carefully.

SENATOR HIRKALA: Thank you.

SENATOR HAGEDORN: Thank you very much. I would just like to emphasize that we appreciate your contribution. You're talking now about further study that would be available by October 1 and I would hope that it would not be any later so that the Committee would have ample time to study the recommendations, having in mind the same observation that you made today and that is that we want to get this parole system moving.

MR. SHOWELL: The statement goes also to the members of the Committee.

SENATOR HAGEDORN: Thank you.

Mrs. Winifred Canright, New Jersey Friends Council.

W I N I F R E D C A N R I G H T: Before I get to the microphone, I wanted to say that I feel rather frightened at all the brainpower and all the wise things that have been said. I hope that you will regard me as just a voice of the ordinary citizen who is concerned.

SENATOR HAGEDORN: We appreciate having you here.

SENATOR HIRKALA: I want to be in your company, an ordinary citizen.

MRS. CANRIGHT: I am Winifred Canright and I have for some time represented the New Jersey Friends Council in their concern about New Jersey Prisons. I am doing volunteer work at Trenton State Prison Hospital in physiotherapy.

Since Quakers are individuals, no one can speak for all of New Jersey's Quakers. I shall try to adhere to the principles common to all Quakers who have been trying effective and humane methods of correction beginning 300 years ago. We still have a long way to go.

Two years ago our Governor stated, "there is so much wrong with our prisons that I could write a book." Since then encouraging changes have begun in New Jersey Prison. One hopeful element has been that our Legislators are now concerned in changing an unworkable and frustrating parole system. We appreciate this.

S-1122 offers some improvements to the system but at the same time creates several new problems. A wise teacher advised, "No one puts a piece of unshrunk cloth on an old garment for such a patch tears away from the garment and a still worse rent is made."

S-1122 is a series of amendments patched on to the failing parole system. They would be inadequate and would require more and more patches and would not create the strength necessary to meet the inevitable strains.

Not only reformers and frustrated inmates see the need for a complete overhaul of the parole system. Their ideas are supported by leaders in allied fields. The New Jersey Criminal Law Revision Commission, which recommends changes in the law of sentences, states: "After a study of correction and a revision of the law of correction, a total revision of the law of parole should be worked into the penal code."

Just let that soak in - a "total revision".

Last spring, at the hearings before the Assembly Committee on Institutions and Welfare, the representative of the State PBA referred to a lack of screening in parole and said, "Where the parole gets their answers, nobody knows. We have one of the worst parole systems in the world, totally unfair. The Parole Board are their own boss. They don't ask us."

My next paragraph I am going to skip because the parole union has spoken. I was going to quote some things about their referring to this bill as band-aids where surgical treatment is needed.

When not only reform organizations but New Jersey's most distinguished lawyers, the PBA, the New Jersey Parole Union, - all expert in their field - independently reach the same conclusion, it must have merit. That Senate 1122 never gained sufficient support to reach the Senate floor is another indication. We need improved legislation.

Before the next Legislature convenes, there is time to make a thorough study and develop a new comprehensive bill that wouldn't require patches and band-aids

A great deal of research for such a study has already been done by such distinguished groups as the Council of Judges of the National Council on Crime and Delinquency, the New Jersey Criminal Law Revision Commission, the National Conference on Criminal Justice who reported in January, 1973. The Senate Committee could

draw together a task force of some of these experts, the New Jersey Lawyers and representatives from the Public Defender's Office and the Correctional System, including inmates and ex-inmates and leaders of prison reform organizations, etc. The expertise of the Parole Board and the Parole Department would be needed. With study they might cooperatively develop a more satisfactory and comprehensive bill.

We are in agreement with the Parole Union when they urge that offenders should be provided with services necessary to help them achieve the goals of rehabilitation. They have said this themselves.

Here is a portion of a letter from a friend of mine, Dan Obstein in Trenton. It's worth thinking about. He writes: The crux of 1122 is not that every man should be set free but that there should be better evaluation of each individual, and those that show motivation should be rewarded. New Jersey State Prison is a building, a vocational training center offering autobody, graphic arts with dark room, air conditioner repair, electronics and building service. You train a man in any one of these skills for six months or a year then you give him a great big plaque and tell him to hang it up in his cell and wait for two or three years until he's eligible to see the Parole Board. Or is it better to allow him to vegetate until six months before his intended release and then begin to train him in that vocation. But how in six months do you train him in a vocation without first untraining the years of Pavlovian conditioning that had become part of his way of life in this nondecision-making society.

The same analysis must be drawn for the Prison education system. A man can go from grammar school through two years of college and again get a certificate, and then the waiting begins - two years, three years,

four years more until he too is eligible to see those three men who hold his fate in their collective and unanimous judgment.

Until the Board is given power to help those who have put forth the effort to help themselves there will be no meaningful change in the system. And you are turning out the same bitter, frustrated individual with a one-way ticket back to prison rather than a one-way ticket back into the mainstream of society. S-1122 offers a chance to change the direction of the arrow.

Referring back to Dave Rothenberg, who said the men at Trenton were ready to accept crumbs when they really wanted more, I think this is typical of it. He sees it as an improvement but not a panacea.

To prevent such bitterness and deterioration, Professor Robert Dawson of Washington University advises, "The problem of parole selection becomes one of retaining the inmate until he has reached his peak and then releasing him. Incarceration after this point is regarded as detrimental to adjustment on parole. It is imperative that the State prepare offenders for re-entry into society, beginning as soon as they can be classified and continuing through release and the parole period. This can alleviate the stagnation that pollutes individual lives in the prison system."

Several states, including Minnesota, as Dave said, have successfully used mutually negotiated contract plans as preparation for parole. I shall quote from one prepared by the American Correctional Association. And, incidentally, I wrote Senator Case asking that his office get copies of this and they said that they had, through the Justice Department, sent copies of this section to Mr. Hagedorn. I asked for enough for the Committee, feeling that this could be very valuable. It is very similar to the Minnesota Plan. But this is a rather condensed bit. Both are

very well worth studying, in my opinion.

This plan is called Mutual Agreement Programming. "Mutual Agreement Programming involves the assessment of strengths and weaknesses of the inmate followed by the design of an individualized program that will offer resource utilization in preparing for a successful community adjustment following release on parole. Based on this assessment, treatment and training objectives are prescribed. The inmate prepares a plan and contract negotiations involving the inmate, the institutional staff, the project coordinator and the paroling authority take place. The contract is a legally binding document setting out the specific programs which the institution will provide to the inmate, the inmates agreement to successfully complete the program, and other specific objectives, and a specific parole date contingent upon successful completion of set rules. The contract, and the procedures surrounding it, are seen as a means of involving the inmate in the process and decision to release, giving much of the responsibility for his own release and bringing together the institutional and parole authorities for closer cooperation and coordination. A standard document will be used and individualized objectives in the areas of education, vocational skill, training, discipline and treatment will be set down for each inmate. Its crucial element is the setting of a fixed parole date contingent upon certain behavior. The contribution of each party must be unambiguously defined. The offender agrees to a certain behavior and the improvement of vocational and educational skills. The correctional institution provides the programs. The project coordinator carries out the research and monitors the contract, and the parole board agrees to release the offender on a specific date when the behaviorial goals have been reached. The contract

must be clearly written and the inmate must understand what is being signed. The contract must include provisions for revision and renegotiation by all parties. The project coordinator must monitor, confer with the inmate and report progress bimonthly.

"The utilization of such mutual agreement parole plan is consistent with the proposed revision of the New Jersey Penal Code. This proposes no minimum but a fundamental decision to establish immediately parole eligibility for all offenders except in the case of life imprisonment."

Parenthetically, it's recommended by them that life sentences be replaced with a period not in excess of ten years.

Continuing the quotation: "The discretion of the parole board should be as absolutely unfettered as possible in favor of granting parole. We believe that the paroling process ought to identify and release upon parole any inmate whose further incarceration is not consistent with the correctional goal. There is a time when an inmate should be transferred from custodial to community treatment. If he has a good prospect for successful adjustment on parole his further incarceration is purely punitive, expensive and wasteful and may actually impair rehabilitative chances.

"Since the parole board will have agreed that upon successful completion of the contract the inmate will be paroled on or before a specified date" - this is referring back to the negotiated contract - "the contract can be negated only by unsuccessful participation by the inmate or previously undisclosed information of major importance about the inmate.

"The success of the plan, as of all parole plans, requires supportive services both at its inception, throughout incarceration and during the parole period." I refer to personal, vocational, counselling, job placement,

education, family life, education and training, financial and legal aid and housing.

Guidelines to parole decisions need to be clarified and prioritized and publicized, particularly for the benefit of the inmates who are to meet the parole boards.

A recent survey supported by the United States Department of Justice and conducted by the National Council on crime and delinquency reported 57 state and 12 federal parole board representatives agreed that three goals were most important - one, protection of the public; two, the release of inmates at the optimal time for the most probable success on parole; three, the improvement of inmate adjustment in the community after release. Also important was the encouragement of the participation of inmates in the programs and the release of persons on the basis of individual response and progress within the prison.

Judging from the parole reports that have been given to me by men who did not make parole in our prisons, it would seem that the New Jersey Prison Parole Board has less acceptable criteria than this. I hope I am wrong but I feel that there may be a need to legislate such criteria. The reason I think this is based on many parole decisions that I have seen.

The Parole Board's reports frequently begin: "After consideration of the circumstances of the offense" usually long past "the Board has concluded that there are certain punitive and deterrent aspects to your sentence." The granting of parole should not be based on the circumstances of the offense nor on the punitive and deterrent aspects of the sentence but by the degree of rehabilitation achieved, whether a man can safely be returned to society.

Our prisons should primarily be places of

rehabilitation rather than places of punishment. If reform has taken place, is there any reason for further punishment? Is there any evidence that the deterrent effect of prison is in proportion to the length of time served?

Frequently a man of 26 committed crimes when he was 17 and put in prison. He has a different physiology, a different emotional drive than he had as a teenager. He is a different person. Shouldn't that be considered? Isn't it safer for society to release a man while he is capable of becoming a useful citizen rather than to wait until he is ruined by institutionalization, dependent and bitter?

Again, attitudes of the prison population are of prime importance in penal management. What could do more to build hope and morale than a realization that a man's effort to prove himself can lead to freedom? Should a man be judged by what he was or by what he is?

Last week, a guard who was escorting me said, "The Parole Board doesn't seem to know these men; they can't; but we do. We see them all the time. Why don't they ask us which men are safe to let out? We could tell them." When I reached the hospital ward I asked the first man in the first bed whether it would be a good plan to have the guards give information about the men to the Parole Board. "Yes," he said, "they know more about us. The wing officers know us real good." I asked, "Wouldn't you be afraid that they would say something mean about you?" He thought a while and said, "Nope. They may get mad at us but that's just once in a while, but I trust them to be fair."

I checked with other patients. They believed that the guards could judge them better, with more information and more fairness than the Parole Board could. That surprised me.

Recently, I was with a small group of men who were complaining - by men I mean inmates -- who were complaining that the Parole Board let the wrong people out and refused parole to men who deserved it. One said, "I wish they would stop being Gods and ask us about it. We could tell them plenty. We know what men can be trusted and who is a phony." I think someone at the back of the group quipped at him, "it takes a crook to know one."

Some institutions are computerizing their parole data on prisons. We have, I believe, a more accurate method of supplying the Parole Board with information and advice that they cannot possibly get themselves. Why not use it?

We hope that a better parole bill will develop because of these hearings. However, I would not consider that the time you gentlemen have spent here listening to us was wasted if in some way some of you could develop a method to use the brainpower and the information that prisoners and guards have to help make a fairer, more intelligently operating parole system.

SENATOR HAGEDORN: Thank you very much, Mrs. Canright. I have no questions. I am wondering if Senator Hirkala has any questions.

SENATOR HIRKALA: Do you feel that New Jersey would be served better by enacting this bill into law or operate our parole system under the present laws?

MRS. CANRIGHT: I think this would be better than the present laws but I think we could do an awful lot better and I think we have time before 1122 could possibly be enacted.

SENATOR HIRKALA: Thank you.

SENATOR HAGEDORN: Thank you very much for your interest and your contribution.

MRS. CANRIGHT: There is one little thing that I want to add. I don't know whether you men are aware of just how frightened many of the men going out on parole are. One of my friends, a brilliant young Black man from Leesburg was paroled and his grandmother told me that a couple of days after he got out he would simply panic when she sent him to the supermarket; meeting a crowd made him feel intensely uncomfortable. One day in the hospital corridor I talked with a man who was about to be paroled and that man was again just scared to death. He said, "Mrs. Canright, I don't know whether I can make it." And he stood there kind of like a kindergarten child who was going to go out on the street alone for the first time.

And I feel that perhaps an understanding of that thing, that comes to very few - and if I weren't a woman, they wouldn't have confided in me their fears. But if you men know that, it may intensify your desire to prepare men to meet this very traumatic experience.

SENATOR HAGEDORN: I feel that's one area where we can't minimize our efforts, that is to get them prepared for society.

MRS. CANRIGHT: True.

SENATOR HAGEDORN: Thank you very much.

MRS. CANRIGHT: Thank you.

SENATOR HAGEDORN: Mr. Richard Stuart, Executive Secretary, Citizens for Community Corrections.
R I C H A R D J. S T U A R T: Senators, first I want to go into a formal statement. I have given copies of this to Mr. Muller.

As a former inmate and parolee of the New Jersey State Prison system, it is indeed a pleasure to appear before you today on the subject of Senate, No. 1122, the sentencing and parole reform bill. All of us, I believe, recognize that reform in both of these areas is long overdue.

Before I proceed with my statement, however, I would like to express my personal thanks to Congressman (Joseph J.) Maraziti, who as a State Senator introduced this bill last year (July 17, 1972), and to those persons in the Governor's office and in the Department of Institutions and Agencies who assisted in its preparation. And I would like to commend you, Mr. Chairman, and the members of your committee and staff for the interest shown and work done in seeking new ways to improve sentencing and parole in our state.

But in considering this bill today, I find it necessary to ask, will it really provide reform or merely change? Does it go too far in some respects and not far enough in others? Will it really accomplish the objectives announced by supporters or does it offer prisoners unfulfillable promises? And can it be wisely enacted without companion legislation that may be needed?

Addressing the "Statement to Senate, No. 1122," I heartily approve of change #1 calling for the sentencing courts to provide reasons in writing for specific sentences. Hopefully, this would encourage some judges to perhaps reflect a bit longer on the responsibilities

accompanying the power to sentence while providing probation, institutional and parole authorities with appropriate guidance. And a sentencing statement would offer higher courts some basis, heretofore lacking, for more intelligent reviews and the development of new sentencing guidelines.

Change #2 providing parole eligibility after a prisoner has served six months, regardless of the length of the maximum sentence, is a different proposition seeming to present more problems than it could solve. While I agree that parole planning should begin immediately after commitment, if not immediately after sentencing, I personally have problems with the wisdom of a State Prison sentence involving less than a year's custody, especially considering present conditions in the Prison system. Rather than burden the State Parole Board with the consideration of such short-term cases, wouldn't it be wiser to ask if alternative sentencing options should not be explored and expanded much more vigorously? Incidentally, as one well acquainted with inmates' working conditions in the Prison system, I find the Statement's quaint references to "diligent application to work assignments" quite amusing.

Regarding change #3 requiring the release of a prisoner, unless such release is specifically opposed by the State Parole Board, after he has served half of his fixed maximum sentence, I would like to ask, why not release after one-third of the fixed maximum sentence? Perhaps this is as good a time and place as any to look at the fact that leading authorities in corrections have said repeatedly that "only 20-30% of present inmates represent a danger to society and must be securely

confined." The Saginaw (Michigan) Project found that 80% of felony offenders could be put on well-planned and adequately funded probation without danger to the community.

With these facts in mind, is the above suggestion really so radical? I consider it much less radical than the six-month eligibility proposal. And I find it much more realistic when considering its possible implementation. I cannot believe that institutional administrators or staff members were consulted with respect to the six-month eligibility proposal with its psychological impact on the prisoners and resulting disciplinary problems. And I cannot believe that the dangerous impact of any significant additions to the present staggering parole caseloads received adequate consideration.

Also, and perhaps most important, isn't it time we moved to develop a different thrust in correctional thinking in this state? In the past, our prisons and reformatories have been operating on the premise that the inmate must prepare himself or herself for eventual release despite official indifference toward and obstacles to any habilitation or rehabilitation. Within a new required parole concept, I like to think that correctional personnel might be challenged to make new efforts to address the individual needs of the prisoners to better prepare them for release or be faced with a more critical evaluation of their performances. Can our society continue to justify keeping former offenders in custody because of the unconscionable failures of the custodians? Perhaps an honest re-examination of the moral and economic aspects of this problem, as well as the legal aspects, is overdue.

I do not wish to go on record here as being eternally opposed to any further reduction of parole eligibility time in the future. Maybe in a few years we can eliminate the minimum time to be served as a set factor and leave that up to treatment or paroling authorities. But for anyone possessing an exact knowledge of present institutional deficiencies and State Parole Board operations, it is impossible to countenance entrusting them with any greater authority than they now possess to restrict parole opportunities.

Since change #4 authorizes additional parole board members on a temporary basis, if such help will allow the State Parole Board to begin to meet its responsibilities to overcome past record deficiencies and develop new evaluative procedures and mechanisms, then, by all means, please give them six or eight or even ten more members. But considering some of the absolutely ludicrous reasons for denying parole now emanating from the present State Parole Board, I am not at all certain that the mere addition of any number of additional board members will help without another ingredient, a basic change of philosophy.

Change #5 affects hearing and decision-making procedures of the State Parole Board. Here we are faced with a backward move toward one-board-member hearings packaged with a forward move toward parole decisions by majority vote. As one who was personally subjected to a federal parole hearing by a single parole board member, I feel I cannot speak out too vigorously against such proceedings, no matter how much such a change would expedite the conducting of parole hearings. Both in fairness to the prisoner and to society, if the hearing is to actually

be a meaningful part of the parole consideration process, it should not be delegated to any less than two members of the State Parole Board and no member not attending a hearing should be eligible to vote on the parole decision affecting any prisoner.

Change #6 authorizing the remission of fines up to \$200.00 is approved without reservation.

And change #7 eliminating multiple-offender categories affecting parole eligibility is long overdue. The vagaries of judicial discretion in sentencing and the past deficiencies of the State Prison and the parole systems, which have almost guaranteed recidivism, should not continue to plague the prisoner who may be otherwise judged ready for parole.

Those are the major changes as listed in the Statement to Senate, No. 1122, but another element is introduced on page 2 of that Statement which I believe needs close examination. It would seem to be proposing that the State Parole Board should become the instrument for correcting "unfair" sentences. No one is more concerned with the very real problem of improper disparities in sentencing in New Jersey than I. But this is a matter that can be much more competently handled by the judiciary and I am happy to note recent movement in that direction. Under no circumstances do I envision the present State Parole Board as being capable of intelligently correcting sentencing inequities.

Rather, if time permitted, I would like to go into a detailed discussion of past and present State Parole Board operations and some of my personal experiences with that board. I would like to assist this

committee in looking at the differences between the paroling operations in the Prison Complex, the Youth Complex and the Clinton Correctional Institution for Women and at some of the resulting confusion. But to do justice to that sort of detailed discussion and examination would take one or several more hearing days. As a member of the New Jersey Association on Corrections' new Parole Reform Study Committee, it is my hope that that committee will be able to make an in-depth study and develop a position paper covering some, if not all, of these matters which will be of use in proposing further needed changes, whether administrative or legislative, before the end of this year.

In closing, I would like to say that a new appreciation of sentencing options and of parole opportunities is very important to any movement in this state toward more effective community corrections as an alternative to debilitating institutionalization of offenders. But responsible talk of parole must be more closely linked with adequate parole support services if parole is not to become a trap for the parolee and a threat to the community.

Probation and parole have been called "unfulfilled promises." Mr. Chairman, through wise legislation this Senate committee can give New Jersey meaningful probation and parole programs. We can start to move in that direction here today!

I would like to also offer, to be placed in the record, an article entitled Human Concerns for the Offender, from the Correctional Education Journal of the Correctional Education Association, Volume 25, Number 1, Winter 1973.

SENATOR HAGEDORN: I will order that that be made part of the record. (See p. 75 A)

MR. STUART: Before I go into questions, Senator, there are a few things I want to mention that had escaped me. In the statement we didn't mention the street time, which is in the bill, and I believe that this is a very definite move forward. This matter of whether street time is going to be taken away and under what circumstances is a source of much irritation to inmates in the Prison. I would suspect that it might be able to be done administratively but there is no indication that it is going to be done administratively so perhaps legislation is the only answer there.

There has been quite a bit of talk here today about the contract, you've touched any number of times upon the contract system. I have major reservations about a contract. I believe very strongly that there should be an opportunity for an inmate to sit down with responsible staff people and take a look at himself right after he gets in prison and see what his deficiencies are, what may be the problems that got him into trouble, what can be overcome while he is in custody, and work out a program. And this should certainly be considered when he is being considered for parole but I don't like to get locked in - maybe the word "contract" is what I find objectionable because I think there is much more to it than just getting an AA, Associate in Arts, degree from college because there are people that go to college with a PhD. There are some that go with a trade. A trade is not the only thing. And I feel, the way the prison is operating, and the Reformatories, right now,

the atmosphere in the prison is, to borrow a word from Mr. Russoniello, the Deputy Director, corrosive. It is so corrosive of character that what good does it do if you put somebody in there with a fifth grade education and you bring him out with an AA degree and a trade maybe to go with it but his outlook is so warped by that time that he is only going to use it -- you can teach him to be a computer operator, computer programmer at Rahway and he is going to take advantage of the fact that the new computer systems don't have the checks built into them now and they're being used and they don't even know how badly they're being misused by crooked people operating the computers now.

I believe that, as much as possible, time in the Prison should be minimized, or in the youth complexes, but this raises other problems.

I am with the New Jersey Teacher Corps Correctional Education Center and somebody comes in and he has a fifth grade education. The normal stay, as I understand it, in the youth complex now is 8 or 9 months. Now by the time they get done classifying him and get him into some of these programs, what can you do for him when he has a fifth grade education? I have talked to Dr. Sullivan about this.

Incidentally, the figure has been given to me, unofficially, that they expect the stay in Yardville to be reduced in the near future to something like four months on a five year indefinite. Now this is disturbing, of course, to the judges who are sending some of these people away on a five year indefinite and they are back in front of them in five months, if it gets down to that point. But the problem is from an angle in the institution what can you do for a person educationally or vocationally if he's only going to be there for four months? And it's hard for the

institution to set up a program. I have said that there is a need to have something where you start the inmate in the right direction, but how do you set up a program at Yardville so a person can walk out of Yardville and go to Camden or go to Moorestown or go to Newark or go to Jersey City or go to Trenton and fit in. If you have ever had the experience as a child of moving and have the adjustments, which I did in adjusting from one public school system to another school system, either in the middle of the year or even at the end of the year, you would find out you finish the fifth year in one place and start in the sixth grade but, you know, they aren't tied together that closely in their planning, text, and all of that, and it creates problems. And this is something that Dr. Sullivan is going to have to wrestle with. And as I have said, in four months about the best you can do is begin to teach a person some good study habits and maybe get him interested in helping. But at this time we aren't set up - if he goes back to the community all ready to go into something, we're really not set up in the communities to do anything for him, vocationally or educationally.

It is a sad commentary if the only place these people can get a trade or get a high school diploma is in the reformatory or the prison system. That, to me, is an unhappy situation. Or if we have to keep him there to give it to him. Because I am afraid that the side effects of the institution are going to negate everything that you have done for him in these other areas.

I think, if you will read between the lines of my statement, you will see that I have come down fairly hard on the present Parole Board. And this is something that distresses me because as an inmate I went up for parole twice, was denied twice, got one-year rehearings,

and the third time up I got an eleven months rehearing, I mean an eleven month date set which meant that I served essentially another year. At that time it was under Harold Ashby, who was then the Chairman; later on, Jesse Mapson took over as Chairman, and now Nick Heil has the chairmanship, and I feel that I know Nick Heil well enough to know that he is very sincere, that he wants to do a good job and that he is very humanly oriented towards the job. And yet I look at what is coming out of the Parole Board factory and I don't see any difference between what is coming out under Nick Heil's administration and what came out before.

If you know some of the people in the Prison, as I do, and then you read the parole decisions, it staggers you. I think you get to know people in the prison when you're living with them, you're associating with them maybe 18 hours, in some cases 24 hours of the day, seven days a week, 365 days of the year, you know them much better than people that you work with out here. And the decisions are so out of line - all I can do is compare it with the fact that if you give the best mathematician the wrong figures or put the wrong figures in the best calculator on the market, you're going to get the wrong answers out. And I think this is part of the problem, that they are still not getting the information.

And touching upon what Mrs. Canright said about the officers having input, I believe that the officers should have input. But God protect us from the officers ever having the final say-so because the quality of the officers in the Prison is about 20% of what I would like to see it some day. There are good men there but there are some that shouldn't even be working there. And I would hope that some day they are able either to retrain them into better officers or screen them out.

You mentioned, I believe in talking to Mr. Joyce, you had thought that he had mentioned parole officer contact before the men come out of the Prison, and I think this is important but I don't think it's feasible at this time. I think, if we move to the point where we have community centers for pre-release, where an officer can go right over in the community and meet these people, if they are up there for maybe the last two months before the time when they're going to be released, this would be excellent because this would let the parole officer begin to plan.

I would like to say that I had an eleven month date set, - this is two years ago - but I'll tell you that it has not significantly changed in these two years -- I had an eleven month date set. When I say an eleven month date, now everybody knew, that had anything to do officially with the prison system, that I was getting out in eleven months. Six months before I was due to come out I wrote to Mr. Wagner and I told him I would be coming out - well they initially said Newark - and I had been locked up, well, with my release date I would be locked up seven and one-half consecutive years, and they had marked me down as coming out in Newark and I said, well, I've been reading the papers and the unemployment rate in Newark is staggering. So I didn't hear anything until all of a sudden I was told that I was going to be transferred to Passaic County. Well, of course, the Passaic County unemployment rate is maybe two points below Newark, it's still horrible. And I said, well, what's going to happen? I haven't been in Paterson. The last time I lived in Paterson was 20 years ago. And he said, don't worry. He wrote back, and I have all the letters in my file - don't worry, the parole people will take care of all the placement and the rehabilitation, will take care of the job training, retraining, and so forth. You know, accounting was my basic field and there isn't much opportunity in accounting for ex-convicts.

So I come out and I take the train and the bus up and go to the Clifton Office of the Parole Board. At that point they had not given any consideration at all to my case. I had been told for a month before I came out of the Prison that I was going to be staying at the Paterson Y. The Parole Board had never called the Y. When they called the Y when I was there - they hadn't assigned me any parole officer or anyone. An officer was on duty there that day and when he called the Y there was no room. Well, they said go up and see, if you appear at the desk maybe you can get a room. I went up to Paterson and found that half of Paterson is now an empty lot. Well, they have started building in the last year but they had demolished, under Urban Renewal, half of the downtown area. And I couldn't get a room there and I ended up really in the only hotel in town, \$10 a night, and I had about \$80 in my pocket.

And, incidentally, with regard to that \$150 that they say you can have, I was able to get \$50 and \$50 but I never got the additional \$50 and I never got any explanation for why I didn't get the \$50. I wrote to Mr. Wagner and never got a reply.

The Parole Officer was not able to give me any assistance in finding a job. If I had not known some of the people connected with the Paterson Evening News - I know the City Editor; if I had not had a contact with the Chamber of Commerce in Paterson, I wouldn't have been able to get regular employment as I did, you know day labor where you go down at six o'clock in the morning and sit there and wait for a job. I couldn't have gotten that. I found that the private employment agencies, when I checked with them, they didn't want to talk to anybody with a prison record. Some of them had like company policies against that. The Unemployment people were not prepared. I went to the Unemployment Office and they were not prepared to do anything for me. The Rehab,

which was supposed to take care of my vocational training, a month after I got out they were still waiting for the Prison to send them the medical records on which they were going to justify my going under the Rehab for training. And I didn't get anything out of Rehab until the Governor's Office called and had my case transferred to Newark from the Paterson Rehab Office to the Newark, where they have a Rehab Counsellor that worked only with parolees.

But when you look at a caseload of 80 or 85 people in parole, what can the parole officer do for you other than sit at his desk and handle the interviews and handle the paper work in connection with these 15 minute talks every time you report.

So I think, unless you make great inroads - I would like to say that back at the time of the budget hearings, when I read in the paper that they were talking about a few more or 250 correction officers and they were talking about something, maybe 37 or something, parole officers, and Mr. Wechsler, in his questioning, was told by Dr. Cott that the caseload was 85 and yet they were talking about this parole reform going to release more people on parole.

I wrote a letter at that time to Mr. Wechsler and I circulated copies and I believe, Senator Hagedorn, I sent you a copy at the time, and I don't know whether it had anything to do with it but when the budget came out they had restored the people that Mr. Arluke had asked for originally and had been cut out at the division level. But that was not enough. You know, instead of 215 correction officers - if I had to make a choice, either-or, it should have been 215 more parole officers and 37 correction officers because it was more important to do something - when you're talking about crime on the streets, and this is what I talked to the City Editor about up there, --- you talk about crime on the streets in Paterson and yet you put people out of the prison with

nothing and no job opportunities and then you wonder why people get mugged. Well you have got to mug somebody to get enough money for a gun so you can pull an armed robbery.

I want to mention one other thing, the statistics which Mr. Arluke was quoting. I have noticed the Division brings up statistics quite often that sound very good to me in comparison with what I know is going on in the Prison. And I think that what you have to look at in connection with some of the Division statistics, like on parole and so forth, is they are one thing, youth and prison, the youth complex and the prison complex figures together, and they completely distort. When you're running all these people through with 9 months in over there at Yardville, it completely distorts the prison figures where the people are not getting out in any 9 months.

Coming to Mr. VanNess's remarks. He talks about the minimum and this 6 months proposition which he favors. I would like to say that perhaps I am the closest thing you're going to come to today to talking to an inmate or a parolee or former inmate, and I want to tell you that this is an explosive thing in the Prison, under present conditions, to start telling the people they are eligible when you have no intention of letting them out. And I would like to say that under the present legislation, right now, the Parole Board is denying many, many people parole who are eligible for parole right now. And some of the reasons that they are using - I have one of the parole decisions where they are lamenting, after a fellow has been in there for four years, he came in there at 20 years old, he has been there for four years and they're saying that he's vocationally disadvantaged, and he has worked at the inmate jobs, institution jobs that they gave him. And right now he wants to get into the vocational training program at Trenton and they won't let him in.

He was denied on this basis last December. This September he comes up for a new parole hearing and I can hear them saying again, you're vocationally disadvantaged. And he is going to stay vocationally disadvantaged as long as they won't let him into any training program.

I had a situation where I complained to Harold Ashby --

SENATOR HIRKALA: Could I interrupt you for a minute? Why won't they let him get vocational training?

MR. STUART: They don't give any reason. Classification is a major stumbling block in the Prison, the Classification Committee. The Classification Committee decides all kinds of things, including whether you're going to go to minimum and all these things, and they make these decisions and they give you no reason.

SENATOR HIRKALA: Do you mean to tell me that this gentleman comes up for parole and they say you're vocationally disadvantaged and, on the other hand, they won't allow him to get vocational training?

MR. STUART: Absolutely.

SENATOR HIRKALA: Can you document that?

MR. STUART: Yes.

SENATOR HIRKALA: And give us a copy.

MR. STUART: Yes.

SENATOR HIRKALA: I would like to look into that.

MR. STUART: Right. This is the sort of thing that I think is a major problem because there is no coordination. Right now there is no coordination between prison classification, on the one hand, and parole, and there is no coordination between the Parole Board and the Parole Bureau. And they should all be working together.

SENATOR HIRKALA: I think, Mr. Chairman, we're going to have to cut our witness short a little because we're operating under a time schedule. However, I do want to get into one area.

This Committee is faced with a dilemma. We have

many people who want status quo; we have many people who want a more liberal parole system; and many who want a stricter parole system. But the one area that I want to explore with you is your laudatory comments on Mr. Heil and yet you say that under present circumstances the decisions of the Parole Board are so amazing to you that they are not coming out with good decisions, and I want to ask you, is it the fault of our parole system or the fault of the members?

MR. STUART: When you say the members, you are speaking --

SENATOR HIRKALA: When you are telling us that they are giving some fantastic and amazing decisions that are not right in your estimation.

MR. STUART: Right. I believe - now, one of my problems, I know Mr. Heil, I do not know Mr. Rodriguez, and I know even less, other than what I've seen in the paper, about Mr. Henry, the newest member. I would say that Mr. Henry brings with him a wealth of background in the parole field but I don't know what fixed attitude he may be bringing with him from all of those years in the old system.

I think that apart from the members of the Board, - I think that if I were sitting on the Board I could not make intelligent decisions, given what they are given to work with.

SENATOR HIRKALA: Do you mean to tell me that they can't assimilate any better information under the present system?

MR. STUART: Well, when you say the present system, I don't know exactly what all of their machinery is for gathering this. I know the form that is used in the Prison to get information from the Prison about the inmate, about his work and so forth, and it is laughable as a form that is designed to provide some meaningful information on a man which is going to reflect

maybe two or three years of his life before he comes up for parole the first time and then for rehearing may represent one year of his life. It's a silly little form that has about this much space in which the work supervisor is supposed to give an evaluation. If you put that much space on a form, you are more or less telling them not to say too much.

SENATOR HIRKALA: Well, don't you believe that the present members of the Parole Board can get any information they want which is relevant to the status of these parole hearings? Is somebody denying them access to information which would be helpful in their determination?

MR. STUART: I am sorry that Mr. Heil is not here to answer that. I don't know why. Now, what he did, he initiated this system of parole counsellors. He has a parole counsellor at Rahway, one at Trenton and one at Leesburg, who are supposed to go over some of these things, these records, with the inmate before he meets the Board. And this, theoretically, was going to help overcome some of this but it doesn't seem to be happening. Now whether that parole counsellor is - whether it's too big of a job for one man, maybe, I don't know. I don't have the answer to that. I would like Mr. Heil to answer that.

SENATOR HIRKALA: Mr. Chairman, may I suggest that Mr. Stuart be called into a meeting with our Committee when we meet again and we can explore this a little further.

SENATOR HAGEDORN: Yes. I think it's very important that we do. I have to agree with Senator Hirkala that time doesn't permit for us to explore and expand upon the testimony that you have given us. First, I would like you to be invited to the hearing that we have in the Prison.

MR. STUART: I would like to be there but I think you will have to get special permission because this is one of these things. I had to twist everybody's ankle and wrist to get a rule changed in the Prison which would let former inmates write to prisoners. I haven't been able to get the rule changed that will let me visit, or anything, in the Prison yet.

SENATOR HAGEDORN: Well let me explore that.

MR. STUART: You might be able to get an exception for one visit perhaps.

SENATOR HAGEDORN: Do you have any further questions?

MR. STUART: I can't get back into the Prison unless I commit another crime..

SENATOR HAGEDORN: Well, we're not going to ask you to do that. Maybe we can get you in by an easier way. But we will be calling upon you and I would like to emphasize that we would certainly be interested in getting a position paper from the Association as quickly as possible.

MR. STUART: Thank you.

SENATOR HAGEDORN: Thank you.

I am going to declare a three minute recess and then we will call upon Mr. Rodriquez as the next witness.

(Recess)

SENATOR HAGEDORN: We will resume the hearing.

Mr. Rodriquez, will you present your testimony, please?

H E C T O R S. R O D R I Q U E Z: Yes, thank you. I take this opportunity, Mr. Chairman, to thank you for inviting me to this hearing and to commend the Legislature and Administration for taking maybe a step forward in penal reform.

I am testifying on behalf of the Porto Rican Congress which is located at 222 West State Street here

in Trenton, and it's an advocacy and technical assistance agency for the Spanish throughout the State.

My connection with this, Mr. Chairman, is that I was appointed to a negotiating committee in the Rahway riot and since then we have been very close to the institutions and particularly to a segment of that community which is a Spanish community that amounts to about 10% of the incarcerated people.

I would like just to hit on a few points and try to be as brief as possible in order not to confuse you any further after listening to all the testimony today.

We are in support, in principle, of this bill. However, we would not like to leave anything up to the imagination and interpretation by individuals when specifically drawing up the rules and regulations that govern it.

The first point, Mr. Chairman. I am a little bit concerned with the makeup of the Board and the criteria for sitting on that board, talking about a sociologist, psychologist and social science branches. I would think that the board should be consistent with the people who in our jury system first condemn the person, and that is his peers.

I don't want to go into rhetorics, Mr. Chairman, but sociologists, psychiatrists, have messed up our life in my opinion and they have added but very little to my life.

I think that reports by a psychologist and sociologist should be made prior to coming up to the Board for final determination on the man's future. It is my understanding that at this point we do not have the necessary sociological services that are needed in the institution.

One example, when it pertains to Spanish I think after some time the State would hire one on a consultant basis. And it's critical, Mr. Chairman, because the

Board at many times to determine the status of an individual does refer back to sociologic and physiologic reports and it is unconceivable when 90% of the Spanish inmates are probably nonfunctional in both languages how can a concrete or precise report by a psychologist or sociologist be given, especially if there is going to be any determination made. And I would like to see that spelled out in the bill.

Secondly, in this bill it is now providing for 6 associate members to serve on a part-time basis or at the discretion of the Chairman. As it stands now, I don't know what the figure is of hearings but I do have a friend who sits on the Board, by the name of Mario Rodriquez, and sometimes they hear 25 and 30 and 35 cases. I don't know but I would imagine that you have heard about 5 or 6 or 10 people today and you must be exhausted and I can't for the life of me understand how, when they listen to the 25th man, they can really arrive at any justifiable decision.

I would urge, and we did recommend to the Governor, that the Board should be five to seven and probably divided up. And he did, in principle, agree to it and appointed three full-time. But I would urge that it be expanded, that is the Board be expanded so that the caseload would be divided among those members of the Board, which is not consistent with what you're recommending in terms of money, at the end of the bill.

In addition to that, there is no mention, Mr. Chairman, in this bill - and I would imagine there is no need for it in this bill but I would like to see another bill or a rider to this bill - of the backup or the people who are supposed to do the work for the Parole Board, parole counsellors and parole officers.

The caseload was enumerated to you a few minutes ago. I don't know what the number is but I know it's an exorbitant number.

I would just like to maybe read a couple of things. One a report from one of the people who work in our place and is a frequent visitor to the Trenton State Prison, and in a visit there last month he quoted a high official of the Prison saying, "It is amazing how in day to day operation you can lose sight of a notable segment of the population." He was talking about the Spanish population in that Prison.

I was privileged about a year and a half or two years ago to read a report on a person that I was interested in having the Parole Board look at and parole was negated and I wanted to see the report, his files, and it was shown to me. The parole was denied because the man could not show a sound and consistent background on his family that he would go back to, the reason being that his father and mother were not married and, although they were living together for 38 years and had 11 kids, the parole officer thought that, according to our moral system, not acceptable. In addition to that, he found out that when he came back to this man he said, well, I'm not going to live with my mother and father, I'm going to live with my sister. Well the parole officer went back and found out that also his sister had been living with a man for 12 years but had not been married and for the same reason he was turned down.

I am trying to point out, Mr. Chairman, that I know through my office the people from Institutions and Agencies have been seeking our assistance to recruit people, bilingual people, to help and to work at the institutions. But I think what I'm alluding to is that the bill has to include this segment of the population and not leave it up for interpretations.

And another point, Mr. Chairman, - I don't know, sometimes my Spanish and my English get all mixed up but I do not understand clearly - if a person is paroled and is out on the street and commits another offense a year

later, is the time that he was on good behavior on the street compensated for when he goes back. I could not understand that in the bill.

The last thing that I would like to speak to, Mr. Chairman, and I would like to see it in the bill, is that government alone and professionals in the penal system are not and should not be the only people to work with offenders. I believe in the concept of rehabilitation and not punishment.

There are federal monies that are available for the concept of halfway houses and medium institutions that could probably be operated by other organizations than government. Some of the legislation now and the laws that allow some of this money to come into the State are very restrictive to units of local government. And I am talking, Mr. Chairman, specifically about one of the state agencies which is SLEPA. And I think that in the three years of their existence, Mr. Chairman, every year they had a surplus in the budget that they had to turn back because they had not been able to spend it, although programs had been proposed to them that have been inconceivable because maybe units of local government do not want to handle that type of program.

I suggested, the last time that I testified in connection with this, and I would suggest again that the Legislature should look very hard at that Department of Institutions and Agencies. I just think it's too big. And I don't think that the people in the correctional institutions have a chance when budget hearings come up, and I would like to see that as a separate department.

Mr. Chairman, that concludes my concerns before this Committee.

SENATOR HAGEDORN: Well, we appreciate your interest and your presence and the very pertinent remarks that you have made which certainly should be seriously considered,

particularly as it affects your race. And I am sure that the Committee will be mindful of that in the reconsideration of the bill.

Senator Hirkala, do you have any questions?

SENATOR HIRKALA: No questions.

SENATOR HAGEDORN: Thank you very much.

MR. RODRIQUEZ: Thank you.

SENATOR HAGEDORN: Our next witness will be Rev. Paul Stagg.

P A U L L. S T A G G: Mr. Chairman, my name is Paul Stagg and I am the Executive Director of the Coalition for Penal Reform.

I have a statement for the record. And I think, due to the lateness of the hour, with your permission, I will not read it, but perhaps make a few comments and then be open for questions if you have any.

SENATOR HAGEDORN: Very good.

REV. STAGG: Thank you.

The Coalition generally is favorable toward this bill, but it has some ambivalences about it. There are some questions which are mentioned in the statement. I, myself, have considerable ambivalence about it. I suppose if we could have our "rathers", we would have an omnibus bill which would deal with a lot of things which have been suggested here today by other speakers, Mr. Stuart, Mr. Rothenberg, Mr. Showell, and others. I think that the Committee might well consider beefing up this bill by taking those things into account. However, my pragmatic friends who are more politically oriented than I say that if you want to get something through a Legislature, then you can't have omnibus bills. It may be there is something in between that represents some kind of a compromise which would strengthen this bill and at the same time not run the liability of being such a huge thing that we couldn't get it through the Legislature.

Obviously there are a lot of pieces that need to be put together if we are going to have an adequate kind of parole bill and adequate return to society of the offenders. For example, - and this is almost by way of recapitulation of what others have said - if we send into society offenders who have not been

trained and expect them to earn their keep, we are probably asking more of them than they can produce. If on the other hand we train them, but we do not see that they get jobs, then again we further frustrate them and possibly enhance the possibility of recidivism. So these are factors that it seems to me need to be kept in juxtaposition if we are going to come up with a rational bill and a rational approach that will do what I suppose all of us here and elsewhere want to do, and that is return people to society as persons who are capable of relating in a very significant kind of way.

All of the evidence that we have, so far as I know, in penology would show that longer jail sentences do not conduce to the rehabilitation of a person. There is no evidence that if a person is in a longer period of time, he is more apt to be a person who is able to relate in an effective way in society after he gets out than one who has been in a shorter time. All of this is at our taxpayers' expense. We are paying to keep up an enormously expensive and unproductive system. It has little rationale to it.

So you are to be commended, in my judgment, for moving us in the direction of a parole bill which would expedite persons being paroled at an earlier date. I would only hedge this by saying that I think as legislators it would be extremely helpful to us all if you could provide that kind of leadership which would help the public to see and help produce the kind of legislation required that would put the other pieces together with more expeditious parole, such things as a larger ratio quantitatively of parole officers to parolees. One Parole Officer to 85 or whatever happens to be the current number is a preposterous number. No Parole Officer however much he possesses genius

could possibly do that kind of pastoral care of people. So the Federal guidelines provide an optimum of one Parole Officer to 35.

It seems to me we could effect some economies at one point, namely, at the point of keeping people in prison a shorter range of time, which as you know runs \$4,000 plus per person plus what it takes to keep his family because nobody is providing for them during this period, and all of this is at taxpayers' expense. If we provide some economies on the one side and be a little more generous at the other, namely, at the point of Parole Officers, at the point of job training, at the point of providing job opportunities, I think this might move us a great deal faster in the direction of controlling the crime situation and creating a safer street which we all would like to have.

I think this is basically what I would like to say and I would be very glad to try to answer any questions.

(Rev. Stagg's written statement can be found beginning on page 82A.)

SENATOR HAGEDORN: I have no questions. How about you, Senator?

SENATOR HIRKALA: I just wanted to tell Reverend Stagg that in a few short sentences he has talked about the problem and I think he has really reached the problem, and I want to compliment you, Reverend.

REV. STAFF: Thank you, sir.

SENATOR HAGEDORN: Thank you very much, Reverend Stagg. We appreciate the interest you have manifested not only today but throughout the past in this particular problem, which is one that does face this State. And, hopefully, with your help, you have the assurance of this Committee that we will move forward with some meaningful reforms.

REV. STAGG: Thank you very much, and we will certainly cooperate.

SENATOR HAGEDORN: Nancy Stultz, a Parole Officer, would like to testify.

N A N C Y S T U L T Z: My name is Nancy Stultz. I am a Parole Officer in the Newark Office.

I didn't really come here today prepared with a large body of testimony. I think that the Parole Officers' point of view has been very well covered by other Officers. However, I really think it is important to put into the record the fact that the correctional institution for women already has this indeterminate sentence with a fixed maximum that we are talking about here. It is very amusing to me that this hasn't come up at all. Of course, women really are a minority in the prison system.

I think it is also important to point out when you are talking about caseloads in parole, women are segregated. I only handle female cases. Male officers only handle male cases. This is not true in all types of social service. I am not prepared to go into that further here. But in terms of average-size caseloads, my caseload is approximately 44, which I would say would be about average for women and is what they are talking about as an ideal caseload for men. Of course, there are all kinds of justifications used for this - I have never seen any documentation to show this - such as, "Oh, well, I would rather handle two men than one woman any day." Women do have extra problems that we have to deal with, mainly their children and their families. But again I have no documentation to show that this justifies the difference in caseload size.

I did think it was extremely important to point out that the correctional institution for women handles all women over the age of 16 for any offense and they operate on the indeterminate sentence. So here you have a working example. I think it would be interesting to

compare statistics and I think I am going to try to get some more figures on recidivism rates and see if they really differ. Maybe I would have to compare them with other states in terms of women. But I think that it is interesting that you need legislation to do it for the men and it has always been this way for the women.

The women in the institution have been much more vocal lately about correcting inequalities in the way they are handled in relation to the men. One of the arguments used here today about rehabilitation has been used in the past at Clinton, people saying, well, Clinton was a much more benign place - no bars - you know it used to be called Clinton Farms - and this justified keeping the women there longer than the amount of time a man would get for a similar sentence, because, after all, he had to serve his time in Trenton.

Recently also there have been corrective actions especially on offenses such as gambling. We really saw some very wide inequalities in terms served for the exact same offense. And I would agree with the women that just because there is a difference in the institution there should be no difference in the time served.

I would like to add something with regard to whether prison acts as a deterrent. A lot of people brought up different theories of whether harsher sentences do deter. But working with women on parole, I will hear over and over again, "Just tell me what to do to stay out of Clinton. Tell me what to do so I don't get sent back." So I feel that this does have some benefit in a negative way. But it has made an impression on me how many times I hear this. I think that that is important too.

One thing on the Parole Officer training, Mr. Arluke pointed out that they mainly hire people at the Parole Officer Trainee level, which is people with a Bachelor's

Degree. That is it. There is not even a requirement that it be in a related field. Theoretically they do try to hire, I believe, in related fields. My Bachelor's Degree is in urban planning and I was hired with that. There are no physical requirements for the job. We have no training. Although we can be called upon to make arrests, we have no specific training in how to do that. I think that this is one reason for the turnover because people get into this job without really knowing what makes it any different from being a social worker or a welfare worker.

In terms of the overlapping of services, we have had a horrendous problem with so many different programs working for the same goals. And it seems sometimes SLEPA doesn't let its right hand know what its left hand is doing and with the same number of people to work with, they have many overlapping functions.

That is really all I wanted to add to what the other Parole Officers have said. Thank you.

SENATOR HAGEDORN: Thank you very much. I am sure that the contribution you have made will be very worthwhile and will be considered by the Committee.

I think we have one more witness, Mrs. Verena Hancock.

V E R E N A H A N C O C K: I came here this morning to listen. Some things were said this morning that made me want to speak, but I think this afternoon that most of the things that I would have said have already been said. And in view of the fact that it is twenty minutes past four, I think I will excuse you from listening to me.

SENATOR HAGEDORN: For the record, would you give us your address, please.

MRS. HANCOCK: 166 Millerick Avenue, Lawrence Township.

SENATOR HAGEDORN: Thank you very much and I

want to thank the young ladies for their perserverance
and for their efficiency. This will conclude the hearing.
Thank you.

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(Hearing concluded.)

The following provides a more detailed statutory analysis of S. 1122, the provisions of current applicable legislation mentioned in the bill as being revised and more elaborate notes on its impact under current N.J. law.

Legislative Summary- Review of Changes in Existing Statutes

I. Sentencing- Court shall indicate reasons for specific sentence which may be for a fixed minimum and maximum. Parole Board shall consider minimum as advisory and person shall be eligible for parole in accordance with other provisions of this amendatory act.

2. R.S., 30:4-107. Parole and discharge; Family Placement; payment for Maintenance.

Creates eligibility for parole or discharge for persons transferred from correctional institutions to any other state institutions prior to the expiration of maximum sentence in accordance with this act.

Power to make arrangements for family placement rests in Chief Executive Officer of State Institution subject to regulations of Department of Institutions and Agencies rather than State Board of Control.

3. R.S. 30:4-108. Conditions of Parole; Procedure.

Requires the State Parole Board to prescribe by rules formally adopted the terms, procedures and conditions for granting parole in accordance with this amendatory act.

4. Section 5, P.L. 1948, c. 84 (c. 30:4-123.5). Powers and Duties of Board

Applies this amendatory act to persons serving sentences with fixed maxima and minima or life sentence to State Parole Board's duty to determine eligibility.

5. Section 6, P.L. 1948, c. 84 (c. 30:4-123.6). Rules and Regulations for Granting and Revoking Parole.

Applies this amendatory act to the Board's power and authority to promulgate rules and regulations which establish general conditions under which parole is granted and revoked.

6. Section 10, P.L. 1948 c. 84 (c. 30:4-123.10). Eligibility for Release of Persons Sentenced for Terms. Sentences Running Consecutively.

Creates eligibility of each inmate serving a fixed minimum and maximum term for consideration for release on parole immediately after commitment within six months of being received at penal or correctional institutions. After the serving of minimum sentence or 1/2 of maximum, less good time, he is eligible for immediate parole unless the parole Board finds that:

- 1) There is reasonable probability that his parole would endanger the safety of persons or security of property in the community.
- 2) That the purpose of the sentence as stated by sentencing court (c.f. paragraph 1) have not been accomplished.

No prisoner shall be released as a reward for good conduct or efficient performance of duties alone but only if the Board is of the opinion that:

- 1) There is reasonable probability that parolee will take a proper and rightful place in society, lawfully.
- 2) Release is compatible with welfare of society.

Eliminates eligibility for parole of persons serving consecutively to be based on aggregate minima and maxima subject to his amendatory act and eliminates aggregate consecutive sentences minima and maxima as determining eligibility for parole.

7. Section 24, P.L. 1948, c. 84 (c. 30:4-123.24). Serving Balance of Time After Revocation.

Date of violation or commission of offense resulting in conviction is the date from which balance of time to be served at parole revocation rather than date of original parole release.

8. Section 12 P.L. 1948, c. 84 (c. 30:123.12). Limitations on Granting Parole- REPEALED.

Effect. Eliminates the following limitations on eligibility of parole of:

1. Second Offenders as defined within repealed section becoming eligible for parole consideration only after serving 1/2 of maximum sentence.
2. Third Offenders as defined within repealed section becoming eligible for parole consideration only after serving 2/3 of maximum sentence.
3. Fourth Offenders as defined within repealed section becoming eligible only after serving 4/5 of maximum sentence.

9. Section 14 P.L. 1948 c. 84 (c. 30:4-123.14). Release on Parole only where not Incompatible with Welfare of- REPEALED.

Effect. Section verbatim is incorporated within statute at amended section 10 P.L. 1948, c. 84 lines 20. 26 (supra)

Inmates who prior to **effective** date of this act have received fixed maximum and minimum sentences and **parole eligibility** shall be governed by this act and inmates immediately eligible for hearing shall be considered and decision rendered by Parole Board within one year of effective date. The Parole Board may adopt necessary rules and regulations to implement this act consistent with due process of law.

10. This act shall take effect 60 days after enactment.

S. 1122 Impact on Current Law

1. Sentencing: Bill created a duty on court to indicate reasons for imposing the specific sentence meted out which may be for a **fixed** maximum and minimum term. Judicial intent shall be viewed by the Parole Board as advisory in considering inmate parole eligibility. This section creates the opportunity for the Parole Board to be informed on the court's reasoning passed on inmate's probation reports, social history, and other facts contemporaneous with the offense not presently available to them. Significant Change in Duty Placed on Courts; None on Parole Board.

2. Parole and Discharge from Family Placement: Creates opportunity for inmate transferred to hospital, other state institution or home placement to be paroled from there under provisions of bill and not at the **expiration** of the maximum sentence. This provision enables inmate to benefit from demonstrable rehabilitation or other ameliorating circumstances, such as ill health, after transfer, which is not presently permissible. Significant Change in Transferred Inmates Right to Parole Eligibility. Current law

erases any eligibility prior to maximum sentence after transfer to institution or home placement.

Mos particularly, this provision would coordinate and provide uniform parole policy application between the Rahway Sex Offender Treatment Unit and the Parole Board and the Trenton State Hospital, Vroom Building, whose inmates are handled as ill for purposes of treatment and criminals for considerations of release without the advantages of either.

3. Conditions of Parole: Procedure. Intention that State Parole Board formally prescribe and adopt rules in accordance with the act. No significant Change in Parole Board's Duties.

4. Powers and Duties of the Parole Board . Intention that State Parole Board duties and powers of granting and denying parole be in accordance with the act. No significant change in Parole Board's Duties.

5. Rules and Regulations for Granting and Revoking Parole. Continues Board's right to promulgate "reasonable rules and regulations" in accordance with the act. No Significant Change in Parole Board's Duties.

6. Parole Eligibility. The proposed rule changes make every inmate immediately eligible for parole after the first six months of confinement. See above paragraphs 6 and 8 for the resulting elimination of categories for eligibility and the determinants of parole release.

This section of the bill constitutes a Significant Change in the Timing of Parole Eligibility and none in the determinations.

7. Parole Revocation: Balance of Time After. At present, an inmate paroled within two years to serve must serve the two years if his parole is later revoked. Under S. 1122, if he had been on parole for six months he would be returned to prison with a year and a half to serve having been given six months credit for "Street Time". This represents a Significant Change from current law.

STATEMENT CONCERNING SENATE BILL 1122

issued by the Executive Committee of
the Coalition for Penal Reform of New Jersey

My name is Paul L. Stagg, and I am representing the Coalition for Penal Reform of New Jersey. The Coalition is a broad-based, inter-faith organization of some 60 groups in New Jersey, which are concerned for penal reform.

A major objective of the Coalition for Penal Reform is to seek the improvement and expanded use of existing probation and parole procedures. We are, therefore, interested to learn that the Senate Institutions, Health and Welfare Committee is considering Senate Bill 1122, which would bring major changes in the laws governing sentencing and parole procedures.

Having reviewed the bill and also the Senate Committee's own statement explaining the reasons for the proposed legislation and its intended objectives, we wish to present the following comments and questions.

In principle, we support any responsible proposal which will expedite parole hearings and afford parole consideration to all inmates following the completion of their minimum six months term.

We agree wholeheartedly with the Criminal Law Revision Commission's recommendation "that the paroling process ought to identify and release upon parole any inmate whose further incarceration is not consistent with the correctional goal." Research experts and penologists generally agree that there is no reason whatsoever to expect long prison terms to be more effective than moderate ones in deterring most people. They, therefore, recommend that jail terms for the large majority of inmates be shortened by early parole. Experts tell us that only 10% to 20% of those convicted of crime need to be confined for the protection of society.

We also ~~concern~~ with the Senate Committee's contention that if the inmate "has a good prospect for successful adjustment upon parole, his further incarceration is purely punitive, is very expensive and wasteful and may actually impair rehabilitative chances."

The punitive aspect of incarceration carries a heavy price tag for the taxpayer. The annual cost for maintaining one inmate is about \$4,000, while the cost for providing supporting, supervisory services for the parolee is considerably less. Faced with the problem of critically overcrowded prisons, New Jersey is now confronted with the need for new detention facilities. Estimated construction costs for even a small number of additional cell units run into scores of millions of dollars.

"Economic self-sufficiency" is a basic requirement for our society; and for the paroled inmate it has particularly critical implications. Therefore, we must ask whether the employment objective is adequately emphasized within the bill. The bill provides that parole will be granted only when "the Board is reasonably satisfied that the prisoner has a suitable community parole plan with visible means of support and is likely to be suitably employed in self-sustaining employment." But we know full well the frustrations and difficulties that await former prisoners in their search for decent jobs. What resources will the state provide to make jobs available? Will parole officers, burdened with unrealistically high case loads, really be able to counsel and assist the parolees under their supervision? Unless the high officer-parolee ratio is sharply reduced, can we really expect parole to fulfill its expectations for the released inmate--or for society? We are advised that the present case load averages 85 parolees per parole officer, far more than the recommended optimum of 35. If parole opportunities are to be substantially expanded, will the number of parole officers accordingly be increased? If so, what provisions are being made to provide funds for the recruitment, hiring, and training of this personnel?

The bill also stipulates that release on parole is conditioned on the reasonable probability that the prisoner will live within the law and that his release will not endanger society. It would be most unfortunate should this enlightened and well-intentioned bill be subverted by inadequate administrative procedures. The state must indicate its willingness to assume full responsibility both to the parolee and the community to which he returns. This can only be done by allocating the funds and personnel required to assure the parolee a more reasonable opportunity for

effective and successful integration into the community. Any administrative measures that fail to meet this commitment may abort a much needed reform of our present parole laws.

Our concerns about Senate Bill 1122 in its present form would be alleviated if the bill could be amended to provide for the funds and personnel that will be required to handle the expanded number of new parolees. This is an urgent requirement since the Senate Committee estimates that passage of the bill will require the Parole Board to hear the cases of an additional 2,300 inmates who will become eligible for parole consideration.

With respect to that great volume of parole hearings, it should be noted that the proposed parole hearings by single, rather than three, members of the Parole Board raises some question. While it may be administratively expedient for individual board members to conduct parole hearings, can we expect one individual's judgment to be sufficiently objective to adequately serve the best interests of the inmate and the public?

In conclusion, we respectfully request the Legislature's consideration of the problems and questions which we have posed. We believe that the bill can be strengthened to more fully insure the achievement of its dual objectives--the protection of the public interest and the inmate's successful return to society. While recognizing Senate Bill 1122 has some shortcomings, on balance we view it as a progressive and promising step toward much-needed penal reform and urge its passage.

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