

PUBLIC HEARING

before
New Jersey Legislature,
(LEGISLATIVE) COMMISSION TO STUDY DRUG LAW
PENALTIES AND TREATMENT PROGRAMS, CREATED
PURSUANT TO ASSEMBLY CONCURRENT RESOLUTION
NUMBER 2001,

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185 W. State Street
Trenton, N. J.

MEMBERS OF COMMISSION PRESENT:

Assemblyman Alexander J. Menza (Chairman)

Assemblyman James J. Florio

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ASSEMBLYMAN ALEXANDER J. MENZA (Chairman):

I would like to call the meeting to order. This is the Narcotics Study Commission.

This Commission is meeting pursuant to Assembly Concurrent Resolution No. 2001 which has set up a joint study commission to study narcotics. The members of the Commission are myself, Alexander Menza, Assemblyman from Union County and Chairman of the Commission; Assemblyman James Florio from Camden County, who is now the Co-Chairman because he is the only other person here; Assemblyman Peter Russo from Bergen County; Senator Jerome Epstein from Union County; Senator Hagedorn; and Senator Wynona Lipman from Essex County.

I will read a paragraph to you from the Resolution, which is self-explanatory and will demonstrate to you what this Commission is all about:

"It shall be the duty of said Commission to study and review the penalties currently imposed upon individuals convicted of using certain substances currently subject to the provisions of the 'New Jersey Controlled Dangerous Substances Act.' The Commission shall also study the feasibility and advisability of changing the present emphasis in New Jersey's laws from one of punishment to one of rehabilitation."

This is the first hearing. We intend to have two other hearings. To start off with, our next hearing will be, I believe, in Essex County, and thereafter in Camden County.

We are not going to limit the speakers to penalties. I would hope that the speakers would talk about the entire area of narcotics, obviously directed toward the penalties and obviously directed toward the rehabilitation aspects.

I would like to call for the first witness, Albert C. Wagner, Director of the Division of Correction and Parole. Mr. Wagner.

Before Mr. Wagner testifies, I also want to make it quite clear that this hopefully will be a very meaningful Commission. And we, of course, intend to submit a report to the State Legislature, a detailed report, and we hope that the report will be acted on in the very near future.

A L B E R T C. W A G N E R: Mr. Chairman, I don't know how much I can contribute here. I have been asked, however, to talk briefly about the programs in the State Institutions in the area of drug abuse, which I will be very glad to do and I will try to answer any specific questions that the Commission might have.

I thought maybe the first thing I might do would be to indicate the size of the problem, at least in the State Institutions, by telling you that in these prisons - I am thinking now of the Trenton, Rahway and Leesburg Prisons exclusively, the prison complex - there are in any year, the year 1972, for example, a total of 1711 admissions, and that 39% of these have a history of drug abuse, mostly heroin.

In the youth complex of institutions - and I speak now about Yardville, Bordentown, Annandale, and their satellites - there were, last year, 3,527 admissions and here 52% of those admissions had a history of drug abuse, mostly heroin.

You might be interested further in another bit of data and that is, in the prison complex 21% of admissions during 1972 were for narcotic law violations, mostly possession. And in the youth correctional group 22% for such violations. In other words, there is a tremendous load, a tremendous problem of drug abuse on the part of individuals who are entering the State institutions at this time and for some years in the past.

To describe the programs in the institutions, I think they can be described as varying from very good and relatively comprehensive to almost non-existent in

one or two institutions.

I might describe very briefly the situation at the Youth Reception and Correction Center at Yardville. This institution has two programs, one where a housing unit, comprising 66 men, has been set aside as a therapeutic community for individuals with serious drug problems. These are individuals who have acknowledged their problem and have volunteered and want to do something about that problem. This is based on what might be called the Highfields model, that is interaction groups with activities of various kinds including peer pressures. It has been accomplished with a staff of the institution itself, that is a staff budgeted and made available by the Legislature for these purposes. It is handled full-time by a psychologist, who works full time, I should say, and then others part time, some psychological staff and also social workers.

In addition to that, Yardville has a satellite in the Wharton Forest for approximately 45 individuals, exclusively again a therapeutic community for individuals with serious drug abuse problems. This comes close to the Synanon model, or at least some of the practices are derived from the Synanon model.

We have a staff there, a total staff of five people full time, plus a research component.

This means then that in an institution such as the Yardville Institution we have a total of some 110 individuals in a fairly intensive drug abuse program, out of a total population of about 850, and about half of those have had, as I indicated earlier, a drug abuse problem, a history of it at least. That doesn't mean to say, of course, that individuals coming into the institution have been on - that 50% have been on drugs at the time of admission. That is not true, but they have had a serious problem in the past if not at the time of admission.

I would like to say also, with reference to the Yardville program and its two components, that with the number of individuals we are currently reaching, we are reaching all individuals in the institution who have expressed a serious desire to kick the habit. The others are pretty happy the way they are and we have not been able to develop a program which would tend to motivate them for change.

As we look at the Leesburg institution, for instance the Leesburg Prison, we have had a program there operated pretty largely by volunteers from the community, known as Exodus House. We have had to change the name recently because it conflicted apparently with a program of this kind in the City of New York. I've forgotten the new name of the program down there except that it's two Greek words meaning "new beginning".

Again the men live in a separate housing unit, approximately provision for 86 individuals. It has been operated, as I indicated by volunteers, largely from NARCO which, as you know, is a private organization in Atlantic City. Again it's modeled after Synanon with a very heavy reference to community services upon release from the institution.

We are happy to be able to report that with a grant from SLEPA, the State Law Enforcement Planning Agency, of Federal funds made available by Law Enforcement Assistance Administration, we are now entering into a contract with NARCO to provide a full-blown program down there for this group.

Now the other institutions vary from, as I indicated, a fairly comprehensive program in these two institutions, particularly Yardville, to almost nothing in the Trenton Prison, for example, except for what is being done by the Mercer County Drug Abuse Clinic working with the Division of Narcotics-Drug Abuse Control in the Department of Health. Here individuals come in regularly

and hold individual and group counselling sessions trying to get individuals ready for release and admission to community programs. There are about 50 individuals in this program at the present time with a waiting list of about 50 also. This is out of a total population in that institution of about 1200.

We have been using Federal funds extensively, Law Enforcement Assistance Administration Funds, for drug abuse programs. The most recent of these is the program set up about six months ago in the Bordentown Youth Correctional Institution and the Training School for Boys at Jamesburg. This program, which is now in the process of hiring staff, will provide approximately 25 staff members to handle the programs at these two institutions. It is going to be certainly the most comprehensive that we have had so far. Folks from Discovery House have been helping us to get a design for this particular program at these two institutions. We will service approximately 100 inmates between the two institutions.

I can describe, if you like, the program at the other facilities in some detail. Perhaps there is no need for that. We are seeking additional funds from SLEPA for setting up a much more intensive program at both the Trenton and the Rahway institutions. We have now been advised that necessary funds have been identified and will be made available to us in this connection.

We feel that to bring the institutions up to the level of the other institutions, up to the level I have described, namely the prisons, Clinton and Annandale, we would need approximately \$350,000. Of this sum an extensive portion will be made available to us, hopefully, in the very near future from SLEPA.

I think I would like to mention just one other thing before closing and that is to describe very briefly one of the most hopeful developments in the Department in

this area and that is that several years ago, as many as three years ago, we sought and obtained approval to use Title 1 funds -Title 1 funds are under the Elementary and Secondary Education Act, Federal Funds - to set up a couple of specialized caseloads in parole where, instead of a caseload of sixty or seventy per officer we set up individuals of only fifteen to twenty for each officer, each one of these fifteen or twenty having a very serious drug problem.

We have set up six such specialized caseloads in three district offices around the State and we've done a very careful research job with this. We set up control groups, for instance, that is matching the individuals in our specialized caseloads with similar individuals who are in the regular caseloads of parole officers. And our experience so far is that we are just about twice as successful with the small specialized caseload as we are with the regular caseload with parole officers. This results, I think, from a variety of factors and at least two are important. One is that the individual realizes that upon a serious relapse into drugs he is likely to be sent back to the institution for violation of parole. In addition to this, of course, there is, he knows, a constant urine testing program so that if he is on drugs for any period of time he is likely to be picked up and identified as such. The other is that the parole officers become experts, if you will, in handling this kind of problem and are able to provide services and counselling to these men that is very, very intensive. And I think both of these factors are operative in the success we've had with specialized caseloads in parole.

I am happy to report also that we have just been funded by SLEPA again with Federal Funds for nine more such specialized caseloads.

I think I will end there, Mr. Chairman, and answer questions now.

ASSEMBLYMAN MENZA: What percentage would you say of the persons entering institutions have had a drug problem, generally speaking?

MR. WAGNER: Well, it varies from 52% in youth institutions - that's the age range of 16 to 30 - to 39% in prisons. This is all admissions to the institutions.

ASSEMBLYMAN MENZA: When you say drug problems are you talking about persons who have at one time in their lives been addicted?

MR. WAGNER: Yes.

ASSEMBLYMAN MENZA: As high as 52%?

MR. WAGNER: Yes. Our figures do not include those who may have experimented with glue or marijuana.

ASSEMBLYMAN MENZA: It does not include marijuana.

MR. WAGNER: It does not include marijuana.

ASSEMBLYMAN MENZA: Why do your funds only come from SLEPA? That's Federal Government funded through the State?

MR. WAGNER: Yes.

ASSEMBLYMAN MENZA: What money do you get from the State?

MR. WAGNER: Well, as I indicated, in the Yardville setup and in a portion of the program we've had for a year or two at Leesburg, we've been able to take regularly budgeted staff money made available to us by the Legislature in the regular budget for this purpose. These kinds of funds and these positions are difficult to come by and have not been available to us.

I should point out to you also that when we get Federal funds there is a State match. Some of this we would be able to meet in kind but there is a cash match also which is provided in the regular budget by the Legislature.

ASSEMBLYMAN MENZA: Does your budget reflect a specific amount of money to be used for drug rehabilitation?

MR. WAGNER: No, it does not.

ASSEMBLYMAN MENZA: Has it ever? and do you suggest it?

MR. WAGNER: It has in individual institutions but not over-all.

ASSEMBLYMAN MENZA: What do you suggest, or do you have any suggestions with regard to this?

MR. WAGNER: In the area of --

ASSEMBLYMAN MENZA: Funding through the State.

MR. WAGNER: Well, I really feel that with the Federal monies being available to us, with the State match, which gets up to close to 25% in many instances, we will be in fairly good shape at least to meet the needs of those individuals who have really a desire to make a change.

ASSEMBLYMAN MENZA: Do you also feel, Mr. Wagner, that this is the proper approach for treating persons with narcotic problems in a jail type environment?

MR. WAGNER: Well, I guess everybody in the field would say that an institution is certainly not the ideal place to treat drug users and I would certainly share that position. As a matter of fact, it is perhaps one of the worse places to try to work with the drug abuser for a very good reason that drugs are not generally available to him in the same way they are on the outside, so that his testing of himself is just not possible within a facility of this kind. I need to point out, of course, that it's evident in what I've said that of the individuals coming to us relatively few are there because of drug violations exclusively; a great majority are there for very serious kinds of offenses, including robbery and armed robbery.

ASSEMBLYMAN MENZA: Do you have any idea, sir, what the recidivism rate is of those persons who had been drug users?

MR. WAGNER: No. We have not made that kind of a study, a differential study between those who are drug abusers and those who are not. We have not made that kind of a study. We have that data, however, in our computer and we are hopeful that within about three or four months we will be able to get it out.

ASSEMBLYMAN MENZA: Besides funding, do you have any specific recommendations as to how the State Legislature or the Administration can approach this problem?

MR. WAGNER: I think only one, and that would be for this Commission, perhaps, to take a good hard look at the twenty some percent of individuals who are now coming into the State institutions charged only with possession, to see whether or not it is possible for these individuals to be diverted from the criminal justice system perhaps, but most certainly from State institutions to facilities presumably available or could be made available in the community. I would urge the development of more community resources for this group. I think they are misplaced in a state institution.

ASSEMBLYMAN MENZA: I just have one more question, Mr. Wagner. I just want to make sure I have my facts correct. Are you telling us that from 32 to 52% of those persons who enter institutions have had drug problems?

MR. WAGNER: Yes, in the youth group.

ASSEMBLYMAN MENZA: And that 20% of all admissions are for drug related problems? possession?

MR. WAGNER: That's right. Exclusively for that purpose. That's right. Now some of these are pushers, some of the 22%.

ASSEMBLYMAN MENZA: Some are pushers.

MR. WAGNER: Yes. I don't have a breakdown. And whether or not a pusher should be in jail is something that needs to be decided by your Commission. I have some problems of suggesting that they be released to the community. On the other hand, a considerable portion of that 22% are individuals who are not pushers, individuals who have had a long and serious history of drug abuse who might just be much better cared for in the community rather than in an institution.

ASSEMBLYMAN FLORIO: Sir, I thought I heard you say something about suggesting a re-evaluation of the whole process of criminalizing or institutionalizing those who are convicted of possession.

MR. WAGNER: Yes.

ASSEMBLYMAN FLORIO: Now do you find a substantial number of people who are institutionalized for possession who are not using?

MR. WAGNER: No. I make no distinction there. Our experience has been that the individual who has been picked up and sentenced to a State institution now - and this is a relatively small portion of individuals who are arrested for this offense -- they are also users.

ASSEMBLYMAN FLORIO: Then why make a distinction between a user who is convicted of possession and a user who is convicted of using?

MR. WAGNER: I don't make that distinction.

ASSEMBLYMAN FLORIO: Then what you're really talking about is re-evaluating the concept of institutionalizing those who are just convicted of possession?

MR. WAGNER: Possession and who are users, yes. That's correct.

ASSEMBLYMAN FLORIO: I am still not sure I follow your chain of thought. Why? What would be the rationale behind that?

MR. WAGNER: It seems to me that the drug user who hasn't committed or has not been convicted of another

offense, some offense against other statutes of our State, robbery and all the rest, - it seems to me that that individual should be treated rather than punished exclusively. And this kind of treatment it seems to me is also best done in the community rather than in an institution.

ASSEMBLYMAN FLORIO: Then really what you're doing is making a distinction between the individual who is convicted of possession or using, or possession and using, as opposed to someone who is convicted on a narcotics offense in conjunction with a criminal offense.

MR. WAGNER: Most of the time - I want to make another distinction for you and that is that most of the time the individual who is sent to us who had a drug abuse problem has had it, who is sent to us, let us say for robbery, - that particular individual is not charged with possession or use, normally. In other words, as he goes through the court system he is charged with and convicted eventually only of the offense of robbery in this particular instance. It is rare that we get an individual in an institution for a serious offense who is also convicted of a drug violation, despite the fact that he is a user.

ASSEMBLYMAN FLORIO: Then it's fair to conclude that what you're recommending and what you're suggesting is that the Legislature look into the system under which those who are convicted of possession or using, not in conjunction with another crime, a statutory crime, --

MR. WAGNER: That's right.

ASSEMBLYMAN FLORIO: -- that there be second thoughts or re-evaluations of whether they should be institutionalized at all.

MR. WAGNER: Right. Yes, that's my recommendation.

ASSEMBLYMAN MENZA: Your recommendation, Mr. Wagner, is that they should not in fact be institutionalized.

MR. WAGNER: I think the Commission would do well to study a sample of those records and then have some kind of a panel evaluate just what might have been done in the community for these individuals, other than institutionalization. And, of course, we can identify a sample for your purpose or whatever you want in this area. I think it could be found. Some of the people who have been working in the field, in the community with drug users over a long period of time and I think, upon study of these records, you would find them pretty much the same as the people they normally deal with in the community anyhow. And that being so, there seems to be no particular purpose in keeping them within the facility of an institution.

ASSEMBLYMAN FLORIO: The fact that the user-possessor might also be a distributor, would that in any way change your suggestion?

MR. WAGNER: Well, if he's a distributor or pusher that should appear in the charge of which he's convicted. I am not talking about that group.

ASSEMBLYMAN FLORIO: Thank you.

ASSEMBLYMAN MENZA: Thank you, Mr. Wagner.

MR. WAGNER: Thank you.

ASSEMBLYMAN MENZA: Mr. Bill Reitter.

W I L L I A M R E I T T E R: My name is William Reitter. I am the Administrative Director of DARE. I would like to thank Assemblyman Menza for inviting us here today to testify.

DARE stands for Drug Addiction Rehabilitation Enterprise and it is a voluntary self-help program, started in 1967 by Richard R. Roselle. I think most of us here today are familiar with what DARE is about and I would like to enter as evidence in background support of DARE two letters. Instead of reading them, I will just submit them for the record.

One is from the United States Department of Health, Education and Welfare, which is an endorsement explaining the valuation of DARE with a success rate of 65 per cent success.

Another letter is one from the Essex County Narcotic Drug Study Commission which has evaluated DARE's program in the State of New Jersey and has found DARE to be medically and financially sound.

(Letters submitted by Mr. Reitter can be found on pages 62 and 63.)

I think at the heart of what we are talking about today is first of all to understand the size of the drug problem. There are many reports, some exaggerated one way or the other, about how large the drug problem is. Is it decreasing? Is it increasing? Over the years there has been very little in the way of accurate statistics that have been kept. In recent years, more increasing efforts have been made to try and pin down the statistics. But even now it is difficult because many of the drug addicts are never detected. Some are just beginning to experiment, not just with heroin, but with many, many different types of drugs, new drugs, and sometimes they are abused for years before it is even discovered. It seems like every month we hear of a new drug that is being abused.

We can look into treatment records. We can look into crime records. We can look into statistics from schools, estimates of youth population using drugs, surveys, etc. And yet it is still difficult to come up with figures that are reliable. Nevertheless, we at DARE did a survey in 1971 of statistics that were available then. Many of the statistics are not available yet for 1972. But gathering the reports from the State Police Department, Criminal Justice reports, etc., it was determined that there were in 1971 over 224,000 street crimes committed in the State of New Jersey and of these it was estimated that over 113,000 were drug related. In other words, they were committed because of crimes committed in order to purchase drugs to support a habit or under the influence of drugs or generally in the drug scene.

It was further estimated, not only from these crime figures, but also those who had not committed crimes or had never been arrested, that throughout the State of New Jersey there are over 100,000 drug users of one sort or another, either just beginning to experiment with drugs, amphetamines, barbiturates, speed, the various hallucinogens, sniffing glue, etc.

Essex County had the largest percentage of these crimes, which was 50,000 crimes in 1971, street crimes. Of these 22,000 were drug related and it was estimated that there were at least approximately 20,000 drug users in that area.

In order to deal with this problem, which is a tremendous task and truly an epidemic in our State, it has been proven and is very evident that the technique or approach of institutionalization and incarceration has not been successful over the years and that something more is needed. We are here today to talk about rehabilitation as an alternative.

Too often in the past, incarceration has been the first resort instead of the last resort in dealing with a drug user. We at DARE believe first of all preventive measures should be tried - prevention programs in the schools, in the homes, in the communities - prevention programs that deal with youth problems, not just education in drugs, not just explaining what drugs are, not just explaining the dangers of drugs, but helping youth to deal with their problems and face life without having to resort to drugs as a chemical crutch.

We believe if prevention is tried and a full effort is put into prevention programs in our schools and communities, a lot of the criminal justice problems that we were talking about in these statistics will be alleviated.

If prevention does not succeed in certain cases, which it certainly won't succeed in all cases - there will still be many who will go on to drugs - then the second step which should be tried is rehabilitation. DARE has two court-jail liaison people who go into the courts throughout the State on a daily basis and often-times the magistrate or the judge is faced with a very difficult decision of whether to send a young man away to an incarceration institution or whether to give him a more lenient sentence and let him free on the streets to return to his family and a job, if he has one, in the community. However, often times neither one of these is the proper solution. Because returning to the streets usually means for a drug addict returning to drugs and going to incarceration often means re-enforcement of his negative attitude which he already has of resentment, of talking drug language, of constantly talking about crime and associating with those who have criminal mentalities. It is a negative environment rather than a healthy, positive, constructive

environment.

Programs such as DARE provides is the third alternative, which is one of rehabilitation. We feel if this had been tried as a first approach rather than as a last-minute effort that many of the people that are incarcerated now would not have to be there because they could have received their rehabilitation before they ended up in an institution, which is somewhat like a revolving door. It seems when someone goes to jail, it reenforces their attitudes toward drugs, crime and society and often times they end up back before the same judge with the same offense. I have seen this day after day in the courts.

To stop this revolving door endless cycle, the young person rather than being punished has to be reached. He has to find a direction to a new way of life. He has to develop new values and morals. He has to set a goal in life and develop skills which are meaningful in today's world. So when we say "rehabilitation," we are not just talking about a place where he can lay up - in other words, another institution where he would get so-called cured. We think that something much deeper is needed. He has to learn to resolve his problems. He has to learn to use reason and logic to deal with his difficulties. And if he is going to stay drug free, he has to find something better than that way of life. He has to set a new goal for himself.

These things can only be accomplished in a positive setting that will encourage him. The question of motivation was brought up before and it was explained how difficult it is to motivate someone who does not want to change, that doesn't want to stop using drugs. Yet this is exactly what we are doing.

Most of the people that come to DARE are not motivated at first. They come because they are scared. Maybe they are afraid of getting locked up. They have

court pressure. Or their parents have threatened to ~~throw~~ them out of the house. Or a friend just died of an overdose. Or their wife threatened to leave them. Usually there is some spark or some reason why they want help all of a sudden. It is not really a desire to stop using drugs. It is usually some other reason.

What we do is help that person to develop a proper motivation to change his way of life, to improve himself, to create a goal and develop skills that will enable him to live life as a man or woman in today's society. Through the rehabilitation process of several stages, he is gradually returned to society with these skills. And through a follow-up program, he is kept in touch with. Also contacts are made with his probation and parole officers, his parents and his employer, which we all feel plays a very vital role in his rehabilitation.

The DARE program started ---

ASSEMBLYMAN MENZA: Excuse me just a moment. I am very familiar with DARE as most people are. We are not particularly interested in the DARE program. We are interested in your ideas with regard to the penalties and with regard to the rehabilitation process.

MR. REITTER: The reason I wanted to comment briefly on that is because there is a question as regards to what rehabilitation is. I know that there are some bills pending and also some being written that have the word "rehabilitation" in them and yet really written under that word "rehabilitation" is just another institution. And I don't believe that would be successful.

I believe in rehabilitation, but I believe in self-help. And, speaking on behalf of DARE, we believe in a drug-free environment where young people can get the education and develop skills they need in a family-type environment, not an institutional-type environment where they resent it. They just lie in bed all day.

The doctor comes in and gives them tests and the nurse gives them some medication. All day he stares at the ceiling. The janitor comes in and mops the floor. Many people call this rehabilitation and many, many thousands of dollars are spent on each individual who comes through that door. The young person instead of developing a confident attitude toward himself and toward life resents even those dedicated and well-trained people that are trying to help him. He still resents it. Why? Because he is not involved. He doesn't feel important. There is no identification there. He doesn't feel close to the people that are trying to help him.

These are some key elements that we feel must be involved if rehabilitation is to succeed.

ASSEMBLYMAN MENZA: Mr. Reitter, you are in effect saying to us that the only approach for rehabilitation is through a family-type environment. Is that what you are saying?

MR. REITTER: No. We are saying this is one effective approach. Many of the key elements that I am speaking of should be considered primary in any kind of program, meaning that the young person has to be taught to feel worthwhile. He has to learn to help himself. It is not just enough to say, "Come here, kid, I am going to cure you," and use psycho-therapy, shock therapy and various types of medication. That is not going to help him to change himself.

ASSEMBLYMAN MENZA: What do we do with a drug user who is on heroin who breaks and enters into stores and is charged with breaking and entry or mugs someone? He is a narcotic addict, but he is charged with a crime. What approach do we take then in the courts?

MR. REITTER: I think the case should be looked into. The person's life style should be evaluated. I think professional people should be called in to find

a way in which he can be helped. Oftentimes we look at an individual from one point of view because of the crime he has committed and we never stop to ask ourselves: Did anyone try to prevent him from getting on drugs in the first place? Did he ever receive any type of help through counselling or rehabilitation?

Sometimes our first effort is to deal with him as a criminal rather than as a human being. I think we should try to deal with him as a human being first. If he doesn't respond to that, then incarceration could always be something that is a final step. Even then, when someone is incarcerated, I believe there should be continued attempts to reach him within the institution. As was mentioned before, there are already programs started in the penal institutions.

ASSEMBLYMAN FLORIO: Is institutionalization in any way compatible with your concept? You talk about a family atmosphere. Is it conceivable, is it possible to adapt your mode of rehabilitation to an institutional program?

MR. REITTER: I think that that would be possible. But I think very important to the family-type environment is the over-all surroundings of the program. A therapeutic community can be developed within a prison. But I think oftentimes the security and drawing power of a family-type environment are underestimated. Often the label "therapeutic community" is put on programs that really may not deserve that title. And oftentimes it is taken very lightly. Just because someone has purchased an old building and filled it full of young people doesn't mean what is going on there is therapeutic. But established programs that have been evaluated have a security program. For instance, at DARE, we have a night watch in our men's unit and in our women's unit. The philosophy of the program is something that is very strong. Young people feel close together. The

staff lives there. While there are no bars and gates, there is still a 24-hour security system there.

If some one wants to leave, it usually can be determined ahead of time. The staff can talk to them, their parents can be called in and their probation officer, etc., to try to prevent them from leaving. But if they still want to leave, it can be done properly through the right channels. This is the usual course.

ASSEMBLYMAN MENZA: May I ask if you are a former drug addict?

MR. REITTER: No, I am not. I used to be employed by Job Corps. At the time I was going to Rutgers University and studying Psychology. Then I became a volunteer for DARE. In 1969 DARE received a staffing grant.

ASSEMBLYMAN FLORIO: At the outset of your remarks you made reference to a 65 percent success rate. Can you briefly tell me what success is?

MR. REITTER: This success is based on an evaluation done by the United States Department of Health, Education and Welfare. It means that someone has completed the three stages of the DARE program, meaning six to eight months intensive rehabilitation, another two to three months of re-entry and re-adjustment. During this time he gets job training and placement. He is trained in a valuable skill. He is trained in such things as automotives, printing, clerical - skills that are meaningful in today's world. Our job counsellors see that he is placed. Everyone before they can go into the third stage has to have a job. And we have been able to get everyone a job that has gone to the third stage.

ASSEMBLYMAN FLORIO: That means that 65 per cent of the people that start finish this program?

MR. REITTER: Yes, that's correct.

ASSEMBLYMAN FLORIO: Have you any statistics with regard to those who finish the program and don't

have any involvement with narcotics at any time?

MR. REITTER: Excuse me. This 65 per cent is those that finish the program and stay drug free. And even those that do not stay drug free, we continue to try to reach them through our follow-up program with their parents and employers. We have a Citizens Committee of DARE made up of over 500 parents and friends of DARE. Many of these have been trained through special courses with our psychologists and therapists and medical director. And they are utilized in reaching out to other parents in the community. We have established such things as neighborhood meetings which have been very effective because oftentimes parents panic. They don't know what to do when they suspect their son or daughter of using drugs. We have found that specially-trained parents can be very effective in helping to reach them and sitting down and coming to a reasonable solution to resolve the problem.

ASSEMBLYMAN FLORIO: To clarify one point on the percentage, does the percentage represent 65 per cent of those who complete the program and remain free of further involvement with drugs or those who start the program, complete it and still remain free from drugs?

MR. REITTER: It is based on those who have entered into the program and stayed a reasonable period of time to get some rehabilitation. It is as when someone goes into a hospital to get an operation, the statistics would be based on the success of that operation if they get the operation. If they don't get the operation, they wouldn't become part of the statistics. So it doesn't mean that a person has to complete the whole program to become part of those statistics, but he would receive some benefit from the program.

ASSEMBLYMAN MENZA: Thank you.

Mr. Roselle, did you want to testify briefly?

MR. ROSELLE: Yes.

ASSEMBLYMAN MENZA: After you testify, we will take a five-minute break.

Mr. Roselle, will you identify yourself, please.

R I C H A R D R. R O S E L L E: Richard Roselle, founder and planner of DARE.

Mr. Chairman, I am an ex-addict. You asked Mr. Reitter if he was. He isn't. But I am and I want to speak from experience, if you don't mind.

I have heard some of the testimony here from our penal institutions and talked to other people before we started. I happen to believe in incarceration very much. But I also believe in rehabilitation and redemption through God. I think God believes in it as well.

Why I believe in incarceration is because I truly feel it saved my life and, when I was ready for rehabilitation, something was available. At the time of my addiction, we didn't have as many programs as we have now in the State of New Jersey. I certainly want my children protected and my family and my mother, etc. on our streets in our society.

I too believe as Bill Reitter does, if an individual who is experimenting with drugs isn't given the opportunity of receiving his rehabilitation, he becomes hardened in our penal institution. I was incarcerated in the Essex County Penitentiary years back. When I was there, I had found new connections and new drugs to use, more or less on the in-crowd and you have to become on the in-crowd while you are incarcerated, which I had done. After leaving the institution, I was exposed to more negative friends and had a negative education that I really didn't have as much of when I went into our jail system. So when

I left, it was easier for me to purchase.

While I was incarcerated, I received no type of counselling or rehabilitation or any medical, psychological or any type of evaluation. I feel if we supply this, maybe the youth of our society won't come up with records as I did.

In my opinion, the only way we are going to deal with the prevention that Bill mentioned is if all agencies - state, and county government agencies and non-profit programs like DARE - join forces in dealing with the problem. I don't think any one program has the complete answer, certainly DARE doesn't. We have an answer and it does work for some people.

It is my true feeling if you had programs, not necessarily DARE, working in conjunction with one another, we can make a bigger dent in this problem. Many times we feel in the DARE program - and I have to speak of DARE because this is what I represent and this is what has gotten me through drugs to the position I am in now and through the help of God - that law enforcement, probation officers, parole officers and skeptics that we have, not necessarily all in the categories I mentioned, need a better understanding of the rehabilitated addict. We have found that jobs are very hard to come by when a person leaves our program. We manage to get them jobs after a great deal of effort. But our society - and I think this Committee represents our society, you being people elected to office - has the wrong approach to an ex-addict and the right approach to an active addict.

I would like to see, if at all possible, this bill and bills like it even stronger, to give an individual a chance of rehabilitation, regardless of whether it is DARE or Synanon or Odyssey House or whatever programs we have in our state - an opportunity

so they don't get a record.

I understand what Mr. Reitter was talking about. He has been associated with DARE for six years and worked two years without a salary. He is, as I am, very enthused with the DARE approach.

Just to give you some background of it and to help your Committee, in DARE, when we first opened, the average age of the boys and girls in our program - and we deal with both boys and girls - was 26 to 28 years old. That was in 1967. In 1973, our average age ranged from 16 to 19. So this tells us that we have a lot of our youth using drugs.

You might find it interesting to know of a study we made jointly with people like Father Daniel Egan, known as the junkie priest in New York, over a year ago, on the so-called ghetto problem and the extent of it. We found in the ghettos in the cities that there is a decrease to a degree - not a decrease - I don't think it has reached its peak as yet - in the drug problem, but it is a steady pace, and in the suburban areas it is more active. It is increasing in our suburban areas, the affluent areas. Your Committee may find that of interest.

Our major problem in my opinion is not heroin as much as barbiturates, speed and LSD. And this occurs not only in the affluent suburban areas, but in the cities as well, basically the barbiturates in our high schools.

You also might find of interest the number of boys and girls that we have in our program. I think this would give you an idea of the extent of the problem in regard to the ratio of men and women using drugs. We have one-third women in our program and two-thirds men or boys. Many times people overlook the female addict and there are not too many programs dealing with this type of individual.

DARE deals with drug dependency, including the barbiturates and marijuana. We were under the impression if a person used drugs that it was just to be part of an in-crowd. That is valid today. We feel that today. But we also feel that consideration has to be given to psychological problems, marital problems and other problems. When we first opened our doors in the City of Newark in 1967, we thought that a person used drugs just to experiment and be part of the crowd, but we found it goes deeper than that. There are boys and girls who have psychological problems and there is such a thing as an addictive personality. We are doing research on that now.

Our staff is made up of people like Dr. Eugene Sims who is also a consultant to the State of New Jersey Drug Division; Milt Rosen, who is our therapist; social workers; and three teachers from the Newark Board of Education. We have found it difficult, even though Mr. Reitter has provided jobs, because our society is not accepting the ex-addict as well as we would like. We realize that jobs are scarce regardless of who the individual is.

DARE has started training and businesses for this purpose and there are service stations throughout the State of New Jersey.

Mr. Reitter neglected to say our staff is made up of approximately 22 people under a government grant, not from the State of New Jersey, nor do they match the grant. We are under a National Institute of Mental Health staffing grant. We are one of the oldest programs in this state. I am not speaking hostilely - I want to mention this. A lot of your non-profit, charitable organizations are contributing a great deal in fighting the drug problem in our state and I think the Committee should be made aware of this too and maybe a little evaluation into this field would be

helpful.

We also received a SLEPA grant for the City of Orange I would say about three years ago. We were funded and selected to service that area through the city fathers of Orange, which lasted one year. Now it is being reactivated so we can service the area of Orange.

We have a hotel which we consider a half-way house in Island Heights, New Jersey, in the vicinity of Toms River. We also have a residence, made up of two houses, in the City of Newark. We also have what was the old YWCA building at 19 High Street in Orange, from which we are serving the Orange area. And we have out-reach centers in Summit, New Jersey, and in the City of Orange, and we just recently closed one down in the Scotch Plains-Fanwood area.

ASSEMBLYMAN MENZA: Mr. Roselle, may I interrupt you to ask a question? The President's Commission, the National Commission on Marijuana and Drug Abuse, headed by Former Governor of Pennsylvania, Raymond Schaeffer, made certain recommendations so far as marijuana was concerned, succinctly to the effect that possession of marijuana for personal use and use of marijuana in private facilities should no longer be a crime. What are your thoughts on that?

MR. ROSELLE: I don't know if you are referring to adults or youth or does this go for anybody over the age of 18 in the State of New Jersey?

ASSEMBLYMAN MENZA: Let's assume it is for everyone over 18 who uses marijuana in their homes or possesses it for their own use.

MR. ROSELLE: Mr. Chairman, in my opinion I don't believe our society should be pacified. I don't believe in marijuana. In my opinion and having experience in it, I think it is the least dangerous drug of the barbiturates - speed, etc. I consider

it brain damaging to a degree and I think our research will prove this as we go on. That is only my feelings, my premonition. While I was in Lexington, Kentucky, receiving my own rehabilitation in 1966, in studying brain cells, we found some deterioration of a brain cell with marijuana but very slight, just about noticeable. So I would have to say I could not advocate the use of marijuana.

ASSEMBLYMAN MENZA: Don't you also find a deterioration of brain cells with a prolonged use of alcohol?

MR. ROSELLE: Yes. One of the things we were shown in Lexington was the deterioration of brain cells from alcohol was the most damaging - then the barbiturates.

ASSEMBLYMAN MENZA: Did you use marijuana first?

MR. ROSELLE: Yes, I did. It led me to the drug scene. I wasn't addicted on the marijuana, but the environment led me to the barbiturates and the other types of drugs that we have. But it is definitely the lesser of the drugs. I think sometimes a glass of beer can get you higher and at the same time beer is damaging to your brain as well if you use too much. I wouldn't advocate pacifying our society at all. I have children and I have to look after my children and I feel for their future. I wouldn't want them picking up a joint or a reefer or whatever you want to call it and smoking marijuana. But it is the lesser evil. Even so, I consider it an evil and I wouldn't pacify our society at all.

ASSEMBLYMAN MENZA: Just one more question. Do you feel we should put people in jail for possession of marijuana?

MR. ROSELLE: I believe in rehabilitation as well. I believe that people should have an opportunity

to receive rehabilitation and education on drugs and chemicals. I think this is what is happening in our society. They don't have the education, but the state has made a good start - Mr. Russo's office and Mr. Stite's office - and definitely Governor Cahill. I don't believe that one should be incarcerated for marijuana. I would keep it as a misdemeanor as we testified a few years back with Senator Wallwork. My feeling is still the same as when I testified. I think you have to determine if a boy is using it or an adult. If an adult can purchase alcohol - I am not trying to become confusing here - but the feedback is, why can't he smoke marijuana? What the hell is so good about alcohol, number one? But it is here. Why create another evil in our society when we have so much now to deal with. Why not outlaw it? This is my feeling on it.

ASSEMBLYMAN MENZA: O.K., Mr. Roselle.

Thank you very much.

We will take a ten-minute break.

(Short Recess)

ASSEMBLYMAN MENZA: We are going to start without Assemblyman Florio who is around some place and should be here shortly.

Will you identify yourself, sir.

P A U L W. M C K E N N A: Detective Lieutenant Paul W. McKenna, Morris County Prosecutor's Office.

ASSEMBLYMAN MENZA: What is your connection, sir?

MR. MC KENNA: I am the President of the New Jersey Narcotics Enforcement Officers Association. I have with me here Detective Sergeant Joseph Delaney of the Paramus Police Department, who is a member of the Board of Directors of the NJNEOA and of Sr. Dismas House in Paterson.

I am going to be short and to the point, I hope.

I want to dispel any misnomers that law enforcement is against rehabilitation. We are very pro rehabilitation. We do feel that arrest is most often the initial motivation for the addict to seek rehabilitation. We can use as an example the State programs already pointed out by Mr. Wagner.

We advocate that the addict or the user-possessor after conviction of possession or use be given the choice to be sentenced to some treatment modality. But it should be meaningful, an 18-month, in-patient program, not a walk in, walk out type of thing that often crops up.

As it stands now, the use of any drug, including heroin, is not a crime; it is a disorderly persons offense. There is no bizarre 15- or 20-year sentence for use of even heroin. It is a 6-month maximum. I haven't seen anybody sent to jail for use of any drug in so long that I think most of our courts have taken a position that rehabilitation is much more important than punishment.

It is interesting to note, however, that sometimes when the addict is offered six months in the county jail or eighteen months in a rehab center, he will take the six months in the county jail, indicating he is probably not ready for rehabilitation yet.

The heroin user himself is like a cancer in the community. If someone was not there to check his blatant use of heroin, he would constantly infect others in the community. We more or less have to serve as public health officers, if you want to classify it as a disease. But if we weren't there, certainly the Department of Health wouldn't have enough people to get to the heroin user. We don't want them infecting the rest of the community.

Many of your addicts tell you the best thing

that ever happened to them was when they got busted. Mr. Roselle just said incarceration saved his life. We feel without law enforcement there would be very little motivation for rehabilitation.

If it was taken completely out of the criminal justice system, we wonder what unknown quantity of people, without fear of arrest now, would just try any drug - of course, we are ultimately talking about heroin - just for the sake of experimentation.

We are also vehemently opposed to other criminals being included as unfortunate users. We are talking about burglars and muggers, armed robbers, etc.

We disagree with the premise that the Controlled Dangerous Substances Act now is more punitive than rehabilitative. Certainly with the provisions of the new statute, users and the mere possessors do not go to jail. The user is a disorderly person offender, as I pointed out. The shot at rehabilitation, expungement of records and suspension of proceedings does everything humanly possible to give the unfortunate a chance at a new life.

We urge the Commission to study the penalties as imposed and meted out to the drug dealer, not so much the penalties on the books, but check the sentencing, the penalties that the pushers are being sentenced to. Check the sentences they are receiving and serving. We feel this is very important. It has been pointed out by a local newspaper in this area that only 45 per cent of the convicted dealers go to jail of any kind.

I would close by again saying that the Narcotics Enforcement Officers are not adverse to treatment. We look for a sentence to provide treatment. We do request that it be long term and in-patient preferably for the 18 months already mentioned.

ASSEMBLYMAN MENZA: Lieutenant, I have a few questions if I may.

The current statute, if I am not mistaken, for use of narcotics, that includes any kind of narcotics, marijuana, hard stuff, barbiturates, etc., is a disorderly persons offense, carrying up to six months in jail; under 25 grams of marijuana possession also carries up to six months in jail, disorderly person. But is it not true that most addicts, if they are arrested, are usually arrested with a deck of heroin or some barbiturates or amphetamines on them and that they are in fact put in jail? For example, - and perhaps I didn't word my question correctly - for over 25 grams marijuana or possession, let's say, of one capsule of an amphetamine or a barbiturate or one deck of heroin, the minimum sentence that can be given is 2 to 15 years. Isn't that correct?

LIEUTENANT MC KENNA: The minimum sentence?

ASSEMBLYMAN MENZA: Yes.

LIEUTENANT MC KENNA: No, sir. That is not correct. It is up to 5. There is no minimum under the new CDS Act as I recall it. The 2 to 15 is the old Title 24.

ASSEMBLYMAN MENZA: But a misdemeanor does carry a top.

LIEUTENANT MC KENNA: A high misdemeanor.

ASSEMBLYMAN MENZA: It carries a penalty up to 5 years.

LIEUTENANT MC KENNA: That is correct.

ASSEMBLYMAN MENZA: How do you feel that we should approach, for example, an addict who is caught with heroin or barbiturates.

LIEUTENANT MC KENNA: In possession of them?

ASSEMBLYMAN MENZA: Yes, who is also an addict.

LIEUTENANT MC KENNA: In possession of a small quantity of drugs? Is that what you are talking

about?

ASSEMBLYMAN MENZA: Yes.

LIEUTENANT MC KENNA: I think in most cases the individual arrested or convicted of possession, as I have already pointed out, the mere possessor is not that often sent to jail. They are given a chance at rehabilitation.

ASSEMBLYMAN MENZA: But what is the process by which they are given a chance of rehabilitation? By going to jails?

LIEUTENANT MC KENNA: No. Of course, we are talking about things that are almost non-existent or there aren't that many of them in the State of New Jersey, that is, supervisory, in-patient care or even some of these after-care clinics or some of the private enterprises. There aren't that many. There probably aren't enough to go around. Certainly there are not enough to go around. But we do need something other than jail for the addict-possessor-user, if you will. But we don't very quickly throw him into the same category when he gets into burglary, armed robbery and mugging.

ASSEMBLYMAN MENZA: Lieutenant, you said that a person who possesses or uses narcotics - I believe you said it this way - should not be sentenced to a jail, but should be sentenced to a rehabilitation type program a minimum of 18 months.

LIEUTENANT MC KENNA: An in-patient treatment modality, yes, sir.

ASSEMBLYMAN MENZA: First of all, are you speaking on behalf of the Association?

LIEUTENANT MC KENNA: Yes, sir.

ASSEMBLYMAN MENZA: Would this mean that there would not be a criminal record involved? For example, if someone is caught with a deck of heroin and is

an addict, theoretically he can get up to 5 years in jail. You propose and your Association proposes putting him in some type of rehabilitation program. What about the conviction?

LIEUTENANT MC KENNA: We still have the statute calling for the expungement of the record under the present statute today. If he falls within that proviso, so be it.

ASSEMBLYMAN MENZA: What does your Association think about putting them in residential treatment and after 18 months immediately expunging their records?

LIEUTENANT MC KENNA: We haven't discussed that, per se, but I am sure that would be acceptable to the membership.

You know, contrary to popular believe, policemen are people and we do react to the addict on the street as other people. And most of these people who are not arrested, if they come in, for instance, to our office or their parents come in asking for help, we don't arrest them. We again recommend them to places like Dismas House or Odyssey House or what have you, without any arrest.

ASSEMBLYMAN MENZA: The problem that most of us have - for instance, I have three sons, and, say, one of my sons was addicted - assume, for sake of argument, I couldn't get him to DARE or Odyssey House - what do I do with him except go to the Police Station and ask to make a complaint against him and hope that the judge will give him a suspended sentence, conditioned upon going some place?

LIEUTENANT MC KENNA: I don't think that would accomplish anything. You can go to the Police Station and talk to the Narcotic Officer and see what he can recommend, not have him arrested. We look at the situation through the eyes of the parents. We don't

turn around and arrest somebody who comes into the Police Station looking for help. You would be surprised how many people do come in Police Stations looking for help.

ASSEMBLYMAN MENZA: Well, what would you recommend?

LIEUTENANT MC KENNA: We would find out what the problem was the best we could, not being medical people, and determine what we did have available and give him the alternative of going from one to the other to see which one would best fit him.

ASSEMBLYMAN MENZA: Do you feel that the availability of treatment modality is sufficient in the State of New Jersey?

LIEUTENANT MC KENNA: No, in no way at all.

ASSEMBLYMAN MENZA: Do you think there is a necessity for further funding by the State for rehabilitation programs in the State?

LIEUTENANT MC KENNA: I think not just further funding, but we have to start getting people who are sincere, not just mouthing nice words to get their names in the paper, but who are sincere in getting to meaningful programs and getting down and working with these people.

ASSEMBLYMAN MENZA: The President's Commission, the one which I asked Mr. Roselle about, headed by Former Governor Schaeffer of Pennsylvania, the National Commission on Marijuana and Drug Abuse, made certain recommendations. I would like very much to hear your comments on them as a law enforcement official. For example, (reading) cultivation, sale or distribution for profit, possession with attempt to sale, would remain felonies. They are talking about marijuana. Possession in private of marijuana for personal use will no longer be an offense. Distribution in private of small amounts of marijuana for no profit, etc., will

no longer be an offense. Possession in public of one ounce or under of marijuana would not be an offense. But marijuana will be contraband subject to summary seizure and forfeiture, etc.

What they are basically saying - and I am reading it very quickly - is that if you have a joint of marijuana yourself and you are using it in your house or if you give it to a friend of yours without any profit, it should no longer be a crime subject to criminal penalties. However, if you use it on the street and you sell it for a profit, it would be a crime.

What do you think about that?

LIEUTENANT MC KENNA: I think it is probably one of the most asinine comments to come out of any Commission at all. How do you get the marijuana if you can't cultivate it, import it, manufacture it, buy it or distribute it? How do you get it for your private use?

I think what they are trying to do is please everybody and I do think they have wasted the taxpayers' money.

ASSEMBLYMAN MENZA: Let me ask you this: Say for the sake of argument that I who have never tried marijuana in my life and have no intention of doing so, by the way, am given over 25 grams of marijuana. I bring it to my house and I smoke it. The policeman smells it and he arrests me. Do you think I should be subject to criminal penalties for possession of over 25 grams of marijuana and using it for my own use, say my wife and I?

LIEUTENANT MC KENNA: Well, you have already included your wife. Yes, it is the way the law is written today. So, therefore, you should be subject to the criminal statutes.

ASSEMBLYMAN MENZA: We are thinking about perhaps changing the law. I would like to know your

point of view. What do you feel about it as a law enforcement official and a person who has been in this business for quite a long time?

LIEUTENANT MC KENNA: Prior to the enactment of this Controlled Dangerous Substances Act, we argued vehemently against the 50 grams. We went along more or less with 10 grams. Twenty-five grams I think is a very liberal amount. It is almost an ounce of marijuana. It sells for \$20 or \$25 on the street, depending upon where you live. Anything over and above that, I think at least suggests distribution.

ASSEMBLYMAN MENZA: You think, therefore, they should be subject to criminal penalties?

LIEUTENANT MC KENNA: Yes, I do.

ASSEMBLYMAN MENZA: Let me give you another proposition. Suppose I have marijuana under 25 grams, say 10 grams, just to use myself in my own home. I do smoke it and, therefore, I am a disorderly person. Do you think that I should continue to be subject to criminal penalties?

LIEUTENANT MC KENNA: I think that is a fair evaluation, disorderly persons offense, and brought before a Magistrate's Court and it be determined by the Magistrate what, if any, rehabilitative measures should be recommended.

ASSEMBLYMAN MENZA: But why?

LIEUTENANT MC KENNA: I personally feel that marijuana is a dangerous substance. We won't call it a narcotic drug. It is a dangerous substance. It is probably a catalyst drug moving the user on into other areas of drug abuse. And there is not that much known about the drug itself, as far as the far-flung dangers to the body. We will talk about it just as a mood-altering drug. It is an unstable drug, usually used by unstable people. We don't know where they are

going to go or what they are going to do while they are under the influence of marijuana. We cannot turn around and say, "Well, they are no different than a drunk." Because the drunk is bad enough. If you want to use any kind of a parallel, if we have a drunken driver, at least we can clinically examine him and determine whether he is under the influence of alcohol. We cannot do this with the marijuana smoker. He can drive under the influence of marijuana. There is no breathalyzer or drunkometer or whatever to determine if he is, in fact, under the influence of marijuana, LSD or what have you. It does pose a danger.

ASSEMBLYMAN MENZA: Officer, what percentage of the time of police officers, police departments, prosecutors' offices, etc., is involved with, to use a colloquialism, the drug scene?

LIEUTENANT MC KENNA: On the over-all picture, I would say probably 25 to 30 per cent, if not more.

ASSEMBLYMAN MENZA: Is this a fair statement of your testimony, that, one, you feel that the penalties with regard to narcotics presently are O.K. and should remain the same, but in addition to that we should have for possession and use only certain treatment modalities? Is that a correct statement?

LIEUTENANT MC KENNA: The penalties, as written in the statute, if they were implemented - now I am talking primarily about the sentencing of pushers - would probably be adequate. The rehabilitation sentences or recommendations for rehabilitation outlined in the statutes are unrealistic because most of the facilities do not exist. For instance, they talk about a 6-month supervised treatment period. By whom? Where? Under what circumstances? Again it looks good in the books, but it is not very good in practice.

ASSEMBLYMAN MENZA: What penalties, Lieutenant,

do you think should be raised?

LIEUTENANT MC KENNA: I would go very, very heavily on the dealer, particularly of heroin and barbiturates, distributing to young people.

ASSEMBLYMAN MENZA: What suggestions do you have as far as that is concerned?

LIEUTENANT MC KENNA: I wouldn't be so unrealistic as to go along with the death penalty. But I would say a good 15 to 20 years. Get them off the street and have them serve. In other words, they are sentenced for 15 to 20 and they are going to serve maybe 5.

ASSEMBLYMAN MENZA: Mandatory penalty.

LIEUTENANT MC KENNA: Right - mandatory minimum, not maximum, minimum.

ASSEMBLYMAN MENZA: What about pushers who are also addicts?

LIEUTENANT MC KENNA: I find very little distinction with regard to the addict pusher. If my daughter gets a deck of heroin, it doesn't make too much difference whether she got it from Sam Mafioso or Joe Addict down the street, she still ends up with that deck of heroin. A pusher is a pusher. I can't see being as hard on the pusher addict as on the profiteering pusher. But I just can't see absolving him of all sin because he happens to be an addict.

ASSEMBLYMAN MENZA: In what area do you think the problem is acute in the State of New Jersey - barbiturates, amphetamines, marijuana, hard stuff such as heroin and cocaine?

LIEUTENANT MC KENNA: Well, it is very heavy in barbiturates, amphetamines and heroin, and cocaine is an up and coming thing and now methadone.

ASSEMBLYMAN MENZA: Do you feel this is where our real problem is?

LIEUTENANT MC KENNA: These are your heavy problems.

person could be in possession of at one time.

ASSEMBLYMAN MENZA: Right. Two more questions. You say that the funding of these rehabilitation centers, private rehabilitation centers - by the way, you are aware of the fact that there are only 1,000 beds in the entire State of New Jersey, 800 of which are private, 200 funded by the State.

DR. HICKEY: Beds for what?

ASSEMBLYMAN MENZA: Narcotic users.

DR. HICKEY: Oh, yes.

ASSEMBLYMAN MENZA: You fund, you say, through the Medical School?

DR. HICKEY: Yes.

ASSEMBLYMAN MENZA: Is the funding sufficient? - financial assistance from the State.

DR. HICKEY: Well, I don't think the State is at fault here. They provide us with 25% match of our total funding.

ASSEMBLYMAN MENZA: Let me interrupt you by saying this, that as far as I am concerned I think the State has defrauded the public, and that's quite a word, I realize that - by not doing anything in this area for many, many years, and still not doing anything in the area. The direction is toward highways to get down to the shore a little faster, but surely not in this area. I, for one, am convinced that the financial assistance is very small.

DR. HICKEY: It is.

ASSEMBLYMAN MENZA: Should it not be a lot more? Could it help your program and could it, in fact, cure addicts?

DR. HICKEY: Yes, I think it could. If you look at Connecticut, for example. New Jersey has a much more severe narcotic problem than the State of Connecticut, yet the State of Connecticut spends \$25 million a year, just from state sources only, in the treatment of

Your main problem is in the very young people who start out smoking a marijuana or dropping a pill or what have you. This is the catalyst, as I said before.

ASSEMBLYMAN MENZA: Do you feel marijuana leads to harder stuff?

LIEUTENANT MC KENNA: I am not going to try and perpetuate the myth that everybody who smokes a marijuana cigarette becomes a heroin addict. But I am going to say that most of your heroin addicts started on marijuana. Who is to determine at the junior high school or high school level whether that marijuana smoker is going to become a heroin addict or not?

ASSEMBLYMAN MENZA: Do you have anything to add?

LIEUTENANT MC KENNA: No, sir.

SERGEANT DELANEY: May I say something?

ASSEMBLYMAN MENZA: Certainly. Identify yourself, please.

J O S E P H D E L A N E Y: I am Sergeant Joseph Delaney, Paramus Police.

Just three brief comments, Mr. Chairman, on something you, yourself, brought up.

Number one, I am sure your Commission study is going to be based on or at least you are going to look very deeply into those individuals who may be experimenters, first-time offenders, and worry about the youth of our country and our state. And very frankly, so are we as law enforcement officers. We are very much concerned.

In the area of penalties, if you look right now in our statutes, they are, as Lieutenant McKenna indicated, very adequate. The problem that I see in this state is not so much with the penalty structure as it is with the judiciary structure. The problem

there is we have no degree of certainty. A kid in Bergen County with one barbiturate, as you mentioned, or one joint could conceivably go away to jail as versus maybe in Essex County he does not. The degree of certainty is not there. We are dealing in an area of total confusion on the part of the youngster himself.

The other area that you mentioned was the area of the heroin addict himself, the rehabilitation problem. What you are really lending yourself to, and maybe you should look into it further, is civil commitment, which we do not have in this state, whereby the addict would be adjudicated to be such and then sent to a rehabilitation center, not of his own free will and accord, not voluntarily, but mandated by the court.

That is the only area that I can see that your Commission could become deeply involved in, civil commitment.

ASSEMBLYMAN MENZA: Let me say this: As far as the latter statement is concerned, I introduced a bill patterned after the New York statute on civil commitment of narcotic addicts, which the first year had a tag of \$17.5 million - \$13.5 for plant facilities and thereafter \$4 million for treatment programs. However, the State Legislature in its wisdom felt that highways were a lot more important than the drug problem and for all intents and purposes killed the bill by taking it out of one committee - I got it out of one committee - and it was put in the Appropriations Committee. There was no money appropriated for the year 1973 for this bill nor has there been money appropriated in this area for a great length of time.

I should add for what it is worth that a half hour after this bill was sent to the Appropriations Committee, we in the State Assembly voted for the widening of Route 17, which would have cost \$30 million.

It is a question of priority and direction.

SERGEANT DELANEY: It seems that is the area the Commission should be directing itself toward if you are talking about people who are "unfortunate users."

The other area I would like to mention briefly is the marijuana question. Very frankly I think we have to look into intent with the individual who does anything, including using drugs. What is the intent of that individual? Is the intent to be sociable? I doubt it very seriously. What we have to look at is causation and the big one for marijuana is pleasure, based upon curiosity. As for the use of marijuana in the privacy of your home, after smoking that one or two joints, based upon the potency, who now keeps you in the house? Who keeps you from the car? Who keeps you from the public? It is a very broad area.

ASSEMBLYMAN MENZA: The only problem we have, Officer - and I don't want to engage in a colloquy here - but we have somewhat of a drug-oriented society to begin with.

SERGEANT DELANEY: No question about that.

ASSEMBLYMAN MENZA: We have Distran, aspirins, etc. I know, myself, when I come home and face four kids, a dog and a cat and fish, if I don't have a martini after a bad day, I am just about ready to faint. I am just using that as an example. This is our society. To say, booze is O.K., Distran is O.K., aspirin is O.K., and our entire drug-oriented society is O.K., but marijuana is not O.K. and barbiturates are not O.K., lends itself to some hypocrisy.

SERGEANT DELANEY: I agree with you, Assemblyman, but on the question you just raised, there are some 7 or 8 million people who initially were very much like you, who took a martini but unfortunately couldn't be sociable about it. They became alcoholics.

I would be very much frightened about what is going to happen if we decide to legalize marijuana without criminal penalties or at least some penalties because of the many unknowns. I just can't see opening that kind of a door.

ASSEMBLYMAN FLORIO: Officer, just one thing on the first point you made, when you spoke about certainty, I assume you were addressing yourself to the deterrent value of penalties. Are you offended at all by proposals which would suspend or eliminate the right of a judge to suspend a sentence for an individual?

SERGEANT DELANEY: No, sir, not at all. Without that discretion, I think the Judiciary would be falling apart. No, I don't take issue with that.

ASSEMBLYMAN FLORIO: One judge in Bergen County exercising such discretion very, very frequently as opposed to another judge in another county not exercising that discretion at all - doesn't that lend to the uncertainty you made reference to.

SERGEANT DELANEY: That is not the area of discretion I am referring to. In the case that I made reference to, I don't believe the judge really knows what is happening out there. He is scared stiff. He doesn't want to send this kid to jail because he doesn't know who he is, number one. He doesn't know what the drug is all about, number two. That's what I was speaking of, and not just in the area of first offenders. First offenders pretty much in this state do not go to jail. I am talking about other areas, heavy possession, selling. There is no degree of certainty there that I can see, based upon my 17 years experience.

ASSEMBLYMAN FLORIO: What would you suggest as a means of obtaining that certainty?

SERGEANT DELANEY: Initially, there would have to be some sort of mandatory minimum dealing in

the area of selling, as the Lieutenant mentioned, to give a degree of certainty.

LIEUTENANT MC KENNA: Just one more thing - we had suggested perhaps having one judge doing all the narcotic sentencing or in the larger counties, maybe two judges, much like we handle the gamblers. Most of the gamblers now are selling dope. They are afraid if they make book they will go to jail. So they are selling dope, making much more money and serving a lot less time.

ASSEMBLYMAN MENZA: Thank you.

Mr. Segaloff, please.

W I L L I A M S E G A L O F F: My name is William Segaloff. I am Director of the Asbury Park Outreach Center, which is affiliated with Discovery House.

At the outset I would like to say that I am not here to push Discovery House or push our program. Pretty much, you could take it for granted that we do a good job. If you ask me, I would, of course, tell you we do a good job because I represent myself.

After receiving this letter, I asked myself to what I could direct my expertise in this area. One of the things that I have come up with is-- we kept on talking about the addicts this morning and the recidivism rate of penal institutions. I would like to say that most of these people we have been talking about this morning are people from the black community, people from lower-class communities, people who can't afford themselves a good trial lawyer, people who can't afford to pay fines, etc.

I am going to use myself as a frame of reference to make this point. I was an addict for seven years. I called myself a middle-class addict. I came from a middle-class family and my parents were in a position

to always provide me with a top trial lawyer. They were able to pay off fines. In other words, I kept one step ahead of the law. This was my fortunate position. But in the Asbury Park area and the Springwood area ghetto, most of my residents have returned to jail because of a lack of funds, a lack of desire to combat the environment, and a lack of standing up for their rights.

As far as I am concerned the whole social and judicial systems are imbalanced towards people with money.

For instance, I know of a young lady who went to Clinton. The only reason she went to Clinton was lack of paying a fine. Judges levy fines and maybe rightfully so. They tell these people, you are to pay a fine within a certain period of time. The people's work record is bad. They have no family to provide the funds. One thing leads to another and they go to Clinton.

Of course, we could belabor the point that the penal institutions just teach people more wrong and they come out more hardened criminals. I think we are all intelligent enough to see that. So we have to direct our emphasis towards helping an individual once they first get involved with the law. It is essential to involve them in a program.

I would suggest as an alternative program to jail having people right in court counselling those who are up against these charges and enticing them with the idea of rehabilitation as opposed to penal institutions. This includes the addict who is a pusher because one thing that distresses me is that there is no differential between someone who is an addict and a pusher and someone who is a pusher. The police officer who preceded me mentioned that the

Mafioso is now involved with pushing drugs. Of course, these people have unlimited resources to get themselves lawyers and they have political influence. They have the means of staying out of jail. Whereas a person apprehended in the ghetto in a house with 60 bags, which is a huge amount of narcotics - the judges in Monmouth County I know have their own personal policy of sentencing the person to some time in jail. This is wrong as far as I see it.

I think there should be more intensive investigation done on people who are caught, let's say, as pushers. Of course, if an individual is a pusher and not an addict, he should go away for 15 years - and I mean just that, 15 years, none of this 3 or 4-year business or indeterminate sentences.

I am not here to say that the law should be lax in dealing with the pusher. Because as far as I am concerned after my years of addiction, there is nothing lower on the earth than a person who will exploit other people's deficiencies.

That is basically what I have to say. I just want to draw attention to the letter that the Commission sent me - "to study the feasibility and advisability of changing the present emphasis from one of punishment to one of rehabilitation for the use of such drugs." I think we are all intelligent enough to see that more should be done to help the individuals in a constructive manner.

I also draw my attention to what is down below: "The question of developing an alternative system of social control that relies more heavily upon education, treatment and rehabilitation outside the criminal justice system." Here again I think you are right on target. The thrust should be towards those points. I think we could have a thousand commissions and sit here for ten years, but instead of talking, let's do

something about it.

ASSEMBLYMAN MENZA: Do you feel there is sufficient funding in the State of New Jersey for narcotic rehabilitation?

MR. SEGALOFF: You are asking the wrong person that because there has been a freeze on my budget. But to answer your question, no.

ASSEMBLYMAN MENZA: As a former addict, do you feel possession and personal use of marijuana should be legalized?

MR. SEGALOFF: You asked that question before. I have been involved now in drug programs for five years and I have gone on numerous speaking engagements. Maybe that isn't obvious this morning, but I was a little nervous. I am pretty good at speaking engagements. That question always arises, whether it be in a B'nai B'rith club or a Baptist Church or maybe in some ghetto church or some middle-class area. That question always arises no matter what socio-economic group you are talking to. I am going to give you the answer that I give to everybody else.

I think there are enough legalized highs. I think it would be a concession to another high. I know in one drug program in which I worked 90 per cent of the people who entered the program started off on marijuana. Marijuana is such an easy subject to talk about. It is so controversial. You get caught up in the whirlwind. The debate can go on for another 4 or 5 years until the public pendulum swings one way or the other.

I got upset when William Buckley came out and advocated marijuana. I think it is eventually going to be legalized. That is my own personal view. But I definitely think we shouldn't legalize it. Let's legalize being high off of natural good feelings.

Let's talk about those things instead of adding another weapon in the arsenal of escaping from reality.

ASSEMBLYMAN MENZA: Thank you, Mr. Segaloff.

MR. SEGALOFF: Thank you.

ASSEMBLYMAN MENZA: We have next Mr. Robert Stites, Director, Division of Narcotic and Drug Abuse Control. Then we will have Mr. John Davis, Director of Discovery House in Ocean County. And I guess that is all. Is there anyone else who cares to speak?
(No response.)

R O B E R T B. S T I T E S: My name is Robert B. Stites. I am Director of the Division of Narcotic and Drug Abuse Control, Department of Health.

I want to thank you for the opportunity to appear before this legislative commission to give information concerning the areas of responsibility of the Division of Narcotic and Drug Abuse Control. As most of you know, the Division was established in May of 1970, pursuant to the Narcotic and Drug Abuse Control Act of 1969. The Division was given responsibility for planning, promoting, developing, establishing, coordinating and conducting uniform programs for education, prevention, diagnosis, treatment, aftercare, community referral, rehabilitation, control and research in the field of drug addiction and drug abuse. Further legislation in the Fall of 1970 through the Spring of 1971 gave the Division responsibility either by legislative mandate or by delegation from the Commissioner of Health in regulating the legitimate distribution channels under the Controlled Dangerous Substances Act, establishing a Statewide Controlled Dangerous Substances Registry, Certifying Narcotic and Drug Abuse Treatment Centers, and operating a Statewide system of narcotic and drug abuse clinics.

Some measures of the activities of the Division of Narcotic and Drug Abuse Control can be found in comparison of the treatment resources available in early 1970 and in the Spring of 1973. In 1970 there were ten centers in the State providing residential or inpatient care for drug addicts or abusers, and 25 nonresidential centers. As of March 31, 1973 there are 35 inpatient or residential centers and 84 nonresidential centers. In terms of treatment capacity there was in early 1970 a total of 539 residential and inpatient beds for treatment of drug abusers, in 1973 there are more than a thousand beds. In the case of outpatient and nonresidential treatment it is somewhat more difficult to establish exact capacities because of varying definitions of outpatient care and the varying frequency of visits by outpatients to a facility.

In early 1970 it is estimated that there were not more than 1,000 persons regularly participating in outpatient treatment programs, including less than 100 methadone maintenance patients. In 1973 there are 2,500 methadone maintenance outpatients and an estimated 2,000 to 2,500 additional patients regularly participating in outpatient treatment programs. This does not mean that we have reached a point where we can relax our efforts to provide better treatment capability. It does mean, however, that we are nearing the objective of making treatment available to all those drug abusers who voluntarily seek treatment and we can give additional emphasis to other areas of the problem that have heretofore received a lower priority. Some redistribution of existing treatment

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capacity and some expansion are necessary to provide multi-modality programs or groupings of programs throughout the State. We must constantly seek to improve the quality of care available. We are also turning more of our attention toward modification of treatment approaches or development of new approaches geared toward the nonheroin user, including expansion of day center modalities of treatment. We can also give increased attention to provision of treatment for the semi-voluntary or involuntary patient. We have made some progress in these areas while placing our major emphasis elsewhere.

Until now I have spoken very little of prevention and have concentrated more in the area of treatment and rehabilitation. This is not intended to downgrade the role of prevention but to recognize some of the difficulty in measuring that portion of the total effort. It is difficult to say that we have prevented any given number from becoming drug abusers or even that any given number of the population at risk have been involved intensively in prevention programs, although most of the State's population have been exposed to some prevention efforts. It is also difficult to define where prevention ends and treatment begins; treatment at one level may be prevention of the next step. I liken this to the light spectrum or the colors of the rainbow where red does not end abruptly and yellow begin but there is a gradual change from various shades of red which might represent prevention through shades of orange which might represent intervention into yellow representing treatment and if we carry the rainbow image further to proceed from the yellows through the greens of rehabilitation

and into the blue of followup aftercare continued support. Most of our efforts have been directed toward treatment and rehabilitation but many of those agencies providing treatment are also engaged in prevention work and the Division has in cooperation with these agencies and on its own initiative assisted in the development of community education and prevention efforts, and has cooperated with the State Department of Education in the development of school prevention programs and training of school personnel. This effort should be increased, keeping in mind that distribution of information is not always education and that education is not always prevention, but that these must be part of a planned and concerted effort to deal with the problems of drug abuse and underlying social problems, and to provide alternatives acceptable to the potential drug user.

The Division of Narcotic and Drug Abuse Control has also developed pilot programs in the area of intervention or early treatment of the drug experimenter, one notable pilot project being the establishment of a Therapeutic School to combine a quality education with a therapeutic regimen designed for adolescents. While long-range results are not yet available, early experience indicates that this type of treatment should be expanded and similar schools should be encouraged.

In the area of semivoluntary treatment we have worked with the Division of Correction and Parole in the Department of Institutions and Agencies to develop pilot treatment programs within correctional institutions at Bordentown, Jamesburg and Yardville, modifying therapeutic techniques to meet the challenge of the institutional environment, and we have worked in Trenton and Rahway Prisons to aid inmates nearing eligibility for release to enter suitable treatment programs in their communities. We are planning full-time treatment programs in the latter institutions for the near future. Another future direction will be working with the criminal justice system: the Courts, Probation Departments, Correctional Institutions, and Parole, so that appropriate offenders with drug histories might be more readily diverted from incarceration to treatment.

It should be noted that although voluntary treatment has been stressed to date, reports received by the Controlled Dangerous Substances Registry of persons in contact with treatment facilities in the year 1971 show that of a total of some 7,800 persons reported, 3,078 were currently on probation or parole while a slightly smaller number 3,024 had no current legal involvement at the time of the report. Of the remainder about 400 were in either punitive or nonpunitive custody and over 1,300 were unknown as to their current legal status. In 1972 a total of some 6,900 were reported by treatment facilities, over 2,800 were on probation or parole, 2,600 had no legal involvement currently, 300 were in custody and the remainder were unknown. Thus it can be seen that even with primarily voluntary

treatment facilities a major factor in motivating treatment is the possibility of legal alternatives such as incarceration.

It is my opinion that our laws concerning prevention, treatment and rehabilitation of drug abuse and drug abusers are basically sound. I do anticipate that upon completion of our comprehensive plan, some legislation may be requested to aid implementation of the plan. This would probably be requested in late Summer or Fall.

At the present, I would recommend consideration of legislation to better enable use of treatment alternatives to incarceration. One bill now before the Legislature, Assembly Bill No. 594 with the Governor's recommendations, would be useful in permitting selected inmates to become eligible for early parole to treatment. Other appropriate legislation might enable defendants in nonviolent cases to be given a treatment alternative at the point of entering the criminal justice system, before trial or even before indictment, and authorizes the Prosecutor or the Court to dismiss the charges upon successful treatment.

I would be very happy to answer any questions the Commission may have.

ASSEMBLYMAN FLORIO: Mr. Stites, I was just wondering if you could perhaps give a generalization with regard to your evaluation of the more effective way of rehabilitation, in-patient as opposed to out-patient treatment, or, as you referred to it, residential as opposed to non-residential.

MR. STITES: I think we need the whole range. For some persons a residential short-term or long-term residential program is necessary to remove them from the environment they

have been living in and put them in a more positive environment. For many other people that residential component is not necessary. A day center operation where the patient spends most of his waking hours, 8 to 12 hours a day, in the treatment program and returns to his home or to his substitute home for sleeping has proven to be effective. For others, a completely out-patient program, either a daily reporting or weekly or bi-weekly reporting to a treatment center, has been effective. It depends on the individual that you are dealing with, the type of life-style that he has been living, and the necessary elements to intervene with that life style to change his direction in a more positive way. I think we need all.

I think at the present time, as I indicated, there are over 1000 beds available for residential or in-patient treatment and that entire capacity is not being used at this time. There is some capacity. I think we need to expand the capacity for day center and out-patient care at the moment more than the residential facility.

ASSEMBLYMAN MENZA: You say there are a thousand beds in the State of New Jersey.

MR. STITES: Yes.

ASSEMBLYMAN MENZA: First of all, are they on a voluntary basis?

MR. STITES: Yes.

ASSEMBLYMAN MENZA: The only way a narcotic addict can utilize one of these thousand beds is to voluntarily turn himself in for treatment?

MR. STITES: Yes.

ASSEMBLYMAN MENZA: Where are these facilities?

MR. STITES: They are scattered around the State. Their heaviest concentration would be in the Newark-Jersey City area. But there are also facilities as

far south as Atlantic City and Camden, and up north into Paterson and that general area.

ASSEMBLYMAN MENZA: Various hospitals, etc.?

MR. STITES: Yes. I am speaking of not only hospital beds, but of beds in residential specialized treatment facilities, self-help community type, therapeutic community.

ASSEMBLYMAN MENZA: Are you talking about public facilities?

MR. STITES: I am talking about public and private.

ASSEMBLYMAN MENZA: There are 1,000 beds in the entire State of New Jersey, both public and private?

MR. STITES: Yes.

ASSEMBLYMAN MENZA: And that includes Odyssey House, DARE, etc.?

MR. STITES: Yes.

ASSEMBLYMAN MENZA: How about the State itself? How many does it provide with public funds?

MR. STITES: Well, public funds are being utilized in some of these private programs.

ASSEMBLYMAN MENZA: I am talking about the State itself.

MR. STITES: Of that number, approximately 200 are fully State funded.

ASSEMBLYMAN MENZA: What is your budget for this fiscal year?

MR. STITES: The budget of State appropriations for this year is \$3.9 million.

ASSEMBLYMAN MENZA: How much of that is directed at narcotic treatment and rehabilitation? I am talking about other than salaries.

MR. STITES: Other than salaries? Well, salaries are used in treatment and rehabilitation also.

ASSEMBLYMAN MENZA: All right.

MR. STITES: A large portion of it - I don't

have the exact figure - but I would say approximately \$3 million of that is in treatment and rehabilitation.

ASSEMBLYMAN MENZA: Does this \$3 million include private facilities?

MR. STITES: Some of it is involved in private facilities.

ASSEMBLYMAN MENZA: Do you feel that your objective for adequate treatment and rehabilitation of narcotic addicts has in fact been fulfilled in the State of New Jersey?

MR. STITES: No, I don't.

ASSEMBLYMAN MENZA: Why not?

MR. STITES: I think there are a number of reasons. For one thing, there are, of course, limitations of funds. But there are also limitations of capability too to wisely use those funds. There is a need to have people who are trained professionally or paraprofessionally to provide treatment or to provide that training to them. This cannot be brought about overnight. This has to be a process of gradual growth and I think that it has been an orderly and gradual growth.

I would also like to add at this point, the State funds that we are talking about are not the only public funds that are being utilized in treatment and rehabilitation. There is also SLEPA block-grant funds of some \$2.5 million that aids treatment and rehabilitation programs. And there are funds from the National Institute of Mental Health in the Federal Department of HEW, a substantial amount.

ASSEMBLYMAN FLORIO: What would your thoughts be with regard to the whole subject of civil commitment, that is, individuals who have been convicted and upon recommendation by the appropriate penal and medical authorities, that they be given the option of utilizing some of these unused beds you made reference to . . .

in the residential treatment centers?

MR. STITES: I think that a limited civil commitment program on a pilot basis might be advisable. I think if we were to go into a large-scale, massive civil commitment program, such as was done in New York and California, we would find a great deal of waste and perhaps ineffective treatment.

ASSEMBLYMAN FLORIO: Waste in what respect? Monetary waste?

MR. STITES: Monetary waste, yes, and waste of human resources as well.

ASSEMBLYMAN MENZA: What do you feel your budget should in fact be? Let me preface my question by saying that I am convinced that one of the most acute problems in our society and in the State of New Jersey is narcotics. It affects property, lives, etc. Yet it appears to me that a fund of \$3. million plus the other funds is surely not sufficient by any means, considering the amount of money we spend on highways, for example.

What do you feel the proper funding would be for your department in money terms?

MR. STITES: I think for the coming fiscal year the current Appropriations Bill now pending carries an appropriation of approximately four and one-half million for the Division. I think this is reasonable in view of the Federal funds now coming in and in view of our current negotiations with the Federal government, which are likely to produce a substantial increase in Federal funds available.

I don't think that a major increase over that four and one-half million in State moneys could be efficiently spent during the coming year.

ASSEMBLYMAN MENZA: Mr. Wagner of the Correction Department who was here before said that 32 to 50 per cent of those persons who enter institutions have a drug problem. He said at least 20 per cent are

those who possess or use, with no other crime.

You mentioned something about funnelling these people from the courts to a rehabilitation program. What have you done about that and what suggestions have you made to the administration?

MR. STITES: We have worked with Probation Departments and with courts to try to provide some expertise to put them in touch with appropriate treatment programs in their areas. There is no formal program currently operating for diversion of defendants from the criminal justice system into treatment, except the conditional discharge provisions of the Controlled Dangerous Substances Act, which, of course, are limited only to those charged with Controlled Dangerous Substances offenses. It would not permit diversion of an addict who is charged with a burglary, for example.

I think in order to make this fully workable, some legislation may be needed to permit this. At the present time, law enforcement authorities on becoming aware of a crime are generally obliged to proceed with the prosecution of that crime. In New Jersey, a Prosecutor can't decide not to present a case to the Grand Jury legally if there is evidence that the crime has been committed.

I think we need to give some discretion for handling in a non-criminal manner, and also some specific authorization for the courts to utilize the treatment alternative at an early stage of proceedings, without proceeding to the finding of guilt, and suspending proceedings at that point.

ASSEMBLYMAN MENZA: You feel a statute, therefore, is necessary?

MR. STITES: Yes, I think some legislation is necessary in that area.

ASSEMBLYMAN MENZA: One more question. Succinctly,

is it fair to say from your testimony that we have 1,000 beds, 200 of which are funded by the State, and then you said our present laws regarding treatment and rehabilitation are in fact adequate?

MR. STITES: Yes, sir.

ASSEMBLYMAN MENZA: The thing that bothers me is that if our laws are so sound and if your objective is adequate treatment and rehabilitation, why is it we only have 200 beds funded by the State? Why is the narcotic problem in our State as rampant? And why is it that we don't, in fact, have sufficient residential treatment rehabilitation programs in the State of New Jersey? And you concede, by the way, that we don't.

MR. STITES: We apparently have sufficient residential capacity for those voluntarily seeking treatment - this is what I indicated before - with perhaps some redistribution of that capacity geographically and as to modalities perhaps.

Our efforts have been concentrated in this area primarily because we felt that ethically we should seek to provide treatment for those who want it before we try to in any manner coerce into treatment those who might be susceptible to treatment but who are not yet asking for it.

I think that a certain amount of volition is necessary to effective treatment and the modalities that are presently being used - the therapeutic techniques may have to be changed somewhat to deal with a coerced or semi-coerced, any form of semi-coerced or involuntary patient. Because the patient's participation in the treatment process is a very important factor in his rehabilitation.

ASSEMBLYMAN MENZA: I have one more question. What is your estimate of the number of persons in the State of New Jersey who are drug users?

MR. STITES: Who are drug users?

ASSEMBLYMAN MENZA: Illegally.

MR. STITES: Including experimental users as well as regular users, habitual users?

ASSEMBLYMAN MENZA: Yes.

MR. STITES: I would say an estimate of a couple of hundred thousand, including those experimenters. I would say there are probably 50,000 to 60,000 regular drug users. We are presently able to treat about 10 per cent of that number, of those regular drug users. At this stage, this appears to be the extent of the number who voluntarily seek treatment. We do have to expand our capacity. We do have to find new ways of motivating or of causing additional people to volunteer for treatment, as well as developing the capacity to deal with those semi-voluntary patients.

ASSEMBLYMAN FLORIO: One final question. A conclusion I have been drawing from a number of the speakers this morning - as a matter of fact, I think it is probably the theme that has developed from the testimony - is that individuals who have been exclusively convicted of use or the possession of narcotics with no other related offense, should not be subjected to institutionalization as part of the penal or criminal process. Would you concur with that thought?

MR. STITES: I would certainly consider it the last alternative.

ASSEMBLYMAN MENZA: Thank you.

We have one more gentleman - John Davis, Director of Discovery House, Ocean County.

J O H N D A V I S: My name is John Davis, Discovery House of Ocean County.

I am concerned here with education and prevention in drug rehabilitation. I feel that we should start in the school systems in education and rehabilitation, K through 9. I think we should start with 9 through 12 in the school systems with education, prevention and rehabilitation. And we should have a comprehensive

program set up in rehabilitation, especially from 9 through 12 in the school systems throughout the State.

We have problems with that. We experimented with such a program in Lakewood, New Jersey, and we found that because of the law it is creating quite a problem in the area of rehabilitation of school children who wish to volunteer to be rehabilitated. Their names have to be turned into the administration and the administration in turn refers them to the police and this kind of thing, and the kids are afraid of rehabilitation in that area.

We also feel that first offenders in the area of drug abuse and drug-related crimes should be sent to a rehabilitation center.

We also feel that pushers - and I mean pushers - should be punished maybe in the area of from 15 to 25 years as the minimum.

We also feel that methadone should not be sold or used as a means of treatment. Because we feel that methadone is another drug and people still get high on it and their minds are confused. And if we continue to go down this road of methadone, then we are going to become one of the biggest legal pushers in this country.

We feel society creates a big problem on the part of drug abusers. When I say society, I am talking about parents, schools, and the communities in which people live. It is a major part of the drug abuse problem. And if we are serious and sincere about getting rid of the drug problem, then we will have to really get down to the business of taking care of people throughout the State. And I don't feel that at the present time our programs in the State are adequate to handle the number of people who need rehabilitation.

I would recommend to this Committee that the State set up some County Coordinators in the 21 counties in the State to coordinate drug abuse rehab centers.

We feel the County Coordinators should be involved in the courts and should be called in before a person is brought before a judge for drug-related problems.

We feel that it is cheaper to rehabilitate a person than to incarcerate him and this is the basis of our recommendation.

Last but not least, I feel that the State should set up a detoxification center for all drug abusers who need detoxification in many counties in the State.

I am open to any questions.

ASSEMBLYMAN FLORIO: One of the questions we have just about asked all the speakers was their thought with regard to suggestions that have been made to decriminalize the use of marijuana when it is used in the privacy of one's home. Do you have any thoughts on that?

MR. DAVIS: Yes. I feel that nobody's mind should be tampered with. Take alcohol and wine-drinking. Marijuana goes into that same category. It should not be legalized. I think we made a mistake when we legalized alcohol and wine. And I think we are going to make a major mistake if we legalize marijuana.

ASSEMBLYMAN MENZA: Are you a former addict, sir?

MR. DAVIS: No.

ASSEMBLYMAN MENZA: Do you feel that a pusher who is also a user should be given a mandatory 15 to 25 years in jail?

MR. DAVIS: I feel a pusher who is a user should be given a minimum of 10 years.

ASSEMBLYMAN MENZA: Thank you very much.

Ladies and gentlemen, that concludes the hearing for today. We are going to have additional hearings, perhaps in Essex County and in Camden County, and we hope to have Governor Schaeffer of Pennsylvania who headed the President's Commission with us on May 11 or May 10. We will notify the press when plans are finalized.

Thank you for coming today.

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(Hearing concluded)



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20201

February 16, 1972

Mr. Richard R. Roselli
Executive Director, DARE
P. O. Box 186
19 High Street
Orange, New Jersey 07050

Dear Mr. Roselli:

I have made site visits and inspections of your facilities at DARE and I have evaluated your staff, financial records, and your activities. After careful consideration and re-view, I have found all aspects of the DARE program to be truly exceptional in quality. The buildings are kept clean and fire safe, and staff supervision is 24 hours around the clock.

The health and medical services are excellent and carried on under complete professional supervision including sanitary and nutritional regulations. The financial records are kept by a Certified Public Accountant, and the individual records and files are kept very accurately.

I have evaluated your statistics and records and have found them to completely clear and in order. The success rate of your combined Residence and Day Care programs is at least 65% success. This is clearly backed up by the urinalysis drug detection tests which are conducted at all centers.

Finally, I would like to thank you for your hospitality and I would like to congratulate you for being a true leader in the field of rehabilitation and prevention which is so badly needed in our country.

Sincerely,


Calvin T. Nophlin
Project Coordinator, PEBSI



TELEPHONE
642-7800

COUNTY OF ESSEX
NARCOTIC DRUG STUDY COMMISSION

HALL OF RECORDS
NEWARK, NEW JERSEY 07102

Commissioners:

Donald J. Fitz Maurice, Chairman
Mrs. Gloria Hollis, Vice Chairman
Samuel A. Brown
John Lefand
Donald N. Lombardi, Ph. D.

December 2, 1970

Director Alan Augenblick
Deputy Director Walter A. Quinn
Sheriff Ralph D' Ambola

Mr. Richard R. Roselli, Executive Director
D. A. R. E.
209-211 Littleton Avenue
Newark, New Jersey 07107

Dear Richard;

As Chairman of the Essex County Narcotic Drug Study Commission, I am addressing this letter to you with my complete endorsement of the D. A. R. E. program.

This decision is one that took considerable time because of the research, inspections and various other means of examining the D. A. R. E. program and its staff. I would also like you and your very fine staff to know that D. A. R. E. is the only program I am endorsing at this time, because I honestly believe it is the only complete medically and financially sound program in New Jersey.

I also believe in your outreach program and I was delighted to learn your plans for another D. A. R. E. center in Orange have been approved and the Suburban areas may now be better served because of this new location.

Again, my congratulations to you and your staff for the tremendous job you are doing to help restore the addict to a decent life with human dignity.

I enjoyed attending the recent meeting with your Board of Directors, and when time permits next year, I would like to take a more active part in your program.

Kindest personal regards.

Sincerely,

Donald J. Fitz Maurice, Chairman

DJF:mt

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

before

New Jersey Legislature,
(LEGISLATIVE) COMMISSION TO STUDY DRUG LAW
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Trenton, N. J.

Held:
May 11, 1973
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Assemblyman Alexander J. Menza, Chairman
Assemblyman James J. Florio
Assemblyman Peter J. Russo
Senator Jerome M. Epstein

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ALEXANDER J. MENZA (Chairman): This is the second hearing to be held by the Drug Study Commission, which was formed pursuant to Assembly Concurrent Resolution No. 2001.

The members of the Commission are Assemblyman James Florio, on my left, from Camden County; Assemblyman Peter Russo from Bergen County, who will be here momentarily; Senator Jerome Epstein from Union County; Senator Hagedorn from Bergen County; and Senator Wynona Lipman from Essex County.

Our next hearing will be held in Newark, most likely at the Court House.

The Resolution reads in part: "It shall be the duty of said commission to study and review the penalties currently imposed upon individuals convicted of using certain substances currently subject to the provisions of the 'New Jersey Controlled Dangerous Substances Act.'" However, we have expanded the purpose of the Commission to some extent by going into the aspect of treatment and rehabilitation of narcotic offenders. We are also concerned with the punishment with regard to marijuana and the question of whether in fact it should be legalized. We also will concern ourselves with the question of penalties with regard to heroin, barbiturates, amphetamines, and so forth.

We will have some gentlemen testify later on, after 12 o'clock, who will be here shortly. For your information, Dr. Hickey is here, from Martland Hospital; Michael Sonnenreich will be here shortly, he is the Executive Director of the National Commission on Marihuana and Drug Abuse which submitted its report to the President and the Congress of the United States on March 22, 1973; Professor Frakt of Rutgers Camden Law School; John Brooks, Director of NARCO, Inc.; Prosecutor Coleman from Monmouth County; Prosecutor Karl Asch from Union County; Mr. Ernest Pescatore, Director of SODAT Drug Abuse Clinic; Dr. Benjamin Wolfson, Executive Director of Harmony House; Father Edward Walsh,

Before Mr. Wagner testifies, I also want to make it quite clear that this hopefully will be a very meaningful Commission. And we, of course, intend to submit a report to the State Legislature, a detailed report, and we hope that the report will be acted on in the very near future.

A L B E R T C. W A G N E R: Mr. Chairman, I don't know how much I can contribute here. I have been asked, however, to talk briefly about the programs in the State Institutions in the area of drug abuse, which I will be very glad to do and I will try to answer any specific questions that the Commission might have.

I thought maybe the first thing I might do would be to indicate the size of the problem, at least in the State Institutions, by telling you that in these prisons - I am thinking now of the Trenton, Rahway and Leesburg Prisons exclusively, the prison complex - there are in any year, the year 1972, for example, a total of 1711 admissions, and that 39% of these have a history of drug abuse, mostly heroin.

In the youth complex of institutions - and I speak now about Yardville, Bordentown, Annandale, and their satellites - there were, last year, 3,527 admissions and here 52% of those admissions had a history of drug abuse, mostly heroin.

You might be interested further in another bit of data and that is, in the prison complex 21% of admissions during 1972 were for narcotic law violations, mostly possession. And in the youth correctional group 22% for such violations. In other words, there is a tremendous load, a tremendous problem of drug abuse on the part of individuals who are entering the State institutions at this time and for some years in the past.

To describe the programs in the institutions, I think they can be described as varying from very good and relatively comprehensive to almost non-existent in

one or two institutions.

I might describe very briefly the situation at the Youth Reception and Correction Center at Yardville. This institution has two programs, one where a housing unit, comprising 66 men, has been set aside as a therapeutic community for individuals with serious drug problems. These are individuals who have acknowledged their problem and have volunteered and want to do something about that problem. This is based on what might be called the Highfields model, that is interaction groups with activities of various kinds including peer pressures. It has been accomplished with a staff of the institution itself, that is a staff budgeted and made available by the Legislature for these purposes. It is handled full-time by a psychologist, who works full time, I should say, and then others part time, some psychological staff and also social workers.

In addition to that, Yardville has a satellite in the Wharton Forest for approximately 45 individuals, exclusively again a therapeutic community for individuals with serious drug abuse problems. This comes close to the Synanon model, or at least some of the practices are derived from the Synanon model.

We have a staff there, a total staff of five people full time, plus a research component.

This means then that in an institution such as the Yardville Institution we have a total of some 110 individuals in a fairly intensive drug abuse program, out of a total population of about 850, and about half of those have had, as I indicated earlier, a drug abuse problem, a history of it at least. That doesn't mean to say, of course, that individuals coming into the institution have been on - that 50% have been on drugs at the time of admission. That is not true, but they have had a serious problem in the past if not at the time of admission.

I would like to say also, with reference to the Yardville program and its two components, that with the number of individuals we are currently reaching, we are reaching all individuals in the institution who have expressed a serious desire to kick the habit. The others are pretty happy the way they are and we have not been able to develop a program which would tend to motivate them for change.

As we look at the Leesburg institution, for instance the Leesburg Prison, we have had a program there operated pretty largely by volunteers from the community, known as Exodus House. We have had to change the name recently because it conflicted apparently with a program of this kind in the City of New York. I've forgotten the new name of the program down there except that it's two Greek words meaning "new beginning".

Again the men live in a separate housing unit, approximately provision for 86 individuals. It has been operated, as I indicated by volunteers, largely from NARCO which, as you know, is a private organization in Atlantic City. Again it's modeled after Synanon with a very heavy reference to community services upon release from the institution.

We are happy to be able to report that with a grant from SLEPA, the State Law Enforcement Planning Agency, of Federal funds made available by Law Enforcement Assistance Administration, we are now entering into a contract with NARCO to provide a full-blown program down there for this group.

Now the other institutions vary from, as I indicated, a fairly comprehensive program in these two institutions, particularly Yardville, to almost nothing in the Trenton Prison, for example, except for what is being done by the Mercer County Drug Abuse Clinic working with the Division of Narcotics-Drug Abuse Control in the Department of Health. Here individuals come in regularly

and hold individual and group counselling sessions trying to get individuals ready for release and admission to community programs. There are about 50 individuals in this program at the present time with a waiting list of about 50 also. This is out of a total population in that institution of about 1200.

We have been using Federal funds extensively, Law Enforcement Assistance Administration Funds, for drug abuse programs. The most recent of these is the program set up about six months ago in the Bordentown Youth Correctional Institution and the Training School for Boys at Jamesburg. This program, which is now in the process of hiring staff, will provide approximately 25 staff members to handle the programs at these two institutions. It is going to be certainly the most comprehensive that we have had so far. Folks from Discovery House have been helping us to get a design for this particular program at these two institutions. We will service approximately 100 inmates between the two institutions.

I can describe, if you like, the program at the other facilities in some detail. Perhaps there is no need for that. We are seeking additional funds from SLEPA for setting up a much more intensive program at both the Trenton and the Rahway institutions. We have now been advised that necessary funds have been identified and will be made available to us in this connection.

We feel that to bring the institutions up to the level of the other institutions, up to the level I have described, namely the prisons, Clinton and Annandale, we would need approximately \$350,000. Of this sum an extensive portion will be made available to us, hopefully, in the very near future from SLEPA.

I think I would like to mention just one other thing before closing and that is to describe very briefly one of the most hopeful developments in the Department in

this area and that is that several years ago, as many as three years ago, we sought and obtained approval to use Title 1 funds -Title 1 funds are under the Elementary and Secondary Education Act, Federal Funds - to set up a couple of specialized caseloads in parole where, instead of a caseload of sixty or seventy per officer we set up individuals of only fifteen to twenty for each officer, each one of these fifteen or twenty having a very serious drug problem.

We have set up six such specialized caseloads in three district offices around the State and we've done a very careful research job with this. We set up control groups, for instance, that is matching the individuals in our specialized caseloads with similar individuals who are in the regular caseloads of parole officers. And our experience so far is that we are just about twice as successful with the small specialized caseload as we are with the regular caseload with parole officers. This results, I think, from a variety of factors and at least two are important. One is that the individual realizes that upon a serious relapse into drugs he is likely to be sent back to the institution for violation of parole. In addition to this, of course, there is, he knows, a constant urine testing program so that if he is on drugs for any period of time he is likely to be picked up and identified as such. The other is that the parole officers become experts, if you will, in handling this kind of problem and are able to provide services and counselling to these men that is very, very intensive. And I think both of these factors are operative in the success we've had with specialized caseloads in parole.

I am happy to report also that we have just been funded by SLEPA again with Federal Funds for nine more such specialized caseloads.

I think I will end there, Mr. Chairman, and answer questions now.

ASSEMBLYMAN MENZA: What percentage would you say of the persons entering institutions have had a drug problem, generally speaking?

MR. WAGNER: Well, it varies from 52% in youth institutions - that's the age range of 16 to 30 - to 39% in prisons. This is all admissions to the institutions.

ASSEMBLYMAN MENZA: When you say drug problems are you talking about persons who have at one time in their lives been addicted?

MR. WAGNER: Yes.

ASSEMBLYMAN MENZA: As high as 52%?

MR. WAGNER: Yes. Our figures do not include those who may have experimented with glue or marijuana.

ASSEMBLYMAN MENZA: It does not include marijuana.

MR. WAGNER: It does not include marijuana.

ASSEMBLYMAN MENZA: Why do your funds only come from SLEPA? That's Federal Government funded through the State?

MR. WAGNER: Yes.

ASSEMBLYMAN MENZA: What money do you get from the State?

MR. WAGNER: Well, as I indicated, in the Yardville setup and in a portion of the program we've had for a year or two at Leesburg, we've been able to take regularly budgeted staff money made available to us by the Legislature in the regular budget for this purpose. These kinds of funds and these positions are difficult to come by and have not been available to us.

I should point out to you also that when we get Federal funds there is a State match. Some of this we would be able to meet in kind but there is a cash match also which is provided in the regular budget by the Legislature.

ASSEMBLYMAN MENZA: Does your budget reflect a specific amount of money to be used for drug rehabilitation?

MR. WAGNER: No, it does not.

ASSEMBLYMAN MENZA: Has it ever? and do you suggest it?

MR. WAGNER: It has in individual institutions but not over-all.

ASSEMBLYMAN MENZA: What do you suggest, or do you have any suggestions with regard to this?

MR. WAGNER: In the area of --

ASSEMBLYMAN MENZA: Funding through the State.

MR. WAGNER: Well, I really feel that with the Federal monies being available to us, with the State match, which gets up to close to 25% in many instances, we will be in fairly good shape at least to meet the needs of those individuals who have really a desire to make a change.

ASSEMBLYMAN MENZA: Do you also feel, Mr. Wagner, that this is the proper approach for treating persons with narcotic problems in a jail type environment?

MR. WAGNER: Well, I guess everybody in the field would say that an institution is certainly not the ideal place to treat drug users and I would certainly share that position. As a matter of fact, it is perhaps one of the worse places to try to work with the drug abuser for a very good reason that drugs are not generally available to him in the same way they are on the outside, so that his testing of himself is just not possible within a facility of this kind. I need to point out, of course, that it's evident in what I've said that of the individuals coming to us relatively few are there because of drug violations exclusively; a great majority are there for very serious kinds of offenses, including robbery and armed robbery.

ASSEMBLYMAN MENZA: Do you have any idea, sir, what the recidivism rate is of those persons who had been drug users?

MR. WAGNER: No. We have not made that kind of a study, a differential study between those who are drug abusers and those who are not. We have not made that kind of a study. We have that data, however, in our computer and we are hopeful that within about three or four months we will be able to get it out.

ASSEMBLYMAN MENZA: Besides funding, do you have any specific recommendations as to how the State Legislature or the Administration can approach this problem?

MR. WAGNER: I think only one, and that would be for this Commission, perhaps, to take a good hard look at the twenty some percent of individuals who are now coming into the State institutions charged only with possession, to see whether or not it is possible for these individuals to be diverted from the criminal justice system perhaps, but most certainly from State institutions to facilities presumably available or could be made available in the community. I would urge the development of more community resources for this group. I think they are misplaced in a state institution.

ASSEMBLYMAN MENZA: I just have one more question, Mr. Wagner. I just want to make sure I have my facts correct. Are you telling us that from 32 to 52% of those persons who enter institutions have had drug problems?

MR. WAGNER: Yes, in the youth group.

ASSEMBLYMAN MENZA: And that 20% of all admissions are for drug related problems? possession?

MR. WAGNER: That's right. Exclusively for that purpose. That's right. Now some of these are pushers, some of the 22%.

ASSEMBLYMAN MENZA: Some are pushers.

MR. WAGNER: Yes. I don't have a breakdown. And whether or not a pusher should be in jail is something that needs to be decided by your Commission. I have some problems of suggesting that they be released to the community. On the other hand, a considerable portion of that 22% are individuals who are not pushers, individuals who have had a long and serious history of drug abuse who might just be much better cared for in the community rather than in an institution.

ASSEMBLYMAN FLORIO: Sir, I thought I heard you say something about suggesting a re-evaluation of the whole process of criminalizing or institutionalizing those who are convicted of possession.

MR. WAGNER: Yes.

ASSEMBLYMAN FLORIO: Now do you find a substantial number of people who are institutionalized for possession who are not using?

MR. WAGNER: No. I make no distinction there. Our experience has been that the individual who has been picked up and sentenced to a State institution now - and this is a relatively small portion of individuals who are arrested for this offense -- they are also users.

ASSEMBLYMAN FLORIO: Then why make a distinction between a user who is convicted of possession and a user who is convicted of using?

MR. WAGNER: I don't make that distinction.

ASSEMBLYMAN FLORIO: Then what you're really talking about is re-evaluating the concept of institutionalizing those who are just convicted of possession?

MR. WAGNER: Possession and who are users, yes. That's correct.

ASSEMBLYMAN FLORIO: I am still not sure I follow your chain of thought. Why? What would be the rationale behind that?

MR. WAGNER: It seems to me that the drug user who hasn't committed or has not been convicted of another

offense, some offense against other statutes of our State, robbery and all the rest, - it seems to me that that individual should be treated rather than punished exclusively. And this kind of treatment it seems to me is also best done in the community rather than in an institution.

ASSEMBLYMAN FLORIO: Then really what you're doing is making a distinction between the individual who is convicted of possession or using, or possession and using, as opposed to someone who is convicted on a narcotics offense in conjunction with a criminal offense.

MR. WAGNER: Most of the time - I want to make another distinction for you and that is that most of the time the individual who is sent to us who had a drug abuse problem has had it, who is sent to us, let us say for robbery, - that particular individual is not charged with possession or use, normally. In other words, as he goes through the court system he is charged with and convicted eventually only of the offense of robbery in this particular instance. It is rare that we get an individual in an institution for a serious offense who is also convicted of a drug violation, despite the fact that he is a user.

ASSEMBLYMAN FLORIO: Then it's fair to conclude that what you're recommending and what you're suggesting is that the Legislature look into the system under which those who are convicted of possession or using, not in conjunction with another crime, a statutory crime, --

MR. WAGNER: That's right.

ASSEMBLYMAN FLORIO: -- that there be second thoughts or re-evaluations of whether they should be institutionalized at all.

MR. WAGNER: Right. Yes, that's my recommendation.

ASSEMBLYMAN MENZA: Your recommendation, Mr. Wagner, is that they should not in fact be institutionalized.

MR. WAGNER: I think the Commission would do well to study a sample of those records and then have some kind of a panel evaluate just what might have been done in the community for these individuals, other than institutionalization. And, of course, we can identify a sample for your purpose or whatever you want in this area. I think it could be found. Some of the people who have been working in the field, in the community with drug users over a long period of time and I think, upon study of these records, you would find them pretty much the same as the people they normally deal with in the community anyhow. And that being so, there seems to be no particular purpose in keeping them within the facility of an institution.

ASSEMBLYMAN FLORIO: The fact that the user-possessor might also be a distributor, would that in any way change your suggestion?

MR. WAGNER: Well, if he's a distributor or pusher that should appear in the charge of which he's convicted. I am not talking about that group.

ASSEMBLYMAN FLORIO: Thank you.

ASSEMBLYMAN MENZA: Thank you, Mr. Wagner.

MR. WAGNER: Thank you.

ASSEMBLYMAN MENZA: Mr. Bill Reitter.

W I L L I A M R E I T T E R: My name is William Reitter. I am the Administrative Director of DARE. I would like to thank Assemblyman Menza for inviting us here today to testify.

DARE stands for Drug Addiction Rehabilitation Enterprise and it is a voluntary self-help program, started in 1967 by Richard R. Roselle. I think most of us here today are familiar with what DARE is about and I would like to enter as evidence in background support of DARE two letters. Instead of reading them, I will just submit them for the record.

One is from the United States Department of Health, Education and Welfare, which is an endorsement explaining the valuation of DARE with a success rate of 65 per cent success.

Another letter is one from the Essex County Narcotic Drug Study Commission which has evaluated DARE's program in the State of New Jersey and has found DARE to be medically and financially sound.

(Letters submitted by Mr. Reitter can be found on pages 62 and 63.)

I think at the heart of what we are talking about today is first of all to understand the size of the drug problem. There are many reports, some exaggerated one way or the other, about how large the drug problem is. Is it decreasing? Is it increasing? Over the years there has been very little in the way of accurate statistics that have been kept. In recent years, more increasing efforts have been made to try and pin down the statistics. But even now it is difficult because many of the drug addicts are never detected. Some are just beginning to experiment, not just with heroin, but with many, many different types of drugs, new drugs, and sometimes they are abused for years before it is even discovered. It seems like every month we hear of a new drug that is being abused.

We can look into treatment records. We can look into crime records. We can look into statistics from schools, estimates of youth population using drugs, surveys, etc. And yet it is still difficult to come up with figures that are reliable. Nevertheless, we at DARE did a survey in 1971 of statistics that were available then. Many of the statistics are not available yet for 1972. But gathering the reports from the State Police Department, Criminal Justice reports, etc., it was determined that there were in 1971 over 224,000 street crimes committed in the State of New Jersey and of these it was estimated that over 113,000 were drug related. In other words, they were committed because of crimes committed in order to purchase drugs to support a habit or under the influence of drugs or generally in the drug scene.

It was further estimated, not only from these crime figures, but also those who had not committed crimes or had never been arrested, that throughout the State of New Jersey there are over 100,000 drug users of one sort or another, either just beginning to experiment with drugs, amphetamines, barbiturates, speed, the various hallucinogens, sniffing glue, etc.

Essex County had the largest percentage of these crimes, which was 50,000 crimes in 1971, street crimes. Of these 22,000 were drug related and it was estimated that there were at least approximately 20,000 drug users in that area.

In order to deal with this problem, which is a tremendous task and truly an epidemic in our State, it has been proven and is very evident that the technique or approach of institutionalization and incarceration has not been successful over the years and that something more is needed. We are here today to talk about rehabilitation as an alternative.

Too often in the past, incarceration has been the first resort instead of the last resort in dealing with a drug user. We at DARE believe first of all preventive measures should be tried - prevention programs in the schools, in the homes, in the communities - prevention programs that deal with youth problems, not just education in drugs, not just explaining what drugs are, not just explaining the dangers of drugs, but helping youth to deal with their problems and face life without having to resort to drugs as a chemical crutch.

We believe if prevention is tried and a full effort is put into prevention programs in our schools and communities, a lot of the criminal justice problems that we were talking about in these statistics will be alleviated.

If prevention does not succeed in certain cases, which it certainly won't succeed in all cases - there will still be many who will go on to drugs - then the second step which should be tried is rehabilitation. DARE has two court-jail liaison people who go into the courts throughout the State on a daily basis and often-times the magistrate or the judge is faced with a very difficult decision of whether to send a young man away to an incarceration institution or whether to give him a more lenient sentence and let him free on the streets to return to his family and a job, if he has one, in the community. However, often times neither one of these is the proper solution. Because returning to the streets usually means for a drug addict returning to drugs and going to incarceration often means re-enforcement of his negative attitude which he already has of resentment, of talking drug language, of constantly talking about crime and associating with those who have criminal mentalities. It is a negative environment rather than a healthy, positive, constructive

environment.

Programs such as DARE provides is the third alternative, which is one of rehabilitation. We feel if this had been tried as a first approach rather than as a last-minute effort that many of the people that are incarcerated now would not have to be there because they could have received their rehabilitation before they ended up in an institution, which is somewhat like a revolving door. It seems when someone goes to jail, it reenforces their attitudes toward drugs, crime and society and often times they end up back before the same judge with the same offense. I have seen this day after day in the courts.

To stop this revolving door endless cycle, the young person rather than being punished has to be reached. He has to find a direction to a new way of life. He has to develop new values and morals. He has to set a goal in life and develop skills which are meaningful in today's world. So when we say "rehabilitation," we are not just talking about a place where he can lay up - in other words, another institution where he would get so-called cured. We think that something much deeper is needed. He has to learn to resolve his problems. He has to learn to use reason and logic to deal with his difficulties. And if he is going to stay drug free, he has to find something better than that way of life. He has to set a new goal for himself.

These things can only be accomplished in a positive setting that will encourage him. The question of motivation was brought up before and it was explained how difficult it is to motivate someone who does not want to change, that doesn't want to stop using drugs. Yet this is exactly what we are doing.

Most of the people that come to DARE are not motivated at first. They come because they are scared. Maybe they are afraid of getting locked up. They have

court pressure. Or their parents have threatened to throw them out of the house. Or a friend just died of an overdose. Or their wife threatened to leave them. Usually there is some spark or some reason why they want help all of a sudden. It is not really a desire to stop using drugs. It is usually some other reason.

What we do is help that person to develop a proper motivation to change his way of life, to improve himself, to create a goal and develop skills that will enable him to live life as a man or woman in today's society. Through the rehabilitation process of several stages, he is gradually returned to society with these skills. And through a follow-up program, he is kept in touch with. Also contacts are made with his probation and parole officers, his parents and his employer, which we all feel plays a very vital role in his rehabilitation.

The DARE program started ---

ASSEMBLYMAN MENZA: Excuse me just a moment. I am very familiar with DARE as most people are. We are not particularly interested in the DARE program. We are interested in your ideas with regard to the penalties and with regard to the rehabilitation process.

MR. REITTER: The reason I wanted to comment briefly on that is because there is a question as regards to what rehabilitation is. I know that there are some bills pending and also some being written that have the word "rehabilitation" in them and yet really written under that word "rehabilitation" is just another institution. And I don't believe that would be successful.

I believe in rehabilitation, but I believe in self-help. And, speaking on behalf of DARE, we believe in a drug-free environment where young people can get the education and develop skills they need in a family-type environment, not an institutional-type environment where they resent it. They just lie in bed all day.

The doctor comes in and gives them tests and the nurse gives them some medication. All day he stares at the ceiling. The janitor comes in and mops the floor. Many people call this rehabilitation and many, many thousands of dollars are spent on each individual who comes through that door. The young person instead of developing a confident attitude toward himself and toward life resents even those dedicated and well-trained people that are trying to help him. He still resents it. Why? Because he is not involved. He doesn't feel important. There is no identification there. He doesn't feel close to the people that are trying to help him.

These are some key elements that we feel must be involved if rehabilitation is to succeed.

ASSEMBLYMAN MENZA: Mr. Reitter, you are in effect saying to us that the only approach for rehabilitation is through a family-type environment. Is that what you are saying?

MR. REITTER: No. We are saying this is one effective approach. Many of the key elements that I am speaking of should be considered primary in any kind of program, meaning that the young person has to be taught to feel worthwhile. He has to learn to help himself. It is not just enough to say, "Come here, kid, I am going to cure you," and use psycho-therapy, shock therapy and various types of medication. That is not going to help him to change himself.

ASSEMBLYMAN MENZA: What do we do with a drug user who is on heroin who breaks and enters into stores and is charged with breaking and entry or mugs someone? He is a narcotic addict, but he is charged with a crime. What approach do we take then in the courts?

MR. REITTER: I think the case should be looked into. The person's life style should be evaluated. I think professional people should be called in to find

a way in which he can be helped. Oftentimes we look at an individual from one point of view because of the crime he has committed and we never stop to ask ourselves: Did anyone try to prevent him from getting on drugs in the first place? Did he ever receive any type of help through counselling or rehabilitation?

Sometimes our first effort is to deal with him as a criminal rather than as a human being. I think we should try to deal with him as a human being first. If he doesn't respond to that, then incarceration could always be something that is a final step. Even then, when someone is incarcerated, I believe there should be continued attempts to reach him within the institution. As was mentioned before, there are already programs started in the penal institutions.

ASSEMBLYMAN FLORIO: Is institutionalization in any way compatible with your concept? You talk about a family atmosphere. Is it conceivable, is it possible to adapt your mode of rehabilitation to an institutional program?

MR. REITTER: I think that that would be possible. But I think very important to the family-type environment is the over-all surroundings of the program. A therapeutic community can be developed within a prison. But I think oftentimes the security and drawing power of a family-type environment are underestimated. Often the label "therapeutic community" is put on programs that really may not deserve that title. And oftentimes it is taken very lightly. Just because someone has purchased an old building and filled it full of young people doesn't mean what is going on there is therapeutic. But established programs that have been evaluated have a security program. For instance, at DARE, we have a night watch in our men's unit and in our women's unit. The philosophy of the program is something that is very strong. Young people feel close together. The

staff lives there. While there are no bars and gates, there is still a 24-hour security system there.

If some one wants to leave, it usually can be determined ahead of time. The staff can talk to them, their parents can be called in and their probation officer, etc., to try to prevent them from leaving. But if they still want to leave, it can be done properly through the right channels. This is the usual course.

ASSEMBLYMAN MENZA: May I ask if you are a former drug addict?

MR. REITTER: No, I am not. I used to be employed by Job Corps. At the time I was going to Rutgers University and studying Psychology. Then I became a volunteer for DARE. In 1969 DARE received a staffing grant.

ASSEMBLYMAN FLORIO: At the outset of your remarks you made reference to a 65 percent success rate. Can you briefly tell me what success is?

MR. REITTER: This success is based on an evaluation done by the United States Department of Health, Education and Welfare. It means that someone has completed the three stages of the DARE program, meaning six to eight months intensive rehabilitation, another two to three months of re-entry and re-adjustment. During this time he gets job training and placement. He is trained in a valuable skill. He is trained in such things as automotives, printing, clerical - skills that are meaningful in today's world. Our job counsellors see that he is placed. Everyone before they can go into the third stage has to have a job. And we have been able to get everyone a job that has gone to the third stage.

ASSEMBLYMAN FLORIO: That means that 65 per cent of the people that start finish this program?

MR. REITTER: Yes, that's correct.

ASSEMBLYMAN FLORIO: Have you any statistics with regard to those who finish the program and don't

have any involvement with narcotics at any time?

MR. REITTER: Excuse me. This 65 per cent is those that finish the program and stay drug free. And even those that do not stay drug free, we continue to try to reach them through our follow-up program with their parents and employers. We have a Citizens Committee of DARE made up of over 500 parents and friends of DARE. Many of these have been trained through special courses with our psychologists and therapists and medical director. And they are utilized in reaching out to other parents in the community. We have established such things as neighborhood meetings which have been very effective because oftentimes parents panic. They don't know what to do when they suspect their son or daughter of using drugs. We have found that specially-trained parents can be very effective in helping to reach them and sitting down and coming to a reasonable solution to resolve the problem.

ASSEMBLYMAN FLORIO: To clarify one point on the percentage, does the percentage represent 65 per cent of those who complete the program and remain free of further involvement with drugs or those who start the program, complete it and still remain free from drugs?

MR. REITTER: It is based on those who have entered into the program and stayed a reasonable period of time to get some rehabilitation. It is as when someone goes into a hospital to get an operation, the statistics would be based on the success of that operation if they get the operation. If they don't get the operation, they wouldn't become part of the statistics. So it doesn't mean that a person has to complete the whole program to become part of those statistics, but he would receive some benefit from the program.

ASSEMBLYMAN MENZA: Thank you.

Mr. Roselle, did you want to testify briefly?

MR. ROSELLE: Yes.

ASSEMBLYMAN MENZA: After you testify, we will take a five-minute break.

Mr. Roselle, will you identify yourself, please.

R I C H A R D R. R O S E L L E: Richard Roselle, founder and planner of DARE.

Mr. Chairman, I am an ex-addict. You asked Mr. Reitter if he was. He isn't. But I am and I want to speak from experience, if you don't mind.

I have heard some of the testimony here from our penal institutions and talked to other people before we started. I happen to believe in incarceration very much. But I also believe in rehabilitation and redemption through God. I think God believes in it as well.

Why I believe in incarceration is because I truly feel it saved my life and, when I was ready for rehabilitation, something was available. At the time of my addiction, we didn't have as many programs as we have now in the State of New Jersey. I certainly want my children protected and my family and my mother, etc. on our streets in our society.

I too believe as Bill Reitter does, if an individual who is experimenting with drugs isn't given the opportunity of receiving his rehabilitation, he becomes hardened in our penal institution. I was incarcerated in the Essex County Penitentiary years back. When I was there, I had found new connections and new drugs to use, more or less on the in-crowd and you have to become on the in-crowd while you are incarcerated, which I had done. After leaving the institution, I was exposed to more negative friends and had a negative education that I really didn't have as much of when I went into our jail system. So when

I left, it was easier for me to purchase.

While I was incarcerated, I received no type of counselling or rehabilitation or any medical, psychological or any type of evaluation. I feel if we supply this, maybe the youth of our society won't come up with records as I did.

In my opinion, the only way we are going to deal with the prevention that Bill mentioned is if all agencies - state and county government agencies and non-profit programs like DARE - join forces in dealing with the problem. I don't think any one program has the complete answer, certainly DARE doesn't. We have an answer and it does work for some people.

It is my true feeling if you had programs, not necessarily DARE, working in conjunction with one another, we can make a bigger dent in this problem. Many times we feel in the DARE program - and I have to speak of DARE because this is what I represent and this is what has gotten me through drugs to the position I am in now and through the help of God - that law enforcement, probation officers, parole officers and skeptics that we have, not necessarily all in the categories I mentioned, need a better understanding of the rehabilitated addict. We have found that jobs are very hard to come by when a person leaves our program. We manage to get them jobs after a great deal of effort. But our society - and I think this Committee represents our society, you being people elected to office - has the wrong approach to an ex-addict and the right approach to an active addict.

I would like to see, if at all possible, this bill and bills like it even stronger, to give an individual a chance of rehabilitation, regardless of whether it is DARE or Synanon or Odyssey House or whatever programs we have in our state - an opportunity

so they don't get a record.

I understand what Mr. Reitter was talking about. He has been associated with DARE for six years and worked two years without a salary. He is, as I am, very enthused with the DARE approach.

Just to give you some background of it and to help your Committee, in DARE, when we first opened, the average age of the boys and girls in our program - and we deal with both boys and girls - was 26 to 28 years old. That was in 1967. In 1973, our average age ranged from 16 to 19. So this tells us that we have a lot of our youth using drugs.

You might find it interesting to know of a study we made jointly with people like Father Daniel Egan, known as the junkie priest in New York, over a year ago, on the so-called ghetto problem and the extent of it. We found in the ghettos in the cities that there is a decrease to a degree - not a decrease - I don't think it has reached its peak as yet - in the drug problem, but it is a steady pace, and in the suburban areas it is more active. It is increasing in our suburban areas, the affluent areas. Your Committee may find that of interest.

Our major problem in my opinion is not heroin as much as barbiturates, speed and LSD. And this occurs not only in the affluent suburban areas, but in the cities as well, basically the barbiturates in our high schools.

You also might find of interest the number of boys and girls that we have in our program. I think this would give you an idea of the extent of the problem in regard to the ratio of men and women using drugs. We have one-third women in our program and two-thirds men or boys. Many times people overlook the female addict and there are not too many programs dealing with this type of individual.

DARE deals with drug dependency, including the barbiturates and marijuana. We were under the impression if a person used drugs that it was just to be part of an in-crowd. That is valid today. We feel that today. But we also feel that consideration has to be given to psychological problems, marital problems and other problems. When we first opened our doors in the City of Newark in 1967, we thought that a person used drugs just to experiment and be part of the crowd, but we found it goes deeper than that. There are boys and girls who have psychological problems and there is such a thing as an addictive personality. We are doing research on that now.

Our staff is made up of people like Dr. Eugene Sims who is also a consultant to the State of New Jersey Drug Division; Milt Rosen, who is our therapist; social workers; and three teachers from the Newark Board of Education. We have found it difficult, even though Mr. Reitter has provided jobs, because our society is not accepting the ex-addict as well as we would like. We realize that jobs are scarce regardless of who the individual is.

DARE has started training and businesses for this purpose and there are service stations throughout the State of New Jersey.

Mr. Reitter neglected to say our staff is made up of approximately 22 people under a government grant, not from the State of New Jersey, nor do they match the grant. We are under a National Institute of Mental Health staffing grant. We are one of the oldest programs in this state. I am not speaking hostilely - I want to mention this. A lot of your non-profit, charitable organizations are contributing a great deal in fighting the drug problem in our state and I think the Committee should be made aware of this too and maybe a little evaluation into this field would be

helpful.

We also received a SLEPA grant for the City of Orange I would say about three years ago. We were funded and selected to service that area through the city fathers of Orange, which lasted one year. Now it is being reactivated so we can service the area of Orange.

We have a hotel which we consider a half-way house in Island Heights, New Jersey, in the vicinity of Toms River. We also have a residence, made up of two houses, in the City of Newark. We also have what was the old YWCA building at 19 High Street in Orange, from which we are serving the Orange area. And we have out-reach centers in Summit, New Jersey, and in the City of Orange, and we just recently closed one down in the Scotch Plains-Fanwood area.

ASSEMBLYMAN MENZA: Mr. Roselle, may I interrupt you to ask a question? The President's Commission, the National Commission on Marijuana and Drug Abuse, headed by Former Governor of Pennsylvania, Raymond Schaeffer, made certain recommendations so far as marijuana was concerned, succinctly to the effect that possession of marijuana for personal use and use of marijuana in private facilities should no longer be a crime. What are your thoughts on that?

MR. ROSELLE: I don't know if you are referring to adults or youth or does this go for anybody over the age of 18 in the State of New Jersey?

ASSEMBLYMAN MENZA: Let's assume it is for everyone over 18 who uses marijuana in their homes or possesses it for their own use.

MR. ROSELLE: Mr. Chairman, in my opinion I don't believe our society should be pacified. I don't believe in marijuana. In my opinion and having experience in it, I think it is the least dangerous drug of the barbiturates - speed, etc. I consider

it brain damaging to a degree and I think our research will prove this as we go on. That is only my feelings, my premonition. While I was in Lexington, Kentucky, receiving my own rehabilitation in 1966, in studying brain cells, we found some deterioration of a brain cell with marijuana but very slight, just about noticeable. So I would have to say I could not advocate the use of marijuana.

ASSEMBLYMAN MENZA: Don't you also find a deterioration of brain cells with a prolonged use of alcohol?

MR. ROSELLE: Yes. One of the things we were shown in Lexington was the deterioration of brain cells from alcohol was the most damaging - then the barbiturates.

ASSEMBLYMAN MENZA: Did you use marijuana first?

MR. ROSELLE: Yes, I did. It led me to the drug scene. I wasn't addicted on the marijuana, but the environment led me to the barbiturates and the other types of drugs that we have. But it is definitely the lesser of the drugs. I think sometimes a glass of beer can get you higher and at the same time beer is damaging to your brain as well if you use too much. I wouldn't advocate pacifying our society at all. I have children and I have to look after my children and I feel for their future. I wouldn't want them picking up a joint or a reefer or whatever you want to call it and smoking marijuana. But it is the lesser evil. Even so, I consider it an evil and I wouldn't pacify our society at all.

ASSEMBLYMAN MENZA: Just one more question. Do you feel we should put people in jail for possession of marijuana?

MR. ROSELLE: I believe in rehabilitation as well. I believe that people should have an opportunity

to receive rehabilitation and education on drugs and chemicals. I think this is what is happening in our society. They don't have the education, but the state has made a good start - Mr. Russo's office and Mr. Stite's office - and definitely Governor Cahill. I don't believe that one should be incarcerated for marijuana. I would keep it as a misdemeanor as we testified a few years back with Senator Wallwork. My feeling is still the same as when I testified. I think you have to determine if a boy is using it or an adult. If an adult can purchase alcohol - I am not trying to become confusing here - but the feedback is, why can't he smoke marijuana? What the hell is so good about alcohol, number one? But it is here. Why create another evil in our society when we have so much now to deal with. Why not outlaw it? This is my feeling on it.

ASSEMBLYMAN MENZA: O.K., Mr. Roselle.
Thank you very much.

We will take a ten-minute break.

(Short Recess)

ASSEMBLYMAN MENZA: We are going to start without Assemblyman Florio who is around some place and should be here shortly.

Will you identify yourself, sir.

P A U L W. M C K E N N A: Detective Lieutenant Paul W. McKenna, Morris County Prosecutor's Office.

ASSEMBLYMAN MENZA: What is your connection, sir?

MR. MC KENNA: I am the President of the New Jersey Narcotics Enforcement Officers Association. I have with me here Detective Sergeant Joseph Delaney of the Paramus Police Department, who is a member of the Board of Directors of the NJNEOA and of Sr. Dismas House in Paterson.

I am going to be short and to the point, I hope.

I want to dispel any misnomers that law enforcement is against rehabilitation. We are very pro rehabilitation. We do feel that arrest is most often the initial motivation for the addict to seek rehabilitation. We can use as an example the State programs already pointed out by Mr. Wagner.

We advocate that the addict or the user-possessor after conviction of possession or use be given the choice to be sentenced to some treatment modality. But it should be meaningful, an 18-month, in-patient program, not a walk in, walk out type of thing that often crops up.

As it stands now, the use of any drug, including heroin, is not a crime; it is a disorderly persons offense. There is no bizarre 15- or 20-year sentence for use of even heroin. It is a 6-month maximum. I haven't seen anybody sent to jail for use of any drug in so long that I think most of our courts have taken a position that rehabilitation is much more important than punishment.

It is interesting to note, however, that sometimes when the addict is offered six months in the county jail or eighteen months in a rehab center, he will take the six months in the county jail, indicating he is probably not ready for rehabilitation yet.

The heroin user himself is like a cancer in the community. If someone was not there to check his blatant use of heroin, he would constantly infect others in the community. We more or less have to serve as public health officers, if you want to classify it as a disease. But if we weren't there, certainly the Department of Health wouldn't have enough people to get to the heroin user. We don't want them infecting the rest of the community.

Many of your addicts tell you the best thing

that ever happened to them was when they got busted. Mr. Roselle just said incarceration saved his life. We feel without law enforcement there would be very little motivation for rehabilitation.

If it was taken completely out of the criminal justice system, we wonder what unknown quantity of people, without fear of arrest now, would just try any drug - of course, we are ultimately talking about heroin - just for the sake of experimentation.

We are also vehemently opposed to other criminals being included as unfortunate users. We are talking about burglars and muggers, armed robbers, etc.

We disagree with the premise that the Controlled Dangerous Substances Act now is more punitive than rehabilitative. Certainly with the provisions of the new statute, users and the mere possessors do not go to jail. The user is a disorderly person offender, as I pointed out. The shot at rehabilitation, expungement of records and suspension of proceedings does everything humanly possible to give the unfortunate a chance at a new life.

We urge the Commission to study the penalties as imposed and meted out to the drug dealer, not so much the penalties on the books, but check the sentencing, the penalties that the pushers are being sentenced to. Check the sentences they are receiving and serving. We feel this is very important. It has been pointed out by a local newspaper in this area that only 45 per cent of the convicted dealers go to jail of any kind.

I would close by again saying that the Narcotics Enforcement Officers are not adverse to treatment. We look for a sentence to provide treatment. We do request that it be long term and in-patient preferably for the 18 months already mentioned.

ASSEMBLYMAN MENZA: Lieutenant, I have a few questions if I may.

The current statute, if I am not mistaken, for use of narcotics, that includes any kind of narcotics, marijuana, hard stuff, barbiturates, etc., is a disorderly persons offense, carrying up to six months in jail; under 25 grams of marijuana possession also carries up to six months in jail, disorderly person. But is it not true that most addicts, if they are arrested, are usually arrested with a deck of heroin or some barbiturates or amphetamines on them and that they are in fact put in jail? For example, - and perhaps I didn't word my question correctly - for over 25 grams marijuana or possession, let's say, of one capsule of an amphetamine or a barbiturate or one deck of heroin, the minimum sentence that can be given is 2 to 15 years. Isn't that correct?

LIEUTENANT MC KENNA: The minimum sentence?

ASSEMBLYMAN MENZA: Yes.

LIEUTENANT MC KENNA: No, sir. That is not correct. It is up to 5. There is no minimum under the new CDS Act as I recall it. The 2 to 15 is the old Title 24.

ASSEMBLYMAN MENZA: But a misdemeanor does carry a top.

LIEUTENANT MC KENNA: A high misdemeanor.

ASSEMBLYMAN MENZA: It carries a penalty up to 5 years.

LIEUTENANT MC KENNA: That is correct.

ASSEMBLYMAN MENZA: How do you feel that we should approach, for example, an addict who is caught with heroin or barbiturates.

LIEUTENANT MC KENNA: In possession of them?

ASSEMBLYMAN MENZA: Yes, who is also an addict.

LIEUTENANT MC KENNA: In possession of a small quantity of drugs? Is that what you are talking

about?

ASSEMBLYMAN MENZA: Yes.

LIEUTENANT MC KENNA: I think in most cases the individual arrested or convicted of possession, as I have already pointed out, the mere possessor is not that often sent to jail. They are given a chance at rehabilitation.

ASSEMBLYMAN MENZA: But what is the process by which they are given a chance of rehabilitation? By going to jails?

LIEUTENANT MC KENNA: No. Of course, we are talking about things that are almost non-existent or there aren't that many of them in the State of New Jersey, that is, supervisory, in-patient care or even some of these after-care clinics or some of the private enterprises. There aren't that many. There probably aren't enough to go around. Certainly there are not enough to go around. But we do need something other than jail for the addict-possessor-user, if you will. But we don't very quickly throw him into the same category when he gets into burglary, armed robbery and mugging.

ASSEMBLYMAN MENZA: Lieutenant, you said that a person who possesses or uses narcotics - I believe you said it this way - should not be sentenced to a jail, but should be sentenced to a rehabilitation type program a minimum of 18 months.

LIEUTENANT MC KENNA: An in-patient treatment modality, yes, sir.

ASSEMBLYMAN MENZA: First of all, are you speaking on behalf of the Association?

LIEUTENANT MC KENNA: Yes, sir.

ASSEMBLYMAN MENZA: Would this mean that there would not be a criminal record involved? For example, if someone is caught with a deck of heroin and is

an addict, theoretically he can get up to 5 years in jail. You propose and your Association proposes putting him in some type of rehabilitation program. What about the conviction?

LIEUTENANT MC KENNA: We still have the statute calling for the expungement of the record under the present statute today. If he falls within that proviso, so be it.

ASSEMBLYMAN MENZA: What does your Association think about putting them in residential treatment and after 18 months immediately expunging their records?

LIEUTENANT MC KENNA: We haven't discussed that, per se, but I am sure that would be acceptable to the membership.

You know, contrary to popular believe, policemen are people and we do react to the addict on the street as other people. And most of these people who are not arrested, if they come in, for instance, to our office or their parents come in asking for help, we don't arrest them. We again recommend them to places like Dismas House or Odyssey House or what have you, without any arrest.

ASSEMBLYMAN MENZA: The problem that most of us have - for instance, I have three sons, and, say, one of my sons was addicted - assume, for sake of argument, I couldn't get him to DARE or Odyssey House - what do I do with him except go to the Police Station and ask to make a complaint against him and hope that the judge will give him a suspended sentence, conditioned upon going some place?

LIEUTENANT MC KENNA: I don't think that would accomplish anything. You can go to the Police Station and talk to the Narcotic Officer and see what he can recommend, not have him arrested. We look at the situation through the eyes of the parents. We don't

turn around and arrest somebody who comes into the Police Station looking for help. You would be surprised how many people do come in Police Stations looking for help.

ASSEMBLYMAN MENZA: Well, what would you recommend?

LIEUTENANT MC KENNA: We would find out what the problem was the best we could, not being medical people, and determine what we did have available and give him the alternative of going from one to the other to see which one would best fit him.

ASSEMBLYMAN MENZA: Do you feel that the availability of treatment modality is sufficient in the State of New Jersey?

LIEUTENANT MC KENNA: No, in no way at all.

ASSEMBLYMAN MENZA: Do you think there is a necessity for further funding by the State for rehabilitation programs in the State?

LIEUTENANT MC KENNA: I think not just further funding, but we have to start getting people who are sincere, not just mouthing nice words to get their names in the paper, but who are sincere in getting to meaningful programs and getting down and working with these people.

ASSEMBLYMAN MENZA: The President's Commission, the one which I asked Mr. Roselle about, headed by Former Governor Schaeffer of Pennsylvania, the National Commission on Marijuana and Drug Abuse, made certain recommendations. I would like very much to hear your comments on them as a law enforcement official. For example, (reading) cultivation, sale or distribution for profit, possession with attempt to sale, would remain felonies. They are talking about marijuana. Possession in private of marijuana for personal use will no longer be an offense. Distribution in private of small amounts of marijuana for no profit, etc., will

no longer be an offense. Possession in public of one ounce or under of marijuana would not be an offense. But marijuana will be contraband subject to summary seizure and forfeiture, etc.

What they are basically saying - and I am reading it very quickly - is that if you have a joint of marijuana yourself and you are using it in your house or if you give it to a friend of yours without any profit, it should no longer be a crime subject to criminal penalties. However, if you use it on the street and you sell it for a profit, it would be a crime.

What do you think about that?

LIEUTENANT MC KENNA: I think it is probably one of the most asinine comments to come out of any Commission at all. How do you get the marijuana if you can't cultivate it, import it, manufacture it, buy it or distribute it? How do you get it for your private use?

I think what they are trying to do is please everybody and I do think they have wasted the taxpayers' money.

ASSEMBLYMAN MENZA: Let me ask you this: Say for the sake of argument that I who have never tried marijuana in my life and have no intention of doing so, by the way, am given over 25 grams of marijuana. I bring it to my house and I smoke it. The policeman smells it and he arrests me. Do you think I should be subject to criminal penalties for possession of over 25 grams of marijuana and using it for my own use, say my wife and I?

LIEUTENANT MC KENNA: Well, you have already included your wife. Yes, it is the way the law is written today. So, therefore, you should be subject to the criminal statutes.

ASSEMBLYMAN MENZA: We are thinking about perhaps changing the law. I would like to know your

point of view. What do you feel about it as a law enforcement official and a person who has been in this business for quite a long time?

LIEUTENANT MC KENNA: Prior to the enactment of this Controlled Dangerous Substances Act, we argued vehemently against the 50 grams. We went along more or less with 10 grams. Twenty-five grams I think is a very liberal amount. It is almost an ounce of marijuana. It sells for \$20 or \$25 on the street, depending upon where you live. Anything over and above that, I think at least suggests distribution.

ASSEMBLYMAN MENZA: You think, therefore, they should be subject to criminal penalties?

LIEUTENANT MC KENNA: Yes, I do.

ASSEMBLYMAN MENZA: Let me give you another proposition. Suppose I have marijuana under 25 grams, say 10 grams, just to use myself in my own home. I do smoke it and, therefore, I am a disorderly person. Do you think that I should continue to be subject to criminal penalties?

LIEUTENANT MC KENNA: I think that is a fair evaluation, disorderly persons offense, and brought before a Magistrate's Court and it be determined by the Magistrate what, if any, rehabilitative measures should be recommended.

ASSEMBLYMAN MENZA: But why?

LIEUTENANT MC KENNA: I personally feel that marijuana is a dangerous substance. We won't call it a narcotic drug. It is a dangerous substance. It is probably a catalyst drug moving the user on into other areas of drug abuse. And there is not that much known about the drug itself, as far as the far-flung dangers to the body. We will talk about it just as a mood-altering drug. It is an unstable drug, usually used by unstable people. We don't know where they are

going to go or what they are going to do while they are under the influence of marijuana. We cannot turn around and say, "Well, they are no different than a drunk." Because the drunk is bad enough. If you want to use any kind of a parallel, if we have a drunken driver, at least we can clinically examine him and determine whether he is under the influence of alcohol. We cannot do this with the marijuana smoker. He can drive under the influence of marijuana. There is no breathalyzer or drunkometer or whatever to determine if he is, in fact, under the influence of marijuana, LSD or what have you. It does pose a danger.

ASSEMBLYMAN MENZA: Officer, what percentage of the time of police officers, police departments, prosecutors' offices, etc., is involved with, to use a colloquialism, the drug scene?

LIEUTENANT MC KENNA: On the over-all picture, I would say probably 25 to 30 per cent, if not more.

ASSEMBLYMAN MENZA: Is this a fair statement of your testimony, that, one, you feel that the penalties with regard to narcotics presently are O.K. and should remain the same, but in addition to that we should have for possession and use only certain treatment modalities? Is that a correct statement?

LIEUTENANT MC KENNA: The penalties, as written in the statute, if they were implemented - now I am talking primarily about the sentencing of pushers - would probably be adequate. The rehabilitation sentences or recommendations for rehabilitation outlined in the statutes are unrealistic because most of the facilities do not exist. For instance, they talk about a 6-month supervised treatment period. By whom? Where? Under what circumstances? Again it looks good in the books, but it is not very good in practice.

ASSEMBLYMAN MENZA: What penalties, Lieutenant,

do you think should be raised?

LIEUTENANT MC KENNA: I would go very, very heavily on the dealer, particularly of heroin and barbiturates, distributing to young people.

ASSEMBLYMAN MENZA: What suggestions do you have as far as that is concerned?

LIEUTENANT MC KENNA: I wouldn't be so unrealistic as to go along with the death penalty. But I would say a good 15 to 20 years. Get them off the street and have them serve. In other words, they are sentenced for 15 to 20 and they are going to serve maybe 5.

ASSEMBLYMAN MENZA: Mandatory penalty.

LIEUTENANT MC KENNA: Right - mandatory minimum, not maximum, minimum.

ASSEMBLYMAN MENZA: What about pushers who are also addicts?

LIEUTENANT MC KENNA: I find very little distinction with regard to the addict pusher. If my daughter gets a deck of heroin, it doesn't make too much difference whether she got it from Sam Mafioso or Joe Addict down the street, she still ends up with that deck of heroin. A pusher is a pusher. I can't see being as hard on the pusher addict as on the profiteering pusher. But I just can't see absolving him of all sin because he happens to be an addict.

ASSEMBLYMAN MENZA: In what area do you think the problem is acute in the State of New Jersey - barbiturates, amphetamines, marijuana, hard stuff such as heroin and cocaine?

LIEUTENANT MC KENNA: Well, it is very heavy in barbiturates, amphetamines and heroin, and cocaine is an up and coming thing and now methadone.

ASSEMBLYMAN MENZA: Do you feel this is where our real problem is?

LIEUTENANT MC KENNA: These are your heavy problems.

Your main problem is in the very young people who start out smoking a marijuana or dropping a pill or what have you. This is the catalyst, as I said before.

ASSEMBLYMAN MENZA: Do you feel marijuana leads to harder stuff?

LIEUTENANT MC KENNA: I am not going to try and perpetuate the myth that everybody who smokes a marijuana cigarette becomes a heroin addict. But I am going to say that most of your heroin addicts started on marijuana. Who is to determine at the junior high school or high school level whether that marijuana smoker is going to become a heroin addict or not?

ASSEMBLYMAN MENZA: Do you have anything to add?

LIEUTENANT MC KENNA: No, sir.

SERGEANT DELANEY: May I say something?

ASSEMBLYMAN MENZA: Certainly. Identify yourself, please.

J O S E P H D E L A N E Y: I am Sergeant Joseph Delaney, Paramus Police.

Just three brief comments, Mr. Chairman, on something you, yourself, brought up.

Number one, I am sure your Commission study is going to be based on or at least you are going to look very deeply into those individuals who may be experimenters, first-time offenders, and worry about the youth of our country and our state. And very frankly, so are we as law enforcement officers. We are very much concerned.

In the area of penalties, if you look right now in our statutes, they are, as Lieutenant McKenna indicated, very adequate. The problem that I see in this state is not so much with the penalty structure as it is with the judiciary structure. The problem

do you think should be raised?

LIEUTENANT MC KENNA: I would go very, very heavily on the dealer, particularly of heroin and barbiturates, distributing to young people.

ASSEMBLYMAN MENZA: What suggestions do you have as far as that is concerned?

LIEUTENANT MC KENNA: I wouldn't be so unrealistic as to go along with the death penalty. But I would say a good 15 to 20 years. Get them off the street and have them serve. In other words, they are sentenced for 15 to 20 and they are going to serve maybe 5.

ASSEMBLYMAN MENZA: Mandatory penalty.

LIEUTENANT MC KENNA: Right - mandatory minimum, not maximum, minimum.

ASSEMBLYMAN MENZA: What about pushers who are also addicts?

LIEUTENANT MC KENNA: I find very little distinction with regard to the addict pusher. If my daughter gets a deck of heroin, it doesn't make too much difference whether she got it from Sam Mafioso or Joe Addict down the street, she still ends up with that deck of heroin. A pusher is a pusher. I can't see being as hard on the pusher addict as on the profiteering pusher. But I just can't see absolving him of all sin because he happens to be an addict.

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narcotic addiction, and they have made some definite advances which have been documented. I've been trying to find out during this week exactly how much we in the State of New Jersey spend of State dollars in supporting treatment programs. Newark, the City of Newark, has the most severe narcotic addiction problem in the country on a per capita basis. We have more narcotic addicts per capita in the City of Newark than any other city in the country including New York City.

ASSEMBLYMAN MENZA: Where did you get those statistics from? In the whole country?

DR. HICKEY: In the whole country, on a per capita basis. When you consider the size of Newark, 380,000 people and when the social service agencies estimate, for example, that the addict population may be about twenty-to twenty-five thousand, and when you start looking at the police statistics you find that it may be more reasonable to say thirty- to thirty-five thousand. I don't know of another city in the country which comes close to a 10% heroin addict population.

ASSEMBLYMAN FLORIO: On that point or a related point, and realizing your expertise is not law enforcement, you did make a statement earlier that there appears to be a correlation between law enforcement efforts and you made reference to Philadelphia and New York and the availability of drugs in New Jersey, and, conversely, when we enforce the law or crack down they seem to have problems. Does it not seem to be the logical conclusion that some sort of a coordinated effort on behalf of both states simultaneously might be a way of reducing if not eliminating the problem?

DR. HICKEY: Yes, I believe so.

ASSEMBLYMAN MENZA: Assemblyman Russo?

ASSEMBLYMAN RUSSO: No questions.

ASSEMBLYMAN MENZA: Did you want to say something?

DR. HICKEY: Yes. The gentleman before me was

talking about the treatment and law enforcement and sentencing and such. Are you gentlemen familiar with the Treatment Alternatives to Street Crime project which we are now gearing up for Newark?

ASSEMBLYMAN MENZA: That's only in Essex County, is it not?

DR. HICKEY: Essex County, right. We're having a great deal of difficulty with it and mainly because of the manner in which it was presented to the judges in the area. And some of us were a little overzealous in our manner of presentation and, you know, people from the Special Action Office came in and said this is the way it's going to be done and the court will fall in line, and the court, of course, did not like its power being infringed upon in any way. However, we have another project which is gearing up, an area which concerns us greatly in Newark especially in terms of the number of teenage heroin addicts we're seeing, and that is what we call our juvenile court diversion process. And this is a proposal we're attempting to get funded now through the Law Enforcement Assistance Administration and SLEPA and it is in operation. Unlike many programs where they submit the proposal and then wait to get the money to put it in operation, we put it in operation in a pilot sense and we went to the courts, specifically the juvenile courts, Judge Duffy, and we sat down with Judge Duffy and other juvenile court judges and we worked out a program which was mutually acceptable to both the treatment programs and the judiciary, and it has been very successful. We have young people who are being sent into treatment from the courts. It is taking a burden off the youth detention facility, and we hope now that we can sit down with people, such as Judge Giuliano in Newark, and let him see how the juvenile process is working so that the TASC program can go the same way.

I think our major problem in Newark is - and the only area of this whole field that discourages me is that

when we treat an addict on an outpatient basis in the City of Newark and we give them their methadone or they come in for a counselling session, when they leave our clinic or anybody's clinic they go back into that same inner-city rat's nest which they came from, and probably the inner-city rat's nest which led them into drug use in the first place.

ASSEMBLYMAN MENZA: Thank you very much, Doctor. It was very kind of you to come.

DR. HICKEY: Thank you, gentlemen.

ASSEMBLYMAN MENZA: We will take a five minute break here.

(Recess)

(After recess)

ASSEMBLYMAN MENZA: Our next witness is Executive Director of the President's National Commission on Marijuana and Drug Abuse, Mr. Michael R. Sonnenreich.

M I C H A E L R. S O N N E N R E I C H: Mr. Chairman, it's a pleasure to be here in New Jersey. Because of the pressure of time, I will keep my statement brief. I have put on your desk, Mr. Chairman, a copy of our Second Report of the National Commission on Marijuana and Drug Abuse entitled Drug Use in America: Problem in Perspective, that was given to the President and the Congress of the United States on March 22, 1973. I believe you have a copy of our First Report which was given one year earlier to the President and the Congress entitled Marijuana: A Signal of Misunderstanding.

I have also placed before you a draft from the National Conference of Commissioners on Uniform State Laws; a final draft of the Uniform Drug Dependence Treatment and Rehabilitation Act which will be considered by the National Conference this August as a Uniform Act. This Act arises out of a felt need at the time we were moving on the Uniform Controlled Substances Act, which I might point out New Jersey was one of the first states

to adopt. At that time, when that Act was being passed, there was a lot of concern about the fact that it was dealing with only one aspect of the problem, which was the penalty schemes and the regulatory schemes, and the feeling of the National Conference and the American Bar Association was that we should have a companion law that would deal with treatment and rehabilitation.

As Reporter both for the Uniform Controlled Substances Act and as Reporter for this Act, I am pleased to submit it to you. The only caution that I give you is that it is not a final draft in terms of passage by the National Conference; it has only been reported out of our Committee to the National Conference for consideration this year. I have every expectation that it will pass the Conference in the August session.

I heard several comments with respect to marijuana and I would like very briefly to just make a comment or two on them.

In our report, our first one dealing with marijuana, and in the second report which reaffirms the findings of our first report, we recommended a scheme of decriminalization for marijuana. By that we meant we felt that as a matter of public policy the use of the drug should be discouraged, we should certainly not make it legally available as we do with alcohol, but the possession for private use of the drug should not be a criminal offense. By that we mean it should not be a criminal offense, it should not be civilly fined, it should not be an offense at all. This is very similar to the scheme that we employed during alcohol prohibition when under the Federal Alcohol Prohibition Act, the Volstead Act, and in 45 of the 50 states it was not a crime to possess or buy alcohol.

I think that rather than go into elaborate detail on marijuana, the Report is sufficiently comprehensive enough, and the members of this Commission can look at it.

I also direct your attention to the 1300 page appendix which is also available from the Government Printing Office, which goes into the actual studies dealing with the substance.

We did a back-up and follow-up study on it. In our second report our recommendations remain unchanged.

With respect to treatment and rehabilitation, we feel that there is a very, very crucial need for states to reevaluate the role of treatment and rehabilitation as it affects drug-dependent persons. We have issued an interim report which will come out in our appendix this summer and is also available now - and I am sorry I didn't bring a copy - which shows all the various civil commitment procedures, voluntary and involuntary, and emergency care, that are available in every state of the Union. This includes New Jersey. The New Jersey statutes are explicated and laid out. I think it would be a very valuable thing for this Commission to look at not only the New Jersey law but also to look at it in relationship to other states.

One of the things that became apparent is there seems to be a misunderstanding as to what treatment and what rehabilitation can do for people. The vast majority of people who use drugs in the United States, as was stated by the previous witness, are experimenters or social recreational users; they are not drug-dependent persons. There is no way that you can effectively or meaningfully treat or rehabilitate them. There is nothing to treat or rehabilitate. You can provide educational guidance, you can provide a stronger family group, you can provide a stronger church group, a stronger sense of community, but to put these people into any kind of treatment facility would be a futile waste of time and certainly a futile waste of money.

What we are talking about is drug-dependent persons, those people that are compulsive users of drugs. The

obvious drug is heroin. That is what this Uniform Act, this draft of this Uniform Act addresses. This is what we address specifically in our report, and I direct your attention to pages 301 through page 345 which deals with treatment and rehabilitation in our Second Report.

The Second Report has over 110 specific recommendations. Many of these recommendations have already been implemented by the President since the Report came out on March 22, with respect to moratorium on new drug education programs, creation of better organizational entities, and things of that nature.

I should point out that you have to keep in mind that when we talk about treatment and rehabilitation we are not just talking about something that is medical, we are talking about something that is founded on a very important principle, that principle is the therapeutic premise. That means that if you are going to say that you're going to treat people, rehabilitate them, you don't have to guarantee success but you have to guarantee facilities and you have to guarantee that there will be a program. If you do not guarantee that, then the premise on which you are operating is probably constitutionally suspect. The Supreme Court has spoken of this. Many state courts have spoken of this. We are evolving into an area now where the Supreme Court in 1972, in *Jackson vs. Indiana*, stated very clearly that there have to be some guidelines in terms of what you do and what are the rights of the person who is being treated.

I suggest that some very careful analysis be done in this area before you move forward.

The Act that I gave you contains a summary and an explication of the Act itself and it deals specifically with the case law and the interpretations as to what is constitutionally permissible and what is not.

I should also point out to you that one of the other problems that we are confronted with, that we hear

a great deal about is what we call the preventive premise, and that premise means that we characterize drug use and drug dependence as we would bubonic plague and smallpox. And we are constantly talking about this in terms of contagion, epidemic, illness, sickness. Now these words have meaning but when we use them in the legal context, the context changes somewhat radically. I will guarantee you that there is a legitimate interest of the state to reach out before anything takes place and quarantine somebody if they have bubonic plague, if they have smallpox, if they have a communicable disease. However, when we are talking in the area of drug dependence, you have to remember that we're not really talking about a medical disease, we're talking about a social disease. And the communication is not by bacteria and is not by microbes, it is by ideas. We may not like those ideas but that is how the drug "epidemic" is transmitted. And I think we have to be very, very careful about not rushing into something and trying to seek simplistic solutions to something that is really a social problem.

We also recognize something else. If we really wanted to deal with and help people in the treatment-rehabilitation phase, perhaps the best way to do it is on a voluntary basis, if we were talking about a utopian world, that is, the people that are highly motivated to get off their drug dependence would come in and they would get treatment and probably the statistical rate of "success" would be very high. However, the vast majority of people who are drug dependent do not want to come in voluntarily; they do not want to get reintegrated into the mainstream of American life. And for this reason the Commission felt very strongly that we have to utilize our criminal justice system as a method of entry to get these people into treatment. It is for that reason that we recommended that in dealing with drug-dependent

people that we have to have both the carrot and the stick. Our studies that were conducted both by the Commission and by other people in the National Institute of Mental Health, and elsewhere, indicate that for a large segment of the drug-dependent population the stick is as important as the carrot.

Therefore, what we have recommended and what is being recommended to the National Conference of Commissioners on Uniform State Laws is the utilization of the criminal justice system as a method of detection. In other words, utilizing the system, the police, the law enforcement officials, to reach out and pick up people who are drug dependent if they are committing a crime. And if the crime is possession, then I might go into that in a minute, they can reach out and pick these people up. But once they pick them up and the people are drug dependent, then the State has a responsibility not to put them in jail but to put them into treatment, and it can be residential, it can be outpatient, it can be intermediate. We feel that by holding the threat of a criminal sentence over them, provided that it is a rational criminal sentence, you can at least get the person to the doctor. We cannot guarantee we can cure him, we cannot guarantee we can really help him, but at least the state is taking the step of at least making that facility, that service, available to that individual. Anybody who talks in terms of success in this area is talking pie in the sky. We can tell you with absolute certainty that there has been no evaluation of rehabilitation and treatment programs that has resulted in national guidelines; there has been no evaluation of educational programs that will result in national guidelines; we do not know at this point in time what is very successful and what isn't. And I would caution you to be terribly, terribly

skeptical about statistics that you are getting about a cure rate either with methadone maintenance or a cure rate in therapeutic communities. I can take any statistic I want and I can show you how to prove that it is either successful or not successful. Whether these programs are aimed at solving crime, I think crime is just one part of a larger picture. I think that people are tending to forget a very important thing, and the important thing is that we're not just interested in crime, we're interested in the togetherness of the family, the structural support for other institutions, and something that everybody seems to forget and that is productivity.

Whether we like it or we don't, the basic moral premise of this United States is a work ethic. And what we're trying to do here is we are trying to make certain that people at least abide by it. Now we can't guarantee that everybody will do it but there is nothing wrong in talking about it because that is the basic ethic. If people don't like the ethic, we can change it. But for the time being that is the ethic.

I am accompanied by Mr. Michael Morrell, who is my special assistant, who has done a lot of work in the methadone maintenance area and has done a lot of work in treatment and rehabilitation. And I thought it would be useful to have Mr. Morrell here also in case there were any specific questions you would like to ask either of us.

I should point out that you should be aware of this fact that the statistics presently are that we have 194,000 people in every federal, state and local jail throughout the United States. We have presently civilly committed 428,000 to mental institutions. And we have to be absolutely certain, as the Supreme Court has stated, that the rights of that 428,000 people are at least

the same as those that we put in jail.

This is a very major point and it's something that has to be faced squarely by the Legislatures of the various states. We have to design treatment acts, civil commitment acts, that do abide by constitutional standards.

Thank you.

ASSEMBLYMAN MENZA: Assemblyman Russo?

ASSEMBLYMAN RUSSO: Yes. Talking about this narcotic problem throughout the country, would you say that the parents have caused many of these problems or they could have solved these problems early in life?

MR. SONNENREICH: No. Our studies - we did a study, as a matter of fact, the only cohort study ever done in the City of Philadelphia, which was taking all of the persons born in Philadelphia since 1945 and tracking them. This was done by Dr. Marvin Wolfgang and the Commission paid for follow-up studies. When you find out, as you find a lot, most of the people that will go in to heroin dependence have a history of delinquency, they are in a delinquent population. Now I don't think it is the drug itself. Whatever the problems are about being delinquent and the role of the family would bear on the general delinquency problem. I might also point out that these people - the studies indicate that before they ever went on to heroin they had at least seven run-ins with the police, as an average, which means that they were already involved in this criminogenic pattern - call it what you will.

I don't think you can blame just the family. I think that in terms of experimentation and in terms of recreational use of the drug there is no question, children emulate their parents. But if you are talking about the compulsive end of the scale, I think we just have to accept the fact that there is a percentage of

our population that cannot cope with society. We know this for a fact with alcohol. We have 10 million alcoholics, 10 million functional alcoholics. That accounts for almost 10% of your entire population in the United States. These figures have been available for years.

Now whatever the reason somebody becomes an alcoholic, and there is good transference between that kind of dependent and the dependence on heroin. It's the same reason. For whatever the reason they cannot cope, the stress factors are just too high. And I don't think it's just a question of blaming the parents, say well the parents didn't do a good job. I think a lot of this is a *mea culpa* in terms of parents feeling that they've done something wrong. Sometimes they have but many times they haven't.

ASSEMBLYMAN RUSSO: I would like to refer to the same question as to the young people, say between the ages of 10 and 15, in that area. Would you say that parents are responsible there?

MR. SONNENREICH: I think there is a strong correlation between children emulating their parents' behavior. There is no question about it. Parents are using alcohol, parents are using pills. We have to follow by example. By the same token, I think we have to recognize a very important fact. We tell our youngsters to be curious, to experiment, to be their own man. One of the beer companies tells you that you only go around once in life. And what happens is, these are the ~~images~~ images that are coming across to the youngster. He also has money. Now, if you add money, a sense of being curious, and the fact that the drugs are available, you're going to have drug experimentation. And the peer group is a very important influence because most people use drugs not because they really want to get high, they use the drugs because their friends tell them, you

want to be in, you want us to stay your friend, use a drug. And this is a very difficult thing to cope with. The peer pressure in the junior high schools and the high schools is very, very strong. And I think we would be remiss to say it's the parents' responsibility. I think the parents do share, as part of the blame, in setting the example but I certainly don't think you can put it squarely on their shoulders. Of course, I'm speaking as a parent.

ASSEMBLYMAN FLORIO: You said something that was very, very interesting. You said that there will always be - I think this is correct - a percentage of the population which can't cope with the emotional stress of society.

MR. SONNENREICH: That is correct.

ASSEMBLYMAN FLORIO: That, I think, has always been the case. Inasmuch as we do have this proliferation of the drug problem to such an extent over the last number of years, would you conclude that that percentage is getting larger, or just by virtue of the availability of drugs that has become the way of --

MR. SONNENREICH: Well, the drug problem is getting larger and the biggest and most important drug problem we have is alcohol. The number of alcoholics is going up. Compared to heroin, heroin is a drop in the bucket compared to that problem. If you want to talk about crimes, 50% of assault crimes are alcohol related.

ASSEMBLYMAN FLORIO: Well why doesn't alcohol suffice?

MR. SONNENREICH: Because we are a very technocratic society and what happens is we have a wide proliferation of drugs. I think you have a very, very high percentage of experimentation because of affluence, because of the mobility of the society. But I don't think you have that striking an increase in compulsive use of heroin. We

know for a fact that at the turn of the century we had probably percentagewise, in terms of population, as high a use of opiate drugs and opiate addiction as we do now. It was mostly by housewives. It was mostly as a result of the fact that we didn't have good labeling laws. You have to keep in mind we had free morphine clinics in the United States until 1925. We had forty-four of them. So this is not a unique phenomenon that's occurring. The thing that is unique about it is that it gets transmitted in terms of media message much quicker to everybody, you're more aware of it. But you want to look at drug problems in the United States starting around after the Civil War. You have some very, very high problems. And I don't think you should characterize this thing as a unique phenomenon of the sixties and seventies. The reason it became a unique phenomenon in the sixties and the seventies is it left the ghettos and it went into the white communities. And, quite honestly, that's why we're concerned. The proportion of people that are heroin dependent in the United States today are in predominant numbers Black, Mexican, American and Puerto Rican. That's the group, that's the most vulnerable group that's being hit, and the reasons are fairly obvious in terms of the problems, the upward mobility, the whole range of social problems that we're confronted with.

ASSEMBLYMAN FLORIO: Is this related to your conclusion before that this problem was largely a sociological problem?

MR. SONNENREICH: I don't think there's any question about it. I can't believe anybody can argue that point.

ASSEMBLYMAN FLORIO: Well you're not saying that in fact there aren't physiological aspects of this which make it a medical problem as well.

MR. SONNENREICH: Let me relate a very simple story to you about the physiological aspects. One of our Commissioners, Dr. Maurice H. Sievers, is the Head of the Department of Pharmacology at the University of Michigan. Dr. Sievers has run the monkey colony for the United States Government for forty years. He has about 450 monkeys, some goats and a couple of parrots, I believe. Every psycho-active drug known to man goes to those monkeys and they're tested. Dr. Sievers, because he loves his monkeys, takes the drug himself first to see what the effect is.

Now what we do is very simple. They put them in the cages - and this is with relation to your physical addiction. Everybody worries about the physiologic component. They put catheter tubes into the monkey's stomach and we teach him that every time a light goes on he hits the bar and he gets a shot of the drug. And we have all various drugs there, you name them - heroin, morphine, alcohol, everything. We'll let the monkey free bar press for up to two weeks to see how much of the drugs he'll take. Every time the light goes on, if he likes it, he hits the bar. He keeps hitting the bar and we chart it on a computer and we see the curve. We see what tolerance develops, we see what kind of frequency patterns develop. After two weeks, we leave the bar press there, we leave the light there, and we take away the drug, and then we want to see how many times the monkey will bar press before he gives up because he's not getting anything.

Now the machine records up to 6400 bar presses a day. Well we took the opiate drugs, morphine, demerol, etc. The monkeys bar-pressed on an average of 162 times a day before they quit. That was even while they were undergoing classic withdrawal symptoms. With drugs like amphetamines, which are not addictive, the

monkeys bar-pressed 1800 times a day. With cocaine, which is not only not physically addicting, it does not produce tolerance, the monkeys bar-pressed 6400 times a day.

Now the answer is not that the physical component is the primary enforcer in drug use, it is not, it is the psychological component. We can take everybody on heroin in the United States today and we can detoxify them. And you know and I know that if you put them back in the community we will have a 98 or 99 percent recidivist rate. It is not the fact of the physical dependence. I think people get very, very confused with this kind of factor. We're talking about psychological compulsion, psychological not physical.

ASSEMBLYMAN FLORIO: That's very interesting because I think most people, laymen, make a distinction between marijuana and hard drugs largely on the basis of what they think to be the physiological or physical impact of the hard drugs. I'm talking about fairly sophisticated lay people. Now you say that there is very little distinction.

MR. SONNENREICH: No. There is very strong distinction because of the fact of what the drug produces, the effect of the drug and the behavior that is exhibited from the drug. When you're talking about marijuana, you're talking about something that we know a great, great deal about. The people that tell you that we don't know a lot about marijuana really don't know what we know about other drugs. Most of the drugs that are marketed in the United States that are approved by Food and Drug Administration - we don't know half as much about those drugs as we do about marijuana. There haven't been commissions to look at marijuana. The Department of Health, Education and Welfare has not been required by the Congress for the last three years to issue separate reports just on marijuana. We know a

great deal about the drug. We've done longitudinal studies on marijuana that most drugs that are presently marketed have never had done. Now we know what the effects are.

ASSEMBLYMAN FLORIO: Is there any doubt in your mind that there is still the psychological dependence aspect of marijuana?

MR. SONNENREICH: No question about it. We estimated in our first report, and we stand by it in our second, that in any group of people that would use the drug on a constant basis you have a chance of 2% of your total population of users becoming psychologically dependent on the drug.

ASSEMBLYMAN FLORIO: With that in mind - I heard your testimony from the back of the room stating that you didn't favor legalization of marijuana --

MR. SONNENREICH: That's correct.

ASSEMBLYMAN FLORIO: -- and yet you were in favor of decriminalizing possession of marijuana for your own use - I'm just asking administratively how would you go about doing that? It seems to me you would have to repeal some statutes and isn't that legalization?

MR. SONNENREICH: It is absolutely not legalization. As a matter of fact, in point of fact you have the decriminalization in most of the cities of the United States. You have the fact of decriminalization of marijuana in the State of New Jersey. You're not arresting the people for possession unless a complaint is filed. In New York City, talking to Mayor Lindsay and talking to the Narcotics Squad, there would be no arrests made for marijuana possession unless there is a formal complaint lodged with the police.

I have just returned from San Francisco and I can guarantee you there is de facto decriminalization of the use of marijuana. Now there is just no question about it. In 1971 we arrested 415,000 people on drug charges in

the United States of America. That is the third largest category of crime offenses in the United States. The first one is drunk and disorderly, another drug. The second is petty larceny under \$50; and then it's drugs which basically are narcotics and marijuana. Of the 415,000, 200,000 were marijuana cases. We did our own studies in six metropolitan jurisdictions - L.A., Dallas, Chicago - that included Cook County - New York, Metropolitan Washington which included the suburbs, and Miami.

The statistics are very simple on marijuana. And by the way, this year it's 495,000, 220,000 of which are marijuana possessors. 94% are possession cases of less than an ounce. 89% of the people that are arrested are first offenders in the sense that not only have they no other criminal record, they don't even have a moving traffic violation.

We find that if you get arrested for marijuana possession in the United States right now, your chance of being convicted is one in ten, your chances of going to jail is one in a hundred.

Now the system is already adjusted. It is already adjusted. It is adjusted in terms of selective law enforcement because there is no way in the world that we could deal with it if we arrested the 220,000 marijuana users - forget the heroin people - okay? - and we put them in jail, we would have doubled our prison population in one year.

So in terms of talking about it, it's very realistic. It happens now. This is exactly what we had with alcohol prohibition. It's exactly what you have with obscenity. You're not allowed to transport things or sell obscene materials in the mail but if it's in your home, there is nothing wrong with it. You cannot be arrested for possession. We're not saying we're encouraging the use of it, we're just saying that the

criminal law is not going to be able to reach out and arrest somebody for using the drug. If you use it in public, fine, you'll get fined. No question about it. You disturb the public, you commit any crime and you're under the influence, there is no defense to the crime. We follow the same voluntary intoxication standards as we do for alcohol, but on the basis also of what we know about the drug. We know that this drug, in terms of potential for harm, is so far less than the other drugs that we are talking about and is far less than alcohol. And there's just no question about it.

ASSEMBLYMAN FLORIO: I am not sure how familiar you are with New Jersey statutes but --

MR. SONNENREICH: I'm very familiar with them.

ASSEMBLYMAN FLORIO: Fine. Wouldn't you concede the fact that there would have to be repeal of some statutes?

MR. SONNENREICH: That's right. Oh, there is no question about it.

ASSEMBLYMAN FLORIO: Don't you think that in fact, though technically you may not find that as making it legal to possess, wouldn't that be interpreted by the public as such?

MR. SONNENREICH: I agree with you. There is no question that the public has to be educated. I was Deputy General Counsel for the Federal Bureau of Narcotics and Dangerous Drugs, the Federal Government Department of Justice. Before that I was a Prosecutor in the District of Columbia. I arrested people. I had people arrested. I had them prosecuted. The fact is that you look at the drug and you look at the harm and you look at the studies and you look at not isolated studies like Lancet, which has now been uniformly denounced. Dr. Robie was with us in Honolulu and on Sunday he got up in front of the American Psychiatric Association and it was roundly denounced. Now the study is terribly flawed, flawed enough that in the next issue of the Lancet Magazine

the editors of Lancet put in a word of caution as to the statistic and methodological problems with that particular study.

Now we do know a lot about the drug and there is no question there is going to have to be an attitude change. But, by the same token, we know enough about the drug to know that perhaps we have to do it.

ASSEMBLYMAN FLORIO: Thank you.

ASSEMBLYMAN MENZA: I have a few questions.

Sir, did you state that cocaine is not addictive?

MR. SONNENREICH: Cocaine is not physically addicting, it does not produce physiologic dependence. That is correct.

ASSEMBLYMAN MENZA: Also amphetamines?

MR. SONNENREICH: Amphetamines do not produce physiologic dependence. What happens is after you take amphetamines, especially if you're taking them intravenously, what happens is you go through general fatigue. This has been demonstrated amply by the National Institute of Mental Health. You will crash but you will not exhibit the withdrawal symptoms that are classic withdrawal symptoms that are associated with opiate drugs.

ASSEMBLYMAN MENZA: Then is it not a fair analogy, why not decriminalize the use of amphetamines and decriminalize the use of cocaine?

MR. SONNENREICH: Because of the problems of the impact of the drug induced behavior. Amphetamines are stimulants. The use in some manner, for example if you're shooting speed, you have hyperactivity. There is a propensity, especially with cocaine, for hyperactivity, hyperexcitability. It does pose much more of a severe threat to the public order than something such as marijuana. We have to judge the drug on an individual basis. There are certain concomitants that flow from the use of various drugs. These are

stimulants. Cocaine is a very, very high stimulant and is perhaps one of the most seductive of all the drugs.

ASSEMBLYMAN MENZA: I've spoken to, personally, hundreds of addicts who stated to me that they tried marijuana before they went on to the harder stuff - by the way, in all fairness, many of them said they drank excessively and many of them were arrested, and so forth.

MR. SONNENREICH: Of course.

ASSEMBLYMAN MENZA: But the fact still remains that these people did say that they started with marijuana.

MR. SONNENREICH: The highest statistical correlation between the use of heroin and any other drug is alcohol, that is a correlation of about 38%. There is a reason why people went through marijuana. Marijuana is no big thing. It isn't going to give them the high they want; it isn't going to give them the cop-out that they want. You're going to use a whole variety of drugs if you're heading toward the compulsive use scale. The fact that somebody passes through drug use of various drugs does not infer any kind of causal connection. And there is no responsible person in the Federal Government, or anywhere else that I have heard, that is going to infer a causal connection between marijuana leading to heroin or anything else.

ASSEMBLYMAN MENZA: Let's assume for the sake of argument then that marijuana is a very mild drug and it gives you a very shortlived high, for example, and not much of one to begin with, what's the point of decriminalizing it, why legalize it, because when you say decriminalize it you are in effect, Assemblyman Florio is correct, you are legalizing it.

MR. SONNENREICH: No, you're not. I have to differ with this Commission. When you legalize it, you're putting it on the market, you're selling it, you're controlling it, you're getting taxes from it, the whole

range of other things. When you do that you are then saying that you approve of the use of the drug.

ASSEMBLYMAN FLORIO: Excuse me. Can you tax the sale of an illegal commodity?

MR. SONNENREICH: Of course not. Gentlemen, we had it with alcohol prohibition. You don't allow the sale of the drug because if the government says you allow the sale, the availability decision, that means that no matter how you cut the mustard you are approving. The fact that you do not criminalize somebody for an activity that they do, which is a personal activity, is not governmental approval. The fact is that in 1965 when we passed the Drug Abuse Control Amendments at the Federal level, it was a crime to sell LSD and amphetamines, barbiturates and everything else. It was not a crime to use them. Now our history is replete with this kind of decision between availability and consumption.

ASSEMBLYMAN MENZA: But, sir, let me just say, for example, one of our statutes says under 25 grams a disorderly person carries a maximum penalty of 6 months in jail and a \$200 fine, I believe it is. If we do away with that particular statute, we say in effect, if you have less than 25 grams it's no crime. Isn't it a play on words to say it's no crime?

MR. SONNENREICH: I hate to split hairs with you but the answer is, it's not legal, it's not illegal, and that is very important. You know, we really don't have the time but there is an important difference. I would strongly urge in considering anything like this please look at Chapter 4 of our Second Report. We go into a hundred pages of discussion about the history of how the government reacts to making things available and how the government reacts on what the constitutional rights are in terms of consumption related offenses.

And I think that - you know, you draw your own conclusions from it. There is no question about it that if you're talking from a public relations point of view there is a great need to educate the public but I also think that we have to be a little honest about the thing, that what we knew about the drug or what we perceive about this particular drug does not conform with fact.

ASSEMBLYMAN MENZA: What bothers me, let me have you understand this, as a basic premise I have no opinion one way or the other, really. I am convinced that persons who use drugs should not go to jail, no question about it, particularly marijuana. However, what bothers me is why? Why decriminalize marijuana? Merely because everyone happens to be using it?

MR. SONNENREICH: No. Why put 220,000 people through the criminal process that is ill-suited for them. It's the same reason that if you take the others - from the 495,000 take the other 275,000 people, the vast majority of them were heroin possession cases. Now why run them through our system?

ASSEMBLYMAN MENZA: But isn't there an area of compromise, sir?

MR. SONNENREICH: No. My feeling is that it is not an either/or proposition, that you don't take 180 degree swings and go from total prohibition into total acceptance and legalization. My own personal feeling is that marijuana use, everything that we've seen - we've conducted the only national studies on this - is that we are probably going through a fad. You now have, if you like statistics, - you had last year a first national survey which indicated at least 24 million people that use marijuana and at least 8 million had listed themselves as present users. This year the study indicated at least 26 million people that used marijuana and at least 13 million had listed themselves as present users. Now you do not perpetuate a law that is not founded on

consensus. If there is justification in the pharmacologic properties of the drug, in the behavior that's exhibited by the drug, then the state has a compelling state interest in controlling the drug. What we are saying is, on the basis of fact you cannot make the case. That's all we're trying to say. And you don't perpetuate something that brings down the credibility of the entire criminal justice system because of the fact that we are uncomfortable in having to change public perception. We have a severe problem in our criminal justice system. We're not prosecuting the cases we should be prosecuting.

ASSEMBLYMAN MENZA: I'm inclined to agree with you. The only other thing that bothers me is that there was some grave question, when you gave the report to the President, who wasn't very happy in accepting it, as to the validity of your scientific studies.

MR. SONNENREICH: That has never been questioned. I would like to know one person. Even the President, in his letter back to the Commission, has never questioned the validity of our scientific studies.

ASSEMBLYMAN MENZA: Are you saying that physicians, for example, and persons who are knowledgeable in this area, researchers, agree that marijuana is a non-addictive drug, that it's very mild and doesn't lead to heroin?

MR. SONNENREICH: Of course. That's the statement of the American Medical Association. They came out with it last year right after our report. That's the statement of the American Psychiatric Association and the statement of the National Education Association. These are all on record. There are individual doctors, Doctor Robie being one, and a Dr. Nahaus up in New York being another, that just say no. But I am telling you that the vast weight of scientific evidence, the vast weight of scientific opinion is in absolute conformance with our report. Take a look at the report that was just

issued by the Department of Health, Education and Welfare on marijuana and health. I mean, nobody is arguing the facts about the drug.

ASSEMBLYMAN FLORIO: Have any of these authorities concluded socially desirable the use of the drug?

MR. SONNENREICH: No. We don't conclude it's socially desirable.

ASSEMBLYMAN FLORIO: I've heard your testimony and I've read these reports and the same comments I would make with regard to that, that if nobody concludes it's socially desirable that in fact by institutionalizing approval through the criminalization process - we have a distinction with no real difference as far as I am concerned - you're giving a cloak of official approval to something that we concede is not socially desirable.

MR. SONNENREICH: But you see, it's a fact now. We don't feel it's socially desirable. Nobody is arguing that point. We would like to discourage the use. We feel it is far more socially undesirable to arrest 220,000 every year, 94% of which are possessors, and put them through the criminal process, because the drug isn't that bad. We would not like to have it as another social recreational drug in the United States, but that's a decision which has been taken out of your hands. You have no control over it. 26 million people have already voted on that issue. And the fact of life is, - if you want to sit here it's very simple, but the facts are, on the national survey, 66.9% of all the college students have used marijuana at least once. Between the 18 to 21 year old age range 58% of the national survey had used marijuana at least once. You want to keep the laws on the books? In my judgment it's going to be inevitable. You're not going to get any conviction. And what you are going to do is the very thing that I am much more concerned about which is the credibility of the criminal justice system which is

going to go down the tube because these people are going to look with great cynicism on something where everybody knows the law is being selectively enforced.

ASSEMBLYMAN FLORIO: Have you any information with regard to the number of other individuals, over and above 66% or of the 66% that only used on one occasion as a result of the deterrent value of the existing statute?

MR. SONNENREICH: Oh, it's not deterrent. Deterrent value is whether you use or don't use. The deterrent value of the law in this instance is all it does is make it use it in your home. The important factor here is that they commit an illegal act. Now if you commit an illegal act, you smoke marijuana and you're sitting on the jury and the person who comes before you he committed an illegal act, he smoked marijuana, you're going to be very hard-pressed if you have some integrity to find him guilty. The difference between you and that individual, he got caught, not that you both didn't knowingly commit an illegal act. This is fact. You can make all the arguments you want about it but you're going to bring in a cynicism and you've already brought in a cynicism on the integrity of the criminal justice system. I really can't explain it to you. We have gone to every state of the Union, we have talked to people. This is very, very socially undesirable. If we were talking about a drug like DET where you have 100,000 people that might have experimented with it, that's fine, but we're beyond that point now. And I think we also have to be realistic about what's going on. We don't want people to use it. I have never used it. I will never use it. But the point is, we have to recognize that a lot of people did.

ASSEMBLYMAN FLORIO: One final point. At the last hearing we had a number of ex-addicts who came and testified and to a man they all opposed the de-

criminalization of marijuana.

MR. SONNENREICH: Fine. Well, you judge ex-addict testimony whatever way you want. I have no comment.

ASSEMBLYMAN FLORIO: Thank you.

ASSEMBLYMAN MENZA: Has any state effectuated decriminalization of marijuana?

MR. SONNENREICH: There are presently five states that are considering it. The State of Texas - we just finished down there - they are considering the civil fine. But there is a companion bill that would decriminalize the State of Oregon, the State of Washington, the State of Wisconsin, the State of Hawaii. Maine just went to mandatory probation. It's all listed.

ASSEMBLYMAN MENZA: Maine went to mandatory probation?

MR. SONNENREICH: Yes.

ASSEMBLYMAN MENZA: First offenders only?

MR. SONNENREICH: That's right. The same in West Virginia. Absolute. There are three states now where you cannot go to jail for it.

ASSEMBLYMAN MENZA: For possession and use?

MR. SONNENREICH: That's right, and casual transfer for no remuneration.

ASSEMBLYMAN MENZA: Any quantity?

MR. SONNENREICH: That's right. You see, we still would make it a crime. It would be a crime to possess with intent to sell. Now that would be a felony and the reason for it is obvious. It makes no difference to me if you are a major trafficker whether you have already sold the goods to me or you have them in your possession in large quantities. But the burden is on the prosecution, and that's where the burden should be.

ASSEMBLYMAN MENZA: I'll switch again. What do you think about civil commitment of narcotic addicts?

MR. SONNENREICH: I think you have a lot of constitutional problems with an involuntary civil commitment procedure. We have in this Act short term involuntary civil commitment for emergency cases, where you have the person incapacitated or so far under the influence that he needs assistance.

ASSEMBLYMAN MENZA: What recommendation did your report make with regard to funding of treatment centers throughout the country?

MR. SONNENREICH: The role of the Federal Government in treatment and rehabilitation is to do nothing at an operational level but merely to provide funds and block grants to the states. That's exactly what's going to happen. The burden is on the state to provide the facility, the government will fund it.

ASSEMBLYMAN MENZA: Are you familiar with state funding in New Jersey?

MR. SONNENREICH: New Jersey is the one state that we did the pilot study on all funding, rehabilitation, treatment, law enforcement, etc., with the cooperation of Governor Cahill. This is a study that is available. I will be glad to make it available to you. It dissects the entire thing, where you get your money, how you spend your money, and who evaluates the money in the entire drug area.

ASSEMBLYMAN MENZA: And would you say, after making this study, that the funding is adequate in the State of New Jersey?

MR. SONNENREICH: It is inadequate.

ASSEMBLYMAN MENZA: It's not adequate.

MR. SONNENREICH: It is inadequate, that is correct. And the money that is being used - there is a need for better organization. And the people that are running the programs are well-meaning people. I want to compliment the State of New Jersey for having the guts

to go in independently and take a look at your system. There are other states that were too frightened to do it.

ASSEMBLYMAN MENZA: Could you furnish us, sir, with six copies of that report? Is that possible?

MR. SONNENREICH: I cannot furnish six copies. I can get you a copy of the report and will be glad to give it to you. But I think this would be a very interesting thing because it shows you how the Federal money also comes into the State of New Jersey.

I apologize but I have got to make a plane.

ASSEMBLYMAN MENZA: Thank you very much.

MR. SONNENREICH: I will leave an extra copy of this so at least you will have two copies of it.

ASSEMBLYMAN MENZA: We appreciate your coming, sir.

We will take a five-minute break.

(Recess)

ASSEMBLYMAN MENZA: We are going to start again. You are Professor Arthur Frakt from the Rutgers Camden Law School.

MR. KRAKT: That's correct.

ASSEMBLYMAN MENZA: All right, Professor, would you proceed.

A R T H U R F R A K T: Perhaps I should just tell the Commission very briefly that over the past three years or so, I have been engaged both in a study of Drug Law and Treatment in New Jersey nationally and to some degree in Europe, under the auspices of SLEPA, and I also teach a course in Drug Law and Treatment at the Law School. My students have done a good deal of research into varying aspects of the problem. So I thought that I might briefly deal with a few of the topics that I know this Commission is interested in. And, if you have any questions, I will try to answer them. I will do this as succinctly as possible.

On the civil commitment question, the civil commitment for drug offenders sounds like an attractive, humane alternative to prison, but on close examination I don't believe it fulfills its promise. I have personally examined the California Rehabilitation Center on two occasions at Corona, the men's facility, and Patton, which is the women's facility.

Other people working with me on the study examined the New York facilities and also the Lexington and Fort Worth Federal facilities.

In the first place, residents of civil commitment programs don't perceive them to be treatment facilities as opposed to penal facilities. As one resident of Corona put it in a slightly edited form, "I can't have intercourse and I can't leave. Therefore, it is a prison, not a hospital."

People in the programs tend to fall into one of

two categories. Category one are people who are accused of serious crimes. As a result of plea bargaining, they get committed to civil commitment programs with its milder discipline and shorter period of incarceration, etc. They are very poor candidates for rehabilitation because they essentially follow the philosophy of "go along to get along." They do what they have to do to get out as quickly as possible and they are very happy to have, in effect, copped a plea, either before or after proceedings have started.

So they are essentially contemptuous of the whole system. Some of them may have been heavy drug addicts; often they are not. I think it is almost inevitable that you are going to get this kind of individual in any civil commitment facility. It becomes another tool for bargaining between prosecutor and defense attorney.

Category two, however, individuals who have used drugs but who aren't accused of serious nondrug crimes - they don't perceive of themselves or as being sick people. So they are very resentful and angry at being confined. The year or so incarceration and the substantial probation period with its constant surveillance and threat of reinstitutionalization all combine to make them poor candidates for rehabilitation because they are increasingly resentful being lumped together with hardened criminals in this institutional setting.

All the problems of large sexually-segregated institutions are present in the major civil commitment facilities like the California Rehabilitation Center which, after all, is I suppose the oldest state facility and the largest in the country with some two thousand or so residents: clashes between the custodial staff and the treatment staff, the playing-off by residents of one against another; the memorization of the required

routine of mock, humility and hopefulness required to gain release. For example, I sat in on the release procedures of the Supervising Board at California Rehabilitation Center. It went like this: The resident would be brought in dressed up for the occasion and would sit down and be asked about their drug habit and their response would go, "Well, I have learned a lot from being here. I think that when I get out, I really am going to try to stay off drugs. I can't guarantee that I will make it because I know I have serious problems. If I'm tempted to use drugs, I will consult my agent and try to work it out. But I really want to get back and work well. And I'm going to get my child back and I am going to really work at that." Then there would be some nodding and there would be a question or two, such as, "Well, are you going to stay away from marijuana? You are not going to get involved with your old friends, are you?" And they would be released.

This is a charade and they are amazingly frank about it. You spend more than a few minutes with them and indicate you are somewhat knowledgeable and you will get what they really feel about the facilities.

What is most discouraging is that on the whole the treatment people are competent, dedicated individuals. As far as penal institutions go, civil commitment programs like CRC are far more humane than most prisons. In fact, the advanced programs offered would seem to be the kind of things that many penologists are calling for in prison reform: work release, contact with the outside world, more humane facilities, no requirement for the wearing of prison garb, and the like. For all that the recidivism rate is extremely high and at CRC it is exactly the same recidivism rate as you will find in the state prisons.

What can be said is that it is really quite

discouraging. From the first time I went to CRC to the last time, the people in the program realized that by and large it was a failure, so they instituted what they called the quick release program. Essentially what they would do in this program is keep an incoming resident isolated while he was evaluated. If the staff determined that this person could keep his drug habit reasonably under control without resort to crime, they would attempt early parole.

One veteran treatment official explained that the very nature of the institutional treatment process was such that it virtually assured failure. If they could keep an individual out of the process, they would prefer to do so.

On the drug treatment industry --

ASSEMBLYMAN FLORIO: One point, a semi-serious question. A few times you made reference to the fact of sexual separatism in these institutions. Do you think that is any sort of a big factor in the difficulty in making a success out of one of these civil commitment institutions?

MR. FRAKT: I can give you two very brief anecdotes. One - at the men's facility - they were formerly together, although the prisoners were kept segregated - or I should say the residents, as they prefer to call them - there was a raid something like a panty raid, if you want to call it that, and then they separated them about 20 miles apart. They found in one of the groups there was a lot of difficulty and there were a lot of contracts - you know, these agreements not to speak about things that were going on. It turned out that one fellow who was responsible for a tremendous amount of homosexual activity, when he was called on the carpet for this -- It had run rampant through this whole particular group. What they tried

to do was have a variety of different groups, keeping them relatively small. He said, "Well, when I am on the outside and I am on drugs, I have no sexual interest at all. I am on drugs. I am not eating right. My libido," or words to that effect, "is nonexistent. I get in here - they feed me. I am off drugs. I'm healthy and I have normal sexual appetites, but there are no women around, so I use men. The minute I get out, I go back to drugs, and I have no sexual interest."

A second incident, something I observed, was a group session at Patton. There were about 30 or 40 women in the session. While the so-called TC session, this therapy session, was going on, the women were holding hands, necking and the like. The attitude of the officials was, well, it's just something that happens within institutions. What they tried to do if the women got too involved with one another was put them together so eventually they would fight and break that particular close contact. But on the whole, it is the same as in prisons everywhere. You have rampant homosexuality.

If you believe that homosexuality is a problem - and I think that it certainly is, especially if imposed upon people who are not exposed to it outside and not interested in it - then you have universal homosexuality in these institutions.

ASSEMBLYMAN FLORIO: Inasmuch as some penal institutions have been initiating programs of conjugal privileges, are you suggesting that in civil commitment institutions that such a procedure may be of some value in making them more effective?

MR. FRAKT: I guess my whole point is that these really are prisons and have to be looked at as prisons and to call them "civil commitment" is really dodging the issue. It is more humane in many cases. I don't

suggest that people who use drugs should be sent to prison. But to say the alternative will be civil commitment unless that civil commitment is really civil - and that may mean community treatment, it may mean no incarceration -- but what we have in civil commitment are essentially prisons. They are perceived as prisons. They are nicer than most jails, but they are still prisons. You have guards. You have a custodial staff which comes in at night and often undoes all the work that the treatment staff does during the day. You have that conflict. The custodial staff thinks that the treatment staff is a bunch of long hairs and homosexuals. Not all the guards and not all the treatment staff, but there is enough of that to make it extremely difficult to get positive results.

ASSEMBLYMAN MENZA: Does not the fault lie not so much in the law providing for civil commitment, but the institutions. For example, if you had a different type of institution, a family-type environment, for example, an institution perhaps patterned after DARE or Synanon, would not then the law of civil commitment be ---

MR. FRAKT: Well, I like Synanon very much, not for drug treatment but because Synanon is an interesting social experiment, and I will give you a copy of this because there is a whole chapter on it. They started out being almost exclusively drug treatment and yet today a surprisingly large percentage of the people coming into Synanon don't have drug problems at all. It is an alternate life style. They share. They kind of combine a capitalistic work ethic with communal ideas about profit-sharing and the like.

For many people, not because they are drug addicts but because they are lonely, because they can't make it in a very harsh world. Synanon is a very, very

good place to be. But those persons who are in effect civilly committed to Synanon, that is, on probation court referrals, the rate of recidivism is just as high. Ninety to ninety-five percent of those people who are forced into the place split at the first opportunity.

ASSEMBLYMAN MENZA: Professor, I don't wish to disagree with you on this, but I question the validity of your last statement. Because I would dare say that 80 per cent of those persons in private institutions, private rehab centers are there involuntarily. The court says to them "You go here or you go to jail."

MR. FRAKT: I agree.

ASSEMBLYMAN MENZA: I don't know if the recidivism rate is as high as you say it is. Are you saying in effect that the recidivism rate of all those persons who go to a private rehab center involuntarily is the same as those persons who are sent to jail?

MR. FRAKT: Fairly close. What you get from the rehab centers -- of course, it is very hard to get statistics out of them -- what you get is kind of a taken on faith attitude and they resent very much the question of how many people are cured. It would be like asking a priest how many souls have you saved. They treat it the same way because the answers are, "While they are here, they are healthy. Drug addiction is a life-long disease. So if people are off drugs for a year or two years, it is like remission from cancer and that's good." Further they will say, "Maybe they won't make it this time but they learn a lot. Maybe the next time they will. Or if they go back on the streets they will be better junkies." You get this over and over. But if you really could look at the people who come in the door and walk out the door and not have the filtered-out kind of statistics -- That is to say the drug treatment programs will not consider people

who have only stayed a day or a week residents because they haven't been there long enough for the program to be effective. Or they will tell you, "Ninety percent of our graduates are drug free." But they may have only had one or two percent of the people who actually initially walked in the door remain to be graduates after two or three years. Those people they tend to hire themselves.

No matter where I went I always found at least one staff member, whether it was Odyssey House in New York or DARE or anywhere, -- I always found one staff member who was willing to admit, "Look, we feel we are successful because we have some people who have been saved. On the whole, in figures, we are not." Even at Synanon, the Medical Director, Dr. Deisler, said in a confidential moment, "Well, maybe we used to be successful with 2 percent of the people who came in here. Now we are successful with 5 percent to 10 percent. But look at the mental hospitals, they are not successful with anybody." So that was his rationale.

I am not suggesting that that may not be a good rationale. But when you think of the cost, the dollars involved, in civil commitment in therapeutic communities, I think one has to very carefully examine what these figures are. Unfortunately inevitably you get figures from people who have a very heavy stake in maintaining treatment. That was why I was going to address myself to the drug treatment industry, which I think is crucial.

ASSEMBLYMAN MENZA: I take it then that you have an alternate suggestion.

MR. FRAKT: To the drug treatment industry?

ASSEMBLYMAN FLORIO: An alternate to the ones you have already discounted.

MR. FRAKT: I have something of an alternate.

Do you want me to discuss the drug treatment industry?

ASSEMBLYMAN FLORIO: I would like to hear it.

MR. FRAKT: It is simply that we have an entire industry with a large stake in the maintenance of the drug problem which has grown up in the last several years. I think, in fact, it might be said without exaggeration that we have this kind of civil commitment parallel system of dealing with drug offenders alongside the criminal justice system.

Most drug treatment programs get their clients, as you have noted, from the criminal law system. There are very few real volunteers even though 5 or 10 years ago all the drug treatment programs, all the therapeutic communities said "We can only work with actual volunteers. We don't want people committed because they really won't want to participate." Now they all sing a different tune, which is, "We get them in here and we will motivate them." They are singing this tune because they know where the money is.

The court diversion becomes a major project of all the therapeutic communities particularly. And if you look at these communities which sprang from Synanon in the late '50's, the essential therapeutic notion that drug users are sick, immature, socio-pathic babies, whose personalities must be completely remolded in totality, that all drug users have essentially the same problem and therefore may be given the same treatment, has proven by and large to be simplistic, illusory and prone to failure.

Synanon's early publicists, the authors who wrote about Synanon in the early '60's, claimed that exaddict TC's, therapeutic centers, could result in very substantial cure rates. Now we know that that isn't true. We have learned it isn't true. Like all the other cures that have been proposed for drugs, going back to the 19th century where heroin was proposed as

a treatment for addiction to other opiates and that became illusory and now we are having problems with methadone - like everything else, there has been major exaggeration. As I say, Synanon in fact now is an alternate communal experiment.

Most therapeutic communities are still where Synanon was in the early '60's. Their stake in overdramatizing drugs is very high, particularly with regard to the ex-addict staff members. Here is an individual whose essential qualifications are: one, they used drugs, and, two, they graduated from a therapeutic community. The pressures on therapeutic communities to either hire these people or to place them in similar programs are very great since very few actually graduate. And once they are accustomed to the authority, to the dignity of a position, then go out in the world and take the kind of job that they are probably qualified for in terms of education and background, it is destructive. Someone who is a senior resident who has been in a TC for a year and a half or two years and has all kinds of power naturally wants to stay in the business.

Many of these people, poorly educated, half understanding their own treatment and under exposed to other modalities play pivotal roles in the diversion from the criminal law system in treatment of others.

Given a limited time, I don't think I can get into this in any real depth. But suffice it to say that I think the most stringent requirements, including licensing, required education by the State, should be given careful consideration by this Committee because what we have now is a rampant group of people dealing with the most intimate and serious problems of teenagers and adults, with no qualification whatsoever. And many of them fail, that is, many of the ex-addict staff members

in these places fall, and when that happens, the effect on the residents of the programs is totally disastrous. These ex-addicts tend to be dogmatic, almost religious about their particular treatment. They spread half truths like marijuana leads to heroin. Well, they used marijuana - they used heroin. Ergo, marijuana leads to heroin. The fact that marijuana doesn't lead to heroin for the overwhelming majority of people who use it - and I can tell you that I don't think there is one of my law students under the age of 30, and I have a couple over ~~30~~ who has not admitted that he has used or uses marijuana - these kinds of sophistries are very dangerous, and I think make the drug problem even more than it may really be.

I don't know if you have any interest in any more on marijuana. You may have been up to your ears on it.

ASSEMBLYMAN MENZA: Not really, Professor. One question, however. You have done a good job so far on your attitude towards the rehab centers. Tell us what your alternative would be.

MR. FRAKT: Well, I think this is probably a hard thing for legislators who wish very much to do the right thing and to promote the right kind of programs, who see a problem and want to deal with it. This may be hard to even listen to. But I frankly think that this is one of the problems which could do well with a little benign neglect.

Drug education, for example, has proved to be a failure. I have in my class a man who operates a drug education program in a major high school and one which is well funded. He said, "I'm quitting my job and I'm recommending that the program be done away with because, in fact, the more we educate these kids about drugs, the more likely that percentage of children who are likely to be interested and rebelling are going

to use them."

ASSEMBLYMAN MENZA: That is the educational aspect, sir. What about the hard-core addict, the fellow who is using narcotics? What do you do with him? What approach do you have to possibly effectuate a cure?

MR. FRAKT: I think that all cures proposed up to date have proven illusory.

ASSEMBLYMAN MENZA: Assume they have. And let's start with the premise that I don't imagine you would want to put them in jail.

MR. FRAKT: No.

ASSEMBLYMAN MENZA: All right.

MR. FRAKT: Well, if they are committing certain crimes other than drugs, absolutely.

ASSEMBLYMAN MENZA: Just using drugs.

MR. FRAKT: No.

ASSEMBLYMAN MENZA: If you don't put them in jail for using drugs and the treatment modalities so far have proven illusory, what do you do?

MR. FRAKT: I think for some of them, the younger ones in particular, involvement in not necessarily therapeutic communities only for drug people, but involvement in programs outside of their own family, either drop-in centers or extended family communities, can be very valuable. But I wouldn't limit it to drugs. I think it is a grave mistake to say, as some of the TC's that work with children do say, "OK, you need help, but you can only get help if you have a drug problem." Don't call it a drug problem. A drug problem for a kid is like a lot of other problems; it is symptomatic of difficulties. Not all children who use drugs have the same problems and not all children who don't use drugs don't have the problems that are similar. So I think it can be helpful.

ASSEMBLYMAN MENZA: Excuse me again. It may be symptomatic all right, but you still have the

20-year-old, hard-core user, who has a habit of 50 bucks a day, and is finally arrested - forget the crime -- he is arrested for having two decks of heroin on him. He has been a user for two or three years. He is not young anymore. He's kind of worn out. What do you do with him?

MR. FRAKT: I would question whether there are many people like that. For one thing, statistics indicate as of 1970, the amount of cocaine seized by Federal agents coming into the country was larger than the amount of heroin. Cocaine has become quite a popular drug. Methadone is becoming more popular. Methaqualone is becoming very popular.

There is a fad; there is a trend. Drugs are very faddy. In Japan in the early '50's you had a fantastic amphetamine problem. It went away. Some people say it went away because of heavy enforcement. Some people say it went away because it was a disease that left.

The more you mythologize this hard-core heroin addict, I think the more likely you are to institutionalize things that we may regret.

Just yesterday in the New York Times there was an article that said -- I'm sorry. It wasn't yesterday. But there was an article recently that said that in Harlem, the amount of heroin in a bag is so little, one or two percent, that a lot of the hard-core heroin addicts, so-called addicts, are switching.

ASSEMBLYMAN MENZA: Professor, you are not answering my question. Let's assume for the sake of argument there is less heroin use now than there was, for example, five or ten years ago. Take the barbiturate user, and these are guys that are really hung up. Take a barbiturate user or a hard-core heroin user. He's on it. What do you do with him when he is arrested?

You can't put him in jail obviously. Now what? You stated that the therapeutic centers do not do everything they say they do.

MR. FRAKT: That's true for most people. If someone wants to go, I wouldn't deny him the opportunity.

ASSEMBLYMAN MENZA: What do you do with this fellow?

MR. FRAKT: I think if they need medical treatment, that should be afforded. If they really have a physiological addiction, which is extremely rare, at least to heroin, then maybe they should be given some heroin. Now it would be easy for me to say, as I am sure some people have said to you, what we need is heroin maintenance, which we had in the early '20's. But I am dubious about that. I must confess that this is a problem that may not have any easy solution. Any solution is difficult. If you set up heroin maintenance -- The reason heroin maintenance has been somewhat successful in England is because there have been very few heroin addicts. As you know, when they got more addicts, they switched from maintenance by any doctor to maintenance by these limited number of centers.

Maybe there are a few of these people who really need to be maintained on heroin. I think that should be a medical decision. Maybe some of them need to be maintained on methadone. Maybe the rest of them should just damn well be ignored.

We have an obvious example. We have a very severe alcohol problem in this country. We all know the Commission reports and emphasizes how many people have serious alcohol problems. But we kind of ignore it on the whole.

You want to do something for everybody, but in doing that, you may be creating a program which is going to ultimately cause more problems. If we have the kind of society where 30, 40 or 50 per cent of

our young people want to use drugs as opposed to working within the society, as opposed to relaxing in ways that are socially constructive, then we had better worry about the kind of society we have. Instead of worrying about the symptom, let's make a better life.

I had an argument with a Prosecutor who said the reason he still wanted to send drug users to jail was that he wasn't willing to condemn the people in the ghetto to a life of drug addiction. My answer to him was, yes, but you are not giving them jobs. You are not creating reasonable alternatives for them. The fact of the matter is you have a fellow with a third-grade education who can't read or write, who has very little prospects of getting a job. When he does see people who live a straight life, they are janitors. When he sees all of his good examples, - the people who are having a good time are in the numbers racket or dealers - naturally he is going to be attracted to drugs. Heroin, for example, is one of the few things that delivers pretty much what it promises in terms of feeling good.

ASSEMBLYMAN MENZA: In effect then, I think what you are saying is - I may be wrong - to heck with them, and to make a fair analogy, to heck with the mentally ill, to heck with the handicapped child, to heck with the exceptional child, etc., etc., etc. Your approach, it would seem, would be putting our heads in the sand and forgetting the problems. We can't very well forget the problem. First of all, it is a crime. Secondly, it has a great effect on law and order. And, thirdly, we do have a responsibility to our fellow man.

MR. FRAKT: I quite agree. I am not saying, forget people. I am not saying forget problems. What

I am saying is, let's treat the mentally ill. Many people who use drugs are mentally ill. Many others are not. Let's treat the exceptional child. Let us really provide those things. What we are tending to do, it seems to me, is creating a great drug-treatment, drug-criminalization program. We get these vast programs that parallel the criminal law system. Let's deal with the real problems. It seems to me there are a lot of legislators - and I am not including you gentlemen - who have very little social conscience. They don't want to spend money on mental treatment. They don't want to improve the prisons. But drug treatment, oh, great, fantastic - let's pour billions into that. I think that's a wasteful use of money for human resources.

ASSEMBLYMAN MENZA: I have got to respond to that. Many of us feel that way because, for example, I am an attorney. I've been practicing for 15 years. Don't tell me about the drug scene. I have been in the drug scene. I know the drug scene. I am not an expert in it. Everybody is an expert on drug addicts. I have had hundreds - I mean hundreds. I have done a great deal of criminal law of hard-core addicts to represent. I had three marijuana people come in last week in my office. I know the effect of narcotic abuse on the family. I know the effect on these people. I have gone out on the street and taken these people to my office and then there was nothing to do for them but call the police and get the police to try and get them to a rehabilitation center.

I don't agree with you, Professor. I do this kind of work and I know this does exist. Perhaps you are right when you say there is less heroin addiction now than there was perhaps ten years ago, but it's there.

MR. FRAKT: Yes, it is.

ASSEMBLYMAN MENZA: It depends where you live also. If you go to Newark and you go to any street corner,

you can get yourself a deck of heroin.

MR. FRAKT: I live in center city Philadelphia where it is all over. Alcohol is all over. What I am saying is, let's focus on the real problem. The criminal law must be amended; that is, I think we had mandatory penalties for years and they didn't work. Now Governor Rockefeller has managed to reintroduce them for God knows what reason. He has ignored the evidence of decades of mandatory-minimum sentences. And as a lawyer you know the reality of plea bargaining. You know that it is not going to work.

Marijuana - a red herring. Frankly marijuana is a mild hallucinogen, with very limited potential. When my children are 17 or 18, I hope that they don't feel the need to use any drug. But I would much rather have them go to a party and smoke marijuana than have them go to a party and drink alcohol. Because I will know that if they drink alcohol and drive home, they have a very good chance of killing themselves; whereas the tests have clearly demonstrated that one who has smoked marijuana suffers much less physical debilitation. Marijuana is a curious drug. The more we know about its being relatively harmless, the more we look for reasons to study it further. Study after study says, well, maybe if we look at this a little more - maybe, maybe, maybe. We have millions of drugs that can kill people. Aspirin can kill people. There has never been one proven case of anyone dying of an overdose of cannabis. That's extraordinary. The more we don't find anything very harmful in it, the more we look. Why? Because when marijuana first became illegal, it became illegal on the basis that marijuana was a factor in causing criminal conduct. It was tied to the ghetto areas where crime was prevalent. A lot of District Attorneys said, marijuana - crime. It was an easy thing for them to say.

We know that isn't true anymore. We know that someone who smokes marijuana doesn't go out and commit rape and all kinds of wanton crimes. So now we have marijuana use leads to heroin. Tomorrow we will have marijuana causes something else.

I agree with you, Assemblyman. We have to lower the penalties. I think there should not be any use penalties for any kind of a drug. I think treatment, whether it is methadone maintenance, heroin maintenance, or therapeutic communities for those who really are amenable to it -- these should all be made available. But equally I think it is important that we stop focussing on drugs as the problem. Drugs are not the problem. Lots of people waste their time in lots of ways. And someone who uses heroin and sits off in the corner nodding, although he is not a productive citizen, I'll grant you, is no more unproductive than somebody who spends their whole day watching soap operas or who spends most their time gambling on pro-football.

ASSEMBLYMAN MENZA: They also do a lot of breaking and entering of stores.

MR. FRAKT: That's to get money for the drug - correct. But even there, the evidence is, isn't it, that criminals who use heroin were also criminals before they used heroin? If you come from the ghetto where crime is a way of life, then by doing away with heroin addiction, you are not going to do away with crime. You may cut it somewhat, but you are not going to do away with it.

What I am saying is that I don't have any answers for you. I just think it is very important for this Commission to be very critical of any suggestions to put heavy emphasis on drug treatment. Because whatever that heavy emphasis is going to be, ten years from now there will be another committee sitting here saying, well, that didn't work - what are we going to try now?

And it may be that the problem will have diminished. I hope our society will offer opportunities to people so that it will. If we do that, we may not have serious problems, just as Japan managed to overcome its drug problem.

ASSEMBLYMAN FLORIO: Professor, I would like to say you have given us a very perceptive and sensitive analysis. As you concede, you don't have too many answers, but then, of course, we haven't come up with anyone that has provided any answers to this point. I do think your analysis is very perceptive.

MR. FRAKT: Thank you very much. I will leave this with the committee. I have, of course, over generalized somewhat, so that may help.

ASSEMBLYMAN MENZA: Thank you very much.

Next will be John Brooks. I'm sorry to have kept you waiting, Mr. Brooks.

J O H N B R O O K S: I am the Executive Director of a drug rehabilitation program in Atlantic City, New Jersey, called NARCO, Inc. It stands for Narcotic Addict Rehabilitation Center Organization. It has been in operation since 1969. It has multifunding from State, Federal and local governments, also some private funding.

Some of the things I have heard today in terms of legality of marijuana, treatment and how treatment should be offered to addicts, rehabilitation needs, antagonists, left a lot of questions in my mind about what exactly can be accomplished through hearings such as this.

One reason I am saying this is because the diversity of opinions about drugs and the effect of drugs on the community, itself, often leaves us with several different views that we look at. We look at a law enforcement view in terms of thinking that

addicts themselves perpetuate 70 percent of the crime in a community and in actuality it usually works out to something like that.

On the other hand, we have the rehabilitation needs of that individual and how can we effect a better system of rehabilitation? How to assess our present rehabilitation system as we know it now? Does it, in fact, do anything for addicts as we know it? And, of course, there is the age-old question about marijuana and whether or not it should be legalized and what are the implications of it on our society.

Well, intensive treatment - treatment to me means in order to bring about any change in a community, you have to have a multiple approach in terms of addicts, whether it be methadone, abstinence programs, day care, out-patient, detoxification programs - what have you. I think you cannot treat all addicts one way. I think that's the way it is going to be in terms of dealing with addicts. You just can't run that kind of gamut. No program that I have seen or been in contact with totally does everything for an addict. No program that I know of can make any statements in terms of percentages of cure that would really, really shake anybody's boots so that they would understand that they were really doing one hell of a fine job.

In saying this, I am saying that there are other needs that go along with the problem that we have of drug addiction and these to me are the most important needs that the legislation needs to address itself to.

For one thing, in any community, an addict comes out of that community sick for several different reasons, whether it is the community itself that is sick by having a social-economic breakdown, all kinds of corruption, racism, all kinds of inopportunities, or no job developments, no social programs whatsoever.

These are the kind of breeding grounds that we, in fact, have in our state. Then we ask the reverse question about taking a person that comes out of that breeding ground and rehabilitating that individual, if that word "rehabilitation" means anything. After he is rehabilitated, then we expect him to go back to that same community and be an upstanding citizen. But yet when he comes out in the community, he gets no offer of a job, he gets the same kind of stigma attached to his name as when he went in the program. Yet we expect some great miracles in terms of rehabilitation, notwithstanding the fact that the individual himself has the major decision of whether or not he remains free of drugs.

I think the second segment of addiction is the community's sickness itself. I think until we really make a concentrated effort to change the community's view, not only how they look at an addict but the social-economic impact of that community, we are not going to have any mass exodus of people that have freed themselves from drug addiction.

The second part of it is the legality and I have been pondering the legality of how you are taken off the street and taken to prison ever since it happened to me. I have been in prison twice. I have served over eight years behind bars. I served 48 months for the Federal government and I served 39 months and some days for the State here in Trenton State Prison.

I think it was a couple of weeks ago, the Federal jurisdiction said that there is no way that entrapment as a law can be used on a drug offender, an officer using entrapment methods to get you involved. Yet through those same methods people are continually taken to jail that same way.

I have served eight years that same way and I have never, never been a major drug dealer in my entire addiction history - never. I have been an addict for 17 years, but I have never been a dope dealer and didn't have a name as being a dope dealer when I was addicted.

I think some of the laws that we have that concern addicts, really, really need to be looked at very closely. In order to differentiate between an addict-pusher and what we know as the nonaddict profiteer, I think some sort of jurisdiction should be established so that you can find out who the guys are that are in the community that are profiteers. And I think tax experts should be brought in to investigate them. I think every law enforcement tool that is available should be used against them.

It is really an insidious problem when you see drug dealers stay on the street for long lengths of time and addict-pushers go off to State penitentiaries and our Federal penitentiaries. That means the availability of money that the profiteer has certainly gets spread around because he is able to stay on the streets. He seems to be immune from arrest. So we have a major problem locally in terms of getting the profiteer off the street. We can get the pusher off the street, it seems, but we can't seem to get the profiteer off the street.

I am speaking from experience in Atlantic City, New Jersey, where we have a major problem and we have had one ever since I can remember. There have been a lot of arrests there, but no major drug dealers have ever been what I would call really nailed out of Atlantic City and stayed nailed.

To go along with the legality, the prison system itself that we place an addict in, we know is a complete failure from the beginning. Our prison

system is a complete failure.

So what can we do with that guy? Well, there are some alternative methods of placing him in treatment programs in lieu of prosecution or in our county the judges will sentence a guy to our program and hold him on probation. That probation is held in abeyance provided that he comes to the program and maintains a level of respectability in terms of the program and in terms of urinalysis checks and job situation and things like that.

Inside the prison system, we have attempted down at Leesburg Prison to take treatment inside the prison walls themselves. We have two therapeutic communities inside the prison walls in Leesburg Prison that we operate. We have a total of about 120 men under treatment now.

Again we feel by taking treatment inside the prison system, we may really effectuate some sort of change. We see internally, inside of prison, if a man can accept the rigidity of a therapeutic community while he is behind bars serving a sentence, then we may have the makings of an individual who can, in fact, accept his responsibilities on the street when he is released.

Going back to the prison system, every prison that I have been in, I have yet to see anything in that prison that was moving toward the individual, per se, to bring about some kind of life style change within him. I think some of the changes that have to be made are right within the system itself because we know that everybody is not going to be sentenced to a drug program by our judges in the state. We know that there are some addicts that are going to get sent to the penitentiary. There is no doubt about that. But after we do send them to the penitentiary, what do

we do with them while they are there? Do we let them become affected by what goes on in the general prison population or do we in fact separate them and try to bring some treatment inside to them?

ASSEMBLYMAN FLORIO: Could I ask a question? You said something that struck a very responsive chord in me and it is something that I think I seem to be receiving from an awful lot of the speakers. You said, if an individual, an addict, has the ability to accept the rigidities of therapeutic treatment in the prison, then he would possibly be able to handle the street situation when he comes out.

MR. BROOKS: Yes.

ASSEMBLYMAN FLORIO: Other people have talked, and you have briefly mentioned it, about the need to give each individual a type of treatment that he is capable of accepting. Are we getting to the point where it is a fairly valid conclusion that it is the individual. If he has the ability to handle the prison situation, which admittedly is not the best place to be treating narcotic addicts, he can handle it on the outside. What do you do with the person who is not able to handle the structure of the prison situation? And if he can't handle it in the prison situation, we had other testimony this morning and on other occasions, where people say the fellow couldn't handle the communal atmosphere of a NARCO type program.

MR. BROOKS: Right.

ASSEMBLYMAN FLORIO: I suppose what I am saying or trying to arrive at as a conclusion is that the individual makes the decision, the individual addict, within his own ability and within his own limitation. If he has it there, he is going to be cured, regardless of whether it is a communal situation or a prison situation. If he doesn't have it, he is not going to be cured.

MR. BROOKS: It is a personal decision. Staying off of drugs is a personal decision, contrary to what a lot of people would have you believe. There is no way that any program in the United States or this world can rehabilitate any individual. The individual always rehabilitates himself. That should be understood by everybody. No program rehabilitates anybody. The individual makes a decision, it's a personal decision, and he, himself, carries on what is initially started by the program. The program is a motivating factor; it is not the rehabilitating factor itself - the person is.

ASSEMBLYMAN MENZA: But certain rehabilitation approaches are more apt to help a person cure himself than other rehabilitation approaches. For example, to send someone to a therapeutic, family-type environment, the individual so sent is more apt to cure himself than he would if he were sent to jail. Is that not also the case?

MR. BROOKS: That is true.

ASSEMBLYMAN MENZA: Because if that is not true, then there would be no reason for your group or any other group.

MR. BROOKS: That's true. On the other hand, looking at the real approaches to people as individuals, we find one of the programs that I don't particularly like that I run myself, methadone maintenance, has in fact been our best program.

It is a program requirement that everybody who comes to our program has to have a job before you are released. The majority of people that come through the methadone program have been working, are not involved in any criminality, have bank accounts - and that's another requirement of our program, that we have to see where you are making an effort to save some money and run your affairs properly, so that you

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can handle the total responsibility of a family, the bills and all the other hassles that go with it, plus the street hassles of having been infected by drugs and having to stay on the street in that same environment. Our program is not as long as other programs.

ASSEMBLYMAN MENZA: Mr. Brooks, that is because it is easier to be "cured" by methadone than it is by - I hate to use this cliché, but apparently it is appropriate - pulling yourself up by your own boot straps and growing up. It is easier to be cured through methadone. It is just substituting one drug for another.

MR. BROOKS: It is not easier. You have to stay on the streets in the same environment whether you have methadone in your system or whether you don't. You have to face the same people that helped infect you with drugs whether you have methadone or whether you don't have it. You have to be able to withstand the peer pressures of saying, "No, I don't want any cocaine," when you are on methadone - "No, I don't want any speed. No, I don't want any marijuana. No, I don't want any alcohol," the same as you do when you don't have any methadone in you, when you have to say, "I don't want any methadone," and the rest of the drugs they offer you.

ASSEMBLYMAN MENZA: It is a lot easier, is it not, for the addict who is on methadone to say, "No, I don't want marijuana because I don't need it. No, I don't want cocaine because I don't need it. No, I don't want heroin because I don't need it. I have a substitute"?

MR. BROOKS: It is not easier. You have just as many abuses in methadone programs as you do in abstinence programs.

One of the things that this committee should look at is the fact that abstinence programs and methadone programs or whatever kind of programs we

have here in the State have a record of how many abuses a person has during his stay there. Those things would give you an idea of how much hassle you have with people whether they are on methadone or whether they are in abstinence, drug-free.

ASSEMBLYMAN MENZA: Let me ask you this: For the sake of argument let's say you are the Governor of the State of New Jersey with unlimited authority and unlimited funds. What modality would you approach?

MR. BROOKS: A multiple modality. There is no way that I would put money into just one way.

For instance, in Atlantic City we had a lot of addicts that were in age groups of 30 on up to about 63. We could do absolutely nothing with them - absolutely nothing. We had them in out-patient programs ten and eleven times and they didn't do anything. We tried to put them in in-patient. They left because they couldn't stand the pressures of being inside. We finally got a methadone program there, got them on methadone and started to see a gradual change in their behavior.

Right now we are initiating a detox plan for the individuals that are in our methadone program. We don't think that a person should be on methadone over a year, anywhere from a year to 18 months. We think that person should have enough understanding of his addiction, enough understanding of his responsibility to himself and to his family and to his community, to start wanting to become detoxed and to become drug free.

The ideal goal is to be drug free. That is everybody's idealistic goal. But we have to accept the reality of things that there are some people that need methadone whether we like it or not. I had to accept that in running this program. I didn't use methadone when I became drug free. I have never used

any methadone. I just stopped using drugs with nothing. Now I don't know whether that can work for somebody else and they will stop using drugs. I don't base my opinion on what I did.

ASSEMBLYMAN FLORIO: Do you have any percentages, even rough percentages, as to the number of people on methadone forever as contrasted to the number who utilize it and utilize it effectively enough to get them off of it?

MR. BROOKS: I don't have any percentages.

ASSEMBLYMAN FLORIO: I don't mean accurate statistics, but what has your experience been?

MR. BROOKS: Of people trying to come off of methadone?

ASSEMBLYMAN FLORIO: Yes.

MR. BROOKS: Half of the people that we have tried to get off of methadone have had relapses and we have had to build them back up. But we have, I would say, about half of them that we have gotten off so far that are doing all right and they are working in the community.

To continue on, I wanted to talk about the antagonists because this is the area everybody is getting up tight about. They want to do a lot of things with antagonists. I think it was mentioned here today that cyclazocine and naloxone are two antagonists that they have been experimenting with. And they find that they have some very, very dangerous side effects on the people they are experimenting on.

I think when we look at drug addiction and the drug problem, legislators, people who work in drug programs, parents, everybody panics. They go completely bananas and say, "Oh, my God, we're never going to do anything about this problem. Everybody in the country is going to get infected and we are

going to have one big mess and we will never be able to straighten it out. So we've got to come up with something real quick and in a hurry that is going to stop people from using drugs."

Naloxone has been here for quite some time. Nalline is one of the names that it used to be known by. This is an improved form of nalline. It was used in California in the parole office to detect when a person had been using heroin. What they would do, if you were an addict in California, they would give you a shot of nalline. If you had any opiates in your system, it would put you in the throes of withdrawal right there in the parole office. Of course, that would prove a parole violation and you would get locked up. So this is the type of antagonist that naloxone is based on that it makes the person go immediately into withdrawal, opium withdrawal incidentally, if he has any opium in his system.

I am trying to figure out now, if they were to give a guy some naloxone, say, for three or four weeks, would they think that that in itself is going to stop him from shooting any drugs on top of it? I don't know. We give guys methadone and they still shoot dope on that and methadone we know blocks the euphoria of heroin. You can't feel heroin when you are blocked properly by methadone. Yet we have guys who will shoot heroin right on top of the methadone. So we know there are going to be some guys who are going to shoot heroin on top of naloxone. That brings up another kind of dangerous medical problem and I wonder how those medical problems are going to be met by the medical profession. That's a question for them to answer.

There is one area which to me is really very important. In the State of New Jersey when a person is arrested for possession of narcotics, the Police

Departments all over the State confiscate the drugs that person has in his possession. O.K. I would like to know - I would really like to know - are there any legislative laws that specifically spell out what the Police Department must do with the drugs that are confiscated after the guy has gone to trial? That's what I would like to know. I would like to know whether or not the Police Departments are required by law to destroy drugs that they confiscate after the evidence has been presented in a trial.

I also would like to know: Is there any documentation in the State of New Jersey where there has ever been any drugs destroyed other than by the State Troopers, by the State Police?

ASSEMBLYMAN FLORIO: Are you in any way implying that there is a question as to where these drugs are going?

MR. BROOKS: In New York, they seem to have gotten back into the community. And in most of the communities in New Jersey, I would venture to say that most narcotic squads throughout the State use the drugs that are confiscated as bargaining power to use informants. That means if they give an informer a quantity of drugs for his personal use, who is to say what he does with that drug once he leaves them?

These are some serious question that I would like to have answered. All of the drugs that have been confiscated in the last five years by all the Police Departments in New Jersey - I would like to have an inventory on them. That's what I would like to see, an inventory on them. I would like to know just what happened to those drugs.

SENATOR EPSTEIN: Can we call on some free legal service? Prosecutor Coleman, do you think you might for the purposes of our record let us know what

your knowledge is of confiscated drugs and what the disposition of them must be and the procedures to be followed?

J A M E S M. C O L E M A N, J R.: As the witness says, to my knowledge there is no uniform law, no law as to disposition, such as there would be, for instance, with guns which, of course, are forfeited to the state on a gun violation charge.

My knowledge in this area is mainly restricted to procedures followed by my own office in the County of Monmouth. Not to prolong this, because if I do testify today, I will go into this in more detail, but we have a procedure for the destruction of drugs after they have been used in a case. You must remember that, at least in our county, the controlled dangerous substances usually end up in our vault for evidence whether we have made the arrests through our county investigators or detectives or whether local police, not the State Police. They keep those themselves.

After the case has been disposed of and assuming after a plea without the use of it we get it back from the New Jersey State Police Laboratory, which we are supposed to, and with all the problems of cataloging the evidence, we have periodic destructions, which are done -- well, the last one we did was done at Fort Monmouth in the incinerator. The detectives were there and they came back and made an affidavit and it is logged. It is contrary, by the way, to the order of a judge to destroy a gun. The judges in our county want an affidavit and I think once they required pictures of the actual destruction of those weapons. We thought of even taking pictures of the actual burning. But what happens is the detectives say, "We are going out. We are going to destroy this much marijuana, this many pills, this much heroin, etc." It is done and when

remind this body that the association syndrome of marijuana itself still plays an important part in introducing people into other drugs.

To illustrate, when I was using drugs, if I went to a party and they had marijuana there and I was smoking, I went there to get high. Normally, there is always somebody going to be around that has something different. When that person is there and he presents something else, I'm going to want to get higher. There has never been a party where I have been where I was getting high that I didn't want to get higher.

So I think people have really got to accept the fact if they are at a pot party and a guy walks in with a couple of speed tablets or what have you, they are going to take a hit on that speed.

ASSEMBLYMAN MENZA: Not necessarily. If I go to a booze party and someone has marijuana or heroin and offers it to me ---

MR. BROOKS: We are talking about a social pot party, right?, where everybody there is experienced in getting high off of a substance other than alcohol. We are talking about people that use marijuana as the drug of choice to get high off of. Once you become indoctrinated to getting high through that kind of substance, you are really, really susceptible to using something else.

ASSEMBLYMAN FLORIO: Can I conclude that what you are suggesting is that you find that marijuana though it doesn't have any physiological effects does make one mentally receptive to other types of narcotics, harder types of narcotics?

MR. BROOKS: I would say so. In a lot of cases a lot of people by association, through association syndrome, become embroiled in using other drugs.

This does not in any way mean that I am saying that marijuana leads to other drugs. I am saying that by association, it places you in an environment where you are susceptible to other drugs passing through your hands and you are abusing those drugs.

The recommendation to this committee is that there needs to be an upgraded approach to the expansion of present programs in the State of New Jersey for treatment of narcotic addicts and dangerous drug users. In order to upgrade this, I would say that the legislation would have to allocate more money so that more treatment centers can either be opened or we can expand the treatment centers now in operation that have a creditable approach, that have a creditable status, in the State of New Jersey.

The third recommendation is that socially and economically we look at what I call the second step of any drug program and that is the community itself. I think that if we don't remove the problems we have internally in our communities, then you might as well not allocate any money for drug treatment. You might as well keep that too.

ASSEMBLYMAN FLORIO: Mr. Brooks, obviously for a layman - you are not a medical person, are you? - for a layman who has had an involvement with narcotics, you are fairly sophisticated. I just want, if you don't mind, to experiment with you. You heard the gentleman who came from the National Commission. Do you find any distinction between my telling you that the New Jersey Legislature might intend to repeal all the criminal statutes with regard to the use of marijuana and, on the other hand, saying that we are going to make it legal for you to use marijuana? Is there any distinction between those two approaches?

MR. BROOKS: It seems to me that right now the

legislatures and all law enforcement bodies are caught between "should we" or "shouldn't we". I think that one of the things that has to be accepted is that when people try to compare marijuana and alcohol, they are trying to justify the unknown. Because what is really happening is that you don't want to say that you are not for it and you don't want to say that you are for it. This is what it really boils down to.

I think socially and economically we have to look at what is happening in our State and in our communities here and make our decision based on what goes on in New Jersey, not what goes on in New York or Pennsylvania.

ASSEMBLYMAN FLORIO: In light of what you know about New Jersey as a resident of the State of New Jersey, as we are, do you think it is in the interest of the people of the State of New Jersey to remove all the criminal penalties with regard to the use of marijuana?

MR. BROOKS: No, I think not. I think that marijuana should not be legalized either.

ASSEMBLYMAN FLORIO: Thank you.

SENATOR EPSTEIN: He answered my question because I think he said, if I remember it correctly, that we have to upgrade the places where we treat people who abuse narcotics or are narcotic abusers, and we certainly can't do that if we remove all of the criminal sanctions from it because we just won't know who they are, right?

MR. BROOKS: Not only that -- you know we get people who are sent to our program and, believe me, if you don't have any control, how are you going to get those people, who certainly would not volunteer for treatment, into a treatment program?

There is no doubt when a person is sentenced to a program, his chances of staying and completing the program are greater than the person who volunteers. There is no doubt about that. If a guy has five years of probation hanging over his head or three years or

whatever it is and he has commitment from the court to do nine months inside of that program and the whole time that he is on probation, he is under that program's jurisdiction, I think that his chances of responding to that program are greater than the guy who volunteers.

A lot of people that volunteer don't volunteer because they really want to come in. They volunteer because their mother is on them or the police are in fact right over the doorstep getting ready to get them.

I think we should understand that people just don't walk off the street and say, "Oh, yeah, I really want to get off of drugs." Because when you are on drugs, you feel comfortable. People can't get on your nerves when you are on drugs.

ASSEMBLYMAN MENZA: Thank you, Mr. Brooks. It was kind of you to come.

We will now take a five-minute break.

(After Recess)

ASSEMBLYMAN MENZA: We are going to start again. Before we hear from Mr. Pescatore, I would like to introduce into evidence a letter from the Office of the Prosecutor, County of Camden, Thomas J. Shusted, dated May 9, 1973; and a letter dated May 4, 1973 from the Department of Community Affairs - Lawrence F. Kramer, Commissioner - signed by Joseph Hillman, Jr., Director of the State Office of Legal Services.

(The letters referred to above can be found beginning on pages 155 and 157.)

Mr. Pescatore?

ERNEST PESCATORE: My name is Ernest Pescatore and I am Director of the SODAT Drug Abuse Clinic in Woodbury, New Jersey, which stands for Services to Overcome Drug Abuse Among Teenagers. The branch in

Woodbury, New Jersey, is one of five SODAT type facilities operating in the United States.

We operate basically on the philosophy of Encounter and Daytop Village in New York. All of our facilities are out-patient, drug-free rehabilitation centers.

I would like to thank the Chairman and members of the Commission for giving me the opportunity to present some views concerning the legislative process that may take place in our State.

Reflecting on some of the treatment that I have heard of various topics earlier today, I would like to cover three areas very briefly.

First, treatment. In treatment, I think we must face the fact that we have inadequate facilities in our State to deal with the problem at hand. I specifically refer to the only area that I can really say that I know well, that's my county, Gloucester County.

In Gloucester County, we have estimated from four different sources - police, the Center, an Ad Hoc Citizens Committee appointed by our Freeholders, and private citizen groups concerned with drug abuse - that we have between two and three thousand drug abusers, mostly of the multiple-abuser type. With the multiple abuser, the individual is after a substance to get high on, the type of substance really doesn't matter. He or she could not be classified a narcotic addict. The individual will abuse whatever substance happens to be at hand at a given time.

So I think the inadequacy of facilities to deal with the problem is one thing that we are faced with in New Jersey.

An issue has been raised here today which I would term forced rehabilitation. I think historically rehabilitation, psychological rehabilitation, when it

is forced all the way, has not worked. Most facilities today will try and motivate an individual to appreciate his situation, to appreciate his difficulties, and in turn do something about it. We do not always attain the involvement with the client that we would like to get. No center is 100 per cent successful. No center can handle, I think, all types of clients. Therefore, I think the multi-modality treatment programs probably have the best chance.

There is a phrase in drug abuse rehabilitation, "Different strokes for different folks." The hard-core abuser's problems are not that of a multiple abuser just starting. There is a progression through drug abuse so far as I can tell where an individual moves on different levels and with different crowds.

So forced rehabilitation all the way through, I don't think is feasible. However, I have seen people in the three years I have worked in this particular field-- and I would make note that I am an ex-drug abuser myself. I spent three years on drugs, mostly amphetamines, barbiturates and heavy abuse of alcohol. I have been drug free for about four and a half years now and I have worked in this field ever since.

I think in order to work with people, we do need, as Mr. Brooks ably mentioned, some leverage. Many times we have abusers who come in the program only because enough heat has been generated either because their families have just found out, their school is raising hell, or their community or local police have just about had it with the individual and his behavior. He may have been in trouble two or three years previously. He may have been in trouble before he ever began to use drugs. However, only when enough heat was generated, did we ever see the individual in rehabilitation.

I would like to have a dollar for every time

parents have come to me recently and said, "I have noticed my kid has been in trouble for two years or so. He's going to turn 18 in two weeks. What am I going to do?" The only answer you can ever give, I think, in that situation is, "I wish you had come to me two years ago when you had some kind of control, even if you had to go through the courts."

As far as staff, I think any good program works around its staff. SODAT has traditionally used a meld of professional and paraprofessional talents. To me, the ex-abuser is invaluable in rehabilitation, but he has his place.

The problems that a drug abuser is dealing with are many times very involved and very complex and very severe. They are certainly worthy of professional treatment, either psychiatric or psychological. We have a group-type facility because professionals are spread so thin these days, you couldn't hope to begin to deal with the problem on a one-to-one basis. So everything we do at our center is involved in a group.

We stress at our center parallel training. By this, I mean we train our co-counsellors, ex-abusers, to work in the center. But any individual working in this capacity maintains an outside identity. We don't permit the individual to transfer his dependency from drugs onto the center. We try and develop with him or her the idea that you have a life.

I have heard remarks made here today to indicate that ex-abusers working in this field are trying to perpetuate it so that they have some place to get their bread. They have created a slot for themselves. I for one as an ex-abuser - and I also consider myself since I have completed a Bachelor's in Behavioral Science after having gotten drug free to be more or less a professional in this field. I am certainly not a doctor or a psychologist. But I think I have a little

more training than the average run-of-the-mill person perhaps. I plan to go on to a Master's in order to equip myself to work adequately in this field. So I think it is important to stress to a person that he do something outside. Everything that takes place in our program is geared toward the outside, geared toward the community. That's where you live, we tell them; you don't live here. That's where your problems are; you don't have any problems in this building. As an out-patient facility, this is what we primarily try and work with.

We try to stress to our people, if they are going to stay involved with us after they complete treatment, that they be ongoing in a vocational setting or in an educational center to equip themselves for life to function.

I would hope that I could walk out of this job if there was no more need to be involved in drug rehab and obtain a job tomorrow. I have saleable skills that I worked damn hard to get.

As far as marijuana -- Before I go to that, I would like to add one thing on the treatment. We basically say drugs are not a problem; they are a symptom of a problem. We don't treat drug abuse at our center. Once an individual stops using drugs and becomes involved with us, although we do have recidivism like any other center, from that point forward we are dealing with problems, not drugs, problems that may have put an individual in that position.

As far as marijuana and the legalization of it, I would recommend that the committee look very carefully at any attempt to legalize marijuana. I would even recommend that they do not legalize marijuana. I have seen time and time again in programs working with drug abusers, if an individual is not making gains, it can almost always be traced to two things inevitably -

tremendous resistance on his part to undergo really looking at himself and working out the problems or he is still getting high on something. And the one thing that is very hard to detect is grass. We have had people in the program sometimes for a month or two months and they just don't seem to go anywhere. We find out maybe they are still smoking. I have never seen anybody really uncover their problem all the way and work it out as long as they were getting high on anything.

The comparison with alcohol: Frequently kids come in our program and they say, "My folks have their martinis. why shouldn't we have a joint?" When we question them closely, we usually find out that one or both parents are possibly abusing alcohol, but maybe infrequently. They are not referring to the social use of alcohol, which to me has practically been forgotten in our country. They are referring to the socially-condoned abuse of alcohol and comparing marijuana with that.

I don't think any more needs to be said about our 10 million alcoholics who are costing us industrially billions of dollars a year. I think industry refers to it as the billion-dollar hangover loss in work production time etc. I don't think we need another problem of that magnitude.

I can't say we don't know enough about marijuana, but I don't and maybe that is my fault because I haven't researched it far enough. But I have seen some of the results. I have seen individuals move up the ladder. I have a co-counsellor who frequently makes the statement, "Kids are saying the same thing about grass that I and my gang said five years ago. They are saying the exact same things today - I'll never go any further." It was crap for him. It was crap for the people he ran around with and I have the feeling that it may be for a lot of kids today and I am primarily concerned with youth.

As far as experimentation, just as with anything in life, you make a decision, I think, pretty quick or I made a decision pretty quick. I tried drugs and I tried alcohol. I liked them. I bought the whole bag. Anybody who is using marijuana over six months or even three months and is still calling himself an experimenter, it doesn't fit. To me, they have made a decision. They dig it. They want it. They like it. They are going to use it. So I don't think we can be so flexible with the term experimentation. A kid certainly isn't experimenting with marijuana for a year or two years. He has made a decision. He is now a user. This is only in my book. These are my feelings.

Experimentation is a very short period. Many kids experiment. They don't like the cough. They don't like the taste. They don't like the atmosphere that surrounds marijuana use and they drop it. Others adopt it and keep going. And we are seeing the emergence, I think, of a subculture of drug abuse in this country that is pretty strongly ingrained by now. Go into any school and you will have a dichotomy in the student body. You will have your heads here and your straights there and maybe a few juice freaks or alcohol users bouncing back and forth. They don't have much in common.

On the drug scene I can't stress to you how paranoid you are of people who don't use drugs - besides they are a constant reflection to you of where you are really at. If you are a stone freak and you put yourself next to an individual who is absolutely straight, productive and useful to himself and to society, you don't come off very good. Surround yourself with other people doing the same thing and you make it all right, at least in your own head.

Finally, as far as sentences or rehabilitation aspects through the courts, I stated this under treatment

and I would like to state it again. We need the help of the court system. There are many people who can be helped once they get over the initial phase of being afraid of rehabilitation or afraid of being involved.

When a guy comes to us and he comes from the court, we usually try to get a pretty solid commitment from the court that if he doesn't work out, he goes back. Any legislation that goes through in New Jersey I would like to see have some kind of provision like that. If the individual is not going to do something with the chance that he is offered about his problem, I don't know where he belongs. I don't know what else we have but a penal system, and I grant you that does not work. I don't know what other alternatives we can utilize. I am afraid I can't offer you anything in that realm. But if he is not going to do something about his problem, we have a dominant ethic, it is a work ethic, it is a responsibility ethic. Whether we like it or not, as one of the gentlemen before me said, that's it - this is what we have. People either fit in or they don't or they can be helped to fit in. But if they absolutely completely refuse, I don't know where they go. Right now we only have a penal system. If we can develop other alternatives, fine.

I have been familiar with the program that was mentioned at Leesburg. I was trying to get an individual who is coming up for parole from that program involved with us while he was going to Glassboro State in our county. It didn't work out. But I had access to their program and talked to some of their people. I understand they were promised a psychologist by the State two years ago. That individual has never shown up. They are running that program, from what I understand, pretty much on their own efforts. I think

they could use professional help.

I think in a lot of programs - and our program is no different - we spend half our time trying to get a budget together and the other half of our time working with people. If there is any desire that I have today, it is to be able to spend 100 per cent of my time working with people. But as long as programs are scratching for funds, are trying to exist or trying to subsist, even when they are only the sole effort in rehabilitation in a very large geographic area -- I won't hesitate to mention that I think the southeast portion of New Jersey has gotten shafted in rehabilitation. We have nothing and very little backing for what does exist. I really think that we need to reassess some priorities. I know we have a tremendous problem in the north of Jersey. I know we have a tremendous problem in urban areas. But the thing about the drug problem is that it crosses all social and economic barriers. Whether a kid who is getting strung out or in the process of getting strung out comes from a family that makes \$15,000 or \$20,000 makes no difference; his head is in a bad place and he is moving towards being a nonproductive, non-contributing member to society.

That is all I have to say. I said I would be brief and I was longer, per usual. I would be glad to answer any questions.

ASSEMBLYMAN FLORIO: Mr. Pescatore, I am familiar with your operation in Gloucester County. A couple of points I would like to go into. One, I am conducting a little survey. Do you find any distinction between the legalizing of marijuana and the repeal of the criminal statutes dealing with the use of marijuana?

MR. PESCATORE: I have always been confused, Mr. Florio, by the decriminalization process. No one has ever really managed to explain that to me.

I am also confused - when the word went through from the Scranton Commission, the feedback I got from the kids was, grass is now legal. That was just on the strength of the report. I think you pretty much believe what you want to believe. If I were a grasshead today and I were to hear about the changing of the criminal statutes, that would mean legalization in my head. This is my orientation. It could be devastating to our program. We permit no drug usage. We even, on occasion, permit no alcohol usage if an individual has demonstrated that he transfers his dependence.

I have often been asked by kids in schools when I speak publicly in schools, "How are you going to handle it when they legalize grass," not "if", but "when."

We do have a significant portion of our population using grass and abusing grass. I can't give you any pat answers. It is a very complex situation. Some people say if we don't, we are going to pay a price. Some people say if we do, we are going to pay a price.

I have a feeling - and I must go with Mr. Brooks - right now, until we know a heck of a lot more, the answer is "no." Anthropologically, it has never worked. It was mentioned by another individual that societies that have tried it and have hundreds of years of experience haven't legalized it. What makes us think that perhaps it is going to work for us. I don't know.

ASSEMBLYMAN FLORIO: One final question: One of the previous speakers who was fairly critical of the civil commitment approach, particularly with regard to communal therapeutic centers, stated that it was his opinion that the recidivism rate of 90 to 95 percent wasn't that much different than institution-ization. Do you have any figures on that?

MR. PESCATORE: I don't have any figures. I

would tend to believe that if you were to found a program in an institutional setting, certain characteristics of the institutional setting would carry over into your program. And he did mention the difficulties between treatment and custodial staff. I think you are going to have that problem.

To me - and I can only share a personal opinion with the committee - community-based is what it is all about. I look at large centers that draw from all over as being little Lexington's and we know what the cure rate was at Lexington, Kentucky. It drew addicts from all over the country and it had a 2 per cent rate. It took them away from the problems on the block that they were going to have to go back and face. With the type of organization we run, a guy is dealing with his problems around the clock.

ASSEMBLYMAN FLORIO: The same speaker made reference to the fact that a community-based type of operation leads to a community-based center dependency, saying that because you are in this fairly structured situation where you are all gaining some benefit from each other, you almost never leave. When you do leave, you don't have the same benefit you did when you were there and you may be more susceptible to drug problems.

MR. PESCATORE: I have looked at this phenomenon and I have seen it occur and I have watched it happen. I think there are ways to work around it. I think if an individual enters a program with the orientation right from the beginning that he is going to be there for a certain period of time, no set limits, but that this is just a temporary step in his going back, and if this is carried all the way through the program, --- I know many drug abuse rehabilitation organizations want to hold onto their people. They feel they have a stake in the guy's life and maybe they would like to hold onto

him and make sure that he doesn't fall or that he doesn't crash. I think if you do that, you make a mistake. I think reality would indicate to us the only way we are really going to know if a person is going to hack it on his own, which is what life is about pretty much for all of us, or with a little bit of help and not the help from marijuana or anything like that, but help from people, but not just people in the center, people in general, is if he learns how to make friendships, learns how to make associations, and learns how to make rewarding associations with people so that he can begin to depend on them.

Any therapy, whether it is out-patient, in-patient or any other type, has the built-in hazard of setting itself up as a little god which is going to then dictate how the individual's life is going to run and try and keep him close. Therapy dependence is not a new phenomenon. Therapy dependence has been around not only in centers but in one-to-one therapy situations, to let the client become so dependent on you that now he can't exist without you, whereas before he couldn't exist without drugs or whatever his problem happened to be.

ASSEMBLYMAN FLORIO: This is a factor in psychiatric treatment too.

MR. PESCATORE: I think it is pretty much a factor there, although I am not a psychiatrist and not perhaps qualified to speak in that field. I know it is a factor in rehab. I have seen programs and watched it begin to happy. I try to stay aware of it in my program and the other SODAT centers. We try and orient a person right from the beginning by telling him, this is out-patient - your problems are not here - we're going to help you. I think what Mr. Brooks said was beautiful, the guy does the number on himself with a little help

and guidance and direction. You don't rehabilitate anybody who doesn't want rehabilitation. It is impossible in my book.

ASSEMBLYMAN MENZA: Why do you use the term "grasshead"? I understand "pillhead." I understand the meaning of that, but "grasshead" it seems to me is an inappropriate term if you assume that marijuana is not addictive.

MR. PESCATORE: I am not talking about physical addiction. To me, a "grasshead" is a person who is psychologically dependent upon marijuana, just as an individual becomes psychologically dependent on amphetamines, cocaine, and all the other drugs that have no physical addiction potential.

I think it was mentioned here today that the psychological addiction is one heck of a lot stronger than the physical. And you can become strung out on grass.

ASSEMBLYMAN MENZA: Many of us are psychologically addicted to an awful lot of things. My question is: If a person is psychologically addicted to marijuana, so what? I make no judgment. I ask you that question - so what? How does it affect society and how does it affect him really? What does society care if he decides to be psychologically addicted to marijuana?

MR. PESCATORE: O.K. If he could just get psychologically dependent without anything else happening, perhaps society wouldn't care. I, personally, as a member of society care because other things go with the psychological dependence from what I can see, and this is the deterioration of the individual's ability to contribute to society, to do anything, to function, to be a responsible, concerned, taxpaying, working citizen, and make a contribution rather than be a detriment to society. If he could just smoke and still function, it would be beautiful.

A "grasshead" in my book - and again I can only speak from my own perception - is a guy who smokes several times a day. He is oriented toward the drug culture. He is oriented toward drop-out subcultures. I am concerned about this kind of person.

ASSEMBLYMAN MENZA: How about those who don't, those who smoke marijuana, say, once a week at a party? Aren't they making a point when they say, for example, "After all, my parents have a martini"? God knows, after I work all day and before I can face four kids and a big dog, a martini is not a bad idea.

MR. PESCATORE: I guess my answer to that is I could have one or two drinks without getting high or getting stoned from them. I have never seen an individual use grass for any other reason than to get out of his own head. I never saw anybody use it because they like the cough. I never saw anybody use it because they liked the smell. I have seen a lot of people use it because they enjoy getting high.

I am not saying that it is right or wrong or placing a value judgment on it. My own value judgment says it is wrong to get stoned. I don't believe in my own guts that there are people who can control it, that there are responsible junkies.

ASSEMBLYMAN MENZA: You deal primarily with teenagers?

MR. PESCATORE: We deal primarily with youth. The youngest in the program ever was age seven. The oldest we have ever handled in any of our programs was age 42, a housewife.

ASSEMBLYMAN MENZA: These are out-reach type centers, is that it?

MR. PESCATORE: Yes. We make it known in the community that help is available. We also try and coordinate our activities. We let local law enforcement know that we have nothing to hide from them and we

are not against them, that they can be a contributing factor in putting people in rehabilitation, and we are trying to run as responsible a program as we can when dealing with an illegal activity. There are certain things we do. We guarantee confidentiality to a client and things of this nature. We do a lot of public speaking to try and orient people toward the problems.

ASSEMBLYMAN MENZA: What drug do you find is the predominant one among this age group?

MR. PESCATORE: The predominant drug in our particular area now has shifted from heroin to barbiturates. We see a tremendous amount of barbiturate use in young age brackets. Alcohol and pill parties in combination on Friday nights to get over the anxiety of having lost a football game or whatever are common, paralleling the parents' use of alcohol possibly on the weekend to get away from the anxieties.

I personally don't believe in the use of these types of substances to reduce anxiety. I think that there are other things that we can do that we haven't explored.

This has been one response to our technological society and pressure, get high - alcohol, grass, drugs, tranquilizers, first using Miltown and then through the whole bag. It hasn't worked. So maybe we need to reevaluate it.

ASSEMBLYMAN MENZA: You have a point, Mr. Pescatore. We are in a drug-oriented society now. We do take Compoz to calm our nerves, aspirins to take care of our headaches, tranquilizers to calm us down, Nodoze or pep pills to keep us awake, etc.

For example - I don't know - I'm asking a question - I drink a minimum of four pots of coffee a day and I work a minimum of 13 hours a day. Believe me, coffee keeps me going. I guess I am physically

I get, quite honestly.

MR. PESCATORE. As the man said earlier today from the National Council to Investigate Marijuana, it is de facto decriminalized and that is by the laws on the books not being enforced. I think he wanted to go a step further and say that they were still there and could be selectively enforced for political reasons or, if you don't talk right to the arresting officer, then he throws the book at you because the law is there.

With regard to marijuana, I see police forces in our area and other areas letting a sleeping dog lie to see where it is going to go. I wonder if we need legislation to make what is already in effect happening happen. I don't know.

ASSEMBLYMAN MENZA: Thank you, sir, very much for coming.

Prosecutor Coleman?

J A M E S M. C O L E M A N, J R.: Chairman Menza and Assemblyman Florio, my name is James Coleman, Jr. I am Prosecutor of Monmouth County. I appreciate being able to say just one or two things.

Of course, Karl Asch, Prosecutor of Union County, opened by saying that he spoke for himself, and I also speak for myself, not for any association of prosecutors or anyone else other than myself.

I suppose the thing that would concern a Prosecutor in the realm you are studying here, which is both the penalties of persons using and whether or not the shift should be from punishment to rehabilitation, is the fact that those who come before us undoubtedly feel that perhaps the laws may be too harsh and those who speak for society, perhaps the victim of some crime, feel that the Prosecutor should exact the absolute maximum penalty. It is not an enviable position to be in.

First of all, directing myself to really the subject matter of the resolution, you must realize, and I am sure you do, that users are only covered by a disorderly persons act and any jurisdiction of the County Court for that offense alone is nonexistent. For the record, there is no one unless he was illegally sentenced serving any sentence in any prison or penitentiary as defined by our law in the State of New Jersey today for mere use of a controlled dangerous substance. There is no power to so place anybody. Yes, someone could be put in a county jail for up to six months for being a disorderly person or fined.

So at the outset, one of the chief problems I see is, if we are going to deal through a court under the existing laws with the user only charged with using, you must take the law as it now stands and have him dealt with by the municipal court judge. I am not sure - and this is certainly not meant as an offense to municipal court judges - that's what you want to do.

There is no power, as has been mentioned here today, in any court of a criminal nature to sentence anyone to a drug program. As both you gentlemen sitting for the committee are attorneys, you know - I hate to use the word "deal" - but in an offense where the person involved may be a drug user often a suspended sentence is given with the understanding he will go into some drug treatment center and that would be the condition of probation. I find no authority for that in the law but I don't object to its being done. Unfortunately, one of the results of that is they go in the front door of the institution and out the back door, to the institution's sorrow, to the judge's sorrow and to our sorrow because then that person must be picked up as a probation violator.

As opposed to that, under the present act, Section 27, the Conditional Discharge, for any offense involving possession and use, a person has a right to a so-called conditional discharge. In that act, and I read, "The court may place him under supervisory treatment upon such reasonable terms and conditions as it may require," and that could well be a person who fortunately or unfortunately has never been apprehended before and may well be substantially addicted, but it is his first offense and he does have the advantage of the right to come under the conditional discharge provisions. There and in this much-debated act, the Narcotics Bill, so-called, the court, the municipal and the county court, does have the right to put him under some supervisory treatment.

The problem as you and I know is that when the defendant comes before the county court and he is indicted for breaking and entering and larceny or fooling around with checks or even armed robbery, the law enforcement people know and the judge after he is convicted will know by presentence reports that he is an addicted person - he is a user. But that is not what he is charged with. By the way, Prosecutor Asch told me, he thinks he may have neglected to say as far as any expungement of records such as armed robbery, etc., he did not mean to infer that that should be expunged.

You are now dealing with a person on a sentencing level who is not charged with a narcotics offense, but he wouldn't be there but for its use. Everyone knows that. Before going further, I must say in my county 60 per cent of all the business we have is either direct drug abuse or in some way connected with it. We can't change those figures; that's what they are.

I am going to make a suggestion to your committee, Mr. Chairman, knowing that, knowing that his sentence is in no way really connected with a drug offense, would it not be wise to make a recommendation that the sentencing judge do have a right to, in effect, sentence him to an institution? Any time we talk about sentencing to an institution, we are talking about control. But, as I said before, in the front door and out the back door, is not much of an answer. I am sure in some of the treatment centers bars are placed and the whole theory of it may be destroyed. I couldn't agree more with anyone than I did with Mr. Brooks when he talked about the cooperation of the person, himself, being absolutely necessary. The AA people, as you know, when a person doesn't cooperate, they feel they are wasting their time.

Institutions, as we all know, cost money and we don't have enough, but it would seem to me when the Legislature went so far as to set up supervision in the plea under the conditional discharge, that it is not an unreasonable step to perhaps give the courts the power to make it as a sentence. And it would be obviously probation. If they escape - even if they escape now, it is a violation of probation. But now it is sort of a hybrid and whether the authority is really there, I don't know.

As far as the whole penalty provision, particularly for the first offenders and those under 21, there are adequate provisions in the law for the person who really wants to help himself: Section 27, the conditional; Section 28, the person under 21, six months after his probationary period can try to have the record expunged. I do think that such a suggestion might have some value.

On the general subject of penalties, I have an abiding conviction - I don't know whether Assemblyman Florio will agree with me - that at the time of the

great debate on the bill in '70, that there may have been - I know there were some - that felt some of the penalties were mandatory. And, by the way, I am not so sure they don't read mandatory. They read, for instance, under distribution, "shall be punished by imprisonment for not more than 12 years, a fine of not more than \$25,000, or both." Certainly a layman reading that thinks it is mandatory. And I am certain that some legislators voting for that bill thought they were. Yet people who are aggrieved who may have been the victim of someone who is drug addicted say, "Why didn't he get the book thrown at him?"

Again, as both of you know, anything with a mandatory penalty - and I agree with Karl Asch in substance that the total term for a nonaddicted pusher might well be extended -- but to pass legislation, I am well aware, where you have something mandatory is extremely difficult and perhaps properly so.

I am not here to speak about whether the penalties are fair or not. You will note in the present act on second or subsequent offenses, possession and use are excepted. You might want to consider recommending what I think should be a change there. That act says, "shall be punished." It doesn't say that you can or you cannot. And I might say that there is no procedure here as to how you charge a second offender, whether he has to be charged for another offense. I think maybe you might think about that.

There was some thought given to protecting the user and helping to rehabilitate him, just as there was with the conditional. I think the conditional is a very powerful tool. I am happy to say it is being used. By interpretation of the court, although I didn't think it was necessary - I may or may not approve of it - the defendant does not even have to plead to an

indictment or an accusation. The court has held in the State versus Roundtree, whatever that citation is, that he does not. It poses some prosecution problems. If he goes off base, you have to bring him back. But certainly nothing could be more fair than that.

I would have said, even without Mr. Brooks having testified, that while there is certainly always room for improvement, particularly for the first-time offender, there are certainly adequate provisions in the law to let them help themselves.

As to the other, the only recommendation I make is the one I have already mentioned that perhaps the judge should be able to make the sentence to some treatment center when, in fact, the charge is not use of a controlled dangerous substance because he is not going to get the case. It will never get to him because it is unindictable. As you know, even where the charge is possession, say, of heroin, possession with intent to distribute and/or distribution, there is usually an allied disorderly persons charge, namely, possession of narcotics paraphernalia, a set of works, as if were, which is held pending a disposition. So you know he is a user; he is not some sophisticated pusher.

I say that is the classic case. But the real problems are the non-drug charges where everybody knows that he is a user, but he is not being sentenced for that. Certainly I wouldn't ever object - and we reserve the right to speak in my county on sentence day sometimes - if there could be some meaningful and as much as possible restricted institution for treatment as opposed to prison. There will be those who will say there is no such thing. But there is no such thing as "no such thing" either. It can be done. And in closing, that would be my most serious recommendation.

Are there any questions?

ASSEMBLYMAN FLORIO: Yes, just one question, Prosecutor: On the question of mandatory sentencing, obviously there is a philosophical argument on both sides, the deterrent value of the sure sentence as opposed to the requirement that you impose different sentences for different types of situations. Do you have any feelings with regard to a statute which would provide for discretion on the part of the court within a range, depending upon the circumstances, but with a provision that the judge have no authority to suspend the sentence, but the discretion would be utilized in fixing the penalty in accordance with the situation, but there would be a mandate that would hopefully have some deterrent value in assuring an offender who was convicted that he would go to prison?

MR. COLEMAN: Assemblyman, as I read the act, the act really doesn't give him any discretion. It doesn't say 12 years or fine; it says "or both" after that. It says "shall" and "not more than 12 years." So it could be one day in the county jail, I suppose. It is a serious question whether it isn't mandatory now. But I am not for mandatory sentences in a great many areas, including this, because I want a judge to be a judge. I may disagree horribly with the use of his discretion. But in this area particularly, if you have a man come up who sold six times and they caught him the last four distributing heroin, who is an addict pusher, you have to distinguish his case from that of a fellow living off of the fat of the land, nonaddicted, who is peddling it by the kilos. I can't in good conscience say the judge should be bound.

I don't know whether I have answered your question or not, plus knowing your problem if you are going to put some mandatory bill through here.

ASSEMBLYMAN MENZA: What statute, Mr. Prosecutor, are you referring to? Title 24'--

MR. COLEMAN: Yes.

ASSEMBLYMAN MENZA: (Continuing) -- wherein they use the word "shall"? You interpret it as mandatory?

MR. COLEMAN: I don't think so.

ASSEMBLYMAN MENZA: It could very well be.

MR. COLEMAN: I know it is, but apparently it isn't. I guess a lot of people violate the law because they don't make it mandatory. But I do think at the time the legislation was passed, there may have been some who felt because there were compromise bills at that time that distinguished between addict-pushers, nonaddict-pushers -- so it is not being enforced mandatorily.

ASSEMBLYMAN MENZA: You stated in your county approximately 60 per cent of the defendants were somehow or another at one time or another connected with drugs.

MR. COLEMAN: No, I said that 60 per cent of our business is either direct drug abuse or perpetrated by people who have a drug problem, by that I mean sale, possession, sale or possession with intent to distribute, breaking and entering, larceny, armed robbery, and all the financial transactions, such as stealing checks, forgery, etc.

ASSEMBLYMAN MENZA: That is a staggering figure, to say the least.

MR. COLEMAN: I think you could poll all the 21 Prosecutors in the state --

ASSEMBLYMAN MENZA: -- and get the same percentage?

MR. COLEMAN: In a given month, it may drop off to 40 after a large raid or it may go a little higher, but I think 60 per cent is a fair figure.

ASSEMBLYMAN MENZA: That was my next question. Would it be fair to say under the circumstances that 50 per cent of all crimes that are committed in the State of New Jersey, at least the indictable crimes, are crimes relating to drugs or committed because of the use of drugs?

MR. COLEMAN: All crimes committed that there is a complaint filed on - I mean, of record?

ASSEMBLYMAN MENZA: Yes.

MR. COLEMAN: I would think so, particularly when you take the figures from the large urban centers. Prosecutor Lordi and I have discussed this. I would think 50 per cent is a fair figure because you count all the direct drug abuse charges themselves and there are many and then there are the crimes committed by those people, narcotic-connected or drug-connected, to get money. Somebody testified today - I think his figures were low - if you could get 50 bucks for 250 dollars worth of stolen property, lots of luck. But 50 per cent to me is not too high; it might be an inside figure.

ASSEMBLYMAN MENZA: I am thinking out loud, but I constantly hear figures like you have given. And I hear everyone, every witness that testified so far, with the exception of perhaps one, say that jail is not the answer and drug rehabilitation centers and other modalities would be the answer. I question out loud why then for 10 to 15 years the State of New Jersey hasn't really done anything in this area. I just don't understand it. You are a former legislator.

MR. COLEMAN: Well, I can't say ---

ASSEMBLYMAN MENZA: I mean, anything meaningful.

MR. COLEMAN: Without the conditional discharge, you are going to have a lot more people getting jail sentences. I don't think it is fair to say they didn't

do anything. There is no sense in kidding anybody. I am on record right here in this House as voting against this bill, but not because of those aspects. There were some technical problems.

I think this bill is certainly not as harsh as what we had before. As to the 25-gram breakoff for marijuana and whether that should go to 50, if you have three defendants and you have 48 grams, long division give you 16 each. So there is no big problem there.

I think Assemblyman Florio will agree. He was here at the time also. Everyone took the position that this was a more liberal approach, although the penalty aspects in some areas went higher.

ASSEMBLYMAN MENZA: Mr. Prosecutor, even with the conditional discharge, you have to be able to have some facility to which these people can be sent.

MR. COLEMAN: No question about that.

ASSEMBLYMAN MENZA: Do you feel, for example, in Monmouth County that there are sufficient facilities to take care of the problem?

MR. COLEMAN: No, absolutely not. I don't believe there are in any county, just as there aren't facilities for lots of other things. Those who are working in this field, by the way, are in my estimation doing a very conscientious job. They come to us about the methadone. They even have people in the program who have been arrested again and they need our cooperation to administer it while they are on probation and even while they are in the jail waiting to see whether they are going to be indicted or not. They need the Sheriff's cooperation, the Probation Department's cooperation and our cooperation to do that. No, I don't think there are enough facilities for a lot of things, including that.

ASSEMBLYMAN MENZA: I am assuming in this next question that you don't feel we should decriminalize the marijuana laws. Let me ask you this: Is there an area of compromise with regard to possession and use of marijuana? If you recall, Prosecutor Asch stated that he would think instead of 25 grams for disorderly person, it should in fact be 50 grams. Do you feel there is an area of compromise at least with the soft drugs?

MR. COLEMAN: No. I would leave it at 25. There is a question about how many cigarettes or joints you can make. Statistics vary anywhere from 30 to 70 cigarettes. We have cases now where they want you to downgrade the offense. If you make it 50, then you will be to 55. Maybe all possession of marijuana should be DP. But if you have somebody that has 12 pounds, then you know he is selling and it is a little tough to swallow that.

ASSEMBLYMAN MENZA: But isn't the penalty up to five years - I think that's in Title 24 - for possession of marijuana in excess of 25 grams quite harsh on many occasions?

MR. COLEMAN: It is harsh. But let's be practical, who got five years, when and where, recently for it? I don't say that's right. The law is there. Maybe that is not the answer. We have seen, you have and Mr. Florio, I am sure, where with 10 pounds they have gotten a suspended sentence. He may be a young fellow who was trying to make a fast buck. I wouldn't want to see him put away for five years, but I don't want him to go out and buy 20 pounds the next day either.

ASSEMBLYMAN MENZA: Mr. Prosecutor, do you feel we should have a different approach - I think you are in fact saying this to us - should we have a different approach to the narcotic addict and those

persons who possess narcotics, not those persons, of course, who sell? Are you saying that we should not put them in jail? That's what I am asking basically.

MR. COLEMAN: You mean the addict? For what offense?

ASSEMBLYMAN MENZA: Let's start first with plain addiction and/or possession.

MR. COLEMAN: I hate to say I'm against something and not have an alternative, but jail is not the answer. On the other hand, if he has committed an armed robbery, I don't know how you can justify to society not putting him in jail either. You are going to get eventually to the question, should we distinguish between the addict and non-addict pusher. I will tell you gentlemen I put bills in once to distinguish them, but I am off that now because we have some weekend addicts and for their own need, if they have to sell, they are doing it with somebody else and I don't know that you can overlook that. When you are simply addicted and arrested for possession, the first time you are not going to put him in jail anyway. I suppose it has happened, but certainly that is not the run-of-the-mill situation. The answer is not jail.

ASSEMBLYMAN MENZA: What about an addict who is on barbiturates or anything and breaks and enters and is charged with a three-count indictment. But everyone knows - the prosecutor's office, the judge, the probation officer know - he is an addict. Would it not be a fair approach to perhaps have some kind of a diversion process - put him in a therapeutic center and then perhaps with the consent of the prosecutor and the assignment judge have dismissal and subsequent expungement?

MR. COLEMAN: That's my suggestion because it carries out Section 27. Further, if a guy, a defendant, is not charged with drug abuse, he has the breaking

and entering and larceny which he did because he was an addict. But you can't dispose of him as an addict. I say if you gave the court the power -- Number one, they need the facilities. But I don't care whether the breaking and entering later was expunged. I care about him staying on the registry because I want to know the next time whether he has, in plain English, loused up his so-called probation.

ASSEMBLYMAN MENZA: What about the dismissal aspect?

MR. COLEMAN: We don't even under the conditional where he may be far addicted but never been caught before -- we don't even demand he plead to an indictment. So I really couldn't in good conscience object to the other. In fact, I suggest it. Some may disagree with me, of course.

ASSEMBLYMAN MENZA: I don't.

Thank you, Mr. Coleman, for waiting around all day and thank you very much for coming.

Father Walsh is next. He is Executive Secretary of the Commission on Social Justice of the Diocese of Camden.

R E V. E D W A R D J. W A L S H: Thank you, gentlemen, for inviting me to testify today.

Addiction is contagious: To break the drug epidemic, we need to break the chain by which addition is transmitted from person to person, find out who is addicted, treat them, cure them, and rehabilitate them.

I don't have any great new pearls of wisdom other than a little common sense.

I have been working in Camden County with Dr. Brimm since 1968 to attack this drug problem. At that time in 1968, there were no drug treatment facilities in South Jersey; today we have a number that have begun and tried to do something regarding drug abuse.

We humans need any help we can get to prevent drug abuse.

What is the common sense approach? We've seen the cycle, and you have heard people during this public hearing say how the cycle is being played out: the cycle of, probably, misapplication of energy to a symptom. You know how it goes; you've seen it in your own communities.

First there is apathy. No there are no drugs here! Our kids are good kids and our adults are law-abiding citizens who only fill their prescriptions when they should. That attitude usually disappears after a significant arrest or scandal. Then you have the enforcement approach which is simply, "Enforce the law and arrest everyone who is on drugs and punish them."

After a year of that it usually leads into a notice that there are still a lot of drugs around and the enforcing people can't do it by themselves. Then you get to the treatment approach which I think is probably our favorite, because you see a symptom and you treat it - it's a medical approach. You say that people who use drugs are not necessarily criminals - they're merely sick, sick, sick. You set up a rehabilitation facility and hope they will voluntarily come in and admit they are sick.

What happens here is, motivation is the prime necessity. The mother or father can't motivate the person. A police officer cannot motivate them. The individuals themselves must have the motivation to correct the problem.

If we look at the drug abuse problem in the United States, as a whole most people who abuse drugs, using the liberal definition, do not consider themselves either as criminals or sick; and, furthermore, they don't consider themselves deficient in the fourth

level of the cycle, which is information. They don't consider themselves ignorant, which for awhile was the predominant function of the educational cycle. That is, we've got to do more than just arrest them or just treat them - we'll educate them. But in the first sense it was to show them movies, show them in despair - the first puff on a joint of marijuana and the electric chair is not far away. Tell them all kinds of things, also say morally drugs are bad. This will more or less turn them away from drugs. But today it seems that everyone does their own thing. You can't enforce a morality on others.

Now what does this all mean? It means at least from where I sit, and where many of my friends have sat before, and after we have gone through the cycle and people have stopped abusing drugs, it will be very clear that people took drugs for a reason and they do other things for reasons. And mainly, on the whole, they take drugs because they like them. They get a satisfaction out of using them, maybe a lot, maybe a little, and we ask ourselves what motivates this behavior. I think this is our top priority. There must be better things for people to do than to abuse drugs.

There are a lot of different kinds of people with a lot of different kinds of motives, so we need the multi-modality approach in the rehabilitation process. For some it is methadone maintenance; for others, therapeutic. Every user has a different personality and needs a different treatment to meet their personality and their problem.

There is a need for drug programs in our jails. Just putting people in jail is not the answer. There is a need for treatment there.

I think this morning you heard a number of programs they are trying to get into the different facilities. I think a fellow by the name of Mr. Ken

Jacobs is working with a number in Trenton State and in Rahway.

A number of ex-addicts to whom I have talked say the reason they stopped was because of motivated behavior, because at some level they found something better. Perhaps that was found in a therapeutic community; perhaps it was found in a spiritual conversation; perhaps they had evaluated or re-evaluated their lives and responsibilities.

This is what keeps them off drugs, not fear, but something better is going for them.

We are living in a drug society. The problem is not the drug; it is how they abuse it. In a sense, truly effective solutions to the problem of drugs are effective solutions to the problems of people, the problems of life.

This is basically all I have to say.

I might say I have heard you ask a number of questions regarding marijuana. A special word about marijuana - today young people of all income levels adopt the theory that using marijuana is not vastly different from the use of alcohol, tobacco or pills.

First of all, the dangers of the indiscriminate use of alcohol should not be minimized. There seems to be susceptibility in some individuals which may have a bio-chemical basis, such that if two persons take a drink of alcohol, one can then stop and walk away, but the other one cannot and must go on drinking. A similar predisposition to drug dependency has also been recognized. Most of the youth who tend to experiment with marijuana have an immature personality, just as in the process of developing.

None can know for sure whether he can control its effect on his personality or whether he does have a predisposition toward psychological dependency.

Secondly, there is one great difference between alcohol and marijuana. Alcohol is unique in its kind. If one's tolerance to it rises and one wants more of a kick from it, the only thing to do is to drink more alcohol. But, if one becomes judged by the effects derived from marijuana, he always knows that the bigger and better highs are always possible with harder drugs. I think Mr. Brooks pointed this out this afternoon.

Thirdly, the hard scientific evidence on the effects of marijuana is still before the jury, and no one can make medical statements one way or the other with absolute certainty. But research is going on and the answers to many questions about marijuana should be forthcoming in the not-too-distant future.

Consequently, because of these dangers, even a casual or curious use of marijuana cannot, in my opinion, be without fault, and a willful continued experimentation with it would be, in my judgment, serious.

As to the question, "Should marijuana be legalized," I say, no, we already have two problems. We have the alcohol problem and the cigarette problem.

Gentlemen, are there any questions?

ASSEMBLYMAN FLORIO: Father, most of the things we have developed in the course of the hearings - my conclusions anyway of most of the things developed - have been that institutional treatment doesn't work. We have had some testimony that civil commitment in a semi-institutional setting won't work any more than will institutional treatment. Then we fall back on the group therapy community-based treatment centers and there has been testimony both ways - yes, they are of value, and, no, they cause more problems than they cure. Could you just briefly, knowing of your experience with some of these centers, give us some of the pluses

and minuses as you perceive them?

REV. WALSH: Let me speak from our own facility concept which is more or less for the younger users of drugs, hard drugs, where a person is just beginning to experiment with them. The success we have had here is using the therapeutic, drug-free technique. And I would say about 50 per cent of them are now useful citizens.

From what I see of the user who has been using for 5 years and then spends 3 years in jail, going out and in, methadone seems to be the answer for them, but not methadone alone. There is also the need for some sort of counselling.

I think Mr. Brooks pointed as far as some of the individuals who are on methadone maintenance now, as soon as they are taken off it, there is this dependency to almost fall back and become perhaps an alcoholic. So we have to treat this type of personality and, as I mentioned before, there is a need for different modalities, not just one program. I think there have to be multi-program approaches. Maybe some will need something similar to Teen Challenge. That is a religious approach. Then methadone would be perhaps, as Mr. Brooks pointed out, for a man in his 30's or 40's who has been fooling around with drugs for maybe 10 or 20 years and spent a great deal of time in jail. So I do see a need for a multi-modality. I think we have to have some answer for it. Maybe later on we will look back and say we were wrong, but I think at present we have to try whatever means we have before us.

ASSEMBLYMAN FLORIO: One point you raised - and you are probably eminently qualified to speak on it - was the religious aspect of treatment being given in the centers. I think it is fairly common knowledge that the problem which causes the whole drug problem, which is also a factor in alcohol, is the need to structure

people's lives, life being too complicated, and people looking for some other means of resolving their problems. Has there been an attempt to incorporate religious training in any of these programs?

REV. WALSH: Teen Challenge which works out of Philadelphia started this program three or four years ago. It has had success in Philadelphia. There is one operating in Camden. I don't know its success right now.

There again, it is my understanding it depends upon the individual and what their religious background was before. It isn't just a thing of going in and saying, cold turkey, Jesus is going to save you. I have sent people down there and if they didn't have this motivation before and there was no religious background, it did not seem to help them. But they do claim success with individuals. There again, it is this multi-modality.

ASSEMBLYMAN MENZA: Father, thank you very much.

The last witness for the day is Dr. Benjamin Wolfson, Executive Director of Harmony House in Camden.

D R. B E N J A M I N W O L F S O N: Thank you for inviting me. I appreciate the opportunity and I appreciate the fact that the Legislature is attempting to find answers. This in itself is healthy.

I am Benjamin Wolfson, MD. I have been connected with Harmony House since its inception about two years ago, the last year as its Executive Director. I am a psychiatrist and when I was asked to associate myself with the program, I knew little or nothing about drug addiction and the drug abusers themselves.

I consider myself scientifically trained and scientifically oriented. So I don't jump to conclusions. I try not to be prejudiced. I try to be as objective

as I can.

The methods and techniques in use at that time in Harmony House as well as, to my knowledge, in all other therapeutic residential communities, were contrary to everything that I understood about proper human behavior and relationship. But since psychiatry had not done too well in helping drug addicts in solving the problem, I thought I couldn't very well be critical. So I sat back and for almost two years watched an approach which was in my opinion extremely destructive.

With that, I would like to read from this prepared material I have, and this will be brief: During 1970-71, a survey of what were regarded as the best drug abuse treatment programs in the country was conducted by the Joint Information Service of the American Psychiatric Association and the National Association for Mental Health. Their findings revealed that "none of the present available approaches to treatment of drug abuse can be expected to be successful with more than a small percentage of the drug-abusing population, and all approaches combined will have an undoubtedly limited effect."

Accordingly, the report advised a community would be wise to initiate drug treatment services rather cautiously before attempting any kind of comprehensive program.

I would also add that Jerome Jaffe who now heads the Federal Special Action Office on Drug Abuse was a member of this committee.

The report also stated, "We cannot know whether drug abuse as we perceive it today is a temporary phenomenon, merely an epidemic that will subside as have earlier ones, or whether it will grow worse."

Gentlemen, I think this really sums it up because today there is no difference. This report would be just as appropriate and valid today as it

was then. It has not been that long ago.

Before we can even begin to talk about what we should do.- you know, should we use a therapeutic approach or a punitive jail approach or therapeutic communities or what - I think we have to evaluate the alternatives to the jail approach. Is anything good going to happen by saying, "O.K., son, you don't go to jail; you are going to Harmony House or Concept or whatever"? The results will tell us very little good has been done. We still do not have any single approach or combination of approaches which offer significant improvement over what was available at the time the survey was made in 1970-71. So it is crucial that meaningful changes in our approach take place before any of us invest more time and money in what heretofore has been a bag of worms.

Reliable methods of evaluation must be utilized to determine the validity of claims by directors of drug programs who insist their techniques and results are great. We cannot rely on their subjective appraisals of their own programs. It is clear that glowing reports of successes were intended primarily to keep a program going and certain jobs intact.

The whole problem is exceedingly complex and no one is sure what is needed to solve it. But there are some things that do appear clear. It is time, in my opinion, to return this entire endeavor to the realm of scientific methodology and take it out of the hands of every Tom, Dick and Harry, and those persons whose only qualifications may include such things as possession of a college degree or the dubious distinction of being a former drug addict.

Management of the approach must be removed from social saviors and those with rescue fantasies. We have to find people to get involved in these programs

to lead them, to help us, who have what has been described as the rare combination in Dr. Jaffe, clinician, scientist, humanitarian and leader. I have paraphrased it a little bit. But those are the qualities we need. This is not going to readily be found, but we have to try to find it because, if we do, it will assure us that what we do in this area and what we spend will give us valuable knowledge and direction, if not finding the answers we desperately seek.

In seeking a remedy, it is suggested --and I am trying to be realistic and I am trying to give you something concrete to grab hold of with no certainty that what I am saying will work, but I feel it is a positive kind of approach at the same time that we remain extremely flexible and remain willing to modify our direction and technique. All right, so I suggest, one, that a single person possessing the kind of qualifications I just delineated be appointed to head the entire State effort in the field of drug abuse.

This man, who would be a clinician, a scientist, a humanitarian, a leader, would be capable of putting together all the kinds of material that you hear today and that you read about all the time, evaluate them, be able to appraise the various contributions from other disciplines and other fields. Most people who are in the field are not capable of doing that. Most of the evaluation which has been done has been on a very subjective basis.

This approach would be consistent with what has been done on the national level. And I will repeat, Dr. Jerome Jaffe was appointed to head the Special Action Office for Drug Abuse Prevention. If you read the material that this man puts out, you have to have a lot of respect for him, and I read his material. I receive a lot of literature from various sources,

including psychiatric news, medical news generally from the National Institute of Mental Health, etc. I like the way this man approaches it. He is saying - or let me say, I am saying pretty much what he has said.

If we can have such a man in this kind of position, he should retain the ultimate responsibility for the planning, the development and implementation of new programs. This will pinpoint responsibility and it will pinpoint the man. It will make it easier for the State to react to what happens. It will know where and to whom to go for results and it will know who to fire if progress is not forthcoming.

I feel that this is a more realistic, productive approach. It can get us involved in a course which may lead to success, but which we can get out of very quickly if it doesn't look good. I think it can get us started with a minimum of expense.

I want to make another concrete kind of suggestion and I am offering this, not dogmatically. This is an impression I have gotten and I think it is worthy of consideration.

We should consider the possibility of treating drug abusers within the existing or expanded existing medical framework and channels; that is, view the drug abuser as a sick human being, not as a drug addict.

One of the reasons, in my opinion, for failure of drug treatment programs has been that the drug abuser's self image has been re-enforced and enhanced by the treatment method itself. He has not been treated as a human being, but rather as someone special, and I mean in a derogatory sense, someone different from his brothers.

The effect has been almost to create an esprit de corps among the lowly, the rejected, who wear the

label "drug addict" almost like a badge of honor. It has led him to believe he is someone special who will receive special treatment, whether it is good or bad. The major thrust of therapeutic communities has been to convince the drug abuser that he is a bum, he is a degenerate, he is a manipulator and that he deserves all the injustices and cruelties which the therapeutic program will impose upon him under the banner of "therapy."

I believe that rehabilitation is a reasonable and desirable goal in a management of drug abusers, but the factors which influence an individual to utilize drugs are many and we have to bear in mind that no matter what the man's personality was, no matter what the influences were prior to using the drugs, once he has gotten hooked, he has to assume a life style which is rather characteristic. So there is a tendency for us to look at the drug abuser as an entity and treat him separately.

This is where I differ greatly from Dr. Jaffe. I think by having done this we have made it worse, made it more difficult to free him from this kind of image. So if we can rid ourselves of that concept and help the individual forget the fact -- "O.K., you are not on drugs anymore - forget it - you are now a human being and we are going ahead on that basis" -- I believe it would be a great step forward and would be a great departure from what has been done for a long, long time in this State.

In any case, I think it is unfair to assign major fault for drug abuse and drug-related crimes to the individual alone. I am not suggesting that he must not or cannot assume some responsibility for his actions. In fact, I would insist that the drug abuser who has committed a crime be held accountable. But in the process of punishment and treatment, it must

be borne in mind that the society and the culture are also culpable.

I am not here to try to change society, but again in trying to deal with any particular problem, we have to understand what are some of the issues, so that if we try to help an individual, we can empathize, we can appreciate some of his feelings, based on where he had to live, the influences of his own family, the society, the culture, etc. That doesn't mean we have to be anti-society or anti-culture. But we can help an individual by saying, "O.K., we appreciate it. I had to go through it too. There is not much we can do about that. But, hell, there is a lot more in life to think about." That may sound corny, but I have brought about changes very recently. I have gotten rid of all former drug addicts from director positions. They no longer play a role in the program in that position.

We have instituted a whole new approach similar to what I am saying now. I think it looks good, but that doesn't mean much because it is not evaluated. But this kind of thing can be done.

I think it is important that the concept of punishment or concept of adherence to rules has to be adhered to and has to be provided to the abuser, himself, so that he doesn't believe he is somebody special that is going to get off the hook by crying or pleading or whatever, or having some psychiatric reason for his illness and, therefore, he shouldn't be held accountable. I think it is important that he understand that because I have found that the certainty of going to jail or being picked up for violation of probation was the big thing that helped keep guys in programs.

Ordinarily theoretically we say if a person is not motivated, you can't help him. This is the way

I was taught. In the two years I have been at Harmony House, I have found this is not true because a guy may hate you - he may dislike the program and may be there only because he has to - and he will do grudgingly what he has to. But if you are good in your approach, if you can adhere to good sound principles, I believe you are able to reach this kind of person and help him.

So I believe that a viable alternative would be a mandatory commitment to a therapeutic community or some other type of community which I will describe very quickly for a designated period of time. I would not leave it up to psychiatrists, psychologists or any other person to decide, O.K., this guy is good now - he can go home. I think if he has committed a crime, he has to know he has to pay the penalty. But the way we handle it is the thing that I am talking about.

You know that imprisonment alone can keep an individual off drugs during the period of his incarceration. That part is really the easiest part. We find this all the time. We have a guy in the program; it's no problem to keep him off drugs. He does not seem to desire it. Yet if he gets out on the street, he will fall into it again.

There is a lot of controversy about this and I have evidence supporting different views. Some evidence based on animal experimentation shows that there are, in fact, physical changes in the body in certain addiction which almost require the use of this if it is available. It is obviously very difficult to separate physical from psychological factors. I am only offering this little bit of information to show you that we don't know the answers and we have to be cautious in what kind of conclusions we draw.

But we do know this, that in most cases guys will go back to drugs. So prison alone is not the

answer. And that is common knowledge. I think that the problem still exists in spite of the fact that many men have gone to therapeutic communities because the drug treatment programs have failed miserably to fulfill their promises.

Another possible suggestion which I would hope you would consider is the establishment of a facility having some of the features of the present therapeutic drug communities and some features of a prison, under the direction again of this person whom I am suggesting as a statewide director, with the qualifications which I mentioned.

The State of Maryland has recently established - and I don't know if this was brought out in earlier testimony - such a setting, sort of a half-way thing between hospital and prison. And it was set up specifically for those people who are recidivistic, the so-called psychopath - that was an old term and we don't use it much any more, but I will use it just for familiarity - or sociopath or anti-social personality. These are the terms used. These were the kind of people you could send to jail a hundred times and it seemed to make no difference. These were the kind of people who could plead and con their way out of jail a hundred times and have their sentences reduced, etc. But they continue to show a certain anti-social behavior, and yet you couldn't call them insane. How do you solve it? In desperation, this kind of a thing was established.

I don't know what is going to happen, but I applaud the state for at least having the courage to deviate from the same kind of ritualistic approaches and extremely conservative things which may not do any good, but as far as we know don't hurt anybody. The fact is that when you take that approach, you do

hurt people because I think what we have been doing in the State has hurt very much.

Again, in keeping with the concept of avoiding any kind of approach which emphasizes and encourages the continued image of one's self as an addict, I would seriously consider having a facility which took in people who have violated the law and have been convicted of crime other than drug related, people who have not necessarily used drugs at all. This in my opinion is a very crucial kind of concept. How it is worked out is another thing. Whether it should be done in a therapeutic community alone or whether it should be done in a facility set up by the law, I don't know yet. But I think it is crucial that drug addicts stop being treated as drug addicts. They have to be treated as human beings, sick ones, but human beings.

I have instituted in a very small way the proposition that dignity and respectability are the cornerstones of the approach - no more humiliation, no more servitude, no more derogation, and no more painting the world as a cruel, tough place and saying, "Buddy, you'd better learn how to handle it. If you learn how to handle it here, you will learn how to handle it there." That was the approach.

I know there is an awful lot of rhetoric that goes on and maybe I have been guilty of a little bit of it myself. I have given two or three ideas on possible approaches to this.

ASSEMBLYMAN MENZA: I am convinced there is a conspiracy here today to confuse the Commission. You state initially that you felt - and there were studies to this effect - that the therapeutic centers were ineffective and have failed miserably.

DR. WOLFSON: Right.

ASSEMBLYMAN MENZA: Perhaps I am naive, but I got the impression that they in fact do work. As an

aside, why are you with Harmony House then? And what about all the other gentlemen who testified here today and at other times and what about the fact that 90 per cent of the beds for treating narcotic addicts in the State of New Jersey are furnished by private rehabilitation centers? The fact still does remain, Doctor, that when they go into these places, such as Odyssey House and Synanon, most of them are half dead and at least there they live; at least they save lives there to some extent.

DR. WOLFSON: Then it depends on what you are measuring. If you are talking then about holding a guy in limbo for a while, if you are talking about simply keeping him off drugs, then you have accomplished that. That is what happens. But ideally we are looking - I am and I think on a Federal level they are looking for change, approaches which will help people get off drugs, stay off drugs and not utilize them. They are looking for ways by which we can actually cure or allow a man to function without drugs. This is not happening in any program.

ASSEMBLYMAN MENZA: Then will someone some time ever tell us what the approach in fact should be? This has been going on for 20 years. People have been telling us, this approach is not the way, this is not the way. Then Synanon started and now we have had a thousand places copy the Synanon approach. Everyone agrees that we don't send a narcotic addict or the person who has a problem with narcotics to jail. Everyone agrees there are different types of modalities. But no one tells us what the modalities are. Some come here and tell us that we ought to have a group therapy, residential-type treatment; another one, methadone; another person, something else, outreach centers, etc., etc., etc. Then there are

others who criticize these, etc.

As another aside, I should add that the narcotic addict in these residential treatment centers is convinced that the only ones who can treat narcotic addicts are former addicts. Most of them have also stated that psychiatry here does not work and, by the way, a great many of them have gone to psychiatrists and find that doesn't work. They disagree with you about treating them as human beings. They say they are young people who have never grown up and this is their place to grow up in a new family unit.

Do you understand what I am trying to say? It is not really a question. It is quite a rambling statement.

DR. WOLFSON: Let me reiterate. I think I tried to anticipate this kind of comment.

I said in the beginning that the survey was conducted by what I believe is accepted as a very authoritative, reputable group of people, representing outstanding organizations in the country, and this included Dr. Jerome Jaffe who is recognized as, if not the leading, certainly one of the leading authorities in this field.

They said, in spite of what you heard from any other program director here, in spite of what you have been told by anyone else, that there was not a program presently available which can be expected to be successful with more than a small percentage of the drug-abusing population, and all of the approaches combined will have an undoubtedly limited effect.

I have just read - and this was reported about a year ago - more of Dr. Jaffe's comments. And this is very relevant because through his office I understand the State of New Jersey is supposed to have about

a million dollars allocated to it to be distributed to certain counties. In reading his latest material, I believe he is saying precisely what I am saying today that we don't know the answers and nothing has really been successful. And he said that because the problem is so serious, we have to continue doing something even if it is not effective.

ASSEMBLYMAN MENZA: Doctor, let me interrupt you again. Do you realize what you are saying to us? We are here hoping to make a report in a very short time to the State Legislature on what we should do about the narcotic problem in the State of New Jersey. And you are saying to us that you do not know, and studies so indicate, of any effective treatment program throughout the entire country.

DR. WOLFSON: Right.

ASSEMBLYMAN MENZA: And you are a psychiatrist, Director of Harmony House, and you have been on the drug scene for a long time. Can't you even tell us the approach? And if you can't tell us, who can?

DR. WOLFSON: I am giving you an approach. Now I don't know the answer, but I think I am giving you a different approach. I think I have delineated some methods which certainly vary rather significantly from what has been done in the past. The one big thing is that I would not - at least I think I would not - again these are things which have to be weighed and worked out -- but if I were to have the authority, I would attempt to establish treatment programs which were not called drug programs. They would be for many kinds of young people. Drug abusers would not be identified as drug abusers. Because I say that this is exactly what has happened and it is what has perpetuated this self imagine, the whole drug culture.

ASSEMBLYMAN MENZA: I realize that. I know this might sound silly. But you are saying again, in

effect, that the other stuff has not worked and let's try something else which might not work either.

DR. WOLFSON: What I am suggesting - and this is again what I mentioned in my written material - is that we should return this to the realm of scientific methodology. That implies that you utilize methods and techniques which have a sound basis in psychology, which have some evidence to support what you are doing. You just don't pull an idea out of a hat and you just don't say, "Well, look, I've been through it and I know." That is not good enough. You have to have evidence for what you are saying.

What I am saying would fit in, at least reasonably well, with concepts of good psychology.

ASSEMBLYMAN MENZA: Psychiatry and psychology have failed miserably for years. All of a sudden are they now waking up after the Synanon approach?

DR. WOLFSON: That is possible. Sure. You know for years they taught Fried only, only Fried, which was a catastrophe. The psychiatrists in training learned nothing else but that. But now that has changed. Psychiatry now learns about community affairs, social issues. So, yes, people can change and that precisely is the point.

ASSEMBLYMAN FLORIO: Doctor, you have today enunciated some very, very distinct impressions that I have formulated as a result of my connection with most of the therapeutic, community-based centers. You stated it beautifully and they are things which I have seen. What I am talking about is the sense of self pity that prevails in these places. Everyone is sitting there talking about their own problems, being inner-directed as opposed to outer-directed in the Riesman sense. And it really gets to be something which you described quite correctly as wearing a badge: "I am an addict and everybody should be feeling

This is a tough state of affairs, but fortunately most of the things don't hurt people.

We have a very serious problem; it is not coughs nor is it pain as we know it, but a drug problem which is very complex. Therefore, you are going to get everybody and his uncle suggesting answers and, unfortunately, in a dogmatic way. I think it is time that we extricate ourselves from this kind of thing and try to find somebody in a similar position as, say, Dr. Jaffe, to help put together something because I believe-- and I can appreciate the confusion, the doubt, the uncertainty that you feel and most people when you consider what to do about this.

The whole field of mental health is not specific in terms of what you do about things. A lot of it is feeling your way and playing it by ear.

That is tough to handle. Most people can't handle that. Most people want a solid structure to hang their hats on, good or bad. I think it is time we went beyond that and got a little bit more, I call it maturity, and confidence and be willing to hold off a bit before committing ourselves to anything and get somebody similar to Dr. Jaffe, who has those qualities, and give him some authority, even if it was a short term thing of 6 months, to put together something.

ASSEMBLYMAN MENZA: If I may, I might say that I know medicine is an inexact science, but this is absurd really.

DR. WOLFSON: Particularly psychiatry.

ASSEMBLYMAN MENZA: Yes, particularly psychiatry. And this man that we would get to head this program, I have a funny feeling he would also have doubts as to the proper approach.

DR. WOLFSON: Sure.

ASSEMBLYMAN MENZA: The more I am involved

with narcotics, the more confused I get. Fifteen years ago, I thought I knew all about it. Last November, by the way, I went to Carmel for a seminar - and I am going to Washington in a couple of weeks to another seminar - and they said, the psychiatrists, sociologists and physicians, legalize marijuana, there is no basis for not doing it because it doesn't necessarily lead to the hard stuff, think about therapeutic types of environment. They said it has worked in San Francisco, etc. etc.

Then you hear from other reputable people, very reputable people, who have completely different approaches.

Here we are - probably the twentieth narcotics commission in the State of New Jersey - still without any answers. To a certain extent, this is unfair. It is unfair to the public. The problem in the State of New Jersey is acute. It is acute. We have prosecutors here with a great deal of sensitivity saying, no, they don't belong in jail. We have had people here saying we need different types of modalities, etc. Yet no one - and this doesn't make sense to me but perhaps I am too much a lawyer -- we have no one saying this is a good approach - this is a good approach - or something else is a good approach - let's put the whole ten of them together and we have ten good approaches which may work.

Do you realize the complete frustration under the circumstances?

DR. WOLFSON: This is what we have to live with in the evolution of progress and knowledge and in the seeking of answers. The hallmark of a scientist is, "I don't know." Talk about frustration. But the very fact that he doesn't know is the thing that spurs him on to find the answer. It has got to be done

objectively. It has to be done by means of a method which utilizes objective kinds of standards. Dr. Jaffe says this himself. We have got to develop ways of evaluating what we are doing.

I realize, realistically, practically, people don't want to be left hanging. You have to do something. We can continue what we are doing, but there is no reason not to develop while this is going on, while we are reassuring most people we are doing something, a system by which we can reach an answer quicker. And I think it requires expertise. I don't think we are going to get it utilizing the kind of people who really are greatly involved now on the scene.

ASSEMBLYMAN MENZA: This dialogue could probably go on forever and I guess we had better bring it to a close.

I guess that is it as far as the witnesses are concerned. We hope to have our next hearing in two or possibly three weeks in Newark.

Thank you all for coming and I am sorry that some of you had to wait so long.

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OFFICE OF THE COUNTY PROSECUTOR
COUNTY OF CAMDEN

THOMAS J. SHUSTED
PROSECUTOR

CAMDEN, NEW JERSEY
(609) 966-8400

May 9, 1973

Assemblyman Alexander J. Menza
125 Broad Street
Elizabeth New Jersey 07201

RE: ASSEMBLY CONCURRENT RESOLUTION No. 2001

Dear Assemblyman Menza,

Thank you for your kind invitation to testify before your committee concerning the study to review the penalties currently imposed upon individuals convicted of using certain substances currently subject to the provisions of the "New Jersey Controlled Dangerous Substances Act".

Unfortunately, my schedule will not permit me to testify but for the record I should like to offer my observations through the medium of this letter.

Under the present law, users as such, are only subject to prosecution as disorderly persons and can have the charges against them dismissed through application to the court, for the first offense. In my experience, the courts of this County have been unanimous in suspending proceedings in accordance with the statutory provisions above referred to. In fact our office has encouraged this practice and has even provided counsel with sample pleadings and instructions on their use. In our view, this is an extremely useful program and should be encouraged. It is practically undisputed that a narcotic addict is, in fact, physically and mentally ill and may benefit from a medically-oriented approach to treat him. This is especially true in the case of youthful first offenders for whom there exists in many instances a real possibility for cure. In this area it should be noted, that a real problem exists in the lack of the available rehabilitative facilities to properly effect such a program.

This is not to say, however, that the criminal process should not be involved in the drug use program. Many persons would not avail themselves of the provisions of the present law if they were not charged with a criminal violation. In addition, many who do, would



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not remain faithful to the program were it not for their fear of criminal sanction in the event they continue their association with the drug culture. One of the real deterrents to the recidivist is the threat of criminal prosecution. In essence, the criminal process provides the motivating force by which youthful first offenders seek medical help to stay in the program and to divorce themselves from the drug habit. This program also allows law enforcement officials to stay informed of those involved in drug traffic which is indirectly responsible for the large number of crimes which are committed by addicts.

In conclusion, the rehabilitative approach to drug use and addiction is good and should be encouraged, however, law enforcement agencies should be completely involved in such endeavors and in order to be able to take proper action against those persons who become multiple offenders or drug distributors.

Very truly yours,

THOMAS J. SHUSTED
Camden County Prosecutor

TJS:es



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS

WRENCE F. KRAMER
COMMISSIONER

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May 4, 1973

Assemblyman Alexander J. Menza, Chairman
Joint Legislative Study Commission
on Drug Abuse
State House - Room 221
Trenton, New Jersey 08625

Attention: Mr. Carl E. Moore, Secretary

Dear Assemblyman Menza:

Please express to the full Commission my appreciation for inviting my testimony in connection with your investigation of the "fairness and efficacy of the current pattern of criminal sanctions against drug use..."

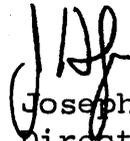
Although I have some previous experience as a municipal prosecutor and currently serve on the Supreme Court Committee on Criminal Procedure, the vast majority of my time, as Director of the New Jersey State Office on Poverty and Law, does not involve criminal matters. We do have occasion--more often than most private practitioners--to provide some legal assistance to inmates in penal institutions. More often than not, such service relates to personal civil matters that are the result of, or are further complicated by, the very fact that they are in prison.

Upon receipt of the original invitation from the Commission on April 13, 1973, I exercised the liberty of advising each of the OEO legal services projects in New Jersey of the opportunity to be heard. You may have received correspondence directly from individual projects or their staff attorneys. If you have not received any meaningful response, it is, I'm sure, due to the relative remoteness of the subject matter to the professional concerns of most legal services attorneys.

Notwithstanding any direct involvement in the criminal law, we are very much interested in the work of your committee and offer encouragement in your efforts to increase the investment of the State's time and money in education, treatment and rehabilitation programs. Please accept for your consideration the enclosed articles, "Supported Work: An Alternative to the Revolving Door" and "Convicted Offenders Become Community Helpers". I am sure you will find them very interesting and germane to the Commission's study.

Although I support the expansion of alternative means of social control of drug abuse, let me make it perfectly clear that in my opinion, the current criminal sanctions for the illegal sale, distribution, or manufacture of hard drugs are too lenient. Individuals who make a living by selling hard drugs are guilty of the most serious crime against society that may be perpetrated, with the possible exception of murder for hire. Although drug abuse is no longer the nemesis of any one segment of our society, there is no question that drugs have been the most significant roadblock to the elimination of poverty in this country, particularly in our urban centers. While we are improving and increasing alternative programs on drug abuse, let's not reduce our efforts to seek out and prosecute those who make a living off the suffering and degradation of others.

Respectfully,



Joseph Hillman, Jr., Esq.
Director

State Office of Legal Services

JH:AC
Enc.

STATE OF N.J.
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