

Alto

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

THE SPECIAL JOINT LEGISLATIVE COMMITTEE TO STUDY CRIME  
AND THE SYSTEM OF CRIMINAL JUSTICE IN NEW JERSEY, AS  
CREATED BY SENATE CONCURRENT RESOLUTION NUMBER 44

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State House  
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Before

THE SPECIAL JOINT LEGISLATIVE COMMITTEE TO STUDY CRIME  
AND THE SYSTEM OF CRIMINAL JUSTICE IN NEW JERSEY

Members of the Committee:

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SENATOR W. DUMONT, JR.

SENATOR W. F. KELLY, JR.

SENATOR J. A. LYNCH

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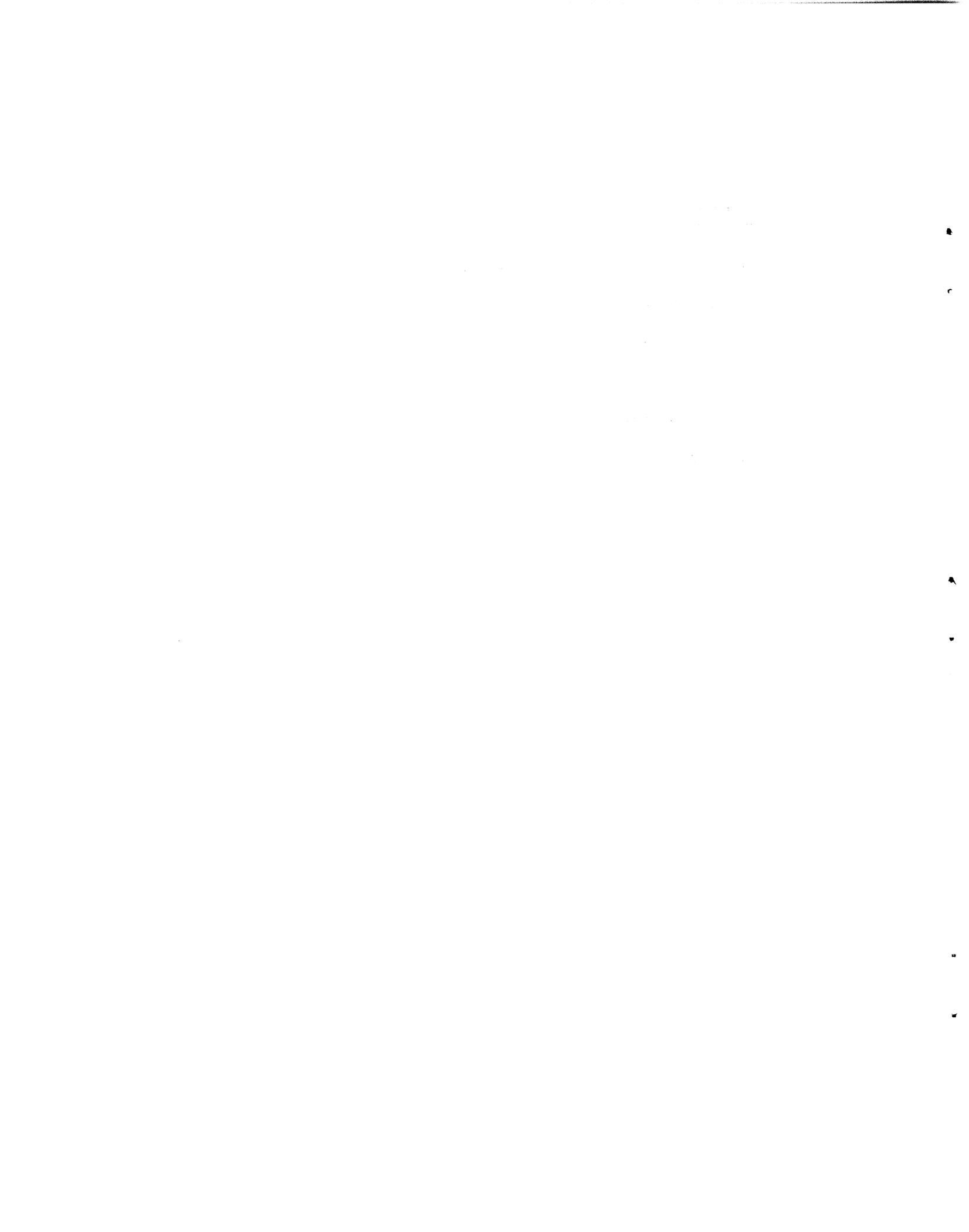
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I N D E X

<u>WITNESSES</u>	<u>PAGE</u>
Major General James F. Cantwell	2
Lloyd W. McCorkle	45
Albert Wagner	60
Robert D. Lilley	137
Harold J. Ashby	171
Peter Murray	194



M A J O R   G E N E R A L   J A M E S   F .   C A N T W E L L ,        sworn.

GENERAL CANTWELL: "Gentlemen,

You have requested me to testify with respect to the New Jersey Department of Defense Involvement in the Administration of Criminal Justice. Since the Department of Defense has no role in this subject except when on State Active Duty during an emergency, I interpret this to mean our involvement as <sup>it</sup> pertains to military support of civil authority in instances of civil disturbances, and my testimony will be in that area.

The New Jersey Department of Defense is organized under Title 38 of the New Jersey Revised Statutes. Section 38A Chapter 2 of that Title provides that the Governor is the Commander-in-Chief of the New Jersey militia (when <sup>it is</sup> not on Federal Active Duty) and that the Chief of Staff of the New Jersey Department of Defense is charged with the executive responsibility, and command of the militia. It further authorizes the Governor to order to State active duty all or part of the National Guard for a number of reasons, including riot or imminent danger to public safety.

Although Section 38A 2-3 further provides the Governor with authority to proclaim martial law whenever National Guard troops are employed in aid of civil authority, This did not occur in Newark or Plainfield, and I do not envision any situation in which he would do so.

If and when the Governor should order the National Guard to State active duty, I feel it will be in support of civil authority, utilizing the existing court system, and the many other assets available under civil government.

Also, the Department of Defense, through the Division of Civil Defense - Disaster Control, has a concern in providing safeguards in the areas of public security, health and welfare during emergencies. This organization utilizes existing professional and semi-professional services, augmented by highly skilled volunteer agencies, organizations and citizens. Gentlemen, for these reasons I would like to repeat that the civil disturbance role of the New Jersey Department of Defense and the New Jersey National Guard will be to support the existing civil authority, and our operation Plans are based on that assumption.

The Guard and Civil Defense have often supported local authorities during floods, forest fires, hurricanes and other natural disasters in the State without an official call-up. However, the Guard has official obligation or missions, both State and Federal.

The New Jersey National Guard is composed of Army and Air Units organized, equipped and trained to fulfill a mobilization assignment of our country when called by the President of the United States. This is the primary mission of the Guard and it is an obligation well known to

the citizens of this State.

But the Guard has likewise been prepared for many years to meet its obligations to the State at the call of the Governor. Many people today are of the opinion that National Guard civil disturbance duty was born in Watts and developed in Newark and Detroit and that before this time the Guard was unprepared to cope with such a situation. Gentlemen, I have before me a manual titled "Troops on Riot Duty" written by two officers from New Jersey and it is dated 1912. I also have a Treatise on Riot Duty for the National Guard ordered published in the government printing office by the Secretary of War in 1920.

I doubt that these were the first manuals on the subject nor do I hold the contents of these books to suit today's requirements, so please, be assured they were not used in our more recent operations. I show them to you as a reminder that we are only reviewing a subject known for many years to many Americans.

It is not my purpose to discuss the plans of my predecessors except to report to you that the New Jersey militia has long been prepared to support law and order. I would like to outline for you, however, the actions taken to improve our preparedness for civil disturbance duty during the past few years.

Much consideration was given to updating our operations plan for civil disturbances prior to the 1964 Democratic National Convention in Atlantic City. These plans were extended following the Watts riot in August 1965, and carefully coordinated with the New Jersey State Police. The plan was practiced and refined after incidents in Bridgeton, Flemington, Princeton, Glassboro and Asbury Park. None of these reached riot stages and we had not actually utilized our operations plan until the disturbances last summer in Newark and Plainfield.

During these operations we called to duty a total of 5367 National Guardsmen for a total of 19,957 expended man days. The total cost including pay, subsistence, medical care, fuel, housing, lost or destroyed equipment and food purchased by the Department of Community Affairs was \$262,000.00. I would like to point out that the average daily wage for National Guardsmen was \$9.26 or less than 39¢ per hour, with some Guardsmen being paid as low as \$3.46 per day, or less than 15¢ per hour for a 24-hour day.

From our experiences in Newark and Plainfield and a few subsequent incidents in Camden, Atlantic City and Trenton, we initiated development of our latest Operations Plan. We also used as background, studies of various commission reports; conferences with our own commanders

and staffs, the New Jersey State Police, and other qualified agencies at all levels of government.

Before we consider the contents of the present Operations Plan I would like to say that our original concept has not changed and that in the establishment of policies, the New Jersey State Police and the Department of Defense are in complete accord. We enjoy a relationship of mutual respect and an understanding of each other's capabilities and limitations.

We firmly believe that the close personal and professional relationship between State Police and ourselves are vital to any potential operation of the magnitude of our mission and I urge that this same relationship be established between heads of civil government, municipal law enforcement agencies and the many other agencies automatically involved, such as fire departments, utility companies, hospitals and yes - even the press!

Much of this work is presently underway and is essential to the municipalities, and, selfishly, when completed it will permit us to refine our planning to assist a community more promptly and effectively if or when we are committed. We find that municipalities and organizations are more enthusiastic and cooperative at the present time in working to complete their plans and establish relation-

ships, but a great deal of effort is still necessary to complete the job.

Gentlemen, I have here a copy of our Operations Plan. It is designed to support civil authority, employing the mission concept and utilizing existing civil and military assets to their best advantage under direction of the head of civil government. Normally, the National Guard will support the State Police who in turn support the municipal police as required. Using these basic premises, the control of a civil disturbance is primarily a law enforcement activity.

The Plan is actually an in depth military order designed for immediate execution by any one or all of the four task forces geographically located throughout the State. It provides for continuous liaison with the civil authority during pre-operational activities and the operational phases. It provides for the methods of mobilizing the military forces, gathering intelligence, complete information on Supply and Personnel services, Medical services and Rules of Engagement which describe in detail the control of lethal actions. It also outlines Employment Reports which are used as tools of management during an operation.

It describes the probable types of missions to be encountered and the priorities of target area planning. It

outlines the means of informing the public of actions during the operation and an integrated design for internal communications between all agencies involved in the operation, utilizing radio, telephone and teletype. It provides for the occupation and manning of pre-determined joint Command Posts with appropriate space for governmental executives on State and municipal levels, State and municipal police, the military, representatives of the utilities and the Press.

Gentlemen, copies of our military operations Plan are available for your study and personal information. The plan is classified "For Official Use Only" for the protection of the public's interest and not for public information.

Now, I would like to explain in a little more detail the operation of our Civil Defense - Disaster Control Division.

As I have previously stated, we in the Department of Defense have a concern regarding the protection of the public and its property. Chapter 251 of the Laws of 1942, as amended by Chapter 438, Public Law 1953 concerns Civil Defense and Disaster Control during emergency. It aids in the prevention of damage and destruction and provides for the health, safety and welfare of people in a disaster area during an emergency. It centralizes civilian activities under the Governor and gives him control over resources of

State Government and in each and every political sub-division. He also has the authority to utilize and employ all available resources, including personal services and privately owned property, as deemed necessary.

"Emergency" as defined in this Act includes "disaster" which means any unusual incident resulting from natural or unnatural causes which endangers the health, safety or resources of the residents of one (1) or more municipalities of the State and which is, or may become, too large in scope or unusual in type to be handled in its entirety, by regular municipal operating services.

The structure of Civil Defense and Disaster Control transcends from the State to County to Municipality and at all three (3) levels includes the coordination of services and manpower for police, fire, medical, welfare, rescue, and engineering services.

The municipal director of Civil Defense and Disaster Control can proclaim a state of local emergency in accordance with this same act in order to protect the health, safety and resources of the residents of the municipality.

I believe I have covered, in capsule form, the responsibilities and present plans of the Department of Defense as they pertain to civil disturbances. Now, I would like to tell you something about our training.

Following the disturbances last summer, the Department

of the Army and Air Force through the National Guard Bureau authorized 32 hours of specialized civil disturbance training for all units and an additional 16 hours of Staff Training for our officers. This training was completed by October 1st last year. Our combat units are presently engaged in another 32 hour block of civil disturbance training and the Staff Officers likewise are involved in an additional 16 hours of training.

Thirteen of our senior officers have completed or are presently enrolled in the U.S. Army Military Police School Course of Senior Officers in Civil Disturbances at Fort Gordon, Georgia.

We are presently engaged in a specialized 32-hour leadership course for Junior Officers that will be completed before the end of May.

The National Guard has provided instructors for Operation Combine at Sea Girt, which is a two-week course for municipal law enforcement supervisors on civil disturbances. More than 50 National Guard Officers have also graduated from this course.

All of this training, along with our experiences last summer and the cooperation received from other agencies to develop our present plan, have greatly improved our readiness position.

We have also accepted criticisms in a constructive light.

One of the criticisms levied at the National Guard throughout the country was based on our percentage of Negro enlistments which admittedly was quite low. At that time New Jersey, although higher than the National average, had only 315 Negro Officers and men.

Steps were immediately taken to support the fact that we welcome militarily qualified young Negro enlistments in the Guard, by requesting an overstrength for this purpose. New Jersey, alone, was granted this privilege by the United States Departments of the Army and Air Force, and we have since enlisted 535 and an additional 226 are currently being processed for enlistment.

All of this has been accomplished without additional State funding to this point. We have requested funds to improve our future posture in the areas of communications, ordnance, cots and miscellaneous equipment in the amount of \$55,500.00. I believe you should know that much of the equipment development has been designed and developed by our own people in our own shops. These funds, when received, will be used for the improvement of our mission and the overall protection of people in a disturbed area.

Although the laws appear to be adequate, and

consideration has been given to outlining the responsibilities for civil disturbance planning in many areas, it appears that some further study is in order to define specific responsibilities within the framework of existing structures to assure the maximum prompt response during any future emergency."

Thank you.

MR. LUMBARD: General, may I congratulate you for being the only State agency so far that's had a 1967 annual report available as of this date.

GENERAL CANTWELL: Thank you.

MR. LUMBARD: However, I note that this preliminary annual report, as you call it, does not have a section in it concerning the disturbances last summer which, certainly, I guess you would say is the most important event in the year 1967 in the history of the Guard; right?

GENERAL CANTWELL: Yes, it was. It had some importance.

MR. LUMBARD: Do you think it would be good to summarize in your annual report for 1967, as such, a history of the Guard's involvement in civil disorders?

GENERAL CANTWELL: I think you will find it under the operation and training phases report.

MR. LUMBARD: I am merely making a comment. I would

not interpret it as a summary of the Guard's involvement in the year 1967.

GENERAL CANTWELL: You mean it should be more involved than it is?

MR. LUMBARD: Well, if only for historical purposes I think it would be a valuable addition.

The Governor's select Commission of Civil Disorders has issued this report for action which I am sure you have seen, have you not?

GENERAL CANTWELL: I have.

MR. LUMBARD: On Page 176 the general conclusions, in part, state: "The State, in cooperation with counties and municipalities should immediately draw up a master plan for the control of civil disorders." Then it goes on to say that the commission suggests that master plan should contain certain elements: the availability of resources including the National Guard; second, the command structure should have clear lines of authority; third, that there should be a basic division of responsibility clearly understood between the State police and the National Guard; fourth, the tactics should be within the plan and set out; and, lastly, there should be provisions for the protection of essential public facilities during disorders.

Yesterday I asked Superintendent Kelly of the State

Police if such a master plan has been prepared and he said no, so far as he knew, anyway. So now I ask you, has a master plan been prepared by the State for civil disorders of the nature recommended by this Commission?

GENERAL CANTWELL: In the sense of which you ask and in which I interpret that, I would say it has not. I have shown our plan. Our plan, of course, concerns our business alone.

MR. LUMBARD: Well, one of the key thrusts of this report is not just agencies acting independently, but the relationship between agencies running all the way from communication facilities on into many other aspects of actual operations. This report, of course, basically says that that should include the coordination of the State Police and National Guard. Could you address yourself to that for the moment?

GENERAL CANTWELL: Yes. As I say, we have a plan and it is a revised one, not our first. This deals with our own business. This clarifies beyond question the relationship to the State Police and the National Guard, to that degree. But that's the only place it addresses itself to the overall recommendation of the Commission.

I think there's been concern in the minds of many of us that there is some confusion as to the people insisting

in our business of taking command. We don't think it's command. We think it's one of a coordination. I have addressed myself to the Governor on this subject.

MR. LUMBARD: You have?

GENERAL CANTWELL: Yes. I have suggested that I am concerned and I have suggested that we get together certain people and look into a general coordination of activities as it relates, for example, to the utilization of existing structures.

MR. LUMBARD: Has that meeting occurred?

GENERAL CANTWELL: It has not. Not yet.

MR. LUMBARD: Is it planned, do you know?

GENERAL CANTWELL: I don't know.

MR. LUMBARD: Go ahead.

GENERAL CANTWELL: I can't answer that question.

Such as the procurement of food and things of that sort, there are existing structures, we think, within our family. Now, we move over to Civil Defense in this respect where there are committees of reasonably important people sitting on it that are available to implement needs when they develop; not develop the need but to implement the need after it has developed. And so I, too, agree that we think a little clarification is needed as to coordinating authority. It's not a command.

We have addressed ourselves primarily in our plan to the law enforcement phase and that relates, of course, to ourselves and the State Police. There's never been any doubt in the minds of the State Police and ourselves as to what this relationship is, but there has in the minds of other people.

MR. LUMBARD: Could you express it in a sentence or two?

GENERAL CANTWELL: Yes. In our opinion, the Superintendent of State Police is the man that we look to as the responsible individual in operating all phases of the law enforcement field.

MR. LUMBARD: Does that include martial law?

GENERAL CANTWELL: No, sir. Martial law, of course, puts the courts out of business and puts the military in complete command. We don't envision any such situation ever developing so we don't address ourselves to that particular phase of it, martial law.

MR. LUMBARD: All right.

GENERAL CANTWELL: We make the assumption, as I said in my remarks, that this action is a police action and law and civil authority is still in control. Our assumption is spelled out in the plan that the State Police would be first committed before the National Guard and it would be

upon the statement of the State Police that the situation was beyond their assets before the National Guard would move in in support of the State Police. In support of the State Police.

MR. LUMBARD: In other words, generally are you saying that in anything short of martial law you consider the National Guard working for the State Police under the Superintendent's direction?

GENERAL CANTWELL: Yes. I would rather you used my words, "In support of the State Police."

MR. LUMBARD: But I think it should be very clear this support---

GENERAL CANTWELL: I think it is clear. I think it's a false connotation. Well, I think it's semantics we're playing with between the State Police and ourselves. The State Police will not command the National Guard, if that is what you are leading to.

MR. LUMBARD: Well, I am already confused, then, because if you're on the scene at a corner and things are happening fast there isn't time for lots of discussion. I thought the thrust of what you did say is, short of martial law, the State Police were in charge of law enforcement operations and the National Guard took orders from the State Police in those situations. Is that correct?

GENERAL CANTWELL: I assume that in the connotation in which you insist on posing your question the answer is

yes. We don't base it on the connotation in which you pose the question. In support of the State Police we expect that in most cases--as it was in Newark with the exception of a limited number of joint patrols there were mission-type orders. Therefore, we assumed the mission and were in charge of that mission that we were operating under. So it was not a question of orders being given and someone disobeying orders.

If it came to that, my answer to your question is: Yes, we believe it that far.

MR. LUMBARD: Yes?

GENERAL CANTWELL: Yes.

MR. LUMBARD: Obviously, this issue must have troubled the Commission. They made a particular feature of this and it leads off the disorders recommendations. It would be unfortunate if a certain amount of pride and a few other things got in the way of absolute clarity of what to do under the immediacy of the moment.

GENERAL CANTWELL: I think that's one of the lessons learned from Newark. This is now very clearly spelled out. I would like to point to what we know as our rules of engagement, which is all very clearly spelled out as to rules of engagement and who may do many things. These were not in writing in our other plans.

MR. LUMBARD: You say here that as part of your lessons learned, you have been sending your officers to the United States Army Military Police school course for senior officers in civil disturbances. Is that right?

GENERAL CANTWELL: That's right, sir. This is a combined school. There are also policemen in this.

MR. LUMBARD: Since, in effect, the National Guard would be operating under the State Police in these circumstances, has Superintendent Kelly or those who will command these situations gone to these schools?

GENERAL CANTWELL: In the present class the operations officer of the State Police is a member of that class.

MR. LUMBARD: Has the Superintendent gone, do you know?

GENERAL CANTWELL: I don't think he has. Neither have I. I had four senior officers in the second phase. I think it's <sup>now</sup> the fifth class. We have nine in <sup>this</sup> and the operations officer of the State Police is in it.

MR. LUMBARD: Does there come a time, General, when law enforcement matters, as you call them, get so large or reach such an extraordinary peak that in effect they are not police actions with <sup>in</sup> any general conception of the history of police in America and really become something larger and should be treated differently? I am not saying I adopt

this, but I suggest to you there was a body of very responsible police officials who testified before the President's Commission on Civil Disorders that in such events it was a tragedy to use the police as the community agency as you suggest.

For example, Commissioner Murray of the Dade County Police--that's Miami--who was former Commissioner of the State Police in Pennsylvania, suggested that the police have a long-term continuing relationship with the neighborhood, that long after the chaos is immediately rolled back they have to stay there. They live with the community. They depend upon the community for witnesses, for leads, for all kinds of community relationships that have to exist between an effective police force and the community. Therefore, to put the police, any police agency, as the spearhead of a very large disorder was to, in effect, destroy police-community relationships.

I am not saying this view is right or wrong. I am merely suggesting---

GENERAL CANTWELL: I think it's completely wrong. I think it's a defeatist attitude. They have given up their responsibility in this area.

MR. LUMBARD: You think whatever happens in the community is a police matter, that it does not assume at a

certain point some size and dimension, some other characteristic, that really belongs to the National Guard or the military?

GENERAL CANTWELL: I think it could reach that point, but I think then your police withdraw. But I don't think that this is an inevitable assumption that someone should make. I think when this happens the mayor, the police department, the municipal people, have completely given up their town and lost their town and I certainly wouldn't want to be that police chief that took that position.

MR. LUMBARD: What is the line when martial law is declared?

GENERAL CANTWELL: When the situation becomes such that civil authority is completely out of control. It could be caused by anything that blew out the area of communications, government gone, and you no longer exist.

MR. LUMBARD: When was the last time martial law was declared in New Jersey?

GENERAL CANTWELL: To the best of my knowledge, it never was.

MR. LUMBARD: Never?

GENERAL CANTWELL: To the best of my knowledge.

Are you sure you know what you mean when you say martial law?

MR. LUMBARD: Well, it's a pretty-well defined concept in the United States. Maybe it doesn't exist in New Jersey.

GENERAL CANTWELL: Where has martial law existed in the United States, as a matter of curiosity?

MR. LUMBARD: I can give you a number of instances. When I was a boy in Cape Cod, Massachusetts, in the hurricane of 1938, they put in martial law.

GENERAL CANTWELL: Are you sure they didn't put the military in control? In martial law your courts go out of existence and everything else. I think an emergency can be declared in any small area, but I'm not sure you're talking about martial law.

MR. LUMBARD: Well, I think it was but I am not sure I am here as the witness. I am merely trying to find out from you what you think is the role of the police and the National Guard vis-a-vis any future events. Obviously, what happened in the past is only important as it may give us lessons for the future.

GENERAL CANTWELL: I believe sincerely that the National Guard should move in support of the civil authorities. We hope and our assumption is that civil authority policewise, when we move in, will be the State Police and our plans are made that even though they be simultaneously

committed--which would happen many times--that we are still moving in support of the police authority.

We question somewhat the right of arrest and things of that sort as it relates to the National Guard trooper. I realize I have been getting into philosophy when I start talking much further than that. However, our plans assume-- and we are talking post-Newark now, although we talked this way prior to Newark and Plainfield. We think we are more capable now of talking post, after the post-Newark planning.

We believe that our responsibility, generally, is to go in there and do many things which should be simplified, such as closing off of an entire perimeter. This is a mission to us. We don't conflict with the police. It isn't mixed authority. We saturate troubled areas with sizeable numbers of people in patrol forms as a mission, again not mixed with the police.

From the philosophical viewpoint we believe our job is to go in and suppress the activity that's going on at the time, the moment, and then to create an atmosphere where the police then go do their job within the environment that we are able to create with our great number of people and our own capabilities, recognizing the limitations that we have as a policeman. We don't believe that at any time should we visualize placing National Guardsmen on the street to take

the place of a policeman, to replace a policeman. We believe our mission is to create the environment in which a policeman can do his job, or the fire department, or whatever it may be.

THE CHAIRMAN: Senator Dumont?

SENATOR DUMONT: General, sir, isn't it true that at the time the Newark riots started last summer the units of the National Guard, Army National Guard, which are normally stationed in Newark were on duty at Camp Pickett, Virginia, in summer field training?

GENERAL CANTWELL: Yes. The units from West Orange and Newark were in field training.

SENATOR DUMONT: And the dates of field training are known to all Guardsmen and could be known to anyone else several months in advance. Isn't that so?

GENERAL CANTWELL: It's public information, of course. It has to be. You couldn't get your people in camp otherwise. But there is no secret to it.

SENATOR DUMONT: In view of that, sir, would you agree personally with this conclusion of the Governor's Select Commission on Civil Disorders, which is No. 13 on Page 154, "The evidence presented to the Commission does not support the theories of conspiracy or plan to initiate the Newark riot"? Would you agree with that statement?

GENERAL CANTWELL: I wish you wouldn't ask me that question. I have been asked it so often, and in relationship to other things. I have no way of knowing whether there was any pre-planning to these things or any conspiracy, which is a broad term like martial law is, but I certainly believe that even though incidents start these disturbances that there is prior planning that goes with them.

This is personal opinion and I could not support that before a court of law.

SENATOR DUMONT: But your personal opinion---

GENERAL CANTWELL: It's my personal opinion.

SENATOR DUMONT: (Continuing) ---would be different from this conclusion of the Commission?

GENERAL CANTWELL: Yes.

SENATOR DUMONT: Is New Jersey, sir, the only state that has initiated an Operation Combine such as you are conducting at Sea Girt?

GENERAL CANTWELL: I think so. I don't know of any other. We have had other states send in students, both National Guard officers and State Police or highway patrols, and we have others that have asked to come in to attend the course.

SENATOR DUMONT: And the primary purpose, actually, of this course is to instruct municipal policemen?

GENERAL CANTWELL: Yes, it is.

SENATOR DUMONT: In operations in civil disorders?

GENERAL CANTWELL: And we have put our own officers in there for the purpose of getting them more educated by exposure and, as I say, from the other states they have sent in people at the state level.

SENATOR DUMONT: And there are also State Police taking these courses, of course?

GENERAL CANTWELL: Yes, there are.

SENATOR DUMONT: Thank you.

THE CHAIRMAN: Senator Waldor?

SENATOR WALDOR: General, I looked over this blue card and this, I take it, is what I would call a table of organization as to the units or whatever you want to call it.

GENERAL CANTWELL: This is out of date now, as you know. They get out of date almost as soon as they come off the press.

SENATOR WALDOR: Yes. You have a unit that isn't listed on here. I don't know what the number of it is or the name of it is, but it's a military band that is attached to the National Guard. Isn't that so, or am I mixing it up with the Reserve or something like that?

GENERAL CANTWELL: We have two bands, one in the Division and one that we lost and are trying to save. Is

that the one you're talking about?

SENATOR WALDOR: I don't honestly know which one I'm talking about, very frankly.

GENERAL CANTWELL: There is a band organic to the armed division. We have that in the state. We have another one which we lost to the organization and are trying desperately to save.

SENATOR WALDOR: It may be, sir. I really don't know which one I am referring to.

I read over your remarks and listened to you as you gave them and I noted that on Page 7 of your remarks you talk about criticism that has been levied at the National Guard as a result of your Negro enlistments and that you took steps to correct that and so forth.

GENERAL CANTWELL: Yes.

SENATOR WALDOR: Which I think is highly commendable, but isn't it a fact, sir, that in this band unit--whichever one I am talking about and I assume you are familiar with both of them--there has been a policy established by someone that all of the members of the band unit shall be Negroes and no whites shall be accepted as members of the band?

GENERAL CANTWELL: There is not.

SENATOR WALDOR: Well, if I were to point out to you several occasions, sir, where men have attempted to enlist

and have been qualified bandmen, if that's what they are called, and have been told by officers of the Guard that are in charge of the band unit that the Governor has ordered that this unit be reserved to Negro enlistments only, would that come as a surprise to you or something that you are unaware of?

GENERAL CANTWELL: A complete surprise and there is no fact whatsoever to it. It's a complete falsehood or rumor.

SENATOR WALDOR: Fine. All right. I am glad to hear you say that, sir, because discrimination is a two-way street whether it's Negro or white or anything else.

GENERAL CANTWELL: I can comment at great length on this subject, if you want.

SENATOR WALDOR: You know of no such policy?

GENERAL CANTWELL: Absolutely there is none, either way. There is no discrimination either way. There are circumstances now which might lead to rumors that you are talking about. We have not been able to enlist anyone in the National Guard since last December. This is based on a national overstrength of the Guard beyond the limitations of funding and so on.

SENATOR WALDOR: Yes, sir, and I don't---

GENERAL CANTWELL: And we have lists totaling some six or seven thousand on waiting lists. Now, that's normal

operations.

Now, we go back to last August when this particular Negro program that I spoke of came into being. I have an authorized five per cent overage to develop an increase of Negro people, officers and men, in the National Guard. I still can enlist against that program and I cannot enlist anyone else. That may lead to any kind of rumors or stories that you might hear.

SENATOR WALDOR: In other words, so that this is clear in my mind, this overage, this five per cent that you speak of, has been confined to this unit, this band, perhaps?

GENERAL CANTWELL: No. This is state-wide.

SENATOR WALDOR: Would it be fair to say, then, that insofar as you know and insofar as your directives and the policies set by you are concerned with this band unit that you are trying to reactivate--I am assuming that's the one I am talking about--or build up or something like that---

GENERAL CANTWELL: No, sir.

SENATOR WALDOR: No what?

GENERAL CANTWELL: We have been reducing, not increasing.

SENATOR WALDOR: Yes, sir, I understand that. But I thought I understood you to say, and I may be mistaken, that there was one band that was at the full complement or

something and another one---

GENERAL CANTWELL: We lost that in our reorganization. We are fighting with the Department of the Army to get the authorization to retain that band, which is now in existence. It's been merged with the other one on an operations basis.

SENATOR WALDOR: In any event, when the enlistments were open, they depended upon the qualifications of the individual and it was never the policy of the National Guard since the Newark riots to say this unit or this band unit or something of that nature is reserved for Negro enlistments as contrasted to white enlistments?

GENERAL CANTWELL: Neither all white nor all Negro. It bears no relationship. Once they get into their line there is no difference for color or anything else.

SENATOR WALDOR: Thank you.

THE CHAIRMAN: Senator Woodcock?

SENATOR WOODCOCK: General, as I understand it, the State Police are first committed in the event of a civil disorder. Is that correct?

GENERAL CANTWELL: Correct.

SENATOR WOODCOCK: And the State Police are committed by whom?

GENERAL CANTWELL: The Governor.

SENATOR WOODCOCK: Then, as I understand it, if

matters get out of hand the National Guard are then committed?

GENERAL CANTWELL: That is correct.

SENATOR WOODCOCK: They are committed by whom?

GENERAL CANTWELL: The Governor.

SENATOR WOODCOCK: Again?

GENERAL CANTWELL: I am merely the <sup>agent to implement it.</sup> / it requires the

order of the Governor to order the National Guard on call.

SENATOR WOODCOCK: Who is involved in / <sup>this</sup> determination, other than the fact that the Governor ultimately makes the order? Who is involved in the determination as to whether to call out the National Guard or not?

GENERAL CANTWELL: It initiates with a call, of course, from the municipality that they need help. This is what would trigger off any such commitment. The Governor's first move would be to commit the State Police and this has been done any number of times. In Newark and Plainfield the lid came off. We have been involved in many other situations where it has not reached the stage of the lid coming off. The State Police have been committed but we have not been.

Now, our assumption that we have had for many years is that any recommendation that I would be involved in as to recommending a commitment of our Guard should not be done until the Superintendent of the State Police states that he

cannot handle the situation.

SENATOR WOODCOCK: So that first the Superintendent of the State Police makes a determination that he is unable to handle the situation?

GENERAL CANTWELL: That's correct.

SENATOR WOODCOCK: And he transmits this to you or to the Governor?

GENERAL CANTWELL: Well, it would be to the Governor. Of course, we might be all together or I would hope that the relationship has been such that you are not going to take up time to get the word out.

SENATOR WOODCOCK: There is no procedure set up now for this type of meeting or determination where you would be involved with the Governor and the Superintendent of the State Police?

GENERAL CANTWELL: Well, I think our relationship, to have this happen, already exists as closely as it can exist, in my opinion.

SENATOR WOODCOCK: Well, there is no set plan or procedure? This is informal?

GENERAL CANTWELL: Well, shall we--well, possibly. We can go back to Newark. I received a call from the Governor at five minutes to three in the morning and the words were very simple: There was a full-scale riot on in Newark; he

had committed the State Police; and for me to commit what was needed with the Guard.

Now, actually, the police and the Guard were committed simultaneously in Newark. But it didn't change the concept of first commitment of the State Police. We actually went in together and our plans were such to move in together and I would visualize in many cases this is exactly what would happen.

SENATOR WOODCOCK: General, you said that there was no master plan at the present time. Is that correct?

GENERAL CANTWELL: To the best of my knowledge. In the consensus---

SENATOR WOODCOCK: Where we would have a general overall master plan dealing with the Guard and the State Police and the other arms of government---

GENERAL CANTWELL: I know of none.

SENATOR WOODCOCK: (Continuing) ---to handle civil disorders. There is none?

GENERAL CANTWELL: That's true in the connotation in which the report talks of all of the other agencies. There is a plan as relates to the State Police and ourselves.

SENATOR WOODCOCK: I believe counsel asked whether or not there was a general coordination or planning of coordination and you said that you asked for one but none had

been forthcoming up to this point.

GENERAL CANTWELL: So there is no misunderstanding, I said I have expressed my concern that we need some clarification to plan under which we all work---

SENATOR WOODCOCK: General---

GENERAL CANTWELL: (Continuing) ---and suggested we get together certain key people and talk about it.

SENATOR WOODCOCK: Then, General, under these circumstances---

GENERAL CANTWELL: May I interrupt, Senator?

SENATOR WOODCOCK: Yes. Certainly.

GENERAL CANTWELL: I think maybe we are talking about where does community affairs fit into the picture, where does utilities--which brings it from our state level--Public Utilities--and again labor come into the picture? Because we are talking about factories, services, shutting off of water services. We are talking about fire services which are becoming more important and I understand lately--which you may not see in any statement--that we haven't had the reaction from communities and even from the commercial and civilian interests that they were greatly interested in developing plans in the past. That is not true now.

Post-Newark, I guess is--well, to express it in another way, more people are becoming concerned that they

should have detailed plans and we are getting a great deal of activity in asking us to come and be with and talk to the governing bodies in the municipalities.

I have started at the state level with the fire services, they initiating it as a result of these disturbances and the problems that firefighters have gotten into in Watts, Detroit, and Newark where firemen have been fired upon and firehouses have been pinned down.

They are now greatly concerned and it is coming from the top down. I have met with the state leaders in the fire services and they are now bringing this down to the lower level and asking if we will address their group.

This is the field in which I am talking that I would like to get more people involved to clarify some coordination between these people who do not deal directly--they are not involved directly with what we know as law enforcement in the sense of the police and the Guard. We have held limited courses in the past to that sphere, the police and the Guard and the law enforcement phase.

We think there are all sorts of things coming in around the fringe of this. Nobody has sat down and talked and said, "How are we going to coordinate? How do we buy food and who is going to deliver it?" The things we did on rather an emergency basis in Newark. There are structures,

we think, to do this and we think it should be talked out.

SENATOR WOODCOCK: But we don't have any of this coordination at the present time?

GENERAL CANTWELL: Nothing organized or nothing on paper or anything of that sort. Everybody must feel that they know what they're doing is the reason I am hesitating to give a flat answer to it. I'm sure that other departments feel that they are organized to do the things which come into their sphere. We think it needs to be brought together in one package.

SENATOR WOODCOCK: Let me ask you this, General, and this is really the question I am leading to:

Do you feel that the State of New Jersey is prepared to meet the problem of civil disorders this summer, currently? Do you think we are in that position now?

GENERAL CANTWELL: Yes, sir, I do.

SENATOR WOODCOCK: In view of the fact that we don't have the master plan and we don't have this coordination?

GENERAL CANTWELL: Yes, I do.

ASSEMBLYMAN DICKEY: In the event that the National Guard are called in in support of the State Police in a riot situation, will the National Guard accept orders from the State Police officers?

GENERAL CANTWELL: The individual officer on the

street?

ASSEMBLYMAN DICKEY: Let's assume they are in a situation where they cannot receive orders from their military officers and there is a senior officer from the State Police on the scene. Will the National Guardsman accept the orders from the senior State Policeman at the scene?

GENERAL CANTWELL: He may do that under the rules of engagement which we have spelled out and which he is aware of.

ASSEMBLYMAN DICKEY: I don't know whether that's a yes or a no.

GENERAL CANTWELL: Well, that's because I am not sure what you are pinpointing it to. If you say does the individual Guardsman accept an order to fire by a trooper on the street, the answer is no, because his rules of engagement will not let him do that.

ASSEMBLYMAN DICKEY: Suppose it's not an order to fire, but rather an order to enter a building for some purpose, to bring out an offender?

GENERAL CANTWELL: Of course, if you are forcing me to a yes-or-no, I would say yes. We expect to control this situation. Again, we learned lessons. The mission of our people will not be to do what you are saying, but if it comes to a question of an order in a particular place my people

accept the order.

ASSEMBLYMAN DICKEY: The reason for my question, General, was that I believe there was some quotation attributed to you or another National Guard officer that the National Guardsman would never accept orders from a State Police officer.

GENERAL CANTWELL: I am not too sure--it could be my statement, but it was not that way. If you are relating it to my statement, and I made it earlier to Mr. Lumbard, the National Guardsman will not command any of the State Police or the Municipal Police and, in reverse, the State Police or Municipal Police will not command the National Guard. The National Guard will be under the control of their own officers, their own leaders. This may be the non-commissioned officers. And we now have rather detailed rules of engagement spelled out which were not in that form in Newark. Our problem in Newark was to deescalate from a higher level down and we are going up and not down in the future.

If you pinpoint it to a single instance of an emergency where life is involved on the street my man, of course, will follow that, which is if he is a member of a joint patrol. But I expect to have my people under Guard command most of the time, even in joint patrols, and they'll exist for a specific purpose in the patrol of which they are

a part. Under our philosophy our men should not enter a house on a search. They should secure the house for the police to enter, if this is what you are leading to.

These are lessons that we have learned. We now have them spelled out.

MR. LUMBARD: Supposing there were a sergeant in the State Police and a sergeant in the National Guard working together. Does the sergeant in the National Guard do what the sergeant in the State Police says?

GENERAL CANTWELL: We don't expect them to be working together in the sense in which you are talking about. The Guard will be out for their purpose. If it is within the purpose for which his mission is, he will follow it. If he is told to search when they move on a joint patrol, which Mr. Dickey indicated, the Guard will go out with a distinct purpose and under orders to secure the area that is being searched. If at that time a State policeman says, "I want your men to go in with me," my man will say, "Sorry, Sergeant. Those are not my orders."

If you are talking about where life is involved, then the man that I have there has authority, where life is involved. Where the State policeman and other situations which you spelled out exist, he will take the orders of the State policeman and assist him.

MR. LUMBARD: Well, General, the only reason I am coming back to this and I think the Governor's Commission got involved in the statement they did, is because while there may be some clarity of the general principle that is stated in a sentence or two, the reality of what happens in the swelling of action in the street is/<sup>not</sup>always along the lines of the organization table and it has to be very clear to everybody who is on the street what is going on as to what the lines are. That's really what I am getting at.

THE CHAIRMAN: Senator Lynch?

SENATOR LYNCH: I have no questions of the General.

THE CHAIRMAN: Assemblyman Thomas?

ASSEMBLYMAN THOMAS: It seems to me that even though you say there is no master plan for the control of civil disorders that you do have a plan.

GENERAL CANTWELL: Mr. Thomas, I didn't say that.

ASSEMBLYMAN THOMAS: That what I understood. That's what I want some clarification on. It seems to me that you have worked out command structure and who is going to bear what responsibility in a given situation. Isn't that true?

GENERAL CANTWELL: That is correct. I say we have the plan. There is master plan between the State Police and ourselves, the law enforcement phase of it. Any concern I have deals with things other than the law enforcement phase.

ASSEMBLYMAN THOMAS: So as far as the law enforcement is concerned and the National Guard vis-a-vis the State Police, there is a plan of operation?

GENERAL CANTWELL: There is.

ASSEMBLYMAN THOMAS: That has been worked out?

GENERAL CANTWELL: There is a plan.

ASSEMBLYMAN THOMAS: And it's down on paper?

GENERAL CANTWELL: It is.

ASSEMBLYMAN THOMAS: Good.

THE CHAIRMAN: General, I think we still have some confusion about this plan. In terms of the police functions of the Guard and the State Police, does this go to the Municipal Police in terms of plan of operation?

GENERAL CANTWELL: Yes, it does.

THE CHAIRMAN: Then really any reference to the lack of a master plan gets into the other supporting functions in terms of food supply, fire support?

GENERAL CANTWELL: Public utilities.

THE CHAIRMAN: Is this the area in which you think there should be clarification?

GENERAL CANTWELL: It's a coordination. It's not a plan as it relates to law enforcement.

THE CHAIRMAN: Thank you.

MR. LUMBARD: What is the relationship with the

Municipal Police and the National Guard? Is it the same as with the State Police and the National Guard?

GENERAL CANTWELL: Yes. We always have and still do visualize the possibility of the commitment of the National Guard in an area without the State Police being committed with them. So the relationship does not change. It's exactly the same.

MR. LUMBARD: Well, the command situation is the same then, too?

GENERAL CANTWELL: Yes, it is.

MR. LUMBARD: The local police chief would be in command of the National Guard troops?

GENERAL CANTWELL: Yes, if you can relate this to what we have been doing for many, many years. In the field of national disasters we have been doing this. It's never been a callup in the sense of putting the troops on the payroll. This is a big part of a callup. Your troops go on the State payroll on a callup. We have been supporting national disasters as long as I have been around, such as the tearing up of the Jersey shore, the problem with the oyster people and so on down in the bay. We have this continuously. We have always moved in with our permanent-duty people and volunteer types, but we are always in support of civil authority, whether it be the mayor, the civil defense

director of the community. He may be completely confused and puzzled. We may sit him down in a chair. He may not know what to do or how to do it. But we say, "Fine. Everything we are doing we are doing in your name for you. Remember that."

ASSEMBLYMAN OWENS: General, on Page 5 of your statement you make reference to rules of engagement which describe in detail the control of lethal actions. This area is particularly interesting and I wonder if in these rules of engagement provision has been made to encompass improvement in the area of ammunition control and firing control.

GENERAL CANTWELL: That's what we mean by rules of engagement, yes, sir.

ASSEMBLYMAN OWENS: Could you be more specific as to improvement in ammunition control and firing control?

GENERAL CANTWELL: Without reading something from rules of engagement, here's something that is very pertinent. In the Newark-Plainfield operation, lumping this together, we had no problem on accountability of ammunition from a logistical viewpoint. Now, we supported police also in many logistical fields: gasoline, ammunition, things of that sort. We are not in position to account for the expenditure of the numbers of rounds by any particular individual, whether it be a Guard patrol or whether it be ammunition that we provided to one of the police agencies, logistically, now. So

that we couldn't actually tell who fired any number of rounds at any particular time and where. We know our rules of engagement now spell this out so that we would be able to do that. That's what we mean by the control of ammunition.

ASSEMBLYMAN OWENS: Well, I am interested in any policy determination or inclusion in the rules of engagement as relates to mass firing at buildings that are believed to harbor snipers.

GENERAL CANTWELL: Yes. We have it spelled out. This is what I answered Mr. Dickey on before. People can operate under these rules of engagement, but there are prohibitions in most cases.

ASSEMBLYMAN OWENS: The recommendation of the Commission that special sniper teams be set up, has that been adopted?

GENERAL CANTWELL: Yes. We are training sniper teams.

ASSEMBLYMAN OWENS: I have one further question.

I believe there was a suggestion, although I can't find it at present in the report, with respect to Guardsmen displaying their name plates at the time of any civil disturbance. I've further been given to understand by some people that there is a policy that requires them to cover their nameplates, which would be just the opposite from the

recommendation of the Commission. What is the policy?

GENERAL CANTWELL: There never was any policy before Newark and, normally, our people wear a name tag on their uniform at all times, most of their uniforms. In the initial development of some of our plans, what you say is true. But this is no longer true because we have no reason to cover up the name tag.

ASSEMBLYMAN OWENS: You mean that---

GENERAL CANTWELL: It will not be covered up.

ASSEMBLYMAN OWENS: There was a policy at some time or it was a practice, if not a policy, to cover up the plates?

GENERAL CANTWELL: No, no. There was discussion never implemented.

ASSEMBLYMAN OWENS: I see.

GENERAL CANTWELL: And I disapprove of it. If you read our rules of engagement, it places responsibility on individuals to account for what happens on each and every patrol at the time he comes back for orders, which we did not have except by going back to our units and attempting to reconstruct. We can account for ammunition, but we can't account for who fired what, where, and what the result was.

THE CHAIRMAN: Any other questions?

(No response.)

THE CHAIRMAN: General, we thank you for appearing.

Would you leave one copy of your plan for the Commission?

GENERAL CANTWELL: Yes. We would rather not distribute them promiscuously.

MR. LUMBARD: Off the record.

[At this point there is a discussion off the record.]

THE CHAIRMAN: We will take a fifteen-minute recess now.

[At this point there is a short recess.]

THE CHAIRMAN: Shall we call this hearing back to order?

COMMISSIONER McCORKLE, will you identify yourself for the record and then I will swear you in, as we are doing with all witnesses.

COMMISSIONER McCORKLE: Commissioner Lloyd W. McCorkle, Department of Institutions and Agencies. This is Mr. Wagner, Director of the Division of Correction and Parole.

L L O Y D W. M c C O R K L E, sworn.

THE CHAIRMAN: Would you proceed with your statement?

COMMISSIONER McCORKLE: We have a prepared statement that, at your request, I will summarize.

Primarily, what I attempted to do in this statement is indicate the Department's involvement as to the total development in problems relating to crime.

There are in our Department, as you know, four major reporting divisions. The Division of Public Welfare is involved, particularly its Bureau of Children's Services because this is the first line of defense, as it were, if you are interested in trying to prevent persons from becoming delinquents.

Then we have a Division of Mental Health and the Division of Mental Health is importantly involved in a number of ways. One, the Division of Mental Health operates a facility for the criminally insane. In addition, the Division of Mental Health has responsibility for the State's sex offender program and it is also responsible for discharging departmental responsibilities under Chapter 226 of the Public Laws of 1964, which involved New Jersey and our Department in the narcotic problem.

I indicate some of the difficulties in dealing with these individuals who enjoy sort of ambiguous status of both offender and patient. And I'll relate some of the problems the Department has had in providing for these individuals.

Then I refer to the Division of Mental Retardation

which operates a facility for persons that--I think the current phrase used in mental retardation now is acting out retardants. It used to be defective delinquents but, anyway, we operate a facility for a group of persons where the determination is made to deal with the mental retardation rather than the delinquency of the individual.

Finally, I come to the Division of Correction and Parole--and the Director of that Division, Mr. Albert Wagner, is here with me today--and I outline some of the major institutional and non-institutional programs operated by the Division of Correction and Parole and I can briefly summarize them.

There is an adult prison complex in New Jersey that receives all persons who receive minimum-maximum sentences and all individuals who receive indefinite commitments. It consists of the Trenton Prison, two farms, and, I believe, four satellite institutions. There is a reformatory complex which receives all male indeterminate commitments and it is built around the new Yardville institution and it consists of that institution, the Bordentown and Annandale reformatories and a number of satellite camps.

The females with minimum-maximum sentences and women with indeterminate sentences are received at the

Clinton Farms Reformatory. At the training school level the Division is responsible for the State Home for Boys and the State Home for Girls. In addition, this Division is responsible for halfway houses that are operated in New Jersey: one in Newark, one in Clinton, one in the City of Trenton. It operates the residential group centers. There are four of those, three for males and one for females, which is an opportunity that is provided selected young offenders between the ages of sixteen and eighteen to have another opportunity on probation, provided they voluntarily commit themselves.

In addition, the Division is responsible for the supervision of persons who are placed in the communities on parole and through its parole field officers supervises about five thousand parolees in the communities.

I finally summarize my statement by indicating some of the areas where it seems to the Department and more specifically to the Division of Correction and Parole that New Jersey's correction should be moving.

MR. LUMBARD: Commissioner McCorkle, could you start specifically with the last, the directions in which you think New Jersey's correction and parole should be moving?

COMMISSIONER McCORKLE: Right.

"Major directions for corrections in New Jersey in the immediate future might include"--Page 9--"the development of residential group centers to enable the courts to expand probation opportunities for selected offenders."

Put another way, sir, this is a suggestion that the Highfields program, which we believe has been successful, be expanded to include individuals over age eighteen.

"The development of community-oriented facilities to assist released offenders negotiate their way back to full citizenship." The development of additional halfway houses for persons who are being released from our institutions to parole.

"The development within the community of strengthened parole services, including the development of an urban parole corps of indigenous aides to assist parole officers in urban centers of high delinquency."

Would you prefer me to comment as I go along?

MR. LUMBARD: I'll come to them. I would like to have you state to the Committee the specific recommendations that you now make.

COMMISSIONER Mc CORKLE: Suppose I state them and you can come back and question either Mr. Wagner or myself.

MR. LUMBARD: They are a little tightly written

so if you could add a few words--like what is an indigenous aide?

COMMISSIONER McCORKLE: What is suggested here is the recruitment of persons from areas of where there is high delinquency and high psychology of persons who do not meet all of the qualifications necessary to be a parole officer and even get them into the parole force under the supervision of parole officers.

MR. LUMBARD: Ex-offenders?

COMMISSIONER McCORKLE: No. There is no suggestion here of ex-offenders.

MR. LUMBARD: I am trying to find out what you mean by this.

COMMISSIONER McCORKLE: Mr. Wagner might, you know, have a somewhat different emphasis on this, but my impression would be not ex-offenders although it might include individuals who have had an arrest or two in their youth but not persons who have been in institutions. I think we would be somewhat more strict in our selection than, let us say, the Urban Police Corps in New York City. I think we would be, perhaps, a little more selective in terms of criteria that the person would have to meet to be integrated into this pattern.

There are two reasons: Number one, we would

anticipate the development of programs that would enable us, hopefully, to qualify some of these persons to be integrated into the total parole force and become full-fledged parole officers.

MR. LUMBARD: What is the second reason?

COMMISSIONER McCORKLE: And the second reason is that we're dealing with a matter of supervision and, in general, our experience would be that if we had persons who did not have this problem we would be better off in the long run building up the capability of the Parole Bureau to provide close surveillance and intensified services to two specialized case loads: narcotics addicts and persons of serious assaultive potential. I think I don't have to comment on that.

"Further development of the new medium security prison, the first phase of which is presently under construction at Leesburg, to reduce the very serious overcrowding of committed offenders in the prison complex of institutions."

"Adequate staffing for comprehensive programming of the new Training School for Boys to provide a badly-needed specialized program for severely-disturbed delinquents thirteen years of age and under."

This is a new facility that is under construction

which we anticipate in the coming year and it was primarily designed to enable us to get youngsters between the ages of eight and thirteen out of the State Training School for Boys.

"Provision of necessary additions to and replacement of physical plants to maintain an adequate level of programing in existing institutions and to enable training and treatment opportunities to meet individual offender needs consistent with modern concepts of rehabilitation."

This is another way of stating that, with one exception, all of our institutions were constructed before 1937 and in a good many of them we do not have the flexibility in terms of space for personnel and so on that good programing requires.

"Development of salary schedules, training programs and working conditions designed to attract and retain fully-qualified professional workers to carry out the basic rehabilitative mission of both departments intramural and extramural responsibilities in the corrections field."

I think in my prepared document I go into, in considerable detail, the kind of balancing you have in New Jersey's correctional structure and the dependence of this on professional programing for individuals who come into the system and I also point out to you the budgeted

positions for psychologists in the Division of Correction. I think at the present time there are three filled and about eighteen vacancies.

"Finally, much has been done to enlist the interest and services of other State Departments in the needs of the social offender in New Jersey, particularly the Department of Education and the Department of Labor and Industry, the latter through the Rehabilitation Commission and the Division of Employment Security. The Division of Correction and Parole continues its concern in this area and will develop new programs to take advantage of Federal funds as they become available either through the departments mentioned or, hopefully in the future, directly to Corrections."

This, of course, is Title I money for education, programs for job training that we have been able to develop in some of the institutions.

MR. LUMBARD: Commissioner, the last annual report that I was able to obtain from your department was for 1966, the calendar year, which I hold here.

COMMISSIONER McCORKLE: Right.

MR. LUMBARD: I think it important, if I may, to read to the Committee some of the comments in here from the report of the Division of Correction and Parole,

Albert C. Wagner, Director.

"Significant progress"--this is Page 29--"was realized by the Division in the current fiscal year in the areas of program enrichment, staff training, expanding facilities, and planning. In the face of burgeoning correctional commitments the prime challenge presented to the Division continued to be one of developing programs that have an immediate impact and long-range practicality and value."

Then you go on to talk about how the figures are rising. You have an overall increase of this per cent for one category or another category.

Page 30: "The situation is regarded as critical at Annandale and dangerous at Bordentown. Generously estimated capacity at the latter institution has been set at seven hundred and including the two off-ground resident details at New Lisbon in the Neuropsychiatric Institute from an average of 872 during the last six months of 1965 the population at Bordentown rose to a high of 921.

"Dormitories are seriously overcrowded and beds have been set up in corridors of virtually all floors of the cell housing wings. The implications of overcrowding are readily discernible as one views its effect on administration and program. Good classification in housing

units is impossible. Individualization of treatment is difficult and in some cases does not exist."

I gather the whole theory of your department's approach is individual treatment for the individual person, which is the system of criminal justice theory. Therefore, this sentence "Individualization of treatment is difficult and in some instances does not exist," is a rather significant one, I would think.

"There is inadequate work in inmate operations and particularly disturbing is the fact that supervision in crowded housing units is insufficient. Overall figures indicate a slight reduction in inmate time spent in custody, but this pattern is not uniform throughout the system."

I gather you are referring there to the fact that you try to avoid idleness in the prison, but you have a great way to go. Is that correct?

COMMISSIONER McCORKLE: (Nods.)

MR. LUMBAR: You have to answer so she can get it.

COMMISSIONER McCORKLE: Yes.

MR. LUMBARD: You nodded your head.

COMMISSIONER McCORKLE: I'm sorry.

MR. LUMBARD: "Not only are more individuals being committed to correctional institutions, but there is also a change in the characteristics of those sentenced. With

increased probation services, those who must be segregated from the free community are usually multiple, hard-core offenders."

That is to say you are getting a greater percentage overall of the worse because more and more people are being put on probation. Is that correct?

COMMISSIONER McCORKLE: That is correct and my statement deals with that.

MR. LUMBARD: So your problems in the institutions are increasing all the time rather than decreasing?

COMMISSIONER McCORKLE: That is correct.

MR. LUMBARD: In terms of internal management or what you can accomplish by way of programs and so on?

COMMISSIONER McCORKLE: Right. Do you want me to give you a simple statistic that will dramatically demonstrate the point that you are making? In 1964 the commitment to New Jersey adult correctional institutions was about 5.6 per 10,000 as compared to 15 for California.

MR. LUMBARD: The point you are making is that fewer were committed here than in California?

COMMISSIONER McCORKLE: Right. Considerably less.

MR. LUMBARD: This, of course, gets right into sentencing practices which I want to come to because I gather from my interpretation of the statistics that you

have a different pattern in New Jersey in some respects and I am not sure what it is. I am glad for the statistics.

"Institutions attest to receiving an increasing proportion of those who have acted out in serious offenses against the person, individuals who are seriously disturbed emotionally."

In other words, the average prisoner is now more violent, I gather you are saying. Is that correct?

COMMISSIONER McCORKLE: I would not use the word violent. What I would use would be the word that this person presenting problems vis-a-vis management, is more likely to be an aggressive and emotionally disturbed individual who can be difficult under the wrong circumstances.

MR. LUMBARD: Well, I'm sorry. I interpreted acting out as violence.

COMMISSIONER McCORKLE: You can act out without being violent.

MR. LUMBARD: The report continues.

"The proportion of non-white inmates continues high and moves slowly upward, resulting in a social environment more and more reflective of class and racial struggles present in the free community. There are increased tensions between groups, more gang activity, more preying of strong on weak."

What do you mean by those sentences in the report, that the problem of internal order in the prisons is getting worse and worse?

COMMISSIONER McCORKLE: Well, I think the problems of control as they relate to the presenting problems are complicated in New Jersey by a number of factors. One I indicated. We indicated the individuals who come into the system pass through a series of sieves in terms of probation and the utilization of community services. Consequently, if you assume that the sieves have any validity in screening of aggressiveness, in terms of being difficult to handle, then you immediately start off with a population, as this report by Mr. Wagner indicates, of persons who have been selected almost in terms of difficulties of management.

When you add to this the fact that you have overcrowding and when you add to it the large numbers of dormitories, particularly in the reformatory structure that New Jersey has, the problems of control become intensified.

Now, what little I know about the literature suggests that in every correctional community there evolves an inmate social system and one of the major problems of correctional management is to come to grips with

the system and keep it under control and to mitigate the very kind of thing that is referred to here so that the weak are not, you know, victimized by the strong. And it is something that you constantly must address yourself to.

MR. LUMBARD: Continuing.

"The populations are generally getting younger in age, particularly at the State Home for Girls and Reformatory for Women where fifty per cent of the population is under twenty-one years of age. Another factor of note is the increasing proportion of drug users and addicts committed with attendant problems of security and control. The morale of the inmates is generally good. There were no riots or general disturbances which, of course, is a minimum condition. There has, however, been an increasing incidence of assaults on officers, reflecting the tensions generated by overcrowding and the addition of more and more emotionally disturbed problem cases. The problem of population pressures has been compounded by the difficulty in filling professional staff positions. Psychologists and social workers are virtually impossible to recruit. This is serious when it is considered that much of the institutional program relies on such professionals for direction. The scramble for some kind of professional staffing is emphasized by the fifty per cent increase in

the year's time in the use of one-day-a-week psychological consultants."

I gather your point that you have only three psychologists---

COMMISSIONER McCORKLE: Full time.

MR. LUMBARD: The Trenton State Prison, Rahway Prison, Annandale and Clinton Reformatory and State Home for Girls have no full-time psychologists?

COMMISSIONER McCORKLE: That is correct.

MR. LUMBARD: That continues, then, from 1966 to date?

MR. WAGNER: We are a little better off at the moment than the report. We have a full-time psychologist, for example, at Clinton at this moment.

MR. LUMBARD: At the others you do not? You mention Trenton State Prison, Rahway Prison, Annandale, Clinton Reformatory and State Home for Girls.

MR. WAGNER: The State Home for Girls has, the other institutions do not.

MR. LUMBARD: "Filling these positions with qualified personnel is all but impossible since salaries are competitive. Staff turnover at the basic operational levels, already too high, has increased from 23.6 per cent in the prior year to 24.1 per cent in 1965. The State Home

for Boys has a 35 per cent turnover in staff, Rahway Prison 30 per cent, followed closely by Bordentown Reformatory and State Home for Girls."

Then you say, "When all personnel turnover is 25 per cent and over in one year, when a large proportion of correctional officers' staff is temporary and new recruits have no related experience to the job, administrators are confronted with an inordinately difficult task in maintaining a stable and effective program. The high turnover rates prompted the formation of a committee to determine causative factors."

I am summarizing now. You talk about various problems, including the pay scale.

Then you conclude with this: "In view of the lack of professional staff, psychological consultants are used on a day and half-day basis for routine admission interviews. Individual therapy on a professional level with which some institutions have provided themselves is now virtually non-existent. Group therapy is no longer a major program in any institution. Some bright spots in the direct treatment area include an expanded group counseling program at the male reformatories and there is a Rutgers student social worker," and so on.

Commissioner, I think it's a very candid report.

you  
I congratulate<sup>^</sup>on that, but don't the conclusions on an overall basis indicate very drastically that things are going in the wrong direction in terms of what you can do with the personnel available to you, the budget, the programs, and the increasing work load?

COMMISSIONER McCORKLE: This is a condition that New Jersey has been confronted with for practically the entire time that I've worked for the State, which is twenty years. I mean, there has always been a problem in New Jersey around recruitment and retention of professional personnel. This has been particularly true since the last, oh, I would say, ten years. It's been intensified in different periods and at different times but, you know, it's not something that developed in 1966.

MR. LUMBARD: I am not trying to say that. That happens to be the last report which was available.

COMMISSIONER McCORKLE: Right. I just want to point out it's been a pretty chronic condition. It has been a handicap that institutional administrators have had to work under, try to do something about, during my entire time with the Department.

MR. LUMBARD: Is it a fact that of the people who enter your institutions after having been convicted of crime approximately some 97 or 98 per cent will return to the communities?

COMMISSIONER Mc CORKLE: Oh, yes.

MR. LUMBARD: Would it be fair to say that your opinion is that what happens to these persons while they're in the custody of the institutions is, therefore, most immediately related to the public safety of the communities?

COMMISSIONER McCORKLE: Oh, certainly.

MR. LUMBARD: Perhaps as much as what happens at the police level?

COMMISSIONER McCORKLE: (Nods.)

MR. LUMBARD: Do you have any general conclusions that you can offer the Committee as to why conditions are as they are and what can be done about it? I know that you have this list of things here and there. Let's stand back and really say, "What are you doing? Is it futile? Is it worthwhile?" Let's talk about the large conclusions before we talk about little problems that are for two or three people.

COMMISSIONER McCORKLE: I would be delighted.

First, I think New Jersey has done remarkably well in devising alternatives to giving people the label of a convicted criminal who has been released from an institution. If we're talking, really, about the well-being of the community--to the extent that society can develop ways of getting individuals involved in the process that ritualistically reflects the rejection by

society of the individual, to that extent you have done a worthwhile thing. Now, we know in spite of all this, in spite of whatever programs that you can develop in your community services or wherever in the community, you still have a number of other individuals for whom the patterns of indignation in the communities are such that the community, in fact, is going to reject them and they are going to come into a correctional institution.

It seems to me that the problem then becomes one for the institution to maintain whatever the positive ties are that this individual has with both the informal and formal structure of his society, because people are not going to be resocialized in isolation. They tend to be influenced by close association and I suspect the people who get into our institutions are all powerfully influenced. by peers.

Consequently, it appears to me that what you need is a diverse number of facilities for individuals after they come to the attention of the Division of Correction. New Jersey, to some extent, has done well. In other extents, it has not done nearly what it should have done. With the opening of Yardville, as a result of the bond issue, we are going to make some big improvements., in the area there we were probably most awfully inadequate

and that was with the male indeterminate offenders at the reformatory level.

So you need diverse institutions. You need two things in addition to that. You need good professional staffs and perhaps as importantly or maybe even more importantly you need good custodial departments because the custodial department is the main department. It and State use, trade, and so on, who are in the day-by-day, minute-by-minute relationship with the offender and they, in fact, are carrying out whatever treatment prescription the institution writes.

The problem, I think, is two-fold. One, it is to write a prescription for the individual in terms of what we know about human behavior and ways to modify it and, two, it is to have available the resources at operational levels to carry out the prescription. This, I would say, is central to good correctional management and I think that management should then utilize all of these to mitigate, as much as possible, the counter-rejection of the offender as a response to the social rejection of the culture.

MR. LUMBARD: Thank you. Let's go back over that list.

COMMISSIONER McCORKLE: Right.

MR. LUMBARD: Incidentally, you say the first thing is that you are vastly underfinanced, but I gather the last point that you are talking about is the means to carry out the prescription.

COMMISSIONER McCORKLE: Yes. If you are going to have these kinds of correctional programs you are going to have to finance them through the development of small institutions. You are going to have to finance them through the recruiting and retaining of good forces.

MR. LUMBARD: I want to come to your first point, jobs, which is a direct way of saying, I gather, what you have to do. Have you prepared a list of the various statutes in New Jersey by which society fences out the opportunity for rehabilitation through employment?

COMMISSIONER McCORKLE: Well---

MR. LUMBARD: You have to get a license to be a barber. You can't get a barber's license.

COMMISSIONER McCORKLE: Not of good character.

MR. WAGNER: Right.

MR. LUMBARD: Do you teach people to cut hair in the prisons as one of the ways to keep them busy?

MR. WAGNER: Yes.

MR. LUMBARD: So you are teaching them a trade

that the State of New Jersey says they cannot do when they come out of prison.

MR. WAGNER: It sometimes happen that people trained in the prisons do eventually get jobs and licenses.

MR. LUMBARD: Sometimes?

MR. WAGNER: What I would say is a substantial portion of the times, despite the statutes.

MR. LUMBARD: Well, I am not quite sure what you mean by that. What I am getting at is: Have you prepared a list or could you prepare a list of the various categories of employment in New Jersey which by statute are either denied to an offender or have been substantially denied to an offender by reason of licensing statutes or whatever? Could you prepare such a list for the Committee?

COMMISSIONER McCORKLE: I think we could. We can't go through all the statutes, but we could quickly assemble for you areas where we know there are impediments.

MR. LUMBARD: Three years ago in New York I did this same procedure and it was quite an amazing list, it turned out, and a statute was passed there which tended to alleviate a lot of these conditions. As a first step, I would suggest that you perhaps might wish to consider

it and be in touch with the Committee about these possibilities. While that is maybe only a first step, I think your main point was that to get back into the community a person has to get a job.

COMMISSIONER McCORKLE: Right.

MR. LUMBARD: And by State statute the State is keeping many of these people from getting a job, perhaps for reasons wholly unrelated to the situation.

COMMISSIONER McCORKLE: There are impediments in certain areas and we will try to enumerate those for you.

MR. LUMBARD: Could you make specific recommendations, please, in that regard?

COMMISSIONER McCORKLE: Sure.

MR. LUMBARD: The second point you made was about persons who are released to the community and your phrase was that they, of course, will not be resocialized in isolation.

COMMISSIONER McCORKLE: Right.

MR. LUMBARD: When a man is released from an institution today in New Jersey what does he have? How much money does he have and what are the conditions of his release?

COMMISSIONER McCORKLE: Well, the conditions of

his release are that he leaves the institution. We give him a suit, up to \$25, and he may take whatever additional savings he has, and when he returns to the community he has available to him the Parole Bureau and whatever they can mobilize to assist him.

MR. LUMBARD: In other words, he doesn't necessarily have a job?

COMMISSIONER McCORKLE: It is not a requirement for parole in New Jersey that you have a job.

MR. LUMBARD: He has \$25 and a suit and that's it?

COMMISSIONER McCORKLE: Yes, I think it is. Well, he may have more than \$25.

MR. LUMBARD: I understand. Do you have any recommendations for the Committee about how, perhaps, a different release condition might assist in those difficult first few days, the first week or two, when as I understand it a high percentage of people stub their toes on the fact that they have been locked up for many years, haven't had a drink, haven't had some other things, and they get into trouble almost instantly upon release?

COMMISSIONER McCORKLE: We will be very happy to supply you those. If you look at the document that we supplied you, which is the approval of goals and

objectives in the Division of Correction by the State Board of Control; I think you will find a specific reference.

MR. LUMBARD: A specific reference to what, recommendations?

COMMISSIONER McCORKLE: I don't think there is a specific---

MR. WAGNER: Yes.

MR. LUMBARD: What do you suggest for gate money?

MR. WAGNER: At this point we have a legislative limitation on the amount of money that can be made available by the State.

MR. LUMBARD: What is it?

MR. WAGNER: \$25.

SENATOR WALDOR: I might point out that I introduced a bill last Monday to change that.

MR. LUMBARD: What do you recommend as gate money?

MR. WAGNER: How much?

MR. LUMBARD: Yes.

MR. WAGNER: That would vary from one case to another, obviously. There will be individuals who have all the funds they need upon release; earnings from their

own money or money available to them from their immediate families or friends.

At the very opposite extreme of this is the kind of individual you mentioned before who has nothing in the community. He has no friends, no relatives and very little in the way of internal resources that he can turn to. This is the individual we need to reach. This is the individual who is subject to the kind--he is vulnerable to the kind of things you talked about.

MR. LUMBARD: He is a prime candidate for society to be spending thousands and thousands of dollars on, a repeater cycle almost immediately. Right?

COMMISSIONER McCORKLE: Right.

MR. WAGNER: Quite so.

I don't know whether, Mr. Lumbard, you know who Robert Bruce was. But we have a halfway house in Newark, in downtown Newark, which is a halfway house that's been there for six, seven years now. It was designed specifically for this group that you're talking about. It was funded originally by the National Institute of Mental Health and has now, for about a year, been funded by the State of New Jersey.

This takes those individuals who have nothing in the community and provides a place where they can eat,

they can sleep, they can get counseling as far as a job is concerned, they can get counseling when they meet individual problems in the community. We have a top stay, a top limit, on the amount of time they can spend there. And the turnover, of course, is very fast. But this is a real opportunity, including spending money for him to look for a job and a little recreation in the first few weeks and the like.

MR. LUMBARD: Would it also serve the purpose of the transition from the total control and order within a prison in which he hardly needs to think for himself to the fact that after five years of that kind of thinking he is turned loose in the street and may even have difficulties getting himself to meals because he's got to think about everything?

MR. WAGNER: Precisely. As the Commissioner pointed out in his statement, more of this kind of activity is recommended by the Department and by our Division.

MR. LUMBARD: What have been the results at the Bruce House?

MR. WAGNER: They look quite good. We haven't quite finished the research that was required by the Federal grant but by comparison we have kept a control

group, in another part of the State, of course, and it looks as though the percentage increase, the percentage of increase, is maybe about fifty per cent, approximately. We still have failures.

MR. LUMBARD: Of course, you always have failures.

Has your Department made recommendations this year for a significant increase in the halfway house concept to the point where it could handle all the released population of this category?

MR. WAGNER: No, but we have made requests for two additional Robert Bruce houses, if you will, and the Governor's budget message has approved one of these.

MR. LUMBARD: Do you know why they have cut down from two to one?

MR. WAGNER: No, sir.

I would like to go back, if you will, to the release money which you seemed to be interested in just a bit ago.

MR. LUMBARD: I am interested in that. I am interested in all the conditions in the way society releases this kind of person that I am, perhaps, suggesting the present method is almost an invitation to disaster for him.

MR. WAGNER: It is pretty obvious, of course, that

the answer to at least part of the problem with reference to some of the individuals released is a little bit more money when they leave the institution. And you will find that as a recommendation in the material that has been submitted to you.

MR. LUMBARD: Well, if you can just be specific in a sentence or two--we are all here and listening, you know--instead of just telling us it's in the file. We will get to the file, but if in a sentence or two you can give us recommendations it would be helpful at this point.

COMMISSIONER McCORKLE: I think the core of the recommendation is that the Board of Managers have greater flexibility in determining rates. Fixed amounts are not the answer, to go from twenty-five to fifty. What I think the core of the recommendation is that in all of our institutions in New Jersey we have Boards of Managers and if I recall we developed a procedure whereby, upon recommendation, if we had a sliding scale we could take care of those individuals where it was indicated. For the individual who leaves the State Prison with five or six thousand bucks, if he's going to get into difficulties it won't be in the first two weeks from the lack of money.

I think there are ceilings on the scales, aren't there?

MR. WAGNER: Yes.

MR. LUMBARD: The Governor's annual message to the Legislature on Page 18 says: "Diversified correctional programing has also been strengthened by the development of three community halfway houses."

Is there a difference here between the one of the Robert Bruce House and the three that is in the Governor's message?

MR. WAGNER: The three mentioned in the Governor's message undoubtedly includes the Robert Bruce House in Newark. It refers to two additional ones; one out of the State Home for Girls here in Trenton and one out of the Reformatory for Women in Clinton.

MR. LUMBARD: They are now in being?

MR. WAGNER: Yes, they are now in being.

MR. LUMBARD: What are the success figures on these, as far as you are concerned?

MR. WAGNER: The one in Clinton has not been in operation long enough to come up with any figures and the same is true of the one out of the State Home for Girls. But we do know that, if we can point to individual cases, there are some successes that had been failures in the past that are successes when they come through this.

MR. LUMBARD: These are new, but there is no

doubt in the mind of the Department that halfway houses are facilities that should be encouraged?

COMMISSIONER McCORKLE: Oh, yes.

MR. LUMBARD: We don't have to wait for the conclusions of the National Institute of Mental Health Research?

COMMISSIONER McCORKLE: No, From what I understand what the data would be, it would seem to me that it would still be an important bridge. But we wanted to get scientific information that will hold up in terms of comparison groups that are valid in terms of the important indicators of delinquency.

MR. LUMBARD: The third factor that you mentioned was the need for a diversified number of facilities. I gather your point is that you do not have a diverse number of facilities. Could you explain that, please?

COMMISSIONER McCORKLE: I will respond to that since that is my statement and not Mr. Wagner's.

I indicated that I thought New Jersey in some respects had done extremely well here and I would like to make just one point in terms of return to the community.

I think, as in contrast to some correctional systems in adjacent states, you will find that in New Jersey practically everybody before they return to the community are in minimum custody status. We have, oh,

somewhere around 28 per cent of the persons confined in our correctional institutions in minimum custody status where they are in small camps. By small I mean <sup>from forty to one</sup> hundred and twenty. In some instances sixty. And they work either at the charitable institutions or for the Department of Conservation and Economic Development.

My main reason for making the statement I did is that I think that two things need to be done. One was the important concept that was taken with the last bond issue when we developed a unit for the young children in Jamesburg. This is going to be smaller than our traditionally fairly large institutions and I think that the Jamesburg population should be further split by, probably, in the long run adding another institution to have another age group. Let us say, oh, fourteen and fifteen.

Then you would need another institution to take some of the older boys because it is only by having a diversified number of institutions, not too large, that you are going to be able to really come to grips with some of the points you made earlier to which Mr. Wagner referred in his annual report around the operation of the inmate social system.

MR. LUMBARD: In other words, you-- I'll restate it--suggest a larger number of smaller institutions?

COMMISSIONER McCORKLE: Right.

MR. LUMBARD: Which could do diverse things?

COMMISSIONER McCORKLE: Right. I spent a time as a consultant to the Swedish Ministry of Justice and I was very impressed with the fact that when I was there in 1954 they had only one institution with over eighty people in it. If you really want to talk about rehabilitation and the contribution, ultimately, that all structures can make to it, I think you are going to have to talk about more diverse and smaller institutions.

Now, the number of persons involved in a state like New Jersey or in our larger states in the United States are such that you are going to need some large institutions as well. It's economically<sup>un</sup>wise to build a fifty-cell maximum security prison, but these institutions should be supported for these purposes by a diverse range of smaller institutions and New Jersey has moved consistently in that direction since 1954.

MR. LUMBARD: Do you think it important to have separate facilities for first offenders so as to keep them segregated from others?

COMMISSIONER McCORKLE: Is it possible?

MR. LUMBARD: Yes.

COMMISSIONER McCORKLE: Oh, I think it is possible.

MR. LUMBARD: Is it happening in New Jersey?

COMMISSIONER McCORKLE: To some extent.

MR. LUMBARD: What does that mean?

COMMISSIONER McCORKLE: Well, I think the Annandale population is primarily a first-offender group. See, first you have to define what you mean by first offender and then---

MR. LUMBARD: Well, Commissioner, I am not trying to get overcomplicated here. It's a very simple thought. The thought is: Is it possible to physically segregate and have in a different place or facility the first offender, the beginner in the system, so to speak, from the more hardened type who have spent a longer time--I think you know clearly what I mean--and you wind up creating a school of a certain sort in the prison? Is it possible?

COMMISSIONER McCORKLE: I suppose the answer to that is no, with certain limitations in the sense that in two of the satellite units tied up with the reformatory complex the persons who are sent there after first classification have been in the institution thirty days prior to that period of time and are, I think with almost no exceptions, first offenders.

MR. LUMBARD: Just in that category?

COMMISSIONER McCORKLE: Yes, but the major point of entry into the correctional apparatus would be in

Jamesburg and the possibilities of this at the Jamesburg level, until relatively recently, were non-existent.

MR. LUMBARD: Well, if you had a smaller number of facilities with fewer people would that not be one type of way of keeping the segregation to a greater degree with those two categories of people?

COMMISSIONER McCORKLE: Oh, I would think that, certainly.

MR. LUMBARD: Is that a highly desirable reason, as well?

COMMISSIONER McCORKLE: Well, yes. I would say that, but I wouldn't pin my case on that. I would say that the presenting problem of an individual who is a first offender may, you know, be as serious as somebody who is coming back for the third time.

MR. LUMBAR: Obviously, yes.

COMMISSIONER McCORKLE: Okay. As long as we don't say it's for first offenders.

MR. LUMBARD: There are exceptions to every general rule.

Do you have anything else you want to tell the Committee about the needs or the values to be realized from a diverse number of smaller institutions rather than one large massive-type?

COMMISSIONER McCORKLE: No.

MR. LUMBARD: Your next point was a good staff.

COMMISSIONER McCORKLE: Right.

MR. LUMBARD: You said it like that and you did not at that time expand on it. Could you now do so?

COMMISSIONER McCORKLE: Well, quite obviously, if you are going to have professional programing for persons--particularly as Mr. Wagner points out in his introduction, individuals who come into the system who have very complicated problems, some of them at the level of motivation, individuals who are emotionally disturbed--if you are going to have programing for these individuals you must have professional people to do it. You need psychiatrists. You need psychologists. You need trained social workers.

If you are going to maintain good order and so on in your wing you need good correctional personnel. You need to have good training programs for them. If you are going to make your industries work you need good people to operate the industries.

MR. LUMBARD: I gather from what you said in your report that you do not now meet those standards.

COMMISSIONER McCORKLE: I indicated to you that of the psychological positions in the Division of

Correction you have currently only three filled with fully-qualified persons.

MR. LUMBARD: Well, there comes a point when you may have a theory--and I think this would be important for the Legislature to know--when you may have a theory of rehabilitation and an approach but it is in reality only a form of illusion because the people aren't there and the programs aren't there despite the best intentions.

COMMISSIONER McCORKLE: Well, when you simplify the problem in those terms, I think rather than clarify issues you can confuse them. Certainly, we need to have positions that are authorized filled.

As Mr. Wagner points out, group therapy which was once one of the important adjuncts in the program, particularly at the Bordentown Reformatory--<sup>where</sup> he used to be the superintendent, by the way--is out. They moved into group counseling. Why did they move into group counseling? Well, they moved into group counseling--we would have, anyway--but they couldn't have group therapy because if you are going to have group therapy you need some people with professional qualifications to do it. But we are still trying to operate programs.

MR. LUMBARD: What are the major factors and conditions that hold back the development or the retaining

of staff?

COMMISSIONER McCORKLE: What are the major problems? I think there are two problems. One is the obvious one of salary schedules and two is the problem of competition and the scarcity of trained personnel.

MR. LUMBARD: You mentioned custodial departments which you define to also include instructors and training. Would you expand on that?

COMMISSIONER McCORKLE: Well, I indicated one. The reason I gave them the priority I did is because they are the individuals who, in the last analysis, are responsible for the application of whatever the correctional policies or treatment programs are. To have this you need a corps of stable capable persons and Mr. Wagner refers to it in his document, the turnover.

Turnover places a tremendous responsibility on institutions to train people because the technology of modern correction is fairly complicated. You don't just throw somebody a bunch of keys. In some areas, again, I think New Jersey has been fortunate. In other areas we have some considerable improvement to make.

MR. LUMBARD: Do you have any specific recommendations to make to the Legislature?

COMMISSIONER McCORKLE: Yes. I would make a

specific recommendation that additional funds be raised somehow to be mobilized and poured into programs that are absolutely crucial to the crime problem in the State.

MR. LUMBARD: Could you expand on this?

COMMISSIONER McCORKLE: Oh, I could expand indefinitely on that. Number one, I indicated to you some of the problems as they relate to public welfare. You were referring earlier, Mr. Lumbard, to the Lilley Commission and one of the recommendations of that Commission is that the administrative and fiscal responsibility for public welfare become a State responsibility.

I understand this is somewhere in the neighborhood of \$90,000,000. Again, I understand a lot of other considerations-- Let me indicate to you what I think, since you were suggesting the very crucial situation of those moments when the individual leaves the confinement and returns to the free community.

I think one aspect of this recommendation, if it be implemented in the State of New Jersey, would enable the Department to implement integrated services at the local level through what we conceive to be district service centers where the total range of departmental services would become available to any person, either in the community or any person who is the direct

responsibility of the Department. And some of Mr. Wagner's problems about gate money and so on would be less obvious factors, too, if you had this.

I think to move in this direction in New Jersey, the implementation of the recommendation of the <sup>Lilley</sup>Commission, would be extremely important.

MR. LUMBARD: Commissioner, that problem of gate money could be handled in the Department of Correction or within the present Division, whether or not the whole welfare administration changes one way or the other.

COMMISSIONER McCORKLE: Oh, sure. I wasn't suggesting that it couldn't be done.

MR. LUMBARD: Then I didn't quite get your point.

COMMISSIONER McCORKLE: I was making the point that if this recommendation were adopted and the money were available to our Department to develop a system of regionalized services where the total integrated services of our Department--and I listed them--would become available in local communities through district service centers by personnel who would be providing generic services to individuals in terms of total range of services of the Department, we would be in a position to do a great deal more for the man who is returning from the confinement of the correctional institution to the free community.

MR. LUMBARD: Well, this takes---

COMMISSIONER McCORKLE: It specifically refers to gate money, Mr. Lumbard. One of the reasons gate money is so crucial in New Jersey is because the individual who is released from the correctional institution does not come under any of the categorical programs. He is dependent in the first instance <sup>on municipal</sup> community assistance.

I think roughly one-third-<sup>of the State municipalities</sup> are not part of the State plan and do not participate. This, of course, would be eliminated if you adopt that recommendation.

MR. LUMBARD: You have raised in my mind something I was going to ask you about before.

If you are so underfinanced in this area and you have such difficulties with personnel and conditions as are portrayed in this report--and I gather from your testimony it is continuing--then one obviously thinks in terms of surgery.

The first question that occurs to me is: Would you do better, would the correction parole area do better, as a separate department outside of the current mixture with welfare for which it competes and, perhaps, loses in the budget dollar, as in many other states? What is your opinion on that?

COMMISSIONER McCORKLE: Well, I think you can

develop rationalizations here any way you wish.

MR. LUMBARD: I am not trying to do that. I am merely trying to find out.

COMMISSIONER McCORKLE: I am trying to answer your question, Mr. Lumbard. You can argue this one either way. I will give you my personal argument.

My answer, vis-a-vis this, would be probably not in terms of money. You might argue that you would be able to spotlight better. I tend to doubt that. The disadvantages that, in my view, correction would suffer or the disadvantages to correction would far outweigh the advantages.

MR. LUMBARD: What are the disadvantages?

COMMISSIONER McCORKLE: Well, one disadvantage that immediately would be true would be the network of reciprocal relations themselves that exist between the correctional institutions and the other institutions. For instance, at the present time in terms of some of the best employment opportunities in correction anywhere in the country, somewhere in the neighborhood of five hundred, I suspect, in correction are in charitable institutions.

I might add with considerable savings to the taxpayers. I know you could say that the program would not necessarily go by the board. I would contend that the

problems of integration would be enormously complicated if you had four separate departments rather than one Department of Institutions and Agencies.

MR. LUMBARD: The question did occur to me that there seems to be a peculiar mixture of agencies and the only reason I can see for your department to have prisons and welfare institutions stuck together is because they are all buildings. I myself don't see the rationale.

COMMISSIONER McCORKLE: If you want to get into that, I will be pleased to try to develop it for you.

The department that you're talking about had its origins in 1918 as a result of two studies. One was a study made by a Mr. Earl and the other by Dwight Morrow. There was the Dwight Morrow study of correctional institutions and the Earl study of <sup>charitable</sup> institutions and out of these grew the development, the notion, of the Department of Institutions and Agencies which was primarily--and let me oversimplify this--was primarily structured to make available integrated services. I think they called it the web of services before that phrase became familiar.

Actually, if you get involved with this question you have to indicate at what level you are interested in making your agencies. I would argue both in terms of operations and in terms of a capacity that has not been

realized in New Jersey, in my view, to develop integrated services at the level of the street and at the level of the community.

I think one of the unfortunate things in New Jersey was that the notion of integration was more apparent, to some extent, at times in the Department at the Trenton level but the operational problems of developing it at the moment of program impact in the community were not either followed through or implemented.

MR. LUMBARD: Do I understand, really, it comes down to whether or not there isn't a kind of relationship between welfare and crime?

COMMISSIONER McCORKLE: Oh, yes.

MR. LUMBARD: That means they would best both be kept within the same department. Is that what it really comes down to?

COMMISSIONER McCORKLE: Well, I think that's what it really comes down to in the minds of the persons who framed the Department of Institutions and Agencies, yes.

MR. LUMBARD: What is that relationship? How does the department by its organization, having welfare and the correction agencies together, get at those relationships?

COMMISSIONER McCORKLE: Well, let me give you one example. In the Division of Correction you have the

training schools. All kids under fourteen are supervised by the Bureau of Children's Services; between fourteen and sixteen; they mutually determine whether the supervision in the community should be by the Bureau of Children's Services or the Bureau of Parole.

Problems that relate to parole and the integration of the individual into the community may be directly tied up with welfare. Problems of the individual while he is in the institution are directly one of the concerns of welfare. And so it can go. You can go throughout the department. Whether you're talking about mental retardation or mental health, you can make the same case.

MR. LUMBARD: In my own state of New York, for example, which I know you are familiar with, all of these kinds of problems are handled between agencies and departments without any loss of sequence that I am aware of. What I am trying to get at, therefore, is not whether or not there is a relationship between parole and welfare--there is--but whether there is some special reason why correction should be in the same department as welfare and whether there is some special advantage. And I am still not clear on why that is so.

COMMISSIONER McCORKLE: Well, the only thing I can do is repeat.

MR. LUMBARD: You don't need to do that.

THE CHAIRMAN: I think we should recess for lunch. Commissioner, if you will return at 1:30, please, I am sure the Committee would like to have an opportunity to ask you some questions.

[Luncheon recess.]

#### AFTERNOON SESSION

THE CHAIRMAN: Shall we reconvene this hearing? I would like to announce at this time that immediately following the close of the hearing this afternoon the Committee is going in a body, as many as can, to visit the Trenton State Prison and following that visit some of the Committee will go on to visit the Yardville facility. As the Commissioner says, to give us an opportunity to see both the worst and the best.

COMMISSIONER McCORKLE: As regards physical plant.

THE CHAIRMAN: Mr. Lumbard, I believe you have a couple of short points that you would like to make and we will move then to the Committee's questioning.

MR. LUMBARD: Commissioner, do you have any figures concerning recidivism for the various programs and facilities of your department?

COMMISSIONER McCORKLE: Figures are tricky, as

you very well know. I'm sure we have supplied you data, I think, on the number of parole violations, the total number of persons on parole, and that figure is available. Mr. Wagner may know it offhand. I do not.

Do you know the figure offhand, Al, of the number of violations to the case load?

MR. WAGNER: In the adult male institutions in any given year, of the total number of men who come to the institution, eleven per cent are violators. If we talk about juveniles, then the percentage is twenty per cent. The total admitted in any one year in male institutions, male adults, eleven per cent; twenty per cent for juveniles, male.

MR. LUMBARD: Commissioner, do you want to continue?

COMMISSIONER McCORKLE: Yes. I would want to point out that this means that men who are discharged-- that's max's who have completed their maximum sentence-- are not in this figure.

I would make one other point. In New Jersey the case load in parole is not maintained in a way that the number of violations can be kept low by the total number of successes because when you count your recidivism this way, as you probably suspect, you can count individuals

who have been successful year after year. If you want a true test of recidivism you have to do it in terms of exposure time in the community and the only study that I know of that has the kind of information that would stand a rigorous test, scientific and methodological test, is the study made of Highfields.

MR. LUMBAR: What is that?

COMMISSIONER McCORKLE: They took a sample from Highfields and a sample of individuals who went to a more conventional institution and they found out that the Highfields boys did better in the community than boys in conventional institutions.

MR. LUMBARD: How would you state the philosophy or theory of Highfields that distinguishes it from the conventional institution?

COMMISSIONER McCORKLE: Well, there are a number of significant dimensions. The first is that when you go to Highfields you go to Highfields as a condition of probation. You are not committed in the same sense.

In Highfields the individual is placed on probation, and a condition of his probation is that he commit himself. So the institution does not have a custodial responsibility in the same sense that a reformatory does and this is a very, very important factor.

MR. LUMBARD: How would you compare it with the conventional institution?

COMMISSIONER McCORKLE: Well, you asked me what data we had on recidivism and I tried to give you that data and we compared it in terms of maximum cases, boys who met the same predictive criteria in a conventional reformatory as compared to a Highfields sample. And we did it in a number of ways: We did it in terms of the items on predictive tests that are generally associated with delinquency. We did it in terms of taking a sample of Annandale boys who were committed to Annandale before Highfields opened. And then we held them for exposure time in the community.

MR. LUMBARD: Can you state a statistical summary of the tests?

COMMISSIONER McCORKLE: No, I cannot give you a summary. But I will be happy to make it available to you.

MR. LUMBARD: Would you mail it to the Senator, please?

COMMISSIONER McCORKLE: Oh, sure. It's already in a book called The Highfields Story, Mr. Lumbard.

THE CHAIRMAN: Assemblyman Dickey?

ASSEMBLYMAN DICKEY: Commissioner, I am interested in the program of work release for prisoners, the subject

of permitting them to work and being returned to prison. Has that been considered?

COMMISSIONER McCORKLE: It has been considered. It has been strongly urged by the Division of Correction. It has been approved by our State Board of Control and I believe we have drafted and recommended legislation to experimentally make available a work-release program.

MR. LUMBARD: Has that been filed with the Legislature?

THE CHAIRMAN: I am not sure that it has this year.

COMMISSIONER McCORKLE: I can't answer that question, Mr. Lumbard.

THE CHAIRMAN: It has been in the Legislature in past years.

COMMISSIONER McCORKLE: Yes, but in past years, I think, Senator Forsythe, it was primarily organized around county facilities. Our proposal relates to our facilities. There are different questions, really, that relate to whether you are doing it at the state level or the county level.

ASSEMBLYMAN DICKEY: What was the recommendation of your department in regard to that?

COMMISSIONER McCORKLE: For what, sir, our bill?

ASSEMBLYMAN DICKEY: Yes.

COMMISSIONER McCORKLE: We are supporting it. We are recommending the legislation for state correctional facilities. The bills in the past, I think, had to do with county correctional facilities and I think the legislation was patterned after the Huber legislation in Wisconsin. They used to <sup>be</sup> introduced by the Senator from Somerset County. Senator Ozzard has a keen interest in this.

ASSEMBLYMAN DICKEY: Do you know whether there is a bill drafted this year, whether it's been introduced or not?

COMMISSIONER McCORKLE: I cannot answer that as of right now.

ASSEMBLYMAN OWENS: Commissioner, in the vocational training of prisoners the old cliché is that they learn to make license plates but that's the only place license plates are made. Do we have a program of vocational training now to bring the prisoners into a worthwhile plan of employment after they leave prison?

COMMISSIONER McCORKLE: Well, for the description of specific programs I would ask Mr. Wagner to do that for you.

Let me respond to the reference vis-a-vis license

plates at the New Jersey State Prison.

Many men are engaged in the manufacture of license plates at the New Jersey State Prison. I suspect one of the most important things confronting some of the men who come to the prison is to have an opportunity to learn good work habits rather than a specific identifiable trade and I think when you talk about employment in correctional institutions you need to do it against this kind of background, if you are going to think about how you can most innovatively and imaginatively develop opportunities for people.

Now, a great deal of <sup>attention</sup> has been concentrated by Mr. Wagner and his associates on the specific vocational training programs and I would feel much happier if he would respond to that.

MR. WAGNER: As the Commissioner indicates, we have been very much interested in vocational education within our institutions and a serious effort has been made in the last few years to develop such programs over and above what we had previously.

A year and a half ago or almost two years ago we were successful in getting some MDT funds, Manpower Developing Training Act funds, from the Federal government for the institution at Annandale. This is the reformatory

for the younger age group of the reformatory, young offenders. Here we have developed a good extensive and intensive program of vocational training in a variety of areas including such things as plumbing, carpentry, welding, graphic arts, and a number of others.

We are now setting up a similar program with the same kind of funds at the Reformatory for Women at Clinton. We have been unsuccessful in getting this kind of money for the prison group, but we have some hopes of getting it for Bordentown, which is part of the reformatory complex, and in the new institution at Yardville which just opened the early part of January this year.

We have built into the plant a wide variety of vocational training opportunities, such things as auto body and fender work; the training of good gas station attendants--that's more than just pumping gas, but being able to change a fan belt and this kind of thing--welding; dry cleaning and pressing; graphic arts; building maintenance; and several others. So we are on our way, I think, in this area.

The group may also be interested to know that we have at both State homes, the training schools for juveniles, a program again Federally funded called Distributive Education, which you may be familiar with. The youngsters

in this program  
here are/part time, half a day approximately in a classroom setting and the other half a day actually working in the community in the form of work which has to do with retail sales, for the most part. And the program is so geared to a community program that the boys and girls, when they are in the program in the local area, transfer to a similar training program in their own home communities.

COMMISSIONER McCORKLE: May I make one final observation in this respect? I think in addition to these things New Jersey Correction can take considerable credit in developing meaningful work opportunities for individuals where they actually have an opportunity to learn the expectations and aspirations that are characteristic of the normal worksituations and I refer more particularly to the development of minimum custody opportunities for men at the charitable institutions.

ASSEMBLYMAN DICKEY: What type of work does the prisoner actually do in prison in the way of services, such as printing of paper?

COMMISSIONER McCORKLE: We have print shops. We have a State Use Law in New Jersey and all the products of prison industries, which is known as State Use, must be used by the State or political subdivisions. They

make clothing. The biggest purchaser of the clothing, of course, happens to be the integrated department. I buy it from them for the hospitals and retarded institutions.

They have printing, license plates, woodworking, furniture manufacturing. One of the characteristics of State Use is its diversification so that competition with any specific industry is reduced somewhat because, while everybody agrees that prisoners should work, I don't have to point out to you that shirt manufacturers would prefer them making shoes and shoe manufacturers would prefer that they make shirts. And both would agree that they, perhaps, should be doing something else; printing tags or what have you.

MR. WAGNER: There are actually fifty-six industries in State Use in New Jersey.

MR. LUMBARD: Is every prisoner involved in such a program?

MR. WAGNER: Oh, no.

MR. LUMBARD: What percentage of prisoners are not involved in the work training experimentation program such as you described?

MR. WAGNER: That's a different question. You asked two questions.

MR. LUMBARD: All right. Answer them both.

COMMISSIONER McCORKLE: Let's divide the question into two parts. The first is how many men are involved in industrial assignments via State Use, how many men are employed in such type of assignment other than the service-type assignment in the correctional institution. Then, of course, how many men are assigned to service-type work in the correctional institution. Like the barber, for instance.

You have about 580 in such type assignments.

MR. WAGNER: Divided almost equally one-third each way.

COMMISSIONER McCORKLE: So you are talking about an adult prison population in the neighborhood of three thousand, Mr. Lumbard, and if you divide it a third we can give you the figures and you will have some approximation of where the men work.

Now, the other question, if I may, Senator, so we don't leave it, has to do with vocational education opportunities and this is primarily at the reformatory level.

ASSEMBLYMAN OWENS: Does the prison furnish any laundry service to the hospitals?

COMMISSIONER McCORKLE: Yes. Well, for instance, as you know in Ancora. There is a laundry at Ancora State

Hospital and we commute inmates over to Ancora and they operate the laundry for that institution. And I might add do some laundry or other places.

ASSEMBLYMAN OWENS: With reference to Leesburg, is that prison under construction?

COMMISSIONER McCORKLE: Yes, sir, it is under construction.

ASSEMBLYMAN OWENS: What is the completion date?

MR. WAGNER: The completion date now, I think, is March of next year.

ASSEMBLYMAN OWENS: What would be the capacity of Leesburg when it is finished?

COMMISSIONER McCORKLE: You mean this phase of it?

ASSEMBLYMAN OWENS: Yes.

MR. WAGNER: The first phase of construction, which is currently under way, will provide 336 beds. This is out of a total of five hundred, eventually, in that institution.

ASSEMBLYMAN OWENS: That was from the bond issue of 1964. Is that correct?

COMMISSIONER McCORKLE: That's correct, as a result of the bond issue.

ASSEMBLYMAN OWENS: Do you have any opportunities

for discussion with individual prisoners?

COMMISSIONER McCORKLE: Do I personally?

ASSEMBLYMAN OWENS: Yes, at the present time.

COMMISSIONER McCORKLE: As you may know, I was one time in my career in the Department, Wardens of the New Jersey State Prison and frequently men that I knew when I was warden drop by to chat with me. But in my role as a commissioner and not as a former warden my opportunities to speak with inmates, I would say, are very, very limited.

ASSEMBLYMAN OWENS: You do have an opportunity to speak with the various heads of the institutions. Is that correct?

COMMISSIONER McCORKLE: Well, we were discussing the department, integrated departments, and its advantages. The Department of Institutions and Agencies is organized around six divisions. Four of them are operating divisions and two of them are staff divisions.

I might add, in fact, that when you develop staff services for four divisions this way it has resulted in additional contract savings, besides the laundry industries and things. I would deal with institutional superintendents in Correction through Mr. Wagner. Mr. Wagner would be the person responsible.

ASSEMBLYMAN OWENS: Perhaps one of you might be

be able to throw some light on this question: I am curious to know whether or not from your experience either directly or through subordinates the prisoners have any real awareness of pending legislation, particularly legislation dealing with increased penalties for crime. Further, if you are able to answer that question, then what kind of impact does it have on them? What is their reaction to it?

COMMISSIONER McCORKLE: Let me try first with that one. I might add for Mr. Lumbard, since he was interested in organizational structure in New Jersey, that I will talk more in Correction because I happened to come out of that division and I was warden at the prison.

The inmates tend more directly to be interested in court decisions. About these they are better informed than, perhaps, anybody in the room. The Inmates Bar Association of the New Jersey State Prison is, perhaps, one of the most vigorous and active groups in the State in terms of procedural niceties as it relates particularly to their specific sentences.

As an individual I can only say this: From my experience of five years as warden of the prison, in general, inmates were not as sensitive to legislation and probably in that respect a primary interest would be an idiosyncratic

thing. They would, perhaps, know about it. They get the newspapers, as you know. As to the severity of the penalties from the point of view of the population, I suspect that they might have views on this but I don't recall many conversations in this area with inmates.

ASSEMBLYMAN OWENS: I wonder if the other gentleman has any reaction to this. Has your experience been somewhat similar?

MR. WAGNER: It's been similar. I have to reinforce what the Commissioner had to say. The prisoners do get newspapers and they do know what is going on in the Legislature in the way of increased penalties. There is no question about this. But my own reaction is, again, very similar to the Commissioner's and that it has very little impact on these men. You know, it's like most of us. It's going to happen to Joe, but it can't happen to me.

ASSEMBLYMAN OWENS: Do I gather, then, that you feel that the increasing severity of penalties, as far as these men are concerned who are inmates, does not act very much as a deterrent?

MR. WAGNER: I think I would have to say that. I think, however, if this Legislature or any other group that is responsible can find ways and means of imposing

sanctions/<sup>swiftly</sup>it would have a deterrent effect, but not the length of sentences as such.

COMMISSIONER McCORKLE: Like most criminologists, Mr. Wagner is prepared to put his bets on certainty rather than severity as a deterrent.

MR. LUMBARD: Would he add swiftness?

COMMISSIONER McCORKLE: I think you might as well quote Beccaria's famous statement: "Punishment should be public, prompt, necessary, and the least rigorous as possible under the circumstances."

And he worked out this before Bentham.

MR. LUMBARD: Do you think it works?

COMMISSIONER McCORKLE: Well, the current problems confronting the application of sanctions, if you want to get into social structure, it occurs to me is related to the fact, as Mr. Wagner points out, of certainty. If I were sitting at the New Jersey State Prison I would not assume, if a bill were passed, that it was going to be applied to me. I forget the number of automobiles stolen and the number of people who actually experience a negative sanction, but it's rather low.

MR. LUMBARD: This is relevant to the Committee's work in the sense that sentencing is a crucial element in the criminal justice system and, as you know, many

criminologists such as yourself in the penology area are beginning to say that perhaps sentencing doesn't seem to work adequately in the courts and it should be taken from the courts and be put into an administrative board of one kind or another. Are you familiar with that?

COMMISSIONER McCORKLE: I am familiar with various youth authorities and so on.

MR. LUMBARD: What is your recommendation in that regard?

COMMISSIONER McCORKLE: Oh, no. I think that a judge should do the sentencing.

MR. LUMBARD: Mr. Wagner?

MR. WAGNER: I'd agree.

COMMISSIONER McCORKLE: I think that the judge has a strategic role in the administration of criminal justice and should have that responsibility. I don't think it should be experts, <sup>and</sup> that the judges should be limited merely to a determination of guilt or innocence. The courts should carry through and make the determination and disposition.

THE CHAIRMAN: Mr. Thomas?

ASSEMBLYMAN THOMAS: I can personally subscribe to the sophistication of the Prison Bar Association. It's very sophisticated.

Just carrying this one point on a little bit further, there are a number of bills presently pending in the Legislature which set high minimum sentences for certain types of crime. One area is narcotics. Another area is use or possession of a weapon in the commitment of a crime.

This, of course, takes away to a great degree the flexibility that the judge may have in sentencing. Do you think this is advisable?

COMMISSIONER McCORKLE: Well, my own inclination is that mandatory sentences--I am now speaking as a person. I am not speaking for the Department. I am speaking as a person, as a person taking a look at this. In fact, my Ph.D dissertation was the treatment of the persistent offender when I constantly quoted Judge Lance in a decision in a case in Hunterdon County.

My feeling is that mandatory sentences are self-defeating.

SENATOR WALDOR: You have said that before.

COMMISSIONER McCORKLE: I was expressing a personal and not departmental posture.

ASSEMBLYMAN THOMAS: There are also several bills pending that have to do with the civil commitment of narcotic offenders.

COMMISSIONER McCORKLE: Right.

ASSEMBLYMAN THOMAS: From a philosophical point of view and again calling on your expertise, what is your philosophy with respect to the civil commitment of narcotic offenders?

COMMISSIONER McCORKLE: If I may repeat that I am speaking as a person and not as the Commissioner of the Department and not an ex officio member of the joint legislative committee, my feelings about civil commitments can be summed up in a nutshell. It's very difficult to enforce treatment. How are you going to coerce a physician-patient relationship? Much of it is organized around that assumption.

ASSEMBLYMAN THOMAS: Assuming we get past the philosophical aspects, do we have facilities to undertake such a program in New Jersey at this time?

COMMISSIONER McCORKLE: Not in our department.

ASSEMBLYMAN THOMAS: In any department that you know of?

COMMISSIONER McCORKLE: Not that I know of. My feeling-- May I, with your permission, back up and make one or two observations?

I thought that the New Jersey bill, Chapter 226, was a good piece of legislation. I think it's regrettable --

and I am speaking again about my department because we have some responsibility here. I don't think it's exclusively ours, but I think it's regrettable that we didn't do a better job of implementing that legislation.

I don't think it's too late. I would hope that we are going to be able to do more. But that is a good piece of legislation, in my opinion, and because we have not been able to make it work as well as it should is no reason for New Jersey abandoning it.

This legislation makes a number of distinctions. Number one, it distinguishes between the non-criminal and the criminal who also uses drugs. The one is given a treatment opportunity. The other is handled as a custodial and correctional matter. We don't have special procedures for bank robbers who are also diabetics. They are dealt with and come down to the New Jersey State Prison, or wherever they go, and Mr. Wagner and his apparatus comes to grips with them.

So the New Jersey law makes a very clear distinction here. It says for the non-criminal addict--as it is with the person who is convicted under the Disorderly Offenders Statute--that he should be given an opportunity for treatment. In fact, I think the legislation says "He shall be." This involves him, again, in being on pro-

bation, a condition of which is that he voluntarily commit himself.

Now, this suggests something: that he is somewhat involved and he is making some commitment of some sort to a kind of treatment program.

Then the law provides that if he is non-responsive, if he doesn't respond to treatment and so on, then the individual can be returned to court and an alternative disposition can be effected. But we have had difficulties. We don't have the facilities. Even after the renovation of the present small residential unit at the Institute we still only have 76 beds.

ASSEMBLYMAN THOMAS: Moving from that subject for a moment, do you teach within the institutions trades that upon release, to have a very effective use of that trade, the <sup>parolee</sup> would have to be accepted in union activities?

COMMISSIONER McCORKLE: I think Mr. Lumbard gave you one. He pointed out that we have people who are busy working and receiving informal or in some instances formal training as barbers and there is a prohibition around that. There is an impediment in their becoming active as barbers on the outside.

Mr. Wagner points out that while there is the impediment, there is also the possibility for some

individuals negotiating their way through it and actually becoming barbers. But to that extent, yes. Others I'm not as sure of.

ASSEMBLYMAN THOMAS: This has to do with a licensing procedure of which the State has some control, but what about the admission to a union, for instance? Let's say that a man learned a trade as a plumber and wanted to be admitted to the plumbers' union, if they have one. I don't know whether they do. Have you found any resistance on the part of unions to accept men who have learned a trade in one of the institutions? Have you found any resistance of the acceptance of these men into the unions upon their release?

COMMISSIONER McCORKLE: I will give you my impression. Mr. Wagner's may be different.

I am going to go back several years in my own experience in Correction where there was an individual who previously had an association with the union. The union was helpful and my experience was that he apparently didn't anticipate any difficulties and apparently didn't have too many difficulties.

When it is a matter of becoming a new member, I suspect that this is a somewhat different story and would be tied up with the peculiarities of the unions.

You know, from one group to another.

MR. WAGNER: I think I would just add to that, Mr. Thomas, that this is not necessarily tied up with their status as an ex-con. This difficulty they might have with unions is a function more of the social-economic group of which they are part rather than the fact that they have come out of an institution.

ASSEMBLYMAN THOMAS: By that do you mean that there is a natural reluctance to enlarge the unions' roles regardless of where they come in from?

MR. WAGNER: It seems fairly well documented.

SENATOR WOODCOCK: Commissioner, with respect to the current legislation before the Legislature at this moment there are several bills that deal with the abolition of capital punishment. Again, sir, as an individual point of view and as an expert what is your feeling as to capital punishment as a deterrent?

COMMISSIONER McCORKLE: Well, let me first disassociate myself from the Board of Control because if you went to the Board of Control--and policies are made by nine citizens in the State for the Department--I suspect that you would get a split vote, probably a little bit like you have in the Legislature. I don't know. I can't answer/ <sup>as Commissioner</sup> because I have studiously kept away from

that question.

As a person now, I will respond to it.

As a deterrent I doubt very much if you can make a case for the retention of capital punishment. It seems to me there are two factors involved.

By the way, I am a retentionist, which makes me rather peculiar as an academic criminologist. I don't know what Mr. Wagner's position is and he may want to reflect his own point of view.

The issue, it seems to me, is twofold when you are dealing with capital punishment and it has to be cut along these two basic values. The one is that every life is so precious that nobody, and particularly the State, has a right to take a life.

The other is that there are certain behaviors that call <sup>forth</sup> such indignation on the part of the social group in which it occurred that the group needs to express its indignation as a reinforcement of a range of social values.

Since I lean toward the latter point of view I would have to <sup>give the</sup> answer I gave on a TV program where they <sup>ed</sup> pressed me--I usually don't express my personal point of view because I think it's a highly-overrated issue. But I was pressed on a program and somebody said, "If you

were sitting in the Legislature and had to vote, quit stalling and tell us how you would vote."

I said, "I would vote for retention."

SENATOR WOODCOCK: Mr. Wagner, do you have any comment?

MR. WAGNER: I have studiously avoided taking a position as an official of the Department, or a personal one. I avoid a great many difficulties this way.

There is, however, a very practical aspect of this from an administrative point of view and I might just mention this. As you are probably aware there are some twenty-three men in the so-called death house at the prison awaiting execution, presumably. Some of these have been there a substantial period of time. One of them over nine years.

MR. LUMBARD: How long?

MR. WAGNER: Nine years.

MR. LUMBARD: In the death house?

MR. WAGNER: This is not unusual in the United States.

MR. LUMBARD: I didn't ask whether it's unusual. One person has been there nine years?

MR. WAGNER: It's over twelve years in some institutions in the country.

SENATOR WOODCOCK: Was that Edgar Smith?

COMMISSIONER McCORKLE: Yes. Edgar Smith, I think, is the longest resident.

MR. WAGNER: Needless to say, this creates a very serious problem administratively for the Trenton Prison.

COMMISSIONER McCORKLE: You are going there. I believe the statute permits members of the Legislature to inspect the death house. You see, an individual who is in the so-called death house is merely waiting the execution of his sentence and the prison's relationship to him is vis-a-vis this central consideration and as a result, as Mr. Wagner points out, there is a need to develop a whole variety of specialized procedures for these individuals who are there for quite long periods.

SENATOR WOODCOCK: I take it that the cost of maintaining these prisoners in this particular position is quite expensive.

COMMISSIONER McCORKLE: It's higher than the average, yes, for the reason that they don't produce anything, in the first place, and the necessary staff just to maintain their custody is increased over what it would be for the others.

SENATOR WOODCOCK: With these prisoners that are there, starting with Smith who has been there nine

years and coming down, how many appeal procedures have they been through, if you have any idea with respect to that?

COMMISSIONER McCORKLE: I know one case when I was a warden there I think they were at the Supreme Court four times.

SENATOR WOODCOCK: It is safe to say, then, that each one of these have been through appeal procedures many, many times.

COMMISSIONER McCORKLE: Oh, yes.

MR. WAGNER: Those who have been there any length of time. The one that we received only last week or so has his first appeal pending.

SENATOR WOODCOCK: One other thing, Commissioner.

When you talk about the mandatory sentencing being self-defeating, specifically what do you have in mind with respect to self-defeating aspects?

COMMISSIONER McCORKLE: Well, while things are very clear when I am sitting here, as I get closer to my subject new values start to intervene and I don't really think that ten years is what this individual should serve. And I think that there is a tendency, then, not to use the Habitual Offenders Statute.

For instance, in New Jersey you have the habitual

offender's mandatory life sentence after four successive felony convictions. How many such persons are convicted? I don't know about New Jersey, but I do know from the literature that there is a tendency to downgrade the offenses. You are not going to get the severe penalty applied. There is a whole literature on this and the literature suggests to me that mandatory sentences tend to be self-defeating; that if the judge has discretion and he can deal with the range of complex factors in any individual given case you are probably more likely to come out with something that resembles a fair and equitable balancing out of all these factors.

SENATOR WOODCOCK: I have no other questions.

THE CHAIRMAN: Senator Dumont?

SENATOR DUMONT: My recollection was, in relation to Highfields, that four out of every five young people who were housed there never came back to a State institution again. Is that still the experience you've had with the other three centers, as well as Highfields?

COMMISSIONER McCORKLE: Would you answer that, Al?

MR. WAGNER: This is true, yes. That figure still holds for the males. We don't do quite so well with the females.

SENATOR DUMONT: You only have one at Turrell, at Allaire?

MR. WAGNER: Yes.

SENATOR DUMONT: What is your record there?

MR. WAGNER: About seventy per cent.

SENATOR DUMONT: Still eight per cent or higher with the male centers?

MR. WAGNER: That's right.

SENATOR DUMONT: One other question.

You mentioned before, Mr. Wagner, that there would be another halfway house or one had been approved in the budget message, at least by the Governor. Where do you plan to locate that?

MR. WAGNER: We are thinking, at the moment, of Camden.

SENATOR DUMONT: The City of Camden or the county?

MR. WAGNER: In the city.

SENATOR DUMONT: Thank you. That's all.

THE CHAIRMAN: Assemblyman Rinaldi?

ASSEMBLYMAN RINALDI: To follow up with the thoughts on the halfway house programs, can you give us some indication of the type of activity that is carried on in these halfway houses? What do the inmates do in the halfway houses or what are they allowed to do?

MR. WAGNER: When they are in the halfway house they are working outside in the regular community. Our effort is to get them adjusted into the regular community as quickly as we possibly can and at the Robert Bruce House we have set an arbitrary top limit of not being able to stay in the house more than four months. Our average is considerably less.

When a man comes out of the institution without a job, we give him help in finding a job. We expect him to find a job and almost inevitably before a week goes by he is actually in a job. It may not be the job he wants, one he wants to stay with. He may want to change jobs and sometimes he does change while he is with us, but his main activity while with us is working.

What we do is control a good deal of his activities in the evenings and weekends by reason of his association with the house itself. He takes normal recreation, however, in the community. But he is back here available to other members in the house and members of the staff constantly.

We have group-counseling sessions with a fairly well-trained person for these boys five nights a week while they're there.

ASSEMBLYMAN RINALDI: Do you have any statistics

on the subject of these halfway houses? For example, would the statistics reveal the number of people who have gone through the halfway house program and who have unfortunately to come back into the penal system somewhere along the line?

MR. WAGNER: Unfortunately, this kind of data is just not available anywhere in the country.

ASSEMBLYMAN RINALDI: Do you agree that the need for this data is there? Certainly, we agree that this halfway house program is a good one, but it's only good to the extent that we can analyze and appraise the ultimate results of it. So that data, definitely, it seems to me is necessary, isn't it?

MR. WAGNER: Yes, and in another year or two we will have enough experience with the men who have been through the program to be able to say that in this relatively small number of boys or young men this happened. Whether you can apply that, you know, over a large universe, I am not so sure.

ASSEMBLYMAN RINALDI: Is it the basic conclusion at this time that the halfway house program is a good one?

MR. WAGNER: Yes.

ASSEMBLYMAN RINALDI: Then I am somewhat at a loss to see why there hasn't been a greater demand for

more halfway houses in our state. Getting back to the Governor's request that there only be two additional halfway houses created in New Jersey, why is there only a demand for two more? Is this a lack of funds or is it just a question that you have not yet concluded that there should be more?

MR. WAGNER: I think there are a variety of factors. I think one of the most important ones that impaired our moving ahead very rapidly is the fact that the community isn't ready for halfway houses. You know, "I am for halfway houses and Mr. Smith is for halfway houses, but not in our neighborhood."

ASSEMBLYMAN RINALDI: It's the old story. "It's a good idea, but not in our town."

MR. WAGNER: Exactly, and this is why we can't move too rapidly and one of the reasons I would recommend we not move very rapidly, either. I think we have to demonstrate by actual operations, such as we are doing in the Robert Bruce House in Central Avenue in Newark, that it can work, that it creates no problems for the community as a whole.

At the present time, for instance, our community resident program out of the State Home for Girls is at the YW here in Trenton. There are some disadvantages in

there. We didn't like it there, especially. We have tried two other places in the City of Trenton and we haven't brought it to the place where we look to the public to tell us we can't come in. The signals are loud and clear. "Not here."

This is our problem, essentially, in my judgment.

COMMISSIONER McCORKLE: May I make one or two observations?

ASSEMBLYMAN RINALDI: Please do.

COMMISSIONER McCORKLE: I think there is also the need for staffs in their development to make certain that they move systematically and with good people to implement ideas because you start becoming too liberal. One of the problems with halfway houses--and they are not something new--is that you have to be very, very careful or the halfway house degenerates into a kind of a flop house where people just hang around. And we have, and Mr. Wagner in particular has, tried very, very carefully to avoid the kind of erosion that can take place in the daily operation of the unit so that this kind of thing doesn't occur.

ASSEMBLYMAN RINALDI: How is the Robert Bruce halfway house staffed? What type of people do they have who are working with the residents and who are controlling their activities?

MR. WAGNER: Well, we have a cook. In the other staff we have a man who runs it, who is responsible for running it, who happens to have a Master's degree in education. The man who preceded him and who didn't work out satisfactorily in the setting, in our judgment, and whom we had to ask to leave, had his Master's in psychology. The assistant there is an individual, usually--he happens to be at the moment--who is doing graduate work at one of the universities, usually in sociology.

These are people who have an interest in the field, an interest in this kind of relationship with this kind of client.

ASSEMBLYMAN RINALDI: How many men have gone through this Robert Bruce halfway house within the last two or three years? Are there any statistics available on that?

MR. WAGNER: The statistics are available. Let's see. Oh, it must be 120 or so in four years.

ASSEMBLYMAN RINALDI: Does the fact, as you indicated previously, that most prisoners prior to release are in minimal custody situations in any way detract from the need for halfway houses? Does that fact help to ease him into society in the same way as a halfway house? Is there an overlapping?

COMMISSIONER McCORKLE: I think the answer is the fact that New Jersey has a good minimum custody program in no way diminishes the need for New Jersey to expand its halfway houses. With the fact of minimum custody you are still serving your sentence. When you are in a halfway house you are an individual, in the case of Robert Bruce House, <sup>who</sup> has been placed on parole, a condition of your parole being that you are in a halfway house in the community where you are working, making money, getting yourself a room, and developing contacts and a style of life for yourself.

ASSEMBLYMAN RINALDI: I have no further questions.

SENATOR WALDOR: Commissioner and Mr. Wagner, there is no question in your mind, I assume, that the focus of public opinion and the times in which we live today is greater in the areas encompassed by your department other than correctional institutions. For example, in the welfare area and that sort of thing. The public is more generally interested in the activities of your department in these areas than it is in the correctional institutional area. Would you say that that generally would be true?

COMMISSIONER McCORKLE: I would say that the focus of public concern with our department shifts from

time to time from one area to another. At the present time it is almost exclusively concentrated on issues in the field of public welfare.

SENATOR WALDOR: As contrasted to correctional?

COMMISSIONER McCORKLE: Correct. Mental health or mental retardation.

SENATOR WALDOR: Of course, I am a freshman Senator and I am not familiar with all of the departments, but my impression is that your department encompasses a wider area, perhaps, than almost any other department in the State. At least, this is the impression I get insofar as covering a wide latitude of areas that are sometimes in some ways unrelated to one another.

For example, public health and mental retardation and correctional institutions and that sort of thing.

COMMISSIONER McCORKLE: I would question the lack of relationship when you talk about the major divisions of the department. I think you could make a better case for some odd units in the department, but if you're talking about mental health, mental retardation, public welfare, and correction, I would think they are related.

SENATOR WALDOR: Generally, I would say that there is a relationship that can be established with rational-

ization, but specifically insofar as the administration of the respective programs are concerned, as I understand it there isn't a relationship between any of the various programs in these separate and distinct fields.

COMMISSIONER McCORKLE: I'm not too sure, Senator, that I understand your question. But all of them draw the same basic staff support from departmental elements. They are interrelated, either around common issues or common individuals.

SENATOR WALDOR: All right. Let me get directly to my question instead of circumventing it somewhat.

Do you think, Commissioner in viewing it as objectively as possible, as you have, for example, on the question of mandatory sentencing as opposed to discretion by a judge, don't you think that the correctional phase of your department has received greater and more specialized attention? I am not reflecting upon individuals, knowing your background and experience and that of Mr. Wagner. But if it were a separate department and some of the functions of your department were taken out of your department and placed in areas that are more closely related to penology, for example, as contrasted to the phases I indicated before--mental health and welfare and

correctional institutions and that sort of thing--do you think your department can be broken down or if certain phases of it were removed from your department that this could be more effective and be more specialized, administered in a different way?

I don't mean in a more effective way. Again, I am not reflecting on anyone. I want to make that perfectly clear.

COMMISSIONER McCORKLE: Fine, Senator.

I think you can argue-- As I said, you can develop arguments to support whatever conclusions you reach.

SENATOR WALDOR: I am asking your expert opinion, sir.

COMMISSIONER McCORKLE: My opinion as somebody who has been in the department for better than twenty years is that there is nothing that cannot be achieved within an integrated department. There is nothing that cannot be achieved in an integrated department that could be achieved if they were, you know, separated. They can achieve anything within an integrated department that they can achieve with a separate department.

SENATOR WALDOR: I don't want to prolong this dialogue, Commissioner, but isn't it true that you, as a department head when you come in or come before the

appropriation committee or submit your budget, that what you have to do in effect is make concessions in various areas in order to get the allocations that you feel necessary? Whereas, if there were a separate department for correctional institutions, for example, the head of that particular department or the separate head of the department of institutions, forgetting everything else, that department head could come in and fight for or request the appropriations committee or the Governor or anyone else in the preparation of the budget for what is needed in his specialized area and there would have to be less need for compromise and concession, which is a matter of practicality.

This is what, in effect, happens and it would seem to me that every department head would fight for his particular department without having such an infringing of functions that there could be, perhaps, more money forthcoming to a department if it were severed insofar as institutions are concerned than in your position where you are covering health and welfare and institutions and agencies and all that sort of thing.

I wonder if you think there is any merit to that. I honestly want it for informational purposes.

COMMISSIONER McCORKLE: I am saying you can build

your case. You can build your case. You can build your case if I have one function and I can somehow or another manipulate vis-a-vis that function, but the fact still remains that there is the requirement for the integration into the total State budget.

You can argue that if the integration took place not at a level independent of the Governor when he assembles the budget, one or another of the units in a department might do better. Frankly----

SENATOR WALDOR: You don't think so?

COMMISSIONER McCORKLE: I am not persuaded by that logic.

SENATOR WALDOR: Let me go to one or two other things.

You have indicated in your testimony today that there is a shortage of psychologists and social workers in the entire penal system. The basis for that, as you indicated, was first of all a shortage of funds and secondly a highly competitive field and so forth. What possible glimmer of hope do we have to correct this situation

if there isn't any immediate possibility of giving additional funds to you to entice people trained in these specialties and professions to come into the State's employ and work in these institutions, where they are so sorely needed if the rehabilitation process is to be meaningful in any way. Do you have any ideas at all?

COMMISSIONER McCORKLE: Oh, yes.

SENATOR WALDOR: What is the hope?

COMMISSIONER McCORKLE: Let me now address myself to some of the issues. I won't deal with the salary issue since in a sense your question precluded that.

I think there are two things that we have to do. We have to expand more training opportunities at the university level for our own people who have developed over the years commitments to the department. We do it in nursing and we do it in social work. We have made some slight improvement in some other areas to provide opportunities for people to increase either their professional or administrative competence.

So I think in New Jersey we are going to have to do that.

Secondly, I think that it's going to be incumbent

upon us as administrators to think of new careers and new roles in the administrative structure. In fact, I proposed one that the Division of Correction is thinking of, an urban parole corps.

I think there are a great many difficult questions here, but I think we just have to--we as a State, the Department of I and A as a department, has to be more innovative and I think we have to be prepared to expend funds on people who enter the department's service to get the kind of training that we need in the slots for which we have vacancies.

SENATOR WALDOR: One other question and that's it.

The only reason, I take it, that you say capital punishment as an issue is highly overrated is because, notwithstanding the fact that we have laws for capital punishment, the present record of its use or enforcement is almost nil, let's say. That is why I take it that you regard it, or one of the reasons why you regard it, as a highly overrated issue.

COMMISSIONER McCORKLE: I regard it as--I suppose my use of terms there wasn't quite a good one. It's an emotional issue. In terms of the number of people involved, it's relatively small.

SENATOR WALDOR: All right. Just this, now:

You indicated that generally you are opposed to mandatory sentences as such, in another statement that was somewhat unrelated. I didn't quite understand the meaning behind it. Perhaps I wasn't being completely attentive at the time or something. You indicated that or I thought you indicated that you didn't believe in treating addicts in the same manner as non-addicts and you used as an example a person who was convicted of robbery and was a diabetic who received the same treatment at the hands of the law as one who was not a diabetic. Am I correct in what I said?

COMMISSIONER McCORKLE: Well, perhaps if I clarify what my position was.

I stated that the New Jersey law made a number of important distinctions and this developed from a question that had to do with civil commitment and I pointed out that I am somewhat skeptical of enforcing a direct relationship between one individual and another in the area of narcotic addiction.

I said that the New Jersey law made a distinction between criminals who use drugs and the non-criminal addict and I thought this was very important and very good.

SENATOR WALDOR: You mean the non-addict criminal?

COMMISSIONER McCORKLE: No.

SENATOR WALDOR: The non-criminal addict. I'm sorry.

COMMISSIONER McCORKLE: Yes. The New Jersey law makes a very important distinction and it seems to me that there is a certain kind of logic to taking individuals, even if they do use drugs, who have been convicted of a criminal offense and processing them as a correctional case. There are good programs in the correctional institutions that can be helpful to those individuals. The quick assumption that there is some immediate cause-and-effect relationship between the drugs and the anti-social act, I was raising some skepticism about that.

SENATOR WALDOR: This expression of your personal opinion, in other words the mandatory sentencing, is that generally true in every phase of law enforcement or crime and would that include drugs and the violation of the Uniform Drug Act or anything that referred to people who are addicted to drugs or anything of that nature? This was your personal opinion and you so expressed it?

COMMISSIONER McCORKLE: I was expressing a personal opinion that included skepticism around the efficacy of mandatory sentences.

SENATOR WALDOR: And that includes narcotics, does it not?

COMMISSIONER McCORKLE: Oh, yes.

SENATOR WALDOR: You do not feel that the mandatory sentence serves as a deterrent to the use or possession of narcotics any more than you feel that capital punishment is a deterrent for the crime of murder or as being a prime reason for abolishing it or retaining it. Is that right? You don't think it serves as a deterrent?

COMMISSIONER McCORKLE: I do not believe that it is a deterrent.

MR. LUMBARD: One last question.

Do you think that parole board members should serve full time?

COMMISSIONER McCORKLE: Well, in New Jersey you have a full-time chairman and you have two associate members. Parole in New Jersey is divided between the min-max's and the indeterminate. All indeterminate paroles are handled by institution Boards of Managers. For the present parole structure it would occur to me that the associate part-time members can handle the load.

I don't have any objection to full-time parole board members.

MR. LUMBARD: I am not going to get into marijuana addiction now, where I think I disagree with some of your points, particularly as to how you enforce

a treatment relationship I would like to dwell on how you do this in the Department of Mental Hygiene and some of the analogies that might be developed out of that but I am sorry that time has run out.

COMMISSIONER McCORKLE: I am aware of some of the problems that you might have raised. I would point out, however, that psychosis is a classical description and the presenting issues around the psychotic are somewhat different.

THE CHAIRMAN: With that, even though I am sure we would like to have you with us more, we appreciate your coming, Mr. Commissioner.

COMMISSIONER McCORKLE: I appreciate it very much. It was enjoyable to exchange views.

[Witness excused.]

THE CHAIRMAN: We appreciate your coming, Mr. Lilley, and if you would identify yourself for the record then I will take the opportunity to swear you in, as we have done with all witnesses.

MR. LILLEY: My name is R. D. Lilley. I live at 497 Long Hill Drive in Short Hills and I am president of the New Jersey Bell Telephone Company.

R O B E R T   D .   L I L L E Y ,        sworn.

THE CHAIRMAN: Do you have a prepared statement that you would like to give? In order to save time we would like to condense whatever presentation you have to the very minimum and give the Committee some opportunity to exchange views.

MR. LILLEY: Very good. I have a prepared statement with copies here for the Committee and the Press. I received a letter requesting biographical material. It was too late to send it, but it's here and I have a two-and-a-half-page statement that I will be glad to abstract or read.

THE CHAIRMAN: Read it, please.

MR. LILLEY: As I said before, my name is Robert D. Lilley. I reside in Short Hills. I am president of the New Jersey Bell Telephone Company where I have served since July 1, 1965. I have been a resident of New Jersey for nineteen years.

"I presume you have asked me to appear before this body, as an outgrowth of my recent experience as Chairman of the Governor's Ad Hoc Commission to Study Civil Disorder in New Jersey. In this connection I would like to say just a few words first and then I would be pleased to respond to the questions you have for me.

Following the unfortunate disorders of last summer, our Governor called me and asked if I would serve as Chairman of a Select Commission to examine the causes underlying those disorders. At that time, Governor Hughes did not attempt a detailed charge for the Commission to follow but he did assure me of two things: first, that the members of the Commission would be men of the highest competence--willing to contribute their time and skills to the inquiry; and second, that he would not intrude into the Commission's area of operation to assure that its findings would be completely independent. The Governor kept both of these commitments.

The Commission, as you know, included among its members two eminent clergymen; a newspaper editor whose daily journalistic interests are somewhat removed from the geographic areas of the disorders; six lawyers whose backgrounds include service as chief executives and on the highest court of this State, as well as others with extensive trial experience and current active interest in the problems of ghetto residents. My own background is in business and industry.

The Commissioners--as a group--worked long and difficult hours. I stress that because I am sure there are those who are unaware of the extent of each member's

active participation. I want it made very clear that this is a fact and that I--and I am sure all the other commissioners--are proud of the efforts we put forth to respond impartially to this assignment. Out of that participation grew our willingness to put our signatures unanimously to this Report, which we then submitted personally to the Governor--again as a group--with prior knowledge of its contents restricted to the members of the Commission and the immediate staff.

Concerning that work product, the words in the Findings and Recommendations and in much of the body of the Report are the words of the Commissioners. The Report is a summation of volumes of sworn testimony and personal interviews, the transcripts of which were impounded in the Governor's office at the time the Commission made its Report. At that point the Commission officially disbanded. What is left of the Commission, at this time, then is its Report, copies of which have been made available to all of you.

If you will read carefully--and I respectfully ask that each of you do so--the Governor's charge to our Commission reprinted in the back of this Report, and further, give your thoughtful attention to the Preface and the Introduction of our Report, it will be apparent

that the Commission on Civil Disorders was not--and did not attempt to be--either a crime commission or a Grand Jury. Our brief involvement with the subject of crime was only tangential to the primary function of the Commission and what we learned of it has been set forth faithfully in our Report. In responding to your questions on that subject, therefore, I will lean heavily on the Report in all instances where its text is responsible or helpful.

Thank you."

MR. LUMBARD: Mr. Lilley, you used one word at the bottom of Page 2, that the transcripts of your investigation were impounded in the Governor's office. What does "impounded" mean?

MR. LILLEY: Well, it means that they are there to be released at his discretion.

MR. LUMBARD : I see. You do not understand them to be a public document available for inspection by anyone?

MR. LILLEY: Not at the present time at least, although it is at the discretion of the Governor.

MR. LUMBARD: Would you think that would be in the public interest?

MR. LILLEY: Speaking as one member I wouldn't think so, for awhile. Eventually, yes.

MR. LUMBARD: What period of time would you think?

MR. LILLEY: That's hard to say, but I would say at least to the end of this year.

MR. LUMBARD: The calendar year?

MR. LILLEY: The calendar year.

MR. LUMBARD: I think the report is excellent and I have read it with care and in detail. I am particularly interested in Page 176 where you make a specific recommendation for the future. That is addressed to immediate action to respond to any unfortunate incident that might occur and is not as sort of a general recommendation about society where the impact might take years to eventually come about.

You call there, in your first recommendation, for the State to establish a master plan for the control of civil disorders involving State Police, National Guard, local police and so on. There has been testimony in this hearing by the Superintendent of the State Police and by the general in command of the National Guard that there has been no master plan established and they, apparently, are not part of any studies or groups working toward one.

I wonder if you have any information you can give the Committee about that.

MR. LILLEY: No. This is an expression of what

we think should be done after having listened to the events that transpired. I would say that the Commission would still say that a master plan that clearly expressed the relationships of the various police units would be desirable in case we had further disorders.

MR. LUMBARD: Have you had any discussions with the Governor about that subject?

MR. LILLEY: No.

MR. LUMBARD: If you had to summarize for the public or if we asked you for the Committee to summarize what you think are the most important four or five recommendations among the very many that you made, what would they be? In a real world we have to deal with priorities.

MR. LILLEY: Well, that is very difficult--and I am trying to be responsive--because we spent a great deal of time trying to boil our recommendations down to the minimum number <sup>in</sup> and this situation, when you examine it, there are so many things that seem to be important that I would be fearful of putting undue emphasis in an area to the exclusion of others.

But certainly, if we are talking about the root cause area--that's the first part of our report and talking about Newark with which our report concerned itself greatly because that's a prototype and that's where many

of the problems were--the matter of the schools is of great importance.

The Newark public schools for lots of reasons, many of which are beyond the control of the local people, are not able to cope with the job they have to do. That, certainly would be one area.

Another area would be the matter of police-community relations. This is the way that the police get along with the community in times when there aren't disorders and trouble. This takes money. It takes organization. But there was a lot of evidence that confidence in the police and respect for authority would be enhanced if this kind of relationship could be improved.

I think there is a general overriding thought that runs through this report that, in one way or another, the white community has to gain an understanding of what happens in the central cities and the problems that are confronted there and realize that we in the white community can't always apply our own standards in trying to understand what goes on.

These are some of the things that stick out in my mind but, as I said, I am a little hesitant in putting that forward because most of the things we put forth here we really couldn't boil down.

MR. LUMBARD: I am not trying to put you on the spot. Let me hold up this very excellent volume, the President's Crime Commission Report, which has over two hundred recommendations. I'm sure the Commission felt every one was important but, again, those who have to live with the reality of the follow-through have to cope with choices, as I am sure you do in your business, and sets of priorities could perhaps best come from the group who studied the matter most intensively and that's the spirit in which I asked the question.

MR. LILLEY: Yes.

MR. LUMBARD: These three--schools, police-community relations, and the white community gaining a greater understanding of what is happening in the cities--all are pretty much in the root cause area?

MR. LILLEY: (Nods.)

MR. LUMBARD: Clearly, each one of these three would take many years to become truly meaningful. Wouldn't you agree with that?

MR. LILLEY: Well, I don't think I would completely. The school matter is an intensive, long-term matter. The matter of the police-community relations, I would think from what the Commission heard, could move more quickly. The matter of how the majority community gets to

understand the minority is a human matter and it's difficult to pace it. So I think each of these things has a different-<sup>time table.</sup> perhaps this is an aside,<sup>but</sup> I think there are some ninety-one recommendations here.

A high proportion of them wouldn't cost anything and since very often time is money this means that if we put our minds to it it wouldn't take too long to implement.

MR. LUMBARD: The Committee is seeking to receive from you what you think would be the first steps in the way to go. Do you have anything you can tell us in the sense of priorities?

MR. LILLEY: I think that the first step would be a statement and exhibition by our public officials and leaders of the necessity for a different white view of the minority groups.

MR. LUMBARD: A different white view? I didn't hear you.

MR. LILLEY: A different white view. This is a very difficult job. This Commission/<sup>'s work</sup>made every member realize the burden the public officials have today in meeting these requirements, but the leadership has to come from someplace and this would be a very fine place for it to start. Some of these things that seem minor, setting

examples--for instance, a lot more attention to police-community relations even if it weren't realized overnight, I think, that would be a signal to the community that this thing is taken seriously and people are trying to do things about it.

I think an example of that is the medical controversy in Newark that got settled and I think this has an effect on the community. They realize that something is happening.

The mayor appointed a Negro captain to a precinct command very quickly. I think this is a signal to the community that people are caring about it. That sort of thing, I think, is important.

MR. LUMBARD: We have recently had released the report of the President's Commission called the Report of the National Advisory Commission on Civil Disorders. Have you had an opportunity to read that volume?

MR. LILLEY: Not completely. I've read summaries and so on. Having read my own, I haven't gotten around to reading this one but I am familiar with the summaries.

MR. LUMBARD: Do you have any reactions to the report of that Commission insofar as you have read and studied it?

MR. LILLEY: Well, I will start by saying that

knowing the experience of our own Commission's report where the summaries produced a different reaction than the full reading would do, I hesitate to have a reaction. What I would say, in general, it seems more general than the New Jersey report. I don't say this critically. We were ten citizens of a State operating within the State and, presumably, it was easy for us to be specific. That is my most pertinent observation after having read the summaries myself. They are general. In some areas they seem to-- I won't say support, but they seem to agree with what our Commission said and in other areas there seem to be differences.

MR. LUMBARD: What would be the principal areas of differences and the principal areas of agreement?

MR. LILLEY: One area of difference that I recall is that they apparently didn't feel that any kind of consolidation of municipalities or services or this kind of thing would be worthwhile or useful whereas our Commission felt that something starting with consolidation of services such as police and so on, and perhaps going to consolidation politically in the long run, might be useful.

An area where they seem to agree with us was in not finding evidence of conspiracy in these disorders.

These are two that come to mind.

MR. LUMBARD: Do you have any others?

MR. LILLEY: They seem to agree with our finding that conspiracy did not exist in the disorders.

THE CHAIRMAN: Mr. Lilley, I would like to go back to the master plan section for just a moment. Did I understand you to say that your recommendation was in the planning of the police functions vis-a-vis the State Police, Municipal Police, National Guard? Was it limited to this or was it broader than this?

MR. LILLEY: I think that that particular recommendation was limited to that.

THE CHAIRMAN: Was it limited so that police functions should have a plan of action that encompassed all enforcement agencies?

MR. LILLEY: Right.

THE CHAIRMAN: Senator McDermott?

SENATOR McDERMOTT: Mr. Lilley, I would like to refer you back to Page 143 of the findings, Item No. 11 and Item No. 12.

Item No. 11 says that there was evidence of prejudice against Negroes during the riot on the part of various police and National Guardsmen. Item No. 12 talks about the fact that there were certain store windows that had "Soul" painted on them that were shot in or otherwise

destroyed. Is Item No. 12 the basis for the statement that there was evidence of prejudice as is contained in No. 11?

MR. LILLEY: No. They were separate.

SENATOR McDERMOTT: Would you care to expand on what the evidence was that the police were prejudiced against Negroes?

MR. LILLEY: There was testimony from witnesses that during the disorders, at road blocks and at incidents where groups encountered the police, that the Negro citizens were treated one way and white citizens were treated another. I can recall the testimony that at road blocks that were necessarily set around the area that white citizens moved through very freely and every car containing Negroes was stopped and searched.

There was testimony that in the movement of groups, groups that were moved and indeed thought they were obeying, were handled roughly. That's the sort of thing that's behind 11.

SENATOR McDERMOTT: That sort of testimony is the basis for the statement I just read?

MR. LILLEY: Right.

SENATOR McDERMOTT: This was the prejudice demonstrated by these acts at the time of the riot?

MR. LILLEY: Right.

SENATOR McDERMOTT: Incidentally, were you present when all of this testimony was taken?

MR. LILLEY: A large amount of it, yes.

SENATOR McDERMOTT: You weren't present at all of the times that testimony was taken? I presume the judgment was made on the basis of transcripts.

MR. LILLEY: Transcripts and presence. The majority of the Committee was present all of the time for all of the testimony.

SENATOR McDERMOTT: Who directed the testimony?

MR. LILLEY: We had an executive director, Mr. Sanford Jaffe.

SENATOR McDERMOTT: He's the Deputy Attorney General, isn't he?

MR. LILLEY: He was in the Department of Justice.

SENATOR McDERMOTT: On these particular points were any police officers questioned?

MR. LILLEY: I can't recall specifically. Police officers were extensively questioned about whatever we might have heard from witnesses. I can't specifically recall any testimony of this nature.

SENATOR McDERMOTT: When these witnesses who testified were questioned by Mr. Jaffe did anybody cross-

examine them on these particular points?

MR. LILLEY: Well, Commissioners followed up on the questioning. I don't know whether technically it would be called cross-examination.

SENATOR McDERMOTT: Thank you. I have no further questions.

THE CHAIRMAN: Senator Waldor?

SENATOR WALDOR: Just a couple of questions, sir.

I don't recall whether it was you or some other member of the Committee that was quoted and I will not attempt to quote the exact language, but after the report was released I take it that you have heard occasional criticism of the report. The question was asked, as I remember it, as to why certain witnesses were not called. That was the purpose of the Commission, to obtain sort of a grass roots type of testimony from individuals who perhaps were not necessarily known leaders but rather had an understanding of the circumstances and conditions that were present at the time of the riot.

I think this, generally, was the context of the statements. Senator McDermott asked you a question and I should like to know, sir, for the purpose of my own information--and I have read the report--if during the interviews or questioning of the various individuals who

appeared before you there were any National Guardsmen with the rank of private or under the rank of an officer who were present at the scene. Were they questioned and given the opportunity to testify before the Commission? The youngsters who may have been in the streets at the time.

MR. LILLEY: I don't recall that any enlisted men were. Officers were, but I don't recall any enlisted men.

SENATOR WALDOR: When you say officers, you are referring to officers who were at the scene of the riot activity?

MR. LILLEY: Right.

SENATOR WALDOR: Would the same thing be true of the State Police and the Newark Police as well insofar as so-called enlisted men or privates in the rank as contrasted to officers?

MR. LILLEY: I believe in the case of the State Police we had occasional troopers. I do recall clearly that we had Newark policemen, patrolmen.

SENATOR WALDOR: Who were present during the activities?

MR. LILLEY: Yes. For instance, under protection, the two patrolmen that arrested the taxi driver, with their rights protected.

SENATOR WALDOR: Did the Commission visit the scene of the riots?

MR. LILLEY: Yes, sir, it did.

SENATOR WALDOR: As I recall, you made a rather extensive tour of the riot area insofar as giving you the opportunity to make observations of what had occurred sometime afterward.

MR. LILLEY: In each of the three cities.

SENATOR WALDOR: Prior to arriving at your conclusions as set forth in the report, was there an exchange of ideas between members of the Commission with respect to attempting to reconstruct the circumstances and activities at the time they happened in view of the testimony, number one, that you received, the affidavits or other documents that you studied, your visits to the area, and was consideration given to the so-called human elements in certain cases that were leveled, for example, at National Guardsmen or State Police or police officers?

I mean to separate that and distinguish it from the actual testimony and the actual documents that you studied. The tensions that may have existed at the time, the inexperience or relative inexperience of the State

Police, an eighteen- or nineteen-year-old Guardsman and that sort of thing. I take it that these things were considered and discussed at length by the Commission. Is that right, sir?

MR. LILLEY: At great length.

SENATOR WALDOR: Thank you, Mr. Lilley.

THE CHAIRMAN: Assemblyman Owens?

ASSEMBLYMAN OWENS: Since the report has come out I imagine you have received quite a bit of mail and you have had some opportunity to get a feel of the reaction, particularly of the white community, to the report. Do you feel there is a willingness to accept the findings of the report and, further, to make the follow-through on the various recommendations?

MR. LILLEY: There's been a great deal of mail and I guess it's equal between criticism and praise. It's been impressive to me that many white people have asked what they can do. It's a very common question from the suburbs. "Can't you tell us what we should do?"

I have been impressed with that reaction. The suburbs are often said not to be interested and so on, but it's impressive. In fact, in many of the Essex County suburbs they are putting together Saturday and Sunday meetings. I have had a lot of requests to be a speaker

at these things. That's a good measure of it. So there is a reaction both ways.

However, I can't, of course, say about the total white community. The number of letters I have got are not a representative sample, but I would say there are a lot of people that are saying they're not praising the report so much as saying, "What can I do? What should I be doing?"

ASSEMBLYMAN OWENS: Have you been able to evaluate the reaction specifically related to the recommendations for regional activities, say, perhaps, on a county basis of some services and so forth?

MR. LILLEY: I don't recall any reaction in the mail on that at all.

ASSEMBLYMAN OWENS: In talking with suburban people have you gotten any reaction to this recommendation particularly?

MR. LILLEY: No. What we said in the report, I thought, would get a good deal of attention and it hasn't, as far as the kind of question that you're speaking of.

THE CHAIRMAN: Assemblyman Thomas?

ASSEMBLYMAN THOMAS: Most of these suggestions in the report call for governmental action and you have mentioned that you have received a reaction from the suburbs as to what they can do. What suggestions do you

have for these people? This is not governmental action now.

MR. LILLEY: That's right. This is a difficult question. I think there is a church in Newark that's having a Palm Sunday march. You might have heard about that. Queen of Angels Church and suburban churches are involved in it and the purpose of this is to walk through the central city and have suburban people see what it's like.

This certainly would be a good education for anyone that hasn't done it. It's the best way that I know to get an understanding of what things are like. So I would urge the churches, in the role they often play, to play it by ear and, indeed, some of them are.

Beyond that it's hard to say, in a non-governmental area. It's going to be a question of thinking. I don't mean to push this report, but I would like to see every person in the majority read this report and consider it. I think this would allow people in the suburbs or elsewhere, in a much cheaper way than the ten commissioners did working hard for six months, to realize what things are like.

ASSEMBLYMAN THOMAS: Once you have this realization, what do you do with it as an individual?

MR. LILLEY: Well---

ASSEMBLYMAN THOMAS: I mean, what can I do if I

walk through the area involved and see what the conditions are? What's my next step?

MR. LILLEY: It would seem to me, the way our governmental process works, if I get that conviction one of the best things to do would be to convey it to my elected representative because I think, from what I can see, they're looking for this message.

ASSEMBLYMAN THOMAS: In other words, to be willing to accept the financial burden that would be required to implement the governmental suggestions in the report. Is that the idea?

MR. LILLEY: Ultimately, that is one of the considerations. Some of the things, as I said, don't cost any money and yet have to be implemented.

ASSEMBLYMAN THOMAS: Now, changing the subject for a moment, do you think that an immediate show of force when a civil unrest situation seems to be developing is a good deterrent to any further development or escalation of the situation?

MR. LILLEY: From what I have heard, I would say yes. In fact, our report tries to convey that once things have moved to a point where there is actually disorder, the extent and everything else would be minimized if the authorities moved quickly.

ASSEMBLYMAN THOMAS: Maybe I misread this. I am referring to Page 160 now. Something with respect to the Englewood situation. It seemed to me that your report was critical of an immediate show of force in that city. I refer to Paragraph 5 on Page 160.

MR. LILLEY: Yes. I think this is not addressed to the speed of reaction so much as to, perhaps, over-reaction. The situation that seemed to prevail in Englewood, which, incidentally, seemed to be well-handled, was that everybody there seemed to be for more police than were needed. They were called in from surrounding municipalities. The county police were called in. It wasn't the speed of the reaction. It was the overreaction.

In the part of our report that deals with Newark we comment on the fact that police officials were asking for the State Police and their requests were delayed and that's what I mean by speed of reaction. In the case of Newark our Commission would have said that the State Police should have gotten in somewhat sooner.

ASSEMBLYMAN THOMAS: Are you then saying that a few police officers displayed quickly are better than a large number?

MR. LILLEY: I would say the required number

displayed quickly.

ASSEMBLYMAN THOMAS: How does one determine what is enough?

MR. LILLEY: It's difficult. The groups involved thought it was an overreaction. I don't know how to put an empirical value on it except that one of the gatherings at Englewood I think had thirty-five or forty who seemed they might be troublesome. And there was a very large number of police, an overwhelming number of police, even though it was not involved in civil disturbances. That seemed to be an overreaction.

It's a matter of judgment, I would say, but I think a man of judgment could ascertain when the numbers had gone too far. Certainly, in any event, the speed of reaction is important.

THE CHAIRMAN: Senator Woodcock?

SENATOR WOODCOCK: With respect specifically to the summer coming up, is there anything that the State can do now to prevent the same thing from happening that occurred last year in Newark, taking into consideration the short period in which we have to act?

MR. LILLEY: Well, I keep coming back to these recommendations, chiefly because they were arrived at by ten men, and I don't want to be editorializing myself.

This business of what happens this summer, I would have to admit that I don't know what is going to happen even if all these things were done and perhaps we would not have a disturbance if many were not done. It's one of those kinds of situations. But I would say that from what I have heard, if it became evident to the community that the government and the people were concerned and were moving in good faith in a number of areas, it would have quite a good effect.

SENATOR WOODCOCK: Well, let me see if I understand your position correctly. Are you saying that if we move in the area of taking some meaningful steps in the areas of schools and improving the police-community relationships that this would have a good effect on the communities there in Newark and Plainfield and Englewood and all of the other cities of this State?

MR. LILLEY: I would think so, yes, sir.

SENATOR WOODCOCK: I note that in your recommendations you set forth a section--I believe it's C--having to do with summer programs which seem to me to be something that could be put into effect rather faster than the schools which are something that take time to develop. Do you think that these programs would help to prevent an outbreak of further disorders?

MR. LILLEY: I think so and that is why we put this section in. I can recall in the course of discussing this we became aware that a city like Newark is serviced by a wonderfully large amount of parks. That doesn't cost anything. That could be suitable for day camps. Branch Brook Park and Watchung Reservation. So we did have just this in mind in setting up this section.

SENATOR WOODCOCK: Specifically with reference to the summer programs as mentioned in Section C--and most of them, I believe, are directed at the City of Newark--have any of these plans been implemented by the City of Newark?

MR. LILLEY: I don't know at the moment. I don't believe so, but I'm not sure of this.

SENATOR WOODCOCK: That's all I have.

THE CHAIRMAN: Senator Dumont?

SENATOR DUMONT: Mr. Lilley, in Item 13 of your findings, which is the last one on Page 144, you say, "The evidence presented to the Commission does not support the thesis of a conspiracy or plan to initiate the Newark riot."

Agreeing for the moment that there was no conspiracy involved in it, are you trying to say that there was no prior planning involved in the riot?

MR. LILLEY: As far as we could ascertain, there wasn't. Perhaps I--I was going to say that the matter of conspiracy was in front of us from the day we were put together. It's probably a question we gave more attention to than any other because it was on everybody's lips and we constantly probed the witnesses with every device we had to ascertain it.

There could have been, during the riot, small groups that came together to plan the next action. It isn't clear whether this happened or not, but it was clear there was no external planning of the undertaking.

SENATOR DUMONT: Are you aware of the fact that the National Guard units normally assigned at that time--that's before the current reorganization which took effect February 1 of this year--that the Army National Guard units normally assigned in Newark and West Orange areas were on annual field training at Camp Pickett, Virginia at the time of the Newark riots?

MR. LILLEY: I don't recall that I do know that, Senator.

SENATOR DUMONT: Well, then, perhaps this question isn't of much merit, but are you also aware that the dates for annual field training are fixed months in advance and are common knowledge to everyone?

MR. LILLEY: Yes.

SENATOR DUMONT: And, of course, that these units are only gone for fifteen days out of the entire year so that, therefore, any military units available in containing the riots in Newark had to be sent in from a considerable distance than those units would have been.

Now, if you had known that at the time of writing the report would it have made any difference in your opinion that there was no prior planning, perhaps, in the initiation of the Newark riot?

MR. LILLEY: I don't think so. I don't know. However, the testimony from the National Guard did not indicate that they were light on men or were prevented from getting there as quickly as they wanted to. That was in front of us.

SENATOR DUMONT: Whose testimony was that? Did General Cantwell testify?

MR. LILLEY: General Cantwell and other officers, yes.

SENATOR DUMONT: Did Colonel Kelly of the State Police also testify before you?

MR. LILLEY: Yes, he did.

SENATOR DUMONT: Here on Page 171 you indicate, under welfare, that the financing and administration of

all public assistance programs in New Jersey should be centralized in one State agency. I can understand your reasoning--whether I agree with it or not is something else--as to the funding because that spreads the burden over everyone in the State. But I would like to question you with regard to why you think it would be better to administer all public assistance programs in one State agency and take it, as I understand that finding, away from the municipal level or the county level of government.

MR. LILLEY: Well, I think our recommendation here stems from the fact that we realized a city like Newark was simply over its head from the point of view of funding its welfare costs. As far as being centralized, as I recall it, our feeling was that this was a large amount of money and it would be spent most efficiently if there were an overview of how it was being used.

SENATOR DUMONT: Newark is only one of 568 municipalities in the State. Granted, it is the largest municipality in the State in population, but wouldn't you think that normally some local control over public assistance and the closeness of local agencies to the people of that community would have a better impact than to do it through a State agency by way of administration?

MR. LILLEY: You mean providing the money was

coming from the outside?

SENATOR DUMONT: Providing the money was as you recommend.

MR. LILLEY: I don't know as we had strong feelings on that. The main thrust of our feeling was that the financing was not there for Newark and because of the influx of people from the South and so on Newark inherits many of the problems.

We were seeking a way out, with their heavy local tax burden, a way out for them to do a better job.

SENATOR DUMONT: Well, the real thrust of this recommendation is toward the funding rather than taking the administration away from home rule. Is that correct?

MR. LILLEY: I would say that would be secondary.

SENATOR DUMONT: Thank you.

SENATOR McDERMOTT: Mr. Lilley, the recommendations of the Committee have to do with financial expenditures, not just in welfare but in education, police, et cetera. Did they get a price tag on what their recommendations would cost?

MR. LILLEY: Not specifically, Senator. We felt that we had a job to do and we were trying to get it done just as fast as possible and we finally decided that we would say what we thought had to be done without getting

into pricing out, which we didn't have the staff or the ability to do, leaving it to those who did have the knowledge to set the priorities to do so.

SENATOR McDERMOTT: Did the Commission have any idea whether it would be a hundred million, two hundred million?

MR. LILLEY: Well, we had various very rough estimates. For instance, in the matter of education in the City of Newark it would be a very expensive undertaking.

SENATOR McDERMOTT: Round figures.

MR. LILLEY: Oh, it would be in hundreds of millions.

SENATOR McDERMOTT: Hundreds of millions?

MR. LILLEY: Yes.

SENATOR McDERMOTT: This is to be borne by the State, principally, because the City of Newark is a bankrupt city?

MR. LILLEY: Right. We did, as you know, suggest that the Newark education situation be declared a disaster and temporarily taken over by the State, not only for money reasons but for other reasons in the way of administration.

MR. LUMBARD: Does that include corruption?

MR. LILLEY: With respect to the Board of Education in Newark?

MR. LUMBARD: Yes.

MR. LILLEY: We didn't have corruption in mind one way or the other there.

SENATOR McDERMOTT: What about welfare? Were there any figures that they had on the cost of welfare?

MR. LILLEY: There were estimates on welfare. I don't recall them at the moment. Welfare was easier to estimate because you had an existing situation to price out. This was the matter, of course, of transferring it from the tax load in Newark.

SENATOR McDERMOTT: I realize that the Commission, as you pointed out, would go on the basis of priority of meeting these needs, these dollar needs, but what do you think would be the total cost if the State came in in the areas of police protection, welfare, education, and all of these other areas? Do you think it would be in the area of, say, a half a billion dollars?

MR. LILLEY: I don't just know, but there is no question that it would be expensive. No question.

SENATOR McDERMOTT: Thank you.

MR. LUMBARD: In terms of amounts of money and aid that you say would be necessary, do you think that

their development might be impeded by the emphasis in your report on corruption in Newark?

MR. LILLEY: You mean that there would be a hesitancy to apply the funds because of the existence of that?

MR. LUMBARD: Yes. I am asking your opinion.

MR. LILLEY: That could well be. As you know, we suggested that this be investigated. We spoke of it on the basis of belief.

MR. LUMBARD: You spoke very critically of corruption in Newark in your report. With great candor, as a matter of fact.

MR. LILLEY: We did say, though, that it was a belief that destroyed the confidence in government. We thought another agency should investigate it.

MR. LUMBARD: I understand that you didn't investigate it.

MR. LILLEY: Right.

SENATOR WALDOR: Going also to this question of corruption, you say there was a pervasive belief that corruption existed. I take it that resulted from the testimony of the individuals who were testifying based on hearsay as contrasted to giving you specific information with respect to any alleged corruption?

MR. LILLEY: Either that or we were unable to pursue it.

SENATOR WALDOR: Well, there is a difference. I am not trying to pin you down, please believe me. But having my office in Newark and at one time being a resident of Newark, I am curious to know specifically because the language was that there is a pervasive belief which destroys the confidence of the people, et cetera, et cetera, et cetera, that corruption exists in Newark.

Obviously, according to what you have said here and according to what I gather from the report, this belief existed or arose based upon testimony of individuals who said that it existed without going into the specific details of where it existed or what the circumstances or conditions of this existence were.

Now, that is true, is it not?

MR. LILLEY: That's right.

SENATOR WALDOR: Therefore, there would be nothing that came before the Commission that could be the specific subject matter of an investigation by either the Attorney General or the Prosecutor of Essex County or anyone else insofar as specific examples or evidence of corruption in Newark is concerned?

MR. LILLEY: That's right.

SENATOR WALDOR: So that the Commission, in effect-- and I am expressing my opinion at this time--in my judgment did nothing more than go down to Broad and Market Street in the City of Newark or outside of the New Jersey Bell Telephone Company's office and went up to some persons on the street, whoever they may have been, whatever their conditions or circumstances were, and said, "Is there corruption in the City of Newark?" And the person would say yes.

The Commission, therefore, based upon the affirmative answer then said, "There is a pervasive belief." No matter how many times it happened. I can understand that probably it happened more than once otherwise it wouldn't be mentioned. But based on this type of testimony, or whatever you want to call it, the Commission then went ahead and used the term corruption in making its statement about corruption in the City of Newark as it did in the report.

I mean, basically that is what it consisted of, is it not?

MR. LILLEY: Yes. There was some specific testimony. Inspector Redden spoke of it. We were aware of Grand Jury presentments in the past about which nothing was done. This was the substance of the thing. But we were

interested in mentioning this because it was apparent to us that this belief was a strong factor in destroying confidence in government.

THE CHAIRMAN: I think we should have a recess at this point, Senator. Unless there is a pressing matter, I think we should take a recess and release Mr. Lilley and thank him very much for appearing.

[Witness excused.]

[At this point there is a short recess.]

THE CHAIRMAN: We will call the hearing back to order. We have as our next witness Mr. Ashby.

Would you identify yourself for the record, Mr. Ashby, and then I would like to swear you in.

MR. ASHBY: Harold J. Ashby. I reside at 236 Custer Avenue, Newark, New Jersey, and I am chairman of the New Jersey State Parole Board.

H A R O L D J. A S H B Y, sworn.

THE CHAIRMAN: Will you proceed.

MR. ASHBY: Senator, I have presented to the Committee a statement which I would like to have entered into the record. I will only at this time outline the jurisdiction of the Board and thereafter perhaps the

Committee would like to ask me questions.

"In New Jersey today there are five different boards which have the power to grant parole, namely, the respective Boards of Managers of the State Home for Girls, State Home for Boys, Reformatory for Women, Reformatory Complex for Males (Yardville Reception and Correctional Center, Bordentown Reformatory, Annandale Reformatory) and the State Parole Board. By statute the State Parole Board exercises paroling authority with respect to all offenders who have life sentences, fixed minimum and maximum terms, individuals committed under the special sex offender law, and prisoners with indeterminate sentences who are transferred to the New Jersey State Prison. Records are maintained on all such prisoners and they are automatically scheduled for parole consideration when they become eligible by law.

"It should be understood that the law requires that all offenders be considered for parole when eligible, but their release on parole is a matter resting within the discretion of the Board. The Board also considers for parole certain inmates of county penitentiaries, but only if they apply for parole consideration.

"Aside from the parole function, the Board acts in an advisory capacity to the Governor in the exercise

of executive clemency."

THE CHAIRMAN: Thank you.

MR. LUMBARD: Commissioner-- That's what you're known as?

MR. ASHBY: Chairman.

MR. LUMBARD: Are you accompanied by---

MR. ASHBY: Accompanying me is the chief of our Bureau of Parole. In New Jersey the supervising agency is an independent body not under the jurisdiction of the State Parole Board and I felt if there were any questions involving supervision that the chief of that Bureau should be here.

Also with me is the confidential agent of the Board, Mr. McKee.

MR. LUMBARD: I would like to particularly address a few questions to the organizational structure, where your Board and the supervising agency fit together. To go at it more directly, in your opinion do you think parole service in New Jersey could be improved by having a concept such as in New York where you have a Board of full-time commissioners--whatever the size might be, according to the case load--the chairman of which supervises in the administrative-structure sense the supervising agency, the actual persons who carry out the parole

functions, as distinct from the adjudicatory decision-making structure?

MR. ASHBY: I think strong arguments can be made in favor of a centralized decision-making body and parole supervision, but I am quite sure the Committee may be aware that authorities differ. Criminologists in the country have differed substantially on whether or not this is the best organizational structure.

I think Tappan in his volume on Crime, Justice and Correction seems to indicate that a quasi-judicial body might be the more effective instrument for dealing with parole and that where parole boards are involved in functions other than decision making with respect to parole releases that this sort of dilutes and also makes for a less effective department than one which is dealing solely with parole releases.

MR. LUMBARD: Would you agree with me that that, however, is not the general body of opinion on that subject? I'm not at this moment familiar with Paul Tappan's volume. I don't recall it offhand.

MR. ASHBY: Well, I would say this: that in the country I believe there is sort of a split with respect to the organizational structure of parole boards. I am of the view that a parole board should be restricted to

the quasi-judicial functions and that the responsibilities of supervision should be with an independent agency.

MR. LUMBARD: In what sense?

MR. ASHBY: As structured in New Jersey presently. This supervising agency is now an agency which is a part of the Division of Correction and Parole, a part of the Department of Institutions and Agencies.

MR. LUMBARD: Does that supervising agency work in the institutions with pre-release programs?

MR. ASHBY: I don't follow you.

MR. LUMBARD: Well, preparing the people who are inside, interviewing them while they are there, classes on what parole is, et cetera.

MR. ASHBY: Yes. We have pre-parole classes and also pre-parole reports are prepared with respect to all cases that are coming before the Board for consideration.

MR. LUMBARD: The next question is: Should the commissioners, if they are to be independent, be full time or not?

MR. ASHBY: Strong arguments can be made in favor of a full-time parole board, but I am not convinced that the establishment of a full-time board in and of itself, without other measures, would make for a more effective parole system.

MR. LUMBARD: What are the measures, in your opinion, that would make for the most effective parole system in New Jersey? What should it look like?

MR. ASHBY: I think that rather than organization we have to start talking about methods for determining release. And I think, as I have indicated in my statement--

MR. LUMBARD: Well, Mr. Chairman, if you are going to talk about an effective government entity you have to cope with organization because you can't very well have new programs or old programs or any kind of functioning programs except within the framework of organization.

Let's start with through how you would organize this thing which you would have to tailor to meet these programs that you wish to develop.

MR. ASHBY: I can't talk about the structures of our reformatories because we do not have jurisdiction over these areas ~~which the reformatory boards handle.~~

MR. LUMBARD: Again, I want to come back. I am not asking what you now have only. For example, an obvious question is: If you have five separate parole functions going on by five different entities in New Jersey, should they all be one? Why should you have five parole boards?

MR. ASHBY: I think before you can-- I don't believe in making changes for the sake of making changes alone. I think we ought to look at results.

If we find that the New Jersey system isn't working, then we ought to say, "What are the causes? Is it rules, is it personnel, or other factors?" But <sup>change</sup> for change alone or argument, I do not support that view.

MR. LUMBARD: Mr. Chairman, I am not interested in change for change sake, either. There is an obvious question, however, when you have five doing the function one might do. Why not? So I am merely asking you why not.

MR. ASHBY: I feel that the present system is effective and until such time as it is demonstrated that it is ineffective I don't think any changes should be made.

MR. LUMBARD: If you cope with it only on that level you might even have an obvious question from the taxpayers' point of view. Wouldn't one administrative structure servicing the five boards be less expensive than five?

MR. ASHBY: Not as structured in New Jersey because the parole supervising agency affords services for all of the respective Boards of Managers and the

State Parole Board. The Boards of Managers are not salaried individuals. Therefore, in terms of cost it is probably cheaper as presently structured than it would be if structured in some other fashion. So if we are talking about economics, we would say that the present structure is most effective in terms of the taxpayers' viewpoint, <sup>that is</sup> moneywise.

MR. LUMBARD: Let's turn it around and say: What are the advantages of the five instead of one?

MR. ASHBY: I would rather answer the questions related to my own jurisdiction because I am not that familiar with areas beyond my jurisdiction where I could say what are the advantages and disadvantages <sup>just</sup> as I would anticipate that the members of the Boards of Managers of a respective institution could not express views respecting the functions of the State Parole Board.

MR. LUMBARD: Do they ever meet together, the members of all five?

MR. ASHBY: We have not had occasion to meet with Boards of Managers of other institutions.

MR. LUMBARD: Either to exchange views or experience or how a particular thing seems to be happening, this trend or this kind of case?

MR. ASHBY: No, we have not.

MR. LUMBARD: Do you think there might be some lessons one could give to the other?

MR. ASHBY: Certainly, I think that an exchange of information is always helpful.

MR. LUMBARD: All right.

Since we didn't get very far on organization, let's get back to programs, program content. What would you suggest to improve parole in New Jersey? While I am sure you feel that the structure is satisfactory and perfect, I am sure there are things about parole in New Jersey that you think are not wholly perfect.

MR. ASHBY: I think that more objective and reliable methods for determining release on parole must be developed. In that connection the Board recommends that research programs directed toward the establishment of valid guidelines in predicting human behavior be established.

This effort should be coupled with an enlargement and upgrading of staff who are responsible for gathering and assessing information made available to parole board members.

MR. LUMBARD: Are you reading from your statement now?

MR. ASHBY: Yes. I am now reading on Page 6,

the bottom of the statement.

MR. LUMBARD: I would share with you that objective. I will read it for the Committee so that the full impact is gathered, because it has implications for the police, the prosecutor, the sentencing judge, the institutions, everyone.

MR. WILSON: "In that connection the Board"--I wish this could happen--"recommends that research programs directed toward the establishment"--I don't know how you are going to do this--"of valid guidelines in predicting human behavior be established."

The basic problem there is <sup>that</sup> the social and behavioral sciences have not the knowledge to be able to do this.

MR. LUMBARD: So what you are talking about is not a merely statistical tabulation of what's going on. That has been done <sup>by others</sup>. What you are really saying is that you want a new area of knowledge that the psychologists have yet to figure out?

MR. ASHBY: No. I would want non-going programs, too.

In New Jersey at the present time we do not have this translated into action, but I think there are a few states--California, Illinois and some others--who

have done work. But in New Jersey we don't have any/<sup>such research</sup>and  
I think there should be some tools that we can use,  
statistical and otherwise, that would be helpful in making  
parole releases and I think these ought to be developed  
in the State.

I am not saying that they will be a panacea,  
after having them/<sup>developed:</sup> or that they will necessarily be  
correct, because there are bodies of knowledge on all  
sides with respect to prediction tables.  
But I think there ought to be research in these areas.

MR. LUMBARD: Do you think the prediction tables  
work?

MR. ASHBY: I think prediction tables are another  
aid in the exercise of judgment in the area.

Another recommendation that we are making--and although  
we indicate that parole supervision is not within our  
responsibility, but we feel that the individual case  
loads ought to be reduced by an enlargement of staff and  
that there ought to be further inducement to parole  
officers to reduce the turnover that they are now  
experiencing.

MR. LUMBARD: Are you even faintly concerned  
with what goes on in the supervision?

MR. ASHBY: We are concerned to the extent that

any body would be where their decisions are in measure and in great measure affected by the type of supervision that's being afforded.

MR. LUMBARD: Isn't that a reason for having them combined or working together in the same house?

MR. ASHBY: Well, we are working together and have been working together effectively, I believe.

MR. LUMBARD: What is the average case load per officer?

MR. ASHBY: Mr. Arluke?

MR. ARLUKE: Roughly, sixty-five.

MR. LUMBARD: How many officers do you have?

MR. ARLUKE: Eighty-nine parole officers.

MR. LUMBARD: What are the educational levels of these eighty-nine?

MR. ARLUKE: Minimum requirement of a degree in the area of education or sociology, psychology, related fields.

MR. LUMBARD: College?

MR. ARLUKE: Yes.

MR. LUMBARD: Master's?

MR. ARLUKE: Not a master's. One year of experience is a minimum requirement, plus the degree.

MR. LUMBARD: What is your annual turnover?

MR. ARLUKE: Last year the annual turnover was

twenty-four per cent.

MR. LUMBARD: What was the turnover the year before?

MR. ARLUKE: 25.3 per cent.

MR. LUMBARD: Would it be fair to say that you turned the whole staff over, almost, in four or five years, then?

MR. ARLUKE: Almost.

MR. LUMBARD: Do you regard that as a satisfactory condition?

MR. ARLUKE: No, sir. Absolutely unsatisfactory. However, what I wanted to point out, the first three months of this year there was an increase made effective January 1st. The turnover for the first three months of this year is three per cent which, multiplied for the full year, should average about twelve per cent which is cut down to a reasonable factor.

MR. LUMBARD: Do you think you can offer satisfactory parole service with a case load of sixty-five per officer?

MR. ARLUKE: No, sir.

MR. LUMBARD: So you are not now rendering a satisfactory parole service?

MR. ARLUKE: Satisfactory under the limitations

that we have, yes. We are aiming for a case load of fifty on the basis of increased personnel each year. However, our case loads are increasing at an increasing rate. It is not, you know, a general curve. It's difficult to keep up with the increase. In our budget message we have asked for adequate personnel, but not necessarily have gotten it.

MR. LUMBARD: Who denied it to you?

MR. ARLUKE: The budget committee and Legislature, whoever it was that handled it from there on.

THE CHAIRMAN: Assemblyman Thomas?

ASSEMBLYMAN THOMAS: There are several measures pending now before the Legislature which have to do with imposing very high minimum sentences, mandatory minimum sentences, in certain areas, narcotics being one and the use of weapons being another.

Do you think that such laws that impose mandatory high minimum sentences act as a deterrent to possible crime?

MR. ASHBY: Initially, I should state that I would not be in favor of mandatory sentences, particularly in the case of narcotic offenders. I think especially of certain cases that come before the Parole Board where an individual has been convicted of the sale of narcotics.

Close analysis would indicate that this individual has been an addict for some time, and is not a pusher in the usual sense.

ASSEMBLYMAN THOMAS: Let me---

MR. ASHBY: If I may finish-- And has purchased two packs and sold one and if you have a mandatory sentence for the sale of drugs this man might <sup>receive</sup> a twenty-year sentence and you would be penalizing an addict, not a real pusher.

ASSEMBLYMAN THOMAS: The high mandatory sentence in this area is for the non-addict pusher. Do you think this might act as a deterrent in that area?

MR. ASHBY: I do not believe it would.

ASSEMBLYMAN THOMAS: Why don't you think so? Do you think there should be discretion left to the court in imposing the sentence?

MR. ASHBY: I believe the discretion should be left to the court and I think more offenders would be injured by such mandatory sentences than would be deterred by <sup>mandatory sentences</sup> being on the statute books.

SENATOR DUMONT: Mr. Ashby, is yours a full-time job?

MR. ASHBY: Yes.

SENATOR DUMONT: The other two members, <sup>Mr.</sup> Hannold and <sup>Mr.</sup> Swick, about how much time is required of them?

MR. ASHBY: Extensive. This month, for instance, we will have heard approximately 250 cases. This will require, of course, that the classification materials which have been prepared with respect to each offender be read thoroughly<sup>and</sup> digested. This, of course, with respect to the associate members is done at home. In my case I do it at the office, plus carry out the other responsibilities<sup>required</sup> in the performance of my duties.

Then, of course, we are required to meet at the respective institutions to conduct hearings with respect to all of these cases.

SENATOR DUMONT: In your opinion would it be better if the two associate members were on a full-time basis rather than this part-time setup?

MR. ASHBY: As I indicated in my response to Mr. Lumbard, I do not feel that their being full-time would add to the effectiveness of the present program.

MR. LUMBARD: Even if they have 250 cases in a month plus hearings?

MR. ASHBY: I would say this: that it depends upon the amount of time they are willing to put in. In other words, if they are able to put in the amount of time required, and I think they do,

I don't see how it would be more effective if they were full-time.

SENATOR DUMONT: How many days a month do you serve in the various institutions?

MR. ASHBY: It depends on the case load. It might be two or three days at the New Jersey State Prison, two or three days at Rahway. We may be a day at Clinton maybe every couple of months. We will be at Leesburg, which is a rather small institution, once a month. We will be at the Essex County Penitentiary every three months for a day. And that would be our general picture of the situation.

SENATOR DUMONT: About six or eight days a month, on the average?

MR. ASHBY: That would be the hearings. This is not the time required for the reading of the cases.

SENATOR DUMONT: I understand that, but at the institutions.

MR. ASHBY: At the institutions I would say, maybe, seven or eight days a month.

SENATOR DUMONT: Thank you.

ASSEMBLYMAN OWENS: Two questions, one rather brief and the other perhaps a bit longer.

The first question deals with the legislation

that Senator Thomas referred to.

First of all, do you get an opportunity to talk with individual prisoners in your work?

MR. ASHBY: Every prisoner is interviewed. A parole hearing is a part of the parole consideration.

ASSEMBLYMAN OWENS: Well, in talking with prisoners does it appear to you that they are at all aware of legislative action in increasing penalties for the commission of crime?

MR. ASHBY: I do not feel that this is part of their deliberations when they are about to consider the commission of an offense/<sup>that is,</sup> as to whether the sentence is going to be seven years or ten years. This does not seem to come through as part of their consideration.

ASSEMBLYMAN OWENS: Would you have any opinion as to whether or not the prisoners that appear before you consider this kind of legislation? Would it be a deterrent to them? Do they give you that impression?

MR. ASHBY: They do not give me that impression.

ASSEMBLYMAN OWENS: I have, perhaps, a broader question.

Mr. Chairman, perhaps I should consult with you on this in that I don't know whether you are aware, but I am aware, that Mr. Ashby is also president of the Newark

Board of Education and I would like very much to ask a question in that area.

THE CHAIRMAN: Certainly.

ASSEMBLYMAN OWENS: Mr. Ashby, I assume--in fact, I am quite certain--that you have read the Governor's Commission on Civil Disorders report. Am I right?

MR. ASHBY: I have read with interest those portions dealing with education, but I have not had the opportunity to delve as thoroughly as I might into some of the other areas.

ASSEMBLYMAN OWENS: Since you have been the president of the Newark Board of Education for several years and since a great deal of this report deals specifically with recommendations related to the Newark Board of Education, I would very much appreciate your reaction to those portions of the report, if you are able to do so without the benefit of the report before you.

MR. ASHBY: I should preface my statement by saying that any views that I express are the views of myself and not<sup>of</sup> the Board of Education because the Board of Education has this report under consideration and has not adopted a position with respect thereto.

The recommendation that the State take over the Newark school system is one of great interest and it is

my view that that recommendation was made with the thought that if the State were to take over the Newark Board of Education or the Newark school system, rather, that there would be available additional operating and capital funds. I think the takeover of the school system without the accompanying infusion of funds would be a meaningless gesture because the solution to our problems--that is, many of them--relate to an inadequacy of funds. If we could be provided with funds for the shortage of some ten thousand pupil stations that we have at the present time, with many of our schools being utilized to the extent of 140 per cent and higher, if some of these problems could be overcome and we were given funds, then I think we could probably solve many of the problems.

Thank you.

ASSEMBLYMAN OWENS: Are there other things that you might care to comment on? I ask this because it doesn't appear to me to be too likely that the State will take over the system and Mr. Lilley, in his presentation before the Board, was very specific in his thought that education was the most important or the educational recommendations were the most important portions of the report. So if the State does not take over the Newark school system as I assume it will not,

and perhaps I'm really premature in making that assumption, what portions of the remainder of the recommendations do you think are good and should be implemented?

MR. ASHBY: The recommendation that comes immediately to mind is the one about decentralization of the Newark school system. This gives me a great concern, just as a comparable situation in New York gives them concern.

I am concerned about the duplication with respect to let us say, with respect to areas of supervision with respect to competition that might exist between respective districts competing for teachers, for supervisory staff, and various other matters which are inherent problems in any decentralized system.

Therefore, I would want to take some time before I would be in a position to concur in that particular recommendation.

While I have this opportunity I'd like to emphasize very strongly the predicament which Newark has with respect to its educational system. Our bonding capacity is \$59,000,000 and there has been expended \$54,000,000. We are faced with a shortage, as of last year, of ten thousand pupil stations and this is going to be increased, probably, this coming September.

Our schools are over-utilized. More than two-

thirds of our schools are over fifty years old and four of our schools are over one hundred years old.

As I travel about the city each and every night to various PTA meetings I am greatly concerned about the tensions that exist, particularly with respect to education. I can't help but recall a statement of a mother just this last week at a PTA meeting when we were talking about the possible pupil increases in the schools next year.

Her statement at this meeting was, "I did not participate in the riot last year, but let me promise you this: If there is a riot next year I'll join them and perhaps we ought to burn down the blankety-blank schools and somebody will do something."

This is the feeling that I get across the city with respect to the school system.

When you have a child sitting in a school that's a hundred years old and he's sitting in a class with forty other students with dilapidated equipment, inadequate materials, inadequate supplies, inadequate building, with all the other things that accompany it, then I think the Legislature ought to be concerned and ought to move forward. This ought to be their matter of first concern. This ought to be their top priority, if you are going to

talk about crime, about various other aspects of living in an urban society.

MR. LUMBARD: Mr. Ashby, how much time does your position in the Newark Board of Education take?

MR. ASHBY: These services are performed in the evenings after my services with the State Board for the day have ended; ~~the Board~~, and on weekends and other times when I have available time.

MR. LUMBARD: Well, is your position sort of a figurehead?

MR. ASHBY: Well, it's a policy-making body. It's a non-salaried position and one that many look upon as a civic responsibility.

MR. LUMBARD: And you say it has no effect upon your services and your time as a member of the Parole Board?

MR. ASHBY: When you say effect, I don't think anyone can be involved in social problems, particularly as they relate to a school system, and say they're unrelated and have no effect. It does affect me, yes, sir. This is not a salaried position. In New Jersey--I don't know whether you are familiar with our setup--we have non-salaried Boards of Education and many individuals in many fields of endeavor contribute their time to this

rather worthwhile endeavor and most of it, as you know, is in the evening. Our meetings are held in the evenings and on other occasions so it does not interfere with one's working time; and I would hate to think that we have come to the point, or will ever come to the point, when State employees would not be able to contribute their services to other areas of civic responsibility that are vitally as important.

THE CHAIRMAN: Any further questions?

(No response.)

THE CHAIRMAN: Thank you very much.

[Witness excused.]

THE CHAIRMAN: Mr. Murray, would you identify yourself for the record?

MR. MURRAY: I am Peter Murray. I reside at 322 Chestnut Street, Nutley, New Jersey, and I am the New Jersey State Public Defender.

P E T E R   M U R R A Y,        sworn.

THE CHAIRMAN: I understand that you will be able to read your statement for us. Would you proceed, sir?

MR. MURRAY: Mr. Chairman and members of the Committee, I have submitted on behalf of my office a

lengthy statement regarding the formative months of our operation and I would like to capsulize that in a few minutes, if the Committee feels that it's in order.

The Public Defender's office was established pursuant to Chapter 43 of the Laws of 1967, effective last July 1st. The office is attached to but not of the Department of Institutions and Agencies. It's primary goal is to provide legal representation for all indigent defendants formally charged with the commission of an indictable offense.

Additionally, we are charged with the duty of providing all necessary allied services and facilities of such representation, such as investigation of each individual case both as to indigency and as to the merits of the case and other contemplated services, such as expert witnesses and examinations.

The office does not represent indigents charged with offenses under the Disorderly Persons Act, the Motor Vehicle Act, any municipal code violation. We do not represent indigent juveniles nor do we become involved in mental commitment proceedings.

These are all areas in which the right to counsel for the indigent is presently under discussion nationwide.

The structure of our organization has been

established with the primary goal in mind, as expressed by the New Jersey Legislature, to provide for the realization of the constitutional guarantees of counsel in criminal cases for all indigents by means of an established system and program to the end that no innocent person shall be convicted and that the guilty, when convicted, shall be convicted only after a fair trial according to the due process of the law.

Our State headquarters is located at the Newark Center Building and our regional offices, twelve in number, are located individually in the counties of Bergen, Essex, Hudson, Middlesex, Monmouth, Passaic and Union. Offices serving multi-county regions have been established in Atlantic City, covering Atlantic, Cape May and Cumberland; in Toms River, covering Burlington and Ocean; in Camden, covering Camden, Gloucester and Salem; in Trenton, covering Mercer, Somerset and Hunterdon; in Morristown, covering Morris, Sussex and Warren; a subregional office in Somerville.

I might point out that the basis for this regionalization was undertaken along the lines of the assignment court judges in New Jersey so that there will be an easy relationship with the assignment courts. We do not have twenty-one offices as do the prosecutors.

In addition to representing individuals at the

trial levels, we are charged by the statute with the duty to provide counseling to the indigent for direct appeal from judgment of conviction and for such post-conviction relief matters as would be provided by the rules of court previous to July 1, '67.

Therefore, there has been established at the Newark headquarters an appeal section staffed by a deputy in charge, nine assistant deputies, and three law clerks, which handle all of the appeal matters throughout the State no matter what region they might ensue from.

Since mid September of 1967 173 direct appeals from judgments of conviction and thirty-eight appeals from denials of petitions seeking post-conviction relief have been filed in the Appellate Division and a few have been filed in the New Jersey Supreme Court.

The Appellate Section is now handling roughly twenty per cent of the volume of all appeals, civil and criminal, in the Appellate Division of the New Jersey Superior Court.

You may be interested to know what the twelve regional offices are doing. Each region is under<sup>or</sup> the charge of supervised by a deputy defender. He has under his charge sufficient assistant deputies as are necessary to meet at least seventy-five per cent of the individual regional

case load of indigent matters. We now have twelve deputies in charge of the twelve regions and we have forty-one assistant deputy public defenders in addition to twenty-seven investigatory personnel and the requisite staff of clerical individuals.

Our latest figures, which are up to date as of last Friday, March 22, 1968, indicate that since July 1st a total of 6,366 individuals accused have been referred by the courts to the New Jersey Public Defender's office.

I might point out that between the indigent and the Public Defender there is interposed the decision of a judge as to whether the services of our office should be extended. This is reached upon the basis of the sworn affidavit made by the individual applicant as to his net assets and liabilities and on that basis, as has previously been done when we had the assigned counsel system in our State, referral is made to the Public Defender's office. All matters must be previously represented by the public defender once the court has referred the matter to our office.

If it appears through our investigation or through any knowledge that we may come into that the individual may very well be able to retain his own counsel, we report this to the court who, in turn, will make the final

decision as to whether we stay in the case. If the individual does not know the name of an attorney, even though he has sufficient funds, he is referred by us to the local lawyer referral service of the County Bar Association or, in those counties where none exist, to the president of that County Bar Association.

I think it important to just take a second to talk about our approach to our daily work. The daily performance of the duties of an attorney for the indigent, as well as all persons connected with the defense case, must be guided by the Canons of Professional Ethics. In these Canons it is made clear that, regardless of personal opinion as to guilt, every attorney has the right to undertake the defense of the accused; otherwise, innocent persons, victims only of suspicious circumstances, might be denied a proper defense.

Once having undertaken this defense the attorney is bound by all fair and honorable means to present every defense the law of the land permits. Moreover, the lawyer owes, as the Canons of Ethics state, his entire devotion to the interest of the client, warm zeal in the maintenance of the defense of his rights and exertion of his utmost learning and ability to the end that nothing be taken or be held from him, save by the

rules of law legally applied. No fear of judicial disfavor or public unpopularity should restrain him from this discharge of this duty. And it is within the spirit of these Canons that the work of the Public Defender's office is being undertaken.

With regard to the more general aspects of the duties that the Public Defender Law places upon the Public Defender's office, let me say that it has been less than nine months since the office was established; that within a week of its establishment we had what is termed a civil disorder in the City of Newark, followed by one in the City of Plainfield.

This increased our case load by at least six hundred indictable matters. So we haven't had too much time to devote--after trying to set up twelve physical offices, recruit approximately seventy-four attorneys and fifty-eight clerical persons--or sufficient time to suggest broader comprehensive solutions to the problems of crime.

However, based upon experience both in the last nine months and information/<sup>during</sup> several years previous in the field of criminal law, I do have a few suggestions which I respectfully submit to the Committee and hope that, in whole or in part, the Committee finds them acceptable.

One of these is one which I know the Chairman is familiar with, since he authored Senate Bill 550, and that is the expansion of the jurisdiction of the Public Defender office.

As I indicated previously, we represent an indigent only where he is formally charged with commission of an indictable offense. As a result of Gault, decided May, 1967, it is now constitutionally required that counsel be provided for indigent juveniles charged with a violation under the Juvenile Delinquency Act who face the possibility of institutionalization upon a sustaining of the petition charging delinquency.

There can be no dispute that the services of the bar must be made available as they have been since May of '67, but as in the past there is an unjustified burden which has been placed on one single profession within the State and I, therefore, respectfully urge the adoption of Senate Bill 550 introduced by the Chairman on March 14, 1968, which would expand the jurisdiction of the office of the Public Defender so as to allow that office to provide representation as constitutionally dictated by the Gault decision.

Neither the Supreme Court of the United States nor our own Supreme Court has yet passed upon the

question or elucidated upon its decision in Gideon vs. Wainwright so that we are presently without guidance as to the constitutional necessity of providing counsel in Disorderly Persons offenses.

It would appear, however, as the New Jersey State Bar has advised the Legislature, that wherever the indigent is in danger of loss of liberty, no matter what denomination is given to the offense charged, fairness would indicate the guiding hand of counsel be provided at the time of his appearance before the court where his liberty or lack of it in the future will be decided.

A recommendation in this regard necessarily would be closely related to others dealing with a general review of the Crimes and Disorderly Persons Act and the penalties ordained for violation thereof.

I might parenthetically note that a review of the Juvenile Court Act so that every single solitary act of delinquency not result in <sup>institutionalization,</sup> ~~institutionalization,~~ would not raise the possibility of institutionalization, might well cut down on the need of attorney representation in that court and keep in the picture some of the theories of rehabilitation and improvement in the child's behavior rather than making it a criminal adversary court from top to bottom.

I suggest in No. 2 an overall in-depth study of the Crimes Act and the Disorderly Persons Act and the Juvenile Court Act. ~~Of the Crimes Act and the Disorderly Persons Act and the Juvenile Court Act.~~

We know it is a constitutional right, and, indeed, the logical result of the presumption of innocence, that everyone accused have his freedom prior to conviction for crime or other offense. Historically, this has been done by the posting of bail. However, the accident of poverty has made impossible the implementation of these rights and has sorely tested the image of fairness of our judicial system.

The principle purpose of bail is to insure that an accused person will return for trial if he is released after his arrest, but for the defendant without means this salutary principle is meaningless. The effect upon the disadvantaged is obvious. He sees the defendant with means by his freedom when he cannot pay the price and the price, indeed, is high: weeks or months before trial spent in jail not because he has been found guilty, not because he has been sentenced, not because he is likely to flee, but simply because he is poor.

If our percentages of acquittal continue at the rate they presently are, which is approximately 36.5 per

cent, you can see that a lot of people are staying in jail and then are later acquitted of a crime or acquitted of the charge which has been lodged against them.

The effect upon the public is not minimal because the public must pay the costs of his incarceration and may find his family members as new applicants for public welfare.

Finally, of particular importance to us as defense counsel, we are deprived of the assistance of our client when we could use him most, right after his arraignment on the charge.

Throughout the country more and more attention has been given in recent years to pre-trial release programs, such as the Vera ~~program~~ program in New York. That <sup>program</sup> shows the percentage of return for trial is higher for those who are released on recognizance than for those released on bail. It is important that the program start slowly to gain the confidence of the public and the judiciary, but it should be started and on a state-wide basis.

I think the logical place to put the verification job for a release program is in the probation department. It should not be done by police departments who are adversaries, or by prosecutors who are adversaries,

or by defense counsel who are adversaries. It should be done by somebody in whom the court has confidence.

Number four, I have included a general statement with regard to our view that, just from our limited experience thus far, probation facilities throughout the State are totally inadequate to meet the needs, not only of a State ROR program but, as all the legislators know, inadequate to meet the needs of what the courts need day by day today.

Any questions I would be happy to try to answer.

MR. LUMBARD: Thank you for your statement.

MR. MURRAY: I did miss No. 5 and it is important so I would add it, if you don't mind.

MR. LUMBARD: I was just going to ask you about it.

MR. MURRAY: This has to do with what has been recommended by the Governor's Commission on the riots, what has been recommended by a previous crime study commission that has just filed a report, and what has been recommended since 1957 by Chief Justice Weintraub, and that has to do with the integration of the municipal courts.

It has been said more than once that the municipal court is the most important court in New Jersey

for it is in that court that most individuals, especially those in the area of extreme poverty and disadvantage, learn what we mean when we use the term "administration of justice" and it is particularly in those areas of congested population and high incidence of criminal behavior where the image of justice suffers most and, indeed, leads to the conclusion among the poor that justice is but an ideal not to be attained.

It is respectfully urged that the present part-time municipal courts are inadequate to meet the needs of a state such as ours and, unfortunately, although not purposely, tarnish the concept of justice in the eyes of thousands of citizens whose interests <sup>and</sup> / liberty are determined in that court.

Because of time limitations and ill-equipped physical facilities there can be no other result than rushed and sometimes unenlightened determinations. Many times a prosecutor is not assigned to the court and, even if he is, his responsibility is ill-defined and haphazard. The result is that the police officer necessarily becomes the prosecutor, thereby diffusing his role in the court proceedings.

If the municipal court system is understaffed and otherwise inhibited from the proper exercise of its

functions, the whole fabric of law and order is not only damaged in the eyes of the accuseds who are brought before it, but it is also destroyed in the eyes of those who use the offices to right a wrong done to them. The end result is frustration for both.

It is respectfully urged that there be created, after a thorough review of the criminal laws and Disorderly Persons Statute, a court of proper jurisdiction wherein judges are appointed by the Governor with the advice and consent of the Senate, serve full time, are adequately compensated, and are provided with the personnel and staffing to do the job properly.

Thank you.

MR. LUMBARD: Do I gather that in the area of your office's jurisdiction assigned defense counsel are not utilized very much in New Jersey?

MR. MURRAY: Assigned defense counsel, as of last Friday, have been utilized in twenty-five per cent of all cases over which we do have jurisdiction.

MR. LUMBARD: Why is that?

MR. MURRAY: Because, number one, we are directed to use pools of counsel to keep alive within the Bar Associations an interest and to develop an interest in criminal law.

Number two, the need to do this in a conflict of interest case. We take no case in our staff offices where two defendants are concerned. We take one defendant and immediately assign out the co-defendant because of the possible conflict of interest.

Number three, our staff necessarily is made up of fairly-young members of the profession. A given case may demand expertise not found on the staff and for that reason we assign the case out.

I would like to add this: While we are now operating at a seventy-five per cent case load being handled by the staff, this is a figure reached on our nine-month experience. Our first three months of operation were almost totally assignments out. So this would probably increase to eighty-five per cent staff participation within a year.

MR. LUMBARD: If the expansion of your office were to be made with respect to the Gault-type problems, that is, juveniles, what increase in manpower would be involved?

MR. MURRAY: That would be hard to say at this juncture.

MR. LUMBARD: What is your estimate?

MR. MURRAY: We have done some studies of it,

trying to just determine what our case loads would be within the State. It ranges about sixty-five hundred new matters to, maybe, ten thousand. And we have statistics coming in now from various assignment judges on that.

MR. LUMBARD: How many men would that add to your office?

MR. MURRAY: Maybe in the neighborhood of thirty to thirty-five more attorney staff members. This is a pure guess.

MR. LUMBARD: To go to juveniles?

MR. MURRAY: That's right. I don't know, necessarily, whether we should compartmentalize the Public Defender's office into a juvenile branch or not. In the adult criminal matters more of them have been extended and the possibility is for more. Really, we should have a man in juvenile court who knows his way around criminal court and vice versa.

MR. LUMBARD: Do you have in your office adequate investigative, scientific and other special personnel?

MR. MURRAY: We use both staff investigators and outside investigators. Our investigator staff is not full because our present employees are all temporary and must await the result of open competitive civil service examinations.

MR. LUMBARD: Do you have your attorneys take the case all the way through the system of the courts, from the trial throughout appeal?

MR. MURRAY: No. The appeal shifts from the trial man to the Appellate section.

MR. LUMBARD: Why is that?

MR. MURRAY: Because I think we have a greater chance for expertise in the Appellate field by having the matter shifted over from the trial man who, maybe, would have a very difficult time writing a legal brief to submit before the Appellate Division and the Supreme Court. I assure you that's the case.

There is constant consultation between the counsel involved.

MR. LUMBARD: But there is nothing better to improve a trial man than having him go up to the Appellate court, with respect to his case.

MR. MURRAY: I think that's a very good idea.

MR. LUMBARD: Do you find that you have worked out any cost figures as to the amount it would cost to process an average case?

MR. MURRAY: Staff representation of indigents averages out to below one hundred dollars per case. I think it's ninety-six dollars and some change. Assigned

counsel representation averages out to somewhere in the neighborhood of \$125 per case.

I have left with the Committee a schedule of our fees, which I think offhand is probably totally inadequate. I think the lawyers on the Committee would agree with me. But we are getting sufficient competent attorneys to do the job and as long as we do that the fee schedule will remain the same.

MR. LUMBARD: Insofar as your office is concerned, the role that your office had in defending those arrested in the riots, do you agree with the finding of the Lilley Commission?

MR. MURRAY: I have not read the full report because I only received my copy about a week or ten days ago. I have read those portions of the report which apply to the municipal court section and things like that. I don't feel really prepared to make a general comment on the riot report.

MR. LUMBARD: Do you have any lessons you can give the Committee from your experience in defending the riot cases?

MR. MURRAY: My suggestion would be that the personnel involved in the court administration--and I know this is going on right away so it is really not a

suggestion of the type that you are looking for--prepare themselves for a future event such as this. In other words, have available or know ahead of time where incarceration facilities will be available and know ahead of time where you can reach additional judicial manpower, where you can reach additional clerical help, and additional prosecutors.

For our part, we have already gone ahead and made what we consider adequate planning should this type of catastrophe ever recur.

MR. LUMBARD: What is your standard of indigency?

MR. MURRAY: Our standard is set by statute which says that the net available assets of the individual applicant are not sufficient to allow him to retain counsel in his community. Within our office we have internal guidelines. When a man comes in and indicates his need for counsel and we obviously see he is back at work and making some money and having some left over, so to speak, when his basic needs are fulfilled at the end of the week, we seek contribution from him.

I did not bring a copy of these. I will send them to you.

MR. LUMBARD: I would like them, yes.

ASSEMBLYMAN THOMAS: One of the suggestions you

have has to do with downgrading many offenses. Tied with this I would like to ask you about what your feeling or philosophy is with respect to high minimum sentences being established by the Legislature, to take away the flexibility of sentencing from the judge in specific areas.

MR. MURRAY: Of a mandatory nature?

ASSEMBLYMAN THOMAS: Yes.

MR. MURRAY: My own personal feeling is that I would be opposed to that. I think, number one, it reflects a legislative decision that rehabilitation is impossible in a given case. Number two, I think that it gives the most force to the least effective result of punishment, and that's deterrence. I really don't believe deterrence plays that much part in the mind of an individual about to commit a crime.

ASSEMBLYMAN THOMAS: Did you appear before the Governor's Select Commission?

MR. MURRAY: On the riots?

ASSEMBLYMAN THOMAS: Yes.

MR. MURRAY: I did not. I was interviewed by a member of the staff.

ASSEMBLYMAN THOMAS: I notice that a number of your recommendations, or almost all of them, parallel the recommendations in the municipal court area.

MR. MURRAY: I appeared before the Crime Study Committee.

THE CHAIRMAN: The Commission to study the cause and effect of crime?

MR. MURRAY: That's correct. The recommendations I made in the municipal court area were made by me on December 14th before that committee.

ASSEMBLYMAN THOMAS: Do you have any specific recommendations with respect to the type of court that would be used to supplant what we now know as the municipal court?

MR. MURRAY: I indicated at the time I was asked that question that I really wasn't prepared, nor am I now, to get into particulars about it. I think that possibly a hearing on municipal code violations by some type of administrative body might be a possible answer.

ASSEMBLYMAN THOMAS: Do you feel that it should be a new court as opposed to taking these present municipal court functions away from them and giving them to the county court, for instance?

MR. MURRAY: It needn't be a new court. The county district courts have some limited criminal jurisdiction at this time, I believe.

ASSEMBLYMAN THOMAS: Do you think the county

district courts should take over the functions of the municipal court?

MR. MURRAY: An expansion in that area would be a welcome change.

ASSEMBLYMAN THOMAS: Would that be a recommendation of yours, expanding our county district court system to include all the activities that the municipal courts now handle?

MR. MURRAY: I think we should go through the State and see what the municipal courts have. It's a hodge-podge now. It runs all the way through from domestic relations up through arraignment on a murder case. Maybe the domestic relations should be shifted to the county domestic relations court.

The out-and-out criminal matters should be put in the criminal district court.

To try to just change the municipal court itself without really sitting down and doing some work on the Criminal Act and Disorderly Persons Act and Juvenile Court Act means that maybe three, five, ten years from now we will be back with another problem that we could solve now by a comprehensive review of the whole area of the administration of criminal justice.

ASSEMBLYMAN RINALDI: How is it determined when

an appeal is to be taken? Who finally arrives at that decision and to what extent do you have to square with the wishes and desires of the respective defendants?

MR. MURRAY: There has been some public discussion of this but that was determined on May 2, 1967 when the Legislature passed the Public Defender Law. We are duty bound in every case where a judgment of conviction has been entered, if our client is indigent and he remains indigent, to take an appeal. We must appeal the case for him.

ASSEMBLYMAN RINALDI: So the decision is primarily the defendant's?

MR. MURRAY: That's right. We review the matter with the defendant. We review the possible questions of law involved. We review the possibility for success or failure on appeal, but the decision must be his as it would be for an affluent defendant with retained counsel.

ASSEMBLYMAN RINALDI: The Chief Justice has indicated we are going to run, possibly, into a log jam in the Appellate Division if there is an abundance of appeals coming from your office. Do you envision such a log jam?

MR. MURRAY: All I can say is that since September we have had 173 direct appeals and we now--and I point out to you that prior to July 1, 1967 the same rule was in effect. Every indigent in State Prison who wanted a

lawyer got one by the assigned counsel method.

Now, it is very true that the physical existence of an office with an address in the City of Newark would bring about the possibility that the case load would increase.

ASSEMBLYMAN RINALDI: In all likelihood.

MR. MURRAY: Yes, in all likelihood. But it is not a question that the public defender is encouraging an appeal in every case. The client makes up his mind. If his sentence is less than severe I am sure there would be no appeal. If there is probation there would probably be no appeal, but if there is a very stiff sentence and the man down the corridor from him in State Prison was convicted of the same crime and got a light sentence, you can bet your bottom dollar that there will be an appeal.

THE CHAIRMAN: Any further questions?

(No response.)

THE CHAIRMAN: Thank you, Mr. Murray.

[Witness excused.]

[Hearing adjourned.]

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I HEREBY CERTIFY that the foregoing is a true and accurate transcript of the testimony as reported stenographically by me on the date and at the place hereinbefore set forth.

Carol D'Addario  
Certified Shorthand Reporter

