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PUBLIC HEARING

before

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS COMMITTEE

"To Gather Information and Data on Overcrowding
Problems at State Correctional Facilities"

March 6, 1989
Room 418
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Gary W. Stuhltrager, Chairman
Assemblyman Frank M. Pelly

ALSO PRESENT:

David L. Sallach
Office of Legislative Services
Aide, Assembly Law, Public
Safety and Corrections Committee

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New Jersey State Legislature

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**ASSEMBLY LAW, PUBLIC SAFETY
AND CORRECTIONS COMMITTEE**

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NOTICE OF A PUBLIC HEARING

The Assembly Law, Public Safety and Corrections Committee will hold a public hearing on March 6, 1989 beginning at 10:00 a.m. in Room 418 of the State House Annex, Trenton, New Jersey.

The purpose of the hearing is to gather information and data on the State correctional facilities that have prison populations which are greater than their designed capacities; the severity of the overcrowding problems in those facilities; the current status of the negotiations between the State and the U.S. Department of the Army concerning the continued use of the Army's Correctional Facility at Fort Dix by the New Jersey Department of Corrections; the development of any contingency relocation plans for the State prisoners presently housed at the facility should the State and the U.S. Army be unable to reach an agreement; and the impact that the loss of the Fort Dix facility would have on the State's prison and criminal justice system.

Anyone wishing to testify should contact David L. Sallach, Aide to the Committee, at (609) 984-0231 and should be prepared to submit 8 copies of their testimony to the Committee on the day of the hearing.

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ASSEMBLYMAN GARY W. STUHLTRAGER (Chairman):

Good morning, everyone. I thank everybody for coming. We're starting a little bit late due to weather conditions. I'm glad everybody could make it. The reason we called this hearing-- Initially, I suppose we were prompted by the news of the closing of Fort Dix, and as time went on, I recognized that it would probably be an opportune time to get some indication as to where we stand with the State prison system. Unfortunately, the annual report is not prepared for publication at this point, and yet, I think, the Commissioner, when he testifies, will be able to give us some indication of the correctional system state that we're in today.

I certainly want to commend our congressional delegation. Any of us who have watched New Jersey Network have seen that they've been fighting hard down in Washington with respect to the Fort Dix issue.

One of the things that this Committee is most interested in, is the fact that not only does it affect the community as a whole, and the businesses and the people that live in that area, but from a correction standpoint, Mid-State Correctional Facility has approximately 500 prisoners, and the State correctional system is literally unable, in conjunction with the county system that aids us, to absorb that number, if that facility were closed. The Assembly passed a resolution, sponsored by Assemblyman Hardwick and myself, petitioning the United States Department of Defense to enter into a new lease in order to permit the Department of Corrections to house inmates at the Army correctional facility at Fort Dix, and I would make this resolution, which is AR-148 part of the record of this hearing here today.

With that, we have a number of people to testify, and first, I'd like to call on the Honorable Chris Smith, one of the main advocates of the interests of the State of New Jersey and our residents in connection with

this issue. Congressman, thank you for coming here today to be with us.

R E P. C H R I S T O P H E R H. S M I T H: I appreciate the opportunity to appear before you this morning to discuss the future of Mid-State Correctional Facility. I'd like to start with opening remarks, and then take any questions that you might have about the issue or any ancillary issues like Fort Dix.

Like you, Mr. Chairman, I am keenly aware that the epidemic of crime, especially drug-related offenses, the tougher penalties meted out at both State and Federal levels, has resulted in unprecedented overcrowding at correctional institutions.

The crisis we face in properly incarcerating inmates isn't just a New Jersey problem. It's a national one.

To mitigate New Jersey's burgeoning inmate population, Governor Kean, on March 9, 1982, wisely entered into an agreement with the Army to lease approximately 12 acres of land and a building at Fort Dix, that when brought to specifications would house a maximum of 416 prisoners.

In four supplemental agreements since then, the lease has not only been renewed, but its capacity expanded to 533 beds. The current lease expires on May 31 of 1989.

I became aware that renewal of the lease was in jeopardy in early February during a visit to Fort Dix. I was there to discuss with Commanding General Wurman and his staff three specific items: First, the Base Closings Commission's recommendation to downgrade Fort Dix to a "semiactive" status. Second, the future of Walson Hospital; and, third, how Mercer County, and Trenton in particular, might utilize space at Mid-State.

Rather than finding a haven for Trenton prisoners, I was informed that renewal of the lease with the State was in jeopardy. I was advised that former Commanding General of Fort Dix, Rocco Negriz' recommendation to the Army to renew the lease and to modify and expand the program, was shot down in early January. It seemed clear to me that the Army's rationale for nixing the General's plan spelled trouble for renewal of any plan.

I'd like to briefly share that rationale with the Committee. It stated, and I quote, "The request from the Commander of Fort Dix has been considered and disapproved at the Secretariat level, because of the possible adverse long-term policy implications associated with recent decisions on base closings, forced structure realignments, and potential major changes in the missions of some installations." While the action did not constitute an explicit denial of any official State request, it did suggest troubled waters.

Immediately upon my return to Washington from my visit at Fort Dix, I initiated a number of phone calls to the Department of Corrections officials, including Mr. Fauver, and top Army brass. I also wrote a letter to the President, the Army Secretary, John Marsh, and DOD designate, John Tower, urging favorable consideration after long-term lease renewal for Mid-State. I am pleased that our two U.S. Senators and most of our House delegation agreed to sign that letter, and I would ask that it be made part of the record.

Last Thursday, Congressman Jim Courter and I met with Assistant Secretary of the Army for Installations and Logistics, a man by the name of John Shannon. He is the decision maker. And we asked him for a response. The good news, we were informed, is that we've won some extension of time, some breathing room, if you will, up to seven months. In other words, the lease will end on December

31, 1989. That's the maximum time they are saying they will provide. The bad news is that the Army appears to be developing plans to use the facility for itself. The Army plans to reestablish a military prison at Fort Dix which is likely to preempt the State of New Jersey from utilizing this important asset.

I'd like to quote briefly from Secretary Shannon's letter, which has not yet been received by my office, but this is a copy that he gave me, that he said he would be sending over his signature, and to quote it, it says, "We have always made it very clear to the State of New Jersey that the Army was developing plans for use of the Fort Dix facility and, as the realization of those plans was drawing near, insisted on a firm commitment by the State to vacate the facility by 31 May, 1989. In accepting the lease extension granted in '87, the State committed to be out of the facility by that date.

"The correctional system plans that were developed are currently being implemented. The Fort Dix facility is the key installation in the implementation of the Army plans to reorganize and upgrade the Army correctional system. As it now stands, these plans would not be affected by the recently proposed realignment of Fort Dix to semiactive status."

Moreover, Mr. Chairman, Mr. Shannon said that Army planners were looking at Mid-State serving as, he put it, the "hub" of the Army's own correctional system. He said that the considerable capital improvements made by the State had made it a superior asset, vis-a-vis other Army prisons, both here and in Europe.

As a footnote, just let me note that members of this Committee are probably aware of Supplemental Agreement No. 4 of May 29 of '87, between the State and the Army, which explicitly says that the State agrees to vacate the premises on May 31 '89, and that it's understood and

agreed that the lease shall not be extended or renewed on that date. That's right there in the lease. The lease also states that Mid-State then becomes the sole property of the Federal government without any compensation being afforded to the State.

Let me note here also that we've had a great deal of cooperation and support at the local Army level. Base Commander Wurman and his staff have been very sympathetic and very helpful in this entire process, and they do support renewal of the lease. The decision is not made at their level. It is made at the Pentagon level.

I would also like to assure you that my colleagues and I in Washington, are very supportive of the State's efforts. We'll do whatever is necessary to try to ensure that this facility is not lost. We can ill afford that. I believe the State cannot afford the dumping of 500-plus prisoners on an already overburdened system, and if it takes legislation, we will pursue that route.

Unfortunately, it seems to me that the Army does have a lot going their way with regards to explicit language in the lease. That is an opening comment. If there are some questions, Mr. Chairman, I'll be happy to answer them at this time.

ASSEMBLYMAN STUHLTRAGER: What are the chances, in your discussions with Mr. Shannon, that they are going to be able to get their comprehensive prison reorganization plan in place by the end of this year?

REPRESENTATIVE SMITH: It's a good question. I asked Mr. Shannon if he could provide the details of their alignment -- realignment for their prison system to me, which I will gladly make available to this Committee. He said that he would do it as quickly as he could, to get all the facts together as to what their timetable is.

Apparently, as he indicated, they are moving towards the implementation phase. They must have much

already contemplated. My question to them also was, in addition to what is on the table being discussed as to what their plans are, what about the possibility of commingling or co-sharing or co-locating Army with State inmates, and he said he would look into that as well and get back to me with an answer.

ASSEMBLYMAN STUHLTRAGER: So it's theoretically possible they could use the facility on a phased-in basis so as to allow us to continue to use it until they were fully utilized.

REPRESENTATIVE SMITH: That is possible. The State, knowing certainly that it has the full support of its delegation, hopefully, will be bolstered in its negotiating posture. I hope, and it may become necessary that they appeal, and we already have contacted the President to see what he can do to step in.

But, right now, the decision maker, John Shannon, has been indicating something other than that. He says it in the letter. He said it personally to me. He certainly empathizes with its plight, but the Army has its own problems. They have sub-par facilities, scattered throughout the country, and at Fort Leavenworth. They are looking at the posture of no DOD funds, taking over a relatively new prison that they can use for their own purposes.

ASSEMBLYMAN STUHLTRAGER: I can certainly understand the Army's own needs. I can assess those needs, but if they say they want to reorganize their own prison system, I can understand why they won't want us to stand in their way. At the same time, being the ramifications for our prison system are enormous-- Quite frankly, I don't know how we can bear them. I'll hear about that from the Commissioner.

ASSEMBLYMAN PELLY: I do indeed. Good morning, Congressman. Would you reread the supplement to the lease that you read earlier, the most recent lease agreement

between the State of New Jersey and the Department of Defense?

REPRESENTATIVE SMITH: Sure, it's Supplement Agreement No. 4. The operative section that I quoted was: "Whereas the lessee agrees to vacate the premises on 31 May, 1989, the expiration date of this lease and the property of the lessee shall then become the property of the United States without compensation therefore."

And the other operative paragraph: "Further, it is understood and agreed between the parties that this lease shall not be extended or renewed beyond 31 May, 1989." And I would provide that for the Committee.

ASSEMBLYMAN STUHLTRAGER: When was that supplement adopted?

REPRESENTATIVE SMITH: 1987, 29th of May.

ASSEMBLYMAN PELLY: I was going to ask about the date of that supplement. Give that to me.

REPRESENTATIVE SMITH: The 29th of May, 1987. It's the lease supplement that effectively bought the additional two years.

ASSEMBLYMAN PELLY: There was a subsequent lease agreement between the State of New Jersey and the Department, and the Federal government for another year at least, was there not, despite that supplement?

REPRESENTATIVE SMITH: There may be a Supplement No. 5. I have requested all the supplements, and these are the four that I received. I don't think that has any impact on that operative language, because the Army has contended, and John Shannon said it to me again in our meeting, that they have legal right again to take over the prison on such and such a date, May 29, or after that.

ASSEMBLYMAN PELLY: I understand that. This supplement was May 29th, 1987. Subsequent to that agreement, was there not another lease entered into between the State of New Jersey?

REPRESENTATIVE SMITH: Not to my knowledge. There could have been, but I don't know.

ASSEMBLYMAN PELLY: We'll ask that question of the Department. You provided us with a letter dated February 7, 1989, to President Bush, with respect to the problem. Have you received a response from the President?

REPRESENTATIVE SMITH: We have not. I have contacted his office and spoken to several people, including Governor Sununu. They are awaiting the normal process before-- They are aware now of the situation, in the sense they are looking over the shoulder of what the Army is doing, but they have not given us a written response. John Shannon's response was both for he and for Secretary Marsh. And, of course, John Towers is not in place to make a response.

ASSEMBLYMAN PELLY: One more time, with respect to the continuance of an Army facility, jail facility, absent the continuance of Fort Dix, is that a compatible situation?

REPRESENTATIVE SMITH: Something new to come out in this letter was that, regardless of this letter, what happens with the downgrade to go semiactive or any other kind of-- This is still an independent plan that the Army is pursuing, and has been pursuing, predating the closure, when they knew they had a two-year cycle, and at the conclusion of that, this facility would become their own. John Shannon has suggested and he says it pretty clearly in this letter, they began making plans for the facility.

Again, I have asked for those specifics. We don't have them in hand. When I get them, I will immediately forward them to the Committee.

ASSEMBLYMAN PELLY: Is it conceivable, if Fort Dix closes down, that facility will probably continue to operate and continue to be a jail?

REPRESENTATIVE SMITH: Yes. Under whose auspices, is the question.

ASSEMBLYMAN PELLY: I understand. Okay, do you know of there being any possibility or any plans by the Federal government to increase the size of that facility for use by the Federal government?

REPRESENTATIVE SMITH: At this point, I don't. I know there was a request made by General Negris, and that's what led to this denial, where he asked that there be 32 modular units in a work release program provided. I have a copy of that, which I ask be made part of the record.

He asks for base support, not only for maintaining current status, but also in terms of the Federal government, whether or not they have future plans for the base. That will have to await Secretary Shannon's decision.

ASSEMBLYMAN PELLY: You're not aware of any plans?

REPRESENTATIVE SMITH: I asked Secretary Shannon for that. He didn't know. In terms of how large, he said they have plans. I said, "What are they?" which is an excellent question that you ask, and he said, "I'll have to get it to you." And that was on Thursday of last week.

ASSEMBLYMAN PELLY: What do you think the plans are? What do you think the chances are for New Jersey's continuance with respect to using this facility for State inmates?

REPRESENTATIVE SMITH: I think it's possible. As Mr. Fauver, I know, will note, they have had difficulties in the past getting extensions, and from the Governor on down, they have worked on it very hard and have been successful. I think a great deal of credit goes to those personal efforts.

The Army was very much opposed to the idea from the onset. So, you know, what we have had in place has been a bonus, if you will, for some time. We have other options. One option that I asked Mr. Shannon and, again, we'll have to await his word back on this, was to give us a

status report on those other prisons. What would it take in terms of capital improvements to modify or expand those prisons; Fort Leavenworth, for example? Perhaps we can put a line item into the budget that would beef up or provide for that facility.

At Fort Leavenworth, or elsewhere in the country, we need that raw data which only their planning will reveal.

ASSEMBLYMAN PELLY: Do you recall the original investment on the part of the State of New Jersey for that prison?

REPRESENTATIVE SMITH: I have the material, but I don't recall.

ASSEMBLYMAN PELLY: We can get that later. I don't recall it being a bonus, but it may well have been. Do you see anything further that the State of New Jersey, either the legislative or executive branches, can do to be of assistance to you and our congressional delegation with respect to this matter?

REPRESENTATIVE SMITH: I think a heightened sense of urgency certainly is helpful. We are thankfully all on board on this as a State, Democrats and Republicans. That will have some persuasion, to aid Mr. Fauver and his Department in anyway possible to make the deal a "go." I'm not exactly sure what the Army needs. Again, they are there standing with their language in hand and quite a few trump cards, which will take a lot of effort to overcome, in my view.

ASSEMBLYMAN PELLY: Are you pushing the idea or the concept of a combined State-Federal facility with the Federal government?

REPRESENTATIVE SMITH: I have raised it as an alternative to elimination. I think it needs to be an option that ought to be pursued, at least, to lessen the impact if the worst case occurs.

ASSEMBLYMAN PELLY: It seems to me that may be a viable alternative, given the opportunity to enter into a longer termed agreement, rather than this one-year, hat-in-hand kind of situation, that the Department of Corrections has been given.

REPRESENTATIVE SMITH: I would agree. We are doing it on the county level where there is a commingling of inmates. I think it is a very good option; not the best, but a good option, if the first fails.

ASSEMBLYMAN PELLY: Thank you, Congressman.

ASSEMBLYMAN STUHLTRAGER: Was the supplement that he had, you reread, was that in prior supplements?

REPRESENTATIVE SMITH: It could have been. I'm not sure. Normally a supplement -- because I have not sat down and read them all-- Unless there's a change, there's no reason to include it in a supplement. This is the extent of the new lease. Obviously, the other sections were still operative and just carried forward. So, I believe it was the first time.

But, again, I think Mr. Fauver could probably speak to that best.

ASSEMBLYMAN STUHLTRAGER: I'll ask him.

ASSEMBLYMAN PELLY: I need to redo this agreement business. The agreement is from -- was from May 31, 1988 to May 31, 1989. That is the most recent agreement between the State of New Jersey and the Department.

ASSEMBLYMAN STUHLTRAGER: '87 to '88. And then, as you've indicated, there is one additional?

ASSEMBLYMAN PELLY: In other words, our agreement expired last year? Is there another extension to that agreement?

ASSEMBLYMAN STUHLTRAGER: Is it a two-year supplement? Is that what it is?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Two-year.

ASSEMBLYMAN PELLY: Oh, it's a two-year supplement?

ASSEMBLYMAN STUHLTRAGER: I want to thank you for joining us. I know you have another engagement that you have this morning. Thank you for your testimony. If you would supplement our record with anything you feel pertinent, we would appreciate it.

Commissioner, you're welcome to have anyone you want join you at the table.

COMMISSIONER WILLIAM H. FAUVER: I did, Deputy Commissioner Richard Seidl.

Good morning. What I would like to do, as part of this, is to discuss, in a sense, how we got where we are with you. But, to follow up on what Congressman Smith was saying on the ongoing negotiations, I'd like to point out a couple of things: One, the language in this last agreement is basically the same language that has been in the previous agreements regarding the extension. That would be it.

So, I wouldn't take that in hand as being the final say. The last time the extension was granted, which was for the two years, the Army at that point was also considering Fort Dix as a military prison. And some of the same places that were being considered, such as Leavenworth, were being considered as not putting capital money into those.

So, I don't know what the odds are at this point. But, I think that I would not write it off on the basis of the language in the previous contracts. I believe we have them all right here, and I can get them for you. The language is very similar.

My contacts with the Department of the Army have been at a lower level and everybody goes at their own level on these. I've been reasonably optimistic on this being

renewed during this negotiating period that's going on. I think one of the keys is really, when is the Army ready to put into action this plan that they've had which was talked about as long as at least two-and-a-half, three years ago? But that's not the only group in competition for Fort Dix.

One other group is the Federal Bureau of Prisons. I have spoken with people in the Federal Bureau who have indicated their interest in Fort Dix as a prison for civilian prisoners, if we are not in there. So, I think there will be many other players in the game, if this does not happen for the extension.

I might mention the expansion that was mentioned before by the Congressman was recommended by the Commanding General of Fort Dix, which was really a 30-bed unit of minimum security inmates, to help clean up on the post. This is a pattern that's been used by the Federal government, with the Federal Bureau of Prisons who have prisoners at military posts around the country, who do minimum security work at those units. With the cutbacks, and a lot of the military money, this was a way to make up, and it was initiated by the Army. That's kind of what brought this to a head, which is, in a way, a good thing that it happened. How we got to use Fort Dix in the first place was obviously because of the overcrowding. It went through the State system and it went through a lot of negotiations to get it.

The State has put in probably four to five million dollar's worth--

ASSEMBLYMAN STUHLTRAGER: Four or five?

COMMISSIONER FAUVER: Yes, of renovations, including the towers, and revamping the mess hall, putting in different ventilation systems, things like that. The building was not in use when we took it over. It had been laying vacant for quite a few years, so it was not needed at the time. It was not as secure as it is today. And a

lot of the security arrangements were made because the Army insisted on them. We put in -- probably over-built in the way of towers and things like that, from what we would do statewide, because we were coming in as a tenant and had to meet the obligations.

So, it is a relatively secure facility for a medium security unit. So, I can see why the Army, you know, would want to get it. Everything else being aside, if it was not the overcrowding issue with the State-- The numbers -- how we got where we are -- I think, are pointed out on a chart which I believe you have in your possession from this morning, showing that basically from 1981 to '89, the Department has more than doubled its capacity in actual capacity, and has more than doubled, obviously, the number of inmates.

So, we went from in '81 roughly 7300 inmates, to almost 17,000 inmates in February of '89. This is a breakdown that you have in front of you as to where they are.

And as you can see, one of the big areas, which I'll let the Sheriff talk about more later, is the backup into the counties of inmates waiting to come into the system. These are coming in as the State facilities go on-line. And under our current capital plans, that reduction would be down to 500, which was always the goal by the time the construction is completed.

The numbers on the second page are the juveniles which have not really been addressed. But the backup there is also in a much smaller number. We're dealing with a much smaller number total into the system, but it has increased. We've been much more able to place juveniles in community programs, and keep in mind, we have adults, so we probably have half of our juvenile population as committed population in -- excuse me, in community programs.

The specter on the horizon is even worse as far as numbers. The other pack you have in front of you is

pending legislation that would increase either the length of stay or make mandatory sentences -- more crimes for mandatory sentences within our system. So that all of these would have an impact.

Now, what has happened on that is, going back to the end of the Byrne Administration, there was the Kugler Commission put together for the study of prison problems in the future, and crowding and the projections and so forth. The worst projections, really, have been met in the sense that new laws have passed for mandatory sentencing, extending the terms of sentences, and they are the two really big factors in the growth-- I hand you this only to show you the numbers that are still pending.

These are things that-- Obviously, this legislation is in an area where we have not planned, as far as in the past, to meet those needs, because they did not exist, and we had no way of knowing that would happen. We did build in excess numbers in some of the projections, but they have exceeded even those.

So, obviously with the 2000 backed up into the counties right now, I don't really see how the counties can really bear any more than that. It's remarkable that they've been able to hold up under those numbers.

So that that's not an option for any kind of solution for Fort Dix. What we will do, which is what is under the plan that is in effect now-- At a given point, if it's firm that we have to get out, we will stop our admissions to Mid-State, to let the population dwindle to as low as possible during that time.

But it's still going to be at least hundreds of people who would have to be placed at that point. And, as I said, back to the original point of the negotiations, I would not write off the fact that the negotiations, I believe, are still going on, at least for the people that I've been dealing with. I know that they are supportive,

but, again, I think it's a question of the Army needing it for its own.

I think if it does not, or the timetable is such that that's still years away, then my judgment would be we have a pretty good chance. If not, then, I don't think so.

ASSEMBLYMAN STUHLTRAGER: Why would we have spent four or five million dollars when, even at the time we were spending it, we were under such a short-term lease?

COMMISSIONER FAUVER: We really didn't have any choice. Some of the things were, like, the mess hall, the serving lines, food equipment; and then the others were security, such as the towers, which were a requirement that the Army put on to beef up the security. They were basically-- It was their ball game. "These are the terms; take it or leave it." And we needed it very badly. So, we took it.

ASSEMBLYMAN STUHLTRAGER: Knowing, and I know that the county facilities-- The numbers I've seen fairly recently would indicate that they are sometimes double the capacity they are intended for, some as much as triple, and, yet, most of the State facilities, while they are overcapacity in percentage terms, at least it's far less. I guess two questions: One, why do we let the county facilities be double and triple capacity, when the State facilities are only marginally overcapacity? And, two, it would certainly seem that we would have to absorb the prisoners through the State system -- it would appear to me -- as opposed to even considering the county option, if, in fact, Mid-State were not there?

COMMISSIONER FAUVER: On the second part first, you're right. We would not consider the counties as an option if Mid-State were to close. It would have to be absorbed into the State system. The reasons are really varied for why the numbers are there and the percentage of overcrowding.

One of the reasons, again, over 50% of the county jail inmates are pre-trial. So, although the numbers are there, you know, in most cases it is a short-term turnover.

Our policy has been that we have controlled the intake to really manage the system, and that the thought would be that the inmates waiting to come in know that they will be in a better situation once they get there, not in a similarly crowded situation. There are programs which are mandated within the State system that are not mandated for county inmates, that they have to participate in.

So, it's a light at the end of the tunnel for the inmate coming into the system. And I think, for the most part-- It's been in effect now for over 10 years and has worked very well. It has kept down, really, any major kinds of disturbances in either of the systems; not that there haven't been -- not that there haven't been escapes in both county and State facilities, but, I think from the inmates' perspective, he or she knows that they are going to a better situation.

ASSEMBLYMAN STUHLTRAGER: So, you're saying we've avoided any problems at the State facility because they are so happy that we don't send them back to the county?

COMMISSIONER FAUVER: No, not that they don't go back to the counties. They know at a given point they are going to come in. For example, we've had a fairly large backup in the number of sex offenders going into the Sex Offender Unit at Avenel. That's a phenomena that we were not prepared for. It came about in my opinion because of a lot of the publicity -- educational publicity -- on child abuse, and cases like that, which was not the typical type of case we were getting in, 10 years ago. We have expanded in that, so, with the sex offenders, that category, and the increase in females, we have planned and will be able to take all of those out of the counties.

No, it's not a question of anybody thinking they are going back. That wouldn't happen except at the end of their sentence. Under the contract, they might go back.

ASSEMBLYMAN STUHLTRAGER: That was a more facetious statement.

D E P. C O M M. R I C H A R D A. S E I D L: If I may, Mr. Chairman, the way we take inmates from the county system, we give a county a number that they will ship to us in a given week.

For the most part, they ship whomever they want. And for the most part, the counties will ship the aggressive inmate who has a long sentence. Consequently, what's left over in those counties, are those inmates who have shorter sentences, who they wish, in a pecking order to keep there.

Consequently, some counties are overcrowded. I agree with the Commissioner, I don't know how some counties make it. We receive the aggressive inmates, the people with the life plus 20-year sentences, who when you're doubling up, and tripling up, have nothing to lose. The percentages of overcrowding are not the only gauge for how the system is run, whether it's the county system or the State system.

I'd rather have 100% overcrowding with inmates that I can handle, than 20% with people who have life plus 30-year sentences. The counties-- It is their decision to make.

ASSEMBLYMAN STUHLTRAGER: You mentioned Avenel, and there's a pending bill with respect to transferring responsibility for that unit, 2507, sponsored by Assemblyman Shusted, to the Department of Human Services, and I've received -- I don't know whether the rest of the Committee has received -- a number of letters from people who were housed at Avenel, basically complaining that

you're warehousing them there, and you're not providing them with the rehabilitation program that was the purpose of the facility to begin with.

Maybe you can comment on that. I haven't posted the bill. I don't know whether the Department of Human Services wants the jurisdiction in this case. Probably not. But your thoughts on that?

COMMISSIONER FAUVER: Well, first of all, I would doubt that they want it, although I won't speak for them. This would then go full cycle. The Sex Offender Unit before this type of facility, was administered by the then Department of Institutions and Agencies, and/or the Division of Mental Health and Hospitals, and came to the Department of Corrections in the early '70s sometime, when Avenel was completed.

I think when you tell me you're getting letters, I would be pretty much assured they would be from the inmates there.

ASSEMBLYMAN STUHLTRAGER: Right, they are. But I would say this: I remember the one letter I got most recently from the president of their in-house organization, and describing the inmates' area as generally a rather docile lot with low self-esteem, and so forth, and my guess would be these descriptions are probably somewhat accurate.

So, while the letters are from people that are there, it sounds like they are asking for help, as opposed to warehousing, and that particular point is what I'm interested in.

COMMISSIONER FAUVER: I think for the adult male facilities, the staffing ratio -- the treatment staff ratio -- is higher than any of the other institutions, and it should be. That's one of the intentions for being there.

But the other thing, as far as what I was alluding to with the inmate responses, is that the

educational level of the inmates at Avenel is higher than the rest of the system. And we have probably more Ph.D.s at Avenel as inmates, than we have on the staff of our facilities.

I think you'll get more in the way of critiques than you would from a normal prison, whatever a normal prison is. I think what they are alluding to, we've had to take program space at Avenel, the same as we have had to take up at other institutions. In many places, we house people in gyms, chapels, schoolrooms, things like that. We've had to do the same thing at Avenel. What they see as more of a right is the erosion of a classroom taken over for bedding for a housing unit, that type of thing.

The plans at Avenel, unless there is a completely unpredictable surge in the increase of population-- We will be able to address and to turn those spaces back to program spaces once the construction is completed. So, I think that problem will be addressed.

ASSEMBLYMAN STUHLTRAGER: That kind of leads me into the question on the '87 bond issue. I see in your cover note here that 4000 beds will be constructed from the issue. They won't be available for sometime. Maybe you can give us some indication where we are in that time line, and how these beds will be coming on over the next couple of years and where they will be, perhaps, if you know that, too?

COMMISSIONER FAUVER: Okay. As Ms. Sullivan advises me, the billion dollars in already, is to do 100 beds at Northern, which means the Newark facility; an additional 350 beds at Riverfront; and a small detention unit at Leesburg, which would be 16 beds.

They have coming on-line this year-- We have a dormitory at Bordentown for 96, a dormitory at Clinton for 80. An administrative segregation unit at Northern, which

is open now, is half full with a capacity of 324. And a reception unit at Garden State, which is the Yardville facility, for 162 which would be in later this year.

ASSEMBLYMAN STUHLTRAGER: They will all be opening this year?

COMMISSIONER FAUVER: Not the first ones, Mountainview -- the minimum security Northern Division at Riverfront. The detention at New Lisbon would not be. They would be in 1990.

ASSEMBLYMAN STUHLTRAGER: They are anticipated to open in 1990?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN STUHLTRAGER: And the other ones are 1989 starts?

COMMISSIONER FAUVER: Yeah, with Wagner, Clinton -- Wagner in Bordentown, and Clinton.

ASSEMBLYMAN STUHLTRAGER: Is there a total on your page there? How many new beds will that give us?

COMMISSIONER FAUVER: Total new beds would be 1452 out of those, and there's also -- I'm sorry, in '90 1452. There's two counties also included in this request, Salem and Bergen -- Hudson.

ASSEMBLYMAN STUHLTRAGER: So the total number is 1452 for '89 and '90?

COMMISSIONER FAUVER: That's '89 and '90 combined.

ASSEMBLYMAN STUHLTRAGER: Commissioner, with respect to Hudson and Salem, the beds you're building, will they be for State or county prisoners?

COMMISSIONER FAUVER: They would be for State prisoners. The County Assistance Act with the counties to house State prisoners is, the State pays for the actual cells that the State inmates are in, and pays a roughly 22% of the overall cost. The rest of the costs for the county

for ancillary facilities, such as gymnasiums, visiting rooms, etc., and then the payback to the State, is a reduced per diem that we pay to the county for those contract inmates, not for the backup inmates.

They are paid the full amount for those, but for the others, I don't have-- I have it here somewhere -- the numbers on those two. I think it's 20 and 50, and it's 20 in Salem.

DEPUTY COMMISSIONER SEIDL: This is bond issue money, Mr. Chairman, where the counties are building the institutions and giving us space. It's a county construction program using bond issue money.

ASSEMBLYMAN STUHLTRAGER: How long will this bond issue money last? When will it be exhausted?

COMMISSIONER FAUVER: It would be exhausted with the last 1500, roughly, beds that are still not in that figure that I gave you. That would take it to the 3000-plus beds. We have in, or will have in, a request -- my request for \$30 million to put on as a bond issue this year to add an additional 500 beds to one of the facilities.

ASSEMBLYMAN STUHLTRAGER: Well, that would make me ask this: Why would we want another bond issue, when through 1990 -- 1400, and my guess would be it's '91, '92, or '93 before, if your number here is right, 2500, not 1500 more? Why would we want another bond issue when you're not physically capable of getting them on-line anyway?

COMMISSIONER FAUVER: Because when we become physically able to, it may be cheaper for us to add onto something that's already under design, or under construction in the early stages -- to add on, as opposed to adding on several years after the place is completed or at any point after it's completed.

ASSEMBLYMAN PELLY: I wanted to ask the Commissioner a few questions. I wanted to, just for a moment, look at the State sentencees in the county

backups. You have February 1, 1989 - 2194. Would you give us some indication as to what they were during the year previous to that? Are they remaining about the same? Have they increased or decreased?

DEPUTY COMMISSIONER SEIDL: Assemblyman Pelly, the problem with projecting numbers is a very difficult one, since we don't control the numbers.

For example, when we opened Northern State, there were 1000 beds at Northern State. We were backed up 1800 inmates, and we filled Northern State up in three months. Logically, we would go down to 800 or 1000 in backup. By the time we filled Northern State with 1000 inmates, the backup then increased from 1800 to 1900.

ASSEMBLYMAN PELLY: I didn't ask you to project numbers. I asked for the real numbers in 1989.

DEPUTY COMMISSIONER SEIDL: The numbers in the previous year were 300 less. Taking into consideration what I said with Northern State opening, and also in addition to other institutions, you would think the backup would be close to zero, because we put a lot of beds on-line. However, that has not occurred.

Last year, it was about 1800. We opened up some thousands of beds, and this year, 2100, with the construction. Going back to what the Chairman asked, if we had beds for 2190 people today, you would think, logically, that we would zero out our backup. That's not the way it works.

The court system, knowing that there are beds available-- I would imagine you only take up 600 beds, if you have them all going on-line today. You can use simple math. We need 2100 beds, and we'll get to zero. It doesn't work that way.

As soon as we got the beds, it happened that Mid-State-- When we filled Mid-State up with 500 inmates in three weeks, and with our backup, it was exactly the same from the day we started to the day we ended.

ASSEMBLYMAN STUHLTRAGER: Is there a point at which that doesn't happen?

DEPUTY COMMISSIONER SEIDL: No, we haven't seen it yet. The situation is such that the judges know that there's a backup waiting to come into the State system. And there is that nebulous figure, whether they will come to our system, if there are beds available, or will they go to the county system, if they can get them in immediately? And those are the figures that the judges are working with. How many beds you need to eliminate that middle ground where the judges will now feel free to sentence our system or the county system, I don't know. I don't think anybody knows what that number would be, because if an inmate comes before the judge and he has the option, State or county, looking at 2000 backed up and knowing what the county system is, he may say county versus State.

I can only assume that's the rationale, because other than that, as we put beds on-line-- There should be a significant decrease in the backup as we put 1000 beds on-line, and there isn't.

There never has been. At Mid-State, Riverfront, and in Northern State, the backup has not increased. That put hundreds and hundreds on-line.

ASSEMBLYMAN STUHLTRAGER: Theoretically you're getting the worst cases in jail, and judges are doing their own--

DEPUTY COMMISSIONER SEIDL: Where they go depends on how much backup there is.

ASSEMBLYMAN STUHLTRAGER: Theoretically you're going to reach the number where they are not putting people in prison, just because they don't think they should go there, not because there's no room to put them.

DEPUTY COMMISSIONER SEIDL: That's the number that we really don't know how you arrive at.

COMMISSIONER FAUVER: It's gone up about probably 300 each year over the previous year, even with the opening of the beds. So, it would have been 18 or 17 last year.

ASSEMBLYMAN PELLY: I understand it's very difficult to project one year ahead as to what you would anticipate during the 1989-90 budget year, but you have, in fact, anticipated a number for the next fiscal year with respect to the budgetary process. What number did you anticipate during the '89-'90 year for county backup?

DEPUTY COMMISSIONER SEIDL: It amazes me that the counties can exist with this number. It amazes me. And, unfortunately, it is not fair to some counties, but some counties have taken us to Federal court to take all the inmates in some counties. And other counties, unfortunately, are backed up very, very high percentage-wise, about 2000 would be it.

ASSEMBLYMAN STUHLTRAGER: In your budget, you have to know the number.

COMMISSIONER FAUVER: Two thousand, two hundred and eighty-five is what we've asked for.

ASSEMBLYMAN STUHLTRAGER: You've anticipated the counties taking another 115 or 120 people?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN PELLY: I wanted to go back-- I wanted to ask you a question with respect to drug-related inmates; inmates who have been incarcerated as a result of drug offenses -- pure drug offenses. Can you give-- Congressman Smith indicated that it's a national problem, and indeed it is.

Can you give us some indication as to the percentage of inmates that are incarcerated into our State system as a result of drug offenses?

COMMISSIONER FAUVER: I don't have those figures. We have them on drug offenses, but I would caution that that may not be the whole picture, because it may not been a drug-related offense. It may be a robbery, but it is caused by the addiction or the need. So, we have estimated better than 70% of our population has used drugs.

ASSEMBLYMAN PELLY: Drug-related offenses causing incarceration. Congressman Smith, evidently -- and he is still here -- was right on target with respect to his opening remarks in that regard. And, indeed, it is a national problem.

My first question to the Congressman was-- Perhaps he'd want to come back at the conclusion and talk about what the Federal government has been doing to address this issue, particularly in light of the fact, I suspect, that New Jersey is no different than any other State.

We have 70% of our inmates in our State facility; 70% of 16 -- 17,000 is a substantial number of drug related crimes. We read about the Federal government reducing, rather than increasing, its-- It's addressed the number of dollars it's put into this priority.

Its number on the priority list has been reduced substantially in recent years, despite the fact that 70% of our inmates are there by virtue of drug-related crimes. It was not my intention to interrupt that-- Perhaps at the conclusion, Mr. Chairman--

ASSEMBLYMAN STUHLTRAGER: Possibly, I don't know how long the Congressman can stay around. That issue could probably take a whole other hearing day.

ASSEMBLYMAN PELLY: He may want to comment on that. It seems ridiculous for us, to be here today, and bring all these people before us and not talk about the major cause of this overcrowding of all of the inmates being incarcerated into our State system.

Seventy percent is a substantial number, and we have a Federal government that's reduced its number on the priority list with respect to the number of dollars it's put into trying to control the drug situation in our country. Perhaps we ought to be hearing about it, because it fits right in with our problem today.

But I did want to go on to a couple of other questions, Commissioner. With respect to this agreement between, once again, the Federal government and the State of New Jersey at Fort Dix, do you see anything different in this scenario that you're going through this year than the problem you've had in previous years, with respect to attempting to get a new lease agreement with the Federal government?

COMMISSIONER FAUVER: Well, I think if we can assume that it's real that the Federal government does want it for the Army, that their plans at some point have to come to fruition that they've talked about.

I think the other factor would be the proposed cutback at Fort Dix itself, which is something new -- of the whole installation, not just the prison.

ASSEMBLYMAN PELLY: You see that as real this year, being a real problem, as opposed to when they have been resistant in previous years. Ultimately, we're going to get another year agreement with the Federal government. This year, it's somewhat different with that additional problem being the closing of Fort Dix.

COMMISSIONER FAUVER: I think it's somewhat different in that sense. But, again, it's down to the wire on a lot of these years. It hasn't happened early. One of the other factors this time, I think, is the person that I dealt with said there were still a lot of people above him, in a sense, who were not in place yet because of the uncertainty over the Secretary position, or the cabinet position, so that he really didn't know who to go to.

And, again, that's a level below what the Congressman has been dealing with. So, I don't know.

DEPUTY COMMISSIONER SEIDL: Mr. Chairman, I went to the Pentagon with a group of people for the first negotiations, and I asked one question -- this is back years ago -- about an extension -- possible extension -- and about 20 people jumped up from their seats and said, "No extension, no extension." This was from day one from the Pentagon.

From the earliest possible time, the Army was not even thinking of an extension. We had to go from contract to contract trying to work it out with them. And usually the word "negotiations" is really a misnomer. We had nothing the Army wanted, and they had the facility. So, the contract looks like it's a tough contract and it's all one way. It is, but that's because we had very little choice.

We needed beds for 500 people. We had nothing that the Army wanted, other than the rent money, that we could negotiate. And the Army realized there were very little negotiations. "This is the contract. These are the things that you have to do. Do you want it or don't you want it?" We never felt comfortable, saying, "We don't want this." It's been a one-way street with the Army from day one.

ASSEMBLYMAN PELLY: Earlier, Commissioner, I had spoken about the possibility of perhaps entering into a longer termed agreement with the Federal government, and as part of that agreement, there being a Federal prison included in a State prison facility, how may the two-- Do you see the two as being a compatible situation?

COMMISSIONER FAUVER: I don't think so on a large number. I think that's a possibility. But we have agreements now where we can exchange prisoners with the Federal government. There are Federal prisoners kept in some of the county jails, under contract. But they are all

small numbers. I don't know of any, though, that are keeping military prisoners. These are all civilian prisoners that are exchanged. That doesn't mean it couldn't be done.

ASSEMBLYMAN PELLY: What do you see as making the down side of it-- What's the negative? You have an opportunity--

COMMISSIONER FAUVER: I think it has to be either theirs, if that were the case there, and we contract to house inmates, or ours, and they contract to house the inmates with us. I don't think you could do it joint management. I don't think that would work. But, if we have 20 inmates in the Federal system now, they go under the rules of the Federal system, you know, and if they have some with us, they go under our rules, that type of thing. I think it has to be one management.

ASSEMBLYMAN PELLY: Similar to county-State facilities -- to what you have now?

COMMISSIONER FAUVER: Yes.

ASSEMBLYMAN PELLY: Do you see any kind of a joint option of that type being viable at Fort Dix as a mechanism, or, number one, building a rather large facility there, and, number two, having an opportunity for a long-term situation for the State of New Jersey, rather than a one-year, hat-in-hand situation?

COMMISSIONER FAUVER: I think it might be viable if the capacities in some way could be expanded so they met both needs, yes.

ASSEMBLYMAN PELLY: Have you been pursuing that?

COMMISSIONER FAUVER: No, we have not. No, until I heard the Congressman mention it this morning, I had not heard that from any of the people I talked to.

ASSEMBLYMAN PELLY: Is it something worthwhile?

COMMISSIONER FAUVER: Yes, it's possible to explore, certainly.

ASSEMBLYMAN PELLY: I was going over the numbers earlier. If Fort Dix closes down-- If our facility there closes May 31, it seems to me there wouldn't be enough beds. We'll be short of beds in our 1989 building program to put these prisoners into our State facilities. And you said earlier that you're not. You have no plans to put them in the county facilities. Where will they go?

COMMISSIONER FAUVER: They would have to go into the State facilities. One of the things we would do, depending on-- Again, my understanding right now is May 31 is not the date, that it's the end of the year; that we have an extension.

ASSEMBLYMAN PELLY: You may not have enough at the end of the year, either.

COMMISSIONER FAUVER: I'm not implying that.

ASSEMBLYMAN PELLY: You'll just increase your capacity at State facilities.

COMMISSIONER FAUVER: We would have to. One of the things we would do is cut off admissions to Mid-State several months in advance to make the numbers smaller that we have to move. And depending on what time of year it is would impact on what we do.

For example, we have a very large farm at Leesburg, and we have around 500 inmates on that farm. In the summer months, we could put more people out there. In the winter, we couldn't. There's nothing for them to do. So, there's some seasonal type of beds we could put forward.

Another thing that has not been discussed, that at some point has to kick in, is that the mandatory sentences start to expire on the lower end, and the Parole Board then has an option to parole some of these people.

So, there should be, at some point in time, an increase in the number of paroles, because the Parole Board will have exclusive decision making over those. Right now, they are restricted on probably at least 50% of the cases they hear.

ASSEMBLYMAN PELLY: Earlier, I had asked about your projected county inmates in the 19 -- estimated 1990 Fiscal Year budget. You have 2194. February 1, 1989, you expected 2285. But I see in the budget here, you have 3028 estimated 1990. Maybe I'm reading--

I'm trying to get the exact number of what that 2194 would be anticipated to be.

COMMISSIONER FAUVER: Two thousand one hundred and ninety-four would be the actual county backup waiting to come in. There are additional beds that are under contract in the counties which would come to 500 to 600 probably, under the contracts, which are not counted as part of the backup.

On your chart that we gave you this morning, it would show under, "Others," where it shows 800 and some, that would be a combination of county contract inmates and halfway houses and other county system programs. So that 800 has gone on top of the 2000; that is probably where you're coming out to that total.

ASSEMBLYMAN PELLY: Okay. Thank you, Mr. Chairman.

ASSEMBLYMAN STUHLTRAGER: Commissioner, do you have anything you want to add?

COMMISSIONER FAUVER: Nothing.

ASSEMBLYMAN STUHLTRAGER: Thank you for taking the time to come today. You're certainly welcome to stay with us.

COMMISSIONER FAUVER: I will.

ASSEMBLYMAN STUHLTRAGER: I think you'll find our next witness' testimony interesting. We have the President of the New Jersey Sheriffs' Association, Sheriff of Cape May County, James Plousis.

SHERIFF JAMES PLOUSIS: Mr. Chairman, let me begin by thanking you for having this hearing. I think it's long overdue. The prison overcrowding situation

isn't something that just popped up with the closing of Fort Dix. I know we went over it, but, as you know, the county jails have been under an executive order since 1981, and as you're aware, that order has been reissued every six months in the meantime.

I also want a footnote that myself and the Commissioner work very closely together, and this problem is something really that he inherited, more than something he created or he didn't remedy.

There's no question, when we talk about the closing of Fort Dix and the State overcrowding, the people that are affected the most are the counties in -- the counties in New Jersey, not necessarily the State. When I left my jail this morning, we were at 170% of occupancy. Sixty of them were State inmates, 20 of them on contract, and the other 40 waiting to go to State prison.

It is a real burden on the county jail. Our county jail was built in 1978. As you know, the county jail, historically, up to 1981, only held people for a day short of a year, so, we did not build in for huge recreational areas, educational areas, or vocational areas, because we never planned on having the inmates that long. People serving less than a year-- You can almost do that, standing on your head. I'm speaking figuratively. Now mandated, I have people for two, three, years. I have been under court orders because the law library wasn't large enough. Those are all factors that are added into the counties at the legal end.

I'm paying for the State's overcrowding. At the manpower end, our officers make less than State officers. That presents a problem. The State inmates are afforded many more privileges than county inmates, and there is friction within the jail because of that problem.

My recommendation is, today, we cannot close Dix. If anything, we have to expand Fort Dix. Either that, or we have to close down the Legislature. We cannot continue to pass laws, if we have no place to put these people. And the State backup, as we sit here today, is 2200. Jails are capacity driven. The more space we have, I'm afraid the more inmates we will have. That proves out in every state that has expansion.

We have to look at huge expansion throughout the State. We do have to look at home detention. I know it's being used in Philadelphia extensively. And in my county, we are using it on a test basis. We have to look at that.

We have to build more jails, not only at Fort Dix, but throughout the system. To think about, yet, even another lease, Fort Dix is not going to help us. The Commissioner has been fighting this battle for years, and every six months they say, "Oh, they are going to close Fort Dix," and we all start panicking. We have to do something.

It's sad, when we sit here, to think that in order to move State inmates, we have to file suit against the State in Federal court to take our inmates. That's a shame, and it's a waste of taxpayers' money at the county and at the State level.

And as I say, I implore you today, not only do we have to look at that Fort Dix problem, but we do have to look at the bigger problem when we pass mandatory laws and mandatory sentencing. We have to have someplace to put these people. The sad part is the criminal element is well-aware that we do not have the space in State prison or county jails. That sends a bad message out. We say we want to declare war on you, but we have nowhere to hold you as a prisoner of war.

We have to look at these problems. At my own level, I've been in contact with Congressman Smith on numerous occasions. Two weeks from today, I do have a meeting with Vice President Quayle, and this is on the agenda. We will talk about it at that time.

As I say, I ask you today, please, not only keeping Fort Dix in mind, but I think we have to look at the long-term problem. We have to build some jails, and we have to build them rapidly, so we can solve this problem at the county level. It is a true problem, and, as I say, leaving my jail today, I have it. And it's a shame.

But, on that note, as I say, I'm speaking for all the sheriffs in New Jersey. It's a problem in every county jail. And, as I say, it's not the Commissioner's problem. It's a State problem. I hope we can address it at some level.

ASSEMBLYMAN STUHLTRAGER: Is it long-term, a viable option -- the State system housing State prisoners within the county system? Is that something-- Is it working well? Is it something that you would like to see phased out? Is it reasonable to have it even considered to be phased out?

SHERIFF PLOUSIS: In the State prison, the inmates get footwear. We only get a certain amount of inmates. We admitted 2200 inmates this year. If I gave everybody a pair of shower slippers valued at \$2.00, that would be \$5000 just in footwear. We don't do that. We're geared for short-term incarceration.

Dental care: We only do emergency dental care. In the State, they do other dental care. Medical care: We only do emergencies at this time. In the State system, they go to more expense, because they plan on keeping those people for a period of time.

My county jail was never built to hold people for three, four, or five years. We are a small county

jail. And we were built that way. Our law library was small. We had to expand that because of the Federal lawsuit.

Our education area is our-- We have a courtroom in the building. We use that for many purposes, and we're just not, as I say, physically made for that. And I see inherent problems. What you're going to do is drive the cost of incarceration up for the counties, if we continue putting more State inmates in there, because of the benefits afforded State inmates versus county inmates.

ASSEMBLYMAN STUHLTRAGER: Would you get reimbursed for that?

SHERIFF PLOUSIS: For what?

ASSEMBLYMAN STUHLTRAGER: For the housing of those inmates?

SHERIFF PLOUSIS: Yes, they say, "I want to be a State inmate." We have had cases where inmates will commit crimes in the jail to become State inmates. So, it's a never-ending circle.

And the Commissioner is right, we know we have people that will try to act up, thinking they will go to State prison, rather than stay in a county jail. They all like State prisons. They do not want to be in the county jails.

ASSEMBLYMAN STUHLTRAGER: My layman's thoughts on that would be, I would assume people would rather be in county jail. They are afraid of State prison as being a rougher element. That's not necessarily the case any more.

SHERIFF PLOUSIS: Everybody in State prison is in county jail at one time.

ASSEMBLYMAN STUHLTRAGER: Okay. Frank?

ASSEMBLYMAN PELLY: I think the Sheriff has certainly enlightened us to the problem. And I was particularly interested in the fact that you're going to be

meeting with Vice President Quayle in the not-too-distant future. You heard the testimony with respect to-- You really didn't have to hear the testimony to recognize that 70% of our population is a drug-related population, and I would ask that you convey that message to Vice President Quayle in no uncertain terms, and ask him why there has been, in fact, a diminished commitment on the Federal level to choking off the supply of drugs coming into this country.

It doesn't make sense to me, and I'm sure hopefully to others, that if this is increasing, why are we decreasing our commitment?

SHERIFF PLOUSIS: That is on the agenda. There's no question. I've seen reports that illustrate 56% of all crime in New Jersey is drug related, and that's true.

I have an office in the jail, and many times I'll speak to the inmates. And I'll say, you know, "What did you do?" "Oh, well, Sheriff, I was under the influence of drugs, and I tried to rob a bank." That's a true case. There's no question they were under the influence, or trying to get funds to buy drugs. You're absolutely correct, and if we're going to solve the overcrowding problem, we have to address the drug problem.

ASSEMBLYMAN STUHLTRAGER: I'm glad-- I'm sure you have some line item that you're referring to when you're talking about the commitment to this subject -- stopping the influx of drugs into this country. Quite frankly, only in the last four or five, six years, has this problem really been addressed with any level of commitment. Before that, society, as a whole, let alone national and statewide administrations, and legislators in the past, certainly gave only a passing glance to this problem. And it wasn't that many years ago it was almost chic, and almost accepted throughout many levels of society.

So, I'm sure you have a line item you're thinking about, where perhaps funding hasn't been as available as we would like.

ASSEMBLYMAN PELLY: In addition to that, perhaps we ought to be talking about the fact that we ought not be doing business with countries that are shipping drugs into this country. We're not only on a friendly basis with them, we're doing business with them.

ASSEMBLYMAN STUHLTRAGER: I'm--

ASSEMBLYMAN PELLY: That requires a discussion.

ASSEMBLYMAN STUHLTRAGER: Sheriff, do you have anything else?

SHERIFF PLOUSIS: The Commissioner is more than accommodating to the sheriffs. He tries everything he can to help us out with our problems. I do implore the Legislature: We have to look at the situation, and if you need an extended recess, and we do not get more legislation, maybe that will be a remedy.

ASSEMBLYMAN STUHLTRAGER: Someone has suggested that on a number of occasions. Mr. Kalainikas.

R A Y K A L A I N I K A S: I represent no group. I'm residing in Toms River, commonly referred to as Dover Township. I, for myself, as a citizen, would object to the building of one more prison cell anywhere in the State of New Jersey.

As I was listening to the testimony, none of the rationale was expressed as to the whole notion of having prisons, as to the whole notion of rehabilitation and punishment. No one seemed to talk about that. We talked about money and the lack of space. We talked about building more prisons, but very little was talking about the rationale dealing with punishment and rehabilitation.

I would like to ask a question. I was given an answer once before, but I was told -- correct me if

I'm wrong -- that to incarcerate a human being in New Jersey, in any of its prisons, roughly the cost is \$30,000 plus a year of taxpayers' money. Is this correct?

ASSEMBLYMAN STUHLTRAGER: Commissioner?

COMMISSIONER FAUVER: Twenty thousand dollars.

MR. KALAINIKAS: Then it's not \$30,000. Only in given circumstances?

COMMISSIONER FAUVER: I can't think of where it would be 30.

ASSEMBLYMAN STUHLTRAGER: The average is about \$20,000.

MR. KALAINIKAS: If I may ask another question in relation to that? What percentage of the prison population, be it county or State or whatever, consists of people we know who are no physical threat to anyone in our society?

ASSEMBLYMAN STUHLTRAGER: I think that's impossible.

MR. KALAINIKAS: Nonviolent or white collar crimes. Can you give me some percentage?

COMMISSIONER FAUVER: Maybe 5% or 10% -- something around there.

ASSEMBLYMAN STUHLTRAGER: Commissioner, embezzlement?

COMMISSIONER FAUVER: I would include embezzlement, gambling, any kind of white-collar crime.

MR. KALAINIKAS: What about, for instance, we speak of drug-related offenses -- people simply selling drugs? They didn't commit a crime; they are simply selling drugs and taking drugs.

ASSEMBLYMAN STUHLTRAGER: That's a crime.

MR. KALAINIKAS: I understand that's a crime legally, but physically, personally hurting someone?

ASSEMBLYMAN STUHLTRAGER: How many people--
What percentage are drug offenses, per se?

MR. KALAINIKAS: People, if they were not in
prison--

ASSEMBLYMAN STUHLTRAGER: I won't do it this
way. You're here to testify. I'm indulging you with some
questions. I'll try to get the questions answered, so you
can make your point.

Commissioner, do you have a general knowledge of
the percentage of prisoners that were directly drug
offenses, not on drugs when they did them necessarily?

COMMISSIONER FAUVER: No, I'm not sure. I said
70-plus overall, but I'm not sure.

ASSEMBLYMAN STUHLTRAGER: You were here when he
testified to that.

MR. KALAINIKAS: I guess the point I want to
make is alternate sentencing as opposed to incarceration,
what we call punishment. To what degree are we using
alternate sentencing, where we can be using alternate
sentencing? I would like to give you just a few examples.
Mr. Joseph Topolosky was apparently bludgeoned to death.
This is the case of the two troopers that many of you are
aware of, who were convicted and sent to prison. The
half-brother of Joseph Topolosky, Richard Freysinger,
suggested, and was willing to accept alternate sentencing
to these two troopers going to prison. One went to prison
for one year. The other one was sentenced to 10 years, and
he, before me, wrote a statement of alternate sentencing,
which I witnessed, and I would just like to read it to you.

ASSEMBLYMAN STUHLTRAGER: That looks like five
pages.

MR. KALAINIKAS: Well, the point being--

ASSEMBLYMAN STUHLTRAGER: Make the point.

MR. KALAINIKAS: He was willing, a citizen who
pushed to have these two individuals convicted--

ASSEMBLYMAN STUHLTRAGER: Was willing to accept alternate sentencing.

MR. KALAINIKAS: --was willing to accept alternate sentencing. His half-brother, in his own mind, was murdered by these two troopers, and he was now taking care of the two children of his half-brother.

I gave this to Cary Edwards over a year ago. Nothing was done with it. And still, and now we see in the paper, we see in the paper -- I speak about yesterday in The Star-Ledger -- where there was a petition going out across the country, various law enforcement individuals wanting a pardon for Messerlian, who was the one convicted of beating Joseph Topolosky to death in the back of a State trooper car.

The lawyer reported that the sheets contained 58,000 signatures obtained by, and from, police and law enforcement organizations in 32 states. And it states in one paragraph, in addition to the petitions filed, the attorney's office contains a letter from Topolosky's step-brother opposing any change in the ex-trooper's sentence. He opposed the change toward 10 years and one year, but he wanted alternate sentencing. He said, "If you give alternate sentencing, okay, I can accept that. But, if you don't, then keep the one year and 10 years as they are."

And the whole point behind this, it goes back to the rationale of our whole justice system. And I've said this before, and even with regard to drugs, the drug problem is not a legal problem. It's a religious problem. A person's meaning of life determines whether that person will take drugs or not take drugs; how a person answers what are commonly referred to as the four questions that I often use dealing with a person's meaning of life: What am I? How did I get to where I am in an existence? To where

is it that I'm going to within an existence? How do I get to where I must go to within an existence? How a human being answers those two questions in living, determines whether a person takes drugs or doesn't take drugs.

The issue is a religious issue, because we have, consistently-- We have filled our prisons, as a result of making a crime out of this issue. We create the problem and create even bigger problems as a result of not perceiving the problem correctly; and the problem correctly is to perceive it as a religious problem, not as a legal problem.

The other issue is the idea of our perception of justice. If our perception of justice predicated on the religious consensus of the people is false, then our justice system is false. If the religious consensus of the people is somewhat correct, then we have a decent form of justice. The reason I say this, is because our current system of justice is not Christian in any form or shape. It is the Judaic-Christian perception of justice. We have a right to protect society. Must we correct the offender? We do not have a right to punish. Judaic says we must protect society. It is an "eye for an eye." We have a right to exact punishment. That is the system we are predicated on.

It is often referred to as Judaic-Christian, but it's not. Our basis of law is different from the Christian perception of what the basis of law must be. Our basis of law is the common good to our society, which means, in the name of the common good we can actually destroy human beings, imprison a human being for the sake of the others.

The Christian perception of the basis of law is the absolute law of love. We don't understand what is meant by that terminology. Within Christianity, the word to build the life of, and the obligation is to build the life of the life-giving movement of the essence of life,

namely God, within the human body and the human mind.

So, therefore, we do not have a right to do harm to any human beings, under any circumstances. Therefore, we do not have the right to punish. We only have the right to correct and rehabilitate and protect society.

I'm saying something here that is very difficult to say, because it's almost like talking, you might say, to the walls. Oftentimes, as I've discovered in--

ASSEMBLYMAN STUHLTRAGER: Thank you for the compliment.

MR. KALAINIKAS: I don't mean this hearing today; I mean talking openly in society. But I'd like to say, there was a case -- there was a case recently -- dealing with eluding police, in which a woman and her infant were killed essentially in an auto accident by an individual who was eluding the police. I'm referring to the case of Joseph Cruccio (phonetic spelling) that took place in Mount Holly. The judicial proceedings took place in Mount Holly, and John Bassaman happens to be from Toms River, where I reside. The call, generally speaking, from the public, is to punish this individual, Joseph Cruccio. He was found guilty of criminal charges in this case, and I'm told that he could receive up to 65 years in prison.

And it seems the thinking of the Judge is to go in that direction, according to statements, and Mr. Bassman would like to see that occur himself. And the Christian perception of justice would be to oppose incarceration for this individual. It would simply be-- An alternative would be, never allow this individual to have a driver's license again for the rest of his life, or make sure he does not drive a car. And as a corrective measure, to say, in effect, that he would pay for Mr. Bassaman's medical insurance, or perhaps pay his car insurance, or perhaps pay for the cost of a new car.

And people would say, "What about his wife and his infant? How is that to be compensated for?" In the Christian understanding of justice, something we do not seem to grasp in our society, there is this one law -- the absolute law of love, which says we never have a right to destroy human life under any circumstances. But the motivating law that forces us to live that law is the law of equal return: "With what measure we measure, it shall be measured to us," meaning that justice can only be dispensed by the essence of life, namely, God, and it's done in this manner.

If we, for instance, destroy human life under any circumstances willfully, then 10 seconds, 10 years, 10 lifetimes away, the essence of life sets up the circumstances where our life will be destroyed in the same way. In effect, we're not capable of dispensing justice or punishment, as you would have it. We don't know what goes on in the minds of individuals. We really don't know what the punishment really should be. And oftentimes, people get away with it, and sometimes people are punished too severely.

In other words, we're not capable of it. So, what I'm saying to you, this is something that Gandhi understood: "I will fight for freedom, but I will never kill for freedom." And Gandhi, his own words, if I may say, "It's not understood in our society." He writes, "There is a need for reform in the administration of prisons. A prison should be a house of correction, and not punishment. Why should a forger have fetters on his legs in prison? The fetters will not improve his character. The more we punish, the more persistent crimes will become. They change color, but the substance is the same. The way to serve the society, it defies instruction, but it is amenable to the appeals termed souls. Souls must react upon souls, and since nonviolence is essentially a

quality of the soul, the only effective appeal to the soul must lie through nonviolence, and do we not delegate to ourselves infallibility when we seek to punish our adversaries? Let us remember that they regard us to be as harmful as we regard them."

He is conveying a perception of Christian understanding, of justice, which we do not accept in our society. And I'm saying to you, in effect, if I may, let us address the whole rationale of our justice system. What is it based on? What is the meaning of life that we base our justice system on? Is it false? Is it incorrect? Because that's what I'm saying here today.

I'm saying our justice system is false. It's a negation, I would say, of Christianity in the purest sense, because if you're to love your enemies-- Obviously, we're not doing that. Here, we actually punish. We do harm to our fellow human beings and we're not capable really of punishment. I guess that's the reason I ask the question, essentially, to what degree must we incarcerate? Must we punish our fellow human being, and how many people in prison today really have to be there? They are such a threat to the rest of us, that they have to be behind bars? I don't know if you would want to answer any of these concerns that I have.

ASSEMBLYMAN STUHLTRAGER: Well, I have you marked down as a "No," on the \$30 million bond issue for more prison space. I don't know that there is an answer. You've given us a philosophy. I don't have to tell you it's a minority philosophy in terms of the State of New Jersey and probably the United States.

And I don't necessarily want to debate your philosophy. We're here really talking about the prison system in terms of its overcrowding. I know you're talking about what that tangentially means, but I don't accept the premise that these people that are there don't have to be locked up.

With respect to your argument about alternate sentencing, that is a valid argument. I think we were talking about alternate sentencing. That's another topic for another day. Commissioner.

COMMISSIONER FAUVER: And people throughout the Department can give us an entire program where they pursue the alternate sentencings. Anytime you have a chance to do that, you'd be a fool not to pursue alternate sentencing. I'm sure they are doing that. To suggest, for Joseph Crucchio, what he did-- I have no problem, if measure for measure is the standard, then it's going to be measured out to me. I have no problem putting him in jail, whether it be 65 or 55, or 25. I think I could do it very easily.

MR. KALAINIKAS: In other words, you support punishment. And the only thing I would want to make clear to you, if I may, in parting, is, some of you may have viewed the movie "Gandhi." It was a three-hour epic.

ASSEMBLYMAN STUHLTRAGER: Punishment on its own.

MR. KALAINIKAS: Perhaps. I guess throughout the entire movie the two laws -- the laws of love and equal return -- were never made clear; were never given an explanation in the movie. So the general public, while they saw his understanding of refusing to kill -- they saw his actions of refusing to kill, refusing to do harm -- they were never given the rationale. This is my own personal opinion. If we truly have a free press in our society, these two laws will be explained to the public.

And in a sense, I'm an acid test of a free press. I can tell you for the last 20 years, and I have been speaking about these issues, the press has not been willing to research, to put forward to the public, nor has our government, for obvious reasons, because they could not get people to kill for the State -- been willing to put forth these arguments. And as I speak here today, I can almost guarantee you two gentlemen that the two laws that I speak of, you will not see in tomorrow's paper in terms of

an explanation for the public. Because, if we did have a free press, there would be an explanation, and the public would be made aware of something they are currently not aware of.

ASSEMBLYMAN STUHLTRAGER: If you write a letter to the paper, it will appear in the statewide paper, and you'd get a chance to get your viewpoint across.

MR. KALAINIKAS: It took years. It took three years for the carpenter to attempt it. Because when the clergy said, "Crucify him," they looked at the clergy and looked at him, and yelled, "Crucify him." This is not an-- Obviously, Gary, you don't understand it. If you did, you would have had different comments.

There is much to explain about these laws and the public has very little knowledge. I'm going to say to you, again, we do not have a free press, as much as you think we may have. Thank you.

ASSEMBLYMAN STUHLTRAGER: Thank you.

Congressman, I think you wanted to give us some clarification at this time?

REPRESENTATIVE SMITH: Just in response.

ASSEMBLYMAN STUHLTRAGER: Thanks for waiting around. I didn't realize you had a specific response.

REPRESENTATIVE SMITH: Very briefly, a couple of points. First of all, the Bush Administration has made additional prison space one of its priorities and has asked for additional moneys in its budget request over and above what was authorized last year in the Omnibus Crime Bill. We will be providing, if his budget request is approved -- and I think it's likely in this area it will not be tampered with -- \$664 million for Federal prisons, and \$107 million for state and local law enforcement agencies.

In the past, most of the drug money or anti-drug money has been targeted to Federal entities. A percentage is still being focused at Federal entities, at that area,

but we're beefing up the moneys going toward law enforcement and prison space. The Federal system has about 61 facilities, and incarcerates about 46,000 prisoners in toto.

One of the positive developments in recent years has been towards the use of military installations for prisons. Elgin Air Force Base, and others, have such an arrangement with their local governments, and I understand that Bill Hughes may be having a hearing shortly on this idea of using-- He's the subcommittee chairman of the Crime Committee on the Judiciary Committee. We seem to be going at our problem at cross purposes with much of the other Federal movement.

Finally, as part of the anti-crime bill of last year as well-- There was a section, as a matter of fact, I had drafted an amendment, that I didn't have to offer, because it was included in the final product before it was voted upon, that says when the Government Services Administration retires a building, or sells off a building, a priority focus has to be made that it be used for prison space. That's one of the top criteria as to its ultimate disposition. So, there is a concern. I think there is a tangible commitment on the Federal level.

ASSEMBLYMAN STUHLTRAGER: Thank you. Thank you for spending so much time with us. Next is Karen Spinner of the New Jersey Association of Correction. Is Karen here?

K A R E N S P I N N E R: Good morning. Thank you for the opportunity to speak this morning on this issue relating to overcrowding. I'll keep my comments brief, especially since I only learned of the hearing this morning. I was on vacation last week.

A couple of issues that I do want to raise: One, again, the overcrowding, in many cases, is related to the mandatory sentences that the Legislature has continued to pass and the public seems to want.

As an Association, we have been opposed to this. However, we bow to the feelings of the public. One of the things that was mentioned a number of years ago in the Governor's Management Improvement Plan, was a suggestion that there might be an escape clause somewhere along the line with mandatory sentences, that after they served a portion of the sentence, perhaps there might be some place for review in that.

And I believe the Commissioner, about two years ago, kind of mentioned it in passing at one of our public hearings, and he was soundly thrashed by a Senator. I still think there's merit in that idea, something that would help alleviate some of the overcrowding. Some people do change while they are incarcerated.

While we have opposed bond issues in the past, and more than likely we will not see eye to eye on upcoming bond issues -- although we may have some moderate positions for a change -- we do agree that there's a need to incarcerate some people, but not the same level and number of people that have been incarcerated in New Jersey.

One of the things I'd like to mention is that in the State of Michigan, a number of years ago, their taxpayers went into revolt and rejected a prison bond issue, and they were forced to find other ways to deal with the prison population. One of the things they did was have an early release mechanism which did not work well. A lot of people got out. There were crimes committed.

They have moderated that stand and gone into a very significant home confinement program. Currently, they have about 1000 inmates on electronic surveillance. This eliminated the need for two prisons for them. This is a serious issue that could be raised with our Department of Corrections, that if it does come to pass that we do lose Mid-State, which might be a reality -- maybe not in May, but

possibly by the end of the year -- that we could consider this type of electronic monitoring surveillance on a large term scale which another state has demonstrated works.

And their recidivism rate, these are felony offenders who are on-- They have 2% in their home confinement program. This is a very well-structured program; this isn't people sitting at home. There are parole officers, or whatever they are called, there. This home confinement can be a very interesting option. I think it could work in New Jersey.

In comparison to the parole rate we have nationwide, New Jersey's is pretty high. We have a 50% recidivism rate on parole. I think there's a lot more we can do on parole in New Jersey to beef up our parole system.

It's one of the areas in our corrections budget which is somewhat meager. When you consider there's almost 14,000 parolees out there, and we only devote 8% of the Corrections budget to them, they are a greater threat to public safety than the people we keep locked up.

I think we ought to look at giving somewhat more resources there, so people do stay out of jail, and we are safe. I think that's a serious consideration.

Another issue for the overcrowding is the backup of parole. The Parole Board is still understaffed, even though two positions were authorized last year -- last January. The Governor's Office has finally made the appointments, but they have not been confirmed. So, that's contributed to about 1500 people backed up in parole hearings. So, we need to move along all issues of this.

The other concern that I have is one that's very close to the Association's heart, which is the expansion of halfway houses. The Department had a very nice budget line item for halfway houses, and they have solicited almost every nonprofit and correctional facility in the State to open a halfway house.

We would be delighted to open halfway houses. Unfortunately, the Department of Corrections, unlike the Department of Human Services, has no mechanism to assist the agencies who would like to provide halfway houses in going about developing and acquiring sites. It costs between \$300,000 and \$500,000 to get a halfway house on-line.

The Department's position has been that we will contract with you, when you get the facility. Well, unfortunately, most of the nonprofits can't do it. If the Department could -- and it may take law, and since this was in short notice, I didn't have time to review that-- If the Department could develop a mechanism to assist the nonprofit agencies to get into the business of running halfway houses, this might help alleviate some of the problems in overcrowding, moving people out of the system.

There's been a major expansion in the last six years of halfway house beds.

There could be a greater expansion that would help eliminate some of our problems. These are just some of the suggestions that we have in terms of alternatives and some of the issues that need to be raised. I'd be happy to answer any questions you might have.

ASSEMBLYMAN STUHLTRAGER: I think the alternative sentencing aspect is something that perhaps this Committee itself will explore more deeply. We're really at a crisis when it comes to the number of people in the system, and alternative sentencing is really the best way I would suggest to deal with it. If we can do the alternative sentencing within the context of protecting the public health, safety and welfare-- Of course, that's the problem. And for everything, that answer is somewhat different. Frank, do you have any questions?

ASSEMBLYMAN PELLY: No, thank you.

ASSEMBLYMAN STUHLTRAGER: Thank you. Is there anyone else who came to testify? (no response) Okay, I

will thank my Committee, and, primarily, thank our staff for setting everything up for it. I'm sorry the rest of our Committee didn't have the benefit of it. The meeting is adjourned.

(HEARING CONCLUDED)



APPENDIX



AN ASSEMBLY RESOLUTION pertaining to the United States Department of Defense and the United States Department of the Army to enter into a new lease with the State of New Jersey in order to permit the New Jersey Department of Corrections to continue to house inmates in the Army Correctional Facility at Fort Dix, New Jersey.

WHEREAS, The State of New Jersey has leased the Army Correctional Facility at Fort Dix, New Jersey since March 1, 1982; and

WHEREAS, During those years, the leased facility, which the State has designated the Mid-State Correctional Facility, has been utilized by the New Jersey Department of Corrections to house 533 low and medium security inmates; and

WHEREAS, The current lease between the Department of the Army and the State for the use of that facility is scheduled to expire on May 31, 1989; and

WHEREAS, The Department of the Army has indicated that it is opposed to any renewal or extension of the current lease arrangement; and

WHEREAS, Coupled with the State Department of Corrections current estimates that even with the Mid-State Correctional Facility being fully utilized more than 3,000 State prisoners will have to be temporarily housed in county jails this fiscal year due to severe overcrowding in our State prisons, the loss of that facility would have a grave impact upon this State's system of criminal justice, since it would force the State to confront the difficult, almost impossible, task of finding appropriate prison bed space for an additional 533 inmates; and

WHEREAS, While the Mid-State Correctional Facility's importance to New Jersey's criminal justice system, and the general well-being of the State's residents, is obvious, it is essential to recognize that the current leasing arrangement is also beneficial to the Department of the Army; and

WHEREAS. The State has invested more than \$4,000,000 to renovate and upgrade the Army's correctional facility at Fort Dix and, under the terms of the present lease, pays an annual rental fee of \$346,000; and

WHEREAS. Beyond those capital improvements and annual fees, the current leasing arrangement assures the Department of the Army that, should the Department of Defense follow through with the Commission on Base Realignment and Closures recommendation to downgrade Fort Dix to "semi-active" status, its correctional facility at that military base will be operationally maintained and readily available for re-activation if such a need should arise; and

WHEREAS. Recognizing the mutually beneficial nature of the current leasing arrangement, it is altogether fitting and proper, and within the public interest for this House to respectfully petition the Department of Defense and the Department of the Army to enter into a new leasing agreement with the State of New Jersey which will permit the State Department of Corrections to continue to house inmates in the Army Correctional Facility at Fort Dix; now, therefore

BE IT RESOLVED *by the General Assembly of the State of New Jersey:*

1. The Department of Defense and the Department of the Army are hereby respectfully petitioned to enter into a new lease agreement with the State of New Jersey which will permit the State Department of Corrections to continue to house inmates in the Army Correctional Facility at Fort Dix, New Jersey.

2. A duly authenticated copy of this resolution, signed by the Speaker, and attested by the Clerk, shall be transmitted to the Secretary of the United States Department of Defense, to the Secretary of the United States Department of the Army, and to each of the members of the Congress of the United States elected from the State of New Jersey.

STATEMENT

The purpose of this Assembly Resolution is to petition the United States Department of Defense and the United States Department of the Army to enter into a new lease agreement with the State of New Jersey in order to permit the State Department of Corrections to continue to house inmates in the Army Correctional Facility at Fort Dix, New Jersey.

CORRECTIONS AND PRISONS
Federal and Interstate Relations

Petitions U.S. Department of Defense and U.S. Department of the Army to enter into a new leasing agreement concerning the housing of State inmates at the Fort Dix correctional facility.





DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310-0103



Honorable Christopher H. Smith
House of Representatives
Washington, D. C. 20515

Dear Congressman Smith:

This is in reply to your recent letters concerning renewal of the lease of the Fort Dix detention facility to the State of New Jersey.

We fully understand and appreciate the situation faced by the State of New Jersey due to increasing prisoner population. Indeed, it was in view of this long-standing situation that we first agreed to enter into a temporary lease of the Fort Dix facility to the State in 1982. However, at that time we made it clear to the State that the Fort Dix facility was likely to be needed in the future to meet Army prison requirements and that, consequently, the State should build its own facilities to meet State prison needs. The lease to the State was predicated on the law authorizing the lease of Army controlled property that is not excess but temporarily not needed for Army use.

We have always made it very clear to the State of New Jersey that the Army was developing plans for use of the Fort Dix facility and, as the realization of those plans was drawing near, insisted on a firm commitment by the State to vacate the facility by 31 May 1989. In accepting the lease extension, granted in 1987, the State committed to be out of the facility by that date.

The correctional system plans that were developed are currently being implemented. The Fort Dix facility is the key installation in the implementation of the Army plans to reorganize and upgrade the Army correctional system. As it now stands, these plans would not be affected by the recently proposed realignment of Fort Dix to semi-active status.

Therefore, we cannot renew the State's lease for an extended period and must ask that the State live up to its agreement and vacate the Fort Dix facility as soon as practicable. If the State cannot do this by the agreed upon 31 May 1989 date, we would ask that we be provided a full explanation and a firm plan for vacation of the premises not later than 31 December 1989.

We want to cooperate with the State of New Jersey insofar as we properly can, however, use of the Fort Dix facility by the Army is necessary if we are to achieve the level of economy and excellence in the Army correctional system that the American people have a right to expect. We would be glad to brief you on this should you desire.

Thank you for your interest in resolving this matter.

Sincerely,

John W. Shannon
Assistant Secretary of the Army
(Installations and Logistics)

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 7, 1989

The Honorable George Bush
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

We ask your assistance in resolving a matter of great importance to the State of New Jersey.

We are deeply concerned that renewal of the Army's lease with the State of New Jersey for a 533-bed medium security prison is in jeopardy. Built in 1972, the Mid-State Correctional Facility located at Fort Dix has been leased by the Army to our State since 1982. The current lease expires in four months on May 31, 1989.

Several factors have contributed to our heightened anxiety regarding the future of the Mid-State Correctional Facility. These include the proposed downgrading of Fort Dix to "semi-active" status, an Army denial last month of a request to modify the lease, a provision for "no further renewal" contained in the present covenant, and conversations with personnel directly associated with the situation.

On January 11, 1989, the Army denied a request made last May 17th by then Commanding General Rocco Negriz to modify the lease to permit a work release program and the construction of modular housing.

The rationale for denial of Major General Negriz' suggested modification in the lease ominously points to Fort Dix's clouded and uncertain future. Specifically, the January 11 Army memo said "The request from the Commander, Fort Dix, has been considered and disapproved at the Secretariat level because of the possible adverse long term policy implications associated with recent decisions on base closings, force structure realignments and potential major changes in the missions of some installations." You will recall that the Defense Secretary's Commission on Base Realignments and Closures has slated Fort Dix to be downgraded to "semi-active" status. It is unclear exactly what "semi-active" means or what role Fort Dix will play in serving our nation's defense needs. It is becoming increasingly apparent to us that the confusion over Fort Dix's future mission may complicate renewal of the lease.

President Bush
February 7, 1983
Page Two

Inquiries made to Army officials, including Assistant Secretary of the Army (Installations and Logistics) John W. Shannon confirm that renewal of the lease is anything but certain.

Moreover, it is no secret that some top Army officials have long opposed renewal of the agreement and were successful in incorporating the specific "no further renewal" clause in the lease that is in force.

Be advised that Army officials at Fort Dix have spoken favorably of the lease arrangement with the State and are on record as endorsing continued operations with New Jersey. These officials have been most helpful, as far as their authority permits, but they are not the final decision makers.

We believe that the need for renewal of the lease is compelling. According to the New Jersey Department of Corrections, the State's prison system is severely overburdened -- over 2,000 inmates are temporarily placed in county jails. Dumping over 500 additional inmates on a correctional system operating beyond its capacity is unconscionable and would constitute a regrettable setback for New Jersey's criminal justice efforts.

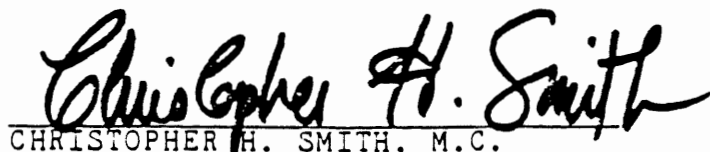
Additionally, we believe that modest enhancements for modular housing, along the lines suggested last May by Major General Negris, are worthwhile and ought to be incorporated in a new agreement.

Thank you very much for your attention to this matter.

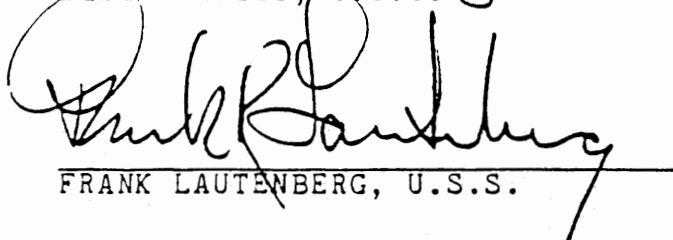
Sincerely,



BILL BRADLEY, U.S.S.



CHRISTOPHER H. SMITH, M.C.



FRANK LAUTENBERG, U.S.S.



H. JAMES SAXTON, M.C.

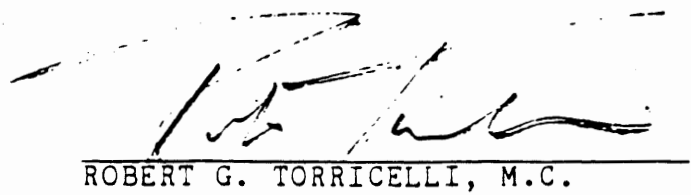

BERNARD J. DWYER, M.C.


MARGE ROUKEMA, M.C.


MATTHEW J. RINALDO, M.C.


ROBERT A. ROE, M.C.


WILLIAM J. HUGHES, M.C.

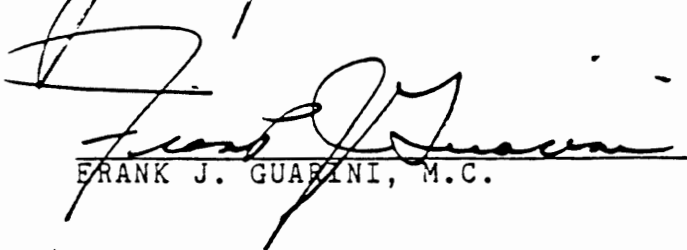

ROBERT G. TORRICELLI, M.C.


JAMES A. COURTER, M.C.


FRANK PALLONE, M.C.


JAMES J. FLORIO, M.C.


DONALD M. PAYNE, M.C.


FRANK J. GUARINI, M.C.

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FACT SHEET

PMO, ATZD-PM
LTC Foster/Ext 3094
25 January 1989

SUBJECT: Mid-State Correctional Facility

PURPOSE: To provide information to the Commanding General on Mid-State Correctional Facility

FACTS:

1. Built: 1972
Square Feet: 109,668
Acres: 12.24
Capacity: 533 Bed

2. The facility was deactivated in 1977. From 1978 to 1980, it was occupied by DIO. Prior to Mid-State, (BT Committee Group) Training Command used the facility as a Headquarters and classroom.

3. Original lease to the State of New Jersey was from 1 March 1982 to 28 February 1983. Current lease was signed on 29 May 1987 and expires on 31 May 1989 with a provision for no further renewal.

4. Annual rental fee is \$346,000 (Increased from \$300,000 in 1987).

5. Authorized maximum prisoner capacity is 533 medium grade prisoners (Increased from 500 in 1973 due to a personal visit by MG Negriz).

6. Limited vocational training is available. A small number of college courses from Burlington County College are available. There are no authorized inmate work details outside of the facility.

7. The letter from MG Negriz to Mr. Spurlock requesting modification of the lease agreement to use inmate details on Fort Dix was sent 17 May 1988. On 11 January 1989, we received notification from DA that our request was disapproved (See Encl).

8. The Auperintendent of Mid-State, Mr. Robert "Bob" Barker, was telephonically notified of the disapproval by LTC Foster. No official written notice has been given Mid-State. It is anticipated that Mid-State will submit a written request for a lease extension in the immediate future.

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ACT-TNF	ACT-TNF	ACT-TNF	ACT-TNF	ACT-TNF	OPFR.
AAFE S	DCA	DDTM/ISG	MCA	TCD	TNITS
AB	DFM	DPCA	P&D	TREPT	
CSA	DHS	DPTM	PCF	542ND	
CDF	DOS	DRC	RDDTX	600RD	
CPO	DOP	DRM	SJA	907ND	
CTF	DOL	TA	SGS	FFD	
OTHER ACTIVITIES					

pmo X

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7NR UUUUUU

R 111333Z JAN 89

FM DA WASHINGTON DC //DAMO-7A//

TO RUCLATA/CDR TRADOC FT MONROE VA //ATPL-LM//

INFO RUEHSA/CDRUSATC FT DIX NU //ATZD-CG/ATZB-PH//

BT

UNCLAS

SUBJECT: MODIFICATION OF NEW JERSEY AND U.S. ARMY LEASE ON MID-STATE CORRECTIONAL FACILITY

1. MEMO. HQ U.S. ARMY TRAINING CENTER AND FORT DIX, ATZB-PH, 17 MAY 1988. SAR. WIT 1ST EMO. HQ TRADOC, ATPL-LM, 27 MAY 1988. SAR.

2. THE REQUEST FROM THE COMMANDER, FORT DIX, HAS BEEN CONSIDERED AND DISAPPROVED AT THE SECRETARIAT LEVEL BECAUSE OF THE POSSIBLE ADVERSE LONG TERM POLICY IMPLICATIONS ASSOCIATED WITH RECENT DECISIONS ON BASE CLOSINGS, FORCE STRUCTURE REALIGNMENTS, AND POTENTIAL MAJOR CHANGES IN THE MISSIONS OF SOME INSTALLATIONS.

3. POINT OF CONTACT IS MAJOR JOHN BENEROF OR MAJOR DAVID VAUGHAN. AV 225-4710.



DEPARTMENT OF THE ARMY
HEADQUARTERS US ARMY TRAINING CENTER AND FORT DIX
FORT DIX, NEW JERSEY 08640-5001

MAY 17 1988

ATZD-PM

MEMORANDUM THRU: Commander, U.S. Army Training and Doctrine Command, ATTN:
DCSPAL, Fort Monroe, Virginia 23651-5000

FOR: Mr. Delbert L. Spurlock, Jr., Assistant Secretary of the Army (Manpower
and Reserve Affairs), Washington, DC

SUBJECT: Modification of New Jersey and U.S. Army Lease on Mid-State Correctional
Facility

1. Since 1982 the Army Correctional Facility at Fort Dix has been leased to the State of New Jersey. The current two year lease, which expires on 31 May 89, permits the State to house 533 inmates but prohibits these inmates from engaging in work details outside the facility. Due to current federal austere funding, we recently pursued informally the efficacy of a prisoner work-release program at Fort Dix similar to what exists at two Air Force installations.
2. In preliminary discussions with State corrections officials they have indicated a willingness to pursue this initiative. We envision 3 to 4 State-supervised work details consisting of 6 inmates each to work on Fort Dix. The inmates would provide support in the areas of installation maintenance, police and beautification. There would be no direct contact with Fort Dix community personnel and incidental contact would be minimal. Dependent on Department of Army concept approval, a detailed memorandum of understanding with the State of New Jersey would be developed to ensure the safety and security of the Fort Dix community.
3. Precedence for this type of arrangement already exists within DOD. Both Maxwell and Eglin Air Force Bases currently benefit from the labor of over 400 inmates each on a daily basis. Additionally, several other Air Force bases and Pensacola Naval Base are attempting to enter into similar arrangements. Obviously, constrained budgets and reduced manpower are requiring all installations to be visionary as they attempt to meet mission requirements with fewer resources. Although our program would be on a greatly reduced scale, the cost avoidance in labor dollars would be substantial.
4. Since the Mid-State Correctional Facility does not presently house inmates who qualify for the work release program, the State representatives asked that we consider a program that would allow them to construct modular housing for 32 additional inmates within the facilities perimeter fence but separate from the present structure. These new inmates would be selected specifically for the work release program and would otherwise qualify for a minimum security facility. With the increase in inmates, the facility would be authorized 11 additional correctional officers who would supervise the work details. The separate self-contained structure would isolate the work release personnel from the other 533 inmates.

New Jersey State Library

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MAY 17 1988

ATZD-PM

SUBJECT: Modification of New Jersey and U.S. Army Lease on Mid-State Correctional Facility

5. In order to accommodate the above arrangement, the current lease requires modifications that must be approved by the Assistant Secretary of the Army (Manpower and Reserve Affairs). However, the State desires an arrangement that will justify their expenditure of funds to construct the modular housing. This logical position by the State personnel leads to the key issue--the Army's long-term plans for the correctional facility. My understanding is that the Army did not demonstrate a viable need over a year ago and the present Army Master Plan does not establish a need for this Fort Dix facility. Considering the State and federal prison over-population, and the resultant sparcity of prison spaces, we should begin negotiations now on terms that are favorable to the U.S. Army. My fear is that the federal system may assume control if the Army reassumes control without a viable demonstrated need for the facility.

6. In all preliminary negotiations with the State, we have remained firm that any work release program must be negotiated within the scope of the current facility and population arrangement. Although the State may be able to comply with this request, the inmates will not be enrolled in the work-release program and those inmates qualifying will be small in numbers.

7. Recommend the Army:

a. Grant me the authority to negotiate a modification to the present lease that would permit a work release program. The modified lease would later be approved by ASA (M&RA).

b. Approve a long-term lease with the State that would permit their constructing modular work-release housing.



ROCCO NEGRI
Major General, USA
Commanding

12X



State of New Jersey

DEPARTMENT OF CORRECTIONS

WHITTLESEY ROAD
CN 863

TRENTON, NEW JERSEY 08625

WILLIAM H. FAUVER
COMMISSIONER

RICHARD A. SEIDL
DEPUTY COMMISSIONER

March 6, 1989

TO: Assembly Law, Public Safety and Corrections
Committee

FR: William H. Fauver
Commissioner

Attached you will find a chart outlining the growth in our adult inmate population. As you can see, over the past 7 1/2 years that figure has more than doubled. And although we have more than doubled our capacity, we have over 2,000 state inmates in county jails waiting to be admitted to the state system.

The 1980 and 1982 bond issues, plus capital funding, enabled us to add over 6,000 beds to state facilities. The bond issues also provided funding for counties. To date, 510 state beds are in use in 11 counties with another 130 under construction.

We anticipate an additional 4,000 beds will be constructed from the 1987 bond issue. These beds will, however, not be available for some time.

I have also attached a listing of proposed legislation. Each one of these bills will impact on the Department of Corrections. Various pieces of legislation, plus the enactment of both a new Criminal Code in 1979 and a new Parole Act in 1980 have contributed to our present overcrowding situation.

I will be glad to answer any questions you may have.

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NEW JERSEY DEPARTMENT OF CORRECTIONS

Increases in Adult Jurisdictional Population and Capacity

July 1, 1981 - Feb. 1, 1989

Facility	Population 7-1-81	Capacity 7-1-81	Capacity Added	Capacity 2-1-89	Population 2-1-89
N.J.S.P.	1194	1243	835	2078	2238
East J.S.P.	1365	1340	452	1792	2027
Bayside	1051	943	420	1363	1638
Southern	0	0	1088	1088	1263
Mid-State	0	0	530	530	518
Riverfront	0	0	400	400	462
Northern	0	0	1000	1000	1015
Edna Mahan	348	290	246	536	615
A.D.T.C.	207	180	172	352	464
Garden State	1008	910	154	1064	1175
A.C. Wagner	879	760	188	948	1104
Mountainview	744	710	414	1124	1331
* Other	81	170	737	907	885
County Back	470	0	0	0	2194
Totals	7347	6546	6636	13182	16929

Since July 1, 1981, the Department's adult jurisdictional population increased by 2.3 times, from 7,347 to 16,929. During the same period, capacity has been more than doubled, from 6,546 to 13,182. In spite of our best efforts, the Department's adult bedspace deficit - the extent to which state inmates are backed-up in county facilities and state facilities house inmates in excess of capacity - has increased from 801 to 3,747.

* Other includes county contract, county assistance and halfway houses.

NEW JERSEY DEPARTMENT OF CORRECTIONS

Increases in Juvenile Jurisdictional Population and Capacity

July 1, 1981 - Feb. 1, 1989

Facility	Population 7-1-81	Capacity 7-1-81	Capacity Added	Capacity 2-1-89	Population 2-1-89
New Jersey Training Sch.	419	444	16	460	402
L. McCorkle	134	170	0	170	200
J.M.S.F.	0	0	128	128	110
Juv. Back-Up	0	0	0	0	63
Totals	553	614	144	758	775

Since July 1, 1981, the Department's juvenile secure facility population has increased by 40%, from 553 to 775. During the same period, capacity has increased by 23%, from 614 to 758. A bedspace deficit for the Department's secure juvenile population has not developed like the adult population due to the diversion of juvenile commitments to residential and day programs. Since July 1, 1981, juveniles in those programs increased by more than three times, from 218 to 683.

PENDING LEGISLATION
THAT WILL IMPACT
ON D.O.C. POPULATION

16X

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SENATE BILLS

- S41 Paterniti
Provides mandatory minimum prison term for senior citizen assault.
- S276 Dumont
Prohibits parole of convicted murderers.
- S430 Haines
Increases the penalty for manufacturing, distributing or dispensing methamphetamine.
- S458 Bubba
Permits the imposition of harsher and longer sentences for those persons who have used their release on bail to commit another crime.
- S480 Bubba
Prohibits parole for persons convicted of certain murders.
- S485 Bubba
Mandates a minimum 3 year term of imprisonment to persons convicted of certain crimes while wearing bullet-resistant body armor.
- S486 Bubba
Provides mandatory death penalty for murder of a law enforcement officer.
- S601 Rice
Establishes 3 year mandatory minimum sentence of imprisonment for escape.
- S605 Rice
Imposes mandatory dispositions for juveniles convicted of stealing automobiles.
- S819 Graves
Requires that a person convicted of aggravated sexual assault be sentenced to mandatory minimum prison term.
- S820 Graves
Provides minimum prison term for assault on certain persons during their performance of duty.
- S827 Graves
Increases minimum mandatory terms of imprisonment for crimes committed with a firearm.
- S914 Hurley
Establishes minimum prison terms without parole for persons convicted of sexual offenses involving victims of less than 16 years of age.

SENATE BILLS

- S1138 Cardinale
Eliminates parole eligibility for conviction of a crime while on parole.
- S1147 Cardinale
Provides mandatory sentencing provisions for certain sexual offenders.
- S1438 Zane
Provides a mandatory term of imprisonment for a conviction of DWI which involved an accident.
- S1682 Bassano
Upgrades offenses involving thefts of property with a religious significance from places of worship and places of burial.
- S1692 Bassano
Requires imposition of mandatory extended term for certain repeat firearm offenders.
- S2080 McNamara, Graves
Requires life sentence without parole for conviction of murder.
- S2286 Rice
Provides mandatory minimum terms for persons who travel to another municipality and purchase controlled dangerous substance there.
- S2287 Rice
Provides mandatory minimum terms for adults purchasing controlled dangerous substances from juveniles.
- S2457 Bassano
Imposes mandatory minimum terms for juvenile offenders convicted of auto theft.
- S2529 Paterniti
Provides mandatory imprisonment for assault on law enforcement officers.
- S2555 Zanes, Connors
Upgrades eluding police to fourth degree crime and imposes mandatory one year term of imprisonment.
- S2618 Graves
Provides mandatory imprisonment for crimes against elderly or handicapped.

SENATE BILLS

- S2801 Graves, Bubba
Provides mandatory terms of imprisonment for auto theft.
- A2808 Bassano, Dorsey
Limits participation in furlough programs to prisoners with a parole date.
- S2823 Lesniak
Creates offense of employing juvenile for auto theft; imposes imprisonment.
- S2833 Rice
Provides penalties for persons distributing drugs in certain recreational property.
- S2912 Graves
Prescribes capital punishment for those convicted of distributing controlled dangerous substances to minors and pregnant women.
- S2993 Bassano
Creates offense of employing a juvenile in crime of auto theft.
- S2994 Bubba
Creates the offense of leader of auto theft trafficking network.
- S3017 Rice
Provides an extended term of imprisonment for a person who uses a weapon in the commission of certain controlled dangerous substances offenses.
- S3020 Bubba, Graves
Creates the offense of narcotics trafficking conspiracy.
- S3072 Paterniti
Establishes mandatory minimum prison term for crime committed with knife.
- S3285 Graves
Establishes possession of an assault rifle as crime of the 2nd degree.
- S3322 Graves
Provides mandatory minimum term of 10 years imprisonment for distribution of controlled dangerous substances within 100 feet of a playground.

ASSEMBLY BILLS

- A1661 Brown
Requires a person convicted of aggravated sexual assault to be sentenced to life imprisonment without parole.
- A1679 Brown, Villane, Otlowski
Places the burden of proof on the inmate to prove eligibility for parole.
- A1964 Girgenti, Marsella
Establishes mandatory minimum sentences for certain drug offenses.
- A2173 Hardwick
Authorizes persistent offender extended term of imprisonment for person previously convicted of one crime.
- A2186 Hardwick
Makes those convicted of murder under the felony murder doctrine eligible for capital punishment.
- A2251 Baer, Gill
Establishes crimes of abuse against elderly persons.
- A2446 Hudak
Designates certain senior citizen assault, "aggravated assault."
- A2772 Roma, Pelly, Felice
Requires full parole board review recommendations of certain inmates.
- A3113 Roma, Crecco
Creates offense of employing a juvenile for commission of a theft.
- A3133 Singer, Bennett, Kyrillos
Imposes criminal penalties for certain acts relating to water pollution.
- A3284 Hataian, Stuhltrager, Kamin, Felice
Creates offense of engaging in illegal firearm enterprise.
- A3285 Haytaian, Stuhltrager, Collins, Kamin, Felice
Upgrades illegal firearm sale to 3rd degree crime; imposes penalties.
- A3320 Mazur, Felice, Baer, Randall
Revises laws concerning sexual assaults
- A3635 Gill, Duch, Mazur, Kelly, Zecker, Miller, Smith, Cimino
Imposes mandatory minimum terms of prison for auto theft.

ASSEMBLY BILLS

- A197 Naples
Provides minimum 2 year imprisonment without eligibility for parole for persons convicted of aggravated assault or robbery upon a person 60 or older.
- A224 Naples
Provides that a juvenile tried as an adult and convicted of murder is eligible for capital punishment.
- A412 Deverin
Provides a minimum term of imprisonment without parole for repeat offenders convicted of assaulting the elderly.
- A427 Deverin
Requires a mandatory extended prison term for repeat firearm offenders where prior conviction occurred in another jurisdiction.
- A767 Shusted
Changes the definition of the crime of robbery.
- A869 Otlowski
Makes it a crime of the third degree to distribute controlled and dangerous substances on or near mental hospitals.
- A919 Kern
Provides increased sentence for crimes committed while on bail.
- A966 Kern
Makes knowing transmittal of AIDS a third degree crime.
- A1117 Moran
Amends the laws concerning sentencing for escape.
- A1210 Rooney
Lowers the age for a person to be tried as an adult for certain crimes.
- A1293 Riley
Imposes mandatory terms of imprisonment without parole for drug offenses.
- A1315 Duch, Gill
Provides that the death by auto statute does not preclude indictment and conviction for manslaughter.
- A1429 Kline
Makes certain assaults with explosive substance or destructive device a crime of the first degree.

ASSEMBLY BILLS

- A3677 Spadaro
Imposes criminal penalties for illegal disposal of
medical waste.
- A3832 Bennett, Palaia
Provides criminal penalties for violations of
"Air Pollution Control Act."
- A4033 Hardwick, Haytaian
Provides extended terms of imprisonment for ethnic
intimidation.
- A4059 Mazur, Randall
Makes person an accomplice who illegally sells, transfers
weapons.
- A4065 Cimino, Patero
Expands drug free zones to include child care centers.
- A4363 Bush
Provides an extended term of imprisonment for a person
who uses a weapon in the commission of certain controlled
dangerous substances offenses.



