

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 2013-2014

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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 four years 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. As Governor Cuomo wrote in his State of the State: "New York State's achievements in public safety are legendary... Today, New York has one of the lowest crime rates in the country... We have achieved these public safety successes through our commitment to fairness: reserving the expensive sanction of incarceration for those who pose a danger, but promoting cost-effective community programming for those who do not. Alone among the states in the nation, we have driven down our incarceration rates while also driving down crime rates." This conclusion is echoed in a new report by the Vera Institute of Justice, the Brennan Center for Justice and the JFA Institute, "How New York City Reduced Mass Incarceration: A Model for Change?" which examines why both state and local incarceration in New York City has decreased so significantly. While attributing the largest part of the reduction to changes in policing, the report finds that the use of "non-prison sanctions by New York City courts also contributed to the decline."

We applaud Governor Cuomo and the legislature for continuing funding for ATI and reentry programs last year. We urge the Legislature to take the following steps to continue these critically important initiatives:

- **Support the Governor's Budget proposal to maintain and institutionalize funding for ATI and reentry programs, and ensure that the \$7 million in new funds, combined with current funding for these programs, for a total of \$11.4 million, is 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 Governor's proposal to close prisons.**
- **Include legislation to ensure greater accuracy and completeness of the Division of Criminal Justice Services' (DCJS) criminal record information.**
- **Support Governor's proposal to transfer the former Fulton Correctional Facility to the Thomas Mott Osborne Memorial Fund.**
- **Support Governor's efforts to enhance the Department of Corrections and Community Supervision's (DOCCS) educational, vocational, and employment-readiness programs**

Support the Governor's Budget proposal to maintain and institutionalize funding for ATI and reentry programs.

We are truly grateful to the Governor for agreeing to maintain funding at last year's level. In particular, we are excited that the Governor chose to replace the \$7 million in funding that had come from the American Recovery and Reinvestment Act (ARRA) for the last three years and which we had received for many years before as a result of the immense generosity and support of the Legislature.

We are also excited that Governor Cuomo has chosen to institutionalize the \$7 million in funding into the Executive Budget. For many years, we have argued for the need to baseline this money in light of the integral role that our programs play in the ability of New York State's criminal justice system to reduce crime and the prison population, thereby saving many millions of taxpayer dollars. 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 also believe that it will likely result in more regular funding in the years to come, which would allow our programs to focus on providing services rather than working to obtain the funding that we need to keep operating. We look forward to working 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.

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.

Major areas of the state, as well as various population groups, remain acutely underserved by ATI and reentry programs. 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 Governor's proposal to close prisons.

Since 1999, in significant part as a result of the work of ATI and reentry programs, DOCCS's under-custody population has fallen by 25%, over 17,000 people. The Governor's Budget predicts that the prison population will decline by a further 800 individuals this year and will continue to decline in ensuing years. Furthermore, over the past 15 years, the female prison population has decreased by 38%. We therefore support the Governor's proposal to close 2 more prisons, both women's facilities, this year, on top of the 7 that the Governor has closed since coming to office.

However, we share the concerns of the Correctional Association's Coalition for Women Prisoner's about the facilities that were selected and the impact on family reunification efforts and work release opportunities. . By closing facilities located in or near New York City, the State

is making it much more difficult for inmates to maintain family ties (approximately 70% of incarcerated women in New York are mothers and about 4000 children statewide have a mother in prison) and prepare for reentry, two factors which have been shown to play an important role in reducing recidivism. Furthermore, the elimination of the free community bus program in 2011 has made it much harder for inmates to maintain family ties with relatives who live far away.

In addition, two of the nine facilities, Bayview and Fulton, offered work release programs. Work release programs have proven to be an incredibly effective tool in assisting individuals with reentry but they are most successful when the participants are employed in the communities they intend to return to. The programs also cost less than traditional imprisonment and allow participants to contribute to the local economy and pay taxes. In spite of our concerns, we do support the closure of additional prison facilities. We urge that the Legislature reinvest some of the savings resulting from prison closures to maintain funding for ATI and reentry programs so that these critically important programs can maintain and expand their services, which will lead to even greater declines in the prison population.

Include legislation to ensure greater accuracy and completeness of the Division of Criminal Justice Services' (DCJS) criminal record information.

Governor Cuomo's budget calls for legislation allowing New York State to join the National Crime Prevention and Privacy Compact. This would allow New York to access information for civil purposes directly from the criminal record repositories of the other 29 states that have

ratified the compact, rather than obtaining the information from the FBI, which has acknowledged that its records are full of errors.

This would also mean that other states would be able to get information directly from DCJS. However, DCJS records also contain a large number of errors due in large part to the number of parties involved in providing the information to DCJS for creating its criminal records. These errors include records that lack a final outcome, warrants that continue to appear open after they were vacated, and records that should have been sealed but were not. Allowing other states to obtain direct access to this information will mean that even more people will be burdened by these errors, which could result in these individuals losing employment, housing, education and other benefits through no fault of their own. Furthermore, correcting these errors can be extremely challenging, even more so for individuals who do not reside in New York.

We therefore recommend that the Legislature also pass legislation that will greatly improve the accuracy and completeness of DCJS's records. The Legal Action Center, together with our coalition partners in the Coalition of Reentry Advocates (CoRA), has drafted three bills that would allow the state to significantly improve the completeness and accuracy of its records by ensuring that incomplete information and information that should have been sealed not be reported. We are happy to make drafts of all these bills available to the Legislature. Additionally two of the bills, one dealing with cases that are missing a disposition, the other addressing vacated warrants that still appear to be open, were previously introduced by the legislature,

although CoRA has made significant changes to the warrant bill so as to make the process easier and less costly to both the courts and to DCJS.

Support Governor's proposal to transfer the former Fulton Correctional Facility to the Thomas Mott Osborne Memorial Fund.

We are also appreciative of the Governor's decision to include legislation allowing the State to transfer the former Fulton Correctional to the Osborne Memorial Fund. Osborne's proposed approach consists of rehabilitating the structure to house a community focused reentry facility for men and women returning to the Bronx from jails and prisons throughout New York State. The proposed facility will house the necessary programs and services to support participants' successful reintegration into their neighborhoods and families and will do so within the community.

Osborne also hopes to provide space for a number of other organizations, including community agencies, other service providers, and community supervision agencies. This collaborative approach will create an environment that will facilitate individuals' successful reentry into society. In addition, Osborne will operate its food preparation business in the facility's basement kitchen and will look to create a Bronx Green Business Incubator to house enterprises in the burgeoning green sector. These businesses will offer career pathways to the formerly incarcerated, mitigating the employment difficulties that create one of the greatest barriers to reentry.

We are very excited by the opportunity presented by this proposal and we hope that model presented by the repurposing of Fulton will provide a model that could be replicated in other parts of the state.

Support Governor’s efforts to enhance the Department of Corrections and Community Supervision’s (DOCCS) educational, vocational and employment-readiness programs

The budget notes describe the “comprehensive review” that DOCCS performed of its workforce last year. This review resulted in the decision to enhance “educational, vocational, and employment-readiness programs with the goal of better preparing inmates for their return to the community.” This initiative is being funded in large part through the Second Chance Act funds that DOCCS was awarded by the federal government. The effort has also been greatly informed by the work that has been done by the Governor’s “Work For Success” initiative, which ATI and Reentry Coalition members have been deeply involved in. We feel that this project presents a truly exciting opportunity for the State to reimagine its entire incarceration system to have much more significant focus on preparing inmates for release and reentry, through the use of the latest research. We feel that this effort will result in reducing recidivism among the state prison population. We strongly support this initiative and encourage the Legislature to support it and maintain it in the future.