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January 7, 2009

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Dear Governor Paterson,

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I write on behalf of the 62 New York State District Attorneys to express our concern about one aspect of your recently released 2009-10 proposed Executive Budget. As we noted in our October 6, 2008 letter, we are all cognizant of the difficulties in preparing a budget in these parlous economic times. We feel compelled, however, to comment on your decision to eliminate all funding from that budget for the STEPS program, formerly known as the Road to Recovery. Elimination of funding for that program, which helps divert substance abusing otherwise prison bound offenders to drug treatment will not, in our view, result in the cost savings you seek. Nor will the decision to redirect the funding to OASAS result in increased utilization of the program, higher completion rates or more efficient or higher quality services. It will, however, end important collaborations that upstate prosecutors have successfully developed for the past five years and used to screen appropriate candidates for diversion, facilitate their early and expeditious entry into treatment programs and provide sufficient incentive for them to remain in and successfully complete these programs.

JULIE GARCIA
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New York State's District Attorneys have consistently supported the use of alternative dispositions for appropriate non-violent offenders. Indeed, the Drug Treatment Alternative to Prison (DTAP) model was developed in the Kings County District Attorney's Office in 1991. That program has been so successful that it has been replicated throughout the nation.

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Both the DTAP model and the drug court model, now operating in over 190 locations throughout the state, recognize that one of the key components in a successful diversion program is the early, active and continued participation of the District Attorney's office. The District Attorney's commitment of resources and attention to the program helps insure that early screening of eligible cases can occur which facilitates early placement in drug treatment. Getting offenders into treatment quickly is good for the offender and saves substantial criminal justice resources. As an important member of the criminal justice team, the District Attorney, along with the Court, the defense bar, probation and treatment providers, can help shape a disposition that best suits the treatment needs of the offender while protecting public safety. The District Attorney can then use the leverage of the criminal case to help facilitate the offender's

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January 7, 2009

expeditious entry into treatment and continued participation in treatment until completion.

As you are undoubtedly aware, the ability of the criminal justice system in general, and the district attorneys in particular, to take the lead in innovative programs designed to create alternatives to incarceration for those drug abusing felons for whom such treatment is appropriate is circumscribed by budgetary constraints. These constraints are felt in the District Attorneys' offices in the sixteen counties now receiving funding, and, to be sure, most keenly, in the smaller counties upstate. The STEPS program, first funded in the Executive Budget in 2003, was an effort to lessen the budgetary burdens of these new programs in an effort to encourage greater use of such drug treatment alternative programs. The program provides the resources necessary to District Attorneys, probation departments and treatment providers to build effective collaborative teams and commit the personnel and resources to actively participate in substance abuser diversion models. Under the STEPS program, otherwise prison bound drug offenders would enter in-patient treatment programs for at least 6 months. Of the 16 counties funded by the STEPS program, 11 have fewer than 25 assistant district attorneys and 5 of these 11 counties have fewer than 10 assistants. With STEPS funding, District Attorneys, probation departments and treatment programs have hired staff whose primary responsibility is to screen the eligible offenders, develop appropriate treatment plans and overcome obstacles that might otherwise prevent the offender from entering treatment expeditiously (e.g., special medical or mental health needs). Without such funding, while treatment slots may be available, there may be no one available to promptly identify the offenders in need of treatment, match them with the correct programs, and help them over the bumps along the way. As a result, offenders most in need of treatment may never enter a treatment program or may do so at a much later time.

We applaud your recognition that alternatives to incarceration need to be funded and agree that the existence of sufficient treatment slots is a prime element in any such program. But the alternative to the STEPS program that you propose in your budget message – the addition of \$4 million to the Office of Alcohol and Substance Abuse Services (OASAS) to implement a judicial diversion program does not, in our view, provide a workable alternative. It is rather a step backward to a method that was tried and abandoned. Treatment capacity alone will neither insure that truly addicted offenders enter treatment nor that they remain, and the dismantling the successful collaborative structures that have helped foster greater participation in drug treatment by upstate counties and confidence in its efficacy cannot help but make the diversion process slower, more cumbersome and less effective. What we have learned from DTAP, Drug Court and the STEPS program is that collaborative models work well and, with the proper screening and structure, save substantial prison costs while helping offenders remain drug free and law abiding. The end result of dismantling these effective programs, we fear, will be more incarcerations in state prison at a much higher cost to New York taxpayers.

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January 7, 2009

On behalf of New York's District Attorneys I urge you to restore the \$4 million in funding to the STEPS program.

Very truly yours,

Daniel M. Donovan, Jr.
Richmond County District Attorney and
President DAASNY

cc: Hon. Laura Anglin, Director of the Division of Budget
Hon. Denise O'Donnell, Commissioner of Criminal Justice Services
Hon. Susan Knapp, Division of Budget