

PUBLIC HEARING

before

THE SUBCOMMITTEE ON PRISON OVERCROWDING

of the

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

to

Examine possible solutions to the problem of overcrowding in
correctional facilities statewide and the effectiveness of various
alternatives to incarceration for nonviolent criminals

Held:

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Room 348

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Trenton, New Jersey

MEMBERS OF SUBCOMMITTEE PRESENT:

Assemblyman Richard F. Visotcky, Chairman
Assemblyman Nicholas R. Felice

ALSO PRESENT:

David Price
Office of Legislative Services
Aide, Subcommittee on Prison Overcrowding

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ASSEMBLYMAN RICHARD F. VISOTCKY (Chairman): Good morning. I am pleased to welcome all of you to the first of a series of public hearings to be held by the Subcommittee on Prison Overcrowding of the Assembly Corrections, Health, and Human Services Committee. My name is Richard Visotcky; I am Chairman of this Subcommittee.

Before we start, I would like to take this opportunity to introduce the other member of our Subcommittee. To my left is Assemblyman Nicholas Felice.

If you have any written testimony or wish to be placed on our witness list, please contact our staff aide, David Price.

The purpose of this hearing is to examine issues relating to the growing problem of prison overcrowding in our State, including the enormous costs of prison construction and the cost effectiveness of various alternatives to incarceration for nonviolent criminals. These include restitution, community service programs, house arrests, deferred suspended sentences, fines, pretrial intervention and, particularly, extensive supervision programs.

This Subcommittee has been charged by the Committee Chairman, Assemblyman George Otlowski, with the responsibility of holding these hearings for the purpose of gathering information about the prison overcrowding problem and the possible solutions that may be presented to the full Committee as recommendations for its consideration. This Subcommittee hopes that the testimony presented will shed light on these issues and clarify any questions we may have about the conditions that exist and possible solutions to what we agree is an important public concern.

I would like to thank everyone for coming today. We appreciate your participation in these proceedings. Now, we would like to hear from our first witness, who just walked in, Speaker of the House, Assemblyman Karcher.

SPEAKER OF THE HOUSE ALAN J. KARCHER: Thank you, Mr. Chairman. I have a statement which I will use to some degree, all right? First of all, obviously, Mr. Chairman, I want to commend the Subcommittee for studying the overcrowding and for tackling the difficult, but necessary and timely study of alternatives to prison overcrowding. I also want

to commend, as you just did, the Chairman of this Committee, George Otlowski, and, of course, yourself, for agreeing to take on the task of doing this. There is no doubt in my mind that under the resourceful direction of Assemblyman Visotcky, bold, imaginative, and cost-effective measures will be found to resolve the major shortage of prison bed space we face in New Jersey at the present time.

In 1982, the State projected that the adult prison population would increase from what it was then, 8,265, to over 14,500 inmates in 1987. According to a report submitted to the Governor's office on November 7, 1984 by the Ad Hoc Committee on Prison Population Projections, the projected prison bed deficit would create such intolerable jail conditions that action must be taken to constrain or reduce the deficit. The report indicated that the previous 1987 projection was 1,800 prisoners too low, and should be readjusted from 14,500 to 16,300. While I agreed with the Governor's statement in his annual message, which he just gave last Tuesday, when he said it is our duty to address this shortage at once, I cannot support his recommendation for more prison construction if it is the only remedy for reducing prison overcrowding.

In 1980, the New Jersey Public Purpose Building Construction Bond Act was approved. That was \$67 million for new prison construction. It has already been appropriated, but has proved to be inadequate. In 1982, we went through a rather lengthy debate about the proposed bond issue at that time. That bond issue was \$170 million, and was approved for new prison construction in Newark and Camden to house 1,500 prisoners and to provide additional bed space elsewhere. That bond issue has proved to be inadequate as well.

Now Governor Kean is asking for \$60 million for the "rapid addition of cells to the prison system." By rapid I take it he means temporary or less than permanent add-on cells. If we appropriate the \$60 million request, approximately \$300 million in total will have been spent on prison bed space just since 1980. Before appropriating additional funds for more prison space, I, like this Subcommittee, would like to hear from experts about the increased use of alternatives to prison for the nonviolent -- let me emphasize that, nonviolent --

qualified offenders. Specifically, I would like to take a good look at community service, work release, and intensive supervision programs to see if these would help to alleviate prison overcrowding.

You will be hearing from many esteemed experts in your deliberations. Some are present to testify today. I hope you will also hear from the experts who prepared the Governor's Management Improvement Plan on the Correctional System, entitled "Strategic Issues and Alternatives," which was released in September, 1983.

Now, let me digress for a moment. I have a copy of that here. As you, Mr. Chairman, may well recall, the initial release of the Governor's Management Improvement Plan consisted of 10 separate reports. We took exception to eight of those reports; in fact, rather vehement exception to eight of those 10 reports. We found two of the reports to be worthwhile and valuable, one of which was the report on the Department of Corrections. Once again, I endorse the work done by the Governor's Management Improvement Plan with regard to the study on the correctional system. I think it is a valuable, valuable document, I think it is extremely worthwhile, and I think it should be reviewed again at this time.

The main objective of the report was to relieve the pressure of prison overcrowding, which the report recognized would continue without building new jail space in the 1980s, over and above the then already approved \$67 million bond issue and the \$170 million bond issue. Instead of adding more prison bed space, the Governor's own report recommended the increased use of alternatives such as pretrial intervention, probation, intensive supervision, and community work programs, "without significantly changing the current Criminal Code or philosophy of criminal punishment."

Unfortunately, and I say this in all sincerity, one of the truly imaginative reports of GMIP has been neglected by the very Administration which requested that study. I realize that the projected 1,800 prison-bed shortage may not be completely resolved by the increased use of alternative sentencing alone. But, appropriating more money for the construction of new prison bed spaces alone has not been an answer in the past, and will probably not be an answer in the future.

One final thought. The increased use of alternative sentencing does not mean turning violent criminals loose on our citizens; nor does it mean changing the successful Criminal Code enacted during the Byrne Administration. The prison population we should be screening for alternative sentencing is the minimum security offenders who constitute more than half of all risk offenders within the adult prison population. What is the point of building new prisons if they are to be filled with nonviolent criminals who pose no physical threat to others?

To determine how much new bed space we need, I suggest we first consider screening out nonviolent criminals who present no physical threat to others. Difficult problems call for bold, new, imaginative solutions. I believe this Subcommittee, based on its mandate to consider the expanded use of alternative sentences, will present New Jersey with a solution to its prison overcrowding problem.

Now, having said all that, let me say a few additional things. I not only brought with me today a copy of the GMIP report, but I also brought some other things that I find fascinating. I think this is something we in New Jersey have to put into context. We have already spent -- or appropriated to be spent -- well in excess of \$200 million for new prisons in this State. When we talk about new prisons in this State, on the surface it is a very, very attractive idea. Mr. Chairman, I hope you will recall -- and, Assemblyman Felice, I hope you will recall -- that on the very day the \$170 million bond issue was passed, I gave what I thought was a short address to the Assembly. It was one I felt compelled to give because I don't think that anyone at that time -- nor to this date -- wanted to measure the true cost, what it is costing our society to incarcerate people in this State, and what price we pay for it, not just the social cost, but the dollar cost. That \$170 million bond issue of 1982 will ultimately cost the taxpayers of this State somewhere over a half a billion dollars by the time it is paid. We are now faced with the proposition of adding approximately 1,000 new bed spaces at a cost of \$60 million, and that is just for construction. When you average it out, and if you analyze it and look at the costs for the construction in Camden, etc., you will see that

every bed space in a permanent structure is costing us nearly \$100,000 in construction costs, and another \$150,000 in interest costs on the debt. In some instances, when we build for nonviolent persons, what we are doing is spending a quarter of a million dollars for one cell.

To put that into context, let me give you an example. Today, on the way over here to this committee room from my office, I picked up a copy of The Wall Street Journal. On Page 14 of The Wall Street Journal-- I think this is in the context of what is being proposed now, and I haven't seen the specifics of the Department of Corrections' proposal for the \$60 million expenditure. But, if it is to house 1,000 prisoners, we are talking about \$60,000 worth of construction per prisoner. Now, here are some ads from the normal Friday real estate section of The Wall Street Journal: Hilton Head, beachfront resort, preconstruction prices, \$59,900; Myrtle Beach, \$59,900; Blue Ridge Mountains, luxury resort residences, \$49,900. Last night I acquired copies of two European newspapers. They are fascinating. If you read through them, you find you can buy condominiums on the Riviera for \$80,000; in the Canary Islands, luxury condominiums for \$65,000. We might be better off, when we talk about the expenses we are ready to pay-- I don't mean to be facetious, but I think the public at large ought to understand what it costs us to house and incarcerate a convict in the State of New Jersey. It would be cheaper for us if we could buy a luxury condominium in Fort Lauderdale, Myrtle Beach, Hilton Head, Costa Brea, or on the Riviera. It would be truly cheaper to our society, cheaper to the taxpayers in the State, if we could send our prisoners to one of these luxury resorts for the period of their incarceration. We could buy the unit and be better off. When we add up the monstrous expense of construction, and compound that with the fact that during the term of incarceration it is debatable as to what the actual numbers are-- When we talk about clothing, feeding, medicating, educating, guarding, heating in the winter, cooling in the summer, etc., etc. a prisoner, and then talk about all the other incidental expenses of laundry, etc., etc., what we're talking about is not only a construction cost per cell that ranges between \$60,000 and \$100,000 for initial construction and a quarter of a million dollars by

the time it is totally paid off with interest, but we are also talking about an annualized cost of somewhere between \$35,000 and \$50,000 for all of that maintenance, etc., etc., etc.

There has to be an intelligent look taken at what we're doing, and that is what I hope you will do. I know you will do it.

Let me conclude by saying once again -- and emphasizing in the strongest possible terms -- that despite all of the political rhetoric that surrounded the release of the Governor's Management Improvement Plan, the one jewel, if you will, of that report was what they said about corrections. I am troubled about the fact that the Governor appears to be rejecting the recommendations of his own blue-ribbon committee. We all recall that during the years of 1982 and 1983, we heard little else from the Administration but the projected marvels and wonders of what GMIP was going to recommend. Here is a lengthy report, a well-thought out report, a well-done report, an intelligent, farsighted report, which includes a number of recommendations, all of which are being ignored at this moment. I hope that before we dash ahead and invest \$60 million in what will be makeshift trailers -- makeshift trailers at a cost of \$60,000 per prisoner, which is more expensive than what we could buy luxury resort condominiums for, for the same people -- that we will stop and reassess, reanalyze, and reevaluate what was recommended by the Governor's own study, and perhaps try to incorporate the very best of that study into some meaningful and rational alternatives, rather than just going ahead blindly and building more space.

ASSEMBLYMAN VISOTCKY: I appreciate your testimony very much, Speaker Karcher. We will have the people who wrote that report testifying before the Subcommittee too.

Do you have any positive alternatives to incarceration for nonviolent criminals? I do not mean to put you on the spot.

ASSEMBLYMAN KARCHER: First of all, I don't want to take up too much time, Mr. Chairman, but there are a few basic truisms with regard to criminology. Our first and primary focus, and primary concern, must be in protecting our citizenry. As I have often heard said, "There are no 60-year-old purse snatchers. There are no

60-year-old muggers." Some in our prison population at certain ages are ripe targets for review and analysis because of just the pure chronological and biological changes that take place in the prison population which render some of that population safe. That is a very good starting point; a very rational starting point. Everything I have ever read with regard to criminology says, in one way, shape, or form, that you have to analyze, in your prison population, who is really incapacitated from further danger or further threat to society for no other reason than chronology, the passage of time, and their present physical condition. So, age is a factor.

The second thing is, when you look at the cost analysis, focusing on intensive probation is cheaper. For the same price you pay for the construction of one prison cell, you could literally pay for a social or probation worker to work one-on-one, and you could save money. In fact, what we are saying now is, makeshift cells in a trailer cost \$60,000 apiece. For that same money you could get three probation workers, three trained, professional probation workers who could literally work one-on-one. You would obviously have an enormous cost saving if you did exactly what the Governor's report said to do and focused in on intensive, controlled, structured probation settings. I'm not talking about violent criminals; I'm talking about nonviolent criminals. But, right off the top, there are two alternatives.

The third one is, in our society I was a great advocate of the Penal Code when we adopted it after extensive study in the 1970s. However, if it has a shortcoming, it has a shortcoming in the fact that we do not look to such things as monitoring deterrents, fines, and restitution. Restitution very rarely is a condition precedent to sentence consideration. It should be; it is a viable alternative. Of course, I find work release -- one of the things you and I have talked about, Mr. Chairman -- to be troublesome. In our society we have moved forward, and moved forward very successfully, in unifying our court system. We pride ourselves on the fact that we are a model for other jurisdictions and on the fact that we have a unified court system with the entire administrative control flowing from the Supreme Court

through the administrative director, right down to the municipal level. Yet, we have far from a unified penal system; we have a very ununified penal system. We have a State system; we have a county system; and, we still have municipal jails in some instances. They are the imposition of the same type of unification of our penal structure and our correctional structure from top to bottom within the State. We are the most urbanized, the most compact State in the nation. It might very well be that the time has come for the State of New Jersey to look at the successful record, the successful achievements, and the benefits that flow from unifying the court system and say, "That same model, that same structure, that same construct might very well be imposed upon our correction system, as well, to the benefit of the State." I don't think anyone could have a successful argument -- or successfully contradict, let me put it in that nostrum-- I don't think that anyone could successfully contradict the proposition that by streamlining our courts in New Jersey, by unifying the structure, we have saved time, money, and effort. We have truly become a model of administrative efficiency in court administration. We might very well look to do that same thing. Philosophically, there is no reason why there should be county penal institutions, county correctional facilities, or county workhouses. There is no reason for that at all. Why couldn't we more efficiently administer the whole prison population if it were centralized? I know sometimes centralization is a bad word, but I am not talking about centralization as much as I am talking about unification and streamlining. It is just a question of whether we are going to be bold and imaginative, or whether we are just going to cave in to what on the surface seems to be the easy answer, and that is to just keep building more and more cells, locking people up, and throwing the key away. That doesn't work.

When I talk to people as I have talked to you today, laymen, about the costs, I find the reaction to be universal. The citizenry, the electorate out there, wants people in public life to start looking at alternatives. They are literally scandalized by the proposition that between the construction costs of new cells and new prisons and maintenance costs, for every person we will be sending to Camden and

Newark, it will cost us \$100,000 per year to house them in those facilities. When people find that out and recognize that that is how many tax dollars they are being asked to pay for every single person incarcerated, they are literally scandalized. They are demanding that we exercise our reason and our intelligence, and, through our deliberations and dialogue, find some reasonable, rational alternatives. There has to be a better way. There has to be a better way than just squandering-- Talk about throwing money at a problem, which is a phrase used too often around here-- When you talk about incarceration for a nonviolent offender, a non-threat-to-society offender, and you ask taxpayers to put up \$100,000 a year to keep that person incarcerated in a prison, it is really cause for a pause and some reflection on just what the hell we're doing.

ASSEMBLYMAN FELICE: Mr. Chairman, if I may through you. Assemblyman Karcher, yours was a very interesting analogy of the cost of buying a condominium, using the cost factor as far as keeping our prisoners here in our prisons or buying a condominium for them.

ASSEMBLYMAN KARCHER: If we could just convince them to go before they do anything. "We'll buy you a condominium, just don't commit the crime."

ASSEMBLYMAN FELICE: If we could keep them there it would be all right. Unfortunately, the painful things in life, such as the comparison you made of keeping a prisoner and, also, the unfortunate people who are sick and have to spend time in a hospital-- Sometimes with the costs of staying in a hospital, people could stay at the Waldorf Astoria. These things have a very hard, realistic comparison, and yet I'm sure the main thing is the ultimate goal and what we can achieve.

If I may then, what you're really saying, in a sense, is that besides incarceration there have to be alternate programs to relieve the overcrowding conditions. We are all talking about the nonviolent criminal or prisoner who could be brought to a more useful, less expensive, and maybe a more productive finalization, and what we could do to rehabilitate that person. In other words, you're saying that incarceration alone is not the answer, and that to relieve the problem,

we have to look at the other alternatives contained in that very excellent report -- which it is, by the way -- and at some of the other suggestions heard here today.

ASSEMBLYMAN KARCHER: Positively. That is exactly what I'm saying. I commend that report to you. I think it is truly the best thing. Of all that were done, that is far and away the best report rendered by any of the studies.

ASSEMBLYMAN VISOTCKY: Thank you very much, Assemblyman Karcher.

ASSEMBLYMAN KARCHER: Thank you. Do you want me to leave you this German newspaper?

ASSEMBLYMAN VISOTCKY: No, I don't read it. (laughter) May we have Commissioner William Fauver? Good morning, Commissioner.

COMMISSIONER WILLIAM H. FAUVER, JR.: Good morning, Assemblyman Visotcky, Assemblyman Felice. I would like to thank the Subcommittee for inviting me to comment on the issue of prison overcrowding. You have before you a statement which I will not read in its entirety, but which I think is worth alluding to. I would like to make some comments on it, and then I would like to comment on some of the things Speaker Karcher touched on.

Primarily, I think the fact that the GMIP report is being adopted by the Department is not something that the Department has backed off from, nor has the Governor. I like the idea of the condominiums and so forth. I am kind of surprised that they are cheaper than houses in Hunterdon County. You know, costs can pretty much show whatever you want them to show.

The first thing I would like to say is that crowding is not a local problem; it is a national problem. The populations of the prisons in the country have just about doubled from 1974 to 1983, from 229,000 to 439,000. So, I want to point out that the system in New Jersey is not unique in its crowding.

I made some comments in my statement on the Majority Staff Report on Alternatives to Incarceration. I would like to talk about that for just a minute. The Department obviously supported, and continues to support, alternatives to incarceration. I think you will

see in next year's asking budget a total of \$4 million now by way of asking for alternative programs, such as placement in drug and alcohol facilities, and the ability to be able to contract with organizations which run such programs.

I would like to mention though that what disturbs me, in a way, is hearing things come up about alternatives as if there are no alternatives in place. There are alternatives in place. There are a couple of figures which I think will point that out. In my report to this Subcommittee, I mention that right now New Jersey ranks thirty-first or thirty-second in the number of people incarcerated per 100,000 persons in this country. We rank eighth in population. In fact, if we went on a geometric type of scale, we should be much, much higher in our rate of incarceration. In New Jersey, I don't think the citizens differ much from those in other states in that they are better. We know that our law enforcement agencies are excellent; our court system is good. So, I have to assume that the people who should be brought in and prosecuted are the people coming in. The big gap is there because there are sentences of about 90,000 people in New Jersey. That many people are under sentence to a State institution of some kind. Some of these are not violent offenders; that is why they are in alternative programs.

On the second page of my report, I have broken these down into where they are. Fifty thousand people -- over 50,000 -- are on probation. These are sentenced offenders; they are not people who might have gone to jail, or who might not be convicted. They have been convicted and their sentences are alternate sentences. There are 5,000 diverted from correctional jurisdictions through pretrial intervention. This has nothing to do with the State system or anything we have done. It is what the courts have done and what the counties have done. What I submit to you is, if this deluge of people were thrown into the system, you can see what would happen. The Intensive Supervision Program mentioned in the GMIP report is underway. This, as you know, was initiated by the Governor and funded by the Legislature; there are now over 223 offenders in this program. So, they are people who have been diverted in the last couple of years.

More than 150 offenders are housed in community-based programs run by the Department and contracted for. I think one of the things that never gets mentioned, but which in fact is an alternative to incarceration, is parole. There are over 14,000 people on parole. These people have been in institutions, granted, but they may not have to serve their whole time. They are allowed to go out because the board, on recommendations from the Department, feels they are worthy of the street. They are out there.

If you total these up, you will come to a total of about 90,000 people under sentence, of which, right now, about 10,000 are incarcerated. There are another 1,200 or 1,300 waiting in county jails to come in. But, of these, meaning the sentenced offenders in this State, eight out of nine are not being incarcerated. I think that percentage speaks well of the Federal figures showing where we rank, thirty-first or thirty-second on the rates. It is not a question of a lot of people being in jail who do not belong in jail, who should not be there.

My feeling, having been out on the debates on these bond issues in the past, and having been told by opponents of the bond issues that there is anti-construction sentiment, is that if you look back at the 1982 bond issue -- and I did a lot of debates, I.V. things with people from ACLU and organizations which were opposed to construction -- when it came down to it, that bond issue was passed by over 200,000 votes. Now, I think that speaks for itself in the way the citizens of the State want these issues handled.

I do not dispute the fact that there can be more people in alternative programs. I think there can be more. I don't think those numbers are in our system. Speaker Karcher mentioned, for example, the older inmate. Of all the inmates in the system, we have approximately 55 who are over 60 years old. So, it is not a large number we are talking about. Recently, in looking for nonviolent men who could be moved up under the Parole Board's MAP Program, the Parole Board itself did a survey of 12,000 incarcerated cases and came up with a starting figure of 138 who could be considered. The Parole Board is screening people. They are looking at people. They are not letting people out

who should not be out. When they go through this, I have to respect their judgment about those they are saying could be out. I don't think we can form a policy, or should form a policy that affects, at most, 138 people out of the 12,000 or 13,000 who are in.

The reasons for the increase are the Criminal Code, the Speedy Trial Program, and the Parole Act. I don't think I will go into any kind of detail on those; you are familiar with all of them. The bottom line is that more people are coming into the system and are staying longer. This is reflected in a lot of the charts you have, which have been given out in my statement here.

To dramatize how these sentences have lengthened, let me indicate this: There are more than 425 offenders currently serving parole-ineligible terms of 15 years or longer, including 100 offenders serving mandatory minimum terms of 30 years. Now, this number alone would fill up the Camden Prison if it was open today, and no one would move out of there for 15 years. There would be no paroles. That is a blockage. The mandatory minimums have forced that on us. We can't do anything about it; the Parole Board can't do anything about it. That is the way the statute is; that is the way the sentences have come down. The reality of this is that there are people coming in now who have parole ineligibilities of 50 years, that type of thing. This means that a person coming in at 30 years old would be 80 before he could be considered for release.

Needless to say, this kind of an offender creates management problems within the walls. This is one of the reasons that I have strongly opposed double celling and other issues within our system. I have to be concerned with the running of the institutions and the safety of the other inmates and the staff alike.

The first full year of implementation at 2C was projected. It came about that approximately 20% of the prisoners sentenced received mandatory minimums. By last year, 1984, this went up to 50%. This projection was not seen when the Department, the AOC, Criminal Justice, and all the other people were doing the projections several years ago. That, in part, accounts for the differences in the projections in the last few years.

Now, per capita costs vary from a high of \$23,000 per inmate per year to run the place at Clinton to a low of \$11,000 at Annanalee, with an average per capita of about \$15,000.

When we talk about alternatives, the Speaker brought up -- and it was a very good point -- that nonviolent offenders for the most part are not in the system. I believe he came out with a figure of about 50% of those in the system. He was given erroneous information. There are not anywhere near that many. The nonviolent offenders are the ones who have already been screened off of the eight of the nine who do not come in. That is basically where most of them are.

ASSEMBLYMAN VISOTCKY: I think you differ with Speaker Karcher in that he was talking about capital costs; you're talking about maintenance costs. I think that is a little different.

COMMISSIONER FAUVER: No, when he was talking about the numbers, I believe he did say there were that many.

ASSEMBLYMAN VISOTCKY: His figures were capital costs.

COMMISSIONER FAUVER: Now I realize that, and he is correct on his capital costs. I did not mean to imply that he wasn't. The number of people New Jersey has in minimum custody, or not behind a wall, who are on a farm, in a work camp, or in a State park, or who are housed somewhere else, is about 2,500. So, if you deduct that number from the total who are in, we are holding about 25% of our people in minimum security. We not only rank favorably with other states in this regard, because many of the states which are rural states do not have that many in, but in the survey of the states in the Northeast, the average is about 12% of the population in minimum custody. Now, minimum is much cheaper because it is mostly dorms with one or two officers on, and no towers, no walls, no anything like that. Also, the other advantage of minimum custody is that these inmates provide a service back to the State, back to the taxpayers by working in State forests, doing road cleanup, and things like that.

ASSEMBLYMAN VISOTCKY: Commissioner, how about the prisoners you have in the Work Release Program who work in different industries? How does that work?

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COMMISSIONER FAUVER: Well, I think it works pretty well. The numbers in that program, Mr. Chairman, basically depend on what the economy is. If the economy is pretty good, we are able to get more jobs for them.

ASSEMBLYMAN VISOTCKY: What happens to the money?

COMMISSIONER FAUVER: The money?

ASSEMBLYMAN VISOTCKY: Yes.

COMMISSIONER FAUVER: We have a sliding scale in which they pay a cost back to the institution for room and board which is deducted from their salary. The rest is theirs; it goes into their account which gives them a stake for when they get out. They pay taxes. You know, they do all of the things that are helpful to the economy.

ASSEMBLYMAN VISOTCKY: Can you tell me roughly how much a person pays?

COMMISSIONER FAUVER: I think it's \$20-some per week, depending on what they make. A lot of these people are in fairly minimal jobs.

ASSEMBLYMAN VISOTCKY: Is that reasonable?

COMMISSIONER FAUVER: Do you mean should it be higher?

ASSEMBLYMAN VISOTCKY: Sure.

COMMISSIONER FAUVER: Well, some of them are not making very much money. I think what we have tried to do is come up with a scale, so that if you did go higher, you would pay higher. If you had a higher paying job--

ASSEMBLYMAN VISOTCKY: (interrupting) What is the average salary a person makes?

COMMISSIONER FAUVER: I'm not sure. I would have to get that for you, but it is not very much.

ASSEMBLYMAN VISOTCKY: Is it minimum wage? Above minimum wage?

COMMISSIONER FAUVER: It is probably minimum wage or a little above minimum wage. It is a percentage of what they make. If they make \$10,000, they're paying 20-some percent; if they make \$5,000, they're paying 20%. But, most of them are in minimal jobs. The point that maybe you were getting at, at least in part, is that that does

defray the costs of that particular institution. For example, we have a Work Release Unit at Annandale, which is a Quonset hut outside of the fence. It houses about 50 inmates who are in the Work Release Program. They generate, through their payments, the costs of running that particular unit. Their costs go to paying the officer who is in there, so that is not a budgeted item in the sense that it is a revolving fund type of thing. We would like to expand that. There are seasonal kinds of work, too, out of Leesburg in the southern part of the State.

ASSEMBLYMAN VISOTCKY: Can you tell me why it is 22%? Why isn't it higher? A person is incarcerated. He is going to go out and make money, but is not going to be giving anything back. He's not even paying his way.

COMMISSIONER FAUVER: Well, he is giving some things back on that. A lot of people are in with fines, there is restitution, and so forth. There is also money that goes towards that.

ASSEMBLYMAN VISOTCKY: When you look at fines, sometimes a person gets convicted of a crime and he pays a \$1,000 fine. It costs us maybe \$25,000 to prosecute this person, our court system is being labored on, moneys are being spent, and he can go out to work and make himself \$100.00. He can laugh at us because he has a hotel room. A hotel room -- I don't mean it that way, but in one respect, he can go back at night. If he wants to, fine, but I don't see why it can't be higher.

COMMISSIONER FAUVER: On the fine issue -- I would like to stick with that for a moment -- he does have to pay that if he is working. There are ways through the Bureau of Parole that even if he is out he can be violated if he doesn't pay the fine. If he is on work release, the payment has to be made prior to, if he has the money in his account.

ASSEMBLYMAN VISOTCKY: May I ask you this: If a person who has been convicted of a crime is in the Work Release Program, has he or she paid the fine prior to being paroled or released?

COMMISSIONER FAUVER: I don't have the answer, but my best judgment would be yes, they have paid the fine before they were released.

ASSEMBLYMAN VISOTCKY: I was just thinking. don't you think they should take money-- If you say 22%, don't you think they should take the 22%, plus whatever their fine may be, so that the fine would be completed prior to their leaving?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN VISOTCKY: Is that in the program?

COMMISSIONER FAUVER: It depends on the size of the fine, because even if you are outside, the court may allow you to pay \$25.00 a week or something like that. Yes, it is in the program, but on a scaled-down basis.

ASSEMBLYMAN FELICE: Mr. Chairman?

ASSEMBLYMAN VISOTCKY: Assemblyman Felice.

ASSEMBLYMAN FELICE: On that particular issue, Commissioner, this is a volunteer program as far as the prisoner is concerned also. Is that correct?

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN FELICE: Okay. Incentive is an important factor for prisoners to do the type of work they would like to do, rather than be incarcerated inside the walls. The other factor is, for every day they work, good time is sort of added to the picture. So, you're helping to expedite the release of that prisoner by giving him the incentive to get into the volunteer program. In a sense, this is not just a financial restitution to help to defray costs; it is also, in a way I guess, helping to solve the overcrowding problem by giving them that incentive to work, because there is no mandatory requirement for them to work in the prisons. Is that correct?

COMMISSIONER FAUVER: It is not mandatory by statute, but we have regulations that you have to work, go to school, or something.

ASSEMBLYMAN VISOTCKY: It doesn't help to solve the overcrowding problem because they are still going to sleep there at night. So, it is not solving the problem.

COMMISSIONER FAUVER: Well, it solves it to the extent that they are out sooner.

ASSEMBLYMAN FELICE: That is the main incentive there; I think that is most important, along with the financial incentive.

ASSEMBLYMAN VISOTCKY: Yes, but I think the whole concept of this thing is to find out-- We're talking about beds.

ASSEMBLYMAN FELICE: Yes, but the sooner we can get them out, the better chance we have.

COMMISSIONER FAUVER: Not only do they get out sooner, but also these beds I'm talking about -- using Annandale as an example -- are outside of the security of the dormitory setting. They are not taking up secure beds; therefore, we are not running the same costs to operate the place.

ASSEMBLYMAN VISOTCKY: May I ask you a very silly question? You bought these modular units, right? We bonded them for 20 years, and I understand the life expectancy is 10 years. I don't understand.

COMMISSIONER FAUVER: No, I don't think that is correct.

ASSEMBLYMAN VISOTCKY: That is the report I received.

COMMISSIONER FAUVER: First of all, let me correct something else I think is an erroneous idea which is floating around. The money that is being asked for for prison construction is not for trailers; it is not for modular units. It is for permanent construction. It's not for the other. We went to the modular units on a large scale at our Southern State facility, which is a 1,000-bed and small dormitories facility. Basically the reason we went that route was because we had reached the crisis point. We had nothing opening up within any given period of time. We managed to get Fort Dix which bailed us out for a while, but we needed those beds. As more companies get involved in the construction, things get better. You know, they become metal and so forth. I believe our estimates on them were 20 years. I heard what you said before, but I think it depends on who you listen to. Basically it is whether they are taken care of. We have had trailers in use on a smaller scale before inside the fence at Leesburg and inside the wall at Rahway. The ones at Rahway are in much worse shape than the ones at Leesburg. So, it just depends on whether they are taken care of or not. They are not going to fall apart. They could be knocked apart, but they are not going to fall apart.

On the issue of putting more people out though, I really think-- You know, I have been through some of this in the past, and I

might just give some anecdotal things which I think are important. One is, another alternative mentioned -- not in my statement, but mentioned around -- is furloughs. New Jersey does have a furlough law, and the Commissioner is allowed to establish standards to furlough people for certain reasons. The furlough system, in the late 1970s, was kind of at its peak. At given times, we had as many as 1,000 people in a month who were out. The furlough program was successful in numbers; it was 99% successful. We had one serious incident in which a man who was on furlough committed a murder. The man had a parole date; he was two or three days away from actually being paroled. The response to this was such that the furlough program was closed down by the Governor at that time because of the outcry from the public. This man had been approved by the Parole Board and by the Department to be out, but he committed this offense while he was still incarcerated. It brought that whole program to a close. I don't think you can jump into these programs in large numbers and just throw people in there. From my reading, from being around on bond issues and all, it is not there for any greater extension.

The Chairman of the Parole Board has been quoted many times and applauded -- and I agree -- for saying that because of prison overcrowding we should not let people out of jail. That should not affect the decisions of the Parole Board. They should go by their criteria. I would agree with that. As I said, he has been praised publicly for saying that. What I'm saying is, the Department of Corrections, and its criteria for putting people in minimum custody and putting them out, should also get the same credit and the same praise for not wanting to put people out who shouldn't be out. I don't see us coming in and saying, "Well, there should be more people on parole. You know, it's okay." I don't think it is okay for it to be suggested that the Parole Board acted responsibly, but that the Department doesn't have to act responsibly in their best judgment. I do not mean this, Mr. Chairman, to sound as if I am opposed to community programs or to alternative programs. I agree with a lot of the things that Speaker Kercher said. Because of the cost factors, we have to find some alternatives. What I'm saying is, I don't think we should look to

this anymore as a panacea that is going to save money or as something that is there in large numbers. If you just take the age issue, the numbers aren't there.

The Parole Board, with that 50% mandatory minimum, has no choice on 50% of the people. They have to wait until that mandatory minimum is up. So, there is no big play on moving people out. To make the Board feel more comfortable with their decisions on putting people out, we think we need more supervision. We have requested, and have received, support from the Legislature and from the Governor on getting another three district offices opened. These are now underway. One is open, and the others are in the process of opening. They will give us closer supervision of the parolees. I think that in a lot of cases, some of the deliberations of the Parole Board have been that they are a little reluctant to maybe take a chance on someone because they are not sure of the supervision. I think if they felt more sure of the supervision, there could be a greater increase there but, again, not in large numbers. I am not suggesting that. These are the kinds of things we are trying to do.

I guess what bothers me most, as I said in my opening remarks -- or in the opening remarks of this remark -- is that alternative programs are in place in New Jersey. New Jersey has been a leader in probation nationally for years. This is not a pat on the back to the Department of Corrections, because we don't have anything to do with it. However, it is nationally known that that is the case. I think the numbers in there have kept the State prison population level for a lot of years, and the three things I mentioned -- the Code, and so forth -- are the things which have caused it to jump up in recent years.

ASSEMBLYMAN VISOTCKY: Commissioner, we're talking about \$60 million, I assume. If we do get the \$60 million, how long will it last? Will it solve the problem, and for how long?

COMMISSIONER FAUVER: The \$60 million request for the 1,000 beds is tied to the most recent projections -- which the Speaker alluded to -- sent to the Governor by his ad hoc committee. That is where we picked up the numbers from, and that is what we are basing

this on. We feel that we need bed space in medium maximum security institutions for the people who are coming in. That is what this money is intended for. That is why I say it is not the trailers. If it was for minimum, the cost wouldn't be that high and, also, it would be for the trailers. But, it isn't, and I want to make that clear. I believe our projections on that are through 1988 to 1989, to take us to the end of this decade.

ASSEMBLYMAN VISOTCKY: How much money do you need to rehabilitate the prisons you have now?

COMMISSIONER FAUVER: We have no requests in, other than capital moneys, to kind of just do the necessities on plumbing, heating, and things that have to be fixed up over the years. We have no requests in to ask for any large sums to rehabilitate any of the prisons. It would be our hope that at some point, if we can get a decline in the population, that what was the original plan put forth in reports submitted to Governors going back to the 1930s to demolish the old parts of the Trenton prison, will, at that point, become a reality, rather than trying to fix anything in there.

ASSEMBLYMAN VISOTCKY: Regarding our prison population, have we ever looked into community service for some of our prisoners, instead of having them work in factories or someplace else?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN VISOTCKY: If we do have this program, I would like to know where, and how many people are involved.

COMMISSIONER FAUVER: I'm not sure if you would consider litter pickup or cleanup of the roads community service, but we do have that going on out of Annandale, doing roads in Hunterdon, Warren, and Morris Counties. We have the same thing out of Leesburg, doing roads in Atlantic and Cumberland Counties. There is an appropriation this year, which was put in by the Governor and supported by the Legislature, for about \$400,000 to expand that program, which we are in the process of doing. We will also include some details out of Bordentown/Yardville to do some of the roads in Central Jersey down toward the shore areas. These programs do not put anyone out of work. They are things that are not being done now.

Most of the other kinds of programs are out of our camps at Stokes Forest and High Point. We have them in others, but speaking about those two specifically, we clean up the areas, clean up the parks, build shelters, take care of the cabins for the visitors, and so forth in the parks in the summer. Those people provide a service to the State. The juveniles--

ASSEMBLYMAN VISOTCKY: (interrupting) Yes, but that man is still coming back to the prison at night to sleep in a bed.

COMMISSIONER FAUVER: He's not, that is the point. He is coming back to--

ASSEMBLYMAN VISOTCKY: (interrupting) He is still incarcerated. I am going to throw something out which will sound kind of silly. Take a nonviolent criminal, let's say a bookie -- let's just use a bookie as an example; maybe I shouldn't -- who is going to jail for a year or two. He is a nonviolent criminal, and yet the town he comes from-- Why couldn't he be allocated to that town, work for that community, which would be a temporary situation, maybe a year or six months, or prior to him going out on parole, doing something for the community and sleeping in his own house? He could be watched. Naturally you would have your parole officer, or the police in the community, looking at some of these people. Why not put some of these people out? It would be like the county jail system. In the county jail system, no one stays in over a year. They're bulging, instead of using these people to work in their counties. If they would just clean the litter off the street. If they don't want to pass the bottle bills, they might as well pick up the bottles.

COMMISSIONER FAUVER: I think you hit one of the reasons on the head. Anyone we have is over a year, so it would probably be toward the end of the sentence. The county may be more appropriate for that. I would submit that, in effect, although they are not doing it as a public service, that is what has happened with people on probation. I don't have the figures on this, but there are offenders now doing community service as required by the court. We have some of those. We have some professionals who get sentenced, and let's say one is an architect. The judge will put him on probation and the community

service will be that he has to teach a course in drafting or designing at a prison, or a hospital, or something like that for a period of years. We have some in those categories. I agree with you that that area could be expanded.

I would like to follow up on that. When we are talking about community service, and we are not doing it so much with adults, but with juveniles, where we have juvenile homes in cities, we are doing cleanups of lots, cleanups of graffiti, and we're doing work around senior citizen projects to clean them up. So, there is a public service. I think the communities can feel good about that for two reasons. One, something is happening for them that was not happening before, and two, they're seeing a return on their tax dollars. It is a community restitution project.

ASSEMBLYMAN VISOTCKY: That is something that always amazes me. A person commits a crime against society, but when he is in jail, he doesn't give anything back to society. That is what I mean. With community service, they would be giving back. They should be giving back during the entire sentence; there shouldn't be a guy working in his job making \$50,000 a year. An architect might teach them how to break out, you know, how to get out a window, or something like that. It sounds silly, but what benefit is that to us, to society?

COMMISSIONER FAUVER: Hopefully, one of the things we are doing in the prisons -- which becomes more difficult with overcrowding -- is trying to educate, teach trades, and so forth so that people will have an employable skill when they get out. Probably the average educational level for people coming into prison is about the sixth grade. So, for the most part we are certainly not talking about white-collar crime. We're talking about a group of people, for the most part, who have been in unskilled jobs, if they have worked at all. They have no saleable skills. That is one of the reasons they have been led into crime in the first place. That answers that specific question. I'm not sure -- probably someone from the Administrative Office of the Courts could comment on this better than I -- but my feeling is it is within the ability of the court to do that now. It would not require a change in any statute to do that.

ASSEMBLYMAN FELICE: Mr. Chairman, if I may through you, Commissioner, there is one point I would like to clarify for the record. Is the \$60 million request for construction actually for additional beds at the four major prisons -- Rahway, Yardville, Bordentown, and Leesburg? Are these the medium to maximum security prisons where most of the funds will be used for that type of permanent construction?

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN FELICE: Because this is the least amount of movement you will have in the prison system as far as people getting out with shortened terms is concerned. A lot of them are mandatory sentences where parole doesn't affect them as easily because they are set to a definite time before parole can be established in a lot of these institutions. The question -- and I think it is important because all of us want to feel confident that the reason the request was made was because of the need for those 1,000 beds -- is the fact that it will be for permanent housing which is going to be needed, and not just for a year, because the trend, as we see it, and the reports, are that it is actually increasing as we go along with the mandatory type of sentencing that is being given by the courts. So, I think it is important that people realize it is for permanent housing for the additional beds we need. Is that correct?

COMMISSIONER FAUVER: That is correct; that is exactly correct, Assemblyman Felice. I think one of the pluses, whether it has been money for prison construction or whether it has been money to run the prisons, is to have more officers, or to have more parole officers. One of the things New Jersey can be most proud of is that this has never really been a political issue at all. It has had bipartisan support. As an example, the bill we have in -- the bill Assemblyman Felice is sponsoring in the Assembly and Senator Graves in the Senate -- is the kind of thing that has happened in the past.

I would like to make one other comment and then try to answer any questions you may have. Currently, there are approximately 40 states which are under a court order because of overcrowding or because of the conditions in the jails. I think both the Executive Branch and

the Legislative Branch should be proud that New Jersey is one of the 10 states that is not under any of those kinds of court orders. I think one of the reasons we're not is because we have been pro-active. We have tried to stay ahead of this when it has become a crisis. It took us getting to the crisis to get action, but once that crisis got here, I can honestly say, and I have been around through a couple of Administrations now, that I have really not seen that support until close to the end of the Byrne Administration and into Governor Kean's Administration. I think it is one of those things; they kind of give us the tools and we do the job. I don't think that is true just of the Department; it is true with the courts, with the Parole Board, and with everything else. There have been statements that the State system is in court. The State system is in court daily on inmate complaints, on inmate issues. We get sued constantly, from the Commissioner on down. But, we are not in court on any issues about overcrowding in the State system. Again, it is a great credit to both branches of government that we are not one of those, because this list grew from about 26 states to 40 states within just a couple of years. So, we have been active, and I think everyone should be very proud of that.

ASSEMBLYMAN VISOTCKY: You had a supplemental appropriation last year. How much money was that, \$13 million? What did we use that money for?

COMMISSIONER FAUVER: It was about \$13 million, yes. Primarily it was for additional bed space at Southern State. We put more beds into Southern State to make it well over 1,000. There are now 1,080 beds down there.

ASSEMBLYMAN VISOTCKY: If the State took over the county penal system, would that benefit the State? (laughter)

COMMISSIONER FAUVER: That is a tough question. That is a good one to answer because whatever I say is going to be wrong. I think -- you know, sort of piggybacking on the Speaker's remarks -- it probably would make sense on unification for some reasons as far as movement of people around the State, standards, and those types of things are concerned. Smaller states do have a unified system.

ASSEMBLYMAN VISOTCKY: How does it work in those states?

COMMISSIONER FAUVER: From what I know of how it works, I think it works okay. We are talking about small states in size geographically too where this is happening. It could work; I just think there would be another fairly large cost to the State. Of course, we would take it off of the counties, but for efficiency it probably would make sense.

ASSEMBLYMAN VISOTCKY: Aren't we constantly in court with the counties saying we're putting State prisoners in the counties, keeping them in the county penal institutions? It's a constant hassle, from what I read in the papers anyway.

COMMISSIONER FAUVER: It is, believe me. But, they are reimbursed for that.

ASSEMBLYMAN VISOTCKY: What is it, \$45.00 a day?

COMMISSIONER FAUVER: That is correct. I think taking over the county system is something that certainly should be looked at; the costs should be estimated, and the efficiency ideas studied.

ASSEMBLYMAN VISOTCKY: Let me ask you another silly question. You know, for the \$45.00 a day we pay the counties, you could almost go to a Ramada Inn. Really, when you stop to think about it. Why is our cost that high? Is it because we have duplication of jobs? Is there an overabundance of people working? I don't know; that is why I am asking this question.

COMMISSIONER FAUVER: No, there is no overabundance of people, nor duplication. About 80% of the per diem costs are custody costs; the rest goes towards heating, lighting, and other kinds of care. Remember, what we are doing is something Ramada Inn is not doing. We have custody people on three shifts for 24 hours a day. We have wall security or fence security, with manned towers for "X" number of days. By the way, that figure was arrived at by taking one of our average costs out of Trenton State Prison -- what the cost was there -- because the counties were higher and lower. They were all over the lot as far as their costs were concerned. That is basically where that figure comes from. The security costs are the greatest costs within the institutions.

ASSEMBLYMAN VISOTCKY: If we made one system, if we took over the county system, would we need the \$60 million to build another jail?

COMMISSIONER FAUVER: If we took over the county system on the assumption that there was no one in the county system, some of the county jails could be used. Others are not secure enough for long-term offenders. Now, that may seem contradictory to the fact that there are State inmates in there waiting to come into a State facility. But, I want to point out that how that gets resolved is, we give the counties a number that they can ship in. They just don't say two came in today; they go by the more serious offenders. For example, if someone was sentenced under a 30-year mandatory minimum, or under a death sentence, he would be transported in on the same day. So, the counties are not backed up with people who would be going into those situations.

ASSEMBLYMAN VISOTCKY: Are you telling me the counties are getting nonviolent criminals only, or are they getting others?

COMMISSIONER FAUVER: No, not nonviolent criminals only, but of the violent criminals, the worst are coming in right away.

ASSEMBLYMAN FELICE: Mr. Chairman?

ASSEMBLYMAN VISOTCKY: Assemblyman Felice.

ASSEMBLYMAN FELICE: The last time I stayed at the Ramada Inn, I didn't have someone watching over me, and I don't think they feed you for \$45.00. If they do, I am going to move in permanently, or move my sons in. (laughter) But, in all honesty--

ASSEMBLYMAN VISOTCKY: (interrupting) I'm using 1960 prices.

ASSEMBLYMAN FELICE: Okay. I would like to say just one thing. Regarding this Committee that I am privileged to serve on -- not only the Subcommittee here, but the Assembly Corrections, Health, and Human Services Committee -- I must say that on both sides of the aisle, we have had very good cooperation and rapport on prison issues. As far as this bill is concerned, I must also say that if this is part of the answer of what has to be done, most members of this Committee are cosponsors of this bill, and they, like myself, have always felt that that is an important issue. I think you made a correct statement when you said it has been a nonpartisan issue to resolve the problem from the day I started to serve on this Committee, in deference to our Chairman here today, and to our Chairman of the Committee, Assemblyman Otowski. It isn't that they have closed their eyes or their doors to

the \$60 million. I just want to make that clear. If this is a necessity among the other programs that were brought out today, I feel that the rest of the Committee will do what they have to do on a nonpartisan basis. I would just like to commend our group here.

ASSEMBLYMAN VISOTCKY: Commissioner, can you bring us up to date on the status of the State Corrections' Master Plan? What has been done on it?

COMMISSIONER FAUVER: As far as the construction parts of it are concerned, the Camden facility should be opening around September of this year. Newark is scheduled for the fall of 1986. It better be November of 1986 because our contract with Fort Dix expires at that time. We just received roughly an 18-month extension on that contract to use the stockade. Whether that is reopenable or not I would kind of doubt at this point.

Regarding the beds that are coming on line, 500 of those are already in the system.

ASSEMBLYMAN VISOTCKY: I'm talking about sentencing plans, not necessarily construction -- the sentencing plans recommended by the Committee.

COMMISSIONER FAUVER: I'm not sure what you mean by sentencing plans.

ASSEMBLYMAN VISOTCKY: The 1976 Master Plan for alternative sentencing and what not.

COMMISSIONER FAUVER: I don't have a copy of the Master Plan with me, but the Master Plan talked about a series of halfway houses around the State. For adults, the Department has-- We have done much more of this with juveniles. We have two of these, one male and one female. We contract with the Volunteers for America and the New Jersey Association of Corrections. We have 200 and some people out in those programs right now.

ASSEMBLYMAN VISOTCKY: Can we get a copy of that report for this Subcommittee, please?

COMMISSIONER FAUVER: Yes, sure. Mr. Chairman, the only part of that Plan that I am conversant with is, it was recommended that the Department of Corrections be established and that a professional in the

field be appointed as Commissioner of the Department. That part I concur with. (laughter)

ASSEMBLYMAN VISOTCKY: I want to elaborate on the county penal system a little bit more.

COMMISSIONER FAUVER: Okay.

ASSEMBLYMAN VISOTCKY: We understand there are something like 7,000 beds in the county institutions. Correct?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN VISOTCKY: If there was a plan, since most of these prisoners are there for less than a year, and since they are nonviolent criminals-- If there was a program put forth that they could work in the communities and not really be housed by the State, that would open up 7,000, or let's say 6,000 beds, would it not?

COMMISSIONER FAUVER: Well, yes.

ASSEMBLYMAN VISOTCKY: Again, with the court system too; naturally, it will have to work hand in hand. I'm sure the Judiciary Committee is going to be working with our Committee to look into some of these programs.

COMMISSIONER FAUVER: Right.

ASSEMBLYMAN VISOTCKY: But, if we had that, and since you say that Camden will be open in September and Newark in 1986, and you will be closing Fort Dix, we are really almost at the same spot.

COMMISSIONER FAUVER: No, we'll pick up--

ASSEMBLYMAN VISOTCKY: (interrupting) We'll pick up 500 beds.

COMMISSIONER FAUVER: We'll pick up 1,000; well, roughly, yes.

ASSEMBLYMAN VISOTCKY: And then if we build this other \$60 million worth, we're talking about 69,000.

COMMISSIONER FAUVER: We're talking about another 1,000 on top of that, yes.

ASSEMBLYMAN VISOTCKY: I would say 89,000. But, if we had the accounting system, we could really, really have a program.

COMMISSIONER FAUVER: I think there are a couple of things on that. One is, I don't think you can make the assumption that that many

county-sentenced people could be in any kind of a community program. I think some of them could. That is a good place to look, I would agree, because obviously we are starting with sentences of less than a year right from the beginning. I think that some of the counties we have contracted with under the plan-- This actually had a genesis in this Committee with your Chairman, George Otowski, when he asked, "Why can't we help the counties with construction?" We are doing that and we are contracting to take State inmates. The reason we feel comfortable in doing that is because under the construction, these are the newer facilities where we are putting the inmates. Some of the county jails are in bad shape physically. I'm not sure how secure we would feel having long-term offenders in them. I don't discount this being done; it could be done to a degree, for sure.

ASSEMBLYMAN FELICE: Mr. Chairman?

ASSEMBLYMAN VISOTCKY: Assemblyman Felice.

ASSEMBLYMAN FELICE: On the subject of county prisoners, if I may, in a county jail or prison enforcement area, what is the percentage of prisoners awaiting trial? Would you say it is roughly 40% to 50%? What is the percentage awaiting trial? Let's say 40%, which I think is a pretty fair amount. Theoretically, those people awaiting trial are innocent until proven guilty by the courts. In a sense, would it not be unconstitutional to try to put these people into a work program, or any program, until they have been proven guilty? My problem is-- I think it would be great if you could do this and start with zero beds, and there was no one in the prisons. But, what do you do with that percentage who have not yet been proven guilty? If you send them to a medium or maximum security prison, or even to any other State institution, what happens is, the county jail becomes a State institution. Is that correct? In a sense, it becomes a State prison or a State institution. What do you do with those people who are awaiting trial who have not been proven guilty yet? That is the one legal or constitutional problem you have in this acquisition of county jails. I think the percentage is somewhere around 40%.

COMMISSIONER FAUVER: It's higher; it's 67%.

ASSEMBLYMAN FELICE: Well, I'm figuring a minimum amount of those other than just under a year.

COMMISSIONER FAUVER: That is a good point. Another thing, the larger counties are now experiencing a backup into the municipalities waiting to get into the county. The best example is Essex County with Newark, but it does occur in some of the other larger counties. There would be an offset of picking up those people coming in too, so it wouldn't be just "X" number of beds. All of those things have to be factored in. Again, I don't want to be completely negative on this. I think it is something that definitely could be looked at. I think, as you suggested, that the county jails are the appropriate places to look for that type of person.

ASSEMBLYMAN VISOTCKY: Would you be so kind -- within the next couple of weeks -- to make up the report, not to be, you know, this way or that way, but to give your honest opinion to this Committee?

COMMISSIONER FAUVER: Okay.

ASSEMBLYMAN VISOTCKY: You know, on taking over the system, how it could work, if it could work, if it couldn't work, and so on and so forth, I think it is something we have to look into, and I think it is something that is important for everyone in the State of New Jersey to look into.

COMMISSIONER FAUVER: All right. I think that is an appropriate question to ask the people from AOC, and others also.

ASSEMBLYMAN VISOTCKY: I have another question. What about the privately-run prisons? What do you think of them?

COMMISSIONER FAUVER: We have had some contact with people involved with trying to start privately-run prisons. We have said that if they can get one off the ground, we would be interested in renting space from them, or making some commitments to rent space. Our contact has basically been with the former warden of the Lewisburg Federal Penitentiary. He has been trying to get space in Pennsylvania, but I think there are a couple of problems. One would be, they haven't been able to site it because it is no easier for a private organization to site a prison, a halfway house, or a home for delinquent girls than it is for the State. They run into the same kinds of problems. I think that is a concept that can work for a couple of reasons. It would

almost have to be inmates who would volunteer to go out of State, because otherwise you would have to have hearings -- which we do now on some cases -- to ship people out of State. There are interstate contracts with other states and we can exchange, but it would have to be looked at on a personal and voluntary basis; otherwise, you would be in court bringing them back and forth all the time.

I think this is a concept that can work, at least to a degree. For example, we have a category of inmates which we call "protective custody cases." These are inmates who have to be kept separate from the rest of the population for whatever reason. They tend to be people who have testified against others at a trial and received a lesser sentence, but who are still in and have to be protected. They tend to be public officials, police -- I won't say Assemblymen or anything like that -- but public officials who need that kind of protection. I'm sure they would volunteer to go out of State, and if we had a place to put them, we would contract for it. We can exchange with 13 states and the Federal government; we have some people in these categories, and we also take some in. But, they are experiencing the same problem of overcrowding, so it is not that you can send 20 to Florida, for example, unless you exchange. It's almost like trading in major league baseball. You don't trade a guy with a five-year sentence for someone with a life sentence, because you would pick up too many years. I am not suggesting Corrections people in other states try to outbeat each other, but we are on guard. We have a number of people, and I think that could be developed for a particular category.

ASSEMBLYMAN VISOTCKY: Do you have literature on that?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN VISOTCKY: Can you send it to this Committee? We would appreciate it very much. What are we doing about programs for our prisoners with drug problems?

COMMISSIONER FAUVER: The drug programs in the institutions are really very minimal. There has been money put up recently through the Department of Health to go to alcohol/drug rehabilitation programs. This has gotten underway. There is a full-time staff

there. One of the things we're asking for-- When I mentioned \$4 million earlier for community release programs for next year, \$3 million of that would go toward contracting with an agency which runs drug and alcohol rehabilitation programs in-house, not where they would be home and come into it. They would run group-home types of things in the communities.

I do not think there is enough being done in the prisons on drug rehabilitation. The reason there isn't enough being done is, again, cost. As was stated earlier when the Speaker was here, the primary concern has to be public safety. Once we get past the cost of securing a place and guarding it, there really isn't a lot of money left for other programs.

ASSEMBLYMAN VISOTCKY: Now with the Federal cutback, how much more will we be hurting?

COMMISSIONER FAUVER: We don't have very much Federal money now, so it has already hurt us. It is not going to be something that is going to come on. But, it's true, we have been hurt in drug/alcohol rehabilitation and in our educational programs by the Federal cutbacks.

ASSEMBLYMAN VISOTCKY: Do you have any more questions, Assemblyman Felice?

ASSEMBLYMAN FELICE: No, but thank you, Commissioner, for your information and for some of the suggestions you made.

ASSEMBLYMAN VISOTCKY: Commissioner, I appreciate your coming before this Subcommittee today. We would like to know if you can be available when we have hearings in North Jersey and in South Jersey. If someone says, "Gee, what is the Commissioner doing?" we can say, "He is right here. He can answer the question; no problem."

COMMISSIONER FAUVER: With you asking, Mr. Chairman, I will be there.

ASSEMBLYMAN VISOTCKY: Thank you very much. I appreciate it.

COMMISSIONER FAUVER: You're welcome.

ASSEMBLYMAN VISOTCKY: Mr. Christopher Dietz, State Parole Board Chairman.

CHRISTOPHER DIETZ: Mr. Chairman and Assemblyman Felice, thank you for inviting me here today. Like most New Jerseyans, I am suffering from

the transition from warm weather to cold weather; which has caused everyone to suffer with a cold. If I seem a little drained, it is because of my physical health, not the problem before us.

You can't imagine how important what you are doing today really is. You are forcing the system, the State, and the three branches of government to continually focus upon a problem that is not going to disappear. It is here.

What Commissioner Fauver shared with you is absolutely true. What Speaker Karcher said to you is absolutely true. I would like to ask that the brief statement I submitted be made a part of the record, and I will speak extemporaneously. What I am going to say is also true. When Jack McCarthy from the AGC speaks, he is going to speak the truth.

The problem of overcrowding is a systemic problem. It comes from a philosophy dealing with recalcitrant people. It comes from a public reaction of being made prisoners in their own homes. It comes from something that has happened over a period of years. It comes from a breakdown in the family unit. It comes from releasing mentally ill people from facilities to other facilities where they shouldn't be placed, simply because we didn't provide the community alternative resources. It comes from so many things.

When you talk about the overcrowding crisis, what the Commissioner told you, again, is absolutely true. New Jersey has every reason to stand up, pop its buttons, and say to the rest of the country, "Hey, we are one of 10 major industrialized, heavily populated states that has not had Federal court intervention."

When you talk about what we have been doing, when you talk about 50,000 people on probation at any one time -- the Probation Department and the initiatives that the courts have taken -- and when you talk about community service, which was mentioned before, it immediately comes to mind that the best community service program, perhaps in the world, is being administered right now in New Jersey through the courts. They have a system on base that-- In fact, I have been working for some time on a report that I intend to submit to the Governor. In that, I suggest to the Governor that we shouldn't be

setting up another system; we ought to be dealing with what is best -- that is, buying into the court system.

ASSEMBLYMAN VISOTCKY: How?

MR. DIETZ: Right now, the judges are saying to individuals as sort of a way to justify the sentence of probation, "We are going to have you do community service. You don't have to go to jail." Everything you raised before, Mr. Chairman, is being done in part. Judges are saying, "We are going to have you do community service." The probation departments have set up a network across the State. In fact, they have been funded by the Legislature, and there should be a pitch made for them. Give them a lot more money, because whatever they are doing is great. People aren't getting free rides.

I can empathize with what you are saying. Sometimes a person feels he can commit a crime, get a free ride, and nothing really matters. He is going to a particular jail, but it may be overcrowded. One of the things New Jersey has said -- and I thank the Commissioner for his support; it is the position that we on the Parole Board have taken -- is that no one will ever be released from prison, if he is unsafe, because of overcrowding. Overcrowding will never impact because there are other things we can do.

One of the statements that bothered me, and I hope you aren't thinking with this frame of reference, is, "Well, we are going to try to relieve overcrowding." If there was no overcrowding in the prisons in the State of New Jersey, I would hope to God that you would still be here today and that I would still be talking to you. I believe -- the members of my Board believe -- that there are people incarcerated who shouldn't be incarcerated. There are people for whom the criminal justice system has not been able to find intervention for in the human service provider community. Unless we do this, these people are going to be recycled time and time and time again.

Do we have retarded people in prison today? Yes. Do we have people who are psychotic, who will probably always be psychotic, and who don't have legitimate defensive insanity? We can't give them a license to go out and commit crimes, so there has to be some alternative. As a last resort, have we used the prisons? The answer

is yes. Do we have functional illiterates in prison today who are products of our educational system, and who have been allowed to quit school so they could become burdens on society? The law permits a kid to quit school when he is 16 years old. The next time we encounter him, he is either a welfare case or a criminal justice case. Do we allow that? Absolutely. Do we have to do some interventions along this line? Absolutely. Are there people in prison today who should be in some type of a halfway program, so that we can integrate them back successfully?

Recently we were at our wits end. We found an individual who had served 30-some years and had a remarkably good record. The good record could have been because he was accustomed to jail. He is now over 60 years old. He is the type of person who committed a terrible crime 30 years ago. He killed and raped someone. He is now ready to return to society, and we said, "Well, how are we going to do this? He has to be in maximum security because, of course, he committed a very serious crime."

We create conflicts that shouldn't exist, and Commissioner Fauver is absolutely right when he says to the Legislature, his colleagues in criminal justice, and the public, "Don't ask me to do something and hold me responsible, unless we all share in that responsibility."

What I hope this Committee will do is not just ask criminal justice-- Let me tell you about some things that happened elsewhere on the North American Continent. Let's limit it to the North American Continent. In Canada, there is a successful program. An individual does his time. What do we have prisons for? To punish people. If they did something bad and they are not safe on the streets, we are going to punish them. Now they become eligible for parole. The moment a parole decision is made and the person receives a time to be released -- it is six months between the eligibility date and the actual release date -- he is transferred from the custody of the prison to another facility. They call it a penitentiary. They stage him for work release; they stage him for community counseling; they stage him for all of the supports he is going to need to survive in six months when

the release becomes effective. They have had remarkable success, because if you can help a person to get the tools with which to survive--

Recently, New Jersey Nightly News did a program where they interviewed several inmates. I remember because I was a part of it. There was an inmate who had been arrested 20 times for property offenses. He never hurt anyone; he was a non-violent person. He came to the hearing with chains on because it was outside, and he was brought out from behind the wall. It was the twentieth time he was in, and all he said was, "I have to eat, and I have to have a roof over my head." We can't give a guy \$50, \$100, or \$200 street money when we know, as you said, the other side of the coin, which is buying condominiums and living in hotels. To get an apartment, you have to put up a month and a half or two month's worth of security -- one month's security, plus one month's rent; that is \$600. You have to buy furniture, unless it is a furnished room. You have to have clothes; you have to have a job.

We should look to focus. If we are really sincere, and if we really mean to make an impact on this whole muddy pond of criminal justice, then we ought to be saying, "Fine, this is the punishment. You have been punished; now it is over with. We are going to see how we can get you back to being a law-abiding, productive citizen. We are going to help you." The program talks about that. Have work release. We are going to say, "You are going to keep part of that money, because you have to have money to rent a room or an apartment, to buy clothes, and to keep the job you have."

Let's assume a guy gets released from prison -- this is the day he is released -- and he is really lucky. The Bureau of Parole has a job waiting for him. He goes to the job. I don't know of very many jobs, and I don't think you do either, where the owner of the plant gives you your pay at the end of the day. If you are lucky, he'll pay you at the end of the week. They usually hold a week's salary, right? That means that even if we had the best system in the world right now in New Jersey, this guy goes in.

Let me ask you something. Some years ago there was a provision that got voted out of Congress almost the day it was put in; that was, we would give unemployment benefits to released convicts. Everybody was shocked. We have a choice. If a person doesn't have a job and he has no means of earning a living, he is going to be like that guy I told you about -- the one who was in prison 20 times. He is going to steal because he is hungry, because he wants a place to live, because he is cold, or whatever. So, you have to do something for that person.

If we had a work release program, and part of the money they earned, minimum wage or not, went to pay unemployment benefits, and let's assume after 17 weeks, which is less than the six months I talked about, he would qualify legitimately for unemployment. He would have paid into the fund. Now, if he goes out and can't get a job-- Mr. Fauver's Parole Board doesn't have to pay.

What you were suggesting, Mr. Chairman, about restitution being made, and not getting a free ride, is long overdue. A person shouldn't be allowed to think that all he has to do is a little bit of time and he can escape the responsibility of paying for the wrongdoing he has done. Serving time in jail alone is not the answer, and it certainly doesn't help the poor victim who has been a beggar at the bar of justice.

ASSEMBLYMAN VISOTCKY: Chris, at the same time, if a person is incarcerated and he is a drug abuser, I'm not going to give him unemployment so he can buy more drugs.

MR. DIETZ: Not at all, but you can insist that the State have drug rehabilitation programs that are sensitized to someone who has served heavy time. Just imagine, if you sat on the Parole Board with me, Mr. Chairman, at a Trenton prison, and we were looking at a case where we said to the guy, "Hey, you have done two years, three years, or four years in a Trenton prison, and you have 20 years. Since you were nine years old, you have been doing drugs." Then he says, "I need a drug program." What is available to us? The modality of drug treatment available right now is normally the one where the guy goes in, they shave his head, put a little diaper on him, and put a sign on

him that says, "I'm a bad boy." Then he goes through a phasing period to break him down. I'm not saying that modality isn't valid for people who haven't served time as a preempted measure. What I am saying is, when the guy has already gone through the hell of being in a Trenton prison, or whatever prison, for a period of time -- just trying to stay alive, not getting himself into trouble, and trying to earn the privilege of serving the remainder of his sentence in the community -- there ought to be a special type of program available.

We ought to have programs available so that when the Parole Board looks at a guy who has gone back to drugs, we don't have to say, "Ah, heh, you went back to drugs; you are going to prison." Right now, that is my only alternative for parole violators.

Last year we brought back 800 people on technical violations because they refused to obey the rules. They went back to alcohol or they went back to drugs, for whatever reason. No one is perfect, especially the human beings we have in prison. Some of them are marginal human beings, less perfect than most of us, because they weren't dealt a full deck of cards, and they probably haven't gotten all of the breaks they could have gotten. I'm not trying to be a bleeding heart. What I am saying is, wouldn't it be nice if the Parole Board and the Parole Bureau could say, "Wait a minute, there is this program you could go to. You don't have to go back to prison." If we could save half of them, which would be about 400 people--

How much did it cost for Camden? Camden is going to give you 450, and that is just for one year. If we could get some of the people who are retarded and who can't be released because they are so psychotic-- The Parole Board has consistently said for the last several years that there are 500, at least at any one time, who we could identify. They are recycled. We put them out, and they come back.

When Bill talks about using Camden to house the mandatory minimum terms, you are talking about people who, unless there is intervention in their life cycles, unless we are going to do something, we may have to take on the responsibility of taking care of them for the rest of their lives.

Do you want to know something? Massachusetts does it. Massachusetts has a program where the retarded person has a parole officer, and it is on a ratio of one to four. They find a halfway house, and then they find a group of apartment facilities. They walk them to their jobs. If one of these people loses his paycheck, they give him some money. These people get ripped off a lot and they are marginal human beings. But, these parole officers keep them out of prison. The cost of keeping them out of prison, even though that program costs maybe \$10 thousand or \$12 thousand a year, is cheaper than keeping them in prison. Those marginal human beings need maximum protection; they are usually in protective custody.

I am going to share some other options with you, but one of the things I would suggest is, I would like to invite you individually to come and sit at a parole hearing. We couldn't take you all at once; we've said this before, and some members of the media and some legislators, although not many, have done it. Look at the information, look at the inmate, and look at what is happening. Visit the institution, and get a feel for what the system is already doing, because the system is not doing a bad job. Share the frustration with us.

There was a kid just before Christmas, obviously retarded, at Trenton Prison, and I said to him, "When is the last time you had a Christmas present?" He said, "When I was 11 years old." I said, "What was it?" He said, "My mother got me a new pair of pants before I was shipped to a mental institution." This kid is in Trenton Prison. Yes, he has to be incapacitated from society, and he is never going to be able to trust, but there must be something short of the crow hearings, short of what the courts have said.

ASSEMBLYMAN VISOTCKY: What crime did he commit?

MR. DIETZ: I think it was an aggravated assault, but I'm not sure. I don't remember, but I remember the instance. I would like is you individually to sit there and sense the frustration. Feel the frustration that flows through Bill Fauver's veins, or my veins, or a judge's veins, or a prosecutor's veins, when there just aren't alternatives available.

If we could get 400 out who shouldn't be there to begin with, because of the diminished responsibility they have-- Yes, you are going to have to build beds. It is not that you are not going to build; it is just that you are not going to build prison beds. They are going to have to be built, and there is going to have to be a whole new criteria set up, but it is going to be in the Human Services Department.

George Albanese is not looking to declare war on criminal justice when he says, "I don't want prisoners on the grounds of State hospitals." He is feeling a visceral reaction. If I had a child who was born retarded, or if I had a relative who became mentally ill, I wouldn't want that person subjected to the vagaries of a criminal. We have to understand that not everyone we label as criminals are really criminals.

In Colorado--

ASSEMBLYMAN VISOTCKY: (interrupting) How can you say that?

MR. DIETZ: Pardon me?

ASSEMBLYMAN VISOTCKY: How can you say they aren't criminals? What are they doing there if they are not criminals?

MR. DIETZ: What is the alternative? I can remember a case not too long ago. That is why I said to come with me and see the cases. This was out of Ocean County; Ocean County is typical of every county in the State that faces this problem. There is a youngster who is retarded. He got out of a sheltered institution; his family couldn't take care of him. He is now 23 years old. He walked up to a woman and touched her breasts. It was show-and-tell time. She screamed rape, and he got 13 years. He wasn't eligible for parole for two and a half to three years because he couldn't be put in minimum custody to earn credits. He couldn't work everyday, and that is the other exacerbating problem. Those who are least capable of ever surviving in society can't even earn work-down credits. I am not making a bleeding-heart presentation; I am simply saying, come and see it.

What are other states doing? I think that is the answer -- to ask us to do better. Everybody here is at wits end, trying to keep

the ship from sinking. We are doing the best job we can, all of us. I am not just tooting a horn; I am telling you the truth. Go to Connecticut and look at their furlough program.

Give us the opportunity to do it, and at the same time, don't have another committee in the Assembly haul in Mr. Fauver or myself and say, "Well, last week five people in this furlough program committed a crime." Don't do that unless you are prepared to also hear us say, "That was five out of 100 or 500, and the percentage was 1%."

Criminal justice, especially at the parole level and the corrections level, is never going to be able to guarantee success. We are dealing with the already established worst situation that a human being can deteriorate to. We are the judge at no point--

ASSEMBLYMAN VISOTCKY: (interrupting) Chris, how does the victim or that five out of 100 feel?

MR. DIETZ: You know, that is the other good thing.

ASSEMBLYMAN VISOTCKY: No one is looking at society. They are always looking at--

MR. DIETZ: (interrupting) They are. That is what I am saying. You can't take it in just this project alone. You instituted what I've already said is the best thing down the pike that has happened anywhere in the country, which is the victim's right to get into the parole process, but not at the end like most other states have. You have us getting the victim involved in the first 90 days. I only wish more victims would believe in the system as I do. They get to see, for the first time, what is happening. They get to groper back and forth with us. We get to see what the impact of crime was, and maybe for the first, make a valid determination as to the appropriateness of restitution. But, there has to be something that ties it altogether. Do you understand what I am saying?

Let me share some other things with you, and then I'm not going to talk anymore. I always talk too much.

ASSEMBLYMAN VISOTCKY: I know. (laughter)

MR. DIETZ: In Colorado, they have reintegration centers, which is sort of a dovetail of what they do in Quebec. Maybe you would like to visit Colorado, or maybe you would like to bring those folks

here. Let them tell you their success rate; let them tell you how they do it. It is either a guy or a gal who goes to this reintegration center. They get him or her a driver's license, or they get him or her a Social Security card. They set these people up with job interviews -- everything that is necessary -- so that the day they are released from state confinement, there is something to go to.

Connecticut has reentry furloughs, and they are very successful. At any one time, out of a 4,000 prison population, they put 250 people -- which percentage-wise is a remarkably large percentage -- in the community, with good success. Talk to them; see them; find out. It is not that we aren't doing it because we don't want to do it; it is because we don't have the resources to do it, and we may not have the legislation which allows us to do it.

In New Mexico--

ASSEMBLYMAN VISOTCKY: (interrupting) Have you ever come to the Legislature, to any committee, and recommended something be done?

MR. DIETZ: That is what I am preparing right now for Assemblyman Flynn. The Assembly Oversight Committee has directed us to look at the delivery of services for ex-offenders in the community, and to report back--

ASSEMBLYMAN VISOTCKY: (interrupting) Give us a report.

MR. DIETZ: We are in the process of doing that.

ASSEMBLYMAN VISOTCKY: Oh, we don't have it yet?

MR. DIETZ: Unfortunately, Dick, the problem is-- Yesterday morning I left at four o'clock to go to Leesburg to do 29 hearings so I could rush back in order to work on that report. We are one-armed paperhangers, and the one arm is getting tired.

So that you can understand, let me explain something. In New Mexico, the concept of house arrest is in place. We had talked about this -- where the court, the Correction Department, or whomever has the responsibility, says, "You go out, you work, and you be in at nine o'clock." There is a little wristband. "If you go more than so many feet away from your house, you are considered in an escape status." But, it is a way of doing it. I'm not saying I like that. It starts to become a little "Buck Rogers."

In North Carolina, they have one of the best mental health referral systems, in my opinion, in the United States. We ought to take a look at what they do. Do you know what else they do in North Carolina? They have a system for parole where two guys supervise. There is a resource specialist, who is a person who advocates and who knows how to get what the parolee needs. Then there is an enforcer. Literally, the parolee looks at these two guys-- It is almost like a good-guy, bad-guy team operation as we see on television, where there is one guy who would just as soon lock him up, and the other guy would just as soon help him make it. The choice is his.

In Wisconsin, they have a system that when the parole decision is made, it is almost like a police officer writing a ticket -- and I've had my share of traffic tickets -- and he says, "You are going to be at this municipal court, at this time, on this date." I've always wondered, "Gee, what a marvelous thing. He knows." He is told by the judge, "You've got five spots on Thursday, the thirteenth; you've got eight spots on this date, etc. This is what you can do." When he fills them up, he knows he has to go to another date.

A guy comes up before the parole board. They know he needs mental help, they know he needs psychotropic medication, and they say, "Well, young man, you are going to the mental health counseling service at this location, at this time, on this date," so that there is no chance for failure.

The other thing you were talking about, which Wisconsin also does, is that there are systems in this country where literally they have said to the local communities, "It costs us this much money to keep a prisoner in prison. We'll give you this much money if you can find a way to keep him out of prison. We are not asking you to pick up the costs of running it; we're going to give you money. We are going to give you maybe \$5,000 -- half of what it is. You work up the counseling centers; you work up the halfway houses. It is your community, and these people are going to be returning to your community." You see, that is something we have to get the public and the community leadership to understand. It is not that when a person commits a crime and gets sent to prison, he goes away forever. He will

return, unless it is life without parole, which, for all practical purposes, we have in this State. When a guy gets a 50-year parole ineligibility term, and he is going to be 80 years old before he comes up before the parole board, in all probability he will die before he ever has an opportunity for parole.

I have one last thing. We have an aberration, although it wasn't intended. I think it was something that fell through the cracks when we were doing the county parole system. By the way, in talking about county parole systems, half of them are pretrial detention people -- 6,000-some. The Board did about 10,000 review hearings to identify 3,000 people. It is not that you haven't done something in the counties. If you hadn't passed the County Parole Act two years ago, I can't begin to describe what would have been out there. You had the foresight to do it, and it is working. There are no headlines that say, "County Parolee Commits Murder." It is working.

ASSEMBLYMAN VISOTCKY: How many of them are being released?

MR. DIETZ: There were 3,000 last year.

ASSEMBLYMAN VISOTCKY: Three thousand last year?

MR. DIETZ: Three thousand people.

There are things you are doing, but there are more things we can do. When the Commissioner or the Governor comes to you and says, "I need \$16 million to build facilities," understand what he is saying.

I don't want you to think I am lecturing you, but I'm an old war horse. This is my tenth year as Parole Board Chairman. In the 1970s, we did nothing. The last facilities were Yardville and Leesburg. We have to pay the piper for that inactivity. We are going to build cells in the future that aren't going to be wasted. They are going to replace antiquated facilities. It is almost like using baling wire and ceiling wax to make the facilities last. They should be closed. The old section of the Trenton Prison should be closed, and we hope to close it. At the present time though, we are still using it. We have to because we need the beds right now.

After the overcrowding-- Let's assume the academicians are correct -- that the baby boom and all the things they talk about are going to end, and we are suddenly going to have a surplus of cells. At

least in New Jersey, you can say to the citizens, "You haven't wasted your money in 1984, 1985, and 1986, because now we are going to close some of those archaic facilities that never should have been left standing."

ASSEMBLYMAN VISOTCKY: Chris, I can appreciate your speaking for the \$60-million bond issue.

MR. DIETZ: I'm not speaking for it. I wish to God I didn't have to, but the problem is that you need it. You still need these other things.

ASSEMBLYMAN VISOTCKY: But, we are asking you what we can do to alleviate some of the overcrowding in our State institutions and our county institutions.

MR. DIETZ: It is simple.

ASSEMBLYMAN VISOTCKY: If you give us a recommendation, that is what we want. That is what this Committee is all about. We don't need a lecture, although you are very good at that.

MR. DIETZ: It is not a lecture; that is not my intention. It is sharing. Let me give you \$25.00 because it is therapy for me. It almost makes me feel like someone is listening and caring.

Give us the opportunity to work -- a mandate, somehow, to Human Services that says every time we come up with an individual who is retarded or mentally ill and desperately needs housing, he doesn't have to spend one more day in prison.

ASSEMBLYMAN VISOTCKY: That is all you are saying. You have been talking constantly about the mentally retarded. We want to talk about prisoners, not about mentally retarded persons.

MR. DIETZ: Well, let me talk about them.

ASSEMBLYMAN VISOTCKY: You haven't talked about them.

MR. DIETZ: The 138 people that Bill Fauver talked about were people who didn't have mandatory minimum terms. The law says we can't consider people with mandatory minimum terms. Those are people who could be released right now to a community program, if there was one, where they could-- Now, I don't want them to get a free ride. The judge said, "There is so much punishment you have to do." Right? We ought to have halfway houses so they can go out there and work. We

should have money to buy community-service project supervision from the courts for these people so that for every day they get out early, they have to work one hour. It could be one hour for one day, or two hours for one day.

Now, let's talk about mandatory minimum terms. The courts-- it is not to their discredit; there is disparity everywhere whenever a decision is made. Two people, given the same facts, will never make the same decision. As far as the courts are concerned, just because a judge says, "You have to do 10 years"--

I recently spoke in Morris County at a judicial training college, and one of the judges there said he took 10 sentences of similar crimes -- similar criminal histories -- but, from 10 different counties in the State. Do you want to know what the range of sentences was? Anywhere from six months in a county jail to 20 years in a State prison, with a 10-year step. When you have that kind of documented disparity-- It isn't that they aren't trying. The courts are doing a magnificent job of trying to address the problem, as are the prosecutors with pleas negotiations. But, the Parole Board should be given an opportunity to at least go to that same judge. Right now, I'm barred. If a guy gets a 25-year mandatory minimum term, the only thing that can intervene in that is the Governor's executive clemency, because he is usually passed a post-conviction relief time through the court rules.

Allow me to go to the court and say, "Judge, I really think this guy has shaped up." And, let Bill Fauver say, "Maybe we ought to go together." Say to the judge, "He doesn't have to do the full 30 because he has really learned his lesson, and he has changed very dramatically -- almost like the Birdman of Alcatraz."

ASSEMBLYMAN VISOTCKY: That is like telling me a guy robbed a bank and because he was sorry, he gave back the money. I don't buy that.

MR. DIETZ: No, I don't buy that either, Richard. I'm saying that when we should do this he has served more than half of his sentence. If it is just a knee-jerk reaction, and you're saying, "We said 30 years, and damn it, it is 30 years," then do what Bill Fauver

said -- start building. But, each year, the building costs go up. Statistics show that two years ago, 40% of the people being sentenced to State facilities had mandatory minimum terms. Next year it is going to be 60%. Unless you do something about that, you have bought the need to build with absolute certainty.

I'm asking you to come in. When you say, "I don't buy that," I'm saying, "Of course." If I was in your position, I would feel the same way. Come in, see, and look. Look at the information. Watch. You are not going to be looking at people who are coming up right away. I'm not even talking about a long shot. I'm saying, cut six months off the sentence if the guy has really been good, because that six months may buy what you need until the population boom is over and the prisons start to reach a sense of normalcy. If the academicians are right, we have to go through this hell until 1990.

That is all I wanted to share with you. I'm finished.

ASSEMBLYMAN FELICE: Mr. Chairman, I have two quick questions.

MR. DIETZ: Yes, sir.

ASSEMBLYMAN FELICE: One, I am very interested in the 400 retarded persons in the prisons. What percentage of them are in for violent crimes?

MR. DIETZ: Probably all of them.

ASSEMBLYMAN FELICE: All of them?

MR. DIETZ: Violent crimes of some form. Some of them have had violent natures, and we couldn't trust them, but, then again, there are degrees of violence.

ASSEMBLYMAN FELICE: Okay. Is there anything in the program for these people regarding taking them and putting them in a separate penal institution where they could be helped more medically than just by interment? As you said, these people are prisoners, and yet they have a medical problem, a history problem, or a physical problem. Is there anything being done in that direction?

MR. DIETZ: We have started, but it is not enough. I guess the problem there is that if you say-- You said the penal system and the correction system. If you move them into a correctional facility,

you only have jurisdiction over them for the term of their sentence. In other words, when they are not serving life sentences without parole, we have to get them into a community-based facility or a State facility that is a human service provider. We have to get them out of the prisons because they don't belong within the correctional setting. After the punishment is over, they need someplace where they can just be cared for.

This youngster we saw at Trenton Prison-- If there are 10 in each of the facilities, they don't have to be there. But, they have to be cared for for the rest of their lives.

ASSEMBLYMAN FELICE: Except that you can't take these people, turn them out of the penal institutions, and say, "Okay, we are going to put you in a halfway house," and expect them to readjust with some pre-acclimation to the world out there.

I'm involved with the retarded, and I have been involved with a center for retarded adults. You just can't take-- That is part of the problem. If you take them out and put them into halfway houses in the community, all it takes is one not to take his medication, and the whole program, not only in that community, but throughout the whole State, goes down the drain.

MR. DIETZ: Let me tell you, the more tragic thing is that there are no halfway houses for these people. They are being held in prison right now because there is no alternative.

ASSEMBLYMAN FELICE: So, they are going to be in prison, and perhaps if they go out, they are going to come back.

MR. DIETZ: Well, sure.

ASSEMBLYMAN FELICE: All right. I have one other quick question. Regarding those awaiting parole -- the six-month period before they are released, when they have a work program, and so forth -- are those who are married family people being acclimated in any way during that period of time, or do they just come out and take up the job of being a husband and father without--

MR. DIETZ: They just come out. That is why I suggested you adopt maybe the Quebec model, or the reentry model that Colorado has. There are models that exist in this country that could be an example to New Jersey -- not that we haven't done our share of example setting.

To take a person, as Bill said, and say, "Hey, he is in maximum security"-- Do you know what the other ludicrous thing is? If you ask the Parole Board to make a parole decision on someone who, because of the nature of his crime, can never be in minimum security, what you have is the absurd reality of a person who stays behind the wall because he is unsafe, as far as what the community feels his period of incarceration should be, until the day he is released for parole. If the Parole Board ever said to the Commissioner -- we haven't said it because we realize it would just be an exacerbation -- "If that person is not safe to be in minimum, then he is not safe for parole, and we are not going to parole him," the parole rate would drop like that.

ASSEMBLYMAN FELICE: You approve the release of a prisoner six months--

MR. DIETZ: (interrupting) That does not mean he goes to minimum.

ASSEMBLYMAN FELICE: Okay. So, during the last months you have some kind of community work program to help them adjust. Does any part of the program show any consideration for a father and a husband, as far as him not just being thrown back into a household that he has not been a part of for 10 or 15 years is concerned?

MR. DIETZ: The program doesn't exist. You and I are talking about something that doesn't exist. When it does, I hope it does exactly what you say -- that it addresses the issue of bringing in the father so he can get to know the kids again.

There is something being done on a very small scale for mothers with children at Clinton. Wherever Commissioner Fauver has had an opportunity to do it, he has done it.

Can you imagine if we ever had conjugal visits? My God, there would be headlines, preachers in the pulpits, and everything else. New Jersey has never been able to get over that, and it is the same thing you are talking about.

ASSEMBLYMAN FELICE: Thank you.

ASSEMBLYMAN VISOTCKY: Thank you, Mr. Dietz.

MR. DIETZ: Thank you.

ASSEMBLYMAN VISOTCKY: We are going to take a 10-minute break and then we'll finish.

(10-MINUTE RECESS)

AFTER RECESS:

ASSEMBLYMAN VISOTCKY: John McCarthy?

JOHN P. McCARTHY, JR.: Thank you, Mr. Chairman. My name is Jack McCarthy. I am Assistant Director of the Administrative Office of the Courts.

As Chairman, I was involved with Commissioner Fauver, his staff, and others in the development of the projections for prison overcrowding. I was asked here today to discuss sentencing information a little more generally. I'll be brief.

I would first like to state my support for the proposition that overcrowding is going to continue to grow. Its impact is felt not only in the institutions, but also in the courts amongst judges at the Superior Court and municipal court levels, prosecutors, probation officers, and others who are trying to do their jobs. These people are mindful of the fact that the jails are full.

While I agree with Mr. Dietz that overcrowding has no rightful place in their decision, it is very hard to ignore its reality. It certainly affects their exercise of discretion. You find municipal court judges, with what we might identify as less dangerous people, wanting to, but not able to, incarcerate them. You find probation officers, with people who have violated probation, wanting to, but not able to, incarcerate them.

I believe we need more beds, and we need alternatives. Fifty percent of the people sentenced statewide during the course of a year -- we sentence about 20,000 people a year -- don't go to jail. They receive probation, perhaps a fine, and community service, but they don't go to jail. I think we need to strengthen our probation, parole, and community service programs so that they are more effective in handling this amount of prisoners. I think if we do that, and we can

restore public confidence in probation, then we might find ourselves in a position where there can be more effective and more available alternatives to incarceration itself.

I was asked last week to provide some data. I was told the Subcommittee wanted to review some general information as to what types of sentences are given for what kind of offenders. Sentencing is a very complex procedure. During the course of a year, there are about 200 judges who sentence those 20,000 people with different kinds of alternatives other than sentencing, so it is not easy to draw a complete picture in a short period of time.

I do have some data here which moves some of the general information to specific information. I don't know if the Subcommittee has received a copy of my statement, but I am not going to go through it in detail, except to apprise the Subcommittee as to what is here and point out some of the information you may be interested in as you proceed with your deliberations.

ASSEMBLYMAN VISOTCKY: We have your statement.

MR. McCARTHY: The first chart I have under the cover memo breaks down the number of sentencings between violent and non-violent offenders during the course of a year. Out of the 20,000 persons sentenced, about 83% are sentenced for non-violent crimes, and about 17% are sentenced for violent crimes.

Focusing in on the non-violent crimes, which I think is the focal point of this Subcommittee's work, we know that 61% of the non-violent offenders receive a non-custodial sentence. About 39% or 40% receive a custodial sentence. That is about 6,400 offenders per year in the State of New Jersey who are convicted of non-violent crimes and who receive a custodial sentence. It is this group, I would assume, who would be most amenable to some approach for an alternative to incarceration. Of that group -- that 6,400 -- it breaks down roughly this way: 20%--

ASSEMBLYMAN VISOTCKY: (interrupting) Is that State and county?

MR. McCARTHY: I was going to give that to you.

ASSEMBLYMAN VISOTCKY: Oh.

MR. McCARTHY: Forty percent of the 6,400 get some time as a result of the sentence. The way that would break down is roughly 3,000 to a county institution, about 1,000 indeterminate sentences served at the youth complex, and about 2,000 determinate sentences, which would normally be served at the prison, although the Commissioner has the discretion to move them around. That is the group which would be amenable to some program this Subcommittee might want to think about.

In addition to the data, with respect to that, all I would point out is that if you look at the backgrounds, on the average, of these offenders -- if you look at the non-violent offenders who are in State prisons -- they are the ones with the very long records. Generally, your violent offenders tend not to have long records. They commit a few violent crimes, which are very serious ones, and they go to a State institution. Your non-violent offenders generally have an average of four, five, or six prior convictions.

According to our data, the non-violent offenders who are in State prisons have been on probation a few times; they have been in county jails; they have been around the horn. That is why they are now in State prisons. It is because there is such a high degree of recidivism that the judge feels they can no longer be out on the street. They have to be incarcerated for a longer period of time.

In any event, these are the numbers. About 6,000 non-violent offenders go to jail.

I'll pass by the second chart and just point out the third, which is a breakdown of everyone sentenced in 1983. This is broken down by the type of crime they were sentenced for. For each statute -- and this goes on for a couple of pages -- we have the number of people who were sentenced for that statute, the percentage incarcerated, and where they went (State prisons or county jails). The Subcommittee can look at the various crimes, identify the types of crimes you feel are more or less dangerous, and see what the prisoners received.

One of the last two charts is a graph of the growth of the county jail population from 1981 to present. It went from a little over 5,000 to a little over 7,000 currently. The end of my submission is followed by a breakdown of each county jail, what its capacity is,

how many people are there, and what they are there for in terms of whether they are pretrial, sentenced, or transfers to a State prison.

From the conversation this morning, I would just point out that there are roughly 2,000 offenders in the county jails who are sentenced. The remainder of them, about 3,600, are pretrial, and about 1,300 are awaiting being transported to State prisons. Two thousand out of the 7,000 are there right now for sentencing.

That is the data I have, Mr. Chairman. The Administrative Office of the Courts will be available to the Subcommittee after you look at this data. If you need anymore detail with respect to sentencing rates, backgrounds of these kinds of offenders, or what types of people might be more amenable to this or that, we stand ready to assist.

ASSEMBLYMAN VISOTCKY: We appreciate your testimony, but by the same token, we would like to have some type of recommendation from the courts as to what they think might solve some of the overcrowding problem in our prisons. If you would send a report to our Subcommittee, we would be only too glad to receive it, study it, and digest it.

MR. McCARTHY: I would point out to the Subcommittee, Mr. Chairman, that the courts and various agencies of government are represented on the Criminal Disposition Commission, which was created by the Legislature a couple of years ago. Chairman Dietz, Bill Fauver, and a number of other people are on that Commission, and the Commission has entertained a number of small and large programs over a couple of years, which would be useful in the overcrowding area. The Commission has been involved in the overcrowding problem for some seven years. It has identified a number of legislative changes, not major ones, but minor ones, which would be of some assistance in the overcrowding problem. It has taken a look at ISP and a number of alternative programs. I think it might be useful for the Subcommittee to get in touch with Don Gottfredson, who is the Dean of the Rutgers School of Criminal Justice. I think you will find that if there is anything to be said in terms of the consensus of the people in the system as to what types of things can be done, a report from that Commission will do it.

ASSEMBLYMAN VISOTCKY: A lot of those reports are probably given to the Commissioner and Mr. Dietz, and we, the Legislature, never see them.

MR. McCARTHY: I'm sure the Commission would be more than happy to make its services available to this Subcommittee.

ASSEMBLYMAN VISOTCKY: Very good. Are there any questions, Assemblyman Felice?

ASSEMBLYMAN FELICE: No, but I think the input contained some very good information. Thank you.

MR. McCARTHY: Thank you.

ASSEMBLYMAN VISOTCKY: Thank you, Jack. Our next witness will be Richard Talty.

RICHARD TALTY: Harvey Goldstein, Assistant Director from the AOC, is also going to make some remarks at this time.

ASSEMBLYMAN VISOTCKY: Okay, good.

HARVEY GOLDSTEIN: I would like to thank the Subcommittee for inviting us. I guess our role is a little bit different. We have the responsibility for some of those programs you talked about this morning. Briefly, I would like to address two of them: general probation, and community service. Then I'll turn the table back over to Dick Talty, Director of our Intensive Supervision Program, who will speak about that program.

As you have heard from a number of prior speakers, the single entity having responsibility for the greatest number of cases has been probation. We handle roughly 50,000 cases each year. We take care of supervision, special conditions, and any other criteria the courts establish for the probation supervision team.

I would like to point out that one of the difficulties in that area happens to be the growth of that number, which a couple of years ago was down to about 36,000. We are up to 50,000 now, and the workload has increased dramatically to the point now where the probation supervision on a statewide average basis is 120 cases for each probation officer. That is roughly twice as many as the parole system now requires. Obviously, that has an impact on what probation officers can do during the course of everyday work. Their ability to

perform some of the functions in the supervision and monitoring area -- as well as in the areas discussed by Chairman Dietz, which are achieving assistance in jobs and drug and alcohol problems -- is certainly curtailed by that kind of work load.

We see no reason to believe that those numbers aren't going to continue to increase. I might point out that the funding for the vast majority of probation services in the State is vested now at the county level, not at the State level. There is virtually no direct probation support coming from the Legislature, except in the area of special programs.

The first special program is community service. We have 13,000 people doing community service each year. Just under half of that, about 6,000 of those, come from the drunk driving legislation, and are DUI cases where it is either mandatory, or is an alternative. If you took those 6,000 cases and added them to the numbers you were discussing earlier this morning, you would see the kind of major impact that would have.

In addition to those 6,000, however, there are roughly another 7,000 that are coming out of pretrial intervention programs, Superior Court sentencings, and municipal court sentencings.

The third special program we have, which has been operational for about 16 months, is the Intensive Supervision Program. I'll let Dick talk about that, but essentially, it was an attempt to establish an intermediate punishment program with an extremely high-structured approach where there would be major contact on weekends, evenings, and during the day between the ISP Program staff and the people who were coming out of the institutions. The Program has taken in roughly 275 people. We currently have about 227 under supervision. I would like to have Dick tell you about that with one caveat. The Program, as it is structured now, is established to deal with State prison inmates only. About two months ago, the Supreme Court approved an experimental program in Essex County for a similar type operation, which impacts upon the county jail population. That program has been approved, and an advisory committee has been established. There are representatives of the Legislature on that advisory committee, and I expect the Essex program will become operational sometime this April.

Let me have Dick, the Director of the Program, share with you what the ISP Program on the State level is. Keep in mind that the local one will be commencing very soon.

MR. TALTY: The Intensive Supervision Program, as Harvey mentioned, was instituted to relieve some prison overcrowding by moving State-sentenced prisoners back into the community under a very highly structured form of supervision. One of the difficulties in achieving the overall goal, which was to move between 375 and 500 individuals into the Program, has been trying to take out people who present minimal risk to the safety of the community. We have been successful in doing that. In terms of the progress of the Program to date, only very few people have been returned to prison for new offenses. It has been approximately 3%, Mr. Chairman; 37 individuals have been returned, but the majority of those were returned for violations of the Program.

The Program is very highly structured in the sense that the people are required, number one, to observe a 10 p.m. curfew. They must be in their homes by 10 p.m., and they must remain at home until 6 a.m. Some people are under a more stringent curfew. If they are not employed, for example, their curfew is lowered to 8 p.m.

ASSEMBLYMAN VISOTCKY: How do you check on them?

MR. TALTY: They are monitored in various ways. They are monitored by in-person, unannounced visits by our staff to the person's home. They are also monitored by telephone calls. The staff is on duty, as Harvey mentioned, 24 hours a day, seven days a week.

The people under supervision are able to contact the officers assigned to their cases because they are on a paging system. They have access to a toll-free, 800 number, which is available for their use at any time. They can always leave a message or contact their officers through this number.

Since the staff works on weekends, at night, and on holidays, they make visits at unannounced times both at employment places and at residences. In addition to that, the person must do other things in the Program. They must be employed full-time, or they must be in school full-time. This is with very few exceptions, unless approved by

the sentencing panel of judges which release them. They must also maintain a daily diary, indicating their activities over a 24-hour period, and their weekly budget of all moneys received, spent, and how they were spent, which is reviewed by the officer.

They must do a minimum of 16 hours of community service per month. Much of that is done on Saturdays and Sundays at various locations. We run a site, for example, at a college in Morris County. They have been working on different projects in the Paterson area for the public school system by removing graffiti from schools. They have repainted a stadium with community service participants from Passaic County. We have rehabilitated a couple of inner-city parishes in Newark.

Many times these people are required to do community service on Saturday or Sunday, sometimes for eight or nine hours on either day, and sometimes on both days.

People are also subject to unannounced searches. As part of their release plan, they agree that they may be searched at any time, or their personal property or residence may be searched by ISP officers for contraband -- namely, drugs. They are urine monitored on a regular basis. About 84% of the individuals under supervision have urine-monitoring tests done on them on an average of twice per week.

ASSEMBLYMAN VISOTCKY: How many of them do you find are on drugs?

MR. TALTY: I would say we are probably running in the vicinity of about 10% who we are finding positive tests on at any one time.

ASSEMBLYMAN VISOTCKY: What do you do with them then? Do you send them back?

MR. TALTY: Upon the first positive test, with the permission of the sentencing panel, we use some alternative method. In some cases, we increase their counseling or participation in different treatment groups. The majority of the people returned to prison for violations of the Program are returned for resumption of the use of drugs.

I think the important thing is, we find out very quickly. It is not a case where they are able to continue to use drugs or to get involved in further activities without us knowing about it. This is because of the frequency of contact. There is a minimum of 20 contacts per month between the officer and the client. Many times this number is exceeded.

It is a highly structured program, and there is minimum contact every other day between the officer and the person under supervision. We are able to determine whether or not they are living up to the conditions of their release. I think this has been one of the major factors in being able to have a fairly high success rate to date.

ASSEMBLYMAN VISOTCKY: Am I correct in assuming these are county prisoners, or are they county and State prisoners?

MR. TALTY: They are all State-sentenced prisoners. Only persons sentenced to State prisons can apply for the Program. They actually free up bed space that would be used if these people were not in the Program at this time.

ASSEMBLYMAN VISOTCKY: Are you saying that this program is funded by the counties?

MR. GOLDSTEIN: No, the money for the State ISP Program comes out of the Legislature. The money for the Essex County program that we are about to engage in comes from Essex County.

MR. TALTY: We are hopeful that we will be able to increase the number of people coming into the Program. A significant number of people do not opt to come into the Program because they, for various reasons, find it more comfortable to wait until they receive regular parole. The Program requires a lot of them, and some people, even if they are eligible for the Program, would prefer to stay, come out on regular parole, and not have to do all of the things that are required of them in the Program.

ASSEMBLYMAN VISOTCKY: How soon before a person is released on parole will he go into your Program?

MR. TALTY: It varies. The person must serve a minimum of 30 days under a State sentence before he can apply for the Program. He

must serve a total of 60 days before he can be released. We have some individuals who only have as little as a month to go for parole; other individuals have eight, nine, or ten months -- sometimes over a year -- to go before they are eligible for parole, but they are released to our Program. It varies tremendously in terms of the individual who applies.

ASSEMBLYMAN VISOTICKY: Do they release them into your Program prior to them going on parole?

MR. GOLDSTEIN: No, the Program is a re-sentencing program. Once they meet the eligibility requirements, which include some support from the community they are going back to, they go before a panel of judges who re-sentence them into the Program. If they make it, and if they make it successfully, they will never go back on parole at all. They will be completely re-sentenced by the ISP, and they will serve their time in the Intensive Supervision Program.

ASSEMBLYMAN VISOTICKY: Didn't you say something about prior to parole? You lost me.

MR. TALTY: People can apply to our Program prior to the time they would be eligible for release by the Parole Board. For example, a person may have a parole date scheduled eight months from now, but he could apply to our Program, and possibly be released into our Program, thereby freeing up bed space for eight months.

ASSEMBLYMAN VISOTICKY: What happens when he comes up for parole? Does he continue in your Program until his sentence--

MR. TALTY: (interrupting) Right. Once he comes into this Program, he is no longer under the control of the Board of Parole. It is an opportunity to release people earlier on the condition that they live up to the expectations that are part of the Program. It was designed to try to free up some additional bed space in the prisons by allowing these people to leave prison earlier than they would have if they waited for normal parole.

ASSEMBLYMAN VISOTICKY: On a statewide basis, you said we handle only 300?

MR. TALTY: On a statewide basis, at the present time, there are approximately 230 people under supervision. The overall goal is to try to enroll anywhere between 375 and 500 individuals.

ASSEMBLYMAN VISOTCKY: Why can't we get that?

MR. TALTY: Well, we have processed over 2,000 applications -- that is, over 2,000 people have applied for the Program -- but, some people are ineligible because they have been convicted of a degree of homicide, sex offense, robbery, or have a mandatory term. You also must be a resident of New Jersey. You cannot participate in the Program if you live elsewhere. Also, you must be sentenced to a State prison.

In addition to that, we screen the applications of those people who have been convicted of first-degree or second-degree offenses, violent offenses, or have long records of ties to organized crime, so that we release only those people who present a minimal risk to the community, and who seem to be able to adjust to this type of program.

ASSEMBLYMAN VISOTCKY: Can your program be done on a countywide basis too?

MR. TALTY: Well, one attempt at that, as Harvey mentioned, is to start the program in Essex County as a pilot program -- an experimental program.

ASSEMBLYMAN VISOTCKY: How many do you intend to handle there?

MR. GOLDSTEIN: The initial plan for Essex is for 30, with a willingness to expand if it goes beyond that. The court, along with the Legislature, and the other people involved in the Essex planning, have a very strong concern because they don't want to see a county option-type program run within the confines of the Administrative Office of the Courts. If it is going to go beyond Essex, and if Essex works as well as we think the State program is working now, someone -- very possibly the Legislature -- is going to have to take a look at funding that program, or at least strongly supporting a county option program. This is because of a concern over disparity.

If Essex has the program, and 20 other counties don't, the court has said they are willing to try that on an experimental basis to see if it works. Once that issue has been resolved, and if it is resolved in the affirmative, then some other action will have to take place.

ASSEMBLYMAN VISOTCKY: Do you have any idea how much that is going to cost?

MR. TALTY: In the county program?

ASSEMBLYMAN VISOTCKY: In Essex.

MR. TALTY: We are looking at approximately the same figures as the State program -- roughly \$6,400 per year per client. For the 30, we are talking about roughly \$160,000.

ASSEMBLYMAN VISOTCKY: It costs us more money to get these guys out of jail than it did when they committed the crime to get in. Okay, is there anything else? (negative response) Nick, do you have any questions?

ASSEMBLYMAN FELICE: No. I had some literature ahead of time on the program being expanded. Is there an age category for the types of programs you are initiating?

MR. TALTY: Do you mean any age restriction?

ASSEMBLYMAN FELICE: Yes.

MR. TALTY: No, there is not. We only work with adults. The program is only scheduled for people who are sentenced to State prisons -- adult offenders. There is no age restriction within that general category.

ASSEMBLYMAN FELICE: Is it male and female?

MR. TALTY: Yes, there are both male and female participants in the Program.

ASSEMBLYMAN FELICE: I just wondered if there was any restriction as far as the age group was concerned.

ASSEMBLYMAN VISOTCKY: I hope you will keep this Committee apprised of what you are doing in Essex County. We will be in existence for at least a year, if we get reelected. (laughter)

MR. GOLDSTEIN: There are two members of the Legislature who have been asked to sit on the Committee.

ASSEMBLYMAN VISOTCKY: Do you know who they are?

MR. GOLDSTEIN: Speaker Karcher and Senator Orchio. The court has said they can sit on the Committee, or they can send a representative. We can certainly keep you advised.

As I said, the first meeting of the Committee will be held on January 22, and I suspect the program will probably become operational around the end of March or the beginning of April. We can share the policy statements and the guidelines with you.

ASSEMBLYMAN VISOTICKY: We would appreciate that very much.

ASSEMBLYMAN FELICE: Are you having any problems within the communities as far as housing for these people is concerned? They are staying out of prison and actually being put into halfway-type houses--

MR. GOLDSTEIN: (interrupting) They are not in halfway houses. As part of the development of the plan for each, even before the re-sentencing panel considers them, residency is one of the issues. They will reside typically in the homes of spouses, parents, or friends, but it varies from case to case. Sometimes there are residency problems in that there are no specific places to house them. In those cases, we end up working with community sponsors -- network team workers -- who will support them by trying to locate some kind of residence for them. There are no group residences now, although at some point in time, we think that is something that will have to be seriously considered for one of two reasons: the crises which occurred during the period that they were under supervision -- we have had a couple of those -- and, also it is very possible that the re-sentencing panel would consider taking greater risks on some of the cases if they had some halfway house type of facility, or some residential facility where we would have a greater level of control over them.

ASSEMBLYMAN FELICE: Right now, it is on a one-to-one basis -- an individual going into a certain household, maybe with a family or with a friend.

MR. GOLDSTEIN: That is correct.

ASSEMBLYMAN FELICE: Okay. If and when the time comes that you go to the concept of halfway houses, then be aware of the problems, the situations, and the legislation that comes through this Subcommittee and others concerning the communities. Make sure you do your PR work. Make sure that the communities you are working in are aware of it, so you don't run into the opposition they ran into with patients coming out of mental institutions and other facilities. This

would be a lesson to look into in your quest for the halfway house concept.

ASSEMBLYMAN VISOTCKY: Very good. Thank you very much.

MR. TALTY: Thank you, Mr. Chairman.

ASSEMBLYMAN VISOTCKY: We will call upon you again. We would like to see those reports, please.

MR. TALTY: Certainly.

ASSEMBLYMAN VISOTCKY: We only have a couple of people left. Karen Spinner?

Oh, Mr. Goldstein, may I ask you another question? Is that male and female, or is it only male?

MR. GOLDSTEIN: Male and female.

ASSEMBLYMAN VISOTCKY: Okay, thank you. Karen?

KAREN SPINNER: Thank you, Mr. Chairman. I appreciate the opportunity to come here today and present the Association's position and recommendations.

ASSEMBLYMAN VISOTCKY: You don't have to read your whole statement.

MS. SPINNER: I'm not going to read the whole statement; I wouldn't put you through that.

The heart of the problem we see with overcrowding is the criminal code with its mandatory terms and parole ineligibility stipulations. As was stated earlier today, 50% of the people coming into the institutions now come in under that kind of sentence. We would like to recommend that there be some kind of amendment to the criminal code. The Association has had a long-standing opposition to mandatory sentencing. However, as a compromise to this, we would like to suggest that some type of mechanism be put into place to review the mandatory sentences after the person has served at least half of his sentence.

In the Governor's Management Improvement Plan, this type of mechanism was alluded to for an offender who has had a satisfactory or exemplary record in the institution. I feel that would have a major impact on the overcrowding problems we experience in the institutions.

I have a couple of other suggestions for some administrative responses to alleviating overcrowding. One thing would be to expand the halfway house system. The Association on Correction operates two of the six halfway houses that the State contracts with. In the past, I have offered this Committee the opportunity to visit our facilities, and I, again, issue that invitation.

We have a facility which is a mile and a half down State Street. We would be delighted to have you come and look at it, so you can see how the program operates.

ASSEMBLYMAN VISOTCKY: Didn't we visit it last year?

MS. SPINNER: I don't believe you have been there.

ASSEMBLYMAN VISOTCKY: I think we did.

MS. SPINNER: Clinton House?

ASSEMBLYMAN VISOTCKY: Yes.

MS. SPINNER: Oh, I must have been out. It may have been while I was on maternity leave. I shouldn't say that, but-- Be that as it may, I think it is extremely important that the Federal government use halfway houses or community treatment centers as one of their primary solutions to the problem of overcrowding. They currently have 2,700 people on community release on a daily basis. That alleviates the need for five additional institutions.

The State of New Jersey could make these efforts. I think Mr. Dietz talked this morning about people coming out from maximum security. One day they are locked up -- totally controlled -- and the next day they are out on the street. It would make a lot of sense for people to be released in a gradual program. I believe that every parolee should come out through a community program. It would necessitate a minimum of approximately 200 more beds in the community. I feel this would have a real impact on the recidivism rates.

Also, regarding technical violator's parole, instead of sending them back to the county jails to wait to go into the State institutions again, they could be sent to halfway houses or community facilities. They need assistance in dealing with the problems they have had on the street. Sending them back to prison will not help them to deal with their failure of living in the community.

ASSEMBLYMAN VISOTCKY: Where would you locate all of these halfway houses?

MS. SPINNER: That is a serious problem.

ASSEMBLYMAN VISOTCKY: It sure is.

MS. SPINNER: It is a serious problem, and we are very well aware of it. We do have two facilities, but we are in litigation over one of them. I don't think it is impossible; I think it needs some support legislatively and administratively to help change public attitudes.

These people are coming back into our communities; there is no question about that. I think we need to help people understand that if you keep them locked up without any supportive services, they return to you the same way they went in -- bad, rotten, vicious, and without any skills or supports. They are going to come out and do the same things all over again. It behooves the public to understand that. We should provide some supportive services to make them more amenable to community standards. I think it can be done.

Recidivism rates for people who come out from gradual release programs are lower than those who are in prison one day and then released the next day. I think there is a serious need to consider that kind of alternative.

We, of course, are very supportive of intense supervision and community servicing. We were responsible, in part, for introducing the resolution for the community service appropriation from the legislature. We have been supportive since the start of it. We think there are more people who could be sentenced in that fashion.

I also feel it is important to improve regular probation. As Harvey said earlier, the people who are going into the institutions have been on probation. They have been through the system of our alternatives. If we were to devote more resources to probation -- regular probation -- perhaps some people could be stopped at that level. By that I mean more money for supervision. He said there were 120 people per caseload. You can't provide supervision, and you can't provide supportive services with that kind of caseload. I think if we put more resources in our alternatives, we might not see the continual

progression from fines to restitution, community service to probation, and to incarceration. I think we have to break the cycle by putting our resources in some other alternative programs. I think that is an essential need for us.

One of the other things I think is a key is, our county jails are housing about 3,400 pretrial people. Many of these people could be released on bail. Some of them can't be released because they can't make the cash bail. A hundred dollars may not be a lot of money to most of us, but if you don't have any income, \$100 is a lot to come up with. I think we have to look at our bail system; I think that some people who may be at risk for bail could possibly be put in a more supervised program so they could get out of the system. These people are not guilty yet; they are innocent. So, I don't think it behooves us to keep innocent people locked up. That is one thing we could look at -- changing our bail procedures, and also using halfway houses for people who are high-risk bail people.

The other thing is the Direct Commitment Program. From 1980 to 1982, we operated a program of direct court commitments in Mercer and Middlesex Counties. It was a small experimental program. It never really got off the ground, but it was, I think, very effective for the people who were involved in the program. The Federal government also operates a program like this. I think we ought to look at that kind of program. It is provided in the code that you directly sentence people to other facilities rather than put them in jail. We can make use of some of the alternatives that already exist, but there is no will to use them.

Those are some of the suggestions we have for you. If you would be interested in hearing more about the halfway house operation, I would be delighted to provide you with that information.

ASSEMBLYMAN VISOTCKY: We would be interested in hearing about a lot of the things you said. We would like to know the cost and the breakdown, just to find out how much, when, and what.

MS. SPINNER: I can give you some information on--

ASSEMBLYMAN VISOTCKY: (interrupting) Anyone can say that everything is nice and beautiful; it is a castle in the sky, but--

MS. SPINNER: (interrupting) I can give you some information on the contract halfway houses and what they would cost.

ASSEMBLYMAN VISOTCKY: We would appreciate that very much.

MS. SPINNER: Currently we are receiving \$37.00 per day from the State Department of Corrections to operate our--

ASSEMBLYMAN VISOTCKY: (interrupting) Didn't you testify before us once before?

MS. SPINNER: I have testified a number of times. As I said, we receive \$37.00 per day, which is less than what you pay the county to operate their programs.

ASSEMBLYMAN VISOTCKY: We pay them \$45.00, don't we?

MS. SPINNER: Yes, \$45.00. It is difficult to establish our programs, but no more difficult than your prisons. It took quite some time to find a place to put Camden and Newark. It takes time to find a place for a community facility as well, but we have much lesser costs. We can probably start up a program for about \$300,000 -- between \$300,000 and \$400,000.

ASSEMBLYMAN VISOTCKY: How many can you handle?

MS. SPINNER: We are looking at a facility in another location, which could handle 50 people. Hopefully, we will be doing some specialized drug and alcohol treatment. Right now, we have the capability of handling about 28 in our Trenton facility and about 20 in our Middlesex County facility.

There are a lot of halfway house beds in the State. VOA has another one down in the southern part of the State. Integrity House has others. There aren't a lot of them, but I think we could-- It is certainly a lot cheaper than keeping people locked up in prison. I think it costs us about \$13,000 a year to keep one person in prison; that is the annual figure we are using. That is cheaper than keeping someone locked up in our State facilities.

ASSEMBLYMAN VISOTCKY: Very good. Nick?

ASSEMBLYMAN FELICE: - If I may, Mr. Chairman. Karen, what professional training do you have in your Association to actually work with these people? We are talking about persons of all backgrounds. Some, as you heard today, are retarded. Do you hand-pick those who you want in your group?

MS. SPINNER: Do you mean the offenders? Do you mean do we hand-pick who we serve in our pre-release program?

ASSEMBLYMAN FELICE: Yes.

MS. SPINNER: No, we serve the people who are approved by the Department of Corrections. They go through an extensive process by the Department, and then we are given the list of people who are approved and we go from there.

Our Board is made up of a variety of people. We have a number of criminal justice academics, parole people, Dean Gottfredson, who is the Dean of the School of Criminal Justice, and we also have some people with legal backgrounds.

ASSEMBLYMAN FELICE: How about medical backgrounds?

MS. SPINNER: I don't think we have anyone with a medical background on our Board.

ASSEMBLYMAN FELICE: Do you know what I am saying? If a person is released who is retarded or who has other disabilities, what ability does your group have to deal with that problem?

MS. SPINNER: We have a paid staff of about 20 people. They have a variety of different backgrounds. Some of our staff members are ex-offenders who have been through the system, and some of them have backgrounds in criminal justice.

We have, on occasion, dealt with people who were moderately retarded. It is very difficult. One of the criteria for getting into our program is the ability to maintain employment. It is very difficult to deal with people who are not employable.

We do have some expertise. We do contracts on occasion with other agencies which provide services. Currently, we are providing our own alcohol counseling and drug abuse counseling.

ASSEMBLYMAN FELICE: Unfortunately, a lot of the people who are incarcerated have problems -- emotional, alcohol or drug abuse, etc. Some degree of professionalism is needed for these people to be properly taken care of so that they are not sent back to where they were before.

MS. SPINNER: Right. We do have consultants. We have a couple of psychologists in our program. One of the things I wanted to

mention was, you asked about family, and does anyone do anything to help the person to be reintegrated. We provide family counseling for those who are in our halfway house program. We try to bring the family in to deal with some of those issues as well. I think that is an important piece in helping with the reintegration process.

ASSEMBLYMAN FELICE: Naturally, they are men and women?

MS. SPINNER: One of our facilities is co-ed; our other facility is strictly male, based just on the setup of the building and the requirements of the Department.

ASSEMBLYMAN FELICE: What is the maximum amount of people those buildings can accommodate?

MS. SPINNER: Our Trenton facility has a maximum of about 28, and our Middlesex facility has a maximum of about 20.

ASSEMBLYMAN FELICE: I'm talking about those clients. Do you have people there who are constantly supervising these people?

MS. SPINNER: Yes, we have an around-the-clock staff, seven days a week.

ASSEMBLYMAN FELICE: Thank you.

ASSEMBLYMAN VISOTCKY: Very good. Thank you very much. I would now like to welcome the Mayor of North Arlington, Edward Martone, a very dear friend of mine.

MAYOR EDWARD MARTONE: Thank you. Mr. Chairman, Assemblyman Felice, and members and staff of the Subcommittee: I am here representing Project H.O.P.E. for Ex-Offenders, which is a private, nonprofit organization involved in helping the ex-offender. We are here today because we feel, obviously, that the increase of the jail population results in a burgeoning of the numbers of former inmates needing the services of Project H.O.P.E.

The Project's Board of Directors consists of private citizens concerned about the high rate of recidivism among our prison population. Prison often appears the only alternative to someone being released from confinement back to the community with little or no education, training, a place to live, an employment history, a job, or an income. The Project attempts to provide them with counseling, housing, and employment.

While the need becomes obvious to most of us, the commitment to doing something to alleviate the problem is often shunned by government and placed exclusively on the shoulders of small, private groups like Project H.O.P.E., which must rely solely on the generosity of church and private donations, with no participation from the public sector.

In a criminal justice system operating at a crawl, many persons sit in jail who are charged with petty or nonviolent offenses because they were taken into custody when they should have received a summons, because of inadequate bail scheduling, or because a judge was unavailable. Once in a municipal or county lockup, they don't see their public defender sometimes for weeks or months, resulting in a delay of that period of time in the granting of a bail reduction motion. In Bergen County, of the approximately 500 inmates, about half are pretrial detainees who failed to make bail.

While the crime rate has dropped in New Jersey over the past two years, New Jersey's prison population is growing faster than anywhere else in the country.

New Jersey has imposed tough new criminal penalties that are raising the rate of imprisonment despite the drop in crime. Many offenses now carry mandatory minimum sentences; offenders who might have been paroled must spend extra months or years in prison.

The New Jersey Department of Corrections, which at best barely functions, has not even attempted to carry out its assigned task, which is to rehabilitate. Most of the prisoners need medical attention or treatment for drug and/or alcohol addictions or mental health problems. Most also require life-skills or other counseling, as well as education and training. In a Department of Corrections which fails to correct, these services are practically nonexistent.

State prisoners housed in county jails are less likely to receive much-needed help than their counterparts in State facilities. Worse still is the plight of women inmates, as they often receive even less than males in county jails because of the inadequacy of facilities, i.e., recreation and medical facilities.

State prisoners housed in county jails often complain of being told by the Public Advocate's office that they can't help them because they are State prisoners; while the Ombudsman's office says they are out of their jurisdiction because they aren't in a State facility.

The blame for most of this mess must sit squarely on each of us in this State and society who prefer not to deal with the abuses of the criminal justice system as long as it doesn't directly affect us. After all, the Department of Corrections is only doing what is expected of it. It is warehousing people and keeping them out of sight in order that we can continue to pretend that a complex problem is simple.

In Bergen County Jail, with a capacity of 347,464 being housed -- these figures are handwritten in my statement; by the way, because the original figures were two days old -- with approximately 195 of them being State prisoners, New Jersey and Bergen County are about to spend \$7 million to build an addition to the jail for 127 more inmates. That represents a cost of \$55,000 per cell.

There are a number of things we could do which would be more efficient and less expensive. These include: an accelerated use of restitution, fines, and community service for nonviolent offenders; wider use of summonses rather than custody; more efficient bail scheduling; speedier parole hearings; treatment of substance abusers, rather than punishment; and, implementation of a system of halfway houses as delineated in the Correctional Master Plan. All offenders would spend six months prior to release in vocational and counseling programs. This would free more than 500 spaces in our crowded system and make a significant dent in the more than 80% recidivism rate.

ASSEMBLYMAN VISOTCKY: Very good. Are there any questions, Assemblyman Felice? (negative response) Do we have a copy of your statement?

MAYOR NARTONE: Yes, you do. Again, I want to thank the Subcommittee and the staff for the opportunity to be here, and to thank you for directing your expertise and interest to this problem.

ASSEMBLYMAN VISUTCKY: Thank you. I think that is all we have for today. This hearing is now adjourned.

(HEARING CONCLUDED)

APPENDIX

PRESENTATION
OF
COMMISSIONER WILLIAM H. FAIVER
NEW JERSEY DEPARTMENT OF CORRECTIONS

TO

THE SUB-COMMITTEE
OF THE
CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

JANUARY 11, 1985

I would like to thank the sub-committee for inviting me here today to comment on the issue of prison crowding, a problem that cannot be ignored. As you know, prison crowding is a complex issue, affected by many interrelated variables. In this regard, I would like to share with the sub-committee some basic data that provides an overview of developments since I began tenure as Commissioner in 1978. Prior to my specific remarks on crowding in New Jersey, however, I would like to address several points which were discussed in the background report prepared by the Assembly Majority Office.

First, correctional populations throughout the nation have experienced unprecedented growth in the past ten years. State and federal correctional populations have almost doubled, from 229,000 in 1974 to 439,000 in December, 1983. New Jersey's correctional system, therefore, is not unique in this phenomenon, although our population explosion did not begin until 1981.

Second, the Majority report makes reference to alternatives to incarceration for reducing correctional populations. I would like to note that New Jersey has traditionally used incarceration as a last resort. New Jersey's rate of incarceration is approximately 136 per 100,000 residents compared to a national average of 179. There are 31 states with higher incarceration rates than New Jersey. This underscores the fact that New Jersey has used alternatives to

incarceration whenever possible. Some basic data supports this notion.

- More than 50,000 offenders currently are assigned to probation supervision in New Jersey.
- More than 5,000 persons were diverted from correctional jurisdiction through various pretrial intervention programs throughout the state during fiscal 1984.
- Numerous offenders are serving community service orders and are required to pay restitution for their crimes.
- The new ISP program initiated by Governor Kean and funded by the legislature has resulted in more than 223 offenders released to the community, freeing up much needed state bedspace.
- More than 150 offenders are housed in community based programs (halfway houses), such as the Department's Newark and Essex Houses, or through contract services.
- More than 14,000 offenders currently are on parole in New Jersey, serving the remainder of their sentences in the community under parole officer supervision.

Third, the Assembly Majority Office report makes reference to the possibility that a federal court order could mandate the release of offenders to the community in order to relieve prison crowding. You may be aware that approximately forty state correctional systems are under some type of federal court order or litigation regarding crowded conditions in their jurisdictions. New Jersey, I am pleased to report, is not one of them. I am, and have been, in ongoing contact with federal authorities and I do not anticipate litigation of this nature in the immediate future. Moreover, I would like to add that because of the strong support and direction from the Governor's Office, and the continued cooperation and responsiveness of both the legislature and the judiciary, we

have been successful, thus far, in avoiding such litigation. I am confident that with the pro-active planning and analysis currently being undertaken, we will avoid becoming the forty-first state.

Prison Overcrowding

Despite the use of various alternatives to incarceration, the state inmate population has undergone extensive growth, particularly during the last four years. Since 1978, I have witnessed the following developments which have contributed to this unprecedented growth.

-Total annual sentencing volume in 1978/79 was approximately 13,000 cases per year. By 1982, sentencing volume increased by almost 55 percent to 20,000 cases sentenced and has remained at that level. (See appendix, page A1.)

-On December 30, 1978, the Department's adult population numbered 5,900 inmates. Today, the adult inmate population is almost 12,000, more than double the population housed through 1980. (See appendix, page A2).

-In 1978, approximately 4,000 adults were released from state correctional facilities. In 1984, only 3,400 were released out of a much larger inmate population. (see appendix, page A3).

Increasing sentencing volume and relatively stable release volume have caused a tremendous increase in population. In essence, these are the visible factors that continue to see us with significant prison crowding in spite of vast increases to institutional capacity over the last three years. (See appendix, page A4)

More than 3,200 beds have been added to adult correctional capacity since 1982 and another 2,700 will be added by 1987. Admissions, though, continue to outpace releases. The result is that expanded capacity has not been able to compensate for the increase in population.

Three major initiatives have contributed to the significant increase in our adult inmate population.

1. The 2C Criminal Code
2. The State Speedy Trial Program
3. The Parole Act of 1979

The 2C Criminal Code was enacted in 1979. At the same time, the Speedy Trial Act, which moves criminal cases to trial more quickly, went into effect. The effect on sentencing volume began almost immediately during 1980. By 1982, sentencing volume had increased to a level of 20,000 cases per year and has remained at that level since. (see appendix, page A4)

In early 1980, the current parole statutes were enacted. An immediate, but temporary, effect was an increase in release of 2A cases under the new rules. By 1981, that effect dissipated and less releases were seen as a result of an increase in time served by indeterminate inmates. By 1982, release volume recorded a modest increase and a somewhat larger increase was seen in 1983. In 1984, however, release

volume dropped back to the 1982 level. It is assumed that this recent decline in releases is a function of the generally longer sentences embodied in 2C and mandatory minimum sentences, also an integral part of 2C.

The bottom line is this - more people are coming into our system and staying longer. Any increase in release volume is not expected to be forthcoming in the immediate future. (See appendix, page A4)

There are more than 425 offenders currently serving parole ineligibility terms of 15 years or longer, including 100 offenders serving mandatory minimum terms of 30 years or more. These 425 inmates, alone, could fill the new state prison at Camden for the next fifteen years, before the facility has even opened.

The stark reality of extremely lengthy parole ineligibility terms cannot be over-emphasized. A recent admission with a 50 year parole ineligibility term is provided as an example. This offender, aged 30, was committed for homicide with a 50 year mandatory minimum term. This inmate will not be eligible for parole for a minimum of 50 years - or the year 2035. He will be 80 years of age at his first consideration for parole.

The prospect of facing the remainder of one's life behind bars can only lead to frustration and desperation which can manifest itself in irrational and anti-social behavior. Concern for staff and the other inmates when managing these types of offenders is a serious concern, since they represent a potentially explosive segment of the inmate population. These inmates underscore our need for maximum/medium security beds rather than minimum. They are part of a growing prison population, nationwide, recently characterized by a former corrections commissioner as serving sentences of "life without hope."

In 1980, the first full year following implementation of 2C, approximately 22% of those sentenced to state prison received mandatory minimum or parole ineligibility terms. In 1984, almost 50% of a much larger group sentenced to state prison received mandatory minimum sentences. The effect of this factor, alone, on population is unparalleled in the history of corrections in New Jersey.

The per capita cost to house our inmates varies from institution to institution, based upon security level, treatment services provided and institutional population. Generally, larger institutions and minimum security facilities have lower per capita costs. The range of per capita inmate costs varies from a high of \$23,000 at the Clinton Correctional Institution, to a low of \$11,000 at YCI-Annandale. The average per capita cost for all of our institutions is approximately \$13,000 per year.

In terms of the types of inmates housed in our system, I would like to point out that our facilities are not overcrowded as a result of incarcerating substantial numbers of people to whom lesser sanctions might apply. Six years ago our ratio of violent to non-violent inmates was 2:1. Today, with a much larger population, that ratio remains the same.

Reduced custody or early release programs should not be extended to violent offenders when public safety could be endangered. For non-violent inmates, alternative programs are more generally available. Even these inmates, though, often have extensive offense histories and many already have been exposed to alternative sanctions, without success. Are these inmates that we wish to have walking our streets under alternative early release programs? This is the dilemma that currently confronts us.

Several examples emphasize the difficulty in identifying suitable inmate candidates for alternative programs.

-To date, over 1,800 candidates have been screened for participation in the Intensive Supervision Program. Only 257 have been admitted, of which 7 completed the program and 37 were returned for non-compliance.

-Recently 12,000 inmates were reviewed to identify possible candidates for the Parole Board's MAP Intensive Pre-Release Training Program. With screening not yet complete, only 138 possible candidates have been identified.

-Since February, 1984, over 100 candidates have been referred as candidates for the MAP - Residential Alcohol Program. To date, only 39 inmates have been placed prior to release.

The Department currently houses approximately 25% of its adult inmate population in minimum security facilities. New Jersey ranks favorably with other states in this regard. Data from 1979 (the most recent available from the U.S. Bureau of Justice Statistics) showed that only 19% of state inmates nationwide were housed in minimum security facilities. Of those states in the Northeast Region (including New Jersey), only 12% of the inmate population was housed in minimum security facilities.

While the Department's philosophy is to classify inmates to the least restrictive custody level consistent with the need for community safety, we must recognize that many inmates will never qualify for placement in minimum security facilities and programs. Public safety demands that certain types of inmates should not freely roam the streets or even be placed in minimum security institutions.

We had considered modifying our custody standards to allow greater numbers of inmates to be placed into reduced security facilities. We decided, however, that public protection must be paramount. We must be, and always have been, careful about classifying inmates for placement in transitional facilities, halfway houses and minimum security facilities.

While it may be desirable to parole eligible inmates to their homes, where there are familial, social and emotional supports, it may not be as desirable to send the same inmates to a community based or minimum security facility where these inter-personal supports may be less extensive. Many neighborhoods and communities have made it abundantly clear to this Department that they do not want to see placements of inmates with records of murder, rape, child abuse and violence. If such placements are made, it would jeopardize the survival of our current programs. In New Jersey, parole is the primary mechanism for returning offenders to the community for extended periods of time. Parole should not be supplanted by long-term community based reduced custody programs.

As indicated earlier, the Department's Bureau of Parole provides parole supervision for 14,000 parolees. Parole supervision is a cost-effective way of permitting offenders to spend the remainder of their sentences in the community under close surveillance and supervision. However, due to prison crowding and a corresponding increase in the number of parolees, caseload sizes have increased 40% since 1978 and may continue to rise. We are planning to improve the effectiveness of this traditional alternative to incarceration in the following ways.

1. Three additional parole offices will be operational within the first quarter of this year to accommodate an 18% increase in professional and clerical staff. The increased staff will reduce caseload sizes from an average of 80 parolees per officer to 65 parolees per officer. This will place New Jersey in line with the average caseload size, nationwide, of 68 parolees per officer.
2. We are studying the cost effectiveness of employing or contracting for treatment specialists (e.g. mental health and drug treatment) to work within the Bureau of Parole to better assist parolees with psychological and substance abuse problems.
3. We are also studying the cost-effectiveness of developing additional residential/transitional parole facilities to assist parolees who are homeless and encountering community and parole adjustment problems.

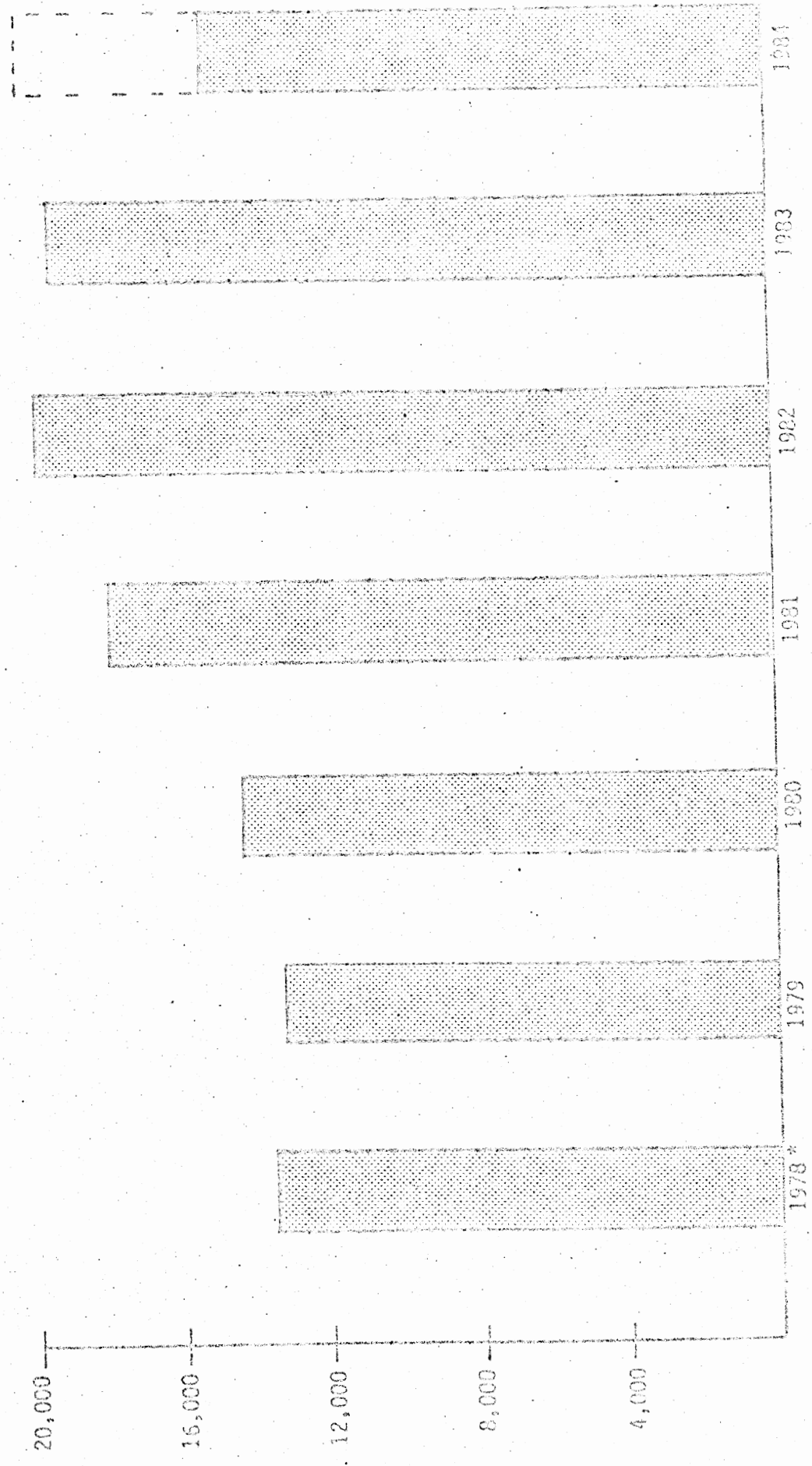
We believe our efforts will enhance the effectiveness of parole supervision and increase public confidence in this nationally recognized alternative to incarceration.

Concluding Remarks

Can we expect that things will soon get better? It does not appear so. In early 1982, interagency prepared population projections indicated that our adult inmate population might reach a level of 14,500 by January, 1987. In mid 1984, the same interagency group prepared revised projections. Their revised projection for January, 1987 - 14,900 inmates - is remarkably close to the projections prepared almost three years ago. While projections are not predictions, they are the best estimates available, based on analysis of recent trends in sentencing volume, Departmental admissions and releases.

There is no question in my mind that every avenue that might provide relief to overcrowding should be explored. The problem is how to provide relief without compromising the safety of the citizens of New Jersey. The Department of Corrections stands ready to assist you in your endeavors to identify long-range solutions to what are, surely, very complex issues. I pledge my support to that end.

NEW JERSEY DEPARTMENT OF CORRECTIONS
 SENTENCING VOLUME - ADULT OFFENDERS
 1978 - 1984



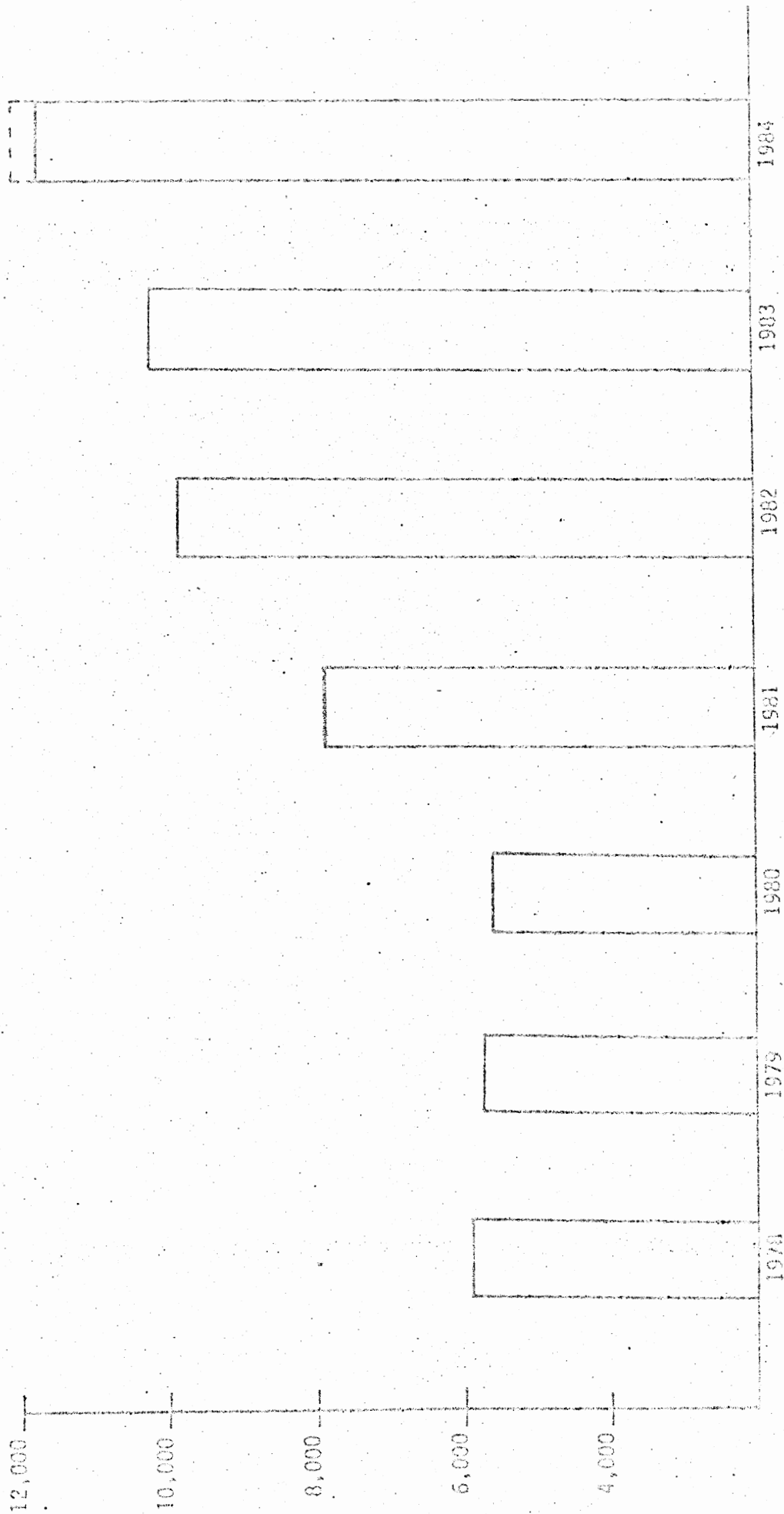
Sentencing Volume Data based on data from New Jersey Administrative Office of the Courts.

* 1977 Data - (Calendar 1978 data not available.)

□ Projections based on 1984 year-to-date data. Sentencing data through September, 1984.

NEW JERSEY DEPARTMENT OF CORRECTIONS
END OF YEAR POPULATION - ADULT OFFENDERS

1978 - 1984

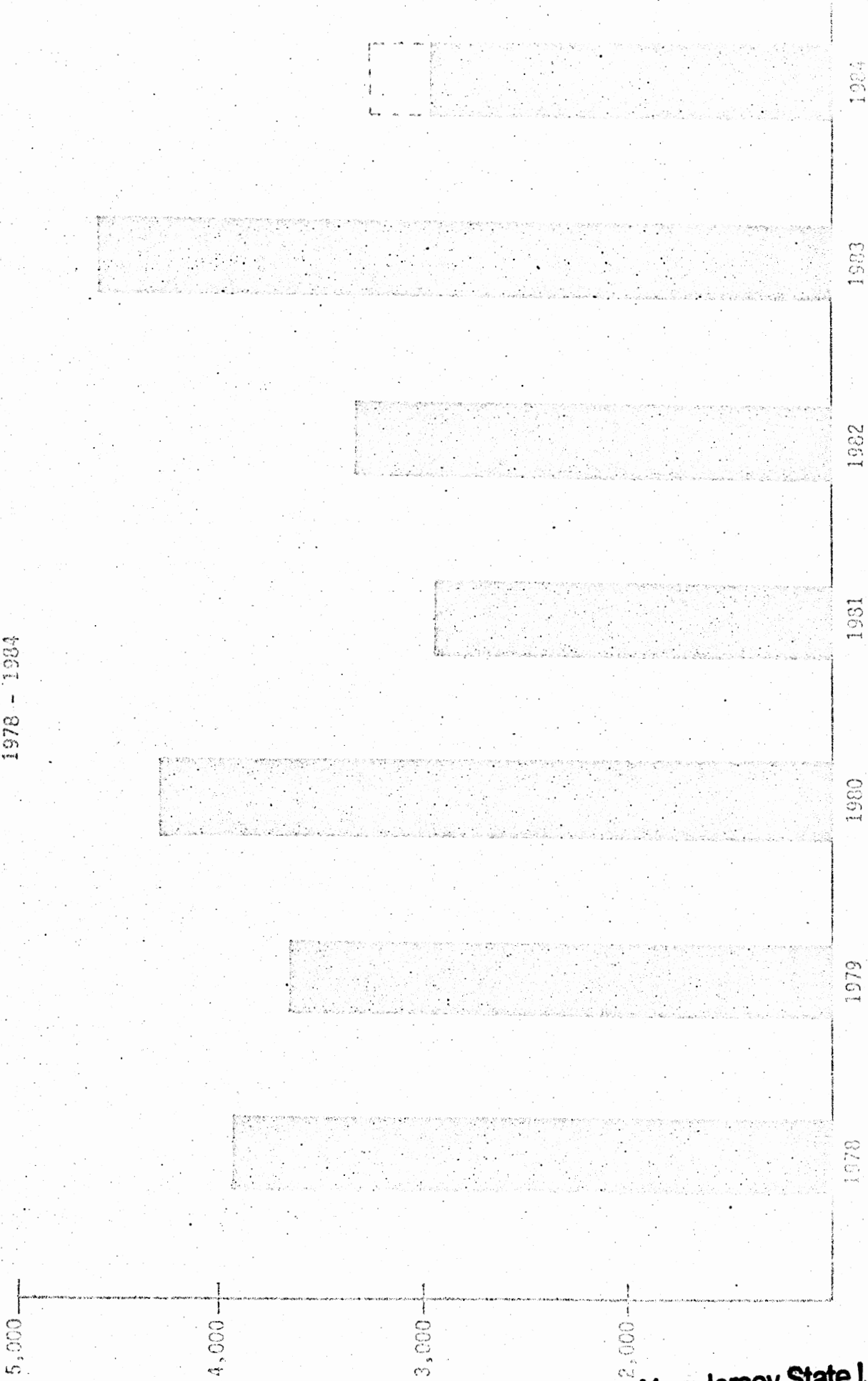


Population Data based on data from Department of Corrections, Bureau of Correctional Information and Classification Services.

Projections based on 1984 year-to-date data. Population through November, 1984.

RELEASES - ADULT OFFENDERS

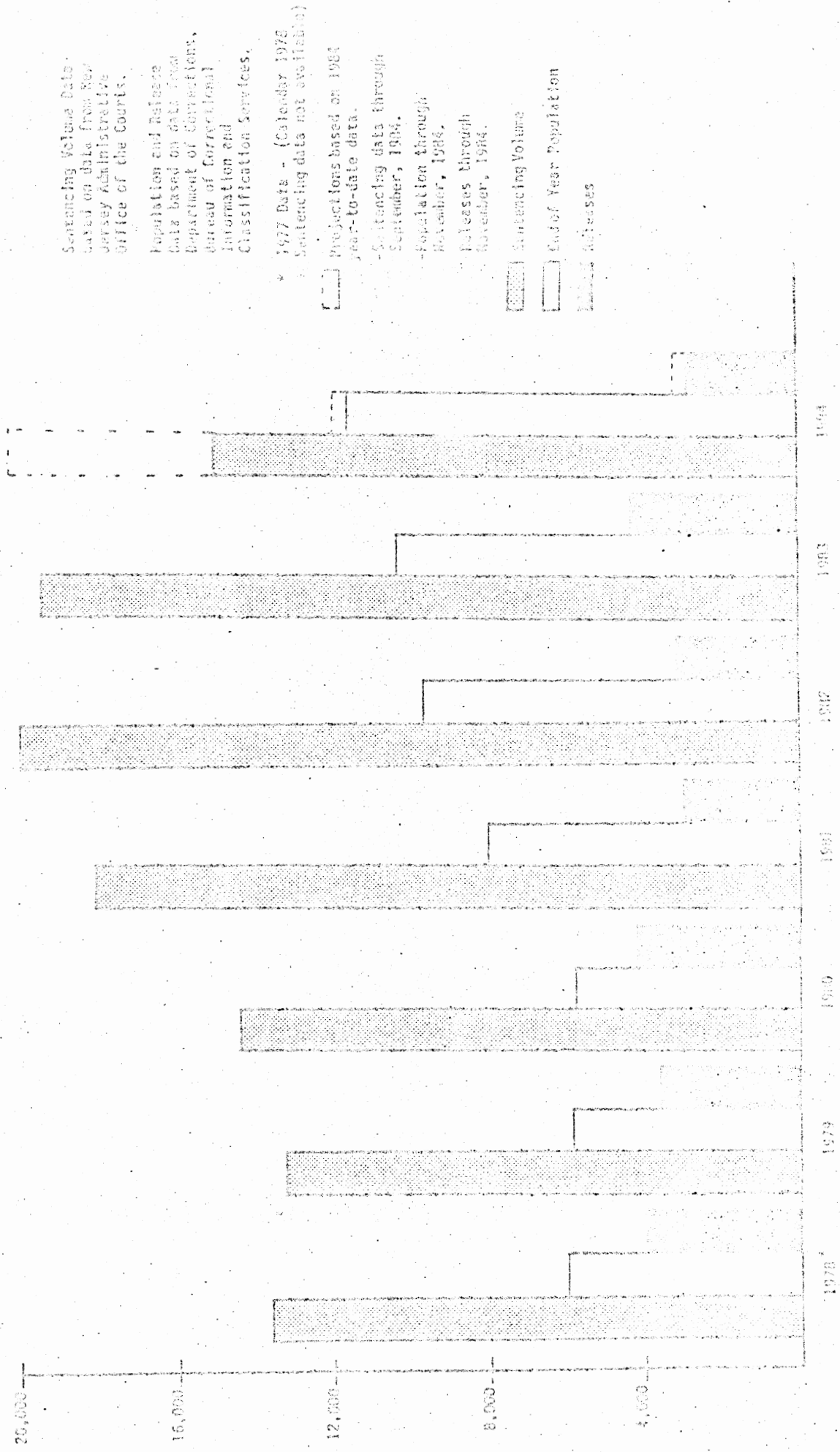
1978 - 1984



Release Data based on data from Department of Corrections, Bureau of Correctional Information and Classification Services.

[] Projections based on 1984 year-to-date data. Releases through November, 1984.

NEW JERSEY DEPARTMENT OF CORRECTIONS
 SENTENCING VOLUME - END OF YEAR POPULATION - RELEASES
 ADULT OFFENDERS
 1978 - 1988



Sentencing Volume Data based on data from New Jersey Administrative Office of the Courts.
 Population and Release Data based on data from Department of Corrections, Bureau of Correctional Information and Classification Services.

* 1977 Data - (Calendar 1978 Sentencing data not available)

- ▨ Sentencing Volume
 - ▭ End of Year Population
 - ▧ Releases
- Projections based on 1987 year-to-date data.
 - Sentencing data through September, 1984.
 - Population through November, 1984.
 - Releases through November, 1984.

1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988

STATEMENT OF
CHAIRMAN CHRISTOPHER DINEEN
NEW JERSEY STATE PAROLE BOARD

Subcommittee on Prison Overcrowding
New Jersey Assembly Committee on
Corrections, Health and Human Services

January 11, 1985

GOOD MORNING LADIES AND GENTLEMEN, AS CHAIRMAN OF THE NEW JERSEY PAROLE BOARD, I COMMEND CHAIRMAN VISOTCKY FOR HIS LEADERSHIP AND ASSEMBLYMAN FELICE FOR HIS PARTICIPATION ON THIS MOST IMPORTANT SUBCOMMITTEE.

THE PROBLEM OF OVERPOPULATION IS REAL AND CLEARLY DOCUMENTED IN THIS STATE. GOVERNOR KEAN RECOGNIZED THE DILEMMA FROM THE OUTSET OF HIS ADMINISTRATION.

IN APRIL 1982, GOVERNOR KEAN ISSUED A PLAN TO DEAL WITH THE LOOMING CRISIS. HIS REPORT, PRISON OVERCROWDING - A PLAN OF ACTION, ADDRESSED THE REALITY THAT EIGHTEEN OF TWENTY-SIX JAILS EXCEEDED 100% CAPACITY AND TWO FACILITIES WERE ALREADY UNDER JUDICIAL OVERSIGHT.

ON THE STATE LEVEL, THE PRISON SYSTEM WAS OVER 100% CAPACITY WITH 7,100 BED SPACES FULLY OCCUPIED, AND 1,278 STATE PRISONERS AWAITING TRANSFER FROM THE COUNTY JAILS. PROJECTIONS INDICATED THAT THE STATE PRISON POPULATION WOULD REACH 15,000 BY JANUARY 1988.

THE GOVERNOR'S PRISON CONSTRUCTION PROGRAM TARGETED 5,700 ADDITIONAL BEDS BY JANUARY 1987. A PORTION OF THE PROGRAM INVOLVED THE BUILDING OF CONVENTIONAL SECURITY SPACE. MAJOR EMPHASIS WAS PLACED ON PREFABRICATED MODULE CONSTRUCTION, AND THE RENOVATION OF EXISTING MILITARY, STATE AND COUNTY FACILITIES. TO DATE, APPROXIMATELY 3,200 BEDS HAVE BEEN SECURED.

IN ADDITION, A COMBINATION OF ADMINISTRATIVE AND LEGISLATIVE ACTIONS EXPANDING THE USE OF PROBATION, COUNTY PAROLE, COMMUNITY SERVICE, ISP AND ESTABLISHING A PILOT ALCOHOL PRESIDENTIAL MUTUAL AGREEMENT PROGRAM (MAP N.J.S.A. 30:4-123.67(A) PROVIDED INTERMITTENT RELIEF.

RECENTLY, AN AD HOC COMMITTEE ON PRISON POPULATION PROJECTIONS COMPARED THE CURRENT AND PROJECTED POPULATION COUNT WITH PREDICTIONS MADE IN 1982. THIS DATA INDICATES THAT, EVEN WITH THE 1985 OPENING OF THE CAMDEN FACILITY, BED SPACE DEFICITS WILL STILL REACH A LEVEL OF 2,600 BY OCTOBER 1986, DROP TO 1,600 WITH THE OPENING OF THE 1,000 BED NEWARK PRISON, AND INCREASE AGAIN TO 1,800 BY JANUARY 1987. THIS REALITY UNFORTUNATELY SUGGESTS CONTINUED MAJOR PRISON CONSTRUCTION; AND ANOTHER \$60 MILLION DOLLARS NEED BE EXPENDED.

INNOVATIONS IN PAROLE AND THROUGHOUT THE CRIMINAL JUSTICE SYSTEM CAN RESULT IN A POSITIVE IMPACT ON THE OVERCROWDING DILEMMA; ALTERNATIVES TO BUILDING PRISONS SHALL ALSO BE MORE COST-EFFECTIVE FOR THE STATE.

A. RESPONSIBLE PAROLE OPTIONS

NEW JERSEY HAS MADE PROGRESS IN DEVELOPING A BALANCED CRIMINAL JUSTICE POLICY. PAROLE IS A VITAL COMPONENT,

ANTICIPATING A SHARED AND COLLECTIVE RESPONSE BY ALL COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM THE PAROLE BOARD HAS BEGAN TO SURVEY THE CURRENT PRISON POPULATION TO IDENTIFY POTENTIAL INMATES FOR PROGRAM WHICH, IF PROPERLY SECURELY STRUCTURED, COULD REDUCE OVERCROWDING.

THREE FACTORS ARE NECESSARY FOR MAXIMUM PAROLE EFFECTIVENESS:

- , GRADUAL RELEASE FROM MAXIMUM SECURITY;
- , SUPPORT PROGRAMS IN THE COMMUNITY THAT ADDRESS PAROLEE NEEDS; AND
- , APPROPRIATE LEVELS OF SUPERVISION;

B. OTHER CRIMINAL JUSTICE SYSTEM OPTIONS FOR MANAGING THE PRISON POPULATION

THESE ARE OTHER OPTIONS WHICH CAN BE DEVELOPED BY OTHER COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM.

THESE OPTIONS INCLUDE:

- REVISION OF CUSTODY CLASSIFICATION STANDARDS
- JUDICIAL AUTHORITY OVER ALL EXCEPTIONAL PROGRESS CASES
- REALISTIC DEVELOPMENT OF A RE-ENTRY FURLOUGH PROGRAM
- CREATION OF A STATE-WIDE HALF-WAY HOUSE PROGRAM
- THE CHALLENGE OF SENTENCING DISPARITY

CONCLUSION

EVERY EFFORT MUST BE MADE TO MAINTAIN INCARCERATION AS A PUNITIVE SANCTION. THE KEY TO RESOLVING OVERCROWDING DOES NOT LIE IN THE EARLY OR PREMATURE RELEASE OF OFFENDERS FROM THE CORRECTIONAL SYSTEM. MARSHALLING RESOURCES FOR COMMUNITY BASED PROGRAMS TO SUPPORT PAROLEES IS NOT AS COSTLY AS THE LONG-TERM EXPENSE OF CONFINING OFFENDERS WITHOUT HOPE FOR THERAPEUTIC INTERVENTION. INCARCERATION BEHIND PRISON WALLS BUYS ONLY A CONTINUATION OF THE PROBLEM. WE CANNOT AFFORD TO RECYCLE INDIVIDUALS OVER AND OVER AGAIN. INFLATION HAS FINALLY MADE IT PROHIBITIVE.

IN LIGHT OF THE OVERCROWDING DILEMMA, I HAVE DIRECTED BY STAFF TO PREPARE A REPORT, WHICH SHALL BE SUBMITTED TO THE GOVERNOR, OUTLINING INITIATIVES WHICH WOULD PROVIDE RELIEF TO THE PROBLEM. AT SUCH TIME, IT IS MY HOPE LEGISLATIVE INITIATIVES WILL BE DEVELOPED WHICH WILL IMPLEMENT WORTHWHILE SUGGESTIONS.

I WOULD PRAISE THE GOVERNOR, THE LEGISLATIVE LEADERSHIP AND SPECIFICALLY THIS COMMITTEE FOR THE COMMITMENT AND CARE OF THE OVERCROWDING DILEMMA. I ASSURE YOU THE PAROLE BOARD WILL FULLY COOPERATE ON ANY SINCERE ENDEAVOR TO SOLVE THIS SERIOUS PROBLEM.

THANK YOU, MR. VISOTCKY.

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY



ROBERT D. LIPSCHER
ADMINISTRATIVE DIRECTOR OF THE COURTS

HARVEY M. GOLDSTEIN
ASSISTANT DIRECTOR FOR PROBATION

CLERK
TRENTON, NEW JERSEY 08647
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January 11, 1985

Submission to the Subcommittee on Prison Overcrowding of the
Assembly Corrections, Health and Human Services Committee

THE COMMUNITY SERVICE PROGRAM

The statewide Community Service Program in New Jersey began its third fiscal year of program operations on July 1, 1984. Under the direction of the Administrative Office of the Courts, the Community Service Programs in the 21 county probation departments have contributed over 1.8 million hours of service since their inception.

Community Service as a Sentencing Alternative

In 1979 with the enactment of the New Jersey Code of Criminal Justice (L. 1983, C. 95) community service became a statutorily authorized sentencing alternative. As provided in N.J.S.A. 20:43-2b(5), the court may sentence an offender to perform community-related service. Additionally, per N.J.S.A. 20:43-1b(13), community service can be ordered as a condition of probation. In those circumstances, the community service order is either a stand alone sentence or an adjunct to a probation sentence.

The community service sentence was a statutorily authorized alternative to incarceration only for second and subsequent convictions for DUI per the January 1982 amendment to N.J.S.A. 39:4-50 (L. 1981 C. 537). The amendment read:

...for a second violation (the offender)...shall be ordered
...to perform community service for a period of 30 days...or
may be sentenced to imprisonment for a term of not more than
90 days...(for) a third or subsequent violation, (the offender)
shall be sentenced to imprisonment for...180 days, except that
the court may lower such term for each day, not exceeding 90
days, served performing community service...

Effective October 5, 1984, community service became mandatory for offenders convicted for a second DUI offense. R.J.S.A. 39:4-50 (G), 1983 C. 444) was amended such that second offenders receive both a community service sentence and a term of imprisonment. Only for the offender convicted for a third DUI offense can a community service order be used as an alternative to incarceration.

Community Service Program Funding

The legislature appropriated \$600,000 in fiscal year 1983 to establish a community service program in each county probation department. By the time of the statewide start-up in September of 1982, 2552 offenders were enrolled in 13 county programs. By the end of that fiscal year, 20 county programs had a statewide enrollment of 7608, a growth of 198%.

The increased use of community service as a sentencing alternative led to a request for increased funding for fiscal year 1984. An appropriation was made for \$650,000. According to the fiscal year 1984 program plans submitted by the counties, the total professional salary budget was 1.3 million dollars. State monies, therefore, accounted for 51% of the total expense, with county funding picking up the remaining 49%.

Total program operation costs for fiscal year 1984 were estimated at 1.7 million dollars. The costs reflect a total operations budget for the statewide 21-county program. State funding, therefore, accounted for 39% of the total cost of operating the Community Service Program during fiscal year 1984.

Program enrollment continued to grow during 1984. By the end of the fiscal year, 12,247 offenders were enrolled in the Community Service Program, a 61% population increase over the end figure for fiscal year 1983.

The legislature again approved funding for the Community Service Program for the next fiscal year. The appropriation for fiscal year 1985 remained at \$650,000, although the actual cost of operating the program rose to 2.4 million dollars. The counties may receive up to \$713,000 in state funding reimbursement. If all the allotted monies are used, the state funding will account for 29% of the anticipated total program operation expenses.

The fact that funding has not risen commensurate with the rise in program enrollment has presented a problem for some counties in maintaining an adequate level of service.

Community Service Program Statistics

The following table contains data on DUI offenders enrolled in the Community Service Program during the first two fiscal years. Over 8,000 offenders convicted for DUI were enrolled in the Community Service Programs during this period.

	Fiscal Year 1984	F.Y. 1983 (Adjusted) ¹	% Growth in 1984
New Cases from court	5,190	4,038	29%
Hours Served	594,746	281,234	111%
Value of Service ²	\$4,757,968	\$2,249,872	111%
Jail Days Saved ³	155,700	121,140	29%

Current Program Enrollment Status
(data as of September 30, 1984)

PTI	986
Superior Court (crim.)	2,545
Juvenile	1,607
Municipal Court (crim.)	1,888
DUI	5,839
Motor Vehicle	<u>340</u>
Total Offenders Enrolled	13,205

-
- 1 The statewide program began in September 1982, therefore actual fiscal year 1983 data reflects 10 months of program operations. The figures used here have been adjusted for the sake of comparison and reflect estimated statewide program operations from July 1982 through June 1983.
 - 2 Based upon an \$8.00 per hour value drawn from research conducted by the Camden County Program.
 - 3 These figures represent a conservative estimate of 30 days of jail time saved per offender sentenced. The figures do not account for the offender(s) sentenced a third time for DUI and who may receive a 180-day jail sentence, 90 of which can be reduced by an order to perform community service.

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

ROBERT D. LIPSCHER
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ASSISTANT DIRECTOR FOR PROBATION



TRUSTEE
TREASURER
CLERK
STATE OF NEW JERSEY
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January 11, 1985

Submission to the Subcommittee on Prison Overcrowding of the
Assembly Corrections, Health and Human Services Committee

The Intensive Supervision Program

Substantive Requirements

- * Minimum of 20 contacts per month with officer
- * Minimum of 16 hours of community service per month
- * Minimum curfew between 10:00 pm and 6:00 am
(8:00 pm curfew until employed full-time)
- * Daily and weekend curfew checks
- * Urine monitoring
- * Full-time employment or educational training
- * Required monthly budget
- * Approved daily diary
- * Case plan
- * Staff on duty 24 hours per day, 7 days per week
- * Required treatment plans to address psychological/social/drug problems

Citizen/Public Involvement

- * Input from victim of crime
- * Input from police department
- * Input from prosecutor and original sentencing judge
- * Active involvement of community sponsor and network team
- * Screening Board approval
- * Supreme Court Intensive Supervision Program Advisory Board

History Goals and Objectives

A major conference recommendation of the 1982 Judicial Conference on Probation was the establishment of a state-level program of intensive supervision for a select group of state incarcerated inmates. Simultaneously with the conference planning effort, the Governor adopted the recommendations to establish the Intensive Supervision Program (ISP). The legislature appropriated one million dollars to the Administrative Office of the Courts effective January 3, 1983, to develop ISP.

The goals of ISP are to establish an intermediate form of punishment and community supervision. It was also to test whether structured community supervision is less costly and more effective than traditional prison sentences thereby making additional bed space available for violent criminals.

The major objectives of ISP are to select and place under supervision a caseload of 375-500 individuals who present minimal risk to the community and can adhere to a highly structured supervision program and to actively monitor, enforce and evaluate each participant's compliance with the conditions of the program.

ISP has an Advisory Board appointed by the Chief Justice and presently consisting of 18 members with Judge John A. Mazzulli of the Essex County Superior Court serving as chair. Members of the Board are drawn from Criminal Justice agencies, other public offices, and from the public.

The Advisory Board serves several functions, among which are advising the Supreme Court as to ISP policy, reviewing adequacy of resources required to meet ISP standards, and overseeing the responsibilities and performance of ISP staff.

The ISP Screening Board consists of the Deputy Director of the Department of Corrections or designee, the ISP Director or designee, and a member of the public, appointed by the Chief Justice. Currently, there are three citizen participants serving regionally on the Screening Board.

The responsibility of the Screening Board is to review applications and determine eligibility based on the nature and circumstances of the offense (examining for any violence, organized criminal activity, or ongoing criminal activity), the applicant's criminal history, plan feasibility, and sincerity and motivation in carrying out the obligations of the ISP plan.

Selection Process

	Number
Total Applications for ISP (6/1/83 -- 1/1/85)	2152
Total rejections ¹	1649
Total withdrawn applications	189
Applications submitted to Resentencing Panel	314
Resentencing Panel Decisions:	
Admitted	267 (85%)
Rejected	47 (15%)

1 - Rejected by the ISP Director due to the nature of their charges (homicide, robbery, sex offense), sentence (mandatory parole ineligibility term imposed, timeliness of application (sentenced prior to June 1, 1983), or residence (out-of-state).

Current Program Enrollment

Total enrolled		267
Returned to prison:	37	13.8%
New offenses committed:	8	3.0%
Indictable offense:	1	
Disorderly persons:	7	
Program enforcement:	29	10.8%
(curfew violations, 'dirty urine', failure to find a job, failure to perform community service, etc.)		
Absconders:	7	
Completed program:	7	
Total in program as of 1/8/85:		223

Community Service by Clients

ISP requires each participant to perform 16 hours of supervised community service per month, except if waived by the Resentencing Panel. As of 11/30/84, 91.1% of active clients were in compliance with the community service requirement.

The total number of community service hours performed by clients for the month of November was 3176.5, resulting in over \$25,000.00 worth of services provided to the community (calculated at an average rate of \$8.00 per hour, based on research conducted by the Camden County Probation Department). ISP also conducts week-end community service sites to provide needed services for various civic organizations.

Employment by Clients

Clients in the Intensive Supervision Program are required to secure full-time employment, a requirement which can be waived only due to illness, full-time student status, or other good reason approved by the resentencing panel. As of November 30, 1984, 94.8% of ISP clients were employed full-time, and 1.7% were employed part-time.

Earning and Financial Obligations of Clients

Earnings of clients

Gross pay	174,863.00
Federal tax	19,915.00
State tax	3,731.00
Net pay	139,234.00
Total taxes paid by clients	23,646.00

Payment of Court-Ordered Obligations

Many ISP clients have court-ordered financial obligations: payments of fines, contributions to the Violent Crimes Compensation Board, restitution to victims, as well as child support payments.

Fines	\$42,131.00
Restitution	2,325.00
VCCB	975.00
Support	7,552.00
Total	\$13,033.00

Programmatic services: Treatment, Education, Monitoring

Clients are required to participate in various treatment programs, educational courses, and other programmatic measures designed to meet their individual needs as well as to insure their continued development and improvement. The structured services here also further insure community safety.

As of November 30, 1984, ISP clients were enrolled in the following treatment programs:

Alcoholics Anonymous	50	
Other Alcohol programs	7	
Narcotics Anonymous	61	
Other narcotics programs	22	
Gamblers Anonymous	8	(Note: figures do not
Private therapy	23	total to active caseload
ISP group therapy	70	as clients may be in more
Other treatment plans	2	than one program)

As of this date, 3 clients were full-time college students, and 7 were part-time students. Three were enrolled in vocational school, and 20 were working on GED programs. Five clients were involved in other educational programs, such as English proficiency courses, clerical training, etc. An additional 25 clients have an educational component pending.

Urine monitoring is an important component in the ISP plan to insure that clients remain drug-free. Consequently, 86% or 184 of all clients presently have urines collected and analyzed randomly throughout the month.

Contacts

Among the most important programmatic aspects of ISP are the contacts made by the ISP Officer with the client - both face to face and by telephone - to monitor the client's behavior and adjustment, and to insure his/her observance of the curfew. The program requires a minimum of 20 contact per month, at least 2 of which shall be curfew checks. As of

11/30/84, the average number of total contacts was 27. The average number of curfew checks was 5. It is significant to note, however, that one quarter of all clients received more than 30 total contacts, and more than 6 curfew checks per month. In addition, many more contacts are made between the ISP officer and collateral member of the client's team: the community sponsor, the network member, employer, police, etc.

Internal/External Evaluation

As an experimental and innovative program, Intensive Supervision demands careful evaluation to determine whether it is meeting its goals and objectives. As a possible alternative of national significance to more costly prison construction, the National Institute of Justice has funded a multiyear evaluation of the program, under the direction of Drs. Jackson Toby and Frank Pearson of the Institute for Criminological Research at Rutgers University. This research effort has been an ongoing part of ISP since its inception. The ISP main office also has an internal research and evaluation office to maintain its own research capacity.

Offenses Convicted

By mandate, no offenders convicted of certain classes of offenses are eligible for entrance into ISP. These excluded categories are robbery, violent offenses in general, and sex crimes. In addition, crimes of the first or second degree are generally not eligible for ISP. The effect of these restrictions is to remove from consideration persons who have committed the most serious crimes.

Since the potential client must be sentenced to a term of incarceration in the state prison system, those lesser offenders who receive terms of probation are also not eligible for consideration for ISP.

With these two conditions together, the eligible pool of applicants into ISP is a restricted sample of selected criminal offenders. This is reflected in the following report on the offenses which ISP clients have been convicted.

The vast majority of all offenders have been convicted of offenses of the third or fourth degree. Indeed, only 7 clients have had conviction of offenses of the first or second degree. Drug offenses and violations of probation accounted for nearly half of all clients on ISP (126 of the 256 clients released into ISP). The remainder fell into the categories of theft (in general, including theft by deception, theft of services, receiving stolen property, etc.), and with 56 cases; and burglary, with 45 cases; and the remainder in miscellaneous charges.

* Overall summary of charges:

Drug offenses	. . . 104
Theft	. . . 69

Burglary	. . .	63
Violation of Probation	. . .	57
Forgery, etc.	. . .	19
Attempts	. . .	14
Arson	. . .	7
Weapons	. . .	5
Gambling	. . .	4
Miscellaneous counts	. . .	7

(Note: These figures will not add to the number of clients in the program, as persons will have been convicted of multiple charges, multiple counts of the same charge, etc. Its purpose is descriptive only.)

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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ASSISTANT DIRECTOR FOR CRIMINAL PRACTICE



RYAN J. H. SMITH
JUSTICE CLERK
TRENTON, NEW JERSEY 08646

January 11, 1985

MEMORANDUM TO: Subcommittee on Prison Overcrowding
FROM: John P. McCarthy, Jr.
Assistant Director
SUBJECT: SENTENCING DATA

I have been asked to appear before the Subcommittee to provide information on the types of sentences being rendered for various classes and categories of crime.

Since your request was received only within the last week, there was little time to prepare a special report, however, the attached perhaps will at least serve as a beginning and I remain available for further requests.

The enclosed data is primarily for sentences rendered during 1983. Much of it was contained in the report of the Criminal Disposition Commission to the Legislature for that year. Data for 1981 and 1982 was also forwarded by the Commission. The data for 1984 is currently being developed.

I will attend your January 11, 1985 meeting, and will be available to describe the information enclosed if the Subcommittee wishes such.

/kac
Attachments

J.P.M.

Breakdown of Sentences Rendered During 1983

for Non-Violent and Violent Crimes*

	<u>Non-Violent</u>	<u>Violent</u>
<u>Total # Sentences</u>	16107	3343
Percent of Total	83%	17%
Percent Non-Custodial	61%	21%
Percent Custodial	39%	79%
<u>Percentage of all Cases Sentenced to:</u>		
County Institutions	20%	12%
Youth Complex	5%	16%
State Institutions	15%	51%
Median State Prison Term	4 years	10 years
Percentage of State Prison Sentences with Minimum Terms	31%	67%

* Data is extracted from judgments of conviction rendered in Superior Court. Data is captured on the first two most serious charges convicted on. Sentencing length data is aggregated across all charges for the sentencing event.

Selected Data by Degree of Crime* for Sentences

Rendered in Superior Court During 1983

<u>Degree of Crime</u>	<u>Percent of Total Cases</u>	<u>Rate of Incarceration</u>	<u>Percent to State Prison</u>	<u>Percent to Youth Complex</u>	<u>Percent to County Institutions</u>
First	6	97	78	16	3
Second	9	77	44	19	14
Third	45	43	17	6	20
Fourth	9	35	8	2	25
All Other**	31	33	12	3	18

* Degree of most serious statute convicted on.

** This category includes all other sentences rendered, such as sentencings under Title 2A, or sentences rendered pursuant to statutes not contained in Title 2C (e.g. drug offenses).

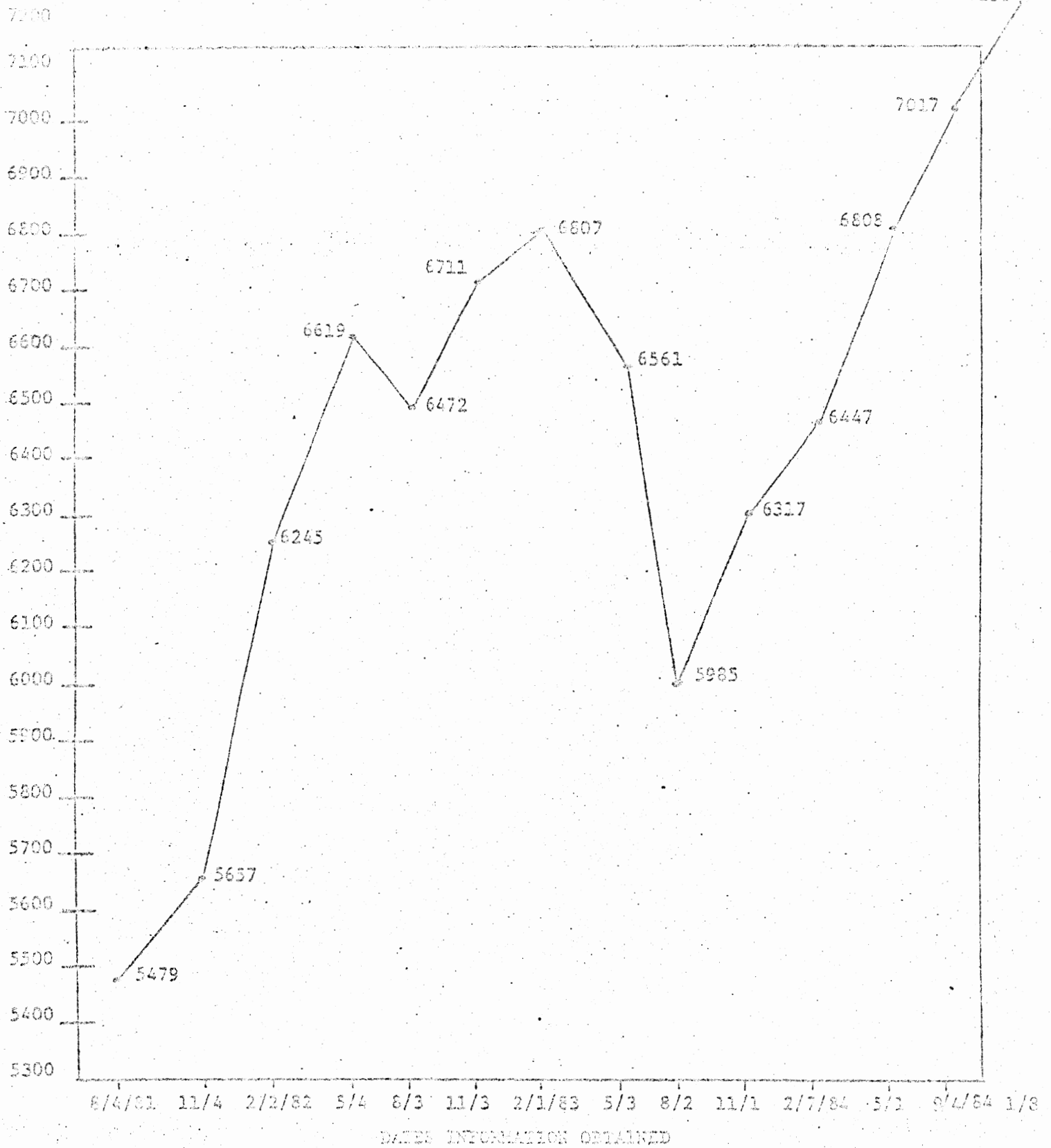
BREAKDOWN OF STATUTES SENTENCED DURING 1983

STATUTE	TITLE	TOTAL # SENTENCED	# INCARCERATED	% INCARCERATED	# CJ	% CJ	# SP	% SP	# YRCC	% YRCC	# MHI-BUREAU	% MHI-BUREAU	STATUTE
2C:5-2	Conspiracy 3rdo	85	26	31%	17	20%	7	8%	2	2%	3	4%	0169
2C:5-1/2C:11-3b	2nd Agree												
	Attemped Murder	23	22	96%	1	4%	21	91%	none		19	90%	0281
2C:11-3b	Murder 1st	128	128	100%	none		124	97%	4	3%	108	87%	0298
2C:11-4	Manlaughter 2nd	55	55	95%	1	5%	48	83%	4	7%	20	42%	0298
2C:11-5	Death by Auto 4tho	60	56	93%	30	50%	5	8%	1	2%	3	5%	0308
2C:11-4	Agg. Manlaughter 1st	60	60	100%	none		53	88%	7	12%	43	81%	0318
2C:12-b(1)	Agg. Assault 2nd	491	381	77%	97	20%	202	41%	52	10%	108	53%	0408
2C:12-b(2)	Agg. Assault 3rdo	385	156	41%	75	25%	57	19%	18	4%	17	30%	0418
2C:12-1b(3,4)	Agg. Assault 4tho	127	70	55%	33	26%	34	28%	2	1%	10	29%	0428
2C:12-1b(5)	Agg. Assault 3rdo	178	91	51%	45	25%	30	19%	13	6%	6	18%	0438
2C:12-1b(5)	Agg. Assault 4tho	39	10	33%	8	27%	1	3%	1	3%	none	0%	0448
2C:12-3	Terroristic Threats 3rdo	105	31	30%	18	17%	10	10%	1	1%	1	10%	0478
2C:13-1	Kidnapping 1st	27	25	93%	1	4%	19	70%	5	19%	14	74%	0538
2C:13-2	Criminal Restraint 3rd	20	5	25%	3	15%	2	10%	none		1	5%	0558
2C:14-2a	Agg. Sex Assault 1st	162	148	91%	6	4%	94	58%	48	30%	68	72%	0678
2C:14-2b	Sex. Assault 2nd	174	106	61%	19	11%	57	33%	30	17%	22	39%	0688
2C:14-3a	Agg. Criminal Sex Contact 3rd	45	17	38%	10	22%	4	9%	3	7%	1	2%	0698
2C:14-3b	Crim. Sex Contact 4th	82	24	29%	18	22%	4	5%	2	2%	2	50%	0708
2C:17-1a	Agg. Arson 2nd	39	26	67%	1	6%	15	38%	0	21%	6	30%	0778
2C:17-1b	Arson 3rd	98	34	35%	17	17%	13	13%	4	4%	3	23%	0788
2C:17-3	Crim. Mischief 3rdo	60	10	17%	5	8%	5	8%	none	0%	1	20%	0858
2C:17-3	Crim. Mischief 4tho	27	7	26%	5	19%	2	7%	none	0%	none	0%	0868
2C:18-2	Burglary 2nd	31	23	74%	1	3%	18	58%	4	13%	12	67%	0948
2C:18-2; 2C:5-1	Attemped Burg. 3rdo	127	66	52%	29	23%	26	20%	10	9%	6	23%	0951
2C:18-2	Burglary 3rdo	2575	1554	60%	570	22%	652	25%	328	13%	263	40%	0958
2C:18-2; 2C:5-1	Aiding and Abetting Burglary	21	12	57%	5	24%	3	14%	4	19%	1	33%	0959
2C:10-3a	Crim. Trespass. 4th	56	33	59%	23	24%	6	6%	3	3%	1	17%	0978
2C:15-1	Robbery 1st	760	737	97%	14	2%	602	79%	121	16%	44	79%	1058
2C:15-1	Robbery 2nd	668	574	86%	89	13%	267	40%	217	32%	100	45%	1068
2C:15-1	Robbery 3rd	17	11	65%	5	29%	4	24%	2	12%	1	25%	1069
2C:20-3; 2C:5-1	Attemp. Theft 3rdo	47	21	45%	10	21%	7	15%	4	9%	3	43%	1121
2C:20-3	Theft 3rdo	931	483	52%	280	21%	144	15%	57	6%	57	26%	1128
2C:20-3	Theft 4tho	130	58	47%	49	38%	5	4%	4	3%	none	0%	1138

STATUTE	TITLE	TOTAL # SENTENCINGS	# INCARCERATED	% INCARCERATED	# CJ	% CJ	# SP	% SP	# YRCC	% YRCC	# MINI-NUMS	% MINI-NUMS	STATUTE #
2C:20-4; 2C:5-1	Atten. Theft by Deception 3rdo	59	20	34%	9	15%	10	17%	1	2%	1	10%	1151
2C:20-4	Theft by Deception 3rdo	857	173	20%	80	9%	83	10%	7	8%	21	2%	1151
2C:20-4	Theft by Deception 4tho	56	19	34%	14	25%	5	9%	none	0%	none	0%	1151
see last page													
2C:20-7	Rec'g Stolen Prop. 3rd	939	412	44%	210	22%	146	16%	55	6%	21	14%	1228
2C:20-7	Rec'g Stolen Prop. 4th	78	36	46%	29	37%	3	4%	4	5%	1	3%	1238
2C:20-8	Theft of Services 3rd	15	4	27%	3	20%	1	7%	none	0%	none	0%	1258
2C:20-9	Theft by failure to make req. dispos. 3rd	119	30	25%	16	13%	12	10%	2	2%	1	8%	1288
2C:21-1a	Forgery 3rdo	170	66	39%	42	25%	22	13%	2	1%	4	18%	1399
2C:21-1a	Forgery 4tho	105	37	35%	21	20%	14	13%	2	2%	2	14%	1408
2C:21-6	Credit Card Theft	98	36	37%	24	24%	9	9%	2	2%	1	11%	1489
2C:24-4a	Endangering welfare of Children 3rd	65	16	25%	11	17%	5	8%	none	0%	2	40%	1968
2C:24-4a	Endangering welfare of Children 4th	20	4	20%	4	20%	none	0%	none	0%	none	0%	2038
2C:27-2	Bribery 3rd	22	9	41%	9	36%	1	5%	none	0%	none	0%	2098
2C:28-4a	Falsely incriminating another 4tho	18	5	28%	3	17%	1	6%	1	6%	none	0%	2298
2C:29-2	Resisting Arrest 4tho	93	31	33%	24	26%	4	4%	3	3%	none	0%	2458
2C:29-3	Hindering Apprehen. 3rdo	25	7	28%	3	12%	3	12%	1	4%	1	33%	2478
2C:29-3	Hindering Apprehen. 4tho	13	2	11%	1	6%	1	5%	none	0%	none	0%	2488
2C:29-3	Escape 3rdo	136	95	70%	27	20%	54	40%	14	10%	5	9%	2528
2C:30-2	Official Misconduct 2ndo	15	1	7%	none	0%	1	6%	none	0%	1	100%	2668
2C:37-2; 2C:5-2	Conspir. promote gambling 3rdo	24	10	42%	7	29%	3	13%	none	0%	none	0%	3042
2C:37-2	Promote Gambling 3rdo	119	92	77%	61	68%	11	9%	none	0%	1	9%	3048
2C:37-3	Pos. Carb. Reds. 3rdo	45	30	67%	25	56%	4	9%	1	2%	none	0%	3078
2C:39-3	Sawed-off Shotgun 3rdo	53	21	40%	11	21%	7	13%	3	6%	3	43%	3168
2C:39-3	Knives, Switchblades 4tho	58	6	10%	5	9%	1	2%	none	0%	none	0%	3196
2C:39-3	Dum-Bus Bullets 4tho	15	2	13%	1	7%	1	7%	none	0%	none	0%	3208
2C:39-4a, b, c	Pos. weapon for unlawful purpose 2ndo	83	70	84%	13	16%	55	66%	2	2%	52	95%	3218
2C:39-4d	Knives, other weapons 3rdo	91	37	41%	21	23%	13	14%	3	3%	4	31%	3228
2C:39-5a, b, c	Unlawful pos. of weapon 3rdo	1174	300	26%	151	13%	134	11%	15	1%	25	19%	3238
2C:39-5b	Other weapons 4tho	256	58	23%	45	18%	9	4%	3	1%	none	0%	3248
2C:39-9	Firearm silencer and other weapons 4tho	17	5	29%	4	24%	1	6%	none	0%	none	0%	3278

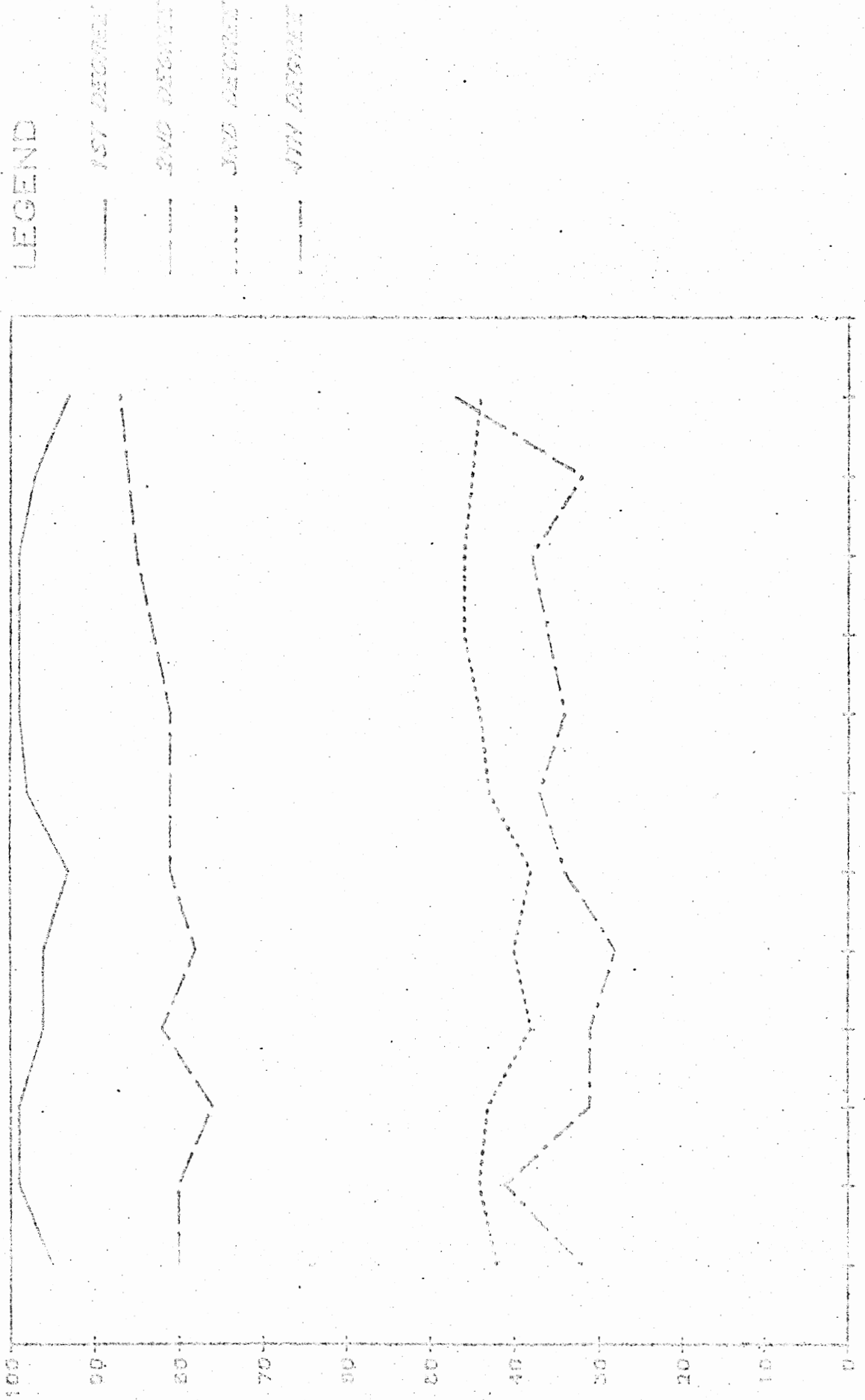
REPORT #	TITLE	RESEARCHER	# TRACED - CORRECTED	% TRACED - CORRECTED	# CT	% CT	# SP	% SP	# YRCC	% YRCC	# MINS - NONE	% MINS - NONE	SYNOPSIS #
2000-101	Keeping violators 48mo of regulatory 110- violators in Arizona Certain prisons not to have no-pensitic		22	32%	7	32%	none	0%	none	0%	none	0%	3720
2000-101			67	55%	24	36%	12	18%	1	1%	2	17%	3348
2000-19(9)	SALA of controlled Dangerous substances	2139	1049	49%	532	25%	401	19%	113	5%	107	27%	
2000-20(6)	Pos. of controlled Dangerous substances	2795	564	20%	428	15%	187	7%	43	2%	28	15%	
2000-22	CBS Fraud	62	16	26%	8	13%	7	12%	none	0%	none	0%	
2000-24	CBS Conspiracy	64	20	31%	5	8%	15	23%	none	0%	6	40%	
2000-50(3)	Bad Checks 3rd	45	5	13%	3	7%	2	4%	1	2%	none	0%	
2000-50(3)	Bad Checks 4th	19	6	32%	4	21%	1	5%	1	5%	none	0%	

(8/4/81 - 8/4/84)



1983 - 1984

RATES OF INCARCERATION FOR SENTENCINGS UNDER 20 -- BY DEGREE



JUL AUG SEP OCT NOV DEC JAN FEB MAR APR MAY JUN

MONTH

DATE: 1/8/85

ADMINISTRATIVE OFFICE OF THE COURTS
 FEDERAL SERVICES UNIT
 COUNTY JAIL POPULATION RELOCATION

COUNTY JAIL	RATED CAPACITY	FACILITY POPULATION AS OF: 1/2/85	NEW FACILITY POPULATION COUNT AS OF: 1/8/85	PERCENT POPULATION CHANGE	PERCENT OF 1/2/85 POPULATION COMPARED TO RATED CAPACITY	PERCENT OF 1/8/85 POPULATION COMPARED TO RATED CAPACITY
ATLANTIC	188	316	338	+ 6%	171%	182%
BERGEN	477	477	504	+ 6%	121%	***128%
BURLINGTON	117	162	164	+ 1%	138%	140%
ESSEX CO. NEW JERSEY - MIN. SEC. FACILITY	92	87	1* 85	- 2%	87%	1* 85%
CAMDEN	292	371	369	- .5%	127%	126%
CAPE MAY	132	99	103	+ 4%	75%	78%
CUMBERLAND	116	203	2* 279	+ 6%	205%	2* 221%
ESSEX	594	633	640	+ 1%	107%	108%
HASSEL COUNTY JAIL ANNEX	542	530	543	+ 2%	96%	100%
GLOUCESTER	203	126	120	+ 3%	103%	106%
GLUCO. CO. - CLASSIFIED MIN. SECURITY	40	16	17	0%	40%	40%
HUDSON COUNTY JAIL	302	434	3* 469	+ 6%	144%	3* 155%
HUDSON COUNTY JAIL ANNEX	160	149	147	- 1%	93%	92%
HUNTERDON	43	33	37	+12%	77%	86%
MERCER COUNTY DETENTION CENTER	272	275	277	+ .7%	101%	102%
MIDDLESEX COUNTY CORRECTION CENTER	246	205	223	+ 9%	83%	91%
MIDDLESEX COUNTY CORRECTION FACILITY	300	533	4* 529	- 2%	133%	4* 131%
MIDDLESEX COUNTY CORRECTION FACILITY	***424					
MORRIS COUNTY CORRECTION FACILITY	325	366	384	+ 5%	113%	118%
MORRIS	85	215	5* 231	+ 6%	256%	5* 272%
OCEAN	105	198	197	- 3%	99%	96%
OCEAN	CA*494					
PASSAIC	355	656	668	+ 5%	165%	194%
SALTY	95	139	143	+ 3%	146%	151%
SOMERSET	65	204	6* 103	- 1%	160%	6* 158%
SUSSEX	88	146	7* 145	- .7%	166%	7* 165%
UNION	219	422	456	+ 8%	163%	174%
WARREN	17	92	1* 85	+ 6%	151%	1* 103%
TOTALS	5565	7017	7251	+ 3%	126%	130%

*POPULATION FIGURES INCLUDE HIGH PERCENTAGE OF WEEKEND SENTENCES - 1(14), 2(33), 3(27), 4(61), 5(40), 6(28), 7(54), 8(11) & INMATES IN OTHER FACILITIES - 2(20), 3(28)
 A*)UTILIZED FOR WEEKEND SENTENCES & WORK RELEASE (TRAILERS)
 B**)EMERGENCY OVERFLOW (TRAILERS)
 C*)UTILIZED FOR WEEKEND SENTENCES, WORK RELEASE & FEMALE INMATES
 ***POPULATION HOUSED WITHIN JAIL & ANNEX, EXCLUDING MINIMUM SECURITY TRAILER POPULATION, EQUATES TO - 133%

40-256% Range 40-272% Range
 124% Median 127% Median

POPULATION BY INMATE STATUS
(NOTE: COLUMNS 1-2-3-5-6 = COLUMN 6)

COUNTY JAIL	1 PRETRIAL POPULATION	2 PRE- SENTENCED POPULATION	3 SENTENCED POPULATION	4 WEEKEND SENTENCED INMATES INCLUDED IN COLUMN 3	5* HOUSED FOR STATE	6 TOTAL POPULATION
ATLANTIC	173	**	89	9	75 / 72	338
BERGEN	172	39	122	19	164 / 161	513
BURLINGTON	105	11	11	0	34 / 32	164
BURL. CO. NEW LIT. BON MIN. SECURITY	8	**	76	11	0 / 0	85
CAMDEN	236	**	102	11	31 / 10	359
CAPE MAY	38	14	16	9	24 / 23	100
CAPEMAYLAND	162	20	60	33	17 / 12	279
ESSEX	628	**	0	0	14 / 0	640
ESSEX COUNTY JAIL ANNEX	212	**	331	33	0 / 0	543
GLOUCESTER	71	5	16	18	20 / 20	130
GLOU. CO. - CLARKS BRO MIN. SECURITY	0	0	17	0	0 / 0	17
HUDSON COUNTY JAIL	247	**	133	27	83 / 84	469
HUDSON CO. PENIT. HUDSON COUNTY JAIL ANNEX	0	**	110	10	37 / 37	147
HUNTERDON	13	**	16	5	3 / 1	37
HERCEP COUNTY REVENTION CENTER	161	**	10	0	108 / 103	279
HERCEP COUNTY CORRECTION CENTER	0	**	115	20	27 / 27	233
MIDDLESEX ADULT CORRECTION FACILITY	293	**	137	63	97 / 90	520
MONMOUTH COUNTY CORR. INSTITUTION	253	**	61	0	70 / 59	324
MORRIS	54	**	25	40	42 / 41	131
MORAN	93	9	79	16	5 / 4	132
PASSAIC	250	20	63	50	205 / 213	568
SALEM	94	**	32	5	17 / 16	143
SOMERSET	44	4	37	28	18 / 16	103
SUSSEX	27	4	70	40	4 / 4	145
UNION	221	35	109	13	91 / 84	436
WARREN	27	**	23	11	5 / 2	53
TOTALS	3653	172	1867	137	1287 / 939	7251

* % OF STATE SENTENCED INMATES A / % OF HOUSED STATE SENTENCED INMATES
HOUSED IN COUNTY JAIL B EXCEEDING 15 DAYS POST SENTENCING

** INCLUDED IN PRETRIAL POPULATION

*** HOUSED FOR STATE UNDER GOVERNOR'S EXECUTIVE ORDER

**** (19) INMATES HOUSED FOR FEDERAL GOVERNMENT, PASSAIC & ESSEX COUNTIES

† HOUSED FOR STATE UNDER CONTRACT

SPECIAL POPULATION CATEGORIES

COUNTY NAME	7	8	9	10	11	12
	MALE FEMALE CAPACITIES	MALE INMATES	FEMALE INMATES			
ATLANTIC	M 188 F 18	322	16			
BERGEN	M 379* F 18	480	24			
BURLINGTON	M 117	164	0			
BURN. CO. NEW LIS- BURNINGHAM FACILITY	M 80 F 70	76	9			
CAMDEN	M 294 F 18	345	24			
CAPT. MAY	M 123 F 9	89	4			
CUMBERLAND	M 115 F 11	268	11			
DESEX	M 594	640	0			
DESEX COUNTY JAIL ANNEX	M 440 F 102	435	108			
DORCHESTER	M 111 F 12	122	8			
GLOU. CO. CLARKS- HARD-MIN. SECURITY	M 40	17	0			
HUNSON COUNTY JAIL	M 268	439	30			
HUNSON CO. PENIT. HUNSON COUNTY JAIL ANNEX	F 34 M 160	147	0			
HUNTERDON	M 38 F 5	34	3			
MERCER COUNTY HUNTERDON CENTER	M 238 F 54	258	19			
MERCER COUNTY CORRECTION CENTER	M 246	223	0			
NEW JERSEY STATE CORRECTION FACILITY	M 1,356 F 58	501	28			
MONMOUTH COUNTY CORR. INSTITUTION	M 285 F 40	349	35			
MORRIS	M 75 F 10	223	8			
OSAN	M 181* F 18	189	3			
PASSAIC	M 321 F 44	662	26			
PALEX	M 87 F 8	189	4			
SOMERSET	M 57 F 8	95	8			
SUSSEX	M 70 F 18	142	3			
UNION	M 223 F 36	431	25			
WARREN	M 32 F 2	51	4			
TOTALS	M 5095 F 489	6812	480			

*A(18)-BEDS:UTILIZED FOR WEEKEND SENTENCES & WORK RELEASE (TRAILERS)
 B(24)-BEDS:EMERGENCY OVERFLOW (TRAILERS)
 C(96)-BEDS:UTILIZED FOR WEEKEND SENTENCES, WORK RELEASE & FEMALE INMATES
 (TRAILERS)

TESTIMONY BEFORE THE SUBCOMMITTEE ON PRISON OVERCROWDING OF THE
 ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE
 January 11, 1985

My name is Karen Spinner and I am the Director of Public Education and Policy for the New Jersey Association on Correction. The Association is a state-wide citizens' group working to improve the effectiveness of corrections and criminal justice in the State of New Jersey.

We are happy to appear before you today to discuss our ideas for dealing with prison overcrowding. In 1982, Governor Kean put forth his plan of action to deal with overcrowding in the prisons. It included the acquisition of almost 5300 new cell spaces from a combination of renovations and new construction. Additionally there were several legislative and administrative proposals which were supposed to reduce the projected prison population by approximately 1400 cell spaces by January 1988. These included county parole, emergency early parole release, intensive supervision, permanent authorization to use all state and county facilities to house state inmates, an increase in the maximum sentence that can be imposed as a condition of probation and residential treatment programs for inmates with drug and alcohol problems. Today, less than three (3) years later, we are told that another 1300 beds will be needed to ease overcrowding.

The question is: where did the Kean program fail? The crime rate has decreased and it is not solely attributable to New Jersey's heavy reliance on incarceration as a sentencing option. Complex factors including demographic trends which show a decreased number of individuals in the crime prone age cohort of 14-24 and a general up-turn in the economy also have a role in this lower crime rate.

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All of Kean's initiatives to stem the influx of prisoners into the system were made available. The emergency release mechanism was never utilized due to political considerations although there were times when it could have and should have been utilized. The residential program for inmates with alcohol problems took almost two years to implement as the Department of Health and Department of Corrections wrangled over the issue of who should pay for this treatment. County jails have been forced to keep state prisoners resulting in lawsuits and back-up into municipal holding facilities.

Intensive supervision which is a true alternative to incarceration has not reached its optimal goal of 500 participants. It currently has only 257 participants. Some of its problems can be attributed to time lags accompanying start-up of a new program, opposition from some judges and prosecutors and lack of information or misinformation resulting in fewer inmates applying for the program.

The heart of the problem of overcrowding, which was ignored by the Kean program, is the criminal code with its mandatory terms and parole ineligibility stipulations. Nearly 50% of all inmates enter the state prison system with these kind of sentences. There is no incentive for an offender with this kind of sentence to engage in work/school opportunities or programs for self-improvement. (In fact, the majority of programs are geared to offenders serving shorter sentences). Good time or work credits cannot be applied to the mandatory part of the sentence. They are ineligible for many of the programs which exist including furloughs, work/school release and community release.

Parole cannot consider these individuals for release until the mandatory portion of the sentence is completed. Accordingly, the system is coming to a grinding halt as people continue to enter the system at a rapid pace but only trickle out. In 1984, there were 6660 admissions to state correctional facilities and only 4336 parole releases. This does not include the 1501 who are backed up in the county jails awaiting admission to a state facility. Almost 1/3 more individuals enter the system than leave each month.

At present in the criminal code, there is no mechanism to remove a mandatory sentence or parole ineligibility stipulation except for individuals sentenced under the Graves Act who were convicted for possession of a firearm with intent to use it against the property of another and for sex offenders under 20:47-4C which provides

"If, in the opinion of the commissioner, upon the written recommendation of the Special Classification Review Board continued confinement is not necessary, he shall move before the sentencing court for modification of the sentence originally imposed." In fact, with respect to the Graves Act, the Supreme Court has recently ruled that its mandatory sentence should be imposed on an unarmed accomplice, something which the legislature probably did not intend.

The Association maintains its longstanding opposition to mandatory sentencing and advocates amendment to remove it from the criminal code. However, as an intermediate step, we propose that a mechanism be developed to permit those with mandatory sentences or parole ineligibility terms to have the original sentence reviewed after serving half of the mandatory sentence. If an individual is making exemplary progress and adjustment, then perhaps the remainder of the mandatory term or parole ineligibility term could be suspended. This would allow them to be considered for parole at an earlier date. Such a mechanism was alluded to in the report on corrections from the Governor's Management Improvement Team.

An administrative solution to alleviate overcrowding would be to expand the community release or halfway house system currently operated by the Department of Corrections. At present, there are only six facilities, 2 operated by the department and 4 by contract with private agencies. The MAP contracting program also places inmates in alcohol treatment programs throughout the state. These programs are available to approximately only 160 offenders/month who are within 3-4 months of release on parole. These programs allow an inmate to gradually reenter society by providing supportive services and guidance. Recidivism studies conducted by the Massachusetts Department of Corrections indicate that gradual release from prison through a halfway house/community release center has a positive effect on decreasing the recidivism rate.

The U. S. Federal Prison System makes extensive use of pre-release programming. The average daily count of federal inmates in community treatment centers is 2700. This is 300 more than the previous year. It is current federal policy to utilize community treatment to relieve overcrowding. Without extensive use of this method, five additional institutions would be needed.

Expanding the community release/halfway house system in New Jersey could be accomplished at a much lower cost and more quickly than building prison cells. Currently, the Department of Corrections reimburses its contract halfway houses at the rate of \$37/day per resident. This is lower than the \$45 that is paid to the

counties for holding offenders in county jails. If all offenders were to exit from the correctional system under a community release mechanism, there would be a need for an additional two hundred beds in the community. It would cost the state \$13,605/year to house an inmate in a contract facility as opposed to the \$16,425 the county costs and the \$15 - 25,000 the state system costs.

Another recommendation is to utilize the halfway house system for parolees who are revoked for technical violations of parole. The additional supervision and counseling provided by the halfway house program might enable the individual to make an appropriate adjustment in the community. This is certainly a better solution than dumping the person back into a county jail or the state prison where they will not receive the kind of help they need to deal with the problems which led to the initial failure in the community.

With respect to alternatives to incarceration, the intensive supervision program is one which appears to be succeeding although it has yet to achieve the full capacity of 500 inmates. Adequate resources have been devoted to this program and further study is needed to determine what can be done to improve the program.

I would urge you to consider improving regular probation as an alternative to incarceration. To many, probation does not seem to be a punishment - it's a slap on the wrist or a minor inconvenience. Given adequate resources and realistic case-loads so that actual supervision could be provided might help to eliminate the progression of some offenders from less serious crime to more serious crime resulting in incarceration.

Another program which was not heavily utilized but was successful for the individuals involved was the experimental halfway-in program operated by the Association in 1980-82. Offenders were sentenced directly to a halfway house. They were punished in the sense that their freedom was restricted but avoided the debilitating aspect of incarceration. They were able to maintain employment, thus not disrupting family life and given the counseling and structure needed to improve their level of functioning in the community. The Federal Prison System is also utilizing this approach for certain offenders through a 30-bed facility in Washington, D.C. and have been pleased with the results.

Halfway houses could also be utilized for alleged offenders who are adjudged to be poor bail risks. This would lessen the number of individuals housed pre-trial and assist in alleviating overcrowding in county facilities.

Other sentencing dispositions that can be used as alternatives to incarceration include: client specific planning which tailors the sentence to the needs of the offender, victim and/or community and may include counseling, restitution, house arrest, etc; restitution; community service; and fines.

It is essential that the legislature consider alteration of the criminal code in order to stem the rising number of prison commitments. There are aspects of the code which in practice may have been unintended such as excessive use of parole ineligibility. Continual building will be the only solution unless there is a willingness to re-evaluate New Jersey's correctional philosophy of dealing with offenders. Attention to well thought out sanctions for offenders in the early stages of criminal activity might alleviate the need for excessive reliance on incarceration. There are many groups and individuals in this State who are willing and ready to work with you to make appropriate changes in our correctional system. I urge you to actively involve NJAC and the others in a public private partnership to hammer out solutions to our continuing crisis in corrections.