

**TESTIMONY OF THE LEGAL ACTION CENTER**

**ON BEHALF OF THE ATI AND REENTRY COALITION**

**Assembly Ways and Means and the  
Senate Finance Committees  
Joint Public Hearing on Public Protection  
Executive Budget FY 2014-2015**

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**Presented by**

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**Endorsed by**

**Center for Alternative Sentencing and Employment Services (CASES)  
Center for Community Alternatives (CCA)  
EAC TASC  
Osborne Association  
Center for Employment Opportunities (CEO)  
Greenhope Services for Women  
The Correctional Association  
TASC of the Capital District  
The Fortune Society  
Women's Prison Association  
Legal Action Center**

Good Afternoon. My name is Tracie M. Gardner. I am the Director of New York State Policy for the Legal Action Center. I appreciate the opportunity to address you today.

The Legal Action Center is the only public interest law and policy organization in New York City and the United States whose sole mission is to fight discrimination against and protect the privacy of people in recovery from drug dependence or alcoholism, individuals living with HIV/AIDS, and people with criminal records. The Center works to combat the stigma and prejudice that keep these individuals out of the mainstream of society. The Legal Action Center helps people reclaim their lives, maintain their dignity, and participate fully in society as productive, responsible citizens.

We also run a national center to promote the employment of individuals with convictions, the national H.I.R.E. network. H.I.R.E.'s goal is to increase the number and quality of job opportunities available to people with criminal records by changing public policies, practices and public opinion. H.I.R.E has worked for the last decade to serve as a national clearinghouse for information and technical assistance for non-profit and government agencies working to improve employment prospects for the formerly incarcerated across the country.

In New York State, we work closely with the coalition of Alternative to Incarceration (ATI and Reentry) and related programs (pre-trial services, defender based advocacy, client specific planning, community service sentencing, drug treatment diversion programs, TASC, legal and employment assistance). These programs divert appropriate individuals who have been arrested or convicted to community supervision and sanctions and thereby protect the public and save the state enormous

sums of money by reducing prison costs, preventing recidivism and stabilizing these individuals and their families.

We present these budget recommendations on behalf of the ATI and Reentry Coalition. New York State is nationally known for its highly effective network of alternative to incarceration (ATI) and reentry programs. These programs have been critical to the State's success in simultaneously reducing crime, reducing the prison population and saving taxpayers many millions of dollars, and are essential to successful implementation of Rockefeller drug law reform and ending the cycle of addiction and crime. It is no coincidence that New York, with an effective network of ATI programs, has seen both crime and incarceration rates plummet simultaneously, without compromising public safety, all while saving New York money. Recently NYC Probation Commissioner Vinny Schiraldi responded to a New York Times article on efforts to reduce the inmate population and help re-entry into society by writing: "New York City is at the forefront of reducing reliance on incarceration. The city's incarceration rate peaked in 1996 and has declined by almost half since then, while the overall national incarceration rate has increased by about 10 percent. How did we do it? The reduction in arrests, particularly for drug offenses, is certainly a leading cause. In addition, judges and district attorneys in New York City have taken a leading role in using safe and effective alternatives to incarceration, relying on a network of community-based organizations that is unparalleled in size and quality.

As Governor Cuomo noted in this year's State of the State: "*We are reducing the madness of an incarceration society and ending a system of an unnecessary human and financial waste... We need to provide the reentry support and services like job training and access to ease that transition to*

*mainstream society. Reducing recidivism means less crime, means safer communities. It means fewer taxpayer dollars spent on incarceration.”*

We applaud Governor Cuomo and the legislature’s decision to baseline funding for ATI and reentry programs in last year’s budget. We urge the Legislature to take the following steps to continue these critically important initiatives:

- **Support the Governor’s Budget proposal to maintain funding for ATI and reentry programs, and ensure that the funds be allocated effectively and efficiently and without interruption of service**
- **Provide additional funding to allow ATI to encourage innovation and expand services for emerging and underserved client and community needs.**
- **Support the Governor’s proposal to provide \$5 million in funding to support connections between the criminal justice system and the health care system, in particular the innovative network of health homes that New York State has begun developing as part of health care reform and the State’s Medicaid redesign.**
- **Support the Governor’s call for the creation of a Reentry Council to address the barriers facing those involved in the criminal justice system in a more systematic way and provide the funding called for in the Governor’s Executive Budget to support this initiative.**
- **Support the Governor’s proposal to create a Commission on Youth, Public Safety and Justice to study how best New York can raise the age of adult criminal responsibility and provide the funding called for in the Governor’s Executive Budget to pay for expert advice to support this effort.**
- **Support the Governor’s proposal for \$10 million in New York Youth Works Tax Credits to support the employment of hard-to-employ inner city youth of color, including those with criminal records.**
- **Support the Governor’s proposal for changes to isolated confinement in NYS prisons**

## DISCUSSION

**Support the Governor's Budget proposal to maintain funding for ATI and reentry programs, and ensure that the funds be allocated effectively and efficiently and without interruption of service and increase funding to support populations and areas of the state that are underserved by ATI and reentry programs.**

We are grateful to the Governor and the Legislature for maintaining (and increasing) the funding that was baselined last year for the first time in the history of this initiative. Placing the money in the budget in this way relieves our programs of much of the continuous pressure that we had faced in previous years to find additional funds beyond the Executive Budget to ensure our survival. We are also greatly encouraged by the fair and productive way in which the Executive distributed the money in last year's budget that was allocated through RFP. We look forward to continuing to work with the Executive and the Legislature to ensure that the funding is allocated in the most effective and efficient ways and captures the complexity and full range of services delivered by the ATI/reentry programs, and that these services continue to be provided without interruption.

The ATI/Reentry Coalition strongly supports efforts to ensure that services are being targeted in ways that maximize the effectiveness of the State's investment by focusing on those who are shown to have the highest needs and present the highest risk of recidivism. Research has repeatedly shown the importance of targeting the most intensive services towards those with the highest needs and those that pose the highest risk. The research has also shown the risk of providing overly intensive services to those that pose a lower risk or of placing those at low risk with those who pose a higher risk. However, while we strongly agree with this strategy, we are concerned that exclusively focusing on the high risk/high need population can result in the disappearance of all services for other populations. While it is certainly true that these other

populations do not require the intensive level services of those with the highest risks and needs, these other individuals do sometimes require generalized employment, housing and other services. This population must still confront the barriers arising from having a criminal record and the challenges of reintegrating after conviction and/or incarceration. As a result, we call on the Executive and the Legislature to ensure that, even as the State wisely focuses much of its resources on the populations who need services most, it does not assume that other populations do not need any services. We ask that the Executive and Legislature ensure that some resources continue to be used to support these other populations.

**Provide additional funding to allow ATI to encourage innovation and expand services for emerging and underserved client and community needs.**

As much as ATI and reentry programs are currently doing to improve public safety and save the state millions of taxpayer dollars, they could do much more if given sufficient funding and opportunity. Supporting services in the upstate region and to underserved populations such as women and youth are but a few examples of how additional resources could be effectively used by ATI and Reentry programs. We understand that there were more high quality proposals submitted to the Division of Criminal Justice Services in response to their RFP, than there were dollars to fund these proposals.

Major areas of the state, as well as various population groups, remain acutely underserved by ATI and reentry services. Upstate New York, especially a number of the upstate counties containing urban areas, have higher crime rates than New York City and are now responsible for the majority of new incarcerations in New York State facilities. Upstate New York has also

begun receiving an increasing share of individuals who are being paroled from state facilities. Additionally, certain demographic groups of incarcerated individuals have repeatedly been identified as being significantly underserved with ATI and reentry services, including youths and addicted individuals convicted of property crimes, including many eligible for diversion under Rockefeller Drug Law reform.

We therefore call on the State to provide new funding for ATI and reentry services in order to allow programs to develop innovative strategies for addressing emerging and underserved client and community needs.

**Support the Governor's proposal to provide \$5 million in funding to support connections between the criminal justice system and the health care system, in particular the innovative network of health homes that New York State has begun developing as part of health care reform and the State's Medicaid redesign.**

New York State is at the forefront of efforts to link those in the criminal justice system to the health care services they need and to seek ways of doing this in a coordinated and effective manner. States around the country are watching New York closely to see how it carries out efforts to enroll its criminal justice population in health care insurance and links individuals to the care that they need. Such connections provide opportunities for reducing institutionalization in both the criminal justice and health care fields through reduced recidivism and the resulting incarceration as well as reduced use of emergency rooms and detox facilities. Furthermore, through the increased federal Medicaid match being provided to the State as part of health care reform, there is the potential for the State to realize significant financial savings. Additional

benefits are likely to arise as a result of the State's Medicaid reform efforts, and in particular efforts to address the behavioral health needs of those enrolled in Medicaid in a more thoughtful, productive and cost effective way. However, for this effort to be successful, and to maximize both the potential health benefits and financial savings, the State will need to invest a certain amount of money upfront to help establish the new relationships and policies and procedures that will be needed.

We also strongly support the State Department of Health CS waiver application, which can provide additional resources to support efforts to connect the criminal justice population to health care services. Additionally, we urge the Legislature to approve the Governor's budget request for \$115 to \$120 million to support investment in in the Medicaid managed care system for those with serious mental illnesses and/or substance abuse problems. Many in the criminal justice population suffer from these conditions and the range of support services that would be funded are essential in assisting these individuals to avoid institutionalization, in both the health and criminal justice settings.

**Support the Governor's call for the creation of a Reentry Council to address the barriers facing those involved in the criminal justice system in a more systematic way and provide the funding called for in the Governor's Executive Budget to support this initiative.**

In his State of the State address, Governor Cuomo called for the establishment of a State Reentry Council that would *"bring...together all the state resources and coordinate...them [to] make...transitions [out of incarceration and back to the community] effective and lasting."* The Governor linked the creation of the Council with the goal of "stop[ping] the revolving door once



and for all.” We strongly support the Governor’s call for the creation of such a Council. Such a Council could build upon the successes of the Governor’s Work for Success initiative by seeking to address State barriers to reentry in a systematic and thoughtful way by bringing together all the State agencies whose policies, intentionally or not, limit the ability of those involved in the criminal justice system to reenter society successfully. In his Executive Budget, the Governor called for \$250,000 to support this initiative. We strongly urge the Legislature to support this request.

**Support the Governor’s proposal to create a Commission on Youth, Public Safety and Justice to study how best New York can raise the age of adult criminal responsibility and provide the funding called for in the Governor’s Executive Budget to pay for expert services to support this effort.**

New York State is one of only two states that still consider 16 year olds as adults who are fully criminally responsible for their actions – the other is North Carolina. Decades of research have shown that adolescent brains are not yet fully formed and that, as a result, adolescents are less able to understand the consequences of their actions than adults. Additionally, research has also shown that juveniles are much more likely to be victimized and to commit suicide when they are held in adult jails. Furthermore, keeping youth in adult jails could put New York at risk of losing access to federal funding under the Prison Rape Elimination Act. In his State of the State, Governor Cuomo called New York’s laws “outdated” and described them as “not right...[and] not fair.” He called for the creation of a Commission on Youth, Public Safety and Justice to study how best New York can raise the age of adult criminal responsibility. We call on the Legislature to support the Governor’s call for raising the age and to provide the \$250,000 in

funding the Governor has asked for in his Executive Budget to pay for expert services to facilitate the work of this Commission.

We also strongly feel that the Commission should look beyond the narrow topic of raising the age of adult responsibility to examine the system that leads to the criminalization of youth for minor, non-criminal infractions within schools. These infractions used to be punished internally within the school setting and other minor infractions that introduce children prematurely and often unnecessarily to the criminal justice system also known as the “school to prison pipeline”. Additionally, we believe that the Commission should define “youth” and young people very broadly. The brain research mentioned above strongly demonstrates that young people’s brains are not fully developed until well into their twenties. As a result, the Commission should consider options such as raising the maximum age that youth can be awarded a youthful offender adjudication so that young people can avoid some of the collateral consequences of an adult conviction. Lastly, the Commission should look into the most effective ways of sentencing young people in order to ensure the greatest success in improving reintegration opportunities and reducing recidivism. In particular, we strongly believe that almost all adolescents should be provided with alternatives to incarceration, as the Governor has begun doing through his Closer to Home initiative. Alternatives to incarceration are safer, cheaper and more effective at reducing recidivism than incarceration.

**Support the Governor’s proposal for \$10 million in New York Youth Works Tax Credits to support the employment of hard-to-employ inner city minority youth, including those with criminal records.**

In 2012, Governor Cuomo established the New York Youth Works Tax Credit. The program provides tax credits to employers who hire individuals 16 to 24 years old who live in certain urban communities within New York State. Among populations targeted by the program are the formerly incarcerated, those on probation or parole or those with an incarcerated, or recently released parent. In his Executive Budget, the Governor calls for increasing access to the program to those working at least ten hours per week, from the current minimum of twenty hours, providing additional credits for employers who retain youth for an additional year, and increasing the amount of funding for the initiative. Employment is a key element in reducing incarceration and recidivism. We call on the Legislature to support and fully fund this initiative.

### **Support the Governor's proposal for changes to isolated confinement in NYS prisons**

The Governor's proposed budget has allocated additional funding for the purposes of changing some aspects of the way in which people are subjected to isolated confinement in NYS prisons, although much more reform is needed. Specifically, the proposed budget has indicated an allocation of \$3.8 million for DOCCS, including a recommended additional 66 full time equivalent staff, "in support of updated policies and programs regarding supervision of [incarcerated persons] in Special Housing Units" (SHUs). To the extent that these additional resources are meant to provide additional programs, services, out-of-cell time, and meaningful human interaction for people who are placed in SHU, these changes are a necessary and welcome development. We also support the Correctional Association's additional recommendation that reducing the use of isolated confinement and creating more effective

alternatives will reduce the number of people who return to prison after being released by better preparing people to be successful upon release. We therefore call on the Legislature to support the proposals unveiled last week by Assemblyman Aubrey and Senator Perkins to limit the length of time individuals are placed in solitary confinement and bar the use of solitary for populations that are particularly vulnerable.