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**TESTIMONY OF THE AMERICAN CIVIL LIBERTIES UNION OF
PENNSYLVANIA ON BOARD OF PROBATION AND PAROLE**

**PRESENTED TO THE PENNSYLVANIA HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON COURTS**

**TUESDAY, SEPTEMBER 19, 2000
HERSHEY PUBLIC LIBRARY
HERSHEY, PA**

Good morning Chairman Clark and other members of the House Judiciary Committee. My name is Larry Frankel and I am the Executive Director of the American Civil Liberties Union of Pennsylvania. I want to thank you for inviting me to present testimony at today's hearing.

The Commonwealth's stated public policy as to parole is set forth at 61Pa.C.S.

Section 331.1:

The parole system provides several benefits to the criminal justice, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

In providing these benefits to the criminal justice system, the board shall first and foremost seek to protect the safety of the public. In addition to this goal, the board shall address input by crime victims and assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders.

At the ACLU's office we receive hundreds of letters from prisoners and their families who write to us about a range of issues. One of the most common areas of concern to these correspondents is what appears to be the arbitrary manner in which the Parole Board operates. Their letters express an absolute lack of hope. They also express a deep distrust of the criminal justice system. These people who write to us truly believe that parole is no longer a meaningful component of Pennsylvania's criminal justice system. They think that those who run our parole system have just forgotten that aspect of the policy set forth in the first paragraph of Section 331.1 that discusses adequate supervision, rehabilitation and diversion of appropriate offenders from our prisons.

Because of the deluge of letters that we receive, I am convinced that what actually needs to happen in this Commonwealth is the establishment of a real continuum of services to those who are sentenced to prison. Both those who are sentenced and our communities would greatly benefit if we returned our corrections system to the job of correcting and to view parole in that context. Our criminal justice system must move away from its emphasis on merely punishing those found guilty of committing crimes. Instead, more attention needs to be paid on how to restore prisoners as productive members of our society. And let me emphasize, this not only helps those who are sent to prison, but also offers possible solutions to neighborhoods where crime is too prevalent.

What do these lofty sentiments mean in the context of today's hearing? For us at the ACLU it means understanding and appreciating how important it is that those who are sent to prison are not just held behind bars until the end of their maximum sentence. The criminal justice system should be utilizing parole or some other species of supervised release so that prisoners can be returned to their communities before they

“max-out” and be subject to the kinds of control that will help guide them into a successful reintegration into society outside of the prison walls.

This means appropriating more funds to those who supervise parolees so that there can be more face-to-face visits. This means appropriating more funds for employment services, substance abuse programs and other community-based activities that can provide assistance to former prisoners as they learn to function in a society that is constantly changing.

This also means providing incentives inside the prisons so that those who are incarcerated will have a means to avoid serving maximum sentences. Providing real programs that address substance abuse, illiteracy and employment skills and then rewarding those who take part in those programs will do far more to improve the lot of those who have been sentenced. We firmly believe that this approach will do far more to improve public safety than what seems to be the current approach of maximizing the time spent behind bars.

The ACLU believes that the Parole Board will not change its ways or modify its deficient procedures unless the General Assembly demonstrates its commitment to giving the prison system and the Parole Board sufficient resources. Once the legislative branch sends a clear message that it supports a comprehensive corrections system by adequately funding such a system, then the Parole Board will have no excuse to not do its part in providing services in such a system.

Having said all of that, there is one specific problem with existing procedure that I would like to address. It is our understanding that attorneys for defendants seeking parole are not permitted to be present at parole hearings or to provide legal assistance at

those hearings. Even though the lawyer may assist a prisoner with the filing of an application for a hearing, 61 P.S. Section 331.22, the lawyer cannot provide legal advice or expertise at what may be the most meaningful stage of the application process. The absence of counsel at hearings on parole applications makes it virtually impossible to really know why parole is denied and what factors played into that determination. Without counsel on behalf of the person applying for parole, those hearings can be conducted with little regard for the basic elements of due process. The ACLU urges you to further investigate this problem and address it through legislation that would make it clear that an attorney for an applicant should be present at all proceedings involving that applicant's request for parole.

Thank you again for inviting me here to testify today. I will try to answer any questions you may have.