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TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

HOUSE BILL 239 - SENTENCING REFORM PROPOSAL

Presented by Stover K. Clark

Prison Specialist

Pennsylvania State Association of County Commissioners

Harrisburg, Pennsylvania

February 26, 1991



Good Morning, I am Stover Clark, Jail Overcrowding Project Director for the Pennsylvania State Association of County Commissioners. Our Association is a nonprofit, nonpartisan organization representing all of the Commonwealth's 76 counties.

I am pleased to have this opportunity to present the Association's comments on House Bill 239, the Sentencing Reform Bill of 1991.

We are experiencing unprecedented change in our county and state correctional system. Along with the continued population growth in our jails and prisons, the Commonwealth is proposing to make structural changes in Pennsylvania's Criminal Justice policies. The proposed Sentencing Reform Act, embodied in H.B. 239, represents such a fundamental policy change.

I will address only the issues in H.B. 239 that pertain to the county system. The County Commissioners Association views this proposed legislation as an opportunity to address several issues that will further refine our county based criminal justice system.

As you know, the sentencing practices in Pennsylvania are unique; county judges are allowed to sentence an offender to up to five years less one day in a county jail. Effectively, what would otherwise be a state prison sentence is being served in a county jail. Further complicating this is the fact that the releasing

authority for these inmates rests with the Board of Probation and Parole, not with the common pleas judge.

The Association has long maintained that this sentencing structure should be changed to parallel the sentencing practices found in the rest of the nation. Most states allow county jails to house sentenced offenders for no longer than one year, in a small number of states that figure is no longer than two years. We are suggesting that the General Assembly use this opportunity to clearly delineate the length of sentence and place of confinement issues. In the PSACC Proposed Solutions to the County Jail Overcrowding Crisis, we proposed that county jails house offender for no longer than two years. H.B. 342, introduced by Representative Levdansky and presently awaiting action by this Committee encompasses our suggested changes. We urge you to incorporate H.B. 342 into the Sentencing Reform legislation before us today.

Without resolving this sentencing practice issue, portions of the proposed Sentencing Reform legislation will have a negative impact on county jails.

First, under the work related and earned time provisions found in H.B. 239, inmates sentenced to terms of over two years and housed in county jails are not eligible for either state sanctioned or county based earned time. There are approximately 1,500 offenders presently housed in county jails that would fall under these

conditions. For our jail wardens, this will create serious administrative and population management problems.

The second concern deals with the revocation of parole violators. Under current practice the state parole officer places parole violators in county jails to await a hearing and or other court proceedings. The Association is concerned that under the proposed legislation, which moves parole officers under the authority of the Department of Corrections, the decision to hear revocation actions and move offenders back into state institutions may be influenced by the capacity of the state correctional system. To safeguard against this potential problem, the Association proposes that counties house parole violators for a reasonable period of time; three to five days, after this period the Department will reimburse the county a per diem rate until the offender is released or moved into the state system.

Under current law, the Board of Probation and Parole administers the county Grant-in-Aid program for county probation department. As you are aware, counties receive up to 80% of the salary for county adult probation officers that meet Board guidelines and standards. Approved probation officers hired after 1965 are eligible for Grant-in-Aid funds.

Under the proposed Sentencing Reform legislation, the Grant-in-Aid program would be administered under the Department of Correc-

tions. The following issues must be discussed and addressed before this change takes place.

First, under the proposed Sentencing Reform legislation there is no reference to the retroactive date of 1965 for eligible probation offenders. This oversight has the potential to eliminate over 1,000 county probation officers from the Grant-in-Aid program. Needless to said, this would have a devastating effect on the county criminal justice system and their budgets.

A second issue deals with the structural change of moving the board to the Department of Corrections and the potential effect on counties. The Association requests that you place safeguards in the Sentencing Reform legislation that will eliminate any potential of further shifting the state prison overcrowding crisis onto the counties.

The third issue concerning the Grant-in-Aid program is in the proposed budget for fiscal 1991/92. Under the proposed budget, Grant-in-Aid funds would be cut by over \$11 million dollars. County probation officers would be required to collect a \$25.00 per month supervision fee to make up for the lost revenues. I think we are all in agreement with the concept that offenders should literally pay for their crimes. However, as more and more responsibilities are being placed on our county criminal justice systems, such as Intermediate Punishment programs, changes in the Sentencing Guidelines resulting in more offenders being placed in

county facilitates, the Association believes a more prudent approach is called for. County probation case loads continue to grow, the Association requests that the legislature increase the Grant-in-Aid funds to keep pace with the increased caseloads and allow counties to collect supervision fees to offset the increased costs resulting from intermediate punishment programs and sentencing guideline changes..

Under the existing Parole and Probation structure two of our counties, Mercer and Venango, receive all of their county probation services by state probation and parole officers. This arrangement has been satisfactory to both the Board of Probation and Parole and the Counties of Mercer and Venango. We request that the proposed Sentencing Reform legislation be amended to include specific language that maintains the current relationship between the Board and the Counties of Mercer and Venango.

Over the past year and a half, the general assembly has passed a number of laws improving the county and state correctional system; Intermediate Punishment options, the \$200 million grant program for county jails, and much more. These initiatives, many put forth by members of this committee, all operate under the premise that the state and county systems are interdependent; policies affecting one component have a direct and equal effort on the other. The Sentencing Reform legislation before you represents a fundamental structural change in the Pennsylvania sys-

tem. We urge you to consider the potential impact the legisla-
tion will have on the county based criminal justice system.

Thank you for giving the County Commissioners Association this
opportunity to present our comments. We would be pleased to fur-
nish any additional information you may require, and to assist
the Committee in further development of the legislation.

I will be pleased to answer any questions you might have.
