



**TESTIMONY SUBMITTED BY  
ANDY HOOVER, LEGISLATIVE DIRECTOR  
AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA  
TO  
SENATE JUDICIARY COMMITTEE  
RE: PRISON OVERCROWDING  
STATE CAPITOL, HARRISBURG  
NOVEMBER 16, 2009**

Eastern Region Office  
PO Box 40008  
Philadelphia, PA 19106  
215.592.1513 T  
215.592.1343 F

Central Region Office  
PO Box 11761  
Harrisburg, PA 17108  
717.238.2258 T  
717.236.6895 F

Western Region Office  
313 Atwood Street  
Pittsburgh, PA 15213  
412.681.7736 T  
412.681.8707 F

Chairman Greenleaf and members of the committee, thank you for the opportunity to participate in today's hearing on Pennsylvania's overcrowded prison system. My name is Andy Hoover. I am the legislative director of the American Civil Liberties Union of Pennsylvania and am here today on behalf of the 16,000 members of the ACLU of PA. Founded in 1920, the ACLU is one of the nation's oldest civil rights organizations and currently boasts half a million members nationwide. ACLU activity in Pennsylvania dates to the 1930s.

The consequences of overcrowded prisons are well-known. Conditions can deteriorate and staff and inmate tensions can build. There is also the problem of simply not having the space necessary to house the number of people currently incarcerated. You are aware that the commonwealth is currently exploring the idea of moving some inmates to other states.

A case recently litigated by the ACLU of PA illustrates the consequences of overcrowded prisons. Inmates at SCI-Coal Township were moved to a dorm area at the front of the prison. In this area, the inmates did not have regular access to bathroom facilities. The doors that led to the bathrooms were regularly locked during the day and always locked at night. As a result, inmates dealt with high levels of discomfort, relieved themselves in coffee

bags and trash cans, and involuntarily urinated and defecated. At times, the waste was left in the housing area for long periods of time.

To his credit, Secretary Beard and his staff worked with the ACLU of PA and the Pennsylvania Prison Society to correct this situation. It turned out that the issue was not a policy problem. The prison's policy required the doors leading to the bathroom facilities to be unlocked during the day. This problem occurred due to prison staff keeping the doors locked in violation of the policy. In addition, bathrooms have recently been built in the housing area where inmates can have easier access to them.

Nevertheless, the prison at Coal Township found itself in this situation because it could not handle the number of inmates housed there.

The need for the commonwealth to find new ways to deal with criminal justice issues is apparent and immediate. Although the exact number is challenging to nail down, a recent op-ed by William DiMascio of the PA Prison Society stated that as much as half of the state prison population is made up of non-violent offenders and parole violators who didn't commit a crime but violated a provision of their parole. Last spring the ACLU of PA hosted its state membership conference, and the keynote speaker was retired Michigan Detective Howard Woolridge of Law Enforcement Against Prohibition. Detective Woolridge stated that nationwide approximately 80 percent of property crimes are the result of drug use.

Where is the breaking point for the commonwealth? Pennsylvania's current strategy for dealing with criminal justice can be best summarized as "build and spend": Build more prisons and spend a lot of money doing it. Pennsylvania taxpayers will spend nearly \$1 billion over the next three years to build four new state prisons, and those prisons will be filled to capacity within a few short years. Last year the legislature agreed to move some county inmates to state prisons because the county jails are overcrowded, and now the commonwealth is talking about moving some state inmates to prisons in other states because our state prisons are overcrowded.

Other states can consider taking Pennsylvania's prisoners because they have taken steps to reduce their prison populations. The ACLU has been involved in some of these efforts. In Michigan, an ACLU lawsuit over medical care led the state to increase its grants of parole, reduce its parole revocations, and increase its releases based on medical conditions. In less than two years, the state decreased its prison population by six percent. Before it took these steps, Michigan added on average 160 new prisoners per month. Of course, this is nearly a polar opposite of Pennsylvania, where a parole moratorium that lasted for several months last year and stricter use of parole since then has clogged up the system.

The ACLU's National Prison Project has also been involved in longstanding litigation with Broward County, Florida, which hosts one of the largest jails in the country. The county doubled its staff of probation and parole officers and instituted a mental health treatment program to reduce the stay of mentally ill inmates.

What can be done here in Pennsylvania? The legislature has taken baby steps toward addressing its increasing prison population. Last year the Recidivism Risk Reduction Initiative program passed. A 2004 law ensures that drug offenders get treatment while incarcerated. But these small steps have not stemmed the tide.

In 2005, the state of Washington faced a similar problem, so the state legislature convened a study by the Washington State Public Policy Institute that would examine evidence-based public policy options for reducing the prison population and crime rates.<sup>1</sup> The study found that numerous programs successfully reduced crime, reduced victimization, and reduced taxpayer spending, including:

- Treatment-oriented programs
- Community-based drug treatment
- Washington's Dangerously Mentally Ill Offender program
- General education and vocational education in prison

---

<sup>1</sup> Washington State Institute for Public Policy. *Evidence Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*. October, 2006. Available at <http://www.wsipp.wa.gov/pub.asp?docid=06-10-1201>.

- Drug courts
- Community-based job training

The Washington study also found several successful juvenile crime prevention programs, including counseling and psychotherapy for juvenile offenders, family therapy, aggression replacement training, and restorative justice programs. These programs keep young people from becoming a part of the cycle of incarceration as adults. Here in Pennsylvania, a 2008 study from Penn State found similar positive results for prevention and intervention programs for juveniles.<sup>2</sup>

Regardless of what the actual percentage is, we know that a significant portion of the state prison population includes non-violent offenders, many of whom are drug users, and persons who have violated parole but not committed an actual crime. This naturally leads to multiple reform options that could ease the over-populated prison system.

First, the commonwealth should increase its use of community-based treatment programs for first-time and low-level drug offenders, in lieu of incarceration. We know that drug use often leads to more crime, including robbery, burglary, and, at times, violent crime. A commitment to treatment is a wise investment that can decrease the taxpayers' bill for corrections in the long term. Addressing the incarceration of drug users will also require reform of Pennsylvania's mandatory minimum sentencing laws.

Second, the conversation around parole must continue, but rather than looking for ways to make parole stricter, as the governor and some legislators have suggested, reforming parole to ensure that the system is used to relieve the state prison population must be part of the discussion. Some inmates are dangerous, and the concern about keeping the public safe is understandable. Policy makers make a mistake, however, when non-violent offenders and those who are not a danger to the community are swept up in the fervor to create a tougher parole system.

---

<sup>2</sup> Jones, D et al. (2008) *The Economic Return on PCCD's Investment in Research-based Programs*. March, 2008. Available at [http://www.prevention.psu.edu/pubs/docs/PCCD\\_Report2.pdf](http://www.prevention.psu.edu/pubs/docs/PCCD_Report2.pdf).

The commonwealth must find alternatives for dealing with parole violators who do not commit a new crime. Re-incarceration is not the answer for missing an appointment. Increased reporting, curfews, and other alternatives exist for dealing with persons who violate parole.

Pennsylvania is engulfed in a perfect storm for finally addressing and reforming its approach to criminal justice. The commonwealth is on the hook to build four new state prisons in the midst of a financial crisis. Policy makers have information in hand showing that prevention, intervention, and treatment programs work to reduce incarceration and crime rates and stiff sentencing does not. The time has come to act.

Chairman Greenleaf, thank you for the opportunity to participate in today's hearing.