

ALTERNATIVES TO INCARCERATION
TESTIMONY BEFORE THE
HOUSE JUDICIARY COMMITTEE

Dr. John H. Kramer
Executive Director and
Associate Professor of Sociology
The Pennsylvania State University

September 8, 1992

TESTIMONY ON INTERMEDIATE PUNISHMENTS

MR. CHAIRMAN, MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, AND STAFF, THANK YOU FOR THE OPPORTUNITY TO SHARE MY VIEWS ON THE ISSUE OF ALTERNATIVES TO INCARCERATION.

IN 1980 SENTENCING TO PROBATION AND OTHER FORMS OF NON-CONFINEMENT REPRESENTED ALMOST 70 PERCENT OF ALL SENTENCES. IN CONTRAST, BY 1990 INCARCERATION HAD BECOME THE SENTENCE OF CHOICE AND ACCOUNTED FOR MORE THAN 60 PERCENT OF SENTENCES. AT THE SAME TIME, THE INCREASE IN SENTENCES TO STATE INCARCERATION ROSE FROM 9 TO 13 PERCENT AND FOR COUNTIES FROM 23 TO 51 PERCENT. AND BE AWARE THAT THERE WERE MANY MORE OFFENDERS BEING SENTENCED IN 1990 THAN IN 1980. THUS, COUNTY FACILITIES AND PROBATION, ALMOST TOTALLY COUNTY SUPPORTED RESOURCES, ARE DEALING WITH ALMOST 90 PERCENT OF THE SENTENCES. THE PENDULUM FOR INCARCERATION WAS BUILT ON A FRUSTRATION WITH CRIME, ACCUSATIONS THAT JUDGES WERE TOO LENIENT, AND THE POLITICS OF CRIME. IN FACT, THE COMMISSION AFTER EXAMINING SENTENCES PRACTICES IN THE EARLY 1980'S OF THE OFFENDER. WE CONCURRED WITH MANY OTHERS THAT SENTENCING PATTERNS OFTEN FAILED TO ADEQUATELY PUNISH THE SERIOUS VIOLENT OFFENDER, AND THEREFORE FAILED TO PROTECT THE PUBLIC FROM THEIR FUTURE CRIMINALITY. IN RESPONSE, WE SYSTEMATICALLY INCREASED THE SEVERITY OF OUR GUIDELINE RECOMMENDATIONS FOR SERIOUS VIOLENT OFFENDERS OVER PAST SENTENCING PRACTICES. ON THE OTHER HAND, IT IS JUST AS STARTLING TO SEE THE NUMBER OF NON-VIOLENT OFFENDERS BEING SENTENCED TO STATE PRISON.

IN 1990 THE PENNSYLVANIA COMMISSION ON SENTENCING'S DATA INDICATED THAT 394 RETAIL THIEVES WERE SENTENCED TO STATE PRISON;

TESTIMONY ON INTERMEDIATE PUNISHMENTS

MR. CHAIRMAN, MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, AND STAFF, THANK YOU FOR THE OPPORTUNITY TO SHARE MY VIEWS ON THE ISSUE OF ALTERNATIVES TO INCARCERATION.

IN 1980 SENTENCING TO PROBATION AND OTHER FORMS OF NON-CONFINEMENT REPRESENTED ALMOST 70 PERCENT OF ALL SENTENCES. IN CONTRAST, BY 1990 INCARCERATION HAD BECOME THE SENTENCE OF CHOICE AND ACCOUNTED FOR MORE THAN 60 PERCENT OF SENTENCES. AT THE SAME TIME, THE INCREASE IN SENTENCES TO STATE INCARCERATION ROSE FROM 9 TO 13 PERCENT AND FOR COUNTIES FROM 23 TO 51 PERCENT. AND BE AWARE THAT THERE WERE MANY MORE OFFENDERS BEING SENTENCED IN 1990 THAN IN 1980. THUS, COUNTY FACILITIES AND PROBATION, ALMOST TOTALLY COUNTY SUPPORTED RESOURCES, ARE DEALING WITH ALMOST 90 PERCENT OF THE SENTENCES. THE PENDULUM FOR INCARCERATION WAS BUILT ON A FRUSTRATION WITH CRIME, ACCUSATIONS THAT JUDGES WERE TOO LENIENT, AND THE POLITICS OF CRIME. IN FACT, THE COMMISSION AFTER EXAMINING SENTENCES PRACTICES IN THE EARLY 1980'S OF THE OFFENDER. WE CONCURRED WITH MANY OTHERS THAT SENTENCING PATTERNS OFTEN FAILED TO ADEQUATELY PUNISH THE SERIOUS VIOLENT OFFENDER, AND THEREFORE FAILED TO PROTECT THE PUBLIC FROM THEIR FUTURE CRIMINALITY. IN RESPONSE, WE SYSTEMATICALLY INCREASED THE SEVERITY OF OUR GUIDELINE RECOMMENDATIONS FOR SERIOUS VIOLENT OFFENDERS OVER PAST SENTENCING PRACTICES. ON THE OTHER HAND, IT IS JUST AS STARTLING TO SEE THE NUMBER OF NON-VIOLENT OFFENDERS BEING SENTENCED TO STATE PRISON.

IN 1990 THE PENNSYLVANIA COMMISSION ON SENTENCING'S DATA INDICATED THAT 394 RETAIL THIEVES WERE SENTENCED TO STATE PRISON;

1111 THEFT OFFENDERS WERE SENTENCED TO STATE PRISON. IT CAN BE ARGUED THAT MANY, PROBABLY MOST OF THESE 1505 OFFENDERS CAN BE PUNISHED FOR THEIR CRIME IN MORE EFFECTIVE AND LESS COSTLY WAYS. A FEW YEARS AGO I COMPARED OUR SENTENCING POLICIES WITH THOSE OF MINNESOTA AND WASHINGTON. AND, IN GENERAL, THAT RESEARCH INDICATED THAT WE SENTENCED VIOLENT OFFENDERS LESS SERIOUSLY THAN THESE STATES, BUT WE SENTENCED THE THEFT OFFENDER MUCH MORE SERIOUSLY THAN THEY DID. THIS IS NOT RATIONAL PUBLIC POLICY. THE COMMISSION IS CURRENTLY WORKING ON CORRECTING THIS POLICY.

IN PART, COUNTY PRISON OVERCROWDING AND INADEQUATE SENTENCING OPTIONS ACCOUNTS FOR THESE SENTENCES. IN 1990-91 THE GENERAL ASSEMBLY DIRECTLY ADDRESSED THIS PROBLEM WHEN IT ENACTED ACTS 193 AND 201. THESE ACTS PROVIDED FOR INTERMEDIATE PUNISHMENTS FOR OFFENDERS WHO WOULD OTHERWISE BE INCARCERATED IN COUNTY PRISONS AND THEY CLARIFIED THAT THE COURT HAD THE AUTHORITY TO SENTENCE OFFENDERS TO INTERMEDIATE PUNISHMENT. FROM MY VIEW, THESE ACTS WERE IMPORTANT BECAUSE THEY ESTABLISHED A NEW SENTENCING OPTION, BUT THEY WERE IMPORTANT PRIMARILY BECAUSE THEY REFLECTED A SHIFT OF POLICY BY THE LEGISLATURE FROM INCARCERATION TO EXPANSION OF SENTENCING OPTIONS OTHER THAN INCARCERATION. THIS STATEMENT OF ENCOURAGEMENT HAS BEEN THE STIMULANT FOR THE PENNSYLVANIA COMMISSION ON SENTENCING AS WELL AS OTHER STATE AGENCIES TO VIGOROUSLY ENCOURAGE THE DEVELOPMENT, THE EXPANSION AND THE USE OF THESE PROGRAMS. LET ME TAKE THIS OPPORTUNITY TO PUBLICLY RECOGNIZE THE SIGNIFICANCE OF THE PCCD'S EFFORTS TO FUND AND TO ESTABLISH MINIMUM STANDARDS FOR THESE

1111 THEFT OFFENDERS WERE SENTENCED TO STATE PRISON. IT CAN BE ARGUED THAT MANY, PROBABLY MOST OF THESE 1505 OFFENDERS CAN BE PUNISHED FOR THEIR CRIME IN MORE EFFECTIVE AND LESS COSTLY WAYS. A FEW YEARS AGO I COMPARED OUR SENTENCING POLICIES WITH THOSE OF MINNESOTA AND WASHINGTON. AND, IN GENERAL, THAT RESEARCH INDICATED THAT WE SENTENCED VIOLENT OFFENDERS LESS SERIOUSLY THAN THESE STATES, BUT WE SENTENCED THE THEFT OFFENDER MUCH MORE SERIOUSLY THAN THEY DID. THIS IS NOT RATIONAL PUBLIC POLICY. THE COMMISSION IS CURRENTLY WORKING ON CORRECTING THIS POLICY.

IN PART, COUNTY PRISON OVERCROWDING AND INADEQUATE SENTENCING OPTIONS ACCOUNTS FOR THESE SENTENCES. IN 1990-91 THE GENERAL ASSEMBLY DIRECTLY ADDRESSED THIS PROBLEM WHEN IT ENACTED ACTS 193 AND 201. THESE ACTS PROVIDED FOR INTERMEDIATE PUNISHMENTS FOR OFFENDERS WHO WOULD OTHERWISE BE INCARCERATED IN COUNTY PRISONS AND THEY CLARIFIED THAT THE COURT HAD THE AUTHORITY TO SENTENCE OFFENDERS TO INTERMEDIATE PUNISHMENT. FROM MY VIEW, THESE ACTS WERE IMPORTANT BECAUSE THEY ESTABLISHED A NEW SENTENCING OPTION, BUT THEY WERE IMPORTANT PRIMARILY BECAUSE THEY REFLECTED A SHIFT OF POLICY BY THE LEGISLATURE FROM INCARCERATION TO EXPANSION OF SENTENCING OPTIONS OTHER THAN INCARCERATION. THIS STATEMENT OF ENCOURAGEMENT HAS BEEN THE STIMULANT FOR THE PENNSYLVANIA COMMISSION ON SENTENCING AS WELL AS OTHER STATE AGENCIES TO VIGOROUSLY ENCOURAGE THE DEVELOPMENT, THE EXPANSION AND THE USE OF THESE PROGRAMS. LET ME TAKE THIS OPPORTUNITY TO PUBLICLY RECOGNIZE THE SIGNIFICANCE OF THE PCCD'S EFFORTS TO FUND AND TO ESTABLISH MINIMUM STANDARDS FOR THESE

PROGRAMS. REPRESENTATIVE KEVIN BLAUM, CHAIR OF THE PCCD, MR. JIM THOMAS, EXECUTIVE DIRECTOR, AND MR. JIM STRADER, DIRECTOR OF INTERMEDIATE PUNISHMENT PROGRAMS, HAVE TAKEN MAJOR LEADERSHIP ROLES IN THE STATE WITHOUT WHICH THE IMPLEMENTATION OF THESE ACTS WOULD HAVE BEEN SERIOUSLY IMPEDED. I PERSONALLY THANK AND CONGRATULATE THEM FOR THEIR EFFORTS.

TODAY, HOWEVER, MY RESPONSIBILITY IS TO GIVE YOU AN UPDATE ON HOW THE COMMISSION ON SENTENCING RESPONDED TO YOUR ENACTMENT OF THE INTERMEDIATE PUNISHMENT LEGISLATION, TO DISCUSS WHO IS GETTING THE INTERMEDIATE PUNISHMENT SENTENCES, AND THEN TO DISCUSS SOME AREAS IN THE LEGISLATION THAT MAY NEED TO BE AMENDED.

INCORPORATING INTERMEDIATE PUNISHMENT IN THE SENTENCING GUIDELINES

PRIOR TO THE ENACTMENT OF ACTS 201 AND 193 THE COMMISSION HAD SUBMITTED TO THE HOUSE AND SENATE JUDICIARY COMMITTEES FOR YOUR REVIEW SOME EXAMPLES OF HOW WE COULD REVISE THE SENTENCING GUIDELINES TO HELP ADDRESS THE PROBLEM OF OVERCROWDING IN THE STATE PRISON SYSTEM. THIS WAS PROMPTED BY A REQUEST BY MEMBERS OF THE HOUSE JUDICIARY COMMITTEE THAT THE COMMISSION MAKE RECOMMENDATIONS AS TO HOW DEAL WITH THE CRISIS. THE COMMISSION ADOPTED THE POSITION THAT THE PROBLEM WITH THE OVERCROWDING IN THE STATE PRISON SYSTEM IS IN REALITY A SYSTEM PROBLEM AND THAT ANY SOLUTION THAT ATTEMPTED TO COPE WITH THE PROBLEM WITHOUT CONSIDERING THE AVAILABILITY OF PROGRAMS AT THE LOCAL LEVEL WOULD BE MISDIRECTED. THEREFORE, IN EXAMINING WAYS IN WHICH THE GUIDELINES COULD BE REVISED TO COPE WITH

PROGRAMS. REPRESENTATIVE KEVIN BLAUM, CHAIR OF THE PCCD, MR. JIM THOMAS, EXECUTIVE DIRECTOR, AND MR. JIM STRADER, DIRECTOR OF INTERMEDIATE PUNISHMENT PROGRAMS, HAVE TAKEN MAJOR LEADERSHIP ROLES IN THE STATE WITHOUT WHICH THE IMPLEMENTATION OF THESE ACTS WOULD HAVE BEEN SERIOUSLY IMPEDED. I PERSONALLY THANK AND CONGRATULATE THEM FOR THEIR EFFORTS.

TODAY, HOWEVER, MY RESPONSIBILITY IS TO GIVE YOU AN UPDATE ON HOW THE COMMISSION ON SENTENCING RESPONDED TO YOUR ENACTMENT OF THE INTERMEDIATE PUNISHMENT LEGISLATION, TO DISCUSS WHO IS GETTING THE INTERMEDIATE PUNISHMENT SENTENCES, AND THEN TO DISCUSS SOME AREAS IN THE LEGISLATION THAT MAY NEED TO BE AMENDED.

INCORPORATING INTERMEDIATE PUNISHMENT IN THE SENTENCING GUIDELINES

PRIOR TO THE ENACTMENT OF ACTS 201 AND 193 THE COMMISSION HAD SUBMITTED TO THE HOUSE AND SENATE JUDICIARY COMMITTEES FOR YOUR REVIEW SOME EXAMPLES OF HOW WE COULD REVISE THE SENTENCING GUIDELINES TO HELP ADDRESS THE PROBLEM OF OVERCROWDING IN THE STATE PRISON SYSTEM. THIS WAS PROMPTED BY A REQUEST BY MEMBERS OF THE HOUSE JUDICIARY COMMITTEE THAT THE COMMISSION MAKE RECOMMENDATIONS AS TO HOW DEAL WITH THE CRISIS. THE COMMISSION ADOPTED THE POSITION THAT THE PROBLEM WITH THE OVERCROWDING IN THE STATE PRISON SYSTEM IS IN REALITY A SYSTEM PROBLEM AND THAT ANY SOLUTION THAT ATTEMPTED TO COPE WITH THE PROBLEM WITHOUT CONSIDERING THE AVAILABILITY OF PROGRAMS AT THE LOCAL LEVEL WOULD BE MISDIRECTED. THEREFORE, IN EXAMINING WAYS IN WHICH THE GUIDELINES COULD BE REVISED TO COPE WITH

THE STATE OVERCROWDING PROBLEM THE COMMISSION REVIEWED SENTENCING PATTERNS STATEWIDE. AFTER CAREFUL STUDY (AND AS I DOCUMENTED EARLIER) IT WAS DETERMINED THAT THERE WERE MANY NON-VIOLENT OFFENDERS BEING SENTENCED TO THE STATE PRISON SYSTEM WHOSE HISTORY OF CRIMINALITY AND CURRENT OFFENSE DID NOT INDICATE THAT THEY POSED A THREAT TO THE PUBLIC. IN FACT, IT WAS DETERMINED THAT THESE OFFENDERS WERE AN UNREASONABLE BURDEN ON THE TAXPAYERS. FOR EXAMPLE, OFTEN THE VICTIM DOES NOT GET RESTITUTION, THE COUNTY PAYS FOR THE PROSECUTION OF THESE OFFENDERS AND THE PROBATION OFFICERS TO PREPARE A PRE-SENTENCE REPORT. THEN THE STATE PICKED UP THE TAB FOR THE INCARCERATION OF THE OFFENDER. WHILE WE CANNOT ESTIMATE THE TOTAL COST TO THE SYSTEM OF CRIMINAL JUSTICE, IT WAS CLEAR THAT THESE OFFENDERS WERE COSTING MORE THAN THE VALUE RECEIVED BY THE INCARCERATION. MOST IMPORTANTLY, THE OFFENDER WAS BEING HOUSED, CLOTHED, AND FED BY THE COUNTY AND THE STATE AND THE OFFENDER WAS TAKING LITTLE RESPONSIBILITY FOR HIS OR HER OWN ACTIONS.

TO BEGIN TO RECTIFY THIS SITUATION THE COMMISSION PROPOSED REVISING THE GUIDELINES TO MOVE MANY NON-VIOLENT OFFENDERS FROM STATE TO COUNTY INCARCERATION. OBVIOUSLY, THIS PROPOSAL WITHOUT OTHER SIGNIFICANT CHANGES IN THE SYSTEM OF CRIMINAL JUSTICE WOULD HAVE MERELY SHIFTED THE STATE'S BURDEN TO THE COUNTY. THEREFORE, THE COMMISSION EXPLORED INCENTIVES THAT IT COULD INCORPORATE INTO THE GUIDELINES FOR COUNTIES TO DEVELOP A SERIES OF PROGRAMS THAT WOULD BE ALTERNATIVES TO INCARCERATION AND WOULD ALLOW THE COUNTIES TO ABSORB MANY OF THE NON-VIOLENT OFFENDERS WHO ARE IN THE STATE

THE STATE OVERCROWDING PROBLEM THE COMMISSION REVIEWED SENTENCING PATTERNS STATEWIDE. AFTER CAREFUL STUDY (AND AS I DOCUMENTED EARLIER) IT WAS DETERMINED THAT THERE WERE MANY NON-VIOLENT OFFENDERS BEING SENTENCED TO THE STATE PRISON SYSTEM WHOSE HISTORY OF CRIMINALITY AND CURRENT OFFENSE DID NOT INDICATE THAT THEY POSED A THREAT TO THE PUBLIC. IN FACT, IT WAS DETERMINED THAT THESE OFFENDERS WERE AN UNREASONABLE BURDEN ON THE TAXPAYERS. FOR EXAMPLE, OFTEN THE VICTIM DOES NOT GET RESTITUTION, THE COUNTY PAYS FOR THE PROSECUTION OF THESE OFFENDERS AND THE PROBATION OFFICERS TO PREPARE A PRE-SENTENCE REPORT. THEN THE STATE PICKED UP THE TAB FOR THE INCARCERATION OF THE OFFENDER. WHILE WE CANNOT ESTIMATE THE TOTAL COST TO THE SYSTEM OF CRIMINAL JUSTICE, IT WAS CLEAR THAT THESE OFFENDERS WERE COSTING MORE THAN THE VALUE RECEIVED BY THE INCARCERATION. MOST IMPORTANTLY, THE OFFENDER WAS BEING HOUSED, CLOTHED, AND FED BY THE COUNTY AND THE STATE AND THE OFFENDER WAS TAKING LITTLE RESPONSIBILITY FOR HIS OR HER OWN ACTIONS.

TO BEGIN TO RECTIFY THIS SITUATION THE COMMISSION PROPOSED REVISING THE GUIDELINES TO MOVE MANY NON-VIOLENT OFFENDERS FROM STATE TO COUNTY INCARCERATION. OBVIOUSLY, THIS PROPOSAL WITHOUT OTHER SIGNIFICANT CHANGES IN THE SYSTEM OF CRIMINAL JUSTICE WOULD HAVE MERELY SHIFTED THE STATE'S BURDEN TO THE COUNTY. THEREFORE, THE COMMISSION EXPLORED INCENTIVES THAT IT COULD INCORPORATE INTO THE GUIDELINES FOR COUNTIES TO DEVELOP A SERIES OF PROGRAMS THAT WOULD BE ALTERNATIVES TO INCARCERATION AND WOULD ALLOW THE COUNTIES TO ABSORB MANY OF THE NON-VIOLENT OFFENDERS WHO ARE IN THE STATE

SYSTEM. THE COMMISSION'S PROPOSAL THAT IT PRESENTED TO THE HOUSE AND SENATE JUDICIARY COMMITTEES IN 1989 INCORPORATED AN INTEGRATED SERIES OF CHANGES IN THE GUIDELINES TO PUT THE LEAST SERIOUS, NON-VIOLENT OFFENDERS IN NON-INCARCERATIVE PUNISHMENTS THAT WOULD BE MORE RESTRICTIVE THAN REGULAR PROBATION. IT WAS THOUGHT THAT THESE NON-INCARCERATIVE ALTERNATIVES SUCH AS HOUSE ARREST, ELECTRONIC MONITORING, COMMUNITY SERVICE AND OTHER SUCH PROGRAMS WOULD ALSO INCREASE THE ACCOUNTABILITY AND RESPONSIBILITY OF THE OFFENDER TO SUPPORT THEMSELVES AND REPAY THE VICTIM.

FORTUNATELY THE LEGISLATURE, AND PARTICULARLY THIS COMMITTEE, TOOK THE LEAD AND MOVED THE LEGISLATION THAT BECAME ACTS 193 AND 201. THIS SUPPORTED THE COMMISSION'S INITIATIVES IN THIS AREA AND WENT FURTHER BY INDICATING THAT THE INTERMEDIATE PUNISHMENT PROGRAMS IDENTIFIED IN THE ACTS SHOULD BE USED AS ALTERNATIVES TO COUNTY INCARCERATION. WITH THE SUPPORT OF THIS LEGISLATION THE COMMISSION MOVED FORWARD IN 1991 AND SUBMITTED ITS PROPOSALS TO THE LEGISLATURE FOR ITS ADOPTION. THESE PROPOSALS WERE ADOPTED BY THE LEGISLATURE AND WENT INTO EFFECT ON AUGUST 9, 1991.

BUT THE IMPORTANT ISSUE IS NOT CHANGING THE GUIDELINES, BUT SETTING FORTH THE OPPORTUNITIES FOR THE COUNTIES TO IMPLEMENT PROGRAMS OR TO EXPAND PROGRAMS THAT THEY ALREADY HAVE. THE MAJOR PROBLEM WITH ACTS 193 AND 201 WAS THAT THEY DID NOT PROVIDE ANY FINANCIAL SUPPORT TO THE COUNTIES TO EXPAND AND DEVELOP THE INTERMEDIATE PUNISHMENT PROGRAMS. IT IS INTO THIS VOID THAT THE PA COMMISSION ON CRIME AND DELINQUENCY STEPPED.

SYSTEM. THE COMMISSION'S PROPOSAL THAT IT PRESENTED TO THE HOUSE AND SENATE JUDICIARY COMMITTEES IN 1989 INCORPORATED AN INTEGRATED SERIES OF CHANGES IN THE GUIDELINES TO PUT THE LEAST SERIOUS, NON-VIOLENT OFFENDERS IN NON-INCARCERATIVE PUNISHMENTS THAT WOULD BE MORE RESTRICTIVE THAN REGULAR PROBATION. IT WAS THOUGHT THAT THESE NON-INCARCERATIVE ALTERNATIVES SUCH AS HOUSE ARREST, ELECTRONIC MONITORING, COMMUNITY SERVICE AND OTHER SUCH PROGRAMS WOULD ALSO INCREASE THE ACCOUNTABILITY AND RESPONSIBILITY OF THE OFFENDER TO SUPPORT THEMSELVES AND REPAY THE VICTIM.

FORTUNATELY THE LEGISLATURE, AND PARTICULARLY THIS COMMITTEE, TOOK THE LEAD AND MOVED THE LEGISLATION THAT BECAME ACTS 193 AND 201. THIS SUPPORTED THE COMMISSION'S INITIATIVES IN THIS AREA AND WENT FURTHER BY INDICATING THAT THE INTERMEDIATE PUNISHMENT PROGRAMS IDENTIFIED IN THE ACTS SHOULD BE USED AS ALTERNATIVES TO COUNTY INCARCERATION. WITH THE SUPPORT OF THIS LEGISLATION THE COMMISSION MOVED FORWARD IN 1991 AND SUBMITTED ITS PROPOSALS TO THE LEGISLATURE FOR ITS ADOPTION. THESE PROPOSALS WERE ADOPTED BY THE LEGISLATURE AND WENT INTO EFFECT ON AUGUST 9, 1991.

BUT THE IMPORTANT ISSUE IS NOT CHANGING THE GUIDELINES, BUT SETTING FORTH THE OPPORTUNITIES FOR THE COUNTIES TO IMPLEMENT PROGRAMS OR TO EXPAND PROGRAMS THAT THEY ALREADY HAVE. THE MAJOR PROBLEM WITH ACTS 193 AND 201 WAS THAT THEY DID NOT PROVIDE ANY FINANCIAL SUPPORT TO THE COUNTIES TO EXPAND AND DEVELOP THE INTERMEDIATE PUNISHMENT PROGRAMS. IT IS INTO THIS VOID THAT THE PA COMMISSION ON CRIME AND DELINQUENCY STEPPED.

PCCD'S FUNDING INITIATIVES FOR INTERMEDIATE PUNISHMENT

TO A GREAT EXTENT THE COUNTY REACTION TO ACTS 201 AND 193 WAS NEGATIVE. THIS NEGATIVE REACTION WAS NOT BECAUSE THE COUNTIES DID NOT BELIEVE THAT THE INTERMEDIATE PUNISHMENT PROGRAMS WERE WORTHWHILE. IN FACT, MANY COUNTIES HAD ALREADY DEVELOPED MANY SUCH PROGRAMS. BUT, COMBINED WITH THE GUIDELINE INTENT TO MOVE THE LEAST SERIOUS, NON-VIOLENT OFFENDERS OUT OF THE STATE PRISON SYSTEM THEY VIEWED INTERMEDIATE PUNISHMENT AS ANOTHER ATTEMPT BY THE STATE TO MEET ITS BUDGET CRISIS AND IMPRISONMENT CRISIS BY PRESSING THE BURDEN ON THE COUNTY. THIS WOULD HAVE BEEN A MAJOR CREDIBILITY PROBLEM FOR THE LEGISLATURE IF IT WERE NOT FOR THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY'S FUNDING INITIATIVES FOR IP. THEY WILL DETAIL FOR YOU WHAT THEY HAVE INVESTED IN INTERMEDIATE PUNISHMENT TO HELP COUNTIES PLAN THEIR CRIMINAL JUSTICE SYSTEM, AND TO DEVELOP THE PROGRAMS NECESSARY TO MEET THE INTENT OF THE INTERMEDIATE PUNISHMENT ACTS AND THE REVISIONS OF THE SENTENCING GUIDELINES. HOWEVER, THEIR FUNDING DOES NOT PROVIDE THEM THE ABILITY TO SUSTAIN THESE EFFORTS AND TO ESTABLISH PROGRAMS THAT WE ARE SURE WILL CONTINUE TO EXIST INTO THE 21ST CENTURY. THE GENERAL ASSEMBLY NEEDS TO INVEST IN THESE PROGRAMS SO THAT WE ARE ASSURED OF THEIR BEING CONTINUED. NOT TO INVEST IN THE COUNTY CORRECTIONAL SYSTEM WHICH DEALS WITH THE VAST MAJORITY OF OFFENDERS WILL RISK A GROWING RELIANCE ON STATE IMPRISONMENT AT A MUCH GREATER COST THAN INVESTMENT IN THESE PROGRAMS.

PCCD'S FUNDING INITIATIVES FOR INTERMEDIATE PUNISHMENT

TO A GREAT EXTENT THE COUNTY REACTION TO ACTS 201 AND 193 WAS NEGATIVE. THIS NEGATIVE REACTION WAS NOT BECAUSE THE COUNTIES DID NOT BELIEVE THAT THE INTERMEDIATE PUNISHMENT PROGRAMS WERE WORTHWHILE. IN FACT, MANY COUNTIES HAD ALREADY DEVELOPED MANY SUCH PROGRAMS. BUT, COMBINED WITH THE GUIDELINE INTENT TO MOVE THE LEAST SERIOUS, NON-VIOLENT OFFENDERS OUT OF THE STATE PRISON SYSTEM THEY VIEWED INTERMEDIATE PUNISHMENT AS ANOTHER ATTEMPT BY THE STATE TO MEET ITS BUDGET CRISIS AND IMPRISONMENT CRISIS BY PRESSING THE BURDEN ON THE COUNTY. THIS WOULD HAVE BEEN A MAJOR CREDIBILITY PROBLEM FOR THE LEGISLATURE IF IT WERE NOT FOR THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY'S FUNDING INITIATIVES FOR IP. THEY WILL DETAIL FOR YOU WHAT THEY HAVE INVESTED IN INTERMEDIATE PUNISHMENT TO HELP COUNTIES PLAN THEIR CRIMINAL JUSTICE SYSTEM, AND TO DEVELOP THE PROGRAMS NECESSARY TO MEET THE INTENT OF THE INTERMEDIATE PUNISHMENT ACTS AND THE REVISIONS OF THE SENTENCING GUIDELINES. HOWEVER, THEIR FUNDING DOES NOT PROVIDE THEM THE ABILITY TO SUSTAIN THESE EFFORTS AND TO ESTABLISH PROGRAMS THAT WE ARE SURE WILL CONTINUE TO EXIST INTO THE 21ST CENTURY. THE GENERAL ASSEMBLY NEEDS TO INVEST IN THESE PROGRAMS SO THAT WE ARE ASSURED OF THEIR BEING CONTINUED. NOT TO INVEST IN THE COUNTY CORRECTIONAL SYSTEM WHICH DEALS WITH THE VAST MAJORITY OF OFFENDERS WILL RISK A GROWING RELIANCE ON STATE IMPRISONMENT AT A MUCH GREATER COST THAN INVESTMENT IN THESE PROGRAMS.

WHO IS GETTING THESE SENTENCES

IT IS IMPOSSIBLE TO PROVIDE STATISTICAL DETAILS AT THIS TIME ON WHO IS RECEIVING INTERMEDIATE PUNISHMENTS BUT BASED ON CONVERSATIONS WITH MANY COUNTIES WE DO HAVE SOME IMPRESSIONS. FIRST, IT APPEARS THAT COUNTIES ARE PARTICULARLY FOCUSING THE USE OF INTERMEDIATE PUNISHMENT ON THE DUI OFFENDER. AS YOU MAY REMEMBER, ACT 201 PERMITS THE USE OF HOUSE ARREST OR ELECTRONIC MONITORING WITH TREATMENT OR THE USE OF RESIDENTIAL INPATIENT TREATMENT AS ALTERNATIVES TO THE MANDATED INCARCERATION SENTENCES FOR DUI OFFENDERS. AT THIS TIME IT APPEARS THAT COUNTIES ARE USING IP PROGRAMS AS A SUBSTITUTE FOR OFFENDERS WHO WOULD HAVE BEEN CONFINED PREVIOUSLY AND TO SHORTEN THE TERM OF INCARCERATION WHICH IS OFTEN CALLED SHOCK INCARCERATION IN OTHER STATES. AN EXAMPLE OF THIS LATTER TYPE OF SENTENCE IS IF THE OFFENDER WOULD HAVE SPENT 11½ MONTHS INCARCERATED PRE-IP NOW THE OFFENDER MAY SPEND 6 MONTHS IN TOTAL CONFINEMENT AND BE PAROLED TO ONE OF THE IP PROGRAMS SUCH AS ELECTRONIC MONITORING. THUS IT APPEARS THAT MANY COUNTIES ARE IMPLEMENTING THE PROGRAMS AND USING IT IN SOME CASES AS A TOTAL REPLACEMENT FOR INCARCERATION FOR SOME OFFENDERS AND USING IT AS PARTIAL REPLACEMENT IN OTHER CASES. CURRENTLY THE PA. COMMISSION ON CRIME AND DELINQUENCY IS MONITORING THE PROGRAMS THAT IT IS FUNDING AND WE ARE MONITORING THE SENTENCING INFORMATION REPORTED TO US, BUT IT IS TOO EARLY TO TELL THE OVERALL USE OF INTERMEDIATE PUNISHMENT. WE WILL CONTINUE TO MONITOR SENTENCING TO ASSURE THAT THE IP

WHO IS GETTING THESE SENTENCES

IT IS IMPOSSIBLE TO PROVIDE STATISTICAL DETAILS AT THIS TIME ON WHO IS RECEIVING INTERMEDIATE PUNISHMENTS BUT BASED ON CONVERSATIONS WITH MANY COUNTIES WE DO HAVE SOME IMPRESSIONS. FIRST, IT APPEARS THAT COUNTIES ARE PARTICULARLY FOCUSING THE USE OF INTERMEDIATE PUNISHMENT ON THE DUI OFFENDER. AS YOU MAY REMEMBER, ACT 201 PERMITS THE USE OF HOUSE ARREST OR ELECTRONIC MONITORING WITH TREATMENT OR THE USE OF RESIDENTIAL INPATIENT TREATMENT AS ALTERNATIVES TO THE MANDATED INCARCERATION SENTENCES FOR DUI OFFENDERS. AT THIS TIME IT APPEARS THAT COUNTIES ARE USING IP PROGRAMS AS A SUBSTITUTE FOR OFFENDERS WHO WOULD HAVE BEEN CONFINED PREVIOUSLY AND TO SHORTEN THE TERM OF INCARCERATION WHICH IS OFTEN CALLED SHOCK INCARCERATION IN OTHER STATES. AN EXAMPLE OF THIS LATTER TYPE OF SENTENCE IS IF THE OFFENDER WOULD HAVE SPENT 11½ MONTHS INCARCERATED PRE-IP NOW THE OFFENDER MAY SPEND 6 MONTHS IN TOTAL CONFINEMENT AND BE PAROLED TO ONE OF THE IP PROGRAMS SUCH AS ELECTRONIC MONITORING. THUS IT APPEARS THAT MANY COUNTIES ARE IMPLEMENTING THE PROGRAMS AND USING IT IN SOME CASES AS A TOTAL REPLACEMENT FOR INCARCERATION FOR SOME OFFENDERS AND USING IT AS PARTIAL REPLACEMENT IN OTHER CASES. CURRENTLY THE PA. COMMISSION ON CRIME AND DELINQUENCY IS MONITORING THE PROGRAMS THAT IT IS FUNDING AND WE ARE MONITORING THE SENTENCING INFORMATION REPORTED TO US, BUT IT IS TOO EARLY TO TELL THE OVERALL USE OF INTERMEDIATE PUNISHMENT. WE WILL CONTINUE TO MONITOR SENTENCING TO ASSURE THAT THE IP

PROGRAMS ARE MEETING THE GOALS OF ACTS 193 AND 201 THAT THEY BE USED AS A REPLACEMENT FOR COUNTY INCARCERATION. WHILE THE FIRST SIGNS ARE ENCOURAGING WE NOW NEED TO MOVE TO THE NEXT STAGE OF DEVELOPMENT OF IP PROGRAMS.

FUNDING CONCERNS

MY OPTIMISM IS CONSTRAINED BECAUSE THERE IS NO STABLE FUNDING FOR THE PROGRAMS AND IN TOUGH ECONOMIC TIMES THESE MAY BE THE VERY PROGRAMS THAT ARE THE FIRST TO BE ELIMINATED. PERSONALLY, I THINK THAT IT IS ESSENTIAL THAT THE COMMITTEE CONSIDER WAYS THAT IT CAN PROVIDE ONGOING FUNDING TO THE COUNTIES TO SUPPORT THE PROGRAMS. THIS LEGISLATION IS ONE COMPONENT OF A SYSTEM OF CRIMINAL PUNISHMENTS AND TREATMENT PROGRAMS AND IF IS NOT FINANCIALLY SUPPORTED BY THE GENERAL ASSEMBLY IT WILL NOT BECOME INSTITUTIONALIZED AND WE WILL SLOWLY REGRESS TO GREATER AND GREATER RELIANCE ON INCARCERATION AS THE PUNISHMENT. THIS WOULD BE A MOVE TO A LESS EFFECTIVE, LESS FAIR, AND MORE EXPENSIVE CRIMINAL JUSTICE SYSTEM. WE NEED A FULL RANGE OF PUNISHMENTS AND TREATMENT PROGRAMS THAT WILL BE TRUSTED BY THE PUBLIC AND WILL ENABLE THE COURTS OF PENNSYLVANIA TO PROTECT THE PUBLIC AND MAKE THE OFFENDER MORE ACCOUNTABLE AND MORE RESPONSIBLE.

TO DO THIS, I THINK THAT THE GENERAL ASSEMBLY SUPPORT FUNDING FOR THE DEVELOPMENT AND EXPANSION OF INTERMEDIATE PUNISHMENT PROGRAMS. THIS FUNDING MUST BE CONTINUOUS SUCH THAT THE COUNTY CAN

PROGRAMS ARE MEETING THE GOALS OF ACTS 193 AND 201 THAT THEY BE USED AS A REPLACEMENT FOR COUNTY INCARCERATION. WHILE THE FIRST SIGNS ARE ENCOURAGING WE NOW NEED TO MOVE TO THE NEXT STAGE OF DEVELOPMENT OF IP PROGRAMS.

FUNDING CONCERNS

MY OPTIMISM IS CONSTRAINED BECAUSE THERE IS NO STABLE FUNDING FOR THE PROGRAMS AND IN TOUGH ECONOMIC TIMES THESE MAY BE THE VERY PROGRAMS THAT ARE THE FIRST TO BE ELIMINATED. PERSONALLY, I THINK THAT IT IS ESSENTIAL THAT THE COMMITTEE CONSIDER WAYS THAT IT CAN PROVIDE ONGOING FUNDING TO THE COUNTIES TO SUPPORT THE PROGRAMS. THIS LEGISLATION IS ONE COMPONENT OF A SYSTEM OF CRIMINAL PUNISHMENTS AND TREATMENT PROGRAMS AND IF IS NOT FINANCIALLY SUPPORTED BY THE GENERAL ASSEMBLY IT WILL NOT BECOME INSTITUTIONALIZED AND WE WILL SLOWLY REGRESS TO GREATER AND GREATER RELIANCE ON INCARCERATION AS THE PUNISHMENT. THIS WOULD BE A MOVE TO A LESS EFFECTIVE, LESS FAIR, AND MORE EXPENSIVE CRIMINAL JUSTICE SYSTEM. WE NEED A FULL RANGE OF PUNISHMENTS AND TREATMENT PROGRAMS THAT WILL BE TRUSTED BY THE PUBLIC AND WILL ENABLE THE COURTS OF PENNSYLVANIA TO PROTECT THE PUBLIC AND MAKE THE OFFENDER MORE ACCOUNTABLE AND MORE RESPONSIBLE.

TO DO THIS, I THINK THAT THE GENERAL ASSEMBLY SUPPORT FUNDING FOR THE DEVELOPMENT AND EXPANSION OF INTERMEDIATE PUNISHMENT PROGRAMS. THIS FUNDING MUST BE CONTINUOUS SUCH THAT THE COUNTY CAN

RELY ON THE CONTINUED SUPPORT OF THE PROGRAM. IN EXCHANGE FOR THE FUNDING THE COUNTY MUST BE ACCOUNTABLE TO ITS CAUTIOUS USE OF STATE INCARCERATION SO THAT THE EXPENSIVE, AND LIMITED RESOURCES THAT THE LEGISLATURE HAS PROVIDED IS USED IN THE BEST MEANS POSSIBLE--THIS MEANS FOR THE VIOLENT AND DANGEROUS OFFENDER.

RELY ON THE CONTINUED SUPPORT OF THE PROGRAM. IN EXCHANGE FOR THE FUNDING THE COUNTY MUST BE ACCOUNTABLE TO ITS CAUTIOUS USE OF STATE INCARCERATION SO THAT THE EXPENSIVE, AND LIMITED RESOURCES THAT THE LEGISLATURE HAS PROVIDED IS USED IN THE BEST MEANS POSSIBLE--THIS MEANS FOR THE VIOLENT AND DANGEROUS OFFENDER.