

Committee Meeting

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of

SENATE JUDICIARY COMMITTEE

SENATE BILL No. 1243

(Permits the family of murder victims to testify
in person before the full Parole Board.)

and

SENATE BILL No. 1244

(Provides for life imprisonment with no parole eligibility
for murderers whose death sentences are not upheld)

LOCATION: Lodi Town Council Chambers
1 Memorial Drive
Lodi, New Jersey

DATE: October 27, 1992
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Louis F. Kosco, Acting Chairman
Senator Leanna Brown
Senator John A. Girgenti



ALSO PRESENT:

John J. Tumulty
Aide, Senate Judiciary Committee
Office of Legislative Services

New Jersey State Library

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The Office of Legislative Services, Public Information Office,
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New Jersey State Legislature

SENATE JUDICIARY COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068
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COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE
FROM: SENATOR WILLIAM L. GORMLEY, CHAIRMAN
SUBJECT: COMMITTEE MEETING - October 27, 1992

The public may address comments and questions to John J. Tumulty, Committee Aide, or make bill status and scheduling inquiries to Karen M. Hovemeyer, secretary, at (609) 292-5526.

The Senate Judiciary Committee will meet on **Tuesday, October 27, 1992** at **1:00 P.M.** in **Lodi Town Council Chambers, 1 Memorial Drive, Lodi, New Jersey.**

FOR DISCUSSION ONLY:

- | | |
|----------------------------|---|
| S-1243
Kosco/Matheussen | Permits the family of murder victims to testify in person before the full Parole Board. |
| S-1244
Kosco/Matheussen | Provides for life imprisonment with no parole eligibility for murderers whose death sentences are not upheld. |

Issued 10/22/92

STATE OF NEW JERSEY

INTRODUCED OCTOBER 8, 1992

By Senators KOSCO, MATHEUSSEN, Smith,
Scott, Cowan and Girgenti

1 AN ACT concerning crime victims' testimony at parole hearings
2 and amending P.L.1979, c.441.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. Section 11 of P.L.1979, c.441(C.30:4-123.55) is amended to
7 read as follows:

8 11. a. Prior to the parole eligibility date of each adult inmate,
9 a designated hearing officer shall review the reports required by
10 section 10 of this act, and shall determine whether there is a
11 basis for denial of parole in the preparole report or the inmate's
12 statement, or an indication, reduced to writing, that additional
13 information providing a basis for denial of parole would be
14 developed or produced at a hearing. If the hearing officer
15 determines that there is no basis in the preparole report or the
16 inmate's statement for denial of parole and that there is no
17 additional relevant information to be developed or produced at a
18 hearing, he shall at least 60 days prior to the inmate's parole
19 eligibility date recommend in writing to the assigned member of
20 the board panel that parole release be granted.

21 b. If the assigned member of the board panel or in the case of
22 an inmate sentenced to a county penal institution, the assigned
23 member concurs in the hearing officer's recommendation, he
24 shall certify parole release pursuant to section 15 of this act as
25 soon as practicable after the eligibility date and so notify the
26 inmate and the board. In the case of an inmate sentenced to a
27 county penal institution the board shall certify parole release or
28 deny parole as provided by this section, except with regard to
29 time periods for notice and parole processing which are
30 authorized by or otherwise adopted pursuant to subsection g. of
31 section 7 of P.L.1979, c.441 (C.30:4-123.51g.). If the designated
32 hearing officer does not recommend release on parole or if the
33 assigned member does not concur in a recommendation of the
34 designated hearing officer in favor of release, then the parole
35 release of an inmate in a county penal institution shall be treated
36 under the provisions of law otherwise applicable to an adult
37 inmate. In the case of an inmate sentenced to a county penal
38 institution, the performance of public service for the remainder
39 of the term of the sentence shall be a required condition of
40 parole, where appropriate.

41 c. If the hearing officer or the assigned member determines
42 that there is a basis for denial of parole, or that a hearing is

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

Matter underlined thus is new matter.

1 otherwise necessary, the hearing officer or assigned member shall
2 notify the appropriate board panel and the inmate in writing of
3 his determination, and of a date for a parole consideration
4 hearing. The board panel shall notify the victim of the crime, if
5 the crime for which the inmate is incarcerated was a crime of
6 the first or second degree, or the victim's nearest relative if the
7 crime was murder, as appropriate, who was previously contacted
8 by the board and who has indicated his intention to the board to
9 testify at the hearing, of the opportunity to testify or submit
10 written statements at the hearing. Said hearing shall be
11 conducted by the appropriate board panel at least 30 days prior to
12 the eligibility date. At the hearing, which shall be informal, the
13 board panel shall receive as evidence any relevant and reliable
14 documents or in person testimony, including that of the victim of
15 the crime or the members of the family of a murder victim if the
16 victim or a family member so desires. If a victim of a crime or
17 the relative of a murder victim chooses not to testify personally
18 at the hearing, the victim or relative may elect to present
19 testimony to a senior hearing officer designated by the board
20 panel. The senior hearing officer shall prepare a report or a
21 transcript of the testimony for presentation to the board panel at
22 the hearing. All such evidence not classified as confidential
23 pursuant to rules and regulations of the board or the Department
24 of Corrections shall be disclosed to the inmate and the inmate
25 shall be permitted to rebut such evidence and to present evidence
26 on his own behalf. The decision of the board panel shall be based
27 solely on the evidence presented at the hearing.

28 d. At the conclusion of the parole consideration hearing, the
29 board panel shall either (1) certify the parole release of the
30 inmate pursuant to section 15 of this act as soon as practicable
31 after the eligibility date and so notify the inmate and the board,
32 or (2) deny parole and file with the board within 30 days of the
33 hearing a statement setting forth the decision, the particular
34 reasons therefor, except information classified as confidential
35 pursuant to rules and regulations of the board or the Department
36 of Corrections, a copy of which statement shall be served upon
37 the inmate together with notice of his right to appeal to the
38 board.

39 e. Upon request by the hearing officer or the inmate, the time
40 limitations contained in sections 10 and 11 may be waived by the
41 appropriate board panel for good cause.

42 f. Notwithstanding the provision of any other law to the
43 contrary, if an inmate incarcerated for murder is recommended
44 for parole by the assigned board member or the appropriate board
45 panel, parole shall not be certified until a majority of the full
46 parole board, after conducting a hearing, concurs in that
47 recommendation. The board shall notify the victim's family of
48 that hearing and family members shall be afforded the
49 opportunity to testify in person or to submit written statements.
50 The provisions of this subsection shall not apply to an inmate who
51 has his parole revoked and is returned to custody pursuant to the
52 provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).
53 (cf: P.L.1992, c.59, s.1)

1 2. This bill shall take effect immediately.
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4 STATEMENT
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6 Under present law, the full Parole Board is required to hold a
7 hearing prior to certifying the parole of an inmate incarcerated
8 for murder. This bill would permit the family of the murder
9 victim to testify in person or submit written documents at that
10 hearing.
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15 _____
16 Permits the family of murder victims to testify in person before
the full Parole Board.

SENATE, No. 1244

STATE OF NEW JERSEY

INTRODUCED OCTOBER 8, 1992

By Senators KOSCO, MATHEUSSEN, Scott,
Smith, Cowan and Girgenti

1 AN ACT concerning the punishment for murder in certain
2 circumstances and amending N.J.S.2C:11-3.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. N.J.S.2C:11-3 is amended to read as follows:

7 2C:11-3. Murder. a. Except as provided in section 2C:11-4
8 criminal homicide constitutes murder when:

9 (1) The actor purposely causes death or serious bodily injury
10 resulting in death; or

11 (2) The actor knowingly causes death or serious bodily injury
12 resulting in death; or

13 (3) It is committed when the actor, acting either alone or with
14 one or more other persons, is engaged in the commission of, or an
15 attempt to commit, or flight after committing or attempting to
16 commit robbery, sexual assault, arson, burglary, kidnapping or
17 criminal escape, and in the course of such crime or of immediate
18 flight therefrom, any person causes the death of a person other
19 than one of the participants; except that in any prosecution under
20 this subsection, in which the defendant was not the only
21 participant in the underlying crime, it is an affirmative defense
22 that the defendant:

23 (a) Did not commit the homicidal act or in any way solicit,
24 request, command, importune, cause or aid the commission
25 thereof; and

26 (b) Was not armed with a deadly weapon, or any instrument,
27 article or substance readily capable of causing death or serious
28 physical injury and of a sort not ordinarily carried in public places
29 by law-abiding persons; and

30 (c) Had no reasonable ground to believe that any other
31 participant was armed with such a weapon, instrument, article or
32 substance; and

33 (d) Had no reasonable ground to believe that any other
34 participant intended to engage in conduct likely to result in death
35 or serious physical injury.

36 b. Murder is a crime of the first degree but a person convicted
37 of murder shall be sentenced, except as provided in subsection c.
38 of this section, by the court to a term of 30 years, during which
39 the person shall not be eligible for parole or to a specific term of
40 years which shall be between 30 years and life imprisonment of
41 which the person shall serve 30 years before being eligible for
42 parole.

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

Matter underlined thus is new matter.

1 c. Any person convicted under subsection a. (1) or (2) who
2 committed the homicidal act by his own conduct or who as an
3 accomplice procured the commission of the offense by payment
4 or promise of payment of anything of pecuniary value shall be
5 sentenced as provided hereinafter:

6 (1) The court shall conduct a separate sentencing proceeding
7 to determine whether the defendant should be sentenced to death
8 or pursuant to the provisions of subsection b. of this section.

9 Where the defendant has been tried by a jury, the proceeding
10 shall be conducted by the judge who presided at the trial and
11 before the jury which determined the defendant's guilt, except
12 that, for good cause, the court may discharge that jury and
13 conduct the proceeding before a jury empaneled for the purpose
14 of the proceeding. Where the defendant has entered a plea of
15 guilty or has been tried without a jury, the proceeding shall be
16 conducted by the judge who accepted the defendant's plea or who
17 determined the defendant's guilt and before a jury empaneled for
18 the purpose of the proceeding. On motion of the defendant and
19 with consent of the prosecuting attorney the court may conduct a
20 proceeding without a jury. Nothing in this subsection shall be
21 construed to prevent the participation of an alternate juror in the
22 sentencing proceeding if one of the jurors who rendered the guilty
23 verdict becomes ill or is otherwise unable to proceed before or
24 during the sentencing proceeding.

25 (2) (a) At the proceeding, the State shall have the burden of
26 establishing beyond a reasonable doubt the existence of any
27 aggravating factors set forth in paragraph (4) of this subsection.
28 The defendant shall have the burden of producing evidence of the
29 existence of any mitigating factors set forth in paragraph (5)
30 of this subsection but shall not have a burden with regard to the
31 establishment of a mitigating factor.

32 (b) The admissibility of evidence offered by the State to
33 establish any of the aggravating factors shall be governed by the
34 rules governing the admission of evidence at criminal trials. The
35 defendant may offer, without regard to the rules governing the
36 admission of evidence at criminal trials, reliable evidence
37 relevant to any of the mitigating factors. If the defendant
38 produces evidence in mitigation which would not be admissible
39 under the rules governing the admission of evidence at criminal
40 trials, the State may rebut that evidence without regard to the
41 rules governing the admission of evidence at criminal trials.

42 (c) Evidence admitted at the trial, which is relevant to the
43 aggravating and mitigating factors set forth in paragraphs (4) and
44 (5) of this subsection, shall be considered without the necessity of
45 reintroducing that evidence at the sentencing proceeding;
46 provided that the fact finder at the sentencing proceeding was
47 present as either the fact finder or the judge at the trial.

48 (d) The State and the defendant shall be permitted to rebut
49 any evidence presented by the other party at the sentencing
50 proceeding and to present argument as to the adequacy of the
51 evidence to establish the existence of any aggravating or
52 mitigating factor.

53 (e) Prior to the commencement of the sentencing proceeding,
54 or at such time as he has knowledge of the existence of an

1 aggravating factor, the prosecuting attorney shall give notice to
2 the defendant of the aggravating factors which he intends to
3 prove in the proceeding.

4 (f) Evidence offered by the State with regard to the
5 establishment of a prior homicide conviction pursuant to
6 paragraph (4)(a) of this subsection may include the identity and
7 age of the victim, the manner of death and the relationship, if
8 any, of the victim to the defendant.

9 (3) The jury or, if there is no jury, the court shall return a
10 special verdict setting forth in writing the existence or
11 nonexistence of each of the aggravating and mitigating factors
12 set forth in paragraphs (4) and (5) of this subsection. If any
13 aggravating factor is found to exist, the verdict shall also state
14 whether it outweighs beyond a reasonable doubt any one or more
15 mitigating factors.

16 (a) If the jury or the court finds that any aggravating factors
17 exist and that all of the aggravating factors outweigh beyond a
18 reasonable doubt all of the mitigating factors, the court shall
19 sentence the defendant to death.

20 (b) If the jury or the court finds that no aggravating factors
21 exist, or that all of the aggravating factors which exist do not
22 outweigh all of the mitigating factors, the court shall sentence
23 the defendant pursuant to subsection b.

24 (c) If the jury is unable to reach a unanimous verdict, the court
25 shall sentence the defendant pursuant to subsection b.

26 (4) The aggravating factors which may be found by the jury or
27 the court are:

28 (a) The defendant has been convicted, at any time, of another
29 murder. For purposes of this section, a conviction shall be
30 deemed final when sentence is imposed and may be used as an
31 aggravating factor regardless of whether it is on appeal;

32 (b) In the commission of the murder, the defendant purposely
33 or knowingly created a grave risk of death to another person in
34 addition to the victim;

35 (c) The murder was outrageously or wantonly vile, horrible or
36 inhuman in that it involved torture, depravity of mind, or an
37 aggravated assault to the victim;

38 (d) The defendant committed the murder as consideration for
39 the receipt, or in expectation of the receipt of anything of
40 pecuniary value;

41 (e) The defendant procured the commission of the offense by
42 payment or promise of payment of anything of pecuniary value;

43 (f) The murder was committed for the purpose of escaping
44 detection, apprehension, trial, punishment or confinement for
45 another offense committed by the defendant or another;

46 (g) The offense was committed while the defendant was
47 engaged in the commission of, or an attempt to commit, or flight
48 after committing or attempting to commit murder, robbery,
49 sexual assault, arson, burglary or kidnapping; or

50 (h) The defendant murdered a public servant, as defined in
51 N.J.S.2C:27-1, while the victim was engaged in the performance
52 of his official duties, or because of the victim's status as a public
53 servant.

54 (5) The mitigating factors which may be found by the jury or

1 the court are:

2 (a) The defendant was under the influence of extreme mental
3 or emotional disturbance insufficient to constitute a defense to
4 prosecution;

5 (b) The victim solicited, participated in or consented to the
6 conduct which resulted in his death;

7 (c) The age of the defendant at the time of the murder;

8 (d) The defendant's capacity to appreciate the wrongfulness of
9 his conduct or to conform his conduct to the requirements of the
10 law was significantly impaired as the result of mental disease or
11 defect or intoxication, but not to a degree sufficient to
12 constitute a defense to prosecution;

13 (e) The defendant was under unusual and substantial duress
14 insufficient to constitute a defense to prosecution;

15 (f) The defendant has no significant history of prior criminal
16 activity;

17 (g) The defendant rendered substantial assistance to the State
18 in the prosecution of another person for the crime of murder; or

19 (h) Any other factor which is relevant to the defendant's
20 character or record or to the circumstances of the offense.

21 d. The sentencing proceeding set forth in subsection c. of this
22 section shall not be waived by the prosecuting attorney.

23 e. Every judgment of conviction which results in a sentence of
24 death under this section shall be appealed, pursuant to the Rules
25 of Court, to the Supreme Court. Upon the request of the
26 defendant, the Supreme Court shall also determine whether the
27 sentence is disproportionate to the penalty imposed in similar
28 cases, considering both the crime and the defendant.
29 Proportionality review under this section shall be limited to a
30 comparison of similar cases in which a sentence of death has been
31 imposed under subsection c. of this section. In any instance in
32 which the defendant fails, or refuses to appeal, the appeal shall
33 be taken by the Office of the Public Defender or other counsel
34 appointed by the Supreme Court for that purpose.

35 f. Prior to the jury's sentencing deliberations, the trial court
36 shall inform the jury of the sentences which may be imposed
37 pursuant to subsection b. of this section on the defendant if the
38 defendant is not sentenced to death. The jury shall also be
39 informed that a failure to reach a unanimous verdict shall result
40 in sentencing by the court pursuant to subsection b.

41 g. A juvenile who has been tried as an adult and convicted of
42 murder shall not be sentenced pursuant to the provisions of
43 subsection c. but shall be sentenced pursuant to the provisions of
44 subsection b. of this section.

45 h. The provisions of subsection b. of this section to the
46 contrary not withstanding, if a sentence of death imposed
47 pursuant to subsection c. of this section is not upheld on appeal
48 and the death penalty is not reimposed in a subsequent
49 proceeding, the court shall impose a sentence of life
50 imprisonment with no eligibility for parole on the convicted
51 murderer whose death sentence was not upheld.

52 (cf: P.L.1992, c.5, s.1)

53 2. This act shall take effect immediately.

STATEMENT

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This bill would provide that if the imposition of a death sentence is not upheld on appeal, the convicted murderer whose death sentence was not upheld shall be sentenced to life imprisonment with no eligibility for parole.

Provides for life imprisonment with no parole eligibility for murderers whose death sentences are not upheld.

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SENATOR LOUIS F. KOSCO (Chairman): Okay. We'd like to call this hearing to order. The purpose of this hearing, so that everyone understands it-- There will be no voting on these two pieces of legislation today. However, we will have transcripts of it, and everything that is said will be brought back to the complete Committee. We are hopeful that the legislation will be heard by the complete Judiciary Committee very shortly when the Judiciary Committee meets.

Senator Gormley was going to be here today, but is not able to be here. He has asked me to chair this hearing. I have Senator Girgenti from right across the way in the Paterson district; he is going to work with me with this legislation. He is also cosponsor of this legislation with me, along with a number of other Senators. Senator Girgenti has cosponsored with me most of the legislation that we have been hearing and passing in the Senate dealing with crime, dealing with -- as you are probably aware of -- the bracelet program. The Senator has been working with me very, very closely, and it's been a very, very big pleasure to work with John. Thank you.

SENATOR GIRGENTI: Thank you.

SENATOR KOSCO: Today is an important day for crime victims. The hearings held today will be collecting important testimony that will be the foundation for action by the Senate Judiciary Committee in the near future.

I want to thank Senator Gormley, who is the Chairman of the Senate Judiciary Committee, for allowing me to chair this special Senate Judiciary Committee hearing.

When we talk about cop killers, parole criteria for murderers, and crime victims' rights, people get emotional and passionate about their opinions. I personally do not believe cop killers like Trantino should get away with murder and get parole. When our Supreme Court granted freedom through parole, that's exactly what happened.

Frankly, part of what today's hearing will concentrate on is one key question: Should murderers who originally received the death penalty be granted the opportunity of parole because the Supreme Court did not uphold the death penalty sentence?

The individuals appearing before our hearing today will offer their views on two bills: S-1243, the crime victims full rights bill; and S-1244, the keep murderers in jail bill.

Senator Leanna Brown, welcome.

SENATOR BROWN: Thank you. It's good to be here.

SENATOR KOSCO: You've found us up here?

SENATOR BROWN: Yes, traffic.

SENATOR KOSCO: Not up here in Bergen County?

SENATOR BROWN: No, it was in Passaic.

SENATOR KOSCO: Among those speaking here today will be Andy Voto, a retired police chief, and the brother of one of the policemen killed by Thomas Trantino; Richard Zavinsky, police captain of Rochelle Park, and he will be speaking for Police Chief Betten; Jim O'Brien, who is President of the Statewide Coalition of Crime Victims; Bob Schaeffer, Vice President of the Port Authority PBA; Mike Murphy, the Morris County Prosecutor, on behalf of the Association of New Jersey Prosecutors; and I don't think he's here yet, but Larry McClure, who is a former Bergen County Prosecutor -- we're expecting him to be here.

Let me indicate that the Chairman of the New Jersey State Parole Board, Louis Nickolopoulos, forwarded a memo to me on October 26 regarding the bills on the agenda today. The Parole Board takes no position on bill number S-1244. On bill number S-1243, the Parole Board is recommending Administrative Code changes that would accomplish much of what is included in my legislation.

The Parole Board voted on September 30, 1992 to propose an amendment to the State Parole Board's Administrative

Code authorizing the in person testimony of the nearest relatives of a murder victim before the full State Parole Board.

I'm pleased to hear that this language is being offered. At this time I would like to see my bills passed with the support of the Parole Board.

I would like to ask John to read into the record the letter that we received from the Parole Board and its Chairman with their position.

John, if you will?

MR. TUMULTY (Committee Aide): "The amendment proposed in S-1243 could possibly be interpreted to require the State Parole Board to affirmatively seek out every family member of a murder victim. The State Parole Board certainly does not have the means by which to ascertain the names and present addresses of every family member of a murder victim, especially when the parole process may not be initiated for a significant number of years from the date of the commission of the crime, and from the date of the imposition of sentence.

"The State Parole Board is of the opinion that its obligation to notify the nearest relative of a murder victim should be limited to the nearest relative that has previously informed the Board of their intent to participate in the parole process by submitting a written statement, or by testifying in person.

"Accordingly, the State Parole Board respectfully suggests that the proposed amendment to N.J.S.A. 30:4-123.55(f) be modified to read as follows: 'The Parole Board shall notify the nearest relative of a murder victim, who has previously contacted the Board, of the hearing, and it shall afford the nearest relative of a murder victim the opportunity to testify in person, or to submit written statements.'"

Senator Kosco has asked that this statement of the Parole Board be entered as part of the record of this hearing.

SENATOR KOSCO: Thank you, John.

Also with us here today are two members of the New Jersey State Assembly, Rose Heck and Pat Roma. Thank you very much.

I think what we can do-- Because the two bills are closely tied together, we can probably discuss both bills at the same time rather than taking one separately and then the other. So while we're testifying, we can talk and address both of these bills.

Again, the one bill has to do with relatives of murder victims to testify in person before the Parole Board. Many people have asked how come; that we understand that that's the case right now. It is almost the case right now, except that the people who appear now, appear before a committee of the Parole Board; they don't appear before the complete Parole Board. So consequently, when the information gets brought back, it may differ from the information that was originally received.

What our legislation does here, it says that the person -- the victim's family, or the person testifying -- would have the right to testify before the complete Parole Board. If for some reason that person feels uncomfortable about testifying before a complete Board, then that person can then take that information, put it in written form, and then present it to the complete Board.

But in any case, under this legislation the entire Parole Board would have the information available to them so that they can review it, read it, and comprehend what's really going on prior to making a decision whether or not a person should be released.

The other bill has to do with life imprisonment without parole when someone has been sentenced to the death penalty, and then for whatever reason the death penalty has been overturned, and then sentenced to life in prison, that they would then be sentenced to life in prison with no parole.

My intentions for this bill are that year, after year, after year, the families of those victims don't have to go through this same thing that we've been going through up here and really, throughout the State. Because this is not just a local issue; it's a statewide issue. People throughout the State are concerned about this.

What we don't want to happen is that each year the families have to relive the experience over and over. They do it everyday in their lives as it is. But to read about it and publicly go through it each year, as we've been doing for the past 28 years, is just not, in our opinion, the right way to do it.

So the legislation that we propose is: When someone's sentence has been commuted from the death penalty to life in prison, it's life in prison with no chance of parole.

With that, I'd like to call up Chief Andy Voto. I think we can-- Jim O'Brien? Why don't the both of you come up here, and we can talk to the both of you at the same time?

SENATOR BROWN: I'd like to make a special welcome to Mr. O'Brien, because he comes from Morris County.

SENATOR KOSCO: Well, that's okay. We'll let him come up here to Bergen County.

Before we continue, Senator Girgenti, if you would like to make a statement?

SENATOR GIRGENTI: Well, first of all, I want to commend you, Mr. Chairman, for setting forth this meeting today. I think it's a timely issue. It's something I know that you're concerned with, and we all are concerned with. It's something that's ongoing. I think you're on the right course in terms of our concern is for the victim's family; that's where the concern of society really should be. I think it's important that we have this kind of hearing here, especially because of its sensitivity. I'm happy to be here,

and I'm glad that I was able to cosponsor the bills with you. I feel that this is going a long way in terms of protecting and preserving victims' rights, which I think is so important.

SENATOR KOSCO: Thank you. Senator Girgenti and I served in the Assembly together. He was the prime mover of the victims' rights movement back when we were in the Assembly, so this is certainly nothing new to John.

Senator Leanna Brown, who traveled a long way to get here.

SENATOR BROWN: I'd just like to commend Senator Kosco for calling this meeting. I am very glad that our first witness is Mr. O'Brien, who has done more than many people in the State of New Jersey to make sure that the cause of victims' rights is heard.

SENATOR KOSCO: Okay, Chief? Everyone in the room, I think, knows Chief Voto.

CHIEF ANDREW VOTO: First of all, I want to say thank you to you many people in the Senate and the Assembly who have been with myself, the Voto family, and the Tedesco family over the years. It is a tiresome thing to keep coming here and fighting for what's right.

It has become a mission for me, not in so much for my brother, Sergeant Peter Voto, and Gary Tedesco -- Sergeant Peter Voto and Gary Tedesco -- as it is for my brother officers -- the family of officers who serve this State.

We should not have to come here and beg that legislation be passed. We should not have to come here year after year, to get what we expect from our legislators. We don't have to come here and be told by a Supreme Court, that I don't think one in thirty-some-odd cases that they didn't reverse themselves-- It's ludicrous to have the State Senate and Assembly pass bills, and have nine judges up there just eradicate everything that is put forth before them. It's wrong to have 12 or 14 jurors sit through a horrible case for two, three, or four weeks, to have somebody just nullify everything.

I'm appreciative of these two bills. They're needed. Also what is needed is a reforming in the prison section. We have these murderers put on the street on furloughs; this man Trantino has been on furloughs from the State prison. We don't have conjugal visits in New Jersey, but I think he had more conjugal visits with his wife than I did. It's wrong; it's totally wrong and frustrating.

These police officers seem to be under the gun 90 percent of the time. If they use their gun on a perpetrator, they're treated worse than the criminal. They're treated like murderers, and murderers are treated like movie stars in this State. It's wrong. And it's not only this State, it's all over. But I have to talk for my State, and that's why I say that Senator Kosco and the group -- Assemblyman Roma, Assemblywoman Heck -- for the years that we spent going down to Trenton -- and all you other Senators that I didn't know before who have put your best foot forward--

I recently read in the paper not more than a week ago that Governor Cuomo from New York, with this natural life sentence, commuted another prisoner's sentence so he can be released. He killed a sheriff's officer while he was in custody.

This is wrong. It's almost unbelievable. It is hard for a mother and father to raise a boy and send him off to war -- whether it be Dessert Storm, Viet Nam, and all that -- to fight for crumbs like this who are in jail. They don't deserve it. Some of these things, like murderers and murder one, they shouldn't even be going before a parole board.

Now, I do believe in rehabilitation; I'd be a fool not to. But on certain crimes, no. I don't see why Trantino had to go to college at the expense of the State. I don't see why he was allowed to get married while he was a prisoner in jail. It's wrong; it's wrong according to the law. I don't know why a man like that has to get conjugal visits.

You people in the Legislature must -- we demand, we have the right to demand it as police officers and common citizens, to have the rules and laws there so that we can be protected.

It's almost impossible to be a police officer and carry out your duties today. Just imagine the frustration with the Gary Spath case. It ruined him physically, if not mentally; he's upset. There's something wrong with our system. And we elect you people with the thought -- both Democrats and Republicans, this is a nonpartisan issue -- that we should and must be protected.

The policemen of this State take an oath to uphold the law and to protect the people. It's almost impossible to do that today. They have to think three times, and maybe shot four times, before they can act.

Now what happens: A killer gets away. Do you realize if you had a hostage situation whereby a man, if he shoots the cop he can get away, rather than give up and take the chance of being captured. It comes out to the same thing. If I shoot a cop I don't get punished; I don't get given a lethal injection; I don't get put away for life. But if I shoot the cop and I get away, I get away. So what chance has he got. He's going to take the other chance.

Now I beg of you, I'm talking now not so much in the area of my brother and Gary Tedesco, there's nothing going to resurrect those people -- those bodies. My brother is there to stay. It has killed his whole family.

There's another thing I want you to note: On every murder, there's not one victim or two victims. There was a third cop that went to that scene. That scene was so horrible that that young man, Mike Cipone -- Patrolman Mike Cipone, Police Officer Mike Cipone -- wasn't right since the day he walked out of the Angel Lounge and saw those bodies so mutilated, so beat, he became mentally deficient. He was under

psychiatric care. A short time after that he died. We're willing to put our lives on the line, but damn it, the legislators should put these laws into effect because we demand it. We've got a right to it.

A kid going to a shopping mall has a right not to be molested and raped. You've read the papers. There are girls taken out of this State, driven all the way to Florida, and they find the bodies out of State. What are we supposed to do, make big moving pictures out of it? The day that Trantino steps out of jail, he has a chance to put a book on the street and make himself \$1 million. Why should that be? So you say, "We passed a law against that, the Son of Sam law." Ridiculous. He makes his wife write the book. He makes his wife write the book.

When the heck are we going to be for real about protecting the public? You're on the right track now with these laws. I hope to God you get them through, but that is only one step.

Then you go out to the institutions where these men are. They're not-- These heinous killers should not be allowed to be educated at our expense. They should not be allowed to get a pass to go swimming at the Jersey Shore.

When I met with the Parole Board, they were unaware of all of these things. As far as they're concerned, they were good boys. They're like a kid just before Christmas, "Mommy, I'm going to be good." They're good in a confined situation, but Trantino was a bastard in a confined situation. He's no damn good. Yet all they're interested in there, before the Parole Board, is if he's been rehabilitated and can go on the street.

Rehabilitated like Edgar Smith, who disemboweled a woman. I was on the force when Edgar Smith killed that girl in Mahwah. I know what happened to that girl; I know every part

of what happened to that girl. You know what? All you legislators, be for real. And that goes from the Governor on down.

Be for real. Why are we wasting so much time? We've got thousands and thousands of men, prisoners of war, lost in Viet Nam. They're not worried as much about them as releasing this pig from confinement.

I didn't go beating the gates down and say he should have been burnt. But he should be confined the rest of his life. And I'm for capital punishment.

SENATOR KOSCO: Thank you, Chief.

Does anyone have any questions? (no response)

Jim?

JAMES O'BRIEN: Well, first of all, thank you very much for inviting me. I appreciate it very much.

SENATOR KOSCO: Jim is with the Coalition of Crime Victims.

MR. O'BRIEN: I was on my way up here today, and I was reminded of a situation that took place -- and I must tell you this right in the beginning -- back in 1988. When I got here, several of the people who were involved in the situation were in the room, including the gentleman who is sitting next to me.

We were involved in going to the Senate Judiciary Committee in Trenton in 1988 on a similar bill, on which we had well over 100 to 150 people jamming the room and the corridors of that hearing room. Among the victims' rights groups in the State, we call it "the sleep and run hearing."

There was a series of confirmations for which all of the Senators on the Committee were present. The minute the confirmations were over, in the course of 10 minutes, we were down to two: one sleeping and one listening. They woke the Senator up who was sleeping, and he left. Poor Senator O'Connor sat there for three hours listening to one person after another.

The reason I bring this up is that obviously the bill went nowhere. And the reason I bring it up is, I want to compliment all of you on the fact that not only are you listening to us, but you're holding it out of Trenton, in an area which has quite a bit of symbolic meaning to it -- here in Lodi, on the Trantino case. Again, I want to compliment you before I start at all.

The death penalty is something that I've been involved with for 10 years. I've been involved with it very, very closely, and in a sense, very tragically. There is an extreme need -- and I'm talking now about S-1244, not S-1243 -- there is an extreme need for this legislation. The reason I bring it up is: Number one, we're all aware of the fact that we really don't have a death penalty in the State of New Jersey. We have it on the books, but I do not see, in the foreseeable future or the far future, with the makeup of the Court, any way that we're going to have a death penalty carried out in this State.

Therefore, it becomes essential that a punishment befitting the crime be given to the criminals where their cases are overturned. I agree with that 100 percent.

I also believe, too, that the criminal element in the State is, in a sense, laughing at us, because they know there is no death penalty. They know that the maximum they can receive is 30 years. I would point out one situation that happened in Pennsylvania -- it was publicized in the newspapers -- where a man actually asked that he be tried for capital punishment rather than just murder. And at his sentencing, when the capital phase of the trial began on the death penalty, he urged the jury to give him the death penalty. This is true.

The reason he urged the people to give him the death penalty -- the jury -- was simply the fact that on death row, they have color TV sets in each one of the cells, where if you're just tried for murder and go into the general population, you have to go in and share the TV in the

recreation room. He had absolutely no fear of the death penalty, because in Pennsylvania there isn't a death penalty either.

It's an extreme example, but I'm trying to point out the fact that this is the way that the criminal element thinks. There is no death penalty; therefore, there has to be a maximum sentence of life imprisonment without parole.

I could give you a very graphic example of life imprisonment without parole, and what it would have done on a very personal basis. In 1982, James Gerry Kadadish was released from state prison in Florida for murder. He was paroled after serving his time. If Florida had had life without parole, Amy Hoffman and Deidre O'Brien, my daughter, would still be alive. But unfortunately, Florida did not have it.

Now, it's not unusual for states to have this. Michigan has had life without parole for murder for many years. It gives a warning to criminals that, "Yes, you may not get the death penalty, but you are going to spend the rest of your life in jail, not 30 years." To the man 20 years old, who is going to serve 30 years, he's out at 50. This is not a big thing to him. Certainly, he'd rather be free, but it's not a big thing.

We've got to have a deterrent, and that's the deterrent. It's going to save lives, and it's going to punish the criminal justly.

Unfortunately, on reading the bill and going over the bill with the legal counsel of the Coalition and with other lawyers, I have come to the conclusion that we do have a problem with this bill. In my opinion and the opinion of the lawyers, the wording of that change in the death penalty bill will not hold up to constitutional muster under the 14th Amendment. Under the 14th Amendment it is equal justice, and I give you a scenario of: "A," who commits a murder, is tried

for capital punishment. The Court overturns it and he gets life in prison. And "B," who is not tried for capital punishment but has committed murder, will only be given 30 years for the same crime.

It would be devastating to the victims and the survivors of the victim. And believe me, I can tell you first hand, after eight years of going through the criminal justice system and the courts, and then the Supreme Court, and have the case overturned, it's brutal. It is worse than going through the trial when you read that the case is overturned. And I honestly believe that this will go right to the Supreme Court, and it will be overturned.

However, I would like to offer you an alternative to this with very little change in the wording which, I think, will get around the 14th Amendment, which possibly could defeat this bill.

It is not unusual -- and I think the State of New Jersey should institute this -- that all murders committed under A-1, and A-2 be given a mandatory life sentence. Now, we're not talking a lot of people when we're talking about this. Corrections will immediately throw their hands up and say that they wouldn't be able to house all these people. I say to you that it's a very, very small number.

But if you go under A-1 and A-2, and give them all life imprisonment -- regardless of whether it's a capital case or not -- the only change would be that if a man is tried under capital punishment and given the death penalty, obviously, if it's carried out it would not apply. If it is overturned by the courts, and if the prosecutor does not choose to retry, the man would automatically get life imprisonment as the others did.

I think this would get around the 14th Amendment, which I do believe, honestly, is a stumbling block to this.

In conclusion on this bill, I want to compliment you. I urge you to pass this bill because I believe that if a man commits murder, he should serve life imprisonment if he does not get the death penalty, because you have a person who is dead, who has been brutally murdered, and that is just punishment for that murder. And I also believe it's a great deterrent.

As far as the other bill is concerned, S-1243: Again, I support it, and the Coalition supports it greatly. However, if I may, the letter that was read from the Parole Board in which they state that they would like to modify it to read as follows -- and I will skip reading the whole thing to get down to the part on line No. 3 -- "of the hearing, and shall afford the nearest relative of the murder victim the opportunity to testify in person or to submit a written statement."

If I interpret that correctly, that means that only the person they notify could or would be allowed to testify. I would believe it could be changed very easily to say that they would notify that person who has indicated an interest in going to the Parole Board, and other relatives. I will give you a scenario.

A young son of three-years old is murdered. His mother indicates after the trial that she wants to be kept informed of the parole process; however, there are two other children, seven and eight. The man serves 20 years and comes up for parole. At the time that he comes up for parole these other two children, who obviously didn't know that they had to tell the Parole Board that they would like to testify and be kept informed of it, should be allowed to also testify now that they're 27- and 28-years old. It could be changed very easily to say, "notify that relative, and that all members of the family then could testify."

Outside of that, I have nothing on that bill except praise for your trying to get this through. I thank you very much for allowing me to testify before you.

SENATOR KOSCO: Thank you very much, Jim.

Do you have a question, Senator?

SENATOR GIRGENTI: Jim, would members of the immediate family--

MR. O'BRIEN: Yes.

SENATOR GIRGENTI: Would that be--

MR. O'BRIEN: Just the immediate family, yes.

SENATOR GIRGENTI: You're singling out one person?

MR. O'BRIEN: They are singling out just one, saying that person indicated they would like to testify.

SENATOR GIRGENTI: It would cut down on-- You know, we don't know how many people we are talking about. At least if we got down to the immediate family, that would seem to cover that -- at least touching everyone that's near.

MR. O'BRIEN: In the immediate family, right. Because there are children. I know cases of that.

Well, take my case. My children never indicated to the Parole Board -- let's say if Kadadish ever came up -- they never indicated to the Parole Board they wanted to be informed. But if Georgia and I were informed, we would certainly like to be able to tell our children, who might want to testify, and have them be allowed to testify also.

SENATOR GIRGENTI: I think that's a good suggestion. And then, obviously, if the immediate family told other relatives, they would be able to testify too.

MR. O'BRIEN: Right, right. But the way it reads now, it's just that one person.

SENATOR GIRGENTI: Or the way they're suggesting it.

MR. O'BRIEN: Right, right.

Thank you.

SENATOR KOSCO: A very good suggestion. Thank you very much, Jim.

SENATOR BROWN: Thank you.

I'd just like to add that when people say the system doesn't respond, certainly due to Jim and his Coalition, we are making progress.

SENATOR KOSCO: Michael Murphy, from the Morris County Prosecutor's Office?

W. MICHAEL MURPHY, Jr.: Thank you, Mr. Chairman, Senator Brown -- a friend and neighbor -- and Senator Girgenti.

SENATOR KOSCO: Mike is representing the Association of New Jersey Prosecutors, correct?

MR. MURPHY: That's correct, Mr. Chairman. I am the Morris County Prosecutor. My name is W. Michael Murphy, Jr. I've been asked to appear on behalf of the New Jersey Prosecutors' Association. That's a group of prosecutors, all 21 throughout the State, as well as the Environmental Prosecutor, who sits *ex officio* in our meetings.

We have had an opportunity to review one of the bills before you for consideration today. That's the parole bill, which would give the right to families of victims of homicide the opportunity to appear before the Parole Board in person and state their position with regard to parole release on the record before the Board.

It's my understanding, Mr. Chairman and Senators, that this legislation arises out of the constitutional amendment. And it's part of the enabling legislation that arises out of the amendment that was passed massively by the New Jersey public last year, almost a year ago today. It's an important piece of legislation and one which we personally favor.

There is unanimity on behalf of the Prosecutors' Association to afford victims the opportunity to appear in person before the Board and state their feelings on the record.

My office, for instance -- and I believe virtually every other county prosecutor's office in the State -- has taken a position on potential parole release situations, and

has memorialized those positions and sent them in to the Board. PBA groups, other citizen groups, and sometimes public officials and private citizens have also, when they have had the opportunity to, stated their reasons to oppose premature parole release on the record.

But there is no substitute, I would submit, for the live testimony before the Board of somebody who has been dramatically impacted by the loss of a family member by virtue of a homicide.

Jim O'Brien, just before me in his rather impassioned appeal, I think, made it abundantly clear and graphically accurate that the families have lost the most, and the families should have the opportunity to have themselves heard. In the past they have had the opportunity to send a letter in, but nothing speaks as loudly and as clearly and as passionately with regard to these issues as the survivors of a homicide victim to come before the Board and place their position on the record.

The Board can read on the four corners of a document how somebody feels, but unless you sense the pain in their face, if you hear in their voice the loss that they have suffered, and how that irreplaceable loss cannot be rectified, and not just simply because they are angry or upset or haven't healed properly-- They really, genuinely, under our Constitution now -- under the new amendment -- I submit, have a right through this legislation to be heard; to make their appeal to the Board; for the Board to consider that in an equal balance, not just prison overcrowding or rehabilitation; but for those family members to come forward and have their voice.

SENATOR KOSCO: Thank you.

Any questions?

SENATOR BROWN: I would just like to thank the Prosecutor for taking time out of his very busy schedule to represent the Association here today. Everything he says rings

crystal clear. Particularly in this day and age, I think, when we have become so jaded by letters and faxes and so on, that the personal becomes even more important than it was a couple of years ago. So I think you're right on target with your testimony. Thank you for coming.

MR. MURPHY: Thank you, Senator. I apologize for being late. I was up on Route 80 in a traffic jam.

SENATOR KOSCO: Yes. It's down to one lane up there. Senator?

SENATOR GIRGENTI: Mr. Prosecutor, the Association has taken a position on S-1243. Have you taken a position on the other piece of legislation?

MR. MURPHY: I've spoken with representatives of the Attorney General's Office, the Chairman of our Legislative Committee, who is John Kay, from Monmouth County. That legislation has not been submitted to us formally. I have received it through the good offices of your counsel, John Tumulty. It's in the process of being forwarded around to our Association members, and will be considered at our November meeting.

Informally, I would echo the sentiments of Jim O'Brien. I think that there are some constitutional considerations that I believe can be overcome. Without speaking for the Association, but personally, the sentiment and the intent of this legislation is in keeping with my personal feelings, that life without parole should indeed be an option. We wouldn't be faced with situations where murderers from 20 and 25 years ago are enjoying the prospect of release if there had been at that time, or if there is in the future, genuine life imprisonment without parole potential.

SENATOR GIRGENTI: Could we ask if, as soon as possible, you could come back with some language that you feel would be suitable?

MR. MURPHY: Absolutely. We're working on that now, and we will work on that on an expedited basis, because I feel that the issue is important enough that it deserves our attention.

SENATOR KOSCO: It's interesting to note that the three of us up here, as part of the Judiciary Committee, are the three nonattorneys on that board, which is unusual. So when we write legislation, we write legislation and then think of legislation as we really want it to accomplish the end result. One of the things that I constantly have been talking about through the eight years in the Assembly, and presently in the Senate, is trying to convince both Houses and whoever the Governor is at the time that the statement of a piece of legislation should be part of the law.

What would the feeling of the Prosecutor's Office be to that?

MR. MURPHY: It's an interesting concept, but there are occasions when the statement might clash with the black letter of the law. The courts are there to interpret the specific language -- each clause, every comma-- And quite frankly, the remarks that you preferenced with -- that none of the three of you were lawyers -- simply means to most people that you make more sense than those of us who are blessed with, or cursed with, a law degree.

The statement often is in the record of these proceedings. For instance, when the court needs to determine what it is that the legislative intent was, it will look into the record. A statement will be incorporated, and that would give the court guidance as to what the intent of the Legislature was. They will look into the committee hearings and devolve from that exactly what the intent of the Legislature was.

But to incorporate the statement-- I have a feeling, knowing our business only too well, that if the statement were incorporated, then we would have a statement explaining the

statement, and it would probably go on ad infinitum. But it's abundantly clear to me what the intent of this group in this legislation is. And I think it's a noble purpose and with some fine tuning-- And I'll work with Mr. Tumulty and Mr. Methea, whom I've spoken with, as well as my colleagues in the Attorney General's Office, to submit legislation, or at least fine-tune the present legislation so that the legislative intent is carried out.

SENATOR KOSCO: Because, for example, this is not a very long piece of legislation. I'm looking at S-1243, now. It's only three pages, including the statement. The statement very simply says what the intent of the law is, and that is, under present law, the full Parole Board is required to hold a hearing prior to certifying the parole of an inmate incarcerated for murder. This bill would permit the family of the murder victim to testify in person or submit written documents at that hearing.

That statement solves the problem of what Jim was talking about. This says specifically that my intention, and the Senator's intentions here when we wrote this legislation was to permit the family of the murder victim-- Now that wouldn't need any further explanation if it was part of the law.

MR. MURPHY: And frankly on-- Is it S-1243?

SENATOR KOSCO: Yes.

MR. MURPHY: Yes, S-1243 -- the language is highlighted and underlined, and now incorporated into the statute -- bespeaks exactly what the explanatory statement is. The difficulty with the other legislation is, it doesn't appear in the statement or in the language of the legislation. But the 14th Amendment problems which have arisen in the past create a burden on the individual's right to appeal, or the right to pursue other remedies, or creates an additional punishment.

The courts have interpreted that as a lack of equal protection. There are occasions when, maybe to laymen, the court seems to be reaching out and bending over backward, as often happens in criminal cases. But the best way to address that, I would submit, is to anticipate those arguments and not create a situation that would have us back here in a similar setting 12 months, 18 months, or two years from now, trying to correct what was a well intentioned but misconceived piece of legislation.

I believe that when we get all of our heads together we can address those issues and successfully achieve your--

SENATOR KOSCO: I would appreciate that.

MR. MURPHY: I'm at your beck and call, sir.

SENATOR KOSCO: Thank you.

MR. MURPHY: Thank you, Senator.

SENATOR KOSCO: Captain Zavinsky and Robert Schaeffer? Robert Schaeffer is Vice President of the Port Authority PBA, and Captain Zavinsky is a captain in the police department right next door in Rochelle Park.

ROBERT SCHAEFFER: Good afternoon. I'm the Vice President of the Port Authority PBA. I represent one of the largest police forces in New Jersey.

I'm not going to go into how this affects my members, as far as morale goes when these types of things happens. But one of my jobs is to assist the families when one of our police officers is murdered, through the trial, through the wake, and through the funeral. If any of the legislators had to do this just once, I don't think there would be any doubt in their minds about passing this legislation, how important this is, and how devastated these people are for the rest of their lives.

I just want to thank Senator Kosco and the other legislators for having the foresight to bring this type of legislation forward, because sometimes ignoring the liberal special interest groups -- you do something just because it's the right thing to do. And this bill is the right thing to do.

SENATOR KOSCO: Thank you.

CAPTAIN RICHARD ZAVINSKY: Mr. Chairman, members, good afternoon. I'm here today on behalf of Chief William Betten of the Rochelle Park Police Department. We thank all those responsible for making this hearing possible, especially Senator Louis Kosco for sponsoring this legislation which deals with convicted murderers who have received the death penalty.

After I visited the graves of officers Peter Voto and Gary Tedesco yesterday afternoon, I vowed that if there was going to be any chance of reducing vicious murders such as these men endured, perhaps this type of legislation might be the solution.

I'm sure most of us have heard the horror story over and over. But that doesn't diminish the atrocities which were perpetrated against those officers, or for that matter, anyone who has been murdered, especially the way those men were.

We in the Rochelle Park Police Department had officers respond to this heinous crime scene to offer assistance. The officer saw savagery unleashed upon other human beings that most of us can't even imagine. Yes, as a police officer, I and other police officers may be significantly more emotionally involved in these type of situations. Our feelings, I'm sure, are greater than the general public about this particular issue. I do believe, however, that if anyone in this gathering had to witness that night of horror -- because that's what it was -- he would also feel as we do in the police profession.

This legislation stems from a case where the people in the State of New Jersey sentenced a convicted murderer to the death penalty for a shockingly terrible crime against another human being. No, this is not a man who was sentenced to a prison term. It's about a man whose life the people of this State judged should be taken, but he still lives.

As I stand before you, I ask your support for this bill. Our system of criminal justice is in a really sad state when we can allow an individual -- any individual -- convicted and sentenced to death for murdering police officers, or murdering anyone else, to be allowed to gain freedom, whether it be after 15 years, 30 years, or 50 years. It is especially so when the murder of a police officer takes place. It's an attack on the very persons responsible for protecting our society from those who could and would kill whenever they had the opportunity.

If a policeman can be killed and his killer is not executed, or spends the rest of his life in prison -- his natural life in prison -- I ask you, what message is sent to the ordinary citizen? I would suggest the message is: If they're killing cops and getting away with it, what do I as an ordinary citizen -- what chance do I have as an ordinary citizen? That's what's going through the public's mind out there.

I believe that what I have stated is one of the primary reasons our country has one of the world's highest murder rates, if not the highest. If these laws sponsored by Senator Kosco and others aren't passed, the killing of policemen will undoubtedly continue, and the slaughter of countless innocent citizens will go unabated.

I'd just like to cite out of this past Sunday's Newark Star-Ledger a news clipping to illustrate my point to you. "Two men and a juvenile have been charged with an armed robbery and attempted murder after a Belleville, New Jersey man was robbed of 25 cents early yesterday morning, police said. One of the men fired two blasts from a shotgun, but neither shot hit the victim." I ask you, is this what our country is about?

Now is the time to act, before our society as we know it is totally lost. We're losing it. We should not totally lose it. I think legislation like this can hopefully help to

prevent future acts. This just may be the chance to reduce the carnage that's taking place every single day, not only in this great State, but throughout the country.

To the Voto and Tedesco families and friends: Chief Betten has asked that I extend to you our heartfelt support for this legislation. In our minds and in our hearts, we know that we can never undo that night of horror, but we will always be with you. On behalf of our Chief we express our thanks to Senator Kosco, other legislators present, and anyone else connected with supporting these bills. We sincerely thank you for your efforts. We hope they come to fruition.

Thank you very much.

SENATOR KOSCO: Thank you very much, Captain.

Does anyone have any questions? (no response)

Thank you.

Pat and Rose, do you want to add anything? Come on up. Assemblywoman Rose Heck and Assemblyman Pat Roma.

A S S E M B L Y M A N P A T R O M A: The last shall be first and the first shall be last.

A S S E M B L W O M A N R O S E H E C K: That's right.

A S S E M B L Y M A N R O M A: Thank you for this opportunity to be able to testify on behalf of these bills. It's appropriate that we're here in Lodi in order to hear testimony.

By way of some background, let me say that over the last several years -- as you well know, Senator Kosco, when you were in the Assembly -- the genesis of a lot of these bills deals with a very tragic, tragic situation that occurred in Lodi. And we've had to deal with it year, after year, after year in terms of the hearings, in terms of the pain inflicted upon the families.

In 1988 when I took office, one of the first opportunities I had was to appear before the State Parole Board. It seemed quite unbelievable to me the way the law would favor a criminal, and not give the same rights to a

victim. What happened, as a result of legislation that we sponsored and is now law, is that the Parole Board now meets as an entire group in cases where the death penalty is not imposed, because there had been a problem in the law that two members of the Parole Board would, in fact, allow parole. That has not corrected the entire problem, but it's made it more difficult for criminals such as Trantino to be released from jail.

Unfortunately, as a result of what happened with the United States v. Georgia -- Furman v. Georgia -- the death penalty was struck down, and Mr. Trantino wound up with life imprisonment. However, we have continued to move forward in terms of legislation that will address these issues, and these bills are a step in the right direction.

This November we also have an opportunity. As all of us know, there will be a ballot question to make sure that what we have in the State of New Jersey is a death penalty that really works. We all know of the case of State v. Gerald, where a burglar broke into a house, and as a result of which -- he was there to steal a TV -- and in stealing the TV, ran out of the house, confronted an elderly man, and crushed his skull. Our courts had said that he did not intend to kill the elderly man; that that person intended to steal the TV.

That is not acceptable in this State. When someone takes the life of another, and does so in such a vicious and callous manner, we should have a death penalty statute that works.

So I would hope that this November that ballot question will pass overwhelmingly.

In terms of this particular bill, S-1244, I understand the nature of what is necessary. We had occasion some months back, Assemblywoman Rose Heck and myself, to introduce a similar measure, which I believe at the next voting session, it might be appropriate to join both of the bills. We had

occasion to hear from a number of people from the Corrections Department and from the Attorney General's Office. I'm proud to report that bill passed the Assembly by 58 votes.

This gives us a unique opportunity, Senator, because all of these years when we have gone down to these hearings, we have not had the opportunity to get these bills out of the Senate. As you well know, up until recently with the change in the Senate, many times these bills would leave the Assembly and go to the Senate and they would not be moved forward. I feel certain that with you and the other members of the Senate, there is a great opportunity to make these bills a reality.

The idea behind keeping somebody in prison for life imprisonment really is a perception from the standpoint of not only the public; the people really feel that criminals have more rights than victims.

I heard the testimony earlier that perhaps there might be some type of constitutional defect. I don't believe that to be the case. And in terms of the death penalty, it should be imposed in those cases where there is a deliberate, premeditated, intentional act, or the commission of a felony. If that person is not executed -- does not forfeit their life for such an egregious matter -- then there should be life imprisonment attached to it to make sure that society is safe.

We all know that right now life does not mean life. The people of the State deserve more. Each and every time we have to sit down with a victims' group, each and every time we have to deal with these tragedies, that we talk about what is necessary to protect our citizens from rape, it is about time that we had that opportunity.

Let me say that I fully support the measures. I believe that we have an historic opportunity, not only with the passage of the ballot question, but also with the passage of Assembly Bill No. 299 in conjunction with the measure that you have introduced. I would hope that at some period in the near

future that we would have an opportunity to have the full Committee meeting, because today we have the opportunity to take testimony; we have the opportunity to be able to move forward.

Assemblywoman Rose Heck, when she appeared as the Mayor of Hasbrouck Heights, came down to a hearing back in 1988. We did not have the full attention as we have here today. Many of the Senators were out, were not in, were not listening. Quite frankly, I applaud you for being here, to be able to hear all this testimony.

Let me say also that on Thursday we have another measure that will be posted in the General Assembly. I would ask your support for that. We have a situation here where in the State of New Jersey there is a furlough policy where convicted murderers are allowed to be out on the streets. The Department of Corrections -- the Parole Board -- calls it a management tool. I think it's about time that we started looking at the rights of victims. And if we have to correct the Constitution to do so, then we should move ahead and protect the rights of victims.

I fully support these measures. I will do whatever is necessary in my capacity. At this time I would turn over for comments to Assemblywoman Rose Heck, who is the prime cosponsor of the measure, and who has worked with me not only on A-299, but also on a number of other measures that we have passed in the Assembly. I think we have an opportunity here, Senator, to work together to pass a number of bills that the people of the State desperately need. They need to feel protected. They need to feel that there is a deterrent value. They need to feel that the law is working for them. And I feel certain that with your Committee and with your help, this will become a reality in the near future.

Thank you.

SENATOR KOSCO: Thank you, Pat.

ASSEMBLYWOMAN HECK: I'd like to thank you for having the hearing here in Lodi, next door to my borough, the Borough of Hasbrouck Heights. It's very appropriate that I come here again as the Mayor of Hasbrouck Heights, and as Police Commissioner of the Borough of Hasbrouck Heights, because Police Chief Andy Voto and our police chiefs have worked over the years, hand in hand, to try and improve the laws of the State, to respect the lives of police officers. Because we have seen the suffering of their families and the lack of morale in police departments when they are not respected by the State, the laws, and the judges.

I recall the day they were looking for the suspects of the Voto and Tedesco killings. I was a young mother of four young children. We were warned to lock our doors, and we saw police officers all over both towns. Everywhere you looked they were searching out these men. One, as you know, was found in New York and was killed there. The other, Trantino, became so frightened by that death that he came forward.

We have seen him treated with much too much regard for the heinous crime he committed, for the suffering that the families have endured and still endure -- and that's not mothers and fathers and brothers and sisters, but aunts and uncles, cousins, and their neighbors. It's something that will live with all of us for the rest of our lives.

But something that happened in Mr. Trantino's life that improved his life which really annoys me greatly-- He has been able to receive a college education, to become an artist, to become married, and still is the focus of everybody's attention. This man was convicted. He was supposed to have received the death penalty, and he's still receiving bonuses for the heinous crime he committed.

I know it is your intention, as it has been our intention -- Chief Voto and myself and the Assemblymen that we have worked with over the years, and the Senators -- to make

certain that this man and others like him are treated the way they are supposed to be treated, as criminals, criminals with no regard for human life.

Assemblyman Roma mentioned the furlough system. One of the reasons that precipitated this piece of legislation happened to be because of the myriad of hearings that we held on crime victims' rights throughout Bergen County and in Trenton.

A mother told the story of her son, 12-years old, sitting in a McDonald's. The killer came in and shot at random and her son was hit, right through the center of his forehead -- dead immediately. A couple of years later she was down at the Jersey Shore and someone bumped into her; it was the murderer of her son. That should never, never happen to anyone. It brings tears to my eyes, because no one can possibly imagine the anguish of this mother and this man-- She couldn't understand why he was down at the shore. He was on furlough.

We ask, we implore, that you also join us in our efforts to make certain that murderers are not treated with this kind of regard. They are animals and should be treated as such.

I remember reading after we had the one Assembly bill, which is, I would believe, exactly as yours. It was passed two weeks ago by a vote of 58 to 1. There were some comments saying that we shouldn't pass this law that came from the Department of Corrections, that there would be no incentives for these murderers to behave. And one woman mentioned that, after all, we should look at the recidivism rate of murderers who are released. Isn't that abominable? The recidivism rate is low.

Think in terms of what that means. That means they've killed again, but not too many of them. Isn't that wonderful?

That's why I commend all of you for holding these hearings. Information like this should be gotten out to the

public so that they do not feel sorry for these misfits of society.

I thank you very much for allowing me to speak.

SENATOR KOSCO: Thank you.

ASSEMBLYMAN ROMA: Thank you.

SENATOR KOSCO: Does anyone else have any questions or comments? Is there anyone else who might have something they want to say?

K A R E N S P I N N E R: Good afternoon, Senators. Thank you for the opportunity to be here. My name is Karen Spinner and I'm with the New Jersey Association on Corrections.

I'll address my remarks to S-1244. As the bill is currently written, we do not have an objection to the bill. Our concern is that as long as it's only those murderers whose death penalties are not upheld who are subject to life without parole--

When I spoke to Mr. Tumulty early yesterday, he indicated there might be some issues -- constitutional issues -- which as an attorney-- I am not an attorney, so I'm not real clear what they are. We are particularly concerned that we will be shifting from a system where murderers get a 30-year penalty as a minimum, to a system where there will be nothing other than the death penalty or life without parole.

As I say, as the bill stands I don't have a problem with it. But if we do end up in that situation where we no longer have 30 years and the possibility of parole, but have no possibility of parole, we are going to have extreme problems with our criminal justice and corrections system.

I know that these bills are, in many ways, a response to a particular situation when the law was different and when a life sentence meant about 12 years. Today we don't have that situation. We have a situation where your minimum sentence is 30 years. That's a long time to keep someone incarcerated. It's a long time for the State to foot the bill for someone.

We know that over time people can change, and that people do change. They can be released safely into the community after a certain point, and that's why we have a parole system.

We need to consider what the impact of a life without parole stipulation would be, in terms of numbers. I think you'd find those costs staggering. One of the things we find is that even a 30-year sentence now, which is the mandatory minimum, is not deterring people from committing murder. And the reason for that, Senators, is that most of the people who commit these murders don't sit down and think about what's going to happen to them. They act on the spur of the moment.

Certainly, there are those people who are cold-blooded murderers. I don't deny that and I don't have any sympathies for them. However, there are a lot of people who end up murdering their friends over stupid things, and to keep that kind of person locked up for the rest of their lives-- I mean, 30 years is a long time; I'm not arguing that point with you. But I think we have to consider the cost to the public in terms of how much construction will be needed; the enormous cost of having a large geriatric population of prisoners.

I think when you come to it, we're talking about 30 years, and that's not 30 years and you're out; it's 30 years and maybe we'll see about parole. The Parole Board in this State has not been, in my opinion, generous to murderers. Even those under 2-A who could be getting out, are getting long stipulations and are serving closer to 30 years now than they ever did before.

So I think before we rush into eliminating 30-year mandatory -- which might be a consequence if this is not constitutional as some suggest -- that we really consider what kind of impact we will have in the long run.

SENATOR KOSCO: Have you done any research on that? Do you have any numbers? You referred to the numbers. How

many -- right as we speak, right now -- how many people are there in State prisons for murder with life terms as opposed to death penalty?

MS. SPINNER: Senator, there are only, I believe, three people on death row right now, because everyone else has been overturned, so we--

SENATOR KOSCO: So we're not really talking about thousands of people?

MS. SPINNER: Well, what I'm saying to you is, if the intent of your bill is all that we ever get to, I don't have a problem with it. But what I'm saying is, if there is a chance that this is unconstitutional -- and certainly Assemblyman Roma's bill is broader than this bill, that's my concern; that his bill is much broader and that your bill should somehow get joined with that -- we would have a very large population.

SENATOR KOSCO: How many is very large?

MS. SPINNER: Oh?

SENATOR KOSCO: Right now, how many do we have? How many lifers do we have right now?

MS. SPINNER: I'm not certain. We probably have 300, 400 at this point. You know, there are a lot of murders that go on in this State -- people getting 30-year terms.

SENATOR KOSCO: You see, there are a number of things that we're trying to address. One is not prison overcrowding. That's another issue by itself.

Now, if we're going to distribute justice, whether or not we have room to put that person, then we're not distributing justice. If we're going to distribute punishment, then that's the purpose of people being incarcerated is to receive a punishment, we are not-- If we're going to look at what we can do to stop it from happening in the first place, that's another issue. But once it happens, the person goes into the prison for punishment. Now, that's what we are addressing with this legislation.

We are addressing the other issues also, but with different types of legislation. We are dealing with a person who has committed a brutal murder -- not that there is any murder that is not brutal -- but we're talking about someone who has committed murder and has been sentenced to death. Those are the people who we are addressing.

MS. SPINNER: And as I said, I don't disagree with that part of the bill.

SENATOR KOSCO: Now, are we looking to see how nice we can be to this person? We are not, through legislation.

MS. SPINNER: It's not an issue of being nice, Senator.

SENATOR KOSCO: The Department of Corrections has a number of objectives. One is education -- rehabilitation. But the other one that we're addressing is, someone has committed a crime; they have already been sentenced to a particular sentence whether it be life in prison, or whether it be the death penalty. It's the Department of Corrections' responsibility to carry out that sentence.

Now, prison overcrowding, we all know that is a problem. But if we start letting people out of prison just because we don't have room for them, then we have a very serious problem. So we're addressing that from another standpoint, and that's looking at who we're putting in prison in the first place, to make the punishment fit the crime.

If you're looking at making the punishment fit the crime, which is, I think, what we're all trying to accomplish, then the death penalty -- life in prison without parole is what we're addressing -- makes the punishment fit the crime. For the people who are murdered, 30 years doesn't mean anything to the family, because 30 years later is just like yesterday.

You can't go to someone and say, "How long is enough?" The one newspaper that I invited here from down in South Jersey said in, "How Long is Enough" -- or whatever their editorial was -- that they thought that in this particular case

Trantino should be let out of jail because he served a long enough time. I asked them to come here and testify. Obviously, they didn't come.

So we don't know what the answer is to "How long is enough?" But we do know that murder is permanent, and the person who commits that crime has to be subjected to punishment. It's your responsibility -- the Department of Corrections--

MS. SPINNER: I'm not with the Department, so please don't think it's the Department.

SENATOR KOSCO: Well, when I say-- You represent the Department of Corrections, you said?

MS. SPINNER: I don't. I don't represent the Department of Corrections. I'm with the Association on Corrections. We're a private, not for profit. Just so you're not confused. I don't want people to think I'm putting words in the Department's mouth.

SENATOR KOSCO: Oh, I'm sorry. Okay, I got you. I'm sorry. I misunderstood you.

But we are just as concerned about rehabilitation. But we are dealing right now with murder situations.

SENATOR BROWN: I'd like to just jump in here and thank you for taking the time to come and testify. Actually, one of your former presidents, Jamison Doyd, (phonetic spelling) shared army barracks with my husband and myself years ago.

I'm just curious. Has the Association-- You were founded when?

MS. SPINNER: In 1961.

SENATOR BROWN: Has your attitude, as you have seen the public become increasingly, and in my view justifiably, concerned about victims' rights-- I was just sort of curious how the Association, which obviously was-- Your original charge is what?

MS. SPINNER: Our original charge was to work for the rehabilitation of offenders and ex-offenders; the improvement of the criminal justice system; its effectiveness and cost-effectiveness, in particular. Over the years we have a particular concern with victims. We have supported the constitutional amendment for victims' rights; so we do have a concern with victims. And we're also operating a domestic violence shelter in Passaic County. So we've been doing victims' rights work.

We have no problem with S-1243, certainly, which is the bill that allows victims to testify at parole hearings. But our concern is that there is a point beyond which punishment serves no useful purpose. I mean, if you look at the experience of European countries where a very long sentence is five years; whereas, here a five-year sentence is a very short sentence in many cases, that we are looking at what does work.

What we've seen is that we've now had 10 years of 30-year sentences for murder, and we've had lots of long-term sentences for other things. What we're seeing is that people have not been deterred by that. It only seems to deter people who are more middle-class; people who have things to lose. Whereas, if you're talking about most of the people we incarcerate, who are poor, people of color, who don't have a stake in the system like we may, our deterrence does not seem to have an impact. So what we've done is create a system where we're not having an impact on those peoples' lives. We're locking them up.

SENATOR KOSCO: But that's not what we're addressing with this legislation.

SENATOR KOSCO: Well, I'm responding to Senator Brown.

SENATOR KOSCO: What we're addressing with this legislation is a person; that has nothing to do with peoples' education, or peoples' color, or peoples' anything else. We're

discussing, right now, legislation that deals with the person who committed a crime and who was sentenced to a particular sentence. That's what we're talking about.

The things you're talking about, we're working on that. I wish you had been to my hearings that I held to try to keep the McCorkle School open, because that's truly rehabilitation.

MS. SPINNER: I was there, Senator.

SENATOR KOSCO: And I lost that hearing because of what happened, but we won't get into that.

MS. SPINNER: We did testify in favor of keeping the school open at one of the public hearings.

SENATOR KOSCO: That's where that issue has to be addressed. This particular issue is about someone who has committed a terrible, terrible act against another human being. We're talking about dealing out the punishment to fit the crime. It's just as simple as that.

I realize legislative stuff is never simple, but that's what we're dealing with, in this legislation.

SENATOR GIRGENTI: Karen, as you said, the bill the way it presently reads -- you're in favor of it?

MS. SPINNER: We can live with it. Let's put it that way. I'm not going to oppose the bill as it's currently written. My concern is an extension beyond that, which would be eliminating the 30-year term.

SENATOR KOSCO: We're not talking about that bill.

MS. SPINNER: I just wanted to be clear on what our position is.

SENATOR KOSCO: I would guess that our Committee would probably hear both bills and handle them individually.

MS. SPINNER: Okay.

SENATOR KOSCO: Thank you.

MS. SPINNER: Thank you.

SENATOR KOSCO: I see former prosecutor Larry McClure is here. Larry?

L A W R E N C E J. M c C L U R E: Just for purposes of the record: Larry J. McClure. I'm presently the Executive Director of the Bergen County Utilities Authority. I apologize for being late. My responsibilities in that position delayed me. But I did serve as Bergen County Prosecutor for six years, and prior to that time frame, had served for another four years as an assistant prosecutor. So I have been in the frame work of the system in handling and dealing with decisions with respect to capital matters.

I think what we can't lose perspective of -- and when I came here, I was to speak in support of the bill -- is the amount of effort, time, and consideration that goes into a decision before we ever get to the capital stage.

One of the things that we just seem to accept and not want to deal with is that there are individuals who have no ability to place any value, not only on other peoples' property, but on human life. They exist and they function in our society. These are not--

The bill you are talking about today, and the decision about capital punishment in general, is not based upon ideal choices that we would like to have -- and like to have the ability to change individuals. The reality is that there are individuals we cannot change, who we know from their past experience and their background will, if given an opportunity on the slightest provocation with almost less than rational reasoning, do harm to other individuals, and are indifferent as to whether or not they take their lives.

You're talking about those who have gone through the stages to have gotten the capital sentence initially, through the process -- through the decision making process in the prosecutor's office -- the weighing that is done to determine whether you'll pursue a capital case-- And that's a serious, serious decision to hold that responsibility in your hands and to weigh the public interest -- the public protection, the

innocent versus the guilty-- The innocent individuals out there who unwillingly or unwittingly might be subjected to this individual again.

So you go through the process and a capital conviction is obtained. Now, what was the public expectation at this point in time? You obviously received the public mandate and the public support to initiate a death penalty. And they, the majority of the people in this State, said that there are certain individuals and certain crimes that are so offensive and so heinous in nature; the individual being so without rehabilitation probability that in order to protect myself and protect my children, I authorize you to impose a death penalty as part of the system. Until such time, perhaps, as we can find other answers how to change people, how to guarantee that it will not recur; I place this responsibility -- this authorization -- in the system.

Now an individual then goes through the process and is convicted, has all his or her rights protected, and is sentenced to death, and for whatever reason the sentence is commuted -- and as we know, there have been many, many issues regarding the viability of the individual statutes involved. It is not unreasonable, in serving the public expectation and the reasoning of the public at that point in time, to say that although the law says you will not now face the death penalty; you will serve life without parole.

It's a very reasonable, I think, logical step to take. As we sit here you may say, "Well, people may think in terms of 30 years without parole being such an incredible period of time."

With the number of younger individuals becoming involved in homicides -- literally predators out there -- who are caught and convicted, perhaps in their early 20s-- Under the old system they are going to hit the street at 50. And the probability is that whatever was fixed in their personality

that created this tendency to take life without consideration is still going to be there. That's not going to change, and we can try all we want at rehabilitation. Why should the public face that uncertainty when this individual steps out again?

The great dilemma that you have with this bill is, under the prior statute -- because I served as a prosecutor during that time frame -- when a person would be convicted of first degree murder and be sentenced to "life," that really translated into 13.9 years before you became eligible for parole. And that also ties in to an extent with the second bill, the ability of families to appear at a parole board. In its own way, it's very tragic to require a family that has had someone close to them -- part of their very family fabric -- torn from them, and have to come back every two or three years to make their case against parole.

When do we let them go on with their lives? When do we let them try to, as best they can, put it to rest? We force them to step up every two or three years and reargue their case.

Now, certainly if there is to be an argument, they ought to have the opportunity to appear and be heard, not be a piece of paper coming through a process. But the bill that you've structured will go a long way to avoid the necessity for the victims and their families to any longer have to come forward and make these arguments, and again, to continue the burden for their whole life time. Besides taking the person from their family, you take from their life by making them relive it and go through it on a constant basis.

So from the standpoint of a former prosecutor I support both pieces of legislation. We have to accept the reality that there are individuals who must be, at a minimum, warehoused during their life time. Whatever combination of factors created that individual -- and maybe we can address that as we mature as a people and we get better understanding, but in the meantime -- we must protect the innocent members of

society. The hard decisions have to be made that the majority can go on and live their lives in a level of freedom and protection, and that that minority of individuals who have literally forfeited their right to freedom in our society continue to be incarcerated.

I thank you for the opportunity to appear.

SENATOR KOSCO: Thank you very much, Larry.

Does anyone have any questions? (no response)

Thank you very much.

I want to say thank you to you, Leanna, and to you, John, for being here, and to those of you who participated, and to our staff who worked very diligently to get this hearing together.

We're going to continue to work on this legislation. We have some good suggestions that came to us, and we're going to follow-through on it. We'll let you know when we're having the next hearing and where it will be.

Once again, thank you very much for your participation.

(MEETING CONCLUDED)

APPENDIX



NEW JERSEY STATE PAROLE BOARD

CN 862
 TRENTON, NEW JERSEY 08625
 TELEPHONE NUMBER: (609) 292-4257

October 26, 1992

TO: Honorable Louis F. Kosco
 Chairman
 New Jersey Senate - Law and
 Public Safety Committee

FROM: Louis Nickolopoulos
 Chairman
 New Jersey State Parole Board

RE: Senate Bills No. S-1244 and S-1243

In reference to the above captioned Senate Bills which were forwarded by your staff on October 22, 1992 to the State Parole Board, please be advised of the following:

1. Senate Bill No. S-1244

The New Jersey State Parole Board takes no position on this bill.

2. Senate Bill No. S-1243

The amendment to N.J.S.A. 30:4-123.55(f) as proposed could possibly be interpreted to require the State Parole Board to affirmatively seek out every family member of a murder victim. The State Parole Board certainly does not have the means by which to ascertain the names and present addresses of every family member

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ATE:

Honorable Louis F. Kosco
 Senate Bills No. S-1244 and S-1243
 October 26, 1992

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of a murder victim especially when the parole process may not be initiated for a significant number of years from the date of the commission of the crime and from the date of imposition of sentence. The State Parole Board is of the opinion that its obligation to notify the nearest relative(s) of a murder victim should be limited to the nearest relative(s) that has previously informed the Board of their intent to participate in the parole process by submitting a written statement or by testifying in person. Accordingly, the State Parole Board respectfully suggests that the proposed amendment to N.J.S.A. 30:4-123.55(f) be modified to read as follows:

"The board shall notify the nearest relative of a murder victim, who has previously contacted the board pursuant to N.J.S.A. 30:4-123.54(b)(2), of the hearing and shall afford the nearest relative of a murder victim the opportunity to testify in person or to submit written statements."

In addition to the above comments, I respectfully wish to advise your committee members that the State Parole Board on September 30, 1992 voted to propose an amendment to N.J.A.C. 10A:71-1, et seq. (the State Parole Board's Administrative Code) authorizing the in person testimony of the nearest relative(s) of a murder victim before the full State Parole Board.

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TO: Honorable Louis F. Kosco
RÉ: Senate Bills No. S-1244 and S-1243
DATE: October 26, 1992

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The Board is in the process of drafting such a proposed amendment to the Administrative Code as well as other amendments to the Administrative Code which will implement the victims' rights legislation signed by Governor James Florio on July 23, 1992. The Board anticipates the submission of the proposed Administrative Code amendments to the Office of Administrative Law by mid-November, 1992 and the publication of same in the December 21, 1992 issue of the New Jersey Register.

LN/cg

cc: Mr. William J. Pascreli, III, Esq., Office of Governor's Counsel
SPB

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New Jersey State Library

