

Sandra L. Feigley
Publisher, www.prisoners.com
Written Testimony
Before The
Pennsylvania House of Representatives
Subcommittee On The Courts,
Honorable Daniel F. Clark, Chairman

Representatives, Ladies and Gentlemen:

I'm Sandra Feigley, a co-founder of www.prisoners.com¹, a large site on the World Wide Web of the Internet. We are dedicated exclusively to matters benefiting Pennsylvania prisoners and their families². I invite you to visit our website for a feel about what's going on in the real world of prison and parole.

I address you as the wife³ of one of the 14,000⁴ Pennsylvania prisoners who remain in the Commonwealth's tragically overcrowded⁵ prisons because they've been denied parole. About one out of every three Pennsylvania prisoners is now eligible for parole, but remains in prison after his or her release date. A third of the Department of Corrections' billion and a half dollar budgets⁶ could be saved if eligible prisoners were paroled.

We receive hundreds of pieces of mail about parole⁷. It's clear that policy makers have lost sight of what parole is for and how it should be utilized to benefit the society. Parole is NOT, or should not be, a punishment tool. Similarly, it is not a reward for exoffenders.

Parole should be an automatic part of the criminal justice system, an institution by which former offenders are cultivated into being social assets. The bitter truth is that prison serves no social benefit. It simply educates more dangerous criminals. Parole should aim to make better citizens, not better criminals.

Firstly, the reasons why prisoners are presently paroled or not paroled are confused, reflecting muddled policies and psychology. Parole is now used as a punishment tool. If an examiner feels that a prisoner has been punished enough, the prisoner is given parole. If the examiner feels that more punishment is deserving, then parole is denied.

There's no definite public policy except punishment. There's no due process, no reliable guidelines. The parole system is arbitrary, often racist and biased. It is capricious and what can only be termed as "un-American." After the judge sentences an offender, the Parole Board sentences him again.

We've become a society obsessed with punishment, but punishment doesn't work. Parole should be automatic, based on definite criteria and goals. "Protection of public safety"⁸ is nonsense. It's a slogan-ism without substance. If public safety were the goal, you'd do away with automobiles, guns, nuclear weapons and alcohol. The present reality is that prison and parole are all about taking revenge on persons we don't like. They hurt us and, like school-yard six-year-olds, we want to hurt them back. What good does that do?

Let the courts decide the punishment and the parole system implement real rehabilitation.

What is most important is what happens after parole is granted. In the present system men and women are returned to the community without assets⁹, support or prospects. Parole agents are little more than special police. Their mind-set is to try to catch a parolee doing something wrong¹⁰. Their aim is to send parolees back to prison. That is simply the wrong approach. It's more obsession with punishment.

Parole must be a practicum in law-abiding good citizenship. Parole agents should be mentors and guides who help the parolee succeed in the community. The parole agent should not be a cop or a spy, but a supervisor, a counselor, a teacher who shepherds the parolee.

In other words, a parole agent should help, not hunt a parolee, spending time adjusting the parolee's conduct toward lawful behavior.

Part of the half a billion dollars saved from the Corrections budget and the punishment mentality by paroling all those who are eligible, should be applied to personalized and constructive mentoring by enough parole agents so that each parolee gets plenty of quality attention. The model is simply to see the parole agent more as tutor than a cop.

While privatizing prisons is a VERY bad idea, the privatization of parole services is a practical solution. It would be cheaper to hire an agent to follow around each parolee for 24 hours a day than to keep the man or woman in prison.

The present psychology behind criminal justice creates a permanent under-class. It amounts to a new form of slavery and social discrimination. It is far better to help people to contribute to society than to feed from it.

Society must get past the yen for revenge. It must become practical and realistic. It must evaluate what will actually improve the society. Toward that end, I urge three things:

Firstly, replace the system of whimsical bias by parole examiners with a set of specific criteria and standards governing the granting of parole. As we have sentencing guidelines, we need parole guidelines.

Secondly, create a parole department which aims to assist ex-offenders succeed as good citizens rather than acting as more law enforcement agents; tutors and advisors in place of adversaries and police.

Thirdly, hire enough agents from the private sector or through private sources to assure that prisoners are paroled when they should be and that they succeed.

Thank you.

Footnotes

¹ www.prisoners.com is a nonprofit corporation.

² Sadly, no Pennsylvania prisoners have access to the Internet or to email and most of their families are far too poor to be able to afford Internet access. An alarming number can't even write coherently. Nonetheless, hundreds contact us.

³ My husband is **George Feigley**, age 60, who is 7 years past the date when he was eligible for parole.

⁴ The exact current number is not reported. The last reported number was in excess of 14,000. There are also 5,954 so-called parole violators of which 41% (2,441) are "technical violators," (see *Performance Review And Assessment of Security Systems Procedures and Paractices / Final Report*, 31 January 2000).

⁵ Pennsylvania prisons are dangerously overcrowded and operating at 144% of designed capacity (see *ibid*, page 25).

⁶ There are two budgets, a billion dollar operating budget and a half a billion dollar capitol budget. In addition, about 150 million dollars is budgeted for new construction.

⁷ Over 80 pieces of "snail-mail" and many hundreds of emails were received last year just on the parole issue.

⁸ This is the phrase which is now fashionable to use to justify refusing parole to eligible applicants.

⁹ The revenge psychology deprives a parolee of benefits and actually charges her/him fees which she/he can only get by breaking the law or becoming a parasite on others. The system assures failure. It's childishly spiteful.

¹⁰ For most of us, if there was a special police force just focused on trying to catch us doing some little thing wrong, we'd fail as many parolees do.

Preliminary Draft:
For Prison Reform Legislation
To Be Suggested To Legislators

Send Us Your Comments, Suggestions, Corrections

An Act To Assure Effective Imprisonment And Parole

Suggested Language Of A Bill To Make Imprisonment More Effective

By: The Edgar Saint George Coalition

Section One, Finding:

The General Assembly finds that, along with punishment and deterrence, an essential goal of the imprisonment of offenders is to return persons to society who are likely to conform to the laws, contribute to the social good, participate in meaningful political and cultural activities and enjoy the benefits of an orderly community. In furtherance of these findings, it is enacted as follows:

Section Two, Prisoner Misconduct:

A. Recognizing that an orderly and well regulated prison environment predicates toward well regulated and orderly conduct on the part of persons who are paroled and/or released from prison, prisoners shall obey the laws and the regulations adopted by the Department of Corrections in accordance with the laws.

B. The regulations which govern the operations of the Commonwealth's prisons and the conduct of the prisoners confined therein shall be specific and definite.

(1.) All conduct which is not specifically forbidden shall be allowed.

(2.) What is not allowed shall be fully, plainly and specifically defined to the prisoners and staff in the language understandable to the

individual.

(3.) Regulations shall be standard and published. Each prisoner shall be personally served with a written copy of any and all regulations which he/she is required to obey.

(4.) The precise punishment and/or range of punishments applicable to each violation of the regulations shall be specifically published in the regulation.

(5.) Allegations of a violation of any regulation may be made only by a member of the prison staff or a law enforcement officer having personal knowledge of the alleged infraction.

(6.) Those accused shall be personally served with written notice of the allegation of violation(s) of the regulations made against him/her and he/she shall not be required to answer for any charge which has not been explicitly alleged in the written notice.

(7.) Alleged violation of the criminal law may be referred to established criminal justice authorities for prosecution.

(8.) Alleged violations of criminal law or of prison regulations may be heard and decided by an unbiased examiner who is independent of prison officials and the prison staff.

(9.) A prisoner accused of a violation of the regulations shall have the right to be heard within five (5) days, to obtain reasonable assistance from a fellow prisoner who is willing to assist, reasonable right to call germane witnesses in his defense, reasonable right to be heard in his/her own defense, and a right of appeal if he is aggrieved by the finding of the examiner.

(10.) No prisoner shall be adjudged guilty of an offense because of his/her silence and no prisoner shall be required to speak or give evidence against himself/herself.

(11.) Guilt shall be found by not less than a reasonable preponderance of the evidence in which the examiner is the sole finder of the credibility of the evidence and witnesses except members of the staff shall have no superior presumption of credibility over a prisoner.

(12.) Where the examiner finds the accused not guilty of the charged offense, all record of the charge shall be expunged and no part of the proceeding shall be used against the accused in any way.

(13.) Where the accused is found guilty, the examiner may impose no more than the sanctions specifically provided for in the regulation which may never include corporal or life threatening treatment, but which may include any of the following: warning, reprimand, loss of one or more privileges suitable to the offense, confinement for a specific period not to exceed three (3) months in a punishment facility, a fine not to exceed \$50 or the actual value of the damages or loss caused by the conduct which violated the regulations, confiscation of contraband, confiscation of Earned Time Credit not to exceed 120 days per conviction, confiscation of Parole Trust Funds not to exceed \$50.

C. The Pennsylvania Board of Probation and Parole may consider convictions for violation of prison regulations only where the conviction bears upon public safety.

Section Three, Prisoner Grievance:

A. As a constructive example to prisoners of a civil and orderly way for resolving disputes and as a means of better managing the operation of the prisons, prisoners shall, at all time have available an effective system for the unbiased arbitration and resolution of their grievances against fellow prisoners, employees and members of the staff, and against policies, practices and/or conditions of the prison.

B. Prisoners shall have the right to make informal and/or formal grievances against any person or prison policy, practice or condition. Each such grievance shall be resolved according to regulations published by the Department of Corrections.

C. Panels of prisoners authorized and organized by prison officials may be entrusted to resolve appropriate minor disputes between prisoners.

D. Serious grievances and/or disputes, including those involving members of the staff, shall be arbitrated and resolved by one or more examiners who are independent of the prison administration and who shall apply precedents and follow established techniques and norms of professional arbitration.

E. The examiner shall have the authority to recommend to the Secretary of Corrections and/or his/her subordinates and/or to the superintendent of the specific facility any appropriate and lawful action(s) to resolve any grievance including payment of damages not to exceed \$100 or the actual amount in dispute.

F. Any person aggrieved by the resolution of a grievance shall have a right of appeal as shall be prescribed by regulation.

G. There is hereby created within the Office of the Inspector General of Pennsylvania, the position of Prisoner Ombudsman whose duties shall be to receive grievance complaints from prisoners and their families and to provide the legislature and its committees with information about prison conditions and the treatment of prisoners and their families.

Section Four, Prisoner Voting:

A. Each person who is confined or imprisoned in any institution operated for the benefit of the Commonwealth of Pennsylvania or any of its political subdivisions, and who is otherwise qualified by citizenship, age and residency, shall have the right to register to vote by mail in the district from which he/she was sentenced or in any district which he/she cites as his/her home district and to obtain absentee ballots permitting him/her to vote by mail in any and all elections in which other citizens of his/her home district would be entitled to vote.

B. In order to encourage responsible political participation by prisoners and a knowledgeable use of the political and electoral process, each prison shall make available voluntary programs in civics, government and on the mechanics of the electoral process. Each prisoner shall be encouraged to obtain information to make him/her a responsible and knowledgeable voter and participant in the political system.

C. It shall be a criminal offense equivalent to a first degree misdemeanor for any person to intimidate or coerce any prisoner to vote in any specific way.

Section Five, Prisoner Incentives:

A. Each prison shall be operated and managed in such a way as to set the example of fairness, lawfulness and civilized conduct to the prisoners within it and the public which it serves.

B. Programs, education and training shall be made available to all prisoners in order that each may better prepare for success on parole, meaningful employment, social adjustment and respect for the law. Prisons shall conduct meaningful programs in each of these areas and in such other areas as may further the aims of this act.

C. Realizing that incentives are a much more effective tool to manage and redirect prisoners than punishment, each prison shall operate systems of progress incentives.

(1.) Each prisoner shall be encouraged to participate in useful employment which benefits the individual and the prison community. Such employment shall pay the prisoner an income which he/she may use to support his/her needs and to encourage his/her self-reliance.

(2.) For each ten (10) days that a prisoner spends on good behavior, he/she shall be awarded one (1) day of Earned Time Credit which accrued time shall be credited against the prisoner's minimum sentence.

(3.) Each month each prisoner shall be evaluated by the staff having personal knowledge of his/her conduct and behavior. Based upon that evaluation, the Superintendent of each prison may, at his discretion award the prisoner up to five (5) days Earned Time Credit.

(4.) Prisoners who are employed or attending school, shall be evaluated each month by the staff under whose direction they are employed or being educated. Based upon that evaluation, the superintendent of each prison may, at his/her discretion, award up to five (5) days Earned Time Credit.

(5.) Prisoners who are in prison at the time that this act takes effect shall be awarded six (6) days Earned Time Credit for each month that the individual has been imprisoned on his/her present sentence, not to exceed the period necessary to complete his/her sentence.

(6.) Each week that a prisoner continues in good behavior, \$1 shall be credited by the prison to the prisoner's Parole Trust Fund. Such money shall be invested in the prisoners behalf and awarded to him/her upon his/her parole or release from prison in order that he/she may have a small sum in order to start life in the community without being a burden on the society, his/her family, or having to revert to crime.

(7.) Prisoners who are in prison at the time that this act takes effect shall be awarded \$4 per month for each month that the individual has been imprisoned on his/her current sentence.

(8.) Prisoners of suitable age, experience and background shall be eligible to obtain scholarships, loans/credits from the state universities and/or schools to obtain education which will predicate toward successful adjustment upon parole or release from prison.

Section Six, Elderly and Disabled Prisoners:

- A. As used in this section, an eligible prisoner is any prisoner who is 65 years of age or older or who is certified by the prison staff as physically, mentally, psychologically or emotionally disabled.
- B. An eligible prisoners shall receive a monthly stipend from the prison in the place of earned prison wages in an amount of at least \$20 which the prison may use to support the his/her personal needs.
- C. An eligible prisoner shall not be charged for any medical examinations, treatment or medications.
- D. An eligible prisoner shall not be required to perform work.
- E. An eligible prisoner shall receive Earned Time Credit and Parole Trust Funds as if he/she were working satisfactorily.
- F. An eligible prisoner shall be housed in single occupancy housing and/or in the most advantageous housing available to him/her.

Section Seven, Parole:

- A. Persons shall be paroled at the expiration of their minimum term of imprisonment unless the Pennsylvania Board of Probation and Parole, by majority vote, finds that facts or circumstances, unknown by the sentencing court(s) at the time the applicant was sentenced, necessitate continued imprisonment to assure the public safety.
- B. Persons shall have a right to due process of law and equal protection of the laws in consideration by the Pennsylvania Board of Probation and Parole for parole.
- C. Any person who is denied parole shall have the right to appeal the denial in writing to the full Board. If refused parole by the full Board, the applicant shall have the right to appeal according to law to the Commonwealth Court.
- D. Persons sentenced to life imprisonment are and shall be eligible for parole upon completion of 20 years of the sentence as reduced by Earned time Credit, if any.
- E. All prisoners, without regard to the term of their sentences are and shall be eligible for parole upon attaining seventy years of age. Said

prisoners shall be paroled unless the prison, or his/her guardian if he/she is incompetent to decide for himself/herself, shall certify that he/she is not likely to be able to survive on parole, or unless the Pennsylvania Board of Probation and Parole, by majority vote, finds that facts or circumstances, unknown by the sentencing court(s) at the time the individual was sentenced, necessitates continued imprisonment to assure safety of the individual or the public.

F. The Pennsylvania Board of Probation and Parole shall employ an adequate number of properly trained agents to reasonably assure public safety by assisting each individual parolee to succeed, adjust, cope and survive on parole in a lawful way. The said agents' duties shall be to assure, as much as possible, that each individual parolee is monitored, mentored and given practical guidance and assistance to be able to live successfully in society without committing crime.

G. The Pennsylvania Board of probation and parole may at its discretion, contract with one or more private firms, organizations and/or individuals to provide the services necessary to carry out the aims of this act.

Section Eight, Staff Regulations:

A. The Department of Corrections shall formulate, publish and promulgate regulations, a code of conduct and a code of professional responsibility to govern all members of the prison staff and all those persons employed within a prison.

B. The said individuals shall be required to adhere to the said published regulations on pain of appropriate censure or punishment.

C. The published regulations shall be available to prisoners who may use them as the basis of grievance against the staff and/or report to the Prisoner Ombudsman.

Section Nine, Staff Retaliation:

A. As used in this section, retaliation means any action or omission taken by any member of the prison staff intended to harm or disadvantage any prisoner where the action is taken in reprisal for, or reaction to, lawful action(s) or omission(s) by the prisoner and/or his/her family, or because of biases or prejudices against the prisoner and/or his/her family based on the individual's race, gender, religion, age, criminal offense, criminal history, sexual orientation, political position(s), or physical appearance.

B. Retaliation by a member of a prison staff against any prisoner under his/her control or against any member of the family of a prisoner under his/her control shall be a summary offense which, upon conviction, shall be punishable by a fine not to exceed \$1000 and/or imprisonment not to exceed ten (10) days, except, if the retaliation is for any racial, religious or political motivation, or in response to the exercise of any right secured by the First Amendment to the United States Constitution, the punishments may be doubled. Upon a second or subjective subsequent conviction, the employee may be subject to discharge from employment from the Department of Corrections.

C. Executives of the Department of Corrections and of each prison shall conduct training and education of the staff to assure that no member of the staff engages in retaliation and superior officers shall assure that their subordinates behave lawfully.

Section Ten, Services to Prisoners' Families:

A. The Department of Corrections shall initiate policies and practices designed to ease the burden upon the families and loved ones of the prisoners in the system.

B. It shall be the goal of the Department of Corrections to facilitate visiting between prisoners and their families and loved ones. Such visiting shall be as frequent, comfortable and close to the prisoner's home as practical. Deference shall be extended to elderly and infirmed families and loved ones. Provisions shall be made to facilitate visitation between prisoners and their minor children.

C. The Department of Corrections along with the Department of General Services shall provide for telephone services between prisoners and their families and loved ones at the lowest available cost.

D. No part of the fees charged for any service utilized by and paid for by the families and/or loved ones of prisoners, beyond actual costs to the Commonwealth, shall accrue to the Commonwealth or any of its agencies.

Section Eleven, Effective Date:

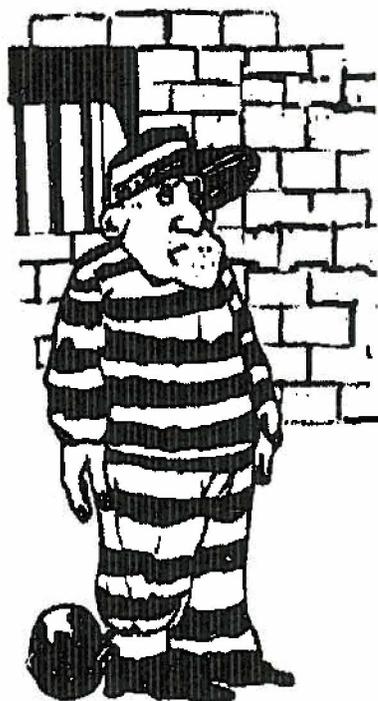
A. This act shall take effect in sixty (60) days.

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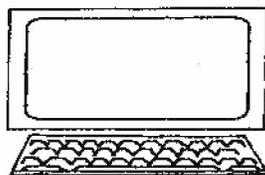
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