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TESTIMONY OF  
WILLIAM H. PLATT  
DISTRICT ATTORNEY OF LEHIGH COUNTY

BEFORE THE  
HOUSE JUDICIARY COMMITTEE

ON

HOUSE BILL 2513 OF 1990

September 13, 1990

Allentown, PA

CHAIRMAN CALTAGIRONE AND MEMBERS OF THE COMMITTEE:

Thank you for affording me this opportunity to speak to your Committee and express my views concerning House Bill 2513 which would amend the Pennsylvania Victims' Bill of Rights Law and significantly expand the statutory rights of crime victims in this State.

Although, in addition to having served as the District Attorney of Lehigh County since 1976, I am the Chairman of the

Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania and a member of the Victim Services Advisory Committee of the Pennsylvania Commission on Crime and Delinquency, as well as a Past President of the Pennsylvania District Attorneys Association, by way of disclaimer, I must state that my comments today are my own as an individual District Attorney and do not necessarily reflect the views of any of the other organizations with which I have an affiliation.

House Bill 2513 (Printer's No. 3475), in essence, appears aimed at increasing the involvement of crime victims in the criminal process by expanding upon the notice and opportunity for input statutorily provided for crime victims. Of course, I support such goals.

My major problem with the Bill in its present form is stylistic, i.e., I believe the Bill is unnecessarily convoluted and disjointed. For that reason, I favor reworking of the language of the proposed legislation along the lines of that submitted to the House Judiciary Committee by John Kunkle the Victim Services Project Manager for the Pennsylvania Commission on Crime and Delinquency. Mr. Kunkle's rewriting will not diminish the rights to be afforded victim of crime, and will because of its clearer delineation of both those rights and the agencies responsible for implementing them, insure greater

compliance with the law.

The legislative rights contained in the Bill parallel, to a great extent, those contained in the document "Fair Treatment for Victims and Witnesses of Crime: An Action Strategy for Pennsylvania," which I helped develop as a member of the PCCD's Victim Services Advisory Committee back in 1985. As I am sure the Committee members realize, however, the implementation of such rights does not come without costs. The brochures, notices and the personnel necessary to insure compliance cost money--money which local governments do not, in these days of fiscal shortfalls, have. That is why I must tie my full support for this proposed legislation to favorable action on what must be viewed as the legislative compliment to HB 2513, the passage of HB 2361, P.N. 3712, which would amend Act 96 by increasing the penalty assessments necessary to fund the programs throughout the State which are key to the success of HB 2513.

As to notice of pre-release, parole, and escape from incarceration, I believe that these responsibilities lie with the state and county parole and corrections departments, and that these matters should be legislatively addressed in amendments to the statutes governing those agencies. The current requirements that we, as district attorneys, provide

these agencies with information regarding victims desiring notice should, in my opinion, carry forward in such legislation.

Finally, I wish to draw to the Committee's attention language in comparable pending federal legislation, S. 1970, which I believe must be included in HB 2513. S. 1970, after establishing the rights of federal crime victims and requiring the Department of Justice and others to "make their best efforts to see that victims of crime are accorded" their statutory rights, in Section \_\_02 (c) states:

"No Cause of Action or Defense.--This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b)."

Such language is extremely important, particularly in state legislation. As this Committee well knows, the bulk of criminal cases are handled in the state courts; and those courts, prosecutors' offices, probation, parole and correctional facilities are currently working well beyond reasonable capacities. Mistakes and omissions will occur even in the most well-run offices. Without such express language, I fear that there will be lawsuits and perhaps even judgments, costs and attorney's fees attached thereto--costs in both dollars and

manhours which in the broadest sense will adversely impact on the providing of the specified notices and services to victims and witnesses. Such civil actions would deter rather than encourage compliance by diverting monies and personnel from these programs.

Further, I do not believe that inclusion of such language will cause non-compliance. On the contrary, I find that the vast majority of the personnel and components of the criminal justice system are today sensitive to and concerned about victim and witness rights. Policing can be done by means of the carrot rather than the stick. PCCD grants under Act 96, hopefully expanded by HB 2361, give that agency oversight and pursestring controls which will insure compliance and effective implementation of the law.