

TESTIMONY OF

HON. EMANUEL A. CASSIMATIS

CHAIRMAN

JUVENILE COURT JUDGES' COMMISSION

BEFORE

THE HOUSE JUDICIARY COMMITTEE

REGARDING

HOUSE BILLS 2670 (3442) AND 2671 (3462)

JUNE 24, 1994

Thank you for the opportunity to appear before you to discuss House Bills 2670 and 2671. Joining me today are Judge Thomas Peoples from Blair County and Judge Paul Tressler from Montgomery County. Both are experienced Juvenile Court Judges and former prosecutors. In addition, Judges Peoples and Tressler are serving, respectively, as the President and President-elect of the Juvenile Court Section of the Pennsylvania Conference of State Trial Judges. Both have agreed to share their perspectives regarding these bills and related issues following my remarks.

The issue of youth violence, including that committed in the context of gang membership, is of critical concern to Pennsylvania's Juvenile Court Judges. Representative Sturla is to be commended for his legislative proposals which, regardless of their fate, can serve to bring additional attention to the need for a comprehensive strategy to both control and prevent gang violence.

Our views regarding how best to approach the issue of youth violence are set forth in the "Guiding Principles Governing the Control and Prevention of Youth Violence" adopted by the Juvenile Justice Policy Group earlier this year. Our policy group, for which I serve as convenor, felt that a set of principles such as these could serve as a point-of-reference for anyone interested in the issue. These principles were the basis for my testimony before the House Select Committee on Violence and were also distributed at the informal round table discussion with the Judiciary Committee on juvenile justice issues, chaired by Representative Caltagirone last March. The principles have been endorsed by the Juvenile Court Judges' Commission, the

Juvenile Court Section of the Pennsylvania Conference of State Trial Judges, and the Pennsylvania Council of Chief Juvenile Probation Officers.

As drafted, House Bills 2670 and 2671 would amend Title 18 to create the offense of "gang activity." Title 42 would be amended to create new mandatory sentencing provisions for persons convicted in criminal proceedings of this offense, while requiring Judges to make every effort to order a disposition involving out-of-home placement, fines, or restitution in juvenile delinquency proceedings where the offender is found to have committed "gang activity." In these juvenile cases, Courts would also be required to order an evaluation of drug or alcohol dependency. If it is determined that the juvenile is alcohol or drug dependent, the Court would be required to order the juvenile committed for treatment at a facility or institution approved by the Department of Health.

This legislation would also require Courts or probation officers to include constructive community service alternatives as a component of dispositions for juveniles adjudicated delinquent or placed under a consent decree if the child is not a danger to the community, the community service alternatives are available, the child is 15 years of age or older, and it is the child's first or second offense.

It is the position of the Juvenile Court Judges' Commission that amendments to the Juvenile Act are not the key to enhancing the Commonwealth's ability to respond to violent juvenile offenders, including those involved in gang activity. The Juvenile Act already provides Judges with broad dispositional

authority to order dispositions which are consistent with the protection of the community and the treatment and supervision needs of juvenile offenders.

In addition, the Act provides an effective mechanism to transfer, for criminal prosecution, any juvenile offender over the age of 14, when there is a prima facie case that the alleged crime is a felony, and the Court has determined that the offender is not amenable to treatment in the juvenile justice system. The crime of murder, as you are aware, is excluded from the definition of "delinquent act" in Pennsylvania and is handled from the outset in the adult criminal justice system.

It is our impression that the issues which have the greatest impact on the ability of the juvenile justice system to deal effectively with serious juvenile offenders are those involving the availability of resources. The degree to which resource issues are affecting the system is illustrated by the results of a recent survey conducted by the Juvenile Court Judges' Commission in response to increasing concerns about detention center overcrowding and waiting lists at public and private residential treatment programs. The survey confirmed that waiting lists at public and private residential programs are contributing significantly to overcrowding in county juvenile detention centers.

On April 29, 1994, Pennsylvania's 21 county juvenile detention centers held 613 juvenile offenders, representing 108.9% of their combined licensed bed capacity of 563. On that date, more than 200 of these juvenile offenders were awaiting transfer to a residential placement following an adjudication of

delinquency. These youth represented approximately 32% of the juveniles being held in detention at the time of the survey. A survey of seven private residential delinquency programs during the week of May 1, 1994 determined that of their combined population of 2,264 juvenile offenders, 619 (27%) were from states other than Pennsylvania.

Currently, Judges are able to give consideration to whether an offense is gang-related when conducting dispositional proceedings in delinquency cases. As drafted, we do not believe the provisions of House Bills 2670 and 2671 would enhance our ability to deal with juvenile cases involving gang activity. However, we applaud Rep. Sturla's rejection of the concept of mandatory delinquency dispositions in his legislation. We would strongly oppose the inclusion of mandatory placement provisions in these bills or in other legislative proposals.

The provisions in HB 2671 which would require Courts to order treatment at a facility or institution approved by the Department of Health for juveniles found to have committed gang activity, and to be alcohol or drug dependent, could be problematic. Very few programs licensed by the Department of Health accept serious juvenile offenders for placement.

The creation of a state funding stream to support the gang deterrence activities of community organizations may be worthy of consideration, although we are uncertain as to the viability of the specific proposal in HB 2670. It should be noted that PCCD has recently announced a new community-based delinquency prevention and youth violence reduction program under Title V of the federal Juvenile Justice and Delinquency Prevention Act.

This initiative is based on the "Communities That Care" model which has been successfully undertaken in a number of jurisdictions across the country. The Pennsylvania communities that become involved in this initiative will engage key community leaders in identifying and prioritizing delinquency risk factors operating in their communities and will develop a comprehensive three year plan to reduce the impact of these risk factors on their children. A state funding stream of some type could be helpful in replicating this important PCCD initiative in other communities.

In closing, I want to re-emphasize that there is no basis to believe that amendments to the Juvenile Act will enhance our ability to respond to serious juvenile crime. Rather, we must focus our attention on supporting neighborhoods and communities in taking responsibility for the development, implementation and ownership of comprehensive violence and delinquency prevention strategies; and on ensuring that the juvenile justice system has the resources to enable an immediate, effective, and individualized response to the risks and needs presented by each juvenile offender.

I will now ask Judges Peoples and Tressler to share their perspectives on the issues before you today.

JUVENILE JUSTICE POLICY GROUP

Guiding Principles Governing the Control and Prevention of Youth Violence

Preamble

Violent acts by youth in Pennsylvania must be urgently addressed. Strategies to combat youth violence must include mechanisms aimed at controlling such incidents and holding youth accountable for their actions. Simultaneously, violence prevention strategies must be a priority, along with treatment which will give every young person the opportunity to change.

Working with the help and support of all levels of government, communities must take the responsibility to craft comprehensive solutions which make sense to them, and which actively involve community leaders, schools, public agencies and other key organizations, churches, families, and youth.

All initiatives must demonstrate a clear understanding of cultural, historical, and environmental factors that influence youth violence and identify what role each will play in addressing the problem.

All Commonwealth-funded initiatives and legislation proposed to address this issue must adhere to the following principles:

Prevention Principles

1. The Commonwealth should ensure that its current programs to provide health, education and social services to children and families, such as Family Centers, Family Matters, Student Assistance Programs, and community-based prevention programs, will emphasize violence prevention strategies, and will include referral services for those in need.
2. All communities should be made aware of factors which increase the risk of youth violence, and of factors which serve to reduce the impact of these risk factors.
3. Children who are determined to be at risk of becoming victims or perpetrators of violence must be given a high priority for prevention and intervention services.
4. All communities should establish violence prevention task forces to identify local issues, resources, and risk factors relating to youth violence, and to formulate appropriate responses which should be linked to a local governance structure that can ensure implementation.
5. All community violence prevention efforts should focus on long-term as well as short-term collaborative strategies which involve youth and their families in both planning and implementation.
6. All communities must take ownership of their action plans and be prepared to evaluate the impact of their efforts.

Control Principles

1. Youth must be held accountable for acts of violence against others.
2. Parents should be held responsible when their action or inaction contributes to harm caused by their children.
3. All citizens, in partnership with local law enforcement agencies, must commit themselves to eradicating violence from their communities, and getting weapons off their streets.
4. All schools must become free of weapons and interpersonal violence.
5. The juvenile justice system must be strengthened to enable an immediate and effective response to incidents of juvenile crime, particularly those involving the use or threat of violence and weapons.
6. The juvenile justice system must possess a full range of options to enable an individualized response to the needs and risks presented by each juvenile offender.
7. The juvenile justice system must be provided with the resources necessary to identify and control the small proportion of juvenile offenders who commit crimes of violence.
8. Our response must take into account the interrelationship of family/community environment, substance abuse, and youth violence.
9. Only those juveniles found by the court not to be amenable to treatment and control within the juvenile justice system should be transferred to the criminal justice system for prosecution.
10. All strategies to control youth violence must include an evaluation component.

UNANIMOUSLY ADOPTED
FEBRUARY 23, 1994

JUVENILE JUSTICE POLICY GROUP

Convenor

Hon. Emanuel A. Cassimatis
Chairman, Juvenile Court
Judges' Commission

MEMBERS

Office of the Governor

Dr. Helen D. Wise, Deputy Chief of Staff
for Programs and Secretary to the Cabinet

Department of Corrections

Hon. Joseph D. Lehman
Commissioner

Department of Education

Hon. Donald M. Carroll, Jr.
Secretary

Joseph F. Bard
Commissioner of Elementary and
Secondary Education

Donald Clark, Ed.D.
Director, Bureau of Curriculum

Gary W. Ledebur, Ed.D.
Director, Bureau of Community
and Student Services

Department of Health

Hon. Allan S. Noonan
Secretary

Gene R. Boyle
Director, Office of Drug and
Alcohol Programs

Department of Labor and Industry

John W. Cosgrove
Executive Director of Citizen Service (PENNSERVE)

Department of Public Welfare

Hon. Karen F. Snider
Secretary

Michael J. Breslin
Executive Deputy Secretary

George B. Taylor
Deputy Secretary
Office of Children, Youth and Families

William C. Boor
Director, Bureau of State Operated Programs

Thomas Jenkins
Director, Bureau of County Children
and Youth Programs

PA Commission on Crime and Delinquency

James Thomas
Executive Director

Juvenile Court Judges' Commission

James E. Anderson
Executive Director

Hon. Thomas C. Raup
President Judge
Lycoming County

Clay R. Yeager
Director, Center for Juvenile Justice
Training and Research
Shippensburg University