



National District Attorneys Association

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RESOLUTION

WHEREAS, the National District Attorneys Association believes that prisoner reentry has become a crucial criminal justice issue. While the NDAA recognizes that the role of prosecutors in the arena of prisoner re-entry will vary according to individual state law, America's prosecutors should, where practicable, be participants in addressing this issue in an effort to reduce recidivism and ensure the safety of victims and the community.

BE IT RESOLVED, that the National District Attorneys Association hereby adopts the National District Attorneys Association Policy Positions on Prisoner Reentry.

Adopted by the Board of Directors, July 17, 2005 (Portland, Maine)

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**NATIONAL DISTRICT ATTORNEYS
ASSOCIATION**

**POLICY POSITIONS ON PRISONER
REENTRY ISSUES**

**Adopted: July 17, 2005 by the Board of Directors in
Portland, Maine**

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PRISONER REENTRY¹ POLICY POSITIONS

I. INTRODUCTION

STRIKING A BALANCE BETWEEN PUBLIC SAFETY AND THE REENTRY² AND REINTEGRATION³ OF OFFENDERS

Policy Statement:

1. While the National District Attorneys Association believes that incarcerating criminals more frequently and for longer periods of time has significantly contributed to the lowest crime rate in decades, the National District Attorneys Association also believes that prisoner reentry has become a crucial criminal justice issue. While the NDAA recognizes that the role of prosecutors in the arena of prisoner re-entry will vary according to individual state law, America's prosecutors should, where practicable, be participants in addressing this issue in an effort to reduce recidivism and ensure the safety of victims and the community.

Commentary:

The National District Attorneys Association believes that prisoner reentry is an important consideration for the criminal justice system and society as a whole for a variety of reasons, which include:

- A record number of prisoners are being released from incarceration on an annual basis;
- The cost of housing inmates is increasing at a rapid rate; and
- The rate of recidivism among those released from confinement is high at the present time.

According to the United States Department of Justice figures, approximately 650,000 are released from incarceration annually.⁴ As a result 650,000 ex-offenders reenter our

¹ "Prisoner reentry" as used in this document means the transition from incarceration into society for those ex-offenders (adult and juvenile) released unconditionally; those released on supervised probation/parole; and those released after re-incarceration for a violation of probation/parole.

² "Reentry programs," as used in this document are intended to encompass those programs or plans begun while the offender is still incarcerated. For example, literacy training, vocational education, parenting classes, substance abuse treatment and medical care fall within reentry. In addition, preparing offenders to seek housing and employment upon release may also occur at this stage.

³ "Reintegration programs," as used in this document are intended to encompass those efforts made by the offender and the community to avoid the risk of recidivism. Obtaining employment, housing and benefits, in addition to, continued substance abuse treatment and necessary medical and mental health care are considered part of the reintegration process.

⁴ "About 650,000 inmates were released from prison in 2002, up from around 150,000 in 1977." Bruce Western, *Lawful Reentry*, The American Prospect, December 2003, p. 54.

communities in need of housing, medical and mental health treatment, employment, counseling and a variety of other services. Communities are often overwhelmed by these increased demands and, due to budget constraints, unable to provide minimum services to ex-offenders. As a result, the safety of our communities and citizens is jeopardized when releasees, who are unable to acquire employment, housing and needed services, revert to a life of crime.

In addition, reports reveal that the cost of housing inmates is rapidly increasing. Direct expenditures for corrections have increased from \$9,048,947,000 in 1982 to \$56,956,871,000 in 2001.⁵ With current economic constraints and nation-wide budget reductions, states and localities are often unable to meet the demands that the increased number of inmates place on state and local governments.

Most significant is the rate of recidivism among released offenders. It is reported that “[f]ewer than half of all released offenders stay out of trouble for at least 3 years after their release from prison, and many of these offenders commit serious and/or violent offenses while under parole supervision.”⁶ It is inevitable with this rate of recidivism that

Almost 650,000 prisoners are released from incarceration annually. United States Department of Justice, Office of Justice Programs, *Learn About Reentry*, available at <http://www.ojp.usdoj.gov/reentry/learn.html> (accessed November 24, 2004).

⁵ United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Key Facts at a Glance, Direct Expenditures by Criminal Justice Function, 1982-2001*, available at <http://www.ojp.usdoj.gov/bjs/glance/tables/exptyptab.htm> (accessed November 30, 2004).

“The average cost of incarceration for federal inmates is \$22,517 a year. The annual cost of keeping inmates in a community corrections center is \$17,706, according to the U.S. Department of Justice.” Tresa Baldas, *Considering the Alternatives*, *The National Law Journal*, November 15, 2004.

⁶ “Fewer than half of all released offenders stay out of trouble for at least 3 years after their release from prison, and many of these offenders commit serious and/or violent offenses while under parole supervision.” United States Department of Justice, Office of Justice Programs, *Learn About Reentry*, available at <http://www.ojp.usdoj.gov/reentry/learn.html> (accessed November 16, 2004).

“Of the 272,111 persons released from prisons in 15 States in 1994, an estimated 67.5% were rearrested for a felony or serious misdemeanor within 3 years, 46.9% were reconvicted, and 25.4% resentenced to prison for a new crime.” United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Criminal Offenders Statistics, Recidivism* available at <http://www.ojp.usdoj.gov/bjs/crimoff.htm> (accessed November 30, 2004).

“Approximately 2 out of every 3 people released from prison in the US are re-arrested within 3 years of their release.” Report Preview, Report of the Re-Entry Policy Council, *Charting the Safe and Successful Return of Prisoners to the Community*, The Council of State Governments funded in part by the United States Department of Justice, United States Department of Labor & United States Department of Health and Human Services available at www.REENTRYPOLICY.ORG citing Patrick A. Langan and David J. Levin, *National Recidivism Study of Released Prisoners: Recidivism of Prisoners Released in 1994*, Washington, D.C., U.S. Department of Justice, Bureau of Justice Statistics, NCJ 193427, June 2002.

“Fully two-thirds of all those released on parole will be rearrested within 3 years. Parole failures now constitute a growing proportion of all new prison admissions.” Joan Petersilia, *Prisoner Reentry: Public Safety and Reintegration Challenges*, *The Prison Journal*, Vol. 81, No. 3, September 2001, p. 365.

public safety will suffer unless provisions are made to assist those ex-offenders, who desire to become law-abiding and productive parts of their communities, with their transition back into society.

With more than 90 percent of inmates currently serving time predicted to one day re-enter society⁷ it is important the prosecutors assist in or assume policy development roles, where permissible, in their localities and states to address prisoner reentry and reintegration into the community. This should be done to achieve a balance in the community between the public's safety, which is paramount, and an offender's reentry and reintegration into mainstream society. This balance will no doubt be difficult to predict and even more difficult to achieve. This will require the efforts and resources of both the private and public sectors.

The National District Attorneys Association recognizes that not all prosecutors will have the necessary resources to assume a key role in this endeavor. The majority of prosecutors' offices across this nation, burdened by ever-decreasing state and local budgets, in addition to continued reductions in federal grants to crucial state and local programs, are simply unable to do so. However, prosecutors cannot risk non-involvement with this issue. With the welfare and the safety of the public as their primary concerns, prosecutors should educate themselves regarding the reentry programs that are provided or being proposed in their local jails and state prisons in addition to those reintegration plans that are being supervised by probation, parole, or their local community services board and be supportive of appropriate programs and plans. It is crucial that these programs be monitored to ensure that they are genuinely aimed at reentry, the prevention of crime, and the safety of the community.

II. VICTIM REENTRY ISSUES

Policy Statements:

2(a). When addressing prisoner reentry, the National District Attorneys Association believes that the primary focus should be on providing a safe environment for the victims of crime and the community.

"67.5% of prisoners released in 1994 were rearrested within 3 years, an increase over the 62.5% found for those released in 1983." United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Reentry Trends in the U.S.: Recidivism*, available at www.ojp.usdoj.gov/bjs/

According to research conducted by Gaes, Flanagan, Motiuk, and Stewart in 1999, lower recidivism results from participation in selected prison programs. James P. Lynch & William J. Sabol, *Prisoner Reentry in Perspective*, Crime Policy Report, Vol. 3, September 2001, Urban Institute, Justice Policy Center, p. 6.

⁷ "More than 90 percent of inmates currently serving time will one day re-enter society. On average, more than 600,000 individuals are now being released from prison each year." Prepared Remarks of Attorney General John Ashcroft, Department of Justice Offender Re-Entry Conference, September 20, 2004.

2(b). The National District Attorneys Association believes that it is imperative that the needs of the victims of crime be addressed in conjunction with the development and implementation of prisoner reentry and reintegration plans.

Commentary:

While the National District Attorneys Association recognizes that ex-offenders encounter impediments to productive living, the NDAA also acknowledges that many of these impediments, such as addictions, have been self-inflicted. The focal point for reentry should be both the safety of the victim and the community. As a result, those persons and entities involved in the reentry and reintegration process must address victims concerns and needs as part of the development of the offender's program.

Victims of crime have a wide variety of concerns regarding prisoner reentry.⁸ As a result, victims should be informed about the status of the offender, the offender's location, and the projected release date. Aside from being fully informed about the offender, victims should also be informed about:

- ❖ Person(s) or agency(ies) to contact if they have questions or concerns;
- ❖ Protective order application and issuance;
- ❖ Available medical and mental health services;
- ❖ Restitution
- ❖ Conditions of the offender's release

III. PRE-RELEASE PHASE (INSTITUTIONAL & TRANSITIONAL PHASES)⁹

⁸A 2000 survey conducted by the American Probation and Parole Association found that victims had concerns about the following issues (arranged in order of priority) regarding prisoner reentry:

- "Information about whom to contact if victim has concerns & Notification of offender location
- Notification of offender status
- Protective or "no contact" orders
- Input into conditions of release
- Financial/legal obligations
- Information about referrals
- Offender programming that creates awareness
- Input into interstate compact
- Input into conditions of community service
- Victim/offender programming (mediation)"

Seymour, A. K. 2000. *The Victim's Role in Offender Reentry: A Community Response Manual*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime. NCJ 194061.

⁹ The term "transitional" in this document is intended to incorporate both the time spent incarcerated and the immediate time period following release from incarceration.

OFFENDER REENTRY OBSTACLES: LACK OF EDUCATION, UNMET HEALTH NEEDS & LACK OF SERVICES & SUPPORT UPON RELEASE

Policy Statements:

3(a). The National District Attorneys Association supports the use of educational programs, vocational training, substance abuse treatment, mental and medical health services, risk assessments, and programs which teach parenting skills and facilitate the maintenance of family relationships during the incarceration/detention of both adults and juveniles as a means of easing the transition back to productive community living. Smooth transitions will serve to reduce recidivism and increase overall public safety.¹⁰

3(b). The National District Attorneys Association believes that the above treatments and programs should be utilized only if such rehabilitation is used to achieve its fullest potential by those offenders who genuinely desire to become law abiding citizens and productive members of society, and who truly face substantial impediments in meeting that goal. Furthermore, rehabilitation should serve as a supplement to confinement, not as an alternative to incarceration.

Commentary:

Offenders often enter institutions with physical and chemical dependency problems and without the basic skills necessary for productive and successful living. Many lack education, vocational training, and even parenting and life skills. In addition to lacking a basic foundation offenders often have unmet medical and mental health needs as well as addictions. A lack of family or support systems, housing, transportation and even sustenance add to the list of hurdles which offenders often face as they reenter society.

Empirical evidence suggests that services such as education, job training, housing assistance, medical health care,¹¹ substance abuse treatment¹² provided while in prison

¹⁰ Nancy G. La Vigne, Christy Visher, Jennifer Castro, *Chicago Prisoners' Experiences Returning Home*, Urban Institute, December 2004, p. 2, (citation omitted) "Prisoners who participate in programs and services during their incarceration are often better prepared for reintegration upon release, as evidenced by improved postrelease outcomes and reduced recidivism."

¹¹ "[S]oon- to- be-released offenders tend to be sicker on average than the U.S. population. The increased prevalence of infectious diseases ranges from four times greater for active tuberculosis (TB) to 9-10 times greater for hepatitis C. For chronic diseases, asthma prevalence was higher – 8.5 percent versus 7.5 percent –and while the prevalence of diabetes and hypertension is lower for prison inmates, these prevalences are relatively high given that the prison population is younger as a whole and that these conditions are typically associated with older people. Because the prison population is aging, the prevalence of chronic diseases is likely to increase." Rand Research Brief, *Prisoner Reentry: What are the Public Health Challenges?* based on Lois Davis and Sharon Pacchiana, "Health Profile of the State Prison Population and Returning Offenders: Public Health Challenges," *Journal of Correctional Health Care*, Fall 2003.

promotes the reintegration into society and reduces recidivism, which inevitably will raise the level of public safety and lower criminal justice costs.¹³

Individual reentry plans should be created by the correctional facility as soon as is practicable and as deemed appropriate by the institution, after the inmate's entry. Such plans should require personal development in the area of education, vocational training, individual responsibility and accountability, and substance abuse treatment, where appropriate, for release into the community. Institutions should

also develop and implement objective methods for measuring the development of offenders during confinement.

Certain issues such as housing and benefits acquisition should be addressed during the latter portion of incarceration. While such provisions cannot be utilized until an offender's release, leaving such issues unresolved until the date of release will ultimately make the ex-offender's integration into society more difficult.

The National District Attorneys Association believes that the perspectives of the community and the victim(s) of crime should also be reflected in re-entry plans. Issues

¹² “[O]ne quarter of male and female state prison inmates fit the CAGE profile of alcohol dependence, while 83 percent of state prison inmates reported using drugs prior to their offense and 33 percent reported use at the time of their offense.” *Id.*

¹³ *Supra* note 6. *See also* Indiana's Allen County Reentry Court program (Fort Wayne) results indicate that “[d]uring the initial two years of the Re-entry Court's operation, offenders in the program had a recidivism rate of approximately half that of inmates released with no supervision. Within the first year, almost 50 percent of re-entry candidates were placed in full time jobs. Just as important, Fort Wayne's citizens have seen a reduction in crime while gaining a savings of almost \$5 million as a result of lower law enforcement, criminal court and parole costs.” Prepared Remarks of Attorney General John Ashcroft, Department of Justice Offender Re-Entry Conference, September 20, 2004.

such as the payment of restitution and provisions for victim services should always be incorporated into such plans.

IV. POST-RELEASE PHASE (TRANSITIONAL & LONG-TERM PHASES)

COMMUNITY INVOLVEMENT

Policy Statements:

4(a). The National District Attorneys Association recognizes that the lack of employment, housing, transportation, medical services and education for ex-offenders creates barriers to successful reintegration and must be addressed as part of the reentry discussion. The National District Attorneys Association supports the use of community based programs to develop and implement reintegration plans to assist ex-offenders with their transition from incarceration to productive community living upon completion of their sentence.

4(b). The National District Attorneys Association believes that it is appropriate for prosecutors, where feasible, to assume policy development or supportive roles regarding post-incarceration reintegration plans rather than active day-to-day participation in the development, implementation, and enforcement of these plans for ex-offenders.

Commentary:

In order to provide the necessary services for offenders upon release, community-based programs should be developed by utilizing resources and personnel from a variety of agencies and services in both the private and public sectors. Community-based programs should consist of those entities responsible for the formal control of offenders and capable of imposing criminal sanctions, such as the judiciary,¹⁴ corrections, probation, parole, and law enforcement. In addition, entities with the ability to provide the offender with the necessary services, such as the departments of social services, health care providers, substance abuse counselors, mentors, faith based community members, private and public employers, housing authorities, educational institutions, policy-makers and defense counsel, should be involved.

Services to be provided by the various components

All facets of the community should be used to evaluate and provide the offender with the necessary services along with meaningful oversight and the threat of negative sanctions to assure success.

¹⁴ This assumes that the court has continuing jurisdiction over the offender.

Correctional officers and parole boards should conduct risk assessments on offenders scheduled to be released or paroled. Risk assessments should be evaluated for efficacy and found to be reliable before their use by correctional facilities. Probation/parole officers in conjunction with law enforcement and the courts should demand accountability from offenders. Supervision by probation and parole officers must be meaningful and not conducted in a cursory fashion.

With the threat of negative consequences for unacceptable behavior provided, other elements of the community from the department of social services to the local or state housing authority can intervene to provide the multitude of needed services, which often include:

- ❖ Health care (medical, dental and mental health services);
- ❖ Substance abuse treatment;
- ❖ Transportation;
- ❖ Transitional and long-term housing;
- ❖ Development of parenting and life skills;
- ❖ Educational opportunities and literacy training;
- ❖ Vocational training
- ❖ Assistance with obtaining employment
- ❖ Assistance with accessing community services and benefits

V. CONSEQUENCES OF PROBATION/PAROLE VIOLATIONS

Policy Statements:

5(a). The National District Attorneys Association believes that parolees/probationers must be held accountable for non-compliance with the terms and conditions of their probation or parole. Probationers or parolees who demonstrate that they are unwilling to live law-abiding lives should be expeditiously re-incarcerated to protect the public safety.

5(b). The National District Attorneys Association believes that parole/probation violations should never be overlooked by the criminal justice system. When appropriate, sanctions should be individually tailored to address the violation and to emphasize the importance of community-based strategies for dealing with violations of probation and parole. Progressive sanctions should be considered for successive violations of probation/parole.

5(c). The NDAA believes that a person on parole/probation charged with the commission of a new offense has demonstrated that they are a danger to society and should be held in custody, to the degree possible, until their case is resolved. If a person is convicted of a

crime committed while on probation/parole the sentence should be consecutive to the sentenced offense to provide a meaningful consequence for the new offense.

Commentary:

Many in the criminal justice system have a tendency to characterize certain probation/parole violations as “technical.” Typically, violations that are characterized as such include failure by a probationer/parolee to abide by his/her curfew; failure to appear for a probation/parole appointment; or failure to obtain or maintain employment. Unfortunately the tendency has been to classify any violation, with the exception of the commission of a new crime, as “technical.”

The National District Attorneys Association objects to the characterization of any violation as “technical” and to the minimization of a violation of a term or condition of release. Probationers and parolees are given an opportunity to prove to authorities that they can function as law-abiding citizens by adhering to the terms and conditions of their probation or parole in lieu of incarceration. While the National District Attorneys Association recognizes that not all violations should result in the same sanction, every violation should result in a negative consequence for the probationer/parolee. Penalties should be individualized to the nature of the violation with successive violations resulting in more severe penalties for the probationer/parolee. Progressive sanctions should be considered for successive violations of probation/parole.

VI. INNOVATIVE METHODS FOR ADDRESSING REINTEGRATION ISSUES

Policy Statement:

6. The National District Attorneys Association supports the development and implementation of innovative programs to assist with prisoner reentry issues. Such programs are not intended as alternatives to incarceration. Incarceration imposed after conviction is recognized as important for punishment, deterrence, and the protection of the public.

Commentary:

Innovative solutions should be developed to deal with the myriad of prisoner reentry issues that exist upon and after release.

One such solution is the “reentry court,” which is currently used in a number of jurisdictions across the country. “Reentry courts”¹⁵ are based on the premise that the releasing correctional facility has provided the offender with a reentry plan which meets

¹⁵ “Reentry courts” will not be appropriate in those jurisdictions where the executive branch has authority over the offender upon sentencing in lieu of the judicial branch.

his/her individual needs and has explained the plan prior to the offender's release. Upon release, the reentry court is responsible for closely monitoring the offender by arranging for regularly scheduled court dates regardless of whether the offender is succeeding or failing with his/her reentry plan. In order to provide for substance abuse treatment, medical care, literacy training, vocational training and the various other offender needs, the reentry court utilizes and manages a variety of community services. Violations of an offender's terms and conditions of release are addressed swiftly by the court and always result in negative consequences. While sanctions for violations are individualized for the nature of the violation, successive violations will result in graduated punishments. When offenders meet the expectations of the court and comply with the terms and conditions of release, positive reinforcement is provided by the court.¹⁶

VII. COLLATERAL SANCTIONS: Sanctions will vary depending on the individual state law but typically they include the following:

- ❖ Loss of Voting Rights – permanent loss; temporary loss while in prison or while on probation/parole
- ❖ Ineligibility for Federal Student Loans (PELL Grants)
- ❖ Ineligibility for Federally Subsidized Housing
- ❖ Ineligibility for Licensure for Certain Occupations

Policy Statement:

7. The National District Attorneys Association believes that collateral sanctions imposed as a consequence of a conviction are an important element in protecting the public. Relief from some collateral sanctions may be appropriate if they do not relate to the conduct involved in the offense of conviction.

Commentary:

The National District Attorneys Association believes that there must be both civil and penal consequences for criminal behavior. Those consequences may and should at times involve collateral sanctions and the loss of certain civil rights. Ex-offenders must be held accountable and accept that in addition to incarceration that their illegal behavior may cause other ramifications, including collateral sanctions. While such sanctions may cause

¹⁶ Reentry Courts: Managing the Transition from Prison to Community, A Call for Concept Papers, United States Department of Justice, Office of Justice Programs, September 1999.

The "Reentry Court Initiative" is a U.S. Department of Justice, Office of Justice Programs initiative. Additional reentry efforts include "Reentry Partnerships Project," "Intensive Aftercare Program," "Youthful Offender Demonstration Projects," "Targeted Juvenile Reintegration," "Las Vegas Weed and Seed Reentry Project," "American Probation and Parole Association Project," "Incarcerated Father's Initiative," "Redhook Community Justice Center," "Community Impact Panels," "Restitution: Promising Practices Initiative." Information about these reentry efforts is available at <http://www.ncjrs.org/pdffiles1/ojp/sl000389.pdf>.

additional difficulties for ex-offenders they should never be used as a justification by offenders for failing to re-enter society as productive citizens.

VIII. FUNDING

Policy Statement:

8. The National District Attorneys Association believes that increases in funding at the federal, state, and local levels are imperative to developing and implementing service plans for offenders while incarcerated; for developing and providing community resources for ex-offenders upon their release from incarceration; for providing meaningful oversight by probation and parole officers of offenders following release; and developing and implementing innovative programs such as reentry courts. Increased funding is also vital for conducting further research on prisoner reentry issues, solutions, and outcome measures.

Commentary:

Given the burgeoning numbers of prisoners being released from confinement each year, the only way that reentry and reintegration programs can achieve their goal of protecting the safety of the community while transitioning offenders back into society is through additional funding at all levels of government.

Correctional facilities will require additional funding to develop and implement appropriate reentry programs as well as provide the necessary medical and mental health care, vocational training, and development of life skills. The community and social service organizations in particular will need additional personnel and resources to provide the necessary services for reentering prisoners. The court systems, correctional institutions as well as probation and parole departments will demand additional funding in order to provide meaningful oversight of offenders and imposition of sanctions when offenders fail to comply with the terms and conditions of their release.

It is equally important that additional funding be available for long term research on issues such as the impact of reentry programs on the rate of recidivism; for developing innovative programs for dealing with prisoner release issues; for evaluating risk assessments for efficacy and reliability; and for determining those characteristics which predispose offenders to succeed or fail in these programs.