

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 2019-2020

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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)
Greenburger Center for Social and Criminal Justice
The Correctional Association
TASC of the Capital District
The Fortune Society
Women's Prison Association
Legal Action Center

Good Afternoon. I am Tracie Gardner, Vice President for Policy Advocacy for the Legal Action Center I appreciate the opportunity to address you today.

In New York State, we work closely with the coalition of Alternative to Incarceration (ATI), Reentry and related programs. These programs enable many thousands of men and women to be appropriately supervised and served in the community. These services divert individuals who would otherwise be sent to more expensive prison beds to less expensive and more effective community-based supervision and services. They also assist individuals who are released from incarceration reintegrate with their families and the communities by lowering barriers to employment, housing and health services, thereby reducing the likelihood of recidivism.

We are asking that New York increase funding for ATI and reentry services by \$16.2 million in the coming year, with \$16 million for the expansion of ATI and reentry services and \$200,000 to support the creation of a plan for bringing ATI and reentry services to scale in every part of the state. Too many New Yorkers remain unable to access these essential services that can help avoid incarceration, enable successful reentry and help individuals address the elements that contributed to their criminal justice involvement. Increasing access to these programs is essential to reducing the prison population in New York, thereby contributing to the State's efforts to address mass incarceration and the racial discriminatory impacts of the criminal justice system. Furthermore, as the State seeks to achieve true reform in discovery, bail and speedy trial laws, it is essential that there be programming to help prevent the continued cycling in and out of jails and prisons of those with substance use and mental disorders.

Examples of the use of these funds include technical assistance provided by established programs to build the capacity of other program or regional needs like for **\$185,000** for Osborne's newly established Buffalo office to establish family engagement and support services in Western New York, and to expand video visiting. Women's Prison Association is eager to export their **JusticeHome** model across localities by adding staff to already-existing community programs so they can provide intensive community- and home-based interventions. Staff would administer risk assessment, accompany women to court, and visit the women 1 to 5 times per week. This model **costs less than \$20,000/year** per individual served; it is only approximately a third of the cost of prison or jail.

Additionally, these funds could also help leverage dollars from other sources of funding than criminal justice where people with criminal justice-involvement are served. For example, the Center for Employment Opportunities (CEO) seeks to target immediate access to transitional employment/training for persons leaving state prisons who have been assessed as moderate to high risk, encourage NYS agencies to provide transitional work opportunities for persons leaving incarceration and streamline the process for ATI/Reentry employment providers to access additional federal SNAP and Workforce Innovation and Opportunity Act education and training funding. Transitional and permanent housing, substance use disorder and mental health treatment, and higher education are a few more examples of systems that should be providing targeted funding streams to serve people still or recently in the criminal justice system.

By building on New York's decades of investment in ATI and reentry services and the expertise that the State's funding has enabled providers to develop, *New York now has the opportunity to become the first State in the nation to bring alternative to incarceration (ATI) and reentry services to scale statewide so that all New Yorkers can access these needed services.* This money will represent a substantial down payment while the state engages in a thorough analysis to determine what mix of services are needed in each part of the state and how best to create or expand these services. The increased funding this year can go towards addressing two keys area of need:

- **Expanding ATI and reentry services in the many parts of the state that are underserved, including most of upstate New York**

Most of the State outside the New York City metropolitan area has little or no programming to divert individuals from state prison. Therefore, even as New York develops a plan for creating a comprehensive statewide network, the State should invest in communities with little to no ATI and reentry services. In 2015, Governor Cuomo increased funding for alternatives-to-incarceration and reentry services by \$2 million, with the goal of bringing more programming to the counties outside of New York City. These funds provided an initial investment towards ensuring statewide access to diversion and reentry programs and services. New York now has the opportunity to build on this important goal and bring ATI and reentry services to scale statewide.

State incarceration trends underline the continued need for new services outside New York City.

Following the enactment of the 2009 Drug Law Reforms, large upstate counties saw an initial small

reduction in new incarcerations for the crimes made eligible for diversion, after years of increased incarceration. However, this progress has come to a halt in recent years as the opioid epidemic began to take hold. In 2010, 1,869 people from the large counties were sent to prison for diversion-eligible crimes. In 2015, the number was 1,840. Meanwhile, from 2007 to 2015, small counties saw a 31% *increase* in incarcerations for drug crimes and a 23% increase in incarcerations for property crimes. By contrast, New York City experienced a 64% *decrease* in incarcerations for diversion-eligible drug crimes and a 32% decrease in incarcerations for diversion-eligible property crimes over the same period.

In light of the significant number of individuals who continue to be sentenced to DOCCS from these underserved counties, we recommend that New York State expand resources for ATI and Reentry services outside the NYC metropolitan area, even as the State develops a long-term plan for creating a truly statewide network of these essential services.

- **Expand ATI and reentry services in New York City to fill gaps to support the closure of Rikers Island**

While New York City has the strongest network of effective programs providing alternatives to incarceration in the nation, many eligible people who need these services still lack access. Among the populations that continue to be especially underserved are: women; young people (especially in light of the enactment of New York's transformative Raise the Age Legislation); LGBTQI; people with mental health disorders; people with a sex offense conviction, individuals with substance use disorders who are convicted of property crimes; and individuals charged with violent offenses.

In its final report of recommendations for closing Rikers Island, the Independent Commission on New York City Criminal Justice and Incarceration Reform (aka the “Lippman Commission”) called for “invest[ment] in expanding the availability of treatment for underserved populations and underserved problems. Longer jail stays should also be reduced through greater use of evidence-based alternatives” as part of the strategy for closing Rikers.

- Fund a study to identify gaps in ATI and reentry services and develop a plan for filling these gaps

We recommend that New York fund a study, bringing together relevant state agencies, other stakeholders and organizations with experience in providing ATI, reentry and related services and individuals with direct personal experience. A comprehensive statewide capacity for services will require a multi-year plan and strategy. In order to develop this plan, it will be critical to identify existing service gaps, regional needs and organizational capacity.

While a study is needed to flesh out a comprehensive plan, the needs – and opportunities – that bringing ATI, reentry and related services to scale will address cannot and should not wait. The State should invest \$16 million to substantially increase these life-saving, crime-reducing, proven effective services in the FY 2020 state budget.

Additional Criminal Justice and Health Proposals

Gov. Cuomo’s 2019 Justice Agenda includes several reentry reforms long-advocated for by LAC, the ATI/Reentry Coalition and our colleagues in the Coalition for Reentry Advocates (CORA), which we strongly support. These include:

- Reconfiguring the occupational license structure to remove blanket statutory bans;
- Removing the six-month suspension of driver's licenses for drug offenses unrelated to driving;
- Preventing the sharing of mugshots that do not have a specific law enforcement need; and
- Modernizing criminal history reporting to stop the use of past arrest information that did not result in a conviction for civil purposes such as employment, housing, and licensing.

We will be providing input with additional suggestions and will share these details with Program and Counsel of both Houses.

The Executive budget also contains numerous strong proposals to address the epidemic of opioid and other substance use disorders in New York, and to increase access to mental health and substance use disorder treatment. One area of particular interest are the proposals to improve health care within jails and prisons, strengthen linkages to community care as critically important strategies for both improving health outcomes and reducing recidivism. We urge the Legislature to support the Executive proposals that 1) seek federal approval to provide Medicaid coverage to individuals in the criminal justice system during their last 30 days of incarceration for medical, pharmaceutical, and behavioral health care coordination services; 2) increase the availability of SUD treatment services and medications inside jails and prisons. Moreover we support the availability of the three FDA approved medications for opiate use disorder to *all* jails and prisons in the State.

Finally we ask that the Legislature continue its support of \$360,000 (\$180,000 each) of two of our Coalition members who were not included in the Executive budget: The Correctional Association of the State of New York and the Legal Action Center. Our two agencies were not included when the Governor baselined ATI and Reentry programs administered by DCJS.

In conclusion, as national leader in the development of ATI and Reentry and related programs, New York should invest an additional \$16 million in the coming year to help speed the closure of Rikers Island and begin the expansion of ATI and reentry services to underserved parts of New York State. Additionally, we recommend that New York allocate \$200,000 to support the creation of a plan for bringing ATI and reentry services to scale in every part of New York. We support a number of the Executive health and criminal justice reform proposals and look forward to working with you toward adoption.