

PAUL C. BOSSE

Director



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PROBATION DEPARTMENT
Warren County Municipal Center
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November 17, 1964

The Honorable Richard Bartlett
Chairman of the Temporary State
Commission on Revision Of The
Penal Law and Criminal Code
10 Harlem St.
Glens Falls, New York

Dear Mr. Bartlett:

I would like to make a brief comment on Sections 25.05
and 25.10 of the proposed new penal law.

While I can conceive of a situation in which conditional
discharge might be useful, I feel that it is a mistake to pro-
vide for a whole series of conditions. In a sentence of pro-
bation it is difficult enough for a probation officer who is
supervising a case to determine if conditions are being vio-
lated. How will a judge possibly be in a position to know if
violations are taking place? This can create a situation, as
in probation, where a term or terms are imposed which are un-
realistic or unenforceable. If an individual can violate terms
with little likelihood of detection, it would seem that his
respect for the whole structure would tend to disintegrate.

I would also like to anticipate a problem in the revision
of the Code. I think it is generally agreed that the current
section, 935, regarding probation violation is far too vague.
I will not belabor the obvious, but I certainly hope that the
procedure in the new code will be carefully spelled out. In the
current code there is at least some procedure set forth for pro-
bation violation. However, as far as I know there is nothing
whatsoever regarding procedure when a condition of a suspended
sentence or a suspended execution of sentence is violated. If
Conditional Discharge does remain in the picture I would like
to think that the same procedure would be applicable for both
probation violation and Conditional Discharge Violation.

Sincerely,

Paul C. Bosse
Director of Probation

PCB:ph
c/ Hon. William T. Smith