

PUBLIC HEARING

before

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

on

EXAMINATION OF ISSUES CONCERNING SECURITY AT RAHWAY STATE PRISON

Held:

February 8, 1984

Perth Amboy City Hall

Perth Amboy, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman George J. Otlowski, Chairman

Assemblyman Paul Cuprowski

Assemblyman Garabed "Chuck" Haytaian

ALSO PRESENT:

Senator Laurence S. Weiss

District 19

David Price, Research Assistant

Office of Legislative Services

Aide, Assembly Corrections, Health

and Human Services Committee

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ASSEMBLYMAN GEORGE J. OTLOWSKI (Chairman): Will the Committee please come to order? We're running late, and I want to apologize for that. Since the hearing is in a new setting, that probably accounts for the tardiness of our start.

I promised the people of this area that we would hold a hearing in District 19, which is also the site of the Rahway State Prison. We are keeping that promise today by holding this hearing here in Perth Amboy.

First of all, I would like to call the roll of the Committee, please.

MR. PRICE: Assemblyman Otlowski?

ASSEMBLYMAN OTLOWSKI: Here.

MR. PRICE: Assemblyman Cuprowski?

ASSEMBLYMAN CUPROWSKI: Here.

MR. PRICE: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Here.

ASSEMBLYMAN OTLOWSKI: Let the record show that Assemblymen Visotcky and Felice are absent. They made their absences excusable by pointing out, even before the hearing started, that this date was not convenient for them and that they could not be here. As a result, of course, they were excused. However, the record will be made available to them.

Before we start, I just want to read a very brief statement. As I indicated, we wanted to hold the hearing in this area to give the Woodbridge officials a chance to be here and, at the same time, to make it convenient for the Carteret people, and for other Middlesex County people. I hope that this hearing concludes our business with Rahway State Prison. Later on in the record, we are going to show that Assemblyman Deverin hopes that very shortly his bill will be adopted which will change the name of the Rahway State Prison to the Prison of Central New Jersey. Rahway is in Assemblyman Deverin's district and, as a matter of fact, the community there is asking him to have the name changed. Assemblyman Deverin cannot be here because he has business of his own which developed this morning and will prevent him from being here. In any event, he wanted the record to show that he is pushing

the legislation to change the name of Rahway State Prison, and he hopes to get that through the Assembly within the next thirty days.

In addition to that, I think his feelings, from what he tells me, are the same as the feelings of the people of Woodbridge, that on any number of occasions the people of Carteret have been anxious, upset and frightened. Assemblyman Deverin just wanted to put this in the record to make sure that whatever is necessary will be done to tighten up the security at Rahway State Prison. We will get into that later, but so much for Assemblyman Deverin.

Senator Weiss said that he was going to be here, probably a little later. Speaker Karcher may or may not be here, depending upon how his schedule winds up for the day. In any event, both Senator Weiss and Speaker Karcher, of course -- both of them from the nineteenth district -- have very strong feelings about the security of that institution, and they have expressed them any number of times. So, the record will show that.

In the meantime, the purpose of this hearing is to examine the problem of maintaining security at Rahway State Prison in the neighboring community of Woodbridge Township. Escapes by prisoners from the minimum-security facility there have been a longstanding subject of complaint by residents of this area, as well as by local officials. This concern prompted a lawsuit by Woodbridge Township against the Department of Corrections a few years ago, and has led to various efforts by the administration at the prison and by the Department to deal with the security problem.

We want to examine all the aspects of this problem today and, hopefully, we will come away assured that the Department and the prison officials are dealing with this problem. I am certain we agree that the obligation of government is to protect society from those who commit crimes and from those who are incarcerated in a penal institution; it is one of government's most important responsibilities. We are here today in furtherance of that effort.

The Committee hopes that the testimony presented today will provide a better perspective on the problems involved in this important policy area, and will help us to better see all the dimensions of the

subject. We look forward to hearing from everyone who has come to speak today. I especially want to express my appreciation to Commissioner Fauver, to the Prosecutor of Middlesex County, to Superintendent Rafferty and, particularly, to the Mayor and the officials of Woodbridge Township.

Anyone who wishes to testify, of course, should submit his or her name to David Price, to be assured of being called upon.

Now, for the record also, we want to include "Background Information for the Public Hearing on Rahway State Prison Security Issues, February 8, 1984," and I am going to give this to our reporters. This information highlights a story in the Star-Ledger on Rahway State Prison minimum security. They ran a series on that developing the whole phase, and then a breakdown of the escapes from 1975 to 1984, and the prisoners still at large. In addition to that, it highlights the building of a cyclone fence there, the results of that fence, and what impact that had upon security. In 1979, the police apprehended two minimum-security inmates who repeatedly escaped from custody to rob local homes, and so on. In the Spring of 1983, Woodbridge Township officials claimed that minimum-security inmates had been drinking in local taverns and breaking into local homes.

This document shows that Rahway State Prison maintains a camp at the Marlboro State Hospital, and also shows some of the problems that that has created, and so on. So, we are going to make this a part of the record.

Just so that everyone is identified here, on my right is Assemblyman Cuprowski, on my left is Assemblyman Haytaian, and walking in right now is Senator Laurence Weiss. Senator Weiss, will you please sit down here? We are very glad to have you, and we are just about ready to start the hearing.

First, we are going to call on the Mayor of Woodbridge Township. Mayor, with you are the Chief of Police, Anthony O'Brien, and your Aide, Joseph Nemyo, and you're going to present the Woodbridge case. Is that correct?

MAYOR CERRIA: Yes.

ASSEMBLYMAN OTLOWSKI: Mayor, for the record, will you please identify yourself completely, giving your full name, the town that you represent, and your title?

MAYOR PHILIP CERRIA: For the record, my name is Phil Cerria; I am Mayor of Woodbridge Township. With me I have Chief Anthony O'Brien and my assistant, Joseph Nemyo, former Democratic Councilman in Woodbridge Township.

Originally, I had intended to give you some background, but the Assemblyman has already eloquently touched on almost every phase of it in the latest report he submitted. However, as the Mayor-- As a matter of fact, ladies and gentlemen, I have been on the Municipal Council for the past ten years, and I just assumed the office of Mayor on January 1 of this year. I am familiar with the problem, however, since I guess I was probably one of the most vocal councilmen. In fact, all of the councilmen were vocal at the time of the problem.

To give you some background, yes, the prisoners from this minimum-security camp were walking away, frequenting local bars, and robbing homes in Avenel and other places in Woodbridge Township. The Council at the time, as well as the Mayor, Mayor DeMarino, and prior to him Mayor Cassidy, worked hard with prison officials to correct the situation. A fence was installed as one means; there were mounted patrols as another means. However, it just seemed that the problem was still there, even though steps were being taken.

Back on October 25, 1983, the Mayor and Council requested a hearing in the Council Chambers in Woodbridge with the Superintendent of Rahway State Prison and his staff to discuss the problem. Prior to the hearing -- I believe I could be wrong on the date, but I would say around August or September of 1983 -- some prisoners were out on a work detail, outside the walls, and they escaped. That is what prompted our request for the hearing.

Now, at that hearing which was held on the evening of October 25, there were many points of discussion between municipal officials and the Superintendent and his staff. A number of recommendations were submitted, one of which was the implementation of uniforms for prisoners -- the wearing of uniforms. I'm sure most of you, if not

all, know that in the prisons the inmates are walking around in regular civilian clothes. As a matter of fact, I was one of the councilmen when they showed the "Scared Stiff" program, the initial program. That was my first time inside a prison, and when I saw the prisoners in civilian clothes, it just kind of surprised me. However, that is going back awhile.

This point was discussed in general and at length with the Superintendent. The Council was concerned, and requested that the Superintendent consider having these prisoners wear uniforms. Now, the intent on the municipal level was for the uniforms to be worn at all times, in order to make a distinction between the inmates and the general public. You might say, "Why?" The reason is that in the past, the experience was that they were walking away. When a man walks away in regular civilian garb, there is no way anyone is going to know that he is a prisoner walking down Rahway Avenue, or Route 9, etc. At least with the uniforms, if they reach that point where they are walking away, they can immediately be recognized and apprehended. That was the basis for that request. I know that the uniform concept was implemented; however, it was only implemented outside the camp. When the prisoners go outside for their work details, they put their uniforms on; when they go back in, apparently they have the option to change back into civilian clothes.

Personally, I believe, as does my Council, that these uniforms should be worn at all times. That was the first request that was made, and is the first request I am making here as the Mayor.

The second point of information, or the second request that was discussed back in October, was that when the guards are taking these prisoners out for their work details beyond the walls, they really have no communication with anyone inside the walls. What we recommended at the time was that these guards be issued two-way radios whereby they could keep in constant communication with the people inside the walls. In the event that a situation arises, as it did that time when they just ran, immediate communication could be made with the people inside the walls, and action could be taken as soon as possible in order to apprehend them before they got too far away.

That request, as far as I know, has not been implemented. Therefore, that is the second request I am submitting to this Committee, and hopefully this will be implemented at the site.

The third thing that was discussed quite extensively was the fact that when these prisoners are taken outside the walls for work details, the guards have no guns in their possession, no firearms. To me -- and again I am speaking as a layman, not as a policeman or anyone with any kind of law enforcement background -- it would seem that the guards should be out there with the inmates, on their details, with some sort of firearms. Since that was not being done, the Council at that time also recommended that guns be used. Personally, as a Councilman, and now as the Mayor, I feel we should go a step further and have the guards carry shotguns. When these inmates are taken out for their work details, I would suspect that when looking at a shotgun in the hands of a guard, an inmate might think twice, if not three times, before he considers making a run for it.

Those are the three basic requests we, the officials of Woodbridge Township, have submitted in the past, and we are submitting them to you now, a Legislative Committee, with the request that you consider them. I understand from what I have been told by Mr. Rafferty and his staff that their hands are pretty well tied by legal requirements. It was just indicated to me this morning that an inmate going before a judge is not even handcuffed, even if he is a murderer. I'll tell you, if I were a judge I would want him handcuffed, but I guess that is the law. I think the Legislature has to start to take a hard look at this, and maybe try to come up with some concepts that would tighten up, or toughen up the law to help the guards, and to help the public, instead of being so concerned about the rehabilitation of these murderers, or inmates of that nature.

I think the time has come, and society has recognized the fact, that the pendulum has to swing back. We have to start protecting the public, and protecting our police officers, guards, and everyone else who is there to protect the public. I will say, for the record, that since our meeting with Mr. Rafferty back in October, he has been very cooperative and we have opened up a line of communication. As I

said, they implemented the uniform concept, to a degree. I just want to say that the man has improved the system to a degree where at least we do have an open relationship. I think, personally again, that it should be on the record that the man is doing the job.

In regard to a point which was brought up by Assemblyman Otlowski which really is not related to security, I would just like to go on record, as the Mayor, that I also support Assemblyman Deverin's bill to change the name of the prison.

Gentlemen, I appreciate you allowing me this time to come before you. I hope that after you go into your Committee meetings and consider all the requests and information from all the particular individuals at the hearing this morning, and after your deliberation, maybe there might be some new legislation coming out which will hopefully help the public. I want to thank you.

ASSEMBLYMAN OTLOWSKI: Mayor, thank you very, very much. Assemblyman Cuprowski, do you have any questions?

ASSEMBLYMAN CUPROWSKI: Yes, I believe I do. Mayor, first of all, I want to thank you for coming down. I think this is important for someone in your particular position, not only as a newly-elected Mayor, but as a Councilman for ten years. I think you can appreciate the problem better than anyone. So, I certainly appreciate your taking the time to come down to give us your opinion.

What I would like to know specifically is -- I know in the past you have received complaints from local residents about prisoners being seen in local taverns, drinking and so forth. I would like to know, in your opinion, is that still in existence? Do you still receive local complaints on that?

MAYOR CERRIA: No, we are not receiving any complaints. However, I will refer that to the Chief. (Mayor consults with Chief O'Brien.) No, we are not receiving complaints at the present time. Again, I credit that, as I said in my last statement, to the fact that the Superintendent has taken some effective control which has more or less stopped it. So, as of, let's say October, we really have not had that major problem. The information I gave you was strictly historical background, something which did happen and which could happen again, but, fortunately, it hasn't happened recently.

ASSEMBLYMAN CUPROWSKI: Thank you.

ASSEMBLYMAN OTLOWSKI: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: I would just like to follow up on that, and then ask another question. Assemblyman Cuprowski asked about the complaints. Was there anything done by your local police when these people were seen in the bars? I mean, can it be verified by a police record that they were there and you took them back to the prison, or were the complaints from people who thought that someone was an inmate? That is not quite clear in my mind.

MAYOR CERRIA: Okay. Complaints came in, and there was no question about it. Our Police Department responded to the complaints and, in conjunction with Rahway officials, apprehensions were made and the convicts were returned to the prison.

ASSEMBLYMAN HAYTAIAN: (interrupting) All right. Were these considered escapes, because-- I'm sorry, Mayor, for interrupting you.

MAYOR CERRIA: This is also in the record; if you so desire, we have that information and you can obtain it.

ASSEMBLYMAN HAYTAIAN: Were these considered escapes, because in 1983 there were three listed, in 1982 two, and yet from reading this background it seems that this was a situation which occurred on a regular basis? Now, I don't quite understand that. If they were not considered escapes, what were they considered? I guess maybe that is a question we have to ask. I truly would like to know if this occurred on a regular basis, and if it would show up in the police ledgers. Would it show up as an escape, or is it just considered an everyday situation? I do not think that is the case, but I don't know, and I would like to know.

MAYOR CERRIA: Well, as far as the terminology applied to this situation is concerned, whether or not it is an escape, I would concur with you. I would suspect it should be considered as such. To say, "Yes, it was considered an escape," I really couldn't tell you that. All I can tell you is that it was happening, and that apprehensions were made. As far as the necessary interpretation, or action taken, I would suspect, again, that if it was considered an escape, which it should have been, that necessary disciplinary action

should have been taken accordingly, but that I don't know. You would have to get that from the prison officials.

ASSEMBLYMAN HAYTAIAN: The only problem I have with that, Mayor, is that if it was an escape, I don't think they would stick around drinking in a local bar. They would take off somewhere; at least I would think they would.

MAYOR CERRIA: Well, that's what I say. It is all according to the interpretation of the terminology.

ASSEMBLYMAN HAYTAIAN: All right. Maybe we can ask the people from the Department of Corrections when they come up as witnesses during this hearing. The next item is, you indicated there was a request for firearms. Now, according to our background again, we're talking about minimum security. I would hope the people on work details are not murderers or rapists; I don't believe they are in that category. They are people, I would assume, who are in there for different crimes. Again, Corrections people can tell us, but these are minimum-security people we are talking about. Generally, when we had work details, for instance from a county facility -- and I am a former Freeholder who was in charge of these areas -- we had work details and the guards did not carry firearms, specifically because a firearm on a correctional officer could possibly be detrimental to that correctional officer, rather than an aid when trying to stop an escape. That is the reason, from what I have been told, and there may be some significance to that. I don't know. However, you requested it, and I put the request down so we know we have it, Mayor. Regarding shotguns for guards, I would hesitate to say that. I would not want the work details to be considered chain gang situations, because in a sense we are getting those people out there, first of all, for work, and secondly, for recreation, and to keep them busy. I don't think we would want that situation in people's minds. Now, that is just my opinion. It is not a question, but it is an opinion.

I would hope we could solve this problem if the problem exists, but not with firearms.

MAYOR CERRIA: If I may respond, Assemblyman, your initial reaction to the inmates in the minimum-security camp was exactly the

same as mine back a number of years ago. Unfortunately, I found out that we do have murderers in this camp. These are inmates who have been incarcerated for maybe five or six years, who have reached the point where they can be transferred into a minimum-security camp. These are the people we are concerned about who are out there on work details. I have always held the opinion that, you know, if he has murdered once, he'll do it again. That is why I firmly believe that firearms are necessary.

The point you brought out regarding safety for the guard himself was exactly the information we were given at our meeting in October, and I can understand that concept as far as the guard being overtaken is concerned. If he is carrying a gun, someone could turn around and use it on him. I understand that. But, that concept would apply to a guard who might have a pistol. That is why I zeroed in on a shotgun. I would suspect it would be much easier, if an inmate got into a battle with a guard, to take a pistol from him. However, I think if I were a prisoner looking at a shotgun, I would think twice before making an attempt to go after that type of gun. But, in answer to your first question, there are murderers in that minimum-security camp.

ASSEMBLYMAN HAYTAIAN: Thank you, Mr. Chairman; thank you, Mayor.

ASSEMBLYMAN OTLOWSKI: Mayor, just to complete the record, the document which has been referred to points out that there were thirty-one escapes from the year 1976 until 1983. This document shows there have been none in 1984. There were thirty-one in all, and the biggest number was in 1977, when there were ten. The number thirty-one, of course, is a large number over that period of time, and I think this is what is disturbing to the area, particularly to Woodbridge Township. I think some of the things that Assemblyman Haytaian developed are very difficult questions to grapple with. As a matter of fact, they are things the Committee will probably consider if legislation is going to result. It may be that no legislation will result from this hearing, but it depends on what the record comes up with.

Mayor, you indicated that your working relationship with the prison officials is good -- you have a good relationship with them. You indicated, also, that they have tried to be very cooperative and, as a matter of fact, that the relationship is open. That statement still stands, is that correct?

MAYOR CERRIA: Definitely.

ASSEMBLYMAN OTLOWSKI: Mayor, just one other thing. While Senator Weiss is not a member of this Committee, since he is the Senator from that district I am going to extend the courtesy to him to ask any questions he might have at this point.

SENATOR WEISS: Thank you, Assemblyman. Mayor, I was rather surprised to hear today that there is another category beyond escape. I would suppose, Mr. Chairman, and I am just running this through my mind, that it would be somewhere between AWOL and desertion, as they had in the service. It seems a bit incongruous to me. I would rather believe that if a man left a prison, whether it is minimum security or maximum security, whatever the degree, it would, in fact, be categorized as an escape.

I know those who are incarcerated in Rahway. I live within two miles of it, as the crow flies, and have lived within five miles of it all my life. So, I know the prison and I know its location. It would appear to me that certainly there could have been more done in the past than was done, and hopefully in the future we will succeed in having the Department of Corrections do whatever is necessary to keep these people in there. I know the prisoners -- and possibly it is a natural human element -- have a lot of impatience; they want to get out, and not serve all the time they have been granted by the judiciary of the State of New Jersey, and the citizens thereof. However, notwithstanding that, I certainly think something ought to be done to keep them in a situation where they cannot get away as easily as they do now.

I know there are problems with escapes; maybe there are morale problems down there. The proximity of the taverns -- and I think, Mr. Mayor, you addressed this -- and the other facilities around the prison-- It is surrounded by highways, and they can hear vehicles

going by. No doubt, when all this goes through the mind of someone who is incarcerated for years -- and I don't know what the minimum sentence for Rahway is, as a matter of fact, or what the maximum is these days-- but be it a year, or be it ten years, he probably thinks it is going to be a long time he is going to be in that cell, under the circumstances the inmates live in in prisons. What the cure for it is, I don't know, fully. Like you, I am a layman, and all I know is that I live close to the prison. There are many others in Woodbridge who live close to it, and we are pretty much distressed with the happenings in Woodbridge as far as the escapes are concerned. I am not going to call it Woodbridge, I am going to call it Rahway, and I, too, am an advocate of changing the name to something else. I think that is going to come about sometime, but that is for another time.

The uniforms, I think, are a step ahead. It used to bother me when I would drive by and see the prisoners out there in street clothes, as it were -- clothes of their choice. I was not aware of that either. The last time I visited the prison was many years ago, and they had uniforms then. Am I giving my age away on that? (laughter) Nevertheless, I did get back in there one time afterward, and I saw the movie on T.V. I then recognized that they were, in fact, dressed in civilian clothes, or street clothes, and they were very difficult to identify. If those outside are now in uniform, certainly that is a step in the right direction.

Mayor, I also agree with your concept of arming the guards with shotguns. I agree that pistols lend, perhaps, another facet to this which we couldn't handle, or which a guard couldn't handle on the spot. A shotgun is a weapon that commands respect. The range on it isn't too far, and surrounding vehicles, or people who may happen to be in area buildings, would certainly not be damaged by it.

Mr. Mayor, or Mr. Assemblyman, I will not go on any longer.

ASSEMBLYMAN OTLOWSKI: In this room I am an Assemblyman; in the other room I am the Mayor. (laughter)

SENATOR WEISS: That is what your secretary told me. He said, "Be very careful," and now twice I have messed it up.

ASSEMBLYMAN OTLOWSKI: Senator, thank you very much. Mayor, I think you have been very, very helpful to the Committee. Again, we want to express our thanks to you. We also express our thanks to all the officials of Woodbridge who have been very, very cooperative.

Now, may be have the Prosecutor?

MAYOR CERRIA: Thank you. May I just mention one thing, Assemblyman?

ASSEMBLYMAN OTLOWSKI: Yes, you may, but you know you're holding up the Prosecutor; I'm not holding him up.

MAYOR CERRIA: Well, we're good friends, and it is important. There is one other point I failed to mention to you which was recommended back about six years ago by a Councilman when I was on the Council. This is just food for thought, gentlemen. Councilman Martino, who is now a Freeholder, made a point of saying that maybe, especially at that time when the escape situation was at its peak, with overcrowding in the jails, which is still a problem, we should put the inmates on a ship and send it out. Then we would not have any concern about them running down the street to the highways and escaping so easily. Maybe that is another area that should be considered in the future.

Thank you very much.

ASSEMBLYMAN OTLOWSKI: Thank you, Mayor. Now, Mr. Prosecutor, for the record, would you please identify yourself?

A L L A N A. R O C K O F F: My name is Allan Rockoff; I am the Prosecutor of Middlesex County, having become Prosecutor of Middlesex County on July 1, 1983. Before that, my record includes over a decade on the judicial bench of the State of New Jersey, seven of those years having been spent on the Superior Court and the county court. Prior to that, I served on the district court, and prior to that I served on the Juvenile and Domestic Relations Court. Before that, I practiced law for approximately eleven or twelve years. At one point, I was the municipal attorney for the Township of Woodbridge. I was Chairman of the Republican party of the Township of Woodbridge, and I practiced law with the former mayor of the Township of Woodbridge, Frederick M. Adams, who has since passed away. Basically, that is my professional

background, and why I feel I might be able to contribute something to this Committee, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Mr. Prosecutor, from your point of view, and from what you know of this situation as the Prosecutor and, also, from what you have heard the Mayor testify to, what are your general observations? What suggestions would you make to the Committee, number one, by way of legislation, and number two, what suggestions would you make to the prison officials and to the Commissioner himself, who are here this morning? On that basis, will you develop your testimony and make it two-pronged? Number one, what kind of legislation do you think could result from this hearing, and number two, what suggestions would you make to the administration at Rahway State Prison?

MR. ROCKOFF: Well, if I might be so bold, I would like to just turn that two-pronged approach around a little bit, and give you some of my reflections and opinions with respect to the situation as it exists now with regard to security at Rahway State Prison, as it overflows and impacts upon law enforcement through my position as Prosecutor. Then, I would like to turn to what I think could be done with respect to improving security through legislation, security being a very ephemeral word, which might not only mean physical security, but security through deterrents as well.

I have compiled some statistics, but I am not going to bore you with them because you have some statistics, I know, from the venerable newspaper, the Newark Star-Ledger, concerning escapes and problems at Rahway State Prison over the years. I, too, have lived within the shadow of Rahway State Prison for many, many years, and I have been concerned about the prison facility. I played softball on many teams within the walls of the prison while working with civic organizations, having been an officer of the JC's, where we worked very closely with prison officials in order to enhance the rehabilitation of prisoners in the facility over the years. I might tell you this: For seven years -- or longer than that even, for eight and a half years -- I was a criminal court judge placing many of the defendants who appeared before me into incarceration conditions within

the walls of Rahway State Prison. I received dozens and dozens of letters with respect to the facilities, the treatment, and the problems. Incidentally, as all sentencing judges do in the State of New Jersey, Mr. Chairman and members of the Committee, I responded to all of those letters and had a written colloquy with many inmates who are still there in many instances, and who will be there for extended periods of time.

I do not come here as a Pollyanna to tell you that everything is fine at Rahway State Prison; but, everything is getting better at Rahway State Prison. I suspect things have been getting better because of the outcry of the public back in the 1970's -- 1975, 1976 and 1977. I only came here with statistics with respect to the 1980's -- 1981, 1982 and 1983. I just want to take two minutes to tell you that these are the facts as we know them in the Prosecutor's Office.

A total of fifteen inmates actually escaped from the prison complex during the three-year period. Four escaped in 1983 as a result of three incidents; two escaped in 1982; and, nine escaped in 1981. Of the fifteen inmates who escaped during this three-year period, four escaped from the main prison. All were on outside work details at the time. Nine escaped from the Rahway Camp, the satellite unit, and two escaped from the Adult Diagnostic and Treatment Center. The same inmate, in one instance, escaped twice. Of the fifteen inmates who escaped, only two remain at large today, one from 1983 and one from 1982. The nine from 1981 have all been recaptured.

Of the thirteen inmates who escaped but were apprehended, one was apprehended as he was escaping, and was never out of sight of the officers. One was apprehended within fifteen minutes; one was apprehended within one hour; one was apprehended within four hours; one was apprehended within six hours; one was apprehended one day after his escape; one was apprehended two days after his escape; two were apprehended within two weeks; one was apprehended within one month; one was apprehended within four months; one was apprehended within nine months; and, one was apprehended three years later, this last one just recently.

Of the thirteen inmates who escaped, four apparently escaped with the assistance of persons who were not inmates. Six apparently took advantage of an available opportunity to escape, and on three, no determination has been made as to whether or not the escape was effectuated with outside assistance. Of the thirteen inmates who escaped but who were apprehended, two voluntarily contacted authorities to make arrangements to be returned, and two were apprehended after committing, or during the commission of, another crime.

Those are the statistics. I have the names of the individuals here and a bit of their case histories. Several of them are pending trial at the present time in the Middlesex County Courthouse.

Now, at the present time, there are 1,200 inmates at Rahway State Prison. I am told that minimum security houses approximately 118 inmates. Now, I have not gone through the formulation of percentages, but I will say it is an awfully low percentage of inmates who have even attempted to escape from Rahway State Prison. I am not giving you the statistics of all the attempted escapes and all the institutional infractions that developed. I know one of the Assemblymen brought up the question before, "Well, what happens if someone goes out to a bar? It doesn't look like he is escaping; it looks like he is going AWOL, or is going out there just because he wants to blow off some steam. He is taking advantage of an opportunity to get out, but he knows he is going to be punished." He may not be punished by a code violation, by a code of criminal justice violation under Title 2C, or the old Title 2A, but he is being punished in that prison facility. His computation time, many times, is taken away from him. His good time is taken away from him. He is put into solitary. I'm sure I don't have to speak for Commissioner Fauver or for the Superintendent of that prison to tell you what horrors face one of these fellows who is "out of place" when a bed check is made, or when a check is made of his whereabouts. There are penalties, and they are harsh penalties because, as was pointed out by Senator Weiss, the human quality is diminished greatly by one's experiences in prison. We talk about more time being necessary for prisoners. Well, as a sentencing judge, I anguished over placing

anyone in prison, because psychologists tell us, and criminologists and penologists tell us, that a man who spends three years in a state's prison system in a penitentiary setup -- and let's make no mistake about it, reformatories and correction facilities are still dealing in penitence, they are still dealing in a penitentiary facility -- when a man spends three years there he becomes institutionalized; his mentality becomes institutionalized. Getting that man out of that prison after three years takes a great deal of therapy. It takes a great deal of conversion to get that man into the mainstream of society again.

So, there must be medium facilities, there must be halfway houses, there must ultimately be trust given to an inmate. You just can't keep an inmate locked up in a cell, and then open it up and say, "Go ahead, fellow. Now, go out and be a good guy, take care of your family, and take care of your problems in society." That is not the answer. The answer is not shotguns; the answer is not longer terms; and, the answer is not higher walls. The answer is realizing the diminishment of the quality of life in a state's prison, and trying to determine what it is that will infect and influence the mind of a prisoner, so that more security can be generated in that prison.

I turn now to the second prong, what can be done with legislation? We have laws now that say if a man escapes from a prison facility, or from lawful authority, and he uses force, threat, deadly weapon or other dangerous instrumentality to effect that escape, he is guilty of a crime of second degree, a very severe penalty which attaches, of course. He could be guilty of a crime which could attach to it another anywhere from ten to twenty years in a state prison, consecutive to what he is doing at the present time. However, it does not say "consecutive" with respect to the law. The law is silent with respect to what a judge may do. It gives the judge discretion as to whether or not it should be concurrent or consecutive. So, bear that in mind for a minute. If a man does not use force, threat, deadly weapon or other dangerous instrumentality, then he is guilty of a crime of the third degree, which would allow him to be vulnerable to three to five years -- a mixed bag, you know, a minimum of three, a max of five.

Anywhere in between, the presumption we know is the middle line of four years.

That is for the individual who escapes. Now, bear in mind I told you that many of the escapes we have had, even though they were minimal within the last three years, were done with the help and the aiding, abetting, and encouragement of people on the outside. So, we turn to another part of our criminal code, and we have a section which makes a violator out of one who aids, or provides a weapon, money, transportation, disguise, or other means of avoiding discovery or apprehension, or effecting the escape of another from a prison institution. The penalty for that crime is -- if the offense that they are assisting is a second degree offense, the person who would be aiding and assisting that escape would be guilty of a third degree offense. In other words, if an inmate used force, threat, or a deadly weapon when he was leaving the prison, the person who was assisting him would be vulnerable, or subject, to a three to five-year prison term for assisting.

You have to ask yourself, "Is that enough?" If someone is going to assist an inmate who is going to kill, maim, wound, or threaten in a prison system, is that enough? That is one question. Now, if no force is used by the inmate who is escaping, the individual who assists him would be guilty of a crime of the fourth degree. A fourth-degree crime is eighteen months as a maximum, as you know. However, there is a presumption with respect to third and fourth degree crimes that no incarceration should occur. When a judge gets a fourth-degree offender who has aided and abetted a man who has jumped the wall or has run from custody, you know, he has someone in front of him who is a fourth-degree offender and there is a presumption of nonincarceration for that fourth-degree offender. So, that person may not even be facing a prison term under the law as it is presently structured. But, there is an interesting aspect of the law within that same 2C:29.3-7, or Subparagraph 7. It says a person would be guilty of a third-degree crime if he assisted someone who was escaping and it was an escape where force was used. Therefore, it would be a second-degree crime, unless the aider and abettor is the spouse, parent, or child of

the person aided, in which case that person's crime is a fourth-degree crime.

Why the distinction? Why is the parent made any less responsible if his son is using a shotgun, or is using a knife, or is killing a guard? Why the distinction? Yes, I think it certainly is generous. It certainly shows a concern for the familial relationship, but is that where it is well placed? Is that where the show of brotherly love, the show of concern for our fellow-man should be exhibited in the law? I ask these questions; I don't answer them. I am not a legislator. I just raise the questions because we have to argue them in a court of law when we are trying to get maximum penalties for people who aid and abet. I think escaping from a prison is one of the worst crimes that can be perpetrated by a citizen, who knows he has a penalty to serve, who knows he has a punishment, who knows he is serving his debt to society, and yet who thumbs his nose at society and attempts to escape.

You can arm the guards to the teeth, you can do as much as you want with the prison facilities, you can make them into fortresses, but that is not going to prevent an individual who has no sense of responsibility to society from attempting to escape, attempting to find an imagination that knows no bounds in man, and attempting to find that means or method of escaping. We can fool ourselves, we can electrify the fences, we can have armed tanks running up and down around the perimeter of that facility, but it is not going to do a damn bit of good if a man wants to try to escape. We all know of the Alcatraz situation. We know it was supposedly an invulnerable fortress from which no one could escape, but yet there were people who did escape, and they damn well kept trying to escape.

What I am suggesting is that some thought be given to mandatory consecutive sentencing for the people who escape, and for those who aid and abet one to escape. Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you very much, Mr. Prosecutor. You have been very, very helpful, and we really appreciate your coming. We appreciate your testimony and, as a matter of fact, you have provoked a lot of thinking. I'm sure some of the things you have

covered will result in legislation. We are very, very grateful for that.

Mr. Prosecutor, is your office notified when there is an escape? Are you immediately notified, or does that come with due process? What are the mechanics of that?

MR. ROCKOFF: Well, we should be notified through the police department. The police department is the first line of defense. The police department should be notified, and then we are told of the incident. Where we have the record, if the man has come from Middlesex County, of course we automatically go to the file and start a tickler system on that file, hoping to be able to take the matter quickly to the Grand Jury, if the man can be apprehended quickly enough. One of our problems has been that sometimes we do not hear about the escape until after the man has been apprehended. Then we will receive it. We had one incident that happened in 1978, and it wasn't even our incident. We opened up a file in 1982 pertaining to an escape from the Marlboro Camp in Monmouth County in 1978. This should have been prosecuted in that county, but the man was not arrested until 1982, and he was brought to Rahway State Prison in 1982. He was not brought back to Marlboro, so we received notification at that time of the escape. We were not aware of it for the four-year period.

ASSEMBLYMAN OTLOWSKI: What you are saying, and what you are emphasizing, is that the police should immediately notify you, to put you in a better position to deal with the whole thing.

MR. ROCKOFF: Well, remember now, we are not a line department with respect to law enforcement. We are a secondary department. We provide expertise not only of a legal nature, but also of an investigative nature for the police departments, the State Police, and departments of correction. So, I am not of a mind that we have to be notified immediately so we can get the troops out, or the cars out, the "black and whites." We do not have those, and we do not want them either. I don't want to regionalize police departments. I think they are doing a darned good job now, all twenty-five of them in our county. But, we should be notified eventually, within a reasonable period of time. I know that the Corrections people try to handle these

matters on their own. Sometimes they know where the next of kin of the individual is, where the loved one is, so they go there and stake it out with the State Police, and wait for the person to go there. People run true to form; they will run for help to their loved ones, naturally, and that is how many of these arrests are made, and how apprehensions of escaped people occur within one hour, four hours, six hours, etc.

So, I am not saying we are not getting these reports in sufficient time. We are getting them, as long as we get them within a period of seventy-two hours to a week, or whatever it may be, if the escapee is not apprehended. If he is apprehended, we want to know about it immediately.

Now, we do not demand that every apprehension become an indictable offense. I just want that to be known too. For instance, take the situation of the person who has gone to the bar, who sits in Woodbridge. If Woodbridge and the authorities do not require that it be an indictable offense, we do not make any demands upon them. We have enough problems to deal with, and we let the Department of Corrections handle their own dirty linen in that kind of a situation, if they can. If they feel in their judgment -- it is an Executive Branch, and we are a part of that Executive Branch -- that we should be notified, and they want to file a complaint, we will certainly accept the complaint and will prosecute it vigorously and to the maximum under the present law which, of course, gives the discretion to judges to give concurrent sentences. I will give you my experience as a judge. I gave consecutive sentences on escapes for many years. You will find there is a disparity among judges in the sentencing of escapees.

ASSEMBLYMAN OTLOWSKI: Thank you. Assemblyman Cuprowski, do you have any questions?

ASSEMBLYMAN CUPROWSKI: Yes, I do. Mr. Prosecutor, you made some references to numbers, especially for the last three years -- numbers of escapes. Some of those have been aided and abetted by whom? You didn't distinguish, aided and abetted by whom?

MR. ROCKOFF: I'll give you one example. The last ones I have, a Mr. "P" and a Mr. "S," on August 7, 1983, were discovered

missing from their assigned bed areas at the Rahway Camp Complex at 11:00 p.m. On August 9, 1983, Mr. "S" surrendered himself to a New York City patrolman, and was transported back to the State prison. Mr. "P" was arrested on September 3, 1983 while committing the burglary of an automobile in Paterson, New Jersey, and he was returned to the State prison. Both inmates escaped by climbing over a razor wire fence, where they were picked up outside the camp by Mr. "P's" brother and sister, who transported them away from the scene.

Internal reports of the prison establish there was a failure to conduct a count at a particular time, and these inmates were missing for approximately two hours before the escape was discovered. That is one example.

ASSEMBLYMAN CUPROWSKI: So, you're saying there was a brother and sister in that particular situation?

MR. ROCKOFF: That's right.

ASSEMBLYMAN CUPROWSKI: They will receive, having aided and abetted, a lesser sentence, and perhaps will not even get sentenced for aiding and abetting. Is that what you're saying?

MR. ROCKOFF: Well, they will get a lesser sentence. I'm not saying they will not be sentenced, but they will be sentenced under the fourth-degree crime category.

ASSEMBLYMAN CUPROWSKI: As opposed to the third-degree category?

MR. ROCKOFF: That's right. Under the fourth-degree crime category, remember there is a presumption of nonincarceration, unless they find that the severity of the offense was such that they should be incarcerated.

ASSEMBLYMAN CUPROWSKI: So, there is a good possibility they may not be incarcerated for that particular crime?

MR. ROCKOFF: Absolutely, there is a very good possibility.

SENATOR WEISS: How do you like that?

ASSEMBLYMAN CUPROWSKI: I have another question. You made some references before to people in prison who have been there for years, and about not being able to open the door and say, "You are

released. You have done your time, now you can go." You made some general references to some halfway houses and so forth. I am just wondering about this satellite--

MR. ROCKOFF: Minimum security.

ASSEMBLYMAN CUPROWSKI: Excuse me?

MR. ROCKOFF: Minimum security.

ASSEMBLYMAN CUPROWSKI: This minimum security satellite prison we are talking about -- would you classify that as an appropriate halfway house as you defined it, or are you talking about something else? The reason why I ask that question--

MR. ROCKOFF: (interrupting) I am not a social worker.

ASSEMBLYMAN CUPROWSKI: Let me give you the reason why I am asking that question. If you are, then we are talking about possible murderers, rapists, arsonists and so forth, and I just want to be clear on just exactly what you are advocating at this point.

MR. ROCKOFF: Sure, we're talking about murderers, rapists and arsonists, and all of the first and second-degree criminals because, unless you are going to put them all to death, or give them all life imprisonment and mean it to be life imprisonment, they are all going to get out eventually. That is what the public doesn't realize, and doesn't respect. What are they going to do? You have a parole system; you have statutes on the books on the parole system which say that a man is going to serve one-fifth of his sentence, if he is a first offender -- one-fifth. I would give a man ten years, and he would be walking on the street before the ink was even dry on my sentence. Have you looked at the parole formulas? Have you realized what kind of a parole eligibility timetable there is with respect to consecutive sentences, as well as concurrent sentences? Do you know that a man can get out quicker if a judge gives him three three-year sentences consecutively -- which everyone thinks means three years, three years, three years and he'll serve nine years -- than if the judge gives him a concurrent sentence, because he doesn't get the aggregate of all the good time, and the commutation time, and the work time, and all the other credits he is entitled to. I think it's like the IRS system. You know, they have overcomplicated the taxes. We have overcomplicated the parole law.

You could not sit down, Assemblyman, and understand that 1979 parole bill and its amendments without having a member of the Parole Board or someone who has really studied it help you with it. I can't.

ASSEMBLYMAN CUPROWSKI: I'm sure I couldn't either then. If you couldn't, I'm sure I couldn't.

MR. ROCKOFF: That is the problem we have. So, you need halfway houses, and you need medium security, and you need social services. God bless us. You know, I don't know how many psychiatrists there are in the prison system now, but I'm sure Commissioner Fauver is going to tell you. However, I think when I was a judge I was screaming because there were only one or two who went around the whole State, and what are there, 5,000 inmates? You need these people. If you are ultimately going to let people out, and you are not going to have euthanasia or lobotomies, you know, you are going to have to let them out, what are you going to do with them? You have to give them some sort of retraining. You have to have this kind of security. To talk about uniforms for people who maybe two months or three months down the road are going to be civilians, what are you going to do with them? Are you going to keep a uniform on them until the day they leave?

ASSEMBLYMAN CUPROWSKI: I understand what you're saying, but I am just trying to find out-- We're talking about this particular prison, this particular minimum-security prison, and I am just wondering. I read some of the background that states that supposedly murderers, rapists, arsonists and so forth are not being assigned to the minimum-security prison, and yet I understand what you're saying. I am not saying I disagree with that.

MR. ROCKOFF: I don't know; that is a good question. I don't know whether or not their policy does not allow them to be committed.

ASSEMBLYMAN CUPROWSKI: How do we satisfy both? That is my question. What do we do to have a halfway program for a prisoner who eventually will be getting out, at the same time that this is a minimum-security prison and they don't put murderers, arsonists and so forth in there? I am just wondering. There seems to be a conflict here somewhere. I am just trying to find out exactly what we are doing.

MR. ROCKOFF: How do we prepare someone to get out of prison and deter him from attempting to escape before his time? Is that the question?

ASSEMBLYMAN CUPROWSKI: No. My question very simply is, what would you advocate for someone who perhaps was a murderer, a rapist, or an arsonist, if he was getting out two years from now and he served twenty years, or whatever the case might be?

MR. ROCKOFF: Let me say this. Murderers get the most notorious headlines as recidivists, but if you look at the percentage of murderers who are recidivists, they are practically the lowest number of recidivists. Your rapists are not. Your rapists, because of the repetitive and compulsive behavior of sexual deviation, are recidivists. So, you really cannot lump everyone together. Arsonists also have some sort of a sickness, unless it is commercial arson for the purpose of obtaining the proceeds of an insurance policy, or other than the type of arsonist we normally experience, who is the man who loves to see the fire. You know, he is a recidivist. So, you really cannot lump everyone together.

When you are talking about individuals, you cannot classify them by crime. You have to classify them by personality and by profile. There are halfway houses that are probably extant that can help a murderer rehabilitate. Let's say Mrs. Popick, for instance. Can she be assisted by some sort of rehabilitation in a halfway house? That is just an example; I am not giving an opinion on it. I'm saying, is she the kind of first offender who did it to her child and who shows remorse according to the psychiatrist, who can be helped someplace, or does she need the bars, does she need the uniform, does she need the shotgun?

ASSEMBLYMAN CUPROWSKI: I have one other question I would like to ask. You made references before to aiding and abetting, and in the particular case you were talking about it was family members. Were there any cases, to your knowledge, where there was aiding and abetting within the prison involving other than prisoners, whether it be an employee, a guard, or whatever?

MR. ROCKOFF: Unfortunately, there are cases, but, fortunately, they are isolated cases, where there is a corrupt prison official or prison guard. I'm not certain during the last three years in any of the research which I did, if we had any situation in Rahway State Prison of that nature. However, I'm sure Superintendent Rafferty or Commissioner Fauver will be able to give you more of that information than I can.

I do not find it is purposeful action on the part of people who work in the prison system. I am going to go a little far afield now, and I am going to make a pitch for the Commissioner. I am going to say, "What do you expect from an individual when you pay him a minimum salary, he has a high school or lesser education, you put him in a uniform and give him a guard's position, and then you tell him to go ahead and become a psychologist, a friend, a father image, a leader, and a disciplinarian?" You ask him to do everything that a man or woman sometimes has to go through twenty years of schooling in order to learn. You ask a prison guard to do all of those things. Prison guards, unfortunately, do not have the quality we would like to believe exists in our prisons. They get it, hopefully, through years of experience and through the training that is given to them after they assume the position.

We do profiles in the Prosecutor's Office on those who are making application and, you know, Middlesex County now has this new facility that will be opening up in May which, hopefully, is going to be a 350-bed facility that will be our new correction center. It has some of the most up-to-date and modern technology and facilities that the penologists and criminologists, and architects who have been doing prisons around the world, were able to assemble. Now, we have to house it, we have to put the prisoners in there, and we have to staff it. We are now doing the profiles on the applicants. We are paying these people, I think, a starting salary of something like \$20,000 or \$21,000. Try to get a man with a wife and two children to work for \$21,000, and try to get a college graduate or someone who has any training in penal guard work or penal institution work. You can't do it.

So, the problem is, many acts were as a result of negligence -- I have to use the words "inadvertent negligence" -- on the part of the guard, a guard who skipped a bed check, let's say. Maybe he was talking to someone and the time went by and he forgot.

ASSEMBLYMAN CUPROWSKI: In other words, do you mean just a human error?

MR. ROCKOFF: That's right, that's right. I'm not saying it is condoned; I'm certain the prison authorities do not condone it. I'm sure a guard would be punished, if not worse, as a result of something like this, but it was not because of any intentional act, or because of any payoff, or because of any accomplice or conspiracy theory.

ASSEMBLYMAN CUPROWSKI: Thank you. Thank you, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Well, I would like to thank the Prosecutor for being here. In fact, I said to the Senator, "This is the first time I heard of a Superior Court judge in a prosecutor's chair," and the Senator said, "I believe he is the only one where it has happened that way." I think your experience on the bench is going to help the Prosecutor's Office immensely, Mr. Prosecutor. Mr. Chairman, I also believe that we, as a Committee, would do well to take the suggestions about correcting the statutes which were pointed out -- as a full Committee -- and get that legislation in, because I believe you pointed out some discrepancies in what I consider fair and what I consider right. I don't believe they were right; I don't know who thought of this when the legislation went in, or whose idea it was to consider the different problems for first, second, third and fourth degrees. I just want to thank you for being here, because I think we can solve some of our problems regarding escapes by amending the present statutes. I really do not have any questions, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Thank you very much. In that connection, Assemblyman, what we are going to do-- I agree with you; I think the Prosecutor has been very, very helpful and, again, it stems from the fact that there is a lot of political experience here too -- aside from being a judge -- so all of that, of course, came out in his testimony. What I am going to ask the staff to do, is to analyze a

number of things the Prosecutor was critical of, and things he recommended, particularly in the aiding and abetting area, and in some of the sentencing areas. What we are going to do -- as you say, the Committee will look at it -- is probably sponsor legislation as a Committee. So, there is no doubt that the Prosecutor has been very, very helpful. I think we all feel as you do, we appreciate the time he has given to this.

Senator, do you have any questions, or do you wish to express your thanks to the Prosecutor?

SENATOR WEISS: Just to think, Mr. Chairman, I tried to talk him out of doing what he did. Mr. Prosecutor, I learned a lot here this morning, and perhaps you have changed my views in just a few minutes from what you said. I appreciate that. I didn't know there were some categories of crimes that could go unpunished because of the relationship between the prisoner and whoever aided and abetted him in his escape. It reminded me very much of that part of the inheritance laws where they have the A, B, C and D categories as to what you can leave certain people. Nevertheless, I did learn a lot. I do not have any questions for you, except for one thing. I would like, to have, Mr. Chairman, a list of the demographics that the Prosecutor went through before about the escapes, and the history behind them, sir. It would seem to me that they are just a little bit different, perhaps, than what I thought I heard on the thirty-one escapes that are listed here.

ASSEMBLYMAN OTLOWSKI: We are going to make a copy of the record available to you, Senator, and the Prosecutor's testimony will be in that record.

SENATOR WEISS: It would seem to me, also, that the Prosecutor, when he was a judge, was rather more liberal by his own admission in giving consecutive sentences, considering that the punishment the other way around would have been a little greater had they not gotten all the pluses. Nevertheless, you were a great judge, and you are continuing as a great Prosecutor.

ASSEMBLYMAN OTLOWSKI: Assemblyman Haytaian said he is a greater prosecutor.

SENATOR WEISS: I think he is great at both.

MR. ROCKOFF: Well, I appreciate the comments, gentlemen. I have the case histories synopsized here, but I have names in here and I do not want to use them. So, I will send you a copy of the case histories to supplement the record, but will delete the names.

ASSEMBLYMAN OTLOWSKI: We will hold the record open until we get your supplemental testimony.

MR. ROCKOFF: Fine.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman?

ASSEMBLYMAN OTLOWSKI: Yes, Assemblyman Haytaian.

ASSEMBLYMAN HAYTAIAN: Before the Prosecutor goes, I think it would be well for us to ask the correctional folks to indicate why there was a discrepancy in the years 1981 to 1983, between his records and their records which we have here. Now, I don't know if these are the Department of Corrections' records, but we ought to find that out.

ASSEMBLYMAN OTLOWSKI: We can get into that.

ASSEMBLYMAN HAYTAIAN: Thank you.

MR. ROCKOFF: Remember, these are only the escapes that have been prosecuted in Middlesex County. It is conceivable that there are others. Commissioner, is it possible that more were processed in other counties than my statistics show?

COMMISSIONER FAUVER (from audience): No, only at Marlboro.

MR. ROCKOFF: Okay. In this study, we are not talking about Jamesburg today at all. We have our headaches with Jamesburg as well, but that is another problem and I don't want to get into that at this point.

ASSEMBLYMAN CUPROWSKI: The last comment I would like to make probably highlights it, because you made some very good recommendations here today, and I appreciate that. I would suggest, not only to you but to those in the correctional facilities administratively, that from a law enforcement point of view, from a prosecutor's point of view, and so forth, where people do have recommendations and there are loopholes, if you will, in the law, and the law has to be strengthened in certain particular situations -- and you have probably brought out very good ones today -- that we not necessarily wait until a public hearing to make the recommendations. There should be an ongoing process for

consideration during the course of the legislative body. I think today happened to be an opportunity to bring that out, but I would hope, and would suggest to everyone, that if they have recommendations on any aspect of this particular problem, or any other problem, that maybe they should bring those to the attention of a legislator, or of a committee, during the entire process, and not necessarily at a public hearing.

MR. ROCKOFF: Well, I'll tell you how the prosecutors of New Jersey work. We work in an association. There are twenty-one prosecutors; there are twenty-one of us who sit in conferences almost monthly, and discuss the various problems we have. We bring up subjects such as this and prepare draft legislation in order to present it to the Attorney General's office, so that the Attorney General's staff can review it and present it to the Administration. It can then be decided whether or not it should be adopted as a criminal justice recommendation to the Legislature and, if so, it is then submitted to the Legislature.

Now, I am not indicating that this is the position of the Prosecutors' Association. There may be a great deal of controversy with respect to mandatory consecutive sentences. It is a debatable issue so I have only my opinion, and I thought that was what you wanted today. I am not here as a spokesperson for anyone else but myself and my own office, on how we would like to handle things.

ASSEMBLYMAN OTLOWSKI: Mr. Prosecutor, thank you very, very much. You have been very helpful and we appreciate it. Thank you.

MR. ROCKOFF: Thank you, sir, for inviting me. I really appreciate it.

ASSEMBLYMAN OTLOWSKI: May we hear from the Commissioner, please? Commissioner, do you want someone to sit with you, or are you big enough to handle this yourself?

COMMISSIONER WILLIAM H. FAUVER: Oh, I think so, in a lot of ways.

ASSEMBLYMAN OTLOWSKI: Commissioner, would you please identify yourself so that we have it in the record?

COMMISSIONER FAUVER: Yes. I am William Fauver, Commissioner, New Jersey Department of Corrections. I'm glad you scheduled the hearing the way you did, Mr. Chairman, because I would like to respond.

ASSEMBLYMAN OTLOWSKI: I did that purposely, you know that.

COMMISSIONER FAUVER: I know you did. I would like to say before starting that I have Gary Hilton with me. He is the Assistant Commissioner for Adult Institutions, and I think he has testified all over in other states around the country, and is recognized as an expert in custody and security. Jack Rafferty from Rahway, who you have heard mentioned before, is also here, as well as Charlie Metzger, who is his Chief Custody Officer.

What I would like to do is to kind of address things in general, and try to respond to your questions or comments, and then if you have specifics on other parts of the system, or on Rahway--

ASSEMBLYMAN OTLOWSKI: (interrupting) I would suggest, if you don't mind, that for openers we just deal with the Woodbridge situation and some of the things that have happened. Corrections has taken great steps; the record speaks for itself on that. Supposing we do that, and then get into the general area you are talking about.

COMMISSIONER FAUVER: Okay, I would be glad to do that. I would like, though, to preface this by saying that, as you are aware, the count in the State prison system has gone up dramatically in the last few years. We were running an in-house count of about 6,000 for a number of years, 6,500 max, but today we have about 10,000 in the system. Rahway itself has not grown that much. As the Prosecutor indicated, there are about 1,200 inmates inside Rahway today, and another 115 to 118 at the Rahway Camp.

The problems primarily dealing with the Rahway Camp first came to the attention of the Department around 1978-1979. This was a lot of the discussion the Mayor was referring to before. At the time, two inmates from the camp were apprehended who had been committing a series of breakings and enterings in the local area.

There were a number of steps taken within the Department at that time after some meetings were held. We were not satisfied as

administrators with what was going on there, including the removal at that point -- the reassignment of the then Superintendent and the Chief Custody Officer. I would concur with the Mayor that the improvements have been most dramatic in the last year plus, since Superintendent Rafferty has assumed control there. I had assumed that would happen, since I made that selection and I knew that he would not let me down.

I think that overall there has been a lot of improvement at Rahway, in particular with security, and at the camp. I think there are some things which have become kind of myths over the years, things which have not really occurred. The arrests of the two inmates I spoke of in 1979, and their subsequent conviction of breaking and entering and escape, are the only ones I am aware of that we were ever advised of. We had been advised of people being at local taverns and at local motels. We checked it out with our internal security officers and with the State Police, and we never came up with anyone specific who had been out.

ASSEMBLYMAN OTLOWSKI: You're saying that it was never verified?

COMMISSIONER FAUVER: That is correct; it was never verified. I believe the Mayor also indicated that these are things which he has not heard about recently. We instituted a number of changes internally, not the least being a new building for the camp itself, and a reduction in the count at the camp. Before, the camp had been a collection of old, sort of Army barracks, plus some trailers. The individual trailers had become very difficult to supervise because of the way they were laid out. A fence was put around this new building, and the new building itself is much more secure. There is razor wire on the fence; a foot patrol in the evening hours from dusk to dawn has been initiated; and, a roving patrol by vehicle outside the facility is now in operation. These are steps which were taken by the Superintendent after our meeting. Some of these are carry-overs, because obviously it took a while to do, with the construction. Other steps are things which the Superintendent instituted at the behest of the community.

The inmates at the Rahway Camp are required to be in uniform anytime they are outside the building where they live. That applies even if they are going back into the building, into the main prison, for a parole hearing or something like that. The inmates who are going to court are transported in civilian clothes, but they are in the custody of armed officers. They are in handcuffs and, in some cases, leg irons, until they get to court. Once they are in the courtroom, the judge has the discretion as to whether or not he wants them to be cuffed. In most cases, they are not, as it is seen, particularly in a jury trial, as prejudicial to the jury.

Regarding some of the things that were said in general about inmates and inmates' rights, we would like, in some cases, to take credit for them being the result of the benevolence of the Department, but I think you have to be aware that the Constitution also addresses the rights of people, including prisoners, and that there are some fairly recent guidelines and decisions on what the rights of inmates are while they are incarcerated. Maybe the pendulum is turning somewhat, but as I see it, there is no real throwback to the old days when basically prisoners had no rights.

As I said, I think the Superintendent and the staff at Rahway have done well in improvements, and I think the improvements have been throughout. I think there are some discrepancies in the numbers we kicked around before. Some of that I think is explainable, in that for a period of time the figures were kept on a fiscal year basis, as opposed to a calendar year basis. That is when we went to the JAC for money, and it was easier for us to maintain our records. However, we have corrected that and are now keeping the figures on a calendar year basis.

The outside details are not working with armed officers. I would be opposed to armed officers being accessible to inmates, and this has already been discussed. I think, also, that in the long run I'm not sure an officer standing outside along Rahway Avenue with a shotgun is going to be all that comforting to the neighbors, or to the people who ride up and down and see that officer with a shotgun. I think what we would be willing to do immediately is what we have done

in some other circumstances, in Trenton for example, and that is to put a roving patrol out in an armed vehicle. The inmates would not have access to that, but the patrol could institute an immediate pursuit. We will initiate that.

ASSEMBLYMAN OTLOWSKI: You will initiate that?

COMMISSIONER FAUVER: Yes. The other thing I would like to make a pitch for, and I am particularly glad to see representatives from the Joint Appropriations Committee here, is that we have some security measures we would like to put in. Walkie-talkies were mentioned before. We have instituted communications through walkie-talkies with our outside grounds' officers. The problem with that is that we do not have enough of them and, of course, to buy them immediately out of this year's budget is not possible. We are just not able to do it. However, where possible, we are using them, so we could--

ASSEMBLYMAN OTLOWSKI: (interrupting) Are they in your budget for this year?

COMMISSIONER FAUVER: They are not in, no.

ASSEMBLYMAN OTLOWSKI: I hope Chairman Weiss hears that, because he may have the opportunity to put it in.

COMMISSIONER FAUVER: It is not a lot of money. The other thing I would like to say on that is, there is an infrared security system which Mr. Hilton has reviewed from use elsewhere, and we are going to try to install that. We are going to try to get this out of Management Improvement monies. I know the cost would be about \$100,000, but it would be preferable to manning a tower, or something like that, where the cost for officers around the clock would be ongoing.

I understand the concerns of citizens in the areas of prisons, but I think the Prosecutor hit it on the head when he said it is really not recognized that a lot of these people will be returning -- the majority will be returning to the community, maybe not that community, but a community.

We try to move through these series of camps -- whether they be in urban areas like this or in State parks or forests -- to be kind of a decompression area for the person -- also to see if they can handle that kind of trust. Under a structured situation, it is unlikely that they are going to be able to handle the street under any kind of situation. I think in some ways it is better for us -- better for the citizens and the community -- to find out at that point in time rather than after the person is out.

I think we've addressed just about everything as far as improvements are concerned that the Mayor suggested, with the exception of the arming of the officer who is with the detail and the change of clothing back to uniforms with the people inside.

I would like to point out that when we talk about civilian clothes on inmates inside of prisons, we're basically talking about, in most cases, just shirts. They wear the uniform pants because these people are not from economic levels where they can really buy clothing. They are not wearing three-piece suits in the prisons; I can assure you of that. The fact is that, in many cases, it is khaki pants with a Banlon shirt. Something like that is what we are referring to as civilian clothes.

There are restrictions so that you don't wear blue serge pants, for example, that could be confused with officers' pants -- things like that. It is not as open as presented. This is a dilemma for the Department, because usually I appear on things where it is the opposite -- where we're not open enough.

Why aren't we doing more things with inmates in the way of programs, etc? That was also touched upon by the Prosecutor, and that is another area.

The Department gets caught in a bind, and so does the Federal government, with the "guns are a butter" kind of issue. Do we go for officers when we know we need officers and staff people? Where does the cut come from? The cut generally comes from staff people because the officers who are keeping them there are the first priority -- the security of the institution. Although the Department's budget has gone up tremendously in the last few years, the number of incarcerated

inmates has gone up. The bulk of that is custody. Probably 80% of our institutional costs -- operating budgets -- are generally in custody areas.

I think that the--

ASSEMBLYMAN OTLOWSKI: Excuse me. The Prosecutor said something to me that was very, very significant, and yet is something that is very, very difficult to deal with. I was just wondering, if at this point, you had any suggestions. He pointed out that a man who had escaped and who didn't meet the obligation that was imposed on him by society -- the responsibility that he had to complete his sentence, to pay back the kind of debt that he had to society -- he said that even in some cases, families didn't realize that responsibility because they aided and abetted the prisoner's escape. How can a prison inculcate that kind of responsibility? How can a prison inculcate the responsibility of responsible citizenship when it is so difficult to even do it outside -- in schools, in churches, and in synagogues? I think you know that what he said is very, very important -- to meet that responsibility. From your point of view, is there anything you see that a prison official can do to foster that kind of program and that kind of philosophy, which eventually would grip the prison, grip the prisoner, and grip the prisoner's family? Is there any little thing that can be done in that direction by a prison and by prison officials?

COMMISSIONER FAUVER: I think there is. I think in some cases it is happening. If we are going to use the term "rehabilitation," it is something that obviously you can't force upon anybody. You can force-feed it. If somebody is going to change or become responsible, I think the best we can hope to do is to offer opportunities where they can attain that on their own. We can help them along by offering programs in the way of education, so they can get a high school diploma, if that is a qualification for a job.

ASSEMBLYMAN OTLOWSKI: Combined with work programs? Education without work is meaningless.

COMMISSIONER FAUVER: That is true, yes, combined with work programs. The dilemma on that, Mr. Chairman, is basically our numbers. Any of the new prisons being built, even though they may be larger in numbers, are segmented into 500-man units. That is the new standard to meet Federal accreditation. Nothing should be larger than that. We're talking about Rahway at 1,200.

ASSEMBLYMAN OTLOWSKI: The new prisons are designed in that direction, aren't they?

COMMISSIONER FAUVER: That is correct. When you are overwhelmed by these kinds of numbers -- if you just think about 1,200 people eating the noon meal -- it takes a couple of hours. You eat into it, plus you spend a lot of time with your professional staff, dealing with individual problems of the inmates -- with family, with medical, whatever it might be. That is appropriate, but it should be more than that.

I think the fact is that we will never really be able to do more than offer them the opportunities. I think it is meaningless to force somebody into a program.

ASSEMBLYMAN OTLOWSKI: You're saying that the first step in that direction is to reduce the size of the prison.

COMMISSIONER FAUVER: Yes, reduce the size of the prisons, which we are doing. All the new construction is on that order. At this point, I would also like to assure the community in the Woodbridge area that we have no plans to increase the number of people in Rahway.

ASSEMBLYMAN OTLOWSKI: So, the answer to my question is, if you're going to attempt to do anything with what the Prosecutor was talking about, that very difficult area that he was talking about, it would be to reduce the size of prisons.

COMMISSIONER FAUVER: Reduce the size and increase the staff -- the professional staff -- in the way of treatment of people, including teachers. You're right. It is one without the other.

I would point out that one of the reasons that we do allow the kinds of freedoms that we do in an institution-- By that, I mean, if you're scheduled to go to work this morning in a shop, there is a

call-out for the shops. Nobody comes to your cell and says, "All right, Assemblyman, it is time to go to work." The fact is, we do it on an all-call. If you don't show up, there are sanctions against you, the same as there are outside if you don't show up for a job. This is a big change from the time when we marched people to the shops and the schools, which was much more regimented. One of the reasons is, even though this is a society within itself, to try to, where possible, make it somewhat like it is outside so that if you are assigned somewhere, you are expected to be there, and it is your responsibility to get there.

ASSEMBLYMAN OTLOWSKI: How is this system working out?

COMMISSIONER FAUVER: I think it is working out well. I think there are people who won't do it, who won't show up for work or school or anything else. There are sanctions against them. They receive disciplinary reports that affect the time off they earn, it affects the parole board's attitude toward them when they come up for parole, and I think that in itself is a deterrent. Remember, we're dealing with a lot of people in prisons who are maybe third-generation welfare families who have not seen anyone in their families or in their areas work. Work is something they don't know anything about, and we have people who are classified and given job assignments who say, "I didn't come to jail to work. I didn't work outside, so I'm not going to work inside." This is a whole mind-set from the outside that can be brought in.

ASSEMBLYMAN OTLOWSKI: When you get something like that, that is very difficult to deal with.

COMMISSIONER FAUVER: Well, we do, and yes, it is. I think what has happened in the past is that one of the mistakes has been that we have tried to treat everybody, whether they were ready for treatment or not. I think that by lowering the numbers, by setting up special units, which we have fancy names for, like Management Control and Administrative Segregation, where we put people who are disruptive and who are a problem within the system itself, and by getting them out of the system, I think it opens the opportunity for the other inmates who do want to try to improve their lives. It gives them the opportunity to be able to do it without getting caught up in that.

So, I think there are a lot of steps that are taking place. I think it is working to a degree, but again, we are overwhelmed by the numbers.

I would like to comment on one thing that the Prosecutor said about the numbers.

ASSEMBLYMAN OTLOWSKI: Will you just hold back on that for a moment?

COMMISSIONER FAUVER: Sure.

ASSEMBLYMAN OTLOWSKI: Regarding the new prisons with the 500 level, the Prosecutor was talking about the county facility in Middlesex and how helpful that is going to be. With regard to the two prisons that are on the boards now and are being developed -- the one in Camden and the one in Essex -- they are 500-level institutions, aren't they?

COMMISSIONER FAUVER: The Camden one is. The Essex one is basically 1,000, but it is separated. It is really two separates, joined by an--

ASSEMBLYMAN OTLOWSKI: Two separated into 500.

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN OTLOWSKI: But, in the same basic area on the same site.

COMMISSIONER FAUVER: The same site.

ASSEMBLYMAN OTLOWSKI: But, they will be totally separated.

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN OTLOWSKI: Staff-wise, division-wise?

COMMISSIONER FAUVER: Well, we'll have one superintendent over both.

ASSEMBLYMAN OTLOWSKI: With an assistant superintendent in each?

COMMISSIONER FAUVER: Yes, in each area.

ASSEMBLYMAN OTLOWSKI: So, there will be autonomy in each 500 unit.

COMMISSIONER FAUVER: There will be. They won't mix; the inmates won't mix, nor will the staff.

ASSEMBLYMAN OTLOWSKI: In that connection, are we merely scratching the surface of the need for that kind of institution in the State? You're still going to have, as you said, Rahway with the big population and Trenton with the big population. You're still going to have that.

COMMISSIONER FAUVER: Well, it depends.

ASSEMBLYMAN OTLOWSKI: In your opinion, just for this Committee, how many more of these 500-level institutions do you need in the State?

COMMISSIONER FAUVER: Well, I can offer the projections that we have through the 1980's. I don't really think we need any more. I don't think we need anything new. We are at some point going to run into issues of replacement for Rahway, or for replacing parts of Rahway as it becomes older. Our plans at Trenton are still to knock down the old part when this population bubble goes through.

ASSEMBLYMAN OTLOWSKI: You had some renovations and rehabilitation at Trenton that were extensive, weren't they?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN OTLOWSKI: But, you're talking about knocking down and razing the old section.

COMMISSIONER FAUVER: The old section. The renovations were in the old section because the original plans before the old Penal Code were that the new sections at Trenton would offset the old. With the increase in population, that didn't happen, and we had to keep it open.

ASSEMBLYMAN OTLOWSKI: Do you want to go back to the comment about what the Prosecutor said when I diverted you?

COMMISSIONER FAUVER: Yes, the Prosecutor mentioned the kinds of people who are at Rahway Camp and at other minimum security facilities. I would like to follow up on what he said about the murderers, the rapists, and the arsonists.

There are no arsonists or rapists at Rahway Camp. There are murderers. For the reasons that were stated, there are a lot of murderers in the system in the State. They tend to be the best parole risks in the sense of recidivism, as the Prosecutor indicated. In many cases, they become the best inmates.

ASSEMBLYMAN OTLOWSKI: You are saying for the record that there are no arsonists in Rahway?

COMMISSIONER FAUVER: No, in Rahway Camp.

ASSEMBLYMAN OTLOWSKI: In Rahway Camp -- no arsonists in Rahway Camp. What was the other category?

COMMISSIONER FAUVER: No rapists.

ASSEMBLYMAN OTLOWSKI: And, no rapists.

COMMISSIONER FAUVER: I think, for our classification procedures, there is the same thing. We see the psychiatric problems much more so. There are a number of murderers who could generally be classified as situational, not in the sense of any head problems, other than at that instant. That is not true. The record, as indicated by the Prosecutor, with recidivism with those other categories is there. That is one of the reasons that we don't do it.

I would just like to explain for a minute that there is a classification system in each of the prisons which classifies inmates for outside. It considers their records which include their arrest records and how they are doing in the prisons. It is made up of top staff people at the institution, including psychologists and custody people. It is not a one-person decision or a decision that is done by computer. It is a real live committee that sits down and makes the determination on such things as what custody status an inmate should be in. That is based on his entire record, including his psychological behavior inside the prison.

ASSEMBLYMAN OTLOWSKI: I don't have anything else that I want to ask, unless the Committee does.

Commissioner, before any questions are asked of you, will you suggest at this point the person whom you think should be the next person to testify?

COMMISSIONER FAUVER: Well, it depends, Mr. Chairman. If you want Rahway specifically, it should be the Superintendent of Rahway, Mr. Rafferty.

ASSEMBLYMAN OTLOWSKI: All right, we'll do that. Are there any questions of the Commissioner?

ASSEMBLYMAN CUPROWSKI: Yes. Commissioner, again, I want to thank you for being here. You have certainly enlightened me very much personally.

The question about the walkie-talkies -- you said you would like to implement those at the recommendation of the Mayor of Woodbridge. I think you agree with that, and you made reference to appropriating some money in the budget for those.

If there is need for that, and I probably agree that there is a need for it for many purposes -- for the safety of not only the guards, but the prisoners perhaps -- and God knows, what use might be made of it. I was just wondering if there is a need, then I would assume that somewhere in the system, we might be able to get that need filled temporarily. I don't know how many walkie-talkies we're talking about, but I'm sure that within the State of New Jersey, somewhere along the line, we could borrow them immediately, if necessary, to implement that until the money is appropriated. Do you think that is a good recommendation?

COMMISSIONER FAUVER: I'm not sure. Jack can tell you specifically how many he has used. There are some being used. It is just that there are not enough. I'm not sure of the number that he needs. We have been able to borrow minimal numbers of them from the State Police at times, but I don't know what the numbers would be. I would rather have him address that.

ASSEMBLYMAN CUPROWSKI: My suggestion is that we temporarily try to solve that problem. I think someone within your Department should pursue that possibility. Certainly, I agree with the appropriation. I couldn't agree more with supporting that type of appropriation for that purpose.

Thank you.

ASSEMBLYMAN OTLOWSKI: Commissioner, I think that the record has got to be clear on that because this is what concerned the people in Woodbridge. In that minimum security section, there are no rapists and no arsonists. There are murderers there, and the reason that they are there is because of the fact that they are being prepared, as the

Prosecutor and you have indicated, to assume their places on the outside. As you said, the murderer is less of a recidivist, less of a compulsive person, than those other categories. That is why you have made that particular category, and that is why you are dealing with that. Am I correct about that?

COMMISSIONER FAUVER: Yes, that is generally correct. I don't want to give the impression that the murderers at that camp are ready to go home within the next month or so. They have to have a set amount of time in the system.

ASSEMBLYMAN OTLOWSKI: They have to meet all of the qualifications of getting into that camp.

COMMISSIONER FAUVER: Yes, but they still may have a long period of time to go -- in some cases, several years. That is not true just there. It is true at our Leesburg Camp and other places.

ASSEMBLYMAN OTLOWSKI: They have to meet all of the criteria before they get into that camp.

COMMISSIONER FAUVER: Yes, there is a rating criteria within the Department's standards.

ASSEMBLYMAN OTLOWSKI: Just for the record, the other question I have is, there is an area there near the lake that is not fenced in, and prisoners are recreated there. What kind of prisoners are recreated in that area near the lake which is not fenced in?

COMMISSIONER FAUVER: I'm not sure.

ASSEMBLYMAN OTLOWSKI: We'll be able to get that from the Superintendent.

COMMISSIONER FAUVER: There is one other thing I would like to bring out because it was alluded to before -- the aiding and abetting on the escapes. My experience in the system has been for twenty-three years, and I know of no instance within the prison system where a correction officer was involved in aiding and abetting an escape of an inmate.

ASSEMBLYMAN OTLOWSKI: I think that is important for the record. To repeat your statement, you are saying that no personnel in your memory at Rahway was involved in the aiding and abetting of an escape.

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN OTLOWSKI: All right. On the other hand, there have been family members who have been involved in the aiding and abetting.

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN OTLOWSKI: Is that a predominant mode of operation?

COMMISSIONER FAUVER: I think if there is any kind of planning of someone picking them up, I think it would tend to be family members, girlfriends, or friends -- something like that.

ASSEMBLYMAN OTLOWSKI: Senator, do you have any questions?

SENATOR WEISS: Let's get back to the radio.

ASSEMBLYMAN OTLOWSKI: I don't think we want a question from the Senator. I think we want a promise that he is going to put that money in there for those radios.

SENATOR WEISS: Mr. Chairman, you know, there is a budgetary process, and the Commissioner is well aware of how that operates. That undoubtedly can be handled through that process. It is not made by the judgment of just one man.

ASSEMBLYMAN OTLOWSKI: But, I think it is well to be mindful of that. If we're talking about the things that they should have in these kinds of minimum security situations, the money should be there for it.

SENATOR WEISS: You are right, but I just went over some budget numbers, and apparently the budget figure for Corrections is up some \$7 million this year. I'm not aware that they did or did not know about radios prior to that. They could have requested them in the beginning. If not, there is a budgetary process, and the Commissioner and his staff are well aware of the method. We'll, of course, cooperate with them on that.

ASSEMBLYMAN OTLOWSKI: Commissioner, I'm sure that the Senator is very sympathetic to that whole situation. He lives right next door, so he is very sympathetic.

One of the things that was said previously is the fact that one of the prisoners just walked out of prison, walked out of the gate. That probably is unusual, and that was investigated, I hope, by

the prison officials in order to determine how that could possibly happen. How could such a thing possibly happen, or should we wait to hear that from the Superintendent? Maybe we ought to hear that from the Superintendent.

COMMISSIONER FAUVER: I can tell you in general. There are several ways that we have had escapes. These are basically outside details that the escapes have come from. They are working outside, so when we say walking away, they are not coming out through a gate from the prison. They have already been allowed out on detail.

ASSEMBLYMAN OTLOWSKI: Yes, but didn't we have a situation at Rahway where a guy walked right out of the main door, and said, "Goodbye" -- went outside, got a taxi and took off?

COMMISSIONER FAUVER: No, I'm not aware of that.

ASSEMBLYMAN OTLOWSKI: Maybe that was overdramatized or I was misinformed.

COMMISSIONER FAUVER: I think it was overdramatized. We have had escapes where the inmates have passed themselves off as visitors and have left with visitors. We have had two cases of that. We did change procedures on that. One of the things we did was to give each inmate his own identification card with his picture on it, and the picture is checked by the officer before the visitor is released, so that they can't switch or get mixed up.

ASSEMBLYMAN OTLOWSKI: So, that was the change that resulted from that.

COMMISSIONER FAUVER: It was one of the changes, and there were other changes in the way of hand stamps and things like that on visitors. That was the major change, yes.

ASSEMBLYMAN OTLOWSKI: Commissioner, thank you very much. We are very, very grateful. I just want to tell you this: We really appreciate your coming here. I don't even remember if we asked you to come.

COMMITTEE AND AUDIENCE: (laughter)

COMMISSIONER FAUVER: I go to a lot of places where I am not invited, Assemblyman.

ASSEMBLYMAN OTLOWSKI: We're very grateful that you came here, and I think you have made a substantial contribution to the Committee. I just want to say that I am well aware of the tremendous job that you have. It is a very, very difficult job and very, very trying. I think that if anything, all of us want to be helpful to you and to the Administration. Again, we're very grateful that you have come and have been so open and frank. Thank you very much.

COMMISSIONER FAUVER: Thank you, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: May we have the Superintendent, please? Mr. Rafferty, will you give us your name and your position for the record?

JOHN J. RAFFERTY: Yes, sir. I am John J. Rafferty, the Superintendent of Rahway State Prison.

ASSEMBLYMAN OTLOWSKI: Regarding the point that we were making, before you even start your testimony, Mr. Rafferty, the question that I asked the Commissioner about the lake that is not fenced in and where prisoners recreate themselves -- what kind of categories of prisoners are permitted in that unfenced area?

MR. RAFFERTY: That area is used for the inmates at Rahway Minimum Security Camp. That is where they play softball against each other and against community teams that come in. It is under supervision.

ASSEMBLYMAN OTLOWSKI: These are all minimum security?

MR. RAFFERTY: All minimum, and it is under the supervision of a correction officer.

ASSEMBLYMAN OTLOWSKI: Under tight supervision, since it is so open?

MR. RAFFERTY: I wouldn't classify it tight since it is open, but it is under supervision.

ASSEMBLYMAN OTLOWSKI: Have you had anybody walk away from that area?

MR. RAFFERTY: No, sir.

ASSEMBLYMAN OTLOWSKI: What you are saying then is that this system works.

MR. RAFFERTY: Oh, it works. If someone is going to make an effort to escape, they generally look for the opportunity, and that is not a good opportunity.

ASSEMBLYMAN OTLOWSKI: You're satisfied that it is working.

MR. RAFFERTY: Yes, sir.

ASSEMBLYMAN OTLOWSKI: We've been getting complaints about that, and I just want the people in that area to be assured that what you are doing there is working, and that you don't have any particular problem of people walking off.

All right, Mr. Rafferty, do you want to make an opening statement about some of the things that were said here by the Mayor? I think you heard the Mayor's testimony. I think the Mayor pointed out that there has been great improvement, and I think everybody is in general agreement that there is great improvement that has taken place there. Do you want to kick off from that point?

MR. RAFFERTY: Well, it is probably repetitive at this point, but yes, we met with the Township back in October, and we did offer that uniforms be worn by the inmates. We also suggested at that time that stiffer penalties be given out for inmates who escaped. That was indeed something that we talked about. I also testified at that hearing about how I felt about shotguns and weapons being outside the wall.

ASSEMBLYMAN OTLOWSKI: In any escape, you immediately notify whom -- the Woodbridge Police?

MR. RAFFERTY: We notify the State Police, the Woodbridge Police, and the Carteret and Rahway Police.

ASSEMBLYMAN OTLOWSKI: You notify all of them immediately?

MR. RAFFERTY: Immediately.

ASSEMBLYMAN OTLOWSKI: The moment an escape takes place?

MR. RAFFERTY: That is right. In addition to my meeting with the Woodbridge officials, I send pictures of the uniforms to the Rahway and Carteret Police Departments, so that they have photos of what the uniform looks like if they happen to see one. I hope they don't see one, but if they do, they'll know what it looks like.

Since that point in time, we've been fortunate. We haven't had any walkaways. I have met the Mayor twice in my office on other business, and so far, we seem to have a good relationship.

ASSEMBLYMAN OTLOWSKI: I think that speaks for itself. I think the relationship between the officials of Woodbridge and the officials at the prison has improved tremendously. Frankly, it is good that it is that way because I think it is helping this whole situation. They have some observations they can make that can be brought to your attention immediately.

You wanted to make a point, and I think it is worth repeating. You agree with the prosecutor that shotguns wouldn't solve anything in the minimum security area.

MR. RAFFERTY: That is correct. There is a lot of foot traffic that goes on between Woodbridge State School, and I think that is Hazelwood Avenue down there by the Dairy Queen. There is a tremendous amount of foot traffic. Don't even consider the vehicular traffic that is outrageous on that particular route. I don't see where it would be very comforting for anyone to see someone walking around with a shotgun. God forbid that we had to use it. There could be some other problems if a civilian were injured.

ASSEMBLYMAN OTLOWSKI: I don't want to put you on the spot, and as a matter of fact, it is not my intention, Senator Weiss, to use you as some kind of a foil. We have been very frank with each other, and I think that has been very helpful to the Committee. By way of security, are there any special needs that you have? It was pointed out, for example, that the two-way radios would help. Do you see any other areas where money would help as far as security is concerned?

MR. RAFFERTY: Well, the Commissioner also touched briefly on an infrared system surrounding the camp. Do you remember that?

ASSEMBLYMAN OTLOWSKI: About what?

MR. RAFFERTY: An infrared system that would surround the perimeter of the camp.

ASSEMBLYMAN OTLOWSKI: Oh, yes.

MR. RAFFERTY: That would be a great help.

ASSIMBLYMAN OTLOWSKI: How does that work, and what kind of cost are we talking about?

MR. RAFFERTY: You're talking approximately \$100 thousand. How it works is this: If someone or something should break the beam, there would be a signal sent to a receiver which would tell exactly where the break is. Then you would have an investigative look at the break. That would help Rahway because you would be able to cut down on some of the foot patrols. Quite frankly, foot patrols only see one way -- the way they are walking. The infrared system sees everything. Foot patrols tend to yawn and look at the stars and look at the ground, but the infrared system doesn't have any of those hang-ups. I would prefer to see that kind of system at the institution.

ASSEMBLYMAN OTLOWSKI: Is that system working in any of the prisons at the present time?

MR. RAFFERTY: Not in New Jersey.

ASSEMBLYMAN OTLOWSKI: Not in New Jersey. To your knowledge, is that working in any prison in any place in the country?

MR. RAFFERTY: Yes, it is working in some of the institutions in South Carolina.

ASSEMBLYMAN OTLOWSKI: What are the reports from there? Is it working well, or is it questionable?

MR. RAFFERTY: Okay. I didn't personally go down there to see it, but Mr. Hilton did. If you like, I'm sure he will testify to that.

ASSEMBLYMAN OTLOWSKI: We'll call on him. In any event, in your opinion, it is worth exploring.

MR. RAFFERTY: Absolutely. There are a lot of private industries using it now, and they are getting rid of the old Pinkerton-type guard.

ASSEMBLYMAN OTLOWSKI: If we ever get into that system, one of the things that seems to be impressive to the people in the area is the mobile unit that you use to patrol the area. That, of course, is going to be continued, isn't that correct?

MR. RAFFERTY: That is correct.

ASSEMBLYMAN OTLOWSKI: While the people, of course, feel some comfort with that, you feel that that is working better.

MR. RAFFERTY: Absolutely. The unit is armed, and the inmates know it is armed. It is the backup to the patrol officers, and they feel better about it. I feel better about it because I know it is out there, and it is patrolling the entire perimeter.

We also installed checkpoints where the unit has to go every so often. I would prefer not to divulge that publicly, but he does have to do that.

ASSEMBLYMAN OTLOWSKI: The Commissioner indicated that your population is pretty stable there at a figure of, I think he said, 1,600. Did he say that?

MR. RAFFERTY: No, he didn't. The total count is around 1,475. There are approximately 1,250 inmates inside the wall itself, and 118 inmates at each respective minimum unit.

ASSEMBLYMAN OTLOWSKI: That makes a total of what? About 1400?

MR. RAFFERTY: About 1475.

ASSEMBLYMAN OTLOWSKI: That is a pretty big number for that institution, isn't it?

MR. RAFFERTY: Yes, sir.

ASSEMBLYMAN OTLOWSKI: In your opinion, and again, this is a free discussion, by what number do you think it is overcrowded?

MR. RAFFERTY: As far as inside the wall is concerned? You have to be specific, Mr. Otowski.

ASSEMBLYMAN OTLOWSKI: Inside the wall.

MR. RAFFERTY: Outside the wall has changed.

ASSEMBLYMAN OTLOWSKI: Inside the wall affects what you can do outside.

MR. RAFFERTY: That is correct. At that institution, inside the wall, I would say we are approximately overcrowded by 200.

ASSEMBLYMAN OTLOWSKI: By 200?

MR. RAFFERTY: Yes, sir.

ASSEMBLYMAN OTLOWSKI: So, you would want to hold it at a figure of about 1,000. This is the wrong question to ask you, but I'm going to ask you anyhow so that we can trigger some thinking here. Is

there any possible way with these new institutions that are going to be built to reduce that number to 1,000.

MR. RAFFERTY: I don't believe so.

ASSEMBLYMAN OTLOWSKI: You don't think so.

MR. RAFFERTY: Not in the foreseeable future, but maybe in ten years. I know for a fact that there are over 1000 backed up in the county jails.

ASSEMBLYMAN OTLOWSKI: What effect does that overcrowding have on minimum security on the outside?

MR. RAFFERTY: There are not enough constructive programs for those guys to do because my efforts are geared towards the inside. Those guys have been around awhile. If they have been around long enough, they have even gone through the programs on the inside. I don't have the civilian support staff for the outside camps. That is what the immediate impact is, because I zero in towards the inside.

ASSEMBLYMAN OTLOWSKI: So, in your opinion, you are about ten years away from reducing that population to where you would feel comfortable in being able to handle it.

MR. RAFFERTY: Yes.

ASSEMBLYMAN CUPROWSKI: Mr. Chairman, before we get too removed from the infrared system that you talked about, were you talking about around the camp itself, including the wall?

MR. RAFFERTY: No, just the perimeter of the minimum security unit.

ASSEMBLYMAN CUPROWSKI: Okay. Are you talking about it as a supplement to the security, or as a--

MR. RAFFERTY: It would be the first line of defense.

ASSEMBLYMAN CUPROWSKI: Or, as a substitution, I guess.

MR. RAFFERTY: No, it would be the first line of defense, and it would be backed up with an armed investigative unit.

ASSEMBLYMAN CUPROWSKI: You made some reference to the patrols -- the security patrols.

MR. RAFFERTY: There are foot patrols currently going around the unit. I am suggesting that a technical medium would be more efficient.

ASSEMBLYMAN CUPROWSKI: And, the patrols would not be necessary? Is that what you are saying?

MR. RAFFERTY: You would reconstruct them and redesign them, and you might eliminate one or two of those officers, but you would still have to keep an investigative team out there to inquire where the break in the infrared system was located.

ASSEMBLYMAN CUPROWSKI: I assume the officers would be reassigned.

MR. RAFFERTY: Oh, yes. No one would lose his job over that.

ASSEMBLYMAN OTLOWSKI: Assemblyman?

ASSEMBLYMAN HAYTAIAN: I don't have any questions.

ASSEMBLYMAN OTLOWSKI: Senator?

SENATOR WEISS: I only have one, Mr. Chairman. Mr. Rafferty, perhaps some of us were a little ahead on this thing. If I had read this before, and I knew more about Rahway Prison, I perhaps would not have said some of the things I said before. It appears to me that someone has done some research on this. You indicated that you do, in fact, have foot patrols with night sticks, and they are supported by a gun-equipped mobile patrol car and a tower. I know that the tower can't get around, but the patrol car can. I'm just curious about one thing. The car is gun equipped. What kind of weapons are in that car?

MR. RAFFERTY: They are each armed with a 357 side arm and a shotgun.

SENATOR WEISS: So, you really have both of them.

MR. RAFFERTY: They are inside the van.

SENATOR WEISS: Of course. The prisoners know that the car goes around every so often. That was what you were saying before. That solves some of the problem that I had with that particular situation.

The other question I have is, you were talking about a twenty-foot cyclone fence, apparently with a concertina-type razor wire on top.

MR. RAFFERTY: There is one around the--

SENATOR WEISS: Someone said, Mr. Chairman, that two inmates went over, and the indication made to me over a period time-- And, I've seen that concertina razor wire at different places around commercial buildings. I was under the impression that they are almost impenetrable.

MR. RAFFERTY: That is not exactly true. You can throw a blanket or something else over it and take your chances. At the recent escape at Trenton State Prison, those inmates were severely injured when they went over it. They took the chance, and these guys took the chance too.

ASSEMBLYMAN HAYTAIAN: A lot of them are very athletically inclined, so they can really take off.

ASSEMBLYMAN CUPROWSKI: Excuse me, Mr. Chairman. The infrared system would detect that if that did happen?

MR. RAFFERTY: Right. In my mind's eye, I see this infrared even before you get to the fence.

ASSEMBLYMAN CUPROWSKI: Okay.

SENATOR WEISS: Mr. Chairman, I just have a couple more things that I'm concerned about because of the proximity to the prison. I'm beginning to believe a lot that I heard in the past where someone indicated were -- and I'll use the same word -- "myths" or overstatements by over-zealous people who had whatever purpose in mind. I did hear a story about drugs being smuggled into the prison through the camps by just putting them through the regular fence that is there. Is that still prevalent?

MR. RAFFERTY: It still goes on. There are people who ride down Rahway Avenue and throw drugs out of their cars, and they gets picked up by the details. There are numerous ways that narcotics can come into the institution.

ASSEMBLYMAN OTLOWSKI: Excuse me, there is what?

MR. RAFFERTY: There are numerous ways that narcotics can be introduced to the institution.

ASSEMBLYMAN OTLOWSKI: Just for the Senator's information, this Committee held an extensive hearing at Rahway Prison on that very question. Again, that is a separate and very distinct problem, and a

very difficult problem. As the Superintendent just pointed out, there are many ways of getting it in.

Senator, what else?

SENATOR WEISS: You've used me for a foil, Mr. Chairman.

COMMITTEE AND AUDIENCE: (laughter)

ASSEMBLYMAN OTLOWSKI: May we have the Assistant Commissioner? Mr. Hilton, we want to get into that infrared--

Superintendent, thank you very, very much.

MR. RAFFERTY: Thank you.

ASSEMBLYMAN OTLOWSKI: Mr. Hilton, will you identify yourself, please?

G A R Y J. H I L T O N: Yes, I am Gary J. Hilton, and I am the Assistant Commissioner for Adult Institutions for the Department of Corrections.

ASSEMBLYMAN OTLOWSKI: Mr. Hilton, we were developing some questions regarding that infrared system, and how it would be particularly helpful to the minimum security. The Superintendent said you would be in a better position to answer one of the questions that I asked. What is the experience in the states where they have this?

MR. HILTON: Several months ago -- I suspect it was six months ago -- another representative and I travelled to the state of South Carolina and visited a rather large prison installation. Actually, there were several institutions with varying degrees of security on a common site. They had the infrared system in place there for some seven or eight years, guarding a medium-security male facility. We spoke to the fiscal officer of that institution, as well as the chief executive officer, and some line staff. Their general experience with the infrared system had been an extremely good one, both from the standpoint of performance, maintenance, breakdown, down time, and false alarm, which is always a key consideration in any kind of security technology.

It is a system that develops for you a first line of defense, which means that if this microphone were the institution -- let's say the building -- the infrared goes 360 degrees around it, and then there

is a dead zone or a no-man zone, and then the fence. The infrared, if violated, alerts you that someone is on his way to the fence. What it does is, it energizes a sonic signal, which is sent to the control center on a television screen and to the vehicle that is on patrol. It actually prints out on a diagram where the violation has occurred. The control center mobilizes its response strategy, and the vehicle immediately responds to the point of the violation.

It is an excellent system, and it is a system that is respected by inmates, because they know the minute they hit a point, they are going to be challenged by an armed officer.

ASSEMBLYMAN OTLOWSKI: To install that in Rahway, I think the figure was just--

MR. HILTON: It would cost approximately \$100 thousand.

ASSEMBLYMAN OTLOWSKI: One hundred thousand dollars?

MR. HILTON: The feeling is that by installing it, we are going to certainly upgrade the efficiency of our perimeter, and clearly do so on a very cost-effective basis. We will be able to redeploy the officer personnel from the foot patrol, and basically just have the vehicle and the instant alarm to the main command station, which can then do a whole host of other things. We're very anxious to set this system in place at Rahway, and quite frankly, examine it at Rahway with an eye toward perhaps--

ASSEMBLYMAN OTLOWSKI: So, you are saying that you would recommend it for Rahway?

MR. HILTON: Most assuredly, sir. I think based on experience at Rahway, it might be effective at some of our other facilities.

The position this Department has taken -- at least Commissioner Fauver's philosophy -- with technology, has been that we want the various technologies to support and supplement our people. But, our first line of defense is the excellence and the professionalism of our correction officers. No matter how sophisticated this kind of technology can get, machines are basically very dumb things. They can only do what you tell them to do, and when they break, they are gone. Our people can adjust.

We're not saying that we're casting aside the correction officers. We want to interface state-of-the-art technology with the high caliber of professional correction officers we have in New Jersey.

ASSEMBLYMAN OTLOWSKI: You're saying that this would work at Rahway? It would enhance the whole security system and give you the kind of backup you need there. From your observations in South Carolina, you are satisfied that it would work well at Rahway.

MR. HILTON: Yes, to everything you've said, plus it would be cost effective, and it would enable us to deploy the officers to other duties.

ASSEMBLYMAN OTLOWSKI: Commissioner, from my own standpoint, I think we've covered everything on this subject. Some of the members of the Committee may have some questions about this system. Assemblyman?

MR. HILTON: Mr. Chairman, may I make two very quick points based on the earlier testimony? I think they are important for the record. The issue of what is an escape and what isn't an escape and what have you, I think, needs to be clarified.

It is the Department's policy that an inmate who is moving to leave confinement -- State property, the last barrier of restraint-- If an inmate is off of State property or removed from it, that inmate is going, without question, to be charged with escape. He will be disciplined, subject to our administrative remedies, and the matter will be presented to the prosecutor who will make the prosecutorial judgment as to whether to seek an indictment. As far as departmental policy is concerned, he will be charged with escape.

In terms of the uniform, it is the policy at Rahway that if an inmate in one of units where uniforms are required doesn't have his uniform on, there is a distinct possibility that that inmate will be charged with attempted escape administratively. It is not a particularly gray area; it is rather white or black. We certainly have a lot more to say in terms of the administrative handling of it, and clearly, the prosecutor makes the decisions for civil or criminal prosecution.

ASSEMBLYMAN OTLOWSKI: Assemblyman?

ASSEMBLYMAN CUPROWSKI: Yes, Mr. Chairman. We talked about several things here this morning, in particular, the radios and probably most important, the infrared system. Obviously, these will be very beneficial as far as security is concerned for first-line defense, etc. I'm sure it would improve the whole situation and relieve some of the complaints that perhaps we have been receiving over the years.

My question is, when does a minimum security facility become an intermediate security facility, as opposed to a maximum security facility? Evidently we're going in the right direction, which obviously is a benefit to everyone concerned. Maybe you can define that, if that is definable.

MR. HILTON: I think maybe I can make a stab at it. I suspect, if corrections persons outside of New Jersey were to look at the Rahway Camp, the observation would probably be that it has more security than a minimum security installation would normally be accorded.

ASSEMBLYMAN CUPROWSKI: As of now.

MR. HILTON: As of right now. There are differences though. Rahway Camp is in a fairly populated area. Most minimum security installations are farm settings and forestry camps. It is not a question of inappropriate classification, because indeed, I think we classified it properly. But, I think you have to provide, given where Rahway is located -- the fact that there are major highways, a lot of citizen traffic, a lot of industrial and residential activity -- a higher order of security in terms of perimeter than you normally would do in a minimum setting. I think it is fair to say, from my perspective, and I've had opportunities to see facilities in a number of states, that Rahway Camp is appointed with clearly the most in the way of custodial appointment in perimeter of any minimum security installation that I've ever seen. But, that doesn't mean it is inappropriate because of where it is located.

Did that confuse you?

ASSEMBLYMAN CUPROWSKI: No, it doesn't confuse me. I'm just wondering how you would define it, assuming that we made the changes in the infrared system, as an example? I assume you would just--

MR. HILTON: That is a passive kind of security. I think it would reach medium proportions if you had infrared backed up by five gun towers which were manned twenty-four hours a day. That would constitute a medium setting. The difference between medium perimeter and maximum perimeter isn't altogether that different. Where the medium security prison becomes a maximum security prison is not necessarily in the detail of the perimeter, but how rigorously and closely you manage the internal movement of the prisoners. The perimeters of medium and maximum, in many situations, are very much the same.

ASSEMBLYMAN CUPROWSKI: All right, thank you.

ASSEMBLYMAN OTLOWSKI: Assemblyman?

ASSEMBLYMAN HAYTAIAN: I have just one question, Gary. I'm a little confused. Maybe that isn't the right word, but we talked about the escapes, and they really, in number, are not a large amount. Any escape though is a very serious problem. How many attempted escapes have occurred that we haven't heard about? We don't have one a day, do we? Then again, do we have ten a day?

MR. HILTON: You're talking from maximum, inside the wall?

ASSEMBLYMAN HAYTAIAN: Yes.

MR. HILTON: You have 1200-odd inmates at the Rahway Prison, and I suspect 1000 think about escape every day. That is probably a healthy process, but we won't get into that. Anyway--

ASSEMBLYMAN OTLOWSKI: Do you want to withdraw the answer?

COMMITTEE AND AUDIENCE: (laughter)

MR. HILTON: I wish I hadn't said it. In my recollection during the last three years, there has been one bona fide attempt to get out of Rahway -- what we call a cutout from inside the wall. That was uncovered rather early in its evolution through some good, hard-nosed investigation, and a good intelligent system in the prison. It was an activity where basically a stove had been moved in a back kitchen, and it was the beginning of a tunnel. It was uncovered and put to rest.

Short of that, I can remember no other bona fide attempts -- planning, scheming, fantasizing--

ASSEMBLYMAN HAYTAIAN: That is going on all the time.

MR. HILTON: Yes, it is there. To be quite honest, in a minimum setting, if they want to go, they are going to go. We are going to obviously alter this somewhat, but really, that isn't keeping with the philosophy of minimum. It is not the concrete mortary guns, but it is the stability of the inmate, the gains he has made, and the program -- his investment in having a lot of time.

I certainly join the Prosecutor and everyone else, and I think the criminal penalties for escape and aiding and abetting escape need to be reexamined.

ASSEMBLYMAN HAYTAIAN: Okay, thank you.

ASSEMBLYMAN OTLOWSKI: Before we go to the Senator, I have just one thing. Will we make sure that we look at the discrepancy in the figures of the Prosecutor and the Department's figures on the escapes at Rahway? There is a discrepancy of figures. I don't want to go into it now. I'm just mentioning it for the record, so that the Commissioner and his staff will look at that discrepancy to see if it can be cleared up.

Senator?

SENATOR WEISS: Thank you, Mr. Chairman. I have no questions, but I have one remark to make. Things haven't changed. Society still wants these folks incarcerated, and they do have a contrary view. I thank you for that.

ASSEMBLYMAN OTLOWSKI: Senator, thank you for coming. I want to express my thanks to the Committee and to everyone who testified. I was told by staff that there are no other people who--

MR. PRICE: There are two more.

ASSEMBLYMAN OTLOWSKI: How did they get into the room? Who are the two who want to be heard?

MR. HILTON: Am I excused?

ASSEMBLYMAN OTLOWSKI: Yes, thank you very much. Incidentally, I hope before you leave that Senator Weiss -- again, I apologize -- that you will give some thought to that infrared--

SENATOR WEISS: Absolutely, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Will you please? Thank you very much. Miss Karen Spinner?

K A R E N S P I N N E R: I promise to be very brief. I have a prepared statement which I will not read.

ASSEMBLYMAN OTLOWSKI: I'm going to hold you to that promise. Do you have written testimony?

MS. SPINNER: Yes, but I will not read it. I want to comment on a couple of things that were said this morning.

For the record, my name is Karen Spinner. I am the Director of Public Education and Policy for the New Jersey Association on Corrections. The Association is a statewide organization of citizens concerned with improving the effectiveness of the criminal justice system. We're concerned with the economic, social, and human costs of crime and punishment.

I will not read my testimony because almost everything that I included was mentioned by the Prosecutor.

Basically our position is, we feel that the Department of Corrections is doing a good job in terms of security at its institutions. The two things that I would like to mention were brought up by the Prosecutor and the Mayor, as well.

We are adamantly opposed to the use of shotguns while the inmates are on details. We also disagree with the use of the reinstitution of uniforms in the institutions themselves. We will concede that they may be necessary while they are outside.

I was not going to mention this point, but since the Committee has brought it up, it strikes me that the problem we are experiencing with the complaints from the community has to do with lack of acceptance of minimum security facilities throughout the State.

We are very much in favor of this type of facility and halfway houses as well. I represent an organization that operates two halfway houses here in the State of New Jersey, under contract with the Department of Corrections, and I would like to invite this Committee to come and visit our facilities at any time. We have one in Trenton and one in New Brunswick, and we would be delighted to show you the kinds of programs that we offer to inmates in the institutions.

ASSEMBLYMAN OTLOWSKI: Karen, thank you very much, and thank you for your patience. We also want to thank you for your written

testimony. The members of the Committee have it, and they are going to read it.

MS. SPINNER: You're welcome.

ASSEMBLYMAN OTLOWSKI: Mr. Stuart? Will you tell us who you are and where you come from?

RICHARD STUART: My name is Richard Stuart, and I live in New Brunswick. I am Executive Coordinator of the Citizens for Community Corrections, an organization that is interested in the promotion of community-based facilities and programs.

I would like to say that I am the Treasurer and have been a member for the past ten years of the Executive Board of the New Jersey Coalition for Penal Reform. I am also a past Secretary and member of the Board of Directors of the New Jersey Association on Corrections. I was formally the Citizen/Action Coordinator for the New Jersey Association on Corrections.

Some of the testimony here today was especially pleasing. I would like to endorse the Prosecutor's recommendations on sentencing. Hearing some of the things the Prosecutor said were exceptional, coming from a prosecutor. We usually hear a different song.

I would also like to say that in certain respects, I have been a long-standing critic of the Department of Corrections, but with respect to the security, I believe that the Department and the Rahway Prison are to be commended for the steps they have taken to correct what was a bad situation there.

I would like to say, however, that I support them strongly on their position of no firearms, because I believe if the members became really familiar with the situation, they would also see that it would be very unwise to have shotguns in the hands of the officers who are responsible there. They would end up in the hands of the inmates more than likely.

Regarding the infrared system that has been proposed, I believe that you should take a very hard look at that, because one of the things that was not mentioned is the time of day this is going to function. If it is something that is going to function at night, I would think that that would have to be taken into consideration with

respect to the cost. If it is going to function during the day, then I don't know exactly how it would function in terms of these people who are coming and going. They don't stay inside the camp necessarily during the day. Part of the reason they are out there is to function all over the prison grounds.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, if I might-- Mr. Stuart, excuse me, I'm sorry to interrupt, but that is a warning system. You have to understand that. It is a warning. It appears on a screen, so if someone is coming and it shows on the screen, they know who it is.

MR. STUART: I follow that, but I don't know whether it would be activated--

ASSEMBLYMAN HAYTAIAN: All day, twenty-four hours.

MR. STUART: Well, I would be interested in how that would function, given the role of the minimum security inmates. You are familiar with Rahway Prison -- the way it is laid out.

ASSEMBLYMAN OTLOWSKI: Excuse me, I don't want to get into the technical aspects.

MR. STUART: Let me just say, Mr. Chairman--

ASSEMBLYMAN OTLOWSKI: Will you just continue, please, because that is a technical part, and we'll get into that later.

MR. STUART: I'm just saying that the Committee should look at that.

What I specifically came here to bring to your attention is that I feel that a critical issue is classification. I have been disturbed for years by the prison system's policy of having what I perceive as an arbitrary limit of five years. If you have a sentence of a certain number of years, because of that sentence, you can be eligible for minimum security from the day you come into the prison. If you have a sentence beyond that, you have to serve a certain amount of time inside the wall.

The thing that gets the most headlines is the life sentence -- when anyone who has a life sentence escapes. It is my understanding, unless it has changed recently, that after a person has served five years, he becomes eligible to go outside the wall to the minimum security area. This means that, in large measure, we're

talking about a fifteen-year minimum before he meets the parole board. So, he can be out there in Rahway Camp, or any of the other ones, for ten years. I feel that when you back off and look at this, it is an improper pressure placed upon the person who is out there. You are sort of putting him that close to the outside when he isn't even going to meet the parole board for ten years. I think that has to be looked at, and I think we could evolve out of that examination with a system of a percentage of the sentence that is going to be served as maximum, a percentage that is going to be served as medium, and then a percentage that is going to be served as minimum before his parole eligibility.

Something that I think you might ask the Department for with respect to these escapes is -- not just the figures for Rahway, because I don't think, even though this hearing is specifically about Rahway, I believe that if you are going to think about legislation or recommendations to the Department, you should get the figures for all of the State facilities.

I also think in connection with the specific escapes, you should have some idea of what point in the sentence the man attempted escape. I don't know offhand whether some of these people tried to escape right after they got out to minimum, or whether some of them have tried to escape after they had been in minimum for five years. I think why it is difficult to put somebody out there under this stress for a ten-year period perhaps, or maybe more than ten years, is that you have situational stress. I know enough about the prison system to know that a person can have a beautiful institutional record for five years and become eligible for minimum. At some times, he may have been acting just beautifully in order to get out to minimum, but he may also have other intentions.

You have what I would call "situational stress" that may come from the family, from problems with staff at the minimum camp, and from problems with other inmates. I would like to say that there is no way to predict family stress. It can be unbelievably critical. I would like to bring one case to your attention as an example of what can happen. Fortunately, it happened at Rahway Prison and not at the minimum camp.

An inmate received a visit from his wife, and his wife told him that she was pregnant by his brother. At the time, this man worked in the food service butcher shop. He could have gone back to the butcher shop, because no one knew what his wife told him, and gotten some knives and gone on a rampage against other inmates. As it happened, he took a very different role. Based upon the personality of this man, he went back to his housing wing on the fourth tier and jumped. He landed on his head four stories below. So, he hurt no one else. If had been in the minimum--

ASSEMBLYMAN OTLOWSKI: Excuse me, what we have been doing here is dealing with some of the immediate problems and solutions at Rahway. Frankly, you're getting into an indepth question of the whole thing. That is not the purpose of this Committee.

MR. STUART: Mr. Chairman, I think it is the purpose.

ASSEMBLYMAN OTLOWSKI: Excuse me.

MR. STUART: Classification is part of the problem.

ASSEMBLYMAN OTLOWSKI: No, excuse me. If you have something you feel would be helpful to this Committee in the area of classification, I suggest that you submit a position paper to us. If it is submitted to the Committee within the next thirty days, I'll hold the record open. If I don't have it within the thirty days, I'm going to close the record. We're not going to sit here and go into the whole business of classification of prisons at this hearing. As I told you, this hearing is being held to deal with some of the immediate problems and solutions at Rahway.

So, if you have a problem with classification, I suggest that you submit a position paper to us.

MR. STUART: Mr. Chairman, I would like to say that I have been here since before ten o'clock this morning, and I have been very patient. I have listened to the testimony, and you have digressed a number of times away from the subject.

ASSEMBLYMAN OTLOWSKI: I have digressed--

MR. STUART: (interrupting) You have digressed a number of times from the subject, and I have no problems with that.

ASSEMBLYMAN OTLOWSKI: I have the problem; I am the Chairman. Let me just tell you this: I have permitted digression, and if I can quote my friend -- the greatest speaker that the State has ever had -- Chris Jackman. I have given him latitude and longitude unforgiveably, but there is a purpose to this Committee, and I want to keep it at that purpose.

Now, I am opening the door for you, and if you have something to suggest in the area of classification, I am saying to you that I'll hold the record open for thirty days, and you submit it to us in writing.

MR. STUART: But, you're saying that you and others who spoke here could digress, but I am not going to be allowed to digress.

ASSEMBLYMAN OTLOWSKI: Just a minute.

MR. STUART: I'm not going to be able to even address the things--

ASSEMBLYMAN OTLOWSKI: Please, don't make my speeches. I'm a great speech maker; I can make my own.

MR. STUART: Well, I'm trying to find out.

ASSEMBLYMAN OTLOWSKI: Now, please, is there anything else?

MR. STUART: There were some other things that I wanted to say pertaining to the testimony given today, but what you're telling me, in effect--

ASSEMBLYMAN OTLOWSKI: Don't tell me what I'm telling you.

MR. STUART: Okay, you're telling me that you don't want to hear from the public. Thank you.

ASSEMBLYMAN OTLOWSKI: All right, is there anyone else? (no response)

The Committee stands adjourned. We're going to keep the record open for thirty days in the event that anyone wants to supplement the record with any written testimony.

That is it. Thank you very, very much.

(Hearing concluded)



State of New Jersey

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ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

CN-042

STATE HOUSE, TRENTON, N. J. 08625

TELEPHONE (609) 292-1646

BACKGROUND INFORMATION FOR PUBLIC HEARING ON RAHWAY STATE PRISON SECURITY ISSUES - FEBRUARY 8, 1984

I. Number of Inmates at Rahway State Prison

As of December 31, 1983, there were 1,249 inmates in the main prison facility and an additional 115 inmates in the minimum-security camp outside the main prison walls.

II. Record of Escapes

According to a 1983 Star-Ledger article on Rahway State Prison: "Escapes by minimum-security prisoners have been a longstanding subject of complaint by residents of the surrounding area, as well as by Woodbridge (Township) officials, who instituted a suit against the State Department of Corrections several years ago, seeking an end to the situation."

The following are the annual and combined totals since 1975 for the number of escapes from the minimum-security camp outside the main prison walls, according to the records of the Department of Corrections.

<u>Number of Escapes</u>	<u>Year</u>
0	1975
9	1976
10	1977
3	1978
1	1979
1	1980
2	1981
2	1982
3	1983
0	1984 (to date)

Of these 31 escapes, 1 is still at large.

In addition, there have been 2 escapes from the main prison - 1 in 1978 and 1 in 1980. One escapee is still at large.

Prior to 1979, the minimum-security unit did not have a fence around it. A 20-foot cyclone fence with razor wire on top was completed after several escapes produced complaints from neighboring communities. In addition, because of concerns expressed by local residents over escapes from the minimum-security unit, the Department of Corrections decided in 1978 that convicted murderers, sexual offenders or arsonists, in addition to anyone serving a life sentence, would no longer be housed in this facility.

In 1979, police apprehended two minimum-security inmates who repeatedly escaped from custody to rob local homes and returned to the minimum-security camp where they hid the stolen cash and jewelry. The two inmates, who cut a hole in the fence surrounding the camp and used the opening to slip past the guards, eventually pleaded guilty to two counts of breaking and entering and two counts of larceny in exchange for which the Middlesex County prosecutor dropped eight additional counts of breaking and entering and six counts of larceny, according to court records.

In the spring of 1983, Woodbridge Township officials claimed that minimum-security inmates had been seen drinking at local taverns, based on reports from several local residents. The mayor wrote to the prison superintendent alleging that minimum-security inmates were being allowed to freely move in and out of their residential area and that they were monitored by unarmed guards. The Department of Corrections challenged the reports by local residents, stating that the minimum-security inmates are not allowed to have money, are locked in at night, and that there are periodic counts of inmates. The prison superintendent said that the minimum-security unit is monitored by officers on foot patrol armed with nightsticks, supported by a gun-equipped mobile patrol and a guard tower.

III. The Rahway State Prison Minimum-Security Facility

Marlboro Camp Unit is the minimum-security satellite of Rahway State Prison. It consists of about 12 acres of farmland in Marlboro Township where inmates work between five and seven days a week. A new \$1.7 million facility, which was built with funds from a 1978 correctional bond issue, was opened on April 4, 1983 with a capacity to house 118 minimum-security inmates. This building houses 38 more people than the old dormitory which had served as a minimum-security residence area since 1962 and was to be renovated to serve as an all-purpose visiting and meeting area. Prior to 1980, 40 inmates had also been housed in 19 residential trailers in the minimum-security camp.

Prison officials have claimed that the new minimum-security building would create more spaces inside the main prison and provide more relief to overcrowded county correctional facilities housing State inmates. They have also stated that the new structure would provide greater security than the old dormitory; the windows are smaller and equipped with straps to discourage escapes, and lower dividing walls between bunk areas make security checks easier.

To qualify for placement in the minimum-security facility, prisoners must have served some portion of their sentence in the main prison, have good discipline and work records and receive good evaluation reports by professional staff. Inmates who are considered for a transfer to the minimum-security unit are screened by the Department of Corrections. No one with a conviction for murder, arson or a sex crime may be placed in the unit. In addition, an inmate who has escaped from any of the State's prison facilities automatically cannot be considered for minimum custody until two years after his apprehension. According to the unit's superintendent, the average stay of an inmate in the unit is one or two years, and the fact that most of them are reaching the end of their sentences has helped reduce the number of escapes.

311 Wagner Avenue
Perth Amboy, New Jersey

February 9, 1984

George Otlowski
260 High Street
Perth Amboy, New Jersey

Dear Assemblyman Otlowski,

I have just finished reading the article which appeared in today's News Tribune regarding the meeting of the committee which you chair, relevant to the escapes from the prisons.

Although I have not attended any of the sessions, judging by the newspaper articles, I feel that a very evident means to cut down escapes has not been mentioned TRAINED DOGS.

A trained dog could be assigned to a guard with a work detail, and there would be no worry of a prisoner overcoming the guard and disarming him. Additionally if a prisoner were to attempt to flee the dog can out run him and hold him until the arrival of the guard. Additionally should the dog mistakenly be sent by the guard he could be recalled, a round from the shotgun could not.

A second use for the dogs could be to guard the work camps at all times there were prisoners present. This could be accomplished by building a dual row of fencing around the compound area and allowing the dogs to run free between the 2 fences, in a "no mans land".

An in house training program could be developed for a dog program, maintenance is inexpensive and dogs are long lived. I do not believe that this program would be a first as Pennsylvania is a leader of dogs in their prison system.

In closing I would again remind you that these dogs must be highly trained and similar to those used in Police K-9 works, and can not be just any old back yard trained dog, and that the use of the dogs would not be limited to just the uses above.

Very truly yours,


Mark D. Spiegel

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NEW JERSEY ASSOCIATION ON CORRECTION

25 NORTH CANTON AVENUE, TRENTON, NEW JERSEY 08609. (609) 396-8900.

TESTIMONY BEFORE THE ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE
ON
SECURITY ISSUES AT RAHWAY STATE PRISON

February 8, 1984

My name is Karen Spinner and I am the Director of Public Education and Policy for the New Jersey Association on Correction. The Association is a state-wide citizens organization concerned with improving the effectiveness of the criminal justice and corrections systems in the State of New Jersey. As such we are interested in the economic, social and human costs of crime and punishment.

Thank you for giving us the opportunity to comment on the effectiveness of the State prison security system. Overall, in our opinion, the system is effective. The combination of armed guards in towers with locking systems and perimeter fencing topped with razor wire seems to do a good job in keeping inmates confined to correctional facilities. It is appropriate to have safeguards such as these. When a judge sets a sentence of incarceration, he does so because society has demanded the removal of this particular individual from the community. Society has the right to expect that it will be protected from this person and the security measures as instituted by the Department of Corrections provide this required level of assurance.

But what of escapes? Since the focus of today's hearing is Rahway State Prison, a brief review of its escape history is in order. In 1983, there were 4 escapes from Rahway; 2 in 1982; 2 in 1981; 1 in 1980; 1 in 1979. This is a fairly low level of escape as compared to the early and mid-1970's when there were 7-8 escapes per year.

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Overall, there are only 60-70 walk-aways, (escapes) system wide in the State of New Jersey. This comes to .6% escape rate which is not significant. Forty-two other states have higher escape rates than New Jersey.

I realize that there are those among you who feel even one escape is unacceptable. Let me point out a finding from recent research into criminal behavior. Studies indicate that a person chooses to engage in criminal behavior based on his perception of risk and reward. If the risks of apprehension are perceived to be low and the rewards high (big money for little work, prestige from peers), then an individual will choose involvement in crime. If the individual perceives the risks of apprehension to be high and the rewards low (money insignificant, negative peer reaction, good chance to be arrested), then he will choose to avoid crime. The same seems to hold true for inmates contemplating escape. Since we are talking about human beings, there will always be some individuals who will evaluate the risks of escape to be low enough to make a run for it. In reality, the apprehension rate is quite high and the penalty for escape, especially for someone classified as a minimum security inmate, is harsh. I believe this accounts for the relatively low level of escape from the state institutions.

From the Association's perspective, the existing standards for prison security systems are more than adequate to maintain and safeguard the community from inmates. We do not believe that there is a need for any legislative remedy. Existing administrative procedures are sufficient to deal any problems that currently exist or may come to light in the future.

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