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STATE OF ALABAMA

Statement of

The Honorable Robert Bentley, Governor of Alabama

Before the

House Oversight and Government Reform Committee

On

“Criminal Justice Reform”

July 14, 2014

Chairman Chaffetz, Ranking Member Cummings, Congressman Palmer and members of the committee, thank you for inviting me to speak on behalf of the people of Alabama. I would like to highlight the recent developments in the state in the area of prison reform. With support from all three branches of state government and assistance from the Council of State Governments Justice Center (CSG) through the Justice Reinvestment Initiative (JRI), the State of Alabama recently undertook the tremendous task of reforming its criminal justice system.

### **Initial Steps: Data Collection and Stakeholder Engagement**

The first step was recognizing that our criminal justice system needed reform. A cursory glance provided ample evidence of the problems facing the state and the need for action. Our state prison facilities were operating at 195 percent over design capacity and costs were rising dramatically. For example, appropriations to the state's Department of Corrections had risen from about \$197 million in 2002 to about \$399 million in 2015. In addition, corrections costs were taking up a greater proportion of the State General Fund Budget, from 15 percent in 2002 to 20 percent in 2015. And while we were spending more, in real dollars and proportionally, we were not getting better results. To address these unsustainable trends, I joined with state leaders, including the Chief Justice, the Speaker of the House, and the President Pro Tempore of the Senate, in February 2014 to enlist outside support and request participation in JRI.

JRI is a joint, federal/private program sponsored by the U.S. Department of Justice Bureau of Justice Assistance (BJA) under a federal grant and the Pew Charitable Trusts (Pew). The program is built on the idea that government reform is impossible without the involvement of government leadership and relevant stakeholders. Indeed, to qualify for JRI, a state must establish an entity that provides this collaboration in the criminal justice system. To fulfill this requirement, state leaders created a Prison Reform Task Force (the "Task Force") to oversee the state's prison reform efforts. The Task Force was comprised of representatives from all branches of state government, criminal justice stakeholders and policymakers, and members of local governments, ensuring vital bipartisan, inter-branch, and full-discipline involvement in JRI.

The JRI program allows CSG to provide technical assistance to participating states. The assistance covers many aspects of a state's criminal justice system and provides the data and analysis necessary for state leaders to make informed decisions about ways to improve the state's criminal justice system.

In Alabama, CSG began contacting criminal justice stakeholders soon after the state was approved for JRI participation. For more than six months, CSG worked with the Task Force and stakeholders statewide and across all levels of government, including private partners, to build relationships, examine the state's criminal justice system, and collect and analyze data in an effort. Below are a few revealing data points collected from 2009 to 2014, divided by state agency.<sup>1</sup>

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<sup>1</sup> CSG Justice Center analysis of Alabama Department of Corrections' (DOC) June 2014 snapshot of felony prison population data and Alabama Board of Pardons and Paroles FY2009-FY2014 probation and parole population data and parole entries data.

### Alabama Department of Corrections (DOC)

- Despite decreased arrest rates and reduced sentences to prison since 2009, the number of inmates incarcerated in state facilities has not decreased over the same time period.
- 40 percent of prison admissions were for parole or probation violations.
- The average length of prison time for parole violators increased from 45 months to 64 months.
- The average length of incarceration prior to parole increased from 30 months to 43 months.
- 82 percent of the offenders with the highest risk of re-offending, including property and drug offenders, reached end of sentence while in DOC custody, with no supervision to guide re-entry.

### Alabama Board of Pardons and Paroles

- Probation and parole officers carry average caseloads of almost 200 cases per officer, severely hampering the officers' abilities to effectively supervise cases.
- One in three inmates was eligible for parole but the parole release rate was declining.
- 43 percent of probation violators waited over two weeks in jail for the violation hearing.

### Community Programs

- Community Corrections Programs were only available in 45 of Alabama's 67 counties with no statewide standard ensuring a consistent quality.

### **Recommended Policies**

Based on analysis of the data, CSG developed a report containing recommended policy changes (the Policy Report). The recommendations included targeted financial investments and legislative changes, all geared toward reducing recidivism, lowering costs, and enhancing public safety. The Policy Report was formally adopted by the Task Force and provided to state leaders for incorporation into legislative agendas and the state budget.

The Policy Report called for the state to invest \$151 million over the next six years in the criminal justice system. These funds will enhance the delivery of services in multiple areas and include:

- The hiring of over 123 additional pardons and parole officers and support staff in an effort to decrease the work load and increase the effectiveness of these areas of supervision;

- Increased funding to community supervision programs for mental health and substance abuse treatment, two areas of high potential in lowering a person's recidivism risk;
- Upgrades to information technology, which will provide additional data to use in making future policy decisions; and
- The completion and expansion of the state's victim notification.<sup>2</sup>

**Legislative Action: The Alabama Prison Reform Bill**

CSG, state leaders, and stakeholders developed the Prison Reform Bill to codify the remaining policy recommendations. Sponsored by Senator Cam Ward and Representative Mike Jones, the bill was passed and signed by me on May 19, 2015, becoming Act No. 2015-185 ("the Prison Reform Bill"). The policy changes in this bill focus on front-end diversion and re-entry supervision by mandating risk-based assessments throughout a person's contact with the criminal justice system and incorporating evidence-based practices. The Prison Reform Bill's changes can largely be divided into three categories: 1) strengthening community-based supervision, 2) prioritizing prison for violent, dangerous offenders, and 3) supervising all persons upon release from prison.<sup>3</sup>

By strengthening community-based supervision, the state will be less reliant on prison facilities. Specifically, the Prison Reform Bill:

- Mandates the use of risk and needs assessments across the system, which will allow differing levels of supervision and more efficiently allocate resources based on a person's risk and needs;
- Creates lower level sanctions for technical violations of parole or probation short of full revocation;
- Mandates the adoption of evidence-based standards for Community Corrections Programs, which will now be funded by the state based on performance; and
- Creates a limited driver's license for people on supervision, which will assist with reentry efforts and also help prevent technical violations for failure to appear and allow people on supervision to better maintain jobs.

By prioritizing prison for violent and dangerous offenders, lower level offenders should be less likely to learn additional and more serious criminal habits. The state will divert lower level property and drug offenders away from prison by:

- Creating a Class D Felony for lowest-level property/drug offenses, which will prescribe sentences to community corrections instead of prison for these crimes;

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<sup>2</sup> Page 6, "Justice Reinvestment in Alabama: Analysis and Policy Framework." "The CSG Justice Center, March 2015.

<sup>3</sup> Page 3, *Alabama's Justice Reinvestment Approach: Reducing Prison Overcrowding and Strengthening Community-Based Supervision*, The CSG Justice Center, May 2015.

- Re-classifying 3<sup>rd</sup> Degree Burglary of an uninhabited, non-residential building as a non-violent offense, which will divert a large number of prison-bound offenders to community corrections; and
- Modifying probation and parole violation sanctions so that technical probation and parole violations get a 45-day prison stay instead of full revocation.

To better facilitate parole supervision, the Prison Reform Bill improves the efficiency and transparency of the parole decision-making process by:

- Requiring the Board of Pardons and Paroles to adopt structured guidelines, grounded upon best practices, on which to base parole decisions; and
- Requiring the Board to record and share reasons for parole denial with the inmate, victims, and DOC, while protecting the Board from liability for decisions based on the shared information.

Supervision upon release is a key component in reducing recidivism. Without supervision upon release, many inmates, who have been incarcerated for years, simply do not have the knowledge or resources to prevent return to criminal behavior. The Prison Reform Bill also mandates supervision upon release as either a component of the original sentence or a time period of parole before end of sentence.

### **Next Steps and Anticipated Results**

We are proud of the progress we have made during the past year to reform Alabama's criminal justice system, but much work remains. Importantly, the success of the Prison Reform Bill hinges upon adequate funding, which is a matter that the State Legislature must address in an upcoming special session. In addition, we must implement the policy changes set forth in the Prison Reform Bill. Accordingly, I created the Alabama Criminal Justice Oversight and Implementation Council ("Council") by executive order. A member of my staff will chair the Council, which is comprised of state agencies affected by the Prison Reform Bill, including executive, legislative and judicial agencies, as well as Senator Ward and Representative Jones. The chairman of the Council will provide oversight and accountability over criminal justice agencies at the state and local level and guide the Council's work on prison reform implementation. The Council will collaborate on developing evidence-based policies and guidelines for treatment programs and community correction programs in an effort to reduce recidivism. Members will analyze data reflecting client participation in and treatment services from state-funded programs to ensure funding levels are performance-based.

Effective implementation will ensure that the policies adopted have the intended effect. The process will also allow the state to modify policies based on information gathered throughout the implementation process. As the Council implements the policies, collaborates with local agencies, and collects and analyzes the resulting data, we will know whether and how the policies are influencing recidivism, public safety, state funds, and other key metrics.

If the policy changes are successful, the results will be significant. For example, CSG estimates that we could reduce our prison population by 4,243 inmates, decreasing the population from 195 percent down to 164 percent over design capacity.<sup>4</sup> By comparison, to reach a similar percentage by building additional prisons, the state would have to spend an estimated additional \$420 million.<sup>5</sup> In fact, CSG estimates that the policy changes could help the state avert more than \$380 million in future costs, and provide supervision for 3,000 more people upon release from prison. It is hoped that this initiative will save Alabama taxpayers even more long-term, which will allow additional funds to be allocated to programs like substance abuse and mental health treatment – programs proven to further reduce recidivism.

These efforts are an important first step, but there is more to be done. We will not rest on our laurels. The state's criminal justice system is necessary for a well-functioning, democratic society. A well-functioning criminal justice system protects all citizens, including those incarcerated, by efficiently allocating a state's resources to address current crime and prevent future crime. The State of Alabama's efforts to reform our criminal justice system are based on this fundamental principle, and those efforts will continue. Continuous self-analysis creates a recipe for good government.

Thank you for the opportunity to testify. I would be happy to answer any questions.

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<sup>4</sup> *Id.*, at 2.

<sup>5</sup> *Id.*