

Testimony of Michael C. Potteiger, Chairman

Pennsylvania Board of Probation and Parole

Senate State Government Committee

October 21, 2013

Good afternoon Chairman Smucker, Chairman Smith and members of the Senate State Government Committee. Thank you for the opportunity to submit testimony regarding the Right to Know Law (RTKL), specifically regarding inmates' ability to access records.

The primary issue of concern to the Board of Probation and Parole (PBPP) is use of the RTKL process by inmates who have available to them other avenues, outside of the RTKL process, to obtain the same information. By using the RTKL process rather than the previously established processes, the PBPP is simply forced to process the requests within the five day RTKL period. Often this means duplicative work of sending an interim request followed by the document copy after the original document has been retrieved from storage.

The PBPP has a *Release of Information Policy* (Procedure 1.04.01) which applies to requests by the general public, including inmates, and is based on two premises: First, if the request is for a public record, the information should be released regardless of whether or not it was submitted as a RTKL request. Second, all records that would be produced pursuant to the RTKL process should be made available through the PBPP's existing Release of Information procedure.

Mechanisms to seek records outside of the RTKL process are already available to inmates, and vary depending on the nature of the inmate request.

The Department of Corrections maintains a "Request Slip" form by which the Department and Board staff located in the prison use to respond to routine requests from inmates. The questions, which sometimes seek written records, are usually procedural in nature (e.g., when will my home plan be approved; when will I be reviewed by the PBPP; when will I receive a PBPP decision concerning parole, etc.). The offenders' requests are timely answered (within a few days). This routine and efficient exchange of information system has worked very well over the years and would continue to provide to inmates the same information if they were removed from access to the RTKL.

The PBPP has an "Inmate Inquiry Unit" that responds to inquiries about parole decisions and the PBPP's policies, procedures, and practices. This unit receives letters, emails, and telephone communications from inmates, attorneys, family members, friends and the general public. The unit provides copies of parole decisions and other records that would be deemed to be "public" under the RTKL. On average over the last five years, the unit has provided information in

response to approximately 10,000 telephone calls and responded to approximately 7,000 letters. Therefore, inmates would continue to receive the same information if they were removed from access to the RTKL.

Furthermore, the PBPP's Communications Office prepares all forms of communication (publications, reports and website material), and responds to all "Right to Know Law" requests. A vast amount of information currently provided by the Communications Office through the RTKL mechanism concerns information about the PBPP which is included on its public website, such as statistics, publications, organization, the Prisons and Parole Code, and informational brochures. Therefore, inmates would receive the same information if they were removed from the RTKL.

The PBPP's Policy and Legislative Affairs Office receives and responds to correspondence from inmates and inmate family members which is routed through state and local legislators and other public officials. The correspondence is reviewed and a timely response, along with relevant and appropriate documentation, is provided to the requestor. As stated above, "public records" are provided according to PBPP policy, generally within ten business days.

Thus, having the ability to request information through the RTKL process does not provide inmates with a greater ability to obtain information from the PBPP.

Since the passage of the RTKL, the requests to the PBPP have increased from approximately 230 per year to over 700 in 2013. These requests are predominantly from inmates incarcerated in a prison and primarily request information from the Board that would be available by the other means described. The result of permitting inmates to submit RTKL requests for information that they can readily obtain by other means imposes a significant burden on agency staff.

We respectfully request consideration of a solution which would exclude these frequently-submitted inquiries, for which a separate response mechanism exists, from the RTKL process. A carefully revised RTKL would ensure continued transparency and access without the undue burden of maintaining parallel systems.

Thank you for your time and consideration of our concerns.

Respectfully submitted,

Michael C. Potteiger
Chairman