

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

before

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

on

RELEASE AND FURLOUGH PROGRAMS
RUN BY DEPARTMENT OF INSTITUTIONS AND AGENCIES

Held:
February 4, 1976
Assembly Chamber
State House
Trenton, New Jersey

COMMITTEE MEMBERS PRESENT:

Senator Alexander J. Menza (Chairman)
Senator Anthony Scardino, Jr.
Senator John J. Fay, Jr.
Senator Joseph Hirkala

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SENATOR ALEXANDER J. MENZA (Chairman): This hearing today is being held by the Senate Committee on Institutions, Health and Welfare. We have invited Assemblyman Deverin, who is the Chairman of the Assembly Committee on Institutions, Health and Welfare; and Assemblyman Otlowski, who is the Vice Chairman. With me today, to my right, is Senator Fay from Middlesex County and Senator Joseph Hirkala, who was Chairman of this Committee the last two years, from Passaic County.

Today we are going to have a hearing on both work release and furlough programs. The 1969 statute authorizes both and both have roughly the same goals, adjustment to life on the outside prior to release. Both have experienced, we understand, failures in recent months. Both appear to have a problem of lack of uniformity of procedures and standards from one institution to the next. The Committee, however, would like to concentrate on the furlough program, both escorted and unescorted. We understand that the administration has formed a committee to investigate furlough and work release programs. We think, as a legislative body, that we are mandated to also look into the problems that exist in the work release program and the furlough program and are doing just that. We expect also to communicate with the other committee and to exchange ideas, goals, etc.

We will hopefully try to proceed quite rapidly. We will attempt to keep the questioning to a minimum. We ask that you cooperate with us in this regard. We shall have a very short recess for lunch, approximately one-half hour to forty-five minutes.

For the benefit of the press, in order that you fellows can make your deadlines, we will have a short press conference immediately after the hearing. I don't know how long the hearing will last. I would invite Commissioner Ann Klein and Deputy Commissioner Robert Mulcahy to join us at the press conference if they so desire.

The first witness on the list is Senator Thomas Dunn. Senator Dunn is in court this morning and will be here shortly. The next one is Commissioner Ann Klein, followed by Deputy Commissioner Robert Mulcahy; State Parole Board Chairman Christopher Dietz; Director, Division of Correction and Parole, William Fauver; Furlough Coordinator, Department of Institutions and Agencies, Ms. Urbaniak; Furlough Coordinator, Rahway State Prison, Richard Knief; Furlough Coordinator at Yardville, Captain Hayden; New Jersey Association on Correction, Philip Showell; State PBA President Philip Yacovino; - the ACLU representative will not be here today, but she has, however, submitted a statement which will be made part of the record - Mr. John Miller, a former inmate; and Mr. Richard Booker, also a former inmate.

By the way, before we proceed, are there any other persons who have a desire to testify here today? Hearing no response, we are going to stick with this list.

Commissioner Ann Klein.

A N N K L E I N: Good morning, Senator Menza, Senator Fay and Senator Hirkala. I certainly appreciate the concern of the Senate and of the Committee in wanting to look into the question of the furlough program. It certainly is a matter of grave importance and concern to us and, as you know, for a period of time, I have been asking questions and seeking information as to how the program operates and how it can be improved. And, in September, I asked Deputy Commissioner Mulcahy to undertake a complete survey of the furlough program and to give me a report, which I received just about the time that we had an unfortunate event with a furloughed inmate. Based on what I read in the report and on the most recent events, I recommended to the Governor that we have a moratorium on furloughs and do a very careful and complete analysis of the administration of that program and see what we could possibly do to improve its success rate.

Some people have made recommendations that furloughs should only be limited to those who have a definite parole date and are within a very short time of going out.

Unfortunately, the inmate who was accused of a very gross murder in Newark was scheduled for parole on February 10th and was out on furlough just a few weeks before that. So I don't think we can find the answers to this in those kinds of rules: that it will be limited only to certain offenses; that it will be limited only to certain periods of time. It is much more difficult than that and doesn't really lend itself, I don't think, to the simple classic simplistic kinds of solutions.

I would like to point out that the furlough program is considered to be a very basic tool in the management of the correctional program and in the rehabilitation of prisoners. It is a program that has wide use throughout the country and which is provided for under statute in New Jersey.

We have, I think, approximately 10 percent of inmates participating in the program and I base that on the fact that over the Christmas holidays there were about 600 people who participated in the program, and most people who are participating in it do it during the holiday season.

After reading the report that I received from Mr. Mulcahy, I came to the conclusion that part of the problem has been that each institution has been administering the program under central guidelines, but more or less within the capability of the institution and without a really centralized direction. I also feel that one of the problems is that there has really been no money attached to managing the program and the absence of full-time Furlough Coordinators at each institution and the absence of clerical assistants for them, other than inmate clerks, are also things that have caused problems in the program.

I appointed a committee from the Department, which includes central office staff as well as people from the Division of Correction and Parole and also members of the boards of the various institutions - four members representing the State Board and the three correctional boards to look into this whole question and to give us a procedure and an administrative plan to go into effect when the furlough program is reopened.

The Governor also appointed Mr. McCarthy, Police Chief from Middletown Township, to be the chairman of this committee, and they have been meeting and they have been submitting recommendations. They did have public hearings this week. I think that very shortly, I will receive specific recommendations from this committee on administration and the Governor will be receiving recommendations from his chairman, so that we can, hopefully, reopen the furlough program and manage it with more confidence on the part of the public and on the part of the department.

I have to point out, however, that I don't think it is possible to operate a program like this and never anticipate that there will be a real serious problem or real serious mishap. It seems to me that anybody who is involved in a correction system is always subject to criticism for decisions that may be made, no matter how carefully they are made. For instance, judges who may decide to place a person on probation rather than committing him to an institution may face the prospect that there will be another crime committed by the person on probation. It does happen. It happens, as you know, with some frequency. But we do not throw out the probation program.

People who are placed on parole may commit another crime. It does happen, and it happens with some frequency. But at least at this point we have not thrown out the parole system.

The furlough system is somewhat in the same category. We have inmates in our institutions. They are coming out into the community and our basic concern is: What can we do with the inmate while he is in the system so that we have the best possibility that he will be able to succeed when he comes back into the community? It has long been known that long terms of incarceration, without access to the community, do not,

in fact, increase the possibility of a successful adjustment upon release. Therefore, programs like work release and furlough are used in order to maintain a relationship with the community, in order to let the prisoner have the opportunity to be with his family. In a sense, it is almost a test of discipline that a person can leave a prison on a furlough and report back to the prison and the success on many succeeding furloughs might, in fact, increase the ability for him to succeed when he returns permanently to the community. These people are not going to be held forever. Even with long terms, people are coming out. As in the case of the last alleged failure, this man would have been on the street on parole within about five weeks.

I must say that I regret as much as anybody, and probably more so, when somebody who has been allowed to participate in the furlough program commits a crime, hurts somebody and jeopardizes the whole program for all the other inmates, and threatens really the prospect of being able to continue to use such a tool.

I wish that there was some way that we could have a perfect record. I have asked our psychologists if there were tests that could be devised that would give some assurance that the person going out is going to not pose a danger. I have been told that there are no such tests that are reliable. Just as the Parole Board has to use its best judgment, the furlough system has to use its best judgment.

I have made some recommendations to the Committee that I think are worthwhile. One is that when the person goes on furlough there be somebody that he reports to in the community; that, as the parolee reports to the Parole Officer, the furloughee should also report to the Parole Officer. That way when he gets there, he reports to somebody in the community who knows that he is there. I feel that since he is going to be reporting to a Parole Officer when he is paroled, it is absolutely appropriate that he report to a Parole Officer when he is furloughed. This also will enable the Parole Officer to know something about this person before he actually goes out on parole. Of course, in the budget that is coming up with the elimination of 90 parole positions, I think it is going to be a little difficult to do that program.

I have recommended that we have paid Furlough Directors and paid Clerks at each one of the prisons to organize and administer this program. I understand there is about a \$100,000 price tag attached to that and we are going to see what we can do in reallocating resources within the division in order to accommodate that expense.

We can improve the administration of this program in many ways. I wish that by knowing that it will be administered as perfectly as we can administer it, I could guarantee that we will never have another problem. But I know that that I cannot guarantee.

SENATOR MENZA: Firstly, an observation - and it is almost a classic example of a lack of communication between the administration or front office and the Legislature - there were some unfortunate incidents that occurred as a result of the furlough program involving a couple of individuals. Immediately, the administration, I presume with the cooperation of the Department of I and A, formed a committee to investigate the work release program. Yet no member of the Legislature was invited to be a member of that committee. That is only an observation. We are not concerned so much about our ego, but we should remind the Commissioner that we do make the laws and we do repeal the laws and that the State Legislature gave the Commissioner authority to promulgate rules and regulations under an enabling act.

Also, these unfortunate incidents did, I presume, motivate the Department of I and A to make a study by Mr. Mulcahy of the furlough program; but, to say the least, it is quite critical. It is well done, but very critical of the furlough program, all of which criticism, Commissioner, is not entirely based upon lack of money, lack of secretarial staff, etc. Apparently there aren't any uniform standards, there aren't any clear guidelines, there isn't a central clearing house, etc., etc. I see

quite a few recommendations.

Have you had an opportunity yet to implement any of these recommendations or are you waiting for this committee that was formed, hopefully ours also, to make further recommendations? Some of them seem quite simplistic, things that could be done immediately.

COMM'R KLEIN: Senator, the furlough program was suspended the day after I received the report and so nothing has been implemented as yet. The report made some recommendations, but some of the details of those recommendations have to be worked out. Certainly we do not intend to ignore the recommendations. I think that there is something to be said for the fact that our Department did an analysis on its own; that it was, as you say, a frank and critical analysis; that it was public analysis; and that we have not tried to conceal any of the problems that we have experienced. We certainly have to address the recommendations that were made; otherwise, we would certainly be open to very severe criticism to have identified these problems and then not to have corrected them.

I would like, if you don't mind, to respond to what you said originally in terms of the Legislature being included in the committee. When the committee was formed, it was done very rapidly. I received this report on a Friday and read it over the weekend. On Monday morning, I came in and said that we are going to have a moratorium on the furlough program until some of these recommendations and others are addressed. I wrote a memo on it which I gave to the staff members whom I appointed to the committee. It was visualized as a staff committee. Everybody that was on it was involved in the administration of the program or of the Department. Subsequent to that, the Governor appointed somebody from the community to be on that committee. It was going to be a very short-term committee because we only had six weeks. What we were looking for basically was an implementation program for these recommendations and any others. After that - after Mr. McCarthy joined the committee - then the boards requested that they have representation on the committee. So they were added to it. There actually were two meetings and one public hearing. It was not seen as a public committee when it was initiated. It was an in-house administrative committee simply to implement the recommendations. If I had felt it was going to be a long-term study committee in which we needed and wanted a lot of participation, certainly the first people we would have thought of would have been the Legislature because, as you know, we always appoint legislators to those kinds of study committees.

It was not a study committee; it was supposed to take these recommendations and come up with a way in which to see to it that they went into effect. It was purely an implementation committee. It has changed somewhat now through the participation of other people, through the public hearings and through the legislative action. Certainly we hope there will be recommendations coming out of these hearings which will be helpful to us and which will be reassuring to the Legislature, which we will be happy to implement.

SENATOR MENZA: One quick comment and one quick question: We are holding these committee meetings for two purposes: one, to see whether we can suggest any changes of either the statute or the rules and regulations that you promulgate; and, two, very simply, because we think it is important that the citizens of the State know just what happened to the furlough program, particularly in light of the news releases. I think that it should have been made public initially. One of the reasons we are having this hearing - and there may be additional hearings - is because the public has a right to know.

Secondly, how much money would you say, Commissioner, you would need to implement the first three or four recommendations of Mr. Mulcahy?

COMM'R KLEIN: In terms of the staffing of the program?

SENATOR MENZA: Yes.

COMM'R KLEIN: It was priced at \$100,000, but we had no intention of asking for

that, but rather, by reassigning people within the Department, maybe the parole people as well as the people in corrections, to make sure that each one of these furlough programs was properly staffed with people whose full-time responsibility it would be.

SENATOR MENZA: Would you be able to do that within your current budget?

COMM'R KLEIN: I feel that we have to do it, even if something else has to suffer, because it is a prime tool. It is a top priority and I have to say it has not received the kind of administrative consideration that it should have received within the division. That is a very critical statement on my part of the division and I do strongly that way, that if we value this program, we have to do everything we can to be certain that we are administering it as effectively as possible. I know that there is nothing we can do to make it 100 percent fool-proof. But, at least, I would hope when we would do a study of it, we wouldn't come up with this kind of a report; rather that we would come up with a report that showed that every proper administrative tool had been used to assure the way in which it was operated.

SENATOR HIRKALA: Commissioner, in the administration of the furlough program, I would like to ask you if those prisoners convicted of bookmaking or maintaining a gambling resort are eligible for furlough?

COMM'R KLEIN: I was reviewing the hearings of the Senate Committee last year and I believe that question was addressed to Mr. Fauver and, as I recall, organized crime figures are not included in the furlough program, but that was not interpreted to mean everybody who was in prison on a bookmaking charge. I believe they do participate, but I would like you to please address that question to Mr. Fauver when he is here.

SENATOR HIRKALA: I will do that. I just want to make an observation that if bookmakers are not eligible for the furlough program, it would lead me to believe that the whole program is out of whack.

COMM'R KLEIN: They are, I am told.

SENATOR HIRKALA: Now we were told previously that they were not eligible. When did the change come about?

COMM'R KLEIN: As of July, 1975, they were eligible. I think that arose because one of the criteria was that the person would not be connected with organized crime and originally that was interpreted to mean bookmakers. As of July, '75, they were included.

SENATOR HIRKALA: I can't understand how, per se, we would say every bookmaker is connected with organized crime. It seems to me that the Judiciary is meting our sentences to bookmakers far out of proportion to the way they sentence convicted prisoners who are charged with real serious crimes. I am happy to hear that the Department has now seen that a change was necessary. I am sorry that we weren't told about it.

COMM'R KLEIN: Senator, it is difficult for me to understand why bookmakers are incarcerated for a year; it is a very heavy penalty. I gather that the reason was that, under the Supreme Court Judge before Chief Justice Hughes, it was felt that although bookmakers may not recognize that they are connected with organized crime, that organized crime is behind lottery making and that if they could discourage people from being bookmakers, they would be able to cut into organized crime. I don't like to get them into the prison, believe me.

SENATOR HIRKALA: My response to that is: We generalize so much about organized crime and, if organized crime is permeating our society to such an extent, why the hell hasn't something been done about it by the Judiciary and the law enforcement agencies throughout the State. It is so simple to say, oh, that bookmaker is connected with organized crime. But I think there are a lot of bookmakers around trying to make a couple of bucks. I submit to you that they are violating a law, but we seem to

be penalizing them a lot more than we do hardened criminals in this State.

COMM'R KLEIN: I am sure you know, Senator, that we have nothing to say about who comes in. I certainly feel personally that high fines would be far more appropriate.

SENATOR HIRKALA: Thank you.

SENATOR FAY: I often get the feeling that organized crime is the only organized thing in the State from one week to the next. But be that as it may, eight years ago one of the first bills I introduced when I came down here to the Assembly was a work release program bill. I had a few years' experience as a freeholder in penal institutions. Because of that, I worked on a work release program. Assemblyman Dickey, I believe, had the original '69 bill passed into law. As of this moment, we are working on that 1969 file. My own personal experience has been more with the work release than the furlough program. Are these two operations, the furlough program and the work release program, are they correlated or are they two separate functions, with two different groups, one working on furlough and the other on work release?

COMM'R KLEIN: Well, the programs are not identical, but they certainly are related. And I would make the assumption that anybody who was on a work release program was eligible for furlough and that the decisions on work release and furlough are made through the same classification committee within the institution.

SENATOR FAY: After the six weeks are past, are you immediately going back into the furlough program? When is the day that the six-week period ends?

COMM'R KLEIN: I believe we are now in the third week of suspension or perhaps three weeks has passed.

SENATOR FAY: So in three more weeks we immediately go back into the furlough program?

COMM'R KLEIN: I can't guarantee that, although certainly that is the time limit that I set for having a system in place that we could rely upon. The Governor has said that until he is satisfied that the program is as good as we can make it and until he has had his report from Mr. McCarthy, the program will not be reinstituted. However, we are anxious to have it reinstituted as fast as we have confidence that we have done the best job we can on setting up an administrative procedure.

SENATOR FAY: For example, would all or most of the recommendations made by Deputy Commissioner Mulcahy have to be instituted before the furlough program could be said to be as properly administrated as you would want it? I can't see how you could possibly go back to the furlough program if all these major shortcomings are there and the specific recommendations made on how to improve it haven't been instituted.

COMM'R KLEIN: We certainly cannot go back to the furlough program until we have put into place the system under which it can be administered properly and have followed on these recommendations plus additional ones that I have made myself. Whether this can be accomplished in the next three weeks, I really cannot say at this moment. A lot depends, I think, on what the report is that Mr. McCarthy makes to the Governor, on how good the report is that I receive from my administrative committee, and on the probable expressions of this committee.

SENATOR FAY: The fact that was brought out that inmates were actually doing the clerical work and some of the assignments, has that stopped and are the inmates no longer working in these positions?

COMM'R KLEIN: Well, they aren't because we don't have the program anymore. But one of the things that is clearly recommended and which the committee has supported and which I certainly support is that we have to have paid employees in these jobs, not inmates. Inmates should not have access to prison files. They have had it for

years and years and years because the institutions have not been staffed to take care of these things. That is one of the recommendations that is going to cost us money and that we are going to have to do.

SENATOR FAY: The charge that money has passed hands and that if you had money, you could be put on work release, or, if money passed hands, you could then qualify for a furlough - has that been documented?

COMM'R KLEIN: I haven't seen documentation of that. One hears rumors and people make statements. That is something I do not believe was substantiated in this report. That is always a problem anytime you are administering anything.

SENATOR FAY: As I understand, in the work release program, the local Chief of Police in the town or city where the person is going to work is notified that person would be coming in to work every day from 9:00 to 5:00 or the bookmaker on work release is coming in to book numbers from 9:00 to 5:00. Is the furlough program operated the same way and is the Chief of Police told the man is on furlough for the weekend or celebrating the Chinese New Year?

COMM'R KLEIN: No, there has not been a system of notification and that is one of the things that the committee is wrestling with. And one of the recommendations that we made was that they report to the Parole Officer. They are also talking about what kind of notification there should be to police, whether police want that. We have had situations where furloughees who have trouble getting back have gone to the police station and asked for help and the police didn't want to be bothered with them. So I don't know whether that is something the local police really want or don't want, but it is something that is being considered by the committee.

SENATOR FAY: A few Chiefs of Police have contacted me saying that they would like to know if such a person was in town. They feel it would help in their investigation of any crime that might be committed in the community at that time.

I am still an advocate of work release and I am not one of those who would do away with the complete furlough program, but I am worried - and I feel a great many people in the State are - about the frequency and the violence of the crimes committed. An embezzler comes home and he might embezzle some funds and hurt a business. But when a person who has committed a violent crime, especially murder, is out and murders someone or cuts someone or wounds someone very badly, it is not enough to say, well, it only happens every once in a while. I don't know the answers either, any more than you. This is the same criticism made about parole and probation. So when we hear about the types of crimes and the frequency of the crimes, it forces people like myself to move in the direction of mandatory sentences. I think from just reading the work release administration sheets here, they are too wide open and encourage reoccurrence of these things. It has been frustrating to me and I think has moved an awful lot of the public to mandatory sentences. Then the people and their families who do benefit from the work release program, which was started with the best of intentions and which has shown some positive results, suffer because the public and police become enraged to the point where we do have to retreat.

COMM'R KLEIN: Senator, we have recently collected some statistics for the first time from profiles of the inmate population for the last five years of who has come in and who has gone out and who is there. One of the disturbing things is that in the State Prison system about 72 percent are there for violent crimes. Now we know that they are not going to stay there for 15 or 20 years. They are there for maybe an average of between 3 and 4 years. If we are going to move into the direction of keeping a person who has committed a violent crime in lock-up for a long, long time, we are going to

have to do something about facing up to the need for space and for spending money to control behavior because we just don't have it. I mean, when you already have your prison system 72 percent violent criminals, you are not really in a position to say, "Some of these people have been involved in violent crime and they won't have any of these things. They will be locked up for a long time and we will just treat the others," because that is a relatively small portion of that population. In the youth correction, it is about 50 percent.

SENATOR FAY: I know you can't have it both ways and I am not trying to be one of those totally against this. I believe Governor Driscoll just before he left had prepared a bond issue for three new prisons and I thought that should have happened. I am not trying to be contradictory. I know, if I advocate mandatory sentences and I advocate not allowing violent people back on the streets to commit other acts of violence, I have to advocate and support a referendum for more penal institutions. Thank you very much.

SENATOR MENZA: Would you like to add anything, Commissioner?

COMM'R KLEIN: No. I would just like to say that we would certainly welcome any recommendations and help from the committee. If you feel we were remiss in not asking legislators to serve on the administrative committee, I apologize for that; but it was not conceived of as that kind of committee.

SENATOR MENZA: We intend to make recommendations. We hope your staff will cooperate with the aides of our Committee in developing something.

COMM'R KLEIN: I think you will find us cooperative. I would be interested in knowing when you think you might be making your findings.

SENATOR MENZA: That depends on how many weekends Mike Bruinooge and his friends want to work. It will be very shortly; I presume in a couple of weeks.

COMM'R KLEIN: One thing I might add, if I may, Senator: You may hear some testimony to the effect that because of the suspension of the furlough program, inmates scheduled for parole may not have the opportunity to complete their parole plans; and that is a problem. You may also hear recommendations that people not receive furloughs until they have a set parole date. It used to be that parole dates were given six or nine months in advance. To some extent they still are, but quite frequently now we are getting parole dates a few months in advance or even one month in advance. So actually, there would not be time for an inmate to use the furlough program in order to confirm his parole plans if it were limited only to that group. I just throw that out in anticipation of some of the things that you may hear.

SENATOR MENZA: Thank you, Commissioner.

COMM'R KLEIN: Thank you.

SENATOR MENZA: Deputy Commissioner Mulcahy. Mr. Mulcahy, we read your review of the furlough program. Do you have a statement you wish to make now or shall we ask you questions right off the bat?

ROBERT E. MULCAHY, III: Senator, there were some aspects of the report that I did want to highlight that may not have been adequately highlighted and, beyond that, I'd be happy to answer questions. In addition, I would offer our aid and support to Mike and his staff, as we always have on any of the reports you want.

Prior to beginning, I do want to answer one question that you asked the Commissioner relating to the investigation of pay-offs or money changing hands relating to the buying of furloughs, so to speak. I did go to the Attorney General with that question and Ed Stier, who is the Deputy Director of Criminal Justice, and I met a couple of times in the matter. I met with the State Police Investigators who checked out the

leads that we had and checked the institutions. Back in October, the Attorney General released a public statement saying generally what he had told me, which was that they were not able to come up with information that was of sufficient nature for any criminal action. They gave us whatever they had, but it was not sufficient to go further. So, to the degree that there are rumors of a system about this, I assume there always will be. We have made every effort we can to get to the bottom of it. We have also given all the information that we have to Frank Holstein of the SCI, which has been investigating the furlough program. I have turned over our report and our findings to them and met with them and offered all of our assistance to them. So, to the degree that we can, we have attempted to get to the bottom of it; knowing the difficulties of any department trying to get to the bottom of anything, we have asked the aid of the outside agencies.

I also want to state, Senator, that at the request of Chief Justice Hughes, Bill Fauver and I addressed the Judicial Conference last September on the problem of furloughs. And I made a very strong pitch at that time that I feel the furlough program and indeed the correctional system have to be viewed as part of the whole criminal justice system; that the process of parole as well as the process of sentencing are just parts of this total picture; and that, if we look at this thing as a separate entity, I think we are in trouble. I think part of the problem - and I said this to the judges - has been that once the inmate went through the door, their interest in it was not what I feel it should be. I think the Chief Justice recognized this and tried to get them to go through the prison system, etc. But we did make that point. I feel very strongly about it and I think it is important.

Specifically, in addition to the report, of which I have extra copies here, I just wanted to go through some things.

The first is what the committee itself did. In order to get an analysis of the system, the committee conducted on-site inspections of operations at Trenton Prison, Rahway Prison, the Yardville Youth Reception and Correction Center, Clinton Correctional Institution for Women, Annandale Youth Correctional Institution, Leesburg Prison, Leesburg Farm, Marlboro Camp, and Bordentown Youth Correctional Institution. At each institution, the members of the committee interviewed the superintendents, the furlough coordinators, the classification officer, members of the classification committee and furlough committee, custody personnel and inmates. The Committee examined inmate files and the records of the center keeper at each institution. At a number of institutions, the study group observed the furlough committee as it made its determination of eligibility for participation in the program.

Probably as important to any consideration of the furlough program is some of the history. Senator Fay alluded to the work release portion of it before and I would simply like to relate that portion relating to the furlough system itself because I think it shows that the program was doomed to the kinds of problems we have now when it started.

It appears that the real impetus for the furlough program in New Jersey came from the former Director of Corrections, Albert Wagner, and it is not clear whether he was doing this on his own or whether he was responding to Governor Cahill's interest in the program at that time. Nonetheless, the Division became involved in an extensive review of the programs in other states, as well as the federal system. Support for introducing it in New Jersey was elicited from people like Lloyd Wescott; Leo Marsh, President of the Prison Board of Managers; and Bill Ozzard, who was Senator from Somerset, who had sponsored legislation in this regard at that time. There was also some federal legislation at the time.

I think the thing that is important is that when they had the meeting with

all the superintendents and the Director of the Division of Corrections, the superintendents voted against the implementation of the program at that time. They didn't do it because they were against the furlough system, but they did it because there were insufficient resources and staff to run the program at that time. I bring this to your attention for that reason. And, despite the fact that the superintendents voted against it, the Director mandated it be implemented. This was in '71. So the superintendents at that time recognized the inherent problems of the program.

Additionally, I think it is important to point out that there are some 39 states that have operational furlough programs of one kind or another in the country at the present time and that, in terms of total number going out, New Jersey ranks somewhere around ninth or tenth. These figures are for 1974. I don't have the '75 figures yet.

We have made surveys of other states, the failure rates, and there has been enough said about it. I don't think it is important whether the rate is 1 percent or 2 percent; I think it is the quality of the failure that is at stake here and what causes that kind of failure to happen.

SENATOR FAY: On that point on the failures where there are violent acts of crime, is there a higher rate among the furlough people or the work release people?

MR. MULCAHY: Well, the numbers are far greater in the furlough program, Senator. I believe there are about 274 people on work release right now. And throughout the system in a year, you might have 12,000 furloughs. So obviously the number is going to be significantly higher. I have asked Mr. Fauver - and he has with him - a synopsis of some of the crimes that were committed in the past two years that were of a violent nature. We have that for the Committee if you want it. The information provided with it specifies whether they were anticipating parole, maxing out or what.

We recognize that not only was there an inherent problem because of staff, but the Commissioner spoke about the crowded conditions. As every program gets somewhat distorted, so the furlough program has come to be used as a tool in an effort to relieve the crowded conditions. It is done in a couple of ways. One of the ways is that under the former guidelines of the program, once you were granted minimum status, you automatically qualified for furlough. What we had was situations like Leesburg Farm in which the conditions are worse than Leesburg Prison, but we have 300 beds at Leesburg Farm and in order to get people to Leesburg Farm there had to be an inducement. This was one of the vehicles that was used. Whenever you have these kinds of things, you have an additional factor that is cause for failure.

SENATOR MENZA: That doesn't make sense to me. Are you saying that if you give a fellow a weekend furlough, you thereby reduce legitimately the population of the Prison?

MR. MULCAHY: No, Senator. You give him minimum status, which gets him out of the lock-up inside the prison. This makes an additional bed available inside the prison. So what happens is that they would look to see who could qualify for minimum and in some cases marginal people were pushed into minimum and might not have warranted it. Further in our recommendations, we recommend a two-step minimum status, which I think has real merit because it says you have to be on minimum for a while to show the ability to stay there.

SENATOR MENZA: Then you say in your report that minimum custody is a prerequisite to a furlough ---

MR. MULCAHY: That's right.

SENATOR MENZA: (Continuing) --- but that minimum custody, in effect, equates with

absolute entitlement to a furlough.

MR. MULCAHY: That's right. That's the way the system is worked.

SENATOR MENZA: But that is wrong. We start with the major premise, that is, that many people on minimum security should not be on minimum security and the only reason for putting them on minimum security is because we want to lessen the congestion in the prison.

MR. MULCAHY: I am saying one of the reasons. One of the reasons for pushing the minimum ---

SENATOR MENZA: But now we have a whole bunch of marginal people on minimum security, who automatically thereby are entitled to furlough.

MR. MULCAHY: Under the previous system, that is correct.

SENATOR MENZA: --- under the current system.

MR. MULCAHY: Well, there is no system right now.

SENATOR MENZA: Well, say, three weeks from now, what do you intend to do about that?

MR. MULCAHY: We have made recommendations addressing that point, Senator, and recommended a two-step minimum status and elimination of the point that minimum status represented a right to a furlough. It didn't start out that way, but, as everything else, things evolved.

SENATOR MENZA: Mr. Mulcahy, I realize how large the Department is and the responsibilities and the jurisdiction that you do have. I wonder, however, why you haven't gone to this furlough program on prior occasions - why didn't you check this out before with a report such as this?

MR. MULCAHY: I suppose, Senator, it is like anything else, as you know with the Legislature, you focus on something when it becomes a matter of problem.

SENATOR MENZA: I notice on page 12 that your rate of success is 99.1 percent, but I don't think the figure is very valid because it is only from July 1, 1974 through December 31, 1974. You talk about 81 escapes and 58 apprehended. I don't think the period of time is long enough for one thing to give it any validity.

The Committee would very much like to know just what the experience has been, say, the last three, four or five years, so we can really make a determination as to what we should recommend, etc.

It appears to me also that from July 1, '74 to December 31, '74, there must have been some other acts performed by these escapees other than escape. How many violent acts were there? How many just pure escapes were there? What happened with these failures, etc., etc.?

MR. MULCAHY: We have compiled a list of that, Senator. Bill Fauver has it and will turn it over to the Committee. The reason we took that period - we are perfectly happy to give you the statistics for past years - but we took the most recent six-month period we could get when there was more public concern about the escapes. It was really an effort to focus on the time period when there was the maximum number of furloughs, in addition to the fact that there had been some tightening up at the Commissioner's request in the program shortly after she took office.

SENATOR MENZA: In what respect?

MR. MULCAHY: In some of the requirements and standards being tightened.

SENATOR MENZA: Like what?

MR. MULCAHY: I wasn't in it that much at the time, but they related to who was eligible to go in the program. Bill Fauver can address that point.

SENATOR MENZA: When you fellows went into office in the Department, were there

rules and regulations that were promulgated setting forth standards and criteria for furloughs?

MR. MULCAHY: They were already in effect.

SENATOR MENZA: They were in effect?

MR. MULCAHY: Yes.

SENATOR MENZA: They are there; they are documented?

MR. MULCAHY: That's right.

SENATOR MENZA: But they are not standardized?

MR. MULCAHY: Well, what we found, Senator, frankly was that they were thought to be standardized and they were thought to be uniformly interpreted. But what we found was that the interpretation throughout the system was not the same institution by institution. There wasn't a deliberate attempt to interpret it differently. I think we refer in there to the case of an inmate with the same conviction having a different eligibility date for furlough if he was in Rahway, Yardville or Leesburg. I mean, it doesn't make sense. But this was the way it was interpreted. If an inmate was in Trenton Prison and was in for a crime that required a five-year waiting period and was shifted or transferred to Yardville because it was part of the youth correctional system, despite the fact that there are prison inmates there, he was then eligible in three years. These were the kinds of things that didn't make sense to us.

SENATOR MENZA: And this is what you are correcting now?

MR. MULCAHY: That is what we are attempting to correct with the recommendations, yes.

SENATOR MENZA: Just a couple of questions if I may: First of all, I start again with the premise that I favor the concept of furloughs, obviously.

MR. MULCAHY: I understand that.

SENATOR MENZA: But as I stated, these statistics are meaningless to me; it is the quality of the failure that is important. If you have one fellow who gets out - and I fully understand that he may be getting out in any event and he may shoot somebody sooner or later - on furlough who is charged with a violent crime and then murders someone, this is a horrible failure. Statistics, in fact, are meaningless at that point, absolutely meaningless. You understand that?

MR. MULCAHY: Sure. The difficulty though, Senator, is we do not have statistics, for example, of the first four months that an inmate who maxed out is on the street. The only thing we have is the rate of recidivism. And you know how difficult it is to even define that because the figures are all over the lot. The whole thing is difficult because of definition problems, statistic problems. The Commissioner said this is the first time we have had a profile of the inmate population in the system. There was nothing in existence.

SENATOR MENZA: What I am trying to say though, Mr. Mulcahy, it is like when you are in the Army and you are the Company Commander and a clerk skews something up, well, that's too bad; it's your responsibility. If he messes up after he is discharged, it's not your responsibility. The point is that if there is a failure, it is the responsibility of the administration. I don't care how you cut the ice.

MR. MULCAHY: We have never said it wasn't, Senator. That is one of the reasons we moved here.

SENATOR MENZA: Why do Annandale and Leesburg have such a high percentage of failure rates in comparison to the other prisons?

MR. MULCAHY: There were some administrative failures at Leesburg that led, I think, to the high rate at Leesburg. We had problems with the clerk down there, who was subsequently released from State service. It was just a bad administrative situation.

Director Fauver had changed superintendents down there about a year ago. The system just wasn't being done right down there. I don't offer any excuse for it. That is about the best reason I can say for Leesburg. Annandale, I don't know.

SENATOR FAY: Aren't we playing Russian roulette?

SENATOR MENZA: What about Annandale?

MR. MULCAHY: I can't answer Annandale. Maybe Bill Fauver can.

SENATOR FAY: The thing that frightens me is putting so many marginal people into the category where they are going to get out and where in too many cases they are committing violent crimes. When you do this, I think you start flirting with death and mayhem when even the professionals there are hesitant, but because of the number of prisoners and housing, this is done. It is a terrible thing to realize that that is the status quo. The same thing goes for parole and probation. The only ones we hear of are the ones who burn down three convents and wipe out a family by chopping them up. Then we find out that they have a long history of violent crime, were committed to prison, and suddenly they are back out there again committing the same violent crimes. Why go to the marginals at all?

MR. MULCAHY: This is one of the things that we tried to address because I don't believe they should. I think you have to understand that at least twice in the past year - and this was reported in the press - we had to extend furloughs because we could not accept the commitments that were coming from the county courts. The Commissioner and I, myself, have both gone to the Chief Justice when these problems were current and the Chief Justice on two occasions permitted moratoriums on commitments until we could work out the situations we had. We do expect by the end of February to have another hundred beds at Rahway when the renovations are completed in Two Wing. What I am saying is that the system is bulging. We have inmates that are sleeping in classrooms and in corridors. It is very difficult.

SENATOR MENZA: Deputy Commissioner, you are getting on very dangerous ground with me. I realize the difficulties you have in your department and the money problems you have, but I have to think about the Soldiers' Home and Glen Gardner being empty and the other facilities that are empty throughout the State and I wonder why they are not utilized? Glen Gardner bothers the heck out of me.

MR. MULCAHY: I dare say if you attempted to put anybody ---

SENATOR MENZA: Or how about Menlo Park Diagnostic Center which is totally and completely empty?

MR. MULCAHY: But if you put these inmates in those institutions, the public outcry would be such that we would never be able to do it. That is a practical reality.

SENATOR MENZA: I think Menlo Park would be a great facility for minimum security.

MR. MULCAHY: You work that out with Senator Fay.

No, Senator, this is a practical reality. If the community would accept it -- look, they won't accept half-way houses. If this was a reality, don't you think we would do it?

SENATOR MENZA: Try it. Forget about the politicians.

SENATOR FAY: Try Westminster Avenue in Hillside; the neighborhood will be glad to have a half-way house.

MR. MULCAHY: Senator, we put 90 minimum-security inmates in Ancora Hospital, who were already there and had been there for some 30 years working in the laundry and we did it to cut down two hours of transportation. And we had to go to court and have a court case decided in our favor to get it accomplished. These were minimum-security inmates. You get burned. It's not easy, Senator.

SENATOR MENZA: I don't want to be argumentative. But one of the problems that we as legislators have with the administration - and it is not untypical of other administrations - is a lack of communication. If you told us, the legislators, in a report - a short report, double-spaced - that we do have these problems that result from the institutions bulging, etc., and that this is occurring and that is occurring, and here are some ideas that we do have, I think maybe something can be worked out with another facility. We have an awful lot of empty facilities in the State. I realize the problem of manning them and the cost that may be involved. Nevertheless, I would think some kind of study should be made by the Department in this regard and just not throw your hands up and say, "Well, there are political realities, etc., etc."

You know there is a real question in my mind, if the public knew about some of these facilities that are totally and completely empty, such as a hospital we built a few years ago for quite a few million dollars which is totally empty, that they might very well say, perhaps the minimum security inmates at Rahway or Trenton should, in fact, be there.

MR. MULCAHY: Senator, in the Commissioner's budget this year, Glen Gardner was submitted to be used for taking mental patients out of a wing of Trenton Psychiatric Hospital.

With due respect to what you have said, I think we have brought some of the problems to the Committee's attention. I do say that the last year the Legislature has been very difficult because you have been preoccupied with the problems that you have. But I also say that last year when we offered to brief the committees on the budget problems that we had, one legislator showed up out of both committees. I welcome that and I think we should and I have spoken to you this year about having meetings with the committee and the Commissioner is willing to do it. We are ready. We will meet with you day and night. We are more than happy to tell you our problems.

SENATOR FAY: Here is one of our problems, which is like a "Catch 22" situation: If the minimum people were really correctly classified and were minimum-security people, the community and everyone involved might be willing to consider some of these things. But when you for the record admit that some of the people in minimum security shouldn't have been there in the first place and they are not literally and actually minimum-security people, this is what, I think, frightens people.

MR. MULCAHY: I am sure that is true, Senator, and I think you were correct when you said "some." What we attempted to do in this report was to say what we saw and not attempt to whitewash it because that doesn't solve anything. And I agree. One of the reasons the Commissioner moved obviously was that when we found these distortions in the program, something had to be done.

The other difficulty is - and I think this has to be considered - human behavior is unpredictable anytime. No matter how many tests you have, there is always going to be some possibility of problem. It could be said, for example, in the case of an inmate who maxes out in five years and then commits a crime, that the judge should have given him seven years and it wouldn't have happened. These are inherent in dealing with this problem.

SENATOR FAY: I read here in the administration of work release that, if an offender has more than one serious offense against a person where a weapon was used, and carried on his record, but his record is free of such recorded offense for two years in the community immediately prior to his present incarceration, he is eligible for the program. To me, that is flirting with fate and that is asking for trouble when he has had more than one offense. I, myself, would not vote to put that person back in the community.

MR. MULCAHY: I am sure of that. One of the other things we found is that originally when the program started, there was some emphasis to put numbers out on furlough. So when we inherited the program, a lot of these things were already existent. As the population became crowded, more went out on furlough. I think in deference to Bill Fauver, he

has made several changes in superintendents at institutions, and some institutions are better than others. We found this to be so too. In a system that basically had used inmates to perform work around the institutions in the past, not only as clerks in this program, but to perform other tasks in the institutions, there were bound to be problems.

SENATOR FAY: Who makes up the Classification Committee?

MR. MULCAHY: At the institution?

SENATOR FAY: Yes.

MR. MULCAHY: They have them at each institution, and I think it can vary. The Assistant Superintendent and the Psychologist are the basis of the Committee. I think they have somebody from custody. That's three; there could be five. But those are basic.

SENATOR FAY: Thank you.

SENATOR MENZA: Do you have anything you would like to add?

MR. MULCAHY: No. Obviously it is always difficult when you have to say things that you are responsible for are not working the way they should. However, I think it would be wrong if we didn't come out and call the shots the way we see them, and it is the only way we feel we can constructively correct the problems that are there. I dare say these problems happen in other states. Some of the statistics are worse. However, one of the things we did when we came in was open up to the press with public information in the department. So we report these incidents and the Superintendents are free to talk to the press, which they never were before.

SENATOR MENZA: Would you have your attorneys look at the current statute and advise us whether they would recommend any changes at all.

MR. MULCAHY: In the statute?

SENATOR MENZA: Yes.

MR. MULCAHY: Sure.

SENATOR MENZA: Thank you.

SENATOR MENZA: The next witness will be Mr. Christopher Dietz, who is the State Parole Board Chairman.

C H R I S T O P H E R D I E T Z: Senator, the parole authority shares the same views as Mr. Mulcahy basically, and we share some of the views that the Senators have raised in questions, except we would like to amplify them a little further if we may. I think it is a fair assessment, and I am going into my second 200 days on the job now, to say that there is a complete breakdown in communication in the whole system of criminal justice. The Parole Board unfortunately was informed recently by the National Council on Crime and Delinquency that for the information available to us, we are a non-data state. This is a sad commentary, especially being an eastern state which should be in the foreground of penal reform. It means that the amount of information that is shared by the elements of criminal justice is not up to snuff. It is just not there. And what is there is so miserly treated that it is not a fair assessment to say that the right arm really knows what the left arm is doing. Unfortunately there haven't been any great strides made in the past years trying to correct this. Hopefully, tomorrow we are going to be having a conference with all the elements, sharing mutual problems and hoping to gain mutual trust, perhaps even getting to like each other, and start to communicate.

Our democracy sets up criminal justice as a set of units with discretionary power and checks and balances, and that is very good. The policeman on the street has the

opportunity to say to a guy, "Hey, Johnny, let me give you a break this time. Don't do it again." That is a form of parole or probation, a form of judgment of a sort, and Johnny gets his first warning. Then finally exasperation is reached, and at the first level he says, "I'm sorry - no more chance, Johnny. I am taking you down to the station house and we're going to book you." The prosecutor then has an opportunity in plea bargaining to use discretion again. And I am not commenting adversely on that. He says, "Well, Mr. Attorney representing this young man or young lady or old man or old lady"- it doesn't matter much - "since this is the first time - - -" Well, it is not the first time. We really don't know how many times it was. But it is the first time it is on the record. What happens is, he says, "Well, why don't you tell your guy to really shoot stright with us and we will see what we can do." Then the plea-bargaining process goes into effect. And what happens in the plea-bargaining process, you well know Senator, is that an over-zealous, sometimes brand new fledging says, "We have five unsolved crimes here and they're in your area. Why don't we make a deal? You plead to all these things and we will guarantee a non-custodial sentence." Now we have a record that has five admissions and a very minimal sentence set because there was plea bargaining.

Possibly the young man or young lady goes out and another element of criminal justice comes into play because he or she has done it again. This time the prosecutor says, "Hey, man, no more second chances - no more plea bargaining." Or the Chief Justice has said plea bargaining is going to be tightened up and you have to really justify what you are doing. Now it goes to a judge and a jury. The jury says, "Well, he's a young guy. Let's give him a chance." Discretion is used again sometimes or the jury doesn't always operate - and I don't say this critically - on the weight of the evidence. But maybe he gets a second break because of a technicality and maybe not.

Then we look at the individual where the Probation Department does a pre-sentence report and may be moved by a home situation that is sad. Once again there is a discretionary recommendation to the court as to incarceration. Then the judge may exercise it on an indeterminate sentence. It is only when - and there is a law; the Multiple Offenders' Statute - he is sentenced to a definite terms, one to two or two to five, whatever, that he now gets offender status. So the New Jersey State Parole Board looks at this young man or young lady, old man or old lady, whoever it is, and sees: first offender, 27 arrests, 27 convictions, and we start to wonder. We read a pre-sentence report and we can't rely on the accuracy of it or the thoroughness of it because there are no standards. You were talking about standards. There are no standards throughout the entire system. There are no standards from Prosecutor's Office to Prosecutor's Office on plea bargaining. There are no standards on the methodology of arrests. I am not again saying that these are critical things; I am just saying that it doesn't make the job very easy.

We get to the point where the individual is incarcerated and he comes before a Classification Committee. The Classification Committee gives him his assignments within the institution and he is targeted out as to what he is going to be doing with housing arrangements, etc. And, at some point in the future, he is going to be eligible for parole. I would suspect that we all share the guilt on this. Every citizen in the State has to bear the responsibility. We have really perpetrated a hypocrisy. We hold ourselves out to be a treatment state. We made a mockery of the word rehabilitation. We have a recidivism rate probably as abomitable as anywhere else in the country, a recidivism rate where we can almost count on seven out of ten coming back. We are establishing great graduating classes. The class reunions are getting more frequent, which is a tragedy.

We have overworked staffs. This is not only in this element of government, but

in all elements of government and we look at a very sad statistical analysis. We say, my God, in 1954-55 when there were only 5.2 million people in this State, we had 92,000 plus crimes and we had 9 thousand plus violent crimes and we had approximately 5 thousand people incarcerated in the prison structure; and in 1974-75, we had 7.5 million people, 350 thousand crimes, almost 30 thousand violent crimes, and we had about 6 thousand people in our prisons. Then you take the alarming figures and project them forward and you interpolate like we learned in school. You see, if we are going to be part of a megalopolis and all the other things we hear, New Jersey can probably look in 1984 or '85, geometric progressions the way they are, to a population of more than 10 million, except then there will be 1 million crimes; 100 thousand violent crimes; and then, if we construct additional space, as the Commissioner pointed out so wisely, maybe there will be 8 thousand incarcerated. So what happens to the other 92 thousand? Where are we going to get the money for the extra 2 thousand? How are we going to do these things? What is the criminal justice system doing to put itself on an even keel to where we are going?

Right now, we have a paroling authority in the State. We spend \$300,000 a year on that paroling authority. It has 18 staff members and 3 full-time members. It is almost outrageous that we dare ask that authority to assume the ominous responsibilities that it has. When the authority comes and says, "We need additional money to meet court-mandated responsibilities, Morrissey versus Brewer due-process concepts," - they are long overdue, and I am not criticizing those - again, miserly, we put forward one or two things, but we still hold these standards.

In September of this year when I assumed the chairmanship of the Board, we did some radical changing. I am amazed that the Commissioner and her staff were able to survive some of the radical changes. And we have enjoyed the best cooperation possible. There are loose ends that we have to tie together obviously, but I think we are moving in the right direction. What we have done is stop the concept of either you are going to get a parole with the usual conditions or you are going to get a hit, which means that you are not going to go out for a year. What we have said is: Man, we are going to take a long, hard look at you. We realize you have done bad things, but New Jersey is a treatment state. We haven't gone for the definitive sentence concept, the mandatory term. So what we are going to do is take a long, hard look at your background. We are going to try to look reasonably. If you have had crimes of violence, let's get some psychiatric help for you. Let's talk, but we have to do this on a volunteer basis or with people who may not be the best trained because there is no money for psychiatrists. You ought to have some group counselling, some psycho-drama, where you can work out some of the pent-up feelings that you have, so that you don't have to respond with your fists like Billy Budd did in Herman Melville's book. You don't have to do these things. There are other alternatives. You have had crimes against property. Well, you don't have the basic ability to earn a living.

So we came up with this really phenomenal, heavy consideration. We really moved to the forefront of the 21st century when we said there are three things we look for for parole - three, that's all: You have to have a decent place to live. You have to have a job, a means of support, be it benefits, unemployment, whatever. (By the way, we don't have unemployment for prisoners. They are not eligible for that, but social security maybe. We have some that have long since passed on social security.) We want you to have some societal support; for example, the AA, a family. It can be anything where you have some vested interest in staying straight where someone cares about you and, most of all, you care about yourself.

You might say, my God, that's not revolutionary. But this is the reason

we are failing in our recivism because we have consistently not looked for those three elements.

Then we talk about what is important for the furlough system. I guess the Commissioner is going to be angry. But I do take issue; I really think we should concentrate what little resources we have - and we don't have many - on that individual who is going to be going out to society. That may be the person who is maxing out in two months. By maxing out, I mean he fulfills his full responsibility, but was never granted parole. It may be a person who is going to have a parole date and we say to him: "There are things you have to do. Obviously no one is going to give you a job while you are behind bars. We can't put you out without a means of support because we are asking you to steal then."

Now I am going to suggest something really revolutionary. Let's work outside the criminal justice element - Mrs. Klein's department, our function, the prosecutor's, the judges', the Judicial Branch. Wouldn't it be wonderful if we could look to the Department of Labor and Industry and their employment service to help us line up some job interviews? They are not going to be fancy jobs. They may be dishwashers. Wouldn't it be wonderful if we could enjoy some cooperation with regard to the Division of Rehabilitation so we don't have to have the guy inside wait and no records forwarded to the local rehab unit? Why can't all this stuff be done when he is out on a furlough? Why can't he go to the rehab person in the field where he is going? Why can't the Parole Officer who is in fact going to be his supervising Parole Officer, the guy who meets him when he comes out, be able to say, "O.K., we lined up some job situations and we are going to take you down to a boarding house because you don't have anybody who gives a damn about you. We are going to take you to the Morrow Project." And, by the way, words cannot express how proud I am of some of the citizens of this State that have worked in reform element groups, like the Morrow Project and the New Jersey Correction Association, because they have really worked tirelessly with no recognition whatsoever. Maybe some day you will introduce a resolution on the floor commending those tireless volunteers.

We want this person to have a sense of belonging somewhere. You know, if we are not going to start thinking in those terms, I suspect that I share Senator Fay's views, maybe what we had better do is be honest for the first time in our lives - and that's a tragedy to have to say that - and say we are not a rehabilitation state, we are not a treatment state. No more of this fooling around, we are not going to lie to you. We are not going to tell you a program exists and then we are not going to fund it. We are not going to tell you you can do these things so you can hope. We are not going to give you hope. You have lost your right to hope. We are going to disenfranchise you on that one element. And we are going to cage you and you are going to be an animal. What we are going to do is let everybody know when you are coming out. We will give them all notice. If you make it - and there is a national statistic on that -- if you make it for three years, you are not a recivist, three years and one day. If you fail in two years, eleven months, and twenty-nine days, you are a recivist. That is the cut-off, three years.

I think maybe what we ought to do is abolish parole. What a sad thing to say that something fundamentally as good as parole has to be put by the wayside. But do you want to know something? I don't think parole since its inception in 1947 has ever been given a fair shake. I don't think that we have ever really in the majority of cases had any reason to hope for anything more than failure. Those prisoners we have sent out haven't disappointed us when they come back.

Let's talk about the costs involved in incarceration. Let's talk about the cost of arrest, the cost of investigation, the cost of trial, the cost of all the sociological studies that are done. We are spending \$50,000 or more to catch this guy and send him back to jail and yet we will not put a penny where it should be, up front, trying to change that course. I understand that the Budget Bureau - and I am making a pitch for Mrs. Klein and I hope some day she will make a pitch for my Parole Board - is thinking of letting go 90 Parole Officers in the field. There may be problems in everything we are doing. I don't think any element in government is perfect. But that's almost like saying that you had better forget about furloughs because, if the guy isn't supervised, you have no right to tempt him, unless legislatively you amend the law and give him immunity from the Multiple Offenders Statute. Give him a license, like a judge once said to me when I was appealing for mercy for a juvenile delinquent, "Mr. Dietz, do you want me to give him a license to steal? Is that what you want me to do?" Why not? It would save us a lot of money. If money is the consideration and if we have lost sight of the fact that we are dealing with human beings, why not do it on a mercenary basis? Or, in the alternative, maybe what we have to do is get all the components of criminal justice working together, operating on an even keel.

You mentioned before, Senator, that you were concerned that you weren't invited to be on the committee. I was so elated when your staff executive director called us up and asked us to talk. No one ever asks our opinion and yet we are an element of criminal justice. We are the back side, you know. We are the last ones.

I think if we are thinking in terms of meeting some of these things -- and I don't even think it is liberal or conservative anymore. I don't think labels even matter. I think it is just fear. I think the people on the street want to feel secure. I think they are afraid of the statistics. I think they have a right to be when we are talking in terms of almost 30 thousand violent criminals. How many get incarcerated in the course of a year? I understand right now 70 people are waiting to come into the prisons. Are there a couple of thousand a year maximum? So what happens to the other 28,000 violent criminals? They all get second chances and everything else. Where are we moving as a society? That is really the question that bothers me so much. If I thought it was hours of work, I would drive my staff harder probably.

The Parole Board does have some things we are doing. Number one, we intend very shortly to establish a profile system where concurrent with the initial classification of the prisoner in the structure, when he comes in for the first time, we are going to give him a profile. We are not going to have an individual, no matter how long his term is, just sit and rot. What we are going to do, having given him an initial profile, is monitor that profile. We are going to give him a preliminary interview, a preliminary hearing; and, thank you for the subpoena powers, because we intend to use them. We intend to use the subpoena powers available to the Board to get the records available to us. If it some irks some people and they say they want to see the Parole Board abolished and don't want to cooperate, they might as well succeed. We might as well not exist if we don't have their cooperation. We are going to monitor an inmate once a year minimally until he is three years away from eligibility for parole. Then we are going to do it every six months until he is one year away. Then we are going to do it every forty-five days. And if he is off target twice consecutively, we are going to pull him out. Then we are going to sit down with the department and with all the appropriate elements concerned and we are going to ask why. What are we doing wrong? We can't put this person out. I am not saying that what is going to happen is going to make it better, but at least the probabilities are better. At least he has a chance of self-respect. Maybe we can start getting him to become involved in vocational

training programs so he has secondary job skills and so he can go out and earn a living and hold his head high. We have to give him a vested interest in society.

We are not going to tell him his best eligibility date for parole at the beginning. We are going to tell him his worst date. We are going to assume he never gets minimum. He gets maximum. So we are going to give him the worst prognosis of early administrative intervention. Then, as he improves, we are going to drop that date down and show him that his conduct does make a difference. It is not going to cost very much money, just \$9,000 or \$10,000 for maybe one additional staff member to monitor this. I submitted a budget that was pared down to things that we should be doing. Unfortunately, when you only have \$300,000 as a budget and you come up to, say, \$600,000, they don't say it is only \$300,000 more, but they say it is a 100 percent increase. That's mind-boggling. They'd never do it. They'd say, you can't give him that kind of an increase.

What we are also doing on our conditions - and we mean to do this sincerely - is say that a man must have a means of support on the outside. If he doesn't have that means of support, he is not being paroled. That means we really have to have Joe Hoffman's cooperation in the Department of Labor and Industry. We would like to see - and we are letting it all hang out today -- we'd like to see the Department of Health have jurisdiction over certifying and accrediting drug programs. That is a jungle, as far as I am concerned. I never know whether I am sending a guy into hell or heaven. And you wonder why there is such fear in the communities. I have apprehension when I don't know. There are programs in the State I wouldn't send a guy to if my life depended on it because I have no trust in them because of their track records. There are others I wish I knew more about and there should be a centralized accrediting place. When we recommend that a man go somewhere, we should have at least taken the time to investigate it and at least certify to him we are not putting him into a hell. These are simple, elementary things.

I could talk for another two hours.

SENATOR MENZA: You have pointed out clearly and, I should add, quite eloquently the need for a dramatic and drastic change in our prison system. We agree with you on that. We are happy to give you the opportunity to vent your frustrations with the system, which I can assure you the members of this Committee and a great many people in the State Legislature share. However, unfortunately perhaps, we are concerned today only with the work release program and the furlough program.

I have a question to pose to you, but first may I introduce Senator Anthony Scardino, from Bergen County, who just came in. He was busy on legislative business this morning. I am going to read this to you from Deputy Commissioner Mulcahy's report and ask you please to comment on it: "With regard to unescorted furloughs, institution staff have questioned the advisability of furloughing inmates with anticipated release dates, as opposed to furloughing only those with firm parole dates. This is addressed particularly to prison sentences where experience has shown that, for certain types of offenses, a first appearance before the Parole Board almost never is followed by the establishment of a firm parole date. This means that many inmates can spend much of their incarceration becoming alternately eligible and ineligible for furloughs, depending on the outcome of their Parole Board hearings. This 'recurring eligibility' syndrome would appear to be inconsistent with the presumed intent of the unescorted furlough which was designed to provide more extensive community contact and the opportunity to seek employment for persons about to be paroled."

MR. DIETZ: Senator, I mentioned the profile and the initial establishment of monitoring of the activity. What it is that we are talking about is really an element that Mr. Hawkins had in his bill, except what we have done is changed it around to protect society a bit. We are talking about a concept of monitored, presumptive eligibility.

So we are saying to the man, as long as you are on track, as long as you are proceeding along course, you can expect, barring some catastrophic occurrence, that you are going to be released. So that means that you don't have all these things. Now, if the guy is pulled out, he shouldn't expect anything. Once we say to him that he is not on track and we are pulling him out of the system, he shouldn't be getting furloughs obviously until he improves. If we were to limit it to those people - and I again disagree with the Commissioner when she said one month -- She said if you have a one-month date, you shouldn't go on furloughs. That is where you make your arrangement for your job. The guy isn't going to hire you four months away. If you are going to have a job interview, it is going to be within a month before you leave.

SENATOR MENZA: Mr. Dietz, what is an anticipated release date as opposed to a firm parole date?

MR. DIETZ: An anticipated release date is where there is a pre-condition. What we have said to the individual is: Okay, we don't like your parole plan. We don't think society is going to gain anything right now by your staying in prison much longer. It doesn't serve any punitive function. It is certainly not going to be a deterrent. What we want you to do is change your parole plan to provide for residency with your family. We are not going to let you live alone. You are either going to live with your mother or father or you are not going to go out. And we want you to have a job. We want you to set up some contact for some community-based mental health service and we want you to contact the Director of Professional Services, and we want those arrangements made in advance of the day you get out. Now when you come back and have met these conditions, this date is yours. We are giving you a date, but there is a condition on it. That's an anticipated date. That should not be used as a parole date until the individual has done the pre-conditions which must be done in the field and, under the most strict supervision, put out to help get those conditions or the Parole Officer in the field help him.

Do you want an example of a firm parole date?

SENATOR MENZA: Yes.

MR. DIETZ: A firm parole date would be -- An individual says, "I have really done everything I can. I have great plans." He is going to his family. He is going to work with his old boss. We say, "We are giving you February 10th," a favorite date, and I will comment on that later. "But we want you to contact your community sponsor within one week when you are out and we want you to have an AA contact as a condition of your parole." He goes out; he reports to his Parole Officer. The Parole Officer says that John Smith has been assigned to him. He meets John Smith, who is the community-sponsor for AA. He goes to AA meetings. The day he stops AA without authority from the Board, we revoke him on a technical violation. We tell him that we don't trust him anymore. We trusted him with these given conditions, with these societal supports. If they are not present, we tell him we are going to pull him back. But that's an "out" thing; he is on the street now. So he has a firm date. Nothing can change it. There is nothing he is going to do on the inside, barring a major offense that he commits within the institution. Then we would reconsider it.

SENATOR MENZA: You, therefore, disagree with this statement and is it your position that furlough programs should be given to those prisoners with anticipated dates as well as firm dates?

MR. DIETZ: The only time it should be given to an anticipated furlough-date person is when it is strictly - I can't emphasize the word more - strictly supervised for the purpose only of meeting those conditions. Once the conditions have been met - and we are moving not into an anticipated date, but a firm date, because now all the

pre-conditions have been met and they have been certified - then what you can do is loosen up so he starts to get a feel for the community. We have to give him the opportunity at some point. If we don't trust him under strict supervision on the street, then why don't we give "forever" sentences because the guy is going to max out some day and he is going to be on the street with no supervision? Which is better?

SENATOR MENZA: So, in effect, you are saying that in order to meet certain conditions, you must have a furlough program in effect as far as the anticipated dates are concerned; and then again as far as the fixed date is concerned. Is that correct?

MR. DIETZ: Yes.

SENATOR MENZA: What kind of time limit are you talking about? Let's assume a fellow has to meet certain criteria - he has to go to look for a job and he has an anticipated release date. How long should these furlough programs last? Should they be escorted or unescorted; and tell me the same thing with regard to firm parole dates?

MR. DIETZ: Anticipated - I would envision they should be escorted - and not escorted, depending upon the nature of the individual, by Correction Officers, per se, but possibly the Parole --- I would like to put heavy emphasis on the use of your Parole Bureau, even though it isn't under our jurisdiction. A lot of people get confused. The Parole Bureau is part of the Division of Corrections and Parole. The Parole Board is assigned for administrative purposes only to the Department of Institutions and Agencies, but we are an autonomous body that really makes value judgments.

With regard to what the individual should do, he should have for anticipated, the strictest of supervision until such time as he has met and there is an approved plan, a piece of paper that spells out everything, and it is marked "approved" and signed by a member of the Board, at which point we again start under structured supervision with him reporting in maybe daily by phone or twice personally, or whatever the structure should be. These things can be worked out. So before he goes on parole, he goes from the most maximum behind-the-wall structured existence to an intensely personally supervised existence, to parole, which is then something more relaxed. In other words, everything that is done on furlough should be more supervised than the moment the guy gets out on parole, so there is a gradation down. If we are not doing this, we are doing something wrong. To have this unbridled, is really bad.

SENATOR MENZA: Within what period of time should a person with an anticipated date be furloughed?

MR. DIETZ: I will tell you, Senator, my colleague, Mr. Rodriguez, and I share probing minds trying to come up with solutions to problems. He came up with an interesting alternative. He said, if we give a date and the person doesn't meet the conditions, we have to rescind that date and then we have to go through a hearing process and it really hurts the guy because it makes him more of a failure; and sometimes our judgments are unfair. What we ought to do is give him a "no earlier than" date. We ought to say that we want you to serve this period of time because this is what we think it is going to take administratively and every other way. But in the event you have made an honest effort, "the good old college try," and you haven't met it, we are not going to take the date away from you. We are going to let you stay with a date, but it is going to be some date after that. As soon as you meet those conditions, we are going to let you go, but we are not going to let you out without meeting those conditions.

That brings up the point there is a breakdown in communication in the Department with us - and I assume some of the culpability. We have taken steps to change that. Take the case of Dwight Mason. The Commissioner said that individual had a parole date. Unfortunately, there are ten copies typed or whatever number of carbons

are made. We have instituted something else that we have never done before. Nowhere else is it done in the country, in fact. We personally go back - it's called the second coming - I thought you'd like that. We have our initial hearings and then the parole guys come back. What we do is give them the return personally and we explain our reasoning and everything else, at which time we heard Dwight Mason. We heard Dwight in October and he said he was going to get a heavy equipment license. That was going to be his means of support. He was going to get that at Rahway State Prison. I came back in November, with the decision, and we had the elements --- We usually request the Superintendent's immediate staff that supervises the rehabilitative programs to be present to make sure the conditions can be met. Someone said, "We don't have a program for a license for heavy equipment operator here." I said to him, "Mason, what are you doing?" I sent it back to Mr. Rodriguez and said, "What do you want to do?" He said, "I want you to pull it back. He doesn't get the parole. And I want you to defer this until we talk this out in December." In December, we confronted Mr. Mason and we said, "Why did you lay a con on the Board." He was unable to give satisfactory information. So we did the worst thing we could do to him: we deferred decision, which meant he should not have been eligible. But, unfortunately, we did it on the copies to the institution, so that when the Commissioner said that, according to her record --- Even though he shouldn't have gotten the furlough out of the prison - they knew the story on him, that he was deferred. Her piece of paper, the copy sent up to the Central Office, hadn't been corrected. It was just an oversight by the staff. We have corrected that. It is not going to happen again.

SENATOR MENZA: I see we have twelve more witnesses. You are very interesting and we have learned a lot.

Senator Hirkala.

SENATOR HIRKALA: Mr. Chairman, I just want to probe into one area. I think you heard the questions and answers regarding bookmakers. It seems there was a previous policy, which has since been changed, whereby either a judge or someone in the Department of Institutions and Agencies determined that bookmakers in their procedure of bookmaking activities were actually funnelling back funds to organized crime. I want to ask if the Parole Board also makes that kind of conclusion so that their decisions are tougher on bookmakers than they are on people who commit violent crimes.

MR. DIETZ: I will tell you very frankly - and I have discussed this with the Chief Justice, himself, Senator - we do not make punitive judgments at all. That is not our function. That is not the legislative mandate you have given us. We do make deterrent value judgments. If an individual has a seven-time track record and it looks like, if we put him back, some judge is going to send him back, what we do is ask him for a very structured plan. So it is multiple offenses we look at. We want to make sure he is not going to violate the laws of society again so he becomes a recidivist or a habitual criminal. This is a scary thing to say, but some of the better parole applicants with really solid plans are bookmakers. They have the support. They have 2,000 nuns and 5,000 priests writing letters. They are usually very good family people.

SENATOR HIRKALA: When I was driving down here, I tried to ask myself what is bothering me personally and I said to myself, "Gee, we are tougher on a bookmaker. But if a bookmaker returns to his past performances and books a couple of numbers back home, the editorial comments regarding the program aren't going to be as severe as when a murderer only five weeks away from parole commits another murder." That is why I brought that up.

I just want to close by saying, Mr. Dietz, that I appreciate the comments you

made. I noticed you were ready to elaborate for a couple more hours when Senator Menza broke in.

I would make a recommendation or suggestion that you contact Commissioner Klein immediately after this hearing and both of you go in to see the Governor. I think the three of you could come up with something that would be viable and good for the State of New Jersey. I appreciate the comments you made here.

SENATOR FAY: I just wanted to say I think that this subject is so broad and so important and complex that some day this Committee will have to sit down with you and the other members of your staff. I don't think we could possibly do it in the time left to us today. There are many factors that I would like to go into, such as the rate of recidivism of people on parole as compared to the people out of prison. I don't think we can go into all these things today, but we will, with the Chairman's permission, offer this invitation to you in the very near future and get back to you and the other members of your staff.

MR. DIETZ: Senator, I would suggest perhaps you might get the Attorney General to give you the figures on crime in New Jersey.

SENATOR MENZA: We get that every year along with 8 million other publications.

I would just point out that the parole bills in the last five years in the State Legislature have met sudden deaths. One of the reasons for this, in my opinion, is a lack of communication between the administration and the Legislature. Also, all of a sudden the administration gives us a bill, not realizing that 16 Assemblymen and 4 Senators have introduced similar bills or other bills on parole. It would perhaps be a good idea, as Senator Fay just indicated, if we have open hearings once and for all on the parole bills in our Committee and attempt to formulate a legitimate parole bill. I say that because my impression - and I don't want to prolong this - is that the parole bills that have been introduced both by the administration -- and, by the way, I have one -- are difficult bills because you have to initially determine what the concept is. Do you have contracts? Do you have fixed times, etc., etc.? We can use some legitimate input from the Department, from you and from others, and perhaps once and for all formulate a strong bill. But my impression right now is that there will be no parole reform the next two years - I imagine you all agree with me on that - merely because the Governor has introduced through a legislator a parole bill. There are too many people want to talk about it and there is too much input that should be had into it.

So perhaps what we will do is in the very near future, after we have had 85,000 other hearing, look into that aspect.

Mr. Dietz, unless you have something very short to say ---

MR. DIETZ: Let me ask, Senator: Would it be possible that you might assign a member of your staff to attend our conference tomorrow where we will have the elements of criminal justice talking about the decision-making process of parole. Notify our office and we will be glad to have someone as our guest.

SENATOR MENZA: We will have someone there. We would appreciate your keeping in touch with us and thank you for coming.

SENATOR MENZA: The next witness will be the Director of the Division of Corrections and Parole, William Fauver.

W I L L I A M F A U V E R: Mr. Chairman, Senators--

SENATOR MENZA: Do you have a prepared statement, Mr. Fauver?

MR. FAUVER: No, I do not have a prepared statement. I do have some material that I would like to leave with the Committee in the way of Division standards and statistical material that you may or may not have, I am not sure.

I'd like to make some comments before trying to respond to any questions that you have. I think that - as Mr. Dietz just pointed out - one of the problems we have is we have been looking at furloughs and work release in a vacuum, as though they are a thing separate from the whole system in general. I would say that they are not, they are very much a part of the whole criminal justice system.

Furloughs and work release are not unique to the State of New Jersey. There are 39 states in the Union that have furlough programs. In these programs we ranked, last year - in the numbers of people that were released through the program - 8th in the nation, which is, if we just go by size of the State, proportionately right where we belong.

I don't want to spend much time on statistics because, obviously, we could disagree, or agree, on particular statistics and argue them back and forth. But I did want to point out that there seems to be a couple of ideas floating around that I would like to dispel. One is, New Jersey is - in that sense - radical in its programs. They are very much ahead, or behind - depending upon your viewpoint - the rest of the country with this type of program.

The other thing is, there seems to be a feeling that with failures - that were brought to the attention of myself, as Director, and to the Superintendents individually - the program just kind of plodded ahead. That is not true. There have been administrative changes made. There have been changes -- the furlough program was suspended for a period of time at both Leesburg and Rahway because of failures, until we thought we could tighten up parts of the program. In retrospect, I think probably the mistake made was not closing down the program entirely and starting from scratch instead of trying to correct the different aspects of the program and trying to strengthen it that way.

I would like to, rather than go over some of the things that were said before, just reiterate them and talk a little bit about prison in general because I feel that you are going to have witnesses later on who have been inmates or who work in prisons. Up until this point I represent the first person that really has spent time in institutions dealing with both staff and inmates. I think that the furlough program, when it is looked at in the total picture, is probably the one bright spot, in many cases, that an inmate has to look forward to. I know we have to balance that against the public's safety and I am not belittling that point. I know that there have to be changes made. I have sat in on the McCarthy meetings now for three meetings and I think some definite changes are going to be made to strengthen the controls over the program.

But, I think, other than myself and some of the staff here that will be testifying, the only people that have the opportunity to really tell you this are the ex-inmates who are here and will testify today as to what the meaning of this program can be to them, and the hope that it offers. I would submit that since the furlough program has been in full swing - for about 3 years - disturbances that have occurred in the institutions in New Jersey have not been disturbances against the administration of the institutions. The fact is that Trenton Prison, as well as other prisons, are not nice places to be. Yet, with the hope of something outside - that it is possible to get out and to maintain family ties and maintain contacts - this has, I think, made life in jail more acceptable to the people who are there.

I do not agree that the furlough program was put in as a sort of sop to the inmates because of the Rahway disturbance. The legislation for this preceded the Rahway disturbance. I think it was a way that we saw of expanding hope for people who were incarcerated so that they would see a light at the end of the tunnel and there would be a way for them to have some hope for the future.

I think that in doing this - I don't think, I know - there have been people who have violated the trust that is put in them and I, myself, feel - and this has been expressed in different ways by people so far - that if a person does fail on a furlough, that should be it. There should be no reason for a second chance with the furlough and that is not something that we have done in the past.

There are uniform standards that control furloughs in this State. The American Association of Corrections has a committee on uniform standards, nationally. They have an accreditation unit and we have asked that New Jersey be one of the first states considered for that when they actually start the accreditations of the prisons. I think it is ludicrous for me to sit here and say the prison system is good. It is not good. I don't think any prison system is good. I think the only thing they will do, really, is to compare us with the goals that they set as a national organization - compare us with what is happening in other states. I feel that we will rank very high in that assessment of our program in our institutions.

I'd like to say a word about inmate clerks, which is an issue. In my experience with the Division - which goes back 15 years - I know that the inmate clerks do work in classification at Trenton Prison and I know that for at least that period of time that I just mentioned, requests have been made to hire civilians and they have been denied. So, the inmate clerks are used out of necessity. The same thing was true with the furlough program.

Suggestions have been made earlier that possibly other housing could be used - vacant hospitals beds, etc. I think there is a possibility in doing something like that. I think the cost, in many cases, might be the prohibitive factor because to staff Ancora, just minimumly, costs us around \$150 thousand for 90 some beds - this is what we gained out of that.

There are now, in the prisons - Mr. Dietz mentioned it too - a number of offenders in New Jersey that are incarcerated. This includes children. In the prison system there are a little over 3,000 on fixed min-max sentences. Out of this 3,000 - over 3,000 - there are over 1,000 in minimum custody and I don't feel that we can really go any further in that direction. For an urban state we have a percentage in population that is not equaled by anyone in minimum custody, by any other state. So, I don't think we can stretch in that direction. I think then we would be negligent in our job, if we tried to put more people out.

The kind of thing that was discussed by Mr. Mulcahy and questioned by Senator Menza was the "forced feeding", pretty much, of people in the minimum places now and that has been done. But I think that we are not talking about an indiscriminate forced feeding; we are talking about a case of a person who we may have some questions about but who is the best risk that we have at that particular institution to put out. That happens because there just is not enough bed space. The amount of bed space in prisons has not increased and the amount of money it would cost of make a Glen Gardner, for example, into even a medium kind of unit, I think, would preclude use of that. I think as a minimum unit it could be used with staffing but there are not that many men inside the walls of an institution right now that should be considered for minimum custody, at least at this part of their stay. Maybe as they get closer to their parole date, yes.

It was mentioned before that 70% in the prison system are violent offenders.

At Trenton Prison, today, with a population of a little over 800, there are over 300 men in there for murder. So, you can see that about half of the violent criminals that are at Trenton Prison are there for murder.

The cost factor, I think, is something that always comes up when we talk about this. It was alluded to before how the program started without proper funding and I think the program was able to absorb that initially because in the first year of the program, I believe, we had about 200 inmates, total, going out on furlough - and throughout the whole system. This is now what was - prior to the program being stopped - about a weekly rate of the number of people going out. I think we were able to absorb that and the feeling, internally, was maybe we could just keep absorbing. I think part of the problem with the program was that we were not able to do that.

I'd really like to just submit the figures on the - not the figures but summaries - cases that were in for violent crimes; what they were in for; the type of offense they were in for; how long they were doing; how close they were to parole; the offense committed, etc. I would like to make that part of the record and try to respond to questions from the Committee.

SENATOR MENZA: Let's hear one of those instances, okay?

MR. FAUVER: All right.

SENATOR MENZA: By the way, Senator Dunn will be here after lunch to testify, Mr. Fauver. You may want to hang around to respond to what he says.

MR. FAUVER: Okay. Will do.

All right, I'll take one that is infamous. I am going back to Anthony Sistrunk who was on a 12-hour escort furlough out of Yardville. He was under escort the entire time. Sistrunk was in jail on a murder charge, serving life. He had been transferred because - aside from the things Mr. Dietz said - he was considered a first offender although he did have a previous record. The first offender status is based on commitment to State prison in this State, or any other state. So, he was a first offender. He was transferred to Yardville because of his age and that status and, as Mr. Mulcahy indicated, he went into minimum there much sooner than he should have. In Trenton he would have had to wait five years. He did not. He waited two years in Yardville when he was out on this escorted furlough.

SENATOR MENZA: How much time did he have in already?

MR. FAUVER: He had about two years in.

SENATOR MENZA: And he was at what prison initially?

MR. FAUVER: He was at Trenton prison initially.

SENATOR MENZA: And he was not eligible for parole, I understand, until 12 years, plus good time.

MR. FAUVER: That is correct.

SENATOR MENZA: So, he went from Trenton after two years to Yardville, which is minimum security?

MR. FAUVER: No, Yardville is not minimum security. He was working on a minimum security detail at Yardville. Yardville would be a medium security prison.

SENATOR MENZA: Why, after two years? It was a first degree murder case. It was mandatory life. Why was he transferred after two years to a minimum security job?

MR. FAUVER: He was transferred because under regulations at Yardville, which dealt with the indeterminate five year sentences, which make up the great bulk of their population, a person was eligible after two years.

SENATOR FAY: Why was he sent from Trenton to Yardville?

MR. FAUVER: He was sent because of age and because of first offender status.

SENATOR MENZA: How old was he?

MR. FAUVER: I believe he was 20. I don't have that down here.

SENATOR MENZA: What is his name, by the way?

MR. FAUVER: Anthony Sistrunk. He escaped. He was on minimum status. He was under escort. The escort did not violate any regulations. The escort stayed with him. He excused himself to go into the kitchen when it was time to come back from the escort furlough and he disappeared. The escort was with a staff member. He, from intensive investigation on this, did nothing wrong. He stayed with the man.

What we did after that - again, it is after the horse is out of the barn kind of thing - was change the ruling. A person now, in that same situation, being transferred to Yardville, could not make minimum custody until after five years because he would be a prison inmate.

SENATOR MENZA: Mr. Fauver, if I may interrupt?

MR. FAUVER: Sure.

SENATOR MENZA: You realize, of course, the motivation for a fellow who is in on a life sentence for first degree murder and who is not eligible for parole for 12 years, to split if given the opportunity, let's say, after two years? I mean, he has a long, long way to go, what does he have to lose?

MR. FAUVER: I think the five years instead of two years - you would have a lot longer to look at him, obviously, and see how he is doing in five years. But, traditionally, the five years is not something new; that is something we have had in effect in the prison system from before I got into it - that length of time inside before going out.

SENATOR MENZA: Again, Mr. Fauver, what about the first offender status? Did this fellow have a rap sheet?

MR. FAUVER: Yes.

SENATOR MENZA: All right. Now, my experience with rap sheets is that there is a lot of down-grading - atrocious assault and battery down-graded to assault and battery, or disorderly person; possession of gun, downgraded to no registration, etc., etc., and there are very few convictions, oftentimes. Let's say from a two or three page rap sheet, generally speaking, you might have two convictions - or two custodial sentences and maybe three probations. Don't you think their rap sheet has some relevancy?

MR. FAUVER: I definitely think it does. I think it has relevancy and I think it is considered by the classifications committees when they do make these changes.

SENATOR MENZA: But it wasn't in this case. This fellow had a rap sheet and had life imprisonment and he was let out on an escorted furlough after two years.

MR. FAUVER: Yes.

SENATOR MENZA: There was an error in judgment made twice - one to put him in a minimum security job and, two, in giving him a work release furlough.

MR. FAUVER: No, he wasn't on a work release furlough.

SENATOR MENZA: I'm sorry, an escorted parole. There was an error on two occasions, I would say.

MR. FAUVER: Yes, I think there was but I think that if you look at it from the standpoint that at that time we did not have many prison inmates at Yardville - this was at the time we were starting to utilize Yardville in Bordentown to take some of the people out of Trenton Prison who could be moved out of Trenton Prison - I think probably this judgment would be unfair to the internal classification committee at Yardville, who would be treating this person as if they were a Yardville inmate.

SENATOR MENZA: Forgetting the rules and regulations at Yardville, would not you and the Commissioner make general regulations which would be applicable in situations such as this? In other words, you are saying that he was entitled to a furlough program merely because he went to Yardville and Yardville has different criteria from the State prison.

MR. FAUVER: They have different criteria for minimum custody than the State Prison. Their regulations on furloughs - how you are escorted, etc. - are the same. The reason for that was because up until these transfers were moved in, the indeterminate five year maximum sentence was the most severe sentence they could have and that is how they treated this guy, which they shouldn't have done.

SENATOR MENZA: Excuse me. We are sorry to interrupt but we kind of know what we want. Senator Scardino.

SENATOR SCARDINO: Just for clarification, Mr. Fauver, the individual that you mentioned was first sent to Trenton State?

MR. FAUVER: That is correct.

SENATOR SCARDINO: And how long did he stay there before he was transferred to Yardville - approximately? Two years?

MR. FAUVER: No, I don't think he spent that long. I would just be guessing.

SENATOR SCARDINO: You said that at Yardville he was eligible to participate in the furlough program after two years?

MR. FAUVER: Yes, he is eligible for minimum custody after two years. The furlough part is a separate--

SENATOR SCARDINO: Do you have a copy of the report that was submitted by Commissioner Klein?

MR. FAUVER: I don't have it with me. I have seen it, yes.

SENATOR SCARDINO: On page 16 it talks about there being "...a definite lack of uniformity and that an inmate serving 25 to life will be eligible for minimum...". I don't know if those two relate because you have to be in minimum before you are eligible for the furlough, is that correct?

MR. FAUVER: That is correct.

SENATOR SCARDINO: At Rahway it is five years. It is four years at Leesburg. And at Yardville it is three years.

MR. FAUVER: Yes. The three years in the report - we upped it from two years to three years after the Sistrunk incident.

SENATOR SCARDINO: So, it had been two years?

MR. FAUVER: It had been two years, yes.

SENATOR SCARDINO: Are there any changes in the other institutions?

MR. FAUVER: No, Yardville was the lowest as far as the eligibility dates were concerned - the eligibility for minimum.

SENATOR SCARDINO: Why does the time vary, depending upon the institution?

MR. FAUVER: The time varies because, one, Trenton Prison should have, has been, and continues to get the more severe people in the system and they felt that the length of time they should spend inside before going into minimum status should be longer. On the other hand, the youth institutions - Yardville, Annandale, and Bordentown - by the decision-- Since a person between 18 and 30 could be sentenced either in min-max to the prison, or an indeterminate to the youth institutions, the idea is that the person on the indeterminate would be lesser of a risk, and seen as lesser of a threat even by the judge in sentencing him, and would be more amenable to this kind of a program. So, it was a lesser time in the youth institutions.

SENATOR SCARDINO: Senator Menza was showing off before, because he is an attorney, by letting everybody know how much he knows about the penal system. Some of the points are relatively new to me. But the Senator makes an interesting observation when he talks about the sentence given on the first hand, and the time factor in terms of eligibility for parole, and the distance between that and the time that we start our furlough program for the reasons that are given in support of that program.

It just appears at though there is too much of a spread between the time you start the program and the time the person may be eligible for a furlough, or parole in this case. For example, if you start him after two years at Yardville and, yet, he is not eligible for parole for 12 years, according to the sentence - if I understood the situation correctly - it just doesn't seem to fit with the intent and purpose of the furlough program itself, as I understand the definition.

MR. FAUVER: All right. I will try to comment on that. I think, first of all, I would like to point out the difference - I think it has been said before - between the unescorted versus the escorted furlough. Even at that time, under the regulations at Yardville, this man would not have been eligible for an unescorted furlough. He was eligible for an escorted furlough because of his minimum custody status, which was not related to the parole date. It was related, in this case, to the compassionate reason which was, I think - I don't have the whole folder with me - that his mother was seriously ill. I believe this was the reason for the visit. Under existing statutes, before the furlough system came in, the individual superintendents had the responsibility and could make the judgment as to letting people go for sick bed visits, funerals, etc., under escort - which was an armed escort.

Even under that statute, a decision was made, when a man was going out for one of those kinds of compassionate reasons, as to what kind of custody he needed. If a man was going from a minimum camp then, he was generally not taken in custody, in the sense that he was in cuffs. The officer may have been armed but the man was pretty much in the community every day, so he was not taken to a compassionate visit in cuffs.

I think there is a difference with the length of time and that is one of the things we are addressing. I would suspect-- I am prejudging what the Commission report is going to be but I think one of the things - as suggested in the Mulcahy report - is, going to a set parole date, or at least an anticipated date - as described by Mr. Dietz - rather than just that fact that he is in minimum custody. That is being changed.

SENATOR SCARDINO: Mr. Chairman, that brings us to the point, and I particularly took notice of this in the Mulcahy report - and I think it is a very important and significant consideration - and that is, on page 6, where he says, "All too often, programs are established without considering the practical application of these programs and the rippling effect of these decisions in the institutions. It is this hiatus and the failure on the part of the administrative level that has given rise to many of the failings we have noted in the furlough program. It is one thing to establish programs without considering the effect of each segment of that program, but it is another and more significant factor to establish programs without providing the necessary money, support and guidance for that program."

As I understand his point, he particularly suggests that all levels involved are not really clear as to what the scope, the intent, the objective, of that program is. Those who put it together in the first instance and who have defined what it is do not, obviously, make it clear at the level where the program has to be administered. There seems to be an indication in the report that there ought to be a tightening up in that respect. I am sure you are addressing yourself to that.

MR. FAUVER: Yes, we are. I think that - as I indicated earlier - we tried to do this on a piecemeal basis. As there were failures that occurred out of Marlboro Camp and out of Leesburg Farm, we stopped the program internally. It is done at division level without anybody from higher than this office making that decision to try to strengthen it. We did take steps that we thought were helpful, but obviously not enough for the whole program.

One of the things mentioned is the first recommendation - I believe - that there

be a person appointed at the division level to coordinate the program, who would act as an interpreter of the regulations if questions arose. That would be one function. I don't mean that would be his one function. He would also keep statistics and meet with both the superintendents and the furlough coordinators at the institutions on an on-going basis to come up with problems and solve the problems where they occur. That has been done. We have had, since the Leesburg programs were put back in, I believe, in September - August or September - a person functioning in that position, but the previous years are not going to be made up in six months. That is one of the things that has been done. I would really be speculating if I said what was going to come out of the McCarthy Committee, as far as other tightening up is concerned. But I think there is no question that there are going to be recommendations for much stricter controls, in a sense limiting the number of people that can go out. Minimum eligibility will not be equal with a furlough.

SENATOR SCARDINO: Stricter controls is one thing. I want to make it clear that in the first instance I agree with the furlough program. I think it is excellent. I think it is positive. The concept is worthwhile and I believe it ought to be continued. The emphasis that is being placed on the reason for the furlough program, the rationale behind it, in terms of rehabilitation, getting that person back into society, easing him into society, trying to settle him by accommodating him wherever possible - particularly in the area of employment - this all makes a lot of sense. What doesn't make sense is that after two years of incarceration, when he is not eligible for parole for 10 years beyond that point - why he is allowed out on the basis of the furlough program and its implementation, doesn't seem to fit with the scope of the program. The emphasis seems to be off-base. The emphasis ought to be on those that are closest to a parole date, those who are closer to discharge in that sense. I think it would have a greater impact there.

MR. FAUVER: I think that is just what is going to happen with the regulations. That is just what will happen with the changes. I agree.

SENATOR HIRKALA: Mr. Fauver, Senator Fay, earlier, made a recommendation that perhaps it would be advantageous for your Department to notify Chiefs of Police whenever prisoners went on furlough. I'd like to hear your comments regarding that suggestion.

MR. FAUVER: One of the things talked about recommendations at the committee meetings has been just that - notifying the local police chief, or the police district, when a person is coming into that area. The notice would be well in advance of his arrival - several weeks in advance of the time.

The only hangup, I think, the committee has right now on it is, should it be just the police department; should it be just the parole district; should it be a combination thereof - but there will be notification. One of the things pointed out was, when a person is released on parole there is notification to the community that that person is coming back but under this system there has not been.

If I can elaborate a little bit more, Senator Hirkala, on a question you asked before on organized crime -- I'd like to respond to that. We did, after the meetings held last Spring and this issue was raised, reassess that and we did change it in the July standards - as previously mentioned. However, I would like to point out that even people, now, that are designated by the court commitment saying that the judge sees this person as a member of organized crime, or those committed, even, under the SCI people - who we did not furlough, - came under court order when they came out. People that were seen on that level - we contact the community and ask the police if they have any objection to them coming back and if they do not and they are willing to put that in writing, we then let those people out. But the bookmaker just doing one to two, etc. - this type

of person - is going out on furlough. Well, not right now, but he was while the system was in effect.

SENATOR HIRKALA: Mr. Fauver, you heard Senator Fay and Senator Scardino mention the fact that they believe in the positive aspects of the furlough and work release program and I am sure that Senator Menza, Senator Hagedorn and myself will join in on that assessment. We are quite concerned, however, with some of the bad publicity which resulted in editorial policy throughout the State which suggested that perhaps our program was a little lax, etc. My only admonition is that we are going to have to tighten up and I am sure the members of this committee will do everything in their power to assist you. But I join with Senator Fay and Senator Scardino in saying that there has been a lot of good. May we all join together in seeing that the good so far surpasses the bad that the furlough program can continue.

MR. FAUVER: Thank you.

SENATOR FAY: Mr. Fauver, what boggles my mind is the fact that a person with a life sentence, with a rap sheet - as Senator Menza mentioned - could go on a furlough in two years. This is, I think, the average citizen's - the average person's - reaction - here they have just gone through a long, vicious trial, the person is given a life sentence and then, suddenly, two years later they are seeing that same name in the newspaper for committing another violent crime. I stand to be corrected but I can't see, if you have that kind of a background and you have that kind of a conviction and sentence - whether they are at Rahway or Trenton, or where - the ease this person had in getting back on the street again - escorted or unescorted. The very fact is it is two years, and the ink isn't even dry on the sentencing paper and he is back out on the street. That is where, I think, all the good is put in jeopardy.

There are ones who are not violent, or didn't commit any violent act, and they have gone back to prison and there has been no scene and nothing has been in the paper. But, you just need one headline like that a year and I wouldn't attempt to justify that kind of program. When I look at the requirements for work release it says, "Inmates with a serious emotional or personality defect, with histories of violent or assaultive behavior are excluded." Now, if they are excluded from work release and they are excluded from the furlough program, that might be the way - just to start with the marginals, the Russian roulette types. Let's hope, "yes, he has been violent; yes, he is in prison for being violent; let's hope he isn't violent again if we put him back on that furlough-- I, for one, would be more cautious and more alarmed and not allow that person to hurt anybody else - not only the victims, who haven't come into the conversation too often, but also the other inmates. The very fact that your system is being put in jeopardy and is being put in the position where there is public pressure - from the Governor on down - will make you go back to the 1940's, at least.

That is what I don't understand and I don't accept. I can never attempt to justify putting people like that, after two years, back on the street - on furlough, work release, or anything else. The fact that he can't go on work release and can go on furlough, I think, is significant.

MR. FAUVER: I can't justify it either. I won't attempt to. I think in this case - as I mentioned before-- Just the fact that he transferred, in my judgment, means that he fell into a crack in the system and that is really how he got out. That is what we are addressing ourselves to - to tightening that up so that cannot happen.

SENATOR FAY: Exactly.

SENATOR MENZA: I was going to ask you a series of questions with regard to Yardville and the indeterminate sentences there but I think you explained that.

This is a most peculiar thing - the furlough program from July 1, 1974 to June

30, 1975, with the exception of Leesburg, in the two maximum security prisons, Trenton Prison and Rahway Prison, there has been a smaller percentage of failures than in the youth correctional institutions. As a matter of fact, they are the highest. You have two percent from Annandale and two percent from Clinton. How is that? How come the failure is higher with the youth correctional facilities than it is with the high security prisons?

MR. FAUVER: I think the number of people in the system at those institutions - there are more people eligible because of their shorter sentences. There are a great many more people who are not seen as a threat. They are not in for crimes against a person. There are more people there on property crimes. Although it does reach fifty percent, it is nowhere near the seventy plus.

SENATOR MENZA: Well, let's talk about absolute numbers then, Mr. Fauver. In Trenton Prison you only have 11 failures, according to this figure, whereas in Annandale you had twenty. You had 2,000 people out in Trenton and only 11 failures. You only had 1,200 out in Annandale with 20 failures, etc. In Bordentown it is the same thing. In Bordentown there were 1,200 with 15 failures. Rahway Prison had 2,500 with 10 failures. These are absolute figures now.

MR. FAUVER: Right.

SENATOR MENZA: The incidence of failure, generally speaking, is higher with the youth correctional institution - the youth correctional complex - than it is with the maximum security prisons.

MR. FAUVER: All right. I think there is another factor in this. This number of furloughs - it may be the same person, over many times, in the prisons, so that you have less people - total numbers - going out on furlough but you have more furloughs - if that is clear to you. You may have 100 people getting a few thousand furloughs - that is an exaggeration but you have that type of thing. In the youth institutions it is more - because of the shorter sentence-- The average stay in these institutions is, right now, nine months. So, those people don't stay around to get more than one and I think you don't have any experience with them.

I think Clinton, Leesburg and Annandale can also be partially explained by their distance from the metropolitan areas to where the people are being furloughed. I think this is another reason. But you are correct in pointing out that the three best on record were Rahway, Trenton and Bordentown, in raw figures and also percentage-wise. Distance is a factor, but I think the other factor is that there may be-- For example, we had a man testify before the McCarthy Committee yesterday that had been out on numerous furloughs - I don't recall the exact figure right now but somewhere in the neighborhood of 40, which would be escorted and unescorted. So, he would be a success and would count under that high figure.

SENATOR MENZA: You told us everything except, perhaps, the classification system is not working well in the youth correctional institutions. Is that possible?

MR. FAUVER: I can't discount that possibility. I don't think that it is probable. I think that, again, the main factor is the number of people going are different people. For example, we may have a man at Trenton Prison who was approved to go out on furlough a couple of years ago and is going out quite often on escorts for speaking engagements and to appear at seminars - or whatever - but not for personal reasons - although anytime an inmate can get out of jail it is obviously a personal reason, it is a plus for him or her. By this I mean, not going to their home.

SENATOR MENZA: Rumors, Mr. Fauver, are rampant that there is favoritism. This is not only rumor, some of us on the Committee have heard from people involved that there is favoritism. I don't want to use the old cliché that where there is smoke there is

fire but it seems awfully logical that there would be favoritism on occasion, depending upon your money, your contacts, etc. Would you agree with that and would you say that, to some extent, there is favoritism?

MR. FAUVER: I would agree that there may be favoritism but not for the reasons that you indicate. I think there would be favoritism on the basis of a committee - or a coordinator - looking at a person and seeing that they have done very well in an institution and that they deserve a chance to go out - not on the basis of this particular person paying off, bribing, or anything else. I think they make a subjective judgment which may be wrong but I think if it is made, it is made to give an inmate a chance and for what I can, maybe just generally, label humanitarian reasons - not for any self-profit. We have no indication of that.

SENATOR MENZA: Mr. Fauver, I have a great deal of respect for you, as you well know and if you don't know I will tell you, but that is a defensive answer. You discard that too lightly, too quickly for me.

MR. FAUVER: I don't discard it. I said I do not discard the possibility. But I know - as Mr. Mulcahy indicated - any information we had from Mr. Stier, through whom the investigation is being conducted, on those kinds of charges has not been backed by any evidence - at least it has not been presented to us. I won't say that it isn't there.

SENATOR MENZA: Assume for the sake of argument that I, or the Committee, present to you certain persons who will tell you about what they think is favoritism - some of it may be hearsay, probably a great deal of it will be hearsay and rumor, some of it may have substance and some of it may have no substance whatsoever - how would we handle something like that? Keep in mind we have to protect the positions of these people, whether they be inmates or guards, or the Attorney General may be involved, etc. How would we go about that? How do we, in effect, say that they have absolute immunity and absolute access to my front door to talk about this?

As an aside I should say that one of the reasons our sub committee on mental health was so very effective was because we sought these people out and we spoke to them privately, etc. Our experience has always been - and I am sure Senator Hirkala's experience also has been, in the past - that many people are afraid to come forward.

MR. FAUVER: Well, I don't know if I would agree with that. Just based on the volume of mail that comes out of the prisons and the fact that there are phone calls which are not monitored and which can go to all sorts of organizations - to different prisoners rights organizations, the Public Advocate, etc. - there is a way for these people to come forward with these complaints. I can't answer you on the immunity issue. I think that if there is something specific it should be presented to me. If I am the one who is under suspicion, then, obviously, it shouldn't be, then it should go to the Commissioner or to the Attorney General's office, or further on up. But I really don't see the analogy between those two because I think the outlet that the inmate has - and also the staff-- Obviously, the staff writes letters to the editor and to newspapers which get printed. I think that would be brought forward. Maybe I am being over-optimistic but, as I said, if the Attorney General's office comes up with something, fine, they should, and we should, act on it.

I would point out that last year there were at least a couple of letters introduced by Senator Dunn from particular inmates that he wanted checked out and he asked us at the time if we would give immunity in the sense that we wouldn't take reprisals against the inmates in jail and I assured him that we would not, and I can assure you of that - both as a Committee and as a person. But as far as outside prosecution, I don't know.

SENATOR MENZA: Did disciplinary action take place as a result of that?

MR. FAUVER: No, sir, it did not.

SENATOR SCARDINO: I would just like to relate to some numbers, very quickly. On page 13 of the report it talks about the unescorted furloughs. Trenton State Prison-- You talked about the population. Did you say there were 800 inmates at Trenton State?

MR. FAUVER: Yes. There are about 850.

SENATOR SCARDINO: And there are about 200 on the program?

MR. FAUVER: No, I was using that as a-- I am not sure how many there are on the program. There are 800 there. There are about 125 at Jones' Farm. They are all minimum.

SENATOR SCARDINO: Can we get some figures as to how many individuals there are in each program - the unescorted and escorted programs - for a given year?

MR. FAUVER: The actual numbers of inmates, not the number of times, yes.

SENATOR SCARDINO: Could we have the number of times? That 2,000 obviously refers to the number of times.

MR. FAUVER: Yes.

SENATOR SCARDINO: And can you give me a description of an unescorted furlough and an escorted furlough?

MR. FAUVER: Sure. An escorted furlough is when the inmate goes with a person, either a staff member or--

SENATOR SCARDINO: I understand that. I am sorry to interrupt you but I am talking in terms of the time factor - what is the difference, beside the escort aspect?

MR. FAUVER: The time factor on the unescorted is, they have to be within nine months of their release date, which coincides with the work release person.

SENATOR SCARDINO: How long are they allowed to be outside?

MR. FAUVER: They are allowed to be out for -- well, they go out for two nights and three days. Most of the furloughs are over the weekend, from Friday to Sunday night.

SENATOR SCARDINO: The unescorted?

MR. FAUVER: The unescorted, yes. The escorted furlough is for one day, it is not overnight. It is 12 hours. In the case of Leesburg we put in 14 hours because of the travel time.

SENATOR SCARDINO: So, during the period between July 1, 1974 and June 30, 1975 there were 2,000 unescorted furloughs of approximately 3 days duration?

MR. FAUVER: That is correct.

SENATOR MENZA: Thank you, Mr. Fauver.

We are going to break for lunch now. We are going to have to start immediately in one-half hour. No fooling around. If no one is here I am going to be here. We are going to start exactly at 1:45. The next witness will be Senator Dunn, if he shows up. Otherwise, the next witness will be Ms. Urbaniak, followed by Mr. Richard Knief, followed by Captain Hayden, followed by Philip Showell, followed by Philip Yacovino, followed by John Miller, and followed by Richard Booker. We are going to have move very rapidly from now on.

(Lunch Recess)

AFTERNOON SESSION

SENATOR MENZA: The next witness is going to be Ms. Urbaniak. I am going to have to ask the witnesses to be as brief as possible. We have numerous witnesses yet to hear and we would like to move along as quickly as possible.

B. J. URBANIAK: My name is B. J. Urbaniak and, at the present time, I am Furlough Coordinator in the Central Office, Division of Correction and Parole. I wasn't really sure what kind of testimony you were interested in today. I prepared a statement. It was my understanding that you were mainly interested in who I was and what my background was because I think I am an unknown quantity in the program at this point. I have covered that in my statement. I can either read the whole thing or try to summarize it.

SENATOR MENZA: You say you gave us a statement in regard to your background --

MS. URBANIAK: Yes.

SENATOR MENZA: -- only?

MS. URBANIAK: No, with regard to my background and my responsibilities since I have been involved in the program.

SENATOR MENZA: Why don't you paraphrase it and include the entire statement in the record. Is that all right?

MS. URBANIAK: Yes.

I have been working for the Division of Correction and Parole for approximately 12 years. The majority of my experience was at the Youth Reception and Correction Center, Yardville, where I worked from 1967 to 1974 in a variety of capacities, including Research Associate; Supervisor of the Reception Center; Supervisor of the Readjustment Unit; Coordinator of Treatment Teams; and, for the last year that I was there, Director of Professional Services.

In May of 1974, I transferred to the Division Central Office, at which time my primary responsibility was to supervise and coordinate the transfer of the prison reception operation from the State Prison at Trenton to the Youth Correction Center at Yardville.

In about July of 1975, there were numerous problems in the furlough program at Leesburg Farm. As a result of those problems, the program was suspended, an investigation was made, there was a demonstration by the inmates, and it was a very disturbing situation that was going on down there.

At that time, I suggested to Mr. Fauver that, in view of the problems at that particular place and other problems that were being brought to our attention, maybe someone from his staff could be assigned to act as a liaison between the Central Office and the prisons and youth correctional institutions in the area of furlough program operations, problems, etc. As a result of that suggestion, I was asked to assume responsibility for that particular assignment. And as of July, 1975, I started to become involved in the program.

My primary responsibility was to familiarize myself with the Division Standards, to meet with the Furlough Coordinators from the prisons and the youth correctional institutions, and try and elicit from them any problems that they were having in the area of implementation, interpretation of standards, and like matters that were creating difficulties in the furlough programs at their particular main institutions or satellite units.

I started meeting with the Furlough Coordinators in the following month, August, and managed to have one meeting with the prisons, one meeting with the youth institutions, and one joint meeting.

Almost immediately after that, in September of '75, the Commissioner directed

that a comprehensive in-house investigation be undertaken under the supervision of Deputy Commissioner Mulcahy. At that time, I was assigned as a member of the committee that was to carry out that investigation and make those recommendations.

As of this moment, the program is suspended, as you well know. Had it not been suspended, I would have been responsible for supervising the implementation of whatever recommendations stemmed from or were contained in the Deputy Commissioner's report.

Right now, I am a member of the Task Force that is going to make additional recommendations to the Governor with Chief McCarthy as the head of that Task Force. I think that about covers it.

There was one other thing in my statement that I did want entered into the record, if I may; it is a point of personal comment. Quite recently, a misquotation was attributed to me in a recent issue of the Trenton Times, something to the effect that I sort of casually dismissed the participation of convicted murderers in this program by saying "murder is irrational." I would like it made known here that I never said that. What I did, in fact, attempt to point out was that it was my understanding that we have included convicted murderers in this program because existing research has shown that in most cases murder is a "situational" offense and that, of all crimes, it is least likely to be a repeat offense. Moreover, if the goal of the furlough program was to assist with reintegration, then it is my understanding that we have included these men and women in the program because the nature of their offenses demands a lengthy sentence and, by virtue of the lengthy sentence, they are incarcerated longer than persons committed for lesser crimes; therefore, are in great need of help with reintegration.

SENATOR MENZA: Ms. Urbaniak, your present position is what now?

MS. URBANIAK: Furlough Coordinator.

SENATOR MENZA: And prior to that?

MS. URBANIAK: I was Director of Professional Services at Yardville.

SENATOR MENZA: And you have been a Furlough Coordinator since when?

MS. URBANIAK: About July of '75.

SENATOR MENZA: Well, that is one of the recommendations of this report.

MS. URBANIAK: Right. I believe the report says a permanent civil service position be established. That is really not the way it is now. I was a staff member there and I was assigned this responsibility.

SENATOR MENZA: Do you have additional responsibilities other than being Furlough Coordinator?

MS. URBANIAK: At this time, no, because there have been so many problems with the program that most of what I am doing is really full-time involvement with this program.

SENATOR MENZA: And your job is to do what? Coordinate?

MS. URBANIAK: Well, it keeps changing. At the time that I was assigned, it was to try and get a handle on what was happening in all of the programs at the main institutions and the satellite units, to meet with the coordinators, try to get an understanding of what kinds of problems they were having and seek resolutions to those problems. Then, as I said, that temporarily stopped because I was assigned to work with the committee that was working under the direction of Deputy Commissioner Mulcahy.

SENATOR MENZA: You were with the original committee - that is, Mr. Mulcahy's - and then you were also with the other committee?

MS. URBANIAK: Yes.

SENATOR MENZA: Are there any recommendations that you want to suggest other than the ones we see here before us from Deputy Commissioner Mulcahy?

MS. URBANIAK: I don't know that there would be any that I would like to talk about now because there are a number of things that the Task Force is considering.

SENATOR SCARDINO: How long has Mrs. Urbaniak been involved with the furlough program?

SENATOR MENZA: Six months with the furlough program.

Are you telling me now that the Task Force is giving some consideration to certain aspects ---

MS. URBANIAK: Yes.

SENATOR MENZA: (Continuing) --- and that you would rather not tell the legislative committee what they are doing? I will start with the premise: I could care less what they are doing - care less.

MS. URBANIAK: All right, then. I think obviously a lot of work needs to be done. I think it is extremely important that each institution have a full-time coordinator and, at least, a secretary to help. I also agree that the inmates should not be responsible for clerical aspects of the program. I think we need to do much greater work in our relationship with the community in helping them understand what the program is about, in notifying them and letting them have a greater part in perhaps okaying or, at least, being aware of who is coming out into their local communities. I think the area of minimum custody is something that needs to be strengthened. I believe that we should standardize the criteria for minimum custody so that situations such as occurred with Mr. Sistrunk would not be occurring again.

SENATOR MENZA: All the recommendations you just mentioned are those that Mr. Mulcahy's committee has recommended.

MS. URBANIAK: Then I think I would just reiterate and the ones that I have mentioned are the ones I am particularly concerned about.

SENATOR MENZA: What is your authority as Furlough Coordinator? Do you have authority to hire and fire?

MS. URBANIAK: No.

SENATOR MENZA: Do you have any funds?

MS. URBANIAK: No.

SENATOR MENZA: Do you have any secretarial staff?

MS. URBANIAK: No.

SENATOR MENZA: What good is being a Furlough Coordinator without secretarial staff, without funds and without authority?

MS. URBANIAK: I don't know that funds will be forthcoming, but I believe, from within the division, I will be getting secretarial help. And I would assume, because of the importance of this issue, that authority would be given to me.

SENATOR MENZA: Have you met yet with the other Furlough Coordinators from the various correctional institutions?

MS. URBANIAK: Yes, I did that back in August.

SENATOR MENZA: Have you made any attempts so far to implement any of the recommendations set forth in Mr. Mulcahy's paper?

MS. URBANIAK: Yes.

SENATOR MENZA: Which ones?

MS. URBANIAK: In particular, we have begun work on standardizing the criteria for minimum.

SENATOR MENZA: They would be standardized from the State level down; in other words, each facility will be governed by the standards that you people set for them?

MS. URBANIAK: That is my understanding.

SENATOR MENZA: Are there any standards now from the State?

MS. URBANIAK: No, each institution, from as long as I can remember back, usually developed their own criteria for minimum. We have also attempted to start the clearing house for escorts. That is mentioned in Mr. Mulcahy's report.

SENATOR MENZA: So it is fair to say that there will be standards set forth on the State level which will govern the furlough and work release programs in all facilities and that hereafter facilities will not determine their own criteria. Is that correct?

MS. URBANIAK: That is my understanding of it.

SENATOR MENZA: When does the Task Force intend to complete its work, Mrs. Urbaniak?

MS. URBANIAK: I believe that Chief McCarthy is going to be prepared to submit his report as well as our report to the Governor two weeks from this past Monday, or a week from this coming Monday.

SENATOR MENZA: Is there anything new in his report that you anticipate other than what is recommended by Deputy Commissioner Mulcahy?

MS. URBANIAK: I don't know exactly what his report is going to show. I think that his will be a little different than what the Task Force is coming up with. The Task Force, itself, as I think has already been mentioned, has been addressing the issue of notification to the local communities; and I don't know what Chief McCarthy is going to recommend.

SENATOR MENZA: Is there anything you would like to add?

MS. URBANIAK: No. (Written statement submitted by Ms. Urbaniak begins on page 1 X.)

SENATOR MENZA: Thank you very much.

Mr. Richard Knief, Furlough Coordinator, Rahway State Prison. Mr. Knief, do you have a prepared statement?

R I C H A R D K N I E F: No, I don't. I wasn't asked to, so I didn't prepare one.

SENATOR MENZA: You are the Furlough Coordinator at Rahway State Prison. Is that correct?

MR. KNIEF: I am.

SENATOR MENZA: Rahway has had some peculiar incidents lately - some failures - let's put it that way - hasn't it?

MR. KNIEF: Yes.

SENATOR MENZA: Why?

MR. KNIEF: I can't answer that.

SENATOR MENZA: First tell me something about your background?

MR. KNIEF: I came to the prison about two years ago. I was working in the work release program for about six months and then I came to the furlough program. I have been working with that for about a year and a half now.

SENATOR MENZA: Do you do this full time?

MR. KNIEF: Full time.

SENATOR MENZA: Is there any other job you have besides Furlough Coordinator?

MR. KNIEF: No.

SENATOR MENZA: What criteria or what standards do you use for the furlough program at Rahway Prison?

MR. KNIEF: I use the standards that are given to us by Mr. Fauver's office.

SENATOR MENZA: Well, the person who just testified stated to me that there are no standards on a State basis that are applicable to all of the facilities.

MR. KNIEF: I think we should qualify it by saying that at every institution

the superintendent has the right to interpret standards as he pleases. We are guided by those standards to a certain point, but because of the fact that our facility is so big and we can only do so much, Mr. Hatrak or Mr. Hicks would have to either limit it or say, "Well, this is the way I want it run." I can say from this standpoint now that Mr. Hatrak hasn't really interfered; he has been more conservative than anything in trying to follow all the standards as per Mr. Fauver.

SENATOR MENZA: That is, the superintendent at your institution?

MR. KNIEF: Yes.

SENATOR MENZA: You had in Rahway the unescorted furloughs from July 1, 1974 to June 30, 1975, and there were 2,555. What is the prison population on an average?

MR. KNIEF: Our population, I think, is around 1150 on an average.

SENATOR MENZA: So the average prisoner is off how long?

MR. KNIEF: You are misinterpreting it. We have about 410 or 420 men on minimum custody. You have to be minimum.

SENATOR MENZA: These violent crimes that occurred as a result of the program at Rahway Prison - I know you can't give us a simplistic answer - but why? What happened?

MR. KNIEF: We don't know. You know, I just can't lie to you and say that we know why the inmate is going to do something. He is a good inmate. If you are referring to the Mason case, the man fit all the criteria and it went through classification that they reinstated him to three-day furloughs. He submitted his forms and, as coordinator, I just processed it.

SENATOR MENZA: Is that all you do? First of all, Mason was in there for what crime?

MR. KNIEF: I believe murder.

SENATOR MENZA: Murder?

MR. KNIEF: I believe so.

SENATOR MENZA: And how long had he been in prior to going to minimum security?

MR. KNIEF: I couldn't answer that question.

SENATOR MENZA: How long had he been in prior to going on work furlough?

MR. KNIEF: I couldn't answer that question. I think we would need the folder here. Then I could give you exact dates. But I don't have the folder and I am not familiar with it because he came from Trenton and he came from Yardville. So I don't know how many years he has in on the actual sentence.

SENATOR MENZA: We realize that. Perhaps you can furnish that to the Committee within a week or so.

Would it be fair to say that a fellow could be there for homicide - let's say first-degree murder - and after three years or five years, be out on furlough?

MR. KNIEF: It is five years.

SENATOR MENZA: Five years is the minimal?

MR. KNIEF: It has to be five years.

SENATOR SCARDINO: For clarification, Senator, in trying to establish the point you are trying to make, at least as I understand it: You are the Furlough Coordinator at Rahway State Prison. Does that mean that you are the individual who makes the determination as to who will obtain a furlough at that point? Exactly what is your role in that respect?

MR. KNIEF: What happens is that when the inmate gets his minimum, he gets his minimum from a classification meeting, okay? When he reaches me, he has his minimum status.

SENATOR MENZA: Who is on the classification panel?

MR. KNIEF: The Assistant Superintendent, the Director of Education - there are, I think, about seven members from all the different departments and areas. Now this body

will give the man the minimum.

SENATOR SCARDINO: If I understand the question that you are leading into, Senator, I think the answer from Mr. Knief is that he is not familiar with the history of any of the inmates that are eligible for the furlough system. Is that correct?

MR. KNIEF: I wouldn't say that I am not familiar. I do read through the folders. However, there is a great number of men and I can't be really familiar with everyone's case.

SENATOR MENZA: Let me just ask you this then: You stated before regarding Mason that the classification panel classified him a minimum prisoner. Then you said, "I just processed the papers."

MR. KNIEF: He will just come to me and he will fill out the form. I will check out the place he is going to and then I will bring it up to the subcommittee which will approve the furlough.

SENATOR MENZA: I see. So we have a classification system to determine whether a man goes on minimum. We then have you as Furlough Coordinator and you have a subcommittee who then makes a determination.

MR. KNIEF: Right.

SENATOR SCARDINO: At that point, if I may interrupt here, what is your role? Do you make a recommendation based on all of the facts that you have put together up to that point?

MR. KNIEF: Yes.

SENATOR SCARDINO: Then what is the basis of your recommendation?

MR. KNIEF: If he fits the standards that we run by.

SENATOR SCARDINO: Doesn't some knowledge of the individual's background and reason for being in the institution in the first place have a bearing on this?

MR. KNIEF: We as a committee cannot say that the man shouldn't get furloughs. We can recommend to the Classification Committee that has the authority to take away his minimum, put a stipulation on his minimum as to only escort visits. We don't have that kind of authority. That has to go through the Assistant Superintendent. There has to be some kind of control.

SENATOR MENZA: You go around in circles like "Catch 22." The classification system says the guy goes on minimum. You then, let's say, disagree that he should have a furlough. The only thing you do is go back to the classification system. So it is my understanding that your subcommittee and you have absolutely no authority to make a determination whether a man goes on furlough or not.

MR. KNIEF: No, I would say that we have the authority to go as far as to say that he fits the criteria and he gets one a month. But in reality, we really don't have any power to say that he is not eligible. If he comes to us from classification --

SENATOR MENZA: -- on minimum --

MR. KNIEF: (Continuing) -- on minimum --

SENATOR MENZA: -- he gets it automatically.

MR. KNIEF: He should get it, yes.

SENATOR MENZA: In other words, you and your subcommittee just do ministerial acts. You have A, B, C, D, E, F. If a fellow is on minimum and he has A, B, C, D, E, F, he gets it?

MR. KNIEF: That's right.

SENATOR MENZA: What are A, B, C, D, E and F? Where do you get those criteria from?

MR. KNIEF: Those copies you have on your desk.

SENATOR MENZA: This blue one here?

MR. KNIEF: Yes.

SENATOR MENZA: And who makes these up?

MR. KNIEF: I guess Mr. Fauver's office comes through with them.

SENATOR MENZA: That is not what I hear. I just heard from a person who stated that each institution makes up its own.

MR. KNIEF: That isn't true. At Rahway, at least, we try to run by those standards.

SENATOR MENZA: Okay. You say it is not true, but she is Furlough Coordinator for the State and she says that there are no standards or written documents promulgated on a State level applicable to all institutions, that all institutions make their own up. Is that true or false?

MR. KNIEF: That isn't true at Rahway, no. We try to follow those standards. However, there are certain parts to those standards that we cannot do. So Mr. Hatrak will say to us we can't fit this, so we will have to do it this way. However, in theory we use this as our guideline.

SENATOR MENZA: You have been there a year and a half as Furlough Coordinator. Is it a fair statement to say that, nevertheless, you have very little ultimate authority?

MR. KNIEF: Very, very little - very little.

SENATOR MENZA: You repeat it three times, which indicates that there is something wrong -- I would think, would you not, that a Furlough Coordinator should have additional authority to make determinations? Your job is to read the files and see whether a prisoner meets the criteria, etc., etc.

MR. KNIEF: In the standards, it states that it has to be a committee that gives the man a furlough, that will decide whether he is okay or not.

SENATOR MENZA: But in order to get to that subcommittee, they have to go through you first; is that right?

MR. KNIEF: Yes.

SENATOR MENZA: Now let's start again. They go through the classification committee which puts them on minimum. It then comes to you and you say they meet the criteria.

MR. KNIEF: I will ask the inmates to fill out the forms and I will go through the whole ritual of checking out the address that he is going to.

SENATOR MENZA: Then you give it to the subcommittee and you say to the subcommittee, "okay."

MR. KNIEF: And then we look at the man's folder to double check if he is on minimum, if he has any kind of stipulations to his minimum, and then we will discuss it.

SENATOR MENZA: How about his criminal background, his rap sheet?

MR. KNIEF: Again I have to stress here that it goes through the big committee, through classification, that will give a man his minimum. It would be a contradiction for us as a subcommittee to say to the man, "we feel that you shouldn't get furloughs," when, in fact, Mr. Hick's committee said that he should get furloughs.

SENATOR MENZA: So what you are saying in effect for all intents and purposes is that the moment he is put on minimum security, he then almost automatically - not only is eligible - but he almost automatically gets furlough.

MR. KNIEF: Well, he has to wait the 30 days, of course, which is in the standards.

SENATOR MENZA: Then he automatically gets furloughs?

MR. KNIEF: Yes.

SENATOR MENZA: You have been in the job for a year and a half. What would

you recommend to tighten this up? First of all, it needs tightening up, does it not?

MR. KNIEF: Yes, it does.

SENATOR MENZA: There are abuses, are there not?

MR. KNIEF: Yes, there are.

SENATOR MENZA: What kind of abuses, would you say, and how would you suggest we do away with those abuses and how do you suggest we tighten up the program?

MR. KNIEF: First of all, there has to be consistency. The standards must be consistent at all the institutions. If we get the consistency, the program will basically run well because we do need control. We have to be accountable for the inmate. And someone has to find a solution to answer the question of being accountable. When the man leaves the State property, someone has to answer for it. Who is going to watch him?

SENATOR MENZA: What about your role? Do you think your role should be strengthened or restructured?

MR. KNIEF: I do need clerical help. I handle both the three-day and the twelve-hour furloughs, which over the period that you were referring to came to about 5,000 furloughs. I had two inmate clerks doing all the typing of the furloughs.

SENATOR MENZA: During a period of one month, what is the average number of furloughs that you supervise?

MR. KNIEF: I would say about 500.

SENATOR MENZA: Five hundred by you and two inmates, who are your clerks. How do you supervise them?

MR. KNIEF: My clerks?

SENATOR MENZA: No. How do you supervise the furloughs? You made this check list. Do you check out the escort, for example?

MR. KNIEF: Yes.

SENATOR MENZA: How do you do that?

MR. KNIEF: Well, the standards say that if the escort isn't a member of the family, I have to check with the SPI. I have to check on the escort's rap sheet to see if he has a record. I do that with all the escorts.

SENATOR MENZA: Suppose it is a member of the family who has a record.

MR. KNIEF: Well, the previous position was that if it is a member of the immediate family, meaning his mother, father, his brother, his sister, or his wife, that we wouldn't check.

SENATOR MENZA: Suppose his brother just came out of the same prison on an armed robbery charge. Would you use him as an escort?

MR. KNIEF: No.

SENATOR MENZA: Why not?

MR. KNIEF: In the majority of the cases, I usually see all the escorts.

SENATOR MENZA: You have 500 a month. Do you call them up when they are home?

MR. KNIEF: I don't have the time, no.

SENATOR MENZA: You don't have the time or the manpower to do it.

MR. KNIEF: No, I don't.

SENATOR MENZA: Do you have them call in as to where they are living and so forth?

MR. KNIEF: No.

SENATOR MENZA: Do you notify the local police department that they are home?

MR. KNIEF: No.

SENATOR MENZA: What would you suggest other than standards that would be applicable to all the institutions throughout the State and additional staff for you?

Take your own role, not your own role specifically but a Furlough Coordinator in a State Prison; what should he do and what kind of authority should he have?

MR. KNIEF: I think if you want to tighten up the program, the Furlough Coordinator should have sole authority, only answering to Mr. Fauver, because I have heard of cases where superintendents have gotten involved and just have created problems within the program. To have a good program, there must be consistency.

I have a chart here that I made up for Mr. Fauver's office, which is the procedure that is followed, and I will submit it now.

SENATOR MENZA: -- that should be followed?

MR. KNIEF: That is followed. This is the procedure. (Mr. Knief submits chart to Committee.)

SENATOR MENZA: Looking at this big chart, it looks interesting and well done with a lot of effort put into it. It reminds me of the table of organization charts in the army. But it is not working; isn't that right?

MR. KNIEF: Well, I could say that system is working to a basic degree because of the lack of manpower. And, of course, we have no control over the inmate after he leaves the institution. So any failure that occurs isn't really a problem for the system; it's maybe that we didn't counsel the inmate.

SENATOR MENZA: Is it my understanding that what you are pointing out are a few defects: one, that sometimes minimum security should not be granted, but that is out of your hands.

MR. KNIEF: Right.

SENATOR MENZA: Two, you need a greater secretarial staff. Would you rather have outside secretarial services than inmates working on the folders?

MR. KNIEF: I would rather have people from the outside. The inmate clerks we had did not work with the folders. These men only typed the approved furloughs that we gave them.

SENATOR MENZA: Why would you want outside help then?

MR. KNIEF: We had an experience at Leesburg where an inmate was giving out furloughs.

SENATOR MENZA: Typing them up himself?

MR. KNIEF: Right.

SENATOR MENZA: What about the folder, itself? Who reviews that folder - just you?

MR. KNIEF: No, the committee - the subcommittee.

SENATOR MENZA: In addition to that, you think that the Furlough Coordinator should have one boss and that is Mr. Fauver?

MR. KNIEF: Yes.

SENATOR MENZA: -- I would assume through the Furlough Coordinator at the State level.

MR. KNIEF: Yes.

SENATOR MENZA: And you should be able to overrule whom - the superintendent?

MR. KNIEF: Yes.

SENATOR MENZA: Why?

MR. KNIEF: Because I feel sometimes the superintendents create a problem when they say we should give this man the extra furlough and, when you are trying to run a program, I would emphasize the importance of being consistent. I could say at Rahway for the majority of cases we have tried to be very consistent and fair to everybody.

SENATOR MENZA: But there is favoritism shown?

MR. KNIEF: I can't say, in fact, that there are cases of it, but I think that we all know it is there.

SENATOR MENZA: If it is there and favoritism is shown and you know it is there, there is nothing you can do about it, is that right, because you don't have the authority?

MR. KNIEF: I don't have that authority. I am just a small person on the totem pole. I think also we should have counselling, one to one - a marriage counselling - before the man leaves the institution.

SENATOR MENZA: That is a good point. You have a fellow charged with armed robbery. He has been there three years and eligible for furlough. But his wife is not living there anymore, let's assume, or there was a breakup in the family. Don't you sit down with this guy and say, "you have three days - here's what you are expected to do, etc., etc."?

MR. KNIEF: That's what we should do. It would be good because if we had people who could counsel him and his family, I would say the majority of the problems would be nil.

SENATOR MENZA: Don't you talk to these people before they leave?

MR. KNIEF: I don't have that kind of staff.

SENATOR MENZA: When you have 500 leave per month, I realize it would be impossible for you to talk to each one. Do you give them a booklet saying how they are supposed to conduct themselves?

MR. KNIEF: They have rules that they have to abide by, yes.

SENATOR MENZA: -- which nobody reads to them?

MR. KNIEF: We have a furlough class now that we just started, I would say, about two months ago, where the inmates are told what is expected, all the criteria for furloughs.

SENATOR MENZA: Do you feel there has been a dramatic change in the furlough program or an attempt to change within the last three months, more so than the entire time you have been there?

MR. KNIEF: No.

SENATOR MENZA: Have there been changes taking place in the furlough program?

MR. KNIEF: How do you mean?

SENATOR MENZA: Well, the furlough class, for example, that is only what - two weeks old?

MR. KNIEF: No, it is about a month and a half old.

SENATOR MENZA: Why, for example, didn't you have a furlough class sometime ago, a year ago, a year and a half ago?

MR. KNIEF: I don't know. I would think that the problem was funds, number one. The institution has to pay me overtime, number one, and previously we didn't have the funds for that.

SENATOR HIRKALA: Mr. Knief, you seem to indicate that possibly the superintendent gives out preferred furloughs.

MR. KNIEF: No. From cases that I have heard of other institutions ---

SENATOR HIRKALA: Not your institution.

MR. KNIEF: Not Rahway.

SENATOR HIRKALA: But you have heard of other institutions where a matter goes before a classification committee or a subcommittee and a furlough is granted, but in other institutions the superintendent gives preferred furloughs?

MR. KNIEF: I wouldn't say ---

SENATOR HIRKALA: Can you name those institutions to us?

MR. KNIEF: Offhand, I would rather not, to be truthful with you, because I think that isn't the question; but the point is that we have to get consistency in the system.

SENATOR MENZA: May I just interrupt one moment. Senator Hirkala has seniority up here. He used to head this committee so I have to be very careful the way I treat him.

You said you prefer not to, indicating to me that you do have that kind of information.

MR. KNIEF: Well, from rumor. See, it isn't fact. I really don't think that we can deal with rumor that I can't prove.

SENATOR HIRKALA: Have you brought this to the attention of Mr. Fauver or Commissioner Klein?

MR. KNIEF: I just brought it to the attention of the superintendent at the institution, yes. I didn't bring it to Mr. Fauver's attention. I just told the boss that is over me; that's Mr. Hatrak.

SENATOR HIRKALA: How did you get the title of Furlough Coordinator? Did you qualify by civil service?

MR. KNIEF: There is no civil service appointment at this time. What had happened was that I was given the position because the superintendent felt the person before me wasn't doing the job.

SENATOR HIRKALA: Who appointed you?

MR. KNIEF: Mr. Hatrak.

SENATOR HIRKALA: Who?

MR. KNIEF: The superintendent, Mr. Hatrak.

SENATOR HIRKALA: The superintendent has the power to appoint the Furlough Coordinator?

MR. KNIEF: Yes.

SENATOR HIRKALA: Now you mentioned the fact that the Classification Committee determines who will be in minimum custody.

MR. KNIEF: Yes.

SENATOR HIRKALA: And then it goes before a subcommittee to determine ---

MR. KNIEF: Only if the inmate puts in the request for the furlough. Then we will bring it up.

SENATOR HIRKALA: Has the subcommittee ever found any errors made by the Classification Committee?

MR. KNIEF: Offhand, I would have to say no, because we really don't go into the background of the inmate as to his rap sheet. We take for granted what classification has done is the decision of the institution. We cannot overrule -- the subcommittee as a whole cannot say to the big committee that we feel this inmate isn't qualified.

SENATOR FAY: Why not?

MR. KNIEF: It is just institutional procedure.

SENATOR FAY: Why couldn't you say that if you believe that?

MR. KNIEF: We could say that we feel that this man isn't eligible and, you know, it would just be a statement.

SENATOR FAY: Couldn't you say that this person has a history of violence and definite violent tendencies and in good conscience you couldn't recommend him to go out on furlough and work release?

MR. KNIEF: Well, from the past procedure, we have always gone by the decision of the institution. If the man was made full minimum, we went with that. We

didn't question it. This is what I am telling you, what happened previously.

SENATOR FAY: This morning we were told by the Deputy Commissioner that there were marginal people moved into minimum security that they weren't too sure about. So we are carrying this one ridiculous step further by saying, when you get into that category, even though you don't belong there, now you are on your way to the street.

SENATOR HIRKALA: I just want to make one statement. It seems to me that we are rewarding inmates by letting them go on furloughs and work release when they meet certain minimum requirements. I think for the future it might be a lot better if they met certain maximum requirements before they receive their furlough and work release.

SENATOR SCARDINO: It appears so far from the testimony - it is not a reflection on you, but I think it is the overall picture - that there may not only be inconsistencies in the system itself, but there are inconsistencies in some of the testimony we have been hearing. This Committee is trying to put the facts, if we can find those facts, together so that we can be helpful in hopefully making a better program out of the furlough program.

This chart of yours I think is very good. I compliment you on it. They say pictures are better than a thousand words and this certainly is very helpful.

I wonder if you can tell me from your experience --- First of all, how long have you been involved as a coordinator?

MR. KNIEF: About a year and a half now.

SENATOR SCARDINO: One year and a half.

MR. KNIEF: Yes.

SENATOR SCARDINO: What was your experience before that?

MR. KNIEF: I used to work for the release program. I supervised that.

SENATOR SCARDINO: So there is sort of a correlation there between the two. I notice here though that there is a process where the furloughs may be disapproved. From your experience, how many furloughs have been disapproved? Can you give us a number?

MR. KNIEF: How do you mean - on a weekly basis or on a monthly basis?

SENATOR SCARDINO: Any way you want to give it. Have there been furloughs disapproved?

MR. KNIEF: Yes.

SENATOR SCARDINO: On what basis?

MR. KNIEF: If the man does not meet the criteria.

SENATOR SCARDINO: What are those criteria?

MR. KNIEF: It is the blue sheets that we submitted.

SENATOR SCARDINO: But I thought that once an inmate is on minimum custody, he is automatically eligible for parole and, as I understood your testimony, there is no way he can have that parole denied.

MR. KNIEF: You are saying "parole."

SENATOR SCARDINO: Furlough, not parole. I'm sorry.

MR. KNIEF: The way we work it is that we give a man one furlough per month. Some inmates will be shrewd and put in two and three forms.

SENATOR SCARDINO: That is one instance.

MR. KNIEF: We will say, "well, you have had your one furlough for the month."

SENATOR SCARDINO: That's clear. Are there any other instances where a furlough might be denied?

MR. KNIEF: Where the address that he puts down -- it has to be on the mail card, number one; and, if it isn't on his institutional mail sheet, then we reject it. If the escort is not approved on a 12-hour visit, it is denied.

SENATOR SCARDINO: So in essence, we are still staying away from the point that was made very clear earlier and, that is, that it has nothing to do with his past record or the capability of the individual to look after himself once he is out on his own; is that correct?

MR. KNIEF: That's right.

SENATOR SCARDINO: How many infractions have there been in the unescorted furlough program during your tenure as the coordinator?

MR. KNIEF: How many infractions? Can you define what you mean by infractions? Do you mean escapes?

SENATOR SCARDINO: Well, how many have broken the rules, escaped or didn't return, whatever way you want to interpret it.

MR. KNIEF: I can give you an estimate figure. I just can't give you the exact number.

SENATOR SCARDINO: That's all right.

MR. KNIEF: I would say about thirty.

SENATOR SCARDINO: About thirty. That's thirty in a year and a half. Do you recall any details offhand in terms of how long these individuals had before they were either eligible for parole or for a maximum release?

MR. KNIEF: No.

SENATOR SCARDINO: You don't know.

MR. KNIEF: I couldn't tell you offhand. I would have to check the records.

SENATOR SCARDINO: Is there any criteria that determines eligibility for a furlough in terms of time factors, between the time he is eligible for a furlough and the time he is eligible for release?

MR. KNIEF: Under the present standards, he has to wait 30 days in minimum before he can go out on a furlough.

SENATOR SCARDINO: Okay. But how long a period of time is there between the time he is eligible for furlough and the time he is eligible for either parole or for release?

MR. KNIEF: I think that would vary in the individual's case.

SENATOR SCARDINO: We had an incident before lunch which indicated that an individual had some ten years to go before he was even eligible for a parole hearing because he was sentenced to life imprisonment. The question that was raised was that it just didn't seem to fit with the concept of the program in terms of trying to allow a person some time in society, out free, so to speak, in order to acclimate himself to what he will experience once he is released completely from the institution.

Are you familiar at all with the guidelines that are set forth for eligibility for release? Is there a certain time factor involved here?

MR. KNIEF: I think what you are referring to is the time that a man has to serve before getting minimum status. Is this what you are indicating?

SENATOR SCARDINO: How long does he have to go before he is either eligible for parole or for complete release in order to qualify for the furlough program?

MR. KNIEF: How about if I take a case where, say, a guy is in for murder and is doing life. He serves his five years that he has to serve in maximum custody and he gets his minimum. Now, before he goes to the Board, I think he has to have 14.5 for his first hearing. I think I am correct. So he gets his minimum after five years. Now he has ten years --almost nine years before he will see the Board. The standards read that he can get a 12-hour furlough when he reaches minimum. So he can start ---

SENATOR SCARDINO: I am emphasizing strictly the unescorted furlough program.

MR. KNIEF: Okay.

SENATOR SCARDINO: I am just asking you what the standards are for eligibility.

MR. KNIEF: Well, the standards read like this: If a man is within nine months of his max date or his parole date, then he will get 3 days. Also a man 4 months before his parole board hearing is eligible for 3 days.

SENATOR SCARDINO: Are you familiar with any cases where a person did not reach that particular criteria that got through and was allowed a furlough?

MR. KNIEF: None.

SENATOR SCARDINO: Have you ever bothered to check to find out whether or not there were any?

MR. KNIEF: All the furloughs come through me and it is all handled at the subcommittee hearing and we review the jacket for every furlough. So, of course, we would check and see when he is going to the parole board. If he doesn't fit the ---

SENATOR SCARDINO: What made the individual eligible that had some ten years?

MR. KNIEF: I don't know who you are referring to.

SENATOR SCARDINO: I am only referring to the case and not to the individual. There was a case where an individual was not eligible ---

MR. KNIEF: At Rahway?

SENATOR SCARDINO: (Continuing) --- for a parole hearing for some ten years and yet he was allowed to participate in the furlough program.

MR. KNIEF: I don't know anything about that. He couldn't really because he doesn't fit the standards.

SENATOR SCARDINO: That's what I thought.

MR. KNIEF: He shouldn't.

SENATOR MENZA: Just give me an idea - one, two, three - of the standards you follow to let them out.

MR. KNIEF: Well, a man has to be on minimum. He has to on minimum for thirty days.

SENATOR MENZA: Go ahead.

MR. KNIEF: If he is going to the Parole Board and he is asking for a three-day visit, it has to be four months before the Board. If he has a Parole Board date set, it has to be within nine months.

SENATOR MENZA: How about the way he is getting along in prison? Is that a criteria?

MR. KNIEF: If we find that the inmate isn't institutionally adjusted - say, if he is getting into an awful lot of trouble - he is usually referred to the Classification Committee for a check-out again to make sure that something isn't wrong and that it should look into his case.

SENATOR MENZA: So a fellow who is almost up to his max, nine months before his max, who committed first-degree murder, armed robbery and rape, and somehow got on minimum security, if he had a place to stay and he was generally good in prison, he would almost automatically be let out on furlough.

MR. KNIEF: Yes.

SENATOR MENZA: The answer is "yes"?

MR. KNIEF: Yes.

SENATOR MENZA: You say a fellow can go nine months before his max. Assume for the sake of argument his max is 15 years. That gives him five years, does it not, - five years less good time? So he is eligible for parole after four and one-half years. Nine months before that four and one-half years comes up, he is eligible for furlough.

MR. KNIEF: No. He is just going to the Board after four and one-half years. So it would be four months before the first Parole Board hearing that we would start him

three-day visits.

SENATOR MENZA: Yes, but at the first parole hearing, he is denied. He is still eligible for furlough.

MR. KNIEF: He would be reverted back to a 12-hour program until again he comes four months before the Board.

SENATOR MENZA: In other words, a guy could receive continual denial by the Parole Board and yet be eligible for continual furlough. Is that correct?

MR. KNIEF: Yes.

SENATOR MENZA: What standards do they have in Trenton State Prison?

MR. KNIEF: I don't know.

SENATOR MENZA: I am not trying to embarrass you.

MR. KNIEF: I don't know.

SENATOR MENZA: What is the last time that you got together with all the other Coordinators in the State?

MR. KNIEF: It was a meeting with the Commissioner's Office. I believe it was about a month and a half ago.

SENATOR MENZA: Everything is recent. Before the last month and a half, when did all you fellows get together, Mr. Knief?

MR. KNIEF: Hardly ever.

SENATOR MENZA: The questions that I am posing to you are not directed at you, per se. You understand that, of course. I really think, just as a comment, that the system to say the least is haphazard; at least, at Rahway Prison. You have basically very little authority, etc.

SENATOR SCARDINO: I was just wondering whether it would help the Committee to be supplied with a list of names of people who were eligible for release and under just what criteria they fit in terms of eligibility. I want to know specifically whether or not the criteria were adhered to as written, whether the standards were followed as written. I am interested in those who have broken the rules, who have not returned but escaped, whatever term you want to use. Those are the ones in which I am interested, not all, not everyone who was given a furlough. Do you think that is possible?

MR. KNIEF: We could give it to you from Rahway. You would have to contact the other institutions for their information.

SENATOR MENZA: I don't want to put this gentleman on the spot. Mr. Fauver, is it all right by you?

MR. FAUVER: Yes. We can get that for all the institutions.

SENATOR FAY: In your position, has anyone ever exercised political pressure that someone should be getting a furlough and he is not or there is a lot of mail, helping one particular person?

MR. KNIEF: No.

SENATOR FAY: No one has ever brought pressure on you to move a person along or you have never had a case where you have recommended a person should not get a furlough and you were overruled?

MR. KNIEF: Yes, I have been overruled by the Superintendent. I would qualify that by saying that I am a bit hard on the men because I try to be consistent.

SENATOR MENZA: I didn't hear the last of what you were saying.

MR. KNIEF: I try to be consistent so I am quite hard-hearted with the rules. I find that there are many times an inmate will exaggerate his mother's illness. We go through all the procedure of calling up and the information we get is that she is okay; she is in fair condition. The family will call the Superintendent and give him, I would say, a big line about it; and he sometimes will overrule the committee as a

whole. However, it has happened maybe twice since I have been in this job when we have been excessively rough with an inmate.

SENATOR FAY: When you are appraising a person for a furlough, do you consider the violence factor when you are putting a person out on the street? And I speak as a person with experience with the violence factor. I have taught in the public high school for 15 years. Do you look at the rap sheet and see what he is in prison for; and consider the possibility of his committing a violent crime? How much weight is this given?

MR. KNIEF: The procedure that is followed is that the inmate will come to me with a status of being in full minimum. The classification committee that gave him that privilege went through his complete rap sheet and decided, in their opinion, he fits all the criteria to be in this status. When he comes to me, the subcommittee on furloughs will assume - and I think we are right in assuming - that the committee has given the full status to this man because they have gone through his complete jacket.

SENATOR FAY: The case that struck me was the one of the man who chopped up the body and mailed it off.

MR. KNIEF: Mason.

SENATOR FAY: Things like that are what frighten me and I wonder why he wasn't in the Vroom Building to begin with, why he was out on furlough or work release or parole or in any other category we might have in the state.

Have you and the other Coordinators been asked by Deputy Commissioner Mulcahy for specific recommendations to tighten up and correct the weaknesses in the system?

MR. KNIEF: Yes.

SENATOR FAY: As Senator Menza pointed out before, it is absolutely ludicrous to go another day or another week operating in one manner at Rahway while Trenton is operating another way. To me, it is important, if nothing else comes out of this, that all of the Coordinators are brought together and there are criteria and standards, and at least uniformity.

MR. KNIEF: -- consistency at all levels. That is a must.

SENATOR FAY: This is on the record, what you have recommended to the Deputy Commissioner?

MR. KNIEF: Yes.

SENATOR MENZA: I would suggest until we have new standards that you don't rely completely and totally on the classification body who determines that the person should be minimum. I think it is within your jurisdiction to also review his criminal record, etc. I tell you very simply - and I am trying to use a euphemism - that if something happens in these prisons, it is your head that's on the line. You can scream from now until doom's day, saying, "gee, I did what the classification committee said; they put him on minimum. It's not my fault." But it is your head that is on the line. There is no question about that. It is a shame you have to be on the line because you have no authority whatsoever, and that's ridiculous.

Any other questions of this gentleman? (No response.)

Mr. Knief, do you have anything you would like to add?

MR. KNIEF: No.

SENATOR MENZA: Excuse the pointed questions, but we are trying to find things out. Thank you very much.

SENATOR MENZA: We will take the next furlough coordinator, from the Yardville Youth Correction and Reception Center, Captain Hayden. Captain, I want to thank you for coming. Let me ask you a few questions first, and then we will go on from there. We know all about the concept at this point, and how good it is, and all that jazz, and now we are trying to get some answers, okay.

You are a guard also, I take it?

CAPTAIN ERMEL HAYDEN: Yes, Correction Captain is my title.

SENATOR MENZA: In addition to your job as furlough coordinator you have another job?

CAPTAIN HAYDEN: That's correct.

SENATOR MENZA: And do you do both jobs?

CAPTAIN HAYDEN: Yes.

SENATOR MENZA: How many prisoners do you process per month?

CAPTAIN HAYDEN: Slightly over 100.

SENATOR MENZA: Do you have a certain jurisdiction as the captain of correction officers over other correction officers?

CAPTAIN HAYDEN: Certainly.

SENATOR MENZA: And every day you have to exercise that authority?

CAPTAIN HAYDEN: Yes, sir.

SENATOR MENZA: Well, how do you do both? How much time do you allocate for being the coordinator?

CAPTAIN HAYDEN: Well, I have an assistant. My coordination is more like a liaison rather than any overall authority to make decisions to do things.

SENATOR MENZA: You have an assistant, you say?

CAPTAIN HAYDEN: Well, I have a correction officer who assists me, in addition to his other duties.

SENATOR MENZA: So you don't have one office which deals with furloughs. You have other assignments, you and your assistant?

CAPTAIN HAYDEN: Yes.

SENATOR MENZA: And you deal with approximately 100 furloughs per month?

CAPTAIN HAYDEN: Yes.

SENATOR MENZA: Do you think this system is a good one?

CAPTAIN HAYDEN: Well, I think it could be improved if we had a furlough coordinator who was just that.

SENATOR MENZA: How do you make a determination as to whether someone should go on the furlough program or not?

CAPTAIN HAYDEN: Well, I don't really make that determination. I do have a lot of help. I think I better back up a bit and explain to you the processes we use at Yardville. For instance, on each housing unit we have a team, which is called a set team. The set team consists of a psychologist, the correction officer who works the first shift and the correction officer who works the second shift, and a social worker. Plus we have a white hat, which is the supervisor of the correction officers. It might be a captain or lieutenant or sergeant.

Now, first of all, if an inmate is interested in going out on furlough, he must start with his set team, who has the closest supervision over him, who knows a lot about his behavior in the unit, his work and so forth. They keep a running record on him. Now, once he indicates that he wants to go on a furlough, then the set team will look at his record and see if he is basically qualified.

SENATOR MENZA: In what respect?

CAPTAIN HAYDEN: In respect to his time, how much time he has to serve on his sentence. Of course whether or not he is full minimum, and if that full minimum has been at least thirty days is taken into consideration. We will also note whether or not his crime was of a violent nature, and if it was a sex crime and so forth, and also his institutional adjustment, and his disciplinary record, and so on.

SENATOR MENZA: Your institution is a minimum security institution, is it not?

CAPTAIN HAYDEN: No, it is not. We have full minimum people there, but it is not a minimum security institution.

SENATOR MENZA: What is the population of the institution?

CAPTAIN HAYDEN: Approximately 800, and that includes our reception area too.

SENATOR MENZA: Didn't one of the witnesses just say that was the population of Rahway State Prison?

CAPTAIN HAYDEN: I don't recall.

SENATOR MENZA: Mr. Fauver, is that correct?

MR. FAUVER: 1100.

SENATOR MENZA: But even so, he has 500 going out a month, and you have approximately 100.

CAPTAIN HAYDEN: Yes.

SENATOR MENZA: Why don't you have more?

CAPTAIN HAYDEN: Well, the difference is probably due to the fact that they have a camp, like the Marlboro camp. It is probably due to the fact also that they have a full minimum facility and we don't, and everybody at that full minimum facility is eligible for parole, I would think.

SENATOR MENZA: What would you recommend to change the furlough system and the job of furlough coordinator? Do you think it is working well now; if not, and I presume that is your answer, how is it not working well, and what would you suggest?

CAPTAIN HAYDEN: I think our system at Yardville is working very well. We have a number of checks and balances, for one thing. In addition to the set team checking out the man's record, he must go to the full classification committee in order to be approved by them. The full classification committee is chaired by the superintendent or the assistant superintendent. The committee also has at least one psychologist, director of personnel services, someone from the education department, someone from custody with no less a rank than captain.

SENATOR MENZA: Once he is classified as minimum security, is he almost automatically eligible for parole?

CAPTAIN HAYDEN: Certainly not.

SENATOR MENZA: What other criteria do you have?

CAPTAIN HAYDEN: Well, first of all, as I mentioned before, he must be full minimum for at least 30 days.

SENATOR MENZA: Besides that.

CAPTAIN HAYDEN: Well, a man can be full minimum for years and not go out on furlough. He might not qualify.

SENATOR MENZA: In what sense? What is the criteria to qualify?

CAPTAIN HAYDEN: Well, a man can be on full minimum, but if he has a rape charge, he cannot go out on furlough.

SENATOR MENZA: Well, that doesn't make sense to me. In other words, you can have a guy who committed three murders out on furlough, but one fellow who committed statutory rape cannot get out on furlough; is that true?

CAPTAIN HAYDEN: No, I don't necessarily agree with that. That may or may not happen. I couldn't tell you.

SENATOR MENZA: But a sex criminal never goes out on furlough; is that right?

CAPTAIN HAYDEN: Well, I am not saying that either. The standard indicates that if there is a sex crime and no force was used, it is a different type of crime and it can be dealt with differently. The man has a chance to go on a furlough, assuming the full classification committee will approve it.

SENATOR FAY: In a sex crime where force was used, has anyone received a furlough?

CAPTAIN HAYDEN: I can't answer that.

SENATOR FAY: Of all the people who have appeared before you, if there was a sex crime with force used, did anyone ever receive a furlough?

CAPTAIN HAYDEN: No, not to my knowledge.

SENATOR MENZA: In other words, the guy could commit first degree murder with a gun, the most heinous murder that could be, and get a furlough; whereas a fellow can commit a rape - which is, of course with violence - and cannot get out.

CAPTAIN HAYDEN: Well, I would not say he cannot get out, because there are possible circumstances where he might be a special case and he might get out.

SENATOR FAY: I think what Senator Menza is pointing out is that the sex crime is so obnoxious and you don't qualify, but yet murder, no matter how obnoxious could qualify.

CAPTAIN HAYDEN: I think it has been more or less proven by the statistics that people who commit sex crimes tend to repeat.

SENATOR FAY: They are repeaters, but the murderer might not be?

CAPTAIN HAYDEN: Well, I would say a sex crime would tend to be repeated more often than a murder. In fact I would dare to say that most murders are one time crimes.

SENATOR FAY: Captain, when the furlough is violated, is that person ever allowed a furlough again? I am speaking of an instance where a person is on furlough and he commits a major infraction while on furlough - say he commits another felony - does that prohibit him from ever being furloughed again? Is there any kind of hard and fast rule which says that when you are on furlough and you are given this privilege, and you persist in committing other crimes you will never be allowed on furlough again?

CAPTAIN HAYDEN: Well, not in my experience. As you must realize, people who are incarcerated at Yardville are serving much shorter sentences than those at other prisons. And I dare say, if it is a major violation, he probably would not get out again, because he would probably qualify to go home before he would qualify to go out on furlough again.

SENATOR MENZA: I am a little mixed up. Mr. Fauver testified, I believe, that there is a higher incident rate, perhaps, in these reformatories because they have a shorter period of time in these reformatories, okay.

CAPTAIN HAYDEN: A higher incident of what?

SENATOR MENZA: A higher incident rate because they have a shorter period of time to serve, and yet you are telling me that there are very few people out on furlough in relationship to the other prisons. You have 100 on an average per month; is that correct?

CAPTAIN HAYDEN: Well, I only told you what we have.

SENATOR MENZA: Let's just assume for the sake of argument, then, that the furlough system is working well at Yardville. What would you suggest to strengthen it and make it even better?

CAPTAIN HAYDEN: (No response.)

SENATOR MENZA: Well, a full-time coordinator, of course, is one suggestion you would make, would you not?

CAPTAIN HAYDEN: Yes.

SENATOR MENZA: What else would you suggest?

CAPTAIN HAYDEN: Well, are we talking about enlarging the program or leaving it as it is now?

SENATOR MENZA: In Yardville. You are familiar with Yardville as it is now. What would you suggest to strengthen and make the furlough system a better system?

CAPTAIN HAYDEN: Probably just right off the top of my head it might be better to have a more extensive orientation program for the inmates who would be eligible for furlough.

SENATOR MENZA: Before they get the furlough?

CAPTAIN HAYDEN: Yes, before he ever applies for a furlough.

SENATOR MENZA: Is there one now? Before they apply, is there a class or something on the furlough?

CAPTAIN HAYDEN: It is not a class, no.

SENATOR MENZA: What do they have?

CAPTAIN HAYDEN: Well, they have orientation when they first come into the institution, and the furlough program is glossed over.

SENATOR MENZA: I see.

CAPTAIN HAYDEN: And even before he goes on the furlough he has to understand certain things ---

SENATOR MENZA: How does he understand that, Captain? Does he talk to you about it or to your assistant?

CAPTAIN HAYDEN: Yes, and first of all his set team.

SENATOR MENZA: Do you talk to 100 of these guys every month?

CAPTAIN HAYDEN: Certainly not.

SENATOR MENZA: All right. Thank you.

SENATOR SCARDINO: Captain, you are, of course, familiar with the infractions that have occurred, the rules that were broken on the part of those who were allowed the furlough, those who did not come back, or whatever else they did to break the rules. In light of that, and in consideration of that, from your experience, where would you say the system is at fault, or does it have anything to do directly with the system? Do you feel that the process that was used to allow these people out in the first place is complete enough? Do you feel that there may be no connection between the system and the process and the fact that they did get into some kind of trouble on the outside?

CAPTAIN HAYDEN: Well, as Mr. Fauver mentioned earlier, the case of Sistrunk, that problem has been eliminated. That will never happen again. In the other cases that I know about, these people were about to be paroled anyway, and I feel ---

SENATOR SCARDINO: In most cases?

CAPTAIN HAYDEN: In most cases that I know about, yes. So I can't find too much fault with a man who is about to be paroled going on furlough. I certainly can find fault with him acting in the manner that you allude to, creating crimes, murders, and so forth, but when a man is on a terminal portion of his sentence, I think it is a very good practice to put him on furlough, because if he is going to be reintegrated back into society, I think it would be much better if he had the ability or the wherewithal to do it gradually and by steps, rather than an abrupt change from penal life to life in the community.

SENATOR MENZA: Thank you, Captain. Do you have anything else you would like to add? I know we cut you off right at the beginning.

CAPTAIN HAYDEN: Well, since you did not ask me, I would like to say I support the furlough program.

SENATOR MENZA: Thank you very much.

CAPTAIN HAYDEN: I would like to say one other thing. I think there was a bit of confusion earlier about the State putting out guidelines about the furlough system. They are universal. I think the confusion came in when you started talking about the full minimum criteria. The criteria for full minimum is not put out by the State.

SENATOR MENZA: That is a good point. Am I correct, are there standards or are there not for the work furlough process?

COMMISSIONER KLEIN: There are Division level standards that go out to all of the institutions concerning the furlough program. What we do not have standards for now - but what we are developing standards for - is the full minimum. There are no Division standards for full minimum. That is what each institution was developing on their own, criteria for full minimum.

SENATOR MENZA: Thank you. Senator Dunn is here to testify. This is an opportunity of a life time for me, as it was this morning having Chris Dietz here.

SENATOR THOMAS DUNN: Senator, I appreciate your warped sense of humor. Mr. Chairman and members of the Senate Committee, I am Thomas Dunn, a State Senator, and it will be difficult for me to restrict my remarks along the lines of State Senator. I would like to have the record show that I am also the Mayor of the City of Elizabeth. Not only will my remarks encompass the senatorial role, but they will also encompass my role as a mayor of an urban city.

I apologize for not getting here earlier today, and I also apologize for not having a prepared statement. I think that I could have served in a much better position if I were sitting with you asking some questions, because I still feel that many of the important questions have not been asked yet, but I assume that perhaps they might have been asked this morning. I would have liked to have been here during the testimony of Mrs. Klein and Mr. Fauver, because some of the questions that are still burning in my mind can best be answered by them, in view of the fact that approximately two years ago we went through this whole facade once before of making a determination to tighten up the requirements that one must meet to be eligible for the furlough system.

I would like to make one thing absolutely crystal clear, that while I have been labeled by many as a critic of the furlough system, I am not, and never have been, and as a matter of fact I don't know of anybody in the Senate who is a critic of the philosophy behind the granting of furloughs. If we are going to have a furlough system, and if it is recognized by the professionals as something that is good for the overall criminal justice system, then I embrace it. But there is no question in my mind that New Jersey has become a laughing stock throughout the entire nation for the looseness and the sloppiness of our furlough system. And at one time, I couldn't help but hold Mrs. Klein responsible for it, but now some two years later, I have no alternative but to say that the professionals in our system are equally, if not more, responsible for what has happened in our state than is Mrs. Klein. And I do not apologize now or ever will for asking that Mrs. Klein consider resigning as the Director of Institutions and Agencies primarily because she has not fulfilled her promise to the Legislature of the State of New Jersey given some two years to do something about bettering the furlough system. I am appalled by the fact that a professional like Mr. Fauver and others on his staff who have been trained in this profession have taken so lightly the seriousness of allowing people on the streets - including the psychologists and others who make up this team that I heard the previous speaker talk about - who are not qualified by our own standards to be walking the streets. I am very much interested in knowing what happens - and perhaps

it has already been asked - when a prisoner violates this trust that was placed in him in allowing him to go home on furlough.

One of the main subjects of discussion two years ago was the case of a prisoner by the name of York who escaped while home on furlough, and he was recaptured several weeks later, and who I understand is now fully released from our prison system. I don't know whether or not his entire time was served or not. I assume that it might have been. But I am curious to know what happens when a prisoner violates that trust. I am more concerned quite honestly and sincerely about deserving prisoners who do not violate the trust. I am very much concerned perhaps because these trusts are violated from time to time by certain prisoners, and while they are home on furlough they commit heinous crimes, and their actions might very well destroy the furlough system in our state, and thus deprive deserving prisoners of the right to be rehabilitated back into society. So it is not a matter of our criticizing the philosophy of the system, but the sloppy way it is being handled by Mrs. Klein, Mr. Fauver, and the people who serve under his jurisdiction.

Now, some two years ago, when we discussed this at great length, both Mr. Fauver and Mrs. Klein assured the Senate Committee that they would take steps to tighten the reins, and I have seen absolutely no concrete evidence of them having accomplished this. As a matter of fact, after listening to the couple of witnesses that I have listened to today, I am convinced that it is even perhaps looser today than it was then. I can't help but feel a little bit shocked when I hear the coordinator of the furlough system hesitate -- he wasn't quite sure whether or not a man had been in for murder or not, and yet the name was on his lips and on yours and he knew the man but yet he was not quite sure whether or not that man was in for murder or not, yet he was the one who evidently had something to do with that man being allowed to come home on furlough. I am not familiar with that case at all.

I might say, too, that my concern is not over that one incident of a man who allegedly committed a murder, which Senator Fay talked about. I was shocked long before that happened, and I think it behooves us, and especially the Governor, to do something about it. I might say, too, that I am very happy to see that Governor Byrne at long last has shown some interest in the seriousness of this whole situation.

One thing that bothers the hell out of me is the fact that policemen spend so much of their professional time apprehending a very dangerous person, and after his efforts are confirmed in a court of law by a jury, and that man is incarcerated for committing a serious crime, and he is back on the streets in a relatively short period of time. I doubt very much that only prisoners on minimum security are allowed to receive the benefits of the furlough system. I have reason to believe that others who have not been on minimum security have been home on furloughs. I have been told this by police officers.

I question what makes up that term minimum. Is it the prisoner or the person himself considered minimum risk, or is it the facility that he has been transferred to? Just because he is lodged in a minimum facility, does that give automatic status of minimum risk to the prisoner? I think that is one thing that should be cleared up.

In a city like ours, to spend a great deal of time and to spend a great deal of the taxpayers' money apprehending a dangerous person, and to eventually have that person incarcerated, and then find that criminal back on the streets and perhaps committing another heinous crime shortly after first being incarcerated affects the morale of the policemen; it affects the morale of the citizenry, but more importantly than all that is the fact that it places in jeopardy the lives of good citizens in our state, and I

believe the record shows that some seven good citizens have been killed by furloughed prisoners in a period of two years, since the time that Mrs. Klein and Mr. Fauver came to our committee and assured us they were going to do something about it.

There are many inconsistencies. Coming down here today I heard part of Mrs. Klein's testimony over the radio, and while I couldn't hear it too clearly, I think she did say that, yes, the system still requires a great deal of work, and the standards have to be improved and whatnot. And yet I have before me a letter from Ann Klein assuring me that the system is a model system, and that very little if anything is found wrong with it. This is dated, however, late in 1974, which is almost a year after we brought this matter to her attention. She refers to the furlough system as being well run and a successful program. Well, there is something wrong with Mrs. Klein or with her language or with something when we have seven murders being committed in a period of two years by prisoners who are home on furlough. I would like to know what kind of competence we have in this team of people who pass judgement.

You know, getting back to the example portrayed by Senator Fay, it is hard for me as a layman to understand that somebody could not recognize that individual as a bad risk before allowing him to go out on a furlough. I can't help but question the competence of the people who pass judgement. I can't help but doubt, too, that more than just the professional judgement of one, two, or three people involved with the system, makes the difference between a person being allowed on a furlough or not. I have strong suspicion, based on newspaper articles and letters that have been sent to me and whatnot, that there is some kind of racket going on in our state prisons today that allows certain prisoners to buy their way out on furloughs, and to be the recipients of favors by jail employees for one reason or another. All kinds of reasons build up that suspicion in my mind. And there is concrete evidence in many cases of men being allowed on furloughs simply because they either paid for it or they did some favor for somebody, or for the system itself in the way of being squealers or snitchers, whatever the correct terminology is.

There is something absolutely wrong with the total system in the State of New Jersey, and not just with the furlough system. Just for a minute I have to digress to emphasize a point. There must be something stinkingly wrong in the State of New Jersey that allows the state to free a confessed killer of five people, a hit man for organized crime, to give him his absolute freedom in order to catch people who are connected with organized crime, to have him incarcerated for a period of two or three years, because they are so vicious a lot, and make up such a risk against society, that our state allows a confessed murderer of five people to go scot-free in order to get a couple members of organized crime. And then they allow at least one member of that syndicate to go home on furlough. If he was such a vicious animal that we had to put him behind bars for the good of society, and to do that we had to deal with a man who confessed to killing five people, and then we give that man a furlough, you know, this is what makes our total system a shocking thing to the rest of the country.

This brings up another point. I am not familiar with whatever the standards are now. The only set of standards I had before me were the ones presented to us by Mr. Fauver two years ago, which would not allow a bookmaker to go home on furlough, but it would allow a rapist, a mugger, or a bank robber to go home on furlough. I repeat, there is something wrong with the system, and it shouldn't be up to the Legislature to find a cure for it. It should be up to Mrs. Klein. It should be up to Mr. Fauver. It should be up to the professionals in the field of penology to find the answers, so we can help them improve the system. We can help them improve the system if they would tell us what is wrong.

But when the system is rotten to the core because of the people who administer the system, then of course the Governor at least should do something about it. It is totally wrong to ask the people of the State of New Jersey to worry about prisoners who are home on weekend leave. We have enough fear and enough concern about the people who are committing crimes and who have not been caught yet to have to worry about people we think are in jails who are home on weekends. Why should we have a radio car and a policeman riding around the neighborhood to see a man walking the streets whom he knows was put behind bars because of his efforts only a short period previous to it? These are the things that I am worried about and you are worried about and everybody else in the State of New Jersey has a right to worry about.

Who else can we hold responsible for this but Mrs. Klein and Mr. Fauver? That, I think, Mr. Chairman, is the gist of what I wanted to focus attention on, and I can't help but again reiterate that an awful lot of people throughout this country are wondering who is running the prison system in the State of New Jersey, Mr. Fauver or Mrs. Klein, or the likes of a Hurricane Carter. How about the thousands of other prisoners in the State of New Jersey who have not been the recipients of the benefits this man has been enjoying and others are enjoying simply because they have the wherewithal to finance the special privileges that they are enjoying and have been enjoying for quite some time.

So, Mr. Chairman, if nothing else comes out of this committee, I hope we shake up the Governor, and I hope we shake up Mrs. Klein and Mr. Fauver.

SENATOR MENZA: Thank you very much, Senator. Initially let me say that you are invited to sit with us for the rest of the witnesses. In addition, I can assure you that this committee's action today and hopefully the recommendations that come out of it are not going to be a facade at all. We hope to have specific recommendations. I know some of us are having other meetings with regard to this.

You state that there is concrete evidence of buying work release and furloughs, and they depend on a great extent to how well heeled they are - and you used the word financed. Do you have concrete evidence of this?

SENATOR DUNN: The newspapers evidently have it, because they have been writing about it. That is what I am alluding to, Mr. Chairman.

SENATOR MENZA: The other fellow that was part of ---

SENATOR DUNN: And I do know the SCI is conducting an investigation into these matters at the present time.

SENATOR MENZA: The group that you were talking about with regard to organized crime, I presume that is the Campisi family?

SENATOR DUNN: Yes.

SENATOR MENZA: The Campisi family was in Yardville, weren't they? Where were they? Is Mr. Fauver here? The Committee would like, and I address this to you Ms. Urbaniak, an explanation, please, or some kind of run-down on one of these fellows - whose name I think is Campisi - who was furloughed shortly after he was committed.

MS. URBANIAK: That is not information I can give you now. I would have to look that up.

SENATOR MENZA: Yes, I realize that. Can you look that up and let us know? Can you then contact our aide who will then contact the Senator and we can go on from there. Also, we would like documentation of the seven murders that Senator Dunn states in fact did occur as a result of persons on parole, okay?

SENATOR DUNN: I also understand there is a correction there. There have been eight murders.

SENATOR MENZA: We also would appreciate, as Senator Scardino asked for before, a file on these particular people. We are particularly interested to see if all of them

in fact were on minimum security, and just what the criteria was with regard to these eight people, okay.

SENATOR DUNN: Mr. Chairman, did I understand correctly that the previous witnesses testified that you have to be on minimum security?

SENATOR MENZA: Yes. They also stated that there was no criteria as to how you go on minimum security. It varies from institution to institution. An explanation was made this morning that many people are in minimum security who should not be. They are marginal. But because of the bulging of the state prisons they have no choice. That probably should be questioned, but that was the fact that was stated.

SENATOR FAY: Senator, we did direct questions to Deputy Commissioner Mulcahy and Mr. Fauver and to the gentleman from Rahway about people buying favors. We asked them if they investigated the facts that you and I both read in the newspapers about this kind of operation, and they insisted they had investigated and were not able to prove anything. We have heard many contradictions since this morning, and certainly they are on the record. Senator, you also have brought up many contradictions between the theory and the facts. And I think just in today's hearing we have already made the point that a complete overhaul is needed, and we brought up the prior commitment which was that they were going to follow through on it. I for one would hope that this six weeks of moratorium will go on until all the recommendations that Deputy Commissioner Mulcahy made in his report are instituted before they go back to the status quo.

I think that all this shaking up is accomplishing something. All the contradictions that have existed up to today are going to be looked into before we go back to the old system, not only in the furlough program, but on the work release program also.

SENATOR MENZA: The next witnesses are Philip Showell and Richard Stuart, New Jersey Association on Correction.

P H I L I P S H O W E L L: We have submitted copies of the statement that we are going to make. My name is Philip Showell. I am Executive Director of the New Jersey Association on Correction. In the interest of time, Mr. Chairman, I will paraphrase the statement. We have made some recommendations similar to those you have already heard today.

First, if you will indulge me, I would like to react to some of the points at issue throughout the course of the day. We have reviewed them, not only in the two weeks we have been working on this proposal, trying to look at it from all aspects of the criminal justice system, and the problem that is before us, but we have also looked into some of the uses that have arisen today in the context of an eighteen-month study we have submitted in the last year on the parole release system in the State of New Jersey. I think Senator Menza has read a copy of that, but this has to do -- we have heard a lot of talk today, and understandably so, kind of borne of a frustration, from what we have seen and what we have read in the papers, that is, my gosh, if we can only find a way to predict who is going to be dangerous, then we wouldn't have to let them out on a furlough or any other way. We can just keep them locked up until, you know, the court-imposed sentence was served, and they would be out. Now, we could disagree with that on other grounds, but it is and was quite clear to us - and I have, literally, a cardboard box full of scholarly journals from the most learned sources in the fields of psychology and the behavioral sciences, and it really comes down to one point - that in the present state of the art and the social science, we simply do not have the ability to predict who among us is going to prove dangerous on any given occasion. We just don't have it. It "ain't" there. I think it is important to keep that in mind because there are limitations imposed on any group of people who are attempting to manage the lives or help shape the lives or

redirect the lives of others. But there are some things you cannot do, and that is one of them.

Now, the other thing that has been discussed frequently was the question of isolating those kinds of offenses or those kinds of offenders who generally seem to pose a threat perhaps only because they have a higher tendency to pull a bigger headline. I don't want to minimize the eight murders, if that is how many there were, by any means; however, I would suggest that some of these problems really don't lie within the province of even a properly run correctional system or furlough program. It is not really their responsibility to distinguish from inmate to inmate, or to predict the dangerousness, or to say that rapist doesn't go; that murderer does. Those tools are simply not there, and I would suggest that as far as legislators, you will have before you, I suspect during the coming year, a new penal code for the State of New Jersey, which is - in terms of its concept, I'm sorry to say - now 25 years old. That effort that now appears before you or I expect will this year, started at the American Law Institute, and the Commission thereof was finished its work in 1951. In 1971, the Naughton Commission filed a report of its recommendations based on that model penal code, and we are five years past that point.

I would suggest that it is within that framework that you look and expect the judiciary, the trial court, the sentencing judge, to impose an appropriate sentence. You see, we have heard it said, and I would have said it myself, and in fact I did before this Committee last spring when Senator Hirkala was chairing a similar hearing. I said, well, you know, the statistics show that murderers are the best risk on parole. Generally speaking, if you take all homicides into account, that is the way it falls out. That is what the data shows, and that is what the track record suggests. So I could easily make an argument before you that -- you know, if we are going to take the statistically best risk, all murderers, absolutely, all people doing time for homicide are good risks. Well, I don't buy that.

You can see from some other testimony you have heard today - and Mr. Dietz took us through a little scenario - how some cases move through the criminal justice system. They bounce several times before you even get a first offense, and I would suggest that there are murderers, and there are murderers. There is your mafia hit man, and then there is the guy who killed his wife because she burned the toast this morning. Well, we know there is more to it than that. There always is, but that guy is not going to commit murder again. He is not. We know that, because that is what the data shows. Now, if you are talking about a mafia hit man or bookie, the Weintraub rule says you have to serve a year and a day. What was the theory behind that? I frankly think it came out of a comic book. It is a comic book theory of how the organized crime is in fact organized. We are talking about small peanuts. They don't even know the right man, never mind being able to pop Mr. Big. The theory is to keep the guy cooled off in a county jail. He knows he has to face the year and a day sentence, and that means the hell hole behind the wall, Trenton State Prison, so we will give you a little time to think about that, and if you want to pop with the name, then you are out. Well, they don't know any names to pop. That is not to say they may not be involved in organized crime.

Well, I would say to you that we are concerned, and indeed there has been a lot of concern. I share it. I think the members of our association share it. I would submit that maybe the judiciary and maybe the legislature first should draft some kind of language - and I have thought about it, and I can't suggest it to you - that would require as an element of proof, if indeed a member of organized crime is going to be subject to a different sanction, the new penal code will provide for extended sentencing upon proof

beyond a reasonable doubt established in a trial court of law that that person charged with whatever offense is indeed, under the standards established in that statute, a member of organized crime. You can't expect this young man who was here before us a few moments ago, a furlough coordinator with no power from the Rahway State Prison staff, to make that kind of a distinction or judgement, whether or not it agrees or disagrees with the classification committee. It "ain't" his business. It "ain't" the classification committee's business, Bill Fauver's business or Ann Klein's business. Don't get me wrong, I am not taking them off the hook. I have a great deal of sympathy with what Senator Dunn just had to say, but I think that requires statutory and judicial attention.

Now, we also heard talk about statistical data. The Commissioner referred to facts which were established in the first study that we have recently developed through the Correctional Master Plan Council that I am a member of. We just got it, and it is a profile that was taken on last April 25th, and it is an attempt to define, just about as clearly as you could, who was in our prisons on that day and our correctional institutions, what age, what educational background, what programs were they participating in that day, what custody status were they in, for what offenses were they serving sentences. There is a lot of interesting data. There is one problem, and I only mention it because it is part of the problem that lies at the heart of what we have been addressing all day, and that is resources, and how records are kept in this system that is supposed to pay attention to people. We are asking them to pay a lot of attention to people.

Well, here is the kind of attention that is paid generally to people. On that day, April 25th, the Correctional Master Plan Council staff had arranged for either staff members, inmates, or correctional institution staff to support this effort in which these records were going to be surveyed, and they were. And do you know what - this sheet of data which I have back on my desk is just incredible - 1,200 of the 6,000 inmates who were doing time on that day, had either no folders available to be surveyed at all or those folders were so totally inadequate that they could not be statistically evaluated in the samples. I have a question when I look at every page of that minutely broken down compilation of data: Which 1200 were missing? Well, does that skew the figures about how many people were found guilty of violent crimes or serving time in institutions? I would say any time one-fifth of the data base is missing you are in trouble. That is part of the clerical, staffing, support mechanism that is absent in this system. How else do we pay attention to programs in the system?

After the recent unpleasantnesses - at least two of them were at Trenton State Prison - quite reasonably and intelligently in this case, I think, it was decided that volunteers should no longer be permitted to enter that particular institution.

Now, the idea was that things were pretty hairy at Trenton, and indeed they have been, and that this was no time for volunteers to be coming into the prison to work in programs that in many instances had been cancelled anyway, and so they wanted to communicate the fact to these volunteers that there would be no more citizen volunteers coming into Trenton State Prison until such time - and this we are happy to hear, because we have been trying to make this point for about two and a half years - that they were trained and had the ninety day SPI check. Well, that would cover about 150 people as best they could figure. Well, the fact is they couldn't figure, because nobody knew how many volunteers there were coming in. They didn't know them by name, and they didn't know them by numbers, so they had to send out 3,000 letters. That would be anybody who came in the door and was approved to set foot in the Trenton State Prison during the last 18 months.

That is the only way they could get that message out. Again, there was no data and no staff support.

SENATOR MENZA: May I ask you this, are you saying that 1200 inmates had no records at all?

MR. SHOWELL: You know, on the day this profile was taken of the inmate population, 1200 records either could not be found or were in such condition that the data within them was essentially invalid to be carried in the sample.

SENATOR MENZA: That was the whole system?

MR. SHOWELL: Yes. Now, you know, some of those people are going to be coming to classification committees and before furlough committees and parole boards, and I don't know what is going to happen to them. I haven't the faintest idea.

Now, mention was also made of the fact that New Jersey - according to Mr. Dietz, I believe, and he was informed by the NCCD - was a non-reporting state. Well, let me tell you about that. We have been bugging away on that one for a couple of years, trying to get the Division to make a budget request for staff to address this particular item among others.

Several years ago the National Council on Crime and Delinquency, with the assistance of the Chief of the Bureau of Parole, set up what is now known as the uniform parole reporting system. Now, what does that do? You get the data from all states on a uniformly reported basis with all the definitions straightened out, and it is an attempt to tell you how inmates do after they are released or on parole at one year or two years or three years. Now, we tossed numbers around, and we say 70% bounce. You know something, we don't know. The data is stacked up there. I look for it every time I get that report in my office to see if maybe somehow, after four years, New Jersey found a way to get people together to compile the statistics and the data on that. That is part of the reason that the Governor's budget knocked out 95 district parole office positions, and do you know what that means? That means 95 times 54. 54 is the case load quota set by the Bureau of the Budget for staffing positions in the Bureau of Parole. That is a lousy figure. It ought to be down to around 35 by national standards, but this is New Jersey. So if you multiply 95 positions lost, as of next July one, times 54, do you know what you have? You have, within a dozen, the total number of inmates released from correctional institutions in one year, a year's worth of inmates released. Now, don't ask me to go on the line as to the quality of that supervision, because I can't do it. It needs to be improved, and it needs to be beefed up, but it is gone. It is gone.

SENATOR MENZA: Mr. Showell, can you address yourself specifically to the issue?

MR. SHOWELL: I am going to. I just wanted to address those issues first, and you may see how they relate and why I brought them up. I am going to skip the first part of my statement here. It is really nothing but a recitation of the fact that we have been pumping away, unfortunately, I suppose, privately, communicating by phone, by letter, by any way we could, asking for uniform standards to be uniformly applied, and it may involve the district parole office, so there will be some reporting mechanism for people on furlough and work release.

Now, we got fed up, and last summer we called for a State Grand Jury investigation. We are accused of hunting both heads and headlines, but that wasn't the point. We were trying to focus attention on the very problem that is now before you. It hasn't gotten better. It has gotten worse. I don't know whether it is because of that investigation or despite that investigation, but you now have the Mulcahy report. I think it is a remarkable report. It is unsparing. It is unusual in its candor. It raises several points which we have been concerned with. It paints a picture which confirms our worst

fears, I am sorry to say. We endorse its recommendations. We don't, however, think they go far enough. And I now want to really stop for a minute and ask you to consider a different way of looking at the whole idea of furloughs. We have made this same proposal to the Mc Carthy Commission yesterday. We have also supplied your committee with recommendations that went to tightening up administrative accountability and responsibility that we submitted to the Attorney General at the time he was reviewing our request for a grand jury investigation. I would ask you to look at those, too, in supplement to what I am now going to read.

First, we propose that the linkage - which you have heard described - between minimum custody status and furlough eligibility be severed. In other words, attainment of minimum custody status, which is often granted as an inducement to fill state use industry jobs, or to free beds in maximum or medium custody facilities, should not automatically confer eligibility to either escorted or unescorted furloughs.

Second, furloughs should no longer be viewed as a privilege to be earned by inmates. That is the way it has generally been viewed. I think you have heard that kind of echoed in most of what has been said. Rather, we think it ought to be viewed as being made available to insure the right of society to have inmates tested as to their ability to handle freedom prior to being released on parole. Focusing on this society's right to test concept, we think would both reduce a tendency to manipulate the program to serve institutional management goals and at the same time maximize its proper reintegrative role.

Third, to maximize the reintegrative role of furloughs, we propose that all inmates, regardless of the offense for which they were sentenced, should be given a release date by their parole authority ten months prior to the contemplative parole. That action, entailing hearings and the setting of any pre-conditions for release - which is the current policy, as you have heard it described - would in turn make all inmates, except those in protective custody, administrative segregation or management control units, eligible for work release, study release, and furloughs nine months prior to their release.

Now, I want to stop there because we know that there are exceptions to any average, but I think it is important to keep the average length of sentence served by different institutions in mind. At the Yardville complex - and indeed it is complex, because it is no longer just a youth and correction center - the average sentence now is nine months. At Clinton Correctional Institution for Women it is eleven months. Within the prison system itself, Rahway, Trenton, Leesburg, twenty-eight months is the average. Keep this ten month pre-set date in mind and the nine month eligibility in mind as the average. We have thought a lot about that in terms of what kind of adjustments should you make for this case and that case and the other case. But we thought we should try to come up with something that will make sense for the vast majority.

Apart from any work release or study release time spent in the community - and here we are only talking about 400 inmates in the whole system - each inmate would be required to take one 12 hour escorted furlough in each of the first three months, and one 3-day unescorted furlough in each of the last six months prior to release.

Fourth, each furlough within the nine-month pre-release period will be approved by a Furlough Committee chaired by the Institutional Parole Officer, and in every instance would entail a visit to the District Parole Office to which the inmate will be assigned on release. Normally the furlough committee would deny furloughs only in cases where an inmate has been found guilty during the preceding month of an offense indicating that he or she could not be furloughed without posing the threat of physical harm to members of the free community. Such denials would have the effect of delaying parole,

since release typically is conditioned on making job and housing arrangements which usually cannot be accomplished without the furloughs. Violation of furlough plans by inmates or escorts could remove either or both from further program participation. We would note here that in our concept the primary responsibility for program participation and performance is shifted to the paroling authority and the parole officers who actually bear the responsibility for supervising and supporting the inmate's adjustment to the community. That is their job, and we think they ought to run it.

Fifth, no inmate clerks will be used to prepare records for consideration by paroling authorities or furlough committees. I don't think we have to go on about that. You know about that.

The problem here is, of course, that to embody this proposal or anything like it I think it has been made very clear to this committee, and this committee has been very responsive, if I understand their questions correctly, that there is a need to have proper clerical staff support, authority fixed responsibility recognized, and it is going to cost some money. And we are starting out with 95 parole officers in the hole. And other programs such as the Garden State School District which were designed to teach life skills -- because we talked about these problems before, hey, what do you do with a guy before he goes on parole and work release. Do you know the first -- the very first program that was whacked out of the box within our correctional system when the budget crunch went on was a program that was just starting out called Life Skills. How do you cope out there in the streets better than you coped before? That program went.

Sixth, we would suggest that furloughs for medical attention or attending family funerals would continue on the same basis they have been continued on since the prison opened. There is nothing new about that. That is a special case-by-case basis. We think the Division staff ought to undertake a long-term study - and I mean longer than six weeks - to find out whether or not there is an appropriate schedule for home visits, just tension relievers for people who are really serving long sentences. We have some, and we will continue to have some.

I think it is easy to say what we have said, but I think it is a must to begin again with this program. We think it should be focused and restricted to pre-release within the nine-month framework. Take it from us, it still needs to be looked at. We think with this kind of restriction you could even start with those who already have dates set and are already facing such pre-condition problems as getting jobs and housing. They would be allowed to do so as a first step in this particular program on a 12-hour escorted furlough basis within this concept. Beyond that, you know, we suggest that you have a hard look, but only if the clerical support can be built up; and beyond that, only if something like the responsibility and reporting recommendations that we made to the Attorney General are also promulgated as Division regulations.

We think this kind of an idea is consistent with the community's interest in stabilizing reintegration of the offender within the community. Nobody has talked about the concept, and we don't either. Our commitment to this started when Senator Fay was the director of our association and hatched the first work release bill for county inmates, as he mentioned earlier, and we have been plugging at it ever since. That is about what I have to say.

SENATOR MENZA: Mr. Showell, your entire report will be made part of the record, and your six points are in the report, and we will look at them in detail. Thank you. (See appendix, page 5x.)

R I C H A R D S T U A R T: Let me explain that I am a full time staff member with the New Jersey Association on Correction but some of the matters that I will bring up-- Nothing that I will bring up is contrary to any position of the Association, but some of the things I will bring up are not necessarily endorsed by the Association. Some of the things that I will address are based upon my own personal experience. I was an inmate in various institutions for seven and one-half years - four and one-half years of that was in the New Jersey State prison system, three and one-half years at Trenton and one year at Rahway. I came out on parole in 1971. In another two months or so I will be out five years. I came out from maximum custody to parole.

SENATOR MENZA: I'm sorry, I was talking to Senator Fay. You are referring to yourself?

MR. STUART: Yes.

SENATOR MENZA: You were a former prisoner?

MR. STUART: Yes.

SENATOR MENZA: In the New Jersey system?

MR. STUART: Yes.

SENATOR MENZA: What prison?

MR. STUART: Trenton and Rahway.

SENATOR MENZA: What was the charge?

MR. STUART: Armed robbery.

SENATOR MENZA: How long?

MR. STUART: I had a seven to nine year sentence. I was denied parole twice back at a time when parole denials were not explained. I had no offenses. Senator Fay touched on classification and I have here a copy of a letter dealing with classification that I wrote in 1971 to Governor Cahill. I would like to give this to Senator Fay and he may want to share copies of it with you. Though written in 1971, I don't think that there has been any significant change since then.

SENATOR MENZA: How much time did you spend in prison?

MR. STUART: In New Jersey, Federal and New York, seven and one-half years.

SENATOR MENZA: Total, on various charges?

MR. STUART: Yes. The New Jersey charge was armed robbery and of course at one point-- It is hard for me to keep up on these furlough and work release situations. I don't know whether I would be eligible now or not, but at that time I was not eligible. The work release program was just getting off the ground.

I don't think I have to tell you gentlemen, you have already expressed your general support of the theory, why it is important for a person not to come out under the circumstances. I represent one of those two or three out of ten that didn't go back and I came out under impossible conditions, back to Passaic County - Senator Hirkala's area. I explained this situation, when I came out and was on parole, to the City Editor of the Paterson News. I found a very sympathetic ear in him because he was very understanding. They put me out with nothing, no job, no place to live or anything. They were crying about street crime out there and I said there is a connection, whether they can see it readily or not.

There is something about this furlough concept that no one seems to be addressing. I was sorry that one of you gentlemen didn't have a chance to glance over this statement that I gave you so that you could have asked some of these people connected with the furlough program - from Mr. Fauver on down - the economic problems of the furlough concept. You know, on the surface you say, "Okay, we are going to let these guys out on furlough", and no one, that I have seen, is addressing the problem of what do these people wear on furlough, where do they get transportation money, what do they do for pocket money while they are home on furlough? We are talking about people who are essentially poor and from poor

families and who do not have an earning capacity in the prison. The limited earning capacity - I could spend a half day just on the economic situation in the prison, which is deplorable and which breeds criminality. It is a situation in which a person can earn \$20 or \$25 a month but he is told that he can spend \$80 and up a month. There is a problem with what I would call the struggle to redistribute the wealth in there, which leads to stealing, prostitution, swag - what they call the swag system, in which the inmates feed off each other and off anything that the State owns that they can get. I had a senior official at Rahway concede to me while I was there that probably two-thirds of the office supplies that the State buys for Rahway goes into the swag system.

SENATOR MENZA: Wait a minute. When did you get out of the State Prison in Rahway?

MR. STUART: In 1971. Let me say that I left Rahway in 1968. Mr. Pinto was Superintendent there and I had a run-in over him letting the inmates decide who could go to the law library - this is another matter of the inmate-clerks running things.

SENATOR MENZA: You say someone told you that two-thirds of the office supplies go where?

MR. STUART: Into the swag. This is what inmates use. You can't buy - if you go to the inmate store - a typewriter ribbon but you can get one from an inmate-clerk. You can't buy bond paper. You can't buy carbon paper or onion skin paper. Now, if you want to do what I did, you can put in a request for a money order to the business office and make out a form to order this from Sears and in a couple of weeks you will get it, you know. Or, you can walk down the tier and contact a clerk and for some cigarettes - a couple of packs of cigarettes - you can have it delivered to your house before the day is out. Which way do you think the average inmate goes?

SENATOR FAY: On that subject, when we directed questions to Mr. Mulcahy and Mr. Fauver on this kind of influence, does the same thing hold with who gets the furlough and who goes on work release - do you have any direct knowledge of using undue influence to get on the furlough list, or the work release list?

MR. STUART: I would say that if there is any way left open, it is probably done. I was in a position at one time of typing lists for extra t.v. You could go to t.v. every sixth night but then there was one night in there that people could go to it as an extra privilege for certain jobs. I was the one who had to type this list up for the cookhouse, which had to be signed by the Assistant Food Service Supervisor.

I had one situation where one of the corrections officers wanted me to doctor the list and put one of his pet inmates on it as a reward. He and I locked horns over it and in the final analysis the food supervisor there at that time told him that if he had any more trouble with me over the list that that guard would be out on a tower. But I was in a difficult position because, in effect, I was setting myself up to be harassed by that officer for the rest of my time in the prison for not going along.

I had inmates approach me and they could not understand why, if they were willing to pay me cigarettes, I wouldn't juggle the list a little and put them on it. Any time an inmate is put in the position where he has a responsibility like this I believe he has to be closely supervised, both to make sure he doesn't misuse it and also to protect him against being intimidated by other inmates.

SENATOR FAY: But you have no direct information on this?

MR. STUART: The work release was an infant when I was there. I don't think they had - you know, they had a handfull of people out on it at that time. I don't think the furlough had started yet.

Let me say that I would like to see this Committee address this problem and actually you have to go to these people who are running it and find out when they offer a person the opportunity to go out on furlough-- Clothes are not cheap. You and I are

out working and you know when you walk into a store to buy clothes how much they cost.

I have problems with an inmate imposing upon his family to provide him with clothes, especially if he is not coming down to the last line. If you will go along with what we are setting up - that a person will only go out on furlough prior to reentry and after he has a parole date and is going to be going back - then we are creating a different situation there than has been prevalent in the past where you are letting people out who are ten years away from parole eligibility.

I would like to move over to that and say that yesterday I was at the hearing chaired by Chief McCarthy and I was less than comfortable sitting there with a number of inmates who are going out on these furlough programs and who, for a very understandable reason, I don't expect to vote for an end to this privilege anymore than I expect you gentlemen to sit up there and vote to do away with your \$10,000 a year salaries. But, at the same time, I have serious problems with - as I expressed yesterday - a concept that lets people, who have been found guilty by the court-- The judge has imposed a sentence. By statute we have set up a parole board, which is supposed to pass on when these people are ready to come back into the community. Now, in the meantime, out here in left field, we have, by statute, given the prison authorities permission and the power - by maybe some loosely-worded authority - to abridge this sentence and put these people back into the community before they are eligible for parole.

I have serious problems with the idea that a person who has been convicted of a murder and given a life sentence and who is not eligible for parole - unless you take off the word earned time - for 15 years is allowed to go on minimum in 5 years. I would like to say that this is unfair to some inmates. I have a friend, right now, who is missing from the State prison system; he is one of the escapees from the furlough. But they gave him a furlough when he had a substantial number of years to do. He had no parole date. I was not surprised when I received the word that he didn't come back, that he disappeared.

SENATOR MENZA: What is his name and from what prison did he escape?

MR. STUART: James McKeever.

SENATOR MENZA: James McKeever. And what prison was he in?

MR. STUART: Leesburg.

SENATOR MENZA: Will you give me that information again, please? You are saying this fellow was not eligible?

MR. STUART: He was eligible under their rule.

SENATOR MENZA: He was erroneously put on minimum?

MR. STUART: Right. This is no different, really, than having a hungry dog in a room and leaving a steak on the edge of the table and then you beat the dog for grabbing it.

I would like to say that they were pleased yesterday - and I can understand them, I am not that hard-nosed-- People say that they want family contact, you know, when they are doing a long sentence. They appreciate these furloughs. They are not going to be eligible for parole. But I would like to say one thing, you don't get a life sentence for spitting on the sidewalk. I think that you have to bear in mind that in most cases, most of these life sentences are for murder. This may be putting it in a very harsh way but while they are saying they need furloughs to go back and talk to their families, I want to know how many furloughs is that person in the ground getting? What kind of contact are they having with their families and with their children who are growing up?

SENATOR MENZA: Mr. Stuart, would you do me a favor and just sum up, briefly? I realize how difficult it is for everyone to wait around all day and then we rush them but we have given the New Jersey Association on Correction 45 minutes so far.

SENATOR FAY: We are inviting you back on the day we meet the parole officials.

MR. STUART: I would appreciate that very much.

SENATOR MENZA: This includes Mr. Showell.

SENATOR FAY: Does your organization have any position on the Hagedorn bill, to divide Institutions and Agencies?

MR. STUART: The Association, as far as I know, has not taken a position but I am very much in favor of it and have been ever since the beginning.

Something, legislatively, I don't want to pass over here, because I think it is very important, applies to furloughs - it fits into the furlough picture, it fits into the parole picture and it fits into the overcrowding. The public - and maybe some of you gentlemen who are not lawyers - and I think, sometimes, the judges do not know what the statutes actually say with respect to sentencing and parole. When we sit and read in the newspaper that somebody recieved a sentence of so many years, what does this really mean?

SENATOR MENZA: We realize that.

MR. STUART: I will go down this very quickly. It will only take a few more minutes and it is very important. It is very important.

Let me just single out one. I have a whole graph here but let me just single out one thing. A ten year sentence - this means 3 years and 4 months and he is eligible for parole under the statutes. But, when you turn around and take off the earned time-- Incidentally, if the sentence is under 10 years, you are eligible for minimum the day you walk into the prison. So, you can be sent out to a minimum camp and you can be eligible for parole in two years. And, under the statutes, if you go out on parole and you have a good parole record for two years, they can terminate your parole. So, in four years you are free and clear on a 10 year sentence.

But, under our proposal - even under our proposal of the 9 month deal - this means that we would be asking a person with 10 years to serve 15 months before he would be eligible for a furlough. Now, I don't find it difficult to ask somebody who has committed a crime that warranted a 10 year sentence to spend 15 months before he is eligible to go out on a furlough. Maybe someone else feels that is too hard.

I would like to skip right down here and just point out to you something that I think is very relevant and that is that even a 5 year sentence comes down to one year before parole eligibility. The man, actually, less work time, commutation time, etc., is eligible for parole in one year. If it is less than 5 years you are dealing with months. A year and one-half is three months.

SENATOR FAY: Would you advocate mandatory sentences for certain crimes - crimes of violence?

MR. STUART: Yes, very definitely. What I am advocating is that you gentlemen take a look at sentencing. Maybe you need to raise the statutory limit for sentencing people to the State Prison. Why send people down there for a couple of months? I am asking myself over and over again why we are sending people to the youth complex for 9 months. What can you do for them in 9 months that you can't do back in the county jail, if they are only going to spend 9 months in the youth complex? We are spending a tremendous amount of tax dollars to just revolve people through a system for what should be a county jail sentence.

SENATOR MENZA: The statute has to be changed. Giving a year or a 9 month sentence in the county jail is a lot different than a year sentence in the State Prison.

MR. STUART: It is harsher.

SENATOR MENZA: You opt for the State Prison because they are eligible for parole. We realize all that, Mr. Stuart. We also realize you do a third of your maximum less good time to be eligible for parole.

SENATOR DUNN: You may understand that but I am sure there are lay people in the Senate who don't.

SENATOR MENZA: Well, I think what the gentleman is saying - and I am not trying to cut him off, it is just that I am trying to be considerate to other people here who have been waiting since 9:00 - is, because the law says one-third of your max, less good time, you are eligible for parole and that oftentimes people are not being punished to the degree they should be punished for the crime they are convicted of. In addition, he is saying that if you consider this and you consider that the work furlough depends to a great extent on your eligibility for parole, therefore many prisoners are getting furloughs that are nonsensical.

SENATOR DUNN: The point that I want to make is, just because you happen to be blessed to be a member of the Bar, you are very familiar with some of the facts this gentleman brought to my attention for the first time and I am very much interested in what he has presented, in the way of testimony.

SENATOR MENZA: That is fine. We can continue. It is just that the Association on Correction has been on now for an hour and people have been waiting here to testify.

MR. STUART: Let me say that I wrote a letter, apart from Mr. Showell's contact, and asked to be here, so I am, actually, no different than any other person who is speaking here today.

SENATOR FAY: How was your testimony - and Mr. Showell's - greeted yesterday at the public hearing that was held? Was there any acceptance on the part of that Committee you met with yesterday - the Governor's Committee?

MR. STUART: Their format didn't really include any expression of support or differing with the program. I didn't sense any--

SENATOR FAY: You didn't get a standing ovation?

MR. STUART: No, but I didn't get any marked opposition. They just didn't want to address what I was talking about in the way of money for this. They would rather just pretend the problem didn't exist and send the guy back there and let him mug his way through a furlough.

Let me bring only one other thing - well, there are two other things that I would like to touch upon because I believe they are important. One is that I believe you gentlemen missed an important opportunity this morning with Mr. Dietz. He slipped out of the one pocket you tried to put him in with respect to the case up in Newark - the case of a murder when the man had been given at least a tentative parole date. You didn't ask him and he didn't volunteer any information on the other gentleman who was out on furlough down from Leesburg and who is charged with a murder just recently and was also within a couple of weeks of parole because he had a parole date. In fact, he was out on what amounted to a pre-parole. I would like to say, to leave no room for argument on this - my attitude regarding furlough as being a reentry device only would not have stopped either one of these murders because both of these people had been, in some measure, adjudged ready for the street by the parole board. I am not trying to nail Mr. Dietz's hide to the wall but I would like to have heard him-- I have heard Nick Heil address this problem, that he was doing the best he could with an inadequate record system and I would like to have heard Cris Dietz try to explain this. The only thing he raised was a technical point - that the training program wasn't there - but he didn't say anything regarding the guy's emotional makeup, and this wasn't any vocational crime that he committed up there if he is guilty of dismembering this person. That has nothing to do with whether there was a vocational program available in the prison.

I will skip over the other point. I wanted to say something else because it was, again, the point of Trenton Prison being raised here again this morning. I don't know of anyone else who is addressing this either. We have been listening for the last couple

of years to the Governor, we have been listening to Ann Klein, we have been listening to everybody else talk about closing Trenton Prison. Now, I know that it is a shock for Ann Klein to come down from Morristown and walk through Trenton Prison but I lived there for three and one-half years. The place does need a new plumbing system in the cells. I believe the matter of hygiene and health - there should be hot water in the cells as well as cold water. I believe that the place needs to be rewired electrically. But everybody keeps saying "140 or 150 years old". There is only wing in that place that is 140 years old. The other wings are newer than that and if you use that place for long-term prisoners, I have no problem with seeing that place continue in use, with some structural work, as a long-term place. I do have trouble out here as a taxpayer right now with the idea that we should close it down to satisfy someone's aesthetic senses and spend millions and millions of dollars to build new prisons that are more like Yardville Leesburg - more attractive. I am not prepared to spend money on that when we say that we haven't got the money for halfway houses, which we need to actually make the work release and furlough programs function as they should, as a reentry device.

I think that before you gentlemen buy this idea that we should close Trenton Prison, that you take a hard look at whether that really is a place we can't continue to use. We just spent, at the same time we are talking about closing it down, probably a few million on that new building there. Why? Thank you for your time.

SENATOR FAY: Thank you.

SENATOR MENZA: We have Mr. Yacovino, who is the P.B.A. President and we also have, as the next two witnesses, former inmates of the State Prison. Please do this for the Committee: Please direct your attention only to work release and furlough. We understand the conditions that exist in the prison system and that parole needs reform and that the prison system needs reform, etc. but we just can't go into that today. So, please stick to the furlough and work release programs.

PHILIP YACOVINO: My name is Phil Yacovino. I am President of the New Jersey State P.B.A. I don't have a prepared statement because I have been busy since I was contacted about this hearing.

The thing is, my Association and myself have come out and opposed the furlough program and the work release program. Needless to say, the last two murders that happened within one week were sufficient evidence for my association to take this hard stand - that this must stop and stop immediately.

The news release - I spoke to the Governor, personally, and wanted it stopped. I also said that Mrs. Klein should be relieved of her position as head of the State Institutions and Agencies. I think she had two years to do the job and she hasn't done the job and the system of corrections should be taken out of her hands. It should be a separate agency completely. And the only way to do that is by taking it and putting somebody else who is qualified in there to be the head of corrections.

Second, I sat here and listened to a lot of garbage today - confused people that belong to the prison system saying "they don't know this", "they don't have set rules and regulations on how these people should get out." I had to sit here and listen to all of this testimony by these people. This is what we have in our prison system today - they tell us that these people are going to be eligible to go out on the streets once again.

As far as the work release program is concerned, I am really upset about that also because right now in New Jersey the labor market is at its lowest. We have better than 13% unemployment. If these people want someone to work for them - factories and what not - let them employ the people who are out on the street and are not working - law abiding citizens.

Once again, they say they are addressing their problems to the prison system - for the furlough programs and what not - I say we didn't put them there, they put themselves

there behind bars. They failed society, so why should we coddle them? The first thing you know we will be having country clubs for them and golf courses so they can play golf and have the life of Reilly.

I received a call from a former inmate who is writing a book. I am not at liberty to give his name at this time because he wants me to see the book and the evidence that he does have. Before I make any comments I want to check into it myself, personally. The things he told me goes on - the special privileges that the inmates get, etc.-- Mrs. Klein is not running the institutions, the inmates are. They have so many privileges and so much to do - they can go to school and they can go to college. I say, let's start where it all begins, in the family. You have many underprivileged kids throughout the State of New Jersey that need help. Maybe if we held them, they won't become criminals.

People who are incarcerated belong just where they are. They don't belong on the streets anymore. Let them serve their time. If they are to be rehabilitated, let them be rehabilitated behind the bars. I made that statement once and I make it again. The prisoners should also be segregated - I don't mean by color, black and white. The hardened criminals should be segregated from the first offenders. Maybe you can rehabilitate somebody that way. If you throw them all in together, like a herd of cattle, I am pretty sure you won't come up with the same results that you would if you really tried to segregate the prisoners.

I won't take much more of your time. I want to make it very clear that I want it stopped and my organization wants it stopped until they can show us something. Eight murders were committed in the last two years and there have been how many failures on the furlough program and work release program? When they can show me a better track record, maybe I will go along with some of their programs. Until they do that, I won't change my stand. I am a police officer. It is my job and the job of all policemen to put these people where they belong and that is where they should stay, not roam the streets. I then hear testimony that when they come into your town they don't even let the Chief of Police know that these people are released into your town on work release programs or furloughs. Now, this is something unheard of. There is something wrong and something should be changed, whether it be Mrs. Klein relieved of her job - in which I think she has failed - or something else, but the corrections system should be changed completely and taken out of the hands of Institutions and Agencies. Thank you.

SENATOR MENZA: Mr. Yacovino, is it the official position of the P.B.A., which you represent, that the furlough program should not continue?

MR. YACOVINO: That is correct.

SENATOR FAY: Mr. Yacovino, the work release rules are that the chief executive officer is to be informed. Unfortunately, the same rule doesn't apply to the furlough program and according to Mr. Mulcahy and Mr. Fauver this supposedly is going to be one of the recommendations that is coming out of their studies. But work release, according to the standards we have in front of us today, requires that the chief executive officer is to be informed when the man or woman is on work release in their community. Unfortunately, the contradiction comes in when the same rule doesn't apply to the furlough program.

MR. YACOVINO: The thing is, I made a statement for the organization that if furlough programs and work release programs should continue, they should be restricted to first offenders found guilty of non-violent crimes. Multiple offenders should not be released under any circumstances. Non-violent crimes - I can see a person being rehabilitated and go out and work on a furlough. But these women and men both who have been convicted of violent crimes should not be let out in the street.

SENATOR FAY: I also believe - and I stand to be corrected - that most of the work release programs consist of people who have jobs and are not receiving new jobs; most

of these people had jobs and they are being let out-- I stand to be corrected on that.

MR. YACOVINO: I don't have enough--

SENATOR FAY: I don't know enough. But I know in the county work release program, I would say 99% of the people in the county work house, who are on work release, are really just keeping the jobs they had. They were not getting new jobs.

MR. YACOVINO: That's fine. Just as long as they are not taking jobs away from people who are unemployed.

SENATOR SCARDINO: President Yacovino, how many municipalities do you represent in your capacity as President?

MR. YACOVINO: I would say just about every one that has a police department.

SENATOR SCARDINO: I would assume that you do. Your point is - at least this was the impression I got when you were speaking - that perhaps there ought to be some cooperation with your organization by using it as a referral agency, in this case, in terms of setting up some kind of system so that the communities do have some recognition of the fact that someone is going to be furloughed.

The other point I have, I guess, was in the form of a question. Do you feel as strongly, from your point of view, about the furlough system, even in a case where a person is eligible for release within a matter of months?

MR. YACOVINO: That I am not against that, once a man is getting close to being released. I am entirely against the way the system is worked now. I was supposed to go on Chief McCarthy's Committee but I was scratched - I guess, maybe, for my ideas, I don't know. Whether it was my association background, or my ideas, or what, that scratched me from that committee-- I think we could have been a useful source on that committee with recommendations to be brought back to the Governor.

SENATOR MENZA: Mr. Yacovino, what you are saying then, and I guess this is what some of the other witnesses have been saying also, is that you do not object to the furlough program if it is, let's say, close to the release date?

MR. YACOVINO: That's correct.

SENATOR MENZA: So as to have a transition into society?

SENATOR SCARDINO: If you read the standards, as I understand them that is pretty much the way they were set up but for some reason they are not being followed.

MR. YACOVINO: They are not being followed at all. You see, I have correction officers in my association.

SENATOR HIRKALA: Phil, as you have seen it, representing the State P.B.A., you consider the furlough program, as constituted today, a failure in New Jersey?

MR. YACOVINO: That's correct. It is a total failure.

SENATOR HIRKALA: But you do have some recommendations that you would like considered for the future?

MR. YACOVINO: That's correct.

SENATOR HIRKALA: Would you please file the recommendations with the committee so that we can take them into consideration?

MR. YACOVINO: I will personally see that you get them.

SENATOR HIRKALA: Thank you.

SENATOR MENZA: Give them to us as soon as possible, Mr. Yacovino, we need them.

MR. YACOVINO: When I get some of my laid-off policemen back to work.

SENATOR MENZA: Okay. Well, when you take a position like my position, some time or another - any time - we will do that. We do need them, we are trying to get a report out within two weeks. Okay?

MR. YACOVINO: Yes.

SENATOR MENZA: Mr. Miller. According to your background, Mr. Miller, I understand you are on parole at the present time?

J O H N M I L L E R: Yes. I am.

SENATOR MENZA: Will you give us some of your background?

MR. MILLER: My name is John Miller and I was released as recently as December 9th of last year. I consider myself a responsible and productive citizen. I work two jobs and run my own business - a small business. Also, I go to school.

To address myself to some points that Mr. Yacovino made, had it not been for the furlough program I wouldn't be what I am today. I would not have accomplished the things that I did accomplish both in prison and through my ability to get out and to participate in the various programs.

When I went to prison I couldn't read and write. I had no criminal history. Actually I was not guilty of the crime I was there for and after 11 years I had a polygraph test and eventually clemency from the Governor and was recently paroled.

But I couldn't read or write. I raised a lot of hell. I was not responsible. I had no direction in life. I had no goals. In no sense was I a person that was going anywhere with my life.

SENATOR MENZA: You say that you spent 11 years in prison?

MR. MILLER: Nearly 11, yes.

SENATOR MENZA: And then you got executive clemency?

MR. MILLER: Yes.

SENATOR MENZA: What was the charge?

MR. MILLER: Murder. I was not accused of being the actual murderer, I was accused of knowing about it.

SENATOR MENZA: Aiding and abetting?

MR. MILLER: Yes.

SENATOR MENZA: You received executive clemency?

MR. MILLER: Yes, I did.

SENATOR MENZA: When was that?

MR. MILLER: It was back in April.

SENATOR MENZA: Are you then on parole?

MR. MILLER: I am now on parole. My sentence was commuted to a term of years. I was originally serving a life sentence and it was commuted to a term of years, which allowed me to go out on parole.

SENATOR MENZA: What prison were you in?

MR. MILLER: Trenton State Prison. All of the time I was in prison I served at Trenton.

SENATOR MENZA: How much time did you serve?

MR. MILLER: Nearly 11 years. As I said, I accomplished nothing at all in life. Presently I have a college degree. I have written some legislation which, unfortunately, you gentlemen didn't pass in the last session. It passed the Assembly with a 55 to 2 vote. While I was in prison I organized a concept of educational release that hasn't been tried anywhere in the world. I raised nearly \$100 thousand to support that, bought an existing structure here in Trenton, got a board of directors together, and we are trying to get that into operation.

I am a member of the Forum Project, which is an inmate self-help group. I am also a member of American MENSA, so I have accomplished a lot and the furlough system has been partly responsible for me accomplishing this because I was locked behind walls with no contact with society. That contact with society, that ability to get back out there - and not just a couple of months before I was going to be released - was an important factor in me being able to reintegrate myself into society. I spent 8 years inside the prison before I ever went out. I went out to coordinate an art exhibition at the

Woodbridge Shopping Center.

At that time I felt, "Well, there will be no problem, just coordinate this thing." I did get out there and was totally confused by what I met in society. I had been institutionalized to the degree that I wasn't able to make decisions on my own without some help - without some experience. I couldn't even pick from a menu what I wanted to eat. It was a very small decision but it was still a decision that I hadn't made for 8 years. There are a number of small decisions like that and a number of major decisions - where you are going to work, how are you going to get a job, where are you going to live, pay your rent, responsibility for bills of all kinds, the responsibility of getting to work, cars, insurance, all kinds of things that are major responsibilities that one who has been institutionalized for a number of years cannot handle without some process to bring him back into that responsibility status.

A lot of people use the word rehabilitation. Whatever that might be, if a person is rehabilitated to the point that he can go back into society, he also has to become more than that. He can't be a rehabilitated inmate today and be a productive citizen tomorrow - it just doesn't happen. There is a degree of creative growth and change where that person changes from a person who is not responsible, is now rehabilitated and fit for society again, to where he is able to deal with that society he is going to return to. The furlough program is very important for that. It is important in a lot of respects, as to how that person will succeed when he gets out.

Some of the other benefits of the furlough program - and I haven't heard too much with regard to that - is, it allows a person to go out and find a job so that he can be a productive citizen when he gets out. It allows him to reintegrate into society with social relationships, with being able to make decisions, with an understanding of how society has changed. I got out and I couldn't understand half of the things that have happened for a while. I was totally confused because society had changed in 11 years so much that it was totally different from the society I left. Granted, I wasn't very much aware of the society I left either, and many of the people in prison aren't. They are not socially aware; they are not responsible in a lot of cases; they haven't developed job habits or anything like that. But when you come back out, if you are going to succeed you have to do those things. The furlough program helps to do that. It helps keep the family together. When somebody comes out - maybe his wife has been visiting - he doesn't know whether he is still going to have a family unit or whether she still feels the same way about him, or whether he still feels the same way about her. Maybe it is important to find out just how they feel about each other and just how that family unit is going to hold together before he does get out and ends up getting mad at her and maybe kill her because she burns the toast. That is an important factor in knocking down recidivism.

As I said before, I don't believe a furlough should merely be after a person is ready for release. I believe it should be a graduated thing that starts when the person is able to go out and handle the responsibility.

We heard a lot here today about the classification and the administration of this furlough program. I mean no disrespect to any of the people who spoke but the furlough coordinators at the institutions are useless - they are useless and expensive for the taxpayers right now. They are merely rubber-stamp units that rubber stamp what a classification committee, which oftentimes is inadequate to make a decision, says. They merely rubber stamp that.

SENATOR FAY: What would you recommend in lieu of those?

MR. MILLER: I would recommend, not only with furloughs but with the whole classification process, a diagnostic approach to it. It is only reasonable. We take a type of diagnostic approach in classifying anything and determining any issue that we

look at. We are doing it right here, now. Yet, when we are determining things about people's lives, when we are determining whether we are going to send somebody back into society, or giving minimum custody, or not giving minimum custody, or giving him a chance to do something, we don't use that approach. It is ridiculous. We have a classification committee that decides on minimum custody. Well, minimum custody and furloughs are two different things. Someone may be able to handle a situation of minimum custody, under supervision - where he is at a work assignment - but may be totally without the ability to handle a situation where he is going on a furlough and he has no supervision. It is a possibility that exists but that possibility isn't recognized in the prison system.

I am not saying that everybody that gets minimum custody should be automatically precluded from furloughs because they might not be able to handle it. I am saying we ought to look at it and we are not. We are just rubber stamping what this committee has done. Oftentimes, this committee is made up of people without any qualifications to make judgments. The Director of Education, a couple of police officers, correctional officers - who may or may not know the person - a folder that they review and oftentimes don't interview the person - now how can you make an intelligent judgment on something like that? You can't do it, it is impossible.

SENATOR MENZA: If we found out anything, we found out, clearly, what you just said.

In your experience at Trenton, did you know of any abuses? Was anybody paying off - as they say?

MR. MILLER: I don't know of any person. I do know that that type of thing does go on. I do know that there are people who have personality problems - I, myself, was one. I had personality problems with two members of the classification board and consequently and because of my arrogance - a great deal of it was because of my arrogance and my not backing down from my stand, not because I didn't deserve the minimum custody - I did not get it for two years. Now, I had a negative relationship. Now, there might be someone else who really doesn't deserve it, or who may deserve it, but because of his relationship with a couple of members of the committee can easily get classified.

SENATOR MENZA: The committee consists of whom? By the way, at this point you have a college degree, is that correct?

MR. MILLER: Yes.

SENATOR MENZA: At this point were you working on a college degree?

MR. MILLER: When I went in?

SENATOR MENZA: No, later on when you had the difficulty with the classification committee.

MR. MILLER: Yes, I was. And that was one of the problems because I wanted to expand the college program inside the prison.

SENATOR MENZA: How old were you when you went in, by the way?

MR. MILLER: I was 20 years old when I went in.

SENATOR MENZA: Twenty years old and you didn't know how to read or write?

MR. MILLER: I came from the mid West - farm country - where the emphasis was on work. My father got up in the morning at 5:00 and went to bed at 10:00 and he didn't think it was very good to go to school.

SENATOR MENZA: So, your suggestion -- you really direct yourself to the classification system to begin with?

MR. MILLER: That was the primary focus of my comments, besides saying what I feel is valid about the furlough program. The reason it is not working is because of the classification process. There is no realistic classification process. There are a number of them in existence. R.C.A. developed one. There are a number of different research

firms that have developed diagnostic type - and I don't mean that in the strict sense of the word "diagnostic" - approach to classification. We don't have that. We have a classification committee that may be different every week at Trenton. I don't know about the other institutions. But at Trenton, if someone is not there they say, "well we need somebody to sit on classification" and someone else comes up.

There was mention made with regard to the records. I worked in the classification department and any one of you, right now, can go to Trenton State Prison, go up in the classification department where all the folders are kept and you will find huge piles of records, detainers, detainers that were dropped, additional sentences, and all types of things that are not in folders - they are just stacked up in a huge heap with no rhyme or rhythm to them, no meaning to them. After a while they just scoop them up and throw them out.

SENATOR MENZA: Even now?

MR. MILLER: Even now - today - and I haven't been there for a while but I know that it is there.

SENATOR MENZA: The Association on Correction stated there were 1,200 files when they made that spot check.

MR. MILLER: That is not hard to believe. In fact, I would say that seems right.

SENATOR MENZA: How then does the classification committee really make a determination if they don't have the entire file?

MR. MILLER: That is what I am trying to say.

SENATOR MENZA: How about you, Mr. Mulcahy, what do you think about something like that? That is quite an allegation. He is talking about stacks and stacks of papers that haven't been filed, files are therefore incomplete, and, therefore, classifications are made poorly, erroneously, or without any substance.

MR. MULCAHY: I think we said that in the report - that they were incomplete. Part of the problem, Senator, is that when the parole board wants to use the file they take the file from corrections and parole and there is just one set of files that goes around the system. As I stated this morning, you couldn't even develop any kind of a profile on the inmate population until we finally went through the whole system and did it ourselves. Yes, these things existed. That is what we found.

SENATOR DUNN: Doesn't that bear out exactly what we are complaining about, that from the very top management there is sloppy management. You have Mrs. Klein who has accepted that responsibility of heading up a department; you have people, like yourself; you have people like Mr. Fauver; isn't this an admission on your part that you are not doing your jobs, Bob? How can you possibly run a prison system if you have 1,200 files of prisoners missing? Your explanation is, one agency comes in and takes it and there is no duplication of that file, so the master file is missing. You wouldn't last two days if it weren't for - I am not talking about you personally now but you are certainly part of the system-- You wouldn't last two days in a private corporation.

MR. MULCAHY: Senator Dunn, may I respond to that?

SENATOR DUNN: I repeat, Bob, I am not talking about you. I am talking about those of you who are responsible for this. If you were running a private business you would be bankrupt in two days - you would be out of business.

This gentleman is bearing out exactly what we are saying. We are not against the philosophy of the furlough system. He is a pretty good example of what can be done with it. But in the State of New Jersey we are running a damn, sloppy, inefficient, unfair, discriminatory furlough system compared to what other states are doing. And who else can be held responsible for it except the people who are being recognized

as the top management of the Institutions and Agencies Department?

MR. MULCAHY: I think, Senator, and I said this this morning, obviously things are wrong and we bear the responsibility for this.

SENATOR DUNN: Two years ago you accepted the same responsibility.

MR. MULCAHY: Now wait a minute. I think you can look at any bureaucracy-- Even you as Mayor, now matter how well intentioned you are, when you give a directive - and I have been both a mayor and the president of a corporation - you are only going to be as good as the last guy out in the field and sometimes you have to remove him. But you can't always get at him right away. Sure, you have to bear the responsibility but you can't personally supervise every person down there. There were changes made. There have been changes made in superintendents in the system. The superintendent at Trenton was removed. All of these things have happened throughout the two years.

Secondly nobody was going to proffer this information when we came into office. We found this by going out ourselves - as I said this morning - to every institution and asking questions. Nobody is going to tell us.

SENATOR DUNN: This gentleman knew it and a couple of other people knew it - 1,200 folders were missing, right? They were evidently missing two years ago too.

MR. MULCAHY: I don't know what was two years ago. We found it because we went out to do the study. That is how we found the folders that were missing. That was our study we did in the past 8 months in developing the inmate profile because we had no management system. It is not here, it was in mental health; we couldn't identify where the patients came from. It runs through every system we have.

With respect to the other states, we are probably advanced, that is how bad the situation is.

MR. MILLER: Senator Dunn, what Mr. Mulcahy just said makes a lot of sense to me. I am not familiar with this stage of the operation, or the management. I am familiar with the middle management part, the people who operate the institutions. I know for a fact because I worked in classifications and worked in education where upper management has asked for reports on things and they never got them. Middle management people, the people who are managing the records there, are inept, lazy, and oftentimes don't have the funds that will enable them to hire competent help but they don't tell the people upstairs because that reflects upon their position - that they are not doing their job right. So, they don't tell anybody until Mr. Mulcahy, or someone else, goes and looks and says, "Hey, what the hell, what is going on here?" Then it is discovered.

MR. MULCAHY: We fired the two officers at Trenton Prison who were involved in the Hogan scalding death and they were reinstated by Civil Service.

MR. MILLER: I think if someone would take a real, honest look at the classification and the whole administrative part of the recordkeeping at Trenton - or any of the other prisons, I only know about Trenton but I would suspect they are all the same - they would find--

SENATOR FAY: Everything we have heard today told us they were the same.

MR. MILLER: --total and gross incompetence. You would find people that couldn't sweep floors who are the head of one department or another - one section of the classification or records division. And they just delegate all the authority to inmates to take care of those files.

SENATOR MENZA: I just want to make one comment and this is based, to a great extent, on the experience I have had in mental health. I am convinced about one thing concerning the bureaucracy - and I address this mostly to Senator Dunn. The bureaucracy of Institutions and Agencies will wait you out. They have been there for a long

time. Some of these people - many of them - should be fired immediately, there is no question about that. But they will wait out one commissioner, after another commissioner, after another commissioner. The department is massive, perhaps too massive.

SENATOR FAY: What Senator Menza said and what Mr. Mulcahy said was an indictment of Civil Service. You are telling me that here are two complete incompetents who botched up a whole major prison system--

SENATOR DUNN: Allowing for the death of an individual as a result of their incompetence.

SENATOR FAY: You are saying Civil Service overruled this. Is there an appeal from that?

MR. MULCAHY: We asked the Attorney General to appeal it, yes.

SENATOR MENZA: This is not an untypical situation, by the way - if I may. You will find this an awful lot in mental health - psychiatric hospitals. Doctors are fired and then they are reinstated. As a matter of fact, some time ago - and I won't mention the hospital or the doctor - a doctor was indicted on 16 counts of illegal drug possession and thereafter was reinstated and subsequently promoted.

SENATOR FAY: Well, then, there is something wrong with us, as legislators, for sitting here and allowing it to go on from one horrendous disaster to another and then be told that Civil Service overruled again, and again, and again.

Another point that has been established is, our major responsibility then becomes doing something about Civil Service to correct this utter, ridiculous, contradictory dialogue that we have been going through.

MR. MILLER: Well, one of the reasons that I am here today - and I would like to urge this publicly - is, I was concerned, as Senator Menza was concerned, that he wasn't invited to participate in some things. I am also concerned that the Senate, the Assembly and the professionals in this State don't look at some people like myself - and I am not unique by any means. There are people that are successful ex-offenders - either in spite of the system or because of the system. Somebody ought to stop and think, "We might have some of the answers. We are out here doing well." Don't talk to the guy who went back there because there was something missing there. But those of us who are out here and those of us who looked while we were there and saw things - and probably kept our mouth shut to a good degree while we were there - know a lot of what is going on. I urge you to make some of us a part of your commission and not merely listen to some testimony from time to time, but make us a part of it. Let us do some digging too. Let us come up with some recommendations. Let us interact with you people who are professionals in various fields. Get some input. Have some of our insights, not just the jaded professional who goes in and is either so fed up with the system and his inability to operate effectively, or he looks strictly at a book. You are not getting the truth there. If you are getting the truth from somebody who survived it, you are going to get some of the answers that way.

SENATOR HIRKALA: Mr. Miller, you are here this afternoon to express your support for the furlough program as a person who has been helped by this program. Yet, you are calling for some drastic changes, is that right?

MR. MILLER: Yes.

SENATOR HIRKALA: I can see your position as no different than the position expressed by Phil Yacovino, President of the State P.B.A.

MR. MILLER: I can understand his position.

SENATOR HIRKALA: He also expressed his support for the furlough program but he wants to see some drastic changes and apparently the Governor of the State of New Jersey wants some drastic changes because he has suspended the furlough program.

So, I personally want to express my appreciation for your appearance here today because you put another spotlight on the whole works and on this committee. You are a person who has been in favor of the program. You have been helped by this program but, yet, you are here to say that it needs change. Thank you.

MR. MILLER: Thank you.

SENATOR MENZA: I am directing our aide, Mr. Bruinooge, to talk to you after the session and we will pick your brain and perhaps meet with you again.

SENATOR DUNN: I want to make sure I understand Mr. Miller's testimony. Number one, because he is a product of the furlough system, he knows of its attributes. But, by the same token, he is either advertently or inadvertently confirming what we suspected - that the system is absolutely rotten and that it needs improvements. Furloughs, per se, the premise, the philosophy is good but the administration of it in the State of New Jersey - in my opinion, I am using my words now - is rank, at best.

However, according to Mr. Miller's testimony the allowance of a person to go home on furlough should not be allowed as it is now, by one or two or three people with petty prejudices, perhaps, making the difference between that person being allowed to go home or not being allowed to go home. A new system has to be found to diagnose the person prior to allowing him to go home on furlough and, perhaps, if wrong judgment is shown, to allow that person to commit a crime.

I see absolutely no disagreement with what we are trying to accomplish with what Mr. Miller is proposing today. Keep the furlough system but don't allow it to continue until we have a better way of determining who is deserving and who is not deserving of the temporary release.

SENATOR SCARDINO: There is one other aspect to that I would like to elaborate on, Mr. Miller, and that is the question of when a person should be eligible for that furlough. If I understood your comments, you said that it should start at an early point.

MR. MILLER: At an early point, yes.

SENATOR SCARDINO: Rather than at that point where he or she is eligible for parole?

MR. MILLER: Right. My concept of correction would be that it should a horse-shoe type approach, where, if the individual must be institutionalized, he enters and starts the process immediately to go back around, where he ends up back in society at the end of that.

Now, you can't expect a person to be institutionalized for 10 years and then put him up there and say, "Okay, we are going to give you parole in two months and you are going to go out on furlough twice during that time" and expect him to succeed. You can't expect him to build a life, or build a profession, to become a productive citizen-- Now, I heard Mr. Yacovino say, "They got themselves in jail, we didn't put them there they put themselves in." I think in our society today we have to get away from that concept and say, "What does society deserve?" Forget about what the individual inside might or might not deserve. Does our society deserve to get somebody back out of a prison that is maybe ten times worse than when you put him in? Or, do we want to say, "Well, he may not deserve it but let's try to do something so that when he comes out he is a better person than when we put him in"?

If you can do that and if you can motivate people and start immediately with a diagnostic-type approach to all types and all aspects of correction, from the day he comes in to his classification and to his release-- I think that is what Chris Dietz is talking about, a diagnostic-type approach. If you look at it this way, then it will be realistic. The way we are looking at it now makes no sense at all. It

has no rhyme nor reason.

I would like to make one other comment. It was a question that wasn't answered. I think, Senator Menza, you asked Mr. Fauver about this - the reason for more failures in the youth institutions. I would say that it is merely the level of maturity of the people there. No matter how good your system is-- Perhaps Yardville has a better classification system because they have the units in the wings and the classification and the furlough coordinator who is at least interested in it. I think they probably have a better system - although it is still lacking - than any other. But the degree of maturity of the individuals there is such that you are going to have more failures - probably minor failures, but more failures with the younger people.

SENATOR FAY: They run faster.

MR. MILLER: They don't have the values or the maturity.

SENATOR MENZA: Thank you, Mr. Miller. Mr. Bruinooge will see you after the session.

Our last witness will be Mr. Booker. I am afraid that he is going to have to be the last witness. ~~Mr.~~ Booker, are you in prison now?

R I C H A R D B O O K E R: I am in prison now.

SENATOR MENZA: What prison?

MR. BOOKER: I am at a half-way house in Newark.

SENATOR MENZA: What are you doing there?

MR. BOOKER: I am on a work release program. I have been there for approximately ten months working.

SENATOR MENZA: I want you, please, to direct your remarks, if you will, to the work release program and the furlough program. You have spent some time in the Rahway State Prison, and your primary involvement was narcotics; is that correct?

MR. BOOKER: Yes.

SENATOR MENZA: As a user.

MR. BOOKER: Yes.

SENATOR MENZA: Go ahead.

MR. BOOKER: I agree with practically everything that John Miller said, as far as a person being able to go out on furloughs well in advance of any parole date. I have been permitted to do that for three years. I have learned to deal with the ills of the community. I have learned to say no to that person who offers me a shot of dope. I have discarded all my old friends, and I have met new people, people in government, lawyers, and other professional people. I have developed a working habit for ten months. I did not hold a job for six months out of my forty-two years. Now I get up and go to work every day.

When you are talking about setting standards, I think that in each prison the composition of the prisoners is different, and I think the superintendent has the feel of his particular prison and what it is like. Now, if you set statewide standards and say that we have to go by these, how can you very well apply them to Trenton and Rahway when Rahway's population is totally different. I think the superintendent can be flexible in applying those standards. I don't think you could get into certain armor-clad standards because you are going to run into problems.

I would like to comment on the police being notified when a person comes out. The reason that Senator Dunn and the PBA President gave are reasons against notifying them. The cop says, "Well, Jesus Christ, I just locked that guy up." What is that cop going to do? What would really be the purpose of notifying the police? I can see notifying them afterwards.

SENATOR FAY: What is the difference between a cop being told and then seeing you walk down the street and a cop not being told and then seeing you walk down the street?

MR. BOOKER: See, he may go and look for you then. And you will cause problems that way. But I can't see the purpose for it. No police officer is going to follow anyone around for three days. I can understand notifying them, and saying that the person was there from this time to that time, and then if anything comes up, they know that person was there. I can understand that. But when you start notifying the police in advance, he will say, "Jesus Christ, I just locked this guy up."

SENATOR FAY: Isn't he going to say the very same thing when he sees you coming down the street and he wasn't told?

MR. BOOKER: Yes, but there is a difference.

SENATOR FAY: He might think you escaped.

MR. BOOKER: I doubt that. But it has happened on a number of occasions where prisoners have went to police for help because they were stranded or something, and they have been beaten and were given petty charges. The PBA obviously doesn't want this program, so why should they be notified about prisoners coming out?

After listening to all the testimony today, it really, really saddens me to think that there won't be other prisoners in the position that I am and John is. I suggest they should do away with it totally too. And while they are doing that they should do away with minimum camps, because people certainly aren't going to work for slave wages. And everybody should demand to come back in, and this would have the effect of reducing the prison population by at least 2,000 immediately. So prisoners have power too, if they utilize it. They can stop being self-supporting and not work. You know, if you want to get into that, do it, and don't just say, well, you can go, and you can go, and only ten percent of the people can go, because the population is not going to stand for that, not now. You should do away with all the minimum camps.

SENATOR MENZA: How does the furlough system work at Rahway?

MR. BOOKER: I think Rahway has an excellent system. I think Mr. Knief was nervous, and I don't think he quite understood what his job was. But as Director of the Prisoner's Legal Association of Rahway, at least six or seven people a week will come to me because they were denied furlough for a reason. And often Mr. Nief is the person who sees that that person's furlough is denied, because he can't verify who is going to supervise this person, and the person may not have a phone in their home and he can't contact them, and he can't go out and interview, so that person will be denied a furlough. He interviews all the escorts and they are photographed, and they run a check on their record.

And just because a person receives minimum does not necessarily mean that person gets a furlough. A person could receive minimum with the stipulation that they receive no furloughs. And naturally the classification committee would give them a year or so review date on that, and then they would consider them, but everyone in minimum custody does not receive a furlough.

SENATOR MENZA: How can the furlough program be improved?

MR. BOOKER: Well, that would be a contradiction for me to make any kind of recommendation because I think it is the Commissioner's job, and that is her responsibility.

SENATOR MENZA: Do you have anything to add?

MR. BOOKER: No.

SENATOR MENZA: Mr. Booker, you have been out on work release programs and furlough?

MR. BOOKER: Yes.

SENATOR MENZA: Has it helped you?

MR. BOOKER: Certainly it has.

SENATOR MENZA: You have been in a halfway house for how long?

MR. BOOKER: Ten months.

SENATOR MENZA: And you have been working for ten months?

MR. BOOKER: Yes.

SENATOR MENZA: What is your date of release?

MR. BOOKER: I don't have a date.

SENATOR MENZA: Well, if you don't have a date of release, how did you get into a halfway house?

MR. BOOKER: Well, because I was within nine months of going to the parole board. I seen the parole board four times last year, and finally in December they denied me parole and scheduled me for a rehearing in September.

SENATOR MENZA: So it boils down to nine months of your eligibility for your parole, even though parole may be denied?

MR. BOOKER: Yes.

SENATOR DUNN: You have been denied parole as of today?

MR. BOOKER: Yes.

SENATOR DUNN: But you are at a halfway house in Newark.

MR. BOOKER: Yes.

SENATOR DUNN: And you have been in that capacity for ten months now, and prior to that you had been out on furlough.

MR. BOOKER: Yes.

SENATOR MENZA: I understand that Mr. Booker's crime is a non-violent crime. Your charge was possession of narcotics; is that correct?

MR. BOOKER: Yes.

SENATOR MENZA: Heroin.

MR. BOOKER: Yes.

SENATOR DUNN: Well, can I ask this, why would you be denied parole?

MR. BOOKER: As I said, I have been going out on furloughs more than most people, because as Director of the Prisoner's Legal Association, I went out at least twice a week unescorted to the community to deal with other prisoner's legal problems.

SENATOR DUNN: From the way you just said that, it sounds like it was almost a routine matter for you to go out on furlough. Did you have to go through the same rigmarole as everybody else in order to get out on furlough?

MR. BOOKER: No, that was in connection with my job. People have jobs that are minimum, and you have to satisfy minimum by spending at least 40% of your time outside the walls. I spent that by going to the community. There was simply nothing I could do on prison grounds.

SENATOR FAY: After your last parole hearing, what reasons did they give you for your not getting parole?

MR. BOOKER: The only reason they gave me was that there was no affirmative evidence that I could return to society without violation of the law. They completely ignored -- you know, I have 150 trips to the community while I was in prison, taking urine tests, working for the State for ten months, and they completely ignored that and told me there was no affirmative evidence that I could return to society without violation of law.

SENATOR DUNN: But in fact aren't you almost, almost a private citizen today, or a civilian or whatever word that is that you would use to describe someone in your position now? You are in the halfway house now, right?

MR. BOOKER: Yes, but I still consider myself a prisoner. There are restrictions

placed on me. I am told when to come and when to go.

SENATOR DUNN: Do you have to be in the house at a certain hour at night?

MR. BOOKER: Yes.

SENATOR DUNN: Do you have a custodian?

MR. BOOKER: Yes.

SENATOR DUNN: And you have been in this capacity for ten months.

MR. BOOKER: Yes.

SENATOR MENZA: And for ten months you have been working?

MR. BOOKER: Yes.

SENATOR MENZA: Is this a narcotics rehabilitation halfway house?

MR. BOOKER: No; no.

SENATOR DUNN: What do you do when you are working? Where do you work?

MR. BOOKER: I work for the Department of Transportation in Signs and Lines. We erect signs and put the lines on the highways.

SENATOR DUNN: You work for the State of New Jersey?

MR. BOOKER: Yes.

SENATOR DUNN: Do you get the same pay as anyone else who works for the Department of Transportation?

MR. BOOKER: Yes. One other thing, the chairperson of the parole board said that - in determining whether or not a person makes parole-he looks to see if they are employed, and whether or not they have some community support, and whether or not they have a decent place to live. Now, I have all three of those things, you know, but -- I don't even associate with my old friends. I don't even see them. I have made all new friends, and I have been working ten months.

SENATOR DUNN: How much time do you still have to serve?

MR. BOOKER: In July or August of this year my maximum sentence will expire.

SENATOR MENZA: What was the maximum sentence you had to serve?

MR. BOOKER: Ten years.

SENATOR DUNN: For what offense?

MR. BOOKER: Possession of narcotics.

SENATOR MENZA: Some time ago we had hearings at the Rahway State Prison, and Mr. Booker was one of the witnesses who testified. You had, if I'm not mistaken, how many decks of heroin?

MR. BOOKER: I had less than \$80 street value.

SENATOR MENZA: He has a history, though, of drugs for possession and use. Do you have any charges for sale?

MR. BOOKER: Yes.

SENATOR MENZA: In this particular incident you were sentenced out of what county?

MR. BOOKER: Passaic County.

SENATOR DUNN: We are digressing from the furlough system now, but here is a man who is sentenced to ten years in prison. He has been out on a work release program for ten months. Somebody is placing a great deal of trust in him to be out on the streets for ten months working for the Department of Transportation in the State of New Jersey, and yet he was refused parole. If there isn't something ironic in this situation ---

SENATOR MENZA: Well, he has done ten years max, and that is a little unique to say the least. He was denied parole ten times ---

MR. BOOKER: No, four times in five months.

SENATOR MENZA: What is the total number of times, ten times?

MR. BOOKER: No, no, no---

SENATOR MENZA: Mr. Booker, you are eligible for parole after a third of your max,

which means when you did three years. Did you have a parole hearing then?

MR. BOOKER: Yes, but when -- it deals with your commitments. I have two previous commitments, so that made me eligible at two-thirds.

SENATOR MENZA: Okay, I'm sorry. Is there anything you would like to add, Mr. Booker?

MR. BOOKER: No. Thank you.

SENATOR MENZA: Thank you. We are going to have a very short testimony from Mrs. Winifred Canright. She was not on the agenda.

WINIFRED S. CANRIGHT: My name is Winifred Canright. I am a volunteer in the prison system, working in all the prisons - most of them - but this year I have not been allowed in Trenton. I am a bad actor.

I wanted to begin with the statement that the time to prepare for this furlough program is from the day the door clangs behind the incoming inmate. When my friend John used the word diagnostic it made me remember a book that I would request that each one on the Judiciary Committee read, Karl Menninger's, The Crime of Punishment. Several years ago in Kansas they put in what seemed to me like a lot of money that eventually saved millions by having an adequate intake diagnostic program manned by top-flight people. Costly, yes, but from the time a man came in they found out his capabilities and they found out the things to be aware of, the information that parole boards should have; the information that the furlough committees should have; the information that the school district should have. Everything that they needed was known, not when the man was ruined by the system and ready to go out, but at the time when something could be done about it constructively.

SENATOR FAY: How would you respond to the fact that there have been eight murders in two years committed by inmates in that program?

MS. CANRIGHT: I am at a great loss, because I don't know the men, and I am not a psychologist or psychiatrist. But it is a possibility that a great many of the psychiatric cases that are loose in the prison system could be picked out if they were competently diagnosed. I am working each week in the so-called readjustment unit of the Vroom Building. And there is one corridor there that officers say, "Well, they are all flaked out in there." There are men who have been diagnosed as schizophrenic and I don't know the medical diagnosis of all of them, but they are not where they should be. They should be where they can get treatment, rather than being simply confined twenty-three hours a day in cells. There are men who will very definitely be a danger to society, and they are not getting treatment.

I don't say that every psychiatric case can be picked up by the most competent diagnostic methods, but it certainly is a great deal safer than letting them in without any diagnosis. There are men in Trenton Prison who are wandering around who are not competent. But the thing I wanted to talk about, and the reason I asked to speak was because there has been no one representing the women's side of the picture, and at the risk of seeming like a bleeding heart, I wanted to call that to your attention.

There are the women at Clinton, and a great many of them have children. Those children need to keep in contact with their mother during the time she is incarcerated. There is nothing but nothing that will take the place of a mother's love, and if a mother is gone too long, the children will lose touch and respect, and it will be very hard to get it re-established.

SENATOR FAY: Will you excuse me for a minute. Mr. Mulcahy, is there any particular program aimed in this direction for mother's in the prisons, as far as ---

MS. CANRIGHT: There was a SLEPA grant given a few months ago to promote visiting of mother's by the children, and I think it was to also provide a better place

for the visits. In the past it was very awkward. I used to take children to visit their mothers and it was a strain. They would say, "Shh, be quiet," to the children. They were not establishing the kind of maternal relationship that should be. There is money also going to be used from this SLEPA grant to train women in better motherhood techniques.

SENATOR MENZA: Mrs. Canright, are you associated with any particular group?

MS. CANRIGHT: I am associated with a lot of groups.

SENATOR MENZA: With regard to your work in the prisons, I mean.

MS. CANRIGHT: With regard to the prisons, I work there independently.

SENATOR MENZA: How long have you been doing that?

MS. CANRIGHT: Since Trenton opened up for volunteers. I was the second volunteer.

SENATOR MENZA: Approximately how long ago was that?

MS. CANRIGHT: Since 1973, I think.

SENATOR MENZA: How come you are a persona non grata at Trenton?

MS. CANRIGHT: I told too much truth about what was going on - alleged truth. I didn't use the word alleged, I used the word if, when I described what was going on and what I would say was alleged brutality in the Vroom Building.

SENATOR MENZA: Mr. Mulcahy, did you get an order from up above?

MR. MULCAHY: No, sir. It was a decision made at the institution itself.

MS. CANRIGHT: I want to say, when I go in to see Mrs. Klein and Mr. Fauver or their legal advisors, any of them, I am treated as if I am their dear old Auntie, and I am allowed to say pretty much what I think, and they welcome me and say, "Come again." It is the inmates that I am dangerous to. I might corrupt them.

Also, the other women I want to talk for are the wives of the prisoners. One man, who is engaged in white collar, Tom Mullen, you may know him, said to me recently, "You know, the people who have suffered most with this prison situation are our wives and our children." And I have found that to be true from the humblest Black man on to the white collar criminals. Not all of them, but a great many of them, open up to me because I have white hair and they can talk freely to me as a women. They will let me know that the one thing that will hold them back to walking the straight and narrow path, when and if they get out, is their loyalty and their devotion to their family. Too late they have realized this, but there are a great many of them who want to keep their families intact, who want to keep their associations.

Now, the first year in prison a man's wife and family and friends write to him and come and visit him. After the first year things begin gradually to taper off. Letters get very stale, and it is hard for anybody to find anything new and interesting to write about. The visiting at prison is a frustration rather than a help, and there is no way that other relationships can be kept fresh and living.

Now, there is also the problem - and I am glad this is 1976, so I can talk about sex without anybody being shocked ---

SENATOR MENZA: Mrs. Canright, you promised me five minutes at the most.

MS. CANRIGHT: Yes, it has been more. Okay, the visit of the family can do more to re-establish and keep this bond that may make a man go straight than anything else.

SENATOR MENZA: I agree with that. You know, Bob, I'm sure you know something that I don't know, but I would really appreciate - and the Committee I'm sure would appreciate - a letter from the Superintendent as to the reason a citizen of the State of New Jersey can't visit an institution.

MR. MULCAHY: Well, it was a question of working as a volunteer. All the volunteers had to be approved at the institutional level.

SENATOR MENZA: Well, then apparently Mrs. Canright has not been approved.

MS. CANRIGHT: Oh, yes, I was approved and worked there for two or three years, first as a physiotherapist in the hospital, until Dr. Dugan thought I was doing more good personally visiting at the bedside.

SENATOR MENZA: Why don't we get a confidential communication addressed to the members of the committee and myself as to why.

MS. CANRIGHT: Yes, it is time for parole for me. I have been out for a year and that would mean a five year sentence.

SENATOR DUNN: What do you have to lend to us in the way of help?

MS. CANRIGHT: The thing I would recommend is that you study this diagnostic service which can be given at the very beginning, and not only for short-term people but for the long-term people also whose marriages need to be preserved. They need furloughs even worse than a person who is going to be out in a couple of years.

Also, you asked a question about whether there was a favoritism shown, and I would rather not put that on the record ---

SENATOR DUNN: Then why bring it up.

SENATOR MENZA: Yes, we will speak to you later. All right, thank you very much.

MS. CANRIGHT: Thank you for letting me speak today.

SENATOR MENZA: That is the end of the hearing for today. We may or may not have additional hearings. If you have any information you would like to send us, please do so quickly. We are going to get the report out very shortly. Thank you.

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Statement Submitted to the

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

by: Ms. B.J. Urbaniak
Furlough Co-ordinator
Division of Correction and Parole

February 4, 1976

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

As requested by this Committee, I submit the following information concerning my educational background, experience in the field of Corrections and current responsibilities as Furlough Co-ordinator for the Division of Correction and Parole.

I have a B.A. in Psychology from Douglass College and a M.A. in Sociology from New York University, Graduate School of Arts and Science.

I began my career in State service in 1964 as the Assistant Superintendent of the Turrell Residential Group Center. In 1967 I joined the staff at the Youth Reception and Correction Center, Yardville, where I worked for seven (7) years in a variety of capacities including; Research Associate, Supervisor of the Reception Center, Supervisor of the Readjustment Unit, Co-ordinator of Treatment Teams and, finally, Director of Professional Services. To date, I have worked for the Division of Correction and Parole for twelve (12) years.

In May of 1974 I transferred from Yardville to the Division Central Office where my initial responsibility was to supervise and co-ordinate the transfer of the Prison reception operation from the State Prison at Trenton to the Youth Correction Center at Yardville.

In July 1975, following a number of problems with the furlough program at Leesburg Farm, the ultimate suspension of that program and a demonstration by the inmates confined there, I suggested to Director Fauver that perhaps a member of his staff could be assigned to serve as a liason

between the Central Office and the Prisons and Youth Correctional Institutions in the area of furlough program operations, problems and possible resolutions. As a result of my suggestion, I was asked to assume responsibility for this task and my involvement with this program commenced as of July 1975.

At the outset, my primary responsibility was to familiarize myself with the Division Standards governing the furlough program, meet with the Furlough Co-ordinators from the Prisons and Youth Correctional Institutions, and elicit from them any problems they were having in the area of program implementation, interpretation of Division Standards, and like matters that were creating difficulties. Toward this end, I commenced a series of meetings with the Furlough Co-ordinators in August 1975.

Almost immediately thereafter, in September 1975, Commissioner Klein directed that a comprehensive "in-house" investigation of the furlough program be conducted under the direction of Deputy Commissioner Kulcahy. I, in turn, was assigned to work as a member of that committee. At the same time, increased press coverage of the program resulted in an increased amount of correspondence to the offices of the Commissioner and Director Fauver. As such, it also was my responsibility to respond to the majority of these inquiries, as well as those of inmates' families, inmates themselves and special requests for information from groups and agencies outside the Division.

At present, as you are aware, the Governor has suspended all furloughs

while a further investigation is undertaken and additional recommendations are made. Had this suspension not occurred, it would have been my responsibility to supervise and co-ordinate the implementation of recommendations contained in, or stemming from, the report to Deputy Commissioner Mulcahy.

Currently, I am a member of the Task Force on furloughs which will make recommendations to the Governor this month.

As a point of personal comment, I should like it entered into the records of this Committee that, contrary to a misquotation attributed to me in a recent issue of the Trenton Times newspaper, I have never casually dismissed the participation of convicted murderers in the furlough program by saying "murder is irrational" thereby implying that the issue cannot or should not be dealt with. What I did attempt to point out was that it is my understanding that we have included murder cases in our furlough program because existing research indicates that, in many instances, murder is a "situational" offense and that, of all crimes, murder is least likely to be a repeat offense. Moreover, the nature of the crime demands a lengthy sentence and, if a goal of the furlough program is to assist the offender with re-entry into society, those convicted of murder, by virtue of their lengthy sentences, are most in need of help with re-integration because they have been removed from conventional society for the longest period of time.

B.J. Urbaniak
Ms. B.J. Urbaniak

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February 3, 1976

Founded in 1961 as The Morrow Association

We have some recommendations to make that my help to preserve the promise and reduce the risks inherent in work-release and furlough programs for inmates of the state prisons and correctional institutions. First, I ask that you indulge a bit of background.

This Association's support for the concept of "graduated release" embodied in these programs dates back a decade to endorsement of legislation introduced by one of our Directors, then Assemblyman Jack Fay, to establish a work-release program for inmates of county penal institutions. That bill became law in 1967 and the legislation authorizing work-release and furlough programs for state inmates followed two years later.

Since that time we have asserted, repeatedly, that these programs were at once the most valuable and the most vulnerable we have to assist offenders in making a crime-free re-entry to their communities. Valuable in their potential for maintaining family ties, for advancing vocational training and for making job and housing arrangements prior to release. Vulnerable because the programs were designed to test inmates' ability to be trusted with limited amounts of freedom and because, as a consequence, some inmates predictably would fail that test.

Over the past three years we have accepted it as part of our job to privately intervene when there was public outcry because an inmate was arrested for committing a crime while at large in the community on work-release or furlough. In conversations with citizens, newsmen and public officials and in testimony before two committees of the State Legislature, we have made the same argument:

The overwhelming majority of inmates participating in these programs do abide by the rules. Properly administered work-release and furlough programs will help stabilize participating inmates on release and diminish the number who will return to prison on conviction for a new offense. The long-run pay-off in terms of increased public safety justifies accepting some on-going program failures that could be minimized by on-going efforts to improve program administration.

It turns out that we were wrong in assuming it would suffice to privately urge administrative improvement upon officials of the Division of Correction and Parole. A number of times we urged that uniform guidelines be uniformly applied and that job and house-hunting furloughs be coordinated and supervised by District Parole Offices. However, evidence mounted during the past year --from correspondence and interviews with inmates and parolees, from news media accounts, from reviews of Division budget requests-- that administration of the programs remained unaccountably lax.

Our private communications having failed, we publicly called last July for a State Grand Jury investigation of possible malfeasance, misfeasance or nonfeasance on the part of those responsible for administering the work-release and furlough programs. We did so, knowing it was extremely unlikely that such an investigation would be undertaken, in hopes it would attract the attention of the Commissioner of Institutions and Agencies to what we felt was an inadequate response from the Division of Correction and Parole. We even told those in the Attorney General's office responsible for evaluating our request that we did not actually want a State Grand Jury probe but had requested it to stimulate top-level address to

problems that threatened extinction of programs our Association had helped to establish. We were accused by the Commissioner's office of head and headline hunting. Whether despite or because of our intervention with the Attorney General we do not know, but, in any case, a Departmental Task Force at last was created to inquire into administration of the furlough programs. The report and recommendations of that task force, written by Deputy Commissioner Mulcahy, now is before you.

It has been accurately described as a remarkable document--both for its unusual candor and for the administrative neglect it unsparingly details. It compels a prompt and vigorous response, by way of immediate administrative reforms, if this task force is to head off bills now being drafted to abolish the programs.

We have already submitted to Chief McCarthy recommendations the Association made last Fall to the Attorney General's staff and to the task force chaired by Mr. Mulcahy. Since they do not appear among those made in the Mulcahy report and were designed to tighten both responsibility and accountability, and thereby restore public confidence in the programs, we respectfully urge that you reconsider them. We also have submitted a press release containing a proposal for limited restoration of furloughs, made following suspension of the program by the Governor. We discussed the proposal with the Parole Board Chairman and members of the Governor's and Commissioner's staffs --to no avail. We urge that it, too, receive your consideration, as an immediate "first step."

Now, we would like to propose a concept for guiding your efforts to restructure and reform administration of the furlough programs, along with specific steps to give it force and meaning.

First, we propose that the linkage between minimum custody status and furlough eligibility be severed. In other words, attainment of minimum custody status --often granted as an inducement to fill State Use Industry jobs or to free beds in maximum or medium custody facilities-- should not automatically confer eligibility to either escorted or unescorted furloughs.

Second, furloughs should no longer be viewed as a "privilege-to-be-earned" by inmates. Rather they should be viewed as being made available to insure the right of society to have inmates tested as to their ability to handle freedom prior to being released on parole. Focussing on this "society's-right-to-test" concept would both reduce the tendency to manipulate the program to serve institutional management goals and maximize its proper reintegrative role.

Third, to maximize the reintegrative role of furloughs, we propose that all inmates, regardless of the offense for which they were sentenced, should be given a release date by their paroling authority ten months prior to contemplated parole. That action, entailing hearings and the setting of any pre-conditions for release, would in turn make all inmates -- except those in Protective Custody, Administrative Segregation or Management Control units-- eligible for work-release, study-release and furloughs nine months prior to release. Apart from work or study-release time spent in the community, each inmate would be required to take one 12-hour escorted furlough in each of the first three months, and one three-day unescorted furlough in each of the last six months prior to release.

Fourth, each furlough within the nine-month pre-release period will be approved by a Furlough Committee, chaired by the Institutional Parole Officer, and in every instance would entail a visit to the District Parole Office to which the inmate will be assign-

ed on release. Normally the Furlough Committee would deny furloughs only in cases where an inmate had been found guilty during the preceding month of an offense indicating that he or she could not be furloughed without posing the threat of physical harm to members of the free community. Such denials would have the effect of delaying parole, since release typically is conditioned on making job and housing arrangements which usually cannot be accomplished without furloughs. Violation of furlough plans by inmates or escorts could remove either or both from further program participation. We would note here that primary responsibility for program participation and performance is shifted, in our proposal, to the paroling authority and parole officers who bear the responsibility for supervising and supporting the inmate's adjustment to the community.

Fifth, no inmate clerks will be used to prepare records for consideration by paroling authorities or Furlough Committees. In the event of resumption of the furlough program along the lines suggested here, supplementary budget requests must be made to augment clerical staffs of both paroling authorities and Institutional Parole Officers, as necessary. We recognize that we are making this specific proposal one day following submission of a state budget that, irresponsibly enough, imposes a reduction of 95 parole officers. Thus, the strongest possible intervention by this task force or the Commissioner of Institutions and Agencies will be required to make this, or any other, proposal for restoring furloughs feasible.

Sixth, furloughs for medical attention or attending family funerals would continue to be approved on a case-by-case basis, while Division staff should consider whether it would be approp-

riate to develop a schedule of escorted "home" furloughs for inmates serving sentences of more than 10 years.

Since the program we propose could not be implemented without increasing clerical staff and accelerating the processes by which the various paroling authorities set release dates, we urge that escorted furloughs be restored immediately for those inmates with release dates set by a paroling authority. We urge that the program be fully restored, along the lines we have suggested, three months after that --but only if the additional clerical support required has been provided, and the guidelines for reporting on program participation suggested in our recommendations to the Attorney General have been imposed by Division regulations.

We have proposed here a restructuring of furlough programs that we believe to be consistent with society's interest in a stable reintegration of the offender within the community. The program has been allowed to simultaneously expand and deteriorate in the interest of "cooling" inmates and institutions and, worst of all, to empty beds in an overcrowded system. We trust the task force will categorically repudiate grants of unsupervised, "extended" furloughs for that purpose. We can find no language in the statute authorizing these programs which would permit such furloughs prior to the release date set by the paroling authority.

All of this leaves unanswered one question which arises on nearly every page of the Mulcahy report: Who bears responsibility for the administrative deficiencies documented in that report? We do not believe it is up to this committee to provide the answer. And yet the question will not go away; until that responsibility is publicly fixed and publicly accepted citizens' confidence in any restructured furlough program cannot be expected. It remains for the Governor or the Commissioner to answer that haunting question.

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