

**Testimony of the Osborne Association
for the
Joint Legislative Budget Hearing
Regarding Public Protection**

February 10, 2021

**Presented by
Elizabeth Gaynes
President/CEO**



Thank you for the opportunity to speak with you today. I am the President of the Osborne Association, a New York nonprofit founded 90 years ago by Thomas Mott Osborne, an Auburn mayor and businessman from a family of abolitionists and suffragettes who served as warden of Sing Sing in 1914 and became known as the “pioneer and prophet of prison reform.”

2021 is the 50th anniversary of the Attica Uprising, and of my first sojourn into NY state prisons. I have watched the population go from 12,000 then, to more than 73,000 in 1999 – 15 years after I came to Osborne. But over the last 20 years, with the population cut in half, it would be fair to say that the drop in crime and incarceration has occurred as alternatives to incarceration have grown. It’s also fair to say that the rich array of nonprofit ATI/Reentry service providers in New York City has turned the majority of the prison population from people mostly from NYC to mostly from outside the City/Upstate.

Over the last three decades, Osborne has designed and implemented an array of programs and services to provide opportunities for those on both sides of the walls. Today, the Osborne Association has community sites in the Bronx, Brooklyn, Harlem, Newburgh, and Buffalo. In addition, (pre-Covid) Osborne was operating at 30 DOCCS facilities in all DOCCS hubs and 19 upstate counties, including 16 Visitor Hospitality Centers welcoming 80,000 visitors a year, 5 Family Centers in prison visiting rooms, and free Family Video Visiting services – operating from all of our community sites, connects children and families to loved ones in 10 facilities, including all three women’s prisons. Our Bronx headquarters includes an OASAS-certified outpatient ATI, and all of our NYC sites provide a wide range of ATI and reentry services, including for people leaving the Rikers Island jails where we operate programs. Osborne is unique among major criminal justice nonprofit organization in that we center the children and families of incarcerated men and women in our programs and advocacy, while having the largest presence in prisons.

As a result, we have seen that while New York has seen considerable success in reducing the prison population through more sensible diversion, the core of the population remains stubbornly persistent due to continued extreme sentencing rooted in the seemingly permanent punishment paradigm. The percentage of people in state prison serving life and virtual life sentences is among the highest in the country, and leads us to a crisis of aging in prison – an unforced error given that older adults serving long sentences are the most expensive to incarcerate, pose the lowest risk to public safety and have done the most to grapple with the consequences of the harm they caused.

Osborne has geared its program to address both the challenges of children with arrested and incarcerated parents, and the impact of aging in prison and reentry; our policy center, for good reason, is the Center on Justice Across Generations. This is why we are seeking your support to protect and expand access to people in prison and jail for their children and families, why we are

asking your renewed support for our program expansion in Western New York launched two years ago with funding from Senator Tim Kennedy (discussed further below). We also hope you will:

Pass the **Protect In-Person Visits Bill S2841** (Senator Sepulveda/Assemblymember Weprin). Previously referred to as the Codification of Visits Bill, it would protect visits at State and local correctional facilities, ensuring in-person, contact visits are codified in State law and that video conferencing cannot replace in-person visits. Families are deeply concerned that in person visits will be reduced or eliminated as more jails begin to implement and rely on video conferencing during the pandemic. This bill was previously passed by the Senate and we urge the Legislature to pass this bill immediately.

Pass **Connecting Families New York** (Senator Bailey/AM Epstein). This legislation would ensure that people incarcerated in New York State prisons and jails have increased access to phones and email kiosks and would make communication free for incarcerated people.

We also urge you to address the crisis of persistent, unnecessary longterm incarceration by adopting other critical measures:

Pass **the Elder Parole Bill, S15/ A3475** (Senator Hoylman/ Assemblymember De La Rosa) An ever increasing percentage of the incarcerated population in State prison is over 50 years of age due to harsh penalties imposed when they were young adults and narrow release mechanisms. Older people in prison pose virtually no threat to the community and are more costly to incarcerate. The Elder Parole Bill would allow individuals who are 55 years of age and have already served 15 years a chance to go before the Parole Board, even though they have not yet reached their minimum sentence or would not otherwise be parole eligible.

Pass the **Fair and Timely Parole Bill, S1415/A4231** (Assembly Member Weprin/Senator Rivera) The Fair and Timely Parole Bill would require the Parole Board to determine, with reasonable probability, whether an individual who has reached his/her minimum sentence poses a current and unreasonable risk of violating the law that cannot be mitigated by community supervision according to the parole case record; if not, he/she shall be released to community supervision. If parole is not granted, upon the incarcerated person's next hearing, he/she shall be "presumed" to be released unless the Board can show by a "preponderance of the evidence" that he/she is a threat to the community.

Fully Staff and Train the Parole Board: The New York State Parole Board consists of 19 commissioner seats yet since 2011, has not been operating with a full staff. There are currently 16 commissioners. The commissioners are appointed by the Governor and confirmed by the State Senate for terms up to six years. Continuous under-staffing (at times the Parole Board has been down to 12 commissioners) makes it difficult to give adequate time to review the 12,000

parole applicants who come before the Parole Board annually, and has led to short parole interviews, hearings conducted mostly by video, inadequate time to prepare and read an individual's parole packet, and a host of other bureaucratic barriers that have very real consequences for people's liberty, and for their families who await their return. The three remaining vacant seats must be filled with individuals who believe in rehabilitation and transformation, and who represent professional, geographic, racial, socioeconomic, and cultural diversity.

Specific to the ongoing crisis that COVID-19 poses, we urge you to:

- Call on the Governor to use his clemency powers during this public health crisis (only 7 clemencies were granted at the end of 2020, despite thousands of applications), and also to issue an executive order that allows for the release of individuals over the age of 50 with serious health conditions, and the release of people who are within one year of their release.
- Call for access to the COVID-19 vaccine for those incarcerated, just as those in nursing homes and other congregate settings do.
- Call for the reinstatement of in-person visiting following the CDC Guidelines and the guidance of local State and county health departments, and with precautions taken by prisons and jails as DOCCS did when they resumed visiting from August to December, 2020.

COVID-19 has certainly had an impact on everyone who lives in, works in, and visits jails and prisons, and has decimated our ability to provide in-person services. The weak IT infrastructure in DOCCS has made even remote services extremely fragile. We had already seen the negative impact on the fairness of parole hearings from having no digitized files or electronic health records, especially in the face of an understaffed parole board holding hearings by video, and we urge that New York meets the broadband and tech infrastructure needs of all New Yorkers, including the incarcerated.

In the face of COVID, the nonprofit sector has been stepping up in every way. Whatever else the FY 22 budget may fund or cancel, it is critical that the state preserves the infrastructure of the voluntary sector, which has been at the heart of the "mutual aid" and preservation of families and neighborhoods, including those involved with the justice system. This means funding the full cost of contracted services, something the government has never done.

For the FY 2022 budget, as a member of the ATI/Reentry Coalition, the Osborne Association reiterates our request that you preserve and expand the best array of ATI, ATD and reentry programs in the country. Yet at a total cost of less than \$23 million, these programs are underfunded and not evenly distributed in areas of need across the State. Osborne's Court

Advocacy Services provides mitigation specialists to lawyers for indigent defendants and those accused of parole violations for a tenth of the cost of prison. ATI and reentry programs keep people away from arrest out of jails and prisons, save money and enhance public safety. As a significant first step toward bringing these services to scale, existing programs could both expand and provide technical assistance to other existing social service and health providers across the state interested in getting more involved.

The ATI/Reentry Coalition is also pressing for significant sentencing reforms. In addition to the parole legislation urged above, we are urging giving judges the discretion to impose community-based sentences, and expanding opportunities for the release of currently incarcerated people, addressing the epidemic of mass incarceration, protecting those most vulnerable to COVID-19, and saving taxpayer dollars. The ATI Coalition urges the passage of sentencing and other reforms (including passing Less is More NY, A5493/S1343 restricting incarceration for technical violations of parole, bolstering due process, and providing earned time credits including for those who are currently on parole or conditional release). These reforms are a component of work needed to end racial disparities in the criminal justice and healthcare systems and emphasize treatment over punishment, people over prisons, and the recognition that people can change and reintegrate back into society.

We would also ask that you hold a [Joint Hearing on the Health and Well-Being of those Aging in Prisons to seek solutions and issue recommendations to meet the needs and protect the health of older people in NYS prisons](#). More than 20% of the state prison population is over the age of 50. By virtue of their age and “accelerated aging” associated with long-term incarceration and trauma, it is necessary that DOCCS make all necessary provisions to accommodate the health needs of this growing population. COVID has only heightened this need threatening the lives of the close to 10,000 older people in DOCCS’ custody.

As mentioned above, we hope that the Senate will sustain our new program in Western New York. FamilyWorks Buffalo received FY 20 and FY 21 funding from Senator Kennedy and was designed to provide support to children of arrested and incarcerated parents, including video visiting, youth services, and training of local organizations on the impact of parental incarceration. We were welcomed into the community of providers who provide services to people with direct involvement, from arrest through reentry, but it was clear that our service model was filling a gap. There are other services Osborne provides downstate that we could offer in Erie County and that would also fill a gap. For example, we have not seen a program like Osborne’s Court Advocacy Services that provides forensic social workers to write defender-based pre-plea and pre-sentence mitigation proposals, services that will be of value to those affected by past, present and future reforms.

Because Osborne’s work is focused largely on families and children, I would like to raise the issue of the impact of arrest of parent in the presence of his or her children, as well as – and I never thought I would have to say this – the arrest, handcuffing, and gassing of young children. And arrests that involve handcuffs and trips to the police station can be traumatizing to children when a summons would do as well, or when necessary, procedures that safeguard children. We have worked with several jurisdictions on implementing such policies, and urge New York to support these efforts.

Lastly, we urge you to support the Marijuana Regulation and Taxation Act sponsored by Sen. Krueger and Majority Leader AM Crystal Peoples-Stokes, that insures social equity licensing as well as tax revenue geared to reparations for communities that have been devastated by the drug war.

Thank you.

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