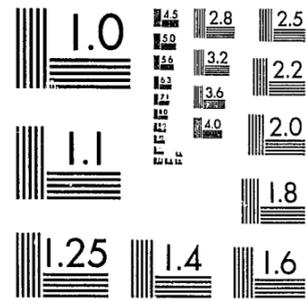


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"A BLUE PRINT FOR SAFETY AND JUSTICE"

Senate Democratic Task Force on Criminal Justice

SENATOR DONALD M. HALPERIN, CHAIRMAN

For Release: March 13, 1980  
Senate Minority Leaders Office  
270 Broadway  
18th floor

NCIPS

MAY 1 1981

ACQUISITIONS

We are here today because we are concerned with the rising crime rate in our city and the inability of our criminal justice system to react swiftly and justly to the cries of help from our citizens.

We are here today because of dwindling confidence in the ability of our police, our courts, and our prisons to arrest, convict and punish violent criminals.

We are here today because the headlines of violence in our streets, on our subways and in our neighborhoods demand solutions.

Finally, we are here today because the recent crime wave, as shown by the 9.6% increase in felony complaints in 1979, is taking a tremendous human toll on our city and destroying its quality of life.

As Senate Democrats we have produced voluminous studies on crime, heard countless hours of testimony, reviewed haphazard court records, debated the origins of crime for days and yet we find ourselves frustrated and bewildered at the inability of our government to protect its citizens and enforce the law.

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The time has come to restore respect to our criminal justice system and return safety to our streets.

We must initiate a meaningful anti-crime program which is designed to apprehend, prosecute and incarcerate violent criminals. Today we are proposing a "Blueprint For Safety and Justice," a strong omnibus crime package which goes to the heart of the crime cycle. These bills seek to increase prison space, allow prosecutorial appeal of sentences, toughen the bail system, speed up court procedures and provide alternatives to incarceration and the courts. Individually, these proposals stand on their own, but together, they provide a key to solving the complex problem of crime and incarceration now facing our city and its residents.

I. \$150 Million Prison Bond Issue

Unless New York State provides adequate prison space our violent felony, armed felony laws and new gun control proposals are meaningless rhetoric. The Department of Correctional Services estimates that by 1985, assuming our present criminal penalties remain the same, there will be 25,000 inmates in state prisons. We estimate, if new gun control legislation is passed, at least an additional 1,500 offenders a year will be sentenced to state prison. To properly manage our prisons, the American Correctional Association recommends that they be filled to no more than 90% of their capacity. This would prevent the frequent transfer of inmates which presently destroys the continuity necessary for successful vocational and educational program participation. This necessary administration flexibility will raise the essential capacity of our prisons to 29,000 beds by 1985.

The State plans to meet this projected prison population primarily through the leasing of Rikers Island (4,500 beds) as well as increasing the usable prison cells at Ossining (1,500 beds) and constructing one new facility on the grounds of Wallkill Prison (500 beds). If the proposed timetable for construction and renovation is adhered to, capacity will meet projected population demands. However, it is not likely this timetable can be adhered to and it is questionable whether the present proposals should be implemented.

If we assume the N.Y.C. Board of Estimate approves the Rikers Island lease (which is at best a 50-50 chance), the original State takeover timetable will already be six months behind schedule and is likely to be 9 months behind before any state inmates can be housed there. This makes it highly unlikely that the House of Detention for Men (HDM) or C-76 Block will be already for State prisoners by 1985. In fact, C-76 Block, which is dormitory space, may never be suitable for maximum security inmates and N.Y.C. may never be able to build enough jails to lease HDM to the State. Of course, if the Rikers Island lease is not approved, the State will immediately face a very severe shortage of space to house the inmate population.

The State plan is also dependent on the increased use of Ossining which was built in 1797, is unsuitable for present modern correctional needs and is unwanted by the community. This prison is located on valuable waterfront property, which could be redeveloped into business districts and residential areas. The tax dollars which could be generated by the redevelopment plan submitted by the Ossining Chamber of Commerce could amount to hundreds of millions of dollars annually, more than enough to

replace Ossining Prison beds. We should not waste valuable tax dollars renovating Ossining Prison nor should we depend on it to meet our projected population needs.

Without Ossining, or HDM or C-76 Block on Rikers Island, our prison capacity in 1985 will fall short of our projected prison population. Therefore, we are introducing legislation for a \$150 million bond issue to build new prisons. Even if the State plan is implemented on time we need this bond issue because:

1. We must improve the processing of violent offenders. Less than 1% of the violent offenses reported to the police result in state prison sentences.
2. Our present antiquated prisons, most of which were built before 1900, are not suited to handle the new type of inmate who is younger and more violent than his predecessors. Many state prison superintendents feel that smaller (maximum capacity - 500 beds), better designed prisons are desperately needed.
3. Our county jails need renovations to meet the minimum standards promulgated by the Commission on Correction. County governments do not have the money to make these necessary renovations.

II. DISTRICT ATTORNEYS MUST BE ALLOWED TO APPEAL UNDULY LENIENT SENTENCES

District attorneys, who represent the people, must be able to appeal unreasonably lenient sentences. Law abiding citizens lose confidence in the criminal justice system when they read in the newspapers "slap on the wrist" type sentences such as a 5-year probation term for second degree manslaughter, or a \$75. fine for assaulting a police officer.

Currently, the defendant has the right to appeal "unduly harsh or excessive" sentences but the District Attorney may only appeal a sentence that is invalid as a matter of law. While the defendant's right to due process must be protected, we also believe the public's safety must be ensured.

We are introducing legislation that will give the people the right to appeal a sentence that does not meet the seriousness of the offense. The bill while preserving judicial discretion, will attempt to tailor criminal sanctions more closely to the circumstances of the particular case and will eliminate disparities in sentencing among similar cases.

III. REFORM THE BAIL SYSTEM

Our bail system must be reformed to detain those defendants considered dangerous to the community or unlikely to show up at required court appearances. In July of 1979, there were 9,541 violent felony offenders wanted in New York State for jumping bail. Our current bail law does not give a judge the authority to detain a defendant because he may pose a risk to community safety. Studies show, however, that judges according to their own predilection detain people for this reason anyway, but in a haphazard manner. This has caused a situation where violent defendants who should be detained are released and non-violent defendants who should be released on their own recognizance or to a third party are detained. Last year, over one half of those detained in county and New York City jails were charged with misdemeanors or less serious offenses and spent less than ten days in jail.

We have introduced a bill (S-7304, Weinstein, et al) which would detain repeat violent felony offenders and felony offenders who previously jumped bail. The bill also provides for a presumption of release on recognizance for minor criminal offenders and allows a judge to release such people to a responsible third party in lieu of bail.

IV. IMPROVE THE MANAGEMENT OF OUR COURT SYSTEM

Mismanagement of our court system has crippled the concept of swift justice. Last year we released Courts on Trial, a study documenting the failure of the courts to improve criminal case processing despite a huge investment of 1/4 billion dollars. A follow-up study shows continued decreases in court productivity. Dispositions per court part in New York City decreased 59% from 1971-1978. The cost of dispositions per court part, when controlling for inflation, skyrocketed from \$1,381 to \$3,409, a 146% increase. To address this problem we have introduced legislation (S.6004, S.6005, S.6006, Halperin et al), to increase legislative oversight of the Judiciary.

We are also proposing improved funding of the defense and prosecutorial components of court parts particularly those funded by the legislature since 1974, which include the State Felony and Violent Felony Programs. The defense component of these court parts has traditionally received less than the prosecutorial component. For example, in the Violent Felony Program, the District Attorneys' Offices in New York, Kings, Bronx, and Queens Counties received money to hire 68 Assistant District Attorneys while the Legal Aid Society only received funding for 56 attorneys. This staffing disparity forces public defenders to use delay tactics and makes it difficult for all our court part programs to obtain their major goal -- the accelerated prosecution of career violent criminals.

Prosecutors' offices are also facing funding problems in court part programs. For example, the proposed 1980 budget for the New York County District Attorney's Office in the State Felony Program has been cut from the 1979 funding level despite 13% inflation. Assistant District Attorneys' salaries should be raised from between \$19,730 and \$22,000 a year to between \$24,500 and \$30,000 a year in order to attract more experienced trial lawyers. We propose increasing the funding of both the defense and prosecutorial components so they have equitable resources and can really improve criminal case processing. We also propose that the legislature be prepared to add new court parts to the Supplemental or Deficiency budgets if needed to effectively enforce legislation.

V. COMMUNITY DISPUTE RESOLUTION CENTERS

Alternatives to the courts are desperately needed for criminal cases involving minor disputes, especially those which occur between people who know each other. In 1978, 20% of all of Buffalo's 911 calls involved minor disorders and domestic disputes. In New York City, it is believed that at least 20% of their calls involved these type of disputes. An estimated \$5.64 million in court costs could be saved annually through the operation of Community Dispute Resolution Centers. We have proposed legislation (S.4012, Ohrenstein, et al) which would appropriate \$3 million to the Division of Criminal Justice Services to fund non-profit community organizations to form Community Dispute Resolution Programs across the State. The bill requires the programs to only take cases where the offender and victim voluntarily agree to dispute resolution. It also prohibits the referral of violent felony and drug felony cases.

Similar programs which have successfully mediated up to 90% of the cases referred to them, are currently operating on tight and uncertain budgets in Kings, New York, Nassau, and Suffolk Counties. A Vera Institute cost analysis of the Brooklyn program indicates that every dollar spent on dispute resolution frees \$1.88 of court costs, so our proposed \$3 million appropriation should free up annually \$5.64 million in court costs.

.VI. ALTERNATIVES TO INCARCERATION FOR PROPERTY AND OTHER MINOR OFFENDERS

New York State could save \$40 million dollars a year through the expansion of a restitution program. It presently costs state, county, and city governments over \$300 million a year to incarcerate non-violent minor criminal offenders. If such offenders were put on intensive supervision probation, requiring the offender to pay restitution and perform community service work, all levels of government could save a total of \$232.5 million a year (\$40 million - State, \$64 million - County, \$128.5 million - New York City).

Georgia has experimented with similar programs which have reduced their property offender - return to prison rate to 25.6% over a 5-year period. In New York State, the return to prison rate for property offenders over a 5-year period ranges from 33.6% to 43.4%.

We have introduced legislation (S.7895, S.7896, S.7897) which would give judges new options to order restitution and community services work for greater numbers of non-violent minor offenders. We also oppose the proposed cut in the State reimbursement rate to county probation departments and feel it should be increased to 50% reimbursable costs.

**END**