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PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

on

SENATE, NO. 3423

(Parole)

Held:

August 16, 1983

Hawthorne Municipal Building

Hawthorne, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Frank X. Graves, Jr. (Chairman)

Senator Frank E. Rodgers

Senator C. Louis Bassano

Senator Joseph Bubba

SITTING IN WITH COMMITTEE:

Assemblyman John A. Girgenti

Assemblyman Vincent "Ozzie" Pellecchia

ALSO PRESENT:

Geraldine K. Weltman, Research Associate

Office of Legislative Services

Aide, Senate Law, Public Safety and Defense Committee

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SENATE, No. 3423

STATE OF NEW JERSEY

INTRODUCED JUNE 16, 1983

By Senators GRAVES and ORECHIO

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning parole and amending P. L. 1979, c. 441.

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

1 1. Section 7 of P. L. 1979, c. 441 (C. 30:4-123.51) is amended
2 to read as follows:

3 7. a. Each adult inmate sentenced to a term of incarceration in a
4 county penal institution, or to a specific terms of years at the State
5 Prison or the correctional institution for women shall become
6 primarily eligible for parole after having served any judicial or
7 statutory mandatory minimum term, or one-third of the sentence
8 imposed where no mandatory minimum term has been imposed less
9 commutation time for good behavior pursuant to N. J. S. 2A:164-24
10 or R. S. 30:4-140 and credits for diligent application to work and
11 other institutional assignments pursuant to [P. L. 1972, c. 115
12 (C. 30:8-28.1 et seq.)] *P. L. 1981, c. 140 (C. 30:8-28.4)* or R. S.
13 30:4-92. Consistent with the provisions of the New Jersey Code
14 of Criminal Justice (N. J. S. 2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
15 commutation and work credits shall not in any way reduce any
16 judicial or statutory mandatory minimum term and such credits
17 accrued shall only be awarded subsequent to the expiration of the
18 term.

19 b. Each adult inmate sentenced to a term of life imprisonment
20 shall become primarily eligible for parole after having served
21 any judicial or statutory mandatory minimum term, or 25 years
22 where no mandatory minimum term has been imposed less com-
23 mutation time for good behavior and credits for diligent application

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

Matter printed in italics *thus* is new matter.

24 to work and other institutional assignments. If an inmate sentenced
25 to a specific term or terms of years is eligible for parole on a date
26 later than the date upon which he would be eligible if a life sentence
27 had been imposed, then in such case the inmate shall be eligible
28 for parole after having served 25 years, less commutation time for
29 good behavior and credits for diligent application to work and
30 other institutional assignments. Consistent with the provisions of
31 the New Jersey Code of Criminal Justice (N. J. S. 2C:11-3, 2C:14-6,
32 2C:43-6, 2C:43-7), commutation and work credits shall not in any
33 way reduce any judicial or statutory mandatory minimum term
34 and such credits accrued shall only be awarded subsequent to the
35 expiration of the term.

36 c. Each inmate sentenced to a specific term of years pursuant
37 to the "Controlled Dangerous Substances Act," P. L. 1970, c. 226
38 (C. 24:21-1 [through 45] *et seq.*) shall become primarily eligible
39 for parole after having served one-third of the sentence imposed
40 less commutation time for good behavior and credits for diligent
41 application to work and other institutional assignments.

42 d. Each adult inmate sentenced to an indeterminate term of
43 years as a young adult offender pursuant to N. J. S. 2C:43-5 shall
44 become primarily eligible for parole consideration pursuant to a
45 schedule of primary eligibility dates developed by the board, less
46 adjustment for program participation. In no case shall the board
47 schedule require that the primary parole eligibility date for a
48 young adult offender be greater than the primary parole eligibility
49 date required pursuant to this section for the presumptive term
50 for the crime authorized pursuant to N. J. S. 2C:44-1 (f).

51 e. Each adult inmate sentenced to the Adult Diagnostic and
52 Treatment Center, Avenel, shall become primarily eligible for
53 parole upon recommendation by the special classification review
54 board pursuant to N. J. S. 2C:47-5, except that no such inmate
55 shall become primarily eligible prior to the expiration of any
56 mandatory or fixed minimum term imposed pursuant to N. J. S.
57 2C:14-6.

58 f. Each juvenile inmate committed to an indeterminate term
59 shall be immediately eligible for parole.

60 g. Each adult inmate of a county jail, workhouse or penitentiary
61 shall become primarily eligible for parole upon service of 60 days
62 of his aggregate sentence or as provided for in subsection a. of
63 this section, whichever is greater. Whenever any such inmate's
64 parole eligibility is within six months of the date of such sentence,
65 the judge shall state such eligibility on the record which shall

66 satisfy all public and inmate notice requirements. The chief execu-
 67 tive officer of the institution in which county inmates are held shall
 68 generate all reports pursuant to subsection d. of section 10 of P. L.
 69 1979, c. 441 (C. 30:4-123.54). The parole board shall have the
 70 authority to promulgate time periods applicable to the parole
 71 processing of inmates of county penal institutions, except that no
 72 inmate may be released prior to the primary eligibility date estab-
 73 lished by this subsection, unless consented to by the sentencing
 74 judge. No inmate sentenced to a specific term of years at the State
 75 Prison or the correctional institution for women shall become
 76 primarily eligible for parole until service of a full nine months
 77 of his aggregate sentence.

78 h. When an inmate is sentenced to more than one term of im-
 79 prisonment, the primary parole eligibility terms calculated pur-
 80 suant to this section shall be aggregated by the board for the
 81 purpose of determining the primary parole eligibility date, except
 82 that no juvenile commitment shall be aggregated with any adult
 83 sentence. The board shall promulgate rules and regulations to
 84 govern aggregation under this subsection.

85 i. The primary eligibility date shall be computed by a designated
 86 representative of the board and made known to the inmate in
 87 writing not later than 90 days following the commencement of the
 88 sentence. In the case of an inmate sentenced to a county penal
 89 institution such notice shall be made pursuant to subsection g. of
 90 this section. Each inmate shall be given the opportunity to acknowl-
 91 edge in writing the receipt of such computation. Failure or
 92 refusal by the inmate to acknowledge the receipt of such computa-
 93 tion shall be recorded by the board but shall not constitute a
 94 violation of this subsection.

95 j. Except as provided in this subsection, each inmate sentenced
 96 pursuant to N. J. S. 2A:113-4 for a term of life imprisonment,
 97 N. J. S. 2A:164-17 for a fixed minimum and maximum term or
 98 N. J. S. 2C:1-1 (b) shall not be primarily eligible for parole on a
 99 date computed pursuant to this section, but shall be primarily eligi-
 100 ble on a date computed pursuant to P. L. 1948, c. 84 (C. 30:4-123.1
 101 et seq.), which is continued in effect for this purpose; *except that*
 102 *an inmate sentenced to life imprisonment as a result of the setting*
 103 *aside of a sentence of death prior to the effective date of P. L. 1982,*
 104 *c. 111 shall not be eligible for parole.* Inmates classified as second,
 105 third or fourth offenders pursuant to section 12 of P. L. 1948, c. 84
 106 (C. 30:4-123.12) shall become primarily eligible for parole after
 107 serving one-third, one-half or two-thirds of the maximum sentence

108 imposed, respectively, less in each instance commutation time for
 109 good behavior and credits for diligent application to work and
 110 other institutional assignments; provided, however, that if the
 111 prosecuting attorney or the sentencing court advises the board that
 112 the punitive aspects of the sentence imposed on such inmates will
 113 not have been fulfilled by the time of parole eligibility calculated
 114 pursuant to this subsection, then the inmate shall not become
 115 primarily eligible for parole until serving an additional period
 116 which shall be one-half of the difference between the primary parole
 117 eligibility date calculated pursuant to this subsection and the parole
 118 eligibility date calculated pursuant to section 12 of P. L. 1948, c. 84
 119 (C. 30:4-123.12). If the prosecuting attorney or the sentencing
 120 court advises the board that the punitive aspects of the sentence
 121 have not been ~~fulfilled~~ *fulfilled*, such advice need not be sup-
 122 ported by reasons and will be deemed conclusive and final. Any
 123 such decision shall not be subject to judicial review except to the
 124 extent mandated by the New Jersey and United States Constitu-
 125 tions. The board shall, reasonably prior to considering any such
 126 case, advise the prosecuting attorney and the sentencing court of
 127 all information relevant to such ~~inmates'~~ *inmate's* parole
 128 eligibility.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to deny parole to persons who are serving a sentence of life imprisonment as a result of the setting aside of a sentence of death prior to the effective date of P. L. 1982, c. 111, the recently enacted law permitting capital punishment.

On June 28, 1971, the United States Supreme Court declared New Jersey's statute permitting the death penalty, N. J. S. 2A:113-4, to be unconstitutional. As a consequence of the United States Supreme Court's decision, persons under a sentence of death were sentenced instead to life imprisonment, which was deemed to have begun on the date on which the sentence of death was made.

According to the "Parole Act of 1979," persons serving a term of life imprisonment pursuant to N. J. S. 2A:113-4, which is now repealed, are eligible for parole according to the provisions of the law governing parole that was in effect at the time they were sentenced, section 2 of P. L. 1948, c. 84 (C. 30:4-123.11). This statute states that "any prisoner serving a sentence of life shall be eligible for consideration for release on parole after having

served 25 years of his sentence, less commutation time for good behavior and time credits earned and allowed by reason of diligent application to work assignments."

This bill would ensure that persons now serving terms of life imprisonment as a consequence of the commutation of their sentences of death, will not be released on parole.

SENATOR FRANK X. GRAVES, JR. (Chairman): Good morning. It is ten-thirty, and we are going to start our public hearing. I realize that there is going to be much emotion shown concerning this legislation.

The parents of the young woman from this town who was brutally beaten to death a number of years ago are here, and I have just met them. Also present is the family of the two police officers who were shot to death. One is now the Chief of Police of Lodi, and he will be testifying.

The Sheriff of Passaic County, Sheriff Edwin Englehardt is here to testify, the prosecutor of this county, Joseph Falcone, is here to testify, and Chief Delaney, who has been really involved in this type of legislation, is here to testify. He is the Chief of Police of Paramus. A number of you who are here to testify will be given that opportunity.

We realize, as I pointed out, that there will be a lot of emotion shown throughout this hearing. We ask you, if you will, to understand and to give everyone the opportunity to say what they want without jumping to your feet or becoming emotionally involved in this.

Seated with me is Senator Joseph Bubba, who is from Passaic County and who is a member of this Committee, Assemblyman Girgenti, who is a resident of Hawthorne, and Assemblyman Pellecchia, who represents Hawthorne. I am the Senator from Hawthorne.

The reason that I have written and introduced this bill and put it into the posture of a public hearing is that I can't see for the life of me why some persons who were found guilty and sentenced to death, but because of something that the Supreme Court made a decision on some ten years ago, are now eligible for parole. They want to again join society after committing horrendous crimes against people who had never offended them, didn't even know them, or had never met them before.

In my opinion, society doesn't want them back, and they have no right to even be considered to be returned to normalcy after they have deprived you, as parents and brothers and sisters, of someone who was part of your life, and who they decided should no longer have the right to life.

We, in New Jersey today, have a death penalty law that we recently passed. The death penalty has a double tier that upon conviction, you go into another trial, and that trial decides whether you will be executed or, at the least, society can interpret that you are going to be imprisoned for thirty years to life. We now find that some of these people twelve to fifteen years later are either eligible for parole -- and in the case of the horrendous crime of the two police officers that were brutally killed in Lodi, for all intensive purposes, the parole board did offer parole to that individual. But, because of some flukes within the court system itself as to what kind of payments and restitution would be made to the families, he is still in jail, but he is also eligible for parole. Probably within the next two or three weeks, the individual who was convicted for the murder of the girl from Hawthorne, -- there is going to be a decision forthcoming on his parole, because according to the law as it is written today, he is eligible for parole.

We have also seen the case of Edgar Smith, who was paroled and who got himself in a pretty bad jam almost along the same line in California. He is now in prison in the State of California.

I think society demands and insists that their eligibility for parole should not be considered and they should not have that right. That is the reason for this particular law, and I hope that Senator Bubba, before the morning is over, becomes a cosponsor with me in this legislation. I also hope before the day is over that both Assemblymen Girgenti and Pellecchia will simultaneously introduce this legislation in their House.

For the purpose of the record, the clerk will read the statement regarding the bill.

MRS. WELTMAN: This is the statement for Senate Bill 3423.

"The purpose of this bill is to deny parole to persons who are serving a sentence of life imprisonment as a result of the setting aside of a sentence of death prior to the effective date of P.L. 1982, c.111, the recently enacted law permitting capital punishment.

"On June 28, 1971, the United States Supreme Court declared New Jersey's statute permitting the death penalty, N.J.S. 2A:113-4, to be unconstitutional. As a consequence of the United States Supreme

Court's decision, persons under a sentence of death were sentenced instead to life imprisonment, which was deemed to have begun on the date on which the sentence of death was made.

"According to the 'Parole Act of 1979,' persons serving a term of life imprisonment pursuant to N.J.S. 2A:113-4, which is now repealed, are eligible for parole according to the provisions of the law governing parole that was in effect at the time they were sentenced, section 2 of P.L. 1948, c.84 (C. 30:4-123.11). This statute states that 'any prisoner serving a sentence of life shall be eligible for consideration for release on parole after having served twenty-five years of his sentence, less commutation for good behavior and time credits earned and allowed by reason of diligent application to work assignments.'

"This bill would ensure that persons now serving terms of life imprisonment as a consequence of the commutation of their sentences of death, will not be released on parole."

SENATOR GRAVES: The Mayor and the Commissioners of Hawthorne have voted unanimously to permit us to have the public hearing here, specifically because one of the individuals involved is a resident of this particular community.

Commissioner Ross, representing the governing body, the Senate recognizes you. Will you please address us?

A N T H O N Y R O S S: Senator Graves, honorable Committee, on behalf of Mayor Bay, who will be here this afternoon, Commissioner Brokaw, and myself, I welcome you to Hawthorne. I hope by the time the day is over that you'll have sufficient testimony, and you'll have convinced the Legislature to enact the Senate bill that you are proposing.

On behalf of myself, I strongly support the bill. I feel that a criminal who is convicted and sentenced to death, and who is then offered a pardon which gives him life, is sufficient enough for any criminal so convicted. I strongly support your bill, and I urge the Committee, Assemblyman Girgenti and Assemblyman Pellecchia, and Senator Bubba to join in support of this bill. I hope in the near future we will see a law that perhaps didn't originate here in Hawthorne, but had a significant development here.

Again, I strongly support the bill, and I urge everyone in this room to support it today. Thank you, Senator.

SENATOR GRAVES: I thank you, Commissioner, and the Mayor and your fellow Commissioner. Thank you very much for permitting us to have our hearing here. We appreciate your support of the legislation.

MRS. WELTMAN: If Mr. and Mrs. DeRier are here and they would like to speak, they are welcome to come to the table at this time.

D O N A L D D e R I E R: I am Donald DeRier, and this is my wife, Evelyn DeRier. We live in Hawthorne New Jersey. So many of our friends have stood behind us through this crisis.

We also are wholeheartedly in support of this bill that you are pushing for, because we know where it hurts. It has been proven time and time again that it does not work with these criminals. I mean, you can take your Edgar Smiths, and it is just a case like it was when I was a boy -- it was said that the law was the law.

William Doss was sentenced to the death penalty. Well, we figured that the law was the law, and as long as it was that way, it was that way. Then the death penalty was repealed, and people asked how we felt about it. When they said that he had life, we thought that life meant life. Today, it doesn't mean life, and the majority of the people don't realize this.

People who are committing these vicious crimes, and what they are getting away with is terrible. It is a case where all of a sudden, they can make restitution. What is restitution for a life? There is none.

They claim that these criminals can be rehabilitated. In our own case, William Doss, who I consider an animal, has had one of the worst prison records I have ever heard of. Until he was paroled two years ago, which we had to go through again -- we were notified at the last moment. At least now, we are notified beforehand that we can make a stand to protect our rights, rather than everybody trying to protect the criminal's rights. We have rights also.

At least this time, we had a campaign where it proved that the majority of the people in this State -- not only this State, but California, Florida, Maine -- we have had signatures from all over the country which say what should be done about this law.

We went to a parole board meeting, and the parole board consisted of two social workers. We sat there, gave our testimony, and we still have to sit and wait. Now, they say it is going to be October when they are going to try to let this animal out.

Prior to this, two years ago, he was denied parole. This was in thanks to a detective named Andy Manning, who really pushed for us.

Right now, he is up for parole again. Does it mean that every two years we have to go through this? Here is a man who was supposed to die. He got parole when he received a life sentence.

In a statement to the Asbury Park Press, which makes your stomach turn, he turned around and said to the reporter, "Now, I know I am going to get out of here." This shows the attitude that the criminals have.

Prior to the reviewing of the parole board the last time, he had been an ideal prisoner. Just recently a psychiatrist went there and talked to him and looked at the last two years. He said, "Oh, he has been a good boy. He is fit for society." He will never be fit for society.

Did you ever see children before Christmas? They are very well behaved, but after Christmas, look out.

SENATOR GRAVES: Will you tell the Committee the circumstances of the death? Where was your daughter, and what did he do?

MR. De RIER: My daughter worked for the Grand Union in Brick Township. She was trying to make a little money for college.

To show you the freak of time, all it took was a red light. If the light had been green, this would have never happened. But, she had stopped for a red light, and he jumped in the car. At knifepoint, he took her to Allaire Park, raped her and beat her to death.

Like I said, they say restitution. What kind of restitution can we have? All you hear about is the poor prisoner, the poor prisoner. Actually, I can honestly say that this man has had a better life than what we have had. He doesn't have to worry about his rent every month. He has got a better hospitalization plan that we've got. If he wants something -- he wanted to take up oil painting, so what did he do? He went on a hunger strike until they gave him the oils to

paint with. This is actually ridiculous. He doesn't have to worry about clothes and insurance -- nothing. Yet, the only thing he has lost is the right to walk down the street. I say that he should be deprived of that right for the rest of his natural life. That is why I am for your bill 100%.

I don't know if my wife has anything to say, but I think I covered how we both feel.

SENATOR GRAVES: If you want to say anything, please be as relaxed as you can and say anything you want. Anything you say here, you are immune from.

EVELYN De RIER: Well, I just agree with what Don said. I don't think anybody realizes. It is just like the two policemen in the back here -- the one, his brother -- what they go through. What everybody goes through when something like this happens, and it makes you so bitter. It is so heartbreaking to have to fight the way you do instead of the law being the law. The people are mad about what is happening.

I know if they let Doss out, he'll do it again. It is his nature. He has been bad since he was in grammar school.

SENATOR GRAVES: A decision is going to be made, we understand, within the next four weeks as far as whether to parole him or deny him parole.

MRS. De RIER: We understand it is October.

SENATOR GRAVES: Is there somebody here from the New Jersey Parole Division? Are you here from the New Jersey Parole Division?

LOREN RANTON: Yes, sir, I am.

SENATOR GRAVES: Is he being considered for parole at the present time?

MR. RANTON: Not at the present time. I understand that the parole hearing is scheduled for later in the fall.

SENATOR GRAVES: Later is the fall?

MR. RANTON: Yes, information hearings are being held now.

SENATOR GRAVES: So, the process of the potential of his parole is now in the system.

MR. RANTON: Yes.

SENATOR GRAVES: Thank you. So, evidently your information is 100% correct.

MR. De RIER: There is one thing that I would like to know. I don't know how many cases that they handle, but are they trying to torture us? Is it economics that they are trying for -- that they can let these people out of jail -- that we have to keep paying for them? I don't mind paying for them. I mean, keep them in there. That is all we are interested in. Is it a game of time?

We, ourselves, have sent over 15,000 letters to the prosecutor's office about this case. The ones that were sent directly, I would say, would come close to 25,000. Are they trying to punish us by making us wait so long? Is their calendar so crowded that they can't come up with a decision on this? It wouldn't take me long to make a decision, and it wouldn't take you long. Ninety percent or one hundred percent of the people who are here today -- it wouldn't take them long to make a decision. They know.

SENATOR GRAVES: Senator Bubba, do you have any questions?

SENATOR BUBBA: No.

SENATOR GRAVES: Assemblymen, do you have any questions?

ASSEMBLYMAN GIRGENTI: I have a statement to make later on.

SENATOR GRAVES: All right. Thank you very much. Please stay for the rest of the hearing if you can.

I see Chief Hannan. Will you join the other Chiefs up here, Chief Hannan. Sheriff Englehardt, if you could, will you join the prosecutor up here?

The Chief of Police of Lodi, will you please come forward, give your name, your testimony, and when you're done, will you please introduce the family of those who were also involved in the crime that you are here about?

A N D R E W P E T E R V O T O: My name is Chief Andrew Peter Voto -- V-O-T-O. First, Senator, may I commend you and the other gentlemen who are working so hard in this area. I want you to know that without a doubt, over ninety-five to one hundred percent of the public is behind such legislation.

It has been too long where too many opinions have been polarized because of who was for capital punishment and who was against capital punishment. I think Chief Delaney of Paramus could expound on that further.

With respect to those people who are against capital punishment, they were certainly not for the giveaway program that is being given away, in most cases, by the parole board, which reek of deals, reek of popularity of certain prisoners, and the benefit of certain prisoners being on the outside. The only way to take that doubt of suspicion away from the public is to see that these people who commit these types of heinous crimes are never permitted to walk free in our society.

We are living in a country now which has men all over the world with respect to fighting Communism and other forms of government that are dangerous to this country. Let me state at this time that there is no greater danger to this country than the murderers and the criminals who walk the streets of this country. We spend more on crime in the United States than most of the major powers spend on national defense.

The public is losing faith in the jurisprudence system. I have been asked many times, "What difference would it be to you if the man who killed your brother walked free?" It makes no difference physically to me as his brother or his son or his family for the simple reason that I always feel that we, the people who are victims of these types of crimes, are the most unselfish. As the witness who appeared before you a moment ago said, "if we could have sank back again into oblivion and tried to forget," -- no, we're fighting your fights. We're

fighting every one of your fights out here today. We're fighting it for you, an unselfish battle, and that is why, Senator, I am glad that such bills are being proposed.

When a man is sentenced to the death penalty, and the death penalty is ruled unconstitutional, it becomes ex post facto. It becomes retroactive. He doesn't get executed. Now, if the death penalty is reenacted, it is not ex post facto; the man doesn't get the death penalty.

Then we're put into the hands of people who, in some cases, have no right to hear these types of crimes. The juries that sent these people to jail are victims too. It is hard for a jury to get up and say, "death." It stays with that person who sat on the jury for the rest of his life.

Also, people do not want to serve on juries today, and you've heard it. Everyone of you has heard it. "Why should we serve on a jury? He is going to be out in no time anyway." You have got a revolving door system of justice.

The parole board should not hear these types of cases. These people are sentenced to life imprisonment. That is natural life imprisonment.

The word "punishment" has been taken out of crime and punishment. Everything is on rehabilitation. I was asked, "Do I believe in rehabilitation?" Absolutely. That is the only way we can turn people around who committed minor crimes. I will always fight for the youth of this country because they are the wealth of this country. I will fight to see that their lives are turned around and they are rehabilitated.

People who go out like predators in the dark, kill for joy, kill by contract, kill with premeditation, kill for enjoyment or lust -- you tell me what those parents think every night when they lay their heads down and think of what their daughter went through. Could they give him restoration?

This is only the tip of the iceberg, and that is why I am very happy to be here.

The moneymaking that goes on in the jails, the contracts that are signed with television companies to see that these programs are put out on a one-sided basis--

I heard this man's story about his daughter and how if the traffic light had been green instead of red, his daughter would now be alive.

Well, the Carol Chessman case was depicted on television by, I think, Alan Alda from M.A.S.H.. He appeared in a picture called "Kill Me If You Can." Even I, as Chief of Police, as I watched that thing, found myself rooting for the criminal. This is because of the

way it is depicted on television. The cruel prison guards, the cruel system that wanted to put him to death-- Many of our prominent movie stars spent untold monies to defend these people.

Right now, it is alleged that there are two contracts out with Trantino, the murderer of my brother, to get movies made of his story. He does art work in jail, and it is sold on the outside market for quite some tidy somes. A fifth grader does better art work, but what better art work than to have the label of a murderer on it? It makes it more valuable. This man murdered two cops.

SENATOR GRAVES: What were the circumstances of the murder, Chief?

CHIEF VOTO: The circumstances of the murder were nothing more than my brother and a sergeant answering a call at a local tavern, in which they believed people were setting off fireworks. What they ran into were men from New York who were professional burglars, and more than likely, professional murderers, although that has never been proven. They were told to disrobe, they were humiliated, intimidated, and gunned down in absolute cold blood. They had no chance. The girls sat on one side and watched the dance of death on the bar while they pumped shots into these bodies.

SENATOR GRAVES: The two police officers were disrobed and relieved of their firearms?

CHIEF VOTO: Relieved of their firearms, disrobed, and told, "We'll show you what we do to cops."

SENATOR GRAVES: And then this man was paroled?

CHIEF VOTO: This man was paroled by the parole board until the intervention of many people -- the human cry of the general public -- that they are not going to stand for it anymore.

As I told one reporter out here today, you can either have justice in our courts and in our system and in our government or you will have justice in the streets, and that is as sure as God made apples.

You recently read an article where a man's daughter was raped, and he went out and stabbed that victim, and he would have killed the person that did that. You live in a time of terrorism where they kill for nothing but a belief. Life means nothing, and unless

this government is strong enough to stand up to this type of situation, and you give us the protection-- I find it hard to send my policemen out sometimes on certain cases. They have got nothing to look forward to.

Just imagine -- just for one minute, imagine a man who is in a holdup situation, and a lone patrolman comes upon him. He would think that if he killed him, he could get away, and if he were to get caught, he would get the same sentence anyway. He is always guaranteed of his life. What chance does that man have who goes out into the street? He's got no chance at all.

It is about time that all politics are laid aside, all political appointments laid aside, and we start thinking of certain crimes not being presented to parole boards at all. Let's relieve them of that problem. Let's relieve the psychiatrists.

I happen to know firsthand-- I was down in Menlow Park. You mentioned the Edgar Smith situation. Edgar Smith was sent down there for an evaluation by the Superior Court of Bergen County. The psychiatrist told him, "Keep your mouth shut. You'll be all right. Just keep that mouth shut and stay out of trouble." Now, he went out and slashed that woman in California, and one would believe that that was the first and only time since he got out of jail. How do you know? We know that people commit thousands of crimes before they are caught the first time. They are not first-timers. These people are animals. We are not talking about the man who gets in a fist fight in the street, and somebody's head hits the curb, and by necessity he owes a debt to society. We understand that. We're talking about the Son of Sams, we're talking about the right to be safe in your own homes, and that is what you people were elected for. I know that most of you are doing your jobs, but we either do our job now or give this country away.

They come to the Police Chief everyday -- citizens come to the Chief of Police everyday in every department, or they come to his Captain or his Lieutenant, to find out how to protect themselves. There is a reluctance on the part of the public to sign complaints because they feel they will not get justice in the courts.

It is up to you, gentlemen, and I back you one hundred percent.

SENATOR GRAVES: Chief, along with that -- not at this hearing, but two years ago, we were having hearings on another law that I had written in conjunction with the two Assemblyman who are here. That was mandatory sentencing for those who use guns in the commission of a crime. I can remember hearing at those public hearings, "Senator, that will never be upheld. The Supreme Court will throw it out. The A.C.L.U. will throw it out. Where is your sense of justice?" I said, "My sense of justice is that if you use a gun in the State of New Jersey, you know what is going to happen to you in the State of New Jersey." And, lo and behold, in spite of all the prophets that the law couldn't be, the Supreme Court upheld this law three months ago. I read very interesting statistics in the Newark Star Ledger this past Sunday where the sharpest decrease in crime in any state in the United States took place in the State of New Jersey because of our mandatory sentencing of using a gun in the commission of a crime. And, the law is only one year old.

CHIEF VOTO: May I add something to that? Some years back, two or three years ago during an election year, I was asked to go down to the Senate, if I wished, to talk on the abolishment of guns, and I made a statement, "It is not the guns that kill us. It is because of the fact that you must have laws regulating the use of guns."

There isn't a person in this room who I couldn't show how to make a gun within fifteen minutes. I could go to a plumbing store and make a cannon in five minutes. All you need is a wick, a half-inch pipe, a cap, a little hole and some wadding, and it will blow your head off.

You are on the right track, Senator. Whoever uses a gun must be punished for it. In all the books that you could possibly read on crime and punishment in society, there is one phrase that they always say -- certainty of punishment. Somewhere along the line, it took over in our system. They say that capital punishment doesn't work. How do they know? That is an unknown factor. How do they know it doesn't work?

We're sure of one thing though -- that the guy who walks into jail and gets executed will not kill again. That is one thing for certain.

We also know that if a guy has no chance of getting out of jail, he, too, will not kill, so that would satisfy. Our law is pretty good. It allows a jury to determine what they want, but once you put it in the hands of social workers -- people are infatuated by these people. You ought to see how the news media goes crazy. If Trantino were to walk in that door, I'll tell you, the cameras would get right off you and onto Mr. Trantino. He is a very popular thing, and that is what the people want. We're raising that kind of a society, and we have to turn it around.

People like yourself have that obligation, and you have that opportunity. I recently read that we do have a problem with the Supreme Court. There was a Supreme Court in one of our states which recently said that to give a person a sentence with no chance of release is now cruel and unusual. They went from the capital punishment to where it is now cruel and unusual not to let a person walk free again. Are these people cuckoo? Are these people talking with good common sense?

People come in and say to me, "What does a murderer look like?" He looks like any one of us after the blood is washed away, after that trauma, after that incident. He looks like anybody else, and he could blend into the crowd. If you are going to put people into jail because of the way they look, or your feelings are judged by the way they look, there is something wrong with us. We must be objective. The murderer could be the kid next door, and we have to deal with that.

I happen to know of a kid who committed a very heinous murder a couple of years ago. He's out on bail right now because they are giving him a new trial. What would be the difference if he were arrested today and had to have a trial? He should be incarcerated. He's walking the streets.

This is the tip of the iceberg. There are too many loose ends in this thing. You are on the right track, but also, when we lost capital punishment, we lost the fact that when a person was convicted of a capital crime or treason, there was no bail. We're not talking about manslaughter; we're talking about murder one -- heinous-type murders, premeditated murders. Why now that capital punishment has

been reinstituted hasn't the doctrine been really instituted which states that anyone who is convicted of first degree murder should not be walking the streets? Why do they get the edge on everything? it is wrong, and as long as I can help, I will.

When you called me, Senator, to see if I wanted to testify here, I want to thank you for that. I will testify here whether I am the Police Chief or whether I go into my private life. I will always be here to talk.

One person asked me out there, "Aren't your feelings this way because your brother got killed?" Maybe my brother getting killed was the catalyst that made me do this. Maybe it was the arousing in me, but, it doesn't mean that I have anything to gain by this. My brother can never walk again whether I testify here or Trantino walks out of the main jail.

There must be controls by the New Jersey State Senate, Assembly, the Governor, and the public to see that they are controlled in jail. This bum was living a life of leisure. He has had a walk-off program for the past six or seven years -- living in a private trailer, doing his art work, able to marry his attorney's wife in jail -- beautiful!

We're certainly doing something right today, and I want to thank you for it, sir.

AUDIENCE: (Applause)

SENATOR GRAVES: There are other members of the family. Will you bring them forward so that they can introduce themselves and say whatever they want to say?

CHIEF VOTO: I certainly will. I would like to introduce my nephew, Jerry Voto, who is my brother's son. He is also a police officer in East Orange.

SENATOR GRAVES: The Tedesco's are here?

CHIEF VOTO: The Tedesco family is sitting in the rear -- Mrs. Tedesco and her daughter.

SENATOR GRAVES: Will you bring them up, Chief?

CHIEF VOTO: Thank you, Senator, and thank you, gentlemen.

SENATOR GRAVES: Thank you, Chief.

Will both of you please be seated? Will you introduce yourself for the record so that the stenographer can write down your name?

PATRICIA TEDESCO: Patricia Tedesco -- T-E-D-E-S-C-O. I am the sister of Gary Tedesco. This is my mother, Sadie Tedesco.

SENATOR GRAVES: Okay, please feel free to say, as best you can, whatever you want to say.

MS. TEDESCO: Well, I think that basically everything we feel has been said here today. I know that we live in fear everyday because of the way the system works. As I was listening to all of these people speak, I was thinking about the fact that just recently, I moved into a new home. I just put in an alarm system, and the gentleman who sold me the alarm system said, "You're living in a jail." And, I said, "But I have to live in a jail because I know what happens to people. I know, it happened to my brother. I know it happens to people everyday of the week. I don't care if they come in and steal everything that I own in this house, but I am afraid that they are going to kill me and my husband. I want to be protected as much as I possibly can."

Then you think about it. Why do you have to live in a jail in your own home? But, you do, and unless the system changes, we can't really go anywhere without being frightened to death. The laws, I feel, absolutely protect the criminals. They do not protect the victims, and until that changes, we're going to be living in a lot of jails in our own homes.

The criminals are not living in jails at all. They are living in mobile homes, and they are much more protected than we are. I think basically that is all I have to say today, because I think that everything else has already been said.

SENATOR GRAVES: Does your mother want to speak?

MS. TEDESCO: I don't think my mother wants to speak today. She gets too upset.

SENATOR GRAVES: Officer, will you introduce yourself for the record?

GERALD J. VOTO: My name is Officer Jerry J. Voto, the son of Peter Voto, the police officer who was killed in Lodi twenty years ago.

As Patty said, basically everything was said. There is not much you can add to it, except to mention the torment that the victims and the families have to go through everytime one of these criminals want to be paroled. We live like this regardless of whether it is five years ago, ten years ago, and in my case, twenty years ago. We have got to live through this torment everytime a hearing or a parole comes up. We all live with this -- my family, my children. My children go to school, and they get asked by their teachers, "What happened? Do you know? Did you ever hear anything? Did you ever see anything?" This isn't done by people who are cruel. It is just done out of curiosity. People are curious, and they want to know. They are dragging my family into it, and they drag me into it.

I was almost held off of the police department because of what happened thirteen years prior to me becoming a police officer.

It is cruel--

SENATOR GRAVES: You're put through this because the system now says that they can have a hearing on parole once every year?

MR. VOTO: Definitely. Two years ago, we went through this restitution thing, which was against my mother's physicians. She flew up here from Florida to testify. She went back down to Florida and had a stroke over this.

This is what we live through time and time again. It is ridiculous that we have to be punished as though we were the criminals. They live a life of Riley, and they come and go as they please. Mr. Trantino is married, and he has got his own trailer. There are a lot of times that I would only like to see my wife once a week. Like they said, he's got a better dental plan, he sells his art work, and he gets his books published.

The case of Norman Mailer a year and a half ago with Jack Henry Abbott -- the man writes the book after committing murders while in jail. He writes a book, gets out of jail, and is out of jail two weeks before he commits another murder. How many times do we have to let these murderers out?

Mr. Trantino was on parole when he killed my father. Most of these other criminals were already on parole. They had been paroled, they had been rehabilitated, and they just keep right on letting them out.

If you take a mad dog and put him in a cage after he bit somebody, for awhile the dog is going to sit back and he is going to lay down and quieten down. But, when you open up that cage, that dog is going to bite again.

That is all I have got to say. If you keep on letting these animals out, you're going to have repetition after repetition.

Mr. Smith was one of the great ones who helped to reform Trantino while he was in jail -- Edgar Smith. He came out after writing books. He was the one who taught Trantino how to write books and quieten down and become part of the system. This was the man who helped to rehabilitate Trantino while he was in there.

Mr. Smith got out and went to California, only to rape and almost kill another person. How many times are we going to release these people?

That is all I have to say.

SENATOR GRAVES: I know it is hard for you to testify, but it is important that you do say the things that you are saying, because there are some legislators who are very liberal in their thinking, and they must be convinced that this must become law. That is why it is twice as hard to exact some of these things from you. But, they must read about it, and they must read the transcript of what your family went through, and but for the grace of God, it could have been their families who went through it. They have to understand the emotion that you are still going through twenty years later and the trauma that you are being put through because of the laws of this State. It is that the laws overwhelmingly today want to permit them freedom in both of the cases regarding both of your families.

As the Parole Division said, he is eligible and under active consideration now to be brought before a full commission. That is why this law must become a law -- to protect you, to protect everybody from, as you described, this type of person. So, as hard and emotional

as it is, that emotion has to be translated into print, so that others who are not here to hear this, but have an equal vote,-- It takes twenty-one votes to pass in the Senate, and forty-one votes to pass in the Assembly, and the Governor's signature.

I went through all of this one time when a Governor vetoed a similar law of mine years ago, and we overrode his veto. Then he compromised, and the results of that are a downgrading in that type of crime.

Although this law will affect maybe only ten people in this whole State, society must be protected from these ten killers. You are not talking about, "Is there such a thing as an ordinary murder?" It is not an ordinary murder when this person thought for a long time, made these two police officers disrobe, made them go through certain acts, and then killed them. It is not an ordinary murder after that man had been satisfied for whatever satisfied him that he brutally beat that girl to death with a blunt instrument -- after he had gotten what he wanted. So, you are not talking about, if there is such a thing, an ordinary murder. You're talking about animal-type behavior -- translated into people with two legs, and a brain that should have prevented them from doing this.

Senator Bubba would like to ask you something?

SENATOR BUBBA: Did you say that they considered not allowing you to come on to the police force?

MR. VOTO: Yes, I did. It was thirteen years after my father was killed. I decided to become a cop.

Their feelings were that due to the fact that my father was a police officer and was killed in the line of duty that I may be overaggressive, and that I wouldn't serve the public fairly. It took me many dollars and many psychiatric visits and many meetings with Civil Service to prove to them that I'm not the criminal, and that I shouldn't be punished for what Trantino did thirteen years prior to that.

SENATOR BUBBA: Senator Graves, I have a statement to make a little bit later. I want to give the other people in the audience who want to speak the opportunity to do so.

Without question though, I'll be a cosponsor of the bill

SENATOR GRAVES: That is good. We picked up strength for the bill. Mr. Bubba is going to join as a cosponsor.

Assemblymen, do you have any questions? (no questions)

Okay, thank you.

MS. TEDESCO: Thank you very much.

SENATOR GRAVES: Please remain if you can.

We normally would go to our fellow Senator who wants to testify, but Sheriff Englehardt is under a time constraint and it is very important that we get his testimony.

Ladies and gentlemen, this is Sheriff Englehardt, and I don't think there are any of us from Passaic County who don't know his track record and what he feels about crime and punishment.

Sheriff Englehardt?

EDWIN ENGLEHARDT: I am Edwin Englehardt, the Sheriff of Passaic County.

Senator Graves, Senator Bubba, Assemblyman Pellecchia, and Assemblyman Girgenti, I am very pleased to have been invited here today to testify concerning this bill.

I am very much in favor of mandatory sentencing. I want to tell you why. I have served as Commissioner of Police in the City of Paterson for six years. I have served as the Sheriff of Passaic County for ten years.

I have seen juveniles become adults, be arrested, be convicted of crimes, and put into jail. It is a revolving door. The recidivism rate is 85% in and out of the Passaic County Jail.

I have a jail that was built twenty-five years ago to house 227 prisoners. I have 600 prisoners in that jail today. Two hundred sleep on the floor. I am known and criticized as the man who runs the most dreaded jail in the State of New Jersey, and that is exactly the way I want it to be. I am the most sued Sheriff in the State. I have seventeen suits pending because I'm not so concerned about the constitutional rights of the prisoners. I treat them the way I feel they should be treated.

But, I am for mandatory sentencing because, as Frank Graves pointed out the figures in the Newark Star Ledger, there was a drop in

crime in New Jersey. That is because of mandatory sentencing. The only thing a prisoner understands is firmness, not kindness. Punishment is the key.

Rehabilitation is a lot of garbage in my opinion. Crime didn't begin to skyrocket until the late 1960's, and that is when the liberals in this State started appropriating hundreds of millions of dollars into rehabilitation. Rehabilitation is not the answer. After hundreds of millions of dollars were spent, crime is as high as it has ever been.

The answer is punishment. The punishment should meet the crime, and I am very much in favor, Senator, of all your mandatory bills. I feel that crime has dropped because of mandatory sentencing. I think it is disgraceful that the parole board or anybody else should even consider the possibility of allowing an individual who killed another person to walk the streets.

I'm for the death penalty, and if I can't have that, we have to have mandatory sentencing.

I want to thank you for this opportunity. As I said, I run an overcrowded jail, it does create problems, and I do have 200 prisoners sleeping on the floor, but pass this bill. Do all you can to get your fellow Senators and Assemblymen to pass this bill. If I have to have 500 more sleeping on the floor, I'd rather have them sleeping on the floor in the jail than out there murdering and robbing innocent citizens. I am very much in favor of all mandatory sentencing laws.

Thank you very much.

AUDIENCE: (Applause)

SENATOR GRAVES: Thank you, Sheriff. Chiefs, before we get to you, I would like to call Senator Joseph Hirkala, who is the Majority Leader of the New Jersey State Senate.

SENATOR JOSEPH HIRKALA: Mr. Chairman, Senator Graves, Senator Bubba, Assemblyman Pellecchia, Assemblyman Girgenti, and ladies and gentlemen, once again Senator Frank Graves has brought an issue to our attention -- one that cries out for action. Once again, Senator Graves has come to his home county to alert the public

to a serious need in our society, and once again, Senator Graves, I want to offer my compliments to you for taking on crime as you have, having one of the greatest records in the history of our State in fighting crime, and not just relaxing on your past plaudits, but going forward to keep abreast of everything that is near and dear to the people.

Yes, those families who have appeared here today, what suffering they have undergone, what sadness and anguish, uncontrollable tears, and that suffering, those tears, and that anguish will last them a whole lifetime. The purpose of your bill, Senator, is to see that those who committed a reprehensible murder shall also suffer a lifetime of incarceration without parole.

For those who were committed to a death sentence and were freed through a decision of the United States Supreme Court, your Senate Committee taking up this bill today and alerting the New Jersey Senate and the Assembly to the requirement that we should pass it, yes, you have my unqualified support. I shall do everything in my power to assist you in this fight.

We cannot forget what is happening in our society. It was good that you brought to our attention the drastic decrease in crime since your mandatory sentencing bill was enacted into law. Yes, this may not affect too many families at the present time, but it affects society. Society cries out for our action, and Senator, I can't help but to once again say, thank you. As a member of the Senate, as a member of the Legislature for sixteen years, I thank God that we have had a Senator like you to bring these issues of fighting crime to the attention of public. Thank you very much.

AUDIENCE: (Applause)

SENATOR GRAVES: Prosecutor, are you under any time constraints?

J O S E P H F A L C O N E: Yes, I am.

SENATOR GRAVES: Okay. Thank you, Senator Hirkala.

The Prosecutor of Passaic County, Joseph Falcone.

Senator Hirkala, I hope you can stay for awhile.

PROSECUTOR FALCONE: Senator Graves, Senator Bubba, Assemblyman Girgenti, and Assemblyman Pellecchia, I, too, thank you for the opportunity to appear here today.

During my fourteen years in law enforcement, I have had the experiences of dealing with both the victims of crime and the family members of the victims of very serious and violent crimes.

As you know, Senator Graves, I am one of perhaps only two or three prosecutors in the State who publicly favors mandatory sentencing. I agree with the prior speakers that such a tool in our arsenal, the law enforcement arsenal, makes it much easier to deal with the crime problem.

I would like to take this opportunity to publicly thank you, Senator Graves, and the other members of the Committee, and the Assemblymen who have time after time after time responded to various problems adversely impacting on the law enforcement effort in this State. I personally have called upon you on several occasions, brought certain problems to your attention, and you have immediately taken steps to have the matter reviewed, and where appropriate, have introduced legislation to deal with those problems. I thank you, because we need those tools. The law enforcement, the local police department, as well as the prosecutors need those tools.

Prior speakers have alluded to the fact that one of government's primary responsibilities is to ensure that all citizens are safe in their homes, their places of business, and on the streets.

Each branch of government bears a major responsibility and has a role to fulfill in this regard. Toward this end, the Legislature of this State has enacted the penal code with its various mandatory minimum sentencing provisions. Your gun bill, which has had a remarkable success as borne out by the recent statistics that came out, the capital punishment bill, and other legislation, has again given we, the Executive Branch, many more tools in our arsenal.

The various pieces of legislation that have been enacted have lead to violent criminals being sentenced to appropriate custodial terms, which in effect, incapacitates them. At least for that period of time, the law abiding citizens of this State are indeed protected from further acts of violence perpetrated by these individuals.

But, how are we protected as law abiding citizens of this State and this country if a criminal who has previously been convicted and sentenced to death is suddenly able to be considered for parole after serving twenty-five years, minus commutation for good time, work credits, etc.? Is government fulfilling its responsibility in that factual context? I say no, but I do say very clearly that government will be fulfilling its responsibility, and in particular, the Legislature of this State, by enactment of Senate Bill 3423, which will plug what, I feel, is a loophole in the present state of the law.

I wholeheartedly, as the Passaic County Prosecutor, support this bill and commend you, Senator Graves, and the cosponsors of this bill for introducing it. I will urge my fellow prosecutors at our next meeting to take a stand in support of this legislation.

Thank you again.

SENATOR GRAVES: Do you have any questions, Senator?

SENATOR BUBBA: Yes, Prosecutor, I thank you for your comments, and I know the Chairman thanks you.

It is your considered opinion, and I appreciate your opinion, that over the past five or six years as Prosecutor, and before that, as First Deputy Assistant, that you have a record for dealing with crime very severely and very directly. Can you make categorical statements that in Passaic County, as a result of the mandatory sentences that have occurred, that you see somewhat of a trend towards reduction of crime?

PROSECUTOR FALCONE: Yes, I do. What has been proven over and over again by various studies is that there is a handful, a small percentage, of the entire criminal element that apparently commits a rather large proportion of all the crimes. When you are able to identify that element, which we refer to in law enforcement as the career criminal, you can expedite their case through the system by virtue of our very successful speedy trial program in this county. Once they are convicted, as a result of mandatory minimum sentencing provisions, the discretion has been removed to at least reduce significantly, and the Judiciary must impose certain sentences. When that is done, and prisoners are indeed incarcerated for specific periods of time, we do begin to reap the benefits of that procedure,

and we do begin to see it here, particularly in Passaic County and, I think, throughout the State as borne out by the recent data reported last Sunday in the Star Ledger.

In part and parcel of that, of course, is the mandatory sentences for those who would commit crimes by using a gun.

So, in answer to your question, yes, indeed, we are indeed, as citizens, both lay people and law enforcement people, reaping the benefit of the present setup. But, we do need more.

As I have asked Senator Graves, one thing I would like to see as a prosecutor is to have the right, more so than what we have now, to appeal when I feel that a sentence that has been imposed is manifestly too lenient. Defendants across the board appeal just about every case and claim that their sentence is manifestly too excessive. We even see these appeals when a defendant has pleaded guilty, but again, he still takes a plea and takes an appeal. The taxpayers are supporting that appeal, and the only issue raised is whether or not the sentence is too excessive.

What I would like across the board is a bill that would give the prosecutors that corresponding right. We represent the State, we represent the citizens of this State, and in appropriate cases, we should have that opportunity to challenge when we feel a challenge is necessary to support the public.

SENATOR BUBBA: There is another bill that I sponsored which deals a little bit with that. I would like your opinion on that, and I'll speak to you privately about it, but to make a point, it is my understanding that at sentencing, the only people allowed at sentencing are the victim, the judge, and his defense attorney. Are you allowed at sentencing?

PROSECUTOR FALCONE: When I first came to Passaic County as the First Deputy Assistant eight years ago, I had recommended to my predecessor that we make it a procedure in our office that our people review all presentence reports and be in attendance at every sentencing proceeding for every defendant, and where appropriate, we take specific positions and make recommendations on the record for the imposition of appropriate custodial terms. So, in my office, we have made it S.O.P.

that we appear at every case, and where appropriate, make very strong pitches to the court for the imposition of sentencing.

SENATOR BUBBA: I have a bill before Judiciary now that would allow victims to be present at sentencing and would allow victims to speak at sentencing. It is my opinion that as a result of the liberal phase that we have gone through in this county that a good portion of the judges who sit on the bench -- thankfully, not too many in Passaic County, but in other counties -- where, at that point in time during the trial, or at the conclusion of the trial, judges will only hear the pleas of the victim and the victim's attorney. Thankfully, in Passaic County, the prosecutor has a chance to get in to speak.

But, at that point in time, if the victim himself or the victim's family were able to confront the judge to ensure it or to reinforce within the judge some statements as to the harm that this person has created in society, maybe we would get stiffer sentences. I hope that bill, and certainly, I have asked for the support of Frank Graves -- he has said that he wishes to help on that-- If that bill comes forward, we'll see, hopefully, a different reaction with respect to sentencing.

PROSECUTOR FALCONE: I think that would help. Right now, I think it is discretionary with the court whether or not he will permit the victims or the families of victims to speak at sentencing. I know all too often that many times there is a letter-writing campaign prior to sentencing made on behalf of the defendant. Unfortunately, there isn't that corresponding view held by either the victim or the family of the victim, or even general citizens, who are concerned about what happens with convicted defendants.

We have seen in this State many times where defendants get much more lenient sentences because one hundred to two hundred letters extolling his or her virtues have been sent to the court without corresponding input from the other side. I think a bill like that would certainly go a long way, which would make it the procedure now in New Jersey.

SENATOR GRAVES: Assemblymen? (no questions)

PROSECUTOR FALCONE: Thank you again.

SENATOR GRAVES: We have just been notified that there are two more Senators on their way who will support the bill -- Senator Bassano and Senator Rodgers are both expected to arrive before the noon hour.

Chief Delaney? Chief Joseph Delaney, Chief of Police of Paramus.

J O S E P H D E L A N E Y: Good morning, Senator, and Committee members. My name is Joseph Delaney, Chief of Police in Paramus, New Jersey.

Senator, obviously I thank you for your invitation, and I am in full support of your bill. I think in your opening remarks, which I think are very important for the people present, particularly the media, you said that this issue will raise a lot of emotion. I think that is prevalent here today. But, I think that we should look at it in balance also.

We, as a society, are viewed by other countries as violent. We, as a society, have reached a point of acceptance where if you shoot a President or shoot the Pope, it no longer shocks our sensibilities. I think that somewhere we had better halt that type of acceptance.

In the case of a murderer, a first-degree, premeditated murderer, obviously there is something here within our society that we must stop and say to ourselves, "We cannot, must not, will not allow that person to walk the streets." That is for a very simple reason.

I think that in many cases, as you said, when it is emotional, we somehow lose sight of we really are all about as a society. We must get back to basics.

If we are to sustain ourselves as a society, we must look at things in its totality. If you commit a certain crime, you will expect a certain punishment.

A murderer may not go out there with the thought of committing murder. He or she may feel that he or she may not get caught. But, when you have a premeditated murder, as in the case of Trantino--

I have been a police officer for twenty-seven years.

In 1963, I stood on a barroom floor of the Angel Lounge and watched Tedesco's and Voto's blood run under my feet. Now, that is highly volatile. That is very emotional. In fact, that night to me was the night of the devil at the Angel Lounge. What Trantino and Falco did to those two police officers was heinous -- no question in nature. It made no difference that they were police officers, by the way, except for one fact.

If you will brutally, sadistically, premeditatedly murder a police officer, who shows that they are the defense of society, then you have no qualms about killing anybody in our society, because a police officer wears a uniform. He is your first line of defense. So, if you kill him, you will not hesitate to kill anybody.

If you look at what has happened in our society with rehabilitation, it is always that we go for the worst, hoping that if we rehabilitate that person, we will then rehabilitate everybody. We have lost that battle, and we have certainly lost that war.

Yes, there are people who can be rehabilitated. Yes, somebody is given the first bite of the apple.

Just two and one-half years ago in State's Prison with this rehabilitation program, they took a murderer and three other criminals to a beach on a beach excursion. Did they really expect the murderer to lay on the sand and take in the sun? He escaped and has not been heard from since.

So, obviously, when we look at rehabilitation in such a way as I said earlier, if we can get the worst to be rehabilitated, then everybody else will fall in line. It has not worked.

I am very familiar with the Trantino case. Not only was I there that night, but I spent an hour face to face with Thomas Trantino in, believe it or not, a debate on television. He has no remorse. He even claims that he did not commit the crime. But, I did see something in Trantino's eyes. To me, he is a stone-cold killer. Nothing will change that.

Trantino is also a con artist. He has conned everybody in the system, and everyone who is in there for murder, murder one, knows the system. If you do get along, if you don't cause trouble, you will have a shot at getting out, because that is our system.

What we did to victims in the past and now in the present is made them victims twice -- once of the incident itself, and now again, of the system. That has to stop. Just get back to basics.

If you have committed the act of murder in the first degree, then you shall never again walk the streets. That is pure and simple. Yes, I understand there has to be a balance in our society. Yes, there are those who are liberal in their thinking. There is nothing wrong with that, very frankly. I can respect that. But, I think we have to look at our society now at a very crucial, critical time, and if we don't turn it around, then we will be like the people in the mid-West who were upset when their television soap operas were interrupted with the news announcement that the Pope was shot. They then said, "Don't interrupt my soap opera." Obviously, they are not shocked any longer.

Lenny Bruce once said, "If I say a curse over and over and over again, it will no longer have the impact that it once had." He was right. It does lose the impact, but we don't want it to lose that impact. If I am angry, which is a normal, emotional experience, I will want that impact to be present. If I do curse at you, it is for a reason, but I want that impact.

If we accept the violence in this society, as we have over the years, to a point where we feel that the system does nothing about it, we will no longer be shocked. Does it shock somebody that in Bergen County a young girl was bludgeoned to death and her killer walks the streets now after serving only six years?

Somebody may be very upset with that. Certainly the doctor and his wife, the parents of that young girl live a nightmare everyday. The Tedesco's, the Voto's, the people here earlier all live this horror every single day. But, a balance has to be struck here beyond the emotional issue, and the balance is that the murderer should not be released -- pure and simple as that -- basics. If they know what they are going to receive -- it is no different than your mandatory law concerning gun control -- everybody knows it. People on the street know it.

So we, society, are owed that. We must become part of the solution, not part of the problem. We can no longer accept that.

I got in trouble in late December with the State Department. It had to do with a Russian diplomat. A lot of people felt at that time that I did something that struck a nerve for the American people. I did something instinctively because I was intimidated by the person who was there. Yes, he was from a super power. Yes, it was Russia. But, I said to myself at that moment, "Nobody is going to intimidate me. Nobody is going to tell me what I have to do if I'm right."

You're right on this one, Senator, with this particular law, and I would tell any murderer in the State of New Jersey just what I told that Russian diplomat -- "Go pound salt."

Thank you, Senator.

AUDIENCE: (Applause)

SENATOR GRAVES: Chief James Hannan of the Paterson Police Department.

J A M E S T. H A N N A N: Senators, I wish to thank you for the invitation to appear here today. I have sat and listened to the statements made and the emotions exhibited by the people who spoke before me. I too have been filled with emotion, but not because a member of my family has been shot. In a sense, a member of my family has been shot. Members of the Paterson Police Department have been shot at, and they have been shot; they have been wounded, some near fatally. In a sense, we are -- the Paterson Police Department -- one large family. Yes, I have had the same experience you heard of before.

One of the things that struck me was the impact of the bill sponsored by you and voted on in the affirmative by the members of your Committee, and by the members of the Assembly who are here.

Your gun bill has had an impact because anybody who commits a crime with the use of a gun shall be sentenced for a minimum of three years -- no parole and no release whatsoever. Yes, this has had a salutary effect on crime.

Senator Bubba asked Prosecutor Falcone about crime in Passaic County. Has it been reduced because of these bill you have introduced and passed? I can say definitely, yes, it has. Last year, the crime rate in the City of Paterson decreased by roughly eight percent.

There were things that were done administratively that had some effect, but I am sure that the most salutary effect came from the

fact that the criminal knew if he committed a crime, and if he used a gun, he was going to jail for three years. That was last year.

So far this year -- in fact, just the other day I looked at the statistics for this year -- I am glad to say that crime in the City of Paterson is down, just over seventeen percent for the first six months of this year. Again, I am sure this is because of the things we heard discussed here before.

I think one of the things we have to do is, not only do we have to take the mandatory sentencing and apply it to the use of a gun, but there are murders committed with knives also -- there are all kinds of weapons used -- and I think that some thought should be given to looking at the other types of weapons that are used in the commission of crime -- the commission of murder -- and see if we can apply the same kind of logic to those weapons.

I think that up to this point, the Judiciary -- not all of them, but quite a few of them -- have been extremely lenient in dealing with criminals. I think one of the most flagrant examples of the use of judicial discretion was the one that Senator Graves speaks about quite frequently. It concerns a sentence given to a man who fired at least six shots at a policeman. He tried to kill him. He missed, fortunately for the policeman. He was convicted. The judge sentenced him to sixteen weekends, not sixteen weeks, not sixteen years, but sixteen weekends in jail. If this is the way we are going to punish individuals who try to kill -- as was said before -- our first line of defense against crime, our police officers, what is going to happen if somebody commits a murder involving an ordinary citizen? I think these are things that have to be taken into consideration. They have to be given a great deal of thought.

As far as the bill we are discussing now is concerned, the best way I can think of putting it is, death is permanent. It is not only permanent for the victim, but when the jury found the criminal guilty and sentenced him to the electric chair, it meant just exactly that, that his life should be taken; his punishment should be permanent. I think the only way we can continue that line of reasoning is to put the people who are now in jail, because of a quirk in the ruling of the Supreme Court, in jeopardy, not for sixteen years, not

for twenty years, but put them away for good. Make the punishment for their crime permanent. Thank you.

SENATOR GRAVES: Thank you, Chief. As I said, we are expecting two Senators to arrive soon, so we are going to take a five minute break.

(FIVE MINUTE RECESS)

AFTER RECESS:

SENATOR GRAVES: Will everyone please take his seat? Gloria Broder has indicated that she wishes to testify. Is Gloria Broder in the room?

MRS. WELTMAN: She is coming into the room now.

SENATOR GRAVES: Gloria, would you please come forward to make your statement?

G L O R I A B R O D E R: My name is Gloria Broder, and for the past five years I have been a member of a Crime Watch Program, which I initiated in Fairlawn. Working with the police and the detective bureau, it is impossible not to become incensed with the injustices in our Judicial system. One sees the "revolving door syndrome," where our police arraign a criminal in Hackensack, and by the time they get back to Fairlawn that perpetrator is again on the street, ready to ply his trade. And, that is just the lower echelons, the burglars and the petty criminals, so to speak. Of course, the reason given is, the jails are too overcrowded.

But, now we are talking about murderers, people who prey on society. If a lion were in the street, you would lock him up and keep him behind bars. Yet, somehow all our systems are clogged up when it comes to dealing with the murderer, and this has got to stop.

There are legislators who cry, "Constitutional rights." What constitutional rights? Due process of law, yes. They have already received a fair trial. They have had due process by appealing their case. They have been tried, and, beyond a shadow of a doubt, they have been found guilty of murder. How can we even begin to speak of allowing them to come back into our society?

I am ashamed that this meeting is even necessary. Just last week, the newspaper wrote about how some people were able, through the use of some gadget or disk, to get cable programs with, of course, no financial remuneration to the cable companies. How quickly you legislators acted. Within a very short time, a law was passed declaring that practice illegal -- not only illegal, but jail sentences were to be given out for this "horrible crime." The jails are so overcrowded that we release murderers, but these people are going to go to jail. The hypocrisy in our system is deplorable. It has to stop. Where are we going? Where, indeed.

If we don't stop, here and now, and look at where we are heading, we are going to be hell bent for destruction. The time has come for us to yell, "Enough is enough. We have had it." We need you, our legislators, to protect us, not the criminal. And, too often the victim is being treated like the criminal. The time has come and you must act. To do anything else is truly unconscionable.

We are tired of these travesties of justice. I hope the Senate will do much more. The parole system needs a complete overhaul, if not abolishment. So much has to be done. We, today, are on trial. The whole country may be watching what we are doing. This is just a start. To protect one life can be like protecting a million lives. We are on our way. I thank you, and we are awaiting your decision.

SENATOR GRAVES: Thank you.

MRS. WELTMAN: Is Hazel Ryerson here, and would she like to speak? (affirmative reply)

H A Z E L R Y E R S O N: Senator Graves, and this august body assembled here today--

SENATOR GRAVES: Just one second, Ms. Ryerson. I would just like to announce that Senator Bassano has now joined us.

MS. RYERSON: Oh. Thank you. Just on a lighter note to start, I was thinking when the meeting was recessed, that it might have been nice if we could have been served coffee and cookies for five or ten dollars; we certainly spend enough on the criminals.

First, Senator Graves, I am very grateful for the opportunity to speak and state my opinion here. As you can gather, I am really not a public speaker. But, I agonized with the loved ones of these victims

as they told their stories about those vicious murderers. Why? I have so many questions. Why are we so reluctant to keep these killers incarcerated? They have committed brutal and fiendish crimes, and I don't understand why they are accommodated, coddled to, catered to, and granted all of their wishes. Why are the officials and the parole boards so lenient with these vicious killers? Why is it necessary to have a follow-up program for these vicious killers? Why don't we have some kind of a board that follows up on the loved ones of the victims, to offer comfort, aid, and, yes, monetary compensation?

It would seem to me that the situation is reversed. Now, as we all know, there are hundreds and probably literally thousands of unapprehended criminals roaming our streets. We know this by the simple fact that there are thousands of murders that are unsolved. And, what are we doing? We are releasing these criminals to roam on the streets freely. Aren't there a multiplicity of killers roaming out there? While they are roaming freely, and fearlessly, what are we, the law-abiding citizens doing? You know what we are doing. We are rushing home from our day's activity in order to make sure that we are in our homes at night, before dark, barricaded, with double and triple locks on our doors -- dead locks and chains. We secure watch dogs. We are completely barricaded in our homes. We buy costly, sophisticated alarm systems that ring bells and honk horns to alert us of intruders. Don't we have our priorities confused? I would think so.

Why do we need a parole board? I don't understand the parole board. When I think of my ballot, I do not remember ever electing a parole board. So, apparently -- as I say, I am not familiar with this -- they are not elected, they are appointed. Who appoints them? What qualifications do these parole board members have? Is this all based on some kind of a job rating system, where if you parole five killers this year, you get A+? What kind of a system is this? What kind of judgment is there in this? How do they--? Why are they in a position where they can parole killers? And, we, the law-abiding citizens, are barricaded behind closed doors. This doesn't make sense to me.

I will just check my notes here. I don't want to miss a thing. Oh, on this proposal, Senator Graves, I would suggest, if I may, that you make sure there are no loopholes in this proposal, so

that some crafty lawyer or parole board can get hold of it and parole these killers. If it is necessary to specify a number of years, then I would urge you to specify one hundred years. Then, after serving one hundred years, concurrently, they would be eligible for parole.

Why do we use the words "rewarded for good behavior?" Why do we say he is "rewarded;" "He will get out;" "He will be eligible for parole in two or three years?" Why? On good behavior? We have observed his good behavior. He has had an opportunity to prove his behavior to us. I have observed how these murderers act. Were Donna DeRier and the two fine police officers given an opportunity to live or die, or to live free or be incarcerated? They were given no choice or opportunity. Why do we constantly bend over backwards to accommodate these killers?

They say a leopard never changes its spots. Well, let these killers, if they change their spots, change them while incarcerated. We don't want to observe the changing of their spots. Let them stay where they belong. They had their opportunity to live free in a free society. They relinquished that opportunity.

You know, this morning I heard the word animals used many times -- "They are animals." Well, let me tell you something: Animals in the wild jungle do not kill their own, and when they kill, they kill for food, for survival. Are we living in a jungle? I would hope not.

Furthermore, and in conclusion, I would like to say that we are not stopping here. We are going to follow this through. We are going to find out, when this bill is submitted-- I will wait a moment.

SENATOR GRAVES: Excuse me. Senator Rodgers has just joined us. Please continue, Ms. Ryerson.

MS. RYERSON: Welcome, Senator Rodgers. We are going to follow this through. This is not going to be the end of this. When this bill is submitted, Senator Graves, we shall make sure that we, the voters, know who opposed this bill. And, let me tell you, I don't know much about campaigning, and I don't know how this thing works, but if they vote to oppose this bill that will keep killers behind bars for one hundred years, we will know their names, and that will be the first and last vote they will cast, because we will campaign this State, from High Point to Cape May. (applause) And, we will make it our

business. As I said, I know very little about politics. I know you have campaigns. And, I know you have literature distributed, and you man the phones. We will do whatever you ask us to do. They will never get an opportunity to vote these killers on the street to prey on innocent, unsuspecting victims again.

I thank you very much. I must say one more thing, Senator Graves. I know you have the reputation of being a go-getter and a do-gooder, but this is my first personal contact with you. I just want you to know that we commend you, and we commend you very highly for your forthrightness, and your wisdom -- and we also commend this esteemed body of gentlemen with you. Thank you very much.

SENATOR GRAVES: Thank you. Assemblyman Vincent Pellecchia.

A S S E M B L Y M A N V I N C E N T P E L L E C C H I A:
Thank you, Senator Graves. At the outset, I would like you to know that I believe the entire testimony given this morning was articulated in the finest fashion.

I want you to know that I have been in the Legislature for some twelve years now, and I had the opportunity to vote on the death penalty bill three different times. The first time, the Governor vetoed it. The second time, the court said it was illegal. The third time we passed it, the Governor signed it, and it is now law. However, I don't think we have gone far enough. The fact of the matter is that people who commit crimes, such as the crimes we have spoken about this morning, don't deserve to be on this earth. I think that even those people who get one hundred years, as was said before-- This is not really what we want, because an individual in jail with the knowledge that he is not going to get out of jail lives like a king. He threatens everybody. If anyone tries to do anything, he rules as absolutely king in any kind of situation. This is so, because how many times can you give him one hundred years?

I believe that Senator Graves has been on the right track. And I am sure that my running mate, John Girgenti -- who has sponsored many, many crime/victim bills -- has done a thorough job in that arena.

We find ourselves, many, many times, fighting those who shed crocodile tears for the criminals who are put in jail. They think the criminal should get some kind of reward, such as going to college. A

criminal gets sentenced to twenty years in jail, and he is given the privilege of going to college. They fight for air conditioning in the rooms. They fight for anything they feel the criminal wants, and that people on the outside have. And, this is what is wrong with our system. I think it emanates from the Supreme Court. The Supreme Court has, time after time, shot down bills that we have passed and that other State Legislatures have passed, and those bills would probably have solved some of the problems we have now. However, with the Supreme Court doing what they have done over the years, the criminal justice system has deteriorated somewhat. And, I am pretty sure that with legislative meetings, such as this one, and with bills, such as the one we are talking about presently, we will continue to hit them. And, they may very well say this bill is not legal. If they do, we will go back time and again for as long as we have to. I don't want to belabor the subject, because as I said in the beginning, the entire issue was covered in the best fashion I have ever seen at a public hearing.

I want to commend those who testified. My sympathy goes to the families who are involved in the emotions displayed here. I want you to know that as far as I am concerned, there is no bill that will come before the Legislature, involving crime, that I will not support to its fullest. Thank you and God bless you. (applause)

SENATOR GRAVES: Joan Keiser.

J O A N K E I S E R: Thank you for trying to get this bill through. I certainly hope it goes through. We are friends of the DeRiers, and I know what they go through all the time, not just now. It has been a rough road.

I just want to say I can't see where there is any justice in letting a murderer out on the street again. He will do the same thing again.

As far as the police officers are concerned, the same thing applies. He was paroled, right? And, now he is back -- he was back.

SENATOR GRAVES: No. Edgar Smith had been paroled, committed a similar type of crime in California, and he is now back in jail.

MS. KEISER: That's right.

SENATOR GRAVES: That man was paroled by the parole board
but he is not out now.

MS. KEISER: Right. Well, I just can't see, as the last woman said, why we even need a parole board. There should be no question about it; they should be kept -- if not sentenced to death, they should be incarcerated forever.

As far as saying anything else, everything has been said already. Thank you.

SENATOR GRAVES: Are there any questions?

(no response)

Thank you, Ms. Keiser.

MS. KEISER: Thank you.

SENATOR GRAVES: Peg Neumann.

PEG NEWMANN: Senators, I want to speak as the wife of a man who worked in the prison system, in the business office of Jamesburg. My next door neighbor was an instructor in a shop at Rahway. I feel that the prisoners -- this was a topic in our home many, many times between the two men -- get too many privileges and rights. My husband was, at one time, told by a prisoner, a young woman -- Jamesburg is now co-ed -- "Let's make it nice for the boys." Because he couldn't order a certain type of shoe that she wanted, she called my husband a bald-headed -- I won't say the word. He had to take this, because if he said anything to her, he was violating her rights. She had the right to call him anything she wanted to.

I think what you are doing is a good start, and I commend you. I commend the other legislators and the good people who have taken the time to come here today, to our town, in order to try to make things better than they are.

But, I do think we need a lot of prison reform too, to go along with everything else you are trying to do. Thank you.

SENATOR GRAVES: Thank you. Elaine Matt.

ELAINE MATT: I just want to ask one question. I want to be enlightened about something. These men were sentenced to death?

SENATOR GRAVES: Yes.

MS. MATT: And, the death penalty was abolished?

SENATOR GRAVES: Yes.

MS. MATT: Okay. They are not sentenced to death any longer; it is wiped away?

SENATOR GRAVES: Yes.

MS. MATT: Why? They were sentenced to death, and now the penalty is back -- why?

SENATOR GRAVES: Because the Supreme Court ruled, in 1971, against the death penalty.

MS. MATT: Right.

SENATOR GRAVES: So, they were then put into the category of a twenty-five year sentence, with time off for good behavior. So, now they are eligible for parole because of their true "good behavior" or their fictitious "good behavior".

This bill will put them into the same category as a person who today is convicted of murder, but who has been spared the death penalty and has been given thirty years to life. What the bill will do is, it will say that the very least society can expect is that he will be in prison for life, even though he escaped the death penalty, because the Supreme Court, twelve years ago, abolished it.

MS. MATT: Did anyone ask the Supreme Court how they would feel if their daughter was Donna DeRier, or if their brother or father was one of the two policemen from Lodi? Did anyone ever ask them how they would feel in that case?

SENATOR GRAVES: I am sure they have.

MS. MATT: They have?

SENATOR GRAVES: I am not sure, but I feel reasonably sure that the Chief has probably asked a lot of questions of a lot of courts.

MS. MATT: That is just something I wonder about. I just wonder how these people would feel if it was their family?

CHIEF DELANEY: That Ivory Tower is hard to get at.

MS. MATT: Yes. That is all I have to say. Thank you very much.

SENATOR GRAVES: Senator Bassano wants to ask a question.

SENATOR BASSANO: I just wanted to know if the Attorney General has reviewed this bill for its constitutionality?

SENATOR GRAVES: I really don't know.

SENATOR BASSANO: I want to explain why I am concerned about that. In 1971, in November of that year, I was elected to my first term in the New Jersey General Assembly. I come from Union County. In

Union County I am just a few miles away from Rahway State Prison. Three or four weeks after I was elected -- I had not taken office yet -- there was a riot at Rahway State Prison, as there were riots at that time throughout the nation. Upon taking office in January, one of the committees I served on was the Institutions Committee. Assemblyman Tom Deverin chaired that committee at that time, and he held hearings on prison reform. During the course of that term, we had a number of hearings throughout the State. One of the people who appeared before our Committee was Edgar Smith. Now, I don't know how familiar all of you are with Edgar Smith and his case, but because of certain legal movements that were made on his behalf, he was released from prison by pleading guilty.

I can remember sitting in the General Assembly, about three or four years later, reading the paper, and coming across an article about that big (indicating size) in the paper, whereby it stated that Edgar Smith was picked up in California. He was hitchhiking and some woman stopped to pick him up, and he beat her within an inch of her life. He is now back in prison. I certainly question how society gained by turning someone of this nature loose on the street.

I want to make sure that this bill isn't going to work contrary to its intended purpose by giving the court and some smart attorneys an additional vehicle to use against us and thus accomplish just the opposite of what we are trying to do.

I think everyone here agrees with the concept of this bill, but I certainly would like the Attorney General to at least review it and give us his legal opinion on the constitutionality of the bill. I don't want to give those people who are behind bars another vehicle to hold up and say, "This is something that can be used against them," and have it put more people back on the street, when that was not our intent.

So, I am going to suggest, that in addition to moving the bill today, we should also ask for a ruling by the Attorney General. I don't think that should stop the movement of this bill, because the legislative process can still continue while the Attorney General rules on this measure.

SENATOR GRAVES: We invited the Attorney General. A prosecutor came, but not the Attorney General.

Who is next?

MS. WELTMAN: I don't have any other names.

SENATOR GRAVES: Is there anyone who has not been heard and who wishes the opportunity to be heard? (affirmative answer)

Will you please state your name for the record?

M A R Y H A E B E R L E: For a long time they have been educating, classifying, and building up the criminals. For instance, Trantino. He wants to get out. He offered some money to the family so he could get out and be a "nice citizen" again. These people who are in prison -- one criminal does painting -- have some talent. There is money in a book. The Little Shoemaker wrote a book when the nurse was killed. Why doesn't this money go back to the families of the men and women who were killed? These are men and women who need it.

SENATOR GRAVES: I think Assemblyman Girgenti passed that bill.

ASSEMBLYMAN GIRGENTI: Ma'am, the fact of the matter is that it does now. Anybody who writes a book for profit, as a result of a crime -- that money goes to the Violent Crimes Compensation Board to help the victims of violent crime.

MS. HAEBERLE: I hope one hundred percent goes to the victims.

ASSEMBLYMAN GIRGENTI: Well, he is not to get any of the money as a result of that. He does not derive any profit. The money will go to the victim. It goes to the Violent Crimes Compensation Board, which issues it to the victims. So, that has been done.

We have heard a lot of statements today, and I am going to make a statement later on, but the fact of the matter is, we have pushed a lot of legislation in the past few years that has helped the victims. We have changed it. I had a bill passed that puts a tax on crime. It puts a tax on the criminal. It says that he has to pay from twenty-five to ten thousand dollars to the Violent Crimes Compensation Board. Because the money in the fund was insufficient, the money it has been supplemented with, from the pockets of the criminals, comes to something like two million dollars already. That is money out of their pockets and it is going to the victims of crime. It is done through the Board that has been set up, and people have to apply for eligibility.

So, there are a lot of changes coming about, and I think we are seeing a shift in emphasis, away from the coddling of a suspect to helping the victim of a crime. We want to see more of it, but that is the proper direction in which we should be heading.

MS. HAEBERLE: All right. Now, there is another thing that is bothering me. My uncle -- my father's brother -- was a police officer in Paterson and a detective in Paterson. I grew up on Mercer Street, and we had practically the whole police department in our area, and a lot of firemen. I know what these men do. I have lived in Hawthorne. I know what they do over, above, and beyond their duty. I don't like this business where a police officer has to wait until someone has a knife in his hand, or a gun in his hand, before he can make a move. How do you know? How would I know if I go out? You know yourself, you carry a gun for your own protection. How do you know when someone comes at you whether they are going to kill you or not? If a policeman is present and someone is disruptive -- a drunk on the street gets worse treatment than someone with a knife or a gun in his hand does. So, that should be looked into also.

A police officer is out on the street. He is there. He cannot be too fresh with people. He has to be considerate. He has enough problems as it is. He should not have to stand there and wait until somebody is ready to kill him before he can do anything about it.

I'll tell you, maybe the old timers might have done it, because it was ingrained in them. Maybe some of the younger ones are not so fast to go out, and I don't blame them. They are not so fast to move. Maybe they look the other way when they see something coming at them. I am not saying they do, but if I were in their shoes, I would.

SENATOR GRAVES: Thank you very much. I see one other person who has her hand up. Please come up and state your name.

This will conclude the public portion of the hearing.

LOUISE TORELL: I am Louise Torell. I am a friend of one of the victims, the detective's family. I have seen the emotion that has been displayed by that family, and I know how the father went to Trenton with his briefcase for eight years. Then he died. I know the sister very well. She is not here today. I know what she has been doing all these years. And, the minute Trantino was put back in jail

for five to ten years, that was a little encouragement, but it doesn't help the emotional status of the victim's family. They become victims.

Why should "McLoughlin's Beat" interview Trantino? When the sister of Tedesco called and wanted equal time -- which I think would have been very fair -- she was told no by the girl who has a forty thousand dollar a year job. I don't even want to mention her name. She said, "Well, Tommy is interesting and you are not going to get equal time. It is such an obsession with you."

Then I spoke with an officer and he said, "Well, you know," he said, "it is just an obsession." How can our society put up with these kinds of answers, and why not equal time? How do they have their jobs? I agree with a lot of people in here who have said we don't need a parole board. We don't. And, if the Supreme Court doesn't come out with the right decisions, we should get together more often like this and spread the word around. I wish our Bergen County Senators were here today. Maybe they were invited.

SENATOR GRAVES: Senator Hirkala is one of your Bergen County Senators.

MS. TORELL: Oh, Senator Hirkala. He is part of Bergen County. I'm sorry. I am glad Chief Delaney is here too. But if there is anything that some of us can do in Bergen County-- I am a committeewoman and my husband is a committeeman, and this is what I have been fighting for all along. This is what we need. How do they just get away with it?

Senator Graves, I am getting a little nervous now. I went to East Side and I lived in Paterson, and I say I really commend you and everybody here. I think right here -- Mr. Pellecchia said this was one of the best meetings he has attended -- we should start that ball rolling. Why can't we start that ball rolling everywhere? I commend you highly for it, and I am certainly going to do everything I can to go along with you.

But, talking about the emotional factor involved regarding the families of the victims, well of course there is emotion. I went back to college in my mature years, and I made it. But, I would like to have some more free schooling now. You can't get it. You have to make six thousand dollars a year. So, why should they be rehabilitated?

Why should they have all that education? They shouldn't have that opportunity. Tommy was living as if he were in a country club in that mobile home. So Tommy is interesting -- well if our news media wants everything titillating, we should all get on the stage and shine and be titillating. Why a prisoner? Give us that opportunity, and maybe we could come up with some good ideas.

Thank you for this opportunity.

SENATOR GRAVES: Thank you.

MR. DeRIER: Senator Graves, one fast question. Are prisoners still getting social security?

SENATOR GRAVES: I don't know the answer to that. Is the parole board representative still here? (affirmative reply) Do the prisoners still get social security, or was that cut off?

MR. RANTON: I frankly don't know the answer to that.

SENATOR GRAVES: All right. We heard first from the governing body of Hawthorne who unanimously supported this legislation. We have heard from the families, the professional chiefs of police, the sheriff, the prosecutor, and, for one of the first times, we heard from other important people besides, and they are the residents of the community who have come here and testified. As I said in my opening remarks at 10:30, this would probably be an emotional issue, and it has been, but, yet, it has been very well supported. The dialogue has expanded what all of our thoughts are.

SENATOR GRAVES: We will now hear from the Senators, and then I am going to move that the bill be released.

Senator Bubba.

S E N A T O R J O S E P H B U B B A: Thank you, Senator Graves. As many of you know, it has been a crusade of mine, certainly, to assist Senator Graves and the other Senators from New Jersey in developing more mandatory sentences. We have placed many bills before the Law and Public Safety Committee, and also the Judiciary Committee, and some of those bills have become law at this point.

This is, I think, one of the most important issues we can address, second only to the death penalty. I think the death penalty was the overriding issue in the State of New Jersey prior to my election, and now having been a part of that I feel very comfortable that I have assisted the people in the State of New Jersey.

This issue of not allowing parole to those people who have committed murder, I think, comes second only to the death penalty. This is a very interesting document that I am looking at here. Maybe you are not privy to it. Our able aide to this Committee has compiled a document for us, indicating those people who have committed murder, the year they were incarcerated, their location now, the date they were paroled, and the date the parole expires. It would be very interesting for you to hear that there are twenty-one names on this list, and of the twenty-one names, only eight people are in prison today. One of those eight is Smith and he is in California. Another one of the eight is another fellow who was paroled and is now incarcerated in Texas. Another one was paroled and was picked up on another charge. Another one is in a psychiatric institution.

The point is very clear, certainly the general public knows what they want, the Legislature seems to know what they want, we still have an awful lot of work to do with some judges at certain levels, but it is clear that maybe the parole board doesn't quite understand what we feel. I am glad to see that there is a representative from the parole board here, because he can bring back the message.

If I told you that of the thirteen that were released -- if I asked each of you to tell me how many years, on average, they served, I wonder what you would say? Well, it would have to be at least twenty-five years, wouldn't you think? I mean, if a guy takes another person's life, it would have to be at least that. Well, maybe thirty years? How about fifteen years? That's a pretty good gamble on the part of somebody carrying a gun, someone who is either holding up a person, or who wants something, or who has something in mind. It's a pretty good gamble. If I kill you, the odds are that I am only going to get fifteen years. That is basically what it is. I think that is horrendous.

I really believe we have to turn back the tide. Chief Voto, your talk was extremely eloquent, and I thank you for coming here today, as I do the other people who appeared before us. But, someone said, "We don't have the edge; they have the edge." That is really true. And, I think the flaming liberals of our society have given the edge to these people. It is not that I am a red-necked conservative. I don't think that's what I am nor do I think that is what anybody else

present today is. I think we are people who want to have our rights guarded.

I believe if someone makes a mistake, he really should have a second chance. I believe that sincerely. I don't believe, however, that committing a murder is a mistake. I believe that when somebody commits murder, they know what they are doing. And, I think they have a purpose in mind, and that is to eliminate whoever is there in order to keep that person from testifying against them, or putting them in jail -- or what have you.

I think there are other bills that we talked about before which, if considered by the Senate -- some of which I have sponsored -- and the Assembly, and then signed by the Governor, would make an awful lot of sense. I think they are in order of priority after this bill. I don't see why -- and this was addressed today by some people -- a person, if he goes to jail for committing a crime, and if it costs us money -- and it does, it costs us an average of twenty thousand dollars a year, per person, in jail -- that person shouldn't have to pay the cost of his incarceration back to the State.

I brought that bill up before committee in the Senate. I sponsored that bill, and I brought it up before committee, and I heard some people say, "Gee, would you really want to burden that man's family for the rest of their lives?" In other words, a person gets out of jail and then he has to pay the State back, and this would "burden his family". Well, there are surer than hell a lot of families that are burdened in the State of New Jersey by these types of people, whether they be murderers or not.

I think we have to change our mentality in the State of New Jersey. I think this bill addresses that, or begins to address it.

We talked about the test -- what is the test for releasing a person from prison? Now, I don't know an awful lot about what happens on the parole board. I think, Senator Graves, and my fellow Senators, that we are going to have to find that out. I think we are going to have to dig into the parole board a little bit and find out what they are doing. I don't mean to denigrate them. I just think that maybe we have to take a look at the rules.

But, if the test is -- and I don't know what the test is -- "If we release a prisoner, can he blend back into society?", then I think maybe we ought to change the test. The test should be, perhaps, what benefit can he bring to society? Is there a benefit to be derived on the part of society by the release of an individual? I don't see any benefit derived by society through the release of a convicted murderer. And, maybe there are other crimes also that are committed, where a person of that nature would not be a benefit to society.

With that in mind, Senator, I am going to support this legislation. I am going to cosponsor it. I will support it on the floor of the Senate. I applaud your efforts. The only thing I regret in this whole procedure is that I did not think of this legislation first. (applause)

SENATOR GRAVES: Senator Bassano.

SENATOR BASSANO: I think I spoke before. You know my feelings on this bill. I think it is a good piece of legislation. The only suggestion I will make again is that the A.G.'s office should take a look at it, and rule it constitutional so that we don't defeat our purpose here today. I think it is a good bill, and hopefully it will move through the process rather quickly.

SENATOR GRAVES: Assemblyman Girgenti.

A S S E M B L Y M A N J O H N A . G I R G E N T I: Thank you, Senator. I have prepared testimony to give before this Committee, and you were gracious enough to allow me to sit in. This was very educational for me, and I thank you.

Good morning, ladies and gentlemen, I am here to speak in support of this legislation. It is only in the last few years that the public has begun to rebel against liberal law makers and judges, who through their actions coddle and protect the criminals who commit violent crimes. It is about time that the tide has turned.

I, as a legislator, support this legislation, as I supported the death penalty, because these heinous crimes against society cannot be forgotten or forgiven through good behavior or diligent work in prison.

As the chief architect of major legislation to protect crime victims, which has finally recompensed, financially, the victims of

violent crimes, you will agree that surely the DeRier family and the families of the two murdered police officers are victims of violent crimes. There is no financial compensation that will ever bring the DeRier's daughter back, nor erase the memory of her tragic death, nor will financial compensation bring back the two dead officers. The family in society needs emotional compensation, which is to keep the murderers behind bars.

As you know, the DeRier family has been instrumental in the development of this legislation through Senator Graves, due to their concern that Mr. Doss would be released by the parole board later this year.

I am here not only as a legislator but because I know the family and their late daughter. Donna DeRier graduated from Hawthorne High School with me in 1965. As a result of the family's concern, I approached the parole board and requested denial of parole. I set up a meeting between the parole board and the family, so that their concerns would be realized by the board. We cannot depend upon that parole board's perception of the DeRier family's real concern. That is why this legislation is so important. It seeks to force the decision that murderers who would have qualified for the death penalty, as it stands today must minimally be imprisoned for life.

As we know, the legislative process is slow, and this hearing is very important because it causes the public attention necessary to stimulate appropriate parole board decisions, as in the Trantino case.

I recognize that there are constitutional questions associated with this legislation, but I believe they can be overcome through the deliberative process of this Committee. In regard to that, some will say that this is unconstitutional because laws should not be retroactive and reverse what has already taken place. Generally speaking, I agree with that. But, please realize that the people affected by this bill would have qualified for the death penalty by virtue of the severity of their crime, and the fact that they had very little rehabilitative potential.

A person given a life sentence, by comparison, who committed a severe crime, with mitigating circumstances, and who had rehabilitative potential -- to even be treated the same is not appropriate.

I believe this bill can overcome the constitutional question. Isn't it a pity that the death sentence was repealed in the first place?

I commend Senator Graves and his Committee, and the DeRier family, and the other people involved here, for their efforts in bringing this important issue to the public eye. I would be happy to assist in any way that I can. We do have a bill drawn up that is a duplicate of Senator Graves' bill, and we will be introducing it in the Assembly as soon as we get back into session. I feel it is important.

As I said before, we have turned the tide. I feel. We have focused more attention on the victims of crime. I was thrilled to see that about a year ago the Supreme Court finally came out and said that we are not paying enough attention to the victims of crime, and we are putting too much emphasis on the criminals. I believe this type of legislation puts us back in the right direction. It helps to reinforce the feeling that we do not want chaos in society, but we want a place where people can live, be healthy, and -- as was said before -- not be prisoners in their own homes.

I thank you for allowing me to testify, and I want you to know that I support this bill, and I commend you, Senator.

SENATOR GRAVES: Thank you, Assemblyman.

Senator Frank Rodgers.

To you people from Hawthorne, you might be interested to know that you are looking at the biggest competitor to your mayor. Mayor Bay is the Mayor of Hawthorne and Senator Rodgers is the Mayor of Harrison, and there is an on-going contest as to who has been mayor for the longest time.

MEMBER OF AUDIENCE: Who has?

SENATOR GRAVES: Senator Rodgers has been, by one month.

SENATOR BUBBA: I want you to know the Republicans are contesting that.

S E N A T O R F R A N K E . R O D G E R S : Good afternoon everyone. Mr. Chairman, Senator Graves, my fellow colleagues, and I see our good friend, Senator Hirkala, out in the audience, I am sorry that I arrived late and was not able to hear the testimony that was given, although the reason why I was late is because my secretary's

brother died and I attended the funeral. I have never missed a Committee meeting and I told Frank Graves last night that I would do everything possible to be here.

I have spoken with Frank on many occasions with reference to this bill. I know exactly what is in the bill and I know what his motives are in introducing the bill. .

I would like to tell you that we have a very fine Committee, consisting of three Democrats and two Republicans. And, I would like to say here that we are always pretty much in agreement on everything we have before our Committee. This is a very fine, working Committee, and I don't intend to tell you any more than you have heard here this afternoon and this morning.

I do support the bill introduced by Senator Graves, and I intend to vote here today to release the bill, and vote for it when it comes before the Senate. Thank you very much.

I forgot to tell you that I don't know how many years Mayor Bay has, but I have been Mayor of Harrison for 37 years. I start my 38th year in January.

SENATOR GRAVES: To the members of the Committee, a couple of years ago legislation that I introduced was also challenged by the so-called "do-gooders", along the same lines that this legislation is being challenged: "Your bill is unconstitutional. You can't do what you are doing." In fact, it is the second time they did it to me. The first time I introduced legislation to raise the drinking age, with Senator Bassano, who was then an Assemblyman. And, it has withstood the test of the courts, and it is constitutional, and we have legally raised the drinking age in New Jersey.

Then, two years ago, I was challenged by the Governor himself. Brendan Byrne said that my law was illegal, that I could not mandate a sentence and take away the judge's right of sentencing with my bill, which said that if you commit a crime in the State of New Jersey with a gun, and you are found guilty, you will get a mandatory sentence. He vetoed it, and everybody who sat on that particular side of the aisle was quite happy. But, the very same day he vetoed it, we overrode his veto, unanimously. And then, he compromised and it did become law when he finally signed it. Then it was challenged in the

courts, and the courts, three months ago, upheld the Graves Law. They said, almost unanimously, that it is the law, and they told the judges, "Stop trying to negotiate your feelings on it -- period." It was a very profound statement that the Chief Justice made in the Supreme Court.

I think that we will withstand the constitutionality attack on this law. Because what they seem to be forgetting is that we are dealing with people who had been sentenced to death, and that death sentence was commuted by the Supreme Court, and then they were put into a category of 25 years or less, with time off for good behavior, which is absolutely and utterly ridiculous.

So, this law doesn't put that person in any more of a precarious position than they were in on the day they were found guilty and sentenced to death. All it is saying is, instead of being sentenced to death, they are going to stay in jail for the rest of their lives for what they had done, and that they had ample and adequate opportunity to prove that they did not do it, and failed to do so each and every time.

I hope that the observer from the Parole Division will do one thing. If I sense the feeling of this Committee, that we are going to unanimously release this bill today, I hope he conveys the message that they should not consider parole for the rest of the year for any of these prisoners, in order to give us the opportunity to get this through the legislative process. We have four months and thirteen days to do so, and I believe that within that four months and thirteen days, we will be successful in doing it, and we will be successful in getting the Governor to sign it. But, I ask that you stay any of these appeals for parole until such time as the legislative process is given the opportunity to fight this on the floor and debate it on the floor, and, hopefully, before those four and one-half months go by, get it to the Governor for his signature.

At this time, I move that we release this bill with the full support of this Committee.

SENATOR BASSANO: Second.

SENATOR GRAVES: Moved and seconded. Discussion? Roll call on the move.

MS. WELTMAN: On Senate Bill 3423, Senator Bassano.

SENATOR BASSANO: Yes.

MS. WELTMAN: Senator Bubba.

SENATOR BUBBA: Yes.

MS. WELTMAN: Senator Rodgers.

SENATOR RODGERS: Yes.

MS. WELTMAN: Senator Graves.

SENATOR GRAVES: Yes.

The bill is released unanimously, two Republicans, two Democrats, bipartisan support.

MS. TORELL: Who do we write to and where do we send the letters in support of this legislation?

SENATOR GRAVES: To our fellow legislators who have an equal vote on this. I am sure in Monmouth and Ocean Counties it is going to be front page news tomorrow.

MS. TORELL: I am talking about the parole board. The one you just spoke to.

SENATOR GRAVES: We can only appeal to them. They have a legal right to release these prisoners until such time as we change the law.

MS. TORELL: So can't a group of ordinary citizens also appeal to them?

SENATOR GRAVES: I think you can petition the parole board, yes. Petition them.

MS. TORELL: Do you have the address?

SENATOR GRAVES: Could the gentleman from the parole board give this woman the address?

MR. RANTON: It is Trenton, New Jersey. The State Parole Board.

SENATOR GRAVES: All right, thank you very much. This hearing is now adjourned.

(Hearing concluded)

