

### **Carmen Gutierrez Testimony and Talking Points for CSSB64**

Ms. Gutierrez has practiced criminal law in Alaska for over 25 years. She also served as Special Assistant and then Deputy Commissioner for the Alaska Department of Corrections (DOC) from June 2009 to December 2012. Currently, she is co-chair of the Alaska Prisoner Reentry Task Force.

#### **The purpose of CSSB64:**

1. Section 2 is intended to begin the thoughtful process of looking at whether Alaskan's are receiving good value for the criminal justice dollars spent. Given that currently 2 out of 3 prisoners return to custody within the first 3 years of release, our criminal justice system results suggests we are not.
2. The remaining sections of the bill are intended to provide offenders with certain tools necessary to help them be successful once released from supervision.
  - a. Section 1 provides an incentive for offenders to seek and complete substance abuse treatment.
  - b. Section 3 - 5 provides a limited license for successful Therapeutic Courts (TC) participants and graduates to obtain a limited license under stringent conditions. This will do two important things:
    - i) provide needed incentive to encourage successful participation in TC.
    - ii) serve as a means for those who are successful in TC to get licensed, insured and be closely monitored.
  - c. Section 6 & 7 are intended for those TC graduates who have demonstrated compliance with all TC court conditions and who have had no arrests. If these conditions are met they may be eligible to have their drivers licenses restored after 5 years instead of in 10 years as the law currently provides.
  - d. Section 8 is intended to move DOC closer to making the Probationer Accountability with Certain Enforcement model the standard method of DOC probation. When a probationer fails to show up for a probation office visit, UA testing or tests positive, their case is brought to the court's attention quickly for the swift imposition of certain and proportionate sanctions.

#### **10 reasons supporting the need for CSSB64:**

Today, Alaska is at a crossroads. DOC opened the Goose Creek Correctional Center (GCCC) at a cost of \$250 million to Alaskans with an annual operating budget of \$50 million. If the state's prison population continues to grow at its current rate of 3% per year, the state's prisons will be operating yet again, at full capacity, by 2016. This creates an inescapable reality, the state must today either start planning to build a new prison, or recommit to incarcerating out-of-state. Perhaps a better approach is to look at proven best practice that more effectively address criminality, reduce recidivism and in turn will build healthier, safer Alaskan communities.

1. Crime in Alaska has decreased. All violent crime index offense totals and property crime index offense totals decreased in 2011. The crime rate, which relates the incidence of crime to population, also experienced similar decreases.<sup>1</sup>
2. Yet, Alaska's prison population continues to grow by 3% per year. Since 2005, the hard bed prison population grew from 4,231 to 4,961 in 2012. At this current rate, DOC's inmate population will reach 6,313 by 2020.
3. Not only has DOC's prison population continued to grow while the crime rate continues to drop but so has the number of Alaskans under the jurisdiction of DOC. In 1982, 1 in 80 Alaskans were under the jurisdiction of the department. By 2009, that ratio had grown to 1 in 32 or 3.2 % of the state's population.<sup>2</sup>
4. If state policymakers don't start now to look at the effectiveness of how we use limited, expensive hard prison beds, by 2016 DOC will be at 100% capacity even with GCCC fully on line. It will likely cost much more than 250 million to build additional prisons and more than the current 50k per year to operate.
5. With state revenues falling the state may not wish to build new prisons or incarcerated out-of-state. From 2005 to 2013, DOC's budget has grown from \$167 million to \$323 million. This is an average of more than 5.5% growth each year. DOC's agency operations accounts for the state's fifth highest user of GF funds exceeded only by HSS, EED, U of A, and DOT.
6. The 2012 daily cost to incarcerate in a hard prison bed per inmate per day is \$135.00 up from \$110.00 in 2005.
7. The number of nonviolent incarcerated offenders has increased from 42% in 2002 to 62% in 2011.
8. The average length of stay in prison for a felony offender has increased. In 2002, the average length of stay for a felon was 6.60 years. By 2011, that had grown to 7.20 years.
9. The majority of Alaska's criminal statutes were rewritten in 1982. The Alaska criminal code was based on the best research at the time. Importantly,

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<sup>1</sup> Department of Public Safety Uniform Crime Report, 2011, p. 29, found at: <http://dps.alaska.gov/statewide/ucr.aspx>

<sup>2</sup> *One in 31: The Long Reach of American Corrections*, March 2009, 24 by The Pew Public Safety Project found at: [http://www.pewtrusts.org/our\\_work\\_report\\_detail.aspx?id=49694](http://www.pewtrusts.org/our_work_report_detail.aspx?id=49694)

however, best practices research has continued to advance during the last 29 years and much has been learned about more effective ways to address criminality in a manner that reduces recidivism.

10. On March 18<sup>th</sup> Alaska's Deputy Attorney General when testifying before Senate Finance on SB 56 stated the following<sup>3</sup> :
  - a. "The current [criminal] laws on the books are not working".
  - b. "Something has to be done about the amount of people that we have incarcerated. "
  - c. "We are not dealing with the addiction problem that people have."

**Other states are reducing correction budgets while reducing recidivism:**

A whole host of conservative states have begun to embrace these new approaches because their declining budgets could no longer sustain the practices of the past. Grover Norquist's Right on Crime initiative advocates for more cost-effective measures that place less reliance on increased incarceration for non-violent offenders. Other well-known leaders who have joined in this initiative are Newt Gingrich, Ed Meese, Williams Bennett & Jeb Bush just to name a few. In its statement of Principles Right on Crime asserts:

"Conservatives are known for being tough on crime, but we must also be tough on criminal justice spending. That means demanding more cost-effective approaches that enhance public safety. A clear example is our reliance on prisons, which serve a critical role by incapacitating dangerous offenders and career criminals but are not the solution for every type of offender. And in some instances, they have the unintended consequence of hardening nonviolent, low-risk offenders—making them a greater risk to the public than when they entered."<sup>4</sup>

As an example, Right on Crime questions whether incarcerating drug using non-violent offenders is the best way to get offenders to stop abusing drugs.

Six states have made noteworthy successful efforts to cut corrections spending and reduce recidivism. These states enacted comprehensive sentencing and corrections reforms using a bipartisan, interbranch working group and focusing on data and research to craft policies that met their unique challenges.<sup>5</sup> These states are:

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<sup>3</sup>[http://www.legis.state.ak.us/basis/get\\_audio.asp?session=28&chamber=S&comm=FIN&date1=3/18/2013&start=0913&bill=SB56](http://www.legis.state.ak.us/basis/get_audio.asp?session=28&chamber=S&comm=FIN&date1=3/18/2013&start=0913&bill=SB56)

<sup>4</sup> <http://www.rightoncrime.com/the-conservative-case-for-reform/statement-of-principles/>

<sup>5</sup> <http://www.pewstates.org/news-room/video-library/state-legislators-on-sentencing-and-corrections-reforms-85899434256> (December 12, 2012 interview of state elected officials)

- 1 Texas invested in community based treatment, among other things, and has averted over 2 billion dollars in corrections spending. The state's crime rate has also dropped in the process.
- 2 Oklahoma invested in community based treatment with good outcomes.
- 3 Arkansas
- 4 Georgia
- 5 Kentucky
- 6 Pennsylvania

The goal of this bill and the efforts that will follow are to break the cycle of recidivism in Alaska. With 2 of 3 offenders returning to prison upon release, Alaska is clearly not getting good value for the criminal justice dollar spent.