

Improving Pennsylvania's Response to Violent Offenders: "Who, What, How, & When"

Testimony by: Deputy Secretary for Reentry and Specialized Programs Kathy Gnall

Pennsylvania Department of Corrections

House Judiciary Public Hearing

March 19, 2009

Introduction & Background

Good morning Chairman Caltagirone and Members of the House Judiciary Committee. Thank you for the opportunity to testify before you today and to reinforce the Department of Corrections' strong commitment to effectively managing serious violent offenders who threaten the safety of Pennsylvania's citizens and communities. The recent moratorium on discretionary releases, in response to the series of violent crimes committed by parolees during 2008, was lifted last month. Throughout the moratorium period, the DOC worked diligently to examine current practices in managing violent offenders while an external review was conducted by Dr. John Goldkamp to provide an independent evaluation. Based on the findings and recommendations of internal and external reviews, a number of improvements were made within our agency to ensure that offenders being released from state prisons will not pose further risk to the safety of Pennsylvania's citizens. My testimony this morning intends to examine the impact of the parole moratorium on the already growing prison population, share our agency's efforts to implement a more effective response in managing seriously violent offenders, and to explore future legislative initiatives intended to further enhance the criminal justice system's efforts to protect Pennsylvanians from dangerous offenders.

Impact of Parole Moratorium on State Prison Population

The parole moratorium was in effect from September 29, 2008 through December 1, 2008. Over this two month period, our state inmate population increased by a total of 2,300 offenders, from 46,700 to 49,000. Population projections completed prior to the moratorium predicted that our population would grow by approximately 500 inmates over this time period. Therefore, our population increased by 1,800 more inmates than forecasted as a result of the moratorium – more than tripling the number of additional inmates expected. Over the past few weeks, our state prison population has experienced some relief, and we are certainly hopeful that this will continue over the coming months. Yet, a number of relatively dynamic variables influence the size of our population. We know, for example, that the parole rate prior to the moratorium was 60%, and that it decreased to a rate of 46% following the violent incidents that led to the decision to suspend conditional releases. While it is still too early to accurately predict the longer-term impact of the parole moratorium on the size of our state prison system, our best prediction at this time suggests that we may experience an average increase of 200 inmates per month over the longer-term.

DOC's Ongoing Commitment to Reducing Recidivism

We believe our mission to protect public safety is two-fold. First, it requires that we safely incapacitate inmates throughout their period of confinement. Yet, given that more than 90% of our inmates will someday return to Pennsylvania's communities, our agency must also ensure that effective rehabilitative strategies are applied to address each individual's criminal behavior. We fully recognize that simply "warehousing" inmates will not be sufficient if we wish to promote public safety over the long-term. We are also cognizant that neither our crowded prison system nor our taxpayers can afford recidivism. For all of these reasons, our agency takes its responsibility to change offender behavior very seriously.

Over the past several years, the DOC has worked diligently to implement proven, evidence-based strategies for identifying and treating inmate needs that are specifically related to re-offending, and preparing every inmate for a safe and successful re-entry to society. A comprehensive assessment battery is completed on each offender at the time of reception. The assessment results are then used to inform individualized correctional plans, in which specific programs are prescribed based on the inmate's identified need areas. I will provide just a few examples to illustrate how our agency is responding to inmate programmatic needs. Hopefully these examples will serve to correct commonly held public misperceptions regarding the services delivered by correctional systems. During 2008, nearly 3,500 inmates assessed as having substance abuse needs successfully completed treatment in a residential/inpatient therapeutic community or outpatient setting. More than 2,000 completed programming specifically designed to address their criminal thoughts, attitudes, and behaviors; approximately 4,000 completed programming to address their identified needs in the related areas of violence, anger, aggression and impulsiveness; 700 completed programming aimed at diminishing their risk for engaging in future domestic violence; and 600 sex offenders participated in specialized programming designed to reduce their risk for committing future sexual crimes.

DOC Remains Ever-Positioned to Improve Practices

The DOC's recidivism-reduction programming efforts go far beyond simply ensuring that services are provided for each inmate based on his or her identified needs. Just as importantly, our agency is invested in delivering quality programs – those proven to achieve their intended outcomes in changing inmate behavior over the long-term. Maintaining a comprehensive, quality and effective recidivism-reduction strategy demands that our system remain current with new research, receptive to evaluation results, and amenable to change. It also requires that internal mechanisms are in place to monitor the ongoing quality and effectiveness of service delivery. To this end, the DOC actively and rigorously evaluates its inmate treatment programs not only through internal evaluations, but also through formal partnerships with external research experts. Our ambitious research agenda has yielded significant insight into the performance of our treatment programs.

I will share two highlights of the DOC's program evaluation findings to demonstrate my point, and strongly encourage you to visit our Department's site to review additional program results. First, an outcome evaluation of our therapeutic communities conducted by Temple University found that DOC program participants were 42% less likely to be reincarcerated than a comparison group of inmates over a seven-year follow-up period. Second, an evaluation conducted to examine the effect of educational and vocational training on reducing future criminal behavior found that re-arrest rates were reduced by as much as 20% for participants one year following release. In fact, as acknowledged in the Goldkamp Report, Pennsylvania is recognized as a national leader in the field for its success in delivering evidence-based assessment, treatment, and re-entry practices. Our agency is oftentimes contacted for expert advice, and a number of other state and county correctional jurisdictions have visited our facilities to observe our strategies and model their initiatives after our "best practices".

Yet, as emphasized earlier, ongoing delivery of effective practice requires that we constantly work to improve these strategies if we wish to achieve substantial gains in reducing criminal behavior. The recent series of violent events associated with the parole moratorium caused us to refine current practices by triggering the need for further examination of our approach in addressing the custodial/supervision and programmatic needs presented by violent cases. In turn, the subsequent release of Dr. Goldkamp's recommendations complemented internal initiatives aimed at improving our approach in dealing with this specific sub-population of offenders.

3 Key Components of the DOC's Refined Strategy to Reduce Violent Recidivism: "WHO, WHAT & HOW"

The remaining portion of my testimony this morning will cover the specific initiatives comprising the DOC's overall strategy to reduce violent recidivism, as informed by the findings of our ongoing efforts toward quality assurance, recent incident-specific internal reviews, and Dr. Goldkamp's recommendations. I've organized these initiatives under three major goals:

1. The keystone of this strategy is the improved identification of cases likely to commit violent crimes in the future – in essence, knowing "**WHO**" to target for more intensive supervision, programming and services.
2. Upon determining that an offender presents a high risk for violent re-offending, we must ensure that he/she is provided with the appropriate treatment necessary to change his/her behavior – in other words, knowing "**WHAT**" to do to successfully reduce the level, severity and nature of risk presented by the violent offender.
3. And, finally, improved identification of cases with a high risk for future violence will allow our state correctional system to better "flag" the potential need for enhanced supervision during his/her period of DOC confinement, and inform decisions associated with the offender's safe return to our community – basically, informing "**HOW**" we will safely manage the more dangerous cases.

WHO Will Commit a Violent Crime Upon Release? *Objective #1: Improved inmate assessment practices...*

The first step in reducing violent re-offending requires that we are able to better identify those offenders who are likely to commit violent crimes upon release. This is necessary if we wish to match violent cases to relevant treatment interventions and manage them at appropriate levels of supervision.

For several years now, the DOC has used a very sophisticated method, involving a comprehensive battery of instruments, for determining whether or not an inmate is likely to re-offend, and also identifying the specific areas that must be addressed in each individual in order to decrease the chance for recidivism. Examples of areas we examine and the respective, objective instruments used to complete the assessments include "criminal thinking" (Criminal Sentiments Scale - Modified), "anger, hostility, aggression" (Hostile Interpretations Questionnaire), substance abuse (Texas Christian University Drug Screen), and sexual offending (Static-99).

Prior to the recent violent incidents in Philadelphia, the DOC was completing work on an improved inmate assessment tool intended to determine the likelihood of general re-offending (that is, recommitting any type of crime, including violent and/or non-violent). This tool, referred to as the "Risk Screen Tool" (RST), has been found to be more predictive of recidivism in Pennsylvania's offender population than other, well-established, widely recognized instruments used to measure an offender's risk for re-offending, such as the LSI-R (which we had been using). To date, the RST has been fully implemented for administration on all new receptions, and every inmate currently in our population has been scored on this tool. Scores may be collapsed into three standard "risk categories", through which inmates are determined to be either low, moderate or high risk for recidivism. Therefore, we have an objective, relatively valid measure of each inmate's likelihood to commit another crime. In fact, it is interesting to note that in reviewing the predictive accuracy of the RST, we learned this tool does an even better job of predicting general recidivism (again, this includes both non-violent and violent offenses) in serious violent cases.

However, as a general risk instrument, the RST alone does not tell us exactly what type of criminal behavior the inmate is likely to engage in. That is, while the RST suggests that an inmate is either at low, medium, or high risk for re-offending, it does not discriminate whether the offense is likely to be non-violent versus violent. Therefore, the DOC used the guidelines/indicators outlined in Dr. Goldkamp's report to create a separate tool to assess each inmate's likelihood for violent re-offending. Referred to as the "Offender Violence Risk Typology" (OVRT), this tool specifically examines a set of static/unchanging factors proven to be related to violent recidivism in Pennsylvania's offender population. Decades of research in this area has consistently demonstrated that the most robust predictor of an individual's future behavior is his or her past behavior. Accordingly, factors incorporated into the risk formula include whether or not the offender's current/instant offense is violent, whether the offender has a prior history of violence, whether the offender's criminal history includes an early onset of violent behavior (at a young age), and use of a deadly weapon. The results of this tool will be used to inform a number of decisions by the DOC & Pennsylvania Board of Probation and Parole (PBPP) from the point of reception through the time of the individual's release from supervision under the state's criminal justice system.

We have also worked to improve upon the value of our psychological reports in order to better assess an inmate's potential for future violence. For many years, DOC psychology staff has administered a standard psychological report, referred to as the "Pennsylvania Clinical Risk Assessment" (PCRA), on every inmate at the point of reception and prior to release. The recent violent incidents suggested the need to give further consideration to how this report could be refined to provide an additional piece of information in understanding an inmate's overall propensity for violence. The PCRA now includes a number of additional indicators related to violence potential and has been reorganized to place greater emphasis on those factors that relate to increased likelihood for dangerous re-offending. Targeted trainings have been provided for our professional team of psychologists and clinicians. We are also in the process of developing a more in-depth psychological report for use specifically with cases identified as high risk for violence.

The combination of these inmate assessment measures (and others, which I have not included in my discussion today) will provide a well-rounded approach to the DOC's understanding of each offender. This will significantly improve our agency's ability to identify the most violent cases and, therefore, will go a long way in making appropriate program and release decisions associated with maintaining public safety. I must caution, however, that even the best assessment model cannot accurately predict an individual's behavior 100% of the time. In fact, we know that violent offenders are oftentimes "generalists" who engage in diverse types of criminal behavior prior to committing more violent acts, making these cases even more challenging to weed-out. With this in mind, we have adopted an extremely conservative assessment approach, in which our policy is to "err on the side of caution".

Two basic errors can occur in assessing risk for violence. A "false positive" occurs when an individual who is categorized as high risk does not turn out to be a violent case. A "false negative" occurs when an assessment result fails to categorize an individual as high risk, yet he/she then commits a violent offense. Each type of error results in specific, unique consequences. The major consequence of a "false positive" is that limited criminal justice resources – taxpayer monies – are wasted on the provision of intensive treatment services and enhanced supervision for an individual who did not require that level of intervention to return to our society in a crime-free manner. On the other hand, the major consequence of a "false negative" would be a failure to provide the appropriate level of services and supervision necessary in preparing a seriously violent offender for a safe return to our society. As a public safety agency, we are much more concerned by the latter.

Smart, effective, fiscally responsible public policy demands that we find a healthy balance between these two possibilities. Without an appropriate balance, Pennsylvania would either be in a position where taxpayers could not

afford the criminal justice system costs associated with “widening the net”, or in a position where too many violent offenders were “falling through the cracks”, resulting in increased levels of serious victimization. Therefore, our protocols have been established to achieve a responsible, acceptable balance in which our system is more tolerant of “false positives” than “false negatives”. As such, it is much less likely that our system would fail to provide the appropriate level of treatment, services, and supervision necessary in managing a highly violent case.

WHAT Will Be Done to Prevent Future Violent Behavior? *Objective #2: Enhanced treatment offerings...*

Research consistently demonstrates that recidivism can be reduced when offenders are matched to appropriate, quality programs. And, as I mentioned earlier, our success with programming here in Pennsylvania certainly proves this point. Over the past several months, our Department has built upon its strong foundation of quality programming to improve our ability to target reductions in the potential for future violent behavior. Recent programmatic enhancements include the establishment of new criteria for prescribing violence programs based on our updated assessment protocols (OVRT & HIQ) and the development of additional program levels to respond appropriately to various intensities of need. The DOC will now offer low, moderate, and high intensity violence programming based on individual level of need. This ensures that resources are focused on matching the most serious cases with the highest level of services.

And, once again, our invested interest in not simply just providing treatment, but rather, delivering effective interventions has led us to further examine our current violence programming curriculums. As a result of this review, we made a number of changes to the existing curriculum in order to further align our approaches with evidence-based treatment practices. While our existing program relied more heavily upon “cognitive” approaches (such as a focus on anger management), our improved curriculums now focus more attention on providing inmates with ample opportunity to also practice new attitudes, skills, and pro-social behaviors. We know that an emphasis on not only “cognitive”, but also these “behavioral” techniques is necessary if we wish to impact life-long behavioral change. We also know that longer-term change is more likely to occur when there is a continuum of care from prison to the community. Therefore, in addition to our in-prison treatment offerings, we have added a violence prevention “booster” for delivery in our community corrections settings. This effort should serve to reinforce treatment gains from the initial program, while also preventing violent relapse.

HOW Will Communities Remain Safe When Offenders Return? *Objective #3: Strengthened reentry services...*

And, finally, our third objective for improving our response to violent offenders involves strengthening both the supervision and programmatic services provided for inmates in our community corrections settings. As one of the very first measures taken in response to the recent violence, I requested a comprehensive internal review of our community corrections facilities – to include operational as well as program audits. In addition, the DOC had already developed a partnership with the University of Cincinnati to provide an external, third-party evaluation of these services. Both the internal and external reviews are now near completion and I am confident that the findings and recommendations will inform a number of improvements to the safety, security, and effectiveness of our community corrections programming.

In accordance with recommendations provided in the Goldkamp Report, the DOC has also designated five community corrections facilities as “specialized” centers for managing offenders that pose a higher risk for violence. While at face value this notion may instill public fear, please keep in mind that our agency is tasked with most effectively managing the sentence that is imposed on each individual case. Community corrections placement affords the opportunity to provide these cases with the transitional period proven to increase the likelihood of success upon release. The alternative would be to release these individuals directly to the street, possibly without any supervision by the criminal justice system.

Specialized centers will provide at least 90 days of increased structure, supervision, and programming to responsibly manage the more serious violent offenders who are released on parole. At least one center is located in each of the DOC’s three regions to facilitate our efforts toward ensuring their safe return to their hometowns – including Philadelphia, Harrisburg, Hazleton, Pittsburgh, and Erie. Heightened programming and supervision will include required booster sessions, stricter curfews, ongoing monitoring/accountability, more frequent urine testing, additional contacts with staff, enhanced facility security, more searches, and joint transitional step-down plans agreed upon by DOC and PBPP. Policy and procedure will also require swift, certain, and more severe sanctions for rule violations, with a number of specified violations resulting in immediate revocation. Facility accountability will also be tightened, to include regular security inspections, operational audits, and program reviews.

.WHEN Can Violent Offenders Be Released Safely? Legislative Options for Dangerous Recidivists

While the treatment and supervision practices I've discussed to this point will work to promote public safety in the vast majority of cases, there remains a very small fraction of Pennsylvania's offender population for whom this will not be enough. The most recalcitrant, violent, repeat offenders who display no evidence of being able to lead productive, crime-free lives will require a different approach if we wish to keep Pennsylvanians safe. For these cases, as Governor Rendell labeled as "the worst of the worst" in his proposal earlier this month, the only option for ensuring public safety is incapacitation.

Moving away from indeterminate sentencing (in which offenders receive a minimum and maximum sentence, with their release date established at the discretion of the PBPP), and adopting determinate sentencing (in which offenders are given a flat, fixed release date at the time of sentencing) represents more responsible public policy in dealing with the most serious violent recidivists. This shift in sentencing structure would ensure that chronically dangerous felons remain safely confined in our state prison system and off the streets for lengthier periods of time. Early release at the discretion of the PBPP would not be an option for these cases.

Adopting determinate sentencing in the absence of additional measures, however, can result in negative unintended secondary consequences. The possibility of discretionary parole release generally serves as the most important incentive for our inmates. Inmates are significantly more motivated to follow institutional rules and comply with programmatic recommendations when early release is used as an incentive for appropriately managing these specific behaviors. Adopting a flat sentence structure without any opportunity for early release could pose challenges for institutional management and public safety, when inmates lack motivation to follow rules and comply with *recidivism-reduction programs*. Therefore, building in the proposed "risk reduction credit", allowing these offenders to earn a specified percentage off their flat sentence for good behavior and program compliance, would promote institutional safety and security while also encouraging offenders to successfully complete programs designed to reduce their risk for recidivating.

Additionally, we must remember the public safety value associated with providing a period of supervision in the community following release. The adoption of a traditional determinate sentence structure would lead to an offender being unsupervised in the community upon satisfying his full sentence. Therefore, it is also critical that our refined strategy include the proposed five-year mandatory supervision period. This would ensure that violent cases are not released to our communities without supervision and guidance, and it would allow for swift and certain return to incarceration when rules are violated.

I cannot emphasize enough that careful consideration must be given to how this group is identified. Otherwise, we could potentially fill up costly prison bed space with those who do not require such lengthy periods of incapacitation to keep our public safe. Yet, with informed definition of this target sub-population, adoption of this full proposal would achieve better public safety results in dealing with chronic violent recidivists.

Conclusion

In closing, I remind you once again that no system is perfect – we cannot identify cases that will commit future violence with 100% certainty. And, we all know that it is unrealistic to expect that there will be 0% recidivism. Although we will certainly continue to strive for this! I am extremely confident that the initiatives presented here today offer a reasonable, realistic and fiscally responsible strategy for reducing the number of victimizations in Pennsylvania. In turn, it is my hope that Pennsylvania's citizens will feel safe in their communities. As always, I look forward to continuing to work with each of you as we enhance public safety throughout our Commonwealth. I would be pleased to respond to any questions you may have. Thank you.