New York State
Commission on Sentencing
Reform

Public Hearing in Albany
November 15, 2007
COMMISSION MEMBERS:

Commissioner Denise E. O'Donnell, Co-chair
George B. Alexander
Anthony Annucci, Esq.
Assemblymember Joseph Lentol
Michael P. McDermott, Esq.
Cyrus Vance, Jr. Esq.
Wendy Lehman, Esq.

SPEAKERS:

Robert Maccarone.
James Murphy
Rocco Pozzi
Mark Furnish
James Tuffey
Alice Green
Fr. Peter Young
Larry Flanagan
Alison Coleman
Michael Ranalli
Tana Agostini
Patricia Gioia
Julie McClurkin
Karen Carpenter-Palumbo
Joyce Hartwell
Calton Pulliam
Bernard Fleishman
Tom Morrison
Courtney Ramirez
Robb Smith
Robert Carney
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2    Susan Antos
3        Lorraine Barde
4    Yusef Williams
5        Patricia Durham
6    Randy Credico
7  ALSO PRESENT:
8        Assemblymember David Gantt
9        Assemblymember David Koon
10    Assemblymember Jeffrion L. Aubry
11        Paul Korotkin
12    Sharon Malloy
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(The hearing commenced at 9:44 a.m.)

MS. O'DONNELL: My name is Denise O'Donnell, I have the privilege of chairing the Commission on Sentencing Reform and I want to welcome you and thank you for coming to attend our hearing. We are, each of us on the Commission are very, very interested in receiving feedback from the public about our preliminary report, which I hope you read, which is available online at the D.C.J.S. Web site and we have copies available here.

This is our opportunity to hear from you, our work is far from done. So, it's important that we have input from the public, from advocates for different groups, from the educational community, the legal community, the law enforcement community and -- and private citizens who care about our sentencing laws.

I would like to begin by asking our commissioners, or their authorized delegates, to introduce themselves, and I will start to my right.
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MR. ANNUCCI: Good morning, I'm Tony Annucci, deputy commissioner and counsel, executive deputy commissioner with DOCS, and I'm representing Commissioner Brian Fischer.

MR. ALEXANDER: Good morning, I'm George Alexander, chairman and chief executive officer of New York State Division of Parole.

MS. O'DONNELL: Denise O'Donnell.

MR. VANCE: Cy Vance, I'm an attorney in private practice in New York City.

MR. MCDERMOTT: Mike McDermott, I am an attorney in private practice here in Albany.

MR. LENTOL: I'm Assemblyman Joe Lentol.

MS. LEHMAN: I'm Wendy Lehman, I'm an assistant district attorney, I'm here on behalf of Commissioner Mike Green, the district attorney of Monroe County.

MS. O'DONNELL: Now, we have a very tight time frame, I'm sorry to say, we have allotted all of our speakers ten minutes, because that allows us to hear from as many speakers as possible, and we do have a large number of people
who want to speak to us today. We do have a
timekeeper here, who will help us keep time.

And I would like to begin by

introducing Robert Maccarone, our illustrious
director of the Division of -- or the Department of
Probation and Correctional Alternatives here in New
York, and a leader in -- in the field of community
supervision and reentry.

Bob?

MR. MACCARONE:  Good morning,
Commissioner, and thank you. My name is Robert
Maccarone, as you have said, and I'm testifying
today as the state director of the Division of
Probation and Correctional Alternatives, and I'm
going to go very quickly.

I'm going to read to you the
annotated version of my remarks, I'm submitting
fifteen copies of a more complete system -- bless
you -- of comments. I also serviced as chair of
the subcommittee on supervision in the community,
which rendered its report to the honorable members
of this commission on August 22nd of this year.

In this very brief time this
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morning I want to accomplish two objectives. The
first is to recognize the extraordinary efforts of
the Commissioner Chair -- Commissioner and
Assistant Deputy Secretary Denise O'Donnell, all
the members of the Commission on Sentencing Reform,
the members of its four subcommittees, the
executive director and the Commission's
knowledgeable and professional staff.

Producing the Commission report,
the future of sentencing in New York State, a
preliminary proposal for reform was, an enormous
undertaking that resulted in important blueprint
for shaping future sentencing reform and practices
in New York State. So, first, I want to
congratulate you on that.

I also want to highlight, of
course, the work of probation and community
correction agencies in New York State. I urge the
Commission to carefully examine the importance of
New York State maintaining a strong probation and
community correction system to early identify both
the risk and needs of offenders and address them in
the community as an effective alternative to costly
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incarceration in local jails and state prison.

Probation is the sentence in --
in nearly forty percent of convicted felony
offender dispositions in New York State. I say
this emphasizing the fact that the goal of
probation in community correction agencies is to
reduce recidivism and enhance public safety by
holding offenders accountable and providing them
the services to assist them in changing their
behavior to become a law-abiding residents of New
York State.

Probation is the original
alternatives to incarceration. The state's 58
local probation department supervise one hundred
and twenty-five thousand adult offenders, twice the
number of offenders incarcerated in state prison
and a population that is greater than both the
state prison and parole populations combined.

Fifty percent of the probationers
are felons, eleven percent are violent felony
offenders and six thousand are sex offenders who
are intensively managed in their respective
communities.
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In addition to the community supervision function, probation departments complete one hundred and thirty thousand presentence investigation reports each year for the courts.

As you know the presentence investigation report is an important document for sentencing courts as well as state prison and parole authorities, while it's not within the purview of this Commission to address the needs of the juvenile justice system in New York State - God knows you have a large enough task - I do want to take this opportunity to advice you that the probation departments perform a very critical function in family court managing some fifty thousand intakes annually, completing thirty thousand predispositional investigations and reports, and supervising seventeen thousand juvenile delinquents and persons in need of supervision. Indeed, the importance of that family court cannot be overemphasized, for it is there that the needs of troubled youths and families are first identified.
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In addition to regulating and providing state aid to local probation departments, D.P.C.A. also set standards and provides funding to the State's nearly two hundred alternatives to incarceration programs. Over a half of which are operated by probation departments, including pretrial and community service programs. Other A.T.I. program models include TASC, treatment alternatives for a safer community, defender-based advocacy and drug and alcohol treatment programs.

In 2006 the A.T.I. programs managed forty-two thousand five hundred and ninety-nine offenders in varying capacities.

In a letter dated August 28th, 2007, I wrote to the chair of the Commission on Sentencing Reform, a copy of which I have attached to my remarks today. I outline the important work of probation and the challenges posed by high caseloads and disparate service levels throughout the state. I also reiterated the importance of the presentence investigation and report and the problems caused by the common practice of waiving this important report as part of the judicial and
sentencing process.

Today I am submitting for your information and consideration, a copy of a report entitled probation staffing and caseload survey 2006, a detailed report that was produced by D.P.C.A. in early August of 2007. This report reflects a very detailed survey of probation departments, and how they allocate resources to the adult and family court systems and investigation and supervision functions.

In this report current caseloads in New York State are compared with national standards set forth by the American Probation and Parole Association. While the primary focus of the Commission is sentencing reform, the results of sentencing reform and potential for increased dependence on community corrections must, I would argue, cause us to ensure that programs are available, accessible and effective.

Apart from the outcome of the work of the Commission, the current reality is that the probation system is overburdened. One of the strengths of probation in New York State is the
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system of state regulation. The state regulation
and leadership model does not exist in all states,
and in many states with very high state prison
populations. State regulation has provided a
system of differential supervision albeit this is
impacted by probation funding and varying caseload
sizes.

Notwithstanding these
limitations, probation cases are classified as
level one, two, three or four administrative and
supervised under a system of varying personal and
collateral context including job and home visits
with the offender.

The current system of
classification is based on a rather simple and
dated classification system, the DP70. Probation
recognizes the importance of differential
supervision and the importance of resource
allocation. D.P.C.A., in collaboration with local
probation departments is quickly moving probation
practice in New York State toward a system that is
evidence based.

During the last year D.P.C.A. has
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implemented the use of the New York COMPAS an
evidence-based risk and need actuarial assessment
tool for use with adult probationers. It already
has implemented a fully validated risk and need
assessment tool, the YASI in fifty-five counties in
New York State.

The COMPAS adult risk and need
actuarial assessment tool was written by probation
officers for probation officers in New York State.
It was also written with the input and assistance
of parole authorities to ensure that New York State
would build a system of consistent and continual
assessment, with the intent that information be
shared by probation, correction and parole
authorities.

Since April of 2007 D.P.C.A. has
worked intensively with its vendor Northpoint local
probation departments to train probation officers
in the use of this new assessment tool. Our goal
is to have every probation officer using the New
York COMPAS by January 2008, when the outdated
D.P.C.A. classification tool will be terminated.

I note that the Dutchess County
is currently using the LSI-R instrument, a fully validated instrument, but utilizes the pretrial services screen of COMPAS, and most recently the New York City Department of Probation commenced using the New York COMPAS with its high-risk population. As of this date the New York COMPAS is being utilized by nine hundred and fifty probation officers in forty-five probation departments, and they have completed thirteen thousand five hundred assessments.

The use of risk and need actuarial assessment tools is, indeed, the cornerstone of evidence-based practice. The empirical information derived from the use of a fully validated risk and need instrument for assessment and reassessment will inform the probation practice on how best to allocate resources to the highest-risk populations, provide information how best to reshape the supervision regulation from its current system of quantitative context to qualitative interventions, and provide the basis for the development of recommended caseload standards here in New York State.
Lastly, the assessment process will assist probation officers in developing meaningful case plans for offenders, empower them -- and empower them to better assess the effect -- the effectiveness of community-based drug and alcohol and mental health programs.

Today I'm providing the Commission with two important documents that support probation used with the New York COMPAS: The COMPAS psychometric report for the D.P.C.A. pilot and the COMPAS reclassification scale validation. And I have copies for the Commission here.

D.P.C.A. is working intensively with probation departments and alternatives to incarceration programs to increase offender accountability and ensure a system of measurable outcomes. In probation ten-year cohort recidivism studies produced by D.C.J.S. staff are shared with probation departments to track performance. These detailed reports by county and the City of New York are available through the D.P.C.A. Web site. One of our growing concerns is the gradual increase in
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probationer recidivism, as measured by felony rearrest from twelve point seven to thirteen point one percent.

Increasingly, the probationer population grows more violent and younger in age.

In fact, twenty-eight percent of the adult probationer population is sixteen twenty -- to twenty-one years of age. Fifty percent of the adult probationers are convicted of felony offenses, and in New York City that number is sixty-seven percent.

D.P.C.A. and the local probation departments are working with the National Institute of Corrections, N.I.C., to increase probationer employment another measurable outcome. Probation employment rates around the state differ significantly for a variety of reasons, including economic conditions in employment sectors and types of jobs that are available.

Employment is, indeed, a critical factor in assisting offenders to change their behavior and reducing recidivism. While somewhat attenuated from the strict review of sentencing
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reform, I would hope that the commissioner would

have the opportunity in the future to look at the

laws affecting offender employment, a very

important issue.

I can talk about it -- and I'll

end, I could talk about what we're doing with

N.I.C. in implementing the national model of

offender workforce development, and in fact, today

in New York City N.I.C., the National Institute of

Corrections, is on site with the New York City

Department of Probation, in training our offender

development workforce development specialists to

become statewide instructors. We no longer have to

send folks across the country to get that training.

Perhaps the single most important

thing that I want to say today in this last minute

is offender accountability. It requires a

probation officer's time, smaller caseloads, a

probation officer's guidance and the capacity to

respond swiftly and certainly to violative

behavior.

In describing the process of the

drug court, your preliminary report notes that it
allows the judge to react quickly to that misconduct or noncompliance; and in describing the continuum of sanctions available to probation officers the report notes that probation officers need to have appropriate and effective options to reinforce positive behavior and to address rule violations.

Probation officers, too, need the authority of the court behind them to enforce those conditions. And we have two recommendations for the Commission, which you will read in the written testimony: One is judicial review of warrants within seventy-two hours, and second is the timely -- excuse me, scheduling of probation violation hearings.

In conclusion, I want to tell you that probation is important to New York State as well as the alternatives to incarceration programs. They are uniquely well-positioned and court authorized to cost effectively manage large numbers of offenders in the community, while they have the supports of family, employment and housing.

The challenge of reentry in New York State. As every other state, is exacerbated
by offender disenfranchisement, offenders lose
these essential community supports, restoring them
to offenders is costly and difficult, it is far
better from both a cost and public safety
perspective that we succeed with offenders at the
earliest point in time and while they are in the
community.

MS. O'DONNELL: You're going to
have to wrap it up.

MR. MACCARONE: I thank you.

MS. O'DONNELL: Okay. Thank you
very much. And Director Maccarone, I really want
to thank you for chairing our subcommittee on
supervision in the community, and recognize the
important role that probation has played in
implementing, a risk/needs instrument, the COMPAS
instrument an evidence-based practice, which is one
of our principal recommendations in our preliminary
report, so thank you very much.

MR. MACCARONE: Thank you.

MS. O'DONNELL: I also want to
recognize Paul Korotkin and I saw him in the crowd
here, who is the chief researcher at the Department
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of Corrections and has been instrumental in
supplying many -- much of the data that has gone
into our report.

I want to recognize Assemblyman
David Gantt who has joined --

FROM THE FLOOR: Koon -- David

Koon.

MS. O'DONNELL: -- who -- who has
joined us and welcome. Our next speaker is James
Murphy, the president of the New York State
District Attorneys Association.

Welcome D.A. Murphy.

MR. MURPHY: Thank you
Commissioner. And its pleasure to be here this
morning to address you and the members of the
Commission.

On behalf of the sixty-two
district attorneys in New York, I'm pleased to
present this testimony to the members of the
Commission on Sentencing Reform.

As career prosecutors we know the
tremendously important role that sentencing plays
within the New York State Criminal Justice System
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and how it helps to make all New Yorkers safer.

I'm going to give you kind of an
abbreviated version of my submitted testimony,
which I submitted thirty copies to Ms. Bianchi
earlier this morning. I just want to touch on some
of the highlights that I think are important to the
District Attorneys Association.

MS. O'DONNELL: Thank you.

MR. MURPHY: I also want to thank
Governor Spitzer, and you, Commissioner O'Donnell,
for having the wisdom and force to taken on an
important thing as sentencing reform within the
first term of the governor's administration. I
think that's a tremendous thing that you are doing,
and I don't know how you found the time between all
the other roles that you have as well.

Every New York State prosecutor
is proud of the incredible accomplishments of New
York, which is now the fifth safest state in the
nation. I hope that we can overtake the next
state, the state which I think is Vermont, so I
think that says a lot about what we're doing here
in New York already.
And as you have pointed out in your preliminary proposal for reform New York State has achieved this ranking at the same time that the state prisons have enjoyed a substantial decrease in inmate population. We are the only large state that has achieved this success and one of the handful of states that have simultaneously reduced incarceration and crime. This shows that our criminal justice system is working very well. And while it is important to continue to aspire to do better, it is equally important not to make changes that could reverse this positive hard-won trend of less crime and fewer inmates.

For the next minute I would like to address some of the issues raised in your proposal specifically their impact upon prosecutors in the criminal justice system. We all agree on the -- one goal of making our community safer for all New Yorkers. To the extent that we can make change that does not adversely affect public safety, the association will support some of the progressive concepts of your proposal. Conversely, if we believe that any changes suggested in your
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proposal might take -- make New York a less safe place, then we will ask for more evaluation -- evaluation, research and discussion.

Let me talk first about determinate sentencing. The movement toward determinate sentencing that began in 1995 has always made good sense to prosecutors. Determinate sentencing allows prosecutors to negotiate sentences with a high degree of certainty as to the time that defendant will serve before release. It also provides corrections with the ability to formulate inmate programming with the knowledge of when release is most likely, any further change toward determinate sentences, however, must include sentence ranges that are realistically related to the severity of the crime, and do not put prosecutors at a disadvantage during plea negotiations.

I agree with the Commission that the current indeterminate sentences for nondrug class A-one and class A-two offenses should continue. These are the most serious crimes in New York State and public safety requires that if these
inmates are released at all they should be
supervised for life. This life supervision allows
the Division of Parole to ensure public safety and
return these offenders to prison for violation of
their terms of release.

Although I have carefully
reviewed the analysis of Chairman George Alexander
of the Division of Parole, set forth in the
appendix in support of continuing indeterminate
sentencing I still believe that a determinate
sentencing structure is best. There is a great
deal of vital work that Parole would still be
required to do including crime victim impact
hearings, establishing conditions for release of
all inmates returning to the community under Parole
supervision, and the critical determination as to
when parolees who have violated their conditions of
parole should be returned to prison.

Freeing the parole board from the
workload created by the current indeterminate
sentencing scheme, would allow the Parole members
to spend -- I'm sorry would allow the Parole Board
members to spend more time on these critical
components of their responsibilities.

Let me touch on further drug sentencing reform. In the past fifteen years there has been at least four substantial modifications of New York's Drug Laws. Some of the changes have eliminated life sentences, reduced the length of sentences and doubled the minimum quantities of the illegal drugs required for conviction.

The sentencing commission clearly appears to be seeking discussions to further reduce the penalties for some drug felonies. The Association strongly opposes any further change in the drug laws that would reduce penalties, and particularly the proposal to eliminate the mandatory incarceration provision upon a conviction for a class B felony without judicial, prosecutorial and defense consent.

Our opposition arises from what we have learned directly from our drug court defendants themselves, who have consistently told us that treatment works best when it is mandated by a court with -- with a real promise of incarceration for failure to say -- for failure to
complete the program. And we hear that time and

time again from the people who have graduated from
drug treatment courses, that were not for the fact
that they were facing incarceration, they would not
be the success that they were that day and be
graduates, because of the impetus of the giant
carrot and the giant stick that keeps them in those
programs and keeps them free and clean and sober.

As I previously stated in my
budget letter to Governor Spitzer, prosecutors have
always supported the appropriate use of substance
abuse treatment in drug cases. DTAP in the City of
New York and STEPS in Upstate counties, coupled
with the proliferation of drug courts throughout
the state have increased both the availability of
treatment and the expertise of the judiciary,
prosecution and defense in understanding the
appropriate use of treatment.

Now, when I talk about treatment,

I'm dividing our discussion between true dealers
and -- and true addicts or those addicted to the
controlled substances.

First, with regard to the
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dealers, district attorneys are constantly urged by communities to eradicate the plague of criminal violence. Drug dealing always brings guns and other violence, and provides a fertile breeding ground for violent gangs to start and grow. All district attorneys know that the elimination of drug dealers means less violence and fewer victims. That is why we reject softening the penalty for drug dealers, and will continue to seek prison terms for those who bring violence to our communities.

However, on the other hand, with regard to addicts, and despite the mantra of drug reform groups that inaccurately portray prosecutors as contributing to long sentences for drug addicts, the reality is far different. District attorneys seek treatment, jobs and a successful return to the community for drug addicts. We strongly support drug treatment and the appropriate use of graduated sanctions for drug addicts.

A recent survey by D.C.J.S. at the thirty-six counties in New York State
representing nearly eighty percent of our state's population, found that over twenty-two thousand defendants have participated in drug court, DTAP and STEPS. And although drug reform groups imply that all second felony offenders go to state prison, many, if not most, of those twenty-two thousand defendants were second felony offenders, who were up for drug treatment and not prison through the programs that I just mentioned.

Very simply removing the "mandatory," and I say that in quotes, prison provision for conviction of the class B felony or conviction of the second felony offender would make treatments and less successful.

Many Upstate D.A.s would embrace the drug court programs if they had resources available, but resources, personnel and funding are serious impediments to well-intentioned prosecutors. We have repeatedly asked for more funding in our annual budget requests.

Some facts you should consider are: Did you know that thirty-seven of sixty-two counties, more than half of the counties in the
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state, have less than ten assistant district

attorneys. Did you know that twenty of sixty-two,

nearly one-third of the counties have less than

five assistant district attorneys. I -- I think

these numbers are stunning, especially when we talk

about prosecutorial resources, and you're looking

at district attorneys offices to consider that more

than half had less than ten A.D.A.s.

The Franklin County D.A. wanted

to appear here today, and in speaking with him this

morning, he could not; he has four assistant D.A.s

who handle twenty-eight hundred crimes, three

thousand vehicle and traffic violations, twelve

hundred penal law violations, crimes from five

correctional facilities and the St. Regis

Reservation. He want us to expand a very limited

drug treatment court program, but needs resources,
technical support and personnel and funding. In

addition, the simple fact that geography is a major

impediment for his county in Franklin, and other

state rural counties, is important to remember.

The town of Tupper Lake for

every example is sixty-two miles away from the county
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seat of Malone, in Franklin County. A three-hour round trip for a drug court participant once a week is nearly impossible.

And we all know that programming for drug court participants is vital, someone can't be attending a drug court in Malone, but be living in Tupper Lake, and be expected to engage in community rehabilitation and treatment.

The Warren County district attorney, Kate Hogan, wanted to testify this morning, she is engaged in presenting an infant homicide case to her grand jury this morning. She had six assistant district attorneys, she has a very limited drug court program as well. She has the same problems that Franklin County has. Her resources are limited.

Both of those district attorneys, and many, many other of the district attorneys in Upstate, would engage in full-fledged, active dedicated full-time drug court prosecutors if they had the resources to do it. And despite well-intended district attorneys, those counties, and I said, again half have less than D.A. -- half
have less than ten D.A.s, they simply can't do it, because of the resources.

Geography, small offices and lack -- lack of programs for drug guys in their own communities will continue to thwart efforts by prosecutors to utilize alternative programs despite their willingness and desire to do so.

Fund the programs, and they will implemented in all of our counties. This is what district attorneys want, we want to expand and approve alternatives to incarceration.

My colleague Bridget Brennan, a special narcotics prosecutor, gave an in-depth testimony to the Commission earlier this week, and I will rely on her remarks for more information on that.

I want to skip ahead in my submission to the D.N.A. collection for all offenders. Although this matter was not raised by the Sentencing Commission it is of critical importance to prosecutors. The law presently requires D.N.A. collection upon conviction of all felonies and selected misdemeanors. Collecting
samples has been extremely cumbersome in Upstate
counties when a definitive guilty to a misdemeanor
and is not under any form of supervision. Every
county outside the city of New York with D.C.J.S.'s
assistance is required to formulate a plan to
collect D.N.A. Despite our best efforts - and I
realize my time is up, but I just have one last
paragraph - D.N.A. is not collected from every
offender, particularly in rural justice courts.

D.C. just is continually updating
and distributing reports to our counties
identifying offenders for whom a D.N.A. sample is
mandated but has not been submitted. Using these
reports local law enforcement attempts to locate
and persuade an offender to give a D.N.A. sample.

Very simply, the existing law did not contemplate,
let alone address this issue.

And it's because of the problems
generated by the current law that I strongly urge
you to call for a legislation, mandating collection
from all offenders at the time of arrest like
fingerprints and mug shots.

In today's world D.N.A. is a
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crime solver, and it can exonerate people
immediately upon the time of arrest just as
importantly. And D.A.s are wanting to do that as

well.

So, thank you, Commissioner.

Thank you to the Commission for
their work and their dedication.

And on behalf of all of the
district attorneys in New York State, I thank you
and look forward to continuing to work with you in
a collaborative way.

MS. O'DONNELL: Thank you very

much D.A. Murphy. Our next speaker is Mr. Rocco
Pozzi, who is the head of the Westchester County
Probation Department, also was a speaker and
lecturer before the Commission during our earlier
deliberations, and a member of one of our
subcommittees, and we thank you for all your help
in -- in our work. Welcome.

MR. POZZI: Thank you, Madam
Chairwoman, it is, indeed, an honor to be here
today, and I really want to thank the Committee for
this opportunity, and I also appear here today on
behalf of the New York State Council of Probation Administrators as I serve as their president for the next two years, and I commend the Commission for its preliminary report, and it -- and it is a preliminary report, we understand that, and it's a good starting point for us to begin this discussion.

I have submitted written testimony, I'm not going to read it into the record, I just want to try to cover some of the highlights, and I would like to save you ten minutes just by saying I agree with everything that Bob Maccarone said.

But I'm going to add a couple more points, if -- if -- if I can, because, you know, our state director has done a great job in his presentation, and I'm not going to give you a lot of the statistics that he has given you, I have in my report also, and I do want to highlight a couple of other statistics that he may not have covered.

One of the things that I -- I would like to drive home if I can - and this is a
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point I have been trying to make at the national
level, too - is that -- we all operate under the --
under the contention that probation is an
alternative to incarceration, and it really is not.
Incarceration is an alternative to probation.

Not only in this state, but also
in this country, it is -- it is the sentence of
choice in America, and yet not only in New York
State, but throughout the United States, we find
probation underfunded and undermanned.

And I just want to read one
excerpt, if I can, from my testimony, which kind of
highlights all this. And my friend Warren Green
who was a director from Fulton County, always says
that he -- he feels like we're the redheaded
stepchild of the criminal justice system. And
indeed, over the past fifteen years the probation
system in New York has seen its mandates increase,
through a disconnected series of expanded duties
and boutique sentences, while at the same time the
state has virtually abdicated its statutory
commitment to fund fifty percent of probation
services.
As a result, probation is at something of a crossroads. It finds itself underfunded, undermanned, hovering in an administrative nether world somewhere between the judiciary and the executive, a function of the local government, subject to state mandates, and funded partially by the state and greatly by the county. Now, you know why my analyst says I'm schizophrenic.

But it's -- you know, what I want to -- what I want to cover today with you is, I think we all know that the mandates that have been placed on probation have increased tremendously over the last fifteen years and the probation community wants to say that we understand that they are good mandates. They are things that we should be doing. The shortfall has been as those mandates have been handed down to us, the resources that need to go along with us in order for us to really implement those mandates has really not been there.

When we talk about the new D.W.I. legislation, interim supervision, where we actually have been able to increase the period of
supervision for people; sex offenders, we all talk
about sex offenders, our role in getting people
registered, collecting D.N.A. We also talk about
reentry and reintegration, the role that probation
place in that. All these are great things that we
need to do. And as this Commission talks about
increasing the availability of alternative
sentencing, you know, for our judges, we at the
same time have got to make sure that probation is
in a position where we can follow through on those
mandates.

You know, I -- I really -- I -- I
can't leave this table without talking a little bit
about the funding history and what has happened to
probation. I almost feel like I was -- I've been
in -- in Westchester now for eighteen years, and I
think ever since my arrival over the eighteen years
I have seen the state aid -- you know, it's
increased tremendously during that time period, and
it's going from a high of around fifty percent, or
forty-six point five I think might have been the
highest it -- it was when I got here eighteen years
ago, and it is now down to seventeen percent. And
when you look at average caseload sizes of a
hundred and twenty. That's the average. And I'm
talking about, you know, for sex offenders, and for
serious D.W.I., and for domestic violence cases,
you can't ask the probation officer to provide
meaningful services with caseloads of that size.

And when you look at -- I mean,
these are some numbers that I would like to give
you. The number of adult offenders on probation
exceeds the combined total of those incarcerated
and on parole. We have a hundred and twenty-four
thousand people that are under Probation
supervision in the state. There are approximately
sixty thousand felons that are under Probation
supervision.

In 2005 and 2006 state funding
for Probation services comprised three percent of
the total funding for DOCS, Parole and Probation
services. In 2005 the State spend an annual
average of five hundred and fifty-four dollars per
probationer, while spending four thousand one
hundred and seventy dollars per parolee, and
thirty-four thousand dollars per inmate.
The proportion of state aid reimbursement for Probation services has been reduced, as I said, from forty-five percent in 1990 to approximately seventeen percent in 2006. And new state mandates over the past fifteen years now consumed twenty-five percent of the duties of a probation officer.

So, my plea here today is that we support this Commission, and we want to work very closely with this Commission, and Probation wants to play a vital role. I think we have seen an increase in Probation's role through Project Impact. I think our police community have is finding probation to be invaluable resource of information that we have available in our -- in our records, and some of the things that we have been able to do to assist our communities to make them safer, you know, has really become apparent through Project Impact, and we applaud that -- that program, and we hope that that will continue, because it is making our communities safer.

But the one thing that we do need, as you heard the district attorneys, and you
hear the police -- we will hear from police
community, we in Probation also need to have
additional resources through that project, so we
continue to do the great things that we have
started to do.

So, my plea here today to the
Commission is that we are going to work with you,
we're going to continue to work with you, we just
hope that you will, in your final report, really
acknowledge the role of Probation, and you know,
have the resources that will be there to allow to
do the things that this Commission would want us to
do.

So, I want to thank you. My
testimony is in writing. I have a lot more
information in there that I'm not going to -- not
going to read to you. And I thank you for this
opportunity.

MS. O'DONNELL: Thank you.

MR. VANCE: I have a question,
really it's both for you and Mr. Maccarone, and do
you believe that the risk and needs assessment
tools that's we seem to talk about mostly in
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application for those who have been convicted, are
appropriately used by the judge preconviction in
the presentence evaluation? And if they are -- is
that something that Probation can actually -
obviously it's a funding and resource issue - but
can you -- can a -- can you do that kind of
assessment realistically preplea, or as part of the
presentence report?

MR. POZZI: Yeah, Bob, you can

answer.

MR. MACCARONE: Excuse me,
Probation easily -- and this -- we're very much at
the onset of risk and needs, the -- the whole issue
of the development of risk and needs is -- is a
fairly new science. I think we're going to train
our probation officers -- and in fact, we've got
round two training coming up during December and
January in case planning and reclassification and
case assessment. We need to also train the
judiciary. We'll be working closely with the chief
administrative judge to advise local court and
supreme -- supreme court judges of the use of the
risk and need instrument.
But certainly, yes, I think it is doable, and the reason that it's doable is because by completing, making that 30-minute investment in completing the risk and need assessment it will actually drive the development of the presentence investigation and report. So, the -- the officer is going to get a product out of that. It's going to help them. It's going to essentially do what was called commonly the presentence investigation worksheet. So, there's a product there. Yes, I think it's doable, and I think it will drive good practice.

MR. POZZI: And I agree. I mean it could be used in the -- as part of the presentence investigation, it is an invaluable tool for supervision.

Obviously part of it -- you know, not only the risk assessment, but the needs assessment, is extremely important, and then, you know, doing the -- the case plan that the probation officer needs to follow through on, is extremely important, and that document, that risk/need document helps provide that. And it provides some
consistency, so that we have, you know, probation officers not only in Westchester, but probation officers throughout the state, you know, working the same way.

Thank you.

MS. O’DONNELL: Thank you for your remarks.

You've made your point many times to us. We understand both the valuable -- invaluable role of probation, and we understand the need for funding as well.

MR. POZZI: Thank you.

MS. O’DONNELL: And I think Commissioner Alexander --

MR. ALEXANDER: Just a quick comment --

MS. O’DONNELL: -- made --.

MR. ALEXANDER: -- I just wanted to acknowledge the fact that Rocco Pozzi is not only a leader in Westchester County, but is the leader nationwide in the issue of -- in the areas of community supervision and particularly probation.
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So, Rocco, I want to thank you very much for your leadership in probation and across the country. I understand and appreciate the complexities of probation supervision, particularly in the face of limited resources that's coming from probation, coming from Erie County, certainly those resources are -- and those issues are something that we speak of very much in the Sentencing Reform Commission. So, thank you very much for your leadership.

MR. POZZI: Thank you, Mr. Chairman.

MS. O'DONNELL: Thank you.

Our next speaker is Chief James Tuffey, chief of the Albany Police Department. Chief Tuffey is one of the leaders, not only in New York but throughout the country in intelligence-driven policing. I, last night, was looking through our monthly and statistical reports for Operation Impact, and this year, despite a constant battle with violent crime, we see marked reductions in violent crime and part one crime here in Albany as a result of the work that Chief Tuffey
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and his troops are engaged in on an ongoing basis.

So, welcome.

MR. TUFFEY: Thank you very much, Commissioner.

Let me roll this back to the street, it's the police officers on the street who do the job every day. And that's really where I'm going to focus my testimony today.

First of all, let me thank the Commission members, and I applaud Governor -- or Governor Spitzer for the executive order in doing this Commission.

As a member of the law enforcement community we understand the complexities associated with the governor's executive order on sentence reform. However, I would ask the Commission to give full consideration to the input law enforcement official, throughout the state, would give this Commission. The number one goal of this Commission must be the safety of all New Yorkers. To do anything else would be a greater justice. We cannot undo the good work of law enforcement in reducing crime in the state of
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New York, which has resulted in fewer crime victims.

I am very concerned with the possibility of the Sentencing Commission discussing further penalty reduction in felony drug cases.

Far too often the law enforcement community sees the real devastation of the drug dealer's work.

Yes, we all see the violence, but the real silent killer is the addiction fueled by these dealers whose sole motivation is financial. They have actually no concern for the community or families they destroy.

Walk in our shoes, and you will see the underbelly of this devastation. Far too often we forget about those innocent victims. I believe that members of the law enforcement community, including myself personally, support treatment to prevent further deterioration to our communities, but this treatment needs to be started earlier. I firmly believe that any further penalty reduction in felony drug cases will have an impact on the safety of our communities of this great state.
Another area of great concern is the parole rule violator. They must be held to the parole conditions when they commit a violation of the law. They have been convicted or plead guilty and have been given a second chance by being released on parole. They have not paid their full debt to the society and they should return to finish out their sentence for any violation of the conditions of their parole. If they believe they are not going to be violated, they will continue to wreak havoc on the community.

In the City of Albany since January 1st of 2006, there have been over five hundred charges, two hundred and twenty-eight felonies and two hundred and seventy-five misdemeanors, against parolees who continue, once released, to violate the innocent citizens of our city. This has to stop. The safety of the law-abiding citizen has to be our number one concern.

In closing, let me again thank you for the opportunity to present this testimony. Let us continue to work together to come up with
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the best possible solutions to these complex issues
for the public safety of the citizens of this great
state.

Thank you very much for the
opportunity.

MS. O'DONNELL: Thank you, Chief.

Any questions?

Thank you. And I believe I skipped over Mark Furnish, who is going to be testifying in place of someone else who couldn't attend today, is Mark here? We will come back to Mark.

Alice Green from the Center for Law and Justice.

And if Heather Haskins is here and could come down also with our next speaker.

Thank you, and welcome, Ms.

Green.

MS. GREEN: Thank you. Good morning, Commissioner O'Donnell, and members of the Commission. Thank you for this opportunity to speak to you.

My name is Alice Green, and I am
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evacutive director of the Center for Law and
Justice, a twenty-two-year-old non-profit civil
rights and criminal justice organization that is
community-based in the City of Albany. It is our
mission to promote the fair and just treatment of
all people throughout our civil and criminal
justice system, and to advance public safety by
working directly with community people.

For nearly thirty years I have
worked with communities to raise the consciousness
of lawmakers, government officials and the general
public about the debilitating impact the criminal
justice system has on poor people and people of
color, their families and their communities. The
damage done to African-Americans is so extensive,
hurtful and destructive that it is reminiscent of
the harmful process that was put into play nearly
four hundred years ago.

Now, almost a hundred a fifty
years following the end of chattel slavery in
America, large numbers of our young black males,
and increasingly black females, are
disproportionally confined and still enslaved in
many respect. They are unable to vote, suffer high
unemployment and underemployment, live in
substandard housing, attend poorly funded and
performing schools, and receive the poorest medical
attention and care, and suffer from a litany of
other poor conditions.

Reports abound of how they are
perceived, approached and treated according to
stereotypes that mark them as inferior and less
than human by many of our basic institutions. Law
enforcement is no exception. It often exacerbates
these human conditions by relying, much too
heavily, upon their arrest and incarceration.

Also, for nearly thirty years, we
have come to this particular place here and
tested about these conditions and the failure of
our prison system and begged for understanding,
acknowledgment and determined actions to alleviate
the human destruction emanating from our criminal
punishment system. Many other research and -- and
civil rights and civil liberties organizations have
very clearly documented the seriousness of the
problem and the urgent need for effective change.
The sentencing project, the Correctional Association of New York, the NAACP legal defense fund, and many others had made significant contributions to our understanding of those most directly affected by our criminal punishment system, and what we must do about it. Regrettably, most of our recommendations and pleas were discarded. Over all these years we have failed to move those with the power and the authority to significantly change the horrible conditions that I mentioned earlier.

While the Center for Law and Justice believes that structural and sentencing reforms are needed in New York State, the government's charge to this Commission may not result in the kind of drastic changes necessary to liberate African-Americans, promote true criminal and social justice and further public safety.

To begin that process we believe that this Commission on Sentencing Reform must seriously entertain and consider the two following recommendations that we hope will be included in the final report to Governor Spitzer.
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The first, the abolition of

prisons as the major institution of punishment,

prison sentencing appears to have only a very

limited relationship to crime or criminal and

social justice. We see prison sentences primarily

as political, economic and racist tools that are

too often used to create and maintain a past system

of poor African-Americans and Latinos. In

addition, they are used to promote a flourishing

punishment industry that benefits almost everyone

but those incarcerated and their families. This

state of affairs must be acknowledged by this

Commission, and the commitment to abolish prisons

as the major institution of punishment must be

made.

One of the major leaders in a

movement to abolish prisons, Angela Davis asserts

that "abolitionism should not now be considered an

unrealizable utopian dream, but rather the only

possible way to halt the further transnational

development of prison industries."

A strong system of graduated

sanctions could be developed and adopted based on
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the experience and knowledge we now have. It could
be substituted and used to rehabilitate and/or
empower each individual to become a constructive
and contributing member of his or her family and
community.

New York State has a glorious
history of leadership in proposing and instituting
meaningful social change. As early as 1827 it
abolished slavery in the state at a time when few
believed that the abolition of that deeply embedded
economic, political and social system was possible.

Like slavery, prisons are not
sacred or natural wonders that must be thought of
as permanent fixtures in our society. And also
like slavery, prison abolition is a long range goal
that must begin now if you have to prevent the
destruction of another generation of people of
color, and further shape social relations in our
society.

Prisons also need to be abolished
because they function as a dominant mode of
addressing social problems that are better solved
by other institutions and other means. The call
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for prison abolition urges us to imagine and strive
for very different social landscape.

The second recommendation deals
with the development of community justice systems.

In a number of cities across the country, including
Albany, law enforcement officials and community
members are starting to work together as a way to
stop crime and increase the role of communities in
addressing public safety. Their primary goal is to
find ways to accomplish their public safety goals
without putting more people in prison.

Efforts are under way in cities
such as Chicago, Hartford, Houston and here in
Albany to change and increase the role of community
people in addressing public safety. In Albany a
community accountability board, an alternative
citizen-based criminal justice body, was developed
through the Albany County District Attorney's
Office. It allow citizens to become involved in
determining and monitoring sanctions for those who
have committed nonviolent criminal violations.

According to public safety
community organizers Lorenzo Jones and Robert
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Rooks, community people must have more say as to what happens to people once they are arrested.

They contend that what's good about placing the community at the center of what happens to people that get into trouble, is that the community often has a better idea of what people need than police.

It shifts the police incentives from making arrest to community satisfaction and involvement. It situates the community in the center of public policy debates for increased treatment, alternatives to incarceration programs and better sentencing practices. As a result communities gain a better understanding of the root causes of crime.

My center supports the notion that we must shift the goal of public safety and responsibilities to communities. In order to do this, there are four things that must happen:

One, communities must use sound research and advocacy to move away from incarceration-focused strategies and work to bridge the goals of criminal justice and public safety.

Second, communities must
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effectively organize to force legislators and law
enforcement to make a shift in their responses to
crime.

Third, communities must advocate
at all levels of government for alternative
programming.

And fourth, communities must
create volunteer alternatives, so that the
immediate diversion of people can happen, and won't
be held up by the slow legislative process.

Our state government must
encourage and support the work of local communities
to develop community justice systems in partnership
with law enforcement. The Center for Law and
Justice is currently working to develop a community
justice center model that would place community
residents at the very core of efforts to bring
together public and private groups, organizations
and resources to work collaboratively on social
justice and public safety issues and focus their
energies and resource on crime prevention,
treatment, reentry and empowerment activity.

While this Commission's charge is
primarily sentencing reform, and my agency's is prison abolition, a balance can and must be struck between the two. As you review New York's existing sentencing structure and entertain needed reform in the State Drug Laws, mandatory sentencing, parole, sentencing alternatives and other crucial issues, please consider how such changes could be integrated into an abolitionist context and decarceration strategies.

Current public discourse on the two goals have already generated calls for justice reinvestment. That is the planned shifting of resources from prison and punishment to community program such as education, healthcare, housing, treatment, alternatives to incarceration for drug and other offenses, and other public services.

What we believe is most important to acknowledge here today is that our dependency upon punishment, mass incarcerations and the disproportionate incarceration of black people and Latinos, has become so fixed in our societal psyche that we are unable to consider or imagine other more humane and effective ways of solving the
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problem of crime.

Today, we challenge the
Commission to break the chains that enslave us all,
and recommend a more progressive vision of justice
that can truly promote healing, justice and public
safety.

Again, I thank you for this
opportunity to appear before you.

MS. O'DONNELL: Thank you very
much, Ms. Green. And thank you for your many years
of dedicated service for the Center for Law and
Justice.

Mark Furnish?

Mark, I understand is with
Senator Duane's staff and --.

MR. FURNISH: Yes, I'm the
counsel for Senator Duane.

MS. O'DONNELL: Counsel for
Senator Duane, and welcome.

MR. FURNISH: Thank you.

Senator Duane represents the
Twenty-ninth Senate District, and from 2002 to 2006
he was the ranking minority member on the Senate's
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Code Committee, which was the Committee directly involved with the issue of criminal sentencing reform in the New York State Senate.

I would like to thank the Commission on State Sentencing Reform for allowing me to present testimony today on the urgent need for sentencing reform, especially on the issue of repealing the Rockefeller Drug Laws. Senator Duane believes that very little has been done in New York to reform these harsh and unnecessary drug laws.

In 2004, the New York State legislature was facing incredible pressure by the public to eliminate these laws, and it gave the state and our legislature a real opportunity to completely restructure the drug laws.

Regrettably the legislature reached a poor compromise, and passed laws in December of 2004 and August of 2005 that did very little in the way of Rockefeller Drug Law reform.

But it did have a tragic consequence of stopping the momentum for reform, and removing legislature's incentive to enact an actual and meaningful repeal of the laws.
The 2004 and 2005 legislation did nothing to eliminate the harsh penalties for low-level first-time nonviolent B offenses. In 2004, senate minority leader David Paterson and Senator Duane issued a report showing that New York State has the harshest laws in the country for low-level B offenses.

Senator Duane has been vocal in arguing that until we enact legislation that provides meaningful reform for Class B drug offenses, legislature and the state has not done their jobs in the area of sentencing reform.

In addition, under the recently enacted laws, very few district attorneys are in the process of resentencing those inmates convicted of Class A drug felonies. Yet even if the resentencing process was in full force, there is no infrastructure to provide inmates with legal assistance needed in the resentencing process.

Funding is important in anything that we do, it has to have a funding attachment. And much work needs to be done to improve the current system.

Now, I am going to bore you with
statistics, but they're staggering, that prove that
the legislation enacted in 2004 and 2005 provides
little relief to the staggering numbers of people
convicted under the Rockefeller Drug Laws.

Notwithstanding the recent Drug
Law modifications, more people were sent to state
prison for nonviolent drug offenses in 2006 than in
2005. 2006, it was six thousand thirty-nine, in
2005, it was five hundred -- five thousand eight
hundred and thirty-five and in 2004, it was five
thousand six hundred and fifty-seven, the number
has increased. There are over thirteen thousand
nine hundred drug offenders locked up in New York
State prisons, and it costs the State of New York
one point five billion to construct prisons to
house drug offenders, and operating expenses for
confining them is over five hundred and ten million
a year.

In 2006, thirty-six percent of
people sent to prison were drug offenders. In
1980, that figure was eleven percent. About
thirty-nine percent of drug offenders in New York
State prisons, more than five thousand four hundred
people, were locked up for drug possessions as opposed to drug selling. It costs over a hundred and ninety million to keep them in prison.

Of all the drug offenders in New York State prisons in 1999, eighty percent were never convicted of felony before and nearly fifty-four percent of drug offenders in New York State prisons were convicted of the lowest level of drug felony.

Further, there is no question that these laws are racially biased. Studies show that the majority of persons who use and sell drugs in New York State and across the country are whites, yet African-Americans and Latinos comprise the ninety-one percent of drug offenders in New York State's prisons, whites make up only eight percent.

The most effective tool to fight drug abuse is treatment, yet New York insists on locking up drug abusers. This is a detriment not only to the offender, but also costs the state coffers. It cost thirty-six thousand eight hundred and thirty-five dollars a year to keep a low-level
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drug offender in prison, while it costs about two
thousand seven hundred to forty-five hundred
dollars a year to provide treatment. Yet we insist
on continuing to incarcerate instead of treatment
and provide educational opportunities. This makes
no sense.

One of the biggest tragedies of
the Rockefeller Drug Laws is the plight of women
who get caught up in that. And in 2005, Senator
Duane held a hearing, where he looked at the plight
of woman and Rockefeller Drug Laws, and the
testimony was shocking.

As of January 2007, two hundred
and eighty-five (sic) women were incarcerated in
New York State prisons. That's four point five
percent of the state's population -- inmate
population. From 1973 to 2007, the number of women
in New York State's prisons increased six hundred
and forty-five percent. Eighty-four percent of
women sent to New York State prisons in 2006 were
nonviolent offenses. As of January 2007,

thirty-three percent were sent to prison for
nonviolent drug offenses. Eighty-two percent of
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women incarcerated in New York State prisons report
having alcohol and drug abuse problem prior to
arrests. Thirty-two percent of women have no
criminal record. And sixty percent lack a high
school diploma. Seventy-four percent of women
report being mothers, at least fifty-six hundred
children had mothers incarcerated in New York State
prison system. Fourteen percent of women report
being HIV positive, which is almost (sic) double
the rate reported by male inmates at six point
seven percent.

Senator Duane also wishes to
address one of his biggest concerns and one that
goes unmentioned most of the time. The need for
solid offender reentry programs. Many inmates who
are sent to prison on low-level drug offenses have
substance abuse problems, yet there's no integrated
reentry program for them. Upon their release from
prison, this leads to natural consequences of
recidivism. This is yet another sign that the Drug
Laws in New York State are nonsensical.

In Senator Duane's proposed
legislation would result in a successful reentry
programs. A successful reentry program must include: An issue of judicial identification of the problem and a detailed assessment of the offender's needs; a report must be made and issued to the Department of Correctional Services addressing offender needs; DOCS must be funded to provide educational, skill and treatment programs while the offender is incarcerated; neighborhood-level supervision, that means parole officers located in the community working hand in hand with respective neighborhoods to help released offenders access services; and the utilization of a full-service delivery model, which will include the following services: Employment/vocational training, housing, treatment of substance abuse, mental health counseling and counseling for families and partners; and finally program oversight and revocation authority exercised by reentry judges, whose job it is to maintain offender rehabilitation efforts.

Another serious problem across New York State related to the Rockefeller Drug Laws is the lack of uniformity of enforcement. How much
time you spend in prison on a low-level drug offense and the treatment you receive varies widely across the state. In addition to the incredible racial disparity, which I outlined earlier, a low-level drug offender's sentence depends a great deal on which -- which county they are sentenced in. This needs to be changed. Geography should not play a role in sentencing.

I, again, want to thank the Commission for holding these hearings across the state.

Senator believe -- Senator Duane believes that the testimony makes clear the urgent need to reform the Rockefeller Drug Laws.

As the legislature wastes time refusing to repeal these laws, more and more low-level offenders are getting imprisoned, families are ruined. This is wrong. Senator Duane urges the Commission to make clear in its recommendations that legislation must be enacted quickly to address these problems.

Finally, I want to stress that as we continue the process of enacting meaningful
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sentencing reform, we must always keep in mind that
drug addiction should always be treated as a health
issue. Treating drug addicts as criminal has been
a dismal failure.

Thank you.

MS. O’DONNELL: Thank you very
much, Mr. Furnish.

Father Young is here to join us.

Father Peter Young who has been a leader here in
the Albany community in providing housing for
formerly incarcerated individuals, and for his
advocating for reentry efforts.

FR. YOUNG: We -- thank you very
much. I'm speaking only on two issues. There were
those on the Committee that have been mentioned and
the ones that I would like, if I could, to address
today are the issues of housing and jobs. And for
forty-eight years I have been attempting to provide
safe housing for those who are homeless because of
their special need for supervision, probation and
parole.

I was assigned as pastor of a

large Green Street parish with many available
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buildings, gym, clothing centers, furniture
donation centers, recreation, and this is a convent/rectory, and I lived there with a staff of fifty-three people at that time, in the late -- in the 1950s.

In the rectory at that time I lived with twenty-four men in the same rectory. It was a wonderful experience with amazing success.
The understanding of the parishioners and the community, immediately would expand by using these men and women to take over abandoned properties, and within one year we had over one -- ten aftercare houses by our own creativity.

That was in the 1950s. Then the zoning plan committees put a stop to the development of our efforts. In the rectory now, I'm allowed only to house six people, from twenty-four to six.

It's not that the -- the twenty-four I had housed had ever been in trouble, I never had an incident, it was limited according to the current code restrictions, now I have to renovate to meet the requirement that has cost
another two hundred thousand of the historic
preservation committee and other restrictions.

The result is we have defeated
the basic economic rule of supply and demand. The
battle for the pretty and they are not practical.
The housing need for the homeless, the current
barriers have created the problem for those that
are attempting to put their lives together.

Housing and employment legal
changes, have prevented their successful return to
the society. Just this week, I was in Buffalo,
all -- all this week in Rochester and Syracuse and
Utica visiting our programs in developing three new
sites. And -- and it's an easier thing there than
in New York City.

It's amazing how, when we look at
the changes that are resulted from the
devinstitutionalization, I was cochair of that
committee in '76, by the time as senate chaplain
for forty-nine years I watched that all happen.
And many of those clients are now churning on the
streets with inadequate quality of life, most of
them are returning to prison, the cooccurring
clients are still living on the streets in unbelievably harsh conditions.

On November in 2007, I saw the median at over twenty-five are homeless veterans.

We are housing these veterans in many of our statewide locations here in New York, with our -- we now have ninety-seven locations, I have to improve the -- the statistic here. These are different sites, they're different places where we can get them to work, and be again a contributing member of a society with a job.

With the advantage of clean and sober housing, with recreation and good employment opportunities, all these sites must have bus lines, health-related facilities and hospitals -- veterans hospitals and other things to best then coordinate their success.

Many have needs, special needs for transportation for medical appointments the majority of released individuals are unable to access affordable housing and many become homeless.

Inadequate housing tickle --

trickles down to impact the ex-offenders' other
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needs, such as treatment and employment. Homeless, the ex-offenders are at great risk of reoffending.
The role of treatment and housing is critical to provide a starting point for the reentry of the foundation or engaging into other support services.
Housing is simply not a place to live, but a most important step of the reentry process.

We believe it is important to concentrate services in communities where ex-offenders live. Serving people in their neighborhoods increases accessibility of services and enables providers to develop relationships with families and neighbors, which allow them to tap into the strength of that community.

Our programs had developed a neighborhood constituency, and the advantages are in engaging the residents who are not well-served by the mainstream systems. We believe that neighborhood community and faith-based organizations are more likely to successfully recruit and engage the local residents.

All the clients that have hope of soon assume being able to get their own apartment
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and we attempt to house as many as we can within
our network of aftercare housing. We ask them to
participate in our recovery tenants association,
meetings and social events, and believe in the
process of where to go and the continued network,
services, building the community services serves as
a foundation for the medical, social and fosters
fellowship, rather than a feeling of being alone
without counseling and advisors.

Encouraging them to stay
connected is one of the most rewarding experiences
that I appreciate, and when they have a chance to
help other new residents to meet and feel relaxed
in the positive environment about what they call,
and what we call, our wounded healers, those who
have been down and out and in the system of DOCS,
or in the county, and then they come out and they
begin to become contributors to where they need to
be, to pull it together for others, so they're
great examples. It's a wounded healer as we regard
them.

These wounded healers share with
other experiences -- with their the experiences
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without supported one time, and now they have the
hope to pull things together so that they can enjoy
the dignity of a paycheck.

Our housing rates are at best
one-third of a paycheck, and when they are employed
we assist them with their budget problems and coach
them, job coaching, and whenever they're needed for
advice we try to be there.

They are asked to become part of
the tenants' social activities and with some
commitment of time to other community activities
especially with the youth and seniors that are
living with us.

"My -- my dad was in prison, my
mom was in -- busy with my siblings and her job, my
thoughts to go to the gangs for the guidance that I
didn't get at home. Mom was too busy paying the
bills." That was a quote from this week's To You,
on local gangs.

Our agency houses thousands of
people every night, and in these locations we have
become caught in the inability of getting therefore
enough homes for their own kind of need. Many wait
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for the hope that they will get into subsidized
housing HUD programs, or Section 8, or some other
funding source to help them, and therefore they're
not able to get that, the cutbacks have prevented
that from happening.

We're stacked -- those in
shelters, in many shelters that we're operating we
see that happen, they just get caught there and
they can't get out, at an amazing cost without
planning further transition to the opportunity for
job and independent hope and life.

As a South End pastor in a prime
poverty area for over twenty years, and then
working in the state prison system as the founder
of the ASAT program, we are aware and working there
for -- the prison system for thirty years, I have
met folk from every conceivable background who beg
for opportunities rather than barriers in life. I
see the similarity in marching with the marchers
with Martin Luther King, they were attributing the
failure of the black community with not having any
achieving feeling, and it was the blocks and the
barriers that prevented the black community from
making an asset and we have to remove those barriers, and take away the kind of an obstacle, that impairment, that kind of difficulty that we put in their way.

There is a reward for putting --

they're extended efforts into housing. It would be great to have Habitat housing for all of the needy, but we're living in the real world, and many won't to be able to maintain that commitment to work hard for the -- and the rental payment. What we have attempted to do is to try to offer that transitional time, a year, a year and a half, whatever they might need, so that they can get a job. We guarantee a job, we absolutely guarantee a job for everyone that we have, we try to limit our ability to serve within that kind of targeted numbers, and there will be a time line for the candidate for housing to prove themselves in this period for their own place.

The one example here in Albany is an idea that started, and is now being advertised as the HUD number one priority, and in all of the speeches by HUD about housing, this is the housing
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unit that they're talking about. They're talking about high -- when the mayor called me, he said "we have -- we have thirty percent occupation in a housing unit, we have seventy percent vacancy if you want to move your guys in."

I said great, "give me sixty apartments." And in taking over the sixty apartments, we modified their behavior; the gangs, the drugs world, and all the kids that were then taking away and beating up the seniors, as they would go in, they would lock the elevator and jam the elevator, and then rip them off on the 1st and the 3rd of the month, especially; these men from prison went in and contained the crime, and gave again, to the community back that kind of opportunity of safe and clean and sober housing.

When we go -- our recovery tenants association assists the seniors with all of their needs for transportation and safety. We enjoy picnics, and all of the other social events that go with it. The majority of our state inmates return -- return into concentrated disadvantages, these communities, especially in Albany, Syracuse
and Buffalo, have a large number of un- and
low-skilled people.

I know he's waiving the time line
at me, but in fifty years of doing the same thing,
I feel frustrated being -- trying to attend and
capitalize what fifty years of ministry has done.

After -- our aftercare network,
of life after recovery, that I've given you a copy
of I would like, if I could, summarize because as I
see the flipping of the sign here, thank you.

MS. O'DONNELL: You still have
time.

FR. YOUNG: Thank you.

I -- I know that we recruit
members from the criminal justice system that might
otherwise fall through the cracks, of the one-stop
assistant that we now have, I feel that we need to
again successfully retain jobs through case
management - and thank God for the good work of the
parole officers and the probation officers and
those that are guiding our people - to help them
again attain their goal.

Case managers work with released
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offenders to ensure that they have the appropriate form of identification needed to obtain employment, which is a very vital kind of thing, we get a lot of folks walking in, that don't -- we don't know where they're from, and they just come in and say hi. And they come in, and -- and they need a place to stay.

For those that we're talking about in -- and especially the court system, we get, every day, the court saying, "I want him in a bed tonight," that does not mean you're going to get paid, I have a three-million-dollar deficit every year to take to the people that the court will say, "take to these people, put them in a bed tonight." The social service system, the Medicaid system will then demand that money back, because they say there's statute, and therefore we'll have to, again, put that predator back on the street without any kind of treatment or help.

And I'm kind of looking at what we're looking into in incremental and -- and employment goals, and recognize each and every success is important to help offenders get
motivated. Rather than focusing on barriers, let's
see if we can set up realistic employment goal, and
work with individuals to develop successful
strategies to overcome whatever barriers they may
face.

The growth process occurs not
only through the ability of prompt performing a job
but the success of assimilating and culturating
in -- those in the working experience. We are
looking at the short-term goals and the long-term
goals, and trying to be realistic in what we can
cause our folk to take on a career, and we try to
have a memo of understanding with all of the
restaurant associations, culinary arts and -- and
especially that kind of thing is important. We
have owned restaurants, hotels and many other
different activities between all of these buildings
in the walls, so we -- we are very familiar with
where and how we can try to get people employed.
For the State four seventy-one and the union
apprenticeship program. So, we try to work with
the unions, we got to do warehouse, we've got to do
a lot of these jobs things that will get people
into an opportunity with our recommendation automatically without any kind of hesitation because we have proven our record.

John Brennan (phonetic spelling)

and his modules, reduced barriers to employment including individual barriers, behaviors and attitudes, as work increased, job attainment and retention, competencies -- competencies. Prepare plans for interviews, develop resumes, cover letters and reference sheets, as well as impart knowledge on dealing with institutional barriers to employment including legal and employer requirements.

We are a state certified, New York State Department proprietary school, vested and certified by VESID, and assist participants to access the vocational training opportunities based on our experience with ex-offenders in need of vocational rehabilitation services. We meet one of the requirements to access that kind of VESID service. Achievement is the primary goal of our educational program.

I'm trying to be just brief --.
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MS. O'DONNELL: Will you be able
to summarize?

FR. YOUNG: Yeah, I am, and I
will do that now.

MS. O'DONNELL: Okay.

FR. YOUNG: I will leave the
other, if you want to read it, it's there.

MS. O'DONNELL: Thank you.

FR. YOUNG: And therefore, I just
want to thank you and I appreciate the opportunity
of being here to discuss it with you.

MS. O'DONNELL: Thank you, Father
Young. Thank you.

FR. YOUNG: Forty-eight, fifty
years of frustration.

MR. LENTOL: Excuse me. If I
just may, Peter --

FR. YOUNG: Yes.

MR. LENTOL: -- Father Young.

FR. YOUNG: Yes, Joe.

MR. LENTOL: I just wanted to
make a comment that I wanted to -- as a state
representative, I wanted to thank you for your
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fifty years of service, and for doing the work that
the state -- that should have been done by the
state in reentry. It's really been rewarding to
have worked with you over the last several years
that I have had pleasure in doing so.

Thank you, sir.

FR. YOUNG: Thank you, Joe.

MS. O'DONNELL: Thank you very
much, Father Young.

FR. YOUNG: Thank you.

MS. O'DONNELL: Our next speaker
is Larry Flanagan from NYSCOPBA.

Welcome.

MR. FLANAGAN: Good morning.

Good morning, Commissioner

O'Donnell, Assemblyman Lentol, members of the
Commission, I want to thank you for giving me the
opportunity to present testimony today regarding
your continuing efforts to review New York State's
current sentencing structure and practices.

As you can imagine individuals I
represent here today are keenly interested in all
aspects of the correctional system in New York
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State. My name is Larry Flanagan, Jr. I am the
president of the New York State Correctional
Officers and Police Benevolent Association,
NYSCOPBA.

NYSCOPBA represents more than
twenty-three thousand critical uniformed law
enforcement personnel across the state who provide
care, custody and control of the more than sixty
thousand inmates inside New York prisons.

To put it bluntly, many of our
members deal with the worst of the worst, our
members deal with murderers, rapists, drug dealers
and child molesters. The populations are the
nation's fourth largest correctional system. It's
because of the professionalism we bring to the job
every day that New York prisons are the safest in
the nation.

We proudly represent the security
hospital treatment assistants and safety and
security officers who provide the security and
maintain the safety of our state mental health
institutions. Our membership also consists of
security service assistants who provide security at
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state facilities on a multiagency level and warrant
transport officers employed by the Division of
Parole who travel across the country returning
parole violators to New York. The membership also
include capital police communication specialists,
security screening technicians, forest rangers and
the office of parks and recreation, lifeguards,
correction and community assistants and security
officers.

I would like to focus my remarks
today into a few crucial areas of concern with
respect to any detailed evaluation of the
sentencing reform.

As I understand it, the goal of
this Commission is to conduct a comprehensive
review of state laws governing how persons are
sentenced and released from prison and a close
examination of the alternatives to incarceration.
While there is no question a comprehensive review
of sentencing is long overdue, we might disagree on
what the focus of the reform should be.

I read with great interest your
preliminary recommendations from a few weeks ago.
I fully support a number of your conclusions, including establishing a purpose-sensitive commission to serve as an advisory body to legislative and executive branches. And two, enacting new laws and better enforcing existing statutes to further protect victims of crime and enhance their right to have a meaningful voice in the criminal justice process.

NYSCOPBA's number one concern is keeping the community safe. We believe that it has been proven and supported that these individuals need to be incarcerated and follow a structured life.

We would strongly suggest more shop programs, specifically designed to teach an individual about the challenges of dealing with everyday life as they continue outside the prison walls. Treatment programs are essential in a controlled environment. We certainly feel the drug dealers need to be off our streets, even if they have not committed a violent crime.

Let us not forget that recently an individual who was released into a community on
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a furlough under the pretense of a job interview,

almost immediately shot his ex-girlfriend. Keeping

in mind his original sentence was, that is correct,

a drug conviction.

NYSCOPBA has never opposed a

thoughtful complete assessment of sentencing

guidelines in New York. However, what we do

strongly oppose the use of the term community-based

treatment alternative sentences as a cover to

pursue privatization.

Many of us come from different

backgrounds, have had different experiences and are

involved in corrections at different points. We

will probably all agree that one of the

government's top priorities is the protection of

its citizens. Quite simply, it's something that

public sector provides that is far superior to

anything that the private sector has to offer.

Clearly the rationale for privatization is to save

the state money, and I still understand the need

for smart budgeting, especially in light of recent

forecast in the upcoming budget year. While it's

certainly a good policy to continue to pursue ways
to save the state dollar, it should not be at the
expense of law enforcement and public protection.
NYSCOPBA feels that blindly pursing this initiative
would be penny wise and pound foolish, placing the
public in harm's way.

In closing, I once again like to thank you for providing NYSCOPBA the opportunity to discuss these important issues with you. NYSCOPBA firmly believes that these proposed changes will directly impact the safety and security of our families and their respective communities.

I would be happy to answer any questions that you might have or please feel free to contact me personally.

Thank you.

MS. O'DONNELL: Thank you, Mr. Flanagan.

MR. FLANAGAN: Thank you very much.

MS. O'DONNELL: I don't believe that we have any recommendation about privatization in our report. If that was the impression you got, that wasn't part of the intention of the
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Commission, if that rest -- makes you rest more assured --

MR. FLANAGAN: Uh-huh.

MS. O'DONNELL: -- that -- that is not the direction that the Commission is pursuing.

MR. FLANAGAN: Okay.

MS. O'DONNELL: Is there any other questions?

Thank you very much.

MR. FLANAGAN: Thank you very much.

MS. O'DONNELL: Alison Coleman from Prison Families of New York.

Welcome, Ms. Coleman.

MS. COLEMAN: Thank you, good morning, Commissioners.

In 1981, my husband went to prison for twenty-five years to life for robbery three, no weapon and no injury. He came home two years ago. During the last few years federal court rulings have indicated that his sentence, which was the absolute most that could be given to a
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persistent felony offender, was very likely
unconstitutional because the added years were given
out by the judge and not the jury. A jury might
have sentenced differently after the two days of
positive testimony of his sentencing hearing. The
judge in this case had earlier made a statement
that he intended to give out as many hundreds of
years as possible before his retirement. So, our
family did twenty-five years.

In 1981, there was no local,
regional or state entity that offered prison
families any help in surviving the prison
experience, worked with our children to maintain
their emotional and educational health, offered
transportation to remote prisons, or explained the
complex rules that change from month to month and
prison to prison.

The prospect of living
twenty-five years outside of the scope of any
available services was terrifying, so I created
Prison Families of New York to meet my own needs,
and those of what was eventually thousands of
families and children of prisoners. But many
families called upon our agency after their loved one has been in prison from months or years. Many tell us they needed us during their loved one's incarceration, but they had no idea we were there. Many do not find us. Many families fall apart.

Of course, this does not have to happen. Albany County District Attorney David Soares and I and two local human services agencies are ready to start a limited program of information and support for the families of those going to prison from Albany County. Being available at the most difficult time in the poor households with relevant information about prison and prison family resources, we will increase the chance of the family's survival through an enormous system that has never before been adequately charted and interpreted to families at this stage of incarceration.

This plan could easily be replicated in every county. If New York State truly wants to include prison families and the prison reentry process and believes that, quote, prison reentry starts on day one, unquote, then
this is a first and vital step.

If we do not find prison families at the beginning of the process, we will lose many forever. As a state, we must finally recognize the needs of prison families and the important role we families play in progressive criminal justice.

Thank you.

MS. O'DONNELL: Thank you very much.

Any questions?

We appreciate you for being here today, thank you.

Michael Ranalli, chief of the Glenville Police Department. Chief Ranalli, thank you very much for joining us.

MR. RANALLI: Thank you for having me.

Good morning. Well, to be honest you have no idea who I am. So, because of some of the things that I am going to say this morning over the next few minutes, I just want to take a couple of minutes just to -- to tell you who I am. I have been a police officer for twenty-two years, the
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first twenty-two of which with the county policy
department, and I had the opportunity to take the
chief's position at Glenville and I did so.

I'm also a graduate of Albany Law
School and a member of the bar, and I have spent
most of my career as a law enforcement officer as a
trainer, and I do a variety of teaching in all
issues of criminal justice, a lot of search and
seizure and different things.

As a matter of fact,
Commissioner, you are my boss, I'm going to try and
reserve the last minute to beg for a raise. You
know, I -- I teach classes for the Division of
Criminal Justice Services.

So, I -- I want you to understand
that, because this is my life, and I have spent,
again, twenty-two years trying to keep policing
professional, and keep officers doing what they're
supposed to be doing. I found this to be a very
good opportunity to come and speak to you because
from what I have seen, there hasn't been a
tremendous amount of input from -- from police
officers. I -- I would like to start out by
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commenting on something that District Attorney
Murphy brought up this morning, and that was on
D.N.A. collection.

Now, I know it's not in your
report, but again, from my experience, I think it's
important to consider that as part of any
comprehensive plan. The collection of D.N.A. has
been a tremendous asset to the criminal justice
community.

Now, I'm not just talking
strictly in the sense of making sure that we are
increasing a likelihood of identifying and
apprehending criminals. Obviously that's going to
be true. But the other item of concern, especially
for me as a trainer in trying to make sure that we
conduct our investigations properly, is what has
happened with the advent of D.N.A. and the increase
in testing, is that all of the false confessions
and mistaken identifications and -- and other
things that have led to wrongful convictions, that
is something that we, as police, are very concerned
about, and as is the prosecution.

And the D.N.A. has kind of turned
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into the instant replay of the criminal justice
system. It gives us a chance to realize that our
system is not perfect, and -- and mistakes are
made. So, I would strongly encourage you to -- to
adopt that as part of any plan that you have.

Now, with my background in
criminal justice, I'm frequently asked by officers,
"what do you think this person would get if they
were sentenced to this?" And my answer, quite
honestly, is "I have absolutely no idea, and I'm
not even sure where to look."

So, finding the recommendations
for the determinant sentencing and -- and the
combining of a lot of the -- the different
sentencing provisions and everything would be very,
very helpful to us. We frequently have more
contact -- we the police, have frequently more
contact with victims than just about anybody else
in the criminal justice system for -- for most
crimes. So, our ability to help them navigate
through that and understand what the possibilities
are would -- would be tremendous.

So, determinant sentencing, to
me, as a police officer with a narrow range of flexibility, would definitely seem to make the most sense.

Now, I also heard something encouraging with -- with a question that was asked today. Basically the theme of this portion -- by the way, I have submitted my written testimony, so -- I was very encouraged by the evidence-based practices portion of your -- of your report. And -- but what I see in -- in -- from my experience, again, is that the determinant sentencing, youthful offender, and the evidence-based practices and alternative sentencing should be all related, and this goes to the question that was asked by Commissioner Vance earlier from -- of Probation, and I see the three -- the four actually as all being interrelated.

The adoption of a determinant sentence provision, I think, would make the expansion of the youthful offender provision, as you have recommended I think to be extremely important, increasing it to nineteen to twenty
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with, what I really like, is spring-back provision.

One of the classes I teach for

D.C.J.S. is -- is on the causation and prevention

of school violence, and I have done a lot of

research in that area, and a lot of that

necessarily is the physiological aspects of the

development of the adolescent brain; and it's just

a proven fact that it takes a long time for -- for

young adults to fully develop their decisionmaking

capabilities. And as a result, I really do think

that -- that youthful offenders are very, very

useful tool, and -- and again, with the spring-back

very important.

But one of the side effects of

that -- of that research that I did in that, is the

realization that we are creating a number of kids

who are seriously troubled. And in the -- I

probably will not have time right now, but in the

materials, I have some quotes from -- from some

kids, very young kids, one an eleven year old,

"now, back to my sad little useless life, and I am

usually sitting and waiting to die, waiting and

hoping; " a fourteen year old, "I pray that someone
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will take mercy upon my soulless intractable pain
and emotional torment I call a body." These are
just a couple of examples I threw in there.

There's another one in there as well.

These are kids that, because of a
variety of reasons, again which are cited in there,
but it goes beyond the scope of this hearing, that
have some serious issues, and they need to be
identified as early as possible in the process.

Because reading some past testimony, I believe
Judge Brunetti, when you were in -- in July gave
you a Boy Scout example of a burglary case verdict,
the kid would receive three and a half years.

Well, that Boy Scout, and these kids that have
these type of writings in their journals they
needed to be treated a little bit differently
during the sentencing aspect and during the
treatment aspect afterwards.

And -- and sometimes, those kids
don't grow out of this, and continue on, and will
appear in a criminal justice system. The risk
assessment instrument that is discussed, I think
is -- is just absolutely incredibly valuable, and
should go to the question of why did the person do
what they did?

It's a simple question, but

obviously the answers is -- is full of

possibilities. But as -- again, as I see it from

my position in law enforcement, what I would like
to see that -- that instrument used for, is right

at the beginning, right for -- whether it's the

local criminal court judge, or the -- the county
court judge to use that, number one, as a guide,

and if you do determine a range of determinant

sentences, where in the range should this fall,

based upon the -- the findings of this report?

Where should -- should Y.O. status be granted to
this person? And finally, the programming before
the conviction.

Now, very quickly I -- I -- a

very important part of this is I just want to give

you an example of talking about sentencing reform

and alternative nonincarceratory dispositions. And

in -- in your materials that I have submitted,

there is an article -- no, not an article, excuse

me, a story I wrote in about Jack and Jill, I
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dubbed them. And I will -- I will condense it
right down:

Jill is a destitute crack addict

and prostitute who was caught coming out of the big
box store with a garbage can full of -- of stolen
material and giving it to Jack who is waiting for
it. Jack is a drug dealer, and whatever else
services he commanded over her. And our officers
made an arrest of Jack and Jill, and basically what
he would do is he would give her a list and tell
her, go in and get this. And then, he would bring
the materials back and -- and bring to the person
that requested them all and he would reward her
with crack. And so, we arrested them.

And what I would love to see, and
I think all police officers would love to see, is
that Jack and Jill needed to be treated
differently. Jill, that when asked the question
why, Jill, you're going to find the answer is going
to be substance abuse problem, lack of job skills,
a variety of other things. She needs to be
treated. If you just -- and -- and I remember upon
her arraignment thinking, she's going to go to
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county jail possibly for a while, she's going to
come back, she's just going to be here again.

    Jack on the other hand, is the
predator. He's a businessman. He has made a
cost/benefit analysis and he is plying his trade
and he is preying on people like Jill, and Jack
belongs in jail. And that's -- that's plain and
simple.

    So, anything that would help
to -- to -- to help that process along would --
would be -- would be very helpful. And I'm -- I'm
glad to hear the progress that's already been made
by probation.

    The last major topic that I had
is again in the materials - and -- and I'm just
about out of time - and that's on parole violators.

And as a police officer, I'm sure that you -- you
will not be surprised at my position. I will try
and sum that up as this:

    Typically -- and I'm not trying
to paint a broad stroke here, typically people that
are serving time are already recidivists. They
have already committed crimes, and more likely than
not, haven't been caught for -- with them. I do
not think that it's unreasonable to demand of them
that they comply with a reasonably crafted set of
rules as part of their -- excuse me, parole or
probation. And if they violate those rules, I say,
I -- I feel that that is a litmus test of whether
or not they are actually out there committing other
crimes that they are not being caught doing.
And the rest is in my paper. And
thank you very much for your time.

MS. O'DONNELL: I appreciate you
appearing here, Chief. Sorry, I wasn't aware that
you were one of our employees, but --.

MR. RANALLI: No, that's quite
all right.

MS. O'DONNELL: We'll talk about
the raise later on. See how we do in the budget
process.

Our next speaker is Tana Agostini
from Narcotics Anonymous.

Ms. Agostini, welcome.

MS. AGOSTINI: Thank you. Thank
you, Madam Chairperson, Assemblyman, members of the
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Sentencing Reform Commission, for allowing me to
testify before you today.

My name is Tana Agostini, and I
am here to briefly testify as a member of Narcotics
Anonymous, and then to bear witness as a private
citizen regarding sex offenders.

I am a twenty-three-year veteran
in Narcotics Anonymous, a twelve-step program. I
have volunteered for several years with the
Department of Correctional Services, for which I
installed and coordinated N.A. meetings at six
correctional facilities. I brought with me
approximately three-dozen male volunteers, and
served mostly with A-one violent felons. Today, I
volunteer with the women at my local county jail
and at community-based treatment programs in my
area.

I am also chairperson of the
Greater New York Region Narcotics Anonymous,
overseeing our services in fourteen lower counties.
Lastly, I employ ex-offenders and a level-two sex
offender in the business that I own and operate in
Ulster County.
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N.A., as such, has no opinion on issues outside of N.A., so I struggled greatly in what I would be permitted to say as an N.A. member. I cannot represent N.A., but qualify that my experiences with -- with DOCS, incarcerated persons and formerly incarcerated persons result from being both a long-time member and a long-time volunteer for N.A.

In my twenty-three years of recovery, I have known thousands of addicts to recover and reintegrate as productive members of society. A great many of our members are also persons formerly incarcerated. Those of us who succeed in recovery, and I would like to draw a parallel to those who do well in prison and do well upon reentry, are those who participate in a long-term program, and who thereby develop a support system of others who have succeeded before them in essence to mentor them.

So, the hardcore sentencing members on this Commission, allow me to point out that sentencing laws will only merit integrity to the extend that they result in an equal measure of
rehabilitation during the punitive time of incarceration. You must not dismiss, as unrelated to sentencing reform, the effect of reinstating higher education, increased funding for DOCS program development and availability, increased use of volunteers and community-based programs in the prisons, and expanding the eligibility of work release and merit time, which provide incentives to all classes of felons, even though we only seem to reserve it for a few.

The product DOCS delivers is directly proportionate to the success of reentry, and therefore the effectiveness of our sentencing laws.

Prison is full of subcultures, inmates divide themselves amongst one another in any number of ways. Narcotics Anonymous in particular, and not dissimilar to Alcoholics Anonymous, is a program that helps create subcommunities and cliques within correctional facilities comprised with inmates that wish to stay clean and utilize programs to better themselves, and the means to disassociate themselves from
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inmates who do not.

Our fellowship is diverse, but our public statistics show that fifty-four percent of us are over the age of forty, eighty-two percent of us are employed and fifty-five percent of us are clean over six years, in my case, twenty-three years. We represent an ideal program, full of mentors and role models for incarcerated persons, and we exist beyond the walls, free of charge, to support an active reentry.

I will never forget the day that I brought a former bank robber to our program at a max state facility. He had served sixteen years in max and had been a heroin addict who had previously been in thirty-two detoxes and treatment programs. Today, he has eighteen years clean, a Ph.D., and owns and operates a licensed psychotherapy clinic dedicated -- dedicated to serving the ex-offender community. He told our A-ones that he is happier today and making more money helping people than he ever did robbing banks.

What changed him? It started with the G.E.D. he got in prison, and N.A. which he
also found in prison.

On another note, but not as an N.A. member, I recently attended a public hearing in Kingston, New York, regarding sex-offender housing. What I found were one hundred and ten city residents who were by far more intimidating than any of the A-one felons I have ever volunteered with.

The citizens were hostile and angry, heckling and yelling at the county officials who dared to consider allowing the state to house fifteen sex offenders at our old county jail. They were outraged that sex offenders that live in our county, in spite of the fact that they came from our county in the first place, and in spite of the fact that one hundred and ninety-nine sex offenders already live here with no recidivism and sex offenses that our police department, who wasn't presented at the hearing, could report of.

I made several observations I would like to share with you: I noticed that the public has little to no understanding of the difference between types of sex offenses, and
believes that all of them are pedophiles, which apparently they are not. But the generic labeling of sex offenders isn't making that clear.

The requirement of sex offenders to continue registering as such when their parole or probation supervision time is expired is causing the public anxiety and confusion, and creating a series of unintended consequences, as this Commission well knows.

The public questions that a sex offender still needs to register, why aren't they still being supervised? Creating an opportunity for the public to better protect themselves, also creates the appearance that the state is not adequately protecting them.

My community also had no understanding of the difference between those on parole or probation, and the difference between misdemeanor crimes that result in jail or the felonies that result in prison. The community feels that no sex offense should be merely a misdemeanor, that they should all be felonies and carry greater sentences and supervision than they
Currently do.

The city residents also complain greatly about the rights of offenders, and felt the victims had no rights.

I found it surprising knowing that A-one violent felons can hardly get out of prison, can't get off of parole and can't ever vote. Furthermore, that the testimony of one victim can keep an A-one felon from his family, on my tax dollar, for an indeterminate number of years, when statistics show that extra years will make no measurable difference.

It would be untrue to say that the offenders are privileged to too many rights, but perhaps the rights we are denying offenders are not so supported by the public.

Recidivism rates provided by our county were from Cananda's corrections, and the State is criticized for not releasing our statistics since 2001.

Even I have such statistics till 2005, which I found released by the state on the Internet, yet my county believes that the state has
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not provided it.

I did, by the way, get up to the microphone and was the only person to support the State's request for our old jail, and I did speak for the fact that we do have recent statistics, but I, alone, made no measurable difference.

Only twenty of our county sex offenders actually are on parole, sixty are on probation and the remaining one hundred and nineteen are unsupervised. Fifty percent of all sex offenses were reported by my county to have been committed by adolescents. Yet it is clear that the county was not going to allow the state use of our own jail, not because any of the ten percent of our sex offenders who are on parole have recidivated, but because our current relations with the community leave them unable to distinguish between the various categorizes of sex offenses, much less the various agencies of our county and the State. State agencies, like sex offenders, were one big blur.

I subsequently noticed that sex offenders who lived and recidivated elsewhere,
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showed up on my county's registry, because the prison they now reside in is located in my county. This serves to falsely inflate the number of sex offenders residing in Ulster County lending unmerited increase to their alarm.

Unpopular as this may sound, because we are increasingly adding new crimes and categories of sex offenses that must register, which include misdemeanors, and as we plan to maintain registrations for between twenty and thirty years, we will eventually develop a sex registry larger than our state prison population. With a multitude of crimes as confusing us the sentencing laws we are now trying to streamline.

To the extent that we continue this labeling and registration practice, we will continue to find ourselves with an increasing number of unintended consequences. To the extent that misdemeanor and felony offenses that result in probation outpaced felony offenses that result in parole three to one, at least in Ulster County, should that hold true for the rest of the State, when we do find that the sex offender registry
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exceeds the size of our state prison population,

the state, as represented by DOCS and Division of

Parole, may, once again, be held responsible for

those crimes and recidivist statistics, as they

were in Ulster County, and yet DOCS and Parole,

statistically speaking, will not have been

responsible for more than one-quarter for persons

on that registry, unintended consequences.

In summary, I would like to

suggest we work more closely with counties who, to

some extent, symbolize the State, but seemingly

throw us to the wolves in their absence. We need

to educate the public, not only on sex offenders

but on offenders in general, and the results of our

tax dollars at work in the Department of

Corrections and Division of Parole, which are

putting out a lot of good results in spite of the

constant criticism.

Public relations and

cultivated -- cultivated media relations are worth

considering. For every statistics that says that

one in three parolees violate -- recidivate, there

are two who do not, this represent success.
That the violent offenders on -- on whom we are also tough about crime, and tough on sentencing, we're talking parole release, that they have the lowest rate of recidivism there is, confirmed by the former Commissioner Dennison, himself, on Tuesday that they have all people who actually represent least threat to society upon release.

Like any other addict clean over two years, or a mature A-one felon, for that matter, I am nothing like what I was when I got clean twenty-three years ago, and thank God I am not judged for my actions twenty-three years ago, or from comments by a judge's sentencing minutes or presentence report that was also written over two decades ago. But rather I am judged on my attitudes and behaviors today.

A-one violent felons, who are the same youth offenders the chief just spoke of twenty-five years later. A-one violent felons should have the same opportunities for release that would give to sex offenders and every other class of felons, who statistically would seem to merit it
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less than the long-term A-one violent felons do.

There is no logic or measurable

gain derived from denying merit time and work

release to long-term A-one felons, but there would

be measurable gain if we did. Ironically, the

people we spend the most time incarcerating, when

we release -- released, statistically are our best

examples of success.

As we seem to be working on

reentry for everybody else, please consider

developing a preboard reentry program for long-term

A-one violent felons, who have proven themselves

more susceptible on reentry, than the other

twenty-six thousand inmates we release each year.

Thank you for allowing me to

testify today.

MS. O’DONNELL: Thank you very

much.

Yes, we do have questions.

MR. ALEXANDER: Ms. Agostini, if

I can ask you just one or two questions, with

regards to your -- part of your presentation that

dealt with the sex offenders in your county, and I
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believe you said that part of the opposition was
attributed to a lack of understanding of the
various levels of sex offenses.

MS. AGOSTINI: That is correct,

that's right.

MR. ALEXANDER: If that was to
occur, there were some -- some education process
went out to give an understanding, or make a better
understanding of the various levels, would that
make an appreciable difference in terms of the
acceptance of the sex offenders in that particular
county?

MS. AGOSTINI: I believe it would
make some level of difference. Mostly nobody wants
it in their backyard, but I think that greater
education will -- will calm the fear and help them
to become more rational in dealing with a very real
problem that they have to address. They do not
address them, the sex offenders are scattered all
over the county, and the state is denied a good
facility, in which to provide the needed program.

MR. ALEXANDER: How would you
structure an educational campaign of that sort?
MS. AGOSTINI: I would definitely have to put some work into that, but it would certainly consist of working more closely with our county representatives who would speak on your behalf when you're not there.

MR. ALEXANDER: Thank you.

MS. AGOSTINI: Thank you, sir.

MS. O’DONNELL: Thank you for your thoughtful comments.

Our next speaker is Patricia Gioia from the Parents of Murdered Children.

Ms. Gioia, welcome.

MS. GIOIA: Thank you, good morning.

I’m starting off my statement by saying the victim, no less than the defendant, has a real and personal interest in seeing the imposition of a just penalty. The goal of victim participation is not to pressure justice, but to aid in its attainment. That is from the President's Task Force on Crime 1982.

First of all, I think -- did you mention I'm chapter leader of Parents of Murdered
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Children and Other Survivors of Homicide Victims?

This letter is written to express some of the concerns of families of homicide victims as you and the other distinguished members of the Commission on Sentencing Reform consider such a reform in New York State. We are concerned that a reform of sentencing, by adopting a predominantly determinant sentencing structure, might eventually lead to abolishing parole in many cases.

Parole has been, and we sincerely hope it will continue to be, an important part of our advocacy in the name of our loved ones who no longer have a voice. Crimes changed the makeup of our families, and has effected us in a myriad of ways. As the Commission considers changes in sentences, victim's families want to be assured that they will continue to have a voice at a parole hearing when the parole of the inmate is being considered.

The Parole Board, which will make the decision on the inmate's release, needs to hear directly from the victim or family members how the
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crime has continued to affect their lives since the
time of sentencing. Also the Parole Board members
will have the opportunity to learn the true story
of a crime from mouths of the victims, in our cases
the family of the deceased victim, which may or may
not have been accurately portrayed during the
trial. We, therefore, ask that the victim's
perspective as to possible release of the offender
be continued by such prerelease hearings.

In addition, a decision of
release is contemplated, an -- an accurate picture
of restitution payments still owed to the victim
should be established, as well as any orders of
protection that will need to be enforced upon the
inmate's released.

We support the recommendation
that the laws governing the rights of crime victims
in New York be moved into a single article of law,
either the Criminal Procedure Law or the Penal Law.
Consolidation of these laws will be beneficial to
crime victims as the present hodgepodge placement
of our rights and protections often makes
enforcement difficult.
We strongly agree with the Commission's finding that indeterminate sentences should continue for the most egregious offenses that now require maximum life sentences nondrug class A-one and class A-two felonies. A decision contemplating change to determinate sentencing for any crimes must be looked at long and hard to facilitate absolute fairness and justice to the victims of these crimes.

We've become aware that during the recent months a number of inmates sentenced to lengthy prison terms for brutal murders of their victims are now being considered for parole. Even though many years may have passed since these crimes were committed, parole of a murderer can be very difficult for the aggrieved families to accept. We believe it should occur only after a meeting with the victim's families and giving special attention to their concerns.

POMC, Parents of Murdered Children, has always encouraged our members and other families of homicide victims to register with the Department of Correctional Services to receive
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notice when an inmate is to be released from prison. We also encourage them to register with the Division of Parole to be notified of scheduled parole hearings so that they may have input on the inmate's parole, and when paroled, to be notified of the release date and the name of the parole officer.

Over the years, this has continued to be burdensome, with the results that families have often registered with one agency and not the other, or in the worst-case scenario neither.

Might we suggest that one form be utilized to give notice to both agencies of a desire to be notified of a parole hearing and/or imminent release from the Department of Correctional Services?

We believe this would be easier over all on victims and victim's families, and hopefully more efficient for the agencies involved.

We realize that your task of reviewing the conundrum of sentencing laws in our State is a mammoth task, and we wish you well as
you continue. Since crime victims have fought long
and hard to have a say and a role in the criminal
justice system, we want to share our input to you
and the Commission members.

Thank you for letting me speak.

MS. O'DONNELL: Thank you so much
and thank you for your suggestion. We did hear
testimony about the number of victims that can't be
located at the address that they originally
registered in and what a problem it is --

MS. GIOIA: Yes it is.

MS. O'DONNELL: -- in trying to
maintain contact with victims, and your assistance
and your suggestions that we try to streamline the
process are very good ones.

MS. GIOIA: Thank you so much.

MS. O'DONNELL: Thank you very
much.

MS. GIOIA: I appreciate it.

MS. O'DONNELL: Thank you. And
our next speaker is Julie McClurkin. McClurkin?

I also want to recognize

Assemblyman Jeff Aubry, who is here incognito in
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the back of the room, whose been a tremendous leader in -- in the criminal justice field and reform of -- of our drug laws, and -- and has advocated reentry long before it resonated in the minds of -- of so many of our state agencies who have served us and welcome.

MS. MCCLURKIN: Good morning, my name is Julie McClurkin, I'm actually a resident of New York, I don't belong to any type of organization. I'm basically here advocating for an inmate that is in the system. He is serving time under the old Rockefeller Drug Laws. He is a class B, he is serving now his fifteenth year of fifteen to thirty sentence. He has been denied every type of possible parole, work release furlough, everything, based on his past criminal history, which he will never be able to change.

Unfortunately, we have -- he's been in there for 15 years, he has yet to receive his G.E.D., he has yet to be put in the programming that he needs in order to obtain his G.E.D. He has reached out to many different parts of the Department of Corrections, as well as throughout
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the New York State, as well as myself, trying to advocate and trying to help and assist him in getting the things he need to succeed out here in the world.

Unfortunately there are many of us that are stuck in this system, I prepared a statement here, I'm obviously not reading from it, I've already submitted it, and this is very emotional and it is very difficult.

The -- the -- the suggestions that you have made I do support, they do need support, they need education, they need help, they need guidance. Unfortunately, the way that DOCS is set up, it is not helping the inmates, it is not helping the families, it's not conducive to getting them back out here into the world.

Originally, four years ago he was being told he could not be released because of warrants that were outstanding from '93 and '94, unfortunately he had been in the system since '93 and '94. It took his sentencing judge to write a court order for him to be produced to resolve those two warrants that should have already been
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long-time address, and ever since he reached out
for assistance when his counselors had told him you
have to contact the courts, you have to contact
them and the courts were telling him you have to
produce, how can he produce if he is behind bars,
he cannot. The sentencing judge actually took it
upon himself, wrote a court order, had him appear
in court, the warrants were taken care of. The
judge, a couple of months later, contacted the
facility suggested they should be getting him into
CASAT, that too was denied. Every -- everything,
ASAT, everything has been denied for him.

Unfortunately, I am sitting here
for selfish reasons, but there are many people that
fall into this class B situation, where class A's
have already been given the opportunity for
resentencing, class Bs have not been given any
opportunity for any type of resentencing. Part of
the requirements for some of the release programs
is you have your G.E.D., he has not been given that
opportunity to complete it.

That holds up his release as
well, that that doesn't allow him the freedom to
come home.

He has multiple siblings, he has a mother, she was a single parent, there was eight children. Yes, what he did was wrong. He acknowledges that, he does not have a problem admitting to that.

Would he return back to that life? No, absolutely not.

Does he see that it's entirely different? Absolutely.

He's thirty-eight now, he's been in the system since he was twenty-three, and right now there is no hope for any type of release in the near future, he's been told he cannot apply for anything until 2008 again, and then in two years after that they will have him again in front of the Parole Board in two years after they deny him again.

Unfortunately, that is just how the system seems to be working in his particular favor, and if you go into people that are in the New York State Department -- Department of Corrections and speak to them, you -- you will find
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this repeatedly with a lot of people.

I'm at loss for words at this point, I really have nothing else to say.

MS. O'DONNELL: Well, we know it's the hardest on -- on people whose lives are affected, whose family members are affected. So, we appreciate the fact that you were willing to come and share your story with us. So, thank you very much.

MS. MCCLURKIN: Thank you.

MS. O'DONNELL: I don't know if any of our other -- we're -- we're a little bit ahead of schedule because several people have cancelled their testimony, so we maybe able to take a break. If any of our speakers are here could you raise your hands?

We will continue. But we're scheduled then to resume at twelve ten, and we will take a brief break until then.

Thank you very much.

(A recess was taken at 11:46 a.m.)

(The hearing resumed at 12:24)
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p.m.)

MS. O'DONNELL: The hearing this afternoon, we have many, many more speakers. So, I appreciate you all attending. I don't know anyone that cares more about quality drug treatment for addicted individuals than our next speaker Commissioner Karen Carpenter-Palumbo from OASAS. Karen has a long and distinguished history and career in the area of substance abuse. She's a wonderful partner to those of us in the criminal justice system now, who are working on expanding treatment to individuals who are addicted to substances. So, Karen, thank you. I appreciate you being here today.

MS. CARPENTER-PALUMBO: Great. Great. Denise, it's great for me to be here. A little raspy with some pneumonia, but it will all be good.

I -- I really wanted to come here certainly as a colleague and congratulate you on the -- on the real reform you're bringing to the -- the sentencing process in New York State. I also wanted to be here as you know, we served on the
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subcommittee on incarceration and reentry, and I
think with the report -- the area of the report
that I want to concentrate on the most is where it
stressed the importance of substance abuse
treatment in the criminal justice population.
And -- and clearly it acknowledges, and I think we
all are in general agreement as we've met over the
last several months, that there has been a lack of
coordination between the substance abuse -- the --
the public health agencies, namely Office of
Alcoholism and Substance Abuse Services and the
public safety agencies, you know, the Criminal
Justice, Parole, the courts, et cetera, and I think
now we have a tremendous opportunity simply to
change that, and we have, and we're working on it.

For those of you that aren't as
familiar with OASAS, we are the largest treatment
agency in the country, and we serve a hundred and
ten thousand people every day. Our strategy is
very simple, prevention, treatment, recovery.
Prevent it, we spent about a
hundred million dollars trying to prevent
alcoholism and substance abuse. We treat it when
we -- when we -- you haven't made successes in
prevention, and are clearly helping people on the
road to recovery. And all of you, I think, are
knowledgeable on -- on that, in your daily --
day-to-day lives.

I think the concern has been
often times, and we have discussed it - certainly
Denise and I have discussed it at length - is,
oftentimes the criminal justice entities believe
that they can make clinical treatment decisions,
and oftentimes the clinical treatment individuals
think that they can make public safety decisions.
Neither is right, neither is wrong.

What we want to make sure that
happens, and certainly our mandate -- our joint
mandate from the governor is to work together
collaboratively to make sure we're addressing, you
know, those individuals that come into both of our
systems.

And I think that of the many
statistics that keep us all up at night, certainly
the ones relative to this population that concern
me the most are the facts that more than half of
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all prison inmates were under the influence of
alcohol or drugs when they were arrested; so more
than half, we know that that's a fact.

We also know, from your own
research, which we have spent time on, which is
fascinating to me, and I congratulate you on the --
your ability to track and some of the outcomes in
the public safety end of the twenty-six thousand
inmates that will be released this year, seventy
plus percent of them have a drug and alcohol
problem.

So, when we know that those are
the facts, we know we must do something to address
some of our systems, demand it, and I think we also
know that those are the folks that we all, from a
public safety and a public health arena, know that
are the highest risk for recidivism. So, if that's
the case and that's where our concentrated efforts
have been and will continue to be, and obviously I
work extensively with -- with Denise and Brian
Fischer and George Alexander.

First up, we're piloting, which
we think will -- will be the new model of
collaboration and coordination for care with the
Orleans Correctional Facility in Albion. It's a
great, I think, joint project, where we finally
say -- we look at the individuals that will, in
case, be relocating to Erie County, and say,
"what is -- let's assess them, let's clearly know
from a clinical professional, have then be assessed
on what their treatment needs are, and immediately
get them into treatment." Immediately. A handoff,
a warm handoff, not a referral note. And we are
working collaboratively on that project, and that
really will mean, you know, intensive case
management, working on employment, which is what we
all want, working on where are they going to live,
and how will they be supported in the community,
what are the services they need from a treatment
perspective whether it be residential, whether it
be outpatient?

One of the biggest concerns we
have, and I'm sure, Mike, you will remember from
the court system, when a judge, for example, will
order a twenty-four-month treatment modality, like
must be in this residential treatment, a particular
program, and that isn't what clearly needs to happen. Does a person need to be in a treatment modality for twenty-four months? Yes. But it's up to the treatment clinicians to determine which modality.

And then, also we have to work collaboratively, so the first time that that individual doesn't show up to an outpatient treatment program, that we notify the appropriate authorities. So, there's got to be more work, and certainly more collaboration. But I think as you look at the reentry project in Orleans, we will want to expand them, and how we need to get on the record for all of us, we expanded through some joint funds. You know, when we look at the dollar amounts, as you know, the prison, you know, whatever debate we have on how much it costs for a prison, and how much it costs in treatment, it's less in a treatment entity. It is a better place to serve somebody in a treatment entity, and have that public safety influence there on a daily basis.

And as we begin to expand, we're
going to look at Edgecombe. You know, we've talked about that. We're going to look at Queensborough. What more can we do there to make sure people are getting the service that we know brought them there, that brought them to, you know, violate their parole, brought them back into prison. And we -- I think part of my point of being here, because we talked about could I be up there or could I be down here, it's both places coming together to make sure that we know that we stand -- the public health system, the Office of Alcohol and Substance Abuse, stands ready to work with our counterparts, and our whole counterparts, which means those that you license and serve in the community and those that we license to work together. And that's a message that we want to make sure happens. So, we're going to look to expand that. Look at Franklin County, what's happening there. Should we also look to expand services in that realm.

Now, that's the reentry. As we look we also clearly have to look at what happens
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within the prisons, and you know, there's been

the criminal justice system operates the largest
treatment agency in the country.

I, of course, am going to dispute

that as the treatment entity, but not to any --
to -- to for a shamed and blame. I want us to

jointly decide what is treatment, and where can we

get the best outcomes. That is our joint role.

We look at Willard right now, the

Office of Alcoholism and Substance Abuse services

license the Willard facility, we are going in next

month, we are conducting a complete review of the

facility to talk about what treatment protocols are

happening, what's not happening, where can we

improve?

And we will look to -- look at

the remaining facilities that we have talked with

Brian Fischer about, and how we begin to look at,

should the Office of Alcoholism and Substance Abuse

services be in a position as the lead treatment

agency to oversee, in fact, treatment -- if it is,
in fact, treatment happening in our correctional
facilities, and that's prisons and that's also
jails.

That is my responsibility, you
know, that I see, and certainly that the governor
has given to me, and it's our responsibility,
jointly, to work together because our systems
demand it. The communities demand it. And the
citizens of the state, obviously, that we are
trying to serve demand it.

So, as we move forward, you know,
we're ready. And I think we have done some
tremendous work already in -- in this short seven
months. And now, I want everybody to know out
there, you know, to look at the Orleans facility,
because George and Brian and Denise and I have
committed to making that the new model of service.

As we talk about the -- those two
facts that can never go off the page, the -- the
fact that fifty percent of people that are arrested
and going to prison have drug and alcohol
addiction, and that the seventy percent of those
being released also have a drug and alcohol
addiction. So, let's deal with the problem, you
know, and let's reduce, and let's better serve the
people of New York State.

So, short and sweet, that is, I
think, our message from you, we're doing a lot of
work together, and I know it will continue. And I
support you and your efforts, and I know you
support the public health agenda, as we support the
public safety agenda.

So, thank you.

MS. O'DONNELL: Short and sweet

and powerful.

MR. ALEXANDER: Right.

MS. CARPENTER-PALUMBO: Yeah, we
try.

MS. O'DONNELL: So, any -- I -- I
really can't thank you enough, because you have
been there whenever we reach out on new ideas and
new programs that we want to do in the reentry
front, and you really are a great partner.

Karen, do you -- we -- we have
heard testimony going back and forth.

MS. CARPENTER-PALUMBO: Sure.
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MS. O'DONNELL: But particularly from the law enforcement community that the -- having a sentence -- prospective sentence hanging over someone's head is a great motivator for treatment.

MS. CARPENTER-PALUMBO: Uh-huh.

MS. O'DONNELL: Do you find that to be the case, or --?

MS. CARPENTER-PALUMBO: You know what? Professionally twenty years ago I would have said no. You know, I said, "no, it's not, they've got to be ready, they've got to hit rock bottom," but as I've gone through my professional career and I have spend a lot of time sitting with people in treatment facilities, and asked the question, "would you be here, if you didn't have that hammer hanging over your head?" And the answer is no.

So, to me that is -- that's why -- it's the beauty of truly -- the clinical, you know, treatment regime, with that idea that, "if I don't do this, if I don't finally address this problem that has gotten me into the criminal justice situation that I'm in, then I will not be
able to make a difference in my life," and knowing that "if I leave here, I don't go back home, you know, I go to jail, or I go to prison," that is a motivator. Absolutely.

MS. O'DONNELL: Well, we really appreciate it --

MS. CARPENTER-PALUMBO: Yeah.

MS. O'DONNELL: -- I know you are very busy as the commissioner.

MS. CARPENTER-PALUMBO: Yeah, everybody is.

MS. O'DONNELL: And thank you for taking the time.

MS. CARPENTER-PALUMBO: Yeah.

Thank you, and best of luck, and we will be here with you.

MS. O'DONNELL: One other question --

MS. CARPENTER-PALUMBO: Yes, oh, sure, sure, sure. Oh, sure.

MS. O'DONNELL: -- sorry.

MR. VANCE: This is -- it's a follow on to Denise's. But we've also heard
conflicting views on the propriety of a district
attorney essentially having a veto as to whether a
person goes to your program --

MS. CARPENTER-PALUMBO: Uh-huh.

MR. VANCE: -- as opposed to the judge on his or her own, having that --

MS. CARPENTER-PALUMBO: Uh-huh.

MR. VANCE: -- ability to make the decision.

MS. CARPENTER-PALUMBO: You know what? Again, as I said this is -- you know, I have said this to the judges, and I've said this to the D.A.s. You know what? There are treatment professionals that know what the appropriate treatment modality is based on that individual's needs. And it should be a combined -- there should be three people sitting at that table, and oftentimes it's not the -- the -- the treatment professional. And I think we -- we utilize resources badly when we say someone has to be in a residential program, you know, that is a higher cost, you know, just because there's a feeling that they have to be protected, and -- or that society
is protected because they are in a place. And

that's not the case.

You know, if someone is an

outpatient, if they're in a stable housing

environment, but they're going -- which a majority

of New Yorkers, of that hundred and ten thousand,

about sixty percent of the New Yorkers are in

outpatient care, it's the -- it's the same. It's

absolutely the same.

Every day they have to check in,

you know, with methadone, as an example, every day

they check in. So, I think that clearly the --

where we have to intercede is to making sure that

it's all parties at the table, not just one, you

know, and not -- you know, that the treatment

professionals who are experienced in this field

have to have that recommendation, and yes, in

combination with the parole officer, with the

judge, with the D.A.

MS. O'DONNELL: We also heard

from D.A. Robert Morgenthau that he -- he

recommended something that actually I was surprised

wasn't done --
MS. CARPENTER-PALUMBO: Uh-huh.

MS. O’DONNELL: -- which is that everyone get drug tested who comes into the criminal justice system, so we know upfront before a presentence report or even perhaps their release -- pretrial release whether that individual is addicted or not.

MS. CARPENTER-PALUMBO: Yeah.

You know what, that's not the tell-tale sign in my view. You know, I'm not going to disagree one way or the other. But you know, that's why treatment professionals, in a -- in a true assessment, will under -- will know whether or not somebody is a user, a seller or truly addicted. And that -- based on that assessment, you know, which we have been trained for clinically throughout many years, we can determine the best level of care for treatment, which is the most expedient, the best suited for that individual and at the appropriate cost level for that particular individual.

MS. O’DONNELL: So you are saying it shouldn't be drug -- drug testing --

MS. CARPENTER-PALUMBO: Yeah.
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MS. O'DONNELL: -- it should be

an -- a full --?

MS. CARPENTER-PALUMBO: A full assessment that may include drug testing, but not just a -- you know, drug testing for all, because somebody that used yesterday may not be using -- you know, may not have an addiction; you know, a very, very different review, and I'm afraid that it would go down the wrong path.

As part of, absolutely, as part of an assessment, certainly. We do it all the time.

MS. O'DONNELL: Uh-huh.

MS. CARPENTER-PALUMBO: Okay.

So, a lot of work to be done, but we'll do it together.

MS. O'DONNELL: Thank you.

MS. CARPENTER-PALUMBO: Thank you.

MS. O'DONNELL: Okay. Thank you very much.

MS. CARPENTER-PALUMBO: All right.
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MS. O'DONNELL: Our next speaker is McKinley Jones from the NAACP Albany chapter.

Is McKinley Jones here?

FROM THE FLOOR: I don't think he's here.

MS. O'DONNELL: Okay. Hopefully he will be here shortly.

Joyce Hartwell, All Craft Self Help program?

Thank you very much, Ms. Hartwell, for joining us today.

REV. HARTWELL: Hi, I'm Reverend Joyce Hartwell and I'm actually going to talk about the past, and a concern that I learned through past experience. All Craft was an institution for almost thirty years. We started -- twenty-five years. We started in 1976, since 2000 I'm in Albany and I am also chair of the ARISE Justice Task Force, which will be testifying next.

I ran this institution for twenty-five years, a holistic community center. We ended up -- we first trained women on welfare with children to support and women coming from Rikers
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Island to be carpenters, electricians and plumbers.

We were internationally famous for that. We were chosen by the Carter administration as a site to visit for empowering women to do this. We also trained men getting sober on the Bowery.

At one point we saw where chemical dependency was absolutely stopping success in job training. We became the first home in the Northeast for Narcotics Anonymous. Their first office was at our place. We ended up with a hundred meetings a week and we were open twenty-four hours a day, seven days a week.

My concern is a total lack of public relations for people who come out of the experience of chemical dependency, the criminal justice system, who are successful. I saw phenomenal successes. People reach tremendous heights. We never hear about this.

If you turn on the T.V., you see courts, you see cops, you see murder investigations, it is really over the top -- over the top as far as programming people's attitudes towards our citizens. I saw people -- I saw one
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young man who came into my facility, a homeless addict who -- he had to be treated for T.B., ten years later he was an executive director of a treatment facility. We don't hear these stories.

I saw women who trained for jobs did phenomenal things, started their own business, men in recovery do the same thing. We never hear these stories.

Something has to be done about this. We have to, in some way, empower people -- now, it is true because we have such a negative programming of our whole society. When somebody does step forward, they take the chance of feeling that they will lose out in their current profession because they are so profiled. This is wrong. This is totally wrong.

The other thing I saw, we had many, many young people who were successful with recovery and then tested positive to the AIDS virus. And I saw them face their death. I saw them face their death alcohol- and drug-free, parenting, doing wonderful things with their lives, I called them spiritual giants. Nobody knows about them. This is just a total lack. If we are to be
successful, people have to understand how wonderful
people are and what they can accomplish.

So, I will be -- the other thing
that I experienced at this facility, we were there
for twenty-five years. The property ended up being
worth about eight million dollars that we owned.

We faced the community's prejudice towards our
participants.

Now, we achieved wonderful
things: We had a theater; we had two public
assembly permits; we did all kinds of projects; we
even had a hit play that went to Broadway on South
Africa where the women did the work in the theater
thing. When it came to keeping our property,
getting technical assistance to keep this property,
which was so valuable for reentry, it was a place
where people could socialize alcohol- and drug-free
every weekend, could come at any time of the day or
night for a meeting and support. We had no support
in keeping this property. We eventually lost it.

David Dinkins had supported us, but the Julianne
administration sold our mortgage to a millionaire
developer. I fought it for years I didn't think I
would lose, I did lose. It was a terrible loss.

What I did notice is there is a total lack of understanding between Upstate people and Downstate people. At one point a friend of mine in the field did invite DOCS down to look at the property for potentially helping us, and I will never forget the look on the guy's face when he looked around the St. Mark's Place in the East Village - I don't know if you have ever been there, but there are a lot of many different people with different types of clothes on - and -- and to him this was like -- you know, this was not a safe place, all these strange people. Actually, it's a very safe place. It's -- as I said, our property became worth eight million dollars. But the Upstate people didn't really understand the culture of what they were looking at, so they didn't really understand what we were doing and didn't help us.

I would just add that the -- a project was chosen as a national model by the National F.B.I. Journal in '87. I will give this to you in my report. The job training was enormously successful. And again, the emphasis is,
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2
3 how do we put forth people that are successful and
4 let our communities know the tremendous amount of
5 people that are successful?
6
7 Thank you.
8
9 MS. O'DONNELL: It's a great
10 point. And you're totally out of business now?
11
12 REV. HARTWELL: Huh?
13
14 MS. O'DONNELL: Are you totally
15 closed in your facility or --?
16
17 REV. HARTWELL: Oh, I -- I did --
18 in fact, I did -- we -- we wrote Attorney General
19 Spitzer to have an investigation of the situation.
20
21 But we were so inundated at the
22 time -- I -- I -- I will give you some idea of the
23 numbers. We had, over the years, at least a
24 quarter of a million people come through our
25 facility, I also helped young people. In New York
26 City we have fifty-five thousand teenagers orphaned
27 because of parental addiction and AIDS. Their --
28 their parents were teenage parents and shot drugs
29 after they were born, so they don't have AIDS, they
30 don't get the attention, fifty-five thousand of
31 these kids. Now, they're hitting the jails.
I had helped a great many of them, and I took legal custody of them. I was also raising a young son at this facility. So, we just didn't get the help we needed --

MS. O'DONNELL: Uh-huh.

REV. HARTWELL: -- to keep this.

But it was a wonderful project.

MS. O'DONNELL: Yeah. Thank you very much.

REV. HARTWELL: Okay.

MS. O'DONNELL: Reverend Hartwell.

And Sharon Malloy is going to follow. Or do we -- I'm sorry, do -- sir, what -- who is with you?

MS. MALLOY: Calton Pulliam and Sharon --.

MS. O'DONNELL: Both of you, okay. Would you both come up. And it's Sharon?

MS. PULLIAM: No, I'm Calton Pulliam.

MS. O'DONNELL: Katherine (sic).

Okay, Pulliam from the New York State Women Justice
MS. PULLIAM: My name is Calton -- Evangelist Calton Pulliam, and I'm a member of the ARISE Just Task Force -- Justice Task Force. And I'm also a member of Star Bethlehem Missionary Baptist Church where Reverend Beresford Bailey is my pastor. Good evening (sic), we support your important efforts and thank you for this opportunity.

Our concern is that as the New York State Commission of Sentences and Reforms (sic) makes fair and positive change. What happens if a municipality, for a political reason, brang in this federal government? An attach, which I will pass out later, is our testimony to CURE-NY about this tragic situation.

We're admiring and thank CURE-NY for the intensive work you are doing and have done.

We respectfully request that you add an additional task to your comprehensive plate.

We submit to you that there is a dangerous experiment, a trial balloon so to speak, happening in the invisible and isolated black
Community in Upstate New York. This is the radical
and comprehensive misapplication of the RICO Act by
the Federal Bureau of Investigation and the federal
Attorney General's Office. Only an economical
challenge African-American communities, this is the
only place that it's taken place. This is
happening just as the Rockefeller Drug Laws are
possibly being phased out, because New York voters
have made it clear that they are unpopular.

A crude travesty of justice is in
motion. Nobody understand these laws, including
the families and legal aid lawyers assigned to the
defendants who are without financial resources.
The attempt proving ground has started in Syracuse
and now it's in Albany. If this is successful, it
could be applied in other Upstate New York cities
where the poor communities are isolated and
unorganized.

In both cities up to eighty-five
percent of our young peoples together in Albany and
Syracuse while in prison are, after serving
sentences and on parole, working or in school, have
been recharged with thirty years to life on the
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base that they grew up and live near each other.

They have been in schools together, started as

little boys, but now that is being used against

them.

Some, I won't -- I won't tell you

that our young peoples are innocent, all of them, I

won't say that. They has been -- they has -- they

do get in trouble. But what I am saying is are

they getting true justice?

If you go to jail and do your

time, how could you be recharged with that same

crime again?

Some of them are still in jail

doing their time, and then the federal government

goes into the prison and recharge them with the

same one that they're already serving, and this is

what is happening in this poor neighborhood.

We are not recognized as a

community, and what happened to us is unknown

except in media headlines that are of the worst

racial profiling in nature. We stand before you as

hard working citizens who has contribute to our

community, paid taxes as workers and own our
home -- and we own our own homes, I own my own home. We are mothers and grandmothers, but we are being dragged along in this same situation, because if you take my child and my grandchild, and put him back into prison after he -- after he had already done his time, we are also doing that same time with him unless we just turn our back on our kids.

Let's give -- let me give you a picture of our community:

In Albany we have nine hundred and fifty vacant and abandoned buildings in our neighborhoods, and when I say -- and I say no mailboxes, and when I say no mailboxes I mean to go where I live, you would have to go on Central Avenue to find a mailbox to drop your mail, there is no mailboxes throughout a poor neighborhood.

No fresh food, when I say that when -- you would have to go to Price Choppers to be able to purchase fresh food.

No community centers, no after-school programs. So, the kids are going to gang together if there is nothing to do, and my mother used to tell me idleness is a devil's
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workshop. If you don't give a child something to do, he will find something to do, and it's not always good.

No art and culture. There is no place that they can go and -- and see where -- the art of their community, the art of their upbringing is.

No business development. The reason there is no business development, you can go to school but you can't get a job because you have a felony on your record. So, there is no work. So they're back out in the street.

No information on the hope of tech valley projects that's supported by taxpayers' money that could be a future for our youth.

Limited access to communication, like the Internet, yet our neighborhood we can't afford to have Internet. So, when they will tell you, "you have to go to the Internet to apply for a job," "you have to go to the Internet to be able to -- to receive the answer whether you have a job," we have no Internet to go to.

And most of all, no police like
in -- back in my time, we had the street polices
that walked. And you was able to go to them and
talk if you had a problem. Even if you had a
problem with -- in your home, you was able to go to
that officer, and explain to him what's taking
place. And he didn't turn you in, he just had it
looked into. We don't have that anymore.

Most of our young peoples has
been thrown out in the street. So, they're doing
the best they can to survive. And that survival,
to them, is unlawful to us. They can't find jobs
they have nowhere to stay. No place to eat, or
nobody is passing out too much free food. So, if
we are not feeding and housing them, they will want
to find a way to do that themselves.

And politics are confrontational
and territorial on the wars, councils and county
levels, add to the confusion and the isolation.
Where I live, I don't know my ward leader, most of
them you don't meet until election time, so you
have no one to complain to. Okay? And if I call
and complain to the police, well they'll come in,
in a different manner.
Those with real power ignore us.

We don't have anything to bring to the plate, so we are ignored. We submit that this extreme isolation and hardship has resulted in at least one member and every one of our large families to be suffering from illness of chemical dependency and sometime AIDS. This is seen as the only way to self-medicate their pain that our young peoples are going through. They turn to drugs, they turn to alcohol, a lot of them turn to violence because they see violence in their home that's all they know. And this can exalt -- exhaust the other family members who has become caretakers. And that's why we have so many young peoples in the street, because the single mother cannot continue to take care of the older child. She is trying to take care of the younger ones. So, he is thrown out. And now, he is on all of us.

Our youth watches our years of pain and struggle, they have no role models, no inspiration. The only role models they have is T.V., and all they see on there is robbing and killing.
And we never brang up the computer games. My grandson will come to my -- be -- be at home and he would bring in his friends and I walked in one day, and I never seen so much blood in all my life. And I am saying, "Mike, what is that?" "Oh, this is just a computer game, Grandma."

Now, there is no age limit on playing these games, nothing is brought up about these games that they're selling our childrens. Teaching our childrens how to shoot a gun, teaching our childrens how to go out in the street and shoot police officers. I have seen one of the games. And then, we wonder where they're getting it from. We are teaching it to them. We, ourselves.

So, they had been isolated, left alone with their problems without prevention or intervention, only suppression.

So, we are asking the panel to please help investigate and support our work.

Thank you very much.

MS. O'DONNELL: Thank you very much. We appreciated, Ms. Pulliam.
Is Sharon Malloy here as well.

MS. MALLOY: It has the same testimony.

MS. O'DONNELL: Same testimony.

Okay. Thank you.

Bernard Fleishman from ARISE, and Tom Morrison as well.

MR. FLEISHMAN: I have a printed statement, and can I give this to someone to be distributed.

MS. O'DONNELL: Yeah, if you leave them right there, we'll take care of it --

MR. FLEISHMAN: Thank you.

MS. O'DONNELL: -- and make sure --

MR. FLEISHMAN: Thank you.

MS. O'DONNELL: -- all the commissioners get it. Thank you.

MR. FLEISHMAN: I am Bernard Fleishman, president of the Interfaith Alliance of New York State. I am also testifying as a member of the ARISE Interfaith Alliance Justice Task Force.
ARISE is a faith-based community organization aimed at empowering people in the poor communities, particularly the inner cities.

Please note that we are a member of the Thruway Alliance, an historic undertaking of six congregation-based community organizations across New York State. There are one hundred twenty congregations participating in all in the Thruway Alliance, in the Capital Region, Syracuse, Buffalo, Rochester, Niagara falls, Cortland, there are included at least fifty thousand members in those congregations.

I want to note, first of all, the most important recommendation we have, and that is that we endorse the Correctional Associations basic recommendation that the Rockefeller Drug Laws are invalid, that they are unjust, they have -- whatever usefulness they ever had, which we doubt, they are useless and exorbitantly expensive in taxpayer money and in human lives.

Now, we thank you for the opportunity to comment on your important work. At
the outset we would like to support your continued
existence as a, quote, temporary state commission
on sentencing. The continuation of which, would be
subject, of course, to legislative review. We
would like to include a qualifying condition for
this support, to include the seeking the active
involvement of public input as accomplished in
these important public hearings.

As stated, the subject and
related issues are complex and broadly
encompassing, quote, good sentencing policy needs
continual motoring, as you have noted in your
report -- monitoring, sorry.

Although you state that, quote,
the system is certainly not in the state of crisis,
we would like to submit to you that the people and
the communities they live in are in a profound
state of crisis. You only have to talk to people
in the inner city communities, talk to people who
have come out of prison based on drug sentencing,
and you realize that the enormous tragedy that is
occurring for thousands of people who are
incarcerated under -- on the unquestionable bases,
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and the enormous tragedy for thousands of families
who are thus affected.

Because of time constraints, I
will cite only our response and not quote your
report, understandably:

We are concerned about the
concept of truth in sentencing, however this might
be accomplished. The experience of incarceration
should include: The opportunity for motivation;
hard work and new understanding as needed for
learning successful life skills; motivation to
achieve good time and an early release is
important; and we see a benefit to the assistance
that parole can offer as a -- an incentive to give
a person the motivation to acquire those life
skills.

We would like to voice our
concern about one continued assertion that your
report puts forth. That is that alternative
sentencing, as an example, is possible, if there is
an agreement between, quote, the prosecution, the
judges and the defense attorneys.

That is a great ideal, but it's
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not the reality in our current system. For the
following reasons: The lawyers for the poor that
fill up our prisons are overburden with too many
clients, in their preparation for defense and in
the court setting they have no time. Many are not
experienced in defense work and are not acquainted
with the laws. The reality is that the district
attorneys have the influence and power. Judges, in
most cases, are presented with a plea bargain
determined by the district attorneys.

We have in numerous situations,
seen poor, uneducated, depressed and frightened
people take a plea bargain when they should not.
This imbalance from the beginning puts into
question the notion of the reality of the truth in
sentencing.

We support your work in all
aspects of progress and fairness. We support
alternatives to incarceration, such as drug and
mental health courts. We submit that these models
have to be based on, one, knowledge of the person,
two, the age, three, the communities they live in,
four, resources available to the court. More
financial resources for all aspects of programming are needed to be diverted to community courts.

We support higher education opportunities in prisons, we support this opportunity for education to be available in -- in the alternative to incarceration drug treatment and also in the community court experience. We applaud all work and successful principles at improving, quote, the science of crime reduction using evidence-based practices, end quote, page thirty-four of the report.

Our concern is that there is lack of recognition that the citizens, the citizenry as a whole, need to be involved. The person being charged with the crime, the families and communities need to have these concepts and terms translated into language and practices that are -- can be understandable and they can buy into.

The criminal justice system is -- is now in New York States' largest employer, we think this is a shame. As an example, we wonder how much research has been done on voluntary programs, such as the twelve-step self-help model.
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We submit that this model as applied to drugs in the near -- in -- in the Northeast since the early 1980s, have help reduce recidivism.

We support the development and use of a needs assessment, including risk assessment, we submit that if basic needs are met, particularly in regard to treatment for chemical dependency, healthcare, education, employment and housing, if basic needs are met in these regards, risks are minimized. We encourage this assessment, the needs assessment, to be fully understood and developed with the person, their family and the community.

We support the expanded use of pretrial service programs, they should include pretrial drug treatment. We support the issuing before release of all identification needed for functioning in society, birth certificates, social security cards and such. There is not enough attention paid to detailed efforts to rehabilitate people who leave incarceration.

We support the use of all manners of programs include -- instead of incarceration for
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parole violations that do not threaten public safety.

We support the use of reentry courts that facilitate solid assistance through programming and employment. Attention to employment and reentry is of utmost importance. We encourage the New York State Department of Labor to be involved in your Commission. We believe that discrimination by employers towards people formerly incarcerated need special and intense examination.

We would like to see employment programs that assist the employer to ensure full employment opportunities, we are working on state service models that would lead people to solid careers.

I'm close to done.

We believe the right to vote is essential to participating in the community a person lives in. We support all Upstate economic development that is not based on prison and related industries.

Our last comment, again I reiterate, we support repeal of the Rockefeller
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Drug Laws. We believe that these shameful laws
have resulted in thirty-five years of failure to
influence positive change.

Thank you very much.

MS. O'DONNELL: Thank you very much, Mr. Fleishman.

And with respect to your comment
about involvement in -- of the community I do want
to state that all of these transcripts will be made
available on our Web site. If you don't have
Internet access, we could try to provide you with
copies of those transcripts. And we already have
transcripts of many of the hearings that took
place, and lectures to the Commission earlier,
which are very informative as well.

So, thank you very much.

MR. FLEISHMAN: Thank you for involving us in your important work.

MS. O'DONNELL: And Mr. Morrison are you going to speak also as well, also from

ARISE.

MR. MORRISON: Yes.

MS. O'DONNELL: And Mr. Tom
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Morrison.

MR. MORRISON: I'll tell you what, I bet either you're tired from this morning,
or -- I guess you wouldn't have had much time for lunch, right? You probably didn't really have one.

MS. O'DONNELL: But it's been so interesting, we're wide awake here, so --.

MR. MORRISON: Well, I can either read it in six minutes and talk to you in eight minutes, I will try to be eight minutes --

MS. O'DONNELL: Talk to us.

MR. MORRISON: -- you'll warn me;

right?

MS. O'DONNELL: Talk to us.

MR. MORRISON: Okay. I'm Tom Morrison, I'm from this area here, Guilderland, and I'm a member of the ARISE Justice Task Force. I -- I joined these other people in doing it, because to me the whole criminal justice system needs a good look, and I'm so pleased that you're doing it, and I think you had a Reentry Task Force earlier.

I'm only talking about one aspect and that's faith-based programs. So, what am I
talking about?

I saw Father Young up there earlier, and twenty-two years ago he started a program called, REC, R.E.C., Residents Encounter Christ, and I've been doing it the last twelve years, in fact, I started when I was working with the Labor Department. And I probably go into prison seventy-five times a year, you know, either from evening or days as part of a retreat. We do three days retreats twice a year in the seven prisons in this area, and we do monthly reunions, and we do monthly Bible studies. So, we're there all the time.

And I -- all I really am looking for is that you recognize the value of faith-based programs, you're aware of higher power programs, you know, and N.A. and A.A., but these are the basically faith-based programs.

Strangely enough, some of the --

to me strangely enough, states like Texas and Florida have dorms set aside for faith-based programs, they even let one of them run a prison.

I'm not advocating that. All I want is, you know,
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continuing recognition and cooperation that we have
been getting, and recognition that may also effect
sentencing and reentry.

We're starting a new faith-based
reentry program to go along with the -- the seven
prisons we're doing, we're doing it in Albany,
we're working with Parole, we are about to get it
started.

And what we found in terms of
statistics from Billy Graham's organization is that
the recidivism rate is probably ten percent or
less. In my testimony that they have upstairs, I
said fifteen percent, I looked over it again, it's
about seven years old, and it's at less than ten
percent.

Now, if you can achieve that in
New York State it would be wonderful. I can't tell
you, because I don't have the bases on the
statistics, you know, what caveats there are, what
differences there are, but we believe it does help,
not only in prison, because we have heard it from
different superintendents how it effects the prison
for a couple of months at a time; but we've -- we
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known from our own experience, that the guys turn
their lives around.

Basically, what we ask in our
retreats is two things: Change, and then go forth
with God. And for many, many of the inmates, it's
the difference between hope and hopelessness, it
gives them a reason to take other programs and
improve themselves; and you know, we have seen
miracles. In fact, they inspire us.

I probably could shorten it just
about to that. And I will let the rest of the
written testimony speak for itself.

I just did a weekend at
Coxsackie, it was a best group of correction
officers in terms of how the weekend was treated
that I've ever seen in my twelve years and fifty
retreats.

And tomorrow I go into McGregor
with another team. We got about hundred of us just
in this diocese. And in two weeks, I will be in
Comstock/Great Meadow. And this just goes on
quietly all the time.

In addition to us, we're well
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aware of huge prison programs, volunteer

faith-based programs done by REC and done by Kyros

(phonetic spelling) and other faith-based programs

in Western New York, Northern New York, and as part

of my ARISE, in talking to a deacon from New York

City, it goes on down there.

                So, it's very extensive, kind of

quiet, I think in a strange way -- or not a strange

way, but in some ways, sentencing could even be

affected, where you have a lower minimum sentence,

and the person changes their life - not just

faith-based, but takes all the programs - to allow

parole boards and facilities more flexibility,

once, you know, sentencing has been made, if the

minimum has been low.

                We -- we supply all our own money

and everything else, we're not looking for anything

except continued cooperation and the idea that

faith-based programs can be a vital part of your

other programs. We're all volunteers, we go

through all the rigors of being volunteers.

                And most of all, I thank you, by

having a hearing on -- on sentencing and -- and
reentry and all those aspects, that's a big step ahead, you know, a lot of hope for the future.

And we don't want these guys back, you know, we want to do our part and make sure we stay out. And we have guys come back, and become part of the retreat team, and they tell them how it's affected them, and how they're doing in their lives and it's very effective with the guys.

Thank you.

MS. O'DONNELL: Well, Mr. Morrison, before you leave I -- I really want to thank you and all the people in this room that are working in the prisons and going in and -- and bringing your human touch and your faith with you.

So, it's -- it's very moving --

MR. MORRISON: It's my pleasure.

MS. O'DONNELL: -- for all of us.

MR. ALEXANDER: If I could add to that comment, and certainly wanted to direct a comment also to Reverend Harwell and Evangelist Pulliam, and I want you to all to understand it in our reentry initiatives, that's with Parole with Department of Correctional Services Department of
Criminal Justice Services, that we are very much aware of the value of a faith-based initiative, faith-based collaboration. And so, we are including that in our plans, where as we go forward with reentry, we see you as being a natural partner for the things that we're trying to do it and that is to make people successful once they are released to -- to parole supervision.

MR. MORRISON: Thank you. And our new initiative is working with Albany State Parole and Albany we have one your retirees running it, so he's going to keep us out of trouble.

MR. ALEXANDER: Very good.

MR. MORRISON: Thank you.

MS. O'DONNELL: Thank you.

Mr. Robb Smith is next from the Interfaith Impact of New York State and Mr. Smith. Also, Susan Antos from the Empire Justice Center, Courtney Ramirez from the Southwest Community Center.

And I did skip over before McKinley Jones. If Mr. Jones is here you could be our next speaker.
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Okay. And I am -- I called out a
c few names, so you are?

MS. RAMIREZ: I am Courtney Ramirez.

MS. O'DONNELL: Okay. Thank you, Courtney.

MS. RAMIREZ: I'm the director of
community services for an agency called Syracuse Model Neighborhood Facility. We operate the Southwest Community Center on the southwest side of Syracuse. Part of our mission is to assist community members facing challenges, by identifying areas of need and assets, and linking them with existing community resources and providing them opportunities, programs and needed services.

In my current administrative position for the past two and a half years and as a front-line direct social worker and prevention provider for an additional seven years, I have seen there's an identified area that continues to grow in need for support services in our community:

Individuals need assistance in the reentry and transition home from incarceration.
In the Syracuse community there are zero programs targeted at helping people come home from incarceration. As the woman mentioned previously, through -- RICO has had a significant impact in our community, and there are even greater numbers of individuals, particularly African-American males between the ages of eighteen and thirty-five, who are currently incarcerated.

Since July 2003, I personally had the pleasure working hands-on with young men ranging in age from twenty-one to thirty-five returning home to our neighborhoods through work-release programming and Shock parole and general parole supervision. I didn't intend to get into that business, at the time I was working in youth development programming.

While I love to sit here and talk about all the successes of the particular interventions that we had, the reality is there are a number of young man in particular who are not as successful. In my work I recognize that we also played a role in their failures as prevention providers in the community center setting. So, as
those -- as some young individuals went off to
college and others went to prison, my staff and I
followed those who went in both directions. My
work with those returning home from -- excuse me,
my work with those going through the prison system
has been very limited however, because our agency
receives no formal or ongoing funding to support
those program efforts.

We were very creative in our
budget and program restructuring, and received
support from a small member item, from a
Assemblywoman Joan Christensen in 2005, we were
able to begin a very basic reentry program, which
we referred to as the Manhood Initiative.

The initiative was launched as
part of our family services department, designed to
increase youth development opportunities and
prevent the cycle of substance abuse, violence and
poverty among children of incarcerated parents,
specifically fathers. Again, we had to be creative
because no one wanted to invest in working with
young men coming home from these situations.
The program included formal
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workshops, individual assessments and development

of individualized service plans, nearly fifty

individuals received some level of program

services. To be honest, my staff consisted of me.

I personally have -- have visited over fifty

individuals incarcerated throughout the state

system.

We were never -- I was never

recognized as part of a formal program, so I could

tell you about the real experience of visiting an

inmate in prison, waiting in the lines, wading

through the whole process. That's a whole another

issue that needs to be addressed and how

families -- the process that families go through.

But the primary goal of the

initiative has always been the successful

completion of parole and the maintenance of

permanent employment at a living wage. Specific

client activities have included outreach case

management, employment services, referrals to our

other center-based services; for example,

substance-abuse treatment, family services and

mental health counseling, educational and
vocational training, job placement and coaching.

In my community the cycle of poverty is glaringly apparent. And with that poverty, issues like drug addiction, incarceration, unemployment, fatherless children, violence and criminal behavior have all become intertwined.

Without addressing education, job training and the development of basic communication skills, individuals regularly fall back on what they know.

The national recidivism rates show that two-thirds of all of released prisoners will be reincarcerated within three years and the reality for males in a Syracuse community is quite similar.

Being aware of this from the start however, is key in developing effective initiatives. Effective programming will rarely result in high rates of initial success, because so many of the target individuals lack the basic foundation upon which to build a more positive lifestyle.

We have recognized that oftentimes it takes an individual several attempts, and several small achievements and failures, before
he learns to make necessary behavioral changes. Our staffs have used nontraditional approaches to problem solving, which have included utilizing a parallel family systems approach. This stretches beyond the boundaries and limits of conventional programming and intervention methods, by encouraging relationship building between staff and client that resemble family roles, like parent-child relationships and sibling to sibling. We would like to say that we boldly go where no man has gone before, directly to the hood, in an effort to assist in development of healthy young man, who are ultimately more productive and responsible citizens.

And I would be lying to you today if I sit before you and talked about the significant numbers of success stories. Far too many individuals have returned to prison on technical violations, too many returned to a world of selling drugs when forced to support their families on minimum wage salaries. Too many found it impossible to handle the challenges of returning home without succumbing to drugs and alcohol. And
from most beginning the transitional process upon their release was way too late.

Today I am talking to you with an idea. An idea that definitely comes with its costs but I believe when you look at the possible benefits, you will find it well worth the expense. And in reality when you consider the costs associated with reincarceration what I'm proposing to you is definitely more cost effective.

In working with individuals returning home, we have determined that the following are key barriers to a person's success:

They face mental health issues. Family issues including child support; a ridiculous issue, the child support, even when we have been able to find people employment we have individuals who are looking at twenty thousand dollars in arrears after coming home from a four-year sentence. Chronic health problems, substance abuse, relationship management, safety issues, and a lack of education and formal training are also problems these individuals face.

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supervision, individuals need opportunities to
develop personal and social skills to make it
possible to overcome their barriers. They need
opportunities to develop both internal and external
assets. They need to understand and learn to
develop a positive -- new positive sense of values,
social competencies and a positive identity. In.

My opinion, what's needed in this
new plan of action is that prisons can no longer be
simply about punishment. When we use the phrase
rehabilitation, we must really mean it, and
assisting individuals in returning home is
essential to the true word rehabilitation. Each
prison in the state system needs to partner with
community-based agencies, like the one that I
represent. In speaking to individuals who return
back to our neighborhoods, there is much talk about
programming that happens in the Downstate area.
All of the transitional and reentry programs that's
available to folks who are returning back to New
York City. There are no such programs in our
community, and few in other areas of the state.

We need to recognize however,
that when you support these types of programmings,
you do not necessarily have to go to the
traditional agencies. Community agencies, like the
one that I represent, play a central role. Young
men and women, when they return home from
incarceration, return just there, home. Agencies
like ours, community centers, neighborhood-based
organizations, oftentimes are the home to these
young people. We accept them for who they are and
from where they are at.

It's important that we're able to
gain entrance into facilities to develop a
relationship and -- excuse me, and a process, up to
a year and a half before they're scheduled to come
home. We need to develop relationships with their
parole officers. We need to be able to look at and
assess the types of opportunities that they have
available, and the types of things that they need.
We hope that when we look at the types of programs
that you would like to support in the future, you
would look at agencies like ours that are
traditionally not even considered in the
competitive field for funding, because we may not
have the professional grant writers that make
the -- the proposals all that appealing, but we
definitely have the true passion of the staff that
know that we definitely want to take advantage of
the assets and the strengths that these individuals
bring home.

Thank you.

MS. O’DONNELL: Thank you very
much, Ms. Ramirez, we appreciate it.

MR. ALEXANDER: Ms. Ramirez, let
me just make a brief comment --

MS. RAMIREZ: Uh-huh.

MR. ALEXANDER: -- is that what
you have said here basically is the outline for our
state reentry project between the different
agencies that are represented here today. One of
the issues in terms of Upstate resources versus
Downstate, and we're looking very desperately for
those resources.

One of the problems we have is to
identifying them, and so that if you have some
information about your organization or others, we
would be more than happy to receive them, and more
than happy to consider it in our network of services that we're providing people once they are released.

Let me say one last thing, is that we all agree, Corrections, Paroles, D.C.J.S. and others that we are starting our reentry process the day that that person becomes incarcerated, not six months before they get out. And so, those are some of the changes that we are making systematically to help to realize some of those things that you have outlined today.

MS. RAMIREZ: Perfect. Thank you.

MS. O'DONNELL: Thank you very much.

Robb Smith from the Interfaith Impact of -- Program of New York State. Mr. Smith?

MR. SMITH: Good afternoon.

MS. O'DONNELL: Good afternoon.

MR. SMITH: And thank you for this opportunity to -- to -- to speak to these issues. The issue that I am really concerned about right now is one we have had on our plate for
literally decades, and that is the injustice of the very harsh Rockefeller Drug Laws.

It is our observation, and it is the observation of -- of the -- the many ministers throughout this state, and rabbis throughout the state, who have to deal with families who have been impacted by these laws.

It's not that we don't recognize the seriousness of the problems that drug addiction can create; it's that we don't believe that incarceration is the way to treat a mental health problem. And we would like to see the drug laws changed substantially, because we believe that the penalties are disproportionate to the crime.

And our concern is that when that happens, people lose hope. And when people lose hope, we have people who are no longer willing to say, "yes, I have a stake in society." And then, we have to deal with kids who are getting -- being incarcerated again and again, and it starts out with just a little bit of time, but it very rapidly moves up, and after a while, they're on their track to being lifetime professional prisoners. And we
I don't want that.

I have seen these kids. I have seen them when I participated in -- and I'm not reading from my testimony, which is -- will be put in the record here, I just want to -- you know, because I -- I think this is -- this is something that we -- we just need to really look at the -- the human impact here.

I have seen kids when I was -- when I was participating in the District Attorney's Community Accountability Board here in Albany. These kids are -- many of them are utterly hopeless, fifteen- and sixteen-year-old kids without hope, and that's a terrible thing.

They're -- they're being raised by grandparents because their parents are incarcerated or drug addicted. The people coming out of prison -- and they're still addicted. We need to treat this as a public health crisis, and do something about it so that we don't destroy communities. There are too many communities in this state that are being literally destroyed by incarcerating too many people. We reach a tipping
point, and it becomes highly dysfunctional and
destructive, and we've got to stop that.

This has been going on for a long
time, and we are paying that penalty right here on
the streets of Albany and in New York City and in
every other major metropolitan area.

This is a matter of justice, and
it's a matter of reason. I would say it's also a
matter of compassion for the families that are
affected by all of these persons being incarcerated
for long periods of time for crimes that in other
countries, the same crime has a relatively reduced
sentence.

I point to the Canadian system,
for example. Canada's much larger than America,
and -- than -- than New York State is, in terms of
population, and yet we have three times the prison
population. That has largely to do with our --
with our -- our dysfunctional New York State
Rockefeller Drug Laws. And I would suggest that we
need a whole new approach to this. So, let's --
let's just get away from -- from these unjust long,
fundamental purpose of justice, which is to have healthy communities.

And we need to put the focus on reintegrating people into communities, and providing assistance, rather than -- and -- and that maybe a broad range of assistance programs, rather than -- than to rely on incarceration, which clearly is not working.

So, I offer that on behalf of the members of Interfaith Impact as a -- as a moral and ethical benchmark.

MS. O’DONNELL: Thank you very much.

MR. SMITH: Thank you.

MS. O’DONNELL: We appreciate it.

And District Attorney Robert Carney have come earlier to be substituted for one of our earlier witnesses who was not able to attend. D.A. Carney has been a D.A. for a number of years, and is the distinguished district attorney from Schenectady County.

Welcome.

MR. CARNEY: Thank you very much,
Madam Chair, and members of the panel. I -- I -- I have my testimony. I'm going to try to summarize it and fly through it if I can.

I became D.A. in Schenectady in -- in 1990. That was coincidentally the first year that we saw crack cocaine on the streets of Schenectady, we found it in the pocket of a young man from Bronx who came to Schenectady to deal drugs, and he was targeted for robbery and executed in a Vale -- in Vale Cemetery in Schenectady, and that -- that changed things dramatically in the city of Schenectady.

And nothing shows that more than the homicide statistic. My seventeen-plus years as D.A., I have now convicted seventy-one people of the crime of murder, fifty-five percent of those cases were drug related, either directly or indirectly. Contrast that to the record in the twenty-six years before me, going back through three D.A.s, there were two people convicted of homicide in those twenty-six years. So, the -- the -- the connection between violence and drugs are -- are clearly established.
And when we got crack on our streets of Schenectady, that started the crime trends upward from 1990 to 1993, they spiked to record levels. In fact, we have never been as high as we were in 1993. That year we had a major commitment of state police resources, undercover teams, three or four of them in the streets all summer, we did a hundred and ten sealed indictments, which were executed in November of 1993. Ultimately, we prosecuted a hundred and five of those people, one was acquitted, everybody else was convicted; other than one person that went -- got probation, everybody went to prison on the average of three point four to eight point seven years. That was the beginning of the turnaround, 1994. We had ten years in a row of declining crime rates, which we can attribute to nothing other than that major operation.

And let me tell you, I rode the streets of Schenectady with a Superintendent Tom Constantine at the time of the state police and our police commissioner was Charlie Mills that day, and people were coming out on the street applauding us.
as we were taking drug dealers. And those are the people impacted by the violence of -- of -- of drug crime. And the most amazing statistics from that, in my seventeen years as a D.A., the only year that we had not one homicide was 1994, the year that we processed and incapacitated those hundred and four drug dealers.

Now, look at, on my outline, I talk about the arguments -- I was president of the D.A. Association of 2000 when this debate first started heated -- you -- you know all the arguments, you have heard them, but you know, that the proponents of -- of reform say prosecutors wield too much power, and prisons are filled with low-level nonviolent drug dealers. And we say that unfettered judicial discretion was a disaster historically, and -- and that these are the best tools for us to respond to violence that is plaguing our community, and ultimately fashion the best treatment programs, because the best treatment programs are coerced and they require the -- they require the -- the possibility, the risk of a -- of a serious sentence in order to convince
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people to do the very difficult task that they need
to do to get their lives together, which is go
through a meaningful drug treatment. The best ones
are DTAP and Road to Recovery and those models.

I applaud you for -- for
identifying and finding common ground between these
two irreconcilable views, the D.A.'s point of view
and the reformer's point of view. And I endorse
what you've said in your preliminary report,
there's absolutely no reason not to give -- allow
all -- when all parties agree to -- to allow drug
treatment, which would occur then with a sense of
probation, even if it was otherwise, under current
law, mandated to be a prison sentence. You know,
today we have -- in my county, we have a drug
court, we have a hundred felons in drug court, we
have Road to Recovery we have twenty to twenty-five
people, we do the extended Willard model. It's no
question that if we did crack down the day not
everybody would go to prison, that thirty to forty
percent of people that were drug dealers that we
identified as users who were dealing to abet their
own habit would go into a treatment program that we
did not have in 1993. I think that would be more
effective.

A specific proposal I would
recommend to you for Willard is there is a bar to
Willard, if somebody has a prior drug sale
conviction a B -- B drug sale, there is no reason
to equate that, in this context, to the conviction
of a violent crime, which would otherwise preclude
you from going to Willard.

We do not discriminate against
dealers because they have dealt -- if, in fact, we
believe they are dealing to abet their own habit,
they should be able to access Willard as well as
eybody else.

And it is just -- it is just
wrong and dangerous to believe that everybody who
is however a drug dealer is also a drug user.
Clearly that's not the case. When I -- you know,
and -- and we have to realize the things have
changed, as this debate has raged, you know, we --
we did away with life sentences, drug treatment has
proliferated, judicial attitudes have changed,
sentences are more lenient now, both the front and
the back-end of sentences have -- have been

reduced. And as this debate has going on over the

last ten years, forty-one percent reduction in the

state prison population of drug offenders.

And even though the last two

years people have come in, in record -- in -- in --
in some -- in some higher numbers, it's ticked up

that's because of Operation Impact, and those

programs, which not surprisingly, are looking to

address violence in our inner cities, so we're

targeting drug offenders. But the reality is, they

may be coming in, in greater numbers, but they're

going out in greater numbers, because they're

staying far shorter, because of the reductions in

sentences that have already -- have already taken

place.

Just two days ago, when I was

preparing for my testimony, we had a case that we

handled with a twenty-seven year old who we

captured on a surveillance camera, a public

surveillance camera, he, in over a three-hour

period did twelve drug deals. Now, he looked

businesslike and nonviolent, and at the end of the
three hours he was arrested and found in possession
of a quantity of drugs and money. But while he was
out on bail, six months later, we believe he
committed a murder, and -- and he also was involved
in a shooting where he was targeted for -- for a
home invasion, because he had slashed somebody
earlier, he now stands indicted two separate
violent crime. You wouldn't know that by looking
at the street-level dealer just plying his wares
but it's just another example of the intertwining
between violence and crack cocaine trafficking.
And we see it every day.
And as a -- as it -- this guy,
I'm talking about the drug case because he pled
guilty two days ago. And the judge gave him a cap
of seven years, that's still a significant
sentence, but contrast that to a case that we had
ten years ago, exact same judge, had somebody very
similarly situated who was suspected of a murder,
he was subsequently indicted and convicted of a
murder in another county, but he was indicted for
drug dealing first in our county, he went to a
trial, and it with a series of drug deals, the same
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judge after trial gave him a sentence of forty-one
to two -- and two-thirds to hundred and
twenty-five, which was, by operation of law, and
the cap reduced it to fifteen to thirty. Same
judge ten years later, very similarly situated
person, seven years versus fifteen to thirty years.

Attitudes have changed, sentences have changed.

My concluding point is just this,
that mandatory minimums for drug dealers and
predicate felons are vital tools for us to protect
our communities from violence and unintended but
real consequence of weakening the laws, is also
weakening the most effective treatment programs,
and finally from me personally, I would not oppose
the abolition of mandatory minimums for first-time
drug offenders charged only with simple possession
and not drug sale or possession within intent to
sell, I think that reflects the practice everywhere
in the state, but at the same time I would very
much like to see a workable Drug Kingpin Bill, not
one that, you know, requires prosecutors to prove
two fifty-thousand-dollar transactions within one
year, which would be unpursuectable, unworkable,
and at the same time, I would like to see some --
some thought of something like the federal law,
where if -- if you use or -- or appears to be a
death weapon in connection with a drug enterprise,
and then you are charged with a drug crime as a
result of that, that you would faced -- face
enhanced penalties. That's it.

MS. O'DONNELL: Okay. Thank you
very much for taking time from your busy schedule
to be with us today.

MR. CARNEY: My pleasure. Thank you.

MS. O'DONNELL: Susan Antos from
the Empire Justice Center.

Welcome, Ms. Antos.

MS. ANTOS: Thank you. Good
afternoon.

Thank you for holding these
hearings. I'm Susan Antos from the Empire Justice
Center, we're a support center for legal aid and
legal services offices, my work is on the civil
side, so our responses today are going to focused
on your reentry -- the reentry section of your
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report, my organization focuses on a wide variety
of legal issues, disability law, consumer law, my
specialty is public benefits/child support. In our
Rochester office, we have -- our employment law
attorney represents former felons who, although
otherwise qualified, have been refused employment
by private employers in violation of Correction Law
750.

I want to commend you for your
recommendations on public assistance and Medicaid
in this report, we strongly support your
recommendation that there be a prerelease
determination of eligibility. As you know, the
Social Services Law, the statute requires a
forty-five-day waiting period for single
individuals who apply for public assistance, which
means that if applications are not taken before
release, there is a period of forty-five days in
which a person was without assistance.

I have attached to my testimony
an administrative directive that was issued in
1993, in which our then New York State Department
of Social Services, now the Office of Temporary and
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Disability Assistance, recommended that district's
accept public assistance applications forty-five
days before release.

What happened in the intervening
time however, was that O.T.D.A., although this is
perfectly legally permissible, said it was a
recommendation not a requirement, and -- and we
would like to see you recommend that, in fact, what
was in this policy document be either a regulation
or an amendment to the Social Services Law, to
require that such applications be accepted.

Your report also recommends that
proper identification be provided systemwide, and
we strongly support that as well. We note, and we
see all the time, that when prisons fail to provide
prisoners with birth certificates and social
security cards upon release, these -- the lack of
these documents effectively prevents people from
receiving public benefits.

The primary focus of my testimony
today however, is going to be a matter that I don't
believe was addressed in your report and I would
strongly urge you, in your final report, to include
it; it was alluded to by the woman who spoke before me from Onondaga County, the -- the problem of overwhelming child support arrears from release -- when someone is released from prison. This is, in fact, a civil sanction that is imposed on people leaving prison, because of the way the law is interpreted in New York State.

The New York courts have taken the position - and again this is case law this is not in statute, but it's been on Court of Appeals so I think there needs to be a statutory change - that support orders may not be modified downward while a person is incarcerated, because the current financial situation of that person is solely the result of their wrongful conduct. That's what the Court of Appeals says.

So, incarcerated parents are not permitted under New York State law at the current time to downwardly modify their child support orders. What happens then, when they are released, because we have had policy to collect child support from people who have the ability to pay, but don't, we have very strong laws in this state on
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garnishing wages, and if you owe arrears sixty-five percent of your take-home pay -- or I'm sorry, of your gross income, can be taken to pay for child support arrears. More than four months of -- of arrears will result in a revocation of your driver's license. If you train to be a barber in person, you won't get a professional license if you have child support arrears of more than four months.

So, this rule, which is called the no-justification rule is shared by a number of other states, and is being reexamined by a number of other states. And I think that we, New York, should also reexamine that state (sic). Because what's happening is that people leave prison and are driven into the underground economy because they cannot survive on their W-two paychecks.

Let me just give you an example of a few states that have reexamined their policies and developed other policies:

In Oregon there is the case-by-case evaluation of the act that resulted in incarceration when a downward modification petition
is filed. Ohio and Idaho look as to whether or not the person, in fact, has assets that could satisfy an arrears obligation. Pennsylvania uses a best-interest-of-the-child test. New Mexico, Missouri, Colorado use a best-interest-of-the-child test.

New Jersey uses an interesting procedure, which I would strongly recommend to this Commission, when someone files a modification petition upon incarceration, the modification petition is transferred to an inactive calendar, upon release the court will make a determination as to a fair and realistic amount of arrears, based on the person's ability to pay; that is also in the best interest of the child. The other -- the other way that arrears can be reduced, is in the area of arrears owe to the state.

What many people don't realize is that when a child is on public assistance, the child support that child is entitled to actually is assigned to the state, so -- so, that if a child is on public assistance while the parent is incarcerated, and this is for either the -- what
had been the custodial parent or the absent parent
these arrears belong to the state. These state
arrears have -- have recently been the subject of
many innovative policies in terms of arrears
reduction, this is because when arrears are owed to
an individual, federal law prohibits the state from
reducing those arrears. However, when the arrears
are owed to the state, the state can enter into a
number of innovative programs for arrears
reduction.

For example, in Michigan and
Illinois, the state will dismiss seventy-five
percent of arrears owed to the state, if the
obligors pays on the arrears owed to the parent,
and makes up a balance of twenty-five percent owed
to the state. In Illinois, once a regular payment
plan is complied with, the arrears to the state are
also forgiven.

Low-income obligors who are
struggling with arrears may never be able to
satisfy them. I have a client right now who -- who
is making, based on his income, a realistic payment
of thirty-five dollars a month, he is disabled and
he is on disability income, but because his order
was reduced to judgment, nine percent interest
accrues on his arrears, and so his balance
increases every month, his children are grown now,
his children are grown now, he is paying on arrears owe to the state. He will
he is paying on arrears owe to the state. He will
never ever get out of debt.

Enforcing orders without
distinguishing between the unwillingness and
inability to pay is going to result in less support
paid overall.

The Empire Justice Center urges
the Sentencing Commission to recommend the
necessary changes in law and policy that would set
up realistic payment plans upon release from
incarceration, that would allow people to take a
meaningful role in the world of work upon their
release. Thank you.

MS. O'DONNELL: Thank you very
much, Ms. Antos.

Our next speaker is Theodore
Jackson, Mr. Jackson.

Oh, he's not here. Sorry.

Lorraine Barde and after Ms.
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Barde, Yusef Williams, if you want to -- if you are here and want to come down and take a seat.

Welcome, Ms. Barde.

MS. BARDE: Thank you. My name is Lorraine Barde, and I am here as a parent of a prisoner, an organization no parent ever wants to belong to, the issue I want to address affects reentry, it -- it affects our crime rates.

I would like you to imagine that you are sixteen years old, and maybe even seventeen, and the doctor tells you -- you that you have cancer, and your parents aren't there, and before you can see your parents or talk to your parents, you have to make the first important decision in your treatment, and you will not -- like I said, you will not be able to talk with them. You will be able to talk to them later, but not privately, not in a confidential setting. And when you meet with your doctor to discuss the course of action for your disease, you will not -- your parents will not be able to be there with you.

You don't know where to start, your cancer may be basal cell carcinoma, relatively
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minor; it may be neuroblastoma; a brain tumor but

is it a glioma or some other cancer that is

metastasized; is it stage I stage II, which is

better? You're thrown into a world of medical

jargon and procedures that you know nothing about,

you don't even know what questions to ask, you have

no experience with this.

Now, imagine that you have to

make the choice of your treatment just from the

options you are given as to how to proceed. Your

parents can advise, but they cannot make -- they

cannot dictate your decision.

I don't imagine that there is

anybody here who would believe that a decision of

such magnitude, with such serious life-altering

consequences, should be left -- should be made by a

sixteen year old, especially under such conditions.

Yet that is the exactly the type

of situations sixteen and seventeen year old's face

in our criminal justice system, because New York is

one of only three states in the nation that have

eighteen as -- or excuse me, sixteen as the age of

majority for the justice system. This means they
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can be taken into custody and interrogated by

police without parents being even notified that

they are in custody. If they're advised of their

rights at all, they are asked to give up a very

important right, that of having any attorney

present while they are being questioned.

Keep in mind they cannot even

sign a simple contract at this age. If they cannot

make bail, they have no means of having

confidential discussions with their parents, and

their parents will not be allowed to be there when

they talk with their attorney. And in the end, as

I said, it's the sixteen or seventeen year old, who

is making that choice.

Some of you -- excuse me, some of

you may say, but the justice system is different;

if that sixteen year old had done nothing wrong he

or she will have nothing to worry about, and a

sixteen year should know right for wrong, and I

agree with that.

However, many of those accused

and arrested are -- are, in fact, truly innocent of

any wrongdoing, and it can happen to anyone.
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Others may be guilty as charged. And then, there are those who may be guilty of some wrongdoing, but not guilty of all they are charged with, they may be overindicted, with due respect to our district attorneys. But they are -- and they are ones who have the hardest time making the decisions. How do you take responsibility for something you did, but not everything for would you are accused.

And remember, they are all innocent until proven guilty.

Youth with no prior experience in the criminal justice system are at a further disadvantage, because being unfamiliar -- besides being unfamiliar with the jargon and procedures. In counties with an integrated court system, and I'm not extremely clear on this, but my understanding is the family court judge would then have input if they are arrested as adults. Ironically, for those -- I'm sorry, with -- with no criminal record there is no involvement of the family court.

I agree, as I said, that teenagers should know right from wrong, but science
has now shown what every parent of any teenager have known for centuries, and that is that they do not think the same way that adults do. They're more impulsive, and they don't think long-term. Their brains are still developing, just as the rest of their bodies are. The U.S. Supreme Court recognized the validity -- validity of this evidence, and -- and in 2005, ruled that those under eighteen can no longer be given the death penalty, it is cruel and unusual punishment. It found that a minor's, quote, culpability or blameworthiness is diminished to a substantial degree, by reason of youth and immaturity.

In New York, we recognize that those under eighteen do not have the maturity to make long-range decisions, that they lack the judgment the adult -- that adults have. We do not allow them to vote, sign contracts, buy tobacco products, marry, or enlist in military. New York recently changed its Motor Vehicle Laws regarding driver's licenses to limit the driving privileges of sixteen and seventeen years olds. Anyone over twenty-one having sex with a sixteen year old can
be charged with statutory rape or criminal sexual misconduct, which I believe are felonies, subject up to four years in prison because a sixteen year old cannot consent to sex.

Even after a sixteen year old is sentenced and charged -- or charged and sentenced as an adult and is in adult prison, they cannot buy tobacco products. Supposedly, they can understand and weigh the consequences of all the intricacies of the law and the justice system, but they are too young to weigh the consequences of smoking.

Once in prison -- adult prisons, minors are at higher risk for suicide than in the juvenile facilities. They do not have the same level of access to mental health services or educational services, despite the fact that the higher the level of education attained, the lower the recidivism rate, New York discontinued TAP awards and college courses for adult inmates in 1990s, which is a whole another issue that should be addressed.

Many of the sixteen and seventeen year olds have never been employed, and once out of
prison, they will now have a criminal record that
will follow them the rest of their lives, making it
even more difficult to find employment.

In that 2005 Supreme Court
decision, Justice Anthony Kennedy wrote, "from a
moral standpoint, it would be misguided to equate
the failings of a minor with those of an adult, for
a greater possibility exists that a minor's
c character deficiencies will be reformed." Most
Americans agree for according to a nationwide Zogby
Poll of this year, eighty-nine percent of Americans
believe that rehabilitative services and treatments
for our youth can help prevent future crime, and
studies bear this out.

In the New York Metropolitan Area
that straddles the New York/New Jersey line teens
from similar backgrounds who committed similar
crimes were studied and followed. Those sentenced
as adults had higher recidivism rates. I think it
was forty-nine percent and reoffended sooner and
more violently, than those sentenced under the
juvenile courts where the recidivism rate in this
study was about thirty-seven percent. So, we're
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not talking about making the society safer by

sentencing them us adults.

We should not be sending our

youth directly to adult courts. A family court

judge, a neutral party with experience with

adolescents, hopefully, should make the
determination if a case should be transferred to

adult courts. It should not be done by statute,

which fails to look at the individual, nor by a

prosecutor, whose very role is not one of

neutrality.

Also the length of sentence for

those under eighteen should be less than that of --
given to adults for the same crimes. For -- for

justice to be truly served, consequences must be

commensurate with the level of culpability of the

defendant and the Supreme Court has said that a

person's culpability is great -- diminished greatly

by reason of youth and immaturity. And I would add

mental health issues.

And mental health courts again

are another -- I was glad to hear people bring

those up.
Over half of minors in custody suffer from some sort of mental health problem, which further compromises their ability to think clearly. I have included some fact sheets with my written testimony, as well as a final report written by the Connecticut Juvenile Jurisdiction Planning and Implementation -- Implementation committee. Connecticut is in the process of changing its age of majority back to eighteen. Adolescents are not known for thinking long-term, however adults, especially given the time to study an issue, should look -- think long-term. You have that opportunity. And please take that opportunity, and change the age of New York's majority back to eighteen. Thank you very much.

MS. O'DONNELL: Thank you very much, Ms. Barde. I appreciate it.

Yusef Williams and Tamar Kraft-Stollar, Patricia Durham.

Oh, I'm sorry. Please have a seat.

And you're Mr. Williams?
MR. WILLIAMS: Yes.

MS. O’DONNELL: Okay. And if we do have Patricia Durham, if you want to come down, and you will be next.

Okay, Mr. Williams, welcome.

MR. WILLIAMS: Welcome -- thank you.

Imagine a child left alone to defend for himself: No one shows him how to live, how to love; he has got no sense of direction, no guidance from a positive caring adult. All he sees is poverty, pain, perpetual chaos. What he learns is how to distrust, be angry and fend for himself. He smokes more than he can eat, because that's what he sees in those around him. He yells, fights more than he cries, because that's how he has learned to deal when the hurt. His classroom is the streets where he learns what he needs to survive, money what matters most. Without it, you have nothing, no power, no control, not even over your own life. He sees that a mother is who gives -- gives you life, not necessarily one who loves you. He wishes and prays that some day she will love him even half
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as much as she loves getting high. He never felt
angry for what he is missing, because to him this
is all it is, all there ever will be. Hope for
what? Maybe an end to all this. What's the point
of living anyway when you don't even care if you
die?

A child grows and his smiling
face, now with the frustration of life. He never
laughs, he doesn't even remember how. What the
hell is so funny anyway? The -- the situation is
real as real as it gets. He is not scared. Never
that scared of what? Dying? That's the only thing
he is certain of.

You really don't have to imagine
anymore. That's my story. Let me introduce
myself. My name is Yusef Williams, and I live in
Syracuse, New York. And I am someone who has
personally been affected by the Rockefeller Drug
Laws, and want to talk to you today about that
experience.

Eight years ago, I was arrested
on a drug conspiracy charge based on a telephone
communication with my uncle. I was never caught
with any drugs in my possession. Because I was young, listened to my lawyer, I have already gone to trial and plead guilty to a lesser charge of criminal possession of a controlled substance in the second degree, an A-two felony. At the time I had no prior felony convictions and believed that this was the option -- was -- was a good one.

While I was awaiting sentencing and out on bail, I was shot four times, twice in the chest and twice in the stomach. I stayed in the hospital two months and nearly died before I returned to court. I was out of the hospital, but I wore a colostomy bag, and had a drainage tube coming out of stomach. The judge looked at me and my case and knew my situation, but because of the mandatory drug laws, he sentenced me to four years to life.

I went to prison immediately, and was placed in general population. My condition was so bad after that, I had to have additional surgeries while I was in Upstate correctional facilities. I look at this -- at this. I'm lucky to even be alive, because I didn't just get a life
sentence, I was really given a death sentence. And
I wasn't really expected to make it out alive.

But I'm not bitter about the situation anymore, now I realize that the judge probably had no choice because of the mandatory drug laws. My personal background, record of no prior criminal convictions, or my health conditions could not change the circumstances. The judge had no real discretion. And I know this now, but it's -- but that is just a problem as it is.

The Commission looks at really reforming the Rockefeller Drug Laws. You need to keep these two things in mind:

First, judges need to be given back the opportunity to make the real decisions in resentencing, cases need to be looked at individually, because each individual's circumstances are unique and play -- play into who they are and why they have made the choices they have.

And secondly, you need to understand that although the reform effort --
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good faith, there are too many people like myself
who are still ineligible for resentencing, because
I have an A-two felony conviction, and I have
already served out my mandatory sentencing in
prison, I still have life on my back.

In speaking to Parole, I was told
that after an indeterminant period of time, which I
guess they decide upon, I can apply to have the
life removed.

Sounds confusing; huh? So
imagine how I feel.

But I want to explain something
further to you today about why I really want to
move on from this lifetime parole situation. Over
the past three years I have returned to prison
three times, totaling about twenty-six months. I
did not go back to jail because I committed any
crimes, but because of technical parole violations.

Do you know what makes a
technical parole violation?

Being a grown man and having to
be in the house at nine p.m., not being able to
drive a car, even though you have driver's license,
not being able to have a cellular phone, not being able to associate with immediate family members because of their criminal past. I don't know no family members that they never been to jail. A dog -- and don't -- and having a dog, and don't think you can ever even have a sip of alcohol.

I understand there are needs to be guidelines to assure public safety, but if you live where I live, and if you've seen what I've seen, then you know how hard it is to survive out here, it is so hard.

And when a person like me does find the opportunity to work and do right, it's almost impossible to maintain that lifestyle. The way that people have set up, first off, finding a job where a person is willing to hire you with a felony is hard enough. They don't help you at all they just tell you that if you don't find a job right away, you have to report to their office every morning.

Even if you do find a job, they show up wearing their bulletproof vest, and their guns, showing to check upon you. Now, everybody in
the work setting looks at you like you're crazy, and that's another barrier to overcome. If you can assure a good job, they might just make you quit because of the work hours or the location or because they don't think a convicted felon should be doing that sort of work.

The money that is spent to -- to send in parole violators back up north could be -- could be much better spent in community-based programming. That might really have an impact on people being more successful on the streets; things like job training programs, alternatives to incarceration, a system of graduated sentencing, substance-abuse treatment, personal and family counseling. And by remaining in the community people could sustain probably relationships with family members and employers.

Currently, I am a full-time student at Onondaga Community College, I had -- and I had to battled hard to get parole to approve that. I am majoring in the criminal justice, and my goal is to develop effective reentry strategies and help others who find themselves in similar
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situations.

As a person on life parole I
cannot vote; that is a whole other issue that this
Commission may need to look at into the future, so
I decide to come and talk to you all today, because
this is probably the only opportunity that someone
like me has to have my voice heard. Not that this
voice is not just my own, but there are many people
like me who don't even know about this type of
forum.

Thank you for listening to me
today. I hope that you take all this into
consideration as you prepare your recommendations
for the governor.

MS. O'DONNELL: Mr. Williams,
thank you very much for taking the time to come
here and share your very thoughtful and considerate
remarks with us.

I understand we may be running a
little bit ahead of schedule, about ten minutes,
but if there are any other speakers, Tamar
Kraft-Stoller, Patricia Durham, Valerie Faust, Carl
Hatch, and our last speaker Randy Credico, we would
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love to hear from you. Otherwise, I guess we'll

take a ten-minute break and catch up with our

schedule.

(A recess was taken at 2:08 p.m.)

(The hearing resumed at 2:39

p.m.)

MR. VANCE:  Good afternoon, Mr.

Hatch.

MR. HATCH:  Good afternoon.

MR. VANCE:  How are you?

MR. HATCH:  Good.

MR. VANCE:  Thanks for coming.

MR. HATCH:  Thank you for having

these hearings. Should I go ahead?

MR. VANCE:  Let's get started,

Yeah.

MR. HATCH:  Okay. I'm Paul

Hatch, I'm the copresident of the Reentry

Association of New York, which includes

representatives of the nine operating county

reentry task forces, as well as other interested

individuals. I'm also a vice president at Catholic

Family Center in Rochester, which provides staff
My background includes thirty-three years of work in behavioral health in community-based treatment settings, with extensive involvement with clients involved in the criminal justice system. My remarks today grow out of that experience, and have not been vetted by either Catholic Family Center or RAMY.

First, let me begin by commenting the Commission on the breadth and depth of your preliminary report, a report made all the more remarkable by the limited amount of time in which it was put together. Such a comprehensive view is long overdue given the ad hoc, and often contradictory, public policy, which has evolved around sentencing and public safety.

My comments today will focus on part three of your preliminary report, the science of crime reduction using evidence-based practices to reduce recidivism.

Using my own county's experience, I can say with certainty that the transition from prison to community model, which the state has
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begun implementing in the nine impact counties, has
opened the door to a new era in reentry.

Prior to the implementation of
the county reentry task force, the organizations in
the criminal justice community in our county all
certainly knew each other and worked very well
together. Similarly, the faith- and
community-based players had a long history of close
collaboration. But the creation of the reentry
task force marked the first time that those two
communities regularly began sitting down with each
other. And the result has been a new level of
synergy and optimism, that we can make a meaningful
difference in public safety.

The eleven mandated partners in
our county grew to nineteen committed organizations
even before our grant application was submitted,
and has subsequently grown to over fifty active
entities over the past year. Our task force
recently held its second annual recognition event
and a thank you event, for participating
individuals, and we wound up inviting a hundred and
nine people who have made specific contributions to
the reentry effort in our county. The turnout for
our regularly scheduled task force meetings now
averages close to fifty.

Much has been done, but we still
have a ways to go, parolees still don't have -- all
have photo identification, birth certificates and
social security cards, but the numbers are
climbing.

Despite an expedated -- expedited
process, established by our department of social
services, for benefit enrollment for task force
clients, many outside the task force, still
struggle with the routine process of establishing
eligibility, and must endure the forty-five day
wait.

Names of upcoming releasees now
flow much more smoothly, although the detailed
information needed to ensure appropriate program
placement still lags much of the time.

Housing, especially for sex
offenders, is in a state of crisis. We recently
did a study on the referrals -- two hundred
referrals that we have worked with over the last
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fifteen months and we're averaging sixty-six days postrelease to find a suitable housing placement for task force clients when they're sex offenders.

Your preliminary report appropriately identified many of the major hurdles to be addressed, the limited availability of step-down facilities like the Orleans reentry prison and work release, really hampers the transitional planning related to job readiness, employment, family integration, treatment planning and community preparedness. Education and vocational training, especially programs that provide diplomas or certificates that are nationally recognized, is a gap. Housing is a huge problem and effectively undermines whatever other good work is being done on treatment and employment.

The probability of being able to successfully address all of these problems, absent a consistent and validated risk assessment tool, is low. We need to focus our efforts on the individuals who pose the greatest risk to public safety. A consistent instrument needs to be
applied from sentencing through incarceration and back to community supervision.

As you point out, utilization of resources on low-risk offenders actually increases their chance of recidivism, and it certainly dilutes what we are able to do for those about whom we should be most concerned.

Similarly, identification and targeting of criminogenic needs must also occur if we are to get the best outcomes. D.C.J.S. has done some promising work in both of these areas, but we need to get a consistent instrument in place across presentence investigation, sentencing, incarceration and community supervision. We may need to refine the tool as we implement this approach and gather data, but we need to get this most basic mechanism in place now.

Service delivery, whether it is in the pretrial services, alternatives to incarceration, correction facilities or in faith- and community-based agencies, needs to adapt the same kind of rigor. There is a large and growing evidence base about what works and what doesn't.
Program evaluation has matured to the point where it should be included as a routine part of every aspect of service delivery, and continuous quality improvement should be the guiding principle guiding our public policy.

A word of caution however, the literature is clear that evidence-based practices only work when the models are fully funded and implemented. The same goes for program evaluation methodologies. These are not processes that can be done cheaply. But when the potential savings from reduced use of incarceration, reduced recidivism and increased public safety are factored in, they do not need to result in overall increases in public spending.

I also applaud your recommendations about the use of graduated sanctions for parole violators. I certainly believe there will always be individuals who should be returned to prison. But the current all or nothing options for dealing with parole violations is both ineffective and expensive.

I have seen parolees who have
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made a terrific start in reentry, but who have
committed a technical violation that has cost them
housing, a promising job, as well as all the
prosocial relationships they begun to establish.

The literature is clear that the swiftness and
certainty of penalties, not their severity is the
key to effectiveness.

I have also seen parolees
returned to prison for technical violations,
complete their sentence, and then get released
without supervision. Surely public safety would
have been better served by a graduated sanction and
community supervision, rather than warehousing them
until they are finally released with no supervision
whatever.

Finally, I want to end by
returning to the transition from prison to
community model. I've gotten to know most, if not
all, of my peers working with the other county
reentry task forces. I cannot help be struck by
how differently the nine original task forces have
evolved. They all began with the same foundational
training; they have all worked closely with these
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D.C.J.S. and Parole in implementing the model; they have all participated freely, ensuring best practices, successes and failures. But they all look and operate quite differently.

I truly believe that such diversity is a strength not a weakness. You just have to pull together stakeholders in their individual communities, each has inventoried resources and the gaps in the area they serve, and each has developed a unique strategic plan and approach.

I hope that as the Commission wrestles with the best way to formulate a coherent public policy in this area that it leaves room for some variation in approach so that implementation can be tailored to the needs of each community.

Again, thank you for your hard work and for such a promising start.

MR. VANCE: Thank you very much.

Any questions?

MR. HATCH: Thank you.

MR. VANCE: Mr. Hatch, thank you very much for coming --
MR. HATCH: Okay.

MR. VANCE: -- we really appreciate it.

MR. HATCH: Thank you.

MR. VANCE: Is Ms. Durham here?

Please step up and join us. Good afternoon.

MS. DURHAM: Good afternoon.

MR. VANCE: It's nice to have you.

MS. DURHAM: Nice to be here.

MR. VANCE: Would you just give us your name, and we welcome hearing from you.

MS. DURHAM: My name is Patricia Durham, and you want to know why I am here?

MR. VANCE: Sure.

MS. DURHAM: I am here to speak on behalf of continued reform for the Rockefeller Drug Law, to share my personal story and experience with Rockefeller Drug Law.

First of all, I want to just say thank you for the opportunity of coming before you and speaking. My son, as some my have noticed, my
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face has been on various commercials and
televisions and speaking for different
organizations that I knew nothing about. In
reference to Rockefeller Drug Law, my son was
arrested in August of 2000, and I knew nothing
about this law.

Once it affected me personally,
because of my only son, Tavares Boon, he was given
eighteen years to life for his first and only - and
I say "only," because I speak in confidence that
this experience will not lead him back into
incarceration - and hearing the gentleman speaking
before me on different things that need to happen
once they're -- they have been released I strongly
support that, my son was given another opportunity
at reentering society.

I picked him up from the
correctional facility, in which he was, March of
this year, because of drug law reform and
continuing, since that -- during that time, I --
because of who I am and the belief that I have in
everything, going -- taking time out of my life and
supporting him in his poor choices that he had, in
spite of all the training and skills that I gave him, my mother gave him, after all I had him at a very young age, and everything that each person here that if you have children, or you have loved ones, you don't want them to walk down certain areas of life.

During that six-and-a-half-year incarceration that Tavares had, I was given the opportunity to meet various other inmates that are still behind the prison walls that deserve another opportunity to reenter society. And it's a disservice that I would do if I still did not become an active activist and supporter of encouraging you to search your hearts and to continue to make the changes. We have made great steps and great changes, but there are still a lot of changes that needs to be done.

I sit here to report to you that because of supervision, parole supervision that Tavares has, he has five years parole, some of that he can get off on good behavior. He is being successful; however, as a mother, I still have that just want him to succeed and -- and do all that he
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wants.

One of the things that I've noticed is that he wants everything back today. That's not going to happen. He's in school, he's enrolled at the Educational Opportunity Center here in Albany. He is scheduled to go into Hudson Valley Community College to seek his dreams, that I've pushed him to go get an education.

He comes from a supportive, loving family, and was just looking for love in all the wrong places. He paid a great price, a great sacrifice, because once again his choices and the decisions he made just to want to be a part of society to be accepted by society.

And because of the people that I grew to know, different organizations, especially Arise - I see some of their representatives that's here - that just took me under their wing, I had no idea how I was going to get through this difficult, traumatic experience in my life. I just could not understand how -- and it's not to excuse that he did wrong, he did a crime, but I just could not understand, and -- and I just couldn't comprehend
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how it's -- like eighteen to -- eighteen years to
life, it just did -- did not make sense to me. And
I would lay in my bed - I was in a heavy
depression - and just see where there was other
crimes with less time, and I was like something has
to be done. And I -- when I wanted to give up,
people that didn't even know me, they embraced me,
they encouraged me. And that is why we have come
so far in the reform of the Rockefeller Drug Law,
and that's why so much more that's needed, so much
more that's needed.

And I have learned, through my
own prejudices at that time, once an inmate always
an inmate. If they go to prison they're always
going to be there. I knew nothing until it happen
to my own family.

I thought that my family didn't
love me; I thought my church didn't love me; I --
just every thing. I just -- I just couldn't
understand what was going on. I was very angry. I
was angry at the criminal justice system, I was
angry at the police officers, I was angry at
Schenectady County, but I have grown from that
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experience and -- and know that I was very disappointed, and just didn't know, didn't know.

And if it was not for the help that is available out here now, and the continued help and support, I would not have gotten through some of the most difficult moments of my life.

I'm quite sure we all have our own story, but this is true, this is real. I never thought -- and when my son would sit there as I visit him, when I took out days out of my life where I could have been doing something else, I did what any mother, any father would do by instilling those -- that integrity, those morals that I grew up on, and just -- when he didn't have hope, I couldn't give up my hope, and he would tell the other inmates, "oh, she is naive," or "when it finally hit her, you have to be there for her," and I just believed and I had hope in this system that something was going to change, because through my education of the law, and continuing education, the way it was designed to really affect those that need to, it is not working in that way. That was then, this is now.
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And just like with everything else now we have better ways. We have the microwave, Burger King is no longer the "have it your way," Burger King is not the only one with that motto, and Nike came out with the best slogan, "Just Do It." And we have come a long way. I commend you. I can't ask you enough, I just can't ask you enough. I appreciate the work that we've done, that -- all that you do every day.

And I know just to take time out, I can't even imagine just sitting there, listening to all these speakers, and probably like, "okay, I got to make sure I'm paying attention, even if I'm not paying attention." But I appreciate that.

And I just -- that's my desire. And Tavares will continue to be that role model.

Now, he's struggling with, "I need an apartment, could I come home?" "No, you're a grown man. No you cannot come home." But he does have a home. However, the best thing for him, because me, the enabling mother, wants him to come home. However, I'm following the advice of Parole, and those that are in charge of his care right now. And he is
being successful right now. And I just -- I just
wanted to come and share his story, and he wanted
to be here but responsibility and accountability
come first.

Thank you.

MR. VANCE: Thank you very much.

And we appreciate you coming, and I -- I -- we have
no difficulty being interested in what you have to
say. I -- I'm sure of that.

Any questions?

All right. Thank you so much.

MS. DURHAM: You're welcome.

MR. VANCE: Mr. Credico?

MR. CREDICO: Yes.

MR. VANCE: Good afternoon,

welcome.

MR. CREDICO: Good afternoon,

thank you.

My name is Randy Credico.

Good afternoon, Commissioners.

I'm sure you're a little burned out, you've been
here for a long-time, just to drive from New York
City I'm burned out, but I'm glad to be here.
My name is Randy Credico. I'm with the William Moses Kunstler Fund for Racial Justice. I'm also political stand-up impressionist. I used to do your father's boss. Like this, I used to do Jimmy Carter years ago, I'm not going to do that now. I'm just trying to liven up the place little bit here. So -- and I did Reagan after that. But I'm here today -- first I want to comment to Governor Spitzer for putting this Commission together. I know it's been about eight months ago when this thing was initiated, along with his attempts to help out undocumented workers, I give him very high marks for those two initiatives. I think he is the first governor to take on two issues this big since William Seward in 1837 in this state. And this last issue of warrant for the xenophobia and the racism, and the disinformation, maybe he could have gotten something done. Seward had the same problem with -- with the Know-Nothings and the Whig Party
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back in 1837. All right. That's all the history

I'm going to give you.

I'm -- the gentleman who was
talking about parole, there's a real irony that the
biggest antiparole man, who is totally against
parole, he said that for eight years, is Rudolph
Giuliani. The irony there is, is that Rudy
Giuliani is here today because there was parole
that Governor Smith, or Governor Roosevelt, didn't
get rid of parole in the '30s because his father
spent three years in prison on an eight-year prison
sentence for an armed robbery, Harold Giuliani in
Sing Sing, and he only got out because of parole.
And Rudy, now is walking around saying, "we got to
get rid of parole."

I wouldn't be here as well,
because my father did time in prison before I was
born, and he got out on parole. But it wasn't a
violent crime like Harold Giuliani's.

I will say that there are so many
issues to cover here, and everyone has -- the last
couple of days I'm sure everything's been vetted a
million times. So, there are a few things I want
to bring up. First of all, I am strongly urging
that the Commission recommend that there be a state
constitutional convention to do away with the way
we select judges in this state. That's got to be
done. The current scam of the court of claims has
made it a factory for -- you -- you cannot put --
use patronage to put in judges, which is what's
happening right now throughout the state.

Patronage, in Manhattan, which you watch Law and
Order it's nothing like that, I deal with that 100
Center Street all the time.

Most of the judges are coming out
of the district attorney's office. You've got
white judges, who do not -- not -- never having to
face the public - never having to face the public -
who have views that go against the grain of our
particular community.

I will give an example of Judge
Ed McLaughlin or Judge Lewis B. Stone, Judge
Charles Solomon all out of Manhattan District
Attorney's Office, they are the worst on
Rockefeller Drug Law cases. Even though the people
in Manhattan, ninety percent support changes, these
judges do not represent the people. In fact, the whole 100 Center Street to me is nothing more than a modern day slave auction block, I hate to use that kind of terminology, but it's true.

It's -- you walk in there, you walk into a courtroom, you will see a white judge, a white young assistant D.A., a white appointed lawyer, who the judge appoints and is a little nervous about going against the grain, and a black defendant. That's all you see there.

Once in a while, Chambers is the one exception, this last week that's a big marquee name, although the suppliers got away and they got the small guy as usual down there. But time and again, you know, these, you know, victims of racism -- racism is what this is all about. The Rockefeller Drug Laws and other crimes, basically racism.

And you know, I've got ten minutes and I'm trying to get so much in here, I'm -- I'm urging for a Racial Profiling Bill for Governor Spitzer to put a Racial Profiling Bill, if it's good enough for New Jersey and many other
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states across the country, it's good enough for New
York. We need a Racial Profiling Bill, it's been
languishing in the senate minority conference, and
Cabinet Parker's Committee there has a Racial
Profiling Bill, we need that right now. Because on
all levels it's still blacks and Latinos and a
hundred percent poor people who are filling these
prisons.

And they're getting heavy --

heavy time, Junior Gums (phonetic spelling) --
Junior Gums, based on the testimony of a mob -- a
mob associate, by the name of Bernard Kerik is in
jail for thirty-three years to life, and the -- he
went up for resentencing and they didn't
re-sentence him even though he has a perfect
fifteen year without one infraction in -- in --
in -- in Attica prison.

This guy is doing thirteen years
more than Albert Speer, who's the architect of the
Nazi war machine, thirteen years longer than Albert
Speer.

We still have -- we still have
sentences on the books where people are getting
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more time than Nazi war criminals. So, we
definitely need to change the Rockefeller Drug
Laws, we need to make further changes in the
Rockefeller Drug Laws.

I saw a guy the other day in --
in court getting one to three years on a plea
bargain for stealing a pair of sunglasses at Macys.

One to three years.

You know, white people like --
like Russell Crowe can try to kill someone with a
telephone and do no time, it's in really bad shape.
The criminal justice system cannot be tinkered
with. Bill Kunstler said this ten years ago,
the -- the job of the judiciary in the state and
legal system is to put people in prison, on the
appellate level it's to keep them there, and it has
not changed, it has not changed, and it needs
radical change, not tinkering, we need radical
change.

It's amazing John Brown who was
buried a hundred miles north of this, in North
Elba, from this -- this city, you know, when he was
alive there were only a few hundred
African-Americans in prison, today there are forty, fifty thousand in his state. I'm sure he would have taken different actions than I'm taking today, he would be appalled.

This woman who just testified I work with the Mothers of New York Disappeared, I hear the stories all the time, it's not anecdotal. It's not anecdotal. There's a kid by the name of Darius King doing eleven and three -- eleven and a half to twenty-three years for a nickel attempted sale. I got the transcript, a nickel attempted sale of crack. Eleven and a half to twenty-three years. His mother is sick, dying, and he's got an eighteen-year-old daughter who's paralyzed from the neck down. If he had sold two ounces of cocaine, he could have gotten relief, but since he was selling nickel bag, when you guys put that package together two years ago in 2004, three years ago, you didn't think of Darius King. So, he spends more time than the bigger dealers, the bigger users.

I think I have burned enough bridges here. Thank you.
But there's so many things to cover, I -- I really -- you know, I know you've heard it all on Rockefeller, the criminal justice system definitely needs to be overhauled in a major, major way.

That's why I drove up here, they just talked for ten minutes from -- from New York City, I was going to do it in Manhattan the other day, but I had a problem with bail hearing, they have excessive bail, there's a woman who's an addict, because she's associated with a guy who killed somebody, but she's just an addict, and they impose a twenty-five-thousand-dollar bail on this woman, and they wouldn't let me put the money up because I don't know her. You know, but she's just an addict, that's a pretty heavy bail.

We need to take a good look, that's what I'm doing now, my organization is doing a documentary on the system in Manhattan from the bottom up, from the cops, racial profiling, and I believe it comes from the commissioner. The commissioner who was involved in one of the biggest scandals in the -- in the customs department back
in 1999; nine out of ten women who were
strip-searched were black, nine out of ten, now
he's the commissioner.

Too many people are going to jail
that are black and too many people are dying that
are black, like Patrick Dorsman, like Loretta
Spruel (phonetic spellings), like Kenneth Banks,
like Malcolm Ferguson, Amadou Diallo.

Racism is in the weave of the
fabric, and that's got to change. And I hope that
the first thing you do is recommend we have a
Racial Profiling Bill passed.

Thank you.

MR. VANCE: Thank you. Thank
you, Mr. Credico. You didn't burn any bridges
here, we appreciated hearing from you, and
appreciate you driving up from New York City.

MR. CREDICO: You don't have a
question for me, Joe?

MR. LENTOL: I don't have a
question for you, not today.

MR. CREDICO: Okay.

MR. LENTOL: Thank you.
MR. CREDICO: Thank you.

MR. VANCE: Thank you.

I believe that may conclude our list of scheduled speakers. And on behalf of Chairperson O'Donnell, and all of us here, I want to thank each and every one of you for making the effort to come here.

Our last two hearing dates have been, I think, for all of us, very interesting, incredibly informative everyone who has taken the time to talk to us have helped us in our process a great deal. It has really resonated with us. And we genuinely thank you, and I appreciate your input.

(The hearing concluded at 3:12 p.m.)
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I, Nathan B. Roberts, do hereby certify that the foregoing was taken by me, in the cause, at the time and place, and in the presence of counsel, as stated in the caption hereto, at Page 1 hereof; that before giving testimony said witness(es) was (were) duly sworn to testify the truth, the whole truth and nothing but the truth; that the foregoing typewritten transcription, consisting of pages number 1 to 247, inclusive, is a true record prepared by me and completed by Associated Reporters Int'l., Inc. from materials provided by me.

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Nathan B. Roberts, Reporter

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