

Testimony of Craig R. McKay, Esquire Board Member PA Board of Probation and Parole

My name is Craig R. McKay. I am a Board Member of the Pa Board of Probation and Parole.

Thank you for the opportunity to present my testimony and voice my concerns/objections to Senate Bill 859, the proposed merger of the PA Department of Corrections and the PA Board of Probation and Parole.

I believe the proposed merger is not in the best interests of public safety and the citizens of the Commonwealth of Pennsylvania and should not be adopted.

By way of brief background, I am an attorney licensed to practice law in the Commonwealth of Pennsylvania. I have over forty-one (41) years of criminal law experience which includes positions held as a former Assistant United States Attorney in Pittsburgh, First Assistant District Attorney in Washington County, and seventeen (17) years in private practice.

While not widely publicized, it is well known in professional circles that the PA Parole Board is one

of the premier independent Parole Boards in the United States. The Board has been recognized by national experts and organizations as one of the finest Parole Boards in this Country. While some Parole Boards are a part of the Department of Corrections, that is really of no value or consequence here. It is simply a Department of Corrections' national model, which is subject to disagreement. The fact remains that the PA Parole Board has a sixty -five (65) year legacy of being unique and effective as an independent Agency which functions with the highest level of expertise. The Board serves the citizens of this Commonwealth well.

It is my belief that there is no justifiable reason for the Parole Board to be merged or "taken over" by the Department of Corrections. This is not the correct thing to do and this is not good government.

As stated by my colleagues in the District Attorney's Association, the merger of the Parole Board with the Department of Corrections would drastically change the criminal justice system in this Commonwealth. It would eliminate the Parole Board as an independent agency and reduce the Board to simply a "Departmental Board within the DOC." The Bill would give the DOC total and absolute power over inmate incarceration, parole, and parole supervision. This concentration of

power in one agency would be a public safety concern.

The Parole Board has always been an independent Agency in the Commonwealth. Its parole decisions have never been subject to outside influences or pressures. The Board utilizes evidence based practices and techniques in making its decision whether or not an inmate is ready to be paroled to the community. The parole decision is based solely on public safety factors and not on prison cost saving considerations. To do otherwise would place the safety of the citizens of the Commonwealth at risk.

The Department of Corrections does well in its primary mission of managing the care, custody and control of the prison population in the Commonwealth. The Department's education and training programs are well known. However, the front line public safety mission of the Parole Board is different than the prison population management mission of the Department of Corrections. This is where the missions of the two (2) distinct agencies sometimes collide. This is a compelling reason why the Parole Board and the Department of Corrections should not be combined. Maintaining the checks and balances between the Parole Board and the Department of Corrections is critical. In this regard, the public safety of the citizens of the Commonwealth

mandates that the Parole Board and Department of Corrections remain separate Agencies. I believe Senate Bill 859 is flawed to the extent that it combines two (2) Agencies whose primary missions are fundamentally different.

I have read the Department of Correction's position paper titled, "Reducing Costs, Reducing Crime". The Department's position paper, in my opinion, does not advance any parole supervision practices or techniques that the Parole Board is not currently using every day. The Parole Board has numerous in-patient and out-patient drug treatment and mental health initiatives. It utilizes cognitive training, education, and employment practices. These Parole Board programs are proven effective and nationally recognized.

The Parole Board supervision staff includes over one thousand (1000) highly trained and skilled field/institutional agents. They are proud of their service and committed to making Pennsylvania safe. The Parole Board and its field agents want the offenders to succeed on parole, return to their families, and become productive members of their communities. We are moving forward to add additional field agents to meet our expanding caseloads. Our supervision practices are always evolving and are focused on success. In point of fact, the Department of Corrections recently issued a public statement that the recidivism rate

for offenders on parole is at an all-time low. The lowering of the recidivism rate is in no small measure directly attributable to the sound supervision practices of the Parole Board and its fine agents. The high absconder rates at the Halfway Houses run by the Department of Corrections is problematic and must be addressed by the Department of Corrections.

In making its decision whether or not to parole an individual, the Board uses sound evidence based factors in conjunction with the direct interview of the offender. The Board also reviews the opinions of the Presiding Judge and the District Attorney's Office. The Board also conducts face to face interviews with crime victims. The Board then makes its parole decision based upon all available information. In the end, the decision whether or not to parole an offender is solely a public safety decision which is not based upon saving money or reducing the prison population. The Department of Corrections' position paper talks extensively about saving money by combining the two (2) Agencies. However, the Department's cost savings are speculative. To my knowledge, there has never been a definitive study to support any cost savings at all. Further, I believe the original decision to combine the Parole Board with the Department of Corrections was unilaterally made without any discussion with members of the Board or cost saving analysis.

The Department of Corrections' merger proposition is largely about saving money. However, the public safety of the citizens of the Commonwealth cannot be compromised under the veil of reducing the prison population and saving money.

I have spoken to numerous members of the Parole Board, the administrative staff, and the field agents regarding this proposed merger. The vast majority of these fine men and women oppose this merger. They believe that the merger is not in the best interest of safety for the citizens of the Commonwealth.

In conclusion, I would like to thank this Committee for the opportunity to provide my testimony on Senate Bill 859. Finally, I would like to address this committee solely as a citizen of the Commonwealth and not as a member of the PA Parole Board. I know that life is filled with difficult decisions and changes, both good and sometimes bad. The proposal to change our criminal justice system and essentially silence the parole board cannot be a business financial decision. It must be a public safety decision. That is why I believe that the public safety of this Commonwealth demands that you should vote no to Senate Bill 859.

Thank you.

The Importance of an Independent Parole Board

The Prisons and Parole Code, Title 61 Pa.C.S., states "the board and any other paroling entity shall first and foremost seek to protect the safety of the public."¹

Independence from executive branch oversight enables the Board decide whether or not to parole an individual based on that person's assessed risk to the community and not based on prison overcrowding or other budgetary concerns.

The Board's oversight of supervision allows the decision makers to have confidence that parole violation decisions are made based on public safety and not an arbitrary limit on how many offenders may be returned to prison in any given month.

According to Peggy Burke, Principal of the Center for Effective Public Policy, the current structure of parole is an outstanding model:

"It is my judgment, after working with, studying, and evaluating parole practices in virtually every state since 1981, that the decision of the Commonwealth of Pennsylvania to place parole decision-making authority and parole supervision authority within a single, independent agency is wise, practical and effective. It has enabled the PBPP to identify and implement evidence-based practices that assure fairness in the parole process, protect public safety, and utilize public resources wisely. By heading its own agency, the PBPP has independence in decision-making, without regard to the population pressures and management issues inherent in managing correctional institutions. The Board's discretion has been exercised with great prudence over the years, through the development of clear, evidence-based guidelines regarding release as well as responses to violations of parole supervision conditions. Carrying responsibility for supervision allows the Board to strategically set conditions of release, and to develop a strong evidence based set of policies that respond in problem-solving ways to violations by parolees who can continue to be managed safely in the community. Not only does this autonomy and breadth of responsibility ensure the Board's independence, it also allows the Board to support successful transition to the community. In addition, because of the agency's broad mission, it has access to sound performance measurement and research capabilities which have enabled it to develop and hone its decision-making guidelines and supervision practices."

Ms. Burke has served as a consultant to the Board on many issues over the past 20 years.

The independence of the PBPP was created by design to offer checks and balances to a system that has a mission to protect public safety. Just as the three branches of government provide checks and balances to one another, the separation of the DOC and PBPP also provides necessary checks and balances to avoid abuses and to ensure that decisions to parole or revoke are made with the best interest of public safety in mind and not prison overcrowding.

¹ 61 Pa.C.S. §6102.

GOVERNMENT THAT WORKS

Board Accomplishments

- The Board's **three-year year recidivism rate has dropped** from 52 percent for releases in FY 2004/05 to 44 percent for releases in FY 2010/11. The current one-year recidivism rate is 20 percent, a decrease from 22 percent five years ago.
- **Technical parole violators returned to prison has decreased** by 40% since 2006 as a percentage of the parole population, from 1.47% to 0.87% of the population.
- From 2011 to 2014 the **parole population has increased by more than 5,000 offenders** as a result of Justice Reinvestment, while the state inmate population has decreased by 882 offenders.
- The **proportion of parole interviews held has increased** (9.5 percent increase over two years) by prioritizing for placement on the interview schedule inmates who had all programming completed, a positive Department of Corrections (DOC) recommendation and appropriate institutional adjustment.
- The **approval process for home plans has been expedited** for inmates granted parole but not released (from a six-month average of 2,669 offenders awaiting release to an average of 1,392).
- The number of days from the inmate's **minimum sentence date to release from prison is reduced** (from 34 days to 11 days) - a 67.4 percent reduction resulting in cost avoidance of approximately \$12.4 million. The median number of days for offenders with no obstacles to release is zero – they get released at their minimum date.
- As a result of our agency improvements, the Board has **helped the DOC to realize a decrease of 882 inmates** over the past three years.
- The number of offenders who **successfully completed parole was 6,788** in 2014.
- The percentage of **absconders** (parolees who stop reporting to their agent) **has declined** from 6.2 percent in FY 2004/05 to 3.4 percent in FY 2013/14.
- **Use of a risk-based Parole Decisional Instrument** to guide decision making that is validated on the Pennsylvania population and is a model for other states to emulate.
- To fill a gap in community services, parole agents have received professional training, endorsed by the American Probation and Parole Association, in delivering cognitive behavioral interventions specifically designed to address criminal thinking. A recent evaluation showed that **high-risk offenders receiving this intervention recidivated by 23 percent less** than a comparison group.
- Shorter sanction periods as required by the Justice Reinvestment legislation caused an **estimated 1,006 fewer technical parole violators (TPV) to occupy state prison beds** (December 2013-September 2014).
- Employed reentry parole agent positions in the Transitional Housing Units to **deliver one-on-one cognitive behavioral interventions**.
- **Developed an evidence-based Violation Sanctioning Grid** in concert with national parole experts to provide swift and certain sanctions to offenders who violate technical conditions of parole.