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PUBLIC HEARING

before

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

To Examine Overtime Practices and Policies in
the State Prison System

November 24, 1986
Room 410
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Richard J. Codey, Chairman
Senator Francis J. McManimon, Vice Chairman

ALSO PRESENT:

Eleanor H. Seel
Office of Legislative Services
Aide, Senate Institutions, Health
and Welfare Committee

Hearing Recorded by
Office of Legislative Services
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Trenton, New Jersey 08625

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**SENATE INSTITUTIONS, HEALTH
AND WELFARE COMMITTEE**

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HENRY P. McNAMARA

November 7, 1986

NOTICE OF A PUBLIC HEARING

**THE SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE
ANNOUNCES A PUBLIC HEARING
TO EXAMINE OVERTIME PRACTICES AND POLICIES IN
THE STATE PRISON SYSTEM**

**Monday, November 24, 1986
Beginning at 10:30 A.M.
Room 410 of the State House Annex
Trenton, New Jersey**

The Senate Institutions, Health and Welfare Committee will hold a public hearing on Monday, November 24, 1986, beginning at 10:30 A.M., in Room 410 of the State House Annex, Trenton, New Jersey, for the purpose of examining the overtime policies and practices of the Department of Corrections with respect to the operation and management of the State's prisons.

Address any questions or requests to testify to Eleanor Seel, Committee Aide (609 292-1646), State House Annex, Trenton, New Jersey 08625. Persons wishing to testify are asked to submit nine copies of their testimony on the day of the hearing. The chairman may find it necessary to limit the number of witnesses or the time available to each witness.

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(Hearing Transcribed by J & J Court Transcribers)

SENATOR RICHARD J. CODEY (Chairman): I would like to start today's meeting. The purpose of today's meeting is to examine overtime practices and policies in our State corrections system. Our first witness this morning is William Fauver, Commissioner of Department of Corrections. Mr. Fauver, go right ahead, sir.

C O M M I S S I O N E R W I L L I A M F A U V E R: Thank you, Mr. Chairman. First, let me introduce the people with me. To my left is Deputy Commissioner Richard Seidl and to my right Legislative Liaison for the Department, Loretta O'Sullivan.

I'm aware, of course, of the Committee's interest and have, as you are aware, we've forwarded a lot of material to you on the overtime issue over the last few months. So I won't go into that. Basically, you know, my purpose of being here is to try to respond to any questions that the Committee may have. I would like to point out, however, that in general overtime in prisons, jails, is a problem. Not only in the State with the State Department, but within the counties and within other states. So that this is not a phenomenon that is unique to the State of New Jersey Department of Corrections.

There are several factors that lead to overtime. One, as was indicated to you, is there is contractual overtime which amounts to about 45% of the total overtime bill for the Department. By contractual I mean that which is negotiated in the contract with the Correction Officers Union. There is also overtime that has built up over the years in things that the Department does that not necessarily, I think, may be our jobs -- for example, transportation to court. Many years ago with the presentation of a writ for an inmate to appear in court on a rehearing, new sentencing, whatever it might be, or a plea, the writ is delivered to the institution, the institution transports. We've had interpretations that that could be all we have to do is produce the inmate, make him available, and that that would be an expense then the State would not bear. But I'd be quick to point out then that if that were the case it would be a cost that the

county would have to assume. So either way it's not a free ride for anybody. And that's a very large figure, our court transportation and also medical transports.

These are areas that I think are uncontrollable in the sense that -- uncontrollable may be a bad word -- unpredictable may be better. For example, medical, we have no-- We do not override administratively our doctors if they say somebody has to go out to a hospital or to be transported to a doctor's office or a clinic, whatever, and that becomes a very large cost. We've cut back on the housing considerably by opening the units several years ago now at St. Francis, but because the population has roughly doubled since then the need for expanded space is there also.

So I think that overcrowding has lead to some of this, but as I indicate, some is built-in because of the contracts. So if you -- other than making those general comments, I'll be glad to respond to any questions you or members of the Committee have.

SENATOR CODEY: Okay. How much have we budgeted in fiscal '87 for overtime?

COMMISSIONER FAUVER: We budgeted about 24 to \$25 million.

SENATOR CODEY: Would it be true to say that that figure may very well reach over \$40 million?

COMMISSIONER FAUVER: I would not think so for this reason. Last year's projects were about \$26 million and the actual expenditures came in right about 26 million. The one unknown factor, Senator, right now is the new contract. The corrections officers are still working under the old contract and whatever the new contract is, will increase the rates. We don't know what that will be so far, but I would not think it would be that high.

SENATOR CODEY: Why haven't you just hired enough officers to properly staff your institutions?

COMMISSIONER FAUVER: I don't think it's a question of not hiring. I think the, both the Administration and the

Legislature have been very supportive of this Department in adding new officers and other staff. I think that one of the things that happens, for example, we have a built-in overtime at Trenton for visits. Now --

SENATOR CODEY: Commissioner, why is Trenton seemingly so out of whack with the other penal institutions in terms of overtime?

COMMISSIONER FAUVER: If you notice Trenton has almost double the staff of even the next largest of the institutions.

SENATOR CODEY: Even accounting for that.

COMMISSIONER FAUVER: Well, I think one would be, as I'm saying, the visits. We do not hire into positions for visits because they're only two days a week.

SENATOR CODEY: What do you mean by visits?

COMMISSIONER FAUVER: The visits on Saturdays and Sundays for the inmates. So they're the only time they have contact visits at Trenton prison. So we have people that work those visits on an overtime basis which--

SENATOR CODEY: Well, why would they have to be paid overtime?

COMMISSIONER FAUVER: Because there's not a budgeted position for the visits.

SENATOR CODEY: So why don't you simply budget it?

COMMISSIONER FAUVER: Well, in our opinion it is cheaper to do it this way because we're paying one and a half times the salary which would be a three day a week straight time as opposed to five days a week. And that's just a position. I've asked for some of those in the past and they've not been supported. They would be positions we would certainly be glad to get and we could utilize them also on the other days.

SENATOR CODEY: I mean, is that the way government should run itself? In other words, simply pay everybody overtime?

COMMISSIONER FAUVER: Well, I could argue--

SENATOR CODEY: Not hire enough personnel and simply

everyone would be paid overtime.

COMMISSIONER FAUVER: Well, those people are only working three days.

SENATOR CODEY: Based on your rationale that it's cheaper.

COMMISSIONER FAUVER: Excuse me?

SENATOR CODEY: Based on the rationale that you say it's cheaper.

COMMISSIONER FAUVER: Well, I think it is. You know, I don't think that-- It's three day a week salary as opposed to five. I just don't think I've ever seen anything really budgeted where we're talking about these kind of positions on that basis. See, those people are only working on Saturday and Sunday, that's their only -- their time. So people--

SENATOR CODEY: What do you mean?

COMMISSIONER FAUVER: They're only working on the days that there are visits, there are actual visits.

SENATOR CODEY: They don't work any other days?

COMMISSIONER FAUVER: Well, they work other jobs on other days, yes, so they work overtime for this.

SENATOR CODEY: They work five days at their regular job within the system and then they're paid double time or time and a half--

COMMISSIONER FAUVER: Time and a half.

SENATOR CODEY: Time and a half to go there on Saturdays and Sundays.

COMMISSIONER FAUVER: Correct. Not necessarily the same people on both days.

SENATOR CODEY: And you couldn't hire people part-time?

COMMISSIONER FAUVER: Well, we-- No, I don't think we could. What I was suggesting that I think that we could, if we got positions for visits, we could utilize those people to reduce also on court trips and so forth. But when you show this as a budgetary item and it only shows up as two days a week it's difficult to get those kinds of positions when you're weighing

them off, but that's certainly a possibility.

SENATOR CODEY: By the way, what effect does it have on the morale of persons in administrative positions who may be making say 40 to \$50,000 when they see prison guards or other individuals making 70 to \$75,000 a year who are under them?

COMMISSIONER FAUVER: Well, I think that the administrators of the prisons as well as those of us in the central office recognize that these people are working. These are not no show jobs. They are in with whatever position they've been hired for.

SENATOR CODEY: But I'm sure there's many cases where the administrators work just as many hours as those people in the overtime positions.

COMMISSIONER FAUVER: That's true. That's true and because of the structure, I mean, they don't get overtime. I think that the -- one of the things that has to be understood is that one of the reasons that a small number of officers accumulate the larger salaries, or the larger amount of overtime is the structure that we've set up. And that is we have a voluntary list for overtime and a compulsory list. So anytime that there is overtime, the people on the voluntary list are asked if they want to work. You get the positions where there are enough people out on a given day that that won't work and you have to go to the compulsory list. And that means having people work who don't want to work, you order them to work because you have to cover that post. The people who volunteer are the ones who make the money because they're there. They're available and you don't have to stick somebody else with working that doesn't want to work. So consequently--

SENATOR CODEY: I don't think you've answered my question, though, in terms of what it does to those administrators in terms of morale to see what's happening.

COMMISSIONER FAUVER: I don't think it does anything to them. I have not heard complaints from the administrators. I mean, I think their concern is that they have to staff their

specific prison at any given time and, you know, the fact that there's a small number of people making that kind of money i don't think is really a morale problem.

SENATOR CODEY: How many hours do these persons work, say, in their longest work week when they're doing overtime plus their regular?

COMMISSIONER FAUVER: The longest they would work would be 16 hours at a given time.

SENATOR CODEY: Sixteen hours a day.

COMMISSIONER FAUVER: They'd have to have the third shift off. There's no compulsory. Sixteen hours a day or in many cases the work isn't that way, it's on a day off that somebody would come in and work.

SENATOR CODEY: I'm sure that you would agree, Commissioner, that at times it's a very stressful job handling inmates.

COMMISSIONER FAUVER: I agree.

SENATOR CODEY: How effective do you think they are in their 15th and 16th hour and how effective are they in dealing with a stressful situation and tense situation?

COMMISSIONER FAUVER: Well, I think there's no question that there's a reduction of your effectiveness at the end of those shifts, particularly if they're on two, a couple days in a row or for a longer period of time. I'm not sure that there is an alternative to that. The post has to be covered on, in most cases, a seven day a week, 24-hour day position. I think the problems inherent in the institution would be worse to the other officers and the staff alike if some of these things were not posted and not filled. We do have a table of organization at each institution whereby a shift can go in with so many people short but not past that danger point so that it's not that every position is filled on an overtime basis. There would still be vacancies.

SENATOR CODEY: Commissioner, we've had a lot of documented cases of abuse of prisoners by guards. Do you think

the overtime and the long hours has contributed to that situation?

COMMISSIONER FAUVER: Well, first of all I would not agree that there's been a lot of abuse by guards of prisoners. I think that anybody when they're tired and so forth can react differently than when they're fresh. There's no question.

SENATOR CODEY: Do you think after 16 hours they're tired, less likely to be patient with people?

COMMISSIONER FAUVER: I think that-- Yeah, I think so. I think that, though, the assumption is everybody is working directly with the inmate, which may not be true. Some of these people would be in towers, some would be in control posts and things like that, where they're not in a direct confrontation situation with an inmate or a group of inmates.

SENATOR CODEY: But they have a gun on them physically, don't they?

COMMISSIONER FAUVER: The people in the towers have a gun. The others do not.

SENATOR CODEY: Right. I understand. Supervisory officers, do they determine who works overtime?

COMMISSIONER FAUVER: The supervisor officer, in effect, does but basically, as I indicated, it's by contract and by agree with the Department and the union that we have these lists for voluntary overtime and compulsory.

SENATOR CODEY: Let me ask you this, Commissioner. If I work a certain shift and the person who is supposedly to relieve me does not show does that mean I automatically work overtime that day?

COMMISSIONER FAUVER: No. No, it doesn't. It means that-- Your name is on a roster for the last time that you worked and whoever is doing the assignment, the shift lieutenant or an operations unit, will go to the top person on the voluntary list and then you say, "No, I don't want to work." Somebody else lower on that list who volunteers will work. If there are no volunteers there then is a mandatory list and

whoever is on top of that will work.

SENATOR CODEY: Is there any way to abuse a voluntary list -- to finagle it? Make sure certain people work that week or that day?

COMMISSIONER FAUVER: I wouldn't think so because the officers themselves would police that. I mean if you were on the top of the list and you got by-passed--

SENATOR CODEY: Are they making the overtime, the ones who are policing it?

COMMISSIONER FAUVER: No, I mean the ones who didn't get the overtime would then-- If you were bypassed for the overtime and you wanted it and it's in writing that you should get it, I mean, I think you would be the first one to come in to complain about it and would be corrected.

SENATOR CODEY: Well, the supervisory officers, do they make overtime as well?

COMMISSIONER FAUVER: Yes, they do. Up to the rank of captain they do.

SENATOR CODEY: And they're involved in the decision making of overtime themselves?

COMMISSIONER FAUVER: The shift lieutenant would be, sergeant wouldn't be, but a--

SENATOR CODEY: Did they ever determine for themselves that they should work overtime? Are they involved in decisions?

COMMISSIONER FAUVER: They would if they could be, but the decision process would be the same way. It would be on a rotating basis.

SENATOR CODEY: But are they in a position to determine whether or not they will work overtime?

COMMISSIONER FAUVER: In some cases yes.

SENATOR CODEY: So you do have officers who determine that they will work overtime that day and that week? They determine for themselves in addition to other people?

COMMISSIONER FAUVER: Well, they could determine for themselves. I mean, again, within the same structure, yes.

SENATOR CODEY: You have four lieutenants and two sergeants, okay, who made over \$22,000 alone in 1985 just in overtime before the normal base salary and before benefits. That's an incredible figure. That's more than a heck of a lot of State employees make straight time. And these people, obviously, at some point are in positions to determine whether or not they'll work overtime. It's their sole discretion. You would place that in their hands.

COMMISSIONER FAUVER: No, it's not at their sole discretion. It's--

SENATOR CODEY: You admitted before that they are in a position to schedule themselves for overtime.

COMMISSIONER FAUVER: Within the same structure that there is a rotation list and if there's another lieutenant that should work ahead of me today as the lieutenant, that's who is going to work, not me.

SENATOR CODEY: How many vacant positions do presently have for prison guards?

COMMISSIONER FAUVER: Probably today around 20, 25 positions.

SENATOR CODEY: What are we doing about filling those positions?

COMMISSIONER FAUVER: Well, one of the things we've done is we've centralized recruiting in the last year so that we make it faster. We don't have to rely on Civil Service to give tests and certify the names to us. We've been able to do that and I would say that that is certainly a very small percentage of the 3800 roughly positions that we have to fill. So I think the recruitment unit is doing well.

SENATOR CODEY: How about your staffing patterns? Have you recently gone over these patterns in terms of the overtime to see if you could do something there to cut down overtime?

COMMISSIONER FAUVER: Yes. Specifically at Trenton Prison the man who is in charge of the custody there, the chief,

retired this summer and I brought him up to our staff in April. March or April of last year to go over the staffing patterns and redeployment of officers, which he did. We have a plan that we're going to put into effect at Trenton now that will reduce, we think, probably on a year's basis better than a \$1 million in overtime.

We have also instituted transportation on a centralized basis which we have projected savings of about a half a million dollars for this year. I think when a number of the initiatives that we're looking at are in full force we will save probably up to several million dollars -- if not better -- maybe as high as \$4 million a year off of current expenditures.

Mr. Chairman, I'll submit to the Committee the procedures on the selection for overtime so you can see in writing what I'm talking about.

SENATOR CODEY: Are those due to contractual agreements?

COMMISSIONER FAUVER: These are--

SENATOR CODEY: All?

COMMISSIONER FAUVER: No, no. The contractual agreements I believe you already have. These would be just Department standards but they comply with Civil Service and they are agreements between the union and the Department.

SENATOR CODEY: Commissioner, I mentioned before about -- I alluded to the fact that there may be a morale problem with regards to administrative personnel and the high salaries of your correctional officers, in excess of \$70,000. Is there any problems with morale with regards to other correctional officers who are not making the overtime?

COMMISSIONER FAUVER: Well, I'm sure that there is when the checks come out, but the point is that I don't know now it could be fairer, more fairly run than it is on the basis of these postings.

SENATOR CODEY: Now, exactly, are the postings determined? Seniority?

COMMISSIONER FAUVER: The postings are-- Excuse me?

SENATOR CODEY: How are they determined?

COMMISSIONER FAUVER: They're determined on the basis of who worked last and who then-- If you worked today, for example, you go to the bottom of the list for the next overtime and until everybody in front of you has been utilized you we don't get back to you.

SENATOR CODEY: So you're trying to tell me that everybody gets a fair shot at overtime?

COMMISSIONER FAUVER: I am and if they turn it down and don't want to do it, and then, you know, I don't think they have -- maybe they have a complaint but I don't see it as a legitimate complaint.

SENATOR CODEY: So everybody has an opportunity to make in excess of \$70,000?

COMMISSIONER FAUVER: No, no, no. You're talking about a person in this that did that. I think everybody has an opportunity to work overtime. Some choose not to do it and they don't work any overtime unless they are compelled to by an order. Others will volunteer to work overtime, you know, fairly routinely and obviously the people that have these large earnings have earned them through working when others have decided not to. But the opportunity was available to them.

SENATOR CODEY: So we could have had more people making in the \$70,000 had they wanted to?

COMMISSIONER FAUVER: No.

SENATOR CODEY: No.

COMMISSIONER FAUVER: No, you would have less people if the others because it would have averaged out. Some of the lower people would have come up and the higher ones would have come down.

SENATOR CODEY: But the individuals in the 60, \$70,000 range are in supervisory positions?

COMMISSIONER FAUVER: No. I think some of them were. I think about four or five on that list. The rest were

corrections officers.

SENATOR CODEY: Well, we had a lieutenant who made \$67,000.

COMMISSIONER FAUVER: Right.

SENATOR CODEY: Can we-- That, obviously, is a supervisory personnel position?

COMMISSIONER FAUVER: Right.

SENATOR CODEY: Is he ever in a position of determining who works overtime, including himself?

COMMISSIONER FAUVER: He may have been, yes, yes.

SENATOR CODEY: You think there might have been some abuses there?

COMMISSIONER FAUVER: Not necessarily. I think that the--

SENATOR CODEY: Have you looked into it, sir?

COMMISSIONER FAUVER: Not on that specific case. We've looked at the overall problem but I think in looking at that same chart the bulk of the people, as you see, are Trenton and the bulk are senior correction officers.

SENATOR CODEY: No, we had somebody at Rahway who made over \$61,000.

COMMISSIONER FAUVER: Yeah, was a senior correction officer.

SENATOR CODEY: \$60,000. So I mean you seem to have spread it out well in terms of the institutions and the high scale.

COMMISSIONER FAUVER: I don't think so. I would say that only--

SENATOR CODEY: At the high scale you have. You've got Trenton and Rahway right up there, along with Clinton.

COMMISSIONER FAUVER: Right, but there's only, out of that 25 from places other than Trenton. That's the major spot.

SENATOR CODEY: I know that, but in terms of the high scale of the salaries and the overtime.

COMMISSIONER FAUVER: Well, the high scale of the

salaries would be based on -- base salary would be based on where they are in rank and also seniority, what step they are in that, so there would be differences in there. Judging from the salaries most of these would be at their max.

SENATOR CODEY: But the lieutenant who made almost \$34,000 in overtime alone, he may very well be designating himself for overtime.

COMMISSIONER FAUVER: I think the same thing would happen as would happen with the officers. These, again, when I say are posted, are posted publically -- one listing -- and the same thing would happen with the lieutenant, the sergeant, anybody.

SENATOR CODEY: Someone is in charge of deciding how many people are needed for overtime.

COMMISSIONER FAUVER: Right. (Confers with Ms. O'Sullivan)

SENATOR CODEY: Commissioner, let me ask you this: Do you have any practices in terms of how many hours per week someone can work overtime other than the 16 hours per day?

COMMISSIONER FAUVER: The 16 hour restriction, no, none.

SENATOR CODEY: Do you think maybe you should?

COMMISSIONER FAUVER: Well, I think our first priority becomes staffing the institution. If you asked, you know, ideally should we I would answer you yes, but I think that these decisions at the time on the overtime are not made in ideal situations. They're made with all the kinds of things that are going on in the institution and you don't want anything to get out of line.

SENATOR CODEY: Well, Commissioner, what kind of staffing do you have when that person is on his 112th hour for that week? How effective and how good a job is he doing for the people of the State of New Jersey when he's on his 112th hour?

COMMISSIONER FAUVER: Well, I'm not sure that there's anybody that has that.

SENATOR CODEY: But under your present policy that's perfectly allowable and could, in fact, happen.

COMMISSIONER FAUVER: It's possible. I doubt that it's probable. I don't think you could, mathwise either. But I think the question would be also as to what would the repercussions be to the management, to the other officers, to the State of New Jersey in a sense if we didn't, if we do not fill posts that have to be filled in our opinion. They have to be. It's not a question--

SENATOR CODEY: Hopefully we would fill them with people who are working normal hours and can give us a good, effective eight hours a day. That's all. Like any other State position. There's no other kind of department in government that has these kind of overtime abuses or whatever you want to call them. None that I know of.

COMMISSIONER FAUVER: Well, I don't think they have the situation of having to cover.

SENATOR CODEY: We have to staff our institutions, our mental institutions, our hospitals.

COMMISSIONER FAUVER: Yeah.

SENATOR CODEY: I don't know of situations that are similar to this, analogous, in terms of the overtime and the kinds of money that we're dealing with. They have to staff those hospitals 24-hours a day just like you have to staff a prison 24-hours a day.

COMMISSIONER FAUVER: Well, I'm not-- Yeah, I'm sure that they-- I'm not familiar with the contracts with the unions and the hospitals and the retarded institutions. I might point out one other thing that adds up to overtime which is tied into the overcrowding. And that is as we create-- we get into situations where the counties just cannot hold anybody else and we have to create places to put people, classrooms, gymnasiums, whatever we use, by the time that process goes through to get a position takes a little while. We open the place right away. We're staffing that at overtime to cover it to be able to bring

50, 70 people, whatever it might be, into that unit to relieve the problems in the county. Now, I don't-- I know that's not the ideal way to do it, but I think it would be worse not to take the action and something happens and say, "Well, we didn't get the positions yet so we didn't do it." That's a fairly large expenditure. We do that on a, you know, not necessarily routine basis, but not an infrequent basis. So that's something which the other institutions that house people which are responsible don't run into because they don't have that situation existing.

SENATOR CODEY: Commissioner, we've been talking strictly in terms of correction officers and overtime, but you have other people earning overtime. I checked some restaurants in New York City, some of the finest restaurants in New York City and it seems that we're paying some of our cooks more than the top restaurants in New York City do to start. We had a cook last year making in excess of \$35,000 and I'm not talking, obviously, about gourmet cooks. How can you explain that kind of a situation?

COMMISSIONER FAUVER: Well, I think you can explain it in the sense that the cooks start, starting salary is \$15,000 roughly round figure and that we do not have built into these positions whether they be cooks, nurses, non-custody positions like a back-up position other than for vacations. So that if people are out, I mean, the meal has to be covered, has to be prepared so you have that with them, particularly--

SENATOR CODEY: Do you have a contractual problem there too?

COMMISSIONER FAUVER: No. We don't have a contractual problem. We have more of a turnover problem with ITI cooks who tend to be very transient.

SENATOR CODEY: I don't think you'd have much of a turnover if they're earning \$35,000 a year.

COMMISSIONER FAUVER: Well, there's nobody else to work. That's why he's making that kind of money, but--

SENATOR CODEY: What if you paid somebody just \$20,000

I think you'd attract a lot of people for slinging hash.

COMMISSIONER FAUVER: Well, yeah, but you're aware we don't set the rates for the salaries, for the hiring salaries. Civil Service--

SENATOR CODEY: I understand that, but even if you just leveled it off instead of that \$35,000 figure.

Then the other thing is we have-- You can tell me exactly what this is. An institutional trade instructor for cooking. Now he's the one that teaches them?

COMMISSIONER FAUVER: He prepares-- He does some instruction with whatever his area is, whether vegetable preparation or--

SENATOR CODEY: No, it says cooking so what, exactly, is his job?

COMMISSIONER FAUVER: His job is to, whatever shift he's on, to supervise and prepare a meal and get a meal out.

SENATOR CODEY: Uh, he's a cook, too?

COMMISSIONER FAUVER: Yes, he's a supervisor

SENATOR CODEY: He made almost \$50,000.

COMMISSIONER FAUVER: Yeah, there's two down at Trenton.

SENATOR CODEY: He couldn't go to the Waldorf and do that. Almost \$50,000 to cook that.

COMMISSIONER FAUVER: Well, he wouldn't have to deal with inmates in the back kitchen area either, which is not necessarily the most pleasant job in the world.

SENATOR CODEY: Well, he doesn't exactly have to be extremely skilled either in culinary art.

COMMISSIONER FAUVER: Well, you know, I think if you were to look at the history of prison disturbances in this country you would see that one of the major reasons over the years has been the food and it's, you know, so it's not a--

SENATOR CODEY: Well, we shouldn't have any disturbances then.

COMMISSIONER FAUVER: Well--

SENATOR CODEY: I mean for that kind of money--

COMMISSIONER FAUVER: At Trenton Prison he is preparing, between the staff and the inmates, 3000 meals per setting. You know, I think to get people to go in there even and do it is, you know, and I'm not defending the \$47,000 but I'm saying that this is a high turnover.

SENATOR CODEY: No, just under \$50,000.

COMMISSIONER FAUVER: Um-num. I just don't think that pay-- I mean it's-- I can't think of too many worse jobs in the system that we have than, you know, working in the kitchen, back kitchen area at Trenton Prison unless it was working at the back kitchen area at Rahway or one of the other prisons.

SENATOR CODEY: Do you know up at the Meadowlands we have State employees whose job it is to sift through garbage and to make sure that garbage in the truck came from the town it supposedly came from, and they make about \$18,000 a year sifting through the garbage. Yet they see somebody who is doing some cooking making \$50,000 a year, so don't tell me there's not worse jobs in the State of New Jersey.

COMMISSIONER FAUVER: Well, I don't know. I think the worst that could happen to you sifting through the garbage is a lot less than the worst that can happen to you in the back kitchen at Trenton Prison.

SENATOR CODEY: I didn't know that any were attacked or beaten.

COMMISSIONER FAUVER: Well--

SENATOR CODEY: Except maybe for a bad meal. I mean we also have a clerk in the Office of Policy Development who made almost \$28,000 whose base salary is \$13,000. What's the problem there that would give the clerk more than the base?

COMMISSIONER FAUVER: Well, this is a clerk at Trenton who they've had working and needs classification. I'm aware of that, but I think that this is another case where I don't think anybody else wanted to work. You know, that's--

SENATOR CODEY: What do you mean? If you need him, if

there was so much work, why didn't you just hire somebody else?

COMMISSIONER FAUVER: well, one-- Again, you know the budget process you have to go through to do that. I think the-- You know, you look at this from one perspective and I don't say this, that there's not things that can be done, and I indicated some that we're trying to do, in the process of doing. But I think that if you look at this in the total number of employees within the State Department whether they are officers or civilian staff, you're really talking about a very small percentage of these people that are involved in this. And that's not defending it out it's saying that there's another good chunk of people that are--

SENATOR CODEY: Yeah, but we're talking in the aggregate in excess of \$20 million last year, so it's not as small a problem as you want to think. To say, well, one clerk did make \$20,000 and a cook made \$50,000, but in the aggregate we're talking about \$20 million.

COMMISSIONER FAUVER: I'm not suggesting it's a small problem at all. I'm suggesting that the people on this list that are making this kind of money represent a small percentage, very small percentage of the total number of employees. You're correct that the total dollar figure would be roughly the same whether it was these people or ten others.

SENATOR CODEY: It would seem to me, it would appear to me that you don't seem to have an handle on it.

COMMISSIONER FAUVER: well, I think if you take the \$20 million as an example and you deduct the 45% that is contractual--

SENATOR CODEY: I wouldn't be as laissez faire about it as you are, hands off kind of-- You seem to just wish that away as if that was no problem.

COMMISSIONER FAUVER: well, because I have no control over it.

SENATOR CODEY: I understand that. But I mean I would think if you're the Commissioner you'd say, you know, "Look what

you're creating here when you're talking to the negotiators. You're saddling me with this."

COMMISSIONER FAUVER: Well, the Office of Employee Relations handles all the negotiations for the State with this union and with others. What they come up with is much the same as when the court sentences somebody, as I see it. It's my job to deal with it at that point. I have no input in it.

But I wanted to point out that out of that remaining 55% there is a large portion that cannot be scheduled. There is a large portion of hours that cannot be scheduled because they are not anticipated and probably one good example for this year is the Williams/Manning trial. Our projection is it's going to cost us roughly \$6200 a month for every month that that happens. We've had things like Hurricane Gloria last year where we had to do evacuation of one of our places, or for a large part of it, and these things are unpredictable. So that there's another portion of that.

What we're trying to look at in the Department are the kinds of things that I mentioned to you earlier, with the redeployment of positions, and so forth, the Trenton and centralized recruitment and centralized transportation is to get a handle on that remaining part, whatever dollar figure that might be, and reduce it. And that I can think we can do.

SENATOR CODEY: Senator McManimon, any questions?

SENATOR McMANIMON: Yes. I'm concerned now. You started to mention that 45%, that is contractual level?

COMMISSIONER FAUVER: That's correct, Senator.

SENATOR McMANIMON: All right. In dealing with the overtime and contractual level, what about the mandated sentencing process that the State has put on in your particular position? I take it you have more people being sentenced. Has this had any additional effect on the contractual originally projected?

COMMISSIONER FAUVER: I don't think it's had it on the contractual. I think it's had it similar to what I had mentioned

earlier where we've had to take people in from the counties on a very short notice because the county just couldn't absorb anybody else. We had to open an area in the prison, or prisons, that was not a housing area and to do that, we had to staff it. All of that staff until the positions could be set up and budgeted for is on an overtime basis and that's something that's tied strictly to the overcrowding and to the kind of sentencing that you're--

SENATOR McMANIMON: The overcrowding ties into the overtime basis then.

COMMISSIONER FAUVER: Definitely.

SENATOR McMANIMON: Right. I was concerned with that aspect of it.

Another serious concern I have. Reading the chart here I see quite a few from Trenton State Prison. Being a resident here in Mercer County and living less than a mile from Trenton State Prison I recall the riots and I know what took place the one time back then, and I know you have more serious type convicts in Trenton and I guess would that contribute more or less to the greater degree of overtime as well? The classification of prisoners?

COMMISSIONER FAUVER: Well, I think the classification is a factor, yeah. I mean Trenton is our only maximum security prison. I think that we also spend money -- I think appropriately -- in what I would call proactive kinds of actions rather than waiting for something to happen. We have units within the prison which are internal affairs and we get information back from the officers themselves. Anytime we can put enough things together that we think there is a possibility of a disturbance or a strike, a food strike -- whatever you want to call it -- might be happening we do bring in extra officers. Now, that-- And maybe a lot of officers that we have on standby. I think that's money well spent because I don't know that you can equate what could happen if you didn't do those things. I think that overall our information systems have been very good, not just at Trenton but at the other institutions, and we've been

able to take action ahead of time to forestall something from happening. I think that's, you know, really a credit to the administrators of the prisons and the officers of the particular prisons for developing that kind of a network.

Then when nothing happens because of this, I mean, then the question can come up why did you have 40 officers here last night, or 30 officers here, and it was a preventive measure. I don't know-- We've been very fortunate with that, as I say. It is an expenditure that is unbudgeted and one that is, you know, the kind of decision I would make again today if I had to make one.

SENATOR McMANIMON: I have another question, Mr. Chairman. What about the effect of turnover on personnel? Has that had an adverse effect, too, once they get into that type of work and they find out it's not their cup of tea?

COMMISSIONER FAUVER: Yeah, that's been a problem. I think with the centralized recruiting that I mentioned I think that we're doing better on that judging from the number of vacancies we have now compared with what we did have in the past. But, yeah, it is a job and it's a profession that a lot of people have no idea what it is until they get in it. They've seen movies and they see TV and they kind of equate that with what's going to happen to them when they get in or what their role is going to be, and it's considerably different.

SENATOR McMANIMON: One disagreement with my Chairman. If I had to feed 200,000 at every setting you sure as hell wouldn't get me for \$50,000. I'd need a lot more.

SENATOR CODEY: I don't know if they'd want to eat your cooking.

Thank you very much, Commissioner.

COMMISSIONER FAUVER: Thank you, Mr. Chairman.

SENATOR CODEY: Our next witness will be Karen Spinner, Director of Public Education and Policy for the New Jersey Association on Corrections.

Any conversations would you please take outside, or any

interviews? Thank you. (addressing audience)

K A R E N A . S P I N N E R: Good morning.

SENATOR CODEY: Go ahead.

MS. SPINNER: My name is Karen Spinner and I'm Director of Public Education and Policy for the New Jersey Association on Corrections. We are a statewide citizens organization concerned with the enormous cost of crime and imprisonment in New Jersey and working for the betterment of the corrections and criminal justice system.

We are especially concerned about the cost of overtime, but not just the monetary cost, the effect on the officers and the inmates themselves due to the amount of time people spend within the institution. Basically I want to address the issue of safety for the inmates and for the officers. The job of a correctional officer is an extremely stressful one. They are charged with the well-being and safety of a population that is not willingly incarcerated. Also, their job is not particularly held in high esteem by the public. It's one, as the Commissioner mentioned, people have different perceptions of. It's not always what they think. A lot of derogatory terms are applied to corrections officers and it can have an impact on the way they perceive the job and the way they are perceived by the public.

They are locked inside the institutions. They are on 24-hour call -- or not 24-hour, but the entire time they're on duty they're on call. You can't have a coffee break. If there's an emergency you have to run to it. You can't have lunch, the same thing holds true there. They're clearly on call. Overtime exacerbates the stressful situations in the institutions and, unlike other jobs, the slots can't remain unfilled when somebody is out sick, on leave of absence, assigned for training, or scheduled for vacation. The kind of practice is they have a list and the Commissioner has explained that quite extensively. Of course some people are more willing to work than others and that's understandable but it is difficult to understand how some people can make almost as much as the Commissioner of

Corrections, working overtime. It does seem, in our opinion, to have a negative impact on the operation of the institutions.

Consequently the Association would like to recommend that overtime be limited to a maximum of 40% of the regular work week. Now, that's 40% in addition to the contractual overtime which we understand is necessary in order to operate the institutions. In this way officers who have become dependent on overtime to supplement their base salary would not be deprived of this income, but also would allow us to address the legitimate concerns for the health and safety of officers and inmates. An overstressed, tired officer could potentially permit a seemingly minor incident to escalate into something major. As most of us know, inmates are extremely good at manipulating the system and they could capitalize on a situation where an officer is overstressed.

Our other recommendation to do with excess overtime would be to develop specialized, regional, on-call teams of experienced corrections officers whose primary function would be to fill in for overtime slots, for people who are vacation, training, leave of absence, and for transport for the court appearances. A similar system is operational in Massachusetts for juvenile facilities. This is run for a not-for-profit as a vendor, but I would not recommend that for the institutions in New Jersey because of the specialized training that would be necessary. But the teams could be regional so you wouldn't have to hire -- you wouldn't have an unknown number of people involved. There could be one for Leesburg, Southern State One and Two, and one for Camden, one for Midstate, Bordentown, Yardville and Trenton, another for Clinton and Annandale, and one for Rahway and Newark when Newark opens. These officers would be trained and familiar with procedures for this specific institutions. They'd have an ongoing familiarity with each one and could be plugged into the unmanned slots as needed. It's possible that the officers who would be assigned to this duty would need to be compensated at a higher rate than a regular

corrections officer due to the specialized nature of the job and the need to be highly adapted to move into a situation on short notice. But this could reduce the amount of overtime system-wide, especially if they provide coverage for vacation and illness. Vacation is definitely projected. Leave of absence is also projected. I think that we wouldn't have to call an overtime person each time when you know that X officer is going to be out for a week and a half. This would allow people who are on regular salary to take those slots. And we really do believe that this approach could have a serious impact on overtime. Certainly it could not eliminate all overtime, but it would be able to impact on that which is recurring on a regular basis.

We thank you for your consideration and I'd be pleased to answer any questions.

SENATOR CODEY: Senator McManimon?

SENATOR McMANIMON: Yes. The Commissioner stated the fact that he used overtime because it's one and a half times on a weekend, and thus it would be a three day instead of a five day. I would like to know what you estimate the difference would be if we were to go full-time to accommodate the overall hours involved.

MS. SPINNER: I'm not really sure. I think it's somewhat absurd that we should pay overtime to people for a visit structure which we know occurs every Saturday and Sunday. You could possibly rearrange the schedule and the staffing to accommodate that kind of thing. But even so, if you use my suggestion of an on-call team, you'd have two people or however many, scheduled to work Saturdays and Sundays on a regular basis. The other three days they could float. Maybe they'd fill in for somebody who was sick. Maybe they'd fill in for a spot where somebody is on vacation. But to me it doesn't seem logical to not have visit officers when you know that's a regular, recurring position in the facility. And visit officers need to be well trained because they're dealing not just with the inmates, but also with the visitors who sometimes are highly emotional and

need to have consideration. People who are familiar with working with visitors. It's a different kind of setting I think.

SENATOR McMANIMON: I also noticed in your statement here that you said that an approach similar to what you stated about the regional concept is used up in Massachusetts. You take a particular-- You stress the juvenile facilities. Do you feel the same kind type of people can accommodate that in the Trenton State Prison?

MS. SPINNER: No, I don't think it's the same kind of people. That's why I'm saying that this -- if the Department considers this suggestion that they should use their trained, experienced officers to fill this kind of situation. I don't feel that it would be appropriate to take outsiders and bring them in. I think they have to be corrections officers, people who have experience in the system because it's a very difficult job, one that a person should be trained for. Certainly -- not to interject a side issue -- but training is an issue in New Jersey. There should be more of it for all corrections officers and I certainly would not want anybody who was not familiar with the institutions working there.

SENATOR McMANIMON: One other problem that concerns me. It seems that we seem to be establishing a criteria that income is the premise on which we're working from here in respects to the concept of personnel -- the use of personnel -- because certain officers are earning X dollars because they are performing. Let's analyze what's happened in this State the last three or four or five years. I think we've been very fortunate. We're on top of the issues and I think that the approach that has been used apparently has been a positive approach with the best interests of the State. Don't forget, we had to build new institutions. We find out we're short already. We don't have enough cells to accommodate what we presently have. And yet we've had this explosive situation and because of the system that is utilized we've been on top of it because he's using experienced, capable people.

I asked the Commissioner a particular question, and that question was what about the turnover of personnel -- those that come in and all of a sudden boom, they find out it's not their cup of tea? You're constantly making adjustments dealing in that type of environment. And I think it's a delicate, tough situation and if I had a tough situation going to be confronted with the Trenton State Prison I'd want to have the most experienced around me. I wouldn't want to have anybody inexperienced and to get the experience you have to give them the inducement. Unless we want to go into the five-day structure and the Commissioner said it would cost it a lot more money than what it presently is.

MS. SPINNER: I don't disagree that we need to have experienced officers, but I don't think that officers that are working 25 to 30 hours of overtime each week are really giving us the best performance and will eliminate or possibly could lead to stress in the institutions and for incidents which may be avoided by having officers who are fresh and have more ability to deal with the issue when you're not working 16 hours at a clip. I think we need, perhaps, to hire more officers and to give them the training and the support that they need in the institutions. It's not an easy job, I agree with you. And I think that more emphasis needs to be placed on training officers, new officers, but experienced officers as well, to go back for in-service training, which we are never able to provide to them or very rarely because we have a staffing problem in terms of, "Well, we send 10 officers for training, who is going to take their place? We're going to have to fill it with overtime." I think there's some serious concerns beyond just X dollars amount. But I think we need to give our officers a little more in terms of feedback and support among, as institutional officers because it's an important role they play for us in the community. Certainly we could never survive without the dedicated officers that work in our institutions. Those who work 25 hours overtime each week, God bless them, because I don't know how they can do it, honestly

and truly.

SENATOR McMANIMON: I understand where you're coming from, but are you aware of the fact that all legislators have second jobs?

MS. SPINNER: Yes, I am.

SENATOR McMANIMON: Do you have any idea the amount of time we put in through the course of the week? So therefore we should retire.

SENATOR CODEY: Not at \$70,000.

SENATOR McMANIMON: We should get out.

MS. SPINNER: Many of us work second jobs.

SENATOR McMANIMON: I say that to you constructively because I don't think 20, 25 hours overtime is that much of a stress on individuals who are wrapped up in their jobs.

MS. SPINNER: I think in the institution it might be, considering the different level of situations that you're working. If you work in an office, you work in the Legislature, you can get up and go as you come and please. I can get up and go as I come and please in my office as well. When you're in the institution, you're locked in. It's not as easy to relieve your stress when you're within an institution for 16 hours a day as it is for some of us who work secondary jobs as well. I think it does make a difference. Setting is critical when it comes to corrections.

SENATOR McMANIMON: I have no further questions.

SENATOR CODEY: Okay. Thank you very much for your testimony. We stand adjourned.

(HEARING CONCLUDED)

APPENDIX



NEW JERSEY ASSOCIATION ON CORRECTION

TESTIMONY BEFORE THE SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE ON OVERTIME PRACTICES AND POLICIES IN THE STATE PRISON SYSTEM

My name is Karen A. Spinner and I am Director of Public Education and Policy for the New Jersey Association on Correction. The Association is a statewide, not-for-profit citizens organization which is concerned with social, economic, and human costs of the criminal justice and corrections systems.

We are particularly concerned about corrections officers who perform excessive amounts of overtime - not just from an economic point of view but from a perspective which looks at safety issues within the institution and the amount of stress involved in working in a correctional institution.

The job of a corrections officer is a stressful one. They are charged with the safety and well-being of a population which is unwillingly incarcerated. Their job is not held in particularly high esteem by the community. They are locked inside the institution throughout their entire shift and are not exempt from answering emergency calls during their meals or breaks. Clearly they are on-call during the entire tour of duty.

Overcrowding exacerbates the stressful conditions within institutions for both officers and inmates. Unlike other jobs, a corrections officers slot cannot remain unfilled if someone is out ill, is assigned for training or is scheduled for vacation. The current practice, as I understand it, is to have a list of officers who are called to fill in when someone is scheduled for vacation, illness, etc. Some officers are more willing to work overtime than others and consequently we see some officers earning salaries nearly as high as the Commissioner of Corrections. This is an unhealthy situation given the stressful conditions which exist in our prisons.

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Consequently, the Association is recommending that overtime be limited to a maximum of 40% of the regular work week for all officers, approximately 16 hours per week. In this way, officers who have come to depend on overtime to supplement their base salary will not be deprived of this income and legitimate concerns for the health and safety of officers and inmates may also be addressed. A stressed, overworked, tired officer could potentially permit a seemingly minor situation in the institution escalate. Inmates are extremely good manipulators and they could capitalize on the knowledge that an officer is fatigued or under stress.

Another recommendation to deal with excess overtime would be to develop specialized regional on-call teams of experienced corrections officers whose primary function would be to fill in for officers who are scheduled for vacation, training, leave of absence, or for transport of inmates to court appearances. The teams could be regional, e.g. one team for Leesburg, Southern State I & II, and Camden; another for Mid-State, Bordentown, Yardville, and Trenton; one for Clinton and Annandale and one for Rahway and Newark. These officers would have a ongoing familiarity with each institution and could be plugged into unmanned slots as needed. It is possible that the officers who are assigned to this duty may need to be compensated at a higher rate to account for the specialized nature of the job which requires extensive knowledge of a number of institutions and a higher level of adaptability to fit into varying situations on relatively short notice. But this would reduce the amount of overtime system-wide since these on-call teams exist specifically for the purpose of providing coverage to slots left vacant due to vacation, illness, etc.

An approach similar to this is utilized in Massachusettes in juvenile facilities and seems to work well. This system is operated by a private non-profit organization. I am not suggesting this type of structure for New Jersey. Department of Corrections is the appropriate vehicle for this type of service. I urge that they pilot test this in one region, perhaps focusing on the Leesburg-Southern State complex due to the proximity of the facilities and similar custody levels.

The Association believes that such an approach would have a serious impact on overtime costs and permit for a more structured way to deal with absences among corrections officers.

Thank you for your consideration.

