

**PREPARED STATEMENT**  
**OF**  
**ATTORNEY GENERAL ERNEST D. PREATE, JR.**  
**BEFORE THE**  
**JUDICIARY COMMITTEE**  
**HOUSE OF REPRESENTATIVES**  
**MAY 19, 1989**

Chairman Caltagirone, Chairman Moehlmann, members of the committee:  
Thank you for inviting my testimony on anti-drug legislation. I believe that developing a legislative program to combat drugs is the single most important responsibility this Legislature faces in this session.

As many of you know, the drug issue was the central focus of my campaign for office. I pledged at every opportunity that fighting the exploding drug menace was going to be my top priority. In 18 years as a prosecutor, during which I personally prosecuted and won convictions against 20 drug dealers, I saw that despite our efforts, the problem continued to grow.

Something had to be done. The laws were ineffective, the manpower inadequate, the funding was absent and most importantly, we as a society lacked the commitment to fight.

I repeated in my inaugural speech that the drug fight would be my top priority and I promised that I would have a legislative package completed and ready for your consideration within 30 days. And I did. I met that goal.

At the same time, the Legislature increasingly has come to recognize the urgency of the situation. In a survey of legislators completed just before I took office, drugs came in fifth on the priority list. In the newest survey, you ranked drugs number one.

Indeed, there are now more bills pending in the House and Senate regarding drugs than regarding any other subject -- more than 100 bills in all, a threefold increase over last year.

This hearing is scheduled to deal with some of that legislation. Mr. Chairman, I commend you for bringing your committee here to Philadelphia, rather than scheduling this session in the secure confines of the Capitol. Here, more than anywhere else in the state, the drug problem is most severe and its consequences have most infected the social order.

The headlines in the daily newspapers sum up the situation.

"Bullets fly near City Hall": At about this time of day, right outside this building, on March 20, pedestrians dove for cover as suspected drug gang members shot it out on the street. The violent crime rate was up 2 percent nationally last year, but up a record 9 percent here.

"Drug Gang Suspects Accused of 3 Murders in 10 Days": This year, Philadelphia's murder rate is running 34 percent ahead of last year's. There were 149 murders by April 30; 55 percent of those murders were linked to drugs, as opposed to 28 percent last year.

What is happening here in the inner city is truly horrifying. We are, and it is no exaggeration, losing entire neighborhoods to drugs; to one drug, especially: crack.

There are two things you must understand about crack. Number one, it is instantly addictive. Number two, it is incredibly cheap. A \$5 bill is all it takes to get high once -- and ruin your life permanently. Keep that in mind should any of your witnesses espouse the theory that legalizing drugs would make them cheaper and somehow eliminate crime.

Another headline: "Mom Accused of Making Girls Sell Crack." Crack is ripping apart the very fabric of society. Mothers, who for so long have met the challenge of holding the family together, are becoming crack addicts. It is the children who suffer. Welfare Secretary John White tells us that in 80 percent of all Philadelphia child abuse cases, the parent is stoned.

"Crack Use Causes More Baby Deaths": Children are becoming addicts in the womb. One in every six babies born here in Philadelphia is born to cocaine-using mothers.

Since crack became popular here in 1985, the black infant mortality rate has jumped more than 50 percent in West and North Philadelphia. More data released this week confirms that soaring infant mortality rates -- as high as a staggering 41.7 per thousand in the Kingsessing neighborhood -- are directly linked to crack addiction.

Children as young as 10 are being exploited as lookouts and couriers for drug dealers; children as young as 13 are dealing.

We are losing the city. We are losing the children. We are losing the war.

And not just here. The problem is most severe in Philadelphia because crack hit here first. It is spreading. We have prosecuted Los Angeles drug gang members for selling crack in York; we have prosecuted Jamaican drug dealers for selling crack in Wilkes-Barre and in Farrell.

In fact, from January 1988 through April of this year, the Attorney General's Narcotics Strike Forces have arrested 127 crack dealers in Adams, Allegheny, Beaver, Bucks, Cumberland, Delaware, Erie, Forest, Franklin, Lawrence, Lehigh, Luzerne, Mercer, Northampton and York counties, in addition to Philadelphia.

Crack suddenly has become readily available in Pittsburgh, where until last year it had been virtually unavailable. Last year, of all the drug arrests Pittsburgh police made between Jan. 26 and May 3, not a single one was for dealing in crack. During the same period this year, Pittsburgh police arrested 83 crack dealers.

Mr. Chairman, we face an absolute crisis -- a crisis so severe that some have lost the will to fight. They declare the problem unsolvable, they declare the war lost, cede victory to the cartels and, having surrendered, criticize the police for failing to fight effectively.

I urge you to reject their insidious recriminations. Listen instead to those who boldly are prepared to carry on the fight.

Bear this thought in mind: We cannot possibly have lost the war, because we haven't yet fought a war. We haven't tried. We haven't made the commitment -- or the sacrifice -- that war demands. We have had a war of words. We have fired volley upon volley of speeches and news releases and editorials, and professed shock that those verbal salvos have had no effect.

I urge you to use this hearing to develop a plan for a real war. Recognize that the answers won't come quickly. It took two decades of inaction to get us into this mess; it will take a while to get out.

Recognize the answers won't come cheaply. Wars cost money and force hard choices. Simply redividing the existing meager resources, taking from treatment to support law enforcement or taking from law enforcement to support prevention, will not work. We cannot rule out raising additional revenue if that is the only way to get the job done.

And recognize that the answers won't come simply. There is no one answer. Claims of a single miracle cure are invariably self-serving, inevitably false and most often foolish. There was, for instance, the Crime Commission's embarrassing recent proclamation that the answer is to stop arresting major drug traffickers and concentrate all our energy on those teenage streetcorner peddlers.

We must, of course, go after both. We must keep pressure on the street dealers, while also going after their suppliers, and their suppliers in turn. We cannot just arrest the individuals. We must attack the organizations, top to bottom.

We must not ignore the users, whose insatiable demand keeps the supply lines open. The drug suppliers could no more survive without customers than could Wanamakers. It is a business.

The plan you produce must be complete, comprehensive and cohesive. The legislation before you provides a means to develop just such a comprehensive law-enforcement response to the drug issue.

But we must recognize that, while the bills under consideration at this hearing focus on law enforcement, law enforcement cannot alone solve the drug crisis. We also must confront the problem of prison crowding. Three of our major county prison systems are under federal court orders to limit the number of inmates they hold and our state system may be next. Our Corrections Commissioner reports the state correctional institutions are operating at 40 percent over capacity and are ready to explode. Sixty-four percent of all new inmates admit they are drug users.

We must be prepared to spend more on prisons and to devise innovative means to punish offenders. Drug dealers belong in prison.

We must recognize the need for a major new treatment and rehabilitation effort. Today, 2,000 Philadelphia drug users await admission to overcrowded treatment facilities, while hundreds of beds lie empty at facilities such as Farview State Hospital. It is inexcusable.

And we must address what is, ultimately, the most important issue of all: Drug education and prevention. We must support the clergy and community groups that are fighting to take back our cities and towns, block by block, playground by playground, child by child.

We must provide a comprehensive, mandatory drug education program for every student in this state, from kindergarten through senior high. I have prepared a model drug-education bill and submitted it to Governor Casey in January for his review. So far, unfortunately, there has not been a response, though it remains my hope that we can statutorially mandate drug education in this state.

Overall, however, I have been extremely pleased with and gratified by the warm bipartisan reception I have received from the Governor and the Legislature. With the Governor's close cooperation, we devised a major new budget initiative, committing \$6 million new dollars to the Office of Attorney General, and additional new funds to the state police.

We will use that money to put 50 new Bureau of Narcotics Investigation agents into the field, along with 50 new state troopers. We will assign a prosecutor to each of our regional narcotics strike force offices, we will do even more to help local police fight drug traffickers through local narcotics task forces, and we will create a major new narcotics strike force office right here in Philadelphia.

I have met personally with District Attorney Ron Castille, who provided me with invaluable counsel regarding both my legislative package and the needs of Philadelphia. And I have met with Police Commissioner Willie Williams, as has Robert Hurst, the director of my Bureau of Narcotics Investigation. We have been impressed with and gratified by the commitment to cooperation demonstrated by the district attorney and the police commissioner. I promise you a team effort.

But adding law-enforcement officers here or in any other county of the state will be truly effective only if those new agents and troopers are put in place as part of a comprehensive anti-drug strategy. And that means arming them not only with weapons and badges, but also with the laws they need to be effective.

The Legislature's recognition of that need is evidenced, in part, in the sheer volume of bills before you for consideration at this hearing -- some 40 in all. Almost all of these bills have some merit; many overlap.

Among them are a number that reflect my own legislative proposals. Of the 21 bills I proposed in January, 19 are included in the legislation before you today, embodied in H.B. 1276-1289 and H.B. 1298. I am extremely pleased that every one of them was introduced with strong bipartisan sponsorship, and that 14 of them already have been endorsed by Gov. Casey. It is imperative that we develop a bipartisan approach to the drug crisis. I have begun that process and I urge you to continue it.

These bills can be organized and considered in terms of the need for reform in five fundamental areas, each of which I would like to discuss briefly.

First, crack down on violence. The increasingly violent drug gangs put all of our citizens at risk and demand a strong response.



Most importantly, the Legislature should act to enable prosecutors to seek the death penalty in intentional drug-related murders. This legislation, also supported by the Governor, would expand the list of aggravating circumstances that can be considered by the jury in the penalty phase of first-degree murder prosecutions.

The additional aggravating circumstances would include killing a drug associate, customer or competitor, the retaliatory killing of an informant, or killing a judge, prosecutor or other law enforcement official not already covered.

I also urge enactment of legislation mandating prison terms for armed drug dealers, mandating life sentences for drug-related murders that are not capital offenses, and increasing the penalties for assaulting judges and other public officials.

And we need legislation to make it clear that dealers can be charged with murder when their customers die of overdoses. Drugs like China White are as deadly as any semiautomatic rifle.

Second, there must be a concerted effort to attack the drug organizations. You have before you bills that present the opportunity to strike a major blow against the organizations. I specifically urge that you act on our drug kingpin statute, with penalties of up to 40 years in prison and up to \$100,000 in fines, plus tough forfeiture provisions, for drug ring organizers, financiers and managers.

Our ability to attack the organizations also would be markedly improved by passage of legislation to ban money laundering, criminalize the use of telephones to arrange drug deals, restrict the use of probation without verdict, and control the precursor chemicals needed to manufacture drugs. Those bills are before you, as well.

Third, there is the unquestioned need to do more to protect our communities from drug traffickers, crack houses and meth labs.

The House already has taken one important step by passing and sending to the Senate H.B. 310, sponsored by Chairman Caltagirone, which will make possible the creation of real drug-free school zones.

Another significant step to protect our communities is embodied in the package of bills, all endorsed by Governor Casey, that would make it a felony to knowingly maintain a crack house, shooting gallery or drug lab, with enhanced penalties if the structure is fortified. The bills also would cover landlords who knowingly permit the activity and would allow seizure of the property.

These crack houses and similar citadels of crime send the message to our communities that the drug traffickers are in control, that the police are impotent. These symbols of the drug trade's power must be retaken. I urge you to move this package of bills forward as quickly as possible.

Additionally, the Governor and I support the proposed legislation to impose life terms for drug dealers after their third conviction and to impose mandatory prison terms on anyone convicted of repeat sales.

Fourth, it is imperative that we focus on deterring drug use. In that regard we need both legislation to address the issue of workplace drug testing and legislation to provide meaningful penalties for those convicted of drug use.

Drug testing legislation is critical to guard two fundamental rights of working Pennsylvanians: First, the right to be protected against arbitrary, unreasonable and unreliable testing programs; and second, the right to a safe, drug-free workplace.

Workplace drug testing is a proven and increasingly common method of protecting against industrial accidents, public transit disasters and other public-safety threats posed by on-the-job drug use. The Commonwealth has an obligation to set the standards that testing programs must follow. I believe the legislation I have proposed strikes a fair balance between privacy rights and public safety.

We also must confront the fact that drug users who are arrested are now virtually immune from punishment because of prison crowding. Judges simply will not send users to jail. Yet we all recognize that users create the demand that keeps the massive illegal supply operation going.

Legislation before you would provide the courts with innovative means to punish drug users. The legislation I have proposed would impose mandatory fines for users of at least \$500, and strip convicted users of their drivers' licenses for at least six months. Rep. Caltagirone's H.B. 556 contains a similar license-suspension proposal.

The Administration's legislative package contains a provision that may also appear similar but that has one very serious defect. Their proposal would suspend the licenses of children who use drugs, but not adults. The implicit message to children would be: "drugs are OK for adults." And of course it would leave us without an effective punishment for adult users.

Fifth, we must remove the legal roadblocks that now stand in the way of effective drug law enforcement. There are two that are of especially great concern.

We must reform the Criminal History Records Information Act, CHRIA. This proposal is universally supported by district attorneys, the Pennsylvania State Police, local police departments and the Governor. It is an essential element in my plan to mount investigations designed to destroy drug organizations.

Currently, CHRIA bans law-enforcement use of computers for investigative or intelligence gathering and sharing. And so it effectively prohibits planning. Removing that ban is, arguably, the single most important thing the Legislature could do, because it would enable us to make far better use of our resources, and at no cost.

It would save thousands of hours of manpower presently spent on manual retrieval. We need these resources to investigate not only the drug kingpins but also the serial killers, child molesters and rapists who prey on citizens throughout the Commonwealth.

The current ban on computerized maintenance of investigative and intelligence data is arbitrary and indefensible. It serves no purpose other than to make police work more tedious, more time consuming and less effective. New Jersey and 47 other states have led the way in using computers in drug investigations. Pennsylvania is falling behind because CHRIA shackles us to an antiquated system of index cards, file folders, and the fallible memories of investigators.

I would note, Mr. Chairman, that the Administration's CHRIA reform bill, H.B. 1427, permits computerization of treatment, as well as investigative and intelligence data, and thus is even more comprehensive than my own proposal, H.B. 1283.

The other significant, and easily remedied, legal roadblock affects local police departments. One of the few bright spots in the fight against drugs in recent years has been the success of municipal task forces. These are groups of municipalities, organized with our help, that share police officers to conduct coordinated regional drug investigations. We have 28 task forces in operation and the Governor's budget supports my initiative to create 20 more.

However, many municipalities are reticent to join because if their police officers serve outside the municipality, the municipality's liability insurance rates go up. A bill before you would shift liability from your local municipality to the Commonwealth whenever the municipal officer is participating in a state-sponsored task force operation. The benefit to local municipalities would far exceed any minimal additional costs the state might incur.

The bill would be a major step toward enabling us to take full advantage of what is now our most underutilized resource, the thousands of skilled and dedicated men and women on our municipal police forces.

Mr. Chairman, you have before you literally dozens of important bills. I wish that time allowed me to discuss each of them with you in detail, but I know you have a full schedule of witnesses today.

You have my deepest admiration for the effort you are making in this area. I think you know you can call upon me or any member of my staff at any time for any help you may need.

The task you face is enormous, but so are the rewards. Working together, we can achieve the one goal that I have placed above all others: We can make Pennsylvania the toughest state in the nation against drug pushers. Thank you.

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AMENDMENT TO OPERATING BUDGET BILL'S  
APPROPRIATION FOR DEPARTMENT OF COMMUNITY AFFAIRS

Section \_\_\_\_\_. Department of Community Affairs...The following amounts are appropriated to the Department of Community Affairs:

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<u>For distribution to District Attorneys for funding nonprofit community-based organizations that are actively confronting the drug problem and are providing educational, health care, housing and community development services. The Department shall distribute the funds in accordance with the following formula: 1st Class Counties: \$2,000,000; 2nd Class Counties: \$1,500,000. The remaining counties shall receive funding at the level of one dollar per inhabitant as indicated in the official 1980 census: \$8,725,600. No District Attorney shall expend more than 10% of the amount received for administrative expenses.</u>	<u>\$12,225,600</u>
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