

PUBLIC HEARING  
before  
SUB-COMMITTEE OF THE SENATE JUDICIARY COMMITTEE  
on  
The New Jersey State Parole Board

Held:  
April 23, 1981  
Room 223  
State House  
Trenton, New Jersey

MEMBERS OF SUB-COMMITTEE PRESENT:

Senator John M. Skevin, Chairman  
Senator Carmen A. Orechio  
Senator S. Thomas Gagliano  
Senator John H. Dorsey

ALSO PRESENT:

Assemblyman Christopher J. Jackman  
Speaker of the Assembly

ALSO:

John J. Tumulty, Research Associate  
Office of Legislative Services  
Aide, Senate Judiciary Committee

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SENATOR JOHN M. SKEVIN (CHAIRMAN): Good morning, ladies and gentlemen. May I have your attention please. My name is John Skevin and I am a State Senator from Bergen County, District #38 and I am the Chairman of the Subcommittee of the Senate Judiciary Committee on the New Jersey State Parole Board. This is our second public hearing. To my immediate right is Senator Orechio from Essex County. To my immediate left is Senator Gagliano--not to my immediate left, second to my left. To my immediate left is our Research Associate, John J. Tumulty.

Before we start the hearing, I would like, for the record, to make some opening remarks. Before hearing from our witnesses today, I would like to ask each of them to specifically comment as to their feelings on the current procedure in New Jersey, which, in essence, places the burden of keeping a person in prison on the Parole Board rather than placing the burden of proving his or her qualifications for freedom on the convict. I am fully aware of the fact that in our nation we have the principle of "innocent until proven guilty" which is the very cornerstone of our system of justice. However, let me repeat that phrase, "until proven guilty." In the cases of those in prison, such proof has already been provided, at least to the satisfaction of a judge and jury. Speaking for myself, it seems that any attempt to ignore this fact in the interest of expediency, that is to say that even though the prisoner has been proven guilty and duly sentenced to prison, it still remains society's obligation to further prove why he or she should stay there. It is nothing more than a way of circumventing our entire judicial process. What purpose is served by a judge who, in his wisdom, sentences an individual to a specific prison term if at some not too future date the Parole Board must provide further proof as to why this sentence should be enforced. The concept of parole as a means for recognizing the qualifications of those who are truly deserving of a return to society as properly rehabilitated citizens is one thing. The expediency of unleashing unrepentant convicts on society so that they can repeat their offenses on the innocent only makes a mockery out of our system of justice.

In my opinion, I believe we need to know a lot more than we know now as to how the present system is working. For example, exactly how many persons have been released under the current parole system in the last year? Of that number, what precisely do we know? How many have been subsequently arrested or charged with crime? What were those crimes? In the case of those who are subsequently guilty of an offense, with a detailed study undertaken in an effort to determine why this person was released in the first place, were there any warning signs? If there were warning signs, were they ignored and why?

When you hear of cases in which women are raped, young children are sodomized by those only recently paroled, you realize that this is no game. We are not trying to write some white paper on justice. We are interested in protecting the rights of those who cannot protect themselves and, indeed, should not be expected to protect themselves from anyone improperly released from prison. I believe that we have only started to scratch the surface. We need many additional hard facts and some strong opinions from those who know the most about the subject. We shall be listening intently.

I would now like to call on Sally Carroll.

S A L L Y C A R R O L L: Good morning, gentlemen.

SENATOR SKEVIN: Good morning, Miss Carroll, how are you? If you could address yourself to that first question, we would appreciate it.

MS. CARROLL: Well, that's a lot of question. As far as the burden for qualifications for release, under the new Parole Bill, we are still finding our way along. A lot of the parts of it---Someparts have not been implemented, and others that are being applied are still, really, in the process of being evaluated. I think that the Senate and the Assembly passed a good piece of legislation, but the application of it hasn't been long enough in the process to answer questions to a great amount of specificity, so to speak.

As far as the application of an inmate proving that he or she is ready to be released, we have some pretty good guidelines. One of the things that may make a change in the running of the prison is the knowledge that the inmate's conduct, how he reacts to the prison setting, the lack of problems that he causes, or something, could be an indication of whether or not that person is ready to abide by rules on the outside. It is not always guaranteed. There are many individuals who have done time on many occasions previously and, as the saying goes, know how to jail, how to get along without making waves and how to become known as a good inmate, which may or may not be how that person would react when he is released to society.

SENATOR SKEVIN: Specifically, on that question of burden of proof, do you support that or do you feel that there should be some change or, perhaps, a second look at it?

MS. CARROLL: I support it and, as I say, we are still pretty new into the process and I think it should be given a chance to prove out. I don't think the process has been involved long enough to make a final determination. We have some uncertainty about it because it is a fairly new idea.

SENATOR SKEVIN: You do have uncertainty about this question of whether the burden should be on the convict or the State to show rehabilitation?

MS. CARROLL: Yes.

SENATOR SKEVIN: Okay. I mentioned these figures that we were interested in. Do you have or do you know how many people have been released under the current parole system?

MS. CARROLL: I don't have those figures with me, Senator. I know that one of the questions that you raised about why a person is paroled when you have a feeling that that person is not going to come back. The fact of the matter is, 90 to 95% of the people in prison are going to be released because of the type of sentences that they have. They are going to get out and hit the street one day. There are some that we have denied parole to for quite a long period of time and then when they get within a few months of their maximum date, we will parole even though we feel that another crime is going to be committed. The man is going to get out whether we parole him or not. When we give, say, someone who is within 90 or 120 days of his maximum of parole, that gives the police an opportunity to at least know that the person is coming back into the community. It gives the inmate some time, under supervision, when, at least, he can be given some support from the Parole Bureau, who are overworked and underpaid, and it is a handle that can be of benefit to the police. The man's sentence is going to be up. He is going to get out and there is no mechanism for alerting the police if a person just maxes out and walks out the door. But, with a few weeks on parole, it at least gives the receiving community, the police and the authorities, the chance to know, ready or not, here he comes.

SENATOR SKEVIN: Ms. Carroll, do you feel that the nature of the crime should be a consideration in terms of the principle factor of parole?



MS. CARROLL: Certainly, it is a very important factor. Whether it is the principle one, there are so many other things that go into it: previous record; whether there has been that kind of crime committed before; the type of sentence that the judge gives out; the man's institutional adjustment and everything. But, certainly, the nature of the crime is one of the prime factors that is considered.

SENATOR SKEVIN: Do you think, if the question of homicide was involved, the law should be, perhaps, reviewed as to whether parole should be available for those who have committed homicide?

MS. CARROLL: Well, Senator, there are so many degrees of homicide and such disparity in sentencings in homicides, I think each case has to be considered on its own merits. People are convicted of manslaughter and, in some cases, receive probation, for instance. Then, there are the different, first and second, degrees.

SENATOR SKEVIN: How about first degree murder?

MS. CARROLL: Whether or not the person should be considered for parole? Well, this is something that legislatures such as ours all over the country are facing. It is a difficult question. I have to operate under the rules as we have them here and I really have no very strong feelings about how it should be handled. This is something--well, it is the responsibility of the Legislature to adopt, to enact the rules for us to implement.

SENATOR SKEVIN: Senator Orechio?

SENATOR ORECHIO: No questions.

SENATOR SKEVIN: Senator Gagliano?

SENATOR GAGLIANO: What is the rule now with respect to first degree murder in the State? I'm not much of a criminal attorney.

MS. CARROLL: Well, first degree still can carry a life sentence and it can carry less.

SENATOR GAGLIANO: What is the parole situation on a life sentence?

MS. CARROLL: Well, under the old law, as well as the new one, the person can become eligible for parole--well, for instance, we heard a man at state prison yesterday who is eligible for parole on a life sentence and he, at this point, has served 13½ years.

SENATOR GAGLIANO: Isn't the average around 15 or so?

MS. CARROLL: Somewhere in that neighborhood, I would say.

SENATOR GAGLIANO: How do you feel about that? How do you personally feel, or would you rather not say, if that's part of your job? I don't want to put you on the spot.

MS. CARROLL: Well, as I say, Senator, every case is sort of individual. There are some people who are involved in a homicide who have never had any convictions for anything at all. Then, there are others who have a whole string.

SENATOR GAGLIANO: Again, I have to beg your indulgence. Is there a sentence available whereby the court says that there will be no consideration for parole?

MR. TUMULTY: Well, for murder, they can set up to half of whatever sentence it is that is a term of parole ineligibility and, for murder, for an extended term, it can go up to, I believe, 25 years of parole ineligibility that a court can impose.

SENATOR GAGLIANO: At sentencing, the court could say, "I'm sentencing you to life and even though you are 50 years old, you will not be considered for parole for 25 years."

MR. TUMULTY: Right.

SENATOR GAGLIANO: Now, does that person get good time, work time, and other time, taken off of the 25 years or is it a straight 25 years?

MR. TUMULTY: No, not until he has served the 25 years do all of the other factors come in.

SENATOR GAGLIANO: So, when you were talking about disparity before, if it is a heinous enough situation, we have the mechanism to take care of it.

MS. CARROLL: Yes.

SENATOR GAGLIANO: So, that would not put the Parole Board on the spot, so to speak.

MS. CARROLL: Exactly.

SENATOR GAGLIANO: If the judge feels that it is bad enough or serious enough, he can say, "You will not be considered for parole for 25 years."

MS. CARROLL: Exactly.

SENATOR SKEVIN: Ms. Carroll, just getting back to another question, some of these premature releases involved criminals who were originally committed for heinous crimes and assaults and other serious matters, and then were released and then committed the same crime within a short period of time. Has the parole board made any inquiry as to the reasons why this occurred?

MS. CARROLL: Well, the revocation process goes into what happened, what the new crime is and the factors leading up to it. We have the benefit of the chronological reports of the Parole Bureau helping, trying to determine why it happened.

SENATOR SKEVIN: In other words, when a convict is released and then he commits a violent or more violent crime there is a procedure to review what happened and why.

MS. CARROLL: Yes, in the revocation process.

SENATOR SKEVIN: I can think of two instances, a fellow named Coleman and Adair who were released within three years of a thirty year sentence. Do you know what procedures were taken in those two cases?

MS. CARROLL: I know there was reference to both cases at the last hearing, but I don't have the breakdown on it.

SENATOR SKEVIN: Would you be in a position to provide us with that information?

MS. CARROLL: Yes, I believe Mr. Deitz referred to at least the Adair situation in the previous hearing, and of course his recollection on Coleman I don't recall at all. But, I think there was some reference made to the Adair case.

SENATOR SKEVIN: Coleman was a Bergen County situation, if I recall correctly.

MS. CARROLL: I can attempt to get the information for you, Senator.

SENATOR SKEVIN: We would appreciate that very much. We have an esteemed guest here at our hearing today, the distinguished Speaker of the House from Hudson County. We appreciate your presence, Mr. Speaker. If you would like to participate, you are welcome to participate.

ASSEMBLYMAN CHRISTOPHER JACKMAN: My interest, of course, is the same as yours. I think Mr. Garcia made reference to it. Primarily I want to participate only on the basis of legislation that may become necessary. If it becomes necessary, at least I had an opportunity to listen to the discussions that have taken place.

SENATOR SKEVIN: I have no further questions. Thank you.

Luis Garcia.



L U I S      G A R C I A: Good morning, Senator.

SENATOR SKEVIN: If you could, I would like you to respond to my initial question, whether the burden of proof should be placed on the Parole Board or the convict.

MR. GARCIA: Well, in responding to that question, Senator, I have been on the Board now since 1978. I have always felt that the burden of parole has rested with the State Parole Board with the old law and with the present law for the simple reason that every time we deny an individual the privilege of parole we must document, we must justify, the reasons for the denial. What I am trying to convey to you is that my personal feeling as a member of the Board is that it has always been up to the Board to make those determinations and to document the reasons for denial, so that I have always felt the burden of parole fits squarely on the shoulders of the State Parole Board. I try to work within those existing statutes.

SENATOR SKEVIN: That is understood, but the question here is, should it be that way? I am not asking for your opinion, sir.

MR. GARCIA: My personal opinion is that I feel comfortable with it that way. I think that it should continue that way. I think the State Parole Board as an entity of our State Government is better prepared to provide the kinds of information that would be used as the reasoning for a denial of parole.

SENATOR SKEVIN: You think the State Parole Board is in a better position?

MR. GARCIA: Yes. I would say that the State Parole Board as an entity of government is in a better position to generate the types of information from the institutions, from the professional reports which can be used as a basis for a denial or for a grant of parole.

SENATOR SKEVIN: Should the State Parole Board have the burden as against a convict? Can you tell me why? Not just because they have access to sources of information but why philosophically.

MR. GARCIA: Well, I would hesitate a bit to get into a philosophical discussion, Senator. But, I can only state that based on my own personal experience on the Board that I would find it extremely difficult to make a decision without having the opportunity to get the information to deny---

SENATOR SKEVIN: Nobody is going to deny the information to you. What I am saying is, should the burden be on the parole board as against the convict to show rehabilitation. That is the issue.

MR. GARCIA: My response to your question is, I feel that parole should be placed on the State Parole Board.

SENATOR SKEVIN: Could you add why.

MR. GARCIA: Well, I attempted to answer that question, Senator, by stating that we have the mechanism to generate the type of information that will be used in a denial or in a granting of parole. I would say that an inmate would be extremely limited in order to overcome the concept of substantial likelihood if it were solely up to him to generate the information to overcome that standard. I feel that the Board should - as we have always been asked to - justify their decisions and give reasons. I think that we are in a position to generate the information to substantiate that type of decision.

SENATOR SKEVIN: Would you still feel the same if the convict was convicted of first degree murder?

MR. GARCIA: I would then echo Ms. Carroll's statements. Regardless of the offense, I feel that the burden should lie on the State Parole Board.

SENATOR SKEVIN: Would you feel the same if the crime involved sexual crimes on minors?

MR. GARCIA: Yes, I would. I feel that regardless of a crime, the burden of parole should rest on the State Parole Board.

SENATOR SKEVIN: You think the seriousness of the crime should not be of prime consideration.

MR. GARCIA: I think it is one of the factors that we should take into consideration, the seriousness of the crime.

SENATOR SKEVIN: Would that be a prime consideration?

MR. GARCIA: It is difficult to say, Senator. We deal with many cases and we try to deal with them on a one-to-one basis, each case individually. There are many factors that we take into consideration. During our first hearing we submitted cases to you that would hopefully give you a flavor for the type of factors that we take into consideration.

You know, Ms. Carroll alluded to a case where you will find an inmate who is jail-wise who knows how to do their time, and regardless of the crime they committed, they have been in prison before; they know about jail, and the chances of that individual remaining charge-free are greater than, say, a youngster coming into an institution who, to a certain extent, has to prove himself or herself in order to survive in a prison setting.

But, that means the institutional adjustment is a factor, the seriousness of a crime is a factor, the psychological and professional reports that we receive from professional people at the institutions are also a factor that we take into consideration. There is a whole gamut of factors, and it is difficult to state specifically how much weight we would give to a particular factor in reaching a decision. Of course, the seriousness of the offense is an extremely important factor, but we also have to look at the individual's adjustment to the institution, whether or not that person has changed. There is a whole gamut, an aggregate of factors we have to take into consideration.

SENATOR SKEVIN: Senator Orechio.

SENATOR ORECHIO: Mr. Garcia, you said the system really has not changed in terms of the burden of proof in parole situations. Are you really saying that the criteria that would be evaluated in terms of the parole board, as to whether or not recidivism would be a factor, or what his conduct has been while he has been in prisons, that those would be the same factors and criteria that the prisoner would use in his support for the request for parole. So, the same factors really come into play and they are on the table. On one hand it is either the convict saying, "Hey, look, A, B, C, D happened during my confinement. I think I have proven I am a good citizen and I will no longer be a threat to society; therefore, I want to be released and I should be released." And the parole board is saying by the same token, we evaluate the same factors and make that determination too after studying the experience while the person was in confinement.

MR. GARCIA: We are reviewing cases in a prison setting which has rules and personnel. Whatever happens to an inmate, a convict, within those prison walls is information that is documented that is made available. The institution prepares reports for us on that, and these are the types of pieces of information that we review.

Now, there are other factors that we take into consideration, of course, and these factors are perhaps a little bit more intangible such as the individual's presentation during the hearing, the individual's plans for the future, the family support that individual might have out in the community, whether there is a concrete offer of employment or not. You know, all these factors are taken into consideration.



Those are factors which I think the inmate would probably present to a board, the fact that he has a fixed appointment to go on parole, the fact that the family is supportive of his return or reintegration to society. But, in terms of what happens within the prison, those are similar facts. If I understand correctly, those facts are made available to the inmate as well as to the State Parole Board.

Right now, one of the things that we have been instituting since the enactment of the new parole act is the fact that we inform the inmate that certain documents should be made available to him or to her the day of the parole hearing. If the individual requests those reports, the Department of Corrections provides reports. We provide reports. Whenever an individual is reviewed initially by a hearing officer, be that a hearing officer, or a board member functioning as a hearing officer, a copy of that document is provided to the inmate to know specifically the reasons why that individual has been referred to a panel, rather than recommended for parole.

To a certain extent, there are given facts that will not change, and these facts are the same facts that the inmate will have before him, and that the Board has. I don't know if I answered your question, but I have attempted to.

SENATOR ORECHIO: The dynamics of living in today's world in itself involves imperfection. People are imperfect; laws are imperfect; systems are imperfect. Would you say that from time to time we will hear about situations where they may fall through the cracks, and, as a result, conclusions are drawn that the system has to be corrected or amended and we ought to make changes, even though maybe in 99% of the cases whatever system you are reviewing appears to meet the standard of acceptance. Do you feel that the parole law as it has been enacted, and as it is working ought to be given more time before we make any attempts to amend it, to correct some inequities or imperfections? Or, do you think we ought to do it now based on what evidence we have so far?

MR. GARCIA: Senator, I would have to concur with my colleague Ms. Carroll. I think that we should give the new law some additional time. I don't think there is such a thing as a perfect piece of legislation. I believe Mr. Herman alluded to that during the first hearing, that no piece of legislation is perfect. I am a firm believer in evolutionary change, Senator. I think that the world today is full of radical changes, and at least in the United States changes that have taken place are evolutionary. We live in a society that has been able to adapt over two centuries and change in an evolutionary fashion and still respond to crises situations. So, basically, I feel comfortable with this piece of legislation as a member of the Board. I feel that it is functioning correctly. I don't have statistics readily available to me. But, my feeling from working on the Board on a daily basis is, as a result of the new parole act, the percentage of parole has decreased.

That is not to say that the purpose of enacting a parole act is to abolish parole or to limit parole. But, I feel with adequate implementation of the existing act that we can insure not only ourselves but society in general that the serious criminal is going to serve his time in prison.

One of the things that I personally believe in is that the State Parole Board is not a sentencing body. Under the new penal code a judge can sentence an individual and up to 50% of that sentence can be amended to a minimum with no credits, with no chance of parole.

I think there was a question raised earlier about the first degree crime, how much time would an individual have to serve. We have seen cases where

we have mandatory minimums of 40 years, and basically that individual, if he commits a crime at the age of 20 with 40 years mandatory minimum, that person is going to basically spend the rest of his life incarcerated. I feel comfortable with it. I think that it contributes very positively to the penal code.

I would not be completely recalcitrant in saying that no changes should be made. I think that we should study it. I think these hearings are helpful. And, perhaps later on today we will also hear additional comments from other people as to the effectiveness of the act.

SENATOR SKEVIN: Senator Gagliano.

SENATOR GAGLIANO: I have no questions.

SENATOR SKEVIN: William Reid, member of the Parole Board.

Good morning, Mr. Reid. Instead of being repetitive and asking you all the same questions, do you feel substantially the same as the two prior witnesses?

W I L L I A M R E I D: Yes, I do, Senator. I think we do have a very good parole bill in force. Some of the decisions that have been made by the Board have been to the public unpopular decisions. But, I don't think that necessarily engenders change at this time. I think that we do need additional time to study, to gather statistics, to tell us just about where we are going, so that we can make an extensive evaluation as to how the bill is really operated, and draw some conclusions whether this is better that the Board has the responsibility to determine this in all likelihood, or whether it should be the responsibility of the inmate.

At this time, we have been operating for about a year, and we do not have the statistical information to tell us at this point what conclusion we may draw.

SENATOR SKEVIN: When will that statistical information be available?

MR. REID: I would say in another year or two we would be able to garner the type of information that is necessary to make that extensive evaluation comparing what we are doing now as to what we did prior to this particular bill.

SENATOR SKEVIN: Are we gathering this information now?

MR. REID: Yes, I am sure we are in the process of keeping statistical records, so that in a year or so we should have sufficient information to tell us just about what direction we are heading.

SENATOR SKEVIN: Would this be information about who was released and how quickly they---

MR. REID: The question that you raised in the beginning, the number of people who have been released, and the number of people who had committed new crimes while on parole - we are doing this. When a person commits a new crime, he has a revocation hearing by the revocation section. He is given a hearing in the field and he is given another hearing once he gets back to the institution to determine all the factors that went into his committing a new crime. And, then it is established whether or not we are going to revoke his parole. If we revoke his parole, then he gets additional time for revocation plus whatever time he gets for a new sentence.

SENATOR SKEVIN: You say we will have this information in another year?

MR. REID: I would hope that we would have this available in a year or two years. I don't think one year is sufficient to garner those types of statistics to be meaningful.

SENATOR SKEVIN: In the meantime, we will have this type of situation occurring where this premature release or more serious or more violent crime is committed we will have to wait a year or two for the statistics that will show us whether we need a change or not.

MR. REID: I don't think it is time to make a change now based on the information that we do have. I think that perhaps we do need the time to make further study. When we prepared this bill, I think a lot of study and time went into preparing the bill. I don't think you should amend it rather hastily.

SENATOR SKEVIN: I am not questioning whether we are doing this hastily. My question is, should we wait for a year or two or more violent crimes on the citizens of our state in order to correct the situation? That is my question.

MR. REID: I don't necessarily think that we are going to have an abundance of violent crimes committed on our citizens. We do have some success rates with our parolees. All of them do not violate their parole.

The cases that have been mentioned, I don't know them. Mr. Coleman and Mr. Adair, I think they were perhaps cases that fell through the cracks. It is very difficult to predict exactly how one human is going to act once he is released to the community. We have looked into a number of factors at the time that we make our decision for release, and based on conditions that we will impose upon them we feel very safe that they will conform with these conditions on them. I don't think we are going to have a mass of violations on our public.

SENATOR SKEVIN: Senator Orechio.

SENATOR ORECHIO: When you have some of these situations that fall through the cracks, and this basically responds to Senator Skevin's question as to some urgency to amend the act now to prevent these criminals who have been paroled to go on to their former criminal path.

The question I have is, when you have a situation developed, when someone has been paroled, and they are involved again in a recidivist act, and are consequently brought back to prison and incarcerated, do you have something in the process at all that pretty much impels you to tighten up the process or review and evaluate? I imagine from time to time there might be some paperwork that has gone astray and errors have taken place, and as a result your judgement has been impaired. I am just wondering, isn't there some kind of reaction on the part of the Parole Board for the future parolees?

MR. REID: Any time a person is returned as a violator, it does cause concern among the parole board members, and when he is reviewed, he is reviewed very intensely on the next review.

SENATOR ORECHIO: I am talking about new applicants for parole.

MR. REID: Oh, yes, definitely.

SENATOR ORECHIO: I am talking about others, in other words, the system itself---

MR. REID: A new person, another person?

SENATOR ORECHIO: Yes.

MR. REID: I am sure that it intensifies the way you look at the person as a result of the outraged public, so to speak. We will look at the criminal record a lot more intensely than we did prior.

SENATOR ORECHIO: No other questions.

SENATOR SKEVIN: Senator Gagliano.

SENATOR GAGLIANO: Mr. Reid, do you get monthly or quarterly reports on what you have done, so to speak?

MR. REID: No.

SENATOR GAGLIANO: So you don't have a report- for example, if you parole 50 prisoners in January, you do not receive any reports within a reasonable period of time after that with respect to these people, in other words, an incident report?

MR. REID: Our annual report would indicate that during the course of the year. And, every six months the whole bureau has to submit a report to the Board to make an evaluation as to how this person is doing in the community. I have reports coming---

SENATOR GAGLIANO: That is what I meant. You don't have any.

MR. REID: No.

SENATOR GAGLIANO: So if you paroled 50 inmates in various institutions during the month of January - for example, the first of July you would not get a report which says that A, B, C, D, E were fine, but Mr. G. ended up being arrested for a crime, or whatever, an alleged crime.

MR. REID: Our annual report would indicate that during the course of the year we paroled so many people, and so many of them were arrested and were admitted ---

SENATOR GAGLIANO: You don't get them by name?

MR. REID: No.

SENATOR SKEVIN: As a follow up to Senator Gagliano's question, the parole board has no knowledge on a monthly basis or on a quarterly basis as to what happens in terms of those who commit a crime again or if someone is charged with a crime?

MR. REID: Yes, the parole bureau. If a person gets arrested, the parole bureau immediately submits a report to the Board, giving the circumstances of the arrests, the inmate's statement concerning the arrest, and any recommendation the bureau has concerning return and not return. That is done immediately and will come to the attention of whichever board panel has to review it, and our revocation section will have a revocation hearing.

SENATOR SKEVIN: So you have that information immediately.

MR. REID: That information is gotten by the field staff. I should say here that they do an excellent job. They are overburdened and short of help, but inspite of that---

SENATOR SKEVIN: Okay, then what happens with that information?

MR. REID: Then it is reviewed to determine whether or not there should be a revocation hearing. The revocation hearing is to determine whether we are going to revoke his parole now that he charged with a crime. There is a certain process involved in this revocation hearing. He has a hearing in the field by the hearing officer, and that hearing officer can then determine that there are grounds for revocation, and it is referred to the Board for a final revocation hearing. The process is repeated over again to determine if he violated his parole, and if we want to recall him.

SENATOR SKEVIN: Is there any process that says what went wrong, why did we release this man prematurely and then he committed another violent crime or some other unspeakable crime? Is there any process within the parole board similar to that?

MR. REID: I think that is always in the back of our minds when we review a case where parole has been violated, what happened.

SENATOR SKEVIN: It is in the back of your mind, or is that a natural process?

MR. REID: Well, it is in the back of your mind and then you review it. I am sure it goes through your mind, what did we do or what did we fail to do the first time when we saw this person that we now would have done differently.

SENATOR SKEVIN: Is there any record or any procedure that is followed to determine what went wrong and why it went wrong?



MR. REID: Nothing official.

SENATOR GAGLIANO: That is really what I was striving for, Mr. Chairman, if there is anything which the parole board could review which would pick up a strain of evidence, so to speak, or a path that you might be able to follow and maybe therefore head off this type of thing from happening. I realize that everyone is different. But, I wanted to know whether or not there is something in the process itself that was weak and needed attention.

MR. REID: We try to anticipate those things, Senator, by placing special conditions on a person when he is given a release. For an example, a person comes in with a drug problem and when he is released it is stipulated that he is to be in an outpatient drug program, and sometimes an inpatient program to get assistance with drugs and alcohol. The same thing is done if it is determined that he needs counseling, so it is stipulated that he has to go to a mental hygiene clinic to get counseling. By setting those kinds of stipulations we feel that we are lessening the likelihood that he will get into trouble again.

SENATOR SKEVIN: In consideration of a parole applicant, do you consider the fact that he has gone through the procedures that the parole board has recommended for rehabilitation?

MR. REID: Yes, we review that in the institution, any credits that he may have to participate in programs that will be of benefit to him. If he doesn't have a high school education, he will get into an educational program or get his GED. The vocational programs that he can get involved in, he has the job skills to help him get work once he is released.

SENATOR SKEVIN: Assuming that he has a drug problem and the procedure is for a rehabilitative drug program, or something of that nature, and he doesn't follow it, would that be a factor to consider when giving him parole?

MR. REID: That is a big factor.

SENATOR SKEVIN: In considering his parole?

MR. REID: If he has a drug problem and he does not address it while he is there, then there is basis for denial.

SENATOR SKEVIN: Did you participate in the Trantino parole decision?

MR. REID: I did. I was assigned as the hearing officer for the Trantino case.

SENATOR SKEVIN: If you recall, he had a drug problem. In fact, it related to his early crimes. If I recall that decision correctly, he did not participate in any rehabilitative program for his drug problem.

MR. REID: Mr. Trantino--- He did have some programs. He had conditions placed upon him, had he been released on parole, to go into an outpatient drug program.

SENATOR SKEVIN: But he did not participate at all in any drug rehabilitative program while he was in there.

MR. REID: To my knowledge, no, I don't think so.

SENATOR SKEVIN: I have no further questions.

ASSEMBLYMAN JACKMAN: Can I ask one question? Mr. Reid, would you say that the new program is an improvement over the old parole bill?

MR. REID: I would think so, Assemblyman. I think it is a vast improvement.

ASSEMBLYMAN JACKMAN: Especially where first degree murders are concerned.

MR. REID: Yes.

ASSEMBLYMAN JACKMAN: Under the old parole bill, according to my information, Mr. Trantino was given consideration; is that right?

MR. REID: Yes.

ASSEMBLYMAN JACKMAN: There was no maximum in those days on first degree. You made the decision, didn't you?

MR. REID: I made a recommendation for parole which was subject to review and that recommendation went to a certifying person who placed conditions upon him of restitution, which eventually ended up in court, and then the full panel which we had a split decision on for parole - I think it was a three-to-two vote for parole and two for denial. The case is still pending in court now. There is no final decision which has been reached.

ASSEMBLYMAN JACKMAN: Under the old bill, Mr. Trantino was sentenced to one life in prison sentence.

MR. REID: Yes, despite the fact---

ASSEMBLYMAN JACKMAN: He could have been sentenced by law under the two lives, and then he would not have been eligible for parole under the present system.

MR. REID: He would not have been eligible, right.

ASSEMBLYMAN JACKMAN: So, again, that is a question where you were sentenced by the Judge and the fact remains that he was only charged with one life sentence.

MR. REID: Right.

ASSEMBLYMAN JACKMAN: If my memory serves me right, under the old bill--- I helped with part of this new bill with a tremendous amount of input from the Senators and from people like yourself sitting in the room here. That bill was not put together by just one individual. It was put together after a lot of input from many. The twenty-five year minimum today, it is my understanding that only becomes operable on the basis of anybody who commits a crime from the date that we instituted the bill---

MR. REID: It is not retroactive, no.

ASSEMBLYMAN JACKMAN: It is not retroactive.

MR. REID: No.

SENATOR SKEVIN: Mr. Speaker, just to follow up on your question, whether it was the old parole bill or the new parole bill, Trantino did not follow any drug rehabilitative program set forth by the Parole Board.

MR. REID: I don't know that was stipulated that he should get into a drug program.

SENATOR SKEVIN: But he had a drug problem.

MR. REID: Yes. But, at the time--- Under the present system a person comes in and this would be an adult program. But, the drug problem, it was stipulated at that time that we definitely want you to become involved in a drug program. Under the old system when Mr. Trantino came in, I don't think he saw anybody for a number of years until he actually became eligible to see the Parole Board.

SENATOR SKEVIN: If I told you that the parole decision indicated that he did not participate in any drug rehabilitative program, would you accept that as a fact?

MR. REID: Oh, yes.

SENATOR SKEVIN: Okay, I have no further questions.

MR. REID: Thank you.

SENATOR SKEVIN: Thank you, Mr. Reid. William Fauver, Commissioner, Department of Corrections.

W I L L I A M F A U V E R: Mr. Chairman, I am aware of some of the questions that have been asked so far, and I would like to try to address this, but at the conclusion I have some of my own remarks I would like to make at your pleasure.

SENATOR SKEVIN: Certainly.

COMMISSIONER FAUVER: I think one of the things that is happening, and the Speaker touched on it before in his questioning, the Parole Board decisions are kind of being looked at in a vacuum, not as part of the overall criminal justice system, and that is, there are a lot of people that have a shot or a lot of agencies that have a shot at this person after he is convicted, starting with the courts and the type of sentence that is imposed. And, as the Speaker said, specifically in the Trantino case, he could have had two sentences at that time. He could have been sentenced to two life sentences which would have affected his parole date, and which would have lengthened the time of his parole or his eligibility for his parole. Now, that was under the old law, and---

SENATOR SKEVIN: May I just comment on that?

COMMISSIONER FAUVER: Certainly.

SENATOR SKEVIN: At the time, capital punishment was the ultimate sentence for first degree murder, and as a practical matter, they would only charge a person and try a person on one murder because you can't send them to the electric chair twice. So, as a practical matter, it was not a procedural situation which resulted in that situation with Trantino. It was the effect of the ultimate sentence on an individual at that time.

COMMISSIONER FAUVER: I am not suggesting, Senator, that it was procedural. I am saying that happens in a number of cases, and not just in murder cases, but take a lesser crime such as a breaking and entering where there may be 30 or 40 counts to that crime, 30 of which are dropped, and the sentence is done on 4 or 5 counts, depending on the plea bargaining or whatever takes place at the time.

The case that I would like to address that you mentioned before, which I am a little familiar with, is Coleman. Coleman was a case of a man who was a sex offender who was paroled after serving about 6 years. He was sentenced to an indeterminant 30 year sentence, which means that he could have been released any time after he was received and after he was judged to be ready for release first by a special classification review board at the sex offender unit, and then by the Parole Board.

I think, if you look at the kind of times that people were getting on indeterminant sentences at that time, that this would not have been a case where he got any particular break and got out early. I think he did--- I know he did 6 years, and at the time if you looked at it on the basis of what kind of time other people were getting for the same offenses, I think it would be very comparable. What happens is, in the case that a person does commit some type of violent crime, particularly if it is related to the crime that he originally was sentenced on, then it draws the publicity, "Why was this person out." I am simply saying that I think it is not because there has been an exception or it necessarily has fallen through the cracks, or somebody has made a mistake in judgement. In retrospect, there was a mistake in thinking that this person was ready for parole. But, based on the facts before them at the time, I have to conclude there is no reason they would not have paroled them, or they would not have.

That gets me to the burden of proof issue, which I think is now with the Parole Board, and I feel rightfully belongs with the Parole Board. I realize that the case law and case decisions are based on what the existing laws are.

But, there is case law going back many years where inmates initially were not even told why they were denied parole. That was judged to be unfair, because they could not do anything about it, if they didn't know what the reasons were they were denied. It progressed from them being told just why the punitive part of the sentence has been reached, or whatever, to telling them the things they were not doing- they were not adjusting in jails, so therefore there was no reason to believe they would adjust in society.

Someone asked before whether the same process could kind of happen with the inmate initiating it. I think in a sense it could, but I don't know how he would prove any more from the records than the Parole Board can already determine. I think the issue is the criteria that is used in the decision making, not necessarily whether the information comes at the request of the Parole Board, or the information comes at the request of the inmates, and why didn't you look at this before you released me.

The inmate does have the right of appeal on these decisions. He is given the information that the Board decides on, and he has the right to object to that and file counterstatements as to the reasons for the decision or even for the material that it is inaccurate, or that he objects to it being used. I think that the decision should remain there. And, I think your questions about studying it and looking at it, I would also support some of the things that have been said about that by the Board members who have testified today. I think it is too short a period of time to tell basically if the types of cases that we are all concerned with are a problem because of the system, because they do fall through the cracks, or because of the criteria that is used in making the judgements as to whether to parole or not parole.

The Board has been in existence only a year, and I don't think basically it is the time to make changes. I will counter that a little later, and say some of the changes that I think could be made or should be made. But, as far as any drastic changes, I think the parole bill, parole law, now in setting up the new Parole Board in conjunction with the new penal code is serving the purpose that it was intended to serve. I think if you look at the statistics on people staying in jail, they are staying in jail longer no matter which panel is hearing the cases, whether it is juvenile, indeterminant youth or an adult.

One of the comments I would like to make about that and I think this ties into the earlier comment about a second life sentence is an indication of the severity of how the court sees it is the type of sentence a person receives. For example, a male 22 years old committing an offense can be sentenced to a youth indeterminant sentence or he can be sentenced to a minimum/maximum sentence with a mandatory minimum. Today, sitting here, between 25% and 30% of all adult prison cases coming in have a mandatory minimum sentence, therefore, the parole board has no ability one way or the other to do anything until that mandatory sentence is met. That obviously is an indication of how the court feels about that particular offense. If that same case exists where that 20-some year old male gets sentenced to an indeterminant five-year maximum sentence, it also indicates how the court feels about that particular case. I think that kind of decision, when is the person eligible and so forth, is made long before it gets to the board. The board can delay the case. They don't even have to let go with the mandatory minimum. They can say, "You had a fifteen-year minimum, but we still don't think you have served enough time. You have not shown any improvement. Your attitude is still bad. You have refused to participate in programs." I think that is a guarantee of keeping people in that was put in



the law and is being utilized. I feel the approval should stay with the Board. As I said, I think what we see, and I think what the figures will show, the percentages of repeaters are not going to be a lot different than they have been under old laws, or will be under newer laws. What we try to do is look at why those failures. Is there some sort of study which can be done?

The Parole Bureau, which is a part of the Department of Corrections and not the Board, does keep statistics on that. As Mr. Reid indicated, obviously he knows who the ones are that are being recommended for revocation, because the paperwork comes in. We do keep monthly statistics on the number of people on parole in each district, how many have been revoked, how many have been discharged from parole, because they are doing a good job, and so forth.

As I said, I have some notes that I would like to comment from, but I will open up now for any questions you might have.

SENATOR SKEVIN: I would like to hear your suggestions on improvements.

COMMISSIONER FAUVER: Fine. First, what we have done is implemented a new system where an old one was in existence for a lot of years. I think that any time you do that, there is going to be a problem. Most of the problems that I see internally are mechanical problems. That is another reason why I would suggest that maybe the hearings be reconvened in the fall, or whatever period of time, not only to look at the statistics, but to see if things that I will describe basically as mechanical problems between the Department and the inmates and Parole Board can be worked out. I think they can be, but I would like to opportunity to say that they have been at a later date, or have not been, as the case may be.

As an example, there have been shortcomings both ways. I think the Department has not always had the ability to provide all the material that the Parole Board has requested just simply because of the volume of it. For example, psychological reports are something that the Board should depend on and should not become dependent upon but have as part of their material in people they are considering. Taking an institution such as Bordentown we have two psychologists for 600 or 700 inmates. So, to do the kinds of things we have to do in-house, which are reviews when we put people in minimum custody, or check on people who might be suicidal risks entirely or just pre-psychotic, and also have these people produce the material which the Parole Board needs can't always be met within deadlines. So, I think they are the kinds of things that we are trying to address with the Board.

The Parole Board itself with any monies to help the Board in the implementation, really, are not forthcoming. The Board obviously got money for the salaries of the Parole Board members, but I just happen to know that they will not even address it, because at this point there was no money for the Board panels to have a secretary, and they have to rely on sort of a pool situation. I think these mechanical things like that are the reasons why things do fall through, because the demands are too great on the people involved.

I would like to comment on the panels themselves. I think one of the problems in the institutions as far as process-wise have been with the young adult panel, the indeterminant sentences. Now, this panel took over a function, and I want you to understand this, that was handled before by four classification committees at different institutions who met weekly to do this. It is now being done in effect by two panel members, and I would think one of my suggestions down the road might be to consider that there should be more panel members, actual Parole Board members, I am sorry, to do the hearings, to get involved. I am not sure that two is enough, as I indicated, because of the volume that they have to handle. I think that is

something that should be looked at, should there be more help. That is just one panel.

On the other hand, the Juvenile Panel, I think the relationships and the working out of the problems on the institutions has been excellent. Granted, the case loads they have to deal with, the numbers of inmates are smaller, but they in turn see the inmates involved, and because of the numbers involved, the adult panel and the young adult panel doesn't have that luxury of being able to. They have to rely on a Hearing Officer, and I think that any time--- Not entirely, but they do see people. I didn't mean to imply they don't. But, just because of the way it is structured, they don't always see them, and I think that first-hand contact with the inmate who is being considered parole is very important. I think you should be able to sit down and kind of get a feeling of one-on-one with the person or two-on-one, as the case may be, as to their response to your questions and comments on things that you might ask them.

The statements I have made in the past to this Committee the last time about the bill that is now law was done to do a lot of things. It was done to make a certainty of time for the inmate, for example, as one of the things. He would know for certain. There would not be this nebulousness as to, what do I have to do to be paroled, when am I eligible and that type of thing. I think the law has addressed that. I think the uncertainties that exist come between our problems between the Department and Parole Board on just terminology, such things as the institution may see the inmate as an above-average inmate, meaning all kinds of criteria that was previously used by the Boards of Trustees to parole. The Board itself now doesn't see that, and doesn't see them as quite that good and doesn't rate them as good, and therefore either denies parole or sets a rehearing date, when in the past he would have been paroled.

Now, management-wise, that is a problem institutionally for us, but I think the point I wanted to make is the tone that I pick up here is about inmates getting out prematurely and so forth. I would say that just using the indeterminant panel, the length of stay of inmates doing indeterminant sentences has increased, and it has increased almost double the time they are staying in jail, since this board has been in effect. The previous stay was about ten months and it is up to about nineteen months on these indeterminant sentences. I am not telling you whether that is right or wrong. I am commenting that there has been a change, and there has been a change in the severity of the time the people are staying. I think that was the intent. I am not criticizing it. But, it is happening. So, it is not that things are slipping through.

I think one area we have to look at is aggregation of the sentences. I will give you an example on that, particularly in the area of escapes. One of the biggest deterrents we have over people in minimum security is the fact that if they did take off, they face an additional sentence, and that sentence could be severe. Under the aggregation if that comes into effect, that could mean that person might only do two or three months in jail. That, I think, should be looked at, because that is no deterrent to a person facing a fairly long time. I am taking a chance on this or two or three months. I would think that is something that should be looked at.

The Bureau of Parole under the new act is not included under law enforcement officers, and therefore doesn't have arrest powers. My feeling is, I know the Board feels strongly that they should. This means a couple things. If there is a warrant executed on a man or woman as a parole violator, the parole officer has to get a hold of the police officer to make this arrest. He can't do the arrest. I think

the parole officer should have the arrest power. They had it in the past. I don't think it was abused. I am not sure of the reasons for him not having it now, but I think that he or she should, because this means particularly in the cities with the police as overburdened as they are, getting calls to arrest a parole violator, particularly on a technical violation, is not going to be any kind of high priority for them. I can understand that. I think that the parole officer should have that power, and I would suggest that be put in.

Another thing is, a parolee can come into a parole office and report and actually threaten to kill somebody as has happened, and the parole officer has no arresting power. He has no way to detain that person without getting the police. I think there should be a way to do that. It was there before, and I think it should be back in. It certainly would serve as a protection to society.

The other thing is, money-wise, the bureau has received less money and appropriations, and I think what we have is the parole board at times setting what is the ideal by the law, the condition of intense supervision, which may be rather meaningless, because the parole bureau does not have the staff to do intensive revision. I think the reason the Board can set it and should be able to do it is because they have identified this person. In a caseload of maybe eighty people that you have to intensely supervise and check on, forty out of the eighty cannot realistically receive intense supervision. These are the things that I would like to see addressed.

I think the Committee could, if there are continued hearings, hear some of the internal problems that are caused by inviting the Chief of Parole, and/or some of the superintendents that are directly involved. That is all I have, Mr. Chairman.

SENATOR SKEVIN: Thank you. I have no questions. Senator Orechio.

SENATOR ORECHIO: I just have one question, Commissioner. A person is convicted of a crime and incarcerated, and they had a previous drug record, what happens in a correction process in terms of counseling or monitoring or attention to that prisoner or that convict who was incarcerated in terms of a previous drug problem. Just what is the process, just what happens?

COMMISSIONER FAUVER: Well, the classification committee at the institution may decide that the person needs counseling or therapy in drug related problems. And there may be an attempt set up to parole him or her to a drug program on the street as part of the condition of parole that they have to maintain residence. I would point out, with the numbers of people coming into the institutions that have a drug problem, there are not adequate programs in the institution by any stretch of the imagination to assign all the people who have drug problems to these programs. They are identified, yes, and if we check out the ones that we feel are the most amendable to the treatment program and put them in it, since we don't have the wherewithal to put everybody that has a drug problem into the drug program.

SENATOR ORECHIO: But you have methadone programs.

COMMISSIONER FAUVER: We have maintenance programs, and mainly those would be on the street. We have, in some cases, maintained programs in the institution if a person was on it when they came in, and we have been asked by the board or someone to continue it.

SENATOR ORECHIO: But it is not initiated there.

COMMISSIONER FAUVER: No, it is not initiated there.

SENATOR SKEVIN: Is it mandatory, Commissioner?

COMMISSIONER FAUVER: No, no. It would be mandatory if the classification committee assigned the inmate to a program and he refused to go. It would be the

same as him being assigned to a work program or some other program and he would receive disciplinary action for not going to the program, which information would be available to the board.

SENATOR SKEVIN: That would be a factor in any consideration for parole.

COMMISSIONER FAUVER: Definitely.

ASSEMBLYMAN JACKMAN: You can't give him an additional sentence, can you?

COMMISSIONER FAUVER: You can extend his time, Mr. Speaker.

ASSEMBLYMAN JACKMAN: Or if you talk about an individual who has seven to ten, once he completes his ten, in the eighth or ninth year if he defies you, you can't keep him after ten years.

COMMISSIONER FAUVER: That is correct, you can't. The only thing we could do is go to court and prosecute him if he has done something that is a crime; you can't keep him past his max., no.

SENATOR SKEVIN: Do you think we should?

COMMISSIONER FAUVER: Well, I don't think--- I am not a lawyer, so I am not restricted to saying we have to obey the law. I guess we must--- (Laughter)

I think there are cases where people are identifiable as threats and may max out and there is really nothing that can be done about it. I think there should be some way to do it. I can think of a case of a man who maxed out of Trenton State Prison in the last couple years and went down south and committed a multiple murder. And the reason he maxed out was because the parole board saw him as a severe risk and did not give him parole. But, there was a point where they had to let him go. I think there should be some way. I am not sure what is best.

ASSEMBLYMAN JACKMAN: Commissioner, you mentioned before that there has been the service of additional sentencing under the mandatory sentencing act, and then also you are finding the people are staying in jail longer. What is happening? Are we at the maximums today in the jail population? Are we in some serious troubles here?

COMMISSIONER FAUVER: Yes. I think that we are, and the maximum as far as the Department is concerned, we have reached it. I think the maximum is ultimately going to be decided in court. I would say this, because of the overcrowding, and in any of my comments today, if they were seen as anything about getting more people out, that is not true. I am simply saying that they are staying longer and I say that really in a sense in defense of the Board, because I think the law was supposed to be tougher, and I think that is happening. I think people are staying--- I know they are staying in longer, and I think the Board is meeting that responsibility. But, it should not be construed that I--- I would never suggest that these people should be released because of overcrowded conditions. Just as I have maintained within the Department that we not put people in minimum custody-- you do not belong because we happen to have a bed there and not have one inside. But, I think fairly shortly the courts are going to decide what the maximum is, Mr. Speaker, not us. But, we have reached it as far as I am concerned.

SENATOR GAGLIANO: I have a couple of questions with respect to restitution, not just restitution to the victim but I think that is very important. I also am concerned about restitution to your agency or to the State of New Jersey from people who are incarcerated who have an income. I was just wondering if you had any idea in terms of percentages how many inmates, for example, in the State prison system are on either social security or are getting veterans' or railroad retirement benefits or that type of benefit, a pension type benefit that is being paid to them, and they are keeping it or it is being held for them. What percentage of people would you say you had in that category?



COMMISSIONER FAUVER: I don't have it with me, but we do have exact figures on that. It is not very high. I will send you the names, and the figures and everything else to the Committee. We do a monthly check on that, because we are asked to by the Federal Government in one of the cases of social security particularly and we picked up on the veterans' benefits the same way. It is not a large number. When I say small, my recollection is it is about 14 cases of social security benefits and some of these could be survivors benefits to juveniles, too.

SENATOR GAGLIANO: Fourteen people or fourteen percent?

COMMISSIONER FAUVER: No, fourteen people. It is not a large number. There are others receiving veteran's benefits.

SENATOR GAGLIANO: My question is asked, because I am considering introducing a bill to attempt to get that money paid to the State in order to support these people. I can't understand, frankly, why. In the first place, they committed a crime, and then they are in jail and the taxpayers have to support them in jail and yet the Federal Government is sending them checks. It doesn't seem logical to me.

COMMISSIONER FAUVER: Well, I am not sure why it is happening. I would agree that there are cases. On the other hand, the veterans' benefit for education, if a person is a veteran and is receiving those benefits because of his veteran's status, I think he should be paying for any education he is getting. I don't think the benefits should be cut off. I think there should be a way for us to get---

SENATOR GAGLIANO: Well, let's follow that for a minute. You mean, he is getting an education in jail.

COMMISSIONER FAUVER: That is correct.

SENATOR GAGLIANO: And, who is supplying the Professors, or whomever is teaching that.

COMMISSIONER FAUVER: The State is supplying that.

SENATOR GAGLIANO: Okay. He is getting a check from the veterans' administration which is payable to him that he keeps or it is kept for him until he gets out.

COMMISSIONER FAUVER: Right.

SENATOR GAGLIANO: How many of those do you have?

COMMISSIONER FAUVER: I think it is less than fourteen. It is a small number. It is twelve or under. We have approached the---

SENATOR GAGLIANO: Is this in the entire system?

COMMISSIONER FAUVER: Yes. We have approached the Veterans' Administration on that issue and we have been told that we can't touch the money. I think that we should be able to help defray those costs. I would point out another thing. There have been some states that have instituted legislation that inmates have to pay at least a portion of their incarceration. The only people we do that with now are those on work release. They have to pay a percentage of their money to help with their support.

Other than that, the great majority of the inmates that come in are indigent. They have no money. State pay is roughly, for the average inmate, probably around a dollar a day. So, there is no money to draw from in most cases. What I am saying is, if such a law could go through in New Jersey it is in tune with the times, but I am not sure it would have any real meaning.

SENATOR GAGLIANO: Well, what was the Trantino issue on with respect to restitution. I am not familiar with that. Wasn't there a restitution issue?

SENATOR SKEVIN: It is before the courts.

SENATOR GAGLIANO: I know. But, what is the issue.

SENATOR SKEVIN: Can there be proper restitution in capital cases?

SENATOR GAGLIANO: That is the basic issue.

COMMISSIONER FAUVER: I think to respond to something you didn't ask me about, but you commented on before about it, isn't there some way to track people that get out and see who does well and who doesn't do well. There is, and it is being done, and we can't give you the Department's figures on that. But, I want to caution you, the people that do best on that, in jail and out of jail, when they get out, and the group that least recidivates is the murderer. Because a good portion of these crimes are situational crimes. They involve one thing, a man kills his wife or a wife kills the husband, as the case may be, and unless he or she gets married again, they usually--- That doesn't happen, because the object is removed. So, I don't say that lightly. That is the track record. If you just looked at that, I am sure that no legislation is going to come out saying that all murderers should get first eligibility because they make the best risks. There are a lot of factors that have to be considered, and I think that our job in the Department is to get the best material we can to give the Parole Board to make the best decision they can. And, that is---

SENATOR GAGLIANO: Commissioner, overall, I think you have a substantial amount of experience; is it more difficult today to run a prison than say it was five years ago? And, if so, what are the major factors that are of concern to you and your people doing this? This is the first chance I have had to ask questions of you.

COMMISSIONER FAUVER: Well, I think it is more difficult. I am not sure whether that is because I am getting older, or because---

SENATOR GAGLIANO: Well, that means you have gotten smarter, too.

COMMISSIONER FAUVER: Well, but that doesn't always follow, particularly in my case. I think it is more difficult for a lot of reasons. I think there are pressures on the system that didn't really exist in the past. That means they did five years ago, but they certainly didn't ten years ago.

The statutes on the prisons is to safe-keep inmates, protect society, and so forth. There is nothing in the statutes that says anything about rehabilitation, and yet there has been an assumption all along that the prisons should try to do that, and I would agree. I think they should. But, it is not the crime---

SENATOR GAGLIANO: There is nothing that says that. The judges say it all the time.

COMMISSIONER FAUVER: The judges say it, and I think it is an expectation that has been raised that really isn't there. The rights of the inmates as defined by the courts have been the problem for us. I didn't mean that I don't think the inmates should have rights or shouldn't be defended by the courts. They should. But I think the fact that courts were very reluctant to interfere or intercede at all in inside prison kinds of problems until the last decade, and since then there have been all kinds of cases decided on internal running of institutions, what inmates have to have and don't have to have.

I think in most cases that has forced people to deal with things or with problems and to come up with alternate means of solving them, but at the same time, it has put a burden on learning what you can and cannot do in the way of transfers and in the way of disciplinary actions. That has certainly been a problem in the learning process for us. I think the most serious problem facing us right now is the overcrowding. That has been traced throughout the country and in this state. If we have had problems internally it has been because there is no break. The American Correctional Association and all the standards are that there should be about 8% cell space available at all times, so that you can make moves within your system to avoid problems, to make moves necessary. And since we have not be able to do

that it just engenders more probability of problems within the institutions. But, I think the adjustment to the case law--- For example, decisions on our management control unit, administrative segregation units as to what inmates are entitled to, inmates ten years ago were not entitled to anything in the way of legal access--- Well, they may have been entitled to it, but there was no case law that said what they specifically had to have. The maintenance of law libraries for all the facilities so that the inmates have access to this and can work on their appeals and so forth, which they should have---

I have had some experience before Appropriations Committees. When I say I need this money to do a law library, "They say, "Well, they don't need a law library." And, I will say, "The courts say they do." And they say, "Well, let the court fund it." So, we wind up funding it out of other things. There is just no fund to put toward that. The one issue right now is overcrowding.

SENATOR GAGLIANO: On that issue of overcrowding, is there a balance there in terms of the facilities? Does the overcrowding pretty much focus on the minimum security institutions? What about the minimal security?

COMMISSIONER FAUVER: No, minimum is the one place we probably are not overcrowded, and as I said, meeting the maxes are--- There is no question they are overcrowded, and the minimum security units such as camps, farms, that type of thing, most are at capacity, but some are under. For example, Jones Farm which is in West Trenton has the capacity of 140 or 150 and it is running at maybe 110, something like that. The reason for that is, not that we would not like to fill those beds and relieve some of the crowding inside, but as I said the one thing the Department is charged with by statute is the safety of the inmates and the citizenry. I think it would be irresponsible on my part for my Department to put people out there that we feel are not good risks, even though that is a pressure that is constantly there.

That is another thing that is used by people. They will say, the Department is looking for space or money, or whatever it might be, and their total beds show that they do have 100 beds. Well, we have the beds, maybe, but we don't have the people to put in them, and I don't think we should put people in them that don't belong.

SENATOR GAGLIANO: Newark and Camden have been mentioned as possible sites for a new prison. Would they be considered as maximum security institution sites?

COMMISSIONER FAUVER: They would be medium, Senator, which would mean the maximum security will continue to be Trenton, and basically the sentencing structure is that anybody who has a twenty-year sentence or up, which would include all the life sentences, would initially go to Trenton prison. The only other people going there would be disciplinary people from the system who have escaped or assaulted officers or other inmates.

The medium security would probably be between five and fifteen years, something like that.

SENATOR GAGLIANO: Thank you.

SENATOR SKEVIN: Mr. Commissioner, who has the jurisdiction on making the decision on who goes into minimum security. Would that be your decision?

COMMISSIONER FAUVER: It is the decision of the Department, yes. It is made at the institution. At the individual institutions they have a Committee that is called a classification committee which is made up of top staff of that institution who reviews the record and interviews the inmates before they go into that status.

SENATOR SKEVIN: Do you pass on that decision?

COMMISSIONER FAUVER: I don't review it unless they want me to, if there is some question. Usually what I review is when the inmate is turned down and then he writes and says, "I don't see why I was turned down. I should be allowed to go."

If the institution has a question about the person whether they belong or don't belong, they will contact me or the Deputy or Assistant Commissioner, but we have Department standards that spell out what the criteria are and they go by those criterion.

SENATOR SKEVIN: In the Trantino case, there was a psychiatric evaluation in which the examiner noted, "Psychological testing suggests marked evasiveness and a certain tendency to minimize his difficulties and conflicts. Individual with similar MMPI profiles are frequently described as resentful of authority as having limited frustration tolerances, and having difficulty expressing hostility in a controlled and appropriate manner."

Would you have second thoughts about a recommendation for Trantino to minimum security if you had that report before you now, Commissioner?

COMMISSIONER FAUVER: Well, I don't think so. I think in retrospect the fact that he did a lot of years in minimum security and continues to do that without having been a problem would kind of reaffirm the decision by the Committee to put him out at that time. He has not been a problem in minimum security. I think that minimum security basically is a good test on the way out for people. If they can't handle it, obviously, that gives the Parole Board a judgement as to how they could handle society.

Basically what we try to do is, for example, on a case like that, on a murder case, we start the person off in maximum custody and they have to do, in a case of murder, at least five years in maximum before they are eligible for the next step down which would be medium and then they go to gang minimum which means they are with somebody all the time, but they are outside the security of the institution, and then full minimum which means they are on the grounds of an institution, but they don't have to be with somebody all the time. They can be dropped off, for example, to a dairy to work and then picked up a couple hours later, that type of thing. It does give them a test as to whether they can handle that--are they missing or bringing in drugs or what are they doing? He met those criterion, and he stayed in minimum.

SENATOR SKEVIN: In addition to that psychiatric evaluation, if you took into consideration his prior institutional conduct, which contained the number of infractions, reflecting a fine attitude to those in positions of authority, would your answer still be the same?

COMMISSIONER FAUVER: All I can say is that would have been also considered by the Committee when they made the decision to put them in minimum. There are, at any one time, better than 400 people in murder cases. In Trenton, for example, that means roughly half their population, and that means that they have a lot of experience with people like this, although they are all different and they are all individual. As I said, I am sure they had that material when they made that decision. To tell you the truth, if anybody called me at that point and said we want to do this, is it okay, would you have somebody review it and let us know your opinion --- But, it is not a one person decision, unilateral. It is a Committee, and the Committee consists of the top custody person in the institution, a psychologist, social worker, and I think I like it that way, because when we had problems before -



and some of you were around when they had Senate Committees checking into furloughs and work release abuses - a lot of abuses we found were occurring by people who were put out by an individual or as an exception as opposed to a Committee decision, and we changed our standards on that; only the Committees could make those decisions, not an individual.

I would say even with that, it would still be put out and given a try. Because, one, look at some of the other factors in this case. If I were sitting on that Committee with that information, I might be hesitant and tell them you have to come back in six months without any more disciplinary reports, and then we will consider putting you out to see if your attitude has improved. I don't know that they could do that, because I don't know at what point in time that was written as opposed to when he went to minimum.

SENATOR SKEVIN: This evaluation was as of November 17, 1980. That was subsequent to the time he went out.

COMMISSIONER FAUVER: As I say, he is out. That doesn't mean he can't take off tomorrow if he so chooses, but he has made it. I think the other thing going is that with a lot of people doing life terms for murder and particularly if the case is a murder of a police officer, the inmates are not dumb. They know what possibility lies ahead if they are a wanted person, and people are looking for them. So, I think that is a deterrent that isn't there where the guy just did a B & E and his name is not going to ring a bell with police agencies throughout the State. But, with the number of years in the system, all factors considered, when he was ready for minimum, he was put out. As I said, I think it is a justified decision.

SENATOR SKEVIN: Could you tell me when that occurred, Commissioner.

COMMISSIONER FAUVER: No, I am not sure.

SENATOR SKEVIN: Well, approximately.

COMMISSIONER FAUVER: I think he has been out five years in minimum.

SENATOR SKEVIN: So, that is approximately 10 years in maximum and 5 years in minimum. Would you describe what that minimum security means. I am not familiar with it.

COMMISSIONER FAUVER: Minimum security in this particular case means he is at the Wharton Tract which is in the forest, and that is the name of the unit, and it houses about 50 some inmates who live in a building which is a one-story brick building which has food service and everything available. They work in the forest and do work for Environmental Protection and have programs and schooling and visits right at that unit. They have officers there around the clock, but as I indicated before in minimum they may not be with them specifically at every point during the day. But, he has been involved working as a paraprofessional there in the past with the educational programs, and there is just a number of programs for counseling and so forth that are there, and they work in the park.

We have other units at Stokes Forest and High Point in Sussex County where inmates do much the same thing. They will build trails and repair camp sites and do what in the past might have been CCC work many years ago. I think it is appropriate type work. He talks about restitution to the community and so forth. I think those are the kinds of things that they should be working at, because it is a payback to society, not individually.

SENATOR SKEVIN: Weekend passes?

COMMISSIONER FAUVER: Weekend passes are given when you are within six months of your eligibility date for parole. You are then eligible for a furlough in this case which is not automatic. It is an eligibility, and you don't have

to be granted that. Out of 7,000 people within the system on furloughs, about 100 a month is what we run.

SENATOR SKEVIN: In the area of celebrity cases, such as the boxer named Scott, and Trantino, and maybe there are others I am not familiar with, that write books and earn money professionally, what happens to the earnings?

ASSEMBLYMAN JACKMAN: Scott pays restitution. That was part of the program we put together.

COMMISSIONER FAUVER: In the boxing, yes, it is in the contract that a percentage of his purse goes to the violent crimes fund.

SENATOR SKEVIN: What percentage is that?

COMMISSIONER FAUVER: I don't recall right offhand.

ASSEMBLYMAN JACKMAN: Off the top of my head it is 5% or 10%.

COMMISSIONER FAUVER: Also, out of that, any of the fights that were held internally out of that purse is the payment for correction officers to work and all those expenses. I am not sure if this is a law right now, but there has been a discussion among committees over here on any profits made from a book as a result of a crime committed, that a good portion of that should go to the fund. I would think that is appropriate. I am not sure if that is the law now.

ASSEMBLYMAN JACKMAN: No, it is not now.

COMMISSIONER FAUVER: That could be appropriated.

SENATOR SKEVIN: Mr. Trantino wrote a book.

COMMISSIONER FAUVER: Yes, and there are a number of inmates that have written books.

SENATOR SKEVIN: Have they been successful financially?

COMMISSIONER FAUVER: I don't know.

SENATOR SKEVIN: Are they able to retain those funds?

ASSEMBLYMAN JACKMAN: I just wanted to bring this to your attention. That was one of the big reasons that we felt we should get this restitution, not in a sense to buy back an individual's life-- But, I could never understand the reasoning behind letting a guy like Trantino get out of jail, make a movie about him, wind up with all that kind of money coming down the pike and then do nothing about it. It would seem to me that any kind of money that was made should go back to the family. I don't think you could ever give any money to a family as a payment for the loss of a life, but I could never understand the reasoning behind why we would allow Trantino to go out and make a movie and write a book and then sit back and maybe get a quarter of a million dollars or a half a million dollars and then sit home after spending eighteen years in prison and cut coupons. To me, that kind of money should be put into the violent crime fund. It is never going to buy back a life. But, at least we will be doing something for the education of the children or grandchildren or what have you of that person whose life was taken. That was one of the thoughts that we had on that, Senator.

I got involved with the Trenton Prison, as you well know, and I visited with Jimmy Scott and for your edification, Senator, we took his wife off welfare, and he now takes care of his children and he paid me restitution back to the welfare fund for the time he was in prison, and today he is still enjoying those monies. He pays a certain percentage of that back. This was an understanding which we had with the people in the correctional system. He was checked out very thoroughly. In fact, I got involved in it to make sure the money was going to be signed over. He has done that. He has made that kind of restitution.

Now, in fairness, the correctional system has been doing that. It would seem to me - and I hope nobody thinks I am saying this in haste - if you

are going to put bookmakers into jail for three to five years, and then feed them, and then they come right back out again and they have \$100,000 homes and they have the best of everything while they are in there, and we are paying for it, it would seem to me if they can afford to pay they should pay while they are in prison. That is one of the things that we thought we would put together.

SENATOR SKEVIN: Mr. Speaker, your point is well taken. I would agree to this extent that bookmakers should not be in jail at the public's expense. They should pay an appropriate fine for that. But, the violent criminal, Mr. Speaker, should remain in jail to the maximum term and any benefits and any profits from his endeavors should be returned to the State for the violent crime fund.

I am interested to know what percentage of Scott's earnings are retained and what percentage goes back to the State.

COMMISSIONER FAUVER: I am not sure. The Speaker says it is about 5% or 10% that goes to the fund. But, he pays out of his purse also any expenses, as I indicated, as if he were on work release, so he pays a daily maintenance or weekly maintenance. I am not sure what it is, \$30 a week, or \$40 a week.

ASSEMBLYMAN JACKMAN: He pays for all his meals and everything, so he is not getting any free ride in that sense. But, I am not sure of the total. I didn't get that involved in the signing of the contract. He has attorneys, and the Deputy Attorney General represents us. I am not sure of the exact figures.

SENATOR SKEVIN: Senator Orechio.

SENATOR ORECHIO: I would like to ask the Speaker a question. Are you suggesting, Mr. Speaker, that any citizen who is in prison during his incarceration that he be invoiced for the maintenance fee that the State assumes while he is incarcerated?

ASSEMBLYMAN JACKMAN: I think---

SENATOR ORECHIO: At the end of this incarceration period, there is a lien against him or his estate, like we do with senior citizens in nursing homes. If they own property, of course, there is a lien and the property at some point satisfies whatever the maintenance cost is while the senior citizen is in the nursing home. Are you suggesting we treat the prisoner in that manner?

ASSEMBLYMAN JACKMAN: Well, I think if there is an ability to repay if the prisoner can afford that--- If he is in prison and he can afford to pay for his own meals, and he can afford to take care of his wife while he is there, and she is not on welfare, I think that individual should be made to pay for his meals, yes. Senator, why should we pay for them? It is something to think about and something to look at. Some of these people live in \$100,000 or \$200,000 homes and they are sitting in prison for two or three years and we are feeding them. Why can't somebody think in terms of maybe utilizing some of that money or make a donation to the violent crime fund equal to the amount of money that is being spent for him while he is incarcerated. That is something that could be explored. That was one of the bases of restitution we talked about.

You know, you can go back to the Son of Sam, that situation in New York City. This is where this thing came into being, an individual with \$300,000 or \$400,000 and he is in prison and why should his family enjoy that money for what he did. Let him at least pay for his meals and everything else while he is in prison. That is something to think about. I am not just thinking about the sale of a book. I hope no one thinks I was trying to be funny when I said that. I am thinking in terms of anybody who can afford it, they should be made to pay for it. Now, we did that with Jimmy Scott, and there are others. This

was part of a program. This was a boxing program. He was getting monies, and overseeing it on the basis of the Deputy Attorney General looked at one end of it, and he had his lawyers at the other. I can tell you that it made sense.

To me, I think we should explore something along that line. One point that I think is very important, and I would like to ask about is, what is the turnover of your help today in the correctional system?

COMMISSIONER FAUVER: The turnover at the prisons of correction officers is high. It is very high.

ASSEMBLYMAN JACKMAN: You know why it is high, don't you? Let's not kid ourselves. We all know. It is there because you can't attract young people to come in there with the kind of salaries you pay them.

COMMISSIONER FAUVER: The salaries are one factor, and the other is just the tension or---

ASSEMBLYMAN JACKMAN: That is a tough job. Let me tell you something, number one, you are in there--- I hate to say this, but I think you will give me this permission. You and I know that the correctional system is not running the prisons today. The point I am trying to convey to you is, when I walk into the Trenton State Prison, or Rahway, you know there is a group of inmates in those prisons that have pretty good control over the rest of the inmates in a sense. It is a tough situation. I know if I was working in the correctional system today with no gun and no protection, just walk in to a guy with a life sentence, and he is going to be there for forty years, and you as a guard give him a little rough time, and he takes a good couple of swats at you and that is the end of you. By the time anybody gets to your defense, you are dead. What will you give him another life sentence?

COMMISSIONER FAUVER: Well, that is part of my plea on the aggregation of sentences, too, Mr. Speaker. If the aggregated sentence, or this assault on the officer is to the point that he is only going to do two or three months, I mean, it is no protection, therefore, for our officers.

I would like to, Mr. Chairman, dispel one myth. The Speaker mentioned bookmakers. Somehow there is generally a feeling, and not from him, that a lot of times people say there are people in jail that don't belong, and they use the bookmakers as an example. Bookmakers and lottery writers, and so forth, we did a study on the numbers committed just within the last month. I did it for Senator Graves and one of his Committees. The total was 30 in the system. They were all in minimum custody, and 24 of the 30 were at Jones Farm. So, there is not a large number of those people. None of them are taking up medium or maximum security beds.

ASSEMBLYMAN JACKMAN: Are they paying for their food?

COMMISSIONER FAUVER: No, they are not paying for their food.

SENATOR SKEVIN: Commissioner, on that minimum security area, how many are there for first degree murder in minimum security?

COMMISSIONER FAUVER: I am not sure of that. It would not be many, because in some of the places that are minimum camps such as Jones Farm where they are near populated areas, we are more restrictive as to who we put there. We do not have any murderers at all at Jones Farm, whether they are first or second degree or whatever.

Where we have a more isolated setting such as Wharton Tract or the camps in Sussex County, there we would have some, but not many. Marlboro Camp, for example, there was an arrangement made with the community a number of years ago.

SENATOR SKEVIN: So, it is really an exception rather than the rule as far as homicides are concerned, or first degree murders.

COMMISSIONER FAUVER: For first degree murders, I wouldn't say it was the exception. There is a point where they can make it, but the places they can go are limited. In other words, a general inmate in the system, there might be six or seven minimum security settings that he has a shot at being placed. For the first degree murderer, that may be narrowed to one or two. And, if there are no openings there, then he is not going to go. He will have to wait longer to go.

SENATOR SKEVIN: And, of those one or two places, do we have any numbers?

COMMISSIONER FAUVER: I can get you those numbers. I don't have them with me.

SENATOR SKEVIN: Senator Orechio.

SENATOR ORECHIO: In first degree murder situations, is there a minimum stay in a maximum security prison even before they will be considered?

COMMISSIONER FAUVER: Yes, five years. Now we are looking at upping some of these figures, because of the mandatory sentences. Basically, the feeling prior to this was a percentage of your time in. For example, in the old system, five years on a life sentence, as an example, was almost half. Because by the time he worked that down, he could get it down to about twelve years and some months. So, it really was not as extreme as it might seem on the surface. It was almost half of the time that he would serve, if he was making the adjustment to be paroled.

Because of the mandatory limits, we are looking to a process of upping the amount of time that people have to stay inside before they go out. But, again, it is going to only exacerbate our crowding problem, because it is another reason for meeting the needs of our maximum security beds.

SENATOR SKEVIN: Are there any other questions? If not, I thank you, Commissioner.

John Cannel, Department of the Public Advocate.



J O H N   C A N N E L: I would like to address myself only very briefly to this subject and concentrate on the question of burden of proof, which I gather is the primary concern of the Committee. I don't think the burden of proof has been a problem for the Parole Board. I don't think it is very much different from what it was because the case law did require a statement of reasons. This just changes the technical burden.

It is important to realize that when the case does come to court, it comes as an appeal from an administrative agency and the administrative agency is given every consideration and I don't know of a single case--there is a case now pending--but I don't know of a case where that determination has been overturned in similar sorts of circumstances.

So, I think it is something that the Parole Board can work with and, in fact, they are working with it very well.

There have been a variety of figures given concerning the number of paroles given. It is a little too early to know exactly what it is going to settle down at, but it appears that roughly the same percentage of people are getting out on their first parole eligibility as was in the past. If that is the situation, it is clear that the Parole Board is able to handle the burden.

I think the system has to be looked at as a total. The Penal Code put in very much longer sentences and put in mandatory minimum sentences. Coupled with that was a change in the parole law and the reason was that, first, the focus should be on what matters. Under the old system, there were a lot of allegations that if you were a good con, you knew how to live in jail, you were the kind of person who would get out. The theory here is that this focuses on the one thing that matters to society, whether you are going to commit another crime when you get out and I don't think that that basic standard should change whatever the burden is.

Now, by putting the burden on the Parole Board, it is true that they need to come up with evidence, but since they always needed to come up with reasons, I think that there hasn't been a difference and I think that the constant percentage underlines that. The reason for the burden, the purpose for putting it on the Parole Board is to give a kind of predictability. The inmates, under the old system, had a real sense that they didn't know when they were going to get out. They didn't even know, really, when they were eligible, but that isn't really before us. They didn't have a sense that the decision was made in a fair manner. Now, I'm not suggesting that it wasn't made in a fair manner. I think it probably was, but there was a real perception problem with the inmates that they didn't really know what was going to happen to them and it was, to some degree, arbitrary. Now, I'm not suggesting that these are people whose perceptions are really the key concern of the Legislature. But, it has often been stated--and it can't be proved, really, one way or the other--that one of the things that contributes to recidivism is a kind of a sense in the prisoner that he hasn't been treated fairly, that it isn't a matter of he did something and he was punished as he should have been punished and treated as he should have been treated, and one of the things that the prisoners thought was not fair in the past was the parole system.

Now, to underline that, back in the days when we were dealing with the old parole system, as I said, the parole percentage was about constant. It was about the same as it is now. We got a great number of letters from people who claimed that they had been unfairly denied parole. The same number of people are

getting out and we get a lot fewer letters. Now, if that is contributing to a lowering of recidivism, that is worth a whole lot and I think that it could conceivably be contributing in that way. It is much too soon to know, really, what the whole effect of the whole parole law change will be. The Parole Board is due with a set of statistics at the end of June of this year--they publish the statistics every year--and we'll have a lot more information in June and if this Committee were to meet again in the fall, it would have a lot more statistics, but I think that is even too soon. There are a number of problems that I have with various provisions of the law. I would not even raise them here today. I think it is too soon to begin tinkering with things. If we want to get an idea as to what the total effect of the law is, we should wait. To begin making small changes now will create a situation where we will never be able to know whether what was passed is effective or not. For that reason, I would, in the absence of a real emergency, take a "hands off" attitude. I don't think there is an emergency. I think the standard does work. I think that in some ways the Trantino case shows this. Agreeing or not agreeing with the decision, the Board split. Some members of the Board believed that there was sufficient evidence to hold Mr. Trantino in. Others disagreed. But, if the vote had been slightly different, I think we would be seeing even more clearly that the system does work, that it is possible to come up with sufficient evidence to hold a person in. A change of one vote would have made the difference. I don't think that that's an emergent situation. I think it is merely a difference of attitude, a difference of opinion in a particular, single case. I don't think it poses the broad emergent problem which requires a change in the law now. I'm available for any questions that you may have, but I really think that in so far as the general subjects, able people before me have explained it thoroughly.

SENATOR SKEVIN: What participation does the Public Advocate have in the parole system?

MR. CANNEL: Very little at this point. When a person applies for parole, he does it without legal help or, rather, when he is considered for parole, he is considered without legal help. If he is denied parole and takes an appeal himself to the Appellate Division, we are often assigned as counsel in those cases. There have been none since the new Parole Act, to my knowledge. We are involved in violation of parole hearings and, therefore, directly involved in that whole system and practice. We also were one of a great many public agencies involved in that.

SENATOR SKEVIN: Excuse me, what were you involved in?

MR. CANNEL: Violation of parole.

SENATOR SKEVIN: How many cases?

MR. CANNEL: I am not able, right now, to give you the number of cases.

SENATOR SKEVIN: Was it a good number of cases?

MR. CANNEL: It was a very substantial number of cases. We have a section of lawyers who do nothing else but handle people who are charged with violation of parole, either new offenses or failure to report or failure to live up to other conditions.

SENATOR SKEVIN: By and large, does the Public Advocate represent most of that type of legal work, parole violations?

MR. CANNEL: I haven't seen the indigency statistics but I would be very much surprised if they were below 90%. The normal person who is on parole has no money.

SENATOR SKEVIN: So, the Public Advocate does most of the legal work, in terms of--

MR. CANNEL: Most of the legal work for violations. For granting parole, that's done without a lawyer. That, as a matter of fact, is a good reason for the burden of proof to be on the Parole Board. If the inmate has to develop his own reasons for proving his own ability to get out, the articulate prisoner or the prisoner with money sufficient to hire a lawyer will be in a much better situation. By putting the burden on the Parole Board, it is a lot less unfair to deny the inmate any assistance because he really doesn't need the assistance in the same way.

SENATOR SKEVIN: I'm not talking about the fairness between the inmate and the Parole Board. I'm talking about society, the protection of society in terms of whether that person should be released, who was convicted of an original crime.

MR. CANNEL: That, I think, is the good thing about the new Parole Act. It focuses on the one thing that society cares most about which is whether the person is going to commit more crime and I think that standard is the correct one. Now, so far as the burden of proof, if half of the Parole Board was coming in here and saying, "This burden is such that we can't meet it and we are letting out people that we grave doubts about," then I would say that you might be in an emergent situation. But, with the Parole Board feeling that they can live within the system, and with half of them or just short of half of them feeling that they should withhold parole from Mr. Trantino, I don't see the kind of emergent problem in terms of protection of society. I agree with you that that is the primary concern, but I think it is being taken care of.

SENATOR SKEVIN: If I told you that two of the Parole Board disagree with your views, would your view be different?

MR. CANNEL: I am convinced, essentially, by the ones I've heard, which is something over half. Now, I know there is some disagreement on the Parole Board, but some of those who have disagreed have been those who were able to find reason to hold Trantino in. If you have a person that says that this standard is no good for him or he says that he can't hold in the people that he needs to, and that's a person who found the ability to vote to hold Trantino in, I'm less convinced than if you had a person who came here and said, "I voted to release Trantino, but didn't want to." I think that that just has not been the experience. Now, I missed some of the hearing last time. Now, as I say, I heard three members of the Parole Board here today and one at the past hearing, and I've spoken to some, and I've spoken to the Executive Director of the Parole Board on a number of different occasions. Yes, there will always be some problems, there will always be cases where you have suspicion or doubts about a particular case. By and large, the hardest cases, in terms of danger to society, are the ones where it is easiest to say this is a person who is may well commit other crimes. There will always be cases, no matter how hard the Parole Board members work, where they will make mistakes. There are some people who are going to be released, who are going to commit more crimes. That is unfortunate and that is inevitable. If the people are released at the maximum of their sentence, if the sentence is less than life, there still is that danger. That, unfortunately, is the limitation of prediction. We are asking something very hard of the Parole Board, whether the burden is on them or on the parolee. We are asking them to predict the future. They can't do it perfectly.

SENATOR SKEVIN: Any questions, Senator Orechio?

SENATOR ORECHIO: No questions.

SENATOR SKEVIN: Thank you very much. New Jersey P.B.A., Dennis Haemmerle?

D E N N I S H A E M M E R L E: After listening to everything, I really don't know where to start. I will answer your question first with reference to the Parole Board controls at present. I feel that they are not strong enough and vastly too liberal at this point. I've come here today, basically, to attack the entire parole system and, not only the parole system, but total frustration with the entire judicial system as it stands right now. We are releasing prisoners too quickly. They are going in and out of our judicial system faster than we can process them. There's no question that that has to be stopped.

We have made attempts with mandatory sentencing procedures and they have helped. But, there's a stopgap and the institutions are quite overcrowded because of it and they will be continually more crowded.

I imagine everyone expects me to expound on the Trantino matter, which is obviously prevalent in local law enforcers' minds, at this point. I will touch on it briefly and then, I hope not to return to it for the rest of the talk. I see a big determination that we have to make as citizens of this state. At what point do we determine that a person is not suitable to return to society? Do we have to wait for the person to kill somebody, in particular in the execution type style that Mr. Trantino conducted. In my opinion and in the opinion of other police officers in the State, he belongs where he is now for the rest of his life.

One of the most important things that we have to concentrate on is the career criminal in this state. We are spending enormous amounts of time processing criminals through our system and our system is one entire system of breaks, from the time he first meets a police officer on the street, right through the entire system, to his last day in prison. It's a break from the time he gets arrested, all the way through plea bargaining, through the prosecutor remaining silent at the time of sentencing, right until he gets into the institution where he receives another big credit for time served or a reduction in sentence, and he's back out on the street.

I won't go back to Trantino because, as Bergen County has their Trantino, Ocean County has their Larry Adair. I'll go into that very briefly, I hope, just to give you an idea that it is not just Trantino that we're speaking about. We're speaking about the mass influx of criminals back out onto the street. It is becoming impossible for us to handle.

Larry Adair, at the age of 18, started his criminal career. He had a substantial juvenile record prior to that, but, as of 18, starting in August of '71, he had convictions for possession of stolen property, fraud, assault on police officer, drunk and disorderly, assault and battery, and he was institutionalized for an indeterminate term in Yardville. He escaped and was reinstitutionalized. In '73, he was charged with stolen property, larceny, kidnapping of a minor and adult, and assault with intent to rape. In 1975, he was charged with sodomy, atrocious assault and battery; in '78, threat to kill, murder; in '79, he was charged with murder, and sodomy and murder in 1980, which is his most recent conviction. The most recent conviction, which is very prevalent in my mind, is the murder of a 14 year old boy in Ocean County. It was committed, supposedly, when the man was still institutionalized. He was placed in a minimum security institution and walked off

and went back to Ocean County and murdered and raped and sodomized a 14 year old boy. This is the kind of element that I am talking about. I'm not talking solely about Trantino. We have a lot of these people in the state and I feel that the present system that we have is not spending enough time concentrating on the career criminals. We are allowing these people back out on the street too fast. We are not stopping them. We have to wait for the man to commit a murder before we decide that he not suitable to put back out on the street. There should be a stopgap prior to that. We are claiming rehabilitation, but, in essence, we are really just holding the man for a period of time and throwing him back into the flow of traffic and he's back into our judicial system. There has to be some other way to stop this and I definately--I guess the present parole procedures are not strong enough. There is no question in my mind about that.

Today, I heard somebody speak about things being fair to inmates or criminals. Is it fair to have to bury a 14 year old son? Is it fair to have to worry about your children coming home safe at night or your wife getting raped on the way to the market? There has to be a point where we're going to stop this. The judicial system, from the start, as I said before, is a break. When they get a guy on the street, his charges are modified to expedite his trial through the court proceedings. He is entitled to his plea bargaining system. He goes in and pleads to 75 counts of burglary and robbery in Ocean County and the man is given the opportunity to plead guilty to the even counts and they will dispose of the odd counts and the prosecutor will remain silent at the time of sentencing. That's wonderful. He goes over to the state prison system looking like he's not a habitual violator. But, it is not aware to a lot of people that the man has been in our system for many years.

Another person who comes to mind very quickly is Fred Schoenberg, who I knew personally as a juvenile, when I was a police officer in Lacey Township in Ocean County. I watched this man go through our system both as a juvenile and an adult right from his 18 birthday on, from fraud, breaking and entering, armed robbery, and have him come into our system and get put in a custodial situation to be put out on a work release program and conduct an armed robbery while he is actually out on a work release program in a state institution. These people are constantly going through our system. The guidelines must be more stringent for paroling prisoners.

We have to concentrate on the recidivists and we have to concentrate on people who commit heinous crimes against the public. We can't so readily turn these people back out onto the street to do it again.

To say alcohol and drugs are causitive factors, in some people, I would say yes. But, that is the biggest copout I have heard in years. 90% of the people that go in front of the judges and probation officers have an alcohol or drug problem because they know the system. They know the system better than you do. They know the system better than I do. They've had it from step 1. They know it all the way through. They know what they're entitled to and they know how to beat it. They know how to manipulate us and they know that we're bogged down with paperwork, mounds of paperwork, to get them through the system. So, they know how to beat us at our own game.

If we don't get stricter, people are going to have to take up arms themselves in order to protect themselves. That's what it is coming down to.

SENATOR SKEVIN: Thank you, Officer. You mentioned that there were a number of Trantinos and Adairs. Could you give us some idea of the numbers?



MR. HAEMMERLE: Well, I can give you Cornell Sparrow and Michael Sutton, which was a recent murder case last Christmas, if I'm not mistaken. These people had prior records of committing burglaries and robberies. Unfortunately, this one evening they broke into a house that they thought was unoccupied, but it wasn't. They found an elderly woman sleeping in her chair in the living room and decided that they were going to beat her over the head. They killed her and raped her and left her there. In numbers, I can only speak in Ocean County, maybe 20 or 30, off the top of my head.

SENATOR SKEVIN: Does the P.B.A. have any statistics available to show us, statewide, what you are talking about in Ocean County?

MR. HAEMMERLE: Not readily, but I'm sure it could be compiled.

SENATOR SKEVIN: Would you provide that for us, sir?

MR. HAEMMERLE: I would be glad to.

SENATOR SKEVIN: Specifically, the convict involved, the term of sentence--

MR. HAEMMERLE: As a matter of fact, this Cornell Sparrow, who was involved in this homicide, was sentenced maybe a year and a half ago. He is eligible for parole this August, which will be three years.

SENATOR SKEVIN: Officer, I share your views and your position on the question of fairness to convicted criminals as to fairness and concern to the victim. I think we overlook the fact that the victims are really the ones we should be concerned about and also the protection of society, rather than the question of fairness. The convicts already received their fair trial and, also, the various protections of the law. What do you see in terms of the old parole law as against the new one, if any, in terms of improvements?

MR. HAEMMERLE: Hopefully, they will be a lot stricter and be able to control, in particular, the committers of heinous crimes. We have to catch these people before they go out and commit a murder and we find out they are not suitable for society. We have to stop them before they go out and commit a murder, not afterwards when we find out that they not suitable. Presently, we are supplying to inmates and prisoners benefits that I myself cannot give to my own family.

SENATOR SKEVIN: Could you give us some illustrations of those, if you will?

MR. HAEMMERLE: College, free college. I would love to be able to send my children to college. I can't, myself, finish college because of financial situations. But, we are allowing prisoners the right to go through college and get the education that the working class people can't afford to supply themselves. There is medical attention that I can't supply for myself and my family. The prisoners get this. The working class people can't afford it themselves. They can't afford dental bills. Prisoners get it for nothing. There has to be something wrong with our system. There has to come a point where we have to stop and decide what is right for whom and what is wrong. At what point do the people maintain their right to be secure in their homes and not have to worry about the fear of being killed on the way to work tomorrow or have their wives raped while they go to a night job?

SENATOR SKEVIN: Do you have any comment about the maximum time that a first degree murderer should spend before he is eligible for minimum security?

MR. HAEMMERLE: I would have to agree that there are circumstances that would have to be considered in each case, and I will go back to the Trantino case. This was obviously an execution type murder. The manner in which these two police officers--and not just because they were police officers, but if they were

any citizen on the street--the manner in which they were executed, the person who killed them deserves to be incarcerated for the rest of his life. The public deserves to be safe from people like that and we owe it to the public.

SENATOR SKEVIN: Senator Orecchio?

SENATOR ORECCHIO: Actually, Commissioner Fauver responded to that question, saying that five years is a standard. That's a general policy.

SENATOR SKEVIN: He suggested an increase, if I recall.

SENATOR ORECCHIO: Outside of the Trantino situation--

MR. HAEMMERLE: A man's prior record--and I'll go back to the Adair case now--from 1971 to his first murder charge in 1975, the man had been incarcerated 20 some odd times from anything from petty larceny right up to atrocious assault and batteries, kidnappings, and attempted murders. At what point do we stop that and say that this man is not going to be rehabilitated, that he does not belong out in society? Are we going to put him out there and wait until he kills somebody and then say, "Gee, I told you he didn't belong out there." It's too late then.

SENATOR ORECCHIO: How many times do your records show that he was paroled?

MR. HAEMMERLE: I didn't bring the official copy. He was paroled, I believe, three times.

SENATOR ORECCHIO: No other questions.

SENATOR SKEVIN: Thank you very much, Officer. Lucy MacKenzie of the New Jersey Association on Corrections?

LUCY MACKENZIE: Thank you, Mr. Chairman. I am Lucy MacKenzie, representing the New Jersey Association on Corrections. We are pleased to have this opportunity to comment upon the New Jersey parole law and your concerns about the operation of that law.

The Association supported passage of the parole bill, and one of its authors, Professor Jameson Doig of the Woodrow Wilson School at Princeton University, is a member of our Board of Trustees.

The subject of parole is very difficult. The issues of determinate vs. indeterminate sentencing, criteria for release, dangerousness and recidivism have been the subject of intense debate for many years, and this debate will no doubt continue as long as there are prisons and prisoners.

We are meeting here today because of the Trantino case. The Association opposes the imposition of restitution when applied to violent crimes such as rape and murder and believes that the Parole Board made a serious error in inserting that issue into the Trantino case. Restitution is appropriate in the case of property offenses and is most appropriately used as an alternative to incarceration. It can take the form of community services, as well as monetary repayment.

But, this is not the issue before you. Senator Skevin properly reflects his constituents' concern about the premature release of dangerous criminals and that concern is shared by every citizen of this state. But, the Trantino case cannot be the standard by which to judge the parole law. It is a freak case because the original sentence could not be carried out. The new penal code has subsequently become law, and because of its passage, a criminal who commits the terrible crimes for which Mr. Trantino was convicted would have to serve 50 years. This is, in effect, a life sentence.

To sum up, restitution will probably not be imposed in this or similar cases. Mr. Trantino's sentence cannot be changed, but those who commit crimes like those committed by him will have to serve much longer terms. The decision to parole

or hold him can be made only by the Parole Board. The Parole Board could be abolished, but that would not affect this case and would present another set of problems.

It is the position of the Association that it is too early to judge the effectiveness of the parole law. We are somewhat encouraged by Mr. Dietz' statement that no more than 15 percent of former inmates commit crimes while still on parole, but far more information is needed which covers a longer period than the few months during which the current law has been fully implemented. It is certainly desirable for the Legislature to fully evaluate the law and all of its ramifications. But, such an evaluation must include its companion, the penal code. These two pieces of legislation represent a tremendous effort on the part of the administration, the Legislature and interested citizens. Let us respect these labors, and allow more time to pass before the the process of amendment begins. Thank you.

SENATOR SKEVIN: Thank you, Ms. MacKenzie. We appreciate your time and your input here today.

MS. MACKENZIE: Thank you, Mr. Chairman.

SENATOR SKEVIN: Now, we will go into the citizens portion of this public hearing and not that I would want to limit anyone, but we are under a time schedule limitation and I would appreciate very much, if there are statements, formal statements, that the statement be submitted and a summary be given or, at least, recognize the fact that we will terminate in about ½ hour. With that in mind, I would like to call Reverend Holmes of Roselle.

REVEREND LEROY HOLMES: I am thankful to be here this morning to participate in this hearing. Sitting back and listening, I feel that I should be here and many other people should be here because, to me, everybody that is sitting here is really uninformed to speak on the matter before this committee today.

Now, I'm in the clergy and, being in the clergy, you might have some bad ministers who are not true to their calling. That doesn't make religion of no effect. It is the same thing with police officers. You have police officers who go out and commit crimes. Does that make the law enforcement system break down? No.

Now, I've been incarcerated. I was in New Jersey State Prison for 22 to 25 years for the crime of murder and, at the time, that's really where I needed to be. But, did I need to be there for the rest of my life? According to the record standard, my past history before that crime, sure, it was bad. But, we take one incident and then we're just going to paint a black picture. You have 100 people come out of prison and one person does something wrong, one person goes out and rapes someone. We're not all criminals to start with. We start out as citizens and then we're made criminals and we go to jail. But, first of all, before they were inmates, they were citizens. So, we have to look at the right place. There is something wrong with our society, something wrong with our system to bring people into committing crimes. You say forget about drugs, forget about alcohol. These are the root causes. Have and have not, these are the root causes of crime. This is where our attention needs to be, not how long to keep a man in prison. Time doesn't bring on a change.

Now, when I went before the State Parole Board, it was a miracle that I was released. According to the time standards, my time wasn't up until 1985. I came out in 1972. But, since I've been out of prison, I've become a minister and I'm a pastor of a church in Linden, New Jersey. In that church I have quite a few ex-inmates in there. I have one man that did 16 years, twice on death row. He's

an upstanding citizen now. We got him a job. We honored him last month, the 28th. He was on the job for one year and didn't miss one day. That is a record that some of us can't even attest to. There is another man, Willie Collins, also a lifer. He is there in the church. There are five of them from all of the prisons all over. I spend all of my time and energy working and building up in the community. Now, if they had looked at the record and if I hadn't got a chance to get back in, where would I be. I came out of prison, got a job and went into mortuary science. I went before the State Board and they said that I couldn't be a mortician in the State of New Jersey because of my record. Okay, that was against me. But, now I'm a successful businessman. I am also the chaplain of the Adult Diagnostic and Treatment Center in Asenel, New Jersey, part of the Department of Corrections. Therefore, I feel that a person, each individual that comes before the State Parole Board has to be put down and each case has to be dealt with according to what they have before them and that person should have a chance to give to the Parole Board that which he feels or she feels would put them back into society or would give them a break. Without bearing the testimony of the Parole Board this morning, I feel that they need to be commended because it is a tedious job. It is a job that most people couldn't even function in, when you are dealing with the lives of people. We're not God. Even as far the Trantino case--I don't know him personally--but if the man has spent 14 or 15 years in prison, he deserves the right to go back out there. We can't bring back life. Sure, I committed the crime of murder and that's something that I've got to live with. I've got to make peace with God. I have to think about the family, the hurt of those people. But, because you commit a terrible crime, that doesn't mean that you're an animal. It means that you made a mistake. You went astray. There are people going astray every day. People snap in their homes or go out and get so depressed that they do things. But, these things come about because of situations. It is the situations that we've got to look at. These are the things that we've got to deal with. If we just throw people in prison and if the Parole Board is too lenient, why do we have an overcrowding problem? If they were as lenient as we are trying to present here this morning and we need a certain amount of time, 20 or 25 years, to keep them in prison, then there is something wrong. It is not a point of time. Rehabilitation is when a person realizes that he made a mistake and he recognizes that mistake and repents within his heart. At that point, he is totally rehabilitated. If it takes one second after he committed the crime, you can't rehabilitate that man no more if you give him 1,000 years in prison. It is not a matter of time. It has got to be within the individual. If he realizes that he's made a mistake, that's all there is too it.

Now, I've committed the crime of murder and I've been out since '72. I haven't been in any type of trouble. I've been going back and forth between the prison ministering to the inmates, trying to get them to see the light, trying to get them to look toward Jesus Christ, their Lord and Savior, to help them and assist them and make them a fruitful life. I spend all my time, the money that I make, my wife's salary and everything. We work and we need the community involvement so that when these people come out, the community can help the Parole Board, help the criminal justice system. When these people come out, they have guidelines. They have people that will sit down and talk with them to help them along the way, help their families, let the families what these people are all about. If they see the person is having problems, call up somebody. Let them sit down and talk with them. These are the things we implemented instead of just saying, put them in jail, put

them in jail. In jail, you make a man bitter. He's full of hate and he's sitting there, looking at these walls. Naturally, he is full of tension from being locked up and confined. We're doing this. We're making the police officers' jobs hard because you are putting him there and you're leaving him there with nothing. They need college. They need dental. They need medication. They need all these things. As you said earlier, if you turn them loose at the end of their max, what are you going to do? You're turning a mad dog out here and then you open up yourself to these kinds of situations. But, we have to deal with these situations with a level mind, with wisdom, with knowledge, with understanding and we've got to take them step by step, case by case, incident by incident and if we can't do this, we've missed the mark. If we just sit here and implement and make more laws to put people in jail longer, we've totally missed the mark.

SENATOR SKEVIN: What church are you associated with?

REVEREND HOLMES: I am the Pastor of Resurrection Temple in Linden, New Jersey.

SENATOR SKEVIN: Reverend, from what I gather, you are sort of in the process of rehabilitative work with criminals who are released from prison. Is that correct, sir?

REVEREND HOLMES: Yes, sir.

SENATOR SKEVIN: Do you know the Parole Board members personally?

REVEREND HOLMES: No. I have never met any of them personally. I think the only one that was on the Parole Board when I went before it was Mr. Dietz. All the rest of them are new members.

SENATOR SKEVIN: Have you spoken to any of the Parole Board members before you testified today?

REVEREND HOLMES: No, I have never spoken to any of them.

SENATOR SKEVIN: Okay, thank you very much for your testimony.

REVEREND HOLMES: Thank you.

SENATOR SKEVIN: Elaine Harvey from Lodi?

E L A I N E H A R V E Y: Senator Skevin and members of this important sub-committee, I thank you for the opportunity to address you concerning the serious nature of parole law and decisions which affect the welfare of each of us.

It seems appropriate that your second sub-committee hearing is being held the week of April 18, which has been named "Victims' Rights Week" by President Reagan, who was unfortunately injured along with his associates by a gunman.

No one is immune from attacks of violence. Perhaps the time has come to realize that we must afford the victims of crime the help and benefits which our tax dollars have always afforded to the offenders. Certainly, those in need of true rehabilitation to adjust to the loss of dignity or life are crime victims and their families. It has been beyond my comprehension how, in our system of justice, any offender who, before 1972, could be sentenced to death for a heinous crime could be saved from execution because of the abolishment of the death penalty and they already have been or may soon be released by parole. It is difficult to understand how anyone whose crime is so severe to be sentenced to death could ever be allowed or afforded the opportunity to walk the streets again to menace society.

I make a comment about concerning social security, disability and veterans' benefits, which I researched, which I won't read to save time. Also, I make a comment that there should be a limit put on the media from sensationalizing criminal offenders by going onto state property to interview and photograph the offender so that these

inmates can make blood money from their so-called stories of life. The real stories are in the hearts of survivors, not in the heartless bodies of the takers and violators of innocent human life.

Concerning parole law, I make several statements. However, I will only make a few that I feel are more important. Until the punishment, again, for a violent offense is as capital as the crime, the life sentence must mean life in prison with maximum security, with minimum benefits, with absolutely no parole eligibility. In the event that the death penalty is reinstated in New Jersey and once again abolished, there must be no parole for inmates who were previously sentenced to death.

The burden of proof of parole eligibility must be returned to the offender. I might even comment, perhaps it should be on both, the offender and the Parole Board, since it is such an important matter. Until then, and always to be considered, is the original crime plus any previous convictions by an inmate. These must be heavily weighed concerning evidence of substantial likelihood that the inmate will commit another crime. An inmate should not be made to feel that just because he or she followed certain rules and is a good boy or a good girl that he or she will be released regardless of the seriousness of their crime. If a violent offender should somehow become eligible for parole, all Parole Board members must vote unanimously for release beyond a reasonable doubt, not only by majority vote.

Included in the specific conditions required by a parolee, there must be a preventive rule which will restrict any criminal from profiting from the crime by writings, movies, etc. There must be a stop put to educational benefits, career opportunities, weekend trips, marriage furlows and other increments to violent offenders. Members of the Parole Board should, perhaps, also include those persons who have experienced the reactions of violence.

In conclusion, the lawmakers, the media and the public must work together in the hope of controlling and preventing the violence each of us is touched by each day. We must stop contributing to violence by offering benefits we ourselves cannot afford and we must stop the celebrity status given to violent offenders, if there is to be any future for a civilized society. I also have a few things attached to the material, which I would like you to review.

SENATOR SKEVIN: Thank you, Ms. Harvey for your testimony and your report. I would like the record to show that Ms. Harvey is from Lodi in Bergen County, which is my district and she is the sister of one of the policemen in the Trantino situation. Dennis O'Malley from Camden?

D E N N I S O ' M A L L E Y: Good afternoon Senators, ladies and gentlemen. My name is Dennis O'Malley and I am an ex-offender and currently on parole. I am employed by the Department of Corrections as a youth work supervisor for the past nine months. Prior to that I worked for two years with the Division of Youth and Family Services with emotionally disturbed youths. I really appreciate this opportunity and privilege you are giving me today in allowing me to speak. I pray that justice and fairness prevail at this hearing.

Personally or politically, I have nothing to gain by being here, except for the satisfaction that I will receive to see if Mr. Dietz and the New Jersey Parole Board receive the support they deserve. Mr. Dietz was not aware of my being here today or what I am going to say, as far as I know. I've read about the former hearing and offered to answer any questions or give explanations about how I feel about the



New Jersey Parole Board and Bureau, whose job it is to oversee our progress upon our return to society.

Personally, I have great respect for the Parole Board, for they have accepted the challenge and responsibility for discerning when a man is ready to return to society and be productive instead of destructive to themselves or the people that they will be interacting with in their daily activities. They cannot see a man's mind. So, I hope you will be able to understand the pitfalls and problems that they encounter daily when someone they release in good faith and fairness turns bad. Please let me remind you of what Abraham Lincoln said. He said, "You cannot strengthen the weak by weakening the strong. You cannot keep out of trouble by spending your time finding fault in your brother. You cannot further the brotherhood of men by inciting class hatred." We must have compassion for the poor and those in jail who we build character and courage in and then asking them to succeed by taking away a man's initiative and independence, especially after he has lost his freedom and dignity. You cannot help or permanently be responsible for men and women by doing for them what they can or should be doing for themselves.

The Parole Bureau is doing a great job of keeping their clients under control, but, believe me, they are understaffed and overworked in a very stressful job. Their caseload is between 75 and 100 clients monthly and they have to file reports of all kinds and monitor their activities, especially if they are involved in drugs, alcohol or gambling. They do this by having their clients report bi-weekly or monthly, by urinalysis or blood test, whatever they feel will benefit the person they are trying to help make the transition in a positive way.

Many of you have families and realize the problems that can develop in them. Can you imagine what the Parole Board and Bureau have to deal with trying to serve 8,000 men and women presently incarcerated? These people are, as I was, labeled emotionally or socially maladjusted. Many of us survive, but I lived with over 1,000 men and can truthfully say that many of these men will not make it due to their self-hatred and condemnation and lack of respect for themselves, especially if they are repeaters.

There was only one psychologist and consulting psychiatrist at the prison, probably due to their budget. They were happy to have that service, but again, their work, as with the Parole Board and Bureau, who had to hear thousands of cases, has got to be given credit, since their dedication and workload has got to be overwhelming at times.

I personally saw Mr. Dietz at the prison on several evenings as late as nine o'clock, in order to give every man his chance to be heard and also to have all the facts to protect society as well. Mr. Dietz has the respect of many people and is also feared because, if you deserve a break, in his estimation you will get it. But, if you repeat your mistake, especially under the new penal code, you are going to do the hard time. Mr. Dietz has been reappointed and I think the people of New Jersey should thank God for having a man with such principles and commitment, as he demonstrated in his last appointment.

I hope we all realize that crime is winning the battle and is rising in many states. Violence in New York and California and Chicago has reached proportions of an increase of 20 to 60%. I read statistics that the 1980 FBI Report, where just last year there were 1,814 murders in New York. In Chicago it is 963; in California, 640; and in Miami, crime has increased 60% due to drugs, murder, rape and violence.

I would like to remind the senators that I feel we are fortunate because we have fine people in this state and county and municipalities in law enforcement who need your support and cooperation and I am sure that the reason you are here is out of concern for these men also and for our citizens who have to be our primary concern.

In closing, again, I thank you for allowing me to express my views and, please, feel free to ask any questions and God bless you in your mission and in what you are trying to do to clarify everyone's benefits.

SENATOR SKEVIN: Did you say that you worked for the Department of Corrections?

MR. O'MALLEY: That's correct, sir.

SENATOR SKEVIN: In what capacity, sir?

MR. O'MALLEY: As a youth work supervisor in the juvenile division with teenagers 16, 17 and 18.

SENATOR SKEVIN: In what area is that?

MR. O'MALLEY: It's in Camden at a halfway house there, which is an after-care unit, which is a vital necessity to these young men that are being released that have no family or means to support themselves and we provide that through the Department of Corrections.

SENATOR SKEVIN: You counsel these youngsters?

MR. O'MALLEY: I counsel them and guide them to the best of my ability, yes.

SENATOR SKEVIN: What kind of routine is that? Is that an 8 hour day or 12 or what?

MR. O'MALLEY: It is normally an 8 hour day, but it sometimes runs 10, 12 hours.

SENATOR SKEVIN: And you work five days a week?

MR. O'MALLEY: I work five days a week, yes.

SENATOR SKEVIN: 8 to 4?

MR. O'MALLEY: I work 8:30 to 4:30.

SENATOR SKEVIN: Is today a working day?

MR. O'MALLEY: I am here on vacation. I took a personal day.

SENATOR SKEVIN: Now, did you have any conversations with any members of the Parole Board about your testimony today?

MR. O'MALLEY: No, I did not and Mr. Dietz did not sit at my hearing, when I was released, but I'm sure he was aware of my case.

SENATOR SKEVIN: Okay, thank you very much for your input, Mr. O'Malley.

MR. O'MALLEY: You're welcome.

SENATOR SKEVIN: Dick Leopold, Gamblers Anonymous?

D I C K L E O P O L D: Good afternoon. I would like to thank you, Senator, for staying around to listen to some of our testimony.

SENATOR SKEVIN: I have to. That's my job. There's no extra pay, but that's the job.

MR. LEOPOLD: I would like to say, first of all, I want to speak not only for Gamblers Anonymous, but I would like to speak for myself as a citizen also. I was very impressed here today with what I have heard.

I would like to believe that I am well informed. I follow the news, I am aware of my environment and I am definitely convinced that the burden of proof

does belong to the Parole Board. There is no question in my mind. I think that these people are dedicated. They are human beings and just to single out one particular case where one man got through and say that they are doing a lousy job is not really fair. I think we have to get the entire picture in perspective and when I heard this one young lady mention that only 15% of the people who are paroled ever get into difficulty, I think that's fabulous.

I also think something else. I think that we're focusing in on the one man who committed a heinous crime, he murdered somebody, and everybody is looking at him. What about all these other people who are in jail for doing other things who have cost society so much money? I can't believe that we want to neglect those people and yet, these people are allowed to come out and they become worthwhile citizens. So, we have to look at the overall picture before we make a judgement. I think sometimes we are hurt and there is a crisis in our life. If there is a crisis in our life, then we begin to do something about it.

With that thought, I just want to bring up why I am here and what's been happening in our society today. You see, New Jersey has become the mecca for gambling in the entire world and with this, there have been a lot of crises. There are a lot of people now forming anti-social acts which cause them to get into difficulty with the law. I am very concerned about this because this means that somewhere along the line the parole people are going to have to look at these people. Alcohol and drugs are "old hat". We have just as many compulsive gamblers in the United States as we have drug addicts or alcoholics. Yet, we perpetuate gambling, we encourage it and when people get into difficulty, we turn our backs. Therefore, what we would like to achieve, we want people to become aware that this illness is just as severe and we want to educate the people who are in a position to help, in a position to do something about the problem.

By the way, if you came into the Gamblers Anonymous room, you would be absolutely astounded at who is sitting in those rooms. There are people in all walks of life.

SENATOR SKEVIN: Some of our best people.

MR. LEOPOLD: Right, some of our best people are there. Therefore, I think that society, we have an epidemic in New Jersey and something has to be done about it. There is a crisis going on. I just want to make one other comment. I think our judiciary system is really the area to get into. They are the ones who do the sentencing. I don't see what the Parole Board has to do with the sentence doled out by the judges who sit there, who are trained to this kind of thing. I think the only function of the Parole Board, really, is to determine whether these people can go out into society and become better human beings and I just want to say that I am glad that I have had the opportunity to say what I feel. There are many people in the judicial system who are now aware of Gamblers Anonymous in New Jersey and they are sentencing people, actually, to our rooms so that they can become remotivated. I don't like to use the word, "rehabilitate", because I don't really know what it means. That word is thrown out very loosely. They are forced to go there. We are looking for ways of stopping people from committing other crimes. This is a way to do it, to get the agencies involved. Let these people know that they have to pay a price and maybe this kind of price is what we have to do.

Well, I'm just glad to have had this opportunity and if there are any questions, I can tell you all about the gambling problem. We monitor it very carefully and, as an individual, not speaking for GA, I am very appalled at what I see. I can only tell you that this is my feeling. Thank you.

SENATOR SKEVIN: If I can just go back to Mr. O'Malley for a minute, Mr. O'Malley, did you ever discuss any of your testimony today with any state employee or the Department of Corrections?

MR. O'MALLEY: I just wrote this about four o'clock yesterday.

SENATOR SKEVIN: Did you discuss it with anyone?

MR. O'MALLEY: No one.

SENATOR SKEVIN: Did anyone indicate or ask you to appear today?

MR. O'MALLEY: I called Mr. Tumulty and I told him I would glad to appear. This was approximately a month ago or three weeks ago.

SENATOR SKEVIN: He asked you to come or did you ask him?

MR. O'MALLEY: No, I volunteered.

SENATOR SKEVIN: Did anyone ask you to come and appear today?

MR. O'MALLEY: No.

SENATOR SKEVIN: And it is the same with Reverend Holmes?

REVEREND HOLMES: I volunteered.

SENATOR SKEVIN: Did you discuss this with anyone in the Department of Corrections?

REVEREND HOLMES: No, I didn't.

SENATOR SKEVIN: Mr. Leopold, where do you live?

MR. LEOPOLD: I live in Willingboro, New Jersey.

SENATOR SKEVIN: And, you're an officer with Gamblers Anonymous?

MR. LEOPOLD: Well, I work in public relations for them, yes.

SENATOR SKEVIN: And, you're speaking in a representative capacity?

MR. LEOPOLD: Some of the things I said was for Gamblers Anonymous and some was as a private citizen.

SENATOR SKEVIN: Did anyone from the Parole Board or the State Department of Corrections discuss this with you before today?

MR. LEOPOLD: No.

SENATOR SKEVIN: Do you have any friend there?

MR. LEOPOLD: Dennis O'Malley.

SENATOR SKEVIN: Mr. O'Malley is your friend?

MR. LEOPOLD: He comes to our room. This is how I am able to come here today.

SENATOR SKEVIN: Okay, thank you for your input. Are there any other persons who would like to testify before this committee today? If not, we will conclude the hearing today and we will make future announcements as to any further hearings. Thank you very much.

(HEARING CONCLUDED)

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