

**TESTIMONY OF THE LEGAL ACTION CENTER**

ON BEHALF OF THE ATI COALITION

Assembly Ways and Means and the  
Senate Finance Committees  
Joint Public Hearing on Public Protection  
Executive Budget FY 2011-2012

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Presented by

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Endorsed by

Center for Alternative Sentencing and Employment Services (CASES)  
NYAPSA - New York Association of  
Pretrial Sentencing (NYAPSA)  
Center for Community Alternatives (CCA)  
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  
New York State Association of Alternative  
Sentencing Programs (NYAASP)

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 Coalition:

New York State is nationally known for its highly effective network of alternative to incarceration (ATI), reentry programs and probation. 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. The contrast between New York and other large states is dramatic. New York has the lowest crime rate of the largest states and by far the lowest incarceration rate: as of January 1, 2010, California's prison population was 169,413, Texas 171,249 people, and Florida 103,915, while New York's prison population was 58,648. It is no coincidence that New York has a strong network of ATI and reentry programs, and the other states do not.

We strongly support Governor Cuomo's proposals to reduce excess prison capacity. However, the state must maintain ATI, reentry programs and probation which have played a key role in reducing incarceration in order to ensure the prison population continues to decline. We are also pleased to see a continued commitment in the Executive budget to effective implementation of Rockefeller reforms but this, too, requires an effective ATI and reentry network.

We therefore urge the Legislature to take the following steps:

**Entirely Restore the Proposed 8% Cut and as much as possible, the Legislative adds from prior years to ATI, Reentry and Probation to Continue Reducing Crime and Saving the State Money.**

In the past two years ATI and reentry programs have experienced not just the nearly 20% in across-the-board cuts experienced by the criminal justice system as a whole, but also the loss of millions of dollars

added with Legislative support. During the past year the Executive, recognizing the crucial role played by the ATI and reentry system and the grave risk to their survival, came to the rescue by allocating, with support from the Legislature, more than \$1.5 million to ATI and reentry programs; we are most grateful for this support. However, this funding was not enough to restore all services.

Further cuts to ATI, Reentry programs and Probation are extremely unwise as New York State implements initiatives to continue reducing its prison population. The current proposed cut to ATI and Reentry programs should not be implemented at all given that more, not less, ATI and reentry services are needed to address the needs of individuals who would otherwise be incarcerated as well as to effectively implement Rockefeller drug law reforms and reduce the numbers of individuals being re-incarcerated due to technical parole violations. Additionally, we are troubled by the Executive proposal to collapse all local aid into one “lump” sum that provides no guarantees about the level of support ATI, Reentry programs and Probation will receive. While last year’s merger included probation and correctional alternatives into the larger Division of Criminal Justice Services (DCJS), we strongly believe that community corrections should maintain a clear and distinct identity and function with the Division.

### **Support the Governor’s Proposal to Close Prisons**

Since 1999, as a result in significant part of the work of ATI, Reentry programs and Probation, the Department’s under-custody population has fallen by over 15,000, or 21%, and is expected to continue declining this fiscal year. More than 8,000 prison beds are now empty. The Governor’s Budget estimates that there are currently at least 3,500 excess beds in medium and minimum security facilities. We support the Governor’s proposal of closing 10 prisons. We also urge the Legislature to maintain funding for ATI,

reentry programs and Probation so the prison population will continue to decline and not rise, and reinvest savings from additional prison reductions in funding these critically important programs.

**State agencies should be limited to using DCJS or OCA data bases**

For the past seven years, the legislature has passed a number of important pieces of legislation that lower barriers to reentry and encourage the employment of individuals with criminal records. Tough budget times make it even more urgent that we lower barriers that keep qualified people with criminal records from becoming tax-paying citizens. One major barrier is the dissemination of rap sheets and arrest histories that contain incomplete or sealed information. To prevent this from happening, we recommend the following:

1. DCJS and OCA should be prohibited from disclosing old, undisposed case information. A bill that addresses this problem was introduced (S5223/A8222) and was a DCJS program bill last year.
2. No governmental entity other than OCA and DCJS should be allowed to provide arrest or criminal history records to employers. Some counties are selling local data bases, and these data bases include information about arrests that should have been sealed. Some employers are requiring job applicants to sign an authorization for the employer to get these local data bases or obtain them at their cost, and bring it to the employer.