

Corrections Commissioner Joseph D. Lehman
Talking Points
Sentencing Reform (HB 239)
House Judiciary Committee
Tuesday, February 26, 1991

I. OPENING AND OVERVIEW

- * I APPRECIATE THIS OPPORTUNITY TO SHARE SOME OF MY VIEWS ON PROPOSED SENTENCING REFORM.
- * LET ME BEGIN BY SAYING THAT I VIEW THIS PROPOSAL AS ONE THAT WILL BRING THE SENTENCING POLICY OF THE COMMONWEALTH IN LINE WITH WHAT WE KNOW ABOUT THE CAPACITY OF CORRECTIONS, AND IN PARTICULAR PRISON SENTENCES, TO INFLUENCE OFFENDER BEHAVIOR.
- * WE KNOW WE CAN CONTROL OFFENDERS' BEHAVIOR WHILE THEY ARE INCARCERATED. AT LEAST CONTROL IT FROM THE COMMUNITY'S PUBLIC SAFETY PERSPECTIVE.
- * WE CAN INCARCERATE THEM AS PUNISHMENT.
- * WHAT WE CANNOT DO IS DELUDE OURSELVES OR THE PUBLIC INTO BELIEVING THAT PRISON REHABILITATES OFFENDERS OR THAT WE, BASED ON INSTITUTIONAL PROGRAMMING, HAVE A CAPACITY TO PREDICT HOW AN INDIVIDUAL INMATE WILL BEHAVE FOLLOWING RELEASE.

II. TRUTH IN SENTENCING

- * THE PROPOSED SENTENCING REFORM LEGISLATION IS, IN ESSENCE, A TRUTH IN SENTENCING POLICY. IT PROMISES TO DO NO MORE THAN WE REALISTICALLY CAN DO.
- * ITS UNDERLYING PHILOSOPHY, QUITE SIMPLY, IS THAT THE PURPOSE OF INCARCERATION IS TWO-FOLD: (1) TO CARRY OUT "JUST DESERTS" PUNISHMENT, AND (2) INCAPCITATION IN THE INTERESTS OF PUBLIC SAFETY.
- * UNDER THE LEGISLATION, THAT DECISION WOULD BE MADE IN AN OPEN COURTROOM BY A JUDGE IN THE PRESENCE OF A PROSECUTOR AND DEFENSE COUNSEL WITH VICTIM INPUT.
- * THE PROPOSED LEGISLATION DOES NOT ATTEMPT TO PROMISE SOMETHING IT CANNOT DELIVER, THAT IS, THE CAPACITY TO PREDICT AN INDIVIDUAL'S FUTURE BEHAVIOR BASED ON PROGRAMMING IN PRISON.

III. UNIFIED CORRECTIONS SYSTEM

- * THE PROPOSED LEGISLATION ATTEMPTS TO TAKE THE BEST OF THE PRESUMPTIVE SENTENCING MODEL AND THE BEST OF THE PAROLE SUPERVISION MODEL.
- * DURING INCARCERATION, WE MUST TRY TO GIVE INMATES AS MUCH PROGRAMMING AND TREATMENT AS WE CAN.
- * YOU MUST START, HOWEVER, FROM THE ASSUMPTION THAT YOU CANNOT BE ALL THINGS TO ALL INMATES. IN THE FIRST PLACE, WE DO NOT AND WILL NEVER HAVE SUFFICIENT RESOURCES TO DO SO.
- * GIVEN THAT PREMISE, WE SHOULD HAVE THE CAPACITY TO ALLOCATE THOSE LIMITED RESOURCES BASED ON AN OBJECTIVE ASSESSMENT OF THE NEED AND ON THE MOTIVATION OF THE INMATE.
- * NOT THE "GAMING" THAT CURRENTLY GOES ON RELATIVE TO OUR PAROLE RELEASE POLICIES.
- * WHILE WE PURPOSEFULLY HAVE GIVEN THE JUDICIARY INCREASED DISCRETION TO SENTENCE OFFENDERS, WE, AT THE SAME TIME, HAVE REDUCED THE BUREAUCRACY ASSOCIATED WITH THE FALSE ASSUMPTION THAT WE CAN PREDICT AN INDIVIDUAL OFFENDER'S FUTURE, POST-RELEASE BEHAVIOR BASED ON INSTITUTIONAL PROGRAMMING.
- * IN THE PROCESS, WE WILL REDUCE OVERCROWDING AND THEREBY INSURE THAT THIS VERY EXPENSIVE CORRECTIONS RESOURCE IS AVAILABLE TO THE VIOLENT AND DANGEROUS OFFENDER.
- * UNLIKE ANY OTHER PRESUMPTIVE SENTENCING SYSTEM IN THE COUNTRY, HOWEVER, WE WILL RETAIN OUR CAPACITY TO KEEP IN PRISON THOSE INMATES WHOSE MISCONDUCT IN PRISON WARRANTS THEIR CONTINUED INCARCERATION.
- * IN ADDITION TO THE VICTIM'S INPUT AT SENTENCING MANDATED BY HB 90, SPONSORED BY REP. RITTER, THE PROPOSED LEGISLATION WOULD PROVIDE FOR VICTIM COMMENT PRIOR TO RELEASE. THE PAROLE PLAN AND CONDITIONS OF RELEASE MUST AND WILL TAKE INTO CONSIDERATION THE NEED TO BE SENSITIVE TO AND ENSURE THAT THERE IS NOT CONTINUING PHYSICAL AND EMOTIONAL HARM TO THE VICTIM.
- * IT IS ALSO EXTREMELY IMPORTANT THAT THERE BE CONTINUITY IN THE PROGRAMMING DURING INCARCERATION AND FOLLOWING RELEASE.
- * THE PROPOSED LEGISLATION WOULD PROVIDE FOR A UNIFIED CORRECTIONAL SERVICE DELIVERY SYSTEM BY LINKING THE INSTITUTIONAL AND COMMUNITY PROGRAMS UNDER ONE AGENCY, PROVIDING MORE CONTINUITY IN BOTH POLICY AND PRACTICE.

- * IT HAS BEEN MY EXPERIENCE OVER 22 YEARS IN CORRECTIONS THAT YOU HAVE A BETTER CHANCE OF INFLUENCING OFFENDER BEHAVIOR IF THE MESSAGE TO THE OFFENDER IS SIMPLE, THE EXPECTATIONS ARE CLEAR AND THE OFFENDER'S BEHAVIOR IS CONSISTENTLY RESPONDED TO.
- * A UNIFIED CORRECTIONAL SYSTEM WILL PROVIDE A MUCH BETTER OPPORTUNITY FOR ENSURING CONTINUITY AND CONSISTENCY.
- * CONSISTENT WITH SOUND CORRECTIONS THEORY AND RESEARCH, WE NEED TO BUILD A STRONG PAROLE SYSTEM WHICH IMPOSES, AS A CONDITION OF SUPERVISION, PARTICIPATION IN TREATMENT WHEN APPROPRIATE.
- * CORRECTIONS RESEARCH SUPPORTS THE NOTION THAT TREATMENT IN THE COMMUNITY, CAN BE MORE EFFECTIVE THAN TREATMENT IN AN INSTITUTIONAL SETTING.
- * WE NEED TO PROVIDE AN ENHANCED PROGRAM OF SURVEILLANCE AND TREATMENT UTILIZING APPROPRIATE RISK ASSESSMENT TOOLS. WE CAN MEET OUR OBLIGATION TO PUBLIC SAFETY AND BE COST EFFECTIVE. AS INDICATED IN THE GOVERNOR'S BUDGET REQUEST, FUNDING SHIFTS TO THE COMMUNITY WILL NEED TO OCCUR WITH THE IMPLEMENTATION OF THIS LEGISLATION. THE BOTTOM LINE IS THAT WE MUST INCREASE OUR COMMUNITY CORRECTIONS PROGRAMS.
- * IN THE COMMUNITY, AN OFFENDER'S INAPPROPRIATE BEHAVIOR WILL BE RESPONDED TO BY TAKING VIOLATIONS OF PAROLE BEFORE THE PAROLE BOARD -- APPROPRIATELY, AN INDEPENDENT ADMINISTRATIVE BOARD -- FOR DISPOSITION.

IV. CONCLUSION

- * IT IS IMPORTANT TO NOTE THAT UNDER THE PROPOSED SENTENCING REFORM LEGISLATION, CONSISTENCY IN POLICY THROUGHOUT THE ENTIRE SYSTEM IS PROVIDED BY THE SENTENCING COMMISSION THROUGH ITS CONTINUED ROLE, ALONG WITH THE GENERAL ASSEMBLY, IN ESTABLISHING GUIDELINES NOT ONLY FOR ORIGINAL SENTENCES AS THEY CURRENTLY DO, BUT IN ESTABLISHING FUTURE GUIDELINES FOR RESPONDING TO PAROLE VIOLATIONS OF EITHER A CRIMINAL OR TECHNICAL NATURE.
- * IN SUMMARY, THIS IMPORTANT PIECE OF LEGISLATION WILL GIVE PENNSYLVANIA A SENSIBLE SENTENCING POLICY -- ONE THAT IS CONSISTENT WITH WHAT WE KNOW IS OUR CAPACITY TO PREDICT AND INFLUENCE OFFENDER BEHAVIOR AND ONE THAT PROVIDES BOTH MORE CLARITY AND TRUTH IN SENTENCING.