

TESTIMONY

BEFORE THE HOUSE JUDICIARY COMMITTEE

MONDAY, JULY 17, 1989

By:

Fred W. Jacobs
Chairman
Pennsylvania Board of
Probation and Parole

Fred Jacobs

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

MR. CHAIRMAN, MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO PROVIDE TESTIMONY ON THE ISSUE OF PRISON OVERCROWDING. I SHALL NOT BE GIVING TESTIMONY ON HOUSE BILL 1707, HOUSE BILL 1706, HOUSE BILL 1107, HOUSE BILL 1106, HOUSE BILL 1094, HOUSE BILL 129 AND HOUSE BILL 1710. THE CONTENT OF THOSE PIECES OF PROPOSED LEGISLATION DO NOT DIRECTLY IMPACT ON THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE, THEREFORE, I THOUGHT IT INAPPROPRIATE TO MAKE ANY SPECIFIC COMMENTS UNLESS THE COMMITTEE HAS SPECIFIC QUESTIONS THEY WISH TO ADDRESS TO ME ON THOSE ISSUES.

I SHALL PROVIDE TESTIMONY THIS AFTERNOON ON HOUSE BILL 935, HOUSE BILL 1708, HOUSE BILL 1709, HOUSE BILL 1711, HOUSE BILL 1712, HOUSE BILL 1157 AND HOUSE RESOLUTION 151. WITH REFERENCE TO HOUSE BILL 935, THE SPECIFIC ISSUE WHICH IMPACTS ON THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE IS THE REQUIREMENT THAT THE BOARD SHALL NOT RELEASE A PERSON ON PAROLE UNLESS THAT PERSON SUCCESSFULLY COMPLETES A DRUG TREATMENT AND REHABILITATION PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH. THIS PROVISION RELATES ONLY TO THOSE INMATES SENTENCED FOR VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG DEVICE, AND COSMETIC ACT. THE BOARD SUPPORTS THE PASSAGE OF THIS HOUSE BILL. I WOULD COMMENT, HOWEVER, THAT MANY OFFENDERS IN THE STATE AND COUNTY CORRECTIONAL SYSTEMS HAVE SERIOUS SUBSTANCE ABUSE PROBLEMS. FOR EXAMPLE, IT HAS BEEN ESTIMATED THAT IN THE DEPARTMENT OF CORRECTIONS, APPROXIMATELY 70% OF THE POPULATION HAVE SERIOUS

DRUG AND/OR ALCOHOL PROBLEMS. TO LIMIT THE REQUIREMENT FOR SUBSTANCE ABUSE TREATMENT TO ONLY THOSE INMATES WHO HAVE BEEN CONVICTED OF VIOLATING THE CONTROLLED SUBSTANCE, DRUG DEVICE, AND COSMETIC ACT WOULD ONLY TOUCH THE TIP OF THE ICEBERG. MANY OFFENDERS WITH SUBSTANCE ABUSE PROBLEMS ARE SERVING TIME FOR ROBBERY, BURGLARY, THEFT, AND A MULTITUDE OF SIMILAR CRIMES. ANOTHER ISSUE I WOULD LIKE TO ADDRESS IS THE NEED TO PROVIDE APPROPRIATE RESOURCE SUPPORT TO ALL CORRECTIONAL FACILITIES HOUSING STATE SENTENCED INMATES IF THEY ARE REQUIRED TO PROVIDE EXPANDED PROGRAMMING IN SUBSTANCE ABUSE TREATMENT. ONE LAST COMMENT CONCERNING HOUSE BILL 935 WHICH SHOULD BE CLARIFIED IS THE ISSUE OF WHAT CONSTITUTES "SUCCESSFUL" COMPLETION OF A DRUG TREATMENT AND REHABILITATION PROGRAM. THAT TERM APPEARS IN SECTION 21, PAGE 2 LINE 11, AND SECTION 22, PAGE 3, LINE 16. WHAT AGENCY CARRIES THE RESPONSIBILITY OF DETERMINING SUCCESSFUL COMPLETION? IT APPEARS THAT EITHER THE DEPARTMENT OF CORRECTIONS, THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE, OR THE DEPARTMENT OF HEALTH COULD BE THAT AGENCY. IN ANY EVENT, THE TERM SHOULD BE DEFINED IN THE LEGISLATION. THE DIFFICULTIES IN PREDICTING INDIVIDUAL HUMAN BEHAVIOR ARE WELL DOCUMENTED.

HOUSE BILL 1708 DEALS WITH RELEASE PLANNING FOR PRISON INMATES. MY COMMENTS REGARDING THIS BILL RECOMMEND SOME COSMETIC CHANGES. IN NUMEROUS PLACES, THE TERM [BUREAU] OF CORRECTION SHOULD BE CHANGED TO DEPARTMENT OF CORRECTIONS AND DEPARTMENT OF [JUSTICE] SHOULD BE DEPARTMENT OF CORRECTIONS. IN SECTION 2.(c)(4), PAGE 3, LINE 10, REFERENCE SHOULD BE TO THE CHIEF ADULT PROBATION OFFICER, NOT SIMPLY PROBATION OFFICER AS TO NOTIFICATION OF THE RELEASE OF EACH PERSON IN THIS STATUS. MY LAST COMMENT ON THIS PARTICULAR BILL REFERS TO SECTION 2.(c)(5). THIS SECTION DEALS WITH PARTICIPATION

IN AN ELECTRONIC SURVEILLANCE PROGRAM FOR THE FINAL THIRTY DAYS OF A PERSON'S MINIMUM SENTENCE. SINCE THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE CONSIDERS INMATES FOR PAROLE APPROXIMATELY TWO MONTHS PRIOR TO THE EXPIRATION OF THEIR MINIMUM TERMS, THE DEPARTMENT OF CORRECTIONS WOULD HAVE KNOWLEDGE OF THOSE INMATES WE INTEND TO PAROLE. ONLY THOSE INMATES WHO WE HAVE DECIDED TO PAROLE SHOULD BE ELIGIBLE FOR ELECTRONIC SURVEILLANCE FOR THE LAST THIRTY DAYS OF THE MINIMUM SENTENCE. IT IS UNCLEAR WHETHER THE INTENT IS TO HOUSE THE PROSPECTIVE PAROLEE IN HIS/HER APPROVED RESIDENCE FOR PAROLE OR IN SOME OTHER COMMUNITY SETTING. I WOULD SUGGEST, THEREFORE, THAT IF THE PERSON IS TO BE HOUSED AT HIS/HER PROPOSED RESIDENCE THAT IT SHOULD NOT BE DONE UNTIL THE PAROLE PLAN HAS BEEN INVESTIGATED AND APPROVED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE. THE COMMITTEE SHOULD ALSO CONSIDER WHETHER THE ELECTRONIC SURVEILLANCE PROGRAM REFERRED TO IN THIS HOUSE BILL SHOULD BE "ACTIVE" OR "PASSIVE" SYSTEM. MY RECOMMENDATION WOULD BE FOR AN ACTIVE SYSTEM WHICH CONTINUOUSLY SIGNALS WHETHER THE PERSON IN THE PROGRAM IS COMPLYING WITH THE REQUIREMENTS APPROPRIATELY. A PASSIVE SYSTEM DOES NOT PROVIDE THE SAME KIND OF ACCOUNTABILITY. ONE LAST COMMENT CONCERNING HOUSE BILL 1708 REFERS AGAIN TO THE SAME SECTION AS ABOVE, PAGE 3, LINE 23, THE TERM "PANEL". THIS SECTION TALKS ABOUT RETURNING THE PERSON TO A STATE REGIONAL PANEL OR CORRECTIONAL INSTITUTION. IT IS UNCLEAR TO ME WHAT IS MEANT BY A REGIONAL PANEL. POSSIBLY THE TERM SHOULD BE PENAL OR PERHAPS THE TERM REGIONAL FACILITY WOULD BE MORE APPROPRIATE. THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE ENDORSES THE CONCEPT OF ELECTRONIC SURVEILLANCE FOR INMATES WHO HAVE BEEN SELECTED FOR PAROLE FOR A PERIOD PRIOR TO THE EXPIRATION OF THE MINIMUM SENTENCE. IT IS UNDERSTOOD, HOWEVER, THAT THE BOARD WOULD HAVE NO SUPERVISION JURISDICTION OR AUTHORITY OVER THOSE OFFENDERS UNLESS SUCH A PERSON IS

THEREFORE, THE DEPARTMENT OF CORRECTIONS WOULD HAVE TO MONITOR FOR VIOLATIONS OF THE ELECTRONIC SURVEILLANCE PROGRAM AND TAKE WHATEVER APPROPRIATE ACTION IS NECESSARY FOR VIOLATIONS OF THIS SANCTION.

HOUSE BILL 1709 ESTABLISHES AN INCENTIVE FOR OFFENDERS TO EARN TIME OFF OF THEIR MINIMUM SENTENCES BY INVOLVEMENT IN INSTITUTIONAL PROGRAMS. THIS WOULD EXPIRE ON JUNE 30, 1992. THE MAXIMUM AMOUNT OF TIME TO BE EARNED IS FIFTY TWO DAYS PER CALENDAR YEAR, WHICH TRANSLATES INTO ONE DAY PER WEEK. OUR BOARD SUPPORTS MERITORIOUS EARNED TIME. IT IS IMPORTANT THAT OFFENDERS BECOME INVOLVED IN PROGRAMMING THAT CAN HAVE THE EFFECT OF REDUCING RISK TO SOCIETY AT THE TIME OF PAROLE. THE ONLY DIFFICULTY I FORESEE IS THAT WITH THE OVERCROWDED PRISON POPULATION, THE RELATIVE LACK OF PROGRAMS AVAILABLE, AND THE LONG WAITING LISTS FOR THOSE PROGRAMS COULD CREATE SIGNIFICANT TENSION AMONG INMATES AS THEY COMPETE FOR THOSE SLOTS OSTENSIBLY TO REDUCE THEIR RISK TO SOCIETY AND AT THE SAME TIME EARNING TIME OFF THEIR MINIMUM SENTENCES. WHEN CONSIDERING AN INMATE FOR PAROLE, THE BOARD OF PROBATION AND PAROLE WILL HAVE TO BE COGNIZANT OF THIS AND CONTINUE TO EVALUATE RISK BEFORE ANY PAROLE DECISION IS MADE. SECTION 34.2 INDICATES THAT IF AN INMATE IS FOUND GUILTY OF A MISCONDUCT VIOLATION, THE DEPARTMENT CAN PENALIZE THE OFFENDER UP TO A MAXIMUM OF ONE HUNDRED FOUR DAYS FOR EACH VIOLATION. THEORETICALLY, THEREFORE, AN INMATE COULD LOSE TWO YEARS OF MERITORIOUS EARNED TIME FOR A RATHER INSIGNIFICANT VIOLATION. THIS SECTION OF THE BILL REQUIRES THE DEPARTMENT TO PROMULGATE REGULATIONS THAT SHOULD PRECLUDE THIS FROM HAPPENING. IT IS IMPORTANT TO DETERMINE, WITH AN EARNED TIME SYSTEM, IF THERE IS ANY LIBERTY INTEREST INVOLVED AND WHETHER OR NOT THE MISCONDUCT VIOLATION HEARINGS WILL BECOME FULL DUE PROCESS PROCEEDINGS COMPLETE

WITH ATTORNEY REPRESENTATION, CONFRONTATION OF WITNESSES, AND OTHER DUE PROCESS ISSUES. I THINK THAT THIS WOULD BE AN ISSUE THAT THE LEGAL STAFF OF THE JUDICIARY COMMITTEE, ALONG WITH OTHER APPROPRIATE COUNSEL, SHOULD CONSIDER. SECTION 34.3 LIMITS THE OFFENDER POPULATION ELIGIBILITY FOR EARNED TIME AS PROPOSED IN THIS BILL. ONE SUCH EXCLUSION INCLUDES OFFENDERS RETURNED TO PRISON BY THE BOARD OF PROBATION AND PAROLE FOR VIOLATIONS OF PAROLE. WE SUPPORT THIS PROVISION, BUT PERHAPS THE COMMITTEE WOULD WANT TO CONSIDER A DISTINCTION BETWEEN TECHNICAL PAROLE VIOLATORS AND CONVICTED PAROLE VIOLATORS. CONVICTED PAROLE VIOLATORS ARE THOSE PAROLEES WHO HAVE BEEN CONVICTED OF A NEW CRIMINAL OFFENSE WHILE SERVING TIME ON PAROLE, WHEREAS TECHNICAL PAROLE VIOLATORS ARE THOSE PAROLEES WHO HAVE COMMITTED VIOLATIONS OF THE CONDITIONAL RELEASE ON PAROLE.

HOUSE BILL 1711 PROVIDES AN APPROPRIATION OF \$930,000 TO THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE FOR THE FISCAL YEAR JULY 1, 1989 TO JUNE 30, 1990 FOR AN INTENSIVE PAROLE SUPERVISION PROGRAM. WE HAVE FOUND INTENSIVE PAROLE SUPERVISION PROGRAMS TO BE EFFECTIVE, NOT ONLY AS ALTERNATIVES TO REINCARCERATION FOR SOME PAROLEES, BUT AS A REASONABLE AND RESPONSIBLE WAY TO PROVIDE COMMUNITY CONTROL OF OFFENDERS UNDER OUR SUPERVISION. NEW CRIMINAL ACTIVITY CAN BE REDUCED WITH APPROPRIATE SUPERVISION, ALTHOUGH TECHNICAL VIOLATIONS ARE MORE PREVELANT. THERE ARE IMPLEMENTATION PROBLEMS WITH ANY NEW PROGRAM. IF THE BOARD WERE TO RECEIVE THIS FUNDING, WHICH WOULD PROVIDE FOR SEVENTEEN POSITIONS, WE WOULD REASSIGN EXPERIENCED PAROLE AGENTS FOR THIS PROGRAM AND HIRE NEW PAROLE AGENTS TO PICK UP THE REMAINING WORKLOAD. IT SHOULD BE KNOWN

THAT NEW PAROLE AGENT HIRES CANNOT CARRY A FULL SUPERVISION WORKLOAD UNTIL THEY HAVE COMPLETED A TWELVE MONTH TRAINING PROGRAM WITH THE BOARD. THE WORKLOAD RESPONSIBILITIES ARE PHASED IN OVER THAT ONE YEAR PERIOD OF TIME AND ONLY AFTER SUCCESSFULLY COMPLETING THE PROBATIONARY PERIOD IS THE NEW PAROLE AGENT GIVEN A FULL SUPERVISION WORKLOAD. THE OTHER ISSUE YOU SHOULD BE AWARE OF CONCERNS OFFICE SPACE LIMITATIONS CURRENTLY BEING EXPERIENCED IN OUR AGENCY. NEW LEASED OFFICE SPACE WOULD BE NECESSARY TO IMPLEMENT THIS OR ANY OTHER NEW PROGRAM. THE LEASING PROCESS TAKES, CONSERVATIVELY, SIX TO NINE MONTHS. BASED ON THESE LIMITATIONS, I WOULD SUGGEST THAT THE APPROPRIATION SHOULD BE FOR THE PERIOD JANUARY 1, 1990 TO JUNE 30, 1991. IT WOULD BE IMPOSSIBLE, SINCE WE ARE ALREADY INTO THE 1989/90 FISCAL YEAR, TO DO MORE THAN A FOUR OR FIVE MONTH PROGRAM THIS FISCAL PERIOD. THE BOARD IS VERY ENCOURAGED, HOWEVER, THAT MANY MEMBERS OF THE HOUSE OF REPRESENTATIVES RECOGNIZE THE VALUE OF INTENSIVE PAROLE SUPERVISION PROGRAMS AS EVIDENCED BY CO-SPONSORSHIP OF THIS PROPOSED LEGISLATION. WE THANK YOU FOR THAT.

HOUSE BILL 1712 EXTENDS THE EARNED TIME CONCEPT TO THE MAXIMUM SENTENCE FOR CERTAIN OFFENDERS WHO ARE SERVING THE BALANCE OF THEIR SENTENCES ON PAROLE SUPERVISION. SECTION 21.2 ESSENTIALLY CONTAINS THE LANGUAGE THAT I SUGGESTED TO THIS COMMITTEE IN SIMILAR TESTIMONY IN JUNE, 1987. IF EARNED TIME INCENTIVES CAN REDUCE DISCIPLINARY INFRACTIONS DURING INCARCERATION, IT MAY BE EXPECTED THAT ANTI-SOCIAL BEHAVIOR WHILE ON PAROLE SUPERVISION COULD BE REDUCED WITH SIMILAR INCENTIVES FOR GOOD BEHAVIOR. THIS WOULD HAVE A COST BENEFIT TO THE COMMONWEALTH IN REDUCING A PAROLE POPULATION THROUGH EARNED TIME CREDIT INCENTIVES. THE ONLY ALTERNATIVE CURRENTLY AVAILABLE TO REDUCE MAXIMUM SENTENCES IS THROUGH A SPECIAL COMMUTATION PROCESS WHICH CAN ONLY BE CONSTITUTIONALLY GRANTED BY

THE GOVERNOR. EARNED TIME ON THE MAXIMUM SENTENCE, BEGINNING AFTER PAROLE RELEASE, WOULD COMPLIMENT THE COMMUTATION PROCESS AND THE JUDICIALLY IMPOSED MAXIMUM SENTENCE WOULD REMAIN IN TACT. THE ONLY OTHER COMMENT I HAVE CONCERNING HOUSE BILL 1712 DEALS WITH SOME COSMETIC CHANGES BY CHANGING THE NAME FROM THE DEPARTMENT OF [JUSTICE] TO THE DEPARTMENT OF CORRECTIONS.

HOUSE BILL 1157 PROVIDES FOR EARNED TIME CREDITS AWARDED AT THE RATE OF FIVE DAYS FOR EACH CALENDAR MONTH WITHOUT INSTITUTIONAL INFRACTIONS. IT ALSO PROVIDES MERITORIOUS EARNED TIME AT THE SAME RATE FOR ENROLLMENT IN EDUCATIONAL, VOCATIONAL, THERAPEUTIC OR COMMUNITY SERVICE ACTIVITIES NOT MANDATED BY PRISON REGULATIONS. CORRECTIONAL ADMINISTRATORS REGARD EARNED TIME AS AN EFFECTIVE TOOL AND EXTRA INCENTIVE FOR GOOD BEHAVIOR WHICH WILL ASSIST IN PRISON POPULATION MANAGEMENT AND CONTROL. THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE SUPPORTS THIS CORRECTIONAL CONCEPT SINCE IT IS DESIGNED TO SUPPLEMENT THE EXISTING PAROLE PROCESS AND RECOGNIZES THE IMPACT EARNED TIME CAN HAVE ON THE PAROLE POPULATION. THE PAROLE SUPERVISION PROGRAM IN OUR AGENCY IS OVERCAPACITY JUST AS THE PRISON POPULATION IS OVERCAPACITY. THE BOARD SPENDS UPWARDS OF \$500,000 A YEAR IN OVERTIME TO MEET MINIMUM SUPERVISION REQUIREMENTS. TO EXPECT THE PAROLE SUPERVISION SYSTEM, WITH EXISTING RESOURCES, TO PROVIDE SERVICES FOR AN EVEN LARGER PAROLE POPULATION FOR LONGER PERIODS OF TIME WOULD BE PROBLEMATIC. WITHOUT SUFFICIENT ADDITIONAL RESOURCES FOR PAROLE SUPERVISION AND COMMUNITY CONTROL PROGRAMS, PUBLIC SAFETY WOULD BE COMPROMISED AND IT IS IMPORTANT THAT YOU RECOGNIZE THAT. THEREFORE, AN APPROPRIATION TO THE BOARD SIMILAR TO THAT IN PROPOSED HOUSE BILL 1711 IS RECOMMENDED AS AN AMENDMENT TO THIS BILL. SECTION 2.(b)

DEALS WITH EXCEPTIONS TO EARNED TIME. IN ADDITION TO THE EXCEPTIONS NOTED, PERHAPS THE COMMITTEE SHOULD CONSIDER OFFENDERS SERVING MANDATORY SENTENCES, LIFE SENTENCES, AND PAROLE VIOLATORS WHO HAVE BEEN RECOMMITTED FOR COMMITTING NEW CRIMES WHILE ON PAROLE. NOT RELATING SPECIFICALLY TO HOUSE BILL 1157, BUT I THINK IMPORTANT FOR THE JUDICIARY COMMITTEE MEMBERS TO KNOW, ARE SOME PHILOSOPHICAL CONCERNS OF THE BOARD OF PROBATION AND PAROLE WHICH MAY BE DIFFERENT FROM THE VIEWS OF PRISON AND JAIL ADMINISTRATORS. OUR VIEW IS THAT AN EARNED TIME SYSTEM WILL PROVIDE CORRECTIONAL MANAGERS WITH ANOTHER TOOL TO DEAL WITH PRISON MANAGEMENT PROBLEMS, AND WE SUPPORT ANY PROVISION THAT WILL PROVIDE CORRECTIONAL MANAGERS WITH THE TOOLS THEY NEED TO CONTROL THE LARGE POPULATIONS UNDER THEIR JURISDICTION. CERTAINLY, PAROLE IS A SUBSTANTIAL INCENTIVE CURRENTLY. WE RECOGNIZE, HOWEVER, THAT GOOD BEHAVIOR IN PRISON DOES NOT NECESSARILY LEAD TO LAW ABIDING BEHAVIOR ON PAROLE. THE STRENGTH OF ALL OF THE PROPOSED LEGISLATION CONCERNING EARNED TIME IS THAT IT RETAIN THE PAROLE PROCESS SO THAT OFFENDERS ARE NOT SIMPLY RELEASED EARLY ON THEIR SENTENCES IN ALL SITUATIONS WHERE THEY HAVE ACCUMULATED EARNED TIME CREDITS. EVALUATION OF RISK AND THE ABILITY TO SAFELY SUPERVISE IN A COMMUNITY SETTING ARE THE KEYS FOR PAROLE DECISION MAKERS, WHILE REDUCING AND MANAGING PRISON POPULATIONS ARE THE KEYS FOR CORRECTIONAL ADMINISTRATORS. EARNING TIME OFF ONE'S SENTENCE DOES NOT ASSURE THAT AN OFFENDER HAS REDUCED HIS/HER RISK TO SOCIETY. WE SHOULD ALL BE AWARE THAT MANY DANGEROUS OFFENDERS SERVE TIME RATHER EASILY, BUT CONTINUE TO BE DANGEROUS TO OTHERS. MANY OF THESE OFFENDERS DO NOT TAKE RESPONSIBILITY FOR THE CRIMES THEY HAVE COMMITTED AND, THEREFORE, ARE NOT INVOLVED IN ANY THERAPEUTIC PROGRAM SPECIFICALLY RELATED TO THEIR OFFENSE. MANY OF

THESE OFFENDERS HAVE AN OTHERWISE GOOD ADJUSTMENT IN THE PRISON SETTING, HOWEVER, THEY GENERALLY ARE NOT PAROLED BECAUSE THEY HAVE HAD NO THERAPEUTIC INVOLVEMENT WHICH MAY REDUCE THEIR RISK TO OTHERS. ONE ALTERNATIVE TO DEAL WITH OFFENDERS WITH EXEMPLARY BEHAVIOR, BUT STILL CONSIDERED A HIGH RISK FOR PAROLE, WOULD BE TO REQUIRE THERAPEUTIC PROGRAMMING OR, IN THE ALTERNATIVE, TO PLACE SUCH OFFENDERS IN COMMUNITY SERVICE CENTERS SO THAT WE CAN FURTHER EVALUATE THEM IN A STRUCTURED SETTING PRIOR TO FURTHER CONSIDERING THEM FOR PAROLE. ANOTHER CONCERN OF THE BOARD OF PROBATION AND PAROLE DEALS WITH THE RIGHTS OF VICTIMS OF CRIME. OUR CONCERN IS IN RESPONSIBLY BALANCING THE IMPACT OF VICTIMS' TESTIMONY TO THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE WITH THE FACT THAT THE OFFENDER MAY SERVE EVEN LESS TIME THAN STIPULATED BY THE SENTENCING JUDGE AT THE POINT EARNED TIME PROPOSALS BECOME OPERATIONAL. THE MESSAGE WE CONVEY TO THE GENERAL PUBLIC AND THE VICTIMS OF CRIME MUST BE VERY CLEAR. IF WE ARE SUPPORTING THE EARNED TIME CONCEPT AS A WAY OF REDUCING OVERCROWDED PRISONS, THE MESSAGE TO THE PUBLIC SHOULD BE CLEAR AND HONEST. WE MUST ALSO BE ABLE TO ASSURE THE PUBLIC THAT PERSONS RELEASED EARLY FROM PRISON AS A RESULT OF EARNED TIME WILL BE SUPERVISED APPROPRIATELY BY PAROLE OFFICIALS WITH RESOURCES PROVIDED FOR THAT SPECIFIED PURPOSE. IN SOME CASES, THAT WOULD MEAN INTENSIVE SUPERVISION TO EXERCISE MAXIMUM COMMUNITY CONTROL. VICTIMS RIGHTS LEGISLATION, IN THE FORM OF ACT 134 OF 1986, REQUIRES DISTRICT ATTORNEYS TO NOTIFY VICTIMS OF CRIME IMMEDIATELY FOLLOWING SENTENCING OF THE OPPORTUNITY TO PRESENT ORAL OR WRITTEN TESTIMONY TO THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE PRIOR TO THE RELEASE DECISION BEING MADE. SUCH TESTIMONY PROVIDES INFORMATION CONCERNING THE CONTINUING NATURE AND EXTENT OF ANY PHYSICAL HARM OR PSYCHOLOGICAL OR EMOTIONAL HARM OR TRAUMA SUFFERED BY THE VICTIM AND

OR ABILITY TO WORK SUFFERED BY THE VICTIM, AND THE CONTINUING EFFECT OF THE CRIME UPON THE VICTIM'S FAMILY. A BALANCED CRIMINAL JUSTICE POLICY IS NECESSARY AND A POLICY THAT CAN BE UNDERSTOOD AND GENERALLY ACCEPTED BY THE PUBLIC SHOULD, IN MY OPINION, BE A VERY HIGH PRIORITY OF THE GENERAL ASSEMBLY. THE ISSUE OF VICTIMS' RIGHTS MUST NOT GET LOST AS WE EMBRACE AN EARNED TIME POLICY. PERHAPS THE SENTENCING JUDGE SHOULD HAVE THE DISCRETION TO DETERMINE, AS PART OF THE SENTENCE, IF EARNED TIME SHOULD APPLY IN PARTICULARLY ASSAULTIVE OFFENSES. MY FINAL COMMENT CONCERNING HOUSE BILL 1157 CONCERNS SECTION 5.(b). THIS, AGAIN, IS A PROPOSAL TO EXTEND THE EARNED TIME CONCEPT TO THE MAXIMUM TERM IMPOSED UPON THE PAROLEE. THE LANGUAGE CONTAINED IN SECTION 21.2 OF PROPOSED HOUSE BILL 1712 IS PREFERABLE, BECAUSE IT ALSO DEALS WITH THE INACTIVE PERIOD OF SUPERVISION OCCURRING SINCE THE JUDICIALLY IMPOSED MAXIMUM SENTENCE REMAINS UNCHANGED.

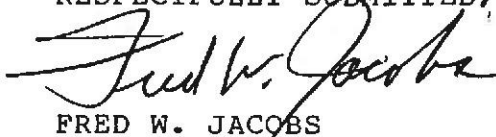
MY FINAL COMMENT THIS AFTERNOON RELATES TO HOUSE RESOLUTION 151. THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE STRONGLY SUPPORTS THE NECESSITY FOR PRISON POPULATION IMPACT STUDIES TO BE COMPLETED PRIOR TO PASSING NEW LEGISLATION. WE WOULD ALSO RECOMMEND PAROLE POPULATION IMPACT STUDIES IN SIMILAR INSTANCES.

MY TESTIMONY TODAY CONCERNING ALL OF THE RELATED PIECES OF LEGISLATION WAS AN ATTEMPT TO RESPONSIBLY LOOK AT EARNED TIME IN THE FRAMEWORK OF PRISON OVERCROWDING AND PAROLE CONSIDERATION AND SUPERVISION. THE PACKAGE OF BILLS THAT YOU HAVE BEFORE YOU

REPRESENTS SIGNIFICANT CONTRIBUTIONS BY MEMBERS OF THE HOUSE OF REPRESENTATIVES AND I APPRECIATE THE OPPORTUNITY TO PROVIDE TESTIMONY ON THESE ISSUES.

THAT CONCLUDES MY TESTIMONY. I SHALL BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "Fred W. Jacobs".

FRED W. JACOBS
CHAIRMAN
PENNSYLVANIA BOARD OF PROBATION
AND PAROLE

JULY 17, 1989