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REMARKS OF
DAVID L. GLASSMAN
September 19, 2000
House Subcommittee on Courts Hearing
Hershey, Pennsylvania

Mr. Chairman, members of the Committee and Legislators, thank you for permitting me the opportunity to present to you my thoughts on the Pennsylvania Board of Probation and Parole.

First of all, I recognize that state parole is an important public safety issue. Everyone wants to protect the public and to rid our streets of dangerous criminals.

In 1986 and 1987, I represented alleged state parole violators before the parole board at the State Correctional Institution at Camp Hill. The Supreme Court of Pennsylvania had certified me at that time to work for the Cumberland County Public Defender during my final year at The Dickinson School of Law. Chief Public Defender Taylor Andrews and Assistant Public Defender Fred Huganir supervised my state parole defense work back then.

From 1989 until 1996, I represented criminal defendants and alleged state parole violators again during my tenure as an assistant public defender in Lancaster County.

From 1997 until 1999, I represented criminal defendants both privately and on a court-appointed basis in Philadelphia County.

Since October 1999, I have been a staff attorney at The Lewisburg Prison Project. We provide free prisoner legal services to Central Pennsylvania inmates and disseminate prisoner legal rights literature nationwide at the request of interested inmates. We work closely with The

Pennsylvania Institutional Law Project run by Angus Love, Esq. of Philadelphia. Often, we counsel Central Pennsylvania inmates on his behalf due to our geographic proximity to this area.

In my opinion, the Board historically has tied itself to internal policies rather than spending the time to scrutinize cases on an individual basis when determining the suitability of an inmate for parole. Early in my career, I observed the Board parole and re-parole too many inmates. I represented numerous recidivist state parole violators. The Board often recommitted such violators for about a year pursuant to its administrative recommitment guidelines. Then, the Board usually granted them parole despite the obvious recidivist propensities of those inmates to either commit new crimes or violate their parole contracts. I felt that the Board likely granted re-parole to these inmates to alleviate overcrowding. Frequently, these inmates were not prepared for life outside of prison. Sometimes, inmates admitted that they wanted to return to prison because they realized that prison had not rehabilitated them.

In recent years, the Board has tied itself to new conservative policies. The Board now denies parole applications from the stereotypical "model prisoners" because of internal policies which require them to do so. In 1996, the Chairman of the Pennsylvania Senate Judiciary Committee recommended that the Commonwealth emphasize punishment over rehabilitation in the ongoing philosophical debate over the goal of our correctional system in the wake of the notorious McFadden and Simon cases.

The United States Attorney General grants money to the Commonwealth if the Commonwealth verifies through statistics that the Commonwealth: (a) increases the percentage of violent offenders incarcerated here and (b) requires an average of them to serve at least 85% of their maximum sentences. Consequently, our correctional system actually accepts financial

incentives to deny parole, regardless of whether these inmates have been rehabilitated. Will the Commonwealth actually decline federal grants at some point by reporting that it successfully has rehabilitated and granted parole to an amount of inmates beyond the permissible quota or percentage? Herein lies the inevitable conflict.

Incentives can work both ways. What incentives do violent offenders have to rehabilitate themselves in prison if the Commonwealth no longer deems their rehabilitation to be in the interest of public policy? Eventually, inmates will decline to apply for DOC rehabilitative programs since completion still will result in denial of their parole applications. Persistent parole denials also will lead to bitterness and continued antisocial behavior by inmates upon their discharge from the maximum dates of their sentences. They will have entered and departed from the state "correctional" system without "correction" having been accomplished.

Judges, district attorneys, and defense attorneys weigh state sentencing guidelines when contemplating the sentence to be given to a convict. State sentencing guidelines are based upon the total minimum months of sentence to be imposed. These minimums are the subject of intense negotiation and argument between the advocates. Judges often impose short minimums and long maximums in recognition of the belief that the offenders need lengthy street supervision and rehabilitation. The Board frustrates the intentions of the trial courts, prosecutors, defense attorneys, defendants, and, yes, often the victims, by adhering to policy over substance in denying parole applications on a chronic, "rubber-stamp" basis. Courts often must adjudicate post-conviction relief hearings where prosecutors must subpoena defense attorneys to explain whether defense counsel "sold" a plea bargain to a defendant by assuring that the defendant most likely would make parole around the minimum date of sentence. Obviously, such proceedings create

more drain on our courts.

I have worked as a law clerk for criminal court judges in the Lancaster and Philadelphia Courts of Common Pleas. These judges rely on the Board to carry out the intentions of their sentences. Judges can be frustrated when the Board persistently denies parole and then the inmates write to plead with the judges. Judges are powerless at that point and the Board knows it. Judges often tell defendants, victims, and their relatives at sentencing that the intent of the Court is for the defendants to serve just the minimum sentences. Laymen remember these pronouncements when the Board chronically denies parole. This especially is true in the cases of those inmates sentenced prior to 1996.

Several inmates have complained to our Prison Project that the Board only states boilerplate language on their denials of parole. Again, such language reinforces the notion that the Board has not provided adequate individualized attention to their cases and merely is treating their applications as statistics to support their financial grant applications to the Federal Government.

Additionally, the Board usually will deny parole if either the DOC has adjudicated an inmate to be guilty of misconducts during imprisonment or provides an unfavorable recommendation for parole. The germination of such denials sometimes can be traced to a write up from a correctional officer having either a bad day or attitude and taking it out on an inmate coming up for parole. DOC hearing examiners generally adjudicate in favor of their staff on credibility issues at such hearings. The Board violates its mandate to employ discretion in reliance upon the disposition of such informal disciplinary hearings without delving into their circumstances.

Inmates also complain to the Project that the DOC and Board often add prescriptive parole plan programs on a piecemeal basis during the period of their incarceration. This is tantamount to "drawing lines in the sand" and inviting them to step over each line on the false promise that it will be the last.

Recently, I discussed with Art Thomas from the Board the systemic issue of short minimums with long maximum sentences. For example, a judge might sentence an inmate to serve a sentence of thirty days to two years in a state prison either to give them a "taste" of state prison to teach them a lesson on a misdemeanor or to enable the Board to provide more parole services than the county has to offer the inmate. Unfortunately, the Board will not extend a parole application to such inmates until the DOC processes them through the classification process. That process usually takes between three and six months. Again, the intent of the Courts become frustrated. I suggested to Mr. Thomas that the Board should develop a "fast-track" parole process to streamline parole consideration for such cases. Of course, the Board obviously can deny parole if the inmate truly is found to need additional institutional correction. However, the Board should devise a procedure for expediting the process toward that determination point in the time-line.

The Board also should offer criminal court judges and trial attorneys CLE programs and materials to educate them on Board policies and procedures. In Lancaster County, judges and attorneys often consulted me for information concerning how the Board would deal with a certain sentencing scheme under consideration by the Court. County legal personnel often consider the Board to be like a supernatural "Wizard of Oz"- type of unknown entity.

Pennsylvania requires minimum and maximum sentences. You may as well repeal all

legislation concerning minimum sentences, minimum sentencing guidelines, and state parole if the Commonwealth no longer intends to consider state parole at the expiration of minimum sentences based upon merit. Prisoners just want to know where they stand. Courts demand honesty from them. They want honesty in return from the criminal justice system. Do you really want them to earn their way toward a realistic opportunity to earn parole by the time of their minimum sentences? Or are their minimum sentences now just meaningless time markers enroute toward their maximum sentences?

Inmates already have fragile mental states. Our community is not served when the Commonwealth is less than candid with inmates in holding out the false hope that they might make parole. Thank you for your attention to this important subject.