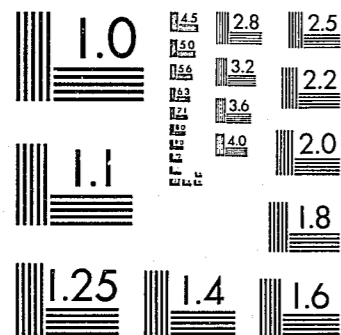




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National Institute of Justice
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SYMPOSIUM

ON

GOVERNOR KEAN'S PRISON
OVERCROWDING PLAN

SPONSORED BY

New Jersey Association on Correction
and

The Program for New Jersey Affairs
Woodrow Wilson School
(Princeton University)

Saturday
June 19, 1982
9:00 am - 1:15 pm

Woodrow Wilson School of
Public & International Affairs
Princeton University
Washington Road & Prospect Ave.
Princeton, New Jersey

NCJRS

DEC 27 1982

ACQUISITIONS

INTRODUCTION

The New Jersey Association on Correction and the Program for New Jersey Affairs of the Woodrow Wilson School of Public and International Affairs at Princeton University invite you to attend a symposium on Governor Kean's recently announced plan to address the serious problem of prison overcrowding in the State of New Jersey. The purpose of this symposium is two-fold:

1. To educate New Jersey citizens about the plan; and
2. To afford legislators and criminal justice officials the benefit of citizen discussion of the plan.

- PROGRAM

- 8:30 a.m. COFFEE
- 9:00 a.m. WELCOME
Richard W. Roper, Director-Program for New Jersey Affairs, Woodrow Wilson School
- INTRODUCTION
David H. McAlpin, Jr., President - New Jersey Association on Correction
- OVERVIEW
Oliver B. Quinn, Executive Director - New Jersey Association on Correction
- 9:30 a.m. PANEL DISCUSSION: The Plan's Impact on Counties
MODERATOR: Oliver B. Quinn, Executive Director - New Jersey Association on Correction
Louis Colletti, Assistant Union County Administrator
Jack McCarthy, Administrative Office of the Courts
- 10:40 a.m. PANEL DISCUSSION: Proposed Alternatives to Incarceration
MODERATOR: Lucy Mackenzie, Director-Citizen Action Division, New Jersey Association on Correction
Harvey Goldstein, Administrative Office of the Courts
Richard Russo, Director-Division of Alcohol, Narcotic and Drug Abuse Control, Department of Health
Riley Regan, Director-Division of Alcoholism, Department of Health
- 12:00-12:15 p.m. BREAK
- 12:15 p.m. PANEL DISCUSSION: The Proposed Prison Construction Program
MODERATOR: Professor Charles Jones, Rutgers University Law School - Newark
Gary Stein, Director of Policy and Planning for Governor Thomas Kean
Diane Steelman, Director, N. J. Correctional Reform Program - National Council on Crime and Delinquency
- 1:15 p.m. CLOSING

U.S. Department of Justice
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(substituting for RUSSO)

JOHN FORKER, CHIEF, BUREAU OF INSTITUTIONAL SUPPORT SERVICES, DEPARTMENT OF
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RICHARD STUART, NJAC .

NANCY BEER, PROGRAM ASSOCIATE, PROGRAM FOR NEW JERSEY AFFAIRS, WWS.

WINIFRED CANRIGHT, NJAC.

DONALD BERNARD, NJAC.

WELCOMEBeer :

I'm Nancy Beer, Program Associate with the Program for New Jersey Affairs, substituting for Richard Roper, who will join us later.

I can't imagine any problem more fundamental to a democratic society than the problem you're addressing today. Those found guilty still have rights within the criminal justice system and society at large has fundamental rights of personal safety and self-fulfillment. The correct weighing of these forces requires constant public scrutiny and debate.

I am, therefore, very pleased that the Woodrow Wilson School and its Program for New Jersey Affairs can co-sponsor this forum. As you continue your discussions to resolve policies in this area, it is our hope that we can further support your efforts.

McAlpin:

Welcome to all of you this morning. I'm particularly grateful for your presence here. I know that many of you spend most of your waking hours dealing with the problems of corrections, and to come out and spend more time on a Saturday morning is really evidence of your interest. The topic is a very critical one.

I would like to tell you about the Association. It's an organization that doesn't have a high profile; we want to be known to the citizenry of our state, and we want to be faithful in performing our task of being the citizen's organization that works hand in hand with government and with the people of the state to obtain the best corrections system that we can obtain in the world as it is today.

The Association has consistently pursued two goals since its inception in 1961. The first is to facilitate the reintegration of offenders into society in the

speediest and most effective manner. The second is to develop a full system of alternatives to incarceration, available for the courts of our state to utilize on sentencing and dealing with convicted criminals. In order to carry out these two goals, we have two arms. The first is our service arm, which we call Morrow Projects, and which has been very ably directed over a number of years by Jim Hemm. We started with halfway houses, and for a number of years have had two halfway houses, Clinton House in Trenton and Bates House in New Brunswick. These houses have served in a number of different ways, but mainly now for pre-releasees from our state corrections institutions. We also have an innovative program which is a true alternative program, for Mercer and Middlesex Counties, in which offenders are sentenced to a period in the halfway house as an alternative to being incarcerated. This type of program is indicative of the true alternative that we would like to see developed, that takes a sentencee in a different direction than a prison term.

We also have been working to serve the offenders and their families through various service programs in the community. Job readiness in a comparatively short time has proved to be extremely valuable. We also have outclient services for offenders and their families, in the Resource Center and Project Reunion. We have had job training programs, but at the present time funding for those programs is not available. So the service arm is always attempting, in the most effective way, to serve the offender and his family and the community at large.

The other arm is the Citizen Action program, which is directed by Lucy Mackenzie. Lucy, it seems, is always on the front lines where reform and legislation are being considered and acted upon. She is the only person, other than the legislators themselves, who spends fulltime monitoring and attempting to facilitate legislation dealing with corrections and with the criminal justice system, working to heighten the consciousness of the community at large to the problems and solutions which have the most promise.

I hope that, through the sharing of ideas among the panelists this morning, and the response of the audience, we will all go away with a heightened understanding of the Governor's criminal justice package and a sense of what really will be best for this state, so that in ten years we can look back and say, "That was the right course to take, and it has served the State well."

Quinn :

Let me also echo our appreciation to you for coming out this morning to join us in discussing the very important development represented by the introduction of Governor Kean's plan to relieve the crisis of prison overcrowding. We need not spend time documenting the fact that there exists a critical situation of overcrowding within prisons. Developments such as the recent Federal court decision with regard to the Union County Jail, recent legal developments having to do with Hudson County, and many other actions throughout the state are evidence that something needs to be done in this area.

We commend Governor Kean for taking the initiative to present, for the first time, a comprehensive plan aimed at addressing this serious problem, which affects not only imprisoned offenders but the entire state, in both fiscal and human terms. The purpose of this symposium is to share with you background information and interpretation of the various planks within the Governor's plan, so as to allow the citizenry of New Jersey to make informed decisions with regard to the plan. Hopefully, that informed citizenry will share its opinions with the legislators and policy-makers of the state who ultimately have to make decisions on these matters.

The structure of the program follows this plan. We've broken the Governor's plan into three components, which will be presented by the three panels you will find

in your program. Panel One will be a discussion of the plan as it will impact on the counties; Panel Two will be a discussion of the proposed alternatives to incarceration; and Panel Three will discuss the controversial and sensitive topic of prison construction.

Again, the New Jersey Association on Correction is heartened by the fact that the administration has seen fit to push not only the very popular (in some circles) concept of prison construction, but has recognized that there has to be a comprehensive plan developed to address this problem. So we will try today to give equal time to the alternatives and the construction plan, to play one off against the other and see how they interact, to come up with a final proposal which will go to the Legislature.

We urge you to participate actively in the discussion. We are gratified, also, to have participating here today representatives of various agencies and offices within the government who do not, as a normal course of business, participate in this kind of activity. We would like to express our appreciation to Robert Lipscher, the Administrative Director of the Courts, for giving permission for his representatives to participate today. They are appearing today, as are all panelists, for information purposes and not as advocates for or against the plan.

Commissioner of Corrections Fauver expressed his regret that he could not be here today because he's at a conference in Colorado. However, present today in his stead are Stan Repko, Deputy Director of the Division of Policy and Planning; Al Elias, the Assistant Commissioner, and John Forker, Chief of the Bureau of Institutional Support Services. We thank them for coming and sharing information with us.

PANEL #1

Jack McCarthy, Administrative Office of the Courts

About two years ago, my office did an analysis of the sentences coming in under our tough new penal code. The results of that analysis indicated that our correctional system was in the path of a tidal wave the likes of which we'd never before imagined. During the past two years, we carefully monitored the situation and commenced a tremendous effort statewide to see what kinds of things could be done about it. At times it seemed there was no way out -- no solution that was going to accommodate the scope of this problem. But last month, the Governor released his plan of action and it seems to have a chance -- perhaps our only chance -- to get out of this crisis without destroying one of the finest correctional systems in the country and without undermining our entire system of criminal justice.

My job here today is not to present to you the Governor's plan of action. I represent the courts, and it's not the business of the courts, under our system of government, to comment one way or another on proposed legislation. Cases might arise out of that legislation which the courts will have to decide, and so anything I say today does not represent the official position regarding any specific aspect of the plan. In fact, the Governor's emergency order has already been appealed to the Supreme Court and may well be back before them before long.

However, this problem is mutual to all three branches of government, and the solution requires cooperation wherever appropriate. Overcrowding causes court calendars to back up; judges face the particular dilemma of having to sentence people to a jail term that perhaps they deserve but in a jail which may be unconstitutionally overcrowded. In that respect, they wear two hats, trying to follow the legislative intent in the sentencing laws and at the same time follow the mandate of the people expressed through the Constitution regarding cruel and unusual punishment. At times, there is a tremendous conflict for individual judges.

Overcrowding contributes to riots -- we have had plenty of them in county jails around the state over the last year; it contributes to injury, death. We've had deaths perhaps related to the problem of overcrowding. So for that reason, we certainly support and urge continued effort by the Governor and the Legislature in meeting their responsibilities to provide a means to implement our penal laws.

Back in early 1980, the Administrative Office provided data to the Criminal Disposition Commission indicating that the increased severity of these new sentences under the code would create an emergency situation. We indicated that this would happen about the summer of 1981. This was reported to the Legislature and to the public. Pretty much on schedule in June, 1981, the Governor activated his emergency power under the Civil Defense and Disaster Control Act, centralizing the authority in the Commissioner of Corrections to distribute prisoners among the county jails and state prisons.

As the problem worsened, in October of 1981 Governor Byrne appointed a bipartisan Task Force on Prison Overcrowding to develop both short and long term recommendations for dealing with the problem. We worked very hard for about two months, and released our report on December 3, 1981 recommending numerous initiatives, some of which we're going to discuss this morning and some of which were adopted by Governor Kean in his overcrowding plan.

We may hear today that some persons may have problems with this or that aspect of the plan. I think that's healthy; it should be made as good as it can be. You may even hear me point out the need for more thought on various details of the plan. But I don't think we can lose sight of the fact that last year we doubled the number of people we sent to state prison.

Normally, if you look at the statistics through 1970 or so, we sentenced about 1700 persons to the prison complex a year for determinate sentences, and last year we sent over 3500. And not only that, we are sending them there for longer periods of time; on average, about 50 per cent longer terms. Sentencing is tough in this state any more — the lenient judge myth is over. And we haven't even begun to feel the impact of these longer sentences. The New Jersey prison population will double and triple this decade; there is very little question about that. For some people in our jails today, this plan is already too late. For the future victims of crimes committed by some of the angry, vengeful ex-inmates, this plan may already be too late. Simply said, we're flat out of time.

The Governor's plan calls for three pieces of legislation effecting the counties. First, legislation authorizing the Governor to continue that executive order allowing the Commissioner of Corrections to utilize any state or local facility for the housing of state prisoners so long as the counties are reimbursed. Second, authorization of county jail sentences of up to one year instead of up to six months. You say, how can we reduce overcrowding if we increase the amount of time you can put a person in a county jail? I'll get to that later. Third, authorization to parole prisoners from the county jail.

Now, with respect to the executive order as originally promulgated by Governor Byrne, it gave the Commissioner the authorization to direct the county jails to house state prisoners. How does that work? When a prisoner comes before a sentencing judge in the county and is sentenced to the state prison, he goes back to the jail and waits there for the state prison to call him in. Generally, before the overcrowding there were about 75 prisoners, statewide, in all the county jails, awaiting transfer. Over the last 12-18 months, the curve has gone up to about 1450 a month ago, just before they opened Fort Dix. It is down now to a little over 1300, and it will drop a little more as Fort Dix accepts new prisoners. We expect that it will get down to 1200 and then start to climb again.

Governor Byrne extended this order twice, and Governor Kean has extended it to January 1, 1983. Why do we need the executive order? I think, if you can just picture 1400 prisoners transferred to the state system, in the opinion of almost everyone, the system would probably collapse. The Supreme Court upheld the Governor's action as legal and constitutional.

As I have heard it, the strongest criticism of this order is not that it's illegal, but that it has been used to penalize, to paralyze county jails, for the benefit of the state prisoner. I fully understand that position. The jails are now at about 128% of capacity, and the state prisons at about 123% of capacity. But it is like asking who can best pay his debts, a pauper or someone who is broke.

On the other hand, two-thirds of the state prisoners are there for violent crimes, which is not the case in the counties. In the county jails, about 80% have committed non-violent crimes. About 25 percent of the state prisoners are there for homicide. The question becomes, if you're going to have a riot or breakout, where

would you rather have it? The Supreme Court said in the Worthington case, "The policy of placing inmates in the county where convicted is not arbitrary or capricious, even when the county jails are more overcrowded than the state prisons. Until permanent quarters can be found for state inmates, it makes sense to confine them in the county jails where they are already incarcerated. Moreover, the state prisons represent a greater threat of violence because of the larger number of inmates at each facility." The Supreme Court noted that the authorization is not permanent, and can be made permanent only by the Legislature. The bill would give the Governor that authorization. This is the most controversial part of the Governor's package.

Second, authorizing the county to sentence an offender to county jail for up to a year instead of only six months, as a condition of probation, as is now the case. This is a return to the authorization judges had under the old criminal code. Under the old law, a judge could sentence a prisoner for a year or less in the county jail and a year or more in the state system. So, the judge's discretion was continuous. Then under the new code, for reasons I'll never understand, the Legislature pulled the middle out of the judge's discretion. They said you could put a person on probation — on the streets or in the county jail for up to six months. But if they wanted to give them more time than that — let's say, if it was a third degree crime — you had to go to state prison for at least three years, or five years for a second degree crime, or at least ten years for a first degree crime.

What happened to those people who normally would have been in the middle — who would have had a nine-month sentence, or a twelve-month sentence in county jail? They got state prison terms, and much longer terms than they would have gotten in the past. The statistics back it up. The proportion of offenders sentenced to county jails under the new code has not changed, 19-20% of all sentences. But the portion that goes to prison has gone up to 70%. In the opinion of many people, this is the number one cause of state prison overcrowding, and it is forcing us to fill up the prisons with non-violent offenders who might better be placed locally.

We estimate that this bill will result in around 700 offenders being placed in the county jails instead of state prison. It may be higher than that.

The third aspect of the plan calls for the introduction of parole into the county jails. Currently, parole is essentially only for state prison inmates. A prisoner in a county jail is not eligible unless the sentence is longer than nine months, and then not until nine months have expired. It is interesting to note that a nine-month sentence in a county jail is equal in the amount of time a person is actually going to serve to about a 4-year sentence in state prison. A person serving a 4-year sentence in state prison is eligible for parole after about nine months. The situation is unbalanced, it's unfair. Under the bill, a prisoner would have to do at least 60 days before being eligible for parole, or after serving one-third of his sentence less credits, just as happens in state prisons. It should reduce county jail populations by at least one-third, and maybe more. I originally had some concerns about the cost of placing the entire parole bureaucracy into the county jail, but the bill allows some flexibility by allowing the Parole Bureau to delegate its parole authority to county officials.* The biggest concern I have with this bill is that the county jail sentences are now certain, and the introduction of parole into the county jail will remove that certainty, and perhaps cause the judge to try to outguess the parole board by giving longer sentences to achieve the desired level of real-time punishment. But this package represents an attempt to reduce overcrowding and represents a specific legislative intent,

* later changed by the Legislature.

and perhaps judges and prosecutors will be guided by that intent and comply with the spirit of it. But it will reduce county jail populations substantially.

This plan is highly interrelated. It really must be understood in its entirety before you can pass judgment on it. It may be easy to find fault with this or that part of the plan, but the wisdom of each part becomes clear when viewed in concert with the entire plan. The strategy is essentially to, in one respect, push offenders down and then out — to identify the less dangerous offender in the prison system and move them out into intensive supervision, into the county jail setting, and then to identify the less problematic county jail offenders and parole them back out into the streets. This will solve part of the problem, and trailers and the new prisons will take care of the major part, thousands of new prison beds.

I believe that now more than ever is not a time for self-interest. Unless the Legislature acts on overcrowding, some offenders are simply going to break under the conditions that they are in right now. Some people will die. The federal courts are gradually taking over unconstitutional jails, and that is just not the best way to deal with this problem. We're probably already too late for this summer. Most people agree that we're going to have major problems. I have visited some of the county jails personally, and people are literally wall-to-wall. The word "overcrowding" does not connote the full dimension of this problem. My visit to the Camden County jail a few weeks ago reminded me of some dungeons I had seen as a kid on TV shows in medieval England, except that it was a little better lit. Two weeks ago, guards in that jail had to use hoses and mace to quell a disturbance. Similar disturbances have occurred in most of our jails, and there is a growing list of lawsuits before the courts to resolve this problem. As I said before, we are flat out of time, and I urge your support for a solution.

Coletti:

I'd like to thank the Association for inviting counties to participate in this symposium. Sometimes policies are set on a state level where counties don't really have an opportunity to discuss fully the impact on the local level. I think everyone here would agree that overcrowding has become the central issue for the state of New Jersey for the past several years. But it didn't occur overnight. One of the finest documents ever assembled was the 1977 New Jersey Master Plan, and I think if people will begin to review that document you will see that the overcrowding issue should not come as a surprise to anyone.

Mr. McCarthy went into great detail about the Governor's plan. What I'd like to do is give you the view of counties, in a general sense. Yes, the counties support the Governor's proposals in terms of parole or probation but we're not really sure what kind of impact that's going to have on the county jail population. In Union County, 70% of the inmates who are currently housed there are being held on violent crimes or drug offenses. Those individuals who are sentenced to the county jails are sentenced as a last resort, by the judiciary. Some of them have been through community service programs, any kind of alternative which is currently available. That is not to say that we have exhausted the alternative methods which could be introduced in this state. The judiciary, I think, has been very concerned about the overcrowding issue on the local level. In a sense -- and perhaps I shouldn't even be admitting this publicly -- but we do have a parole system in county jails.

The Union County jail, as an example, legally can house only 259 people. We have been as high as 415 in the last several weeks. What happens when we begin to reach that kind of number, we approach the prosecutor and the assignment judge and begin to look at individuals who are sentenced to the county jail. What can we do to help alleviate this situation? Because Union County, in September, had a riot. We were very lucky -- six hostages were taken, and it was over in an hour

and a half, thanks to an excellent response by the law enforcement community in Union County. So the probation and parole aspects of the Governor's plan -- while county governments in general will support it, we're not sure what impact it will have on the local level.

I said before, 70% of the population housed in the county jails are there for violent crimes. That includes pre-trial. The very nature of the county jail population is beginning to change, and it is that aspect which really concerns county officials, because it begins to tie into the concern that we have for the authorization of the Commissioner of Corrections to permanently designate county jails as a house of confinement. The problem is not simply overcrowding. When you begin to think about the implications of that particular piece of legislation, you're dealing with constitutional issues, you're dealing with financial impact to county governments.

I don't want to stand here this morning and go through a discussion of the problems with 5% caps and the problems we're experiencing because of Federal cutbacks. The question becomes, should that particular piece of legislation become law? What services will counties then be mandated to provide for state inmates held in a county jail? Because they're very different from the services that are legally required for county-held inmates and the pre-trial population. Do you handle state prisoners differently than county prisoners? You then begin to get into the operational problems of the corrections officials in county jails. I think everyone here will agree that everyone should be treated equally. To then deal with two segments of the same population in the same building, under two sets of rules, can become quite burdensome. Should county governments be required to provide additional services to state-held inmates? Who will pay for that? How will the county raise that money?

These are the issues which concern county governments in terms of that specific

legislation. If I may, I'd like to say something about the N.J. Department of Corrections. During the last several months, the Department of Corrections has had to take a lot of negative publicity, both by county officials and state officials, and I don't think that's fair. I think the fact that we're moving toward a solution, that they have effectively handled the problems in the state correctional system without incident to date, I think they should be commended. The Governor's proposal is the first systemic approach that we've seen in quite a number of years. The heart of the program, I think, goes to prison construction. We must have more bedspace, not only on the state level but on the county level.

There are currently ten or eleven counties which are either building renovations or completely new facilities. But it goes beyond the overcrowding issue. It goes to the heart of the matter, with the New Jersey Manual of Standards. The Union County jail currently is housing approximately 360 people today. The size of our cells is 37 square feet. We have two people in a cell. So you can see the kinds of problems that Mr. McCarthy talked about earlier, most county jails have been faced with.

County governments will have to become involved, and take positive steps in the correctional systems in their own jurisdictions. We've had stabbings, several in Union County, not because of the heat but fighting over bed space. An inmate who is transferred out to the state -- and the bed space I'm talking about is a mattress on the floor, in the cell. And the fight then ensues. Who gets that bunk? The person who's in that cell, or someone down the tier who feels he's bigger and stronger than someone else?

Not everyone will fully agree with the proposals of the Governor's office. County governments are not saying we are opposed completely to the Corrections Commissioner's authority, in the proposed legislation. The formal position taken by the N.J. Association of Counties has been to develop contractual agreements

with the state, to house a specific number of state inmates. County officials recognize the problem, and it makes sense, it's logical if we can begin to address the inmate population in the State of New Jersey as a whole. It makes sense to look at individuals in a state institution who are coming up for parole dates, to be returned to their county jails, where they're closer to their families. They're not going to present any problems, because they know that their parole dates will be affected by anything that occurs in the institution.

But just to approve the Corrections Commissioner's authority to designate any jail without those preconditions -- I think could be dangerous, especially for the urban counties. Because if you look at those counties which are housing the majority of the 1200, 1300 people that are backed up, you'll see the same counties -- Essex, Hudson, Union, basically the urban counties.

The problem is long term. The prefabricated buildings will be filled up in two months, which will leave those counties still dealing with the problem of housing state inmates. Should the legislation be adopted, one of the positions that the Association of Counties is asking for is that the reimbursement cost to the counties be given on the first day, not the fifteenth day. If county jails are going to be housing state inmates for significant periods of time, we want to be reimbursed from day one. The current statute says that we must hold them for fifteen days.

Every governmental unit including the Federal government, is crying out for additional funds. So I don't want to emphasize the cost implications, but I think it's a legitimate issue that has to be discussed. To simply grant state officials authority to mandate program services to counties, without providing the financial resources to do so, it just a continuation of a problem county governments have faced over the last several years. It can become a very critical problem when you're talking about corrections, because the next step is dealing with the issue of constitutionality in the county jails.

There aren't many county jails in this state that meet the N.J. Manual of Standards, so when we look at the problem of overcrowding let's not simply confine it to the number of people housed in a particular institution. I think we have to face the issue of providing a humane environment for anyone who is incarcerated.

DISCUSSION TO PANEL #1Question(Quinn):

Mr. Coletti, you say that you need bed space but are prepared to engage in a relationship with the State. Where would you put the state prisoners?

Coletti:

I think that's a question that each individual county has to respond to. In Union County, we are building a new jail. We signed a contract with the State of New Jersey in which we received \$4.75 million in bond money, with the stipulation that we house fifty state prisoners.

Question:

Mr. Coletti, what's done about education, rehabilitation, and what kind of work is done by prisoners?

Coletti:

It's based on the location of each jail. Union County jail is right downtown, in an urban area. We do not provide many work opportunities within the institution itself. Trustees are assigned to work in the laundry, the kitchen. Cleaning details. We do not have a lot of work opportunities.

In terms of rehabilitation, you get into the philosophy for a local institution. Is it the purpose of a local jail to provide rehabilitation? At this point, I'd have to say no. We do provide educational programs, bilingual programs, law library -- which are mandated state services. We do not provide vocational training. Those are the kinds of issues that will be important and have to be dealt with, if we're housing state inmates.

McCarthy:

I think that, other than overcrowding, probably the biggest problem in our correctional system is idleness. At the county level, there's almost no work. In the state prisons, in some there's no work, in some there's some work. I don't think there are many inmates anywhere in this state who work more than a couple of hours a day, if at all. Very few work more than three hours on a morning shift, even in Yardville or Leesburg. They go into programs in the afternoon. Many of us consider ourselves hardworking people, but if you take any one of us and shut us down for a couple of years -- just put us into a situation where we're idle -- I submit that it would be very hard to get going again.

I think we're training an army of indolent people in this state. I think that that's the number one problem in our criminal justice system, our correctional system. When offenders get out of prison, they have to work full time or they're going to be back, that's the way it is. And they may have to work more than full time -- maybe they have to work ten hours or double shifts, in whatever socioeconomic position they're in, in order to survive. And yet, they're coming out of a system where they've been idle day in and day out and just haven't developed any kind of a work ethic. Chief Justice Burger, about a year ago, said that when we're building new prisons we should make them factories with walls, and I think he was absolutely right.

Now, that's just from a rehabilitation point of view. When you take that idleness, and put it in a setting of overcrowding, where particularly in the county you have these people not only two in a cell -- maybe the tier has four or five cells along a block, and a small little corridor adjoining all the cells, and they spend 24 hours a day in that area, that's really what compounds the problem, the effect of overcrowding and idleness. Together, they are deadly.

Repko:

I'd like to make one comment with respect to Jack's statement. Prior to 12-18 months ago, we had the majority of inmates working, in our system. They were not idle. But because of severe overcrowding, we have been forced to cut some jobs in half, where inmates are working 3-4 hours instead of all day. Clearly, we have state-use industries, we have vocational training programs, and every inmate ..(inaudible).... We do have a problem now because of overcrowding, particularly at Leesburg and Rahway where we have trailers and work opportunities are limited.

McCarthy:

I think it's not only the work programs, Stan, but I think overcrowding has knocked off a lot of your education programs, recreational programs, and I think the effect is broad, where it's not just idleness from work, it's flat-out idleness. All the rooms where people used to go and read and be taught, or skills or anything, are all shut down and they're all full of people now. And so you've got fifteen thousand people in county jails and state prisons around this state, many of whom have almost nothing to do, except where you still have enough room for at least half a day things, but in most of your county jails, there's just nothing to do.

Question (Mitchell):

(Statement indicating that comparing overcrowding in jails and prisons by percentages is deceptive, because some county jails consider more than one person in a jail cell as normal, while this is not true in prisons.)

McCarthy:

That problem was considered by the Kugler task force, and they were concerned about that issue as well -- they said we're talking about capacity where

as in the county we'll have a 35 ft. cell while at the state level, we'll have a 70-75 sq. ft. cell, and in capacity based on one inmate per cell you've got twice the space at the state level. The task force took a look at that, and discussed double celling in the county jails vs. double celling in the state prisons. They didn't recommend double celling at the state level, though -- they recommended that it shouldn't happen anywhere.

But I think that the DOC points out -- Stan, maybe you'll want to speak to this -- that there are subtleties -- if you start considering the size of those cells, you've also got to consider the fact that the people in state prisons are more violent, and that they're there for much longer periods of time. It's a lot easier to double-cell a person who will have to put up with it for only a short period of time as opposed to a person who's going to be there for many years.

Coletti:

I might agree with them, if the people in the county jails were only going to be there for a short period of time. But experience has shown that that is not the case. We transferred an inmate to a state institution the other day who had served one year of his sentence in the county jail. I think that's one of the critical problems that's facing county jails throughout the state. Our population is changing, the nature of the institution is changing from one which was basically a transient population to a resident population. And that has very serious implications in terms of programs and services.

Rudy Johnson:

I agree that the state should be commended for what they've done. They haven't had riots. The state's overall lack of leadership in dealing with the problems of overcrowding - what we have is a backward situation. As a local corrections official, I feel that I should be in a position to look to the state for guidance, leadership and whatever supports I need. What I have is the

state solving their own problems at my expense.

And I'll give you some examples of that. In Middlesex County, where we have a capacity of approximately 232 inmates, I have a 40-acre farm, a commercial laundry, and several other auxiliary type things. I could possibly employ, all day, 60% of that population if I didn't have state prisoners. We are involved in college programs, GED programs, and other social service programs that have been absolutely diluted to the point where (inaudible).. because we have state inmates. We are also in the process of building a new institution. It was planned after several years study, to meet the needs of Middlesex County and the population projected. Two months ago, because of state inmates, I could not get the inmates that I had in custody into the institution if it were ready, and we're still a year away from completion. It's overcrowded, today.

Question:

How many state inmates do you have?

Johnson:

We were averaging 60 -- they took some, we're averaging 30-35. In an institution like Middlesex County, 35 people makes the difference between whether somebody is going to sleep in a bed or on the floor, in the present facility. So, my basic comment is directed toward the State's lack of leadership in dealing with the problem of overcrowding. This is not a county problem; I am overcrowded because the state is overcrowded.

And the legislation we're talking about -- the Governor's authority -- I don't think is the answer to the problem, unless we can, by contract, and we have determined in advance how many people I can reasonably handle. Up until this point, that has not been the case. But in every instance, where there has been a serious disturbance, a fire, a riot, the state has found beds to move inmates out of that institution and give it relief.

And the institutions that have gone out of their way to try to live with overcrowding -- for their efforts, they suffered even more because the state didn't take any inmates from those facilities.

Question: (Quinn)

So one of the positive aspects you see in the contract suggestion is that the county would be a direct participant in the decision as to whether or not you could receive state offenders, rather than a system where the DOC makes that determination? (That's right) Do you have any input in that determination now?

Johnson:

No. One of the problems, whenever these decisions are made around the state, very few people who stand at a jail door and see and know what goes on in a jail make decisions about jails. Very few. Most of the decisions that come are manipulating numbers, saying we've got to thin out the state, we're going to put inmates in the counties, and all of the other decisions about jails -- none of these people even know what a jail is. And that is the most disgusting kind of a situation that I can imagine. Because no matter what comes down, ultimately I have to deal with it. The best way that we can, we deal with it.

Repko:

With respect to planning, I would like to say, within our Division of Policy and Planning, the overwhelming number of people in the Division have had institutional experience. Myself, I've had over five, Mr. Elias has had ..(inaudible).. actual institutional experience... state level experience. We try to understand institutional operations. I do think that the one point about the plan of moving offenders, giving the 12-month sentences and moving them into the county, I think there's a very positive effect. That will free up bed space in the state institutions, and we'll be able to take more of the longtermers into our system.

Johnson:

About experience -- what I meant was, on the county level. Because I have to take the view that, the state has the resources, the state can do it. And this is my major gripe about the whole situation, is that I have no resources. If anyone should be dealing with this problem, it should be the state.

McCarthy:

I guess we've got to keep in mind a few things. One, as I see it, the DOC is not the cause of overcrowding in New Jersey. That's a crime problem, that's a sentencing problem, that's a legislative policy. I think the people in this state have indicated very clearly to everyone, to judges and legislators, that they want more people to go to jail, for longer times.. And it's the lack of rational planning in setting overall sentencing policy in the penal code, the lack of anticipation of bed space needs in the longterm, largely by the Legislature, which has really caused a lot of the problems where we are.

So I don't know that the DOC should be singled out as creating this overcrowding problem at the county level. I do think that there's room for a lot of debate on this, and I think the points you take are shared by an awful lot of people in the state. So clearly, you're not alone on that, except to say that, it seems to me that, as bad as overcrowding has been -- and I'm sure we're popping minds like mad in the county jails right now, because I've been through these jails and you can feel the undercurrent of violence and frustration and anger where people are stacked up like cordwood. There have been some riots and the like, but not an overwhelming amount of injury or death yet, although it may well be coming. I know we had a suicide in Union County, we had the fire up in Hudson, but there's no clear evidence that these are totally and directly due to overcrowding, although I'm sure they are to some extent.

But I do submit that, if we took the 1400 offenders right now out of the jails, and piled them into state institutions, and these institutions are large -- it's not like the county jail, where generally you're talking about institutions of a thousand or more people, and you drop a whole lot of people into that, and you're talking about people who need medium or maximum security. It may well be that if Governor Byrne didn't put in his executive order, and if the problem was just in the state prisons, and let's face it, from a political point of view not many people care about the state prisons -- if the problem's there, leave it there. In the counties, you generally tend to generate a little more excitement about solving the problem. Had he not done that, and these state prisons just received all these people -- I submit that it may well be that we'd have had an awful lot more bloodshed than we've had today.

So in that respect, I've got to give credit to some people for courage and leadership in trying to distribute the problem around in a way that leads toward solutions. I don't think it's clear -- I think there's an awful lot of truth in what you're saying.

Richard Stuart:

There is a difference in county and state capacity, not revealed in the numbers, which don't give an accurate picture. It's like comparing a small open boat with a cabin cruiser. I think Mr. McCarthy came closest to the truth when he said there was a strategy of the state to create a crisis at the county level so that the counties would support the prison bond issue. State officials haven't cared about the 21 tinderboxes around the state. The counties are not equipped to deal with overcrowding, in terms of room to segregate different types of prisoners, to deal with psychological evaluations. Overcrowding in the county jails is much more dangerous. In jails, a non-sentenced prisoner may be stabbed, instead of a murderer in a state prison.

McCarthy:

You know, this problem is so big, it is so big that I think we can point fingers all over the place and find all kinds of people who didn't do their job best. But the analogy I see right now is, we're like people hit by the first of three tidal waves, and it serves us better, rather than spend time talking about how well we dealt with the first one -- I'd much rather see us plan for the next two, because the data I have tells us that we've just felt the tip of the iceberg.

The use of minimum sentences, the increased length of stay and other things happening in the system right now tell me that we're only halfway there in the number of people we're going to have in prison over the next few years. Even if all of the Governor's plan is enacted, it still will leave us with a large number of people without bedspaces, and we've got to keep addressing that. It's just begun. I think that the state can be criticized for protecting itself; I think that the counties can be criticized for maybe not adding to the state's cry, several years ago, that the new code was going to cause this. Right now, we've got to pick up the pieces and look at what's still coming, because the data is clear: it's just started.

Coletti:

In response to what Jack was saying, once before I referred to the 1977 Master Plan. I'd encourage everyone here to take a look at that plan, because the road we're traveling right now is consistent with it. And whether you agree or disagree with this road, I think what bothers me most is the lack of any special policy-making decision on the part of the Legislature. Had some people taken a serious look at the recommendations made in the 1977 plan, and taken some decisive action, we might not be in the position we're in today.

PANEL #2

Goldstein

We came to the latter part of the discussions before I heard, for the first time, someone address the "criminal justice system." I think we're beginning to recognize that decisions made throughout the system really do have some impact on the other components. And that's very true for the intensive supervision probation concept, something that's included as an alternative to incarceration in the Governor's package.

What we've seen in New Jersey, over the last ten years, has been the calling upon probation services, funded at the county level almost exclusively to provide a range of services that has been increasing. If you look at the probation system in 1972 in the 21 counties, typically you would find that the vast majority of the services and the vast majority of the resources of the 21 departments, were devoted to three primary functions: investigations, post-disposition supervision, and collections, which today involves about \$150 million.

From 1972 until recently, we've seen a tremendous expansion of the demands placed on that service. We now have pre-trial intervention programs, juvenile and domestic relations intake programs, supervision of persons never convicted of an offense, and persons coming out of the state mental hospitals being supervised by the probation service.

The funds for staffing and program development, including LEAA support, did not keep pace with the increased responsibilities. What started happening was a movement away from the use of supervision as a concept with a relatively clear set of goals, to the point where we now have probation officers with case loads over 200. If you think in terms of a normal 35-40 hour work week, you're not talking about any kind of supervision. At the very best, you're talking about some kind of monitoring dealing with the squeaky wheels, and cases where an arrest has taken place.

And no one's more aware of it than the judges sitting at the county level. The judges have indicated to us, for years, that one of their serious concerns is having to make the in/out probation/incarceration decision, based upon the resources they know exist in the probation departments. They are very concerned about placing somebody, taking a chance, putting them on probation when they know that that person may not be seen, with any substantive kind of contact for two weeks, or a month. And even when a routine is established, if a person is seen for 15-30 minutes a month, that's a lot.

Resources have been shifted away from that type of activity, to speedy trial, and early diversion, at the cost of supervision. The question we faced was how to deal with some of these cases in a meaningful way and have the confidence of the judges. Over the past year, the judiciary has been trying to hone in on that, through the judicial conference process. Local advisory committees have been set up in all the judicial districts across the state, to take a hard look at probation and devise some realistic approaches. One of them was to try to identify persons with the most serious needs, and to place our resources there. That's probably being done now in about eight probation departments. Just as they began to do that, federal money began drying up, alternative sentences such as community service were no longer available without federal funding, and it became difficult to do something meaningful. The concept of intensive supervision is one of those alternatives, but it's a difficult one.

Jack McCarthy talked about doubling and tripling the prison population within this decade. If we put 400 people in intensive supervision, that is the tip of the iceberg. It'll provide some relief, but it's certainly not going to solve the problem. The question becomes, how to integrate ISP* in the system

* Intensive supervision probation.

to see how meaningful it is, because there will be a natural reluctance on the part of judges, having heard about leniency in sentencing, having been accused of not following the prescribed community approach in dealing with criminals, to taking a chance by putting somebody out on probation.

One of the probation subcommittees tried to deal with this subject. They put together the outline of an ISP program in which the probation officer could have a meaningful impact on someone placed on probation. They dealt with people who are already sentenced. There has to be daily contact by the probation officer with the client, a service that is not provided now in any county, with the huge case loads that exist. There is also a restitution component, community service, enrollment in available drug-alcohol and employment type programs. We are talking about a one to five year probation term, a normal term coming out of the Superior Court, with a very select group of people, those people already sentenced and already starting to serve their term.

There was the question of eligibility criteria. The Governor's proposal took an exclusionary approach, and said that the following types of persons could not be included: those who committed violent crimes, and those with mandatory minimums. Those persons who are eligible and want to be considered must notify the prosecutor, the sentencing judge and the Commissioner of Corrections. Under the option now being considered the case would then be referred to a three-person panel for consideration, including a representative of the Department of Corrections, the head of the intensive supervision program, and another person representing the public. That panel will give the program credibility. But that's not a decision-making body, only a recommending body. The final decision is still made by the sentencing judge. We don't need new legislation for this program; the court rules which now exist allow reconsideration of a sentence within 60 days and a decision made in 75 days.

The actual decision to apply for the program, the development of a program and suggesting why an individual is a good candidate for supervision, rests with the individual. I expect that may give us some problems, and I would hope there would be some involvement of defense counsel.

When the review takes place, presumably there would be a great deal of information available. A presentence report is already done, the rap sheet, and a plan (realistic or otherwise) as developed by the person under consideration, that the panel can review as well as interview the individual candidates. I have a feeling that when push comes to shove, that's going to be very time-consuming. But when the review is made, a recommendation goes to the judge, who has final determination of who is entered and who is not entered into the program.

We have talked today about the capability of county and state institutions to hold additional prisoners. That's something we rarely discuss in probation. It's hidden in the probation service. Jails have capacities, and one can readily see the problems that are created when the numbers get too high. We don't see those problems in the probation service. Probation clients, no matter how high the caseload, are not in any kind of lockup; we're not responsible for feeding them, for providing educational programs, vocational programs, or employment opportunities. Probation becomes, except in a few instances, synonymous with a suspended sentence. The person is out, there's virtually no contact; probation becomes, to some degree, a sword over his head if there's a violation.

It's been very hard, across the country, to come to grips with this issue. What are the proper numbers? Do we base it on caseloads, on workloads? I think the Governor's proposal effectively avoids that entire issue by talking about daily contact. The proposal includes caseloads of 15-20, and then you have the right and responsibility to require that kind of contact.

The kind of people who will staff this program is a serious consideration, and even more serious is how they will work. Probation officers have a 9 to 5 work day, even though the court has said that they are on call 24 hours a day, 7 days a week. But for this program, there can't be a normal type of work week. That's one of the reasons why the expenses here are different. We calculate the average cost of a probation term, for a one-year period, to be roughly \$600. But no matter where you see it, recognize that that is a meaningless figure. Under that figure, you can't assume that any kinds of services are being given, that any kind of monitoring is being done. In the Governor's proposal, with caseloads down low and the contact level requirement high, you are talking about a cost of approximately \$5,000 a person. Compare that with the \$15,000 annual cost for incarceration, which would be \$6 million for those 400 people, versus about \$2 million for the program. But it's a chance, a gamble. The only way the program can work is, if someone doesn't comply with the conditions of the program, for almost any reason, he must be brought swiftly back to court and is not only removed from the program but barred from reentry. We typically look at recidivism as a measure of success -- I'm not sure that recidivism in this program doesn't have more to do with success than with failure. If we find 80-90 percent of the people in the program going back in, it's certainly not going to do much for prison overcrowding.

Proposals have been made for review committees composed of county officials, state officials, judges and others. The outline in the Governor's proposal barely scratches the procedural surface. There is a tremendous number of policy decisions and procedures to be developed, e.g. a mechanism perhaps to return the people in this program to routine supervision sometime during the term, if that seems to be appropriate. There must be extensive cooperation between probation departments in the counties. I suspect if you look at the many intensive supervision programs across the county, typically they deal with a person already on probation, not one who has been incarcerated.

The procedures, the program development, the evaluation, the coordination and cooperation I suspect will rest on the shoulders of the Administrative Office of the Courts. The months ahead will be spent trying to work these things out and get a viable program going. But remember, 400 persons is only going to begin to deal with the overcrowding problem.

Mackenzie:

The programs that this panel is talking about have two characteristics in common. They will not come before the Legislature in the form of bills; therefore, there is not the opportunity for legislative input by the public. So today provides an opportunity for those who are interested in alternatives to incarceration to ask people about the programs and how they will work. Second, I'd like to tell you, if you don't know -- the Joint Appropriations Committee last night made some very important decisions regarding these programs. The Committee added to the budget, funding for the treatment program which we'll be hearing about next, funding for the intensive supervision program which Harvey described, and, to the great pleasure of the New Jersey

Association on Correction it included \$600,000 for community service programs.

The Association has felt that community service should have been part of the Governor's package, and we have tried, on our own, to get funding for programs in every county in New Jersey. The Committee did add that money last night, and I would like to thank all of you here who were participants in urging the Committee to make that decision.

Regan:

I'd like to indicate very clearly that I'm an advocate for this plan. It's about time that someone recognized, in a comprehensive way, the role that alcoholism plays in the whole correctional system.

I came here from Maryland, where we accomplished a study in 1971 in the reception center for the state penal system where all of the individuals coming here were evaluated. We found that 56% or more of the adults were alcoholics. A study of younger offenders showed us that the data held up around 50%. Very few people listened, and little was accomplished.

When we started the Division of Alcoholism in New Jersey, we did similar studies at Yardville, at Trenton State, at Rahway, Leesburg -- the data continued to hold. Seventy per cent of the murders in this state are clearly alcohol-related; murder victims represent almost 60% intoxication at the time of the murder. People who know each other, who get involved in a drinking episode, and murder takes place. Eighty percent of the spouse abuse in this state is directly attributable to an alcohol-abusing spouse. Significant numbers of assaults, burglaries -- 56.8 percent of the deaths on New Jersey's highways are directly attributable to the drunken driver. And we've got something major to consider, because the public is beginning to rally, with groups called MADD and RID, and I think just the acronyms -- who in the hell is going

to be against Mothers Against Drunk Driving?

The President recently appointed a national commission to study drunk driving, and we expect Governor Kean to do the same. Part of the federal legislation which we expect to be passed is going to require states to develop 48-hour minimum jail terms for drunk drivers.

I came from a state that was the first in the nation to decriminalize public drunkenness. We funded a law at such a minimal level, in both Maryland and New Jersey, and yet a very comprehensive law, moving the public inebriate from the jail-police court system to the health care system. Our indications are that although the incidence of public drunkenness has gone down to zero, the rate of indecent exposure, disorderly conduct, vagrancy, loitering and everything else has gone up on mirrored curve.

This program gives us the opportunity to talk, at least a little bit, about the impact of alcoholism on the New Jersey correctional system. We were able to obtain a building on the grounds of the state hospital at Marlboro, and get that program staffed by a non-profit corporation. That program, within a year's time, has developed a comprehensive alcoholism effort which takes individuals that would ordinarily be in the Monmouth County Jail, the Ocean County Jail, and is running a success rate for chronic alcoholics a little more than 50%. That means that people do not get involved in criminal activity or drinking episodes in the community and are working and sober for a year period.

This project, through Gary Stein's effort, began to identify, on the grounds of state hospitals, a number of vacant facilities that clearly could be taken over. We're currently looking at a program on the grounds of Marlboro, and a program on the grounds of the Essex county hospital. We have board members like Richard Hughes and Bo Sullivan, and if that's not bipartisan enough I don't know what we can find.

We have not yet designed this program. We are pulling together a task force, and I want to invite the Association on Correction to be part of this program. We expect to treat, in the first year, 400 individuals who could not be placed on parole without an inpatient treatment program. We're extending the treatment program from 30 days to 60 days. Our traditional 30-day programs in therapeutic communities are paid for under mandatory health care insurance; we've really got the middle class covered. You can go to one of our facilities and see four United Airlines pilots in a group, talking about flying 747's in a blackout.

I anticipate that we'll be able to integrate some of these ex-offenders into the existing programs, but the funding would be almost a 71% increase, with the amount added by the Appropriations Committee. We expect that the 400 individuals will be treated at less than \$9800 a year, cost effective in terms of the cost of incarceration. We expect to follow these individuals in the community through outpatient care. It really doesn't take that much to treat an alcoholic -- alcoholics have to stop drinking first, and then it's amazing what takes place in their lifestyles. Most alcoholics can be treated very well in Alcoholics Anonymous, and followed in AA. Where there are groups that don't seem to work very well, we anticipate adapting special outpatient programs for offenders coming out of the system.

I feel very strongly that most of these individuals can eventually, after we begin to demonstrate that treatment is effective -- and I think that's the biggest concern that parole agents will have, that our program would just be a stopping-off point for an individual who spends 60 days and then returns to the community and gets back into the same jackpot as before. We expect to make the programs available to an individual who's been out on parole, who violates that parole as the result of a drinking episode, and that person can go to one of our programs without having to go back to the institution.

We expect that this program will raise the visibility of alcoholism in the whole system, and will demonstrate that treatment can be effective when performed by a community group, when the appropriate kinds of follow-up are available. We're fast moving to develop three adolescent programs in the community, that finally will be able to serve as alternatives to individuals coming into the detention centers.

The key to developing this system is that we are positive that we understand which individuals in the correctional system can benefit from this program, and that it doesn't become an alternative correctional system, that it's a treatment program and not a dumping ground. We have that commitment from the Governor's office, and the leadership needed to make this happen. It's a revelation to me, and we're willing to fight off the rest of our constituency when they see \$1,200,000 devoted to this project. It really gets to the heart of what alcoholism is all about. We're really looking forward to this project, and your involvement in it.

Farrell:

Assistant Commissioner Richard Russo sends his regards, and his regrets at not being able to attend this morning.

I'd like to outline the establishment of a residential drug treatment program for youthful offenders. We're talking about a 60-bed drug unit, to be located on the grounds of one of the state hospitals. It would serve 350 parolees a year on an early-release basis in conjunction with the parole board.

In dealing with the type of clientele that we see, we have to establish goals for them that are realistic. Short-term goal planning is extremely important, because the kind of population that we deal with basically is a client who is seeking immediate gratification. Vocational services are extremely important. The attempt will be made to prepare them for job place-

ment, job preparedness, job follow-up, and continuity of ongoing job services. This will all be done in community aftercare programs as well.

Medical services will be included in all areas of our program. Medical services will include extensive medical and laboratory tests and psychiatric and/or psychological evaluation as deemed necessary. Ongoing counseling will be provided in the areas of individual and group, with a strong emphasis on family therapy as it relates to the parolee's ties within his community. Urine monitoring will be provided for all clients as required by federal and state law. The continuity of care of this client would continue upon his release from this three month inpatient unit. After this three month stay, the client would either continue enrollment in a therapeutic community, or an outpatient drug free or methadone maintenance program in his home community. This system is already in place and the phase-in of parolees with early release dates would be accomplished with a minimum of effort.

Mackenzie:

At this time, I'd like to mention another program which could be considered an alternative to incarceration. It would release certain prisoners from the state system. This is part of the Governor's package, and I'll read the statement describing the legislation, called early parole. It will be coming up in committee on Monday, as will other parts of the Governor's overcrowding plan.

This bill provides an emergency mechanism that would permit the acceleration of parole release dates for non-violent prisoners whose parole eligibility has already been established by the Parole Board and whose parole dates have already been fixed. It requires authorization by the Governor and the Commissioner of Corrections and is designed to deal with emergency overcrowding situations.

If an overcrowding state of emergency is declared, the Parole Board would be requested to identify non-violent prisoners whom they have already investigated and determined to be eligible for parole, and whose parole eligibility dates have already been established. The bill authorizes an acceleration of these parole release dates by not more than 90 days. If an inmate is released on parole pursuant to this act, and the inmate violates the conditions of parole, the inmate is required to serve an additional period of incarceration. This mechanism can be utilized no more than twice a year. The emergency will be declared ended when the prison system gets back to operational capacity.

This bill is modeled after legislation enacted in Michigan, but there are three significant differences. One, in Michigan all offenders are eligible for consideration, not only non-violent prisoners. Second, the mechanism can be utilized at any time in Michigan. And significantly, in Michigan there is an automatic use of the early parole mechanism when the system has been overcrowded for a certain period of time. The New Jersey legislation makes it entirely permissive for the Governor to declare a state of overcrowding emergency, and he can choose to use this device or not.

When Mr. Stein speaks to you about the construction program, I'm sure he'd be glad to answer questions about this legislation, which is very important.

DISCUSSION TO PANEL #2

Question (Mackenzie):

I'd like to begin with a question for Harvey Goldstein. I had the pleasure of serving on the committee which developed the intensive probation program, under the astute guidance of Judge John Marzulli of Essex County, but I'm not sure exactly how it was going to work. As we proposed it, the probation people who will administer the program would be a state-level probation team. Is that still the case?

Goldstein:

The plan in the Governor's proposal is definitely for a state-level supervision section. There are a number of reasons for that. You must keep in mind that probation in New Jersey has historically been a county operation, subject to overall state administration, through the Supreme Court. The question became, how to get some money into the probation system to pull this kind of activity off. Keep in mind that this may not be a long-term program. The conclusion of the committee was that the best approach to securing the proper type individuals, and paying them the kinds of salaries for this 24-hour, week-end type of service, really couldn't be left at the county level but had to be set as a matter of state policy. So the conclusion was, at least during the initial stages it could be better handled at the state level.

(Where would it be located?)

I think part of that would depend upon a clear understanding of where the majority of cases are. I would suspect that you may have two, possibly three locations, different from the routine locations we talk about now. Possibly something in the northern end of the state, the Newark area, possibly something in the Camden area, and if necessary a third one in Mercer County. The responsibility of the officers envisioned under this program is not

an office job. It's not going to help to call the intensive supervision cases into the office and talk to them as it is going to be to be out checking and monitoring their behavior, trying to work with them to secure special treatment programs and employment. So while the final decisions to have some offices for supervisors in the Justice Complex, for instance, or the Mercer County Court House or the Camden area -- those are the kinds of decisions that haven't been made yet. I suspect that we'll put the major effort where most of the cases are.

Stuart:

The drawback that I see is that it's going to be inequitable, it's not going to be available to all judges in all counties.

Goldstein:

I'm not sure that that's the case, at least it's not the current thinking. It's very difficult issue, the state-county issue. I don't want to minimize it, but with the numbers of people we're talking about, the location of offices becomes less important. If there's a population of fifteen people, a fairly small number of people coming out of, for example, Atlantic or Cape May or Salem, in the southern part of the state, there's no reason why that kind of program can't be served down there. There's no intent to limit this to any county, but you'll probably have part of the administrative structure, possibly part of the support and clerical structure, in three locations, with the services designed to be available statewide.

Question:

Is there enough drug and alcohol education available?

Regan:

I'd say absolutely no. You know, a lot of people would like to raise the drinking age to 84 and forget about this problem. That seems to be one

of the more simplistic solutions. We tacked onto the raise in the drinking age to 19, legislation that required every school district to develop a comprehensive program on alcohol education from kindergarten through the twelfth grade. The Department of Education wasn't happy about any mandated kinds of things, they're more interested in the broader kind of health education where you spend more time on keeping your fingernails clean. The programs are in a three-year stage now of development, and we've included drug abuse in a state-wide task force. There is no funding to implement this bill, which required the use of voluntary associations like the Association on Correction and our alcoholism councils. We anticipate that they will be implemented only with the motivation of school boards. We've glamorized and sexualized and really built the society around alcohol, and people are encouraged to drink -- we don't want any wierdos in our carpool. It's very difficult for people coming out of an institution to find any friends at all who don't drink. We appreciate your concern for the real lack of any community education. We've a long way to go.

Farrell:

I concur with what Mr. Regan said. We now have, in the Division, a prevention unit which works with communities and recognizes the problems which relate to school systems. It's called the Community Organization Project -- it used to be the Bergenfield Project -- where the prevention coordinator and her staff meet with the key elements of the community, the board of education, the teachers, the police department, and the active community leaders. Through this process, they recognize problems unique to those communities, and they are then trained to deal with those problems.

Anyone who is interested in that can call us for more information at 609-292-7232 and ask for Barbara Bell.

Question:

Why do you think that the intensive probation program won't work?

Goldstein:

I don't mean to imply that it won't work; I suspect that it will work. Four hundred people removed from the institutions will help. But keep in mind, if 400 people were placed in the program in one year, if the average term was three years and no additions to the program over the next three years, you're talking about not taking anyone out over the next two. But really it's just a start. It can't take care of a whole lot of the overcrowding problem.

(If the program is established, and found to be successful, can it be expanded?)

Yes.

Question:

With respect to the early release bill, with the numbers of people Jack is talking about I don't see how we'll ever get out of that emergency. Second, with respect to the three-month residential drug program, I think Mr. Farrell realizes that any reputable residential drug program usually takes 12-18 months.

Mackenzie :

With regard to early parole, I would appreciate it if you would direct that to Mr. Stein. It is not entirely clear what is intended for this early parole program. It is clearly not intended to empty the prisons. If you use it to the fullest extent, obviously you'd never have an overcrowding problem because any time it got over a certain capacity then you would simply open the doors. Of course, there is a problem here that there may not be enough people eligible to be released. Perhaps someone from Corrections would comment on this.

Repko:

Let me explain the Michigan program as I understand it. I don't think it's

an automatic thing in Michigan, it's in response to a request by the Department of Corrections to the Governor after there are thirty days of overcrowding. The first step is to set up a cap on the institutions. It was used once in 1980, when about 450 offenders were released on parole out of a population of about 13,000 inmates. To my knowledge, there has been no significant rise in crime in that state due to that release.

In New Jersey, you're right, the legislation is much more restrictive, and there's some discussion that the number of people eligible may be in the neighborhood of 250-300 inmates. It's very difficult to determine, because the parole eligibility has to be set. In Michigan, it just moves up everybody's eligibility. So we're not sure of the exact numbers, at this point in time.

Mackenzie:

The Michigan law requires that the population be brought down to 95% of capacity. This legislation before us now does not mention any percentage; it says when it gets down to normal, the emergency would end. It seems to me that if you bring it down to 100%, the next day you'd have the same problems.

Farrell:

It's not our intention to replicate the total TC program within three months. The aftercare phase of the program is extremely important. The three-month program would be geared toward resocialization skills, the involvement of vocational aspects, family therapy, continued psychological and social service evaluations as an ongoing process. And then a client would be referred for aftercare to a community-based program. One of those community-based programs could be a therapeutic community, could be up to 18 months. So the three months will not be a traditional therapeutic community setting. If a client is found in need of this type of setting, he will be referred to one of the therapeutic communities located throughout the State of New Jersey. We

would recommend the best kind of treatment for each client, to the Parole Board.

McAlpin:

Mr. Regan indicates that the Department of Alcoholism's program is based upon facilities that are operated by non-profit groups instead of state institutions. That's a very interesting and exciting shift in emphasis, and I'd like to know more about their thinking.

Regan:

Three years ago, I probably would have said, let's set up our own facilities and be very protective. Frankly, I trust county government. The things a community can accomplish, given resources and support, are amazing. The other factor that caused us to select local organizations to run programs for us in partnership with county government and state government has been a lack of funds. I'm amazed at what you can get out of a partnership with these organizations. Under a contractual relationship, state agencies should be small, should set some regulations and standards and make sure that people adhere to them. Jack would also tell you that when they tried to decentralize drug programs, communities refused to touch them with a ten-foot pole. Alcohol programs are no longer stigmatized as they once were.

Quinn:

Historically, the problem with alternatives has been that judges have chosen not to use them as true alternatives but to use them as supplements to custodial sentences. When I was working with the House Judiciary Committee, a bill was introduced that would have identified several alternatives and required the sentencing judge to give a written reason for not using each of them before he/she could impose a sentence of incarceration. Needless to say, it didn't pass, but the concept raised in the public's mind the problem

of insuring that alternatives are used as alternatives. Is there something in the Governor's plan to insure that alternatives will be used properly?

Goldstein:

If you're addressing the issue of, are there persons who would normally have been put out on routine probation who will now receive state sentences and then be considered for eligibility into the program, I suppose that's possible. Over the years, we've made some progress in maintaining a fairly heavy data base on sentencing, sentencing practices, and Jack may want to address that. Keep in mind, there's a requirement for a state sentence before there's any eligibility for this program. If there are any more going in than before, is just something we'll have to look at.

(What are the positive criteria for people to go into this program?)

Well, there were none listed outside of the requirement that there be a state sentence. A self-developed plan is there. But for the most part, it was an attempt to identify who could not be eligible, which will put a large burden on the three-person recommending panel and on the resentencing judge. I'm more concerned about, what do you do after you hit the 400?

Repko:

That was the concern of the committee that drew up this program, that widening of the net. That's why it is confined to people after sentencing takes place.

Canright:

Should prisoners be encouraged to use Alcoholics Anonymous? At Trenton, I'm told, sometimes there has been discouragement of this.

Regan:

There hasn't been emphasis on the use of AA in the prison system, but there have been other priorities and I can agree with that. I don't think that AA members in the community like to come into a program where there's a threat of being fingerprinted, or a background check on them, to come into the system, and we can appreciate that. Part of the money that was approved yesterday we have ticketed to put back into the corrections system and helping them purchase some treatment staff for alcoholism -- specific treatment. They, in turn, begin to identify in the correctional system those people who would best fit our program. As I indicated, the most appropriate treatment for alcoholics is AA. Our Division doesn't fund anything that isn't tied directly to AA. There are 1700 meetings a week in New Jersey. The offenders who go into this program should already have a track record of utilizing AA. But this is an alienated population, even as pertains to AA.

(Have you established criteria for the new program?)

It will be done by the task force. I would hate to have us draw a firm line, when we don't have to go the legislative route, on any individual. I wouldn't want to eliminate people who have committed a violent crime; that person might be a top priority for the program.

PANEL #3

Gary Stein:

This is not the most glamorous subject in the world, and we don't need thousands of people to be interested. The fact that the people who are here are interested is, to me, significant, for I'm sure you represent other points of view.

This is one of the most critical problems in New Jersey state government today. Let me correct one thing -- I wasn't the architect of this prison plan. I had the help of all kinds of people in state government. I got to Trenton shortly after Governor Kean was sworn in, and had never had any contact with the corrections system or the prison overcrowding problem. I've practiced law for 25 years. The Governor said one of the first things we've got to do is figure out where we're going to put the prisoners that we have in the county jails. The Governor was sworn in in January, and we had a thousand state prisoners and the number was increasing then at a rate of about 150 a month. The rate increased the last few months and is now in excess of 200.

There was no plan in place to deal with either the 1000 prisoners in the county jails or the increase. No plan at all. The Kugler commission, which Governor Byrne had created, had studied the problem, recognized it, knew the numbers, but had no long-term plan for dealing with it. They identified some short-term alternatives, some buildings within the Department of Human Services which could be used on a short-term basis to plug a few gaps, but there was no plan to deal with it.

We put together, on an emergency basis, everybody that knew anything about this, from corrections, from parole, from the Administrative Office of the Courts, the Attorney General's office, judges, everyone we could find who knew anything about the problem. We got the Department of Building and Construction, we consulted with the principle people in the business of

building prefabricated prison facilities, and tried to put together the information we had to deal with. Now, the first piece of information was that we were in trouble short term. When we got the forecasts -- which is difficult to do, because you have to forecast not only sentencing and dispositions, but paroles, and you have to use your historical data -- the forecast that we had for population for January 1, 1983 was 10,348.

You have to understand -- we were dealing in March with a population of 8200. The forecast we had was 10,348 for January 1, that's 2100 more than we then had, and we were then 1100 short, in terms of beds. We had no plan. The Camden jail I guess comes on line in 1985, that's 400 beds, costs \$35 million, and obviously is not going to be available to help us in January. The forecast for January, 1984 is 12,928 beds needed; that's 2600 more than we'll need for January 1, 1983, and you couldn't build a prison by January 1984. So it was apparent to us that the short-term reactions to this thing had to be either prefabricated facilities or renovations of existing facilities.

Now, nobody likes to take money that's needed for so many worthwhile projects and purposes in government and put it into building prisons, because you get the feeling that it's not money that's doing any long term good, and after all, aren't there better things to spend money on. This need that we were facing was an emergency. You can't deal with this kind of criminal justice system without finding places to put the prisoners. You had to deal with this, no matter what your view is relative to incarceration, punishment, mandatory minimums-- you had to provide housing based on the existing numbers that you were getting out of the courts. And there's another thing I must stress, and I guess we had a little bit of an advantage coming into this problem as we did, because the Legislature deals better with crises than they do with problems. So

when you get a problem and let it develop and fester to the point where it's a genuine crisis, you have a little better ability to deal with it. But at the same time you have to understand, when you deal with that Legislature and you want quick action, you have to have a program that's realistic and that isn't going to run into difficulty with a Legislature that's reflecting a public view that prisoners ought to be locked up and never get out.

So it was very apparent to me, right at the outset, that we couldn't deal easily with the question of mandatory minimums, which of course is a contributing factor to the increase in population. We talked about it at length, but the judgment was made that it was too early in the history of mandatory minimums and unlikely that any major legislative movement would be made if that was part of the package.

So, we tried to deal with what was a practical solution to an emergent problem. And I have to tell you that today, which is two months after the plan came out, the problem is worse than it was. The Legislature is convening tomorrow, hopefully, to take up some of the most critical legislative proposals. We have seven proposals, four legislative, three non-legislative. Apparently the three non-legislative proposals are going to be funded by the Appropriations Committee, if we get the gas tax, and the four legislative proposals will be funded if they pass. The question now is, to get the Legislature to move before they adjourn in July. Anything any of you could do would be appreciated. As I said before, the problem is worse. I think they disposed of 4000 criminal cases in the month of March. Ft. Dix has 300 prisoners, has a capacity of 500, and we now have 1300 prisoners in the county jails. And the number is growing rapidly. There appears to me to be a very difficult problem of building our prison cell program fast enough to keep up.

So, without any legislative change, without the court system abandoning speedy trial, without a repeal of the mandatory minimums, without something

happening to change the facts -- you have to find prison cells. If you don't find prison cells, you're going to have riots this summer, you're going to have double-celling in maximum security prisons, where you shouldn't have it, you're going to have a real tiger by the tail.

The prison construction program, quite frankly, was intended to be as cost-effective as it could be. Of the 5200 beds that we're proposing, 1400 are new beds, 400 in Camden and another thousand in two new medium security prisons, or one. We haven't got the site nailed down, but we're looking very hard at it, and we hope to put it up in the north, close to the cities where the prisoners come from. Obviously, that makes the most sense. We think there's a better reception for that now.

Fourteen hundred, then, are new construction. When you talk about those two new medium security prisons, you have to bear in mind that Rahway was built before the turn of the century. There are a number of wings at Trenton State that are hardly what I would call in topflight condition. And you must remember that Fort Dix is on a three-year lease, the renewability of which depends on the federal government. So, while I was reluctant to recommend \$160 million -- which covers more than just the two prisons -- to tell you the truth, I thought it would be irresponsible not to do it now, and not to put it on one bond issue right now, while the public understands what's going on. Because you can't come back to the well three or four times. You've got a crisis, the public understands it, I think the Legislature understands it, and it just made sense to do it once and for all.

In addition to the 1400 new beds, we have 2013 beds that are created. That includes the 500 at Ft. Dix. They are from renovations of existing facilities, and that includes all kinds of things. It includes Trenton State Prison,

it includes some renovation of Trenton and Rahway, it includes some Human Services buildings like the Yepson Unit at Johnstone -- it includes whatever we had in the system that you could renovate and get hold of and use inexpensively and quickly. In addition, we're planning to build 1824 prefabricated modules. There are some in existence now, if you haven't seen them you should. They seem to be working pretty well for minimum security. We're proposing to start construction July 1 of a 448-bed prefab facility. The cost will be about \$10 million. You can compare that, obviously to what it cost for Camden -- \$35 million for 400 beds. The construction time for 448 beds is about six months. It's innovative -- we're all crossing our fingers, we've got good architects, we're trying to do the best thing that's been done in the country, and we think we've got the right team doing it.

If the numbers keep going up, we may have to start the second 450-bed prefab that we planned for January, '84, we may have to start early. That money comes from the bond issue. The use of prefabs reflects our expectation that maybe this boom in sentencing and in the need for prison cells is going to peak in the '80's and we may not need all this capacity forever. We certainly hope so. We also hope we can do some things other than prison construction and start turning this around. Obviously, that's a social problem. That involves our schools, our society, the fabric of our social structure and frankly, it was just too complicated to deal with between January and April. But hopefully, the prefab facilities reflect the view that we may not always need a prison system with a capacity of 15,000 beds. We had to build something we could turn out quickly enough to be available within ten months.

We tried to temper this program, which involves 5200 new beds -- by the way, the construction was designed to match, month for month, the forecast of the need for beds. We built in a 5% deficit, in the hope that our forecasts

are going to be too high. They don't look like they are. We also count on the implementation of a number of alternatives to incarceration which are in here, the intensive probation program, the alcohol and drug rehabilitation program which we're very excited about, and which Parole tells us will enable us to take people out of the corrections system earlier than we otherwise could.

The county parole bill will help a great deal, and that's the one bill I want to get out of the Legislature first. We think that that bill might identify 500-600 county prisoners who could be released, and that would take a lot of pressure off of everybody. The Public Defender has filed suit in seven counties-- we understand that -- I don't expect an enormous impact from those suits on this program, it's just going to increase the pressure. Judge Ackerman had the Governor's plan, he understood what we were doing and I think he was very appreciative that this was a response to a crisis.

The other alternatives to incarceration that are being talked about, the community service option which is the subject of a resolution that Lucy tells me passed the Appropriations Committee, we're very much supportive of. We're supportive of anything that's sensible, that's going to help this problem, that the different parties that have to deal with it are comfortable with. We need to be sure to touch base with everyone involved. Nobody likes to spend \$160 million on jail cells, but you can't deal with a prison population like we have without making some provision for them. That's what we've tried to do and we'd appreciate your help with the Legislature.

Steelman:

I would like to base my remarks along the lines of something that Mr. Stein just said, that it's the history in New Jersey and in the rest of the country that the Legislature, in a sense, deals better with crises than with problems. Actually, I would say that the Legislature tends to react to crises rather than they do to problems. They essentially don't deal with them terribly well, because when you're working in a crisis situation it is difficult to sit back and rationally examine the long-term alternatives and what the cause of the problem is and the possible solutions. There tends to be much more of a response of, "Well, we've got this overcrowding problem and we've got to do something. So we'll build a lot of institutions." That's a fairly straightforward reaction anywhere in the country, and it's easy to understand why that is.

But, I want to address my remarks to some of the reasons why I think that the particular plan that's now being proposed for the State of New Jersey in terms of construction and essentially similar kinds of plans, although perhaps not of the same scope or, in some cases, of greater scope in other states, will not essentially deal with the kind of problem that this state and other states are facing at the current time. There's obviously no debate over the state of the crisis in the correctional system in this state; I mean, nobody would argue about that. What I would address my remarks to in that regard is some of the things that have been touched on by other people here that, even if the plan that Mr. Stein and the Governor are suggesting were adopted in its entirety, fairly much on schedule, the problem that we're facing is still going to remain. The cause of the problem is not being touched upon, and the overcrowding problem will still exist even at the end of that period of time.

I want to run over a couple of things. The first thing that I'd like to talk about is the cost involved in the construction program that's being suggested. We're talking about a proposed bond issue of \$160 million to cover something like 3000 of the 5000 beds. Bond issues, as most of you know, mean that the state has to borrow money over a period of time and pay a great deal of interest on that debt. It's called debt service, and is allocated to various parts of the state budget, over the years that the bonds are on the market. Traditionally, particularly in the high interest bond market that we're currently facing, that means that the cost of a bond, depending on basically the economic stability of the state, is going to cost triple or quadruple the original cost.

So you're talking about \$160 million, but what we're really taking about is more in the neighborhood of \$500 million, or half a billion dollars over the long term, to cover the cost of that construction. The same is true, of course, going back historically when we talk about the other bonds that are now being paid off by the state. The Camden prison, for instance, if that particular part of that bond issue which was a general facilities issue for lots of things besides corrections, is \$67 million, you can assume that the corrections part is actually going to come to more like \$200 million. The same is true of the Trenton State prison bonds of 1976 and '78 of course. And if you look at the Department of Corrections budget, over the past years, you'll see the mounting cost of debt service that is being allocated to the budget. Two years ago, it was something like \$5 million, and the last year it was \$8.1 million and this year it's \$11 million, so that's the kind of progression you can expect to see.

Those are costs that are not being talked about and the public is not really essentially aware that that's what they're being asked to spend their

tax dollars on, when you're talking about floating bonds. The other thing, of course, that is not being discussed is what the cost of operating all of those new facilities and all of the new beds is going to be. That, as everyone knows, is a very significant investment, in terms of the scarce financial resources that the State has at its disposal. I believe the average cost of keeping a prisoner in the prison system is \$15,000. If we're talking in terms of \$15,000 a prisoner, and we're talking about 5000 new beds, what we're talking about is more than \$78 million in operating costs that will be added to the corrections budget. It has to be paid, every single year those beds are in operation. I mean, that's a tremendous investment of fiscal resources, in a time when the State is obviously in no better fiscal condition than the rest of the country, when the state and the federal government are being forced -- or choosing, as the case may be -- to cut back substantially on all kinds of services.

And I realize that when you start talking about things like the cost of corrections or perhaps any number of other kinds of programs, I think there are two things you have to do. First, you have to examine what those real costs are, I mean, really be aware of what it is going to cost you and the taxpayers. And the second thing is, that once you realize what it's really going to cost, then I think you're in a better position to decide if you want to spend that kind of money. Because obviously the taxpayers, the Legislature can decide that no matter what it costs, we'll spend the money. But I think, before you do that, you have to have a better kind of assessment as to what you're getting for your money and is it worthwhile, and will it solve your problem. And what I would suggest is that the answer to those questions is that you're not going to solve your problem by spending that kind of money. The expenditure is not the best use of the resources that the State could use.

And that's because of a couple of reasons, one of which is that it's obvious that the overcrowding problem is the result of the growing fear on the part of the general public, expressed to the Legislature, to the judiciary, as to what the public perceives as an enormously growing crime problem. There could be a discussion as to the extent of the crime problem; we could talk about different kinds of reported crime vs. victimization statistics -- if you want to ask questions, I'd be happy to talk about it. But I don't think that that's really the point; the real point is not how much crime is increasing, but that the public feels there is a serious crime problem. There obviously is a serious crime problem, and then you need to discuss how do you deal with the crime problem. The automatic response, in this country, has traditionally been, of course, that we incarcerate as many people as we possibly can. The feeling among the people, among the Legislature, the judiciary, basically everyone, is that if we can send enough people away for long enough periods of time, we're going to eliminate the crime problem. I want to suggest that that's simply not the case.

You can send people away for longer periods of time, you can incapacitate them for longer periods of time, but you're not going to impact upon the crime problem in that way. And I think that's an important point to discuss, perhaps to acknowledge, and essentially is acknowledged by most people who at least work in corrections. For instance, I want to read just one short quote. The Director of the Federal Bureau of Prisons -- essentially, what he's saying is that what should be perfectly evident to everybody by now is that sending people away for longer periods of time, increasing the length of sentences, using mandatory minimum sentences, has absolutely no impact on the crime problem in the country.

There's absolutely no evidence that sending more people away for longer periods of time is going to change the rate of crime one bit. The evidence of the last ten years around the country presents some logical backup to that statement. Since 1972, approximately the last ten years, the total prison population has increased something like 80 percent. I would venture to say that the American public does not feel 80 percent safer. In New York State, over the past ten years, the state has doubled its prison population, it's tripled the size of its corrections budget. People in New York do not feel safer. The rate of reported crime is not down significantly. New York is still facing an overcrowding problem, they're asking for 4,000 new cells, and there's no indication of a letup in the future.

One of the reasons, of course, that researchers that study this subject indicate that there can be expected to be very little impact, between how many people we send to prison and how much crime is committed, is that the potential number of prison inmates is so enormous that the amount of investment the state would have to make to make any significant impact on the rate of crime is just more than any state would choose to deal with. For instance, there have been some estimates that indicate that, in New York, in order to have an impact on 10 percent of the rate of serious crime, you would expect to have to incarcerate something like 263 percent more people than are currently being incarcerated. If we translated those figures to New Jersey, if we wanted a 10 percent reduction in the rate of serious crime, we're talking about 20,000 more prison cells than we have at present.

I'm raising this issue because, even though it's something that most people in the corrections field will pretty much out front indicate that they agree, that no matter how many people we're sending to prison we are not going

to have any impact on the crime rate, that discussion is not carried on before the public to any great degree. So the public thinks that if they send more people to prison and spend enough money on prisons, they are going to have some positive impact on crime, and therefore they demand that this be done. And I think it's important, and it's about time, considering the size of the problem that's facing not only this state but the nation in general, that that discussion be brought out in the open, to a much larger degree than is now done, that we make the distinction between what the criminal justice system can do, and crime. Because they're not necessarily related. I mean, the criminal justice system can have very little impact on the rate of crime in our society. As Mr. Stein indicates, the reasons that people commit crimes is outside the scope of the criminal justice system and deals with the social, the economic conditions that we have in our society -- the amount of poverty, the amount of unemployment, the whole list of things that we're all very familiar with. And usually we basically say, we can't deal with that. Well, whether we can deal with that or not, the point is, no matter how many prisons we're going to build, we're not dealing with that and we're not impacting on the crime rate.

If we're not impacting on the crime rate, why are you building more prisons to put more people away? You can incapacitate more people, but will incapacitating more people for longer periods of time have any effect except keeping those people in prison? Probably not, and I'm suggesting that there has to be some open discussion of what the State is buying for its scarce resources. If you have X number of dollars, if you choose to use them in this way, it's not going to have any impact on crime. It's not going to have much impact on overcrowding either, and I think a lot of the things that other speakers have said here today confirm that.

What we're facing now is a situation where you have 1,400 prisoners backed up in county jails. From what I understand now, the rate of increase is more than it was a couple of months ago, so that the official projection of what we can expect is even higher. What Jack McCarthy indicated this morning is that we are only beginning to see the beginning of this tidal wave, and the reason for that is fairly well acknowledged. That's because the stringent provisions of the criminal code, the mandatory sentences, the longer sentences, the extended terms, the parole ineligibility, the basic feeling of punitiveness, the increase in the number of people who are receiving parole ineligibility every single year, is what's leading to an increase in the size of the prison population. If that is not addressed, if people choose not to address that because it's politically unpopular, to say that we have to look at what the criminal code is doing in impacting on the prison population very negatively, and not impacting at all on the crime rate -- if we don't address that, then we're not going to stem the problem basically at its source. If we build all the cells that are being proposed, the problem is still going to exist.

For instance, in the short term, if we have 1,300 prisoners over capacity now, with the prefabricated housing -- the 448 beds that should be on line in six months if we started building them now -- that's not going to impact on the problem we have now. We have 1,300 people who will be backed up over the summer. From all predictions, that's a very dangerous situation, everyone expects something terrible to happen. The official projections as to how much space would be needed if the rate of increase were not going up, as it seems to be, by January, the number of cells that are being proposed to be built by January, by my calculations still leaves us with something like a 1,000-bed

shortfall, unless the entire number of people could be diverted into the intensive supervision programs and into the county parole, basically immediately. Unless that's done, and unless the increase is stemmed, you're still going to have a shortfall.

By 1988, with all the beds built that we're suggesting, built into the plan is a shortfall of some 1,200 beds. And that's if the sentencing practices don't get harsher, and they seem to be getting harsher. So what you're doing is seeing a series of options being taken, and if they're taken to their fullest capacity, still at the end of the line you've got an overcrowding problem.

And if we come to 1988, and if as was indicated you can't go back to the well too many times to ask people to fork over money for a bond issue, then you've still got an overcrowding problem and you're not dealing with it. Come the end of this whole process, you've still got a problem, I mean, we're not looking at the cause of the problem, we're not looking at whether the solutions that are being proposed are going to impact upon that problem. If we're not looking at ways of impacting upon the problem either to eliminate it right now, rather than along the line having the same problem existing and increasing, if we're not doing anything to stem the incoming numbers to cut off the problem at its source, no matter how much money we're willing to invest in it, we'll have the problem in the end. That seems to be a very poor use of the state's tax dollars. In essence, the point is, the state has basically got to be up front about what it's buying for its scarce resources. I mean, is this how you want to invest your money if you essentially are not gaining anything in the end?

DISCUSSION TO PANEL #3

Question (Jones):

As Diane suggests, perhaps a lot of new construction won't have a significant impact on the problem of crime. I wonder, if this tidal wave can only be resolved by changing parts of the criminal code, what moves are being made or thought about to bring about revisions in the code?

Stein:

I think that the answer to that is, nothing's being done now. I think that's obviously a discussion that's got to take place. I think the issues Diane has raised are profound, and we're approaching this problem on two different levels. One level is, what do you do with the facts you now find, and with the present facts, I think we're obligated by law because we have executive responsibilities. We think we're obligated to provide a response that deals with the laws and the facts as they are now, and those laws include mandatory minimum sentences, it includes the number of prisoners that our criminal justice system can turn out. If we invested twice as much money in police, and twice as much money in judges and courts, we might be able to double the supply of prisoners coming out of the system and then would have twice as much of a problem.

The issue she raises is a profound one. In other words, at some point do you have to address how much you spend in criminal justice on the whole with how much you spend on other programs which might, frankly, impact on the source of crime. But dealing with the here and now, which is what we're dealing with, and I think we have no choice but to deal with, we frankly did not feel that the Legislature that just passed this code in 1979 and went home to their constituents and thumped their chests and bragged about

the profound impact it was going to have, the judgment that was made was that it was not quite the time to say, we've judged that and it hasn't worked. It might very well be that, six months from now, that discussion is going to take place on its own. But I think that we have to look at those mandatory minimums. I've seen a graph that shows the percentage of the total sentences that are mandatory minimums, and it's gotten as high in some months as 35-37 percent, probably averaging around 30 percent. That is having an enormous impact on the prison population and obviously is going to have to be reevaluated. We just didn't think we had the time to have that kind of a debate today in the context of what literally was an emergency.

Steelman:

I would suggest, as one way of dealing with the overcrowding problem, basically changing the early release proposal to make it less restrictive. It's so restrictive now, it's not going to have much impact on the prison population. We're talking now about people who already have parole dates. By changing it to be much less restrictive, you could have an enormous impact on the overcrowding problem. That would be an emergency mechanism, rather than construction down the line which doesn't have an impact. This was done in Michigan, where 900 people were released last year, and Michigan is the only state which had a decrease in its prison population last year. There hasn't been any terrible effect on the crime rate in Michigan. It can provide time to plan, or it can be a way of setting a cap on prison population. It's easy, safe, cost-efficient, and deals with an emergency at the base.

Richard Stuart:

We need a phased, controlled release mechanism, with more pre-release centers. I don't see any in this program.

Stein:

I think the response is, there was no provision for pre-release beds. That's not to say that they're not needed, I just think it's beyond the scope of what we tried to do in a very short time. What we're trying to do is deal with the people coming in. You're perfectly right, but that is a separate issue and one we'll deal with.

Bernard:

Shouldn't we pursue the use of alternatives, to see what impact that would have on the prison population, before investing the bond money? We need to know how many people would be eligible for these programs.

Stein:

We asked the AOC for a number, and they gave us a projection -- if we can handle more, that's great. We asked parole, how many people do you think you could get out early a year if we had a drug-alcohol rehabilitation program, and they told us -- and we want to walk before we run. If these programs are successful, we'll move very fast to expand them. We had to make an assessment, and the construction program was based on those numbers. If it turns out, down the road, that we can increase the numbers, we can certainly control the construction, we can judge how to spend our money. I think the likelihood is -- if we started tomorrow, and changed the rules dramatically, I think you'd still need every bed that's in here. But certainly, we want to encourage these alternatives, and we're going to watch them, and if they succeed -- you've got to understand, some people think that intensive probation is a terrible idea. Some prosecutors think that's ridiculous -- why take a guy that's gotten sentenced to state prison and give him another chance? So you have to deal with the reality, and the reality is, you

take a project, give it a chance, put your resources behind it, and if it works you put more resources behind it. We don't think we're overbuilding -- we think it's a bare minimum. We're trying to allocate the money so it doesn't cost the taxpayer more than we should spend, but at the same time deals with the problem.

Forker:

Of the 2,240 beds needed by January, 1983, 1,800 are considered to be medium-maximum -- only 440 are minimum. When you talk about programs, you're not talking about medium-max that you have to be concerned with. In 1984, you're talking about 1,597 beds -- 1,366 are medium-max. The only way to address that is through a construction program, at this point.

Repko:

We do have a method for moving people out from secure institutions to minimum security institutions. I agree that we need more halfway houses, and we're attempting to do that. About 30 percent of our adults are in minimum security institutions. We don't release prisoners from medium to maximum institutions directly into the community. We've doubled the number of people in halfway houses during the past year -- we now have 80 and we're looking for more people for halfway houses. About 2-3 percent of the released population, which is not uncommon for a state correctional system. We have another fifty or sixty in Newark House and Essex House. We have 125-135 out there, and we're continually looking toward that area.

McCarthy:

I noticed through Diane's remarks a general theme, and I've heard it in other people's remarks as well, which runs contrary to a very distasteful reality. The theme is that building prisons has no effect on the crime rate and it would

be better if we spent most of our scarce resources on programs, and that there's no evidence that building cells lowers the crime rate.

I'm reminded of what we've just gone through in the last fifteen years in this country, through the Great Society, the war on poverty, LEAA programs -- literally hundreds of millions of dollars poured into this very thing. They don't appear to have had an effect on the crime rate either, and true or not, and I don't particularly think it's true -- we probably didn't do it well -- the public believes that the programs didn't work. What I'm hearing is the suggestion that we go back to this whole thing and try it again. I just don't see how that can fly, and I don't know how useful it is to talk in those terms. I think it would be better to think along the lines of what we have to do, and certainly one thing we have to do is take care of today's problems. It's today's problem that you can't put people in jails that don't exist.

END