



PENNSYLVANIA INSTITUTIONAL LAW PROJECT  
Angus R. Love, Esq., Executive Director

**TESTIMONY BEFORE THE PENNSYLVANIA SENATE  
JUDICIARY COMMITTEE**

**September 12, 2008- City Hall, Philadelphia**

**Angus Love, Esq. Executive Director  
Pennsylvania Institutional Law Project**

**To the Honorable Chairman Senator Stewart Greenleaf, Senator Shirley  
Kitchen and Members of the Senate Judiciary Committee.**

I would like to begin by expressing my thanks to Senators Greenleaf and Kitchen for the opportunity to speak this morning. I am speaking on behalf of the Pennsylvania Institutional Law Project which I direct, the Pennsylvania Prison Society, our nation's oldest prison reform organization and the Pennsylvania chapter of CURE [Citizens United for the Rehabilitation of Errands]. We wholeheartedly endorse the concept of a phased supervised release that probation and parole offer to the former offenders returning to our communities. We believe that such a release offers the greatest opportunity for enhancement of public safety and for a successful reintegration back into society. We believe these goals to be compatible with each other while others disagree. Equally important is the goal of a unified integrated criminal justice system with fairness and justice for all regardless of their station in life. County Probation and Parole must work hand in hand with correctional officials and the Pennsylvania Probation and Parole Department. This has been a difficult undertaking given the byzantine responsibilities and funding streams of the county and Commonwealth governments. A historically unprecedented surge in prison and jails populations has made this task of improving our criminal justice system a challenging endeavor. County Probation and Parole must make every effort to meet the challenge.

The concept of a measured or phased release of the offender back into our midst can be traced back to the inherited pre-colonial British system. It allows those confined to seek the mercy of the Monarch. After a period of community placement and an opportunity to show their worth, the King or Queen would confer their grace and free the offender.<sup>1</sup> Having survived the centuries of trial and error, it still represents the best

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<sup>1</sup> Probation and Parole: History, Goals and Decision Making; Origins of Probation and Parole, Doris Layton McKenzie, <http://law.jrank.org/pages/1824/Probation-Parole-History-Goals-Decision-Making.html>

opportunity to ensure a safer community and to give the offender the best chance of the difficult process of becoming a productive citizen. Targeted plans for the appropriate treatment services, employment assistance and frequent reporting and supervision offer the best hope of success. Recently the concept has come under attack due to the Truth in Sentencing movement. Legislation to that effect has been successful in other states and on the federal level but was rejected in Pennsylvania in the 1990's. It has recently been resurrected in a bill introduced in this session by Representative John Perzel<sup>2</sup>. The Truth in Sentencing movement is fueled by frustration with complex sentencing formulas and the high recidivism rates. While some sentences are difficult to understand, the idea that we are soft on crime is ludicrous when we have the over two million persons behind bars and highest incarceration rate in the world. The failing of rehabilitation can frustrate the heartiest but we can't throw out the baby with the bath water. Our criminal justice system is an endeavor run by human beings and will never be foolproof. As has been said many times, to err is to be human. We must invest in the best system we can develop, stay the course and not allow anecdotes and scare tactics to change our course.

When I began my legal career in 1980, there were 11,824,220 persons residing in Pennsylvania. The crime rate for violent offenses 363 offenses was per 100,000 persons. The rate for property crimes was 3,372 per 100,000 persons<sup>3</sup>. There were 8,243 persons confined in 9 state prisons operated by the Pennsylvania Department of Corrections [Pa DOC]<sup>4</sup>. Today there are 12,440,621 persons residing in our Commonwealth, an increase of 5%. The violent crime rate has risen 20% while the property crime rate has dropped 33%.<sup>5</sup> The Pa DOC population has risen to 46,492<sup>6</sup>. This represents an increase of 564%. While our population shows only a modest gain, violent crime went up and property crime went down, the incarceration rate has grown over 5 fold. Clearly the incarceration rate is not driven by population or crime rates but by our policy makers in a bi-partisan manner. Sadly, the future outlook continues along the same trends unless policies are drastically changed. The Pew Foundation's recent report indicated that Pennsylvania will experience a 17% growth rate in prison population in the next 5 years while the overall population grows at 1%<sup>7</sup>.

The Commonwealth of Pennsylvania is not alone in these policy trends. The entire country has engaged in a prolonged incarceration binge. Only recently have these decisions been questioned. Secretary of the Pa DOC Jeffrey Beard recently testified before the House Judiciary Committee in support of Governor Rendell's crime package<sup>8</sup> that incarceration is not the most effective way to combat crime<sup>9</sup>. The public support of the get tough on crime movement fueled its growth but the hidden costs only recently

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<sup>2</sup> House Bill 2605

<sup>3</sup> U.S. Department of Justice -Office of Justice Programs, Bureau of Justice Statistics, 9/3/08

<sup>4</sup> Pennsylvania Department of Corrections Annual Report, 1981, p. 12

<sup>5</sup> U.S. Department of Justice- Office of Justice Programs, Bureau of Justice Statistics, 9/3/08

<sup>6</sup> Pa DOC Monthly Population Reports-July 2008

<sup>7</sup> The Pew Center on the States-Public Safety Performance Project: Work in the States: Pennsylvania, [www.pewpublicsafety.org](http://www.pewpublicsafety.org)

<sup>8</sup> HB 4-7, 2008 Legislative Session

<sup>9</sup> J. Beard "Enhancing Public Safety Through Evidence-Based Responses to Criminal Behavior, House Judiciary Committee, Nov. 15, 2007

revealed themselves. Cutbacks in education, health care and other vital government services and the soaring costs of incarceration have caused a reexamination of these policies<sup>10</sup>

Given this backdrop, I turn to the question of how county probation and parole officers are handling the heavy burden that an overtaxed system has thrust upon them. The literature in the field of corrections warns that it is extremely difficult to compute an average caseload for a probation or parole officer but it is something that must be done. There are many variables that come into the complex equation of what is an ideal number of cases for an officer. The type of offender, the degree of supervision, the availability of support services are but a few of these variables. The American Probation and Parole Association have addressed this topic as it is too important to ignore<sup>11</sup>. Professor Bill Burrell as digested the APPA standards and put forth the following ratios<sup>12</sup>:

CASE TYPE	CASES TO STAFF RATIO
Intensive	20:1
Moderate to High Risk	50:1
Low Risk	200:1

A review of County Adult Probation and Parole Annual Statistical Report-2006 offers some dire numbers<sup>13</sup>. The average total caseload was 162 offenders per adult probation officer. The average caseload ranged from a low of 47 offenders per officer to a high of 303 offenders per officer. The number of offenders under supervision has increased by 2.3%. By any method of calculation, these numbers are well above any recommended levels by a considerable amount. Rising personnel costs especially health insurance are further burdening the effectiveness of the supervision. The strain on the system makes it extremely difficult to do a professional job given the numbers under supervision.

While I will leave the wisdom of these policies for another day, there is little doubt that they have greatly impacted all aspects of our criminal justice system especially probation and parole. As I testified before this Honorable Committee during Governor Ridge's Special Session of Crime in 1995, the policy makers must be prepared to shoulder the financial costs throughout the criminal justice system that are associated with the

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<sup>10</sup>American Bar Association -Justice Kennedy Report to the House of Delegates, Aug. 2004; "Confronting Confinement"-A Report of the Commission on Safety and Abuse in America's Prisons, Katzenbach and Gibbons, June 2006 Vera Institute; "A Time to Fight, Reclaiming A Fair and Just America", Senator Jim Webb, Broadway Books 2008.

<sup>11</sup> The American Probation and Parole Association [1991] "Issue Paper on Caseload Standards" available at <http://www.appa-net.org/about%20appa/caseload.htm>

<sup>12</sup> American Probation and Parole Position Paper: Burrell, Bill, "Caseload Standards for Probation and Parole [Sept. 2006] Temple University.

<sup>13</sup> Commonwealth of Pennsylvania Board of Probation and Parole-County Adult Probation and Parole, Annual Statistical Report-2006, <http://www.pbpp.state.pa.us.htm>