



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
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OFFICE OF
COMMISSIONER OF CORRECTIONS

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April 10, 1992

The Honorable Thomas Caltagirone, Chairman
House Judiciary Committee
~~214 South Office Building~~
Main Capitol Building
Harrisburg, PA 17120-0028

RE: HB 270

Dear Representative Caltagirone:

It has come to my attention that the House Judiciary Committee has scheduled a public hearing on Monday, April 13, 1992, to consider House Bill 270 which seeks to establish mandatory prison sentences for arson-related offenses. I offer the following comments for your review and careful consideration.

I strongly encourage the Committee not to approve House Bill 270 for the following reasons. First, in order to appropriately evaluate how this legislation would impact the Department, I believe that the Commonwealth's Corrections Population Projections Committee should be allotted sufficient time to conduct a thorough fiscal and population impact assessment of House Bill 270. Second, as House Bill 270 seeks to establish still another mandatory sentence, the legislation fails to consider the range of behavior and/or risk represented among individuals who commit the offense. This "blanket" approach to apportioning punishment for specific criminal offenses is not only bad public policy but is fiscally irresponsible.

Apart from my opposition to this particular piece of legislation, I want to reassert the Department's opposition to any legislative attempt to enact additional mandatory sentences. This opposition is supported by several recent studies by U. S. Sentencing Commission¹ and the National Council on Crime and Delinquency² which seriously question the validity of

¹ U.S. Sentencing Commission (1991). *Mandatory Minimum Penalties in the Federal Criminal Justice System*.

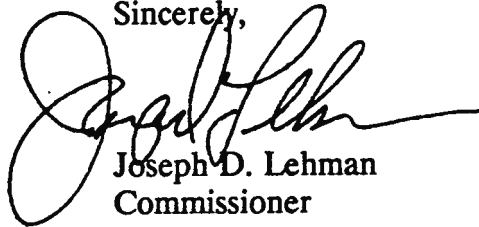
² Austin, J. (June 1991) *Escalating the Use of Imprisonment: The Case Study of Florida*. The National Council on Crime and Delinquency.

current legislative and public perception that mandatory sentences are one of the judicial system's most effective sentencing options. In fact, the U.S. Sentencing Commission study, which may well be the most sophisticated study of mandatory sentencing ever undertaken, found that mandatories produce high trial rates, unacceptable sentencing disparities, and often result in harsher penalties than appear warranted. Additionally, the Commission suggests that the inconsistent application of mandatory sentences is slowly eroding any deterrent impact that this sentencing option initially provided. The unfortunate reality, which administrators at all levels of the criminal justice system are now recognizing, is that mandatory sentencing has resulted in longer average lengths of incarceration and, in turn, burgeoning prison populations while offering little or no deterrent effect.

I would like to remind the Committee that the Pennsylvania Sentencing Commission can provide a more appropriate remedy to the problem of how to respond to specific criminal offenses. Since the Commission was created by the General Assembly in order to deal with the problem of disparity and leniency in the judicial sentencing process, they can be directed to establish guidelines designed to specifically address the arson offense in question. Furthermore, the Commission continuously monitors the application and conformity of the judges to the sentencing guidelines and routinely provides the General Assembly with written compliance reports. Such monitoring and reporting clearly enables legislators to evaluate the actual versus the intended impact of any particular sentencing guideline.

Please do not hesitate to contact me at (717) 975-4860 if I may assist you in addressing the problems associated with House Bill 270.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph D. Lehman", written in a cursive style with a long horizontal flourish extending to the right.

Joseph D. Lehman
Commissioner