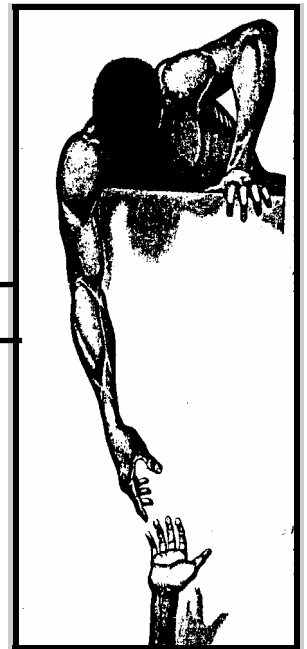


# CURE-NY Newsletter

To Reduce Crime and Uplift Society

Summer 2005

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Box 102, Katonah, NY 10536, cureny@bestweb.net, www.bestweb.net/~cureny



“He Ain’t Heavy”  
by Gilbert Young

## Community ReEntry Program

*In the Spring issue, we outlined the landmark, comprehensive Re-Entry Policy Council Report, produced by the Council of State Governments. Here, we present excerpts from a memo by Eddie Ellis about a planned NYS Bill to pull together similar strands of a comprehensive ReEntry system for NYS. It’s unique in that major sections of that plan were guided by professionals who were formerly incarcerated. Working with NYS Senators David Patterson and Velmanette Montgomery and their staffs, Eddie Ellis and his NuLeadership Group at Medgar Evers College are helping to hammer out a historic, effective NYS ReEntry system, linking correctional facilities with broad state resources and community groups. Below are some of the key elements in their effort. (see also page 3)*

**DOCS’ Duties.** The department shall identify, develop and utilize standardized and validated risk and needs assessment instruments for the purpose of incarcerated individual classification and programming. Such assessment shall be used in the creation of the individualized incarcerated individual assessment and reentry plan which would: (a) specify and prioritize incarcerated individual needs; (b) match determined needs to institutional programming; and (c) set forth goals for each incarcerated individual including, but not limited to: educational goals, vocational training, substance abuse treatment, anger management, sexual addiction therapy, and parenting classes.

**DOCS’ Programs.** The department shall create an in-facility working group in order to provide incarcerated individuals with proper reentry services. The department shall work in concert with other state agencies who shall have a presence in the correctional facilities for the purpose of providing the department with the proper resources, tools and personnel. These agencies shall assist in providing incarcerated individuals with comprehensive reentry programming. Such state agencies shall include, but not be limited to: the department of labor; the office of alcoholism and substance abuse; the office of mental health; the department of health; the state education department; the office of children and family services; the office of temporary and disability assistance; the division of housing and community renewal; the division of parole; and the office of mental retardation and developmental disabilities.

Upon admission to a correctional facility, the department shall

conduct a comprehensive review of the incarcerated individual's specific needs in terms of reentry services.

Once the incarcerated individual's needs are properly assessed, goals shall be established which both the incarcerated individual and the department shall work together toward achieving in an effort to ease the incarcerated individual's transition back into society.

**Release Practice.** Upon the incarcerated individual's release from custody, the department shall provide the incarcerated individual and the incarcerated individual's post-release supervising entity with proper documentation enumerating the goals achieved while the incarcerated individual was in custody.

Prior to the release of an incarcerated individual, the commissioner shall notify that individual of any services available to the individual in the place where the individual intends to reside for any problems or needs that the individual may have, of which the commissioner is aware. The commissioner shall also assist the incarcerated individual in determining eligibility for and achieving Medicaid benefits and a state identification card upon the individual's release.

**County Programs.** Each county shall establish a community reentry program in accordance with guidelines promulgated by the department in order to provide the formerly incarcerated individual with the necessary resources to assist in a productive reentry process. Personnel from county agencies, including, but not limited to, county health department, county labor department, county mental health offices, county substance abuse treatment offices shall work together to staff the community reentry programs, as well as to be available to make referrals to outside approved community providers.

**Community ReEntry Program Board.** This Board shall oversee the development of the community re-entry programs within each county. [A “Community ReEntry Fund” of \$10 million would be established to provide each county with resources to comply with the Community ReEntry Act. The Board] shall distribute monies from the Community ReEntry Fund to every county community reentry program in a manner commensurate with the severity of the need discerned.

**Key NYS Legislators you will want to contact.** If you live near one of these offices, you're probably a constituent there.

**NYS Assembly\***  
**Corrections Committee**

**Aubry 526 LOB (Chair)**  
98-09 N.Blvd, Corona, NY 11368  
[aubryj@assembly.state.ny.us](mailto:aubryj@assembly.state.ny.us)

**Weisenberg 731 LOB**  
20 W.Park, Long Beach, NY 11561  
[weisenh@assembly.state.ny.us](mailto:weisenh@assembly.state.ny.us)

**Wright 749 LOB**  
163 W.125 St., NYC, 10027  
[wrightk@assembly.state.ny.us](mailto:wrightk@assembly.state.ny.us)

**Ortiz 542 LOB**  
404 55 St Brooklyn 11220  
[ortizf@assembly.state.ny.us](mailto:ortizf@assembly.state.ny.us)

**Scarborough 622 LOB**  
114-52A Merrick Blvd  
St. Albans, NY 11434  
[scarbow@assembly.state.ny.us](mailto:scarbow@assembly.state.ny.us)

**Colton 733 LOB**  
211 Kings Hwy, Brooklyn, NY 11223  
[coltonw@assembly.state.ny.us](mailto:coltonw@assembly.state.ny.us)

**Gordon 441 LOB**  
669 Vermont St, Brooklyn 11207  
[gordnd@assembly.state.ny.us](mailto:gordnd@assembly.state.ny.us)

**Peralta 528 LOB**  
82-11 37 Av, Ste 705,  
Jackson Heights, NY 11372  
[peraltj@assembly.state.ny.us](mailto:peraltj@assembly.state.ny.us)

**Benjamin 548 LOB**  
540 E.169 St, Bronx, NY 10456  
[benjami@assembly.state.ny.us](mailto:benjami@assembly.state.ny.us)

**Sayward 633 LOB**  
21 Bay St, Glens Falls, NY 12801  
[saywart@assembly.state.ny.us](mailto:saywart@assembly.state.ny.us)

**NYS Assembly Codes Committee**

**Lentol 632 LOB (Chair)**  
619 Lorimer St. Brooklyn, NY 11211  
[lentolj@assembly.state.ny.us](mailto:lentolj@assembly.state.ny.us)

**Robin Schimminger 847 LOB**  
3514 Delaware Av, Kenmore NY 14217  
[schimmr@assembly.state.ny.us](mailto:schimmr@assembly.state.ny.us)

**Helene Weinstein 831 LOB**  
3520 Nostrand Av, Brooklyn NY, 11229

**Clarence Norman 739 LOB**  
1218 Union St, Brooklyn NY 1125  
[cnorman@assembly.state.ny.us](mailto:cnorman@assembly.state.ny.us)

**James Brennan 641 LOB**  
416 7<sup>th</sup> Av, Brooklyn NY 11215  
[brennaj@assembly.state.ny.us](mailto:brennaj@assembly.state.ny.us)

**Keith Wright 749 LOB**

\* Assembly addresses are:  
xxx LOB, Albany, NY 12248

163 W 125<sup>th</sup> St, NY,NY 10027  
[wrightk@assembly.state.ny.us](mailto:wrightk@assembly.state.ny.us)

**Mark Weprin 626 LOB**  
56-21 Marathon Pwy, Little Neck NY 11362  
[weprinm@assembly.state.ny.us](mailto:weprinm@assembly.state.ny.us)

**J. Gary Pretlow 845 LOB**  
6 Gramatan Av Ste 407, Mt Vernon, 10550  
[pretloj@assembly.state.ny.us](mailto:pretloj@assembly.state.ny.us)

**Vivian Cook 331 LOB**  
142-15 Rockaway Blvd, Jamaica NY 11436  
[cookv@assembly.state.ny.us](mailto:cookv@assembly.state.ny.us)

**Steven Cymbrowitz 538 LOB**  
1800 Sheepshead Bay Rd, Brooklyn, NY 11235  
[cymbrows@assembly.state.ny.us](mailto:cymbrows@assembly.state.ny.us)

**Michele Titus 741 LOB**  
19-31 Mott Av, Far Rockaway, NY 11691  
[titusm@assembly.state.ny.us](mailto:titusm@assembly.state.ny.us)

**Daniel O'Donnell 819 LOB**  
245 W 104<sup>th</sup> St, NY, NY 10025  
[odonnell@assembly.state.ny.us](mailto:odonnell@assembly.state.ny.us)

**Charles Lavine 325 LOB**  
146A Manetto Hill Rd, Plainview, NY 11803  
[lavinec@assembly.state.ny.us](mailto:lavinec@assembly.state.ny.us)

**Kenneth Zebrowski 631 LOB**  
67 North Main St, New City, NY 10956  
[zebrowk@assembly.state.ny.us](mailto:zebrowk@assembly.state.ny.us)

**Dierdre Scozzafava 719 LOB**  
93 E Main St, Gouverneur, NY 13642  
[scozzad@assembly.state.ny.us](mailto:scozzad@assembly.state.ny.us)

**David Townsend 448 LOB**  
4767 Rt 233 , Westmoreland, NY 13490  
[townsed@assembly.state.ny.us](mailto:townsed@assembly.state.ny.us)

**Thomas Kirwan 725 LOB**  
190 South Plank Rd, Newburgh, NY 12550

**Sandra Wirth 546 LOB**  
5763 Seneca St, Elma, NY 14059  
[wirths@assembly.state.ny.us](mailto:wirths@assembly.state.ny.us)

**NYS Senate<sup>α</sup>**  
**Crime Victims, Crime, & Corrections Committee**

**Nozzolio 409 LOB (Chair)**  
119 Fall St, Seneca Falls, NY 13148  
[nozzolio@senate.state.ny.us](mailto:nozzolio@senate.state.ny.us)

**Volker 427 CAP**  
47/29 Transit Rd, Ste 6  
Depew, NY 14043  
[Volker@senate.state.ny.us](mailto:Volker@senate.state.ny.us)

**Wright 811 LOB**  
State Office Bldg  
Watertown, NY 13601  
[wright@senate.state.ny.us](mailto:wright@senate.state.ny.us)

<sup>α</sup> Senate addresses are:  
xxx LOB, Albany, NY 12247

**Maziarz 915 LOB**  
2578 Niagara Falls Blvd  
Wheatfield, NY 14304  
[maziarz@senate.state.ny.us](mailto:maziarz@senate.state.ny.us)

**Alesi 905 LOB**  
Box 66081, Fairport, NY 14450  
[alesi@senate.state.ny.us](mailto:alesi@senate.state.ny.us)

**Golden 946 LOB**  
7403 5<sup>TH</sup> Av, Brooklyn NY 11209  
[golden@senate.state.ny.us](mailto:golden@senate.state.ny.us)

**Elizabeth Little 903 LOB**  
21 Bay St Glens Falls NY 12801  
[little@senate.state.ny.us](mailto:little@senate.state.ny.us)

**George Winner 802 LOB**  
228 Lake St Box 588, Elmira NY 14902  
[winner@senate.state.ny.us](mailto:winner@senate.state.ny.us)

**Thomas Duane 711B LOB**  
494 8<sup>th</sup> Av, 5<sup>th</sup> Fl, NY, NY 10001  
[duane@senate.state.ny.us](mailto:duane@senate.state.ny.us)

**Carl Kruger 608 LOB**  
2201 Ave U, Brooklyn, NY 11229  
[kruger@senate.state.ny.us](mailto:kruger@senate.state.ny.us)

**Velmanette Montgomery 306 LOB**  
30 3<sup>rd</sup> Av Rm 615, Brooklyn NY 11217  
[montgome@senate.state.ny.us](mailto:montgome@senate.state.ny.us)

**Ruth Hassell-Thompson 613 LOB**  
767 E Gun Hill Rd, Bronx, NY 10467  
[hassellt@senate.state.ny.us](mailto:hassellt@senate.state.ny.us)

**Ruben Diaz 304 LOB**  
1750 Westchester Av. Bronx NY 10472  
[diaz@senate.state.ny.us](mailto:diaz@senate.state.ny.us)

**John Sampson 506 LOB**  
9114 Flatlands A, Brooklyn, NY 11236  
[Sampson@senate.state.ny.us](mailto:Sampson@senate.state.ny.us)

**NYS Senate Codes Committee**

**Dale Volker 427 CAP (Chair)**  
47/29 Transit Rd Ste 6, Depew, NY 14043  
[Volker@senate.state.ny.us](mailto:Volker@senate.state.ny.us)

**Dean Skelos 503 CAP**  
55 Front St, Rockville Centre, NY 11570  
[skelos@senate.state.ny.us](mailto:skelos@senate.state.ny.us)

**Stephan Saland 708 LOB**  
3 Neptune Rd , Poughkeepsie, NY 12601  
[saland@senate.state.ny.us](mailto:saland@senate.state.ny.us)

**Serphin Maltese 413 CAP**  
71-04 Myrtle Av, Glendale, NY 11385  
[maltese@senate.state.ny.us](mailto:maltese@senate.state.ny.us)

**John DeFrancisco 307 LOB**  
804 State Office Bldg  
333 E Washington St, Syracuse, NY 13202  
[jdefranc@senate.state.ny.us](mailto:jdefranc@senate.state.ny.us)

**Malcolm Smith 508 LOB**  
205-19 Linden Blvd, St Albans, NY 11412  
[masmith@senate.state.ny.us](mailto:masmith@senate.state.ny.us)

**John Sampson 506 LOB**  
9114 Flatlands Av, Brooklyn, NY 11236  
[Sampson@senate.state.ny.us](mailto:Sampson@senate.state.ny.us)

**Neil Breslin 414 CAP**  
[breslin@senate.state.ny.us](mailto:breslin@senate.state.ny.us)

**Jeffrey Klein 415 LOB**

## Criminal Law Reform Proposal

*Excerpts from memo by William Gibney, Robert Newman and David Ries, Legal Aid Society. Still under development in the office of NYS Senator David Paterson is another attempt to correct some of the worst injustices in NYS criminal law. Here are some of the directions taken thus far.*

**Overview.** The proposed Senate legislation would overhaul [some of the] state criminal sentences and institute a "Community Reentry Program" (see page 1). [It calls for] **broad changes affecting all non-violent offenders in the state**, rather than through provisions specific to drug offenders. Increased funding for treatment is achieved by allocating more funds to treatment programs within prisons and to county-level prisoner reentry programs, which are required by the bill to refer appropriate offenders to community based treatment programs. Sentencing reform for drug offenses is achieved through an elimination of indeterminate sentencing for all non-violent crimes. Judicial discretion would be achieved by eliminating second non-violent felony offender provisions of the penal law and establishing a new "sentencing grid."

The proposal offers merit time allowances for all non-violent offenders sentenced under the new law. Also included in the proposal are provisions to address "collateral consequences" of imprisonment, *including an earlier restoration of voting rights for criminal offenders, the partial sealing of certain conviction records, relief from child support during incarceration, and relief from professional license ineligibility.*

**Sentencing Reduction.** For "non-personal" non-violent offenses, the proposed bill would significantly lower minimum sentences, generally by offering probation eligibility regardless of an offender's prior conviction history. Maximum sentences for these "non-personal" nonviolent offenses are also significantly lower than current NY law. Non-violent second felony offenders would be sentenced according to the new sentencing grid, whereas they are currently subjected to specified harsher sentences. Drug offenses are non-personal and non-violent offenses.

*For example, for the sale of a controlled substance (Class B felony), with a prior conviction, drug sale, the sentence range proposed is probation to 5 years instead of the existing range of 3 ½ to 12 years. And, in the case of a sale of a controlled substance (Class B felony), with a prior conviction, violent offense, the sentence range proposed is 4 to 6 years instead of the existing 6 to 15 years.*

Under this [proposed] new system, sentences would be the same as are currently imposed for all convictions of a violent felony offense and a second violent felony offense. Whereas non-violent second felony offenders would be sentenced

under the new sentencing grid, second felony offenders presently convicted of a violent offense would be sentenced to the terms in the current law. Also, the proposal eliminates the provision by which second felony offenders are eligible for sentences of parole supervision (Willard)). *The bill would reduce post-release supervision for predicate violent felony offenders from five years to three.*

**Retroactivity.** Those convicted of A-I felonies could apply to be resentenced according to the new sentencing grid. Retroactivity applies through the same process as was afforded to A-I drug offenders by the 2004 law, but in this proposal it is extended to all other A-I felony offenders.

*Editor's Note: We applaud these proposed, additional steps towards reform. They do not, however, fulfill the goals of full judicial discretion and full retroactivity.*

## PRISON IS

**a place where** lives are cut short, and hopes and dreams die, for to glance into the future yields nothing but the negative; - **a place that** turns the young, the inexperienced and the weak into criminals, the criminals into better criminals, and the better criminals into still better criminals; - **a place where** the law as it is written becomes twisted, bent and adulterated, to suit the purposes of those elected to enforce it; - **a place where** the average working person, the poor the underprivileged, and the unwanted serve years and years for minor crimes, while the rich, the politicians; the prison administrators, and their hired lackeys steal millions, seemingly with the blessings of the state; - **a place that** does not exist to the outside world; - **a place where** you receive divorce papers, and learn the true meaning of "till death do you part," for once inside these walls you become dead to the outside world; - **a place where** parents, and grandparents pass away, wives and girl friends move on, and your children begin to call someone else Daddy; - **a place where** sisters, brothers, nieces, nephews, aunts and uncles all forget that you're part of the family; - **a place where** all the good things you have ever done are forgotten, and only the bad remembered; - **a place with** thieves, whores, crack heads, drug dealers and other assorted crooks, some of which wear blue; - **a place that** festers anger, hate, racism and hopelessness; - **a place where** men and women are warehoused like so many cattle; - **a place where** positive actions, and even positive thoughts are discouraged, and rehabilitation is non-existent; - **a place where** you leave worse off than when you arrived, with only a few bucks, a bus ticket, a suit of cheap clothes, and no hope for the future. **And that folks, is WHAT PRISON REALLY IS!**

*Excerpts from a person incarcerated in GA, writing in the South Carolina Prisoner Advocacy Network...*

## More on Merit Time

*Excerpts from the legislation "Memo" for NYS Bill A.3230*

**To allow the date of an inmate's first parole hearing to be determined by subtracting the merit time allowance earned from his or her minimum time.** The Board must consider the recommendation of the merit time allowance committee. Thus the Board's emphasis on the original crime, the inmate's criminal record, any crime victim's statement, must be balanced by consideration of the inmate's conduct during imprisonment. ...The law would apply retroactively. But the decision to grant parole remains at the discretion of the Parole Board

A record of "good behavior and efficient and willing performance of duties or progress" in treatment program would reduce by up to one-third an inmate's minimum sentence for that six month period. On the other hand, this merit time may be "withheld in whole or in part for bad behavior, violation of institutional rules or failure to perform properly in the duties or programs assigned." An inmate who loses merit time during a six month period cannot make it up at a subsequent date, nor can an inmate have merit time taken away for misbehavior during another six month period. If the Parole Board declines to release the inmate, the merit time can be applied to the maximum sentence.

**The system is open ended, the inmate starts each six month period with a clean slate.** Thus, there is a constant opportunity for a fresh start, and to reward the inmate who changes his or her behavior for the better. This system offers constant incentive, constant review, immediate penalties and immediate awards. Merit time makes the penalties for misbehavior and the rewards for good behavior readily apparent to the inmate.

The merit allowance system differs from the conditional release system that exists under current law. Sole discretion is vested with the Commissioner of the Department of Correctional Services on reducing maximum sentences, and in practice, almost every inmate is released at two-thirds of his or her maximum sentence. Many prisoners realize that their initial parole hearing will focus on their criminal history and the nature of the crime that sent them to prison with relatively little attention to their institutional adjustment and accomplishments. Under these circumstances, many prisoners ask "why bother," and spend their time in the yard doing push-ups and shooting baskets, content to wait for their conditional release. The current law's heavy emphasis on the crime that sent the inmate to prison reduces the inmate's desire to enter programs, while the merit time system rewards desired behavior and increases participation in programs.

**Under the merit time system, an inmate can create the possibility of a mandatory discharge before two-thirds of the maximum by earning merit time... It can be expected that, unlike now, the prison stay of some problem inmate may be extended beyond their conditional release date.**

The experience with earned eligibility demonstrates that Parole and DOCS can draw distinctions between good and bad risks. Of the 13,847 inmates reviewed under the earned eligibility procedure in 1988, 8,989 (or 65%) were issued certificates of earned eligibility. Of those, 1,642 were denied release by the Parole Board and held for an average of eight months.

*Note: NYS Assembly Bill A.3230 is now in the Corrections Committee chaired by Jeffrion Aubry. The corresponding NYS Senate Bill A.1701 is now in the Crime Victims, Crime and Corrections Committee chaired by Senator Michael Nozzolio.*

### When Will It Pass and Be Law?

That's, of course, a frequent question. We have no crystal ball. Most laws which we want take a long and intensive campaign. All proposed criminal justice laws usually have to be approved by Corrections or Codes Committees in both the NYS Assembly and the NYS Senate. Then, the Governor has to also approve it. We know that a dozen or more letters every month, for ten or more months, to members of these Committees (see page 2), increase the probabilities of passage greatly.

## PREP

### The Prisoners' Reading Encouragement Project

(continued from page 8)

In addition, PREP will solicit contributions for a "scholarship fund" to pay for SAT and CLEP exams for prisoners who are unable to afford the testing fees, or to buy the test-preparation books, and for tuition for independent study courses.

Finally, through its newsletter, flyers and conversations, PREP will work to educate the public about the importance of prisoner education, as a means to reduce recidivism, reducing crime, making our communities safer, reducing the cost of prison construction and corrections, and freeing tax dollars for other societal needs. Volunteers and contributions are welcome. To contribute time or services, contact PREP at [info@prisonreader.org](mailto:info@prisonreader.org).

### N.Y.C. jails ban forced exams for women

*By Michail Weisenstein, Associated Press*  
Tens of thousands of female jail inmates were told to submit to gynecological exams or be sent to medical isolation, **under a policy that the city is now dropping**, according to lawyers and court documents. In a legal settlement June 21, 2005, the city agreed to begin informing women inmates that they have the right to refuse the exams without retaliation. The city also agreed to pay millions of dollars to people who were strip-searched in city jails after arrests on suspicion of misdemeanor charges or violations such as traffic infractions.