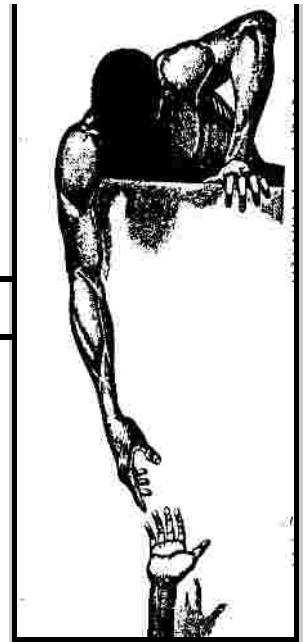


CURE-NY *Newsletter*

To Reduce Crime and Uplift Society

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“He Ain’t Heavy”
by Gilbert Young

The Governor Speaks Out on Drug Laws

In his State of the State address on Wednesday, January 7, Governor David Paterson issued a promising statement concerning his plans for the Rockefeller Drug Laws—New York’s harsh and ineffective mandatory drug sentencing statutes:

“Just as we invest in the programs that *are* working, we must also address the strategies that are *not* working. Few public safety initiatives have failed as badly and for as long as the Rockefeller Drug Laws. These laws did not work when I was elected Senator in 1985, and they do not work today.

“We enacted modest reforms to the Rockefeller Drug Laws in 2004. Yet these reforms still did not go far enough to expand the availability of drug treatment programs, allow judges to order low-level offenders into mandatory treatment, and assure that prisons are used for the most serious drug offenders.

“At the end of this month, the New York State Commission on Sentencing Reform will deliver its report. I look forward to reviewing the Commission’s recommendations in partnership with the members of the Legislature. **Together, we should move forward to reform the Rockefeller Drug Laws—and institute a smart, safe and effective approach that keeps drugs off our streets.**”

CURE-NY and dozens of other organizations have worked and waited for decades for a Governor’s leadership on this crucial issue. It must now be obvious to all, at this late date, that the hundreds of millions of dollars we waste each year on a failed, racially-unjust system of drug laws cannot be afforded and must be changed..

Continued Search for Fair and Just Policies

As we continue to struggle with establishing a fair and just criminal justice system, there are two recent major reports that focus on helping those in power “get it right”. What follows is a brief description of each.

Sentencing Commission Calls for Drug Law Reform

Panel also recommends determinate sentencing, graduated sanctions for parole violators

A bi-partisan panel that spent nearly two years studying New York State’s sentencing statutes today called for further reforms to the state’s drug laws and provided the Governor, Legislature and Judiciary with several different options for historic reform.

The Commission on Sentencing Reform agreed on five major principles of drug law reform:

- Community-based drug treatment, especially when required in a criminal justice setting where the offender faces clearly defined sanctions for program failure, works and should be an available option in every region of the state.
- The state’s network of existing diversion programs and drug courts has been effective for thousands of drug-addicted offenders, and any new diversion model must be structured so as not to undermine these programs.
- New York should adopt a comprehensive plan to provide statewide access to substance abuse treatment programs.
- New York must continue to reserve costly prison resources for high-risk offenders and make greater use of alternatives to incarceration for non-violent offenders while not jeopardizing the state’s significant gains in public safety.

While New York has a large network of successful drug treatment courts and prosecutor-based diversion programs (such as DTAP – “Drug Treatment Alternative-to-Prison), these programs are not always made available to deserving offenders in need of treatment. The result is a “hit-or-miss” system that leaves many non-violent, drug-addicted offenders - and particularly persons of color - without access to this potentially life-changing alternative. To help close this gap, the Commission supports the adoption in statute of a uniform statewide drug diversion model.

The Commission considered several different alternatives for achieving those objectives and included five different options for reform.

Under one of the proposals, the “judicial diversion” model, judges would have discretion to divert certain addicted, non-violent first- and second-felony drug offenders into treatment programs rather than prison. The Commission noted that if this model had been in place in 2006, approximately 3,000 offenders – 89 percent of them African American or Hispanic – might have been diverted from prison and instead steered toward treatment.

Other options are: the Court Approved Drug Abuse Treatment (CADAT) model that is part of a comprehensive drug reform bill pending in both houses of the Legislature; judicial diversion, but only with the consent of the prosecutor; and two variations of a proposal that would allow first-time Class B drug felons to receive a probation or local jail sentence in lieu of a one-year state prison term.

Denise E. O’Donnell, chair of the Commission and Deputy Secretary for Public Safety, said all of the five proposals have benefits and drawbacks that the Legislature should take into account before implementing drug law reform.

“The Commission has heard from the prosecution, the defense, and the judiciary,” Deputy Secretary O’Donnell said. “We have solicited advice from advocates and renowned experts from around the nation. We held public hearings in New York City, Albany and Buffalo. We formed focus groups. We studied drug courts and drug diversion programs around the state and visited drug treatment facilities and New York State’s prisons in an effort to determine which approaches are most successful at ending the cycle of addiction and incarceration.

“I believe our report provides Governor Paterson and the Legislature with the balanced, objective and evidence-based information they need to make informed decisions about the future of New York’s drug laws,” Deputy Secretary O’Donnell added.

The 11-member Sentencing Commission, which was established by Executive Order in March 2007 to perform a comprehensive review of New York’s sentencing statutes, also recommended:

- Adopting a largely “determinate” sentencing system to promote greater uniformity, fairness and truth-in-sentencing. Currently, New York utilizes a hybrid of “determinate” sentences where the court imposes a fixed sentence, and “indeterminate” sentences where the court imposes a minimum and maximum term and the Parole Board decides when the offender is actually released. Under a determinate sentencing system, defendants, crime victims, judges and the public have a clear understanding of how long an offender will actually spend behind bars. The Commission reviewed more than two decades of sentences that had been imposed through the indeterminate system and used that data to construct a proposed range of sentences for particular offenses.

- A comprehensive system of graduated responses, which would allow parole officers throughout the state to respond quickly and proportionately to technical parole violations. Since incarceration is an expensive and, often, unnecessary response to parole violations, the Commission recommends expanded use of “graduated sanctions” – such as curfews, electronic monitoring, increased reporting – coupled with use of evidence-based risk assessments to identify parolees who pose the greatest risk to public safety.
- Expanding effective and cost-efficient “shock incarceration” and “merit time” initiatives that reduce recidivism and reserve costly prison space for the most dangerous offenders.
- Enhancing the rights of crime victims. The Commission recommends moving all of the various victim’s rights statutes into a single article of law, or cross-referencing to a single article, so that victims, judges and practitioners can readily ascertain the rights and benefits that may be available. Additionally, the Commission recommends enhancing victim’s rights training requirements for prosecutors and judges, as well as new laws to enhance the ability of victims to collect restitution.
- Establishing a permanent sentencing commission. Over the past 40 years, portions of New York’s sentencing statutes have been amended and altered countless times, resulting in an overly complex, Byzantine structure replete with the potential for injustice. The Commission recommends the establishment of a permanent body of experts to advise the Executive and Legislative branches on proposed legislation.

Jeremy Travis, president of the John Jay College of Criminal Justice, said the “Sentencing Commission has performed a valuable service, at a critical time in the state’s history.”

“By focusing squarely on the connection between public safety and sentencing policy, the Commission has provided a roadmap that will guide the state during difficult fiscal times,” President Travis said. “The Commission’s recommendations, if followed, will bring clarity to our patchwork quilt of accumulated sentencing reforms, improve reentry outcomes, and support more rational uses of our prisons and our parole system.”

Deputy Secretary O’Donnell said the report is “the product of an extraordinary effort by an extraordinary group of professionals.”

“This comprehensive report reflects the wide diversity of experience represented on the Commission, and the seriousness with which every member approached this very difficult and time-consuming mission,” Deputy Secretary O’Donnell said. “Although we come from different areas, different professions and different backgrounds, our overarching goals were identical – justice, fairness and public safety. I believe that, with this report, we have met that goal.”

Also on the Commission were: Anthony Bergamo, Chairman,

Federal Law Enforcement Foundation, Inc.; Brian Fischer, Commissioner, New York State Department of Correctional Services; Michael C. Green, Monroe County District Attorney; Joseph R. Lentol, member of the New York State Assembly; Michael P. McDermott, O'Connell and Aronowitz in Albany; Judge Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives; Felix Rosa; Executive Director, New York State Division of Parole; Eric T. Schneiderman, member of the New York State Senate; Tina Marie Stanford, Chair, New York State Crime Victims Board; and Cyrus R. Vance, Jr., of Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer in Manhattan.

Coalition Releases Criminal Justice Policy Roadmap

A coalition of more than 20 organizations and individuals announced the publication of a catalogue of key criminal justice issues and policy recommendations for the Administration and Congress. The catalogue includes recommendations from a coalition of groups devoted to improving our criminal justice system. It identifies 43 criminal justice priorities in 15 issue areas, makes recommendations for congressional and executive action, and provides in-depth background information and a list of resources and experts. The catalogue is available online at www.2009transition.org/criminaljustice.

Merit Time and Work Release

A continuing focus of CURE-NY is the expansion of work release and merit time eligibility to include more incarcerated men and women. We know the immediate cost savings of allowing hundreds more men and women eligibility in these programs would save millions of dollars for taxpayers. In such dire economic times it is fiscally irresponsible to not explore ways of reducing costs that do not threaten public safety.

The Merit Time Bill (S49/A172) affords inmates with the ability to earn a reduction of their sentence after completing significant programming and maintaining a positive disciplinary record. Current law only allows inmates with certain nonviolent convictions to earn merit time. However, the availability of merit time allowance motivates inmates to complete necessary programming and maintain a good disciplinary record. The program has been shown to reduce prison violence and studies show that inmates granted merit time and released early have lower recidivism rates. Therefore, this bill expands the availability of the merit time program to all inmates.

Cut It In Half?

Excerpts from the Norval Morris Project

The last complete count of correctional populations reported that over 7.2 million persons across the United States were under supervised parole or probation or were incarcerated in prisons or jails. Most were on probation (4.2 million), while

almost 800,000 were under parole supervision. Over 760,000 were in jail on an average day, and close to 1.5 million were in prison. These numbers are expected to continue growing.

Estimates of the national cost of corrections routinely exceed \$50 billion a year at a time when governments at all levels are under tremendous financial strain.

At the same time, reported crime rates have continued to decline almost uninterrupted for the last thirteen years. In September 2008, the FBI released Uniform Crime Reports data showed that the violent crime rate in the United States had fallen to 466.9 crimes per 100,000 in the U.S. population—the lowest rate since 1974. Property crime rates have retreated to the level of the late 1960s.

The clear implication is that correctional strategies designed to combat rising crime rates have become disconnected from their original purpose. We are faced with a “corrections bubble” created by continued growth generated by the criminal justice system itself.

Cutting the correctional population in half, would return it to where it was in 1988. The year marked the end of an eight-year period of rapid growth during which the correctional population doubled from 1.8 million in 1980 to 3.6 million. It also marked the first time the correctional population had reached such levels.

If it is possible for the correctional population to double in 8 years, in theory it ought to be feasible also for it to shrink by half in 8 years.

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Please check type of membership and Annual Dues.

Incarcerated person	\$ 2.00	Sustaining	\$ 50.00
Basic	\$ 10.00	Life	\$ 100.00
Family	\$ 20.00	Benefactor	\$ 500.00

Parole "House" in Turmoil

It seemed like the relationship between the NYS Division of Parole and those advocating for fairness and justice in the parole hearings and parole supervision of the incarcerated and formerly incarcerated was improving by leaps and bound with every passing day since Pataki left office. We were all enjoying the access we were afforded to the Chairman of Parole, George Alexander, and the seemingly endless energy he and his staff had when it came to meeting with community groups, families of the incarcerated and even the incarcerated themselves in an effort to promote a greater understanding of the re-entry challenges facing all of us and what the state is doing to try and meet those challenges. At the conclusion of our unprecedented meeting with the full parole board we looked at one another and knew that it was "our time".

And as suddenly as it came, it seems to be falling down around us. Chairman Alexander was asked to resign due to charges that he had "stolen" a \$1,500 laptop from his previous job in Erie County. Whether he did or did not "steal" that laptop, we at CURE-NY are appreciative of the respect paid us and our issues; the legitimacy given them by Chairman Alexander. Thank-you Chairman.

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