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Interim Report of the Temporary State Commission To Evaluate the Drug Laws

Assemblyman Chester R. Hardt, Chairman

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NEW YORK – Employing the Rehabilitated Addict

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Assemblyman Chester R. Hardt,
Chairman

Letter of Transmittal

To The Governor and The Legislature of The State of New York:

Pursuant to Chapter 474 of the Laws of 1970, as amended, the Temporary State Commission to Evaluate the Drug Laws hereby respectfully submits the following interim report.

Assemblyman Chester R. Hardt, *Chairman*
Judge Irving Lang, *Vice Chairman*
Senator Robert Garcia, *Secretary*
Assemblyman Emeel S. Betros
Senator John R. Dunne
Dr. Alfred M. Freedman
Senator Joseph L. Galiber
Senator Tarky Lombardi, Jr.
Assemblyman Eli Wager

New York State Temporary Commission to Evaluate the Drug Laws

The Commission

Assemblyman Chester R. Hardt, *Chairman*
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Assemblyman Emeel S. Betros
Senator John R. Dunne
Dr. Alfred M. Freedman
Senator Joseph L. Galiber
Senator Tarky Lombardi, Jr.
*Assemblyman Alan G. Hevesi

* Former Assemblyman Eli Wager served from July, 1970 to February 6, 1978.

Ex-Officio Members

Warren M. Anderson, President Pro Tem of the Senate
Perry B. Duryea, Jr., Speaker of the Assembly
John E. Kingston, Majority Leader of the Assembly
Joseph Zaretzki, Minority Leader of the Senate
Stanley Steingut, Minority Leader of the Assembly, Represented by Assemblyman Mark T. Southall
John J. Marchi, Chairman, Senate Finance Committee
Willis H. Stephens, Chairman, Assembly Ways & Means Committee
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Robert A. Kaiser, Jr., Research Associate
Audrey Philip, Administrative Aide
Albert Patterson, Administrative Aide

Acknowledgment

I wish to express my deep appreciation to the members of this Commission for their sustained dedication; and to the staff for their expert service.

Hundreds of people throughout the State with professional expertise, administrative experience and civic concern contributed comments which helped shape our final recommendations. I am most grateful to them also.

CHESTER R. HARDT
Chairman

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Introduction: Findings and Recommendations

During the period of time in which the Commission was preparing an Interim Report to the Legislature on the nature of the abuse of controlled substances and a proposal for regulating their manufacture, distribution and dispensing [Legislative Document No. 10, 1972], the Commission began receiving numerous reports of alleged discrimination in the employment of rehabilitated addicts who appeared to be capable of working. The Commission decided to regularize this information by submitting questionnaires to a selection of employers, treatment programs, labor unions, employment agencies and government departments. The Commission did so, mindful of its broad mandate to: "concern itself with the development of systems of laws and regulations, that optimize the freedoms of the individual and minimize harm to the individual and to society from himself and those around him" and "to provide the executive department and the legislature with comprehensive information on the social, fiscal and health problems associated with narcotics addiction, and drug abuse" and "to prepare for submission to the legislature such changes in existing laws and such other measures necessary to deter the use of narcotic and non-narcotic drugs and other chemical substances."

Based upon answers to our questionnaires and to other enquiries, the Commission held two public hearings on the subject of alleged discrimination in employment against rehabilitated addicts: On September 20, 1972 in New York City and on October 4, 1972 in Syracuse. In addition, the Commission staff researched carefully the implications of attitudes and practices in the State regarding the usefulness and the employability of rehabilitated addicts.

A careful review of all of the information, suggestions and proposals received by the Commission has led us to issue this Interim Report to coincide with the start of a new legislative session. We believe there is a need in New York State for the considerations underlying the findings in this Report to be given prompt attention. Treatment programs are expanding, with federal assistance, at an accelerated pace. As waiting lists diminish to provide treatment to addicts and drug abusers, those reluctant to accept treatment will have to be persuaded to do so. Moreover, we have before us the prospect of tens of thousands of truly rehabilitated addicts seeking work, and unable to find it because of prejudices against them. In both cases, the work ethic—the prospect of fair treatment in the job market to those who can work and who want to work, would have highly beneficial effects: Instead of spending millions of dollars on treatment with the result that millions more must be spent to keep able-bodied young people on welfare, because employers indulge irrational fears, the State can expand job opportunities for these persons within the present labor force, fairly, sensibly, and without any significant risk. Thus, the rehabilitated addict who might receive two thousand to three thousand dollars per year on welfare, would, instead, *pay* from one to two thousand dollars per year in taxes; and it is high time that he did.

The Commission has deeply and earnestly analyzed the problem of employers, their outlook and their needs. It has also analyzed the question of the capacity of the rehabilitated addict to work and what, indeed, the term "rehabilitated addict" should mean. These analyses have led to the following findings, which, in turn, have led to certain specific recommendations.

Findings

1. The Commission has found that smaller business organizations are more likely to hire rehabilitated addicts than are major corporations. (Unfortunately, most of the jobs lie with major corporations.) The reason for this phenomenon is that smaller businesses have owners or managers who are accessible to approach, on a one-to-one basis, by representatives of treatment programs and by rehabilitated addicts, themselves. They can sometimes be persuaded to hire one or two rehabilitated addicts, because they can be persuaded that the particular addict was a victim of circumstance and, of course, of the drug itself. Major employers tend to be unapproachable on this basis. They receive their information about addiction from the media; they constantly refer to such information, which they deem highly reliable; and they view the addict, as does the media, as a source of all of society's problems. The Commission has found that while addict-related crime is a grave and costly problem to society, the media and even certain government officials tend to suggest that is even worse than it is. This exaggeration of addict-related crime through the media and certain otherwise responsible agencies of government is a significant factor in leading the major employers to believe that since addiction means crime, and most crime at that, rehabilitation is impossible: Most major employers do not believe there is any distinction between the term "addict" and the term "rehabilitated addict". Moreover, publicity surrounding methadone diversion has also led employers to misperceive the rehabilitated addict as a source of such diversion. Actually, the Commission has found that individuals who divert methadone become treatment drop-outs: they seldom adhere to a program of rehabilitation long enough to be referred for jobs.

2. The Commission finds that rehabilitated addicts can work; and that once they have spent a period of time in treatment, they are either indistinguishable from or even better than other workers with similar capacities.

a. Many rehabilitated addicts have worked and developed skills prior to treatment, some while on heroin.

b. Persons stabilized on methadone maintenance can perform at jobs indistinguishably from other persons. This has been demonstrated by latitudinal experiments, by longitudinal surveys, and by examples of the variety of work such persons can do.

c. If an addict is treated for a period of time, and he has no skills, then he is no different from any other youngster without skills, except that he may be older, and, consequently his employer's expectations may be higher for him than for a similarly unskilled younger applicant.

d. If an addict is treated in a program which provides for a controlled work situation, such as the Off-Track Betting Corporation, the probabilities are that he will enter the job market as a better worker than a person of similar capabilities who has not participated in a controlled work situation.

3. The Commission finds that one of the obstacles to employment faced by rehabilitated addicts is the concept that the cause of addiction is emotional instability. The Commission finds that while any social problem can always be reduced to the workings of the human mind, the better judgment of society is to view addiction as a sociological rather than as a psychological development. Seen in this light, the proof of an addict's "cure" is his satisfactory behavior over a period of time.

4. The Commission finds an absolute consensus, without a single dissenting voice, that rehabilitated addicts want to work, and that they and their treatment programs look upon their idleness as entirely counter-productive.

5. The Commission finds widespread discrimination in employment against rehabilitated addicts. We find such discrimination to be irrational, in that most major corporations will not consider rehabilitated addicts for employment on their own individual merits. We have found unwarranted dismissals of and denials of employment to rehabilitated addicts who have good work records. We have also found widespread and irrational distinctions drawn between reformed alcoholics and rehabilitated addicts. The Commission finds that the similarities between the two groups far outweigh the dissimilarities and, therefore, impel similar treatment by those employers which deal with alcoholism on a humanitarian basis. A case in point discussed in this report is the unwarranted difference in the handling of these two categories of individuals by the Metropolitan Transportation Authority.

6. The Commission has investigated the question of whether rehabilitated addicts can be bonded. We have made three findings on this subject, based upon the detailed descriptions of bonding practices supplied to us by private bonding companies and by the Federal Bonding Program, which guarantees bonding for those who cannot obtain private bonding:

a. Both Federal and private bonding are available to rehabilitated addicts. Employers who cite an inability to bond such persons as a reason for denying employment may not be presenting a completely accurate picture of the situation.

b. Private bonding may be *un*available to persons with criminal records who happen to be rehabilitated addicts. Bonding companies view arrests and convictions far more seriously than they do drug abuse or drug addiction histories standing alone.

c. The Commission believes that the factor of a prior *conviction* record is a matter which any employer should have the right to consider when employing an individual.

Recommendations

The Commission makes the following three recommendations:

1. The State should outlaw discrimination in employment against persons who have adhered to a bona-fide course of treatment for not less than one year and who have been found capable of working by a licensed physician or the therapeutic director associated with that program.

2. The State should outlaw discrimination in employment against rehabilitated addicts who have a satisfactory record of on-the-job performance for not less than a total of one year. This provision would protect those who are no longer in treatment programs. For example, a person who left treatment and then worked for six months, was laid off, looked for another job, and then worked another six months, without ever reverting to unlawful drug use, would be covered by the proposed draft legislation.

3. Since more than ninety percent of all rehabilitated addicts have criminal records, the State Division of Human Rights should be empowered to issue guidelines, not binding at first, designed to encourage the hiring of this special category of ex-offender, who is a rehabilitated addict and has thus come through a *formal* rehabilitation program. Such guidelines would take into account the nature and time of the criminal record, the dangers involved in the job situation contemplated, the efforts made by the applicant to disengage himself from circumstances and associations related to criminal activity and the contributions made by the applicant towards the welfare of others.

The Commission believes that while there will always be some controversy over what is the best approach to the problem of rehabilitating the addict, there should be no controversy over the fact, proved by an overwhelming preponderance of the evidence, that those addicts who have been rehabilitated are quite capable of taking their rightful place in society.

I Employer Attitudes

A. Addiction and Crime

Employers, like most other people, receive their information from the media. The "typical" employer has never knowingly had any personal contact with an abuser of substances other than alcohol, gets all his information from "mass media" and sees this information as extremely reliable. This is but one of the conclusions to be found in a study entitled *Employment and Addiction: Perspectives on Existing Business and Treatment Practices,* Final Report of a Research and Development Project conducted under the auspices of the United States Department of Labor at Harvard University, by I. Ira Goldenberg, August 1972.

The community views the abuser of drugs, especially the heroin addict, as a criminal. From two standpoints the logic of this view is irrefutable. The possession, sharing and selling of unlawfully diverted or contraband drugs is criminal. The cost of supporting a moderate level of heroin addiction requires that the addict who is not working obtain from two to three hundred dollars per day in marketable merchandise. This is accomplished, in most cases, by crimes against property. Well known in this state are the burglary, larceny and theft of possessions from ordinary individuals, homes and small businesses. Additionally, where violence is a widespread tactic of criminals, the use of violence by addicts is not unknown.

On the other hand, the statistics relating addiction to crime frequently inflate and exaggerate addict-related crime, and confuse addict-related crime with behavior carried on, for the most part, by non-addicts. Addicts who are not working steal to support their habit, but not even most stealing is attributable to addicts. A recent survey done in Washington, D.C., for example, found that ninety percent of all of the shoplifting in that area in retail sales is committed by non-addicts.*

Even within the compass of crimes inherent in the drug abuse scene, significant distinctions are seldom made. For example, reports in the media of crime statistics tend to be accepting of the long-discredited definition of marihuana as a narcotic and have included marihuana arrests categorically along with those for heroin. A further distinction seldom made has to do wth the difference between a neighborhood, small-time heroin distributor and the true addict-pusher. Most people who have testified before this Commission believe that the level of culpability is greater for the small-time local distributor than for the addict who sells two bags of heroin to an undercover agent posing as another addict. Nevertheless, both types of activity are recorded as sales, and reported in the media and even in official publications as qualitatively of the same criminal import.

Along with this distortion of confused statistics, there is another distortion which is even more prejudicial. That is the tendency of the media, and some public officials, to link addiction with violent crime, and especially with spectacular or tragic incidents of violent crime. When crimes are often violent, crimes committed by addicts *may* be violent. However, the overwhelming need of the addict for money, and the knowledge that violence frequently results in no material gain for the criminal, leads to the inescapable conclusion that most of the violent crime in this state is not being committed by addicts.* The nature of violent crime has been the subject of much recent comment. It seems clear that the type of criminal activity which appears to relish the infliction of terror and injury upon victims and of which the communities throughout the state and nation are most apprehensive does not have anything at all to do with heroin addiction. Nevertheless, there are seldom reports of such crimes in the media, in which free-wheeling speculation is not given to the possibility that drugs were somehow involved; again, without anyone making a distinction as to whether the drugs *speculated upon* might have been hallucinogens as distinguished from heroin.

Another line of confusion has emerged from the

* The Metropolitan Washington Board of Trade, Retail Bureau Manager.

* This analysis has been verified by a top Narcotics Coordinator for the New York City Police Department.

fact that large numbers of persons imprisoned in New York state are or have been addicts. The fact that this is so does not mean that the prison population is an accurate microcosm of the criminal element at large in the community. The federal Bureau of Narcotics and Dangerous Drugs reports that only twenty to twenty-five percent of all reported crimes are cleared by arrests and that up to *forty* percent of all those arrested in large cities are "high" on drugs at the time of arrest. Addicts who are high on drugs are not difficult to arrest. A recent survey of arrest records by the New York City Addiction Services Agency indicates that addict arrests go up within the year prior to their admission to treatment facilities. One need not be a psychologist to postulate that at some level of consciousness the addict who is easily arrestable even when he is not high, may view the intervention of the law as a vehicle to obtain treatment. Nevertheless, confusion abounds in the media to the effect that because the prison population is comprised of many addicts, this population represents an accurate cross-section of the criminal population as a whole. There is much to suggest that it does not.

The acceptance of such confused media output as reliable by sixty-one per cent of the employers sampled in the greater Boston area, and as the exclusive source of information about drugs by eighty-two per cent of the employers sampled, indicates one of the reasons that so many employers cannot cope with the concept of a truly rehabilitated addict. The employer, as typically in New York state as in Massachusetts, believes that there are criminogenic factors common to all crimes, and that addiction, which inherently means at the very least the crime of possession, is no different. The constant confusion in the media of true addiction-related crimes and all other crimes in which drugs are casually mentioned serves to reinforce this misconception. Treatment programs have found time and again that a youngster may have everything that it takes to succeed within the law, but that peer-group pressure, the availability of drugs, the example of adults who use pills or alcohol to evade responsibilities, and the very addicting quality of heroin (twice that of morphine), have quite undone him. Rather than a criminal, the typical addict is a victim. That is why increasing attention is now being turned to the question of prevention, both through rehabilitation and as an incident of education.

This Commission's own surveys of employers, which revealed that operators of small businesses are more likely than large corporations to employ rehabilitated addicts, has been explained precisely in the terms noted. To the extent that the employer, approached on a one-to-one human basis, views addiction as a social phenomenon which victimizes individuals, he is more likely to be willing to help such individuals who have taken measures to help themselves. To the extent that the employer receives information impersonally, which is typical, with a few striking exceptions, of larger corporations, the addict is viewed as a source of criminal activity far beyond the actual scope of identifiable addict-related crime, and the employer is therefore not even susceptible to the view that rehabilitation may be possible.

B. Addicts in Treatment

Of the reported statistics involving various treatment programs, those reflecting the drop-out rates seem to be the most alarming to prospective employers. Apparently, there is a fifty percent drop-out rate from drug-free therapeutic communities and a twenty percent drop-out rate from methadone programs. Employers are concerned about the reliability of an applicant sent from one or the other type of treatment program.

While there can never be a guarantee that an individual who has been in treatment for drug addiction will continue to behave reliably, any more than there can be a guarantee that a person without a drug history will not begin to use drugs, the preponderance of the evidence accumulated thus far points either to the reliability of the rehabilitated addict, or at least to a risk to the employer which is indistinguishable from or better than that incurred with employees who have no history of addiction.

Most treatment programs, at the outset, do not admit addicts with severe emotional disorders. Such persons are counseled to seek psychiatric care. In some cases they may be hospitalized in facilities for the mentally ill. Thus, the most unstable or unpredictable group is usually screened-out before treatment begins.

Another percentage of those who apply for treatment are not able to continue once they have started; the so-called drop-outs. The vast majority of rehabilitated addicts who are referred to and accepted for jobs have advanced beyond the stage at which the drop-out syndrome is likely to occur. In the drug-free programs, an individual who cannot face his problems squarely may run away; he is certainly not likely to be referred for a job. In the methadone programs, an individual whose motivation turns out to be solely that of detoxification and return to a cheaper heroin habit will also not be referred for a job. Moreover, urine testing within the programs, coupled with keen observation of the course of an addict's rehabilitation, will prevent the referral of those whose reliability from the standpoint of unlawful drug use can be questioned.

A related question raised by employers contacted by this Commission had to do with diversion of methadone.

Publicity surrounding this phenomenon became accentuated in a way perhaps not anticipated by those concerned with enforcing regulations governing the dispensing and prescribing of methadone. As indicated in our last Interim Report [Legislative Document (1972) No. 10], methadone maintenance is a system of treating narcotic addicts. Methadone is an addictive substitute for heroin, which blocks the craving for heroin as well as the euphoric effect of heroin. Consequently, addicts who wish to be relieved of the psychological, physiological and criminal compulsions involved in the taking of heroin, often can find relief from those compulsions and may function quite well on methadone maintenance.

At approximately the same time (November 1971), both the federal government and this Commission concluded that methadone maintenance ought to be greatly expanded as a treatment modality for addiction. We indicated that the reduction in crime among those rehabilitated on methadone maintenance was persuasive justification for such expansion. Our conclusion has been affirmed by a recent statistical survey done by the Health Services Administration in New York City, which showed that arrests for all admissions to methadone maintenance programs declined seventy-four percent and that arrests for those on methadone maintenance thirteen months or longer declined ninety-six percent.

One of the contingent factors involved in the expansion of methadone programs was the curtailment of the so-called gray market in methadone. This gray market involves the selling or sharing of methadone by persons in treatment. This diversion occurs typically in two ways: First, individuals who are not motivated to continue in treatment may sell their medication prior to dropping out of the program altogether. Second, some privately run treatment programs have failed to provide addicts with any form of therapy apart from the medication itself. Consequently, these programs have debased this modality of treatment to the point that they were actually selling methadone rather than treating patients.

It is clear from recent developments in the writing and enforcement of laws regulating the dispensing and prescribing of methadone that the era of major diversion is coming to an end. By the end of 1972, new federal regulations will go a long way toward curbing prior abuses. After April 1, 1973, when the New York State Controlled Substances Act goes into effect, new state controls will complement federal regulations to put to an end virtually all significant diversion of methadone.

During the pendency of efforts to create new controls so that methadone treatment might be safely expanded, a great deal of publicity was given to the dangers of methadone, some of it reliable and some of it quite distorted.

Methadone which is diverted is precisely as dangerous as morphine which might be diverted. If administered to a person who is not an addict, methadone can create addiction. If administered incautiously to anyone, methadone can cause death.

Because of efforts to create new controls for methadone, this substance was singled out for publicity relating to its diversion, abuse and overdose. Actually, methadone is not as frequently abused as barbiturates and amphetamines, but the abuse of methadone received greater attention during this period. (The Commission has found that during this period, non-scheduled depressants, such as methaqualone, and amphetamines and Schedule III barbiturates have become the greatest drugs of abuse, after heroin, in the State of New York.)

Frequent reference was made in one New York City newspaper, for example, to the finding of methadone in the systems of deceased individuals by the Chief Medical Examiner of New York City. Finally, on November 10, 1972, the Chief Medical Examiner, himself, declared that these statistics had been widely misinterpreted, and that the finding of any substance in a person's system was not necessarily the same as a finding that such substance was related to the cause of death.

The fear of employers that the rehabilitated addict may not be reliable as a patient is based upon several correctable fallacies:

The addict who drops out of a program is not termed rehabilitated and is not referred for work.

The rehabilitated addict who slips manifests his behavior in two ways:

(a) He becomes erratic within the treatment setting or gives a positive urine. In either case the treatment program would not consider such a patient ready for work, or would report the development to an employer in accordance with a prior agreement, if the addict were employed.

(b) He begins to stay away from the job. Many employers fear that if a rehabilitated addict slips back to unlawful drug use he might bring drugs to work or steal from the company. Actually, in all but two provable cases reported to this Commission, where rehabilitated addicts have slipped back to drug use, they have simply fired themselves by staying away from the job. In nearly all cases of recidivism,

the employed rehabilitated addict was not suited, and arguably, *predictably* not suited, to the job to which he was referred.

Methadone diversion is not likely to originate with a truly rehabilitated addict, and in any event, such diversion overall will be greatly reduced within a matter of months under new federal regulations as well as a new state law.

The most significant aspect of the relationship between the addict in treatment and the world of work is that the rehabilitated addict who is placed in a job or in a training program matched to his personality, aptitude and skills, is able to function indistinguishably from other employees.

II The Addict at Work

A. Work Prior to Treatment

The above-mentioned Harvard University opinion study found that fifty-two percent of the drug users interviewed stated that they had acquired marketable skills after their involvement with drugs. Approximately ninety-eight percent of the employers interviewed stated their guess would be that any marketable skills possessed by drug users would have been acquired prior to involvement with drugs.

The discrepancy highlights a particular prejudice of employers, which is that individuals who take drugs cannot function acceptably, cannot function to satisfy their own normal needs, and cannot function well enough to study or work. Despite familiarity with numerous acquaintances who abuse alcohol on occasion and whose work may or may not be affected, the typical employer cannot imagine an employee using heroin and functioning within a normal range.

The disturbing truth seems to be that a number of heroin users do function within *observed* normal limits while learning skills or while working. The pharmacology of this process seems very much a matter of controversy. There are those who believe that a heroin user can actually become stabilized on a certain dosage; that is to say that if he is willing to forego prolonged euphoria, the addict needs the same dosage each day to prevent withdrawal. Those who subscribe to this theory believe that the syndrome of ever-increasing dosages is related entirely to the desire of the heroin addict for constant euphoria. Absent the craving for euphoria, either through weariness with the constant struggle to obtain more drugs, or through a desire to function normally, i.e. to go straight, the addict can become balanced upon a certain dosage of heroin. Seen in this light, the inability of an individual to function on heroin is related to: (1) any desire for *prolonged* euphoria; (2) the relatively short-term effect of heroin and the need to produce brief periods of euphoria (the "rush") for approximately twenty minutes at a time following an injection (which may prove embarrassing and during which time a fellow employee may have to cover for the addict); (3) the preoccupation with obtaining an illegal drug and the risks entailed; (4) the possibility of severe illness from impurities in the heroin, dirty needles or an accidental overdose.

A number of British physicians claim that this theory is the underpinning for their system of rehabilitation through the administration of heroin maintenance. Other experts believe that stabilization on heroin is illusory, if not impossible, because of the short-term nature of the effects of the drug, because increasing dosages are required to prevent withdrawal, and because the psychological craving for euphoria cannot be overcome so long as any heroin is administered. These experts indicate that in Britain many of those maintained on heroin do seek higher dosages from their physicians, and failing in the receipt of higher dosages, they resort to barbiturate inebriation or they seek Chinese heroin (with caffeine) illicitly sold in London. In any event, the *relative* lack of availability of illicit heroin in Great Britain may be an extrinsic stabilizing factor which defeats comparison with the situation in the United States.

Regardless of which view is taken, that heroin users can stabilize their habit in order to work or that they may work in an acceptable but impaired fashion, much as the alcoholic, the fact seems to be that many drug users do possess and work at skills acquired subsequent to involvement with drugs.

The Training for Living Institute reported in August of 1972 that 95 addicts who were active heroin users had cooperated in a study which demonstrated that they were able to hold sixty types of jobs, ranging from plant manager and college registrar to postal worker and steel mill worker, at salaries ranging, mostly, from five to ten thousand dollars per year, but with some earning even more.

Treatment programs which responded to this Commission's requests for information stated that from twenty to twenty-five percent of all those accepted for treatment are employed when they enter rehabilitation. A few of the more responsible private programs, which require weekly payments of an average of twenty dollars or more from each patient, have told us that their employment rate for those entering treatment approaches one hundred percent.

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The disturbing truth seems to be that a number of heroin users do function within *observed* normal limits while learning skills or while working. The pharmacology of this process seems very much a matter of controversy. There are those who believe that a heroin user can actually become stabilized on a certain dosage; that is to say that if he is willing to forego prolonged euphoria, the addict needs the same dosage each day to prevent withdrawal. Those who subscribe to this theory believe that the syndrome of ever-increasing dosages is related entirely to the desire of the heroin addict for constant euphoria. Absent the craving for euphoria, either through weariness with the constant struggle to obtain more drugs, or through a desire to function normally, i.e. to go straight, the addict can become balanced upon a certain dosage of heroin. Seen in this light, the inability of an individual to function on heroin is related to: (1) any desire for *prolonged* euphoria; (2) the relatively short-term effect of heroin and the need to produce brief periods of euphoria (the "rush") for approximately twenty minutes at a time following an injection (which may prove embarrassing and during which time a fellow employee may have to cover for the addict); (3) the preoccupation with obtaining an illegal drug and the risks entailed; (4) the possibility of severe illness from impurities in the heroin, dirty needles or an accidental overdose.

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The conclusion to be drawn from these observations is that the typical employer's image of an addict as someone whose habit is inconsistent with the world of work is simply not accurate.

It should, of course, be noted that many of those individuals who become involved with drugs drop out of school and do not develop marketable skills. Moreover, some of those who have skills do not have sufficient work orientation to understand the demands of employment. In this regard, many treatment programs around the state have suggested that the need of many addicts may not even be *re*habilitation; it may be "habilitation", or training and orientation, in the first instance.

B. The Rehabilitated Addict at Work

The capacity of rehabilitated addicts to work has been demonstrated in two ways. First, studies have been done which are probative of the fact that persons maintained on stabilized dosages of methadone can perform work-related tasks as well as or better than control groups consisting of similar persons without drug histories. Second, follow-up surveys of rehabilitated addicts have provided evidence that despite obstacles to employment, after a period of time almost all of them will be found free from legal entanglements and gainfully employed, in school, or functioning satisfactorily as homemakers.

With regard to the first series of studies, Dr. Normal B. Gordon, who is a research psychologist associated with Yeshiva University and Rockefeller University, has published a number of studies relating to the issue of whether stabilization on methadone impairs the functioning of the individual in any way.

Methadone has been described above as a narcotic. It is a synthetic opiate which is similar to morphine in all properties except one. Experiments by Dole and Nyswander resulted in the hypothesis that when methadone is administered in increasing dosages to a heroin addict, at about one hundred milligrams a day, more for some and less for others, the addict will become stabilized. The methadone will then not only prevent withdrawal, it will also *block* both the craving for heroin and the effects of heroin introduced into the system in tandem with the methadone. It has been argued by some that the reason the heroin has no effect is because the patient is already sedated with the methadone. An analogy is drawn, for proof, that a person who ingests alcohol while inebriated will feel no effect from the additional alcohol. This line of reasoning is extremely faulty. The analogy is totally incorrect, because the person who ingests more alcohol will, indeed, feel the effects: if inebriated he will become toxic and if already toxic he may become either comatose or psychotic. By contrast, Dr. Harvey Gollance, Director of the Beth Israel methadone program reports that patients who injected massive amounts of heroin following their stabilization on methadone neither felt nor exhibited any effects whatever.

In April of 1972, the Food and Drug Administration officially recognized that the Dole-Nyswander method of stabilization was no longer experimental and that this approach, then being used by more than fifty thousand patients in the United States, should be recognized as an acceptable form of treatment for heroin addiction, under stringent controls to prevent diversion of methadone and exploitation of addicts.

Beginning in 1965, Dr. Gordon began his experiments relating to the question of whether methadone maintenance in any way impaired the functioning of individuals stabilized on that substance. The first finding of his research team was that the scores on the Wechsler Adult Intelligence Scale for one hundred fifty-five patients did not show any departure from I.Q. scores found in the general population.

Two other types of studies were done. The first type was the "Rotary Pursuit" task which has had wide use in studying the effects of various drugs. Dr. Gordon described the task to us as follows:

> The task employs an input signal consisting of a small circular target which rotates in a fixed path on a turntable. It was set to rotate at a speed of sixty revolutions per minute, which gave the center of the target a linear speed of twenty-two inches per second. The task of the patient was to bring the tip of a hand stylus into contact with the target and maintain contact by means of a rotary motion of the hand and forearm at the same rate as that of the target. Underlying the simplicity of the "RP" task is a complex of factors which are relevant to a number of other skills. According to noted authorities, "RP" is sensitive to a wide variety of variables significant in training programs with much more complex skills. The main common ability shared by "RP" with other tasks is that of making highly controlled, but not over controlled, precise large muscle adjustments.

College students were used as a control group, and patients selected had been stabilized on a daily dose of one hundred fifty to one hundred seventy milligrams of methadone. In twelve weekly sessions lasting thirty minutes each, the number of accurate hits on target with the stylus was not in any way different between the two groups.

A criticism of methadone maintenance has been that because methadone is a narcotic, even with stabilization there must be repeated swings from euphoria to the brink of withdrawal, as in the case of heroin, although all would concede that methadone is the longer acting substance.

To examine whether stabilization was real or illusory, Dr. Gordon decided to test for psychomotor performance. Patients were tested on the "RP" task immediately following their morning medication, one hour later, four hours after medication and eight hours after medication. Tests were administered for two six-day periods separated by one day, with testing times varied in the second period. No abnormal variations were detected which were in any way attributable to the methadone. After a year of no practice, the methadone patients revealed a loss of skill of twenty-two percent, as contrasted with previously reported findings of a twenty-nine to thirty-seven percent loss of skill by those tested without a prior history of drug use.

Reaction time studies had previously been shown to be sensitive to single narcotic dose effects; it is an important behavioral measure in that it involves the ability to process sensory information as well as cognitive, attentional and motivational factors.

Male and female patients stabilized on one hundred milligrams of methadone were compared with male and female subjects with no prior history of drug use. The tests involved pressing a button when one lamp was lit, pressing the appropriate button when any one of six lamps was lit, and pressing a button upon an auditory signal. The results were that the reaction times of methadone patients were either equal or superior to control group subjects.

Using auditory signals, testing was also done to evaluate the stability of performance over a twenty-four hour period. All of the patients had been on methadone treatment for at least one year.

The results revealed that there were no differences from the control groups in performance whether the patients were tested when they were twenty-four hours abstinent from methadone or had taken their medication one hour before testing. Working patients had the fastest reaction times. Non-working patients had a greater tendency to improve their reaction times between the two testings than working patients.

Long-term follow-up studies of rehabilitated addicts more than meet the objections raised by some that the testing of addicts in treatment is but an artificial guide to predicting later performance.

According to Professor George E. Vaillant of the Harvard Medical School, a paper describing a twenty year follow-up of New York Narcotic Addicts, presented on May 22, 1972 stated:

> *Both methadone maintenance and self-help programs represent significant improvements over conventional treatments. Unlike hospitalization or jail, these programs give the addict a replacement for heroin. De Leon* et al, *have documented the efficacy of the Phoenix House self-help programs in selected populations. The advocates of methadone maintenance have demonstrated that their programs can be made acceptable to the vast majority of addicts, and dramatically reduce crime while enhancing employment.*

Dr. Francis Rowe Gearing, Director of the Methadone Maintenance Evaluation Unit at Columbia University School of Public Health and Associate Professor of Epidemiology reported in 1971 on the long-term progress of methadone patients.

Twenty-two percent of the patients included in a one-year follow-up were employed or homemakers at the onset of treatment. At the end of three months, twenty-seven percent of those who remained in the program were employed. At six months thirty-seven percent, at nine months forty-five percent, and at twelve months fifty percent were employed or homemakers. This progress occurred despite the documented cases of employer-imposed obstacles to job opportunities such individuals were forced to overcome.

Moreover, a one to six year follow-up of patients in Beth Israel and Bronx State Treatment units revealed the following:

> "Of the two thousand four hundred patients in the sample who were admitted during 1971, thirty-seven percent were employed or homemakers, and forty-eight percent were on welfare. Among the one thousand six hundred admitted in 1970, fifty percent were employed or homemakers and the welfare recipients accounted for thirty percent. *As the period of observation in Methadone Maintenance Programs increases, the percent gainfully employed or occupied as homemaker increases to ninety-five percent and the proportion supported by welfare decreases to zero"* (emphasis added).

In November 1972, Dr. Gearing published a new study based upon a sample of one thousand two hundred and thirty patients admitted to methadone maintenance treatment between 1964 and 1968. All patients had criminal records. The average number of arrests per patient was 3.5 in the three years prior to admission; and approximately one-half of the arrests resulted in jail terms averaging six months. Of these patients, eight hundred and ten, or sixty-five percent, continued in treatment to the end of the study period, March 31, 1972. During this period, the percentage of patients who could be classified as socially pro-

ductive rose from thirty-six percent to seventy-two percent, and there was a decline in unemployment of seventy-two percent. Among those who were unemployed on admission, seventy-five percent were considered socially productive after four years of observation.

C. Types of Work Done by Rehabilitated Addicts

A composite picture of the types of work done by rehabilitated addicts has been assembled by this Commission. The picture is not complete and cannot be complete, because there are many rehabilitated addicts who are hard at work, but whose employers are not aware that these employees have been in treatment for addiction.

The cases of some of these workers have been made known to the Commission through statistical references or case descriptions with the name of the individual deleted at our request. The universal fear of workers in these categories is that upon discovery by their employers of their history of treatment for addiction, they would be dismissed. Another group of cases uncovered by the Commission ironically involves workers who are performing satisfactorily for employers who know of their drug history, but *the employers* refuse to allow the fact that they have hired rehabilitated addicts to be made public, for fear that the image of the corporation might suffer. One of the anomalies regarding employer attitudes found by the Commission is that of the employers who have made noble public statements favoring the hiring of rehabilitated addicts, few, in fact, have opened jobs to them; while, on the other hand, some who have opened jobs do not wish the fact to be known by the general public. Labor unions, as well, tend to refer reliable applicants to employers without revealing the worker's history of treatment for drug abuse or addiction.

According to the Narcotic Addiction Control Commission, the summer of 1972 saw more than one hundred fifty successfully rehabilitated addicts working as truck drivers for intrastate firms. In most cases, employers are unaware that these men have drug histories. The ability of such workers to perform well (they earn from five to ten thousand dollars per year) in jobs which are largely unsupervised, require good judgment and dexterity, offer temptations to behave unlawfully, and often present the dangers of fatigue and inattention, should answer, once again, many of the objections of those who regard employment of rehabilitated addicts only from the standpoint of risk.

According to an article in a NACC publication, the drivers are working for a variety of large and small private fleets, including delivery fleets, manufacturers, food distributors, construction firms, air freight, tire companies, bread companies and some smaller common carriers. They drive a variety of vehicles from panel and pickup trucks to straight trucks and tractor-trailers.

First National City Bank has hired several rehabilitated addicts and finds that their work is indistinguishable from that of other employees. Chase Manhattan Bank has reemployed rehabilitated addicts whose drug problems apparently began while they were on military leave.

The Addiction Research and Treatment Corporation reported that as of August 9, 1972 there were thirteen hundred ninety-eight persons in treatment. Full-time employment was held by three hundred sixty-three patients and part-time employment, including temporary and seasonal, was held by eighty patients. Another fifty-three patients were attending school. The list of employers who have hired and retained A.R.T.C. patients is an impressive one.

Fig. 1

Hired and retained A.R.T.C. patients

Herzor Answering Service
207 East 37th Street
New York City

Apolier Air-Conditioning
37-42 Crescent Street
Long Island City, N.Y.

Landmark Enterprises
370 Lexington Avenue
New York City

Leader Candies
132 Harrison Place
Brooklyn, N.Y.

Super Rush Messenger Service
161 East 53rd Street
New York City

Lucky Star Undergarment
85 DeKalb Avenue
Brooklyn, N.Y.

N.Y. Citizens Against
Mental Illness
10 Columbus Circle
New York City

Eagle Electric Manufacturing Co.
23-10 Bridge Plaza
Long Island City, N.Y.

New York City Dept. of Parks
Litchfield Mansion
Prospect Park
Brooklyn, N.Y.

Global Frozen Foods
519 West 16th Street
New York City

Cities Service Co.
60 Wall Street
New York City

Marburn Knitwear Inc.
85 DeKalb Avenue
Brooklyn, N.Y.

Uniform Maintenance Co.
265 Norman Avenue
Brooklyn, N.Y.

Reo Cleaners
1601 Neck Road
Brooklyn, N.Y.

Eico Electronics
283 Malta Street
Brooklyn, N.Y.

Model Cities
150 Hinsdale Avenue
Brooklyn, N.Y.

Choice Delivery
Systems, Inc.
831 Third Avenue
New York City

Johnson Presses
601 West 26th Street
New York City

Longleys Restaurant
200 East 39th Street
New York City

Duncan and Shaw General Contractors
314 Madison Avenue
New York City

Ace Utilities
925 Bergen Street
Brooklyn, N.Y.

Testing Instrument Inc.
45-53 Van Sinderen
Brooklyn, N.Y.

Data Time
920 Broadway
New York City

Answer Phone
451 Clinton Avenue
New York City

Jerlee Products
596 Berriman Street
Brooklyn, N.Y.

Fun City Metered Private Car Service
540 West 50th Street
New York City

Juniors Restaurant
386 Flatbush Avenue
Brooklyn, N.Y.

Tires Inc.
35-25 Steinway Street
Long Island City, N.Y.

Media Masters
230 Fifth Avenue
New York City

Colonial Pancake House
601 East 77th Street
Brooklyn, N.Y.

Metropolitan Life Insurance Co.
One Madison Avenue
New York City

A. B. C. Freight Forwarding
201 11th Avenue
New York City

New York Cleaning Co.
(Triple A Maintenance)
380 Flushing Avenue
Brooklyn, N.Y.

Alarm Products Inc.
24-02 40th Avenue
Long Island City, N.Y.

Martin—Burns Inc.,
240 Central Park South
New York City

Excel Refrigerator Co.
62 Fifth Avenue
Brooklyn, N.Y.

B & L Metal Fabricators
515 Classon Avenue
Brooklyn, N.Y.

Empire Metal Box Co.
68 Meserole Street
Brooklyn, N.Y.

Reuben Grill
584 Myrtle Avenue
Brooklyn, N.Y.

Daitch Shopwell
400 West 24th Street
New York City

Nicks Sandwich Shop
264 West 35th Street
New York City

New York State Urban
Development Corp.
666 Fifth Avenue
New York City

Time and Life Inc.
50th & Sixth Avenue
New York City

New York University Medical Center
568 First Avenue
New York City

Salwen Paper Co.
One Rewe Street
New York City

Sarris Goldstamping & Bookbinder
601 West 26th Street
New York City

Goldberger Doll Manufacturing Co.
538 Johnson Avenue
Brooklyn, N.Y.

Banner Yarn Dyeing Corp.
488 Morgan Avenue
Brooklyn, N.Y.

Alberts Pipe Supply
101 Varick Street
Brooklyn, N.Y.

Joyva Candies
53 Varick Avenue
Brooklyn, N.Y.

St. Mary's Hospital
St. Marks & Rochester
Brooklyn, N.Y.

Boys High School
(Spark Program)
March Avenue & Putnam
Brooklyn, N.Y.

Fashion Toys
708 Broadway
New York City

Bedford-Stuyvesant
Printing Plant
930 Bedford Avenue
Brooklyn, N.Y.

Bleacher Dyers &
Finishers Union
138 Greenpoint Avenue
Brooklyn, N.Y.

Victorian Packing
443 East 100 Street
Brooklyn N.Y.

Bam Blouse
277 53rd Street
New York City

Dunhill Food Equipment Corp.
79 Walworth Street
Brooklyn, N.Y.

Lenary Sun Products
1318 Greene Avenue
Brooklyn, N.Y.

Lemberger Paper Box Co.
341 Reed Avenue
Brooklyn, N.Y.

Kitchen Kraft Foods
162 Imlay Street
Brooklyn, N.Y.

Universal Metal Chain
75 Clymer Street
Brooklyn, N.Y.

Buccaneer Manufacturing Co.
44 Spencer Street
Brooklyn, N.Y.

Nash Metalware Co. Inc.
127 West 17th Street
New York City

Reverso Products Inc.
133 39th Street
Brooklyn, N.Y.

American Linen
46 Crown Street
Brooklyn, N.Y.

Bohack Foods
One Bohack Plaza
Brooklyn, N.Y.

Magna Painting Co.
Eight Classon Avenue
Brooklyn, N.Y.

Port of New York Authority

Affiliated Answering Service
441 West 50th Street
New York City

Pest Control
316 Stuyvesant Avenue
Brooklyn, N.Y.

Mohawk Maintenance Co.
366 Fifth Avenue
New York City

Atlantic Richfield Corp.
717 Fifth Avenue
New York City

Otis Elevator Co.
260 11th Avenue
New York City

With the exception of two or three instances there were no specific efforts on behalf of industries to afford positions for ex-addicts. Most employers hired persons with certain skills and qualifications and did not hold their past history against them.

Dr. Robert G. Newman, Assistant Commissioner for Addiction Services in the New York City Health Services Administration reported to us that as of December 31, 1971, the total number of patients in Health Services Administration treatment units was two thousand eight hundred eighty-four. Of these, one thousand fifty-six were employed full-time (thirty-seven percent); seventy-two were employed part-time (three percent); one hundred fifty-four were in school (five percent) and one hundred seventy-nine were homemakers (six percent). The totals were one thousand four hundred sixty-one patients or fifty-one percent, who were constructively occupied.

The types of jobs held varied remarkably (see Fig. 2). It will be the subject of an ensuing discussion in this report that the reason it takes up to five years to go from the forty to fifty-one percent constructively occupied while in treatment to the ninety-five percent constructively occupied at the later point in time is largely the factor of discrimination.

Fig. 2

Types of Employment Held By Methadone Patients In The Health Service Administration's Methadone Maintenance Program As Of December 31, 1971

BUILDING TRADES—133
- 1 apprentice bricklayer
- 4 bricklayers
- 7 carpenter's apprentices
- 8 electricians
- 4 general contractors
- 4 ironworkers
- 1 mason
- 17 painters
- 1 plasterer
- 8 plumbers
- 1 plumber's trainee
- 7 roofers
- 3 sheetmetal workers
- 1 steelworker
- 1 tinsmith
- 1 waterproofer
- 63 construction (tunnels, excavation, renovation)

MUNICIPAL GOVERNMENT EMPLOYEES—7
- 1 drawbridge attendant
- 1 NYCHA maintenance man
- 1 park department maintenance man
- 1 pest control worker
- 2 sanitation dept. workers

FEDERAL GOVERNMENT EMPLOYEES—6
- 5 postal employees
- 1 customs supervisor

CLERICAL—142
- 2 bank clerks
- 8 bookkeepers
- 1 billing clerk
- 7 cashiers
- 1 keypunch coder
- 1 library clerk
- 2 mail clerks
- 6 management level clerks, ie. mgr. of data processing room, ass't mgr. import firm, etc.
- 1 purchasing clerk
- 4 receptionists
- 18 secretaries
- 7 shipping clerks
- 1 xerox operator, plus 83 others holding clerical and typing positions

PROFESSIONAL—25
- 1 accountant
- 1 accountant trainee
- 1 architect
- 1 freelance artist
- 1 athletic instructor
- 1 draftsman
- 1 stationary engineer
- 9 musicians
- 1 nurse
- 1 pathologist
- 3 teachers
- 1 tutor
- 1 undertaker
- 1 newspaper writer
- 1 assistant script writer

SKILLED—163
- 2 body and fender men
- 5 butchers
- 6 carpet layers
- 1 computer programmer
- 1 draftsman
- 1 electric razor repairman
- 1 elevator repairman
- 2 fashion models
- 2 tile installers
- 1 inhalation therapist
- 2 jewelers
- 7 machinists
- 3 machine repairmen
- 1 masseur
- 24 mechanics
- 2 metal workers
- 2 telephone installers (NY Telephone)
- 1 NY Telephone operator
- 3 NY Telephone repairmen
- 1 photoengraver
- 3 photographers
- 1 photographer's assistant
- 2 piano tuners
- 10 printers
- 1 printer trainee
- 1 slip cover cutter
- 1 tailor
- 1 tile layer
- 67 truck drivers (from panel to tractor trailer drivers)
- 2 TV repairmen

4 welders
1 X-ray technician
1 cableman

SEMI SKILLED—52

1 aluminum siding installer
1 ambulance technician
1 auto body painter
5 bakers
1 burglar alarm installer
8 clothes pressers
3 computer operators
5 cooks
2 dry cleaners
1 dye setter
1 engineer's helper
1 florist
1 hospital attendant
1 jewelry maker
4 landscapers
3 pizza makers
1 psychiatric attendant
1 salvage dredging operator
1 stationary fireman
10 bldg. superintendents

SERVICE AND MANAGEMENT—35

19 patients in service occupations
1 apartment manager
1 aquarium manager
1 babysitter
2 baggage handlers
1 baggage handler supervisor
2 barbers
5 bartenders
13 beauticians
1 garage manager
1 garage owner
1 milkman
1 restaurant assistant manager
2 school bus drivers
1 train conductor
1 tow truck operator
1 vending machine serviceman

SALES—86

1 sales manager
1 store manager
1 auto parts salesman
2 camera salesmen
5 clothing salesmen
2 department store sales personnel
1 distributor of National Shoes
1 electrical estimator
1 fireplace salesman
2 food store clerks
1 Fuller brush man
1 hardware store clerk
2 liquor salesman
1 Long Island Press salesman
1 pet store clerk
1 self development program salesman
3 shoe salesmen
2 telephone sales women
57 other sales positions

SOCIAL SERVICES—26

1 chaplain's assistant
1 assistant coordinator for a drug program
1 coordinator—drug program
1 children's counselor
1 church program counselor
3 drug addiction counselors
1 case worker aide
1 health services aide
1 neighborhood aide
2 neighborhood health workers
3 prison aides
3 research assistants
7 other services

UNSKILLED—375

2 barmaids
1 busboy
1 cabinet finisher
1 car washer
3 concession workers
3 countermen
13 delivery men
3 dishwashers
34 factory workers
1 floor polisher
3 fruit stand workers
12 gas station attendants
4 handymen
1 Hertz driver
1 horse groomer
3 hospital orderlies
1 jewelry polisher
1 knitter
113 general laborers
3 laundrymen
3 longshoremen
20 maintenance workers
2 meat handlers
1 meat packer
1 parking lot attendant
24 messengers
1 metal spinner
2 OTB tellers
1 packer
1 parking lot attendant
1 pet shop aide
12 porters
2 private sanitation workers
3 restaurant workers
1 sign maker
12 security guards

1 signalman
1 stock exchange runner
12 stock clerks
31 taxi drivers
26 truck loaders
2 waiters
6 waitresses
1 warehouse foreman
1 water meter reader
2 window cleaners

New York City's Office of Probation has given the Commission a breakdown of productivity of ex-offenders who have participated in methadone maintenance programs. The long-term figures are well within ten percentage points of constructive activity for those in treatment programs who may or may not be on probation (see Fig. 3). This serves as but one persuasive indication that the ex-offender with a history of drug addiction can be rendered employable through treatment.

Fig. 3

Productivity in man-months for 108 patients in the Office of Probation's Manhattan Unit for period of 1/15/71 through 2/72.

	MAN MONTHS	# OF PATIENTS	(%)
Treatment	873	108	100
School or Training Programs	73.5	12	11
Employment	494.0	77	76
Homemaker	60.5	9	8
Supported by Family	69.0	26	25
Supported by School Grants	33.5	8	7
Unemployment Insurance	18.5	5	4
Welfare	402.0	59	58

The Nassau County Department of Drug and Alcohol Addiction has given us the following experience. Of two hundred seventy-seven patients who consulted one employment counselor during a two-year period, sixty-five percent had been steadily employed for over one year, twenty-three percent were looking for better jobs, and twelve percent had dropped out of treatment. Each of these patients was followed individually for as long as contact was maintained with the program. All modalities of treatment were used. The categories of jobs in which they were placed included: Clerical, typists, secretarial, cooks, butchers, waitresses, all branches of the construction trades, electricians, carpenters, cement workers, plumbing, air-conditioning, newspaper work, cameramen, data processing, photography, research, truckdriving, warehousemen, assembly, multigraph, shipping clerks, bank messengers, burglar alarm installation, auto repair, maintenance, housepainting and retailing.

Of these two hundred seventy-seven patients, only one instance of theft was reported. Family problems of an aggravated nature were involved and the employer subsequently accepted other referrals. The employment counselor testified before the Commission that in her experience with private industry for many years prior to her work with rehabilitated addicts, that a comparison of any given sample of ordinary workers with a sample of workers who have a history of treatment for addiction would yield a greater likelihood of theft by those who had not been in treatment. The reason is that the relief from the need to support the drug habit combined with positive feelings towards working places the risks attendant upon unlawful behavior in much sharper perspective for the rehabilitated addict than for the average employee.

Other reports of employment of rehabilitated addicts throughout the state involved smaller numbers of people. On September 14, 1972, the Service for Education and Rehabilitation in Addiction celebrated the successful completion of three months of operation of a filling station in the Bronx. Financed through loans obtained by the Director of the agency and encouraged by the Mobil Oil Company, this filling station has provided fourteen patients with a productive alternative to addiction.

The Xerox Corporation has six employees on methadone who appear to be functioning indistinguishably from other employees. IBM has also had limited experience leading them to conclude that individuals who have been stabilized on methadone perform indistinguishably from other employees.

Twenty-four rehabilitated addicts were the subject of an employment project in which they were licensed to drive taxis in New York City. Results reported in August, 1972 indicated that their driving records, drop-out rate, productivity and motivation compared favorably with the similar ratings of a control group of drivers with no addiction or arrest histories.

Several labor unions have reported that they refer job applicants for work with full knowledge that these applicants are or have been in treatment. They do not, however, as a rule, report this knowledge to the employer. Among the several unions who have testified that this is their practice are District 65, Distributive Workers, and Local 455 of the Iron Workers. Even the Electrical Workers have taken the position that they will refer a qualified applicant with a drug history for a job, provided that they receive reasonable medical assurance that the worker's performance will in no way be impaired as a result of

treatment for addiction.

In summary, Dr. Vincent Dole of Rockefeller University estimates that there are now over ten thousand rehabilitated addicts employed in the City of New York alone. The Addiction Services Agency testified that there are now approximately fifty thousand addicts and drug abusers in treatment programs throughout the City. From forty to fifty-one percent of these patients are now constructively occupied. The question is how best to expand the number constructively occupied in face of the expansion of present programs and the resultant growing numbers of patients coming out of treatment. The ASA estimates that by the end of 1973, forty-eight thousand new "graduates" will emerge from treatment programs in New York City. The grave risk presented by a failure to absorb these people into the job market is threefold: (1) that the money expended for treatment will have been wasted; (2) that instead of returning upwards of one thousand dollars per year in taxes, these rehabilitated addicts will be receiving over two thousand dollars apiece in welfare; and (3) through enforced inactivity, some of them are bound to slip back to unlawful drug use and conduct associated with such drug use.

D. The Psychology of the Rehabilitated Addict

Despite the vast differences in philosophy and approach of drug treatment programs and despite differing backgrounds among drug users, this Commission has found literally universal consensus that: (1) rehabilitated addicts want to work; (2) both the treatment programs and the addicts, themselves, feel that reliance on welfare is utterly counterproductive; and (3) without jobs, rehabilitated addicts cannot be reintegrated with the rest of society.

This universal consensus is newly developed and is the product of efforts made during the last four or five years to rehabilitate addicts throughout the State with a variety of forms of treatment. In this respect, New York State is much further advanced along the road to reintegration of the addict than any other State in the Union. We have had our problems with addicts who have failed to seek treatment or who have dropped out of programs, either because they were not ready to be helped or because the particularl programs in which they initially found themselves were not suited to their needs. Instead of giving up, this State persevered, broadening treatment opportunities and even allowing some addicts who failed in one type of program to receive treatment in another. Consequently, the finding that the world of work is inseparable from the way back for the addict is not a rhetorical one: The documentation exists on a case by case basis.

Two concepts have emerged regarding the relationship between work and the rehabilitated addict. The first of these is that the addict who has adhered to a lawfully constituted program for a period of time, with or without some rehabilitative work experience, who has been found to be capable of working, from a medical standpoint, and who can qualify for a particular job, has as much right to that job as any applicant without a history of treatment for drug use. Similarly, an addict who has stopped using drugs unlawfully and has exhibited a capacity to work through continuous satisfactory on-the-job performance, also ought to be given the same right to qualify for any job within his range of skills. The essence of this concept is that work is a right which should be granted to the rehabilitated addict.

A second concept which has arisen is that supervised work under carefully controlled conditions should be used as an adjunct of treatment. The essence of this position is that work is a charitable offering to aid in therapy.

It might be inferred that these two concepts are not necessarily contradictory: An individual may be employed for some of the time that he is in treatment in a carefully controlled situation, and once he has performed satisfactorily over a period of time in that context, he could be viewed indistinguishably from any other member of the general work force.

As useful as the concept is of work as an adjunct to therapy, it has brought to the surface a variety of misconceptions relating to the etiology of drug abuse. It also tends to limit the range of job opportunities perceived by employers to be within the scope of a rehabilitated addict's capacities.

The typical misconception of the employer is that the addict is "sick": i.e. psychologically unstable, and that until he is "cured" i.e. completely out of treatment, work is purely a function of treatment.

According to the federal Bureau of Narcotics and Dangerous Drugs, available findings point heavily toward social conditions and individual reactions to them as the most plausible explanation of narcotic drug use.

Almost half of the active addicts in 1969 were non-white, even though the non-white population was a far smaller proportion of the general population. During the nineteen fifties, the BNDD found that most young addicts lived in areas which had the most disrupted family life, the lowest socio-economic status, the most discrimination against ethnic groups, the highest divorce and separation rates, the most

crowded dwellings, the highest unemployment and the lowest educational level.

A more recent survey of the etiology of drug abuse by U.S. Labor Department researchers at Harvard University found that the spread of drug abuse to middle-class communities was no less a function of an environment somehow gone awry. Thousands of middle-class youngsters did not suddenly become mentally ill in the past five years any more than the hundreds of thousands of ghetto drug victims were mentally ill during the nineteen fifties. For middle-class youth, the researchers tell us, drug abuse is a "response to the emptiness and alientation of life in a bureaucratized, materialistic society." Some appear to be seeking new experiences in a society which appears to them to be as stratified, pre-directed and other-directed as the class-conscious systems of the forgotten past. Others appear to be seeking peer-group acceptance. The single most important fact surprisingly overlooked by even the most meticulous researchers, however, is that heroin, and to a lesser extent, barbiturates, are highly *addicting* substances, and that a few brief lapses of judgment will be enough, in many cases, to create an addict. Coupled with the initial euphoria of the drug, the undertow of addiction has proved sufficient to topple youngsters whose discontents could not even remotely be associated with pervasive emotional instability.

If addiction is not a sickness, per se, then the object of rehabilitation is not a cure, per se, but rather to end dependence on *unlawful* drugs and to help the addict develop perspectives which will permit him to confront social conditions of which he disapproves without injuring himself or others. Once the dependence on unlawful drug use has been eliminated, either through drug free modalities employing rituals designed to promote insight or through the use of the methadone blockade, which allows the addict to focus on problems without regard to the need for unlawful drugs, the rehabilitated addict quickly becomes aware of the fact that without work he has, at best, exchanged one form of passivity, i.e. drug use, for another, i.e. idleness. Once this awareness becomes a reality, the rehabilitated addict is ready to begin work. Of course, in the case of many addicts who have already been working prior to treatment, this awareness is not only present, but also plays a determinative role in the addict's decision to seek treatment.

Seen in this light, the "cure" for the addict is not to be gauged by inchoate and often subjective emotional criteria. Rather, it may be gauged objectively in terms of the willingness and capacity of the addict to function in society, including the work situation. If the addict has demonstrated that capacity, this Commission believes that consideration of what is going on in the addict's mind, under what circumstances the addict first began to use drugs and why he was helped by one modality of treatment instead of another are irrelevant to any material proposition. Rather than viewing the continued adherence of a reformed addict to a treatment program after he has demonstrated a capacity to work as a sign of weakness, or a sign that the rehabilitated addict is not "cured", the employer would be better advised to regard this continued adherence as further assurance of the reliability of the rehabilitated addict. Treatment programs can often arrange with employers to gauge the stability of the rehabilitated addict as well as his continued avoidance of unlawful drug use. Moreover, in the case of methadone maintenance, the use of this medication is not likely to terminate. Since it is the very means enabling the rehabilitated addict to function normally, its continued use is not a sign of illness but, rather, a sign of social health.

It was pointed out earlier that a number of addicts do not have work skills or sufficient orientation to the needs of employers to be suitable for unsupervised employment during early stage of treatment, even after they have developed a desire to work. Some of these addicts require training. Some need to understand, not only cognitively, but behaviorally, that good work habits include punctuality and steadfastness. Some addicts must be disabused of unrealistic expectations or prejudices related to the world of work. There are reported cases, for example, of rehabilitated addicts who thought only in terms of white-collar positions. After having been bored beyond endurance, they began to realize that there was really nothing demeaning about laying tiles or painting houses—and that such work could not only be more rewarding, but could also serve as a stepping-stone to eventual self-employment. There is no doubt that for addicts who have been in treatment but a short time, the controlled work situation may be ideal.

However, the Commission finds that even where the controlled work situation does not exist, the unskilled or untutored rehabilitated addict is virtually indistinguishable from other unskilled or untutored individuals who enter the work force; although because his age may be greater the employer's expectations may be higher.

Controlled work situations arise in two sets of circumstances: Either the addict is referred by a treatment program to a receptive employer, or an employer who has recognized that some of his employees

may have a drug problem has established a procedure for continuing such employees at work, under supervision, while they are in treatment.

One of the most successful supervised work programs has been carried on by the Vera Institute of Justice in New York City, in cooperation with the Off-Track Betting Corporation.

One OTB office was staffed by twenty-six partially rehabilitated addicts: each addict had been in treatment at least three months. Of these, fifty-eight percent were white, thirty-one percent black, and eleven percent Puerto Rican. Two were women. Although thirty-five percent had no previous conviction records, three had at least one felony conviction apiece; the overall average was 1.9 convictions per employee. All modalities of treatment were represented.

The prior work record of these employees was varied. Twenty-eight percent were working immediately prior to their being hired by OTB. Fifty-six percent had not worked for at least a year. Over half those hired had been receiving welfare benefits, for themselves and for their families, at an estimated total cost of thirty thousand dollars per year.

Costs per bet averaged better for the OTB office than for most other offices. Shortages were fewer. The termination rate was approximately the same. Twenty remained with OTB. After nine months, the office could be called a success, and a second office was opened, to be supervised by a rehabilitated addict from the first office and to be staffed by partially rehabilitated addicts who were veterans.

The process of on-the-job rehabilitation, in which each partially rehabilitated addict receives counseling and group therapy, lasts one year. After that time, a staff member of one of the controlled work situations may be transferred to any other OTB office and may or may not continue to receive counseling, as he wishes.

The Vera Institute has also developed other rehabilitating work programs, including public clean-up projects and the use of patients by the Pioneer Messenger Service.

Although most large corporations deny that any of their employees may be abusing or addicted to drugs, studies conducted by the Training for Living Institute and the Narcotic Addition Control Commission indicate that a much greater proportion of the work force is presently abusing drugs than is realized by most employers. Some firms have decided to ignore the issue or to take a hard-line attitude that anyone found to be using drugs will be dismissed. Their position is that the problem does not exist for them. In the report on actual discrimination, which follows this discussion, it will be seen that this type of statement is used to buttress the argument that hiring rehabilitated addicts invites a new problem. Actually, the contrary picture emerges from NACC's report of July 1971, *Differential Drug Use Within the New York State Labor Force* and Dr. Stephen J. Levy's report of June 1972, *A Study of Drug-Related Criminal Behavior in Business and Industry.*

Some firms have taken a different approach. Recognizing that a certain amount of investment in a good employee may be lost via a hard-line position, and recognizing the successes many organizations have had in salvaging employees who have developed emotional or drinking problems, these firms have begun to develop a rehabilitative approach towards the worker who abuses drugs.

The Equitable Life Assurance Society, with headquarters in New York City, has established such a program. Responding to this Commission's initial inquiry, Equitable's Chief Medical Director reported that as of April 1972, a total of twenty-two former or (then) present employees were known to have participated in narcotics rehabilitation programs. As in the case of the OTB experience, the productivity of Equitable employees who were being rehabilitated compared favorably with that of other Equitable employees. They appeared to have no special problems in relating to other workers.

Equitable measured the rehabilitation progress of these employees in four ways:

1. *Conferences were held with supervisors regarding job performance, behavior on the job, appearance and attendance, including promptness of each participant in the program. These occurred at regular intervals during and after rehabilitation.*

2. *Regular sessions were held with the New York Medical College counselors regarding each person in the program in order to learn of progress being made in obtaining self-identity, formulation of realistic goals, mobilization of effort to gain goals, and changes being made in life styles and associates.*

3. *Regular sessions were held with each employee during or after rehabilitation, to provide support and reinforcement of him as well as to learn of progress, problems, or other issues of interest.*

4. *Analysis of urine by chromatography was done for evidence of drug usage at regular, irregular intervals, not known in advance by the subject employee.*

Equitable's basic policy is described as follows:

Equitable looks on drug abuse as a medical problem, and an employee whose abuse of drugs affects his on-the-job performance or behavior will be referred to the Employees' Health Center. If the drug abuser is still able to function acceptably on the job, has had a previously satisfactory work record, and sincerely wishes help, Equitable will offer him an opportunity to restore his health and retain his job.

If drug abuse has gone so far that acceptable job performance is no longer possible, the employee will be placed on disability benefits or be dismissed. He will be continued on disability, with benefits governed by our group benefit coverages, so long as he cooperates fully with the recommended rehabilitation plan and makes progress satisfactory to the Medical Department. If he does not cooperate or does not make satisfactory progress, he will be dismissed.

If he is dismissed, it will be with the understanding that he will be considered for re-employment when, in the opinion of the Medical Department, he has become rehabilitated to a point where he is able to come back to work.

Employees found selling or passing drugs will be dismissed immediately and permanently. The Equitable is making a determined effort to prevent drug traffic on its premises, and in addition to dismissal action, is cooperating with the police and other law enforcement agencies in their detection and arrest of employees identified as being involved in drug traffic.

Other encouraging reports of similar efforts have come from out-of-state employers. The Detroit Diesel-Allison Division of the General Motors Corporation has encouraged heroin users on their assembly line to surface for treatment, with the promise that they will remain anonymous even if they drop out of treatment. The firm has found that addicted workers can be taken off heroin, put on methadone, and retained as productive employees. Of forty-six addicts treated, ten have even withdrawn from methadone and four of these have been upgraded in their jobs. A similar policy has been adopted by the Utah Division of the Kennecott Copper Corporation. Illinois Bell Telephone has gone even further, and provides not only methadone programs for addicts but also counseling for less serious heroin experimenters. Another Illinois firm, the Kemper Insurance Company, has an agreement with the Illinois Drug Abuse Program to accept rehabilitated addicts ready for work. Two spectacular successes of which Kemper boasts are a claims adjuster and a data-processing collator. Both young men, one white, one black, were heroin addicts who previously stole more than one hundred thousand dollars a year writing bad checks, thieving from mail boxes and selling merchandise acquired through the use of stolen credit cards. Together they now *earn* fifteen thousand dollars a year, on which, of course, they pay taxes.

The conclusion to be drawn from this analysis is that the treatment process, at the very least, places the rehabilitated addict in the same position as any worker of similar (or no) experience. The treatment process which also incorporates job training and actual controlled work situations yields a reliable, productive and trustworthy employee. The Commission finds that the rehabilitated addict is no greater liability to an employer than anyone else. The rehabilitated addict who has received additional training and work experience as an adjunct to his treatment is a good deal more.

III Discrimination in Employment

The State of New York has, thus far, enacted the broadest legislative framework for the treatment and rehabilitation of drug users. Many millions of taxpayers' dollars have been spent in attempting to provide the means of allowing the narcotics addict, in particular, to disengage himself from the destructive and self-destructive practices of street traffic, and to become, through rehabilitation, reintegrated into the mainstream of society. Instead of burdening the State with harmful and infectious conduct, the purpose and policy of our present legislation is to return the addict to the more responsible and meaningful status of worker and taxpayer.

Increasingly, it has become evident that the reluctance of certain major employers to hire rehabilitated addicts is a significant obstacle in the progress of such individuals from a role of dependence *on* society to the role of asset *to* society. Consequently, the reluctance to employ such individuals may be seen as enough of an obstacle to the fulfillment of the State's rehabilitation policy to require legislative action.

The evaluation of discrimination in employment relating to rehabilitated addicts was undertaken specifically within the Commission's mandate "to provide the executive department and the legislature with comprehensive information on the social, fiscal and health problems associated with narcotics addiction and drug abuse."

An initial definition is in order. The Commission was concerned with discrimination involving rehabilitated addicts which has no rational basis. All discrimination is not objectionable. If, however, categories of employability are established which bear no reasonable relationship to the requirements of the jobs in question, and such categories obstruct the execution of State policies and result in a loss of revenue for the State, then these are social and fiscal consequences which the Commission felt should be reviewed.

The following types of discrimination in the employment of rehabilitated addicts have been found by the Commission to exist: The first type of discrimination is a categorical refusal by employers even to consider the application of any individual with a history of unlawful drug use. This type of discrimination is based upon prejudices regarding the possibility of rehabilitating those who are constantly referred to in the media as the source of all of society's woes, particularly crimes against property and against the person. The second type of discrimination relates to the establishment of categories of employment which are unreasonably denoted as sensitive from the standpoint of their being filled by rehabilitated addicts. This type of discrimination is related to the view of the addict as basically unstable and, therefore, always subject to the possibility of erratic behavior. The third type of discrimination is based upon the view that work is purely a function of rehabilitation for the addict, and that only controlled work situations should be made available to persons with a history of unlawful drug use, regardless of their stage of rehabilitation. This latter type of discrimination gives rise to a kind of tokenism which may satisfy an individual employment counselor by reducing his or her caseload, but makes little overall sense, since it bars from the general work force those rehabilitated addicts who have demonstrated their reliability either by long-term adherence to treatment or by satisfactory work records subsequent to unlawful drug use. Banks and other financial institutions usually fall into this category.

A further type of discrimination is referred to by the addicts as "Catch-22." Although espousing a policy of hiring rehabilitated addicts, an employer establishes a practice of hiring no rehabilitated addicts or only those with exceptional skills. To obtain employment in the ordinary course of events, the rehabilitated addict, who has been informed of the actual practice by other patients, disguises his history of treatment on a job application to such a firm. Upon discovery by the firm that the employee, who is performing competently in all spheres, has not told the truth on the application, the employer dismisses the worker, ostensibly not because of his past drug history, but because he lied on the application. This is the practice of the Western Electric Corporation and the New York Telephone Company.

Despite the major public relations campaigns undertaken by treatment programs and civic organizations that hiring the rehabilitated addict is good business, and despite tactful and considered efforts by treatment programs to obtain voluntary cooperation from major employers, the Commission finds that widespread irrational discrimination on an unyielding and categorical basis exists in New York State.

For example, the Job Development Bureau of the Manpower and Career Development Agency of the New York City Human Resources Administration reported to us that their survey of eighty-nine major corporations with On-the-Job Training Programs revealed that only ten would consider the hiring of drug-free rehabilitated addicts and *none* would accept rehabilitated addicts on methadone maintenance. These are particularly disheartening statistics in light of the fact that such programs were federally funded for the benefit of disadvantaged citizens.

In the private sector, we find greatest resistance to the hiring of rehabilitated addicts in the areas of Wholesale and Retail Sales; Public Utilities; and Finance, Insurance and Banking firms. Along with government agencies, such as the New York City Transit Authority, these employers represent an estimated two million eight hundred fifty thousand jobs in the New York City metropolitan area alone.

Major retail sales employers have been particularly resistant to the hiring of rehabilitated addicts. Discussions with top executives at Macy*s offer a vivid picture of the paucity of reasoning involved in this policy.

Macy*s policy is that they will not consider for employment in any capacity any person *they know* to have used drugs unlawfully in the past.

Their first argument is that in a large department store, cash and merchandise are relatively accessible. Nationally, retail shortages account for losses of nearly eight million dollars per day. Many addicts steal to maintain their habit; consequently, rehabilitated addicts should not be employed.

The fallacy of this argument is that it rests upon a conclusion drawn from an incomplete set of facts. Because *un*rehabilitated addicts are painted as part of a sordid picture—of stealing and drug use—the same brush, it is argued, should be used to color *rehabilitated* addicts as undesirable employees. The argument, of course, makes no provision for the possibility that rehabilitation can produce significant changes in the conduct of the addict. To that extent, it denies categorically findings made by federal, state and local authorities, as well as by independent scholars, that rehabilitation results in ninety-six percent reduction in the arrest rate of addicts and a rise in socially useful behavior anywhere from seventy-five percent (for former convicts who are rehabilitated addicts) to up to ninety-five percent for other rehabilitated addicts in treatment for any length of time.

What Macy*s is saying is that, despite overwhelming evidence to the contrary, the taxpayers are wasting their money on rehabilitation, because rehabilitation is not possible. When this attitude was cross-checked with other major retailers in the State, the attitudes were frequently the same. One rival department store official, who did not wish to be identified, was asked what it would take to persuade the department stores that they were not seeing clearly. She responded that anti-discriminatory legislation might be the only way to change the situation, because the term "addict" has such immediate connotations of stealing, and the profit margins on individual retail items are sometimes so close, that unless the law dictated the hiring of some of these people their employment could never be justified to stockholders who might object.

Macy*s other major argument against the hiring of rehabilitated addicts is that in 1968 Macy*s did attempt to hire such people, but the experiment, from their standpoint, was not a success. They accepted one applicant from a methadone treatment program who did extremely well. The worker subsequently left Macy*s for a better job. They then hired sixteen referrals from several treatment programs. These individuals were not evaluated as to their capabilities by Macy*s: screening was left to the rehabilitation programs. None of the sixteen lasted more than seven months. Two were fired for "security reasons" (probably suspected theft); two were fired for poor attendance or work performance; two were post-Christmas lay-offs; two went on to better jobs and eight left for a variety of other reasons.

An objective analysis of this experience indicates that it is being given entirely too much weight.

1. Prior to employment, these applicants were not evaluated by competent store personnel. The employer believed that it was acting out of generosity, and not simply to hire qualified people.

2. Two suspected thieves out of seventeen blind hirings is bad, but hardly calamitous.

3. Referral methods and rehabilitation techniques have changed so dramatically since 1968 that Macy*s experience is now outdated. For example, the findings regarding methadone maintenance are now well established. It is no longer considered an experimental drug, and approval has been granted at all levels of government for its expansion as a treatment modality for heroin addicts.

Commission staff members called to the attention of the Macy*s executives the now famous statement

of another rival department store executive who has had a much better and more recent, although also extremely limited, experience in a suburban store:

"I hire them [recently rehabilitated addicts with criminal records] because with all of their problems, I would rather have them working for us, where they have a stake in our operation and where our security department knows who they are, than have them walking the aisles unemployed and stealing as they go."

Macy*s said it was unaware of recent good experiences in the hiring of rehabilitated addicts by others, but with regard to that particular rival store, Macy*s replied acidly: "We think we are better shopkeepers than they are."

The second type of discrimination found by the Commission involves the employer who describes so many of his jobs as sensitive that he effectively rules out the hiring or retention of rehabilitated addicts. The New York City Transit Authority is a precise, but not a singular, example. (The Long Island Railroad, which is operated by the Metropolitan Transportation Authority, the parent organization for the Transit Authority, takes the same position, as do numerous public utilities.)

According to Dr. William J. Ronan, who is Chairman of both the NYCTA and the MTA, Rule 11(b) of the Rules and Regulations governing employees of the NYCTA is the basis for that agency's discrimination. Rule 11(b) states:

Employees must not use, or have in their possession, narcotics, tranquilizers, drugs of the Amphetamine group or barbiturate derivatives or paraphernalia used to administer narcotics or barbiturate derivatives except with the written permission of the Medical-Director-Chief Surgeon of the System.

Since methadone is technically a narcotic, and since the Medical Director does not believe in its efficacy as a treatment modality, all persons found to be using methadone as part of a program for their own rehabilitation will either be dismissed or denied access to Transit Authority employment, regardless of the length of time they have been stabilized on methadone and regardless of their work record for the Transit Authority or for any other employer. Dr. Ronan goes even further. In a letter to the Commission dated April 6, 1972, Dr. Ronan made it clear that the discrimination against former unlawful users of drugs is total, regardless of whether they are on methadone or drug-free:

It is the present policy of the Transit Authority not to employ or retain those individuals who are participants in a narcotic rehabilitation program. We do not distinguish between those who have completed any rehabilitation program or are now on a program (emphasis added).

This position is so incredible, in that it would even debar from T.A. employment a graduate of the OTB program who was drug-free, that when Dr. Ronan sent Mr. Wilbur B. McLaren, Executive Officer for Labor and Personnel, to testify at a Commission hearing on September 20, 1972, Mr. McLaren stated that those who had completed a treatment program might be considered for employment with the T.A. if they were drug-free. Subsequently, however, in public statements by spokesmen of the T.A. to the National Broadcasting Company (November 19, 1972), and others, the original position taken by Dr. Ronan was reaffirmed: Anyone who had ever used drugs unlawfully would be fired or denied employment regardless of circumstances which would lead any reasonable person to reach a different conclusion.

The most revealing example of the manner in which prejudice against addicts can overwhelm all other relevant considerations is the case of Mr. Carl A. Beazer.

Mr. Beazer, who is black, was appointed to the Transit Authority at the age of twenty-five as a Car Cleaner on May 11, 1960. Six years later, on May 15, 1966 he received a permanent (as opposed to provisional) appointment as a Towerman. He had worked his way up from Car Cleaner to Conductor to Towerman. Most Transit Authority employees are regarded to have "clean" records if they have never been brought up for Departmental or Trial Board Hearings. Mr. Beazer was never disciplined in that fashion. During his total of eleven years with the Transit Authority, he received eight cautions and three warnings. Both those who ride and those who work in the New York City subway system will recognize a fairly typical record of occasional lapses:

Cautions:

1960—Failed to register his time card "OUT" at the end of tour.

1963—Off sick; not at home when T.A. representative called.

1964—No report.

1964—Off sick; not at home when T.A. representative called.

1965—Failed to follow instructions and misrouted a train (Mr. Beazer was a provisional towerman at this time.)

1966—Off sick; not at home when T.A. representative called.

1968—Gave misinformation resulting in a wrong route.

1970—Failed to advise Command Center of track circuit failing; failed to give "Call-on."

Warnings:

1962—Prematurely closed doors, causing female passenger to be struck by same.

1963—Rode in cab at operating position.

1963—Late report.

Mr. Carl A. Beazer was a user of and addicted to heroin from the date he came to the Transit Authority until April 26, 1971. At that time, he voluntarily entered the Veterans Administration Hospital. He remained there until June 7, 1971. His course of treatment was detoxification from heroin and rehabilitation through stabilization on methadone maintenance. He returned to work on July 12, 1971 as a Towerman and continued working without incident until August 30, 1971, at which time he was dismissed on the basis of a finding of methadone in his urine and the disclosure of his treatment for heroin addiction.

A departmental hearing was held on November 3, 1971 and November 22, 1971. On November 26, 1971 the Hearing Referee for the Authority found that the charge against Mr. Beazer, violating Rule 11(b), should be sustained and that Mr. Beazer should be dismissed. Mr. Beazer's case was reviewed by the Impartial Disciplinary Review Board of the New York City Transit System on June 12, 1972. Both parties were represented by counsel. The findings were that Mr. Beazer had "compiled a good record. . . He has done his job well", they said, "and has received relatively few cautions and warnings for the time that he has been employed." Moreover, they concluded that "Mr. Beazer handled his job competently while participating in the methadone program." However, since Mr. Beazer did not have the written permission of the Medical Director to use a narcotic drug, he had violated Rule 11(b) and had to be dismissed. The Board requested that the Union and the Transit Authority reconsider the rules and practices of the Transit System as it relates to drug users.

"They should particularly examine the merits of the relatively new methadone program," the Board concluded. "Perhaps, through their careful consideration of the drug problem as it relates to the employees of the Authority, they will find a way to help employees, such as Carl Beazer, who have struggled so valiantly and well to overcome the drug habit."

Carl Beazer is now working at the Veterans Hospital, where, incidentally, he has been doing the same competent, loyal, steadfast job he did for the T.A. He is considered totally reliable and has, if he wanted them, access to dangerous drugs.

What, then, are the considerations underlying a public policy which could work so great a personal injustice by a major employer?

At the hearing for Carl Beazer, the Transit Authority introduced testimony by a physician who was qualified as an expert and who made statements which have been controverted in every scientific and governmental forum. The sum and substance of the T.A. position was that they do not believe in the efficacy of methadone maintenance. The "expert" testified that stabilized methadone patients receive the same euphoric sensation from methadone as heroin users derive from heroin. As reported in Part II of this report, the testimony was false. The "expert" testified that stabilized methadone patients are susceptible to inattentiveness and nodding. Also covered in Part II of this report, this testimony was false. No methadone patient licensed to drive a truck or a taxi has ever been found nodding at the wheel. Finally, in a burst of prejudicial remarks, the "expert" testified that all those who make statements favorable to methadone have a vested, proprietary interest in its use. The qualifications of the authorities already cited in this Report are sufficiently well known to survive that particular gratuity.

On behalf of the Transit Authority, Mr. McLaren testified to the Commission that most T.A. jobs are sensitive. Of the more than fifty thousand jobs in the Transit System, Mr. McLaren told the Beazer hearing (page 96 of the transcript) that thirty-five to thirty-six thousand of the forty-three thousand Transit Authority jobs were involved with operation and maintenance. Thus, six to seven thousand might be considered *non*-sensitive. However, when it became evident that the suggestion would be made to transfer Mr. Beazer to a non-sensitive position, Mr. McLaren sought to change the impact of those figures by insisting to us that by non-sensitive he meant jobs with immediate physical supervision and these would constitute but fifteen hundred. In other words, regardless of *any* indicia of reliability, the T.A. would consider sensitive to a rehabilitated addict any but the small (and always diminishing under argument) number of desk jobs reserved for older or disabled workers. The Commission finds that the term sensitive is entirely self-serving and bears no reasonable relationship to the nature of the conduct which can be predicted from rehabilitated addicts.

Every applicant for a T.A. position is carefully tested with regard to his skills, intelligence and motivation. He receives, on occasion, more than one medical examination. He is interviewed, frequently on more than one occasion. He may be asked to furnish any reasonable evidence of his reliability, steadfast-

ness and satisfactory prior job performance. He may be appointed provisionally. Routine regular, irregular examinations and urine tests are done. It appears to us that any rehabilitated addict who qualifies for a Transit System job through the rigors of its almost infinite screening and job review processes ought to get and hold that job, upon furnishing proof that his rehabilitation has been complete and successful.

However, Mr. McLaren points out that one never knows when a rehabilitated addict might slip back to drug use. Here, a comparison of Transit System policy with regard to alcoholism would be particularly illuminating. Had Mr. Beazer been found drunk in the washroom or weaving along the tracks, what would have happened to him? He would not have been fired. He would have been referred for treatment. At the present time there are an estimated three thousand T.A. employees in treatment for alcoholism. Since Mr. Beazer had more than ten years of service with the T.A., if he had been an alcoholic, after he had been dried out, he would have been returned to a less demanding job, but *at full pay*. Had he more than three years' tenure, he would have been returned to a less demanding job at the reduced pay of the lower grade job. Upon a demonstration of reliability (up to three years), he would have been returned to the Tower. Now, apparently, Mr. McLaren has never heard of anyone falling off the wagon. In fact, however, return to alcohol is a far more prevalent phenomenon than return to unlawful drugs. The reason is plain. Alcohol is legal. That is why there are twenty times as many alcoholics in the United States as there are heroin addicts. The temptation to take that one drink requires very little ingenuity or risk to satisfy. On the other hand, the truly rehabilitated addict has less opportunity to revert than the alcoholic and, often, better motivation to stay clean. Moreover, if he receives methadone, his urine will be checked not only on the job, but at his clinic, all of which have agreed to supply updated reports to the T.A. on any patient. The Transit Authority's discrimination against rehabilitated addicts is therefore not justified in the context of its policy towards alcoholics. This is a clear case of denial of equal protection of the law by a quasi-governmental agency. If the riding public is not endangered by a humanitarian approach towards reformed alcoholics, the Commission believes it would not be endangered by a similar approach to reformed addicts.

One further point. Agencies which take positions which are dubiously ethical sometimes seek allies in ways which are also dubiously ethical. Reports have been received by the Commission that the T.A. has not only dismissed rehabilitated addicts, but it has gone out of its way to inform later employers of the same persons about their backgrounds. One case in particular, reported to us by the Veterans Administration, involved a rehabilitated addict who was a Vietnam veteran. He was fired from his later job as well.

The type of discrimination which treats jobs solely as an adjunct to therapy has been discussed previously. On the pages that follow are a brief selection of cases reported to the Commission of a variety of types of discrimination. The case of Mr. I., the Commission is happy to note, finally had a happy ending. The New York City Police Department granted Mr. I. his tow-truck license after finding that their earlier denial did not reflect either the truth about the nature of the methadone maintenance programs nor the truth about the reliability of methadone maintained patients.

Case # 0001

Testimony of John Browski
Commission Hearing, September 20, 1972
New York City

I have been on methadone for four years. I started using drugs at 17. I used drugs for 10 years before going on the program. I had tried every existing program at that time and I failed at all the programs. I was at Ky five times; I detoxed at hospitals five times. I had been clean after cleaning up a number of times and each time I had come out of the hospital or jail, I would try and find work. As soon as I would find work, I would spend the money on drugs and if that wasn't enough, I would steal from the company. I left jobs because I couldn't make it in and I had to steal, mostly burglaries.

When I heard about the methadone program, I was skeptical of success but after I had seen it work on friends whom I had considered more of life-long junkies than myself staying clean on methadone, I decided to give it a try hoping that this would be the answer. From the first day on the program until this day, I have not touched a drop of junk which surprises me more than anybody. I was sure the only way this program would work for me was to find a job as soon as I got out of the hospital, which was about one month after getting on the program. Two months later I got a job with Western Electric. Before I went down to WE I found out that they will not hire meth patients or ex-addicts. So I told myself the only way to get the job was to lie. The application asked the questions whether I had ever used drugs habitually. I answered no. I went for the physical and the doctor did not notice my tracks because they were not fresh. One and half years after working

I had an accident on the job and I hurt my back. Three months later I was informed that I would need surgery. I went into the hospital and I was told that I would have to confide to my doctor, who was a consultant for WE, that I was on meth so I could get the meth through the hospital. He had filed a report with the company mentioning that I was on meth. Three months after the operation, I was called in for a hearing and was asked if I was on meth. Not knowing where they had gotten the information, I had denied the fact that I was on meth. Then they asked me if I had not told the doctor that I was on meth. Knowing that they had found out through my doctor, I decided to tell the truth and I was glad to get it off my chest. I had felt all the time I was working there that I had to hide the fact that I was on meth from my employers and my co-workers. When they found out the truth, I was glad to admit it hoping that they would not fire me because I had a good work record and I thought that I had proven myself after working for them for two years. But I was informed that it is company policy not to hire meth patients and if I had told them I was on meth at the time, they would not have hired me. So my services were terminated. This was in April, 1971. I have been collecting compensation from the company for 1½ years. They are actually paying me $50 a week not to work for them because when they fired me, I was able to work. A few months ago, I met a shop steward who was working at the same place I was. He was not aware that I was fired. When I told him why I was fired, he had told me of another case similar to mine where they told the employee that if he was to remain drug-free for six months, they would consider re-hiring him. He had asked me if I could get off meth. I told him I cannot find any reason to get off meth because there is always the possibility that I would go back to using heroin again. I told him that as long as I was on meth, it was physically impossible for me to use heroin again and the problem would not exist. I have tried staying drug-free and I find that every minute of the day I am conscious of having the urge to get high. As long as I am on meth, the problem does not exist. It is not a day-to-day battle—there is no problem. I find the day-to-day hassles no problem. He could not understand this. He thought meth was just another substitute for heroin and that I still had a drug problem, and I guess that is the same way the company looks at it. If someone was to ask me how long I have been off drugs, I would say four years. I do not consider taking meth the same way I would consider using heroin or any other addicted drug. Even though it is a narcotic and addicting drug, I find that taking it every morning in my juice, it is just part of my diet. I am not conscious that I am taking a drug every day or addicted to meth. Only when people ask me why can't I get off it, do I realize that I am addicted to meth. But I do not see it as a problem.

At places where I have been looking for work, some applications ask questions about drugs and some don't. Some ask whether you have ever used narcotics and ever been arrested. There are not many differences in the jobs but some will ask. When I come across an application which asks these questions, I have to lie if I expect to get the job. I feel that these questions are put on the application for that purpose. I have tried being honest with employers and I usually get the same response that it is not up to the employer, it is a company policy or that they will just tell me there are no openings. So I have decided that the only chance I have of getting a job is by lying.

Recently I graduated from RCA Institute Studio School and presently I am looking for work as a studio technician with not too much success. I had applied for a hack license in March. Before I had applied for the job, I had tried to inquire whether the hack bureau was licensing meth patients. I could not get a definite answer from anybody working for the hack bureau and was reluctant to apply until I met a cab driver who was a meth patient and was driving. I had went through the hassle of applying for the license which took me about two weeks and cost me $25, after which I was told that it would be up to the doctor to decide. After seeing the doctor, he told me that as of now the hack bureau is not licensing meth patients and that I would hear from them in a month. This was in March and I still have not heard from them.

Case #00017

Methadone Maintenance Treatment Program

ANDREW DE FIBRITIS
O. P. D. #1
Counselor: Victor Saavedra

Mr. De Fibritis was employed at Co-Op City as a maintenance man for five (5) months. After an incident where his medication had been stolen from his locker, Mr. De Fibritis reported to all of the supervisors at his job that his medication had been stolen, realizing the danger involved. Continued harassment from his supervisors because he was on a methadone program forced Mr. De Fibritis to quit his job and to seek other employment.

For the past one and half years Mr. De Fibritis and his brother have now become sub-contractors in their own link fence company.

Case #00043

Testimony, Employment Counselor, Syracuse Hearing, October 4, 1972

On Friday, November 5, 1971, I met with the director and assistant director of personnel of Company B, a large insurance company in Syracuse. The purpose of my visit was to discuss the possible referral of two specific and well-qualified candidates for clerical positions and to explain the methadone maintenance treatment program. Company B had received publicity for initiating a new, national hiring practice: that of not discriminating against individuals with histories of drug abuse and addiction.

The director of personnel expressed surprise upon learning of this policy and after a lengthy discussion of this treatment program stated that he would check with the national office. I was given some brochures on the company's alcohol rehabilitation programs and asked to call in about two weeks. Two weeks later it was requested that I call in about a month. A month later I was told that the local company "would not be ready for quite a while" to adopt this national policy.

Case #00125

Methadone Maintenance Treatment Program Employment Discrimination by Transit Authority

A patient on the Methadone Maintenance Treatment Program since 1968, took the maintainers helper test given by the Transit Authority in February, 1970. Francisco did this as an effort to change and improve his employment situation. He has been working as a sheet metal mechanic for several years. Francisco passed the test and was requested to take a medical examination on June 5, 1970 for the job. Because he did not want to lie about his present medical situation, he brought with him a letter from our staff medical doctor, L. Tartow, M.D. Francisco was told that he was ineligible for employment with the Transit Authority because he is maintained on methadone. An appeal was made by Dr. Harold Trigg, Dr. Tartow and Eileen Wolkstein and further denied because of Francisco's medical disqualification on September 23, 1970.

Case #00184

Methadone Maintenance Treatment Program

GREGORY SMITH

O. P. D. # 1

Counselor: Elmer Harris

Mr. Smith had been working for Con Edison for two (2) years, in the capacity of a survey crewman. During that time Mr. Smith was addicted and started missing many days of work and realizing that he would be found out he decided to tell his supervisors of his problem. His supervisors decided that he should get into some treatment program for approximately six (6) months and after that period would then be able to resume working for them.

Mr. Smith has been on our program for over two (2) years and he and a program representative have been in touch with his supervisors and till today he has not been reinstated.

Case #00237

Copy of Letter

Dear Mr. _____:

I am writing you this letter only because I have received no satisfaction from either Personnel or the Medical Department. Last October 3rd, 1972, I applied for the position of 3rd class shipfitter at you office. I was given an application which I filled out, and was told to return October 5th. On that date, I filled out an application and medical form and signed all the necessary forms and papers. I was then interviewed by two gentlemen, one of which was Mr. _____, who hired me as a 3rd class shipfitter. On October 6th, I was interviewed again, and filled out further forms. I then underwent a complete physical, hearing test, vision test and a sample of my blood and urine was taken. I was then sent to Personnel where I was again interviewed and instructed to report the following Wednesday, October 10th. On this day I was given the necessary instructions and equipment and assigned a supervisor, and I began actual work on the following day. I worked continuously from then until the 26th of October, without any unexecused lateness or absence ,and my supervisor and leaderman have said they were quite satisfied with my performance. I was most pleased with my job and enjoyed working for the company.

On the evening of October 26th my leaderman assigned me to my work area and after working several hours, he came to me with a pink slip stating that I'd been terminated and should stop working immediately, with the only explanation being "medical reasons". He said he knew nothing about it and advised me to ask at the Medical Department. At Medical I was told that no one knew anything about it. I then went to see my supervisor and he discussed the matter with both my leaderman and Mr. _____. He advised my supervisor and leaderman to escort me over to Medical and demand that I be given an examination then and there, but were told that was impossible by the Doctor, because there was no record of mine in Medical's files. The following day, October 27th, I went to see a Mr. _____ at Personnel and he told me that the reason I was terminated was because methadone was found in my urine sample.

This explanation took me rather by surprise, because during my first interview with Mr. _____, I informed him of the fact that I was currently enrolled at the Long Island Jewish Hospital's Methadone Maintenance Program, and had been there 14 months, the entire time of which I've remained drug-free. At this interview I also filled out a medical questionnaire and specifically stated my being on a methadone program. At my second interview, I again made mention of this fact to a Mrs. _____, and she told me that it made no difference. I brought up the subject again with the doctor who examined me, and was told that all I was required to do was have a letter sent by my clinic stating how long I had been drug-free, which was done the following day. The matter was also discussed during my final interview at Personnel and at no time during this or any other discussion of the subject was the problem of age noted. I was hired with full knowledge of the matter by all parties concerned, and I tried to hide nothing whatever.

When I explained this to Mr. _____, who had my complete file in front of him, he said that the company rule was that no one under the age of 30, and on a methadone program could be hired. I asked Mr. _____ if I had met all of the qualifications for the job with the exception of age, and he replied "yes". When asked why no one had made mention of this fact before I was hired he said that they had all made a "mistake." Mr. _____ said that Dr. _____ was responsible for this regulation. I asked if I could speak with Dr. _____ and was told to return the following Monday, October 30th. On the 30th, I returned Mr. _____'s office, along with my counselor Mr. _____ who was good enough to take time off from work to discuss the problem with Mr. _____ and Dr. _____. After waiting a full two hours, we were told that Mr. _____ would not see us that day and that Dr. _____ wouldn't be in until Thursday, November 2nd. Mr. _____ and I returned on the 2nd and were told we would not be permitted to see Dr. _____ and that his decisions were final and non-negotiable. We were then directed to see a Mr. _____ who claimed to be the "Medical Administrator", but who in fact was Security Chief. He reaffirmed the reason as being none other than my being 26 years old and said the matter was closed. Although I have no tangible proof, I know for a fact that there are many other empolyees at _____ working in the same capacity as I was, who are under the age of 30. Due to this and the fact that both my supervisor and leaderman were quite satisfied with my total performance, I fail to understand the attitude of those responsible for my being fired.

Case #00294

Health Services Administration

Mr. R., 20 years old, began treatment April 5, 1972 and started work in an entry level office position at _____ Bank on April 10, 1972. (Mr. R. found the job through his own efforts). On April 24, 1972, Mr. R. was advised that he was being terminated immediately because methadone had been found in his urine. The vice president was adamant in his refusal to reinstate Mr. R., though the latter's performance had been satisfactory; he refused to consider the employment of any methadone patients. Mr. R. worked steadily since dropping out of the seventh grade as a press operator in a government printing office (for which he required a security clearance) and in another bank. His only criminal record involved a youthful offender conviction. He is currently employed in another bank.

Case #00295

Health Services Administration

Mr. R., age 19, entered treatment November 5, 1971. He began work as a carpet installer for a large Staten Island firm on approximately November 8, 1971, and was terminated November 19, 1971, after mentioning to a fellow employee his involvement with our program. In response to our inquiries, the firm replied, "The reason for his dismissal was the fact that he was on a methadone program. . . . Mr. R. was a very willing worker . . . (but) we have a big plant and it is difficult to keep all areas and all personnel under observation at all times. We have had bad experiences with drug users in the past and cannot afford to take the chance again." Mr. R. has completed the tenth grade, and prior to this job, his only employment had been that of a carwash attendant. Currently, he is employed as a construction laborer.

Case #00296

Health Services Administration

On June 14, 1972, the New York City Department of Personnel refused to appoint Mr. A. to the position of motor vehicle operator, although he had passed the test. Reason given: History of narcotic addiction. When advised that this decision was contrary to the Department's stated policy of nondis-

criminatory treatment of ex-addicts, the Department claimed that the question of safety was involved and must be studied. An appeal is being scheduled.

Case #00297
Health Services Administration

Mr. B., another patient stabilized a short time, applied to _____'s program at the Brooklyn Naval Yard. The program is designed to recruit among disadvantaged residents in the Brooklyn area. Our patient was initially accepted by the personnel department and later rejected when methadone was found in his urine. The company advised us that occasional exceptions were made if the applicant were on a detoxification schedule and agreed to get off methadone completely. We requested a meeting to discuss the possible benefits of hiring maintained patients and the medical illogic of the firm's policy. Initially, the president of the corporation agreed to discuss the proposal with us and his medical director, Dr. _____. However, Dr. _____ had advised us that he is adamantly opposed to methadone treatment, will not hire anyone on methadone, and will not discuss the matter with us.

Case #00298
Health Services Administration

Mr. I. is a 24-year-old patient in treatment since September, 1971, was denied a tow truck operator's license by the N.Y.C. Police Department. Mr. I. had applied for the license in order to work in and ultimately take over of his father's business. Reason given by the Hearing Officer: "Disapproved because of prior drug addiction and current use of methadone." Mr. I., an honorably discharged Air Force veteran, is considered a model patient and made a deliberate decision not to lie on the application. Another appeal has been requested.

Case #00356
Methadone Maintenance Treatment Program

_____, a Methadone Maintenance Treatment Program patient since February 1968, took a test for a bus driver's position with the Manhattan and Bronx Surface Transit Operating Authority. He is #303 on the list. In July 1970, he took a medical examination, bringing with him a letter from Dr. Tartow. On February 10th he received a letter from Patrick K. Naughton, Admin-Personnel of MaBSTOA, stating that _____ did not receive appointment because he "did not meet the medical requirements."

An appeal was made to Mr. Naughton by letter from Mr. _____, Dr. Trigg, Dr. Tartow and myself. He submitted them to the Medical Director of MaBSTOA, who decided that the original refusal of employment, after reevaluation, will remain unchanged.

_____ has been working for White Rock Beverage Co. driving a truck since 1967.

Case #00381
Methadone Maintenance Treatment Program

REGINA GUILIANO
O. P. D. #1

Miss Guiliano had worked for the New York Telephone Company for over a year without ever missing a day's work. Urine testing was done of all employees because of a drug scare whereupon they discovered methadone in her urine and she was then immediately discharged. She was interviewed by the medical director and at that time admitted to being on a methadone program for two years. The doctor explained she had lied on the initial application and that was the reason for her termination. Miss Guiliano then asked the doctor if she had admitted to being on the methadone program would she have been hired. His answer was "probably no."

Case #00451
Methadone Maintenance Treatment Program

BERTEYL DELGADO
Lincoln O. P. D. #1
Counselor: Gil Ortez

Mr. Delgado was a member of local three for over eight years and was employed by the same electrical contractor for six years. After six years of steady employment, his employer discovered that Mr. Delgado was on a methadone maintenance treatment program and he was discharged two weeks later.

Mr. Delgado then explained to his employer that after being addicted during the first four years of his employment he then realized that he needed help and came to the Albert Einstein College of Medicine Methadone Maintenance Treatment Program.

Mr. Delgado has been on our program for two years and has continued to work for a furniture moving company or as a salesman for a beauty supply company. Again Mr. Delgado tried to get back into local three under the construction worker trainee program and of the thirteen people referred only one was refused employment, Mr. Delgado. It was stated that he was an employment risk.

With the savings he made in the last two years Mr. Delgado has become a part owner in a pet shop.

IV Bonding

A. The Federal Bonding Program

The Federal Bonding Program was started as an experimental and demonstration project as a result of a 1965 amendment to the Manpower Development and Training Act. Since that time it has been expanded nationwide as an operational tool to assist in the job placement of those persons who are qualified to work but are being denied this opportunity because they are not commercially bondable under the usual circumstances. One of the objectives of the project was to influence the bonding industry to relax their eligibility requirements for commercial fidelity bonding coverage. The project had had mild success in this effort. But a better awareness of the employment problems of persons who are not commercially bondable on the part of the industry has been achieved.

As of May of this year, the Federal Bonding Program was experiencing a default rate of 1.6%, which is considerably better than that of the industry in general, with its coverage being limited to persons who are not in the "high risk" category.

It has been possible in a few instances to share the bonding coverage liability with another insurer. The job situations for most clients usually do not require more than the $10,000 and the situations wherein a larger amount was needed has been minimal. The arrangement made with other insurers was that the Department of Labor contract insurer would be responsible for the initial $10,000 loss and that the second insurer would be responsible for losses over that amount up to the agreed upon limit of loss.

The Federal Bonding Program is a means by which the Manpower Administration of the Department of Labor offers fidelity bonding coverage to qualified job applicants who cannot otherwise obtain it. It is administered by the State employment service agencies, which have a limited amount of coverage that can be extended to individuals in particular instances. This bonding coverage is available to persons who cannot obtain suitable employment because they have police, credit, or other records which prevent their being covered by the usual commercial bonds. Prospective employers require these bonds to protect themselves against loss from infidelity, dishonesty, or default.

The bonds are issued in units of $500 for eligible participants from a minimum bond of $500 up to a maximum bond of $10,000. In negotiating with the employer, the amount of the bond would depend on the potential loss of money or property that would be sustained through any fraudulent or dishonest act committed by the employee. Although the bonds have no specified termination date, coverage is usually obligated for one year. At the end of that year, the employer will be asked to assimilate the bonded individual into his regular bonding arrangements, drop the requirement for bonding, or make whatever arrangement he can, provided this does not jeopardize the individual's job. If the employer cannot make other arrangements, coverage may continue for an additional six months past that year. However, the duration of coverage under the Federal Bonding Program is limited to eighteen months. In the event the employer will not drop the bonding requirement or his insurance carrier will not accept the bondee, arrangements can be made through the Federal Bonding Program for standard coverage, at the employer's expense, with an insurance company authorized to do business in the State.

An applicant is eligible for bonding when he
- —is trying to get a job in New York State
- —has the occupational skills needed to fill a bondable job
- —requires bonding to get suitable employment
- —is unable to obtain bonding through regular channels
- —has not previously been terminated under this program because of a dishonest act.

Note: No bondee may be covered for more than one bonded job at the same time.

An employer is eligible when the
- —job opening includes a bonding requirement or when, even if the job opening is not currently a bondable position, irresponsible or dishonest conduct in the position could materially damage the employer

—employer is unable to obtain bonding for the applicant under his regular bonding contract

—the job is a full-time position with reasonable expectation of permanency, adequate wages and working conditions

—required bond coverage does not exceed $10,000 (20 bonding units per month).

Any person with a bonding problem which meets the above criteria can be processed by our local State Employment Service offices; the particular office, of course, would depend on the individual's occupational classification and/or his place of residence.

STATE BONDING COORDINATOR IS
Mr. William G. Rafferty
State of New York
Department of Labor
Division of Employment
370 Seventh Avenue
New York, N.Y. 10001
(212) 563-7660

Program. Since March 1966, the Manpower Administration of the U.S. Department of Labor has been conducting a limited pilot program of bonding assistance through various public employment offices across the country for two primary purposes: (a) to determine the usefulness of providing fidelity bonding coverage to ex-offenders and selected others; and (b) to develop employer and commercial bonding firm reexamination of bonding practices, in an effort to reduce barriers to employment for reasons other than ability to perform. The program was started in four cities—Los Angeles, New York, Chicago, and Washington, D.C.—and coverage was made available for those persons qualified and suitable for the employment in question through counselors in State employment service offices and six special manpower projects.

Gradually expanded to include the 20-odd Concentrated Employment Program cities, and later added as a component to each MDTA prisoner training project, coverage up to $10,000 a person, where it is needed to get a job, was made available nationwide in January 1971 through the more than 2,200 local public employment service offices on a continued pilot basis.

Eligibility for coverage is determined by applying a simple rule: Is the fidelity bond coverage necessary to remove the barrier between the man and the job? Under the program, a "name schedule bond" may be provided to individuals (a) where it is (or may be) a condition of employment; and (b) who have been (or might be) refused bonding coverage by regular commercial sources. In addition, when a person performs successfully for 18 months under the program, he is eligible for "regular" bonding.

COSTS. In 1966, the McLaughlin Company of Washington, D.C., under contract to the Department of Labor, procured coverage from a fidelity insurer who agreed to furnish bonding coverage in the form of "units," each one representing $500 coverage for one month. The charge for each unit was $1.75, equal to $42 a thousand dollars of coverage a year. Because of the low "default rate" at the end of the first three years, the insurer lowered its rates for further purchase to 70 cents a unit, or $16.80 a thousand, which compares favorably with some commercial rates.

DEFAULTS. As of December 31, 1971, there were 3,610 persons bonded in the program, with only 56 claims paid by the insurer. One hundred thirty-six "claims" were actually reported, but many of these were not applicable to the coverage. Some are still pending. The rate of default for this period is 1.6% with a total of $45,360 paid in claims over the 5½-year period. Paid claims ranged from $10 to $3,700, with an average of a little over $800 a defaulter. This is exceptionally low, considering there was a potential loss of over $18 million (based on $5,000 average coverage for 3,610 persons).

Currently, the program has been bonding about 100 persons a month, and has been receiving about 85 terminations a month, with almost 1,000 active bondees on the rolls.

B. Private Bonding

The Commission attempted to determine the nature of actuarial risks, if any, in the employment of rehabilitated addicts. The method used was to send questionnaires to major bonding firms, located both within and without the State which provide bonding for major employers within the State. We had received reports that a number of New York State firms were refusing to bond rehabilitated addicts. We were also informed by high-ranking sources that, in general, more jobs tend to be bonded than necessary in this State.

The trend of the replies was that bonding companies provide blanket coverage to employers, that they are not concerned with prior drug histories of individual job applicants, nor with predictions of possible misconduct, but that they are very definitely concerned about prior criminal arrests and convictions.

One of the largest companies stated:

As in the case of ex-convicts, the problem of employment lies basically with employers. Surety companies are rarely called upon to make the decision because the decision will have already been made by the employer, all too often on the excuse that "our bonding company won't cover you." At best estimates, only about 20% of non-financial type businesses bond their employees at all. The minority that do bond, in most instances, do so under a blanket form where individual applications are not required by the surety. Finally, when in the infrequent instances that special decision is required of the surety, practically all companies will make evaluations on the individual merits.

This firm stated that it has denied bonding in individual cases where there has been a record of arrest or conviction for unlawful drug sales; it has also bonded several rehabilitated addicts, "where the facts make self-evident the rehabilitation of the individual through any type of treatment program."

Another major firm, while stating that employers are the ones who make the decision, indicated that it had received inquires for advice from large stockbrokers and banks. Their advice was that persons who are presently undergoing a narcotics rehabilitation program should be employed in areas where there is no exposure to money or securities. They stated that they would not deny bonding to persons solely by reason of prior unlawful drug use, but they have denied bonding for prior arrest and conviction records.

Another series of answers to our questions revealed an unexpected sensitivity to the needs of rehabilitated addicts by a major surety. While this particular firm had little experience with individual cases of rehabilitated addicts, its guidelines seem to the Commission to be entirely rational.

1. *We have occasionally received inquiries relative to the bonding of individuals with a prior history of unlawful drug use. Usually the inquiry emanates from an employer who is one of our insureds. Less frequently an individual applying for a job with one of our insureds will make inquiry. We do not recall any inquiries from a treatment program.*
2. *We have advised interrogators that we do not consider a history of drug use to be a disqualification in and of itself for bonding coverage. Where the applicant is an employee or prospective employee of one of our insureds, we offer to conduct a special investigation to determine eligibility for bond if our insured wishes to hire or retain the individual's services. Such cases are decided on an individual basis, with an effort made to evaluate all the factors involved in each case. We do not make such determinations for individuals who are not employees or prospective employees of one of our insureds.*
3. *It is not our practice to deny Fidelity bond coverage on the basis of unlawful drug usage alone, or on that basis and in connection with arrests or convictions solely involving charges of unlawful drug usage. We have at times denied coverage because of dishonest acts (burglary, robbery, embezzlement, fraud, etc.) but in all such cases the dishonest act itself triggered the denial irrespective of whether the act was connected with unlawful drug usage. To reiterate, each case involving prior dishonesty is evaluated on its own merits.*
4. *We have bonded persons who have participated in some form of drug rehabilitation program whenever we have been satisfied that the applicant is presently a reasonable risk and is unlikely to commit any further dishonest acts to which our coverage would apply. In making such determinations, we attempt to take into account the successful participation in such programs, the length of time since the last dishonest act occurred, the apparent efforts of the individual to rehabilitate himself, the sensitivity of the position, the amount of a deductible under our coverage, and the degree of supervision provided by the employer. We do not feel qualified to evaluate an applicant on the basis of a distinction between a drug free and a methadone maintenance program.*
5. *We are unable to recall any instances in which we have been requested to supplement or pick up expiring coverage under the Federal Bonding Program. We should again observe that we are invariably dealing with an employer who is bonding an entire group of employees and not with an individual employee who is supplying the bond himself and perhaps carrying the bond from job to job. Consequently, the presence or absence of the Federal Program has had no effect on our underwriting.*
6. *We do not believe that we are or have been reluctant to bond persons with a prior history of drug use per se. Recognizing that drug abuse is a major social problem, our experience has provided no reason to regard it as a significant factor in Fidelity bonding. Inasmuch as we do not investigate individual applicants and have developed no loss data which suggests that drug related employee dishonesty is a significant cause of loss, we are unable to furnish data or suggest studies which might be helpful.*
7. *We have no specific suggestions which might aid in the bondability of drug users, other than to*

suggest that the problem of a drug user in obtaining a job may be greater than his being included in a group of bonded employees.

Similarly, another firm responded with the following guideline:

"As respects bonding of any person known to have resorted to dishonesty to support any addiction, compulsion, or obsession connected with drugs, alcohol, gambling, expensive tastes, or whatever, we would require that that person be able to demonstrate that he had performed in the manner expected of members of society for a length of time sufficient to give credence to a claim that he had in fact overcome his problem."

The Commission finds, therefore, that on the basis of the availability of federal bonding and liberal blanket coverage by private surety firms, that discrimination which exists against rehabilitated addicts emanates from employers, who, only as a pretext, will categorically deny employment on the basis of an alleged inability to bond all rehabilitated addicts.

V A Proposed Remedy

The Commission has found that major employers in New York State discriminate against persons who are capable of working, but who have been treated for unlawful use of drugs. Because of the public's extremely negative attitude toward addicts, some of it founded in fact and some of it founded in unreasoning fear, and because most major employers share that attitude, the Commission finds that a change in attitude by employers is not likely to occur. As a rule, employers do not distinguish, in their thinking, between addicts and rehabilitated addicts. Consequently, they seldom allow rehabilitated addicts to prove themselves. When they discover that workers who have done a good job are, in fact, rehabilitated addicts, they usually fire them on the pretext that they failed to disclose their histories when they applied for the jobs, or because their prejudices will not allow them to associate with persons who have such histories. The result is that employers tend to deny themselves the only meaningful experiences by which they could overcome their reluctance to hire rehabilitated addicts, i.e. by hiring rehabilitated addicts. Smaller employers have been more receptive to individualized efforts, and some major employers have agreed to hire a very few rehabilitated addicts. However, the numbers are virtually insignificant: Most rehabilitated addicts who are gainfully employed at the present time have not disclosed their histories to their employers. If they did, in most cases they would be fired. The number of rehabilitated addicts who will enter the job market by the end of 1973, an estimated forty-eight thousand, cannot be absorbed in this way.

No rational social or fiscal policy is served by spending millions of dollars (to which major employers make sizeable contributions) to treat addicts solely for the purpose of spending more millions of dollars to keep them on welfare, with the likelihood that enforced inactivity will even lead some rehabilitated addicts to slip back to unlawful drug use and the harms associated with such unlawful drug use.

If treatment works, it should be relied upon; if it does not, it should be discontinued.

A number of suggestions have been received by the Commission with the goal of expanding employment opportunities for rehabilitated addicts. Almost all of the suggestions have envisaged some form of legislative relief as essential. Attention has focused particularly on enactment of provisions of law which would bar discrimination in employment to rehabilitated addicts.

Some have suggested that such legislation be limited to cover only public employment, on the theory that the hiring of rehabilitated addicts is experimental and that any risks should be borne by the public rather than the private sector. Moreover, it is said that public employment might set an example for private employers to follow.

The Commission has studied this suggestion very carefully and is constrained to reject it as unsound, unworkable and not likely to be effective. There is nothing experimental about the hiring of rehabilitated addicts. This category of worker has been found by the Commission to be reliable, steadfast and virtually indistinguishable from all other categories of workers who perform satisfactorily. This Report has also demonstrated that risks attendant upon the hiring of rehabilitated addicts are associated with past criminal convictions rather than with the history of treatment for addiction alone. This is the position taken by major bonding companies, which are, perhaps, in the best position to judge what is and what is not a risk in employment.

The use of government employment for rehabilitated addicts is also unworkable. There is always a need in government employment for broad discretion. So long as the discretion exists to deny employment for any reason, government agencies are not likely to open their doors to rehabilitated addicts. This may come as a surprise to most people, who believe that when the Legislature passes a bill and it is enacted into law, government agencies respond promptly and sensitively. However, studies have shown that the government, as employer, tends to be most resistant to change. Examples abound, such as the more than twenty year effort of the United States Navy to integrate and provide equal opportunities for minority

personnel. The Commission has received a copy of a Master's Thesis by Ms. Claire H. Cooney of the New York University Graduate School of Public Administration, dated June 1972, and entitled *Discretion in Administering Statutes Governing the Employment of Convicted Persons in New York City*. The study effectively demonstrated that there are almost insuperable barriers faced by ex-convicts in attempting to gain employment with City and State agencies, even when they have received certificates relieving them from the disabilities of their prior convictions. The blunt truth is that there is too much red tape for this approach to work.

Finally, the public employment route has already been tried with very poor success, bearing out the contention that government agencies are the most resistant to the hiring of rehabilitated addicts. The United States Post Office, in a letter to the Commission dated April 3, 1972 made this astonishing observation:

"We presently make no distinction between heroin and methadone users for purpose of employment." The official U.S. Post Office policy is that no rehabilitated addict, regardless of the length of time free from the unlawful use of drugs, may be employed. (Local postmasters have, on rare occasions, hired rehabilitated addicts, without the approval of Washington.)

On March 22, 1972, the Department of Personnel of the City of New York issued a Bulletin, at the direction of the Mayor, barring disirimination against rehabilitated addicts in City employment, with an exemption for the uniformed services. Testimony received by the Commission from Mr. Harry I. Bronstein, City Personnel Director, on September 20, 1972, revealed that in the six months that the directive had been in force, only twelve rehabilitated addicts were employed full time, eight of these in the Addiction Services Agency. Twenty-one temporary hirings were reported, as well as four others who qualified for positions for which they were then awaiting openings.

The State Civil Service Commission insists that it determines job eligibility on the basis of individual evaluations only, and not on the categorical basis of denying employment to anyone "who is addicted to the use of narcotics", as they are permitted to do by Section 50, Subdivision 4 of the State Civil Service Law. They point to employment of rehabilitated addicts in the administration of the Narcotic Addiction Control Commission.

Other State agencies also say that they would be willing to consider applicants on an individual basis. The trend, however, is to present opportunities related to the addiction field itself, or to interpose obstacles based upon prior criminal records.

The proposal for legislation of a broad, general nature, which would cover all employment of rehabilitated addicts, seems much the wiser course. One question which has been raised is how to define what is a rehabilitated addict. The Commission finds that the most significant factor in determining rehabilitation is time. If an addict enters into treatment, and adheres to treatment faithfully for a period of time, and at the end of that time can provide satisfactory proof of his capacity to work, then he ought to be permitted to enter the work force on the same terms as any other individual: if he has the intelligence and skills and steadfastness to qualify for a job, he should get that job. The Commission must be mindful that there are now thousands of employed rehabilitated addicts who are functioning satisfactorily and who have no objective way to prove that they have not reverted to the unlawful use of drugs, for a substantial period of time, except by their satisfactory job performance. The Commission finds that such satisfactory job performance is sufficient indication that the rehabilitated addict may, without risk, be treated on the same terms as any other member of the work force.

The period of time in both cases, for the sake of uniformity, although the judgment of others may counsel differently, is found to be one year.

For some a statutory declaration against discrimination in employment relating to rehabilitated addicts would be sufficient. For this Commission it is not. More than ninety percent of all rehabilitated addicts have criminal records. The Commission definition of a rehabilitated addict subsumes the case of the addict with an arrest record, since a prior arrest of an addict is not probative, in any way, of future conduct (see Part I).* However, the existence of a record of conviction raises the very real problem of enforcement of any measure to bar discrimination in employment of rehabilitated addicts. The State should not enact a law which might be easily circumvented by employers, who could cite the relatively high incidence of prior convictions (especially on drug charges) of rehabilitated addicts, as the basis for their refusal to employ such persons.

A statutory declaration of public policy which might be easily evaded would represent simply another useless example of government by placebo. It would also defeat one of the principal objectives of such a measure: to lead addicts into treatment by assuring them that at the end of the struggle for rehabilitation, some assurance would exist of their right to be reintegrated with the community and the general work force.

A statute which adverts to prior unlawful conduct, per se, would have the salutary effect of coming to grips, for the first time, with the concept of rehabilitating the ex-offender, in the best possible context: The ex-offender of whom we are speaking will have come through a *formal* process of rehabilitation and will, in most cases, have had removed from his situation either the cause or the exacerbation of his former criminal conduct, narcotics addiction.

In the past, efforts to relieve ex-offenders of disabilities have centered upon *them* and what they have done to rehabilitate themselves. Once the courts or the parole boards have been satisfied, then and only then is the ex-offender truly free to enter the work force on the same terms as others. The Commission finds that the special category of ex-offenders, who are rehabilitated addicts, can be dealt with directly in terms of employer hiring practices, precisely because they are a very special category of ex-offender.

On the other hand, wary of the risks associated with the hiring of ex-offenders, the Commission believes that a conservative course should be followed. Therefore, the Commission finds that the following policy is in the best interests of the People of the State of New York:

1. The Commission finds that the right of a rehabilitated addict to work is a human right, which serves both the individual and the State.

2. The Commission finds that the Executive Law of the State of New York should be amended to bar discrimination in employment against rehabilitated addicts.

3. The Commission finds that the State Division of Human Rights should be empowered to issue guidelines, which at first would not be binding, to instruct employers anent the risks of hiring rehabilitated addicts who are also ex-offenders for particular categories of jobs.

The variables, with regard to ex-offender hiring guidelines, have been alluded to in the section of this Report which deals with bonding. There is every conceivable need for the State to help ex-offenders who are rehabilitated addicts and no conceivable way to draft legislation matching, by statute, all of the variables, such as number and nature of convictions and conduct since the expiration of criminal status with the varying degrees of risk entailed in many different job descriptions. On the other hand, the matching process seems particularly susceptible to an administrative agency with past experience in the mediation of employment problems relating to the hiring of disadvantaged minorities.

A draft of proposed legislation appears on the pages immediately following this discussion. The Commission believes that prompt enactment of this or similar legislation would affirm in a comprehensive, workable and effective manner what we believe should be the State's policy:

After passing through the terrible ordeal of addiction and rehabilitation, the reformed addict will be met the other half of the way by society, which says—you have done your part to get back into shape, now it is up to us to treat you as a human being and to help you shape up even better, as a worker, as a colleague and as a fellow human being.

* Also, cf. *Gregory v. Litton Systems, Inc.* 316 F. Supp. 401 (1970).

Appendix A

AN ACT to amend the executive law relating to human rights and prohibiting discrimination in employment against reformed addicts.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred ninety-two of the executive law, as last amended by chapter three hundred eighty-eight of the laws of nineteen hundred sixty-nine, is hereby amended by adding thereto a new subdivision, to be subdivision twenty, to read as follows:

20. The term "reformed addict" means a person who has used any drug unlawfully in the past, and who has demonstrated a capacity to work by furnishing proof of: (a) adherence for not less than one year to a lawfully constituted treatment program and a finding by a licensed physician or the therapeutic director associated with such program that such person is in condition to work, or (b) satisfactory performance, for not less than a total of one year, for each and every employer for whom such person worked subsequent to all unlawful drug use.

The term "reformed addict" does not mean any person described in clause (a) or clause (b) of this subdivision who reverts to any unlawful drug use.

§2. Subdivision five of section two hundred ninety-five of the executive law, as last amended by section thirty-seven of chapter one thousand ninety-seven of the laws of nineteen hundred seventy-one, is hereby amended to read:

5. *(a)* To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this article, and the policies and practice of the division in connection therewith.

(b) To adopt, promulgate, amend and rescind suitable rules and regulations to promote the employment of reformed addicts; and to adopt, promulgate, amend and rescind suitable guidelines to promote the employment of reformed addicts who were convicted of crimes prior to their treatment for drug use. Such guidelines shall reflect:

(1) success of the reformed addict in disengaging himself from circumstances and associations related to criminal activity; (2) positive contributions of the reformed addict towards the welfare of others; and (3) findings made or accepted by the commission that particular types of employment would or would not reasonably represent a danger of further criminal conduct, in light of the factors of disengagement from circumstances and associations related to criminal activity and positive contributions towards the welfare of others.

Nothing in this act relating to reformed addicts shall be construed to confer upon the state division of human rights jurisdiction over matters of employment regulated with respect to safety by federal law.

§3. Subdivision eight of section two hundred ninety-five of the executive law, as last amended by section thirty-seven of chapter one thousand ninety-seven of the laws of nineteen hundred seventy-one, is hereby amended to read:

8. To create such advisory councils, local, regional or statewide, as in its judgment will aid in effectuating the purposes of this article and of section eleven of article one of the constitution of this state, and the division may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of age, race, creed, color, *sex,* [or] national origin, *or because an individual is a reformed addict,* and make recommendations to the division for the development of policies and procedures in general and in specific instances. The advisory council also shall disseminate information about the division's activities to organizations and individuals in their localities. Such advisory councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the division may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

§4. Subdivision nine of section two hundred

ninety-five of the executive law, as last amended by section thirty-seven of chapter one thousand ninety-seven of the laws of nineteen hundred seventy-one is hereby amended to read:

9. To develop human rights plans and policies for the state and assist in their execution and to make investigations and studies appropriate to effectuate this article and to issue such publications and such results of investigations and research as in its judgment will tend to inform persons of the rights assured and remedies provided under this article, to promote goodwill and minimize or eliminate discrimination because of age, race, creed, color, sex, [or] national origin [.] *or because an individual is a reformed addict.*

§5. Subdivision one of section two hundred ninety-six of the executive law, as last amended by chapters two hundred ninety-nine, four hundred sixty-one, six hundred seventy-four and eleven hundred ninety-four of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

§296. Unlawful discriminatory practices

1. It shall be an unlawful discriminatory practice:

(a) For an employer, because of the age, race, creed, color, national origin or sex of any individual, *or because an individual is a reformed addict,* to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of his age, race, creed, color, national origin or sex, *or because an individual is a reformed addict,* in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.

(c) For a labor organization, because of the age, race, creed, color or national origin or sex of any individual, *or because an individual is a reformed addict,* to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color or national origin or sex, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this paragraph nor any provision of this chapter or other law shall be construed to prohibit the department of civil service or the department of personnel of any city containing more than one county from requesting information from applicants for civil service examinations concerning any of the aforementioned characteristics for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members and minority groups to insure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, creed, color, national origin or sex.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this article or because he has filed a complaint, testified or assisted in any proceeding under this article.

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review;

(b) To deny to or withhold from any person because of his race, creed, color, national origin or sex *or because he is a reformed addict* the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program;

(c) To discriminate against any person in his pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin or sex[;], *or because such a person is a reformed addict;*

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin or sex, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

§6. This act shall take effect on the first day of September next succeeding the date on which it shall have become law.

Memorandum

AN ACT to amend the executive law relating to human rights and prohibiting discrimination in employment against reformed addicts.

PURPOSE OF THE BILL:

To promote the self-sufficiency of rehabilitated addicts and to eliminate their need for welfare by ensuring that qualified applicants will not be denied employment solely on the basis of bona fide treatment for drug abuse.

SUMMARY OF PROVISIONS OF THE BILL:

Bill section 1 defines "reformed addict" as a person who has demonstrated a capacity to work by furnishing proof of either adherence to a lawfully constituted program for one year and a finding by a licensed physician or the therapeutic director that the individual is in condition to work, or by furnishing proof of a satisfactory work record for at least one year subsequent to all unlawful drug use.

A special proviso would permit the dismissal of any person who reverts to any unlawful drug use.

Bill section 2 mandates the State Division of Human Rights to issue rules and regulations regarding the right of rehabilitated addicts to be considered for jobs on an equal basis with other applicants. However, guidelines rather than binding rules or regulations would issue with regard to those reformed addicts who have a record of criminal convictions.

Bill section 3 adds the terms "reformed addict" and "sex" to those provisions of the human rights law which authorize local voluntary councils to study the problems of equal rights for these categories of workers. (The addition of "sex" corrects an earlier oversight.)

Bill section 4 authorizes studies to be conducted on the subject of the employment of reformed addicts.

Bill section 5 bars discrimination in jobs, conditions of hiring or training programs to reformed addicts.

It does not prevent inquiry on the subject of previous drug use, since the demand for a reasonable explanation of track marks or a positive urine should remain any employer's prerogative.

JUSTIFICATION FOR THE BILL:

This Bill incorporates the findings and recommendations of the Temporary State Commission to Evaluate the Drug Laws, as detailed in its Special Interim Report, submitted to the Governor and to the Legislature on January 4, 1973. The Report was entitled *Employing the Rehabilitated Addict*. The term "reformed addict" was substituted for the term "rehabilitated addict", because the Chairman of the Narcotic Addiction Control Commission pointed out that "rehabilitation" is a term of art with other connotations in the Mental Hygiene Law.

On January 5, 1973, Governor Rockefeller sent a letter to Assemblyman Chester R. Hardt, Chairman of the Temporary State Commission to Evaluate the Drug Laws. It read, in part:

"Chairman Howard A. Jones of the Narcotic Addiction Control Commission advises that your proposed recommendations are consistent with the operational philosophy of the Narcotic Addiction Control Commission and merit serious consideration . . .

"The continuing efforts of your Commission for combating the problem of drug abuse are deeply appreciated."

Technical changes have been made in the Bill pursuant to the Governor's suggestion that further consultation be had with the Narcotic Addiction Control Commission.

The basic findings and recommendations which were the basis of the Narcotic Addiction Control Commission's approval and the Governor's congratulations are as follows:

FINDINGS

"The Commission finds that rehabilitated addicts can work; and that once they have spent a period of time in treatment, they are either indistinguishable from or even better than other workers with similar capacities.

a. Many rehabilitated addicts have worked and developed skills prior to treatment, some while on heroin.

b. Persons stabilized on methadone maintenance can perform at jobs indistinguishably from other persons. This has been demonstrated by latitudinal experiments, by longitudinal surveys, and by examples of the variety of work such persons can do.

c. If an addict is treated for a period of time, and he has no skills, then he is no different from any other youngster without skills, except that he may be older, and, consequently his employer's expectations may be higher for him than for a similarly unskilled younger applicant.

d. If an addict is treated in a program which provides for a controlled work situation, such as the Off-Track Betting Corporation, the probabilities are that he will enter the job market as a better worker than a person of similar capabilities who has not participated in a controlled work situation.

"The Commission finds that one of the obstacles to employment faced by rehabilitated addicts is the concept that the cause of addiction is emotional instability. The Commission finds that while any social problem can always be reduced to the workings of the human mind, the better judgment of society is to view addiction as a sociological rather than as a psychological development. Seen in this light, the proof of an addict's 'cure' is his satisfactory behavior over a period of time.

"The Commission finds an absolute consensus, without a single dissenting voice, that rehabilitated addicts want to work, and that they and their treatment programs look upon their idleness as entirely counter-productive.

"The Commission finds widespread discrimination in employment against rehabilitated addicts. We find such discrimination to be irrational, in that most major corporations will not consider rehabilitated addicts for employment on their own individual merits. We have found unwarranted dismissals of and denials of employment to rehabilitated addicts who have good work records. We have also found widespread and irrational distinctions drawn between rehabilitated alcoholics and rehabilitated addicts. The Commission finds that the similarities between the two groups far outweight the dissimilarities and, therefore, impel similar treatment by those employers which deal with alcoholism on a humanitarian basis.

"The Commission has investigated the question of whether rehabilitated addicts can be bonded. We have made three findings on this subject, based upon the detailed descriptions of bonding practices supplied to us by private bonding companies and by the Federal Bonding Program, which guarantees bonding for those who cannot obtain private bonding:

a. Both Federal and private bonding are available to rehabilitated addicts. Employers who cite an inability to bond such persons as a reason for denying employment may not be presenting a completely accurate picture of the situation.

b. Private bonding may be *un*available to persons with a criminal record who happen to be rehabilitated addicts. Bonding companies view arrest and convictions far more seriously than they do drug abuse or drug addiction histories standing alone.

c. The Commission believes that the factor of a prior *conviction* record is a matter which any employer should have the right to consider when employing an individual."

RECOMMENDATIONS.

"The Commission makes the following three recommendations:

"1. The State should outlaw discrimination in employment against persons who have adhered to a bona-fide course of treatment for not less than one year and who have been found capable of working by a licensed physician associated with that program.

"2. The State should outlaw discrimination in employment against rehabilitated addicts who have a satisfactory record of on-the-job performance for not less than a total of one year. The provision would protect those who are no longer in treatment programs. For example, a person who left treatment and then worked for six months, was laid off, looked for another job, and then worked another six months, without ever reverting to unlawful drug use, would be covered by the proposed legislation.

"3. Since more than ninety percent of all rehabilitated addicts have criminal records, the State Division of Human Rights should be empowered to issue guidelines, not binding at first, designed to encourage the hiring of this special category of ex-offender, who is a rehabilitated addict and has thus come through a *formal* rehabilitation program. Such guidelines would take into account the nature and time of the criminal record, the dangers involved in the job situation contemplated, the efforts made by the applicant to disengage himself from circumstances and associations related to criminal activity and the contributions made by the applicant towards the welfare of others."

FISCAL IMPLICATIONS:

The New York City Addiction Services Agency testified before the Commission to Evaluate the Drug Laws that by the end of 1973, approximately forty-eight thousand reformed addicts would be leaving treatment and looking for jobs. Approximately seven thousand of these would find work easily and approximately forty-one thousand would face the difficulty of discrimination.

Discounting these estimates with the most conservative qualifiers, there is no doubt that by the end of fiscal 1974, there will be at least ten thousand rehabilitated addicts who will not be able to find work even by lying about their previous treatment (due to track marks, reports of previous employers, positive urines, etc.) By reason of the expansion of treatment facilities through federal and state funding, as well as the "outreach concept" adopted by Governor Rockefeller and the New York City Health Services Administration, the number of employable rehabilitated addicts who are not working could reach as high as fifty thousand at the end of five years.

Ten thousand rehabilitated addicts would, as employees, pay an average federal tax of one thousand

dollars per year per worker. The state tax would come to approximately $138.00, based upon an income of $6,000 per year. The total tax yield to the state would be, therefore, one million three hundred eighty thousand dollars.

Ten thousand reformed addicts would, as welfare recipients, receive approximately two to three thousand dollars in relief each year. Taking the lower estimate of two thousand welfare dollars, the ten thousand employed reformed addicts would save the state twenty million dollars in welfare money and would pay a total of one million three hundred eighty thousand dollars in taxes.

This would plainly absorb any administrative costs.

Effective Date:

September 1, 1973

Appendix B

Howard J. Samuels' Testimony
Before the New York State Commission
to Evaluate the Drug Laws
September 20, 1972

I should like first to thank you for the opportunity to testify today on the effects of some OTB projects to which I am especially close and of which we at OTB are particularly proud. We now have two betting parlors staffed by ex-addicts and which are run in conjunction with the Vera Institute of Justice. Several other offices are projected to employ even more people generally considered by our society as either unemployable or only marginally employable.

The OTB branch offices and others like them may be a large part of the solution to the addiction cycle. As a fringe benefit, the successful projects offer a model for employment of other heretofore difficult-to-employ groups. But the application of what we have learned from our experience at OTB will require the support of both government and the business world. I shall outline for you in greater detail the kind of support I believe will be necessary. After a complete description of how our special projects work at OTB, I feel sure that many of you will reach the same conclusions that I have.

To begin with, the critical need for programs employing ex-addicts must be seen in the general context of the drug problem facing our nation today. To anyone living in New York City the deterioration of the country's largest and most prosperous urban center over the last decade is becoming a way of life. New York City Police Commissioner, Patrick Murphy, estimates that 50 to 70% of the crimes committed against people in our city are addict-connected. The fear and mistrust that such crime has engendered has sent people and businesses fleeing to the suburbs, and has resulted in an almost unprecedented abandonment of buildings in the face of plummeting real estate values.

But such highly visible signs of the addiction epidemic represent only the top of the iceberg of drug abuse which lurks just below the surface of our society. Some of the less visible effects of addiction are equally pervasive. Not only is our populace burdened with the fear of addict crime, but the burdens such crime places on our police and our courts impair our entire system of justice. The taxpayer pays for necessary increased services in the above areas and in our prisons. Additionally, his own resort to the courts or to police protection is obviously impaired by the diversion of the resources of justice to deal with increased addict crime.

In New York City the addict population may be as high as 800,000; nationally the number may be as high as almost ¾ of a million. Returning Vietnam veterans who have become addicted add to the numbers. And what was once a poverty-connected inner city problem, ignored for too long, now effects the middle-class and the suburbanite as well.

The victims of this epidemic are not only the non-addict victims of crime. The addicts and their families are affected as well. When addicts are forced to support their addiction through crime or exploitation of their friends and families, the result is that all involved are deep and tragically scarred. What is perhaps the ultimate tragedy and the strongest comment on the need for action is the fact that drug addiction is the number one cause of death among young people in New York City today.

Clearly something must be done to treat the effects of addiction on the addict and on society, *now*. We cannot simply lock all the addicts up or put them on an island somewhere. Such a solution would be wrong and too costly and ineffective. Neither can we solve our problem by attempting to stop the importation of heroin into the country. Prohibition has taught us that such a solution is impossible.

Last month, in Washington, before the President's Commission on Marijuana and Drug Abuse, I outlined a comprehensive approach to putting every addict in the country under some form of medical care within the next five years. But regardless of the specifics, one aspect of my program which I believe is absolutely essential in any approach to addiction is the development of jobs for addicts.

We have much to learn about addiction but one of the things which has become apparent is that the addict requires two separate and distinct treatments—one which deals with his physical craving for drugs and the other which deals with his psychological needs. The psychological needs may be different for every addict, but almost always involves dealing with a sense of utter hopelessness and helplessness through the creation of an individual sense of dignity *in society*. Therefore, the opportunity to have a decent job, and the training and counselling which prepare them for such a job is a large part of a cure for most addicts.

The conclusion to be drawn from our experience with addicts is simple and straightforward: we will never solve the problem of drug addiction—just as we will never solve the related problem of criminal recidivism—until the opportunity for jobs for ex-addicts exists. I should add that the existence of a job opportunity, in addition to being a factor in the success of addict treatment, may also be a large factor in motivating an addict to *enter* treatment.

There are numerous stumbling blocks in the way of employing ex-addicts, however. The first is the fact that many addicts, even after they stop taking drugs have not yet altered the personal sociological and psychological situations which led them to addiction. Many of them have never worked before and many of them have become accustomed to being losers in any competitive environment. Secondly, few employers in the private sector motivated, as they have every right to be, by the profit motive are willing to employ ex-addicts. Additionally many of the addicts are also graduates of the penal system and are thus victims of employer prejudices against "ex-cons" as well as ex-addicts. To all of this may be added the additional burden of a generally tight job market with high unemployment.

Two things are required if the stumbling blocks are to be overcome. First, a demand for employees must be created. This will involve a national commitment to full employment. Second, the opportunity for "unemployables" to fill these jobs must exist. This means that employers have to be willing to hire ex-addicts and that ex-addicts have to be motivated, counseled and trained so that they are capable of filling the need. Such a marriage of demand and opportunity in the area of employment is, of course, impossible without government leadership.

In order to combat existing prejudices and to prove that addicts in a controlled rehabilitative environment *are* employable, OTB in conjunction with the Vera Institute of Justice opened a betting parlor last December staffed entirely by ex-addicts participating in either methadone maintenance or drug free therapy programs. The success of the program was such that last month we opened a second parlor staffed by ex-addicts. This group was made up entirely of veterans of the Vietnam war. Both these offices are run as "supported work" programs with counseling provided by the Vera Institute, but employees are subject to the same standards as all other OTB employees and receive no special treatment on the job.

Supported work programs have as a goal the employment of two groups: those normally unable to secure jobs because employers are unwilling to hire them and those unable to keep jobs because their performance does not meet the employer's standards.

Such programs are designed primarily for ex-addicts, alcoholics, and ex-convicts. They may also be used for the handicapped, the elderly, welfare recipients, outpatients from mental hospitals, and others with employability problems. Supported work tasks are not designed to be therapeutic. While the successful work experience is undoubtedly therapeutic, the work itself is productive, needed work. As I shall explain later the work may be profitable as well.

The "support" may consist of accommodation to somewhat irregular schedules or occasionally erratic behavior. This is not the case with our OTB offices. Personal counseling, group therapy sessions, remedial education, and the like make up the rest of the usual services. It is true that added support services mean added costs. But such costs are so much less than the costs of institutional treatment, that they should be an incentive, not an obstacle. For an additional $600 per year per man OTB could employ ex-addicts, ex-convicts, and similar groups. Compare this amount with the annual $8000 cost per person of incarceration or with annual welfare costs.

Let me explain now how this supported work concept works at Off-Track Betting by tracing the Vera Project from its inception to the present.

After the project was approved by OTB's Board of Directors and the City Board of Estimate, Vera personnel and OTB staff met to discuss the program. At that time we decided to place ex-addicts in one office rather than in a number of offices in order to enhance the element of group support and to relieve the stress of being the only

ex-addict in a given office. It was also considered that one dedicated manager was easier to find than several and that support services could be more economically delivered in one branch office.

OTB selected the management staff for the project office on the basis of previous experience and performance and special qualifications. One supervisor was a former VISTA volunteer, another a former school teacher. An orientation program was held for management and supervisory personnel, after which these personnel assisted in the six-day cashier training program.

Addiction service programs in the City of New York were notified of the openings which would be available at the new OTB office by the Vera Director of support services. These programs referred applicants to Vera in accordance with criteria and procedures which OTB and Vera had agreed upon.

We were particularly desirous of proving the viability of the supported work concept so the OTB criteria for employment were drawn with the idea of disqualifying as few as possible. The criteria were these: the applicant must be an ex-heroin addict; he or she must have been in a treatment program for at least three months (to include methadone maintenance, a therapeutic drug free community, or any other certified treatment program); he or she must be at least 18-years-old; and he or she must pass the standard OTB test which is administered to all OTB cashiers. An applicant with a record of drug-related convictions was not barred from employment if his or her history did not contain records of violent crimes or felony sale of narcotics involving sufficient income from such sales. The last criterion was to distinguish addicts who pushed to support their habits from big income pushers who were also addicted. Lastly, the applicants had to be referred to us through the Vera Institute.

Vera received candidates referred by agencies familiar with the prerequisite criteria. The addicts referred to Vera were required to present letters of recommendation from a representative of his or her program. Vera then used the Short Employment Test, parts N-2 and CA-2 to determine mathematical and clerical ability. The tests were administered in groups and scored with the applicants present. Applicants with test scores indicating a "good chance" to perform satisfactorily on OTB's personnel tests were scheduled for further interviews.

The interviewer is trained to assess motivation, poise, intelligence and sincerity. Those applicants indicating a potential and desire to sustain reliable employment were ministered a standard OTB cashier examination and an interview. Those applicants who advanced to this stage were judged by the same criteria as any other OTB applicant for a cashier's position, including test scores and normal interview feedback.

OTB made the final decision as to hiring, but selection were usually discussed with the Vera staff before final commitments were made. Those hired were scheduled for a training class. Those rejected are notified by the OTB Personnel Department. Those who were rejected in pre-screening were, of course, notified at that time by Vera.

Once in the program the participants are judged by the same criteria as other OTB employees and may participate in the same company-wide tests to qualify for promotions. One additional factor considered in promotions are the evaluations and recommendations of the Vera counseling staff, although such evaluations are advisory only, with OTB making the final decision.

Program participants are likewise eligible for transfer to other OTB branches on an individual basis after working at a work supported branch for six months, the normal company probationary period. In this case the Vera and OTB staffs must reach agreement on transfer request approval. A transferring employee must continue his counseling on his own time for a period of one year. Infringement of this agreement shall be the basis for corrective action by OTB. Beyond one year of employment, Vera counseling services are available but not mandatory.

Support services provided by Vera consist of two full-time counselors, one of whom—or the Vera Support Services supervisor—is available at all times. Weekly voluntary group sessions are led by the social service director. The counselors also meet with each employee at least once a week and contact each of the addiction programs from which the employees were referred to coordinate services. The supported work research staff at Vera and OTB receives and analyzes operating data from the project office. Relevant information is posted to a work performance file maintained for each employee.

The supported services are provided at no additional cost to OTB. They are paid for by funds provided through a grant of the Criminal Justice Coordinating Council of New York City. The Criminal Justice Coordinating Council, in turn, administers the funds provided through the Law Enforcement Assistance Administration of the Department of Justice.

The same policies and procedures are in effect for the second Vera supported OTB office except that preliminary referrals were made to Vera by local veterans agencies. Also the experience of the first office was utilized in shortening the length of the orientation program and in overlapping the support staff between the two branches.

What sort of an operation has been the result of the application of the procedures described above? More data is available on the first work supported office since the second office has been in operation for only a month. Most statistical analysis, therefore, will pertain to the first branch office. Here then are the results:

Originally 23 ex-addicts were recruited. Since then three more addicts have participated in the program. Of these 26 ex-addicts, 58% have been white, 31% black, and 11% Puerto Rican. All have lived in New York City. Two of the 26 employees were women, a result partly of admission policies of the referring agencies and partly of a desire to limit the variables of this project. In the future, a more even mix of men and women will be possible. The average age of the employees at the time of hiring was 27.1 years. Sixty-nine percent have completed high school or received an equivalency diploma. Thirty-eight percent were married at the time they were hired.

As for the prior criminal records of those hired the overall average was 1.9 convictions per employee. Although 35% had no conviction records, three had at least one felony conviction. The average age of this first conviction was 19.9 years in this group. Over half the group had served time in prison. This early and long involvement with the law of many of the members of the group is an adjunct to the fact that on the average these men and women were addicted by the age of 18.6 years.

The prior work record of these employees was varied. Twenty-eight percent were working immediately prior to their being hired. Fifty-six percent had not worked for at least a year before coming to OTB. Over half of those hired were receiving welfare benefits just before beginning work. The approximate cost of welfare payments for this group totalled $30,000-$35,000 per year.

The new employees were motivated to kick their habits-96% had tried voluntarily to kick. But with little to look forward to, most had repeatedly returned to drugs. On the average the group had kicked 5.4 times. One individual has tried 25 times.

This is the profile of the first Vera group. By almost any standard it would be a discouraging one. By current employment standards of industry it is practically a joke. But the record of this group's achievement is no joke. Over the last nine months these men and women have begun to show that "unemployable" must be redefined.

By almost every index used at OTB for the evaluation of productivity, this office has been a solid, viable, profitable one. In a majority of the weeks for which data was monitored this branch showed a better than average record for costs to OTB per bet. During the same period the branch was above average in its district, in terms of shortages, a majority of the time. Despite the fact that newer offices generally show a higher termination rate than the older offices, this branch has almost the same monthly termination rate—2.3%—as all of the other OTB offices. Of the original 26 employees, 20 are still working for OTB.

100% of those cashiers in the branch who took the company-wide supervising test passed, several well above average. Three have been promoted to supervisory positions—one is now the supervisor at the new ex-addict veterans' branch. Three of the employees have been transferred, at their request, to other branches. The branch did use more sick days than average, but it must be remembered that the number of employees in this office is greater than most other offices and the higher number of sick days is not aberrative for larger offices.

And all of this record is compiled in a branch that does an average daily handle above the company average of $18,000 per branch. The tasks performed by the cashier are more complex than those of the average bank teller. In addition the cashiers confront an often anxious and demanding public. For these tasks the cashiers are paid $7,200 per year which is, of course, taxable. Obviously the annual expenditure of welfare funds for these employees is no longer necessary.

But the personal success of those involved in the program are even more impressive. Four of the men in the program have married since they began to work. Three have taken and passed high school equivalency exams, and one is attending a local university. Many of the employees have moved to better living quarters. The success of this branch was an impetus for the second branch which employs 14 ex-addicts, bringing to almost 2% the number of OTB employees in supported work programs.

Furthermore the success of the project has resulted in OTB's involvement in supported work branches for other groups. A branch employing disabled vets is scheduled to open October 7, 1972. Another branch employing ex-patients of the State Hospital system will open in late October or early November. Another branch office which will employ welfare recipients and provide day care services is scheduled to open in late November. In addition, OTB is exploring one or two other special offices, including one for ex-convicts. When all branches are in operation they will be staffed by a group amounting to 4 to 5% of OTB's employees.

For all of these projects OTB will be assisted either monetarily or logistically by various organizations or institutions involved in the employment difficulties of the groups which OTB will hire. Government grants will be involved in several of the projects.

The record of the OTB project, I think speaks for itself. The value of similar projects as I believe self-evident. But what is necessary to make these programs a reality is governmental funding to cover the support costs. I do not expect that business concerns are going to become altruistic societal institutions. But we have proved at OTB and Vera that the profit motive may be served by supported-work projects. Increasingly business is becoming aware the social motive of the survival of our cities is linked to the profit motive. I believe that the private sector, with the impetus of governmental assistance will participate in such projects.

But it is government which must take the leadership in reducing the costs of crime and welfare, since it is upon government that the burdens of social costs fall. Continually we hear the rhetoric of law and order. Without question those of us living in New York City are painfully aware of how important an issue this is. But crime is not a problem solved with rhetoric. As I indicated earlier a large part of the crime problem in New York is the addiction problem. And a large part of the addiction problem is jobs. The relationship cannot be denied. To do something about crime we must do something about addicts and to do something about addicts we must do something about jobs.

As an adjunct to such monetary assistance, government must get behind an effort—hopefully involving private businesses on a voluntary basis—to educate the private sector on the value and profitability of the supported-work situation. Governmental assistance would be required for what must be an unparalleled public relations effort.

I believe the New York State Commission to Evaluate the Drug Laws is meeting at a most opportune time. Not only has the success of OTB's projects come recently to light, but other groups have had similar success in the employment area during the last several months. SERA has recently opened a gas station staffed by ex-addicts. The Pioneer Messenger Service established by the Vera Institute, and used by OTB for over a year, continues a record of successful service using ex-addicts as employees. It is important that the public and private business as well as government know about these successes. A hearing of this kind provides the needed forum for such information.

The potential of such projects to make serious inroads into the problem of reintegrating the estranged of our society cannot be denied. And, all things considered, the price is right. We have continually invested in increasing more costly social programs which have failed. Let us now invest in a less costly program which has proved it can work.

Testimony of Patricia Ruocco
Employment Counselor
Nassau County Department of Drug & Alcohol Addiction
before the New York State Temporary Commission
to Evaluate the Drug Laws
September 20, 1972

Being an employment counselor by profession, I feel, gives me an advantage. I employ the same principles with the rehabilitated addict as I did in private agency counseling. I work with the applicants rather than with a job bank.

As an employment counselor for the Nassau County Department of Drug and Alcohol Addiction, I handle applicants referred from three treatment modalities: Our out-patient groups—graduates of Topic House, our live-in therapeutic community—and our methadone unit.

Upon referral to me, the applicants have been in our out-patient groups and drug free from four to six months, at Topic House from eight to twelve months, or in our methadone program, normally six months and well stabilized on their dosage.

After being referred to me, an applicant is required to fill out an application, for two reasons: First, this gives me his educational background, work history, military background, and current status, physical disabilities if any, and his complete drug and arrest history. The last two are very important as some industries do not accept certain types of arrests, while they will accept others. By having this knowledge, I do not send a boy to an industry where his arrest history would bar him from employment.

I then sit with him and go over the application, adding any information he may have omitted. This puts the pertinent information in writing in front of me while discussing the applicant with a company, rather than trying to rely on memory.

The second reason for asking an applicant to fill out the form is because it gives me the opportunity to see if the applicant knows how to fill out an application and to instruct him on how he can improve this and best present himself when going on an interview.

I spend at least two hours, and sometimes a whole morning, drawing out information regarding his interests, what subjects he did well in in school, what activities he participated in. If you want a boy to do well in employment, it is necessary to try and find employment that will spark his interest and add to his motivation to continue his rehabilitation.

EXAMPLE #1: A boy was sent to me from groups with the recommendation that he would do well in sales. The boy had the appearance and was well-spoken, two requirements needed in sales work. I felt this boy was too easily discouraged to do well in this field. On my interview I found that he had an old motorcycle that he spent every spare minute working on. Instead of sales, I placed this boy with a foreign car dealer as a trainee mechanic. Because this is a field that follows his natural interest, he loves the job, is eager to learn, and the company is well pleased with his progress.

EXAMPLE #2: A girl, a graduate of Topic House, was referred to me with the recommendation of the social worker that she would do well working with children, as perhaps a teacher's aide. First, no school district will employ someone with a drug history to work with children. Second, this girl was extremely heavy. I felt she wanted to hide among children so as not to compete with her peers. If such a job could be found, she would never develop the self-confidence needed to progress. She did have good typing skills but said she hated typing. I used her typing skill to place her in a small newspaper officer where she was one of eight girls working special typing machines that printed cut outs for the presses. This was a warm, friendly, close-knit department headed by a women who was also very heavy-set and sympathetic to the problems that my girl faced. Ruth, as I will call my girl, has been in this position 1½ years, is well liked by both company and co-workers. Ruth and the supervisor decided they had a mutual problem in their weight and went on a diet. Having someone to do this with gave Ruth the encouragement to stick with it and now she's dating and enjoying a very full social life both in and outside of her job.

The point is, the individual needs of an applicant must be taken into consideration if a placement is to be successful. By the same token, the individual needs of a company are equally important. A company which offers a job opening that may require some training and time spent before an applicant can be considered productive, has the right to expect the referral agency to send an applicant who is emotionally ready for this type of employment. The happy-puppy-dog type of applicant, who is stable as to his drug use and ready for employment, but still has to develop a reliable attitude towards promptness, attendance, and a more serious attitude as to applying himself on a job, must be placed where this will not be a major issue and moved into more responsible employment as he progresses.

I visit every company once, before referring my first applicant. I want to know what skills are needed for the position, how this position relates to other positions in the company. If this position feeds work to others where absenteeism would create a problem, to gage also the emotional stability necessary of an applicant to fill this position successfully. What fringe benefits and promotional opportunities are offered. Then I go over all this information with my applicant before sending him for an interview with the company. In this way, he has full knowledge of what will be required of him on the job and has an opportunity to make the decision if this is what he wants.

A referral counselor must be supportive, both to the applicant and to the company. I ask every company to please call me if there is any problem and give me the chance to work out the difficulty by using our professional services.

EXAMPLE: An applicant might be late because he is held up unduly at the methadone clinic or because transportation is poor, or is absent because of marital problems. Once we know the problem the applicant can be referred to someone on the department's staff for help to resolve the problem without loss of his job. I also ask the applicant to keep in touch with me, and if he is finding any difficulty, to give me the opportunity to be helpful.

EXAMPLE: Sometimes a boy cannot relate to the job or the people he works with, while this may be his fault more than the company's, as long as he feels this way, he will not do well and needs to be placed elsewhere. It can be that transportation is difficult or the job hours conflict with schooling.

As to honesty on the job, I would state that if a company hired 100 people without a drug history and 100 rehabilitated addicts, the chance of hiring one who would eventually steal from the company would be at least 10 times greater in the group without a drug history. In talking with hundreds of young people in our program, I found a common belief that when they first started stealing they were sure they would never be caught. Only after their friends began to be arrested or they themselves were arrested, did this attitude change. This is the greatest reason that motivated them to such rehabilitation in the first-place. Their morals haven't changed overnight. They don't think of theft as you or I might, but they have lost the confidence that they can get away with it. Now that they no longer need to support a drug habit the risk is too great and the need not sufficient to chance the risk. Out of the 277 rehabilitated drug addicts and abusers I have worked with, I have had only one report of theft. In this instance, there were extreme circumstances and the employer felt anyone in this circumstance might have acted the same. Because the boy had a drug and arrest history it did not constitute a factor in the act. This employer has since interviewed and hired more people from our program.

If any of you were to walk down a dark street and suddenly hear a noise in a bush directly behind you, more than likely you would feel at least a moment of fear. What makes you afraid is not the noise but the unknown. You don't know what made the noise, you don't know what to expect. This is the very thing that keeps so many employers from hiring the rehabilitated addict. People can relate to a man who drinks because most everyone has taken a drink now and then. But few can relate in any way to a drug user and they fear what they cannot relate to or understand.

We started an Advisory Board of Businessmen from various industries and at one of the meetings had boys and girls from all three treatment modalities participate. We set the meeting up in several rooms, with perhaps 10 businessmen and 10 rehabilitated addicts to each room. It was run as a round-table rap-group sort of thing, giving the young people a chance to ask questions of the businessmen and vice-versa. The result: The businessmen were amazed at the intelligence and manners of the young people. As one businessmen remarked, "their questions were more pertinent to my industry than the questions asked by the average applicant I hire." The young people obtained a better insight regarding industry as a whole and were more knowledgeable about the needs and opportunities of various employment fields. The whole meeting was very successful, not only for job openings that developed, but for the understanding that was gained on both sides.

To the businessmen, these young people were no longer something to fear, they did not even think of them in the term "ex-addict" but as human beings. For our young people, the businessmen were no longer the establishment but men they could talk to.

A boy who gains employment and works three weeks, then takes a day off to go fishing with friends will ask on being fired the following day, "Why was I fired? The company didn't pay me for the day, so what's the problem? He just fired me because I'm an ex-addict." This boy has no realization of how business functions. That each employer is part of a team, that a company has production schedules to meet, that someone else might be out on an excused absence and his unexcused absence created a production problem. Many of our young people have a complete lack of such basic knowledge and meetings such as we held are greatly needed where they can participate, ask questions, and gain understanding of industry. This kind of meeting is much more effective than a school-type set up where a teacher talks of the needs of industry.

While I strongly feel that many laws regarding licensing do need to be revised and updated in view of the proven workability of someone with a past history of drug addiction, I do not think legislation is the complete answer. You cannot force a man to hire someone he fears by passing a law. He will figure five ways to circumvent the law within a week.

The basic problem is fear, not rules. That the answer lies more in constructive ways of bringing industry and the rehabilitated addict together on a social level must be devised where fear can be replaced by understanding and the term "ex-addict" can again be a human being.

I have spoken with our Deputy Commissioner, Mr. Jo-

seph D'Elia and he has agreed to expanding our experiment in trying to achieve this in our future plans.

The types of placements I have made are quite varied. General clerical, typists, secretarial, cooks, butchers, waitresses, all forms of the construction trades, electricians, carpenters, cement workers, plumbing, air conditioning, the newspaper field pressman, cameramen, data processing, photography, research, truckdriving, warehousemen, assembly, multigraph, shipping clerks, bank messengers, burglar alarm installation, fire sprinkler installation, auto repair, maintenance, painting, retailing, etc.

To date, I have a few referrals who have been in their position two years, some 1½ years, and a number over one year. Many, while not in the same job, as I have moved them on to more responsible positions as they were ready, have been steadily employed over two years. I have a 65% steady retention in employment, 23% between jobs and 12% drop out, of these 12% either returning to drugs, arrested often on an old warrant, or leaving the state their status is unknown.

As to why I feel that my applicants have been successful:

1. They are motivated at the start.
2. They are screened as to their readiness for employment.
3. Placements for the most part have been good, giving each applicant something that attracts him and adds to his motivation.
4. The willingness of the company to work with us and give us the chance to be supportive.
5. The cooperation of the various departments in Nassau County who add their support where it could be helpful.

I would like to add two recommendations. a) Many of our methadone patients complain that, on applying at the State Unemployment offices for employment they are told by some placement counselor the following; "I cannot refer you on any job as you are taking methadone and therefore not drug free. When you are detoxified from methadone, come back and apply again." I have spoken with the managers of several State Unemployment offices and know this is not the rule. After I have talked to these managers, they have called meetings and instructed their counselors on how to handle such an applicant.

I recommend that a directive go out from Albany to all State Unemployment Offices, setting down guidelines that every counselor can follow:

1. That a methadone patient on a controlled program is employable and can be referred for job placement.
2. That every methadone patient on a controlled program does carry an I.D. card (with his picture and the name of the methadone program from which he is receiving his medication) which he can be asked to produce.
3. That the program he is enrolled in can be called, or the applicant can be requested to bring in a letter from the program, stating that he is stabilized on his methadone, drug-free of all drugs other than his methadone, and employable in the opinion of the clinic.

Those of us who are involved in treatment do not want anyone turned away from employment simply because a counselor may not be knowledgeable of these facts —nor that anyone might even indirectly encourage a methadone patient to request detoxification before he is ready (in the opinon of the clinic doctor) because he feels this is his only alternative if he wants to gain employment.

b) I am upset because I had to refer an applicant recently to social services for financial help. This young man has proven to be a good steady worker, temporarily out of work, not eligible for unemployment, and for whom I do not at the moment have a job placement. I feel very strongly that welfare often does more harm than good with our applicants. By taking away their incentive, they often return to drugs or take to drinking.

I would like to recommend that a special welfare program be devised for the addict, to be applied when an addict starts medication on a controlled methadone program, to give assistance to an addict who is unemployed and in need of financial assistance—for a three-month period. During this period, the addict will have time to be stabilized on his medication, be enrolled in a vocational training program, or obtain employment. The addict would be advised at the onset that this is temporary assistance of three-month's duration. At the end of this time, his case would be reviewed, and, if additional assistance is indicated, his assistance could be extended for another three-months. After this six-month period, the case would either be closed or, if this person is deemed unemployable, his case would be transferred from the special temporary program to the regular welfare program now in existence.

I find that the methadone patient is generally most highly motivated to be independent and self-supporting during the first six months of treatment. If he feels that the financial assistance he receives is temporary, this will add to his motivation.

I do not advocate denying assistance to anyone needing it, nor am I thinking of the cost of welfare to the taxpayer—although this certainly is a factor for consideration. My concern is with what the present system is doing to defeat the initiative of the methadone patient instead of helping him grow and become a productive citizen. One factor that adds to this is the 279 form now used by the methadone clinics to report to social services concerning a patient's employability. A doctor can continuously report "—is being stabilized on methadone" without any other reason for this patient not being employable. Certainly a year after his admittance to a methadone program, if he has been continuously enrolled, can he still be considered as still being stabilized? There have to be other factors, and, if so, this should be stated. This must be corrected, if a special temporary welfare program is to be considered.

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES

LEON J. WARSHAW, M.D.
Vice President and Chief Medical Director

April 6, 1972

Assm. Chester R. Hardt
Chairman
State of New York
Temporary State Commission to
Evaluate The Drug Laws
270 Broadway, Room 1800
New York, New York 10007

Dear Assemblyman:

In reply to your letter of March 16, 1972, President Smith of the Equitable has requested that I answer the questions you submitted and comment on certain other aspects of the Equitable's drug rehabilitation program which may be of interest to you.

Unfortunately, the Equitable's drug rehabilitation program has been in operation for too short a time and has not had a sufficient number of participants as yet to provide meaningful conclusions. However, the results thus far are encouraging.

The program is a joint effort of the Equitable and the Division of Community Mental Health, Psychiatry Department, New York Medical College. First, participants are evaluated medically and any indicated treatment is started by the Medical Department of the Equitable. Second, as this is occurring, evaluations of psychiatric, social and employment problems are made by the Medical College staff. During this same period, if detoxification is required progressively smaller doses of methadone are given daily over a seven-day period. Third, intensive counseling is initiated by the Medical College staff. After approximately 10 days, sessions at the Medical College are held less frequently. However, job problems are taken over by the Equitable Personnel Department and assistance is given to those who wish to continue their education. Meanwhile, the Equitable Medical Department continues the medical and psychiatric services and provides follow-up examinations and evaluations. In most cases the entire rehabilitation program is carried out while the participant works. Time required from the job is only that necessary for a one hour daily session for ten days and travel to and from the Medical College.

Employees found to be abusing narcotics have many common characteristics. Usually, they are more intelligent than average. There is no strong self-image or sense of worth. They have no real goals in life and are thoroughly confused about and dispairing of themselves and our society. Essentially, it is the aim of rehabilitation to establish and strengthen a sense of self-worth in the individual, to assist him in formulating realistic goals and a course of action to attain them. Life style must be changed. Unwholesome associations of the past usually are given up. This requires strong support of the individual by staff members. Resulting changes in image of self and appreciation of potentials produces new hope and satisfactions which make further use of drugs unnecessary.

In good medical practice, the most desirable approach to any disease is prevention. Next best is early detection and intervention before progression and complications occur. Least desirable is treatment of the fully developed illness. Treatment and rehabilitation of drug abuse is no exception. Unfortunately, effective preventive procedures probably are years away. But drug abusers who are employed generally are just starting in experimentation with drugs or at most have a very small habit. Therefore, it appears that the business community and possibly the schools are in a unique position to facilitate early detection and intervention in drug abuse problems. Successful rehabilitation then is much more likely to occur.

The following are answers to your specific questions:

1. A total of 22 former or present employees have participated in narcotics rehabilitation programs. Of these, three were in methadone maintenance programs. With all three it was known before they were employed that they were on methadone. Enclosure I provides further details.
2. The productivity of employees completing rehabilitation programs compares favorably with that of those on methadone maintenance has been too limited to allow a valid comparison with those in other employees. The Equitable's experience with other types of programs.
3. Employees in or who have gone through rehabilitation programs appear to have no special problems in relating to other workers.
4. The following procedure is followed by Medical Department staff members to gauge drug rehabilitation progress:
   a. Conferences are held with supervisors regarding job performance, behavior on the job, appearance and attendance including promptness of each participant in the program. These occur at regular intervals during and after rehabilitation.
   b. Regular sessions are held with the Medical College counselors regarding each person in the program in order to learn of progress being made in obtaining self-identity, formulation of realistic goals, mobilization of effort to gain goals, and changes being made in life styles and associates.
   c. Regular sessions are held with each employee in rehabilitation or who has completed it, to provide support and reinforcement of him as well as to learn of progress, problems, etc.
   d. Analysis of urine by chromatography is done for evidence of drug usage at regular, irregular intervals, not known in advance by the subject employee.
5. Prospective employees are held accountable for all

time between leaving school and applying for the current job wanted. Generally, those who have been in narcotics rehabilitation programs or who have been imprisoned volunteer this information in order to account for time. No specific questions are directed toward prior arrest or conviction records or drug rehabilitation in the pre-employment questionnaire required by the Personnel Department.

6. Prospective Home Office employees are required to have physical examinations. During the examination, special effort is made to detect any evidence of drug abuse. Also, all prospective employees have chromatography done on their urine. Employees are not examined for evidence of drug abuse unless there is a definite indication for so doing.
7. The Equitable does not subscribe to the policy that persons who are or have been participants in a narcotics rehabilitation program should not be employed or retainted. See Enclosures 2 and 3 for a description of Equitable policy.
   Employees currently in a rehabilitation program are distinguished from those who have completed rehabilitation only in that they are seen and evaluated more frequently by the Medical Department. Methadone maintenance is regarded no differently in the management of employees than other programs. Employees who have been or who are currently in drug rehabilitation programs are covered by the same policy regardless of the category of the job they occupy. However, ordinarily they are not permitted to work in high security areas of the building or where there is little supervision.
8. The only statistics available regarding Equitable experiences have been included in Enclosure 1. As previously indicated the numbers involved are too small and the time of study too short to allow for any valid conclusion.

If we can be of further assistance in the Commission's study, please let us know.

Sincerely yours,
Leon J. Warshaw, M.D.

Equitable Experience with Heroin Abusers*

I Hired as rehabilitated addicts—4.
  A. On methadone maintenance—3.
    1. One has been doing well on the job for three years.
    2. One resigned after two months to take a better job.
    3. The third was discharged from the job after two weeks because of poor performance and unacceptable behavior on the job including acute intoxication with a drug other than heroin.
  B. From therapeutic community—1.
    This employee is still doing well after 10 months on the job.

II Hired as heroin abusers who had not been rehabilitated, to be rehabilitated while working—4.
   Three are still in rehabilitation while on the job and it is too early to evaluate progress.
   One has been discharged from the job for failure to cooperate with rehabilitation and because of poor performance on job.

III Employees discovered to be abusing heroin.
  A. Discharged from jobs—26.
    1. Rehabilitation after being discharged.
      a. Six started.
      b. Only two of these completed rehabilitation.
        (1) One was rehired but resigned to start a new life on West Coast with family.
        (2) One was not rehired because of pushing but got a job elsewhere.
  B. Kept on jobs during rehabilitation—8.
    1. Completed rehabilitation—8.
      a. Five are still on the job and doing well.
        (1) Two for seven months.
        (2) One for six months.
        (3) Two for five months.
      b. Discharged from jobs.
        (1) One because of poor job performance, no drug usage, after six months.
        (2) One because of poor attendance and job performance, no drug usage, after three months.
      c. One resigned from the job after one month to take a better job.

IV Rehabilitation.
  A. Total drug abusers—42.
    1. Started Rehabilitation—22.
      a. Dropped out of rehabilitation program—5.
      b. Still in a program—3.
      c. Finished rehabilitation—14.
        (1) Still on job and doing well—7.
        (2) Discharged after rehabilitation for other than heroin abuse—3.
        (3) Not rehired after completion of rehabilitation—1.
        (4) Resigned for better jobs—3.
    2. Not known to have started rehabilitation—20.

* Home Office only, from January 1970 to date (One employee in this group actually was hired early in 1969 in order to obtain experience with methadone maintenance).

EQUINEWS—publication put out by the Equitable.

OUR ANSWER TO DRUG ABUSE:
REHABILITATION

It was obvious that no one in the audience disagreed when President Smith faced the September officers' meeting and said, "The problem of drug abuse is huge and perplexing"—or when he added, "Nothing worries me as much, as far as personnel matters are concerned."

Now, in one of the more progressive, positive industrial medical programs ever undertaken by a major business concern, Equitable is combatting drug abuse among its employees. Its attack has a triple spearhead:

- Personnel, which gathers information, makes decisions on continuation or termination of employment for drug abusers, and coordinates the broad effort;
- Security, which zeroes in on pushers inside the home office building, and cooperates with the police and with security men from other companies in the Rockefeller Center area when the trail leads outside;
- Medical, whose role is detection and—the key to the entire program—rehabilitation.

Dr. Leon J. Warshaw, vice president and chief medical director, capsulizes Equitable's approach when he says, "Drug abuse is a symptom of emotional maladjustment or illness—nothing more. Alcoholism is another symptom of the same thing. The way to handle any emotional illness is to use the symptoms as clues to the cause, then cure the patients by treating the cause, not the symptoms."

Medical knows that in many of the young people who come to work for Equitable, or for any large company, the stage is set for drug abuse. Though they tend to be brighter and more active and alert than most, they seem to have very little in the way of self-identity, and no clear cut goals. Often, they feel that they have no real future to look forward to and, as a result, become depressed.

Their solution is, too frequently, multiple drug use, combining ups and downs to avoid confronting their problems and lack of direction, and to escape the realities of life.

"This is the point at which we usually encounter them in Medical," says Dr. Robert S. Graham, second vice president and medical director, Bureau of Employees' Health, who directs the drug abuse program for Medical. "Few are addicted when we see them, luckily. They know all about addiction, though, and what it can do, but each seems to think it can't happen to him. The truth is, of course, that it can happen to anyone—and fast."

Dr. Graham finds drug education programs of little value. "They know too much, these kids—and what they don't know, they *think* they know. Besides, most of them use drugs because it fills a need for them. They *like* drugs.

"The catch, of course, is that the effects of drugs don't last. When the user crashes, he finds himself right back where he started—probably feeling even worse than he felt when he took off. What we try to do is help him reach out for something that will come to mean far more to him than drugs, with a high that may not be as steep, but that will last."

That "high" is a direction, a set of goals, a reason for living.

This is where rehabilitation begins, and where the New York Medical College enters the picture. When Dr. Graham has talked with a drug abuser, determined approximately the extent of his problem, and come to the conclusion that he really *wants* to kick drugs, he refers the employee to the college's Division of Community Mental Health, which is part of its Department of Psychiatry.

In a series of some 10 one-hour discussion sessions, a psychiatric counselor at the college takes the drug abuser through these four stages:

1. After a thorough evaluation of his intelligence, psychological problems, life style and degree of adjustment, the drug user is confronted with both the positive and negative aspects of the evaluation. The object: to encourage him to appreciate his capabilities and put his hangups into proper perspective.

   As Stage 1 draws to a close, the individual is brought face to face with the fact that he is actually immature in an emotional sense, and that he himself is going to have to overcome this—with the counselor's help.

2. Next he is led to re-examine his life style and that of the peer group to which he has chosen to belong. Where he sees that changes need to be made, he himself decides what they will be and how to bring them about. The counselor remains in the background, guiding, reinforcing—but never calling the shots.

3. In this stage, the employee settles on his immediate and long-range goals in life and, as a form of commitment, states them. If he does not have a high school diploma, or has one and needs a push to take on college at night, the counselor turns advisor and encourages him to try it.

4. In this, the final stage, the employee makes realistic plans to reach his goals and then actually sets about it.

Now he's ready and able to face up to life without the crutch of drugs. And, if all has gone well in the sessions with his counselor, he is already beginning to experience a progressive high because of his greatly improved prospects and the sense of accomplishment he has gotten from completing each successive stage, all the while staying straight.

At work, Medical and Personnel do not desert him. Dr. Graham and others are quick to listen to his problems and guide him when he needs guidance. Medical also maintains a physiological lookout with urinalyses, for detection of drugs, at irregular intervals.

Personnel may counsel his manager or supervisor to help them understand the ex-drug abuser's special problems, and to create a work atmosphere favorable to his rehabilitation. Where a sympathetic environment turns out to be an impossibility, Personnel arranges a transfer for the employee.

Although it's too early in the game to call Equitable's drug abuse program a success—or a failure—results to date indicate that it can work. Several employees, all of whom formerly used heroin, have completed the program and are at work. Others have been able to go on to better jobs in other companies.

"Right now, it looks good," says Ed Chave, second vice president and director of Personnel's Equal Opportunity Division and coordinator of the program "but it will be several years before we'll have an accurate reading on it."

This much is certain. The success of the entire program hinges on early detection, by supervisors and managers, of drug abuse among their employees, before abuse becomes addiction.

As Dr. Graham puts it, with unmistakable emphasis, "If we don't find it, we can't provide help."

SUPERVISORY GUIDE
TO PERSONNEL POLICIES

Subject: Emotional and Behavioral Problems, Including Alcoholism and Drug Abuse

Date: May, 1972
Number: 6.2

SUMMARY

Equitable's policy for dealing with the disruptive effects of emotional-behavioral problems on both the disturbed individual and the work group entails procedures for reporting symptoms and incidents stemming from these problems and guidelines for referral of employees experiencing emotional difficulties to the appropriate source of help. Rehabilitative aid is offered to these employees, including those who are misusing alcohol and drugs. However, those found to be involved in passing drugs to others will be immediately dismissed. Early awareness of symptoms on the part of the supervisor, prompt referral action and the greatest possible confidentiality are essential. Procedures may involve the Medical Department, Personnel Department and, in the Home Office, the Director of Security.

THE PROBLEM

The Equitable is concerned with emotional problems of employees in the humanitarian sense. In addition, concern from a business point of view recognizes that such emotional problems can seriously interfere with productivity through impaired work performance and capacity, increased absence, and upsetting or demoralizing effects on other employees in the work group.

Emotional problems of sufficient severity to affect the work of the individual and his work environment are found in employees of all ages and with long and short

service. Such emotional disturbances underlie a wide range of behavioral manifestations, including the excessive use of alcohol and abuse of drugs. In recent years, drug abuse has become a serious, growing problem in the community and, inevitably, within the Equitable.

POLICY

Equitable's policy for dealing with emotionally disturbed employees, including alcoholics and drug abusers, is intended to serve as a guideline. Individual cases present so many variables that each such case must be considered separately within the framework of the policy.

To the emotionally disturbed employee still able to function acceptably on the job, including the alcoholic and the drug abuser who is not engaged in passing drugs to others, Equitable offers the opportunity to receive counseling help and to retain his job. To qualify for this opportunity, the employee must desire rehabilitation and have had a satisfactory work record up to the time emotional-behavioral symptoms became apparent. Medical Department help may include referral to outside resources which can aid the individual in understanding his problem and provide the appropriate means of rehabilitation. Continuance in employment is subject to the employee's satisfactory work performance, attendance and punctuality, his full cooperation with the recommended rehabilitation plan, and follow-up by the Medical Department. These conditions for continuance in employment in effect constitute probationary status (as described in release #10.3 on Unsatisfactory Performance), although the employee will not be required to sign a probation memo.

An employee whose emotional problems have reached the stage where acceptable job performance is not possible must be placed on disability benefits or dismissed without a probationary period, depending on the medical circumstances. In the event of dismissal, severance pay will usually be allowed, the amount to be determined according to the schedule accompanying release #10.3. Drug abusers will be terminated with the understanding that their re-employment will be considered when, in the opinion of the Medical Department at the Home Office or outside physician in the Field, they are capable of resuming work.

An employee found to be engaged in selling or passing drugs will be dismissed immediately and without severance pay. Equitable is doing everything possible to prevent drug traffic on Society premises, and will cooperate fully with the police in this respect.

RECOGNITION OF A PROBLEM BY THE SUPERVISOR

Because emotional illness may take many forms, not necessarily clear-cut or readily identifiable, recognition of the situation requires thoughtful observation and avoidance of hasty conclusions. Initially, it is often impossible to determine whether behavioral manifestations reflect a physical or an emotional difficulty and whether alcoholism or drug abuse may be a contributing factor. In any case, the supervisor or other individual in a position to report suspected emotional distress in another employee is not expected to make a diagnosis—that is the responsibility of the Medical Department or, in Field locations, an outside physician—but the person reporting should be able to recognize the emergency of a problem for which help may be needed.

Immediately noticeable extremes in behavior on the part of a new employee may sufficiently suggest that the individual has an emotional problem which should receive medical attention or be brought to the attention of Security personnel. With respect to employees who have been on the job for some time, however, *marked changes in behavior and performance are the key signals.* Changes in appearance and certain physical manifestations may also be significant. Symptoms may arise suddenly or gradually, may be episodic or continuous. They include the following:

—Frequent and long visits to the washroom or unexplained absence from the work area; frequent phone calls; non-work-related visits by strangers or employees from other areas;
—deterioration of work performance:—over-all decreased productivity and efficiency, including indifference to and poor execution of assigned tasks; difficulty in grasping instructions or accepting direction; poor memory, faulty judgment;
—increased absenteeism (often with a Friday and Monday pattern or following a holiday weekend) and increased latenesses;
—frequent changes in mood and demeanor, ranging from agitation, excitement, nervousness and irritability to undue fatigue, nodding drowsiness, inattentiveness;
—depression; withdrawal from personal relationships with others;
—clinging dependency on the supervisor or fellow employee;—surly rebelliousness, contempt for authority;
—complaints from co-workers concerning the employee's behavior;
—deterioration in dress and in general appearance (including marked weight loss);
—long periods of staring into space;
—unsteady gait, trembling of hands and mouth;
—excessive sweating; excessive cigarette smoking.

PROCEDURES

Because emotional-behavioral situations vary so widely and may arise suddenly, the procedures described in the following sections of this release should, like the over-all policy, be regarded as guideline information. The intent here is to indicate the channels through which effective action may be taken, with the expectation that the supervisor will exercise judgment and proceed according to the needs of the specific situation.

The supervisor should also keep in mind that delay in seeking medical help in an effort to shield the employee can significantly worsen the situation from the standpoint of mounting stress on the individual and the work until. If, in a non-emergency situation, after careful observation and perhaps conferring with other supervisors, he has reason to believe that an employee has an emotional problem (especially if symptoms appear to be persistent or intensifying), he should take action promptly.

PROCEDURE—HOME OFFICE

1. *Emergency Situations*
   a) Immediately or potentially dangerous incidents, disruptive behavior (including occupancy of a washroom booth by more than one person), and apparent passing or selling of drugs should immediately be reported by the supervisor to the Security Director, extension 1075. The reporting supervisor should identify himself, give the nature and location of the incident, and request that a guard be sent at once.
   b) Serious illness on the job, seemingly stemming from the abuse of alcohol or drugs or from other manifestation of emotional distrubance, should, like any other severe illness, immediately be reported to the Employees' Health Center, extension 3701. The supervisor should identify himself, describe the circumstances (including the fact that the illness may be associated with drugs or alcohol), and indicate whether a stretcher or wheelchair is needed or if the employee will be sent to the Health Center in the company of a fellow employee.

2. *Non-acute Emotional—Behavioral Problems*
   a) *Discussion with the Employee*

      In non-emergency situations, discussion with the employee concerning what the supervisor believes to be emerging manifestations of an emotional problem can be helpful. If the employee's job performance, relationship with co-workers, other on-the-job behavior, or attendance and punctuality have begun to deteriorate, such a discussion will arise naturally in the normal supervisor-employee work relationship. If performance and on-the-job behavior are not yet affected, but other symptoms of emotional distress are present, the supervisor can ask if he can help and let the employee know that medical help is available to him as well, thus giving him an opportunity to seek such help on his own. If symptoms continue, the supervisor should meet with the employee again, and if no medical help has been sought, the employee should be referred to the Medical Department.

   b) *Referral to the Medical Department*

      To refer an employee to the Medical Department, the supervisor should call the Employees' Health Center for a copy of form 975-93, Request for Employee Health Evaluation. He completes this form and returns it to the Health Center where an appointment is made for the employee. The physician may wish to discuss the case with the supervisor before seeing the employee.

      In telling the employee that an appointment has been made for him to see a Health Center physician, the supervisor can refer to their previous discussion in which reference was made to available medical help and express his conviction that such help is now needed.

   c) *Follow-up*

      If the examining physician finds that the employee's condition is not serious and does not involve the misuse of alcohol or drugs, he will report directly to the supervisor, with recommendations concerning the supervision of the employee and arrangements for any necessary return visits to the Health Center. In discussions with the employee, the supervisor should assure him that the matter will be kept completely confidential.

      If the examining physician finds the employee's condition to be serious, if misuse of alcohol or drugs is involved, if rehabilitative measures, disability benefits or dismissal are indicated, the physician will consult with the Personnel Director (or his designated representative) and, if drug traffic is involved, the Director of Security. The Personnel Director's representative will then get in touch with the employee's supervisor and department head to discuss a recommended course of action. The Personnel Director's representative will now be the central coordinator in the case, and any questions the supervisor has should be directed to him.

      In the interest of confidentiality, it may be advisable to transfer to another work area or department an employee who is receiving rehabilitative help while remaining employed or who has been rehired following dismissal and extended therapy. The department head and supervisor of the work area accepting the employee will be fully informed of circumstances leading to the transfer.

PROCEDURE—FIELD

1. *Emergency Situations*

   Dangerous incidents or serious disruptive behavior (including apparent passing or selling of drugs) should be reported on the spot by the witnessing supervisor to the local department head. The local department head should dismiss the employee involved and report the incident as soon as possible to the Home Office departmental representative who will in turn notify the Personnel Director's representative.

   Other disruptive behavior on the job (including occupancy of a washroom booth by more than one person) should be handled on a common sense basis and then immediately reported by the supervisor to his superior or the local department head who will call the Home Office departmental representative. The departmental representative will then report the incident to the Personnel Director's representative.

2. *Non-acute Emotional-Behavioral Problems*
   a) *Discussion with the Employee*

      When the situation is not an emergency, but the supervisor believes that an emotional problem is present, he may base a discussion with the employee on any noticeable let-down in job performance, relationship with fellow-employees, or attendance and punctuality. Even if work-related manifestations are not present, the supervisor can express concern about other evident signs of emotional distress and suggest that the employee see his physician.

      If symptoms continue, the supervisor should meet the employee again. If no medical help has been sought, he should tell the employee that he will arrange through the Home Office for the employee to consult a local physician. If the employee has seen his own physician, the supervisor should request the employee's written permission to have a physician in the Bureau of Employees' Health at the Home Office call the employee's physician. The supervisor should then report on the situation to his local department head.

   b) *Referral to Home Office and Local Physician*

      The local department head should call his Home Office departmental representative, discuss the problem with him and request the Employee Health Evaluation, form 975-93. The form should be completed by the supervisor and returned to the Medical Director, Bureau of Employees' Health, Home Office, along with the employee's attendance record and any other pertinent information concerning performance. If the employee's written authorization for a Home Office physician to call the employee's physician is involved, such authorization should also accompany the Health Evaluation form. The physician at the Bureau of Employees' Health will make recommendations and, if requested, suggest a local physician to whom the employee should be sent for treatment.

      After the employee has received treatment, the Home Office physician will contact the outside physician to review the case, and either he or the outside physician will recommend a course of action to the supervisor and advise him of any necessary future visits the employee should make to the outside physician. If the employee has seen a physician whom he himself has selected, the Home Office physician will get in touch with the supervisor after calling the employee's physician to discuss the case and recommend a course of action.

Payment to either the employee's personal physician or to a physician recommended by Equitable is the employee's own responsibility, although Equitable group insurance may provide some coverage for costs involved.

State of New York
Temporary State Commission to Evaluate the Drug Laws
Vice President and Chief Medical Director

Testimony of
Leon J. Warsaw, M.D.
The Equitable Life Assurance Society
of the United States

on

"Employment Alleged Discrimination
Against Former Users of Illicit Drugs"

September 20, 1972

Mr. Chairman, my name is Leon J. Warshaw. I am a physician and serve as Vice-President and Chief Medical Director of the Equitable Life Assurance Society of the United States. With me is Mr. Robert Crisara, Director of Manpower, a division of our Personnel Department. We are pleased to have the privilege of describing the Equitable's program for dealing with drug abuse among our employees.

This program is the result of many hours of thought and deliberation by Equitable's top management and by key individuals in the Medical, Personnel and Security Departments. It is not "chiselled in granite". Rather, we are committed to its periodic revision as dictated by our own experience and by new knowledge of the problem of drug abuse and better ways of dealing with it.

This program, I should emphasize is applicable across the board to all employees. We do have a special program for the so-called "hard core" unemployed among whom drug problems loom large, but since your inquiry is directed at regular employment, I will not take the time to describe it.

The essence of a workable drug abuse program is the establishment and dissemination of a clearly stated policy, well-defined procedures for implementing it, and a strong commitment to it on the part of the company's top management. I shall leave with you copies of the segment of our Supervisory Guide to Personnel Policies entitled "Emotional and Behavioral Problems, including Alcoholism and Drug Abuse", and a memorandum to all employees from Mr. J. Henry Smith, Equitable's President and Chief Executive Officer, entitled "Policy as to Drug Abuse".

The Equitable requires all employees to demonstrate reasonable capability to perform the work to which they are assigned and to maintain a reasonable record of on-time attendance and productivity. Drug abuse is only one of a large group of behavioral problems which impair work capacity and performance, increase absence, and have upsetting or demoralizing effects on other employees in the work group. Included in this group are alcoholism and a whole variety of emotional and personality difficulties that can have similar effects. Actually, drug abuse accounts for only a small percentage of the behavioral problems we encounter.

This generalized designation has a practical implication. It permits us to sensitize our supervisors to impaired performance and "unusual" behavior among their employees, while relieving them of the responsibility of trying to diagnose the specific cause. Once identified, the problem employee is to be promptly referred to the Medical Department where the diagnosis is made and appropriate attempts at rehabilitation initiated.

The one difference with respect to drug abuse is that those found to be involved in selling or passing drugs are dismissed immediately and permanently.

Incidentally, we use the term "drug abuse" broadly to include not only illicit drugs but also illicitly obtained prescription drugs and the inappropriate use of drugs that have been prescribed. Further, most of the cases we encounter should be classified as drug abusers rather than confirmed addicts.

Except for involvement in drug traffic, we look upon drug abuse essentially as a medical problem. If the drug abuser is still able to function acceptably on the job, has had a previously satisfactory work record, and sincerely wishes help, the Employees' Health Center will arrange a program of treatment and rehabilitation while he continues on the job.

If drug abuse has gone so far that acceptable job performance is no longer possible, the employee will be given a leave of absence during which he will receive all of the usual disability benefits. These will continue as long as he cooperates fully with the recommended rehabilitation plan and makes satisfactory progress. When his condition permits, he will be encouraged to resume work, while continuing the treatment program. If he does not cooperate or does not make satisfactory progress, he will be dismissed.

If he is dismissed, it will be with the understanding that he will be considered for re-employment when he has become rehabilitated to the point where he is able to return to work.

We do not have a fixed routine of dealing with drug abuse cases. Rather, each case is considered separately within the framework of our policy and a rehabilitation program uniquely designed to meet the individual's needs is developed. Within the Employees' Health Center, we offer counselling and supportive therapy while the individual is referred to an outside community agency for definitive treatment and rehabilitation. We have used a number; the Department of Psychiatry at the New York Medical College has been our major resource and has been most helpful.

In contacting drug treatment programs in and around the New York City area as potential resources for referral of Equitable employees with drug abuse problems, we have indicated our willingness to consider hiring "graduates" of their programs who they feel are ready for employment. Our criteria are very simple: we require that the individual be interested in working for the Equitable, that he have a reasonable capacity to perform the kind of work that he is seeking, that he is sufficiently motivated to maintain an acceptable level of productivity and on-time attendance and that he maintain contact with the referring agency for continuing treatment and follow up. Great care is taken to see that he is placed in a unit where he can show to good advantage, and the Medical and Personnel Departments offer whatever counselling and guidance might be appropriate.

What has our experience been?

On June 28, 1972, in a seminar led by Senator Jacob K. Javits and sponsored by the New York Chamber of Commerce, the New York City Methadone Maintenance Treatment Program, and Coalition Jobs, employability and employment opportunities for stabilized methadone maintenance patients were discussed with the personnel and medical directors of the 21 major corporations who attended. Although the Equitable, and a number of the other companies represented, reported having indicated to the New York City Programs and others long before the seminar a willingness to employ individuals stabilized on methadone, no candidates for possible employment had ever been referred. No individual has been referred to the Equitable since that meeting.

We have had a similar experience with other treatment programs. Mr. Crisara and Dr. Robert Graham, Director of our Bureau of Employees' Health visited the Methadone Maintenance Unit at the New York VA Hospital and indicated a willingness to consider hiring a veteran

in their program whom they considered ready for employment. We have had no referrals.

We have even taken the initiative. At Senator Javits' seminar, a resume was circulated which described an individual stabilized on methadone who was said to have an adequate background in computer programing. We contacted that individual and brought him to the Equitable where it was found that his technical competence was extremely poor. In checking with the school that he had attended, we learned that he had never attained a higher level of proficiency. We referred him to a training facility where his skills could be upgraded and expressed our willingness to consider hiring him when he acquires sufficient competence to meet our minimum standard.

This incident emphasizes the importance of adequate verification of the presumed skills of rehabilitated addict before referring him for employment. Much more important than the burden on the personnel department of the company to which he may be referred, there is the adverse and possibly critical effect of arousing false expectations of employment in an individual who may not be able to cope with disappointment. It would not be surprising if he, and also the treatment program that referred him, interpret this as rejection because of his record of drug abuse, and label it as discrimination.

Three individuals have been referred to us by the drug free programs. One of these, a young lady, appeared to be totally ignorant of the fact that good attendance was needed to hold a job. Despite counselling over a period of months by both Personnel and Medical Departments, she continued to be repeatedly absent without calling in and without explanation. When she told us that no one in the rehabilitation program had ever said anything to her about the importance of regular attendance and adequate work performance, we tried to enlist the support of its job coordinator in this endeavor. Unfortunately, we learned that she had failed to maintain contact with them. Since her absenteeism continued, she was discharged.

The other two rehabilitated addicts have done well on the job after sixteen months and five months of employment respectively.

About a year ago, we hired an individual on methadone maintenance. He did not state this in his history, but it developed in the course of our pre-employment examination. We checked with the hospital program in which he was enrolled and verified that they considered him to be stabilized and ready for employment. Within several days, he was found to be drowsy, uncoordinated, and incoherent while at work. This was initially ignored because his supervisor, who had been informed of the employee's problem with the latter's consent, attributed this to the methadone. However, when he continued to be incapable of working, he was referred to the Employees' Health Center where he was found to be under barbiturate intoxication and readily acknowledged excessive use of alcohol. When we communicated this to the physician supervising his methadone maintenance, he expressed the view that as long as the individual was no longer using heroin, their job had been successfully completed and that there was nothing more they could or should do.

An attempt was made to counsel the individual with respect to his use of other drugs but he was unwilling to give them up or to enter treatment for them and therefore had to be terminated.

The opposite was true in the case of another methadone maintenance patient whom we employed some three years ago. For a time, he maintained a satisfactory record but then developed symptoms usually associated with drug abuse. He initiated treatment by coming to the Medical Department for help with his inability to handle alcohol. He was referred to the New York Medical College and was treated for the alcohol problem while he continued on methadone maintenance and continued to work. He is still on the payroll and doing well.

Time does not permit detailed description of all of the facets of our drug abuse program. Let me simply outline them:

1. Development of and indoctrination of the staff in the Employees' Health Center in emergency medical procedures for the treatment of apparent drug overdose.
2. A general educational program about drugs and their abuse, and a special program for some 1200 middle management employees to acquaint them with our policy and the procedures to be employed. I have for your reprints of an article from *Equinews* describing our emphasis on rehabilitation.
3. Improvement of our current program for rehabilitation of employees with drug problems. We are collaborating with the Department of Psychiatry at New York Medical College in a one-year program to upgrade the capabilities of staff in both Personnel and Medical Departments for dealing with the full spectrum of emotional and behavioral problems in which drug abuse is included.
4. Expressed willingness to work with community agencies in hiring drug addicts whose rehabilitation has progressed to a point of being employable.
5. Allocation of a significant proportion of the funds available in our corporate support budget to national organizations attacking the drug problem.

In answer to the question implicit in the title of these hearings, I would have to acknowledge that the Equitable drug abuse program is discriminatory. However, as I hope my presentation has shown, we discriminate *in favor* of the individual drug abuser, *not against* him. We make every effort to keep established employees on the job while they are undergoing treatment and rehabilitation. We welcome the referral by community agencies of rehabilitated drug abusers who are capable of meeting the standards of work performance and attendance that all our employees are required to meet, and devote a considerable extra effort to assist those we hire to succeed.

Mr. Chairman, we are grateful for the privilege of making this presentation to you and your associates. Mr. Crisara and I will be glad to answer any questions you might wish to pose.

OFFICE OF THE PRESIDENT

FOR. All Home Office Employees
DATED November 8, 1971
Policy as to Drug Abuse

As many of you know, employee drug abuse has become a serious problem in many companies and it is not to be overlooked in the Equitable. As an employer, Equitable is naturally concerned with the disruptive effects of drug-induced behavior on job performance, the work environment and the well-being of all employees. And, from the humanitarian point of view, there is very real concern for the drug abuser himself as an individual. All of these considerations have led to the development of an Equitable personnel policy dealing specifically with drug abuse and drug traffic.

POLICY

The Equitable's policy on drug abuse and drug traffic is as follows:

1. Equitable looks on drug abuse as a medical problem, and an employee whose abuse of drugs affects his on-

the-job performance or behavior will be referred to the Employees' Health Center. If the drug abuser is still able to function acceptably on the job, has had a previously satisfactory work record, and sincerely wishes help, Equitable will offer him an opportunity to restore his health and retain his job.

If drug abuse has gone so far that acceptable job performance is no longer possible, the employee will be placed on disability benefit or be dismissed. He will be continued on disability, with benefits governed by our group benefit coverages, so long as he cooperates fully with the recommended rehabilitation plan and makes progress satisfactory to the Medical Department. If he does not cooperate or does not make satisfactory progress, he will be dismissed.

If he is dismissed, it will be with the understanding that he will be considered for re-employment when, in the opinion of the Medical Department, he has become rehabilitated to a point where he is able to come back to work.

2. Employees found selling or passing drugs will be dismissed immediately and permanently. The Equitable is making a determined effort to prevent drug traffic on its premises, and in addition to dismissal action, is cooperating with the police and other law enforcement agencies in their detection and arrest of employees identified as being involved in drug traffic.

MEDICAL DEPARTMENT HELP

A drug abuser who is referred to the Employees' Health Center by his supervisor or who seeks help there on his own initiative will find an understanding appreciation of his problem. He will be referred to one of the best treatment centers in the city, where he will receive the most effective rehabilitative care available. During his treatment while employed, or upon his re-employment following treatment, the Medical Department will keep in close touch with his progress and will continue to provide counseling and guidance.

I want to emphasize that the resources of the Employees' Health Center are available to *any* employee who recognizes his growing dependency on drugs and consequent need for help, whether or not his supervisor or others are aware of the situation. Such a person is strongly urged to seek Medical Department help on his own.

CONFIDENTIALITY

In a drug abuse situation not involving drug traffic, the matter will not be made a part of the employee's personnel record, and will be kept confidential, except for those involved in assisting the rehabilitation effort.

INFORMATION ABOUT DRUGS

A display relating to the drug problem will be set up in the Employees' Lounge on November 11 and 12, from 11:30 to 2:30. Exhibits will include both drugs and drug equipment, some found on Equitable premises. Representatives from the Personnel and Medical Departments will be on hand to answer questions.

Two excellent booklets about drugs are available to employees who are interested in knowing more about the problem. One, *What You and Your Family Should Know About Drugs,* is a hard-hitting, considerably detailed description of today's drug situation, presented in a question-answer format. The other, *What We Can Do About Drug Abuse,* presents data on drugs and also describes what is being done to control drug traffic and provide treatment for the addicted. If you would like to have one or both of these booklets, either for your own information or for use in your home neighborhood, you can request one at the Employees' Lounge on November 11 and 12.

A REALISTIC AND WORKABLE PROGRAM

The Equitable is deeply concerned with drug abuse and is taking positive and realistic steps to deal with it. We already have good evidence that our approach will work. Among the employees who have been found using drugs in 1970 and 1971, over half have completed rehabilitation and generally done well. Others are in various stages of rehabilitation and we hope for their success, too. You can see that we have an active program that offers help and hope to employees who need and want assistance.

We believe that through frank acknowledgment that the problem exists, and a constructive emphasis on helping individuals to regain their health, the drug problem at the Equitable can be virtually eliminated.

J. Henry Smith
President

Testimony of
Graham S. Finney, Commissioner
New York City Addiction Services Agency
before the Temporary State Commission
To Evaluate the Drug Laws

September 20, 1972

INTRODUCTION

Good afternoon. I am pleased to have been invited here today by Chairman Hardt and members of the Temporary State Commission to Evaluate the Drug Laws to testify on a subject of great concern to me: employment for rehabilitated ex-addicts and ex-drug abusers.

STATEMENT:

Jobs for ex-addicts and ex-abusers is a problem that has been created—ironically—by the success of drug abuse rehabilitation programs, particularly in New York City.

There are presently 50,000 addicts and drug abusers participating in methadone and drug-free programs in New York City alone.

At the projected current rate of expansion of drug abuse rehabilitation programs, we can expect that there will be 48,000 ex-addicts and ex-drug abusers, either drug-free or on methadone by the close of 1973.

Using the most conservative estimate—that at least ⅓ of the presently enrolled methadone population is now working or "constructively occupied" in either part-time employment, or as homemakers or students, we can presume that at least 85% will be seeking employment. This means that 41,000 ex-addicts and ex-drug abusers will need employment during 1973.

Where are they going to find it?

CIVIL DISABILITIES

There is a cruel irony in rehabilitating people for reinstatement in a society which will not accept them.

When we talk about crime, responsible officials seem to consider the addict capable of *anything*. Much more attention has been given to crime and addiction than has been given to employment and rehabilitation. The cost of estimated property damage caused by drug addicts has multiplied geometrically through fear and ignorance into amazing, almost hysterical proportions.

So much is "known" about addiction; too little is known about rehabilitation. On drugs, an addict is a "dope fiend"; after detoxification, he is presumed to be a vegetable.

The addict is considered virtually omnipotent; capable of doing anything to support his habit, dangerous to such a degree that communities resist having a drug rehabilitation program in their neighborhood. Yet the ex-addict is presumed by too many potential employers to be useless—incapable of holding even the simplest job.

This is the dilemma—the ex-addict is an unknown factor, and people are afraid of the unknown.

STORIES:

The *New York Times* of June 5, 1972, in an article by James Markham, chronicled the sad history of a number of rehabilitated ex-addicts who could not get employment. One insurance adjuster was fired from a job he had held for 5 years (3 years while on heroin; two years on methadone) when his company found that he was a methadone patient.

Another former addict lost a butcher's job he had held for 2 years and had been trained for on Riker's Island when the supermarket where he worked obtained a license to sell beer, and state law prohibited his continued employment in a place where alcoholic beverages were sold.

Another ex-addict who has worked for ASA for many years, applied for increased life insurance when his child was born. The company reviewing his case, cancelled all his life insurance when they discovered his addiction history.

Mr. Markham records another case of an ex-addict hired by a small businessman whose overhead soared when the insurance company who uncovered this ex-addict's drug abuse history doubled his premium.

That employer, commenting on the difficulties in getting jobs and licenses, once a person has a record of arrest or drug abuse, said, "One state agency will spend millions to reform them, and then another will go out of its way to hinder them."

I am sure that today's testimony has uncovered many other heartbreaking stories of ex-addicts trying to get jobs —thwarted by ignorance and prejudice reflected in outmoded licensing laws or masked in bewildering rejections, "No thank you. The job isn't open after all."

LEGISLATIVE IMPEDIMENTS TO HIRING

The question is, "What are we rehabilitating addicts for? If we will not give them jobs; if training programs are over-enrolled so that they reject ex-addicts as having "too many problems"; if they can not get jobs or training or licenses or mortgages—*how* are they to write the *success stories* that the public demands of myself and other administrators of drug rehabilitation agencies?

SPECIFICS:

What are the laws and regulations which work against the ex-addict?

First I am reluctant in discussing legislation to distinguish between the drug free ex-addict and the methadone maintained ex-addict. I do not think this should be done. But different laws and clauses work against each.

If we are speaking about the drug free ex-addict, there is little in the law which *prohibits* licensing or hiring him, but the law allows total discretion to discriminate against him on the basis of his prior addiction. I am speaking primarily of provisions of state law which apply to public employment, and licensing. Throughout the licensing provisions of state law, whether it be for barbering or architecture, surveying or social work, we find the requirement that the applicant be of "good moral character". Similar provisions are also found in State and local Civil Service regulations. This undefined standard of "good moral character" is the basis of this discretion and could certainly be used to keep certain kinds of people, such as ex-addicts, from being hired or licensed.

This is not to say that these discretionary powers are necessarily being used to effect a blanket exclusion of ex-addicts. Many agencies assert that their determinations are done on a case by case basis. The New York City Civil Service Commission has adopted a policy that a history of addiction shall not in itself constitute a bar to employment; that all relevant factors will be considered. This is a start, and if all other agencies involved would adopt similar policies the situation would be improved, although it would certainly not be solved. There are too many other obstacles.

Prior criminal records, for example, create even greater problems for a significant percentage of ex-addicts. The ex-offender suffers from specific bars to employment. The state civil service law gives a civil service department the right to refuse to hire a person who has been guilty of a crime or, (even worse) of "infamous or notoriously disgraceful conduct". The Alcoholic Beverage Control Law prohibits a holder of a liquor or beer license from employing a person convicted of a felony or *any* drug related offense. The Certificate of Relief provided under the Correction Law allows only limited relief from civil disabilities, and still allows consideration of prior records in the hiring or licensing process. Moreover, relatively few of these certificates have been issued. This is probably due to the difficult procedure involved in getting the certificate, and the lack of general awareness of its availability.

Perhaps the most complex problem, however, involves the methadone patient. Because he is maintained on methadone, which is an addictive drug, he is in that sense still an "addict". And there are specific regulatory prohibitions against hiring or licensing addicts, which in no way distinguish between the street addict and the stabilized methadone patient, who is capable of functioning in a work situation.

We have seen this problem arise in at least two cases which the Commission must be aware of after today's testimony—the Transit Authority employee who was fired after informing his supervisors that he was participating in a methadone program, and the methadone patient denied a tow-truck driver's license because Police Department regulations provide that a tow-truck driver shall not be addicted to drugs.

While in these and similar cases the problem may arise from regulations adopted prior to the advent of methadone as form of treatment, there has certainly been little attempt to conform our attitudes about employment opportunities to our current treatment practices.

It seems grossly hypocritical to encourage widespread use of methadone as a "cure" for heroin addiction and then to turn around and prevent these people from getting jobs because we still consider them to be "addicts".

RECOMMENDATIONS:

What we need to do is change both our attitudes and our laws about ex-addicts. Our laws should promote enlightened hiring and licensing practices, designed to insure that the basic consideration is the ability to perform the job. To this end I would advocate legislation designed to restrict the discretion presently allowable in licensing and public employment so as to prohibit discrimination on the sole basis of prior addiction. The intent of such legislation would be to force the responsible agencies to look behind a person's record and render a determination based on his or her abilities.

I think we should also seriously consider the advisability of legislation designed to prohibit employment discrimination against the ex-addict in the private sector as well. While this may be a controversial approach, I think it is important as a part of society's commitment to the rehabilitated addict. This approach would require establishment of standards by which to determine rehabilitation, perhaps defined in terms of participation in treatment programs and/or length of time drug-free, or a certification of employability. ASA has recently begun studying various approaches of this nature and will be pleased to share our results with this Commission.

The primary fact, however, is the importance of employment to the rehabilitation process. It is equally important as the treatment aspect. In fact, insofar as it is symbolic of re-integration back into society, employment should be viewed as the ultimate goal of the rehabilitation process. So if society has committed itself to rehabilitating the addict, which I believe it has, it must also commit itself to providing employment opportunities.

CAN THE EX-ADDICT WORK?

The ex-addict is not an untested person whom employers are being asked to hire for charity. Big business is not philanthropy and job developers are not asking for favors for ex-addicts.

Many ex-addicts are skilled and highly motivated. They have proven their motivation in long months of treatment; in long months on methadone waiting lists; and in going through the often long and often discouraging process of looking for a job.

In the last month reports of two successful ex-addict employment projects were reported in the New York papers.

The first was a quietly conducted and carefully researched ex-addict employment project reported by Joe Feurey in *The New York Post*. Twenty-four ex-addicts, most of them maintained on methadone, were licensed to drive New York taxis. Their driving records, drop-out rate, productivity and motivation were evaluated and compared with the similar ratings of a control group of drivers with no addiction or arrest history. The project report was so encouraging, that the Taxi Commission is expanding the project.

The second story on a positive employment experiment involving ex-addicts appeared in the *New York Times*, on August 20, 1972.

Beginning last October, 35 individuals comprised of ex-prisoners, welfare mothers and non-English speaking people usually considered unemployable or marginally employable were brought into the Health and Hospitals Corporation to work in a collection center at night. They did clerical work on backed-up billing, over-due medicaid applications, etc.

As a result of their high productivity, they brought in enough money to the corporation to enable it to thaw its job freeze, and take on more full-time personnel.

Paul Kurz, Health & Hospitals Senior Vice-president for finance, praised their "exemplary motivation and performance", and Melvin Kershner, Collection and Billing Director, was quoted in the story, saying that they did more work than their daytime civil service counterparts.

As a result, 16 project members have been given full-time jobs, and the night program is still successful, currently employing 40 individuals.

This experience of high productivity and motivation was shared by this agency which recently conducted a study of the attendance, performance and productivity records of approximately 70 ex-addicts hired by ASA. Their records were compared to a non-addict sample employed in similar jobs in the agency: clerical jobs, administrative jobs, etc. (Not all drug free-addicts work in therapeutic communities).

Our results were as encouraging as those of the Taxi Commission. We found that there was no significant difference between the job performance of ex-addicts and non-addicts. They came to work on time, worked overtime, and performed as well or better than non-addict employees.

These results are even more striking in view of the fact that most the ex-addicts hired then were "hard-core" older addicts with an addiction history of at least 5 to 15 years, no high school diploma, and with extensive arrest and conviction records. We found that these disadvantages did not make for worse job performance. Ex-addicts were able to maintain satisfactory or excellent performance and attendance records in situations of high stress. And the stress that the ex-addicts were under was stronger than for non-addicts: they were subjected to thorough checks and reviews while only 40% of the non-addicts were evaluated to such a degree.

The Commission has also heard testimony today from Mr. Frank Gracia of SERA, on the success of an ex-addict run gas station—an important step in the direction of independent ex-addict owned small businesses. This is one solution, just as supported workshops for ex-addicts with the poorest employment history are another.

Surely Mr. Samuels and Mr. Sturz have given you the results of the former addict-run OTD parlors and other VERA manpower and addiction experiments which have proved so successful.

Using the supported workshop approach to hiring ex-addicts with the poorest skills and employment history, there are now a number of business ventures in this city employing ex-addicts: Pioneer Messenger Service, a water blasting project that cleans city buildings, and a group called "Wildcat Services", funded by NIMH and ASA, which is providing jobs for almost 300 ex-addicts on the upper West Side of Manhattan.

But "supported workshops" are not the only way that addicts are employed or employable. A recent survey of the graduates of 40 drug-free treatment programs revealed that many of those ex-addicts who have been hired in the private sector have accomplished this by *concealing* their addiction history. In one sense, the success of the ex-addict is his or her invisibility. They are not known as ex-addicts and are working for a number of companies who had previously turned down any agency bid for jobs for ex-addicts.

NACC STUDY:

The Winter 1972 issue of the New York State Narcotic Control Commission newsletter, carried the result of a state-wide survey on employment and the ex-addict. The lead paragraph reads:

> "Nearly 3000 participants in the state's addict treatment program were on the job during 1971, a recent survey has disclosed. "And their earnings were good—averaging $5000 yearly, for a projected total of more than $16 million for the group. "If the same group were still on drugs, it would cost them an estimated $30 million a year to support their habits."

ASA MANPOWER BASELINE STUDY:

At the same time as the NACC study was conducted, ASA did a survey of a sampling of their employed clientele. Their entry cards—with information taken on their previous employment before addiction—revealed 400 job categories, ranging from skilled to unskilled. That means a lot of employment experience and capability is being wasted if ex-addicts can't find work. Another check on a group of ex-addicts who found employment and returned their welfare checks to DOSS revealed that the average salary earned by the ex-addict was $5870 per year. This means the simplest cost effectiveness of an ex-addict's employment is an annual return of *$1017* per patient in taxes and a saving of *$20.28* in welfare costs, not to mention the saving in treatment costs and the immeasurable saving in human life realized when an addict is rehabilitated and able to support himself without having to resort to public assistance or worse to criminal activity.

SHOULD THE EX-ADDICT WORK?

Ex-addicts are employable, but too many of them are unemployed. Ex-addicts are employed, but too many of them are under-employed.

They are under-employed because of inadequate job training. 150 million dollars is spent in New York City on manpower—job training—programs but the New York City Manpower Area Planning Council's latest annual report reveals that little of that money reaches the ex-addict. Most job training programs do not take ex-addicts. Of those that might, an even smaller percentage discriminates against methadone-maintained patients and will only admit an occasional drug free ex-addict.

ADDICTS WORK:

In a concerted effort to diminish the relief rolls in New York City, the Department of Social Services has undertaken the task of finding employment for addicts. Anyone considered employable will be sent to a job and dropped from welfare. Addiction is not considered by Social Services to be necessarily an indication of "unemployability". In other words, to get down welfare costs, the city is willing to think that addicts can work. Why, then, can't ex-addicts find jobs?

The experience of one director of a large methadone program is that 20% of the addicts he accepts for treatment *are working* when they enter the program. Addicts work. The recent report of the Training for Living Institute on the work experience of a group of ex-addicts revealed that of all the addicts employed *while on heroin*—no one was ever fired for drugs.

How bizarre that addicts work but ex-addicts are presumed to be incapable of competitive employment. Members of the Commission, we have found that ex-addicts can work. They do work. They don't fall asleep on the job any more than we do; they come in at 9; they work overtime when necessary; they don't shoot up; they don't steal. They are an *asset*, not a liability to an employer.

PRIVATE COMPANIES

Although many private employers have an enlightened and humane policy toward alcoholism within the corporation, few—if any—have such a policy for drug addicts. Alcoholics who have become so debilitated that they can no longer function in the job are often given leaves of absense and referred to an AA program, whether intramural, or through the personnel department. If the employee stays in the AA program he is insured his job when he is able to return and to keep it. As long as he find still function in the job, his alcoholism is considered tolerable if he is known to be working on the problem, either with private medical help or through an alcoholism program.

Such understanding is seldom offered to the employed drug abuser or addict. Unofficial and almost universal company policy seems to be "search and destroy": find out the drug abuser and fire him. Occasionally such punitive measures will be accompanied by a vague referral to a treatment program, but that does not diminish the negative impact of public dismissal and ostracism.

The mental attitude of employers is largely escapist. Some personnel managers will admit to "some drug problem" in their company, but they do not want to consider it extensive enough to demand some response other than detection and punishment.

As long as an employer thinks of the drug problem as something *out there*, a disease growing behind the ghetto walls that occasionally infects places closer to home—his neighborhood or his business—he will find no inconsistency in saying, "I wouldn't hire an ex-addict."

One member of a particular company's "ad hoc" committee to change personnel policy on drugs confided that that same company's inter-office mail system was discovered to have been a speedy and efficient drug distribution service: a memo travels fast with a five-dollar bag attached.

This is a good example of what might be called "corporation schizophrenia" about drugs. It is often practiced by men who get through conferences and business trips on amphetamines, who take sleeping pills and tranquilizers to relax at night and on the weekends.

I applaud the enlightened and humane approach to alcoholism of many corporations. I urge that employers extend such intelligent considerations to employees with a drug problem—and potential employees who have overcome their drug problem.

SHOULD THE EX-ADDICT WORK?

In view of the difficulties getting jobs and training slots for ex-addicts, it seems almost logical to ask the public if they want ex-addicts to work. If employers won't hire them, it seems appropriate to ask the public if they really want ex-addicts back in the mainstream of society. If they are denied the opportunities to demonstrate that they are intelligent, skilled, and highly motivated to pursue a new life, it seems reasonable to ask if society considers them capable of it?

Or do the ex-addict and ex-offender suffer permanent damage—not from drugs, but from society's view of crime and drug addiction? Are drug rehabilitation agencies funded not to cure addicts, but to keep them away? Is there some tacit assumption in society that people with an addiction and criminal history constitute one group of society's "superfluous people"? Is rehabilitation money silently assumed to be "cost of storage" for people whom society considers a permanent burden? Is our only mandate to keep addicts off the street and secured in facilities which are attractive enough to avoid riots and Willowbrook style "exposes."

I am confident that the very fact of this commission is an indication that such pessimistic prophecies are not true.

The recent action of the New York City Department of Personnel is the first of many steps towards total rehabilitation of the ex-addict.

That statement, released on March 22, 1972, urges city agency personnel directors to hire ex-addicts, and states that "the assurance to the addict of gainful and rewarding employment is an essential motivating force for undertaking and completing treatment for his addictive habit." Including in the term "ex-drug addict" both drug free and chemotherapy-maintained addicts, the statement provides that "a history of drug addiction shall not in itself constitute a bar to employment." It provides for training for the city agencies which have begun to hire ex-addicts and for help to drug treatment agencies in preparing their clients to qualify for city jobs.

We applaud that statement and the efforts now underway to implement this enlightened policy. And we look to the state and federal governments to reinforce this precedent with similar legislation and policy. With concerted government effort towards hiring ex-addicts, more successful experiences will encourage addicts to become ex-addicts and will be an important advance in the cure of addiction.

Not only should ex-addicts work, but they must work. Employment is a crucial element of an individual's and society's health. Employment is a central motivating factor for individuals to seek and succeed in their own rehabilitation.

A recent evaluation of an East Harlem employment project conducted by Dr. Charles Bahn of the John Jay College of Criminal Justice, reports that the motivation for most of the clients who turn up at their multi-service center is "to get a job." They will accept all the other necessary services (education, psychotherapy, medical help) if it will help them get a job and prepare for a better job.

Dr. Bahn writes: "The employment peg is one on which they can hang their hats. They recognize that it is practical. They need no conversion experience to accept employment as a goal as they would to accept rehabilitation as a goal."

That same experience is reported in an employment study done of methadone patients in the Beth Israel program. A group of ex-addicts who were totally uncoopera-

tive with rehabilitative services of the program countered that they wanted no therapy, just a job. One such group —so difficult that they were considered as possibly unsuitable for the program—were employed, and the results were dramatic. With a job, and their first chance to show their success, these patients improved drastically in positive motivation and began to participate in program services aimed to insure and upgrade their employment potential. Of these 15 patients (formerly considered "unemployable" on the basis of past work history and current behavior) 11 completed their employment successfully, 7 secured permanent jobs which they have been holding for over 8 months, 3 are actively seeking permanent employment and 3 were participating in more comprehensive employment counseling.

Employment is not only an indicator of stability, it is also a cause and a motivator for stability. Look at the results of Dr. Vaillant's latest follow-up of the first 100 New York City heroin addicts admitted to the Public Health Service Hospital in Lexington, Kentucky.

Despite many discouraging figures, which lead Dr. Vaillant to conclude that compulsory community supervision after imprisonment was "surprisingly effective", the study also found that employment was an important factor in successful rehabilitation.

We see that even the most conservative approaches to drug treatment stress the necessity for employment. And we know from the results of studies like Dr. Bahns and Dr. Gearing's that the experience reported by Stuart Ross at the Fourth National Conference on Methadone Treatment is typical: "Significant decreases in illegal drug use and illegal activities occur for vocationally trained and employed clients when compared with matched samples drawn from the rest of our population differentiated solely on the basis of employment or job training."

I appreciate the Commission's invitation and opportunity to discuss with you today the problems of ex-addicts getting jobs and job training. I am also grateful to have been asked to share with you some of my knowledge on job performance of ex-addicts, as well as the results of some important studies on employment and rehabilitation. To that I would only like to add the *caveat* from Dr. Chein's study, *The Road to H*. "There is a tendency to grossly oversimplify the nature of addiction: an addict is an addict and once you've seen one . . . And there is a tendency to oversimplify the role of social forces on an individual. These forces—as those which are "held against" the addict (poor work history in the family, poor education, etc.) are usually indirect in their effect on the specific reactions of addicts and potential addicts. "We must distinguish between general factors which contribute to the environment and specific ones which act directly on the individual."

It has been the experience of various researchers that length of addiction, employment history, criminal record, lack of education or of a stable background are not necessarily directly related to job performance. Sometimes it is the ex-addict with the worst record who scores high in a job performance evaluation. A New York University doctoral dissertation testing the work attitude of male ex-addicts found that the work motivation ascribed to addicts was not distinct for people with an addiction history. Rather it was shared by addicts and non-addicts of the same sociological background. It was caused not by drugs but by a community experience of high unemployment and meaningless dead-end jobs.

CONCLUSION:

Like the Kerner Commission which listed unemployment as second in a list of 15 factors causing dissatisfaction and violence, I would put unemployment high on the list of causes of recidivism among ex-addicts and ex-offenders.

I therefore reiterate my recommendations for new and enlightened legislation to remove impediments to ex-addict and ex-offender employment.

For instance, one of the most blatant examples of discrimination is found in the New York State Education Law which governs the licensing of many professions, such as accountancy, architecture and social work, as well as most health professions. Under this law, being or *having been* addicted to narcotic drugs or a habitual user of other drugs is considered professional misconduct and is grounds for license revocation. Especially where the non-medical professions are concerned, I think it is absolutely necessary to revise this law so as not to exclude the ex-addict or ex-abuser from professional opportunities.

I urge more job training efforts for these people and more jobs. I recommend a concerted effort at public education as a result of fact-finding efforts like this Commission's.

As long as addiction and rehabilitation are so misunderstood, addiction will prove more extensive than rehabilitation. And as long as addicts are detoxified and rehabilitated and then refused jobs and a responsible place in society, I will ask whether drug rehabilitation is really being funded to succeed, or are we—as one program director charged—funded to keep addicts off the streets in permanent treatment? Are we indeed funded for failure?

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