
BLUEPRINT FOR CRIMINAL JUSTICE REFORM

BRINGING JUSTICE TO SCALE

The Coalition includes the Center for Alternative Sentencing and Employment Services (CASES), the Center for Community Alternatives (CCA), the Center for Employment Opportunities (CEO), Family Justice, the Fortune Society, Greenhope Services for Women, the Legal Action Center, the Osborne Association, and the Women's Prison Association (WPA).

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EXECUTIVE SUMMARY	2
Community Corrections	2
Sentencing Reform	3
Reentry	3
BLUEPRINT FOR CRIMINAL JUSTICE REFORM - BRINGING JUSTICE TO SCALE	5
INTRODUCTION - Why a Blueprint Now?	5
Who is the Coalition for Criminal Justice Reform?	6
How the Blueprint was Created	7
PART ONE: Community Corrections	8
Recommendations:	8
PART TWO: Sentencing Reform	11
Recommendations	12
PART THREE - Reentry	16
Recommendations	17
Prison Programming	17
Vocational Services	17
Educational Opportunities in Prison	18
Drug and Alcohol Treatment	18
Recommendations:	19
Transitional Services	20
Recommendations	21
Housing	22
Recommendations	23
Parole Supervision	23
Recommendations:	24
Legal and Policy Barriers	24
Recommendations:	25
COMPREHENSIVE LIST OF RECOMMENDATIONS	28
APPENDIX A	34
ENDNOTES	38

BLUEPRINT FOR CRIMINAL JUSTICE REFORM - BRINGING JUSTICE TO SCALE

EXECUTIVE SUMMARY

The Coalition for Criminal Justice Reform¹ presents this “Blueprint for Criminal Justice Reform in New York,” a comprehensive plan for improving New York’s criminal justice system with a particular focus on community corrections, sentencing reform and reentry. This Blueprint is based on the fundamental principles that reform must be bipartisan; a coherent vision and comprehensive plan will increase public safety, reduce criminal justice costs and strengthen affected communities; and sentences must be rational, proportionate and fair.

Research has shown that reforming sentencing and expanding community corrections and community- and family-focused reentry will further reduce crime, cut costs, help people, and build communities. New York’s use of alternative to incarceration (ATI) programs and probation has been a smart and effective investment of resources and a key component of New York’s unique success in reducing crime while cutting back on its reliance on incarceration. It is not a coincidence that New York State has the largest network of ATI programs in the country and – unlike other large states such as California and Texas – has seen crime and incarceration rates plummet simultaneously, improving public safety while also saving lots of money. New York also has taken important steps to reform its sentencing laws and examine ways to improve the reentry of individuals returning to their communities from the justice system. Now is the time to bring all these successful approaches to scale and to change laws and policies that impede greater utilization of these programs and diminish public safety by creating barriers to successful reentry. This approach will reap both immediate and long-term savings, not just in dollars, but in human lives, families, and communities as well.

Following are our three lead recommendations in each area. The report provides additional recommendations. While some require an initial financial investment, all will quickly save the State an enormous amount of money that will cover the costs plus fund community re-investment and other priorities.

Community Corrections

Crime can be reduced further, and criminal justice costs can be cut, when incarceration is viewed as a last, and not a first resort. Incarceration disrupts families and harms communities, especially African American and Latino communities from which most incarcerated individuals come. The cost of incarceration drains resources from other human services needs. From Fiscal Year 1994-95 through 2005-06, the State Operations cost to run the Department of Correctional Services supported by state tax dollars increased by 44% to \$2 billion (not including capital costs).² Research has shown that community-corrections programs – probation, alternative to incarceration (ATI) and related programs (including pre-trial services, defender-based advocacy, client specific planning, community service sentencing, legal and employment assistance) – are more effective than incarceration in reducing recidivism and less costly, both in dollars and human terms. Thus, we recommend that New York:

- Increase the use of community corrections, by expanding to scale and replicating the intermediate sanctions programs already operating in New York that have proven successful in diverting and monitoring individuals and protecting public safety, and developing new programs.
- Make a greater range of individuals eligible for intermediate sanctions.
- Adopt a comprehensive system of community corrections that, among other things, embraces a state/local partnership, incorporates principles of community justice,³ and creates financial incentives to promote the use of intermediate

sanctions and financial disincentives to discourage across-the-board over-reliance on incarceration.

Sentencing Reform

Two sets of laws enacted in the 1970's, known as the Rockefeller Drug Laws, removed discretion from judges in sentencing decisions. The first law required individuals convicted of possessing or selling certain amounts of controlled substances to be sentenced to a minimum of 15 years to life. The second law, known as the Second Felony Offender law, required prison time for anyone convicted of a second felony offense.⁴ The Second Felony Offender law applies to all second felony convictions, not just drug crimes.

The drug law reforms already enacted provide relief from some of the harshest provisions of the Rockefeller Drug laws by changing the length of sentences individuals must serve for drug convictions. However, despite the fact that an astonishing 70-80% of individuals involved in the criminal justice system have a drug or alcohol problem, these reforms do not enable *even one* additional addicted individual to be sent to community-based treatment instead of prison. Nor do these reforms give judges any discretion to send people convicted of any other second felony offenses to a non-incarceratory sentence. In addition, many individuals currently incarcerated under the Rockefeller Drug laws are not eligible for retroactive relief.

Our drug laws have had a particularly onerous impact on communities of color. Although their rates of drug use are no greater than those of whites, African Americans and Latinos comprise over 91% of the individuals convicted of drug offenses in New York State prisons.⁵

In order to redress this terrible human rights problem, better protect society, and save the state large amounts of money, New York should:

- Reform our sentencing laws so that judges and prosecutors have expanded opportunities to send appropriate individuals to community-based programs instead of prison.
- Make a wider range of defendants eligible for diversion from prison to community-based programs - addicted individuals charged not just with drug crimes but other offenses as well, and non-addicted individuals charged with non-violent offenses - and expand the category of individuals eligible for retroactive relief.
- Expand treatment funding and capacity substantially so that providers are able to serve the increasing numbers of people who will be diverted as a result of these sentencing reforms and meet the special needs of the criminal justice population.

Reentry

New York prisons release about 26,000 individuals a year.⁶ Re-entering individuals, most imprisoned for non-violent crimes, tend to be men of color from a handful of communities. Many have not graduated from high school, have little or no work experience, suffer from mental illness, and have histories of alcohol and drug problems. Although in-prison programs have been shown to help reduce recidivism among re-entering individuals, substantial numbers of New York's re-entering population do not receive the vocational and educational assistance, therapy, or drug or alcohol treatment they need while in prison or when they return home. In addition, there is widespread agreement among policymakers and practitioners alike that our parole system needs serious reform. In 2004-2005, an astonishing 80% of parolees returned to prison were reincarcerated for technical violations, not for committing new crimes: only 2,087 parolees were returned to prison after being convicted of new crimes, 8,126 were returned for violating conditions of parole.⁷ Many legal and policy barriers to successful reentry affect not only those

individuals coming home from jail or prison, but also those people under community supervision. New York must radically rethink and change how it deals with reentry of individuals from the criminal justice system, as follows:

- Better prepare individuals who are incarcerated for returning home by redesigning and expanding prison-based programming, developing comprehensive discharge plans with the involvement of family and community-based organizations, and putting mechanisms in place to implement those discharge plans, including ensuring that people in prison have the identification cards, Medicaid, and other benefits they need upon release.
- Revamp New York's parole system to emphasize reintegration and discourage technical violations.
- Eliminate legal and policy barriers to successful reentry of people with criminal records, including those who have completed the period of incarceration to which they were sentenced and those serving sentences in the community.

BLUEPRINT FOR CRIMINAL JUSTICE REFORM - BRINGING JUSTICE TO SCALE

The Coalition for Criminal Justice Reform* presents this “Blueprint for Criminal Justice Reform in New York” (Blueprint), a comprehensive plan for improving New York’s criminal justice system, with a particular focus on community corrections, sentencing reform and reentry. This Blueprint was developed after thorough consultation with a wide range of stakeholders around the State and after a broad review of relevant research, articles and books. The Blueprint is based on the fundamental principles that reform must be bipartisan; a coherent vision and comprehensive plan will increase public safety, reduce criminal justice costs and strengthen affected communities; and sentences must be rational, proportionate and fair. We have focused on sentencing reform and expansion of community corrections and community- and family-focused reentry, because these are three policy reforms New York can implement that research has shown will further reduce crime, cut costs, help people, and build strong communities.

New York’s use of alternative to incarceration (ATI) programs and probation has been a smart and effective investment of resources and a key component of New York’s unique success in reducing crime while cutting back on its reliance on incarceration. It is not a coincidence that New York State has the largest network of ATI programs in the country, and the State - unlike other large states such as California and Texas - has seen crime and incarceration rates plummet simultaneously, improving public safety and saving lots of money. While the crime index has dropped in New York, California and Texas,⁸ New York’s incarceration rate has also dropped, while the incarceration rates in California and Texas have steadily risen.⁹ New York also has taken important steps to reform its sentencing laws and examine ways to improve the reentry of individuals returning to their communities from the justice system. Now is the time to bring all these successful approaches to scale and to change laws and policies that impede greater utilization of these programs and diminish public safety by creating barriers to successful reentry. This approach will reap both immediate and long-term savings, not just in dollars, but in human lives, families, and communities as well.

INTRODUCTION - WHY A BLUEPRINT NOW?

New York has seen plummeting crime and incarceration rates. Steps that the State has already taken that led to New York’s unique success in reducing crime while cutting back on its reliance on incarceration, including funding the largest network of ATI programs in the country, and changes in public attitudes toward crime and punishment, have created momentum that the State can build on to significantly improve its criminal justice practices and policies.

While New York had made major strides in improving its criminal justice system, more clearly needs to be done - too many New Yorkers are still being incarcerated; too many go back to prison, either for technical parole violations or because they have committed new crimes¹⁰, and too little is done to prepare either the individuals being released, or their families or the communities into which they are being released to deal with the demands of reentry.

With 63,000¹¹ people in prison, New York still has the fourth largest prison population in the country. Thousands more are in jail - approximately 14,000 in New York City alone - or under some other form of correctional supervision. Indeed, if all the people under correctional supervision in New York lived in one place, they would constitute one of the largest cities in

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New York - larger than New Rochelle or Mount Vernon or Schenectady, and about the size of Albany. The costs of supervising such a large population are considerable, and drain resources from other public priorities, such as education.

In addition to its size and the strain it places on the State's budget, there are three things worth noting about this population: first, it is overwhelmingly African-American or Latino; second, it is made up in significant part of nonviolent property and low-level drug offenders; and, third, nearly all will, sooner or later, return home.

In fact, New York prisons release approximately 26,000 individuals a year.¹² In addition, over 100,000 individuals are on probation supervision.¹³ While some of these individuals will receive the help they need to re-enter society successfully, New York has yet to develop a coherent vision or comprehensive plan for reentry - one that will cut costs, reduce recidivism, and strengthen affected families and communities.

The time is ripe to devise a new vision and specific recommendations for improving criminal justice practices and policies in New York, especially in the wake of New York's success in reducing crime while cutting back on its reliance on incarceration. Encouragingly, New York recognizes that it needs to do more. For example, Governor Spitzer has established a Sentencing Commission that is examining New York's sentencing structure, sentencing practices, community supervision and the use of alternatives to incarceration. New York has taken its first steps toward reforming the notorious Rockefeller-era Drug Laws, although judges still have no discretion to divert addicted defendants from prison to community-based treatment. The State has created reentry programming for individuals nearing release from the Queensboro Correctional Facility. At the municipal level, New York City has its Departments of Correction and Homeless Services and others working together to improve reentry for people leaving Rikers.

These initiatives are occurring at the same time as an apparent sea change in public attitudes. Polls show that the public supports drug law reform, treatment instead of incarceration for those with addiction problems, and taking steps to assist those with criminal records to successfully re-enter society.¹⁴ Editorial pages around the state express widespread media support for such reforms. The New York State budget includes recommendations for prison closings rather than prison expansion. Lately, spurred by fiscal realities, and a growing sense that public safety need not depend on mass incarceration, more and more states have re-visited their sentencing, correctional and reentry policies.

The Coalition for Criminal Justice Reform believes that these steps forward have created momentum that New York State can build on to significantly improve its criminal justice practices and policies.

Who is the Coalition for Criminal Justice Reform?

The Coalition for Criminal Justice Reform includes the Center for Alternative Sentencing and Employment Services (CASES), the Center for Community Alternatives (CCA), the Center for Employment Opportunities (CEO), Family Justice, the Fortune Society, Greenhope Services for Women, the Legal Action Center, the Osborne Association, and the Women's Prison Association (WPA). Each Coalition member has a long history of involvement in efforts to improve the New York criminal justice system. The Blueprint represents the collaborative commitment of these community-based criminal justice agencies that have worked together for more than twenty years to advocate for the best possible criminal justice system. Additional information about these agencies can be found in the appendix.

How the Blueprint was Created

In creating this “Blueprint” the Coalition sought wide input, soliciting the views and experiences a variety of stakeholders in the criminal justice system. The Coalition interviewed stakeholders, from upstate and downstate, including criminal justice officials, elected officials, criminologists, people with direct experience with the criminal justice system including family and community members and formerly incarcerated individuals, advocates for people with conviction records, service providers, religious leaders, the business community, opinion leaders and policymakers.

PART ONE: COMMUNITY CORRECTIONS

New York has reduced the number of people behind bars. Nonetheless, it is still incarcerating many thousands of people who could safely receive intermediate community-based sanctions, which, when targeted to appropriate individuals, have proven to be both more effective than prison in reducing recidivism and less costly. The harmful effects of incarceration on families and communities have been well documented.¹⁵ Community corrections, when properly utilized, not only better protect public safety and save money, but also avoids the disruption that incarceration causes families and communities. These programs divert and supervise appropriate individuals as well as provide treatment, education and employment training in the community. (The use of intermediate sanctions for individuals released from prison is discussed in PART THREE, Reentry.) ATI, community-based treatment programs¹⁶ and probation allow people to remain a part of the workforce, to be parents, and to play a role in strengthening the fabric of their families and neighborhoods.

- A recent analysis by the New York City Criminal Justice Agency found that felony alternative to incarceration (ATI) participants were significantly less likely to be re-arrested than similar people sent to and discharged from a City jail. ATI participants and probationers were no more likely to be re-arrested than similar people sentenced to and released from probation or State prison. CJA also found that programs serving felons displaced an average of 116 days of jail time per participant. The report concludes, "To the extent that they are viewed as alternatives to jail sentences, these ATI programs can be recommended as more effective in reducing recidivism."¹⁷
- A study of New York City's ATI programs by the Vera Institute of Justice found that many felony offenders can be sent to rigorous community programs rather than jail without increasing risk to the public.¹⁸

Recommendations:

1. **Increase the use of community corrections, by expanding to scale and replicating the intermediate sanctions programs already operating in New York that have proven successful in diverting and monitoring individuals and protecting public safety, and developing new programs.** Programs already operating in New York that have proven successful in diverting and monitoring individuals and protecting public safety should be expanded to scale and replicated, and new programs should be developed. Expansion and development of programs should be particularly targeted to those that leverage funding and community resources. Many ATI programs bring together, in varying combinations, many community resources in collaborative efforts to provide services to people diverted from and coming out of prison. Expansion and development of programs should also be targeted to programs that create partnerships with defense attorneys and parole and probation, and those that focus on the family and community as agents of reintegration.
2. **Make a greater range of individuals eligible for intermediate sanctions.** At a minimum, Intermediate sanctions should be available for individuals convicted of nonviolent property and low-level drug offenses, and for parolees with technical violations or convictions for minor charges. These programs should also target:
 - Individuals who are facing convictions for second felony offenses, thereby facing mandatory prison sentences, or first felony offenses that carry mandatory prison sentences, and

- Individuals who, by the nature of their offense or other personal characteristics, would be appropriate to receive sentences other than prison, such as people who are chemically dependent, the developmentally disabled and mentally ill, women who are in abusive relationships, young people, people with AIDS, and veterans.
3. **Adopt a comprehensive system of community corrections that, among other things, embraces a state/local partnership, incorporates principles of community justice,¹⁹ and creates financial incentives to promote the use of intermediate sanctions and financial disincentives to discourage across-the-board over-reliance on incarceration.** Such a system embraces a state/local partnership and gives communities the opportunity to assume greater involvement and control over the programs and services that are provided to individuals. In the early stages, the State should begin implementing this approach by establishing it in a few pilot counties that demonstrate strong interest and capability in pioneering a much more effective and cost-efficient criminal justice system. Such a system should :
 - Establish a State Board, to develop rules and guidelines for the development of policies and implementation of the program on the local level. This Board would also coordinate and monitor reentry efforts and policies.
 - Establish a Board comprised of community members to develop and oversee the local program. The Board can be an opportunity for communities to be more fully involved in both diversion and reentry efforts and help take into account the specific needs of particular communities and families.
 - Restructure the State’s funding priorities and reimbursement systems to create greater incentives for localities to undertake greater responsibility for individuals who need not be sent to prison (these could include 100% funding mechanisms, seed money for new innovative programs, etc.) and financial disincentives or “chargebacks” for localities that do not meet prearranged goals.
 - Ensure that criminal justice-involved individuals are punished in the least restrictive setting, consistent with the nature of the crime and public safety needs.
 - Include an evaluation component to ensure oversight and accountability.
 - Make adequate technical expertise and resources available to counties developing their community corrections plan.
 4. **Offer deferred adjudications as well as diversion programs so that individuals have the opportunity to avoid a conviction.²⁰** Deferred adjudications programs, such as the original Brooklyn Drug Treatment Alternative to Prison (DTAP) model, are especially important when a defendant is a non-citizen who can be deported based on a plea allocation alone.
 5. **Explore the concept of creating a capital funding stream to support the construction of facilities to provide services for individuals getting diverted or returning home from prison.**
 6. **Impose financial conditions (bail) only when no other conditions of release will provide reasonable assurance that the defendant will appear for court proceedings.**
 7. **When applicable, incorporate principles of restorative justice that emphasize repairing the harm caused or revealed by criminal behavior, into community-corrections programs.** Some of the programs identified with restorative justice include:

mediation, circles, victim assistance, assistance for the criminal justice-involved individual, restitution and community service.

8. **Utilize gender validated risk assessment instruments that identify individuals with the greatest risk of recidivism.** Probation and parole services could then be better targeted to those who have the greatest need for supervision. Electronic reporting “kiosks” similar to those used by the New York City Department of Probation, could be implemented for those who do not require intensive or personal supervision.
9. **Ensure that probation has sufficient resources to provide effective supervision.** Probation supervises greater numbers of people than are incarcerated in the entire prison system, and provides specialized services for targeted populations in order to ensure public safety. New research has given rise to models for community supervision based on principles of behavior management²¹ and probation should have sufficient resources to incorporate these models into their supervision strategies.
10. **Promote the establishment of a joint DPCA/OCA work group to further cooperation between traditional ATI programs and drug courts.**

PART TWO: SENTENCING REFORM

Sentencing reform efforts to-date have focused on changing laws affecting individuals charged or convicted of drug crimes. This focus is understandable, as current laws create barriers that prevent many individuals charged with drug crimes from obtaining the treatment they need to interrupt the cycle of addiction and repeated criminal behavior. However, if the important goals of sentencing reform - increased public safety and a fairer and more effective and cost-efficient criminal justice system - are to be achieved, then a more expansive view of sentencing reform is needed. The Second Felony Offender law, one of the two sets of laws enacted in the 1970's that are known as the Rockefeller Drug Laws, removed discretion from judges in sentencing decisions and requires prison time for anyone convicted of a second felony offense, not just those individuals convicted of drug crimes. Thus any individual convicted of any second felony offense, whether addicted or needing mental health, educational, vocational, or other services, must be incarcerated.

Our recommendations listed below propose expanding the range of defendants eligible for diversion in a number of ways. New York should reform its sentencing laws to return to judges the discretion to send to treatment or other community supervision and services individuals who are: (1) addicted and convicted of drug offenses; (2) addicted and convicted of non-violent offenses other than drug offenses; and (3) not addicted and convicted of non-violent offenses. For all these categories judges should have the power to determine the most appropriate sentence that will best protect public safety, including ensuring that individuals receive the education, job training, drug and alcohol treatment, mental health counseling, and other services they need from the programs described in PART ONE of the Blueprint.

Because this Blueprint is a plan for reforming the criminal justice system, it does not include suggestions for reform of New York's Family Courts. A whole new Blueprint would be needed to look at the Family Court Act and address the numerous problems with the Family Courts. However, because youth in New York who are 16 years or older must be tried as adults,²² the sentencing reform recommendations listed below do include two proposals regarding New York's laws dealing with youth and the criminal justice system: New York should classify youth as juveniles until the age of 18, thereby extending Family Court jurisdiction, and extend Youthful Offenders eligibility to 21 years of age.

For Defendants who have alcohol and drug problems, numerous studies have indicated that treatment is effective at reducing alcohol and drug use and crime. Other studies have found that treatment is also less expensive than prison, so substantial cost savings for the state could be an additional benefit of reforming the drug laws. Yet, thousands of non-violent individuals who have no substantial role in the drug trade but who use or sell small quantities of drugs to support their own habits are locked up every year. New York's Rockefeller drug laws have deprived children of their parents, wasted enormous human and financial resources, and failed to address effectively the addiction that underlies most drug offenses. These laws have had a particularly onerous impact on communities of color. Although their rates of drug use are similar to those of whites, African Americans and Latinos comprise over 91% of the drug offenders in New York State prisons.

Commendably, the legislature has in recent years ameliorated the harshest of the Rockefeller Drug laws by enacting reforms that made sentences for drug crimes more proportionate with sentences for other non-violent crimes and brought retroactive relief to some individuals sentenced under the Rockefeller drug laws. However, despite that fact that an astonishing 70-80% of individuals involved in the criminal justice system have a drug or alcohol problem, these reforms have done nothing to expand use of mandated community-based treatment for addicted individuals.

Chemical dependence is one of our State's most serious public health problems with enormous social and economic costs to individuals, families, communities, government, and society as a whole:

- According to a report by the National Institute on Drug Abuse and National Institute on Alcohol Abuse and Alcoholism, addiction, including alcoholism and drug dependence, costs the nation an estimated \$246 billion in 1992, including \$28.75 billion in health care costs, \$176.4 billion in lost productivity, and \$40.5 billion in other costs (such as crime, welfare, and motor vehicle crashes).²³
- A report released in January 2002 by the White House Office of National Drug Control Policy found illegal drugs cost the nation \$143.4 billion from the U.S. economy in 1998 (\$168 billion in 2004 dollars).²⁴
- According to a February 2001 report by OASAS, 70% of all individuals in the custody of DOCS are subsequently identified as addicted.

Numerous studies have proven that mandatory drug and alcohol treatment is cost effective, reduces recidivism and enhances public safety:

- The Brooklyn District Attorney's office estimates its DTAP program has saved \$36.6 million in correction, health care, public assistance and recidivism costs, combined with tax revenues generated by DTAP graduates. A report from the National Center on Addiction and Substance Abuse at Columbia University, found that, compared to a matched group, DTAP participants are 67% less likely to return to prison two years after leaving the program, and graduates had re-arrest rates that were 33% lower; had re-conviction rates that were 45% lower; and were 87% less likely to return to prison and three and one-half times likelier to be employed.²⁵
- According to a recent study of the impact of California's Proposition 36 conducted by the Justice Policy Institute, California reduced its drug-possession prison population by over 34%, while at the same time experiencing a dramatic drop in violent crime. This study follows one by UCLA that showed that Proposition 36 saves California \$2.50 for every dollar invested in the program. Over a 30-month follow-up period, this represented a savings to state and local government of \$173.3 million.
- A cost benefit analysis conducted by the Legal Action Center found that for every individual diverted from prison to community-based treatment, New York could save approximately \$60,000.²⁶
- According to a meta-analysis conducted on 78 studies of drug treatment conducted between 1965 and 1996, "drug abuse treatment has both a statistically significant and a clinically meaningful effect in reducing drug use and crime...."²⁷

In order to make New York State families and communities healthier and safer and save large amounts of state and local tax dollars, New York should:

Recommendations

1. **Reform our sentencing laws so that judges and prosecutors have expanded opportunities to send appropriate individuals to community-based programs instead of prison.**
 - Probation should be an option for individuals convicted of first time Class B felony drug offenses. When such a person is given a sentence of probation and assessed (by

an addiction specialist licensed or certified by OASAS) as having a drug or alcohol dependency problem for which treatment would be beneficial, participation in treatment should be a mandatory condition of sentence.

- Probation with a mandatory treatment requirement should also be an option for individuals convicted of a first time Class B or predicate Class B, C, D, or E drug offenses involving sale of or possession with intent to sell one eighth of an ounce or less of a narcotic drug or other controlled substance, who are assessed (by an addiction specialist licensed or certified by OASAS) as having a chemical dependency problem for which treatment would be beneficial. Since possession of less than an eighth of an ounce of a narcotic drug is currently only a misdemeanor offense, a sentence of probation for sale of or possession with intent to sell that amount is more proportionate, especially when the individual is addicted and in need of treatment.
 - There should also be an opportunity for court supervised drug treatment for other individuals charged with first time Class B and predicate Class B, C, D and E drug felonies. If individuals successfully complete treatment, their cases should either be dismissed or reduced to a misdemeanor, depending on the conditions specified by the court.
 - Drug Treatment Alternative to Prison (DTAP) programs should be defined and expanded. As is done, for example, by the pioneering DTAP program in Brooklyn, these programs should require clinically determined levels of care and time frames for length of treatment, and deem those who successfully complete treatment to have satisfied all program requirements as per the determination of the treatment program.
2. **Make a wider range of defendants eligible for diversion from prison to community-based programs, including addicted individuals charged not just with drug crimes but other offenses as well, and non-addicted individuals charged with non-violent offenses - and expand the category of individuals eligible for retroactive relief.** Community-based treatment opportunities should also be provided to addicted individuals who have a history of minor violence, provided they meet other qualifications for community custody.²⁸ Individuals incarcerated on Class B drug offenses should have an opportunity to go before a judge and have their sentences reduced, in accordance with the revised sentencing guidelines recently passed by the Legislature.
 3. **Extend Family Court jurisdiction to youth up to 18 years of age.** New York is only 1 of 2 states that requires youth 16 years and older to be treated as adults in the criminal justice system. That requirement, combined with the fact that youth charged as Juvenile Offenders start out in the adult criminal justice system and prosecutors have to initiate a waiver to transfer a case to Family Court, rather than the other way around, makes New York one of the harshest states in terms of its treatment of youth in conflict with the law.
 4. **Extend Youthful Offender eligibility to 21 years of age.** Courts should have the discretion to give youth up to 21 years of age a second chance by granting Youthful Offender status so that these youth can escape the stigma and discriminatory consequences that so often result from a criminal conviction.
 5. **Expand treatment funding and capacity substantially so that providers are able to serve the increasing numbers of people who will be diverted as a result of these sentencing reforms and the special needs of the criminal justice population.** Such funding should include an initial investment of \$25 million, with funding in future years

for treatment, as well as prevention and criminal justice programs, coming from the monetary savings generated by increased diversions.

6. **Expand the identification of addicted individuals.** Mechanisms should be in place to ensure that individuals charged or convicted are assessed to determine if they have a drug or alcohol dependence problem and should be sent to treatment.
 - Before individuals are sentenced, they should be given an assessment to determine whether they have a drug or alcohol dependence problem. If such a problem is identified, then those individuals should be sent to treatment, either in a court supervised or DTAP program. Only if the court finds that such a sentence would not be appropriate should the case then proceed.
 - All drug and alcohol assessments should be conducted by a chemical dependence treatment professional located in a community-based program licensed or authorized by OASAS using criteria approved by OASAS.
 - In order to ensure that treatment is being offered to the full universe of eligible offenders, a statewide screening process should be developed to identify addicted defendants.²⁹
 - Diversion into treatment should be based on a diagnosis of chemical dependency, regardless of whether the primary diagnosis is alcoholism or substance abuse and regardless of the age of the defendant.
 - Judges should be trained in issues relating to alcohol and drug dependency through a curriculum approved by OASAS.
7. **Consider and utilize all treatment modalities when determining the appropriate treatment option for an individual.** As recommended by the National Institute of Drug Abuse (NIDA) Principles,³⁰ this should include long and short term residential treatment programs, standard and intensive out-patient services, and drug free and medication assisted programs, including methadone maintenance and other approved medications. All treatment services should be gender and culturally appropriate. NYS should also ensure that there are adequate treatment services appropriate for women.
8. **Develop new models of treatment to accommodate the complex needs of offenders.** These should include residential methadone programs and more programs that address the needs of specific populations - such as programs that treat dually diagnosed individuals, trauma survivors, women and children, individuals with medical or mental health problems, offenders with special language needs, and adolescents.
9. **Recognize that relapse is part of recovery.** Clients mandated by the criminal justice system sometimes will relapse and should be given an opportunity to remain in treatment as long as the provider determines that they are making progress toward recovery and do not pose a risk to community safety.
10. **Utilize graduated sanctions, similar to those used in Drug Courts.** These can include writing assignments, increased monitoring, attendance at extra court sessions, and movement to an earlier phase of treatment or a more intensive level of care. Prison should not be the only sanction.
11. **Use a holistic approach in addressing clients' multiple needs.** Most addicted individuals involved with the criminal justice system have a wide range of problems. Services such as practical life skills, educational services, vocational counseling and

training, and parenting classes should be provided and funded or made available through referral as part of the treatment process.

12. **Expand the use of treatment in the reentry process.** (This is discussed in greater detail in PART THREE: Reentry.)

PART THREE - REENTRY

Much attention has recently been paid to reentry, and for good reason. There are approximately 63,000 people in state prisons and 40,000 incarcerated in local jails throughout New York State, with another 100,000 under community supervision. Yearly, over 26,000 people are released from state prison³¹ and more than 100,000 from local jails back into our communities. Many of these individuals will recidivate. According to a study by the Bureau of Justice Statistics on recidivism, 30% of people released from prison were rearrested in the first six months, 44 % within the first year, and 67.5% within three years of release from prison.³² Even when released individuals do not commit new crimes, many are nonetheless returned to prison for having committed parole violations. In fact, individuals who fail on parole are more likely to be incarcerated for parole violations than for committing new crimes. In 2004-2005, an astonishing 80% of parolees returned to prison were reincarcerated for technical violations, not committing new crimes: only 2,087 parolees were returned to prison after being convicted of new crimes, 8,126 were returned for violating conditions of parole.³³

Much more needs to be done to assist people being released from prison and jail if we want to break this cycle of recidivism. Re-entering individuals:

- Tend to be men of color from a handful of downstate communities.³⁴ In March, 2004, 76% of parolees on supervision in New York were black or Hispanic.³⁵
- The majority of individuals in prison are not imprisoned for a violent crime.³⁶
- Many individuals in prison have not graduated from high school. According to the New York State Division of Parole, in March 2004, 15% of people on parole had only a grade school education, and 79% had only some high school.³⁷
- Many criminal justice involved individuals suffer from mental illness and more than three fourth have chemical dependence histories. According to the Department of Correctional Services, on December 31, 2004, 77% of the individuals in custody were identified as substance abusers.³⁸ According to the Division of Parole, in March 2004, 91% of parolees had a history of drug abuse, and 71% had a history of alcohol abuse.³⁹

According to a recent report, New York can save a lot of money by improving reentry services.

- A cost/benefit forecast developed by the Public Policy Group of the Judicial Process Commission in Monroe County suggests that county taxpayers will save \$11,000,000 in reduced County and State spending over six years by implementing pre- and post-reentry case management in conjunction with additional supportive housing for 900 County Correctional Facility returnees, thereby reducing recidivism by 20%. Substantial public safety enhancement through crime reduction and quality of life improvement will also occur. The 900 are 40% of the County's total reentry population."⁴⁰

New York has recognized that it needs to improve reentry services and more than three years ago created an intra-governmental taskforce to develop a plan to improve reentry services, though it has not released any recommendations to date. In June, 2006, Governor Pataki signed into law a change to New York's Penal Law that adds a new goal, "the promotion of their (convicted person's) successful and productive reentry and reintegration into society..." (Chapter 98 of the Laws of 2006), to the four traditional sentencing goals of deterrence, rehabilitation, retribution and incapacitation.

In order to make this legislative change a reality, significant reform needs to take place in the major areas affecting reentry: prison programming and transition services, parole supervision, and legal and policy barriers.

Recommendations

1. **Better prepare individuals who are incarcerated for returning home by redesigning and expanding prison-based programming, developing comprehensive discharge plans with the involvement of family and community-based organizations, and putting mechanisms in place to implement those discharge plans, including ensuring that people in prison have the identification cards, Medicaid, and other benefits they need upon release.** Prison should be targeted towards successful reentry, since release will occur for all but those who die in prison. The release and reentry of people with conviction records should be phased in and accompanied by necessary services and other support.
2. **Revamp New York's parole system to emphasize reintegration and discourage technical violations.** The vast majority of individuals returned to prison are reincarcerated for technical violations.
3. **Eliminate legal and policy barriers to successful reentry of people with criminal records, including those who have completed the period of incarceration to which they were sentenced and those serving sentences in the community.**

Specific recommendations to implement each of these reforms follow.

Prison Programming

Prison must better prepare individuals for returning home. Working with the unions representing DOCS employees, New York should develop an integrated approach to correctional services that links a person's needs upon admission to prison programming, release decisions, transitional services and community-based supervision. Models that provide such an approach and integrate evidence-based practices have been developed but have not been adopted in this State.⁴¹ Although in-prison programs have been shown to help reduce recidivism among re-entering individuals, substantial numbers of New York's re-entering population do not receive the vocational services, educational assistance, or drug or alcohol treatment they need while in prison or when they return home. Nor do they receive the family preservation services vital to successful reentry. Although families and community ties have been shown to contribute significantly to the successful reintegration of individuals reentering society, many policies create obstacles to maintaining or fostering these connections: the siting of programs far away from communities where incarcerated come from, huge surcharges for telephone calls from prisons, and inhospitable visitation policies and places. Much more needs to be done to facilitate and encourage constructive contact between parents and children.

Vocational Services⁴²

While some individuals who are incarcerated receive training that qualifies them for better paying, more skilled employment, most individuals in prison do not. Most people have access to some form of vocational training or perform a prison "job" during incarceration, but few of these opportunities are thoughtfully designed for to the actual job market in which they will compete upon release. Very few formerly incarcerated individuals who seek employment through intermediary organizations are able to identify truly useful skills acquired while in prison.

Educational Opportunities in Prison⁴³

To increase public safety, reduce victimization, and make better use of the vast and ever-expanding resources allocated to the New York State (NYS) Correctional budget, NYS should reaffirm its commitment to offer meaningful higher educational opportunities for people inside prison and upon their release back into the community.⁴⁴

The level of educational achievement of people leaving prison has a direct and profound impact on their future. Most notably, higher educational programs lower rates of recidivism and increase people's ability to reintegrate into community life and enter the labor market with prospects for modest but genuine upward mobility.⁴⁵

Over the reasoned objections of both prison superintendents and educators nationwide, the 1994 federal crime bill made people in prison ineligible for Pell Grants. New York's Governor then issued an executive order forbidding the continued use of any NYS tax revenues in support of higher education in prison. With the stroke of a pen, hundreds of college in-prison programs that had stabilized and dignified prison environments, and nearly eliminated recidivism among participants, were themselves eliminated.⁴⁶

To better protect public safety by reducing recidivism, a new, system-wide post-secondary educational regime should focus on the needs of the community, government, labor markets, and people returning from prison.

Drug and Alcohol Treatment

Incarcerated individuals have complex and significant health care needs. They suffer from a wide range of communicable and chronic medical and mental health conditions. According to a 2002 federal study *The Health Status of Soon-to-be-Released Inmates: A Report to Congress*,⁴⁷ the prevalence of chronic and communicable diseases and severe mental disorders among people in jail and prison is far greater than among other people in the community of comparable ages. The report also found that throughout the US, tens of thousands of individuals are released into the community every year without these conditions being diagnosed or treated. It is beyond the scope of the Blueprint to make specific recommendations regarding the medical care that individuals should receive in prison; our focus here is on prison-based drug and alcohol treatment services. However, it must be stated that individuals should get access to comprehensive, quality services in prison and be connected with community-based health care services upon release.

The treatment needs of incarcerated individuals has been well documented. As noted previously, more than three fourth of individuals in New York prisons have chemical dependence histories. Research has shown that prison-based chemical dependence treatment, combined with aftercare, leads to major reductions in recidivism.⁴⁸ Yet, initial evaluations of programmatic needs of individuals when they first enter prison do not include assessments by credentialed alcoholism and substance abuse counselors, DOCS-run Alcohol and Substance Abuse treatment programs (ASAT) and Comprehensive Alcohol and Substance Treatment (CASAT) programs do not have sufficient capacity to handle the numbers of people who need treatment, many people are on waiting lists⁴⁹, and CASAT eligibility requirements preclude many from getting access to the level of care they need to interrupt the cycle of addiction and repeated criminal behavior.⁵⁰

Treatment programs in New York prisons are run by DOCS employees. Except for the Willard program, none are licensed by the Office of Alcoholism and Substance Abuse Services (OASAS). When the legislature passed the Prison Omnibus Bill of 1989, it authorized the CASAT program with the express expectation that treatment services would be contracted out to private treatment providers, in order to ensure that those receiving treatment inside prison walls would have a smooth transition to aftercare and continued treatment services on the outside.

However, only one community-based contract with Phoenix House was awarded; the rest of the CASAT programs are run by DOCS. The Phoenix House CASAT program at the Marcy Correctional Facility was discontinued in 2006. Unfortunately, no independent evaluation was conducted to compare outcomes of the programs run by DOCS and the one run by Phoenix House. The only remaining community-based program is the Stay N' Out program, which is neither an ASAT or a CASAT program, and thus is the only program that can accept individuals who are ineligible for CASAT and on waiting lists for the ASAT program. Clearly, more must be done to expand and improve treatment opportunities in prison.

Recommendations:

1. **Begin discharge planning when an individual first enters prison.** Each individual's educational, vocational, health, and treatment needs should be evaluated using validated assessment tools upon entry to prison, and a *comprehensive* reentry plan designed. This plan should be periodically updated as the individual's needs change. The TPCI model is illustrative.⁵¹

Vocational Services

2. **Initiate a strategic planning process within DOCS to redesign vocational programs so that individuals' industry-specific skill levels during incarceration increase and training opportunities are more relevant to the modern workplace.** This strategic planning process should include input from members of the business and nonprofit communities and result in tailoring pre-release training to post-release private sector needs and demands. Outside intermediary organizations should be utilized, based on their knowledge of the job market, to develop and deliver training within DOCS.
3. **Make certain vocational programs known to be relevant to the current labor market are immediately available in DOCS.** This should include job training that includes hard and soft skills, such as training on Microsoft Office programs, the Internet and other computer technology relevant to the job market, and training in culinary arts, building maintenance, and other skills relevant to specific small and large businesses. This should also include job retention and job coaching services.
4. **Develop specific reentry planning and workforce development for people with histories of violent convictions.** Individuals with violent convictions are excluded from many programs - including drug courts, in-prison opportunities to shorten sentences such as the Shock program, CASAT programs, temporary release, and other programs.

Educational Opportunities

5. **Restore eligibility for the New York State Tuition Assistance Program and other public resources to people in prison.** Research has demonstrated that doing so will reduce dramatically return to criminal activity.
6. **Mandate that DOCS provide appropriate space, security, technology, classification holds, and other reasonable resources necessary for the creation and maintenance of successful post-secondary initiatives within the system and the provision of vocational services.** NYS should also explore private and public partnerships in support of such endeavors.⁵²
7. **Reinstate the systematic use of "Educational Release" by the NYS DOCS for men and women in prison who qualify for temporary release.**⁵³ DOCS should collaborate with and support programs such as the College Initiative and College and Community

Fellowship that assist formerly incarcerated people and others with criminal records enroll in accredited colleges and universities in the community.

8. **Recognize and encourage enrollment in accredited post-secondary institutions as part of parole release.** The NYS Board of Parole should consider educational attainment as evidence of a reduced risk of recidivism when considering an application for release.
9. **Improve the use of the federal Incarcerated Youthful Offender Grant funds by following other states in administering the grants through the State Department of Education rather than through the Department of Correctional Services.**⁵⁴ Other states have effectively utilized this funding stream to promote meaningful educational opportunities.

Drug and Alcohol Treatment

10. **Require that a comprehensive drug and alcohol assessment be conducted by a credentialed alcoholism and substance abuse counselor for every person who enters a DOCS facility.** As long as treatment capacity in DOCS remains limited, such as assessment can help DOCS identify individuals with the greatest treatment needs and motivation.
11. **Evaluate prison treatment programs in order to assess if they are effective, provide gender and culturally competent services, and address patient needs.** This would include conducting an independent study to assess the comparative effectiveness of treatment programs run by DOCS and Stay N' Out, and the discontinued program run by Phoenix House (because Phoenix House no longer runs a program in DOCS, the study would have to compare the records of former participants in the Phoenix House program and individuals who participated in a DOCS run CASAT program during the same time period.) Such a study would be helpful in determining whether treatment programs should be run by DOCS employees or community-based providers.
12. **Require that all prison programs are OASAS licensed - whether they are run by DOCS or outside community-based providers.** OASAS regulates programs in the community in order to ensure that quality prevention and treatment services are provided. No less should be expected from programs inside prisons.
13. **Enact legislation that allows increased access to CASAT programs.** This can include:
 - Changing the date under which those eligible would be able to begin the CASAT program from 2.5 years prior to initial parole eligibility or determinate sentencing release date to 3.5 years prior to such dates.
 - Expanding the categories of individuals who are eligible for work release. CASAT eligibility is linked to work release eligibility. Expanding the category of individuals eligible for work release will increase access to the CASAT program.

Transitional Services

New York must rethink how it plans for the transition of individuals leaving prison and returning home. Policies pertaining to incarceration and reentry should take into account the needs of the community as well as the families affected by incarceration. Whether or not individuals are released to post-release supervision, all need to be better prepared to return to society. Yet, comprehensive discharge planning does not take place in New York prisons. People leaving DOCS usually do not have access to uninterrupted health care services in the community, no evaluation is undertaken to assess whether housing plans are sufficient or realistic, individuals are not given current information about resources in the community, and community-based organizations and

family members are not involved in discharge planning. It is no surprise that most individuals who recidivate do so right after they are released from prison.⁵⁵ Prisons must better prepare those who are returning home.

Recommendations

1. **Develop and implement a New York State Reentry Planning Initiative, modeled on the Discharge Planning Initiative developed by the New York City Departments of Corrections and Homeless Services.** Such a planning initiative should utilize the expertise of public and non-profit agencies currently involved in providing workforce development, discharge planning and reentry services to people released from prison and jails.⁵⁶
2. **Develop comprehensive discharge plans that identify the principle challenges the released individuals will face in reentering the community, and the steps required to overcome those challenges.** The development of such plans should be undertaken with the involvement of the family and community-based organizations. Plans should include housing and job placement, document needs for employment and entitlements, and referrals for drug and alcohol treatment and case management services.
3. **Provide workshops to help with family reunifications on topics such as effective parenting, healthy relationships and child support.** As Donald Braman notes in *Doing Time on the Outside*, "The very laws intended to punish selfish behavior and to further common social interests have, in practice, strained and eroded the personal relationships vital to family and community life."⁵⁷ Constructive contact between incarcerated individuals and family members should be facilitated and encouraged.⁵⁸ Parenting, anger management, child support, and similar classes help individuals and their families prepare for release and, where appropriate, reunification.
4. **Ensure that individuals leaving prison (and jail where practical) who are eligible are reinstated on Medicaid or have applied for and are immediately eligible for coverage.** For individuals who entered prison and jail with Medicaid benefits, Medicaid should be suspended rather than terminated so that eligibility is immediately restored upon release as required by federal law. A recent study conducted by the Urban Public Health Department at Hunter College, City University of New York⁵⁹, found women released from New York City jail who were enrolled in Medicaid were less likely to be rearrested and less likely to repeat illegal activities than women without Medicaid coverage.
5. **Provide each person leaving prison and jail with state-issued identification cards.** People coming out of prison or jail are released either without any official state identification other than a prison discharge slip or a DOCS inmate identification card, neither of which are sufficient to obtain a job, a place to live, public benefits, or necessities in the community. DOCS has the proofs of identity needed to get a Motor Vehicles photo ID and thus is in the ideal position to issue state-identification cards.
6. **Revise child support enforcement regulations to provide for the setting aside or downward modification of child support arrears that accrued during incarceration.** Such a revision would allow those released from prison to be released with a reasonable child support order that would encourage them to participate in legitimate job opportunities, and ensure that over time, children receive sufficient levels of support.

7. Employ “back end” approaches, including work release and furloughs, to ease the transition back into the community by:
 - Implementing a phased system in which people with conviction records move toward lower security and more freedom, closer to home; and
 - Expanding the use of work release by expanding the number of beds, the list of people who are eligible, and the activities that are legitimate work release activities, including drug/alcohol and mental health treatment, education and care of relatives.

Housing

For many of the thousand of individuals leaving prison or jail, being released from incarceration simply means that they have traded a prison cell for a park bench or a cot in a homeless shelter. One study found that an estimated 30% of New York City’s shelter residents had been incarcerated at least once previously, with some shelter providers reporting that as many as 70% of clients were formerly incarcerated⁶⁰. According to New York City DOC data, more than half of the individuals discharged to the community from local jails entered the shelter system within 90 days of their release (including 28% within only one week).⁶¹ However, for many, the move from incarceration to homelessness is just the latest step in a vicious cycle of crime, incarceration and homelessness that continues to play out numerous times over their lives. Thus it is not surprising that a study found that 22% of jailed inmates in New York City reported being homeless on the night before they were arrested.⁶²

Safe and affordable housing is a critical component to successful reintegration and a chief factor in guaranteeing public safety. However, because many individuals returning home struggle with addiction and mental illness, lack financial resources, and face obstacles to gaining admission into public housing because of federal housing laws and local housing agencies’ policies regarding the admission of people with criminal records, securing housing often initially proves to be unattainable. As a result, an array of emergency, transitional and supportive housing should be a vital component of any effort to assist New York’s formerly incarcerated population. Some individuals will only need transitional housing, as they build a legitimate income stream or rebuild the relationships necessary in order to reunite with their families. Others will need supportive housing that provides coordinated social services such as family counseling, case management, medical services, drug and alcohol treatment, anger management, vocational training, and assistance with obtaining vital documents such as Social Security cards and birth certificates. Supportive housing itself can come in several forms. For those individuals with the most severe needs - in which independent living is unlikely - supportive housing can be permanent. Supportive housing can also be a phase-permanent facility - like the Fortune Academy - in which individuals released from prison are offered short term, emergency housing followed by longer term transitional housing coupled with supportive services.

Such transitional and supportive housing is extremely cost effective when compared to the two most likely alternatives - the shelter system or incarceration. The cost of sheltering a homeless family in the New York City Shelter system is \$36,000 per year, while the cost of shelter for a homeless individual is \$23,000 per year. In contrast, a supportive housing apartment with services can cost as little as \$12,500 per year.⁶³ Prisons and jails are even more expensive. It costs approximately \$32,400 a year to incarcerate a person in a New York State prison, and approximately \$59,000 a year to keep a person in a New York City jail.⁶⁴

Permanent housing opportunities for individuals with criminal records should also be increased. While federal law mandate certain specific provisions about public housing for individuals with criminal records, housing authorities have a great deal of discretion to decide whom to admit to their housing. Housing authorities should craft policies that take into account both valid public safety concerns and the need for those with criminal records to obtain stable homes. These

policies should require housing authorities to make individualized determinations about an applicant's eligibility based on his or her criminal history, and require consideration of evidence of rehabilitation. To maximize limited resources and leverage critical familial support, a person with a criminal record should also be permitted to return to his or her family where appropriate.⁶⁵

Recommendations

1. **Create a funding stream that provides for an array of housing options for individuals being released into the community.** These facilities could accommodate the large number of returning individuals who are unable to find permanent housing or are not able to get access to the services they need to successfully reenter. This can include converting under-utilized work-release or urban facilities into community reentry centers or transitional or supportive housing, building new facilities, or utilizing scatter site options.
2. **Create a pilot program with housing authorities that allows individuals with criminal records to live with family members in public housing and be listed on leases.** Often, the most immediate need for individuals returning home is securing housing, which for many people is the key to successful integration. Housing authority policies prevent these individuals from living with family members who live in public housing. A pilot program could be initiated in a limited number of housing projects.

Parole Supervision

Almost everyone who leaves prison is released to some sort of post-release supervision, usually run by parole. Although the laudable mission of the Division of Parole is to "promote public safety by preparing inmates for release and supervising parolees to successful completion of their sentences," all too often the focus of parole officer efforts is on catching parolees who violate the terms and conditions of their release. And when violations do occur, parole officers inevitably end up returning parolees to prison rather than addressing the underlying cause of the violations. In 2004-2005, while only 2,087 parolees were returned to prison after being convicted of new crimes, 8,126 were returned for technical violations.⁶⁶

Why does this occur? According to noted criminologist and former New York City Correction and Probation Commissioner Michael Jacobson, now Director of the Vera Institute of Justice, "The overriding rationale given by parole agencies for high rates of revoking parole and returning technical violators to prison is that unless they do so, more serious criminal conduct will result. The problem with this rationale is that no extant research demonstrates any connection between rule-breaking behavior of the kind involved in technical violations and future crime. Arguably, then, the whole enterprise is thrown into question by the lack of any cause-and-effect data connecting technical violations and crime.... [G]iven both the financial costs of prison and its long-term consequences for those sent back and their families, it is hard to imagine that using these alternatives is not better.... [T]he wholesale return of so many parolees to prison for technical violations, especially for drug use, has the effect of drawing funds away from interventions that could bring substantial safety benefits."⁶⁷

New York must devise a new parole supervision strategy, consulting with leading experts such as Jacobson, New York City Commissioner of Correction and Probation Martin Horn, and John Jay President Jeremy Travis, and working with the parole officers' union, that improves public safety and saves money by more effectively addressing the needs of parolees and their families, victims and the community.

Recommendations:

1. **Reallocate parole resources and frontload parole services.** Most individuals who violate parole do so in the first few months after release from prison.⁶⁸ Services should be frontloaded to help parolees during the difficult and stressful period as they adjust to life in the community.
2. **Better utilize family and community-based supports to assist with reintegration.** Families and communities play an important role in supporting reintegration. Opportunities should be created to actively engage family members, community members, faith-based organizations, neighborhood associations, business groups and other community-based organizations in the reentry process.
3. **Increase information about and referrals to resources such as workforce development, housing, health, mental health and drug and alcohol treatment and social service programs.** Parole officers often do not have immediate access to up-to-date information about the services available to help parolees. Parole officers should have access to regularly updated computer resource data bases and increase referrals, and parolees should have access to resource desks with service provider information.
4. **Explore the feasibility of agencies such as Medicaid and Social Security coming to parole offices and assisting parolees in obtaining documentation required for legal employment and government assistance.** While referrals to these agencies can also be made, parolees are more likely to gain access to these services if they do not have to negotiate these bureaucracies by themselves.
5. **Create clear guidelines for the exercise of parole officer discretion.** Parolees often encounter inconsistency in supervision requirements when they are assigned new parole officers. For example, parolees are sometimes required to leave jobs and housing that prior parole officers found to be acceptable.⁶⁹ Clear guidelines should be established to provide for consistency in supervision and review of the exercise of parole officer authority.
6. **Revise performance measures for all parole officers.** Parole officers' performances should not only be based on their monitoring abilities, but also their consistent effort and ability to find, develop and refer to resources that will help formerly incarcerated individuals to successfully reenter.⁷⁰ Parole officers should be rewarded for higher rates of successful completions of parole, and low violation and rearrest rates.
7. **Utilize graduated sanctions to respond to technical violations and use the most extreme sanction of prison and jail only as the last resort.**
8. **Design parole waiting rooms to convey the expectation of successful reintegration.** Current parole waiting areas are reminiscent of correctional settings, orienting parolees toward the past. More positive, inviting and motivational waiting areas with access to computer terminals and other resources will instill greater confidence that he or she can successfully reintegrate and remain in the mainstream. Even more important, such waiting areas would convey to parolees the Division of Parole's expectation of their successful reentry and provide additional opportunities to do so.⁷¹

Legal and Policy Barriers

People with criminal records face a daunting array of counterproductive, debilitating legal barriers that make it much more difficult for them to succeed in almost every important aspect of life. More and more employers are conducting criminal background checks on job applicants, which can make it much more difficult for New Yorkers with criminal records to find employment

and become productive, law-abiding members of society. Even though, during the past three decades, New York State enacted a series of statutes to implement a strong statewide public policy encouraging the hiring of qualified individuals with histories of incarceration or other criminal histories who are striving to lead productive, tax-paying, law-abiding lives, there are still some gaps in the law and technical problems with the existing statutes. Thus, unintended obstacles remain for those who have completed their rehabilitation and have demonstrated job-readiness. The stigma of a criminal conviction often means some people will be denied employment and other opportunities, no matter how long ago or minor their offenses.

Where protections do exist to prohibit discrimination against individuals with criminal records, employers are often unaware of these protections and solicit information or take other actions prohibited by law. Employers are also often unaware that resources are available to them in the form of intermediary organizations and transitional job programs.⁷² In order to help individuals with criminal records overcome these barriers to employment, in addition to passing legislation, New York should give employers a financial incentive to take a chance on candidates they might otherwise dismiss.⁷³

In addition to barriers to employment, individuals with criminal records face other obstacles that hinder successful reentry. New York's disenfranchisement laws, which take away the right to vote from individuals on parole or in prison on a felony conviction, have weakened the voice of African American and Latino communities throughout the state. According to a new book by Chris Uggen and Jeff Manza, African Americans make up 64% of New York's disenfranchised population.⁷⁴

Increasing voter participation by people coming out of the criminal justice system gives them a voice and a stake in the community. A recent study found that formerly incarcerated people who vote were half as likely as those who do not vote to end up back in prison.⁷⁵ The right to vote - to be empowered and to have a voice in the democratic process - is not only a fundamental civil and human right, it also is critical to an individual's successful reintegration into the community.

New York should eliminate legal and policy barriers that hinder the successful reentry of individuals with criminal records.

Recommendations:

State Policy

1. **Examine State policies to ensure that they are advancing the Penal Law's new goal, "the promotion of their (convicted persons') successful and productive reentry and reintegration into society."** This should include examining the State's own hiring practices and those of its contractors and vendors and enforcing protections of New York's anti-discrimination law, Article 23-A of the Corrections Law.⁷⁶

Legislation

2. **Enact legislation that would permit the conditional sealing of certain non-violent criminal records.** This bill would give qualified people with criminal records a true "second chance" to become employed, responsible members of society by:
 - Providing for the sealing of several categories of non-violent convictions;
 - Giving prosecutors notice of the record-sealing provisions and an opportunity to express their support or opposition to the filing;
 - Making sealing of these records conditional. If an individual is subsequently arrested for a crime, the record is conditionally unsealed. If the arrest results in

a conviction, the sealing order would be vacated. If the case is dismissed, it would be reinstated.

- Rendering ineligible individuals whose records contain a conviction for a sexual offense as defined in § 130 of the Penal Law.
 - Deeming a conviction that has been conditionally sealed a nullity. Employers may thus only inquire about convictions of crimes that have not been sealed.
3. **Amend Criminal Procedure Law § 160.55 so that convictions for non-criminal offenses are sealed, with certain exceptions, on the court level.** This restores the Legislature's purpose in enacting CPL § 160.55, to shield persons who were arrested but not convicted of crimes from employment discrimination and damage to their reputation, and prevents employers from gaining access to information that they would not legally be allowed to gain from the Division of Criminal Justice Services or any other agency.
 4. **Enact A.06393, a bill that would limit the length of time conviction histories can be posted on the New York State Department of Correctional Services' website to 10 years after a person is released from custody.** Old, incomplete, and misleading information about a person's incarceration is simply irrelevant once that individual is released from prison. Given the other options in New York for individuals to obtain complete criminal history information, the time that a conviction history can be posted on the DOCS website should be limited, at most, to 10 years after a person is released from custody. This is consistent, also, with the ten year period used by the courts to determine second and persistent felony offender status.
 5. **Enact legislation that would protect employers from negligent hiring claims if they comply with New York's laws that protect individuals with criminal records from discrimination.** Fear of negligent hiring liability contributes to employers not hiring individuals with criminal histories. Shielding employers from such liability if they rightfully follow Article 23-A, New York's law that provides guidelines regarding the hiring of people with criminal histories, will help these individuals find employment and successfully reintegrate.
 6. **Create a taskforce comprised of state and community-based organizations to examine the utilization of Certificates of Relief from Disabilities and Good Conduct and make recommendations regarding legislative and/or administrative changes to improve and increase their use.** Certificates are extremely valuable but underutilized tools that provide a way for qualified people with criminal records to demonstrate rehabilitation and lift bars to employment and licensure. The taskforce should examine both the process of obtaining Certificates and review the authorizing statutes and make specific recommendations for improving the availability and utilization of Certificates.

Employer Assistance

7. **Create a \$25 million Wage Subsidy Program specifically for formerly incarcerated people.** This can be similar to the Office of Temporary Disability Assistance (OTDA) Wage Subsidy Program (WSP) which offers time-limited subsidies to employers for wages and fringe benefit costs and reimburses community-based organizations that facilitate the employment of eligible recipients for non-wage subsidy costs on the basis of performance. First priority should be given to those individuals being released from prisons to the seven neighborhoods with the highest reentry rates: the Lower East Side, the South Bronx, Harlem, Brownsville, Bedford-Stuyvesant, East New York and South Jamaica. While this WSP is based on the OTDA program, there should be a few significant changes:

- Small businesses should be targeted for this initiative as they typically have less capital to expend on overhead and human resources.
 - The percentage of subsidized wages should vary on a sliding scale, based on the size of the business (i.e., a business with 50 employees would receive 90 percent of the wage, while a business with 75 employees would receive 80 percent).
 - Contracts should be flexible and terms should be negotiable between employers and employment intermediaries (CBOs). However, contracts must prohibit employers from replacing an existing employee with a wage-subsidized employee and/or cycling several individuals through one wage-subsidized position.⁷⁷
8. **Provide opportunities for employers to be educated on the state law relating to the employment of individuals with criminal record and the financial incentives and resources, including intermediary organizations, available to help employers.** A survey conducted by the Global Strategy Group for the Independent Committee on Reentry and Employment found that most business owners “are not very knowledgeable about the legal ramifications and restrictions surrounding an employer’s ability to screen for an applicant’s criminal background.... Employers are virtually unaware of staffing resources in the form of intermediary organizations and transitional job programs.” In addition, employers had “little knowledge of the social or economic incentives available to them.”⁷⁸ However, the Independent Committee on Reentry and Employment also noted in the report that, in general, employers are interested in and open to learning more about intermediary agencies and the financial incentives that are available to them.

Voting

9. **Enact A.11652, the “New York Voting Rights Notification and Registration Act,” which streamlines procedures for voter registration for people who are on probation or who have completed their incarceration and parole.**
10. **Amend New York State’s Election Law to allow all individuals to automatically regain the right to vote immediately upon release from prison.**

Funding

Some of our recommendations call for the expansion of community corrections and prison-based and community-based programming, and strengthening communities weakened by high incarceration rates. This will require an initial investment of resources. However, as the report has shown, greater use of alternatives to incarceration, reduction in imprisonment, and improved reentry not only will improve public safety but will quickly save the State an enormous amount of money that will cover their costs plus fund community re-investment and other priorities.

COMPREHENSIVE LIST OF RECOMMENDATIONS

I. COMMUNITY CORRECTIONS

1. Increase the use of community corrections, by expanding to scale and replicating the intermediate sanctions programs already operating in New York that have proven successful in diverting and monitoring individuals and protecting public safety, and developing new programs.
2. Make a greater range of individuals eligible for intermediate sanctions.
3. Adopt a comprehensive system of community corrections that, among other things, embraces a state/local partnership, incorporates principles of community justice,⁷⁹ and creates financial incentives to promote the use of intermediate sanctions and financial disincentives to discourage across-the-board over-reliance on incarceration.
4. Offer deferred adjudications, as well as diversion programs so that individuals have the opportunity to avoid a conviction.
5. Explore the concept of creating a capital funding stream to support the construction of facilities to provide services for individuals getting diverted or returning home from prison.
6. Impose financial conditions (bail) only when no other conditions of release will provide reasonable assurance that the defendant will appear for court proceedings.
7. When applicable, incorporate principles of restorative justice that emphasize repairing the harm caused or revealed by criminal behavior, into community-corrections programs.
8. Utilize gender validated risk assessment instruments that identify individuals with the greatest risk of recidivism.
9. Ensure that probation has sufficient resources to provide effective supervision.
10. Promote the establishment of a joint DPCA/OCA work group to further cooperation between traditional ATI programs and drug courts.

II. SENTENCING REFORM

1. Reform our sentencing laws so that judges and prosecutors have expanded opportunities to send appropriate individuals to community-based programs instead of prison.
2. Make a wider range of defendants eligible for diversion from prison to community-based programs - addicted individuals charged not just with drug crimes but other offenses as well, and non-addicted individuals charged with non-violent offenses, and expand the category of individuals eligible for retroactive relief.
3. Extend Family Court jurisdiction to youth up to 18 years of age.
4. Extend Youthful Offender eligibility to 21 years of age.
5. Expand treatment funding and capacity substantially so that providers are able to serve the increasing numbers of people who will be diverted as a result of these sentencing reforms and meet the special needs of the criminal justice population.

6. Expand the identification of addicted individuals.
7. Consider and utilize all treatment modalities when determining the appropriate treatment option for an individual.
8. Develop new models of treatment to accommodate the complex needs of offenders.
9. Recognize that relapse is part of recovery.
10. Utilize graduated sanctions, similar to those used in Drug Courts.
11. Use a holistic approach in addressing clients' multiple needs.

III. REENTRY

1. Better prepare individuals who are incarcerated for returning home by redesigning and expanding prison-based programming, developing comprehensive discharge plans with the involvement of family and community-based organizations, and putting mechanisms in place to implement those discharge plans, including ensuring that people in prison have the identification cards, Medicaid, and other benefits they need upon release.
2. Revamp New York's parole system to emphasize reintegration and discourage technical violations.
3. Eliminate legal and policy barriers to which they were sentenced and those serving sentences in the community.

Prison Programming

1. Begin discharge planning when an individual first enters prison.

Vocational Services

2. Initiate a strategic planning process within DOCS to redesign vocational programs so that individuals' industry-specific skill levels during incarceration increase and training opportunities are more relevant to the modern workplace.
3. Make certain vocational programs known to be relevant to the current labor market are immediately available in DOCS.
4. Develop specific reentry planning and workforce development for people with histories of violent convictions.

Educational Opportunities

5. Restore eligibility for the New York State Tuition Assistance Program and other public resources to people in prison.
6. Mandate that the NYS Department of Correctional Services (DOCS) provide appropriate space, security, technology, classification holds, and other reasonable resources necessary for the creation and maintenance successful post-secondary initiatives within the system and the provision of vocational services.

7. Reinstate the systematic use of “Educational Release” by the NYS DOCS for men and women in prison who qualify for temporary release.
8. Recognize and encourage enrollment in accredited post-secondary institutions as part of parole release.
9. Improve the use of the federal Incarcerated Youthful Offender Grant funds by following other states in administering the grants through the State Department of Education rather than through the Department of Correctional Services.

Drug and Alcohol Treatment

10. Require that a comprehensive drug and alcohol assessment be conducted by a credentialed alcoholism and substance abuse counselor for every person who enters a DOCS facility.
11. Evaluate prison treatment programs in order to assess if they are effective, provide gender and culturally competent services, and address the needs of those who are incarcerated.
12. Require that all prison programs are OASAS licensed - whether they are run by DOCS or outside community-based providers.
13. Enact legislation that allows incarcerated individuals to have increased access to CASAT programs.

Transitional Services

14. Develop and implement a New York State Reentry Planning Initiative, modeled on the Discharge Planning Initiative developed by the New York City Departments of Corrections and Homeless Services.
15. Develop comprehensive discharge plans that identify the principle challenges the released individual will face in reentering the community, and the steps required to overcome those challenges.
16. Provide workshops to help with family reunifications on topics such as effective parenting, healthy relationships and child support.
17. Ensure that individuals leaving prison (and jail where practical) who are eligible for Medicaid have applied for and are immediately eligible for coverage.
18. Provide each person leaving prison (and jail) with state-issued identification cards.
19. Revise child support enforcement regulations to provide for the setting aside or downward modification of child support arrears that accrued during incarceration.
20. Employ “back end” approaches, including work release and furloughs to ease the transition back into the community.

Housing

21. Create a funding stream that provides for an array of housing options for individuals being released into the community.
22. Create a pilot program with housing authorities that allows individuals with criminal records to live with family members in public housing and be listed on leases

Parole Supervision

23. Reallocate parole resources and frontload parole services.
24. Better utilize family and community-based supports to assist with reintegration.
25. Increase information about and referrals to resources such as workforce development, housing, health, mental health and drug and alcohol treatment and social service programs.
26. Explore the feasibility of agencies such as Medicaid and Social Security coming to parole offices and assisting parolees in obtaining documentation required for legal employment and government assistance. Create clear guidelines for the exercise of parole officer discretion.
27. Revise performance measures, for all parole officers.
28. Utilize graduated sanctions to respond to technical violations and use the most extreme sanction of prison and jail only as the last resort.
29. Design parole waiting rooms to convey the expectation of successful reintegration. Utilize graduated sanctions to respond to technical violations and use the most extreme sanction of prison and jail only as the last resort.

Legal and Policy Barriers

30. Examine State policies to ensure that they are advancing the Penal Law's new goal, "the promotion of their (convicted person's) successful and productive reentry and reintegration into society."

Legislation

31. Enact legislation that would permit the conditional sealing of certain non-violent criminal records.
32. Amend Criminal Procedure Law § 160.55 so that convictions for noncriminal offenses are sealed, with certain exceptions, on the court level.
33. Support *A.06393*, a bill that would limit the length of time conviction histories can be posted on the New York State Department of Correctional Services' website to 10 years after a person is released from custody.
34. Enact legislation that would protect employers from negligent hiring claims if they comply with New York's laws that protect individuals with criminal records from discrimination.
35. Create a taskforce comprised of state and community-based organizations to examine the utilization of Certificates of Relief from Disabilities and Good Conduct and make recommendations regarding legislative and/or administrative changes to improve and increase their use.

Employer Assistance

36. Create a \$25 million Wage Subsidy Program specifically for formerly incarcerated people.

37. Provide opportunities for employers to be educated on the state law relating to the employment of individuals with criminal record, and the financial incentives and resources, including intermediary organizations, available to help employers.

Voting

38. Support A.11652, the "New York Voting Rights Notification and Registration Act," which streamlines procedures for voter registration for people who are on probation or who have completed their incarceration and parole.
39. Amend New York State's Election Law to allow all individuals to automatically regain the right to vote immediately upon release from prison.

APPENDIX

APPENDIX A

THE COALITION FOR CRIMINAL JUSTICE REFORM

Following is a description of the community-based criminal justice agencies that comprise the Coalition.

The Center for Alternative Sentencing and Employment Services

The Center for Alternative Sentencing and Employment Services (CASES) was established in 1989 when the Court Employment Project and the Community Service Sentencing Project - originally demonstration projects designed and managed by the Vera Institute of Justice - were gathered under the umbrella of a single, independent non-profit corporation. Today, CASES operates seven programs for adults and four for youth. With a staff of 140 and an annual budget of \$9 million, CASES provides services and supervision for over 10,000 offenders a year.

The mission of CASES is to increase the understanding and use of community sanctions that are fair, affordable, and consistent with public safety. For more than 30 years, CASES has worked with the justice system to find sentencing alternatives that respond to justice system needs. By addressing the factors that underlie criminal behavior, such as poor education, lack of community support, inability to get and keep a job, substance abuse and low self-esteem, CASES' programs help young and adult offenders re-integrate into society. CASES offers structured alternatives that are more substantial than probation, but less costly and intrusive than jail or prison. CASES and its programs contribute to safer streets, improve lives and save taxpayer dollars each year.

Center for Community Alternatives: Innovative Solutions for Justice

The Center for Community Alternatives (CCA) has a 25-year successful history in providing services, research and training to reduce reliance on incarceration. Beginning in 1981, when CCA became the first not-for-profit organization to provide alternative sentence services, CCA has helped youth and adults live productive, healthy and safe lives by connecting them with community resources. CCA currently operates 18 major programs in New York City and Syracuse, NY. CCA's sentencing advocacy service, Client Specific Planning, is called upon throughout New York State and nationally, in local, state and federal courts. CCA is one of the premier organizations doing death penalty mitigation work across the country. In addition to direct services, CCA's Justice Strategies division undertakes research, program evaluation work and training and technical assistance. Justice Strategies work appears in peer-reviewed and practitioner journals.

CCA has pioneered model programs to inform the alternative to incarceration field. These include the nationally recognized program Youth Advocacy Program that works with juveniles charged as adults, Crossroads, New York's, first ATI drug treatment program for women, and CHOICES, that provides a range of support and reentry services for prisoners living with HIV. Working with the Syracuse City School District, CCA also introduced Strategies for Success, a program to reduce the school-to-prison pipeline.

CCA partners with government agencies including state and local corrections, probation, parole, schools and health departments. CCA's key partners - grassroots community groups- reflect CCA's understanding that solutions to crime rest within communities.

Center for Employment Opportunities (CEO)

For almost thirty years, the Center for Employment Opportunities (CEO) has addressed the

relationship between work and crime by providing immediate, effective and comprehensive employment services to men and women returning home from jail and prison to New York City. CEO offers highly structured and tightly supervised programs that aim at helping participants regain the skills and confidence they need to make a successful transition to a stable and productive life. CEO's signature work experience program - the Neighborhood Work Project - provides immediate, paid, time-limited employment and serves as an "employment lab," preparing participants with the essential skills to rejoin the workforce and restart their lives. CEO's Vocational Development Program places participants in full-time, unsubsidized employment and follows up through the first year, providing retention and advancement counseling, fatherhood services including child support advocacy, and referrals. CEO began in 1978 as a project of the Vera Institute of Justice and became an independent nonprofit organization in 1996. During its decade as an independent organization, CEO has placed over 8,000 persons with criminal records into full-time, unsubsidized employment.

Family Justice

Family Justice draws on the unique strengths of the family and neighborhoods to break cycles of involvement with the criminal justice system. The national nonprofit recognizes that strong family support and efficient integration of social services offer the best opportunity to reduce the cost and expense of recidivism and victimization.

Family Justice works with government agencies and local partners to provide direct services, offer training and technical assistance in its methods, and serve as a resource for public policy makers and the criminal justice field. Its national applications are distilled from its award winning evidenced-based practice at La Bodega de la Familia. Established in 1996 in a storefront on New York's Lower East Side, La Bodega offers a family-focused approach to case management, working in partnership with government and community based providers to model blended funding with a fusion of health and criminal justice dollars.

Family Justice has expanded the breadth of its work to bring family support tools to fields such as public housing, health and mental health, epidemiology, domestic violence, mentoring, and substance abuse treatment, and has informed the work of the Council of State Government and the National Governor's Association. The U.S. Department of Justice, the U.S. Substance Abuse and Mental Health Services Administration, and the U.S. Department of Housing and Urban Development, as well as state and local governments, invest in its family support model as a means to improve the lives of poor families involved in the criminal justice system.

The Fortune Society

The Fortune Society was created in 1967 after the opening of an off-Broadway play, "Fortune and Men's Eyes," about the horrors of prison life. As a result, the producer, David Rothenberg, and several former prisoners established The Fortune Society to help former prisoners break the cycle of crime and incarceration so that they could become productive members of their communities. In the past 38 years, Fortune has grown to provide a holistic continuum of services for former prisoners that include: Congregate and Scattered Site Housing, Substance Abuse Treatment, Counseling, Education, Career Development, Alternatives-to-Incarceration, Family Services, Health Services, Peer Training, Recreation and Food, and 24-hour Drop-in Center Services for Rikers Island releasees. In the past year, Fortune provided these services for close to 6,000 men, women and at-risk youth.

Fortune's program models have been nationally recognized for their innovation and quality by numerous institutions. For example, Fortune has been funded on six consecutive occasions by the federal government's SPNS (Special Projects of National Significance) initiative for our model HIV/AIDS programs. Fortune was also profiled by The Urban Institute as a model re-entry program, was featured in *Enterprise Quarterly* as a model program addressing the housing needs

of former prisoners returning to New York City; and was listed by AIDS Housing of Washington as a model for post-release housing programs for HIV-positive releasees in their report, "From Locked Up to Locked Out: Creating and Implementing Post-release Housing for Ex-Prisoners." The National Institute of Justice (NIJ) has also selected Fortune for a three-year outcome evaluation on its re-entry service model. The results of the evaluation will be shared nationally, and are considered valuable because Fortune's model is "of interest to service providers involved in ex-offender re-entry programming as well as researchers and policymakers interested in key components of successfully transitioning ex-offenders from prison to society."

Greenhope Services for Women

Greenhope Services for Women, Inc. was established in 1975 in a convent that was transformed into a comprehensive residential treatment program for formerly incarcerated women. Over the years, it has developed formal relationships with the criminal justice system and has expanded its work to include services for women on parole and those referred by the courts as an alternative to incarceration (ATI).

Located in East Harlem, Greenhope's commitment to providing quality services to predominantly poor African American and Latina ex-offenders has made it a leader in working with women to address the problems that lead to a life of drugs and crime. It is one of the few woman-centered facilities operating in New York State, which serves both parolees and ATI clients.

Greenhope operates three programs: Residential Treatment, Day Treatment, and Outpatient Services. In addition to its treatment focus, Greenhope is actively involved in local and statewide policy and advocacy efforts that address the specific needs of women in prison. Greenhope services over 200 women annually. To date, Greenhope has helped over 4,000 women reclaim their lives, reunite with their families and rebuild their communities.

Legal Action Center

For over thirty years the Legal Action Center (LAC) has been a successful and integral player in advocating on the local, state and national levels for sound criminal justice and drug policies. LAC advocates for policies that place a much greater emphasis on strategies that have proven effective in reducing crime, treating drug and alcohol problems, improve public safety and help people reclaim their lives, maintain their dignity and participate fully in society.

LAC forms partnerships with organizations to engage in a wide variety of educational and advocacy efforts to encourage and hopefully convince policy makers to adopt these policy improvements. LAC responds to inquiries from policy makers, including legislators on the local, state and national levels and the media for information and assistance; analyzes proposals and develop its own, and writes letters and position papers.

LAC is often the only advocate for individuals whose voice and rights might otherwise be disregarded. Through advocacy, LAC is able to improve the administration of justice by convincing leaders to change laws and policies and by providing many wonderful organizations and their staff the expanded resources and tools needed to monitor and assist their clients.

The Osborne Association

The Osborne Association, established in 1931 after the death of its founder Thomas Mott Osborne, is the oldest organization in NY providing direct services to men and women affected by incarceration. With services offered in three community sites (Bronx, Brooklyn and Queens), two courts, and 20 prisons and jails, Osborne provides a wide range of family, educational,

employment, and treatment programs at every stage of the criminal justice process, from alternatives to incarceration to reentry.

Women's Prison Association

Founded in 1844, WPA is a service and advocacy organization committed to helping women with criminal justice histories realize new possibilities for themselves and their families. WPA program services make it possible for women to obtain work, housing, and health care; to rebuild their families; and to participate fully in civic life. Through the Institute on Women & Criminal Justice, WPA pursues a rigorous policy, advocacy, and research agenda to bring new perspectives to public debates on women and criminal justice.

WPA provides direct assistance to approximately 2500 women and their families each year. WPA offers an integrated continuum of services to criminal justice-involved women in response to five key areas of need: livelihood, housing, family, health and well-being, and criminal justice compliance. WPA's programs are based in jail and prisons, as well as in the community. WPA helps women at different stages of involvement with the criminal justice system address their current needs and plan for their futures.

Endnotes

¹ The Coalition includes the Center for Alternative Sentencing and Employment Services (CASES), the Center for Community Alternatives (CCA), the Center for Employment Opportunities (CEO), Family Justice, the Fortune Society, Greenhope Services for Women, the Legal Action Center, the Osborne Association, and the Women's Prison Association (WPA). Each Coalition member has a long history of involvement in efforts to improve the New York criminal justice system.

² Letter dated June 6, 2006 from Glenn S. Goord, Commissioner of the State of New York Department of Correctional Services to Tom Coburn, Chairman, U.S. Senate Committee on the Judiciary, *available* at: <http://www.docs.state.ny.us/PressRel/06SafetyandAbuseReport/ChairmanCoburnLetter.pdf>.

³ Noted criminologist Todd Clear defines "community justice" as "different from traditional criminal justice in three important ways: It is based on the neighborhood rather than on legal jurisdiction; it is problem solving rather than adversarial; and it is restorative rather than retributive." Clear, Todd, and George Cole (2000) *American Corrections*. Belmont, CA: Wadsworth Publishing Co., p.487.

⁴ The second felony conviction must be within ten years of the first conviction.

⁵ Correctional Association Fact Sheet at <http://www.correctionalassociation.org/general/pubs.html>.

⁶ According to New York State Department of Correctional Services Admissions and Release data, 26,146 people were released from DOCS in 2005. Nationally, in 2002 more than 630,000 people left federal and state prisons (1,700 per day). Travis, Jeremy, 2005. *But They All Come Back: Facing the Challenges of Prisoner Reentry*. The Urban Institute Press.

⁷ SOURCE: New York State Division of Parole

⁸ See <http://www.disastercenter.com/crime/txcrime.htm>.

⁹ According to the Bureau of Justice Statistics (BJS), New York's incarceration rate dropped from 67,065 in 2002, to 65,198 in 2003, to 63,751 in 2004, the latest year these statistics have been reported. California's incarceration rate rose from 161,361 in 2002 to 164,485 in 2003, and 166,556 in 2004. Texas' incarceration rate rose from 162,003 in 2002 to 166,911 in 2003, and 168,105 in 2004. More information can be found at <http://www.ojp.usdoj.gov/bjs/data/corpop02.csv>.

¹⁰ The New York recidivism rate is about 40%. New York State Department of Correctional Services, "1996 Releases: Three Year Post Release Follow-Up" (June 2000). The recidivism rate dropped about 16% during the 1990s. E. J. McMahon, New York Crime Hits a Tipping Point, City Journal (Winter 2005), (<http://www.city-journal.org/printable.pbp?id=1742>). Significantly more recidivists are re-incarcerated for technical violations of parole than for committing new crimes.

¹¹ According to a letter dated June 6, 2006 from Glenn S. Goord, Commissioner of the State of New York Department of Correctional Services to Tom Coburn, Chairman, U.S. Senate Committee on the Judiciary, there were 63,098 individuals in DOCS facilities as of June 5, 2006. This letter is *available* at: <http://www.docs.state.ny.us/PressRel/06SafetyandAbuseReport/ChairmanCoburnLetter.pdf>.

¹² According to New York State Department of Correctional Services Admissions and Release data, 26,146 people were released from DOCS in 2005. Nationally, in 2002 more than 630,000 people left federal and state prisons (1700 per day). Travis, Jeremy, 2005. *But They All Come Back: Facing the Challenges of Prisoner Reentry*. The Urban Institute Press.

¹³ According to the U.S. Department of Justice Bureau of Justice Statistics, in 2004, 126,138 individuals in New York were on probation. More information can be found on the BJS website at <http://www.ojp.usdoj.gov/bjs/pub/pdf/ppus04.pdf>.

¹⁴ In a statewide poll commissioned by the Legal Action Center in 2002, 75% of New Yorkers believed that treatment was the best approach to preventing future drug-related crimes by non-violent, addicted individuals; only 18% thought that prison was. More information on the poll results can be found on the Legal Action Center website at: <http://www.lac.org/news/alerts.html>.

¹⁵ See Travis, Jeremy, *But They All Come Back: Facing the Challenges of Prisoner Reentry*; Jacobson, Michael, *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration*, New York University Press, 2005, citing *inter alia*, Clear, Todd R (1994) *Harm in American Penology: Offenders, Victims and Their Communities*. Albany: State University of New York Press; Clear, Todd, *The Impact of Reintegrating Offenders into the Community*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice; The Vera Institute of Justice (January 1996) *Unintended Consequences of Incarceration: Papers from a Conference Organized by Vera*. Available at www.vera.org/publications.

¹⁶ The role of treatment will be discussed in greater detail in the *Sentencing Reform* section of the Blueprint.

¹⁷ Jukka Savolainen, Ph.D, CJA Research Brief No. 2, *The Impact of Felony ATI Programs on Recidivism*, (April 2003), available at www.nycja.org.

¹⁸ This study, *BALANCING PUNISHMENT AND TREATMENT: Alternatives to Incarceration in New York City*, can be found on the Vera Institute's website at http://www.vera.org/publication_pdf/164_251.pdf

¹⁹ Noted criminologist Todd Clear defines "community justice" as "different from traditional criminal justice in three important ways: It is based on the neighborhood rather than on legal jurisdiction; it is problem solving rather than adversarial; and it is restorative rather than retributive." Clear, Todd, and George Cole (2000) *American Corrections*. Belmont, CA: Wadsworth Publishing Co., p.487.

²⁰ The American Bar Commission on Effective Criminal Sanctions has made this and other recommendations, which were approved by the Commission on Effective Criminal Sanctions on May 5, 20026. They have been submitted to the House of Delegates for consideration in August 2007 and do not constitute the official policy of the Association. The Executive summary of this report can be found at [http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/Introductorymaterial61506\(2\).pdf](http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/Introductorymaterial61506(2).pdf)

²¹ *Tools of the Trade: A Guide to Incorporating Science into Practice*, Faye Taxman, Eric Shepardson, James Byrne. This report can be found at: <http://www.nicic.org/pubs/2004/020095.pdf>.

²² New York is one of two states that require youth 16 and older to be tried as adults; the other state is North Carolina.

²³ "The Economic Costs of Alcohol and Drug Abuse in the United States, 1992", Rockville, MD: May 1998. Updated figures from "Economic Benefits of Drug Treatment: A critical Review of the Evidence for Policy Makers", February 2005 by Steven Belenko, Ph.D., Principal Investigator, with Nicholas Patapis, Psy.D., Research Scientist, and Michael T. French, Ph.D., Treatment Research Institute at the University of Pennsylvania.

²⁴ "The Economic Costs of Drug Abuse in the United States; 1992 - 1998", Office of the National Drug Control Policy, September 2001.

²⁵ "Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program", a federally-funded five-year evaluation of the DTAP program.

²⁶ Some savings will only be generated if the operational costs of prisons are reduced. This would occur if entire prisons or certain sections of these facilities are closed down.

²⁷ Prendergast ML, Podus D, Chang E, Urada D. The effectiveness of drug abuse treatment: a meta-analysis of comparison group studies. *Drug Alcohol Depend.* 2002 Jun 1;67(1):53-72.

²⁸ The American Bar Commission on Effective Criminal Sanctions has made this and other recommendations, which were approved by the Commission on Effective Criminal Sanctions on May 5, 20026. They have been submitted to the House of Delegates for consideration in August 2007 and do not constitute the official policy of the Association. The Executive summary of this report can be found at [http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/Introductorymaterial61506\(2\).pdf](http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/Introductorymaterial61506(2).pdf)

²⁹ Recommendation of the NYS Commission on Drugs and the Courts.

³⁰ The NIDA *Principles of Drug Addiction Treatment: A Research Based Guide* can be found at: <http://www.nida.nih.gov/PODAT/PODAT1.html>.

³¹ According to New York State Department of Correctional Services Admissions and Release data, 26,146 people were released from DOCS in 2005.

³² Report and recommendations of the New York State Bar Association's Special Committee on Collateral Consequences of Criminal Proceedings, "Re-entry and Reintegration: The Road to Public Safety" citing Patrick A Langan and David J. Levin, *Recidivism of Prisoners Released in 1994* (U.S. Dep't of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report, Wash., D.C. 2002.

³³ SOURCE: New York State Division of Parole

³⁴ For example, 50% of the people in Brooklyn who are on parole come from 11% of the blocks in Brooklyn. This analysis was done by Eric Cadora and Charles Schwartz for the Community Justice Project at CASES, 1999.

³⁵ New York State Division of Parole Parolee Facts, available on the NYS Division of Parole Website at: <http://parole.state.ny.us/PROGRAMstatistics.html>.

³⁶ According to the Correctional Association's *Trends in New York State Prison Commitments*, in 2005, 56.8% of individuals in prison were incarcerated for non-violent crimes, available at: http://www.correctionalassociation.org/PPP/publications/trends_in_commitments_2006.pdf

³⁷ New York State Division of Parole Parolee Facts, available on the NYS Division of Parole Website at: <http://parole.state.ny.us/PROGRAMstatistics.html>

³⁸ Report from the New York State Department of Correctional Services, *Identified Substance Abusers - December 2004*, available at <http://www.docs.state.ny.us/Research/annotate.html>.

³⁹ New York State Division of Parole Parolee Facts, available on the NYS Division of Parole Website at: <http://parole.state.ny.us/PROGRAMstatistics.html>

⁴⁰ This report, *Pre- and Post-Reentry Case Management: Saving Money and Building Community Through Public Safety and Recidivism Reduction*, by the Monroe County, Judicial Process Commission's Public Policy Group, is still in draft.

⁴¹ The Transition from Prison to Community Initiative (TPCI) offers such an integrated plan. More information about the model can be found at: <http://www.abtassociates.com/Page.cfm?PageId=16288>.

⁴² This section and the recommendations regarding vocational services that follow have been taken from the Independent Committee on Reentry and Employment's "Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People".

⁴³ This section and the recommendations for increasing educational opportunities in prison were drafted by Dan Karpowitz, Bard Prison Initiative, Max Kenner, Bard Prison Initiative, Debbie Mukamal, Director, Prisoner Reentry Initiative at John Jay College of Criminal Justice (affiliation for identification purposes only), Glenn Martin, National HIRE Network of the Legal Action Center, and Vivian Nixon, College and Community Fellowship.

⁴⁴ The Department's \$2.2 billion in operating expenses is supported primarily by state tax revenue. See <http://publications.budget.state.ny.us/fy0506app1/docs.pdf>. From 1988 to 1998, the Department of Correctional Services has received a \$761 million budgetary increase while general fund support for New York's city and state university systems has declined by \$615 million. See <http://www.justicepolicy.org/article.php?id=20>.

⁴⁵ "Learning to Reduce Recidivism: A 50-State Analysis of Postsecondary Correctional Educational Policy." The Institute for Higher Education Policy, 2005. www.ihep.org/pubs/PDF/Recidivism.pdf. See also *Confronting Confinement: A Report of The Commission on Safety and Abuse in America's Prisons*, Nicholas de B. Katzenback and John J. Gibbons, Co-Chairs, Copyright 2006, The Vera Institute of Justice.

⁴⁶ Existing solely on private donations, there remain a handful of college programs including The Bard Prison Initiative, Consortium of the Niagara Frontier, Marymount College, Hudson Link, and the New York Theological Seminary.

⁴⁷ *The Health Status of Soon-to-be-Released Inmates: A Report to Congress*. Chicago, IL: National Commission on Correctional Health Care, 2002.

⁴⁸ See Martin, S. S., Butzin, C. A., Saum, C. A., & Inciardi, J. A. (1999). Three-year outcomes of therapeutic community treatment for drug-involved offenders in Delaware: From prison to work release to aftercare. *The Prison Journal*, Vol. 79, pp. 294-320; Wexler, H. K., De Leon, G., Thomas, G., Kressel, D., & Peters, J. (1999). The amity prison to evaluation reincarceration outcomes. *Criminal Justice and Behavior*, Vol. 26, pp. 147-167.

⁴⁹ According to the New York State Public Employers Federation (PEF), in 2002, 11,300 individuals were on waiting lists for substance abuse treatment (ASAT) programs. See PEF flyer at http://www.pef.org/fact_sheets/old2002/docs.pdf#search=%22DOCS%20ASAT%20programs%22

⁵⁰ For example, to be eligible for a CASAT program, a person must be eligible for temporary release, which precludes individuals incarcerated for violent crimes.

⁵¹ Information about the model can be found at: <http://www.abtassociates.com/Page.cfm?PageId=16288>.

⁵² One approach might be to follow North Carolina in the creation of a public corporation to sponsor and coordinate private philanthropy in support of college-in-prison programs.

⁵³ Such holds and other administrative tools still exist under current NYSDOC Regulations and Directives.

⁵⁴ Maryland, one such state, should serve as an example for New York in this regard.

⁵⁵ Travis, Jeremy, 2005. *But They All Come Back: Facing the Challenges of Prisoner Reentry*. The Urban Institute Press.

⁵⁶ Recommendation of the Independent Committee on Reentry and Employment's in "Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People."

⁵⁷ Donald Braman, *Doing Time on the Outside* (Ann Arbor: University of Michigan Press, 2004). P. 221.

⁵⁸ Programs such as Osborne's Family Works and the Children Center at Bedford Hills should be replicated.

⁵⁹ The authors of the study are Nicholas Freudenberg, Distinguished Professor of Urban Public Health at Hunter College, City University of New York; Dr. Joshua Lee, at the Program in Health Service Research and Clinical Epidemiology, Weill Cornell Medical College; and Martha Crum, a doctoral student in sociology at the CUNY Graduate Center. The study was funded by the Robert Wood Johnson Foundation. A paper describing these findings has been submitted for publication.

⁶⁰ Cho, Richard (2004), "Putting the Pieces Back Together" Corporation for Supportive Housing

⁶¹ Ibid

⁶² Métraux and Culhane; David Michaels et al., "Homelessness and indicators of mental illness among inmates in New York City's correctional system." *Hospital and Community Psychiatry* 43 (2002); 150-155.

⁶³ Coalition for the Homeless, www.coalitionforthehomeless.org/advocacy/basic_facts.html#basic_facts.

⁶⁴ Correctional Association Fact sheet, March 2006.

⁶⁵ The Legal Action Center has developed a Housing Advocacy Toolkit that makes specific recommendations as to model housing authority policies. This tool kit can be found at www.lac.org.

⁶⁶ SOURCE: New York State Division of Parole

⁶⁷ Jacobson, Michael, *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration*, New York University Press, 2005, p.155.

⁶⁸ See Travis, Jeremy, *But They All Come Back: Facing the Challenges of Prisoner Reentry*; Jacobson, Michael, *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration*, New York University Press, 2005

⁶⁹ One parolee was ordered to get rid of his child's two little dogs. Programs who work with parolees can provide a number of examples of such exercise of parole officer authority.

⁷⁰ Recommendation of the Independent Committee on Reentry and Employment's in "Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People."

⁷¹ Recommendation of the Independent Committee on Reentry and Employment's in "Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People."

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Uggens, Christopher; Manza, Jeff, *Locked Out: Felon Disenfranchisement and American Democracy*. New York: Oxford University Press. More information about this book can be found at:

<http://www.oup.com/us/catalog/general/subject/Sociology/Political/?pr=10&pf=0&ss=title.asc&sf=recommended&sd=asc&view=usa&ci=0195149327> .

⁷⁵ Uggens, Christopher; Manza, Jeff, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36, Colum. Human Rights L. Rev. 193 (2004).

⁷⁶ In Florida, the Governor issued Executive Order No. 05-28, requiring that state agencies assume a leadership role with regard to the issues of prisoner reentry.

⁷⁷ More information on the wage subsidy program can be found in the Independent Committee on Reentry and Employment's report, "Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated People."

⁷⁸ Ibid.

⁷⁹ Noted criminologist Todd Clear defines "community justice" as "different from traditional criminal justice in three important ways: It is based on the neighborhood rather than on legal jurisdiction; it is problem solving rather than adversarial; and it is restorative rather than retributive." Clear, Todd, and George Cole (2000) *American Corrections*. Belmont, CA: Wadsworth Publishing Co., p.487.