

Committee Meeting

of

SENATE LAW AND PUBLIC SAFETY COMMITTEE

"To receive a briefing from the Commissioner of Corrections, William H. Fauver, on the current status of the Electronic Monitoring/Home Confinement Program administered by the Department of Corrections."

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LOCATION: Room 6
Legislative Office Bldg
Trenton, New Jersey

DATE: September 14, 1992
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

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



ALSO PRESENT:

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

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

New Jersey State Legislature

SENATE LAW AND PUBLIC SAFETY COMMITTEE
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COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE LAW AND PUBLIC SAFETY
COMMITTEE

FROM: SENATOR LOUIS F. KOSCO, CHAIRMAN

SUBJECT: COMMITTEE MEETING - September 14, 1992

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

The Senate Law and Public Safety Committee will meet on **Monday,
September 14, 1992 at 10:00 a.m.** in Committee Room 6 of the Legislative
Office Building, Trenton.

The purpose of this meeting is to receive a briefing from the
Commissioner of Corrections, William H. Fauver, on the current status of the
Electronic Monitoring/Home Confinement Program administered by the
Department of Corrections. This meeting is a continuation of the
committee's oversight responsibilities into the activities of the department.

In addition, the committee will consider the following bills:

S-273 Cafiero	Establishes fund for law enforcement training and equipment.
S-473 Schluter	Provides limited confidentiality of certain motor vehicle information.
S-528 Lipman	Provides liability protection to organizations which lend child passenger restraint systems.
S-813 Matheussen A-1047 Geist	Increases penalty for operating vehicle while driver license is suspended for failure to carry motor vehicle insurance.
A-235 Catania	Establishes penalties for the illegal use of food stamps.

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SENATOR LOUIS F. KOSCO (Chairman): I have a statement that I will read, and then we'll proceed with the hearing. I want to thank the members of the Senate Law and Public Safety Committee for working diligently with me in the past five-month period to review this important matter. In order to introduce today's important review of the steps that the New Jersey Department of Corrections have taken to come into compliance with the detailed recommendations issued by the independent consultant, I must do two things: One, let me say that I am unprepared to comment at this time whether I will support the expansion of the Electronically Monitored/Home Confinement Program operated by the DOC.

Secondly, let me express my disappointment in the DOC officials who thought it better to announce the expansion of the electronic program before the officials met with the leading State Senate Committee, which monitored the breakdown of the new reconstructive efforts under way for the State.

I don't think that New Jersey leaders, or the public at large, should have to be first informed about changes in New Jersey's controversial Electronic Monitoring Program through the newspapers. Yet until now, that's exactly how many of us concerned about this program have learned about the operations of the Electronically Monitored/Home Confinement Program maintained by the Department of Corrections.

Therefore, given the August 28 newspaper report of the program expansion, I'm asking that once per month for the next year, that the Commissioner and his designee report back to us in person and in writing to this Committee any updates from the program and its operations. I want to warn the DOC that the public cannot be taken for granted, and the public will be unforgiving if there are additional problems in the Electronic Monitoring Program.

I had thought that we had overcome the difficulties in communications with the DOC staff. I cite the Department's initial reluctance and refusal to make a May 18 independent

consultant report public as a bad example of public policy making. Therefore, I have obtained the knowledge that contract negotiations between the bracelet manufacturer and the DOC were underway at the same time that the manufacturer had a history of software problems with the State of New Jersey, by reading the independent counsel's report.

We all know the May 18 Vaughn report highlighted many examples of the problems, which included internal turf battles, inadequate staff training procedures, and the absence of DOC training manuals for personnel supervising the allegedly nonviolent inmates enrolled in the program.

It's painful for me to recite this historical review. Yet it seems that despite all the bad decisions which resulted in intensive electronic and print media coverage, the Department made another bad judgment call, and announced the program expansion prior to reporting back to the Senate Law and Public Safety Committee.

Since April the public's confidence in the program has been shattered. Until we are confident that all the recommendations made by Dr. Vaughn in his independent May 18 report are met, I am reluctant to support any expansion.

Having said all that, let's get to the heart of the matter. There are two questions which must be asked today:

Has the DOC come into compliance with all the necessary changes to instill in the public, confidence in the program's present operations? Furthermore, can the public have confidence in the program's ability not to repeat past errors stemming from public policy problems?

If these answers are not a resounding yes, and do not include the evidence to support the position, then I do not think that I can support the program's expansion. In my opinion the North Jersey Herald and News said it best in their September 1 editorial when they said, "The public deserves to

know the details of any plan to improve home confinement before new inmates are admitted, and for that matter, before they are even screened."

Dr. Joseph Vaughn, in his recommendations, listed on pages 37 and 39, twenty recommendations based on significant examinations. In my review of Commissioner William Fauver's September 10 letter, indicating the Department is in compliance, I identified six areas that are not in agreement with the consultant's recommendations. I found the explanations on the thin side, and most of the answers given in one sentence. That, after nearly five months of intensive media and legislative examination of the subject, appears inadequate.

Therefore, I would like to hear these areas addressed: Please elaborate more on how the recommended remedies have been implemented. Please explain why you have not adapted the recommendations in these six areas.

Recommendation No. 6, which implemented implementation of a coordinated management information system, which produces relevant information and eliminates duplication of efforts. When will that be in place?

Recommendation No. 7, the implementation of a community risk assessment: What does your explanation mean, and when do you expect this to be on-line, and how do you anticipate building better relationships with local policy officials and county prosecutors?

Recommendation No. 9: I'm still concerned why the Attorney General's Office believes it is within the discretion of the State Parole Board to assign people who are convicted of violent crimes into this program. This was an issue in the Vaughn report.

Recommendation No. 11: How can the Department partially adopt the reassessment of authority to certain staff to resolve incidents; what has not been put in place according to Vaughn's recommendations?

Recommendation No. 12: What are the costs which have prevented better communications between offices?

Recommendation No. 18: How much in additional resources are needed to implement a workload shifting formula that meets the standards identified by Dr. Vaughn? I wonder, have you asked Dr. Vaughn for an opinion on whether your new standards and improvements are, indeed, the right ones?

I'm pleased that the Department has participated in a training course by the manufacturer of the electronic monitoring equipment. The consultant indicated this problem on page 11 of the report, and frankly, no manufacturer should have implemented this equipment without a proper training program.

I'm pleased to see that an arrest under the program would result in termination from the home program, and I'm concerned that a results oriented, mission goals and objective statement is not yet in place. Since this is the key to the improved management system, I am uncertain whether the program is indeed ready to be expanded at this time.

I'm sure that the Committee has other concerns. My other very strong concern is that the people that are being interviewed to go onto the program, from what I understand, and again, as I have read in the papers and in the reports that I have received, we're still not including one group of prisoners and one group of inmates that I and this Committee had requested that you consider, and that were those inmates who had been incarcerated for selling drugs.

It seems that throughout this program, whenever we have come up with a-- We have found someone who had violated the program -- and unfortunately, the only way we found that they were violating the program was because they were convicted of another crime, or at least arrested for another crime -- they were people who were in the process of selling drugs, or who were incarcerated for selling drugs.

So at this point, I'd like to ask the Commissioner to come up and join us here, and then have our--

Okay. We have enough Senators here right now, so why don't I ask the representative from Senator Lipman's office to come up and we can-- I don't think this bill should take very long.

(Short recess as the Committee discusses several bills)

AFTER RECESS:

C O M M I S S I O N E R W I L L I A M H . F A U V E R :
Good morning.

SENATOR KOSCO: Good morning. I'd like to thank you for being here. Do you have a statement that you would like to make, and then the Committee will have some questions?

COMMISSIONER FAUVER: The material that was forwarded, Senator, to you and the Committee members on the changes made in the program, you have, so I won't go over it.

Having just received the release for today, it's a little difficult to answer some of these things, but I think there are-- One of the things that are in here is that the Committee had not been advised by the Department. This Department has been advising the Committee by reports every two weeks on progress. Certainly, at least, the implication in here is that you're going to ask for me or someone to come, because that hasn't been happening. I would just submit that it has.

The changes that were made, basically, that you have in front of you, were done as a result of two things. One was the report from the consultant, and they're listed. And there is a separate listing of changes that were made within the Department from reviewing this material itself -- by reviewing the procedures itself.

So I have with me again, today, Mr. Paporozzi, who is the Supervisor of the EM program, and he is more hands-on with it than I am. Basically, in a nutshell, we think that with the changes that were made, both in policies, and procedures, and equipment, that we are prepared to start putting people back into the program. That's, obviously, what our intent is, based on what you've seen.

The stoppage of the program, as far as putting people on, was done after the Palmer incident, and I did that prior to any publicity or anything else that happened. We feel that the reports of the consultant were done -- were adhered to as much as humanly possible, but it's one of those things that are constantly in flux. We will continue to monitor and continue to make changes as deemed necessary on a daily basis.

I think there are a couple of things in supervision that have been changed that are important; and that is, giving more authority to the parole officers on the street and field, so that if there is an error being made, we want it to be made on the side of caution, and in bringing a person back or referring a person back, as opposed to giving them a second chance. As you saw in this, there are no second chances for anyone who fails in the program.

Having said that, I think everything is fairly self-explanatory in there. As I said, having just gotten your statement, we'll respond to these, but some of them will take more than just off the top of the head responses.

Anyway, Mr. Paporozzi and I are here to respond to you or any member of the Committee.

SENATOR KOSCO: Okay. What steps have you taken as far as the people who you are going to be interviewing to be put onto the program? One of the main concerns of this Committee is that drug dealers -- not drug users, but people who were convicted of dealing with drugs -- be not allowed on the program. They would be considered in the same category as

a violent criminal. To the best of my knowledge, and the reports that I have been reading, including the newspaper release, you're considering violent criminals as murderers and rapists, but you're not including drug dealers.

M A R I O P A P A R O Z Z I: We're excluding drug dealers within 1000 feet of a school, Senator. But the drug dealers that are not convicted of selling within 1000 feet of a school-- We're primarily looking for people who were actually convicted of distribution, but it's incidental to their use, so that they were not doing it for a pecuniary gain. And that's what we were looking at when we reviewed the files.

However, by an offense category, you know, you're absolutely right. We're excluding only people convicted within 1000 feet of a school.

SENATOR KOSCO: Well, I think that this Committee is in unison in their feeling that it doesn't make any difference where somebody sells drugs. If they be convicted of selling drugs, period, then they should not be eligible for this program. I would really insist that this be included in your screening and in the applicants that you are looking at.

We don't want to see drug dealers be put back on the street early. They should be serving their full penalty. It's very disheartening to a police officer who goes out and risks his life to put somebody behind bars only to find out that that person got out six months earlier than even his parole was supposedly to be set for. We just don't want to see drug dealers in this program.

COMMISSIONER FAUVER: I would point out that all the people in the program are within six months of their release. They are going to be going out. It's not an in or out decision that we're making. I think that the-- On page six of the manual which I believe I sent to you, it says that, "Also, inmates placed in the program that would impact negatively on

the program, create adverse community reaction, or jeopardize the integrity will not be placed." That would include everybody, including less serious offenses than drug use.

SENATOR KOSCO: What we'd like to do is to include the drug dealer in the category of violent criminals. I don't believe it should take legislation to have to do that. That could be a decision -- an administrative decision that the Department could make. However, if the Department doesn't make it, then we are going to consider doing it legislatively. I'd rather leave that in your hands, but we feel very strongly about it.

MR. PAPAROZZI: I'd just like to point out, I have in my hand a study that I've been looking over of all electronic monitoring programs back in 1989 and 1990 and how they fared, by offense type. Drugs, lumped together, including selling drugs, had a new arrest rate of 3.5 percent, which was lower than some of the other categories. That's just something that I throw out for your consideration.

SENATOR KOSCO: That's fine, except that every time we've had a violent offender of this program that was arrested for violating his program, it was a drug dealer. Now, I don't care if throughout the whole United States of America that there was no other state that has this law. What I'm saying, in the State of New Jersey, every single -- and correct me if I'm wrong -- every person that we have reincarcerated or rearrested for violating the bracelet program was originally in jail for selling drugs.

Is that wrong, or is it only everyone that I've read about?

MR. PAPAROZZI: That's not correct, Senator.

SENATOR KOSCO: That's not correct?

MR. PAPAROZZI: No.

SENATOR KOSCO: Okay. Then how many of the ones that we're talking about, the former -- the second one in the Paterson case--

MR. PAPAROZZI: Right.

SENATOR KOSCO: These were people that were in jail for selling drugs.

MR. PAPAROZZI: I know of one other.

SENATOR KOSCO: And the other fellow who was arrested for selling drugs while he was out on the bracelet program.

MR. PAPAROZZI: I know of three.

SENATOR KOSCO: How many, really, cases of notoriety have we had in the State of New Jersey? Three. So three out of three means that I'm almost right, if not, you know, 100 percent right.

MR. PAPAROZZI: We've had 42 arrests.

SENATOR KOSCO: You had 42 violations?

MR. PAPAROZZI: No, 42 new arrests in the first 2500 that came through the program. And out of that we're talking about that three that we are all very well aware of.

SENATOR KOSCO: You're talking about murder, you know. And they were violent. That's why we think we should put them in the violent category.

MR. PAPAROZZI: But the one murderer was, in fact, a drug dealer. He was also-- His institutional record was a good record. If you look at this inmate--

SENATOR KOSCO: Tell that to the kid that's dead.

MR. PAPAROZZI: I would just like to make one more comment, if I could, on commitment offense. Again, from a factual point of view, releasing people based on their commitment offense sometimes can be problematic, because they get plea bargained. And so if we're looking at the commitment offense, that might not even be what they really did, and also, that has been shown time and again to not be the best predictor of future behavior, the commitment offense. There are about six other things that are--

SENATOR KOSCO: Well, if someone plea bargained to selling drugs, I would say that what they plea bargained down from was a pretty good offense. I mean, if I plea bargain down

from selling drugs-- I mean, I'm not an attorney, and I'm not a prosecutor, but if someone gets convicted and says I plea bargained down to only selling drugs, then that person had a pretty good arrest in the first place.

MR. PAPAROZZI: My point was the other way, Senator. Usually we see these as distribution -- it says, "distribution of drugs." It doesn't say, "selling for pecuniary gain." In fact, they might have been, and if we look at the offense, we still wouldn't get an accurate snapshot.

But I understand your concern. I just wanted to throw that out.

SENATOR KOSCO: Okay. I think we asked that you really look into that, and we'll be discussing more about that.

Yes?

SENATOR MATHEUSSEN: I have one thing. I apologize for being late. You may have covered this already, but I need to ask it.

You may recall the last time that you were here, one of the things that concerned me was the fact that we had someone out on the program-- And I realize this is an excellent program; it saves money for the State of New Jersey. But at the same time, I look at it from the other side of the aisle, and that is, the person who is being released.

To me this is almost a privilege, for this person to be out on the street under this kind of program. I want to make certain that even if this person commits the most minor offense, whether it be a municipal court violation, anything at all, that that person's privilege of being involved in this program is immediately canceled. Because if you do recall, the person who gave us such notoriety, which got this whole ball rolling, did in fact, have some minor offenses during the time in which he was on the Electronic Monitoring Program. I want to make certain that that doesn't happen again.

I don't care if it's a minor infraction. I don't care if it's a disorderly persons offense, or even a petty disorderly persons offense. I think the program is designed as a privilege, and I think that person should be off the program immediately until the eventual conviction or nonconviction of that person is conducted.

MR. PAPAROZZI: I remember your words vividly. You said, "One bite at the apple."

SENATOR MATHEUSSEN: That's right.

MR. PAPAROZZI: And I remembered that well when I was writing the manual. That is, in fact, the case; that for any arrest, for any interaction with the police that results in an inquiry that results in an arrest, the person is removed from the community.

SENATOR MATHEUSSEN: Fine. Thank you.

MR. PAPAROZZI: That's absolutely correct.

SENATOR MATHEUSSEN: Thank you.

SENATOR KOSCO: Senator Girgenti?

SENATOR GIRGENTI: First of all, I read over a lot of the material that was given to us, and I want to commend you for the effort that you have made. But I have to tell you I'm still not happy with the program. I saw in the paper where you were going to add 100 people. Now I understand that it's going to be done by October. Originally I thought it was going to be done immediately.

My concern is, number one, are we as a Committee going to get the information in terms of the background checks of these 100 individuals? I want to know what their criminal history record is. Are the prosecutors going to be notified about this? And also, are the police chiefs of the communities that they are going to be put into, going to be notified ahead of time, so that we don't have another problem?

You know that the Chairman and I have one bill in already. It was a merged bill, that they were supposed to have

input into it. Are we going to go along with those guidelines? Is that part of the program? Are we going to be made aware of who is going into the program ahead of time?

COMMISSIONER FAUVER: No. We didn't have the Committee down, John. We did have the prosecutors and the police chiefs, but I don't remember that being a request from the Committee. If you just want the background on the people going out, that's not a problem.

SENATOR GIRGENTI: I would like to see it. I don't want to speak for the Committee, but obviously, I would like to see who is going out into these programs, and if it's going to be expanded, we're going to go in that direction again in terms of the new people being put in. Beyond that I also would want to know--

I don't know if there is a problem with confidentiality with that, but I certainly think you can give us a blank sheet of the individuals and what their records are, and then if we identify somebody that we feel is a problem, then we would be able to react to that and check it out further. If that becomes a confidentiality problem-- I don't know if it is.

MR. PAPAROZZI: What we could do, Senator, is make up a profile sheet with some of the key factors that you'd be interested in -- their offense history, and things like that -- to make it easier for you to read, rather than just go through the--

COMMISSIONER FAUVER: A rap sheet, sure.

SENATOR KOSCO: I'm not so sure, Senator, that this Committee should be the deciding factor as to the individual person who gets released into the program.

SENATOR GIRGENTI: No. I want to see who they are.

SENATOR KOSCO: I think that it's their responsibility to see that the proper people are put in the program. I think it's this Committee's responsibility to set the criteria on which a person is released.

SENATOR GIRGENTI: No. I don't want to make the decision.

SENATOR KOSCO: I don't want to say, "Joe Blow can go, but the other Joe can't go."

SENATOR GIRGENTI: No, no, wait. Lou, I think you're misinterpreting. I don't want to make the decision.

SENATOR KOSCO: Okay.

SENATOR GIRGENTI: I want to know who is being put on the program and what is their background, because we had problems in the past with people on the program that I don't think should have been on that program, as we pointed out in a number of hearings. That isn't our decision

SENATOR COWAN: I think, Mr. Chairman, if I'm not-- I don't mean to interrupt, but if I'm interpreting what's being said, perhaps it might be advisable if we could get some type of a synopsis of the type of individuals that are going out. You know, we have 10 people who have committed such and such a crime, 15 of another, and what your criteria is in establishing that. Is that possible?

COMMISSIONER FAUVER: That's possible. And I think it's also possible to do what Senator Girgenti is requesting, without the name, just to send the offense; here's five people -- one car theft, one such and such--

SENATOR GIRGENTI: I would want to see-- I don't want to make the decision. That isn't our decision. But I want to know who is going on the program, because there's a fear as you know. In my community, there were three incidents that happened that were public. So I don't want to sit back here and say, "Let's go back and expand this program." I want to know who's going into this program, because I've seen some of the past people who were in it and I wasn't happy, as we pointed out in a number of cases.

I want to make sure that this is monitored. The decision certainly is the Department of Corrections', because I don't want to take their job. That's their function; I

understand that. But I want that input because I think it's important. And I also think, and I hope you have -- and I think you have communicated -- that the prosecutors and also the police chiefs of those communities could know that, because we had incidents where they didn't know anything about these individuals in their communities.

We want to know if these people are being sent in and living in that community -- and they're getting, as we said, a privilege, really, in my opinion, some of these offenses -- I want to know if they're in there. And we should be able to watch them and not have to react after the fact.

SENATOR KOSCO: Senator Scott?

SENATOR SCOTT: Thank you, Mr. Chairman.

Commissioner, I have a couple of questions, but one thing that concerns me: The following inmates are ineligible for the program, and we have a list on page three. We come back to the State Parole Board when they decide to parole an inmate directly into the program. They still have the option of choosing who they feel--

COMMISSIONER FAUVER: Yes. Yes, they do.

SENATOR SCOTT: In other words, regardless of what is in here-- That's a problem. I think we had expressed that earlier on; that you really don't have anything to say about that, and neither do we at this point.

COMMISSIONER FAUVER: That's right. In the AG's Opinion, it says that they have the right to do that, Senator.

SENATOR SCOTT: They have the right to do it. All right.

So that's something, Mr. Chairman, we may have to address in some way.

On page four we have possible program fees, a fee to pay for the monitoring equipment and/or the supervision. Then at the bottom it says a sliding scale for the fee waiver is available for indigent participants.

MR. PAPAROZZI: We don't have that sheet that you're reading from.

SENATOR SCOTT: You don't have it? Where did I get this from?

MS. SZILAGYI (Committee Aide): Senator, that may be from a memo that I prepared.

SENATOR SCOTT: Okay. All right. A question then: In order to get out, do they have to have a job?

MR. PAPAROZZI: No.

SENATOR SCOTT: They don't have to have a job?

MR. PAPAROZZI: They do not have to have a job, but they have to actively seek employment. We expect them to try to get employment.

SENATOR SCOTT: Well, when they first come out they would be indigent, because obviously, they don't have a job at that time.

MR. PAPAROZZI: Some have families.

COMMISSIONER FAUVER: A few do.

MR. PAPAROZZI: A few. Along those lines, by the way, just some interesting numbers, because we talk a lot about the downside of programs like this. But there is an upside, and the people who were monitored in this program during calendar year 1991 had total earnings of \$1,640,556 -- the combined earnings of the program participants during a 12-month period. During the first six months of this year, they paid a little bit better than \$54,000 in court imposed costs like VCCB assessments and restitution.

SENATOR SCOTT: If I could stop you. That really-- We're talking about bad guys right now. So I mean the fact that they earn some money-- I'm sure they can earn more money than any of us combined; real easy as drug guys. They earn more in a day than you and I earn in six months. So that doesn't bother me too much as far as that being a good issue.

Aggie, I thought perhaps they had this. The EM/HCP expenditure: the cost, \$3.5 million?

MS. SZILAGYI: Those are figures they gave us.

SENATOR SCOTT: Would you say that the 537 projected for '92, members of the program, would cost \$3.5 million?

COMMISSIONER FAUVER: Yes, yes.

SENATOR SCOTT: Okay.

SENATOR COWAN: What is the cost of incarceration?

MR. PAPAROZZI: For an individual? Twenty-six thousand.

SENATOR COWAN: Twenty-six thousand a year, now.

SENATOR SCOTT: Twenty-six thousand each?

MR. PAPAROZZI: And this is about 4700 each, per year, per person.

SENATOR SCOTT: Forty-seven?

MR. PAPAROZZI: For this program.

COMMISSIONER FAUVER: Per individual.

SENATOR SCOTT: Oh, okay.

MR. PAPAROZZI: Twenty-six thousand locked up, and--

SENATOR SCOTT: I think we briefly mentioned that, and I think you did say that the county prosecutors and the local police chiefs will now be notified.

Drug testing: On-site testing has not been adopted. What is the procedure for testing for drugs when you have somebody on parole?

MR. PAPAROZZI: We have a urine testing procedure in the Department of Corrections. The Department operates a lab, and what we do is once a week, minimum, we're required to take a urine sample on each of these program participants. That was a change we made. It gets collected either at the district office or at the home, and the sample gets sent through a system--

SENATOR SCOTT: But they come up to you and report in and have that urine sample--

MR. PAPAROZZI: Or we'll do it at their home.

COMMISSIONER FAUVER: Either way.

SENATOR SCOTT: My point being, I believe I heard from one of the experts on drugs that if you know in advance you're going, you can eat or drink something, whatever it might be, but you can affect the drug sample.

MR. PAPAROZZI: You can remain drug free for 72 hours, for example, and avoid detection for cocaine. But our testing is supposed to be random.

COMMISSIONER FAUVER: It's random testing. They don't know when they are going to be tested.

MR. PAPAROZZI: Right. And if you do it, let's say a Monday and a Wednesday, or--

SENATOR SCOTT: But you would call them in, say, your parole officer would say, "Come on in in an hour or two," and take them up. Is that how it would work?

MR. PAPAROZZI: They might get a test that day; they might not. They might get one at their home on the next day or two days later.

SENATOR SCOTT: All right. That's a concern, as to when they-- If these guys can beat it?

COMMISSIONER FAUVER: No, it's not scheduled.

SENATOR SCOTT: God knows they can beat everything we try. I'm really not that familiar with it.

There's one other thing, Mr. Chairman, that I would like to ask. Funding constraints have prevented our obtaining communication devices for field officers. We don't have any-- In a high crime area you wouldn't send them in with a couple of walkie-talkies? We don't have enough money for that?

COMMISSIONER FAUVER: Well, we're going to have to get it. I mean, that was money that we had which was taken to go back to count against our deficit. All our supply money, basically, this year went back to Treasury to offset other deficits. But that's-- Definitely they need walkie-talkies or phones or whatever.

SENATOR SCOTT: Have you estimated the cost in order to put that program--

MR. PAPAROZZI: I can't remember right now. We worked those numbers up about a year ago.

SENATOR SCOTT: I think if you send a couple of guys into high crime areas, that perhaps it is in their best interests, for sure, to have some method of communication. I'd like to know the dollars -- that we actually felt that the dollars that you didn't have-- Have you ever had this type of device -- communications?

COMMISSIONER FAUVER: No. We had the money to start to do it this fiscal year, but, you know, as I said, that was money that was equipment money that was taken back by OMB and Treasury.

SENATOR SCOTT: Well, this year we understand. But you know, going back to the '80s, I think the police departments have had that for a long time, where the policeman walking on the beat would have a radio available, or a device to communicate with the precinct.

I mean, it just came up in 1992 that there's a problem. To me it doesn't sit right that now there's a problem, never has been -- that you didn't need it. But I don't understand why you didn't need it two years ago, five years ago, ten years ago?

COMMISSIONER FAUVER: Well, I think, because of the numbers-- As we have acknowledged, and which the Committee has said, you know, part of the problem with this was it was expanded too quickly and it was too fast. I think when we were on the smaller numbers, this didn't become as much of a problem.

But there have been requests in. The chief of the Bureau of Parole has requested equipment for years, and it just didn't always get approved. Some years it did. Although the '92 year was a bad year and money was taken, that's not uncommon in this administration and previous administrations to lapse equipment money to offset deficits.

SENATOR SCOTT: All right, Mr. Chairman. That's it. Thank you.

MR. PAPAROZZI: Senator, I just recalled: The figure is \$3300 per device.

SENATOR SCOTT: That's \$3300 each?

MR. PAPAROZZI: Per device. And we asked for 39.

SENATOR SCOTT: Thirty-nine of them?

MR. PAPAROZZI: Yes. I have the figures at my office, but that's the per unit cost.

COMMISSIONER FAUVER: It would be less now because there are fewer.

MR. PAPAROZZI: Yes, fewer officers.

SENATOR SCOTT: It doesn't sound like a whole lot of money in a budget -- I'm talking about millions and millions of dollars -- to spend about \$60,000 or \$70,000? I should think there's somewhere in that budget there's money. We could do away with a new typewriter or something. One less CRT terminal, and maybe we could go down and get some radios for the guys in the streets.

SENATOR KOSCO: Senator Cowan?

SENATOR COWAN: With the cost you mentioned before, the \$26,000-- That's full cost of incarceration, the full cost?

COMMISSIONER FAUVER: Yes.

SENATOR COWAN: And the cost you mentioned was what, \$4700, under the monitoring program? That's full cost?

MR. PAPAROZZI: Yes.

SENATOR COWAN: Total cost? All the administration, operations, personnel -- everything?

MR. PAPAROZZI: Yes.

COMMISSIONER FAUVER: Everything. That's all factored in.

SENATOR KOSCO: Senator Smith?

SENATOR SMITH: How many people, right now, are on this program that have been referred there by the State Parole Board?

MR. PAPAROZZI: I believe the number is 11. It's small.

SENATOR SMITH: It's small, but it's still there. And they don't have to comply with your admissions criteria?

MR. PAPAROZZI: No, they don't. In fact, we have two pending now, two more referrals.

SENATOR SMITH: I think that could be a major problem. This Committee has worked very hard to set up standards for admission to this program, but here's a whole separate State Board that can refer as many people as it wants to to this program without regard to these standards. So what good, really, is having these standards?

My question to the Committee is: Would the Committee be interested in considering a bill to say that the Parole Board cannot refer directly to the program, but must refer people first to the Department of Corrections for their review and qualification for the program? Just what does the Committee think about that kind of thing?

SENATOR KOSCO: I think it would be appropriate, and in my opening remarks I questioned that and the Attorney General's decision that it is appropriate. I think that was one of the issues that we brought up at our initial hearing. I think it's something that we have to really discuss.

SENATOR SMITH: I mean, I think if we put it into a law, then it's got to be followed, right?

SENATOR GIRGENTI: Yes. Just to tell Brad, I agree with that. In other words, we set up a system here, and we're holding this group responsible. Yet, somebody outside can do anything they want in terms of changing it. That's not our intention. I think we should have one set of standards and that should be complied with. There shouldn't be any way to change it around by any other person. Maybe we have to consider legislation, or like you say, at least pull them in and discuss it first and see if they're amenable to that.

SENATOR KOSCO: I think what we're going to do is-- And that's one of the reasons I brought it up in my opening

remarks, because we're concerned about it. They claim that the Attorney General has made the decision that they have that prerogative.

SENATOR SMITH: They may have it now, but we could change it.

SENATOR KOSCO: We will address that very directly.

SENATOR SMITH: Okay, then, one last question: When these bracelets go into the tamper mode, I understand you've changed your procedures and things so that it should, for all intents and purposes, be picked up every time that happens. But are these bracelets still set up so that you can properly report in when they have gone into tamper mode?

MR. PAPAROZZI: Yes.

SENATOR SMITH: Just a personal feeling. I still think that's a major flaw in the system, and that ought to be looked at because if there's human error involved, and somewhere, somehow, the tamper is missed, these people continue to report in properly and go along their merry way. I think if you connected the two circuits in some fashion to at least once it went into tamper mode, when they reported in on their calls it would show that it was in tamper mode, that might be a better system. That's just a comment.

MR. PAPAROZZI: Senator, first, I checked around, and to the best of my knowledge I know of nothing on the market that does that, although it certainly may be possible. But under some software we're going to get on October 15, that whenever we have any report generated of any type, when somebody, for example, phones in to verify, if they are in the tamper mode, it will say in one-inch bold letters on any report, it will print it out on the bottom, "in tamper mode."

SENATOR SMITH: Okay. So it can be done with software, then?

MR. PAPAROZZI: That's what's occurring. They still will be able to positively verify, but it will also tell us at

the same time, "by the way, this guy's still in the tamper mode."

SENATOR SMITH: Okay. Well that's good. That's a major improvement. That comes in October 15?

MR. PAPAROZZI: Yes.

SENATOR KOSCO: The contract with the electronic monitoring supplier is due to expire September 18. Is that correct?

COMMISSIONER FAUVER: I'm not sure.

SENATOR KOSCO: That's just a couple of days.

SENATOR GIRGENTI: I have one more question.

SENATOR KOSCO: Go ahead. I'll hold off.

SENATOR GIRGENTI: I just have to go next door for one thing. I just wanted to ask you, you announced that 100 new people were going to be admitted to the program. It was in the newspaper: You were evaluating. And when you did it, you said that the new program procedures would be evaluated before more were added. Who is going to do the evaluation? Is it going to be an independent group? Who is going to do this?

MR. PAPAROZZI: I presume that we would be doing it in-house at the Department of Corrections in terms of assessing how people did, how well we assessed risks, and how our client profile was faring?

SENATOR GIRGENTI: And what is the criteria you are going to use to evaluate the program?

MR. PAPAROZZI: Several categories. We're developing the categories now, but technical violations, absconder rates, new arrest rates, numbers of dirty urines. Those kinds of things.

SENATOR GIRGENTI: All right. I'll be right back.

SENATOR KOSCO: To finish my question, are we expecting to expand that, to continue to contract with the present supplier, or do we intend to readvertise and possibly setting up new specs?

MR. PAPAROZZI: That decision is handled by the State Bureau of Purchase and Property, Senator. I really don't know the answer to that.

SENATOR KOSCO: Have you made a recommendation to them on where to--

MR. PAPAROZZI: No one has asked me for one.

SENATOR KOSCO: Well, I'm asking you. If you made a recommendation, would you agree with that supplier, or would you look to change?

MR. PAPAROZZI: I would agree that we should continue with what we have for the moment.

SENATOR KOSCO: Also, a review of the electronic monitoring programs in other states tells us that some of them require the inmates to pay a fee to cover the cost of the program and the equipment. So, if someone wants to get into the program, they explain to them what the program is and then they pay a fee which would cover part of the cost of the program for the equipment. I wonder, have you looked into that at all?

MR. PAPAROZZI: No, I have not looked into it, but I am aware of the states -- the many states -- that do that. For example, Georgia comes to my mind. They have been charging supervision fees for quite some time.

There are ups and downs to that argument. The downside, as we well know as parole officers in the field, is collecting money from people is very difficult. We have a difficult time now. Then the decision becomes, are you going to return them for not being able to pay the supervision fee, at a cost of \$26,000 a year. That's the quagmire we always find ourselves in when it comes to dollars.

On the up side, I guess, if you were fortunate enough to have people who could pay, you could fund a portion of the program.

COMMISSIONER FAUVER: What they pay for now, basically, is their phone. That's the only cost to them. And we have some money for people who really are indigent, so that it does not become just an elitist group; that only those who can afford to can be on it. There's about 10 percent, I would say, who are indigents. We pay for their phone hookups.

SENATOR KOSCO: What are the recommendations--

Does anyone else have any questions that they want to bring up at this point?

SENATOR COWAN: You mentioned that term before, "indigents," and also people who were going out on the program with not having any work. Is there some proviso there, at least something that they may be going to within a couple of weeks or something, rather than just leave them out? I'm sure you don't just leave them out -- let them out the gate and go. There must be something?

MR. PAPAROZZI: Under our current policy that we developed, people who come out who are not employed, the officer is required to assist them, obviously, in getting into employment or school, or a counseling program. They're required to work intensively with that person to get them engaged in something that will lead to employment.

Now what I'm asking is that every two months, maximum, we are reassessing those cases to see if someone just has a bad attitude. If they're not cooperating at all, we will ask for an administrative return on that person.

But there are some people who come out with no prospects, and we have to do our best to try and get them hooked up with employment.

SENATOR COWAN: But those people are not left just to founder.

MR. PAPAROZZI: They don't just sit home, no. They're not allowed to just sit home and do nothing. If they can't come up with an itinerary on their own, in the manual it states

that we will give them five appointments a week at minimum and verify them. In advance, they have to have an itinerary. After they come back they have to say the time they were there, who they spoke to, and what was accomplished. They keep a diary.

SENATOR COWAN: And some form of sustenance while they're there?

MR. PAPAROZZI: Yes.

SENATOR COWAN: Whether it be their own family or some other means.

MR. PAPAROZZI: Right, or public assistance sometimes.

SENATOR KOSCO: Recommendation No. 6: It says, "A management information system should be developed for the program which produces relevant information and eliminates duplication of efforts. Given the size of the program, computerization would greatly facilitate this task." What have you done toward implementing that?

MR. PAPAROZZI: Senator, we don't have a research person. So what I'm trying to do personally is to do this on a PC with the knowledge that I have personally, to set up a management information system that will capture the kinds of data that Senator Girgenti asked about before, about who goes back and why they go back. But since we don't have a separate individual or individuals, or a unit that does that, and also I'm not sure how far we can go with the PC at this point, because this is new to me -- I'm kind of learning as I go along with that management information piece -- we can collect the data manually, and we are. But to computerize it would require knowledge, time, people, and some computers.

SENATOR KOSCO: Have you contacted Dr. Vaughn and asked him what he meant by that, specifically, so that maybe he could provide some input?

MR. PAPAROZZI: I will ask him specifically. I talked to Dr. Vaughn last week, but not about that, specifically.

SENATOR KOSCO: It might be something that you might ask him, you know, and pick his brains and find out, specifically, what he meant, and how we can implement this type of a program.

As I indicated in my opening remarks, there are a number of areas that were vaguely addressed. Implementation of a community risk assessment: I don't know what's been done as far as that's concerned.

MR. PAPAROZZI: Community risk assessment. Again, that's going to take a little time to research, etc. There are many risk assessment instruments out there being used. The validity of the instruments is seriously questionable. So once you identify the items that you're going to use to predict risk, you need to assign a weight to it. Once you do that, then you need to validate it on the population that you're going to use it on. That's where we are right now.

I've gotten a lot of information from the National Institute of Corrections on the full array of assessment instruments that are used by various jurisdictions. To adopt one in New Jersey would be misleading to people, to say, "Now we have a valid instrument."

So what I've done in addition to that, Senator, I have found one private firm in Arizona that markets risk assessment instruments and will validate that for you. I'm in the process right now of getting cost information. They sent me a sample diskette, and I'm taking a look at that.

There are some other instruments that I think are very useful. One is called the Level of Supervision Inventory. They're psychological type tests that don't need to be administered by psychologists that measure very changing and dynamic variables in terms of predicting risk.

So we're working on it, but it's something that's going to take a lot of time to get a valid, appropriate

instrument. In the meantime, we're assessing risks on a case-by-case basis, as you know, according to the criteria that we've outlined in our manual.

SENATOR KOSCO: Does anyone have any further questions?

SENATOR GIRGENTI: These 100 new people, is that-- When is that? I heard October 1 is what we're talking about now?

COMMISSIONER FAUVER: That's what we're aiming for, yes.

MR. PAPAROZZI: We won't get them by October 1. At the rate of about 10 per week, once we identify the pool--

COMMISSIONER FAUVER: That's what we're looking for as a start-up date, not the 100 people on that date.

MR. PAPAROZZI: Yes, we wouldn't have--

SENATOR GIRGENTI: You feel confident at this point, after our past history in terms of problems that we had, that we can now move into this without-- Obviously, you're never positive what the results are going to be, but you feel confident that we won't have a repeat of the other problems that have happened in the past?

MR. PAPAROZZI: The problems that led to the other incidents in the past? Yes, I feel very confident that we won't see that again.

COMMISSIONER FAUVER: I think one of the biggest changes, maybe, is just an attitudinal one that you brought up John, which is that it's a privilege rather than a right. So anything that is even a minor violation is now being looked at as pulling a person back, where before, I think we were more into the helping. We were trying to keep the person out there, because it was only a minor infraction. But now there is no such thing as a minor infraction.

MR. PAPAROZZI: We've developed a whole code. When you see the manual, which I'll make sure you all get copies of, but when you see the code-- For example, we have prescribed responses to various categories. For example, if your phone is

busy too long, the first time that that occurs an officer must do something -- a range of things. The second time, they must do an increased range. And third, you go back to jail. And for no answers, it's the same kind of thing. For every possible infraction on your equipment, there's a response category.

SENATOR KOSCO: Have you taken it the extra step further? In one of your reports you indicated that you were also developing a manual for the parolee. It's one thing to have the manual; we have a copy of that here. But we also discussed the manual for the parolee, and what that person's responsibilities are. Have you developed that?

MR. PAPAROZZI: Yes, we have. In fact, I thought I would be able to bring it today, but some editing was needed, and it's being cleaned up this morning.

COMMISSIONER FAUVER: We'll get that to you.

SENATOR KOSCO: When we had talked about it -- and you're saying now that you expect October 1 to start adding people to the program -- I had pointed out before that there were six or seven points that we were concerned about that we don't feel have been adequately addressed. I would like to request that you not add any more people to the program until we get a chance to discuss this one more time, on October 8 when we are going to hold our next hearing. We'll put aside a half-hour at that meeting for this Committee to listen to your responses to the six points that we have asked you about, recommendations number 6, 7, 9--

COMMISSIONER FAUVER: The ones that we got today, you're talking about?

SENATOR KOSCO: Yes, 6, 7, 9, 11, 12, and 18. I would like to get responses to those six before you put any more people into the program. We'll hold you up for eight days, but this Committee would then feel a little bit more comfortable.

SENATOR GIRGENTI: Lou, if we can have those profiles; the people who are going in the program, the background--

COMMISSIONER FAUVER: Yes, because we will have screened them by then. We're in the process of doing that now.

SENATOR KOSCO: We'll have another hearing on the 8th, and you can address these six points.

COMMISSIONER FAUVER: We'll get those to you much earlier than that.

SENATOR KOSCO: And then this Committee will be, I think, prepared, and I certainly will be prepared to pass on that.

COMMISSIONER FAUVER: Of course, recognizing, Senator, that number 9 on that Parole Board issue is still not our issue.

SENATOR KOSCO: Yes.

COMMISSIONER FAUVER: Okay.

SENATOR KOSCO: We're going to address that ourselves. Number 9 is the one we discussed on the Parole Board, which the Attorney General's Office believes that it's in their discretion. We'll address that.

COMMISSIONER FAUVER: Yes. Don't hold us for that one.

SENATOR KOSCO: Okay. Does anyone have any questions? Thank you very much, Commissioner.

COMMISSIONER FAUVER: Thank you.

(MEETING CONCLUDED)





