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M E M O R A N D U M

TO: Members of the Subcommittee
on Crime and Criminal Justice

FROM: Charles E. Schumer, Chairman
Subcommittee on Crime and Criminal Justice

DATE: June 25, 1991

RE: Hearing on Certainty of Punishment: Detering the
Youthful Offender

On June 26, 1991, the Subcommittee on Crime and Criminal Justice will hold an oversight hearing on the topic of "Certainty of Punishment: Detering the Youthful Offender." All too often juvenile and youthful criminal offenders are repeatedly placed on some form of unrestrictive probation rather than being punished and required to pay for their crimes. After the third, fourth or fifth offense the system finally realizes the danger presented by the now multiple-recidivist offender and incarcerates him. By this point, however, the young offender has been clearly given the wrong message - that crime does pay - and it is often too late to prevent a long criminal career.

A recent report published by the National Institute of Justice lamented the rigid choices faced by sentencing judges. It stated:

"... [C]onventional probation is not an adequate answer for every offender whose crime was not serious enough to merit a jail sentence. The options between the two extremes are rarely in place.... [T]here is [no] certainty of punishment in such a system."

Another NIJ study concluded that "many offenders are sentenced to probation because credible community punishments do not exist and judges believe their crimes are not serious enough to be sanctioned by an ordinary jail or prison sentence....[C]redible community-based intermediate punishments are lacking."

Clearly, there is an urgent need at both the State and Federal level for alternative punishments for juvenile and young offenders who would otherwise be given a slap on the wrist and placed on probation. Early intervention is needed to communicate the message to these young offenders that if they commit a crime they are going to be required to pay a price. Alternative sentences such as intensive supervised probation, home detention, community service, restitution, work programs and military-style boot camp programs are needed to bridge the gap between straight probation and prison.

Certainly incarceration represents the only viable form of punishment for many juvenile and youthful offenders. The problem lies with those who would otherwise be given straight probation who require something more restrictive to act as both punishment for the offense and deterrence for future offenses.

Some states have developed such alternative sentences and we will be receiving testimony about several of them at the hearing. Expanded use of these alternatives to probation is needed both to punish the offender as well as help prevent future crime.

The Witnesses

The first panel of witnesses will discuss a range of alternative sentences being utilized in a number of States. The first witness, Mr. Derrick Thomas, is an excellent example of the potential effects of early and firm intervention in a young person's life to prevent him from continuing on a path of criminal recidivism. Mr. Thomas became involved in criminal activity as a juvenile but, rather than being placed on probation and ignored, he was sent to the Dade Marine Institute where he learned the value of hard work and discipline. This program, run for the State of Florida by the American Marine Institute, is a non-residential work and education program for juvenile offenders. This experience helped Mr. Thomas straighten himself out. He is now a star member of the Kansas City Chiefs football team and is a generous and outspoken community activist.

The American Marine Institute is a not-for-profit organization that operates 30 programs of various types for juvenile and youthful offenders in nine States. Mr. Robert Weaver, an AMI officer, will be on hand to describe the work of the organization. AMI's programs range from those, like the Dade Marine Institute, where young people work and learn on ships to the innovative "swamp camp" in Florida where the more serious cases undergo an intensive program of work, discipline, education and treatment. Recidivism rates among AMI graduates in Florida are significantly lower than those among more traditional juvenile programs.

The State of Georgia has a highly organized system of alternatives that offer "tightening rings of control" for youthful adult offenders as appropriate. These range from community service, intensive probation, home confinement and diversion centers to the boot camp which is specifically available to the sentencing judge as an alternative to probation. David Jordan of the Georgia Department of Corrections will describe the Georgia system. In addition, Superior Court Judge Bryant Culpepper will testify about the range of alternatives to straight probation available to him as a sentencing judge. He has sentenced a number of defendants to the boot camp who would ordinarily have gone on probation in the absence of the alternatives available to him in Georgia.

The panel addressing restitution for juvenile and youthful offenders will consist of three witnesses who will testify about the overall success of such an approach on the recidivism rates of youthful offenders as well as the benefits which such a sanction approach provides to the victim, the community and the offender.

The youth restitution program in Quincy, Massachusetts began in 1972 and has served as a model which has been adopted by other localities around the country. The program is named "EARN IT" and Judge Albert Kramer, the Presiding Justice of the Quincy District Court, was instrumental in its creation. Judge Kramer will testify about the effectiveness of this program in establishing accountability on the part of the juvenile and youthful offenders who are ordered to make restitution to their victims as part of their sentence. Moreover, where there is no victim, the offender is required to complete community service. In 1990, "EARN IT" collected \$500,000.00 in restitution and the Judge will testify about the confidence which other Judges and Assistant District Attorneys have in this program as an integral part of their juvenile justice system.

Mr. Richard Rhyme is the Executive Director of the "Youth Restitution Program Inc." which operated in Sane County (Madison) Wisconsin. This program has been in successful operation since 1978 handling about 400 offenders a year in the restitution program alone. The program stresses accountability on the part of the offender and Mr. Rhyme will testify about the unique aspects of this program including the inclusion of offenders as young as 12 and 13 years old. As part of its goal of early intervention, the program also has an intensive supervision program as well as a prevention program where staff members work with juveniles identified by the schools as "high risk" and for whom summer and school year programs are planned as an attempt from keeping them from becoming offenders. The program obtains 90% success rate by its offenders in completion of restitution and community service.

The third witness is Dr. Peter Schneider, the Project Director and National Coordinator of the Restitution Education, Specialized Training and Technical Assistance Project, a national program sponsored by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention. Dr. Schneider will be able to provide an overview of the national effectiveness of the restitution approach to juvenile recidivism. He directed the national evaluation of 85 model State and local programs which was conducted from 1978 to 1983.

Finally, Commissioner Helen G. Corrothers of the United States Sentencing Commission will offer an overview of sentencing alternatives from both the State and Federal level. Her experience in both systems makes her uniquely qualified to offer such testimony. She has extensive experience in State corrections and has served as Director of the Sentencing Commission's alternatives project.

I look forward to your participation in the hearing.