Testimony of Leslie M. Grey, Esquire
Board Member
Pennsylvania Board of Probation and Parole

My name is Leslie Grey and I am a Board Member of the Pennsylvania Board of Probation and Parole ("Parole Board").

Thank you for the opportunity to provide testimony to the Committee and to – again – voice my concerns and objections to Senate Bill 522 (previously Senate Bill 859), which would transform the Parole Board into an Administrative Board under the purview of the Pennsylvania Department of Corrections ("DOC").

I am an attorney licensed to practice in the Commonwealth for just over thirty-one (31) years. Prior to my current service as a Parole Board Member, I served in law enforcement for nearly

fifteen (15) years with the Pennsylvania Office of Attorney General and another sixteen (16) years in private practice.

I have been proud to serve the Commonwealth and its people as a Parole Board Member, and have been even more proud of the agency in which I serve and of the good people with whom I serve. The fact is, that the Parole Board is widely recognized as a national model of good practices among parole boards. That recognition grows from the Parole Board's ongoing, and ever-evolving, use of evidence-based practices in decision-making and the supervision of parolees.

When the prior merger bill [Senate Bill 859] was under consideration, I testified that, in my opinion, there was no rationale for the merger – more accurately, the takeover – of the Parole Board by the DOC. My opinion has not changed.

First, the Parole Board and the DOC simply do not share identical or duplicative missions.

The DOC pursues the work of care, custody and management of offenders.

The Parole Board determines when (within the parameters of court-imposed sentences), and under what conditions an offender may be returned to the community under supervision as a parolee.

In Pennsylvania, the Parole Board now oversees the practices and methods of its Agents, who supervise the parolees so that Board-set conditions are met in order to ensure public safety while assisting the parolees in beginning a successful next chapter in their lives.

At this point, I'd like to address some common misconceptions about parole and supervision by Parole Board Agents in the community.

First common misconception is that the Parole Board is quick to re-incarcerate parole violators on flimsy, technical reasons for infractions that are not crimes except when committed by parolees (such as curfew violations, and the like). I have also heard the belief expressed that the Parole Board is ready and willing to return a parolee to incarceration due to alcoholism, addiction, mental health issues, or possession of small amounts of controlled substances ["lock up a parolee for having a (marijuana) joint in his pocket ..."], but that is flat-out incorrect.

The fact is that the Parole Board applies a Violation Sanction Grid to methodically determine the appropriate and proportional sanction for the

technical parole violation or "TPV" (meaning violation of parole condition) at hand. These determinations are always made so as to provide the parolee with guidance, outpatient or inpatient treatment, and instructive supervision, thus allowing motivated parolees to remain in the community. Agents routinely refer to alcohol/drug treatment and recovery programs, to mental health support services, to job training programs, and many other community services, while specialized ASCRA (Community Resource Agents) staff provide cognitive-behavioral programming through an evidence-based curriculum in order to allow parolees to remain in the community, without compromising public safety.

Since Act 122 of 2012 ("JRI-1" or "Act 122"), the Board has revamped its approach to determining when technical parole violators should be incarcerated in order to protect public safety. Act

122 sets forth what type of TPV violations merit incarceration at a state prison or a contracted county jail. Those TPV or technical violations, known within the Parole Board as the "Fab Five" are where:

1. The violation was sexual in nature.
2. The violation involved assaultive behavior.
3. The violation involved possession or control of a weapon.
4. The parolee absconded, and the parolee cannot be safely diverted to a community corrections center or community corrections facility.
5. There exists an identifiable threat to public safety, and the parolee cannot be safely diverted to a community corrections center or community corrections facility.

Under Act 122, a parolee may be recommitted for any of these violations for up to six months for the first recommitment, up to nine months for the second recommitment, and up to one year for the third and subsequent recommitments.

The parolee is automatically re-paroled at the end of the commitment period, unless during the commitment the parolee: (a) committed a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substances; (b) spent more than 90 days in segregated housing due to one or more disciplinary infractions; or (c) refused programming (treatment to address criminal need) or a work assignment.

Criminal parole violators or "CPVs" (meaning those who have been arrested and convicted of a new crime while on parole) are incarcerated in state prisons or county jails, with violation sanctions determined through a hearing process under the purview of the Parole Board. Of course, the courts impose sentence for the new conviction.

The second common misconception surrounds the often-heard and often-misunderstood term "non-

violent drug offender." This term can, and often does, create a mental image of a sick and often hapless addict who has been incarcerated, locked up based on his or her status as an addict. There are such unfortunate sick addicts, but those addicts are not generally incarcerated in state prisons as a "non-violent drug offender" due to felony drug convictions (but may have engaged in small-volume sales in support of their addictions).

In fact, the unfortunate sick addict is significantly more likely to be in state prison for burglary, repeated retail thefts, credit card/access device fraud, robbery, fraudulent business practices, falsifying prescriptions, breaking into vacant buildings for copper pipes and fixtures ("scrapping"), and other thefts and scams aimed at getting drugs or getting money to purchase drugs.

The corrections/criminal justice meaning for the term "non-violent drug offender" more accurately applies to that offender who is engaged in felony-level drug sales (including sales of heroin, cocaine, etc.). Such "non-violent drug offenders" frequently carry illegal firearms for "protection", but have not (yet) been convicted for shooting anyone or for some other violent assault on anyone related to drug sales activity. In fact, a "non-violent drug offender" may be the "entrepreneur" running the drug sales organizations that bring violence to neighborhoods, demoralize and intimidate law-abiding residents, and destroy communities while selling a "product" that kills those who become addicted.

Surely, this Committee is well aware of the opioid and heroin epidemic in Pennsylvania, and the death and loss and sorrow associated with that epidemic.

Since the time when Senate Bill 859 – the prior merger bill (some would call it a takeover bill) - was considered, the Board has continued to perform its day-to-day work of interviewing, making decisions, field supervision, managing the interview docket, and performing the necessary fact research and report preparation necessary for valid interviews and good decision-making to occur with the following results:

- The prison population continues to be reduced, resulting in the recent closing of one prison. Projected savings of $80 million.
- The Board is now completely electronic which translates to a savings of almost $1 million.
- Public safety is being maintained and recidivism is at an all-time low.

The DOC has absorbed the Parole Board's Research and Statistics department, with some staff being eliminated and the remaining staff being transferred to work under the purview and supervision of the DOC Research and Statistics operations.

The transfer of the statistics and research operations formerly performed by Board staff to the DOC was completed administratively by the Chairman over the concerns and objections from the Board at large, many of whom strongly felt that the Board ought to retain its independent ability to track its performance, analyze the results, and adjust its practices in response to those results in a nimble, quick manner.

Since the introduction of Senate Bill 522, I have found the process to be lacking in the openness. As a Board Member, I was provided

with minimal information regarding the drafting and did not participate in negotiations or discussions of possible statutory terms under consideration for Senate Bill 522. I am not aware of any of my Board colleagues, aside from the Chairman, who were afforded that opportunity. I was not informed of this hearing through the Board's Legislative Relations staff until last Tuesday, May 16, 2017.

There have been visits from administration officials at two separate public Board meetings to set forth hoped-for benefits of the proposed merger (the most recent visit was by Marcus Brown, Liaison on Public Safety, at the last week's public Board meeting), but no clear supporting evidence, studies or information in support of those conclusions was ever offered.

What we do know is that Act 122 of 2012, which made significant change to parole supervision and the management of TPVs was put into effect in 2012. Act 122 contemplated a five-year review of results, and 2017 is Year 5.

We also know that, the Parole Board, and its entire staff, has worked hard to conform its evidence-based practices and methods to comply with the goals and philosophy contained in Act 122 and has attained very impressive results. Prison population is down; recidivism is down; substantial money has/will be saved.

To this date, neither the Board Chairman, nor anyone else, has offered a rationale backed up by clear evidence, research and information that supports the merger/takeover as set forth in Senate Bill 522.

For all of these reasons, I believe that public safety, and the taxpayer's financial interests, are not served by the merger/takeover proposed in Senate Bill 522 and I urge you to reject Senate Bill 522.

When Making Paroling Decisions, The Parole Board Considers:

1. The nature and circumstances of the offense.

2. Recommendations of the trial judge and prosecuting attorney, as well as notes of testimony of sentencing hearing.

3. The general background and character of the inmate.

4. The conduct of the inmate in prison, the inmate's mental and behavioral history, the inmate's history of family violence, and the inmates complete criminal record.

5. The written or personal testimony of the victim or the victim's family.

Prisons and Parole Code, Title 61, Subchapter C

The "Fab Five"

Technical Parole Violations Resulting In Commitment to State Correctional Institution Or Contracted County Jail

1. The violation was sexual in nature.

2. The violation involved assaultive behavior.

3. The violation involved possession or control of a weapon.

4. The parolee absconded, and the parolee cannot be safely diverted to a community corrections center or community corrections facility.

5. There exists an identifiable threat to public safety, and the parolee cannot be safely diverted to a community corrections center or community corrections facility.

See http://www.pbpp.pa.gov/Understanding%20Parole/PDM/Pages/Violations.aspx