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June 18, 2012

Between The Bars
P.O. Box 425103
Cambridge, MA 02142

RE: Allied Media Conference June 27 - 29

Dear Madam/Sir:
My name is Bruce Bryant, I am a member of an approved policy group at Sullivan Correctional Facility that Researches, Analyzes and Proposes Policy on Parole Issues. I have enclosed some very important white papers that we would like to have posted and be a part of the Allied Media Conference on June 27 - 29.

It is my hopes to hear more from you regarding the conference and th issues presented and discussed.

Respectfully Yours,
Bruce Bryant
Bruce Bryant
Member of "Second Look Think Tank."
Sullivan Correctional Facility

RECOMMENDATION TO EXPAND THE TEMPORARY RELEASE PROGRAM

Submitted by Second Look Think Tank

An Approved Policy Group at Sullivan Correctional Facility that Researches, Analyzes and Proposes Policy on Parole Issues

INTRODUCTION

On February 17, 2012, Governor Andrew M. Cuomo announced his Work for Success program, a jobs initiative for formerly incarcerated New Yorkers. "Tens of thousands of people leave New York State prisons each year and without employment most are at a higher risk of returning to incarceration," Governor Cuomo said.

The Governor's initiative recognizes that gainful employment has been proven to reduce recidivism. Thus, any initiative that seeks to help formerly incarcerated people secure employment is welcomed and must be commended. We must, however, ask two very important questions:

1. Why wait until they are released?
2. Why not use the Temporary Release Program—specifically Work Release—in conjunction with the Work for Success initiative? Work Release, by all statistical data, has proven to be one of the most successful reentry and reintegration programs in the Department of Corrections and Community Supervision's (DOCCS) public safety arsenal.

HISTORICAL BACKGROUND

The Temporary Release Program was developed in 1969 as a pilot program to "..:provide for a structural transition from prison to the community by allowing people in prison, nearing their eligibility for release on parole, to leave DOCCS' facilities for...rehabilitation-related activities, such as work, education, volunteer, and religious activities."

Eligibility for participation in the Temporary Release Program is outlined in Correction Law §851(2), and Title 7 NYCRR, Chapter XII §1900, which, prior to 1994, allowed a wide range of offenders to participate in the program.

The most utilized temporary release program is Work Release. It accounts for nearly 90 percent of those participating in the Temporary Release Program. At its peak in 1994, 27,937 individuals participated in the Temporary Release Program.

Over the years, a number of amendments to Correction Law §851 sought to limit eligibility for the program. For example, individuals convicted of escaping or attempting to escape, or of absconding while under supervision, were ineligible to participate in the program.

In 1994, Governor Mario Cuomo signed into law, under Chapter 60 §42(2) of the laws of 1994, an amendment to §851 of the Correction Law specifying that two categories of violent felony offenders—homicide and any sexual offense—were no longer eligible to participate in the Temporary Release Program.

On January 24, 1995, by Executive Order 5, and later 5.1, Governor George Pataki, using the authority granted to him under Correction Law §851(2), expanded this law by barring all violent felony offenders from participating in the program.

This initiative was undertaken without exploring whether limiting participation in the program was an evidence-based response to the rise in crime. Instead, it was initiated as part of a broader political agenda geared toward so-called "getting tough on crime," and, more importantly, to comport with the emerging Violent Offender Incarceration/Truth-in-Sentencing Incentive Grant Program.[1]

In March of 2007, Governor Eliot Spitzer issued Executive Order No. 9, extending Executive Order No. 5.1, excluding all violent felony offenders. After Governor Spitzer's resignation, Governor David Paterson issued an Executive Order for a continuation of other Executive Orders, including Executive Order No. 9.

BEST PRACTICE APPROACH

To realize the twin goals of public safety and reentry and reintegration, people convicted of violent felonies—many of whom have served long periods of incarceration—must never be dumped back into the community. Instead, after meeting clearly defined criteria, they should be eased back into society through a supervised step-down approach that is grounded in fiscal responsibility, and that promotes public safety.

Work Release is a best-practice approach that reduces recidivism, and permits DOCCS to better determine whether an offender's release is compatible with the safety of the public. Further, Work Release can serve as a parole pre-screening process, fostering successful transitions into the community, in accordance with New York State's penal goals under Penal Law §1.05(6): "…the promotion of (men's and women's) successful and productive reentry and reintegration into society."

As a reentry model, Work Release not only significantly reduces the spiraling cost of incarceration (see cost benefit analysis below), it recognizes the inevitable release from prison of the vast majority of offenders, and holds immense potential to create a positive impact on reintegration.

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[1] The Federal Violent Crime Control and Law Enforcement Act of 1994 provided for Violent Offender Incarceration/Truth-in-Sentencing (VOI/TIS) incentive grants. From 1995 to 2000, the program provided states with funding to increase the capacity of state correctional systems to confine serious and violent offenders. New York State received more than $152 million in that time period.

Moreover, DOCCS' own tracking records and statistical data confirm that those convicted of violent felonies (specifically those convicted of murder), are least likely to re-offend. As DOCCS Commissioner Brian Fischer testified before the Joint Legislative Fiscal Committees on January 27, 2009, "…releasing inmates convicted of violent crimes has NOT posed a danger to society. Of the 585 inmates classified as the most violent, or A-1, offenders who were released to parole supervision for the first time between 2005 and 2008, none has returned to prison for a new crime."

COST BENEFIT ANALYSIS

Although the figures below may fluctuate, depending on DOCCS' budget and the size of the prison population, it currently costs nearly $50,000 a year to incarcerate one individual. At the same time, it costs approximately $7,500 to house an individual participating in the Work Release Program.

According to Patricia Warth and Alan Rosenthal, of the Center for Community Alternatives, "The Temporary Release Program's drastic reduction has cost state taxpayers millions of dollars per year in both unnecessary tax dollar expenditures and lost tax dollar revenue."[2]

Referencing the "Temporary Release Program: 2007 Annual Report," which placed the yearly cost to house "traditional prisoners" at $31,000, Ms. Warth and Mr. Rosenthal highlight that "…work release alone saves the state $23,500 per participant per year in housing costs. In 2007, the average daily participation in work release was 787 individuals, saving New Yorkers $18,494,500 for that year."

Ms. Warth and Mr. Rosenthal also write: "A more substantial savings could have been realized had participation in the program remained constant since the program's peak in 1994, when 6,300 individuals participated in work release on a daily basis. At $23,500 in savings per participant, New Yorkers could have realized a savings of over $148,000,000. This means that the politically driven drastic restrictions in the Temporary Release Program have cost New York $129,555,500."

Finally, they say, "A conservative estimate of the cost to New Yorkers for failing to maintain the 1994 level of participation for the years 1995 through 2007 exceeds $1.25 billion."

RECOMMENDATIONS

The Second Look Think Tank contends that in order for New York State to meet the goals set forth in Penal Law §1.05(6), the Governor and the Legislature should expand eligibility for the Work Release Program by taking the following measures:

1. Rescind Executive Order No. 9, issued March 5, 2007 (ordering the Commissioner of the Department of Corrections and Community Supervision to "bar certain offenders from

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[2] Patricia Warth and Alan Rosenthal, "How New York Could Save Millions: The Potential Cost Savings and Public Safety Benefit of the Temporary Release Program," p. 5.

participating in Temporary Release Program), and return eligibility for the program to pre-1994 status.

2. Amend Correctional Law §851(2), which prohibits certain categories of offenders from participating in the program, to allow for greater participation by all incarcerated persons.

3. Amend Title 7 N.Y.C.R.R., Chapter XII, §1900.4 "Eligibility," to include all currently incarcerated persons who meet clearly defined criteria.

4. Make participation in a Temporary Release Program a component of any Transitional Accountability Plan.

CONCLUSION

Work Release provides a vehicle to monitor, supervise and reward positive reintegration, and should be expanded to include long-term violent felony offenders. Not only are they the best candidates and the least likely to re-offend, they are, due in large part to the length of their incarceration, the ones most in need of a step-down approach to reentry and reintegration. Moreover, Work Release gives men and women, two years prior to their eligibility for release, empirical evidence demonstrating to the Parole Board that they are capable of functioning in society as law-abiding citizens.

For all these reasons, Governor Cuomo's Work for Success initiative should incorporate an expansion of Work Release for violent felony offenders.

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