

March 10, 2009

Hon. David Paterson
Governor of New York
State Capitol
Albany, N.Y. 12224

HUMAN
RIGHTS
WATCH

www.hrw.org

Re: Rockefeller Drug Law Reform

Dear Governor Paterson:

Human Rights Watch will release a major report on March 24, 2009 documenting our investigation of drug treatment policy and programming in the New York State prison system. The report identifies serious deficiencies in prison treatment programs, including long delays in accessing treatment, lack of medication-assisted therapy for opiate-dependent prisoners, and overly harsh disciplinary policies for drug use that deny treatment to those who may need it most. In light of these and other problems identified in the report, we are writing today to urge you to include provisions relating to prison alcohol and drug treatment programs in the legislation to reform the Rockefeller Drug Laws.

True reform of the drug laws requires a shift in the paradigm for government's response to drug use from a punitive to a medical model, and this is particularly important in the correctional system, where good prison health equals good community health. In addition, including prison treatment programs in the reform effort ensures the coherence of the improvements New York seeks to make with this legislation. Changes to arrest and prosecution procedures and support offered to prisoners at re-entry will both be undermined if adequate drug treatment services are not available to prisoners during their incarceration.

Clearly, the financial crisis has made the cost of any legislative action a prime consideration. The cost-effectiveness of prison drug treatment is well established. Prison methadone programs pay for themselves when prisoners leave the system if they avoid just 20 days of re-incarceration. Recent studies show that for every dollar spent on prison substance abuse programming, the state saves \$2-6 dollars on reduced recidivism and reduced health costs. If the prisoner becomes an employee and pays taxes, the benefits are even greater.¹ Cost considerations are addressed below.

The Assembly bill (A6085) contains several important provisions relating to prison drug treatment that should be retained:

¹ R. Boucher, "The Case for Methadone Maintenance in Prisons," *Vermont Law Review*, vol 27, 2003; R. Chandler, et al., "Treating Drug Abuse and Addiction in the Criminal Justice System," *JAMA*, 2009: 301 (2); E. Warren, "An Economic Evaluation of the Prison Methadone Program in New South Wales," *Centre for Health Economics*, January 2004.

- **The Office of Alcohol and Substance Abuse Services (OASAS) is given increased authority to develop and implement alcohol and drug treatment programming in the prisons, in consultation with the Department of Correctional Services. DOCS must comply with OASAS regulations in its programming.** OASAS currently certifies only a handful of DOCS treatment programs. DOCS treatment counselors do not have to be certified by OASAS. DOCS has conducted very limited evaluations of the efficacy of its programs. OASAS should be involved in developing standards that ensure effective, evidence-based programming.
 - **Cost analysis:** This provision is cost-neutral on its face. In the long run, OASAS review and involvement may result in increased costs for improved programming, but would surely be offset by elimination of ineffective programs. Moreover, there are indications that DOCS currently is over-inclusive in its identification of inmates in need of substance abuse treatment.² OASAS review may actually result in cost savings as more precise screening is conducted according to standards developed by OASAS.
- **Section 1 also requires that at re-entry, OASAS-certified counselors conduct evaluations for substance abuse programming needs of prisoners required to participate in treatment as a condition of release.**
 - **Cost analysis:** This provision ensures that the treatment plan after re-entry is appropriate to the needs of the individual, e.g. determining whether residential treatment is necessary or whether less expensive out-patient services will suffice. Thus it has significant cost-saving potential and ensures that monies invested in community treatment are well spent.
- **Section 97(j)3 authorizes savings that are diverted to the Crime Reduction Fund to be utilized by OASAS for Department of Corrections alcohol and drug treatment programming.** This funding will enable DOCS to increase access of prisoners to evidence-based treatment. For example, expanded programs will be able to offer more targeted treatment programming rather than the “one-size-fits-all” model currently used in most programs and update DOCS treatment approaches by piloting medication-assisted therapy for opioid-dependent prisoners, a therapy proven to be most effective for this type of dependence and that is increasingly implemented in correctional settings.
 - **Cost analysis:** This provision establishes a source of funding for improved and expanded DOCS substance abuse programming.

² See, Testimony of the Correctional Association of New York before the Assembly Standing Committee on Codes, Alcoholism and Drug Abuse and Corrections, March 2, 2007. During the course of our investigation, Human Rights Watch heard from numerous prisoners that inmates were identified as needing substance abuse programming despite a minimal or very outdated substance use history. Interview notes on file with Human Rights Watch.

We look forward to an opportunity to discuss our more detailed recommendations for reform of DOCS drug treatment policies in the near future. As drug law reform is moving quickly, however, we felt it urgent to highlight provisions in the Assembly bill that should be retained in any final agreement on reform of the state's drug laws. These provisions will help to ensure that such reform is coherent in design, effective in practice and respectful of the right of drug-dependent prisoners to necessary health services. If you have any questions or concerns, please do not hesitate to contact us.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to be 'MM' followed by a long horizontal stroke.

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