



NEW YORK STATE ASSEMBLY

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R E P O R T



**Committee on
Correction**

Jeffrion L. Aubry, Chairman

SHELDON SILVER, SPEAKER



NEW YORK STATE ASSEMBLY

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December 14, 2012

The Honorable Sheldon Silver
Speaker of the Assembly
Capitol, Room 346
Albany, NY 12248

Dear Speaker Silver:

As Chairman of the Assembly Standing Committee on Correction, I am pleased to present to you the Annual Report for the 2012 Legislative Session.

The Annual Report continues the longstanding practice of highlighting the work of the Committee on Correction, as well as reviewing major aspects of state and local corrections by providing budgetary, workload and population data.

I would like to take this opportunity to acknowledge the hard work of the members of the Committee on Correction and all of the members of the Assembly for their continued commitment to the work of the Committee and to progressive corrections legislation. As always, your continued support is deeply appreciated.

Sincerely,

Jeffrion L. Aubry
Chairperson, Standing Committee on Correction

2012 ANNUAL REPORT

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TABLE OF CONTENTS

- I. JURISDICTION..... 1**

- II. NEW YORK STATE’S CORRECTIONAL POPULATION 1**
 - A. State Correctional Facilities and Community Supervision..... 1
 - B. Local Correctional Facilities 1
 - C. Community Supervision..... 2
 - D. Board of Parole 2
 - E. Community Corrections Programs 2

- III. STATE BUDGET IMPACT ON CORRECTIONAL AGENCIES..... 3**
 - A. Department of Corrections and Community Supervision..... 4
 - B. Local Correctional Agencies 6
 - C. Office of Probation and Correctional Alternatives 7
 - D. State Commission of Correction 7

- IV. COMMITTEE ACCOMPLISHMENTS 8**
 - A. Significant Legislation Advanced by the Correction Committee in 2012..... 8
 - B. Public Hearings 10

- V. ISSUES TO BE ADDRESSED IN 2013..... 11**
 - A. Higher Education in Prison 11
 - B. Reentry Policies and Initiatives..... 12
 - C. Expungement of Criminal Records 13
 - D. Collateral Consequences of Criminal Convictions 14
 - E. Evidence-based Examination of the Risk Posed by Sex Offenders 14
 - F. Solitary Confinement..... 15
 - G. Fulton Correctional Facility 16

- APPENDIX: 2012 Summary Sheet 17**

I. JURISDICTION

The Assembly Committee on Correction has jurisdiction over legislation affecting all aspects of the operations of both state and local correctional facilities. This responsibility includes 61 state correctional facilities and 62 local correctional systems, including all local jails and police lockups operated by municipalities across New York State. New York's correctional system is the third largest in the nation with approximately 84,000 inmates housed in state and local facilities and employing more than 40,000 correctional personnel.

The Committee on Correction works closely with other committees of the Assembly, including the Committees on Alcoholism and Drug Abuse, Codes, Health, and Mental Health, regarding issues that affect correction staff and inmates. Public hearings held by the Committee on Correction and other committees are reviewed in Section IV.

II. NEW YORK STATE'S CORRECTIONAL POPULATION

A. State Correctional Facilities and Community Supervision

As of December 2, 2012, the prison population of the Department of Corrections and Community Supervision (DOCCS) was 54,108. This represents a 1.7% decrease in the prison population from 2011 and an overall population decline of 24% since the peak of 71,538 in 1999. The under-custody population is 49.6% African American, 24.2% Hispanic, and 23.5% white. The number of state-ready inmates (inmates held in a local correctional facility waiting transfer to state prison) was 441 on December 1, 2012. It should be noted that although not recognized as part of the prison population, the Willard Drug Treatment Campus typically confines an average population of between 700 and 900 inmates. The three-month length of stay for Willard inmates in 2012 resulted in an annual population of approximately 3,056.

There were 21,876 total inmate admissions to state correctional facilities from January 1, 2012 through December 1, 2012, nearly the same 21,955 total admissions during the same period in 2011. New court commitments for this period were 13,511, including 503 inmates judicially sanctioned to Willard. Returned parole violators and conditional release revocations were 10,979 including 1,659 Alt admissions and 2,458 incarcerated parolee admissions.

B. Local Correctional Facilities

The total under-custody population among local correctional facilities as of December, 2012, was 28,490. For the City of New York, there were 11,866 inmates under custody

in December, 2012, which is 613 less than in December, 2011. County correctional facilities outside of the City of New York had an under-custody population of 16,624 as of December, 2012, which is 533 fewer than in December, 2011.

C. Community Supervision

After the merger of the Division of Parole and the Department of Correctional Services in 2010, DOCCS became the sole agency responsible for the supervision of all persons under custody or released from the state correctional facilities and subject to a term of parole or post-release supervision. This responsibility includes efforts to ensure successful, law-obedient adjustment to community living and help with drug treatment, job training, job placement and other services to enhance the likelihood of a self-sufficient and crime-free lifestyle. DOCCS staff is also responsible for identifying violations of parole conditions which may result in the use of corrective measures, including revision of parole conditions and, in some cases, parole revocation. According to DOCCS, as of December 1, 2012, there were 36,612 persons in New York State under parole supervision, which are 985 fewer than there were at the same time last year.

D. Board of Parole

The Board of Parole (Board) reviews all parole eligible prison inmates and either denies or approves release on parole. In spite of the general decline in crime and recidivism, in the 2011-2012 SFY, 19% of inmates were granted parole following their initial Board interview, compared to a 18% release rate in the 2010-11 SFY. Persons subsequently appearing before the Parole Board after initially being denied were granted parole release at a rate of 21%, down from 36% the year before.

The Board of Parole also reviews parole violation cases and either revokes parole or restores parolees to supervision, often with revised conditions. Through December 1, 2012, 9,831 parolees were ordered returned to DOCCS, including 1,262 who were returned for a new felony conviction and 8,569 returned for a technical rule violation. In addition, 2,553 parolees were revoked and sent to the Willard Drug Treatment Campus.

E. Community Corrections Programs

According to data obtained from the Office of Probation and Correctional Alternatives (OPCA), housed in the Division of Criminal Justice Services (DCJS), at the end of the 2011-2012 SFY, there were 117,592 adult probationers under supervision across New York State, including 58,807 felony probationers and 57,366 misdemeanor probationers. In addition, local probation departments supervise persons placed under supervision by

the family court, which includes approximately 4,440 juvenile delinquency cases and 1,079 persons in need of supervision (PINS) cases each year.

Probation departments are also called upon to investigate and prepare pre-sentence reports based upon those investigations. Each year, probation departments conduct more than 58,589 investigations for both felony and misdemeanor cases.

Additionally, OPCA funds and oversees a variety of alternatives to incarceration programs. These programs are arranged into five programmatic categories: pretrial services, defender-based advocacy, Treatment Alternatives to Street Crime (TASC) and treatment programs, specialized programs and community service sentencing programs. These programs are briefly described below:

1. Pretrial service programs interview defendants, evaluate community ties and assess the likelihood of appearance in court. This information is made available to the court and has proven to be a useful aid in making bail decisions.
2. Defender-based advocacy programs evaluate defendants' needs for services such as drug treatment, family counseling, etc., prepare alternative sentencing plans, and aid defense attorneys in representing their clients.
3. TASC programs evaluate defendants with substance abuse histories, develop treatment plans, assist in placing defendants in treatment programs and monitor treatment performance.
4. Specialized drug and alcohol treatment services evaluate defendants with substance abuse histories and place defendants in treatment programs ordered by the courts as alternatives to incarceration. These programs may also treat defendants.
5. Community service sentencing programs arrange for community-based work sites, place defendants in community service work and monitor compliance with court-ordered community service.

III. STATE BUDGET IMPACT ON CORRECTIONAL AGENCIES

The SFY 2012-13 Budget for DOCCS appropriates \$3 billion in state operations funding which includes a \$99.5 million increase in general fund appropriations from the prior year. The Department possesses the largest state operations budget of any state agency and the average cost to house an inmate is now more than \$55,000 per year. The SFY 2012-13 Budget also includes \$20.2 million in aid to localities funding which includes funding for increased use of Medicaid reimbursement for inmate health services. No

prisons were closed in SFY 2012-13 but the budget continues to benefit from an adjusted savings of \$40 million, resulting in an annualized savings of \$112 million in this fiscal year, or \$184 million including savings from the fiscal year of the actual closure. New uses for correctional facilities closed in prior years continue to be explored.

A. Department of Corrections and Community Supervision

As part of the SFY 2012-13 Budget, the Department resumed correction officers training classes and a single class for parole officers, at a budgeted amount of \$12.5 million and \$1.4 million, respectively. These classes will help to maintain current staffing levels for these officers. Additionally, the Department redefined titles for corrections counselors and facility parole officers in an effort to eliminate duplication, improve the process of preparing an inmate to appear before the Parole Board, and strengthen community supervision of those on parole.

DOCCS is focusing on programs which have the greatest impact on reducing recidivism and on employing research-based best practices. SFY 2012-13 included funds to improve educational, vocational and employment-readiness programs with the goal of better preparing inmates for their return to the community.

The SFY 2012-13 Executive budget also included \$1 million to support the operation of Prisoners Legal Services (PLS), traditionally supported by funding sponsored by the Assembly. Additionally, the Assembly was able to add \$500,000 to PLS funding for a total of \$1.5 million. However, this amount remains significantly below the funding necessary to run the existing program and is less than funding provided in prior years. There continues to be a significant shortfall of state funding that prevented the legislature from providing support for this and other vital programs in SFY 2012-13. The Committee believes that PLS is an important program that has played a vital role in making New York prisons safer and more humane. Its work has resulted in positive changes in prisoners' attitudes and behavior and has promoted constructive policy and programmatic modifications within DOCCS.

The Department continues to make significant strides regarding Medicaid costs and reimbursements for inmates receiving in-patient care outside of correctional facilities. In order to receive such reimbursements the Department must identify and enroll eligible inmates in the Medicaid application and review process. Due to greater efficiencies and a reduction in contractual, health and pharmaceutical expenditures, a \$16.2 million savings in this area was realized. In the coming year it has been reported that 38 additional hospice beds will be added to the Walsh Medical Center, one of the regional medical units within DOCCS, for a projected cost of \$33 million.

Board of Parole

Under the terms of the merger, the Board of Parole budget is now part of the DOCCS budget, even though the board retains its independent decision-authority. The Board's budget allocation in SFY 2012-2013 was \$6,043,000, which appropriation cannot be interchanged with any other part of the DOCCS budget under Executive Law §259-a. The Board is statutorily authorized to maintain a 19-member body appointed by the governor. However, only one commissioner was appointed to the Board in SFY 2012-13, bringing the total number of Board commissioners to 14 with five vacancies remaining. Of the currently serving commissioners, two continue to serve under expired terms. It stands to reason that the number of Board releases will continue to decline, as it did in SFY 2011-12, under the auspices of an understaffed Board of Parole.

The Correction Committee has advanced several pieces of legislation designed to implement or improve the status of the medical parole program, a geriatric parole program for elderly inmates who are the most expensive to retain with the lowest likelihood of re-offense, and an expansion of the factors for consideration of release by the Board of Parole in order to institute fairness and humanity into all of the above processes.

The use of a Transitional Accountability Plan (TAP) was codified in SFY 2010-11, requiring the Department to prepare a transitional plan from the time of an inmate's arrival into state incarceration until consideration for release under the various release mechanisms available. For those who appear before the Board for release consideration, the TAP mandates the use of a Risk and Needs Assessment Tool administered by the Department for review by the Board, in addition to providing the Board the complete TAP in order to gain a greater understanding of the inmate's rehabilitative transition during his or her time under custody. Additionally, the enacted budget requires the Board to consider risk and needs principles in making a release determination. The risk and needs principles codified in the Executive Law during SFY 2010-11 are among many factors available to the Board in making release decisions. Unfortunately, it is the Committee's understanding from the Chairwoman of the Board of Parole that the implementation of the TAP has been delayed.

The Board performed some 15,046 non-administrative release consideration interviews through November 2012. Release rates by the Board continue to shrink. While the decrease in release rates is often attributed to the decreasing number of drug offenders who appear before the Board of Parole on indeterminate sentences, data supplied by the Department of Corrections shows the number of inmates released is fairly constant from year to year. However, the number of conditional releases by the Department more than doubled in the last decade due to an increase in determinate sentencing while both the Board release rates, as well as their actual workload, declined to less than half in the same time frame.

Community Supervision

The DOCCS budget allocation for supervision of persons released to the community in SFY 2012-13 is \$168.3 million, an increase of \$21.8 million from the prior year. Following the merger of DOCCS and the Division of Parole, the community supervision budget is now separate from the budget for the Board of Parole. Community Supervision is staffed with approximately 995 parole officers in 37 area offices across the state. Intensive supervision programs have been developed for sex offenders and those who have committed domestic violence, with specially trained parole officers utilizing state-of-the-art technology and intensive one-on-one contact with the offender in the community.

Community Supervision is also responsible for the investigative functions of the Executive Clemency Unit and for issuing Certificates of Relief from Disabilities. In the calendar year ending in 2011, 457 applications for pardons were received in addition to 419 requests for commutation of sentence. None were pardoned by the Governor. 1,280 applications for Certificates of Relief from Disabilities and Certificates of Good Conduct were received. Another 1,900 Certificates of Relief from Disabilities were issued by correctional facilities.

For those inmates who face being violated during their period of community supervision, a new parole diversion program has been instituted in the Orleans Correctional Facility. The Edgecombe Project, which provides short-term treatment for technical parole violators, continues to be an effective program.

Sex offenders who are identified by correctional or mental health staff as possibly posing a serious risk to the public if released to community supervision or upon termination of their sentences are referred to the Office of Mental Health for evaluation for civil confinement proceedings pursuant to the Sex Offender Management and Treatment Act. DOCCS referred 1,329 such cases to the Office of Mental Health from January through November, 2012.

The Correction Committee continues to advocate for increased funding and programming for community reentry programs. Chairman Aubry introduced legislation to convert the former Fulton Correctional Facility into a community reentry center replete with work training, supportive housing, family re-engagement and similar services. The transfer of Fulton Correctional Facility for this purpose is among the Committee's goals for the coming year. (see Section V)

B. Local Correctional Agencies

The DOCCS budget continues to include \$200,000 in aid to localities funding for local correctional facilities for reimbursement to counties for housing "state-ready" inmates, a budget unchanged from the prior year. "State-ready" inmates are persons who have been

sentenced to state prison and are being held in a county jail awaiting transport. The reimbursement for “state-ready” inmates was eliminated in the SFY 2009-10 budget but the state is still liable to reimburse counties up to \$100 per day for each “state-ready” inmate who is not transferred to state prison within 10 days after the locality notifies DOCCS that the inmate is ready for transport.

C. Office of Probation and Correctional Alternatives

The SFY 2011-12 Budget restructured certain appropriations so that formerly separate programs within the Division of Criminal Justice Services (DCJS) such as the Office of Probation and Correctional Alternatives (OPCA), have become consolidated. The new program structure of DCJS now consists of the Administration, Crime Prevention and Reduction Strategies and separate programs for each of the newly merged agencies.

Thus, the SFY 2012-13 appropriation for OPCA is unspecified and contained within a larger \$271.6 million allocation for DCJS covering OPCA along with Funding and Program Assistance for organizations and services such as Aid to Prosecution, Crime Labs, and Drug Diversion, among others. \$57.1 million of the total DCJS appropriation is budgeted for the operation of the OPCA. The rationale for the merger of OPCA into DCJS was to create operational efficiencies, improve coordination of policies and programs and provide more efficient and cost-effective delivery of probation and alternative to incarceration programs, while ensuring a strong and independent voice for probation and alternative to incarceration programs by the director of OPCA.

The block grant program of probation aid to localities remains steady at \$44.9 million in SFY 2012-13. While funding for aid to localities provides aid to local probation departments, it should be noted that such funds represent only a small percentage (less than 20%) of actual costs of these services to local governments, rather than the 46.5% authorized in statute.

D. State Commission of Correction

The State Commission of Correction is responsible for the regulation and oversight of all correctional facilities in New York State. This responsibility encompasses 61 state correctional facilities, 62 county jails and the New York City correctional system comprising 18 facilities and 200 police lockup facilities. The Commission’s budget for SFY 2012-13 is \$2.9 million, a decrease of \$60,000 from the prior year.

In 2011, the latest year for which statistics are available, the Commission’s Citizen’s Policy and Complaint Review Council reviewed 2,097 letters of complaints from inmates of state and local correctional facilities and handled 1,679 appeals from grievances originating in county correctional facilities. The Commission’s Forensic Medical Unit,

charged with review of all inmate deaths in state and local correctional facilities, received notice of 158 inmate deaths and carried out a full investigative review of 31 of those deaths which were deemed problematic. The Commission reported 25 deaths by suicide, 11 of which were in DOCCS and 14 in local correctional facilities, as well as 4 homicides, 3 of which were in DOCCS facilities and one of which was at a New York City Department of Correction facility.

IV. COMMITTEE ACCOMPLISHMENTS

A. Significant Legislation Advanced by the Correction Committee in 2012

The Correction Committee advanced the following legislation that was signed into law in 2012.

Medical Records Access for the State Commission of Correction (A.9553, Chapter 232 of the Laws of 2012)

Allows SCOC to subpoena medical records of both living and deceased inmates from hospitals and other outside medical providers in order to carry out its function of investigating and reporting on the delivery of medical care to inmates.

State Council for Interstate Adult Offender Supervision (A.9659, Chapter 45 of the Laws of 2012)

Makes a technical correction to account for the 2011 merger of the Division of Parole and the Department of Correctional Services with regard to housing the State Council for Interstate Adult Offender Supervision within the Department of Corrections and Community Services instead of the Division of Parole.

Sex Offender Photographs (A.9229, Chapter 364 of the Laws of 2012)

Clarifies the discretion of local law enforcement agencies to take a new photograph of a level 3 sex offender if, at the time he or she appears for a quarterly address verification, his or her appearance has changed.

Transcripts of Parole Board Hearings (A.8917, Chapter 363 of the Laws of 2012)

Instructs the Board of Parole to make a verbatim transcript of each parole board interview of a sex offender and to provide such transcript to the Office of Mental Health for use in conducting reviews of offenders for possible civil commitment upon release from incarceration.

Payment of Parole Fees (A.9315, Chapter 201 of the Laws of 2012)

Terminates the current practice of requiring parole officers to collect supervision fees from parolees and instead requires the Department of Corrections and Community

Supervision to provide alternative means of collection. The bill does permit parole officers to continue to collect the fee at reporting stations that are not under the control of the Department of Corrections and Community Supervision.

Albany County Correctional Facility to House Pre-Arrest Detainees (A.9540, Chapter 343 of the Laws of 2012)

Permits the Albany County Correctional Facility to be used for the detention of persons arrested in Albany County prior to arraignment.

Expands Ability of Albany County Correctional Facility to Board Out of State Inmates (A.10665, Chapter 433 of the Laws of 2012)

Expands the ability of the Albany County Correctional Facility to enter into an agreement with another state to house such other state's inmates who are serving a sentence not less than ninety days and not more than two years. Current law only allows inmates from other states serving a sentence of up to one year to be housed in a local correctional facility.

In addition, the Assembly passed the following correction-related bills:

Certificates of Relief (A.7813-A, Passed Assembly)

Requires the court, as well as the Department of Corrections and Community Supervision, to issue a Certificate of Relief when it is satisfied that the necessary requirements are met in order to help promote successful reentry and reintegration.

Authority to Hold Mentally Ill Inmates in Psychiatric Center (A.9257, Passed Assembly)

Authorizes the Central New York Psychiatric Center to continue to provide appropriate treatment to inmates transferred to the Center due to a mental health emergency after the emergency has been resolved. Current law requires inmates to be returned to prison where they often decompensate.

Availability of Visitation Rules for Correctional Facilities on the Internet (A.9345, Passed Assembly)

Requires the Department of Corrections and Community Supervision to make available on their website the individual rules and restrictions relating to visitation for each of its sixty correctional facilities.

Conveyance of State Land (A.10643, Passed Assembly)

Conveys the former Fulton Correctional Facility to the Thomas Mott Osborne Memorial Fund for the purpose of providing re-entry and rehabilitative programs to individuals in conflict with the law, services to persons affected by crime or incarceration and related community activities.

B. Public Hearings

1. Educational and Vocational Programs in Prison

On November 29th, the Correction Committee held a public hearing on educational and vocational programs in DOCCS. The purpose of the hearing was to explore the effectiveness of such programs available to New York State prisoners and to determine what programmatic changes, if any, are necessary to facilitate inmate rehabilitation and re-entry into communities around the state. Specifically, the committee received testimony on: (1) the range of available programs; (2) assessment and programmatic needs of inmates; (3) quality assurance and training outcomes in vocational programs; and (4) the status of college programs in various correctional facilities.

The DOCCS commissioner emphasized the GED as the primary educational goal of the correctional system and discussed placement tests, services for inmates under the age of 21 and the Department's support of the various college programs operating in correctional facilities across the State. The commissioner also testified about DOCCS' participation in the Work for Success coalition of state agencies and non-profit organizations aimed at reducing unemployment among formerly incarcerated individuals, and discussed a new initiative at Coxsackie Correctional Facility that is providing Corcraft training to prisoners close to release who are not eligible for traditional Corcraft programs because of lack of a GED or other core program. DOCCS also has a new food services training program and continues to offer sixteen Department of Labor certification programs.

The committee also heard testimony from the president of the Public Employees Federation expressing concern about the pending change to a computerized GED test administered by a for-profit vendor, as well as issues around the merging of the job titles for facility parole officers and correctional counselors. Representatives of ten of the state's prison college programs testified as to the status, funding, enrollment and mission of their programs. One prison college program that has been in continual operation for thirty-eight years will be forced to close its door in 2013 unless it obtains additional funding. Re-entry advocates gave testimony on the need for more involvement by the Department of Labor and other organizations in providing modern vocational training to the prison population, including a need for meaningful computer training. The committee also heard testimony on the lack of program accommodations for adult inmate students with learning disorders and physical disabilities and on discrimination against formerly-incarcerated applicants to the State University of New York.

2. Stop and Frisk

On May 18th, the Correction and Codes Committees, together with the New York State Legislative Black, Puerto Rican, Hispanic and Asian Legislative Caucus, held a roundtable to examine the New York City Police Department's "stop and frisk" policies and practices. The purpose of the roundtable was to consider the impact of this practice on public safety and the collateral effects on individuals and families of people being

stopped. Participants in the roundtable included representatives of city government, academics, advocacy groups, police reform organizations and legal service providers.

The discussion focused on the effect of stop and frisk policies on minority communities, police/community relationships and crime prevention. Participants in the roundtable expounded on the constitutionality and consequences of the police department's stop and frisk policy. Other topics of discussion included the need for more transparency in the reporting of arrests and other data, discontinuing the department's quota system for arrests and reducing the city's exposure to law suits resulting from unconstitutional stops. It was suggested that the police department should have civilian oversight and professional accreditation and that abusive officers should be decertified so that they could not move to other cities' departments once fired for misconduct.

V. ISSUES TO BE ADDRESSED IN 2013

A. Higher Education in Prison

Studies have consistently found that the higher the level of education attained, the more likely a former inmate will be to obtain gainful and stable employment, and the less likely he or she will be to engage in future criminal activity. However, in 1994, federal tuition assistance, in the form of Pell Grants, for individuals incarcerated in federal and state correctional facilities was terminated with the enactment of the Violent Crime Control and Law Enforcement Act. Then, in 1995, New York prohibited inmates from accessing state funds through the Tuition Assistance Program (TAP) for post-secondary correctional education. According to a report published by the Correctional Association of New York in January, 2009, entitled "Education From the Inside, Out: The Multiple Benefits of College Programs in Prison," only four out of seventy post-secondary correctional education programs continued to operate in New York following the termination of TAP availability for inmates. Since that time, several small college programs have been opened in state correctional facilities, but they still reach only a fraction of the inmate population compared to programs prior to 1995.

The benefits of post-secondary correctional education are clear. The New York State Commission on Sentencing Reform reported that post-secondary correctional education programs have been shown to reduce recidivism by up to 40% and the Commission recommended that more post-secondary educational opportunities be made available to inmates. In addition, the Correctional Association report asserts that in-prison college programs are a cost-effective method of improving public safety. The report states that "[t]he cost differences in education versus incarceration in New York, plus the short- and long-term benefits of a better educated population, makes investment in higher education for incarcerated individuals and people in the community smart fiscal policy." One

program, the Consortium of the Niagara Frontier, calculated that it has saved the state over \$13,000,000 over the last ten years because of the reduced recidivism of its students. Another program, Hudson Links, has never had a graduate recidivate.

Despite the potential benefits of post-secondary correctional education programs, only a relatively small number of programs currently operate in the New York state prisons, funded mostly through private sources, federal grants for youth offenders or through small legislative initiative grants. Identifying resources (both private and public) to expand post-secondary education in prison is challenging. New York has been invited to apply for a competitive “Pathways from Prison to Post-Secondary Education Grant” administered by the Vera Institute of Justice which would develop a model college program with post-release support for inmates nearing the end of incarceration. The Committee strongly supports the state’s application and looks forward to working in partnership with DOCCS, educational institutions and non-profits on refining and strengthening the proposed model.

This year the Committee held a public hearing that focused on college and vocational programs. Ten college programs attended the hearing and testified as to the status of post-secondary education in New York prisons. The biggest challenge for all of the programs has been finding funding to keep operational. At least one long-standing program, the Consortium of the Niagara Frontier, will shut its doors in 2013 without additional funding. The Correction Committee will continue to seek public money for the support of these vital programs.

For the last few years the Correction Committee advanced a bill (A.3657 of 2011) to establish a commission on post-secondary correctional education to examine, evaluate, and make recommendations concerning the availability, effectiveness and need for expansion of post-secondary education in the New York state prison system. In 2013, the Correction Committee will again advance this important legislation and work to expand post-secondary education in our prisons. The Committee will also consider new legislation to prohibit discrimination against people with criminal histories in admission to New York’s colleges and universities.

B. Reentry Policies and Initiatives

Records show that since 1985 more than half a million people have been released from New York state prisons. Today we have fewer than 38,000 persons on community supervision and 55,000 persons in state prison, a greater than 20% decrease in the prison population since 1999. The declining population of people in custody and on community supervision indicates that most parolees successfully re-integrate back into the community. The number of parolees who return to incarceration for a new offense has dropped from a high of 2,500 in 2000 to a total of 1,498 in the calendar year 2011. Only 8% percent of parolees return to incarceration within three years of their release for a new

criminal offense. Viewed in terms of total statewide arrests, parolees represent less than 5% of all felony arrests and just 2.5% of all misdemeanor arrests per year statewide.

Given the importance of a successful parole system, we must ensure that we do everything we can to support DOCCS and the Board of Parole in its reentry mission. The Committee regularly consults with professionals, academics, law enforcement experts, advocates and the public to evaluate whether the practices and procedures in place today for both DOCCS and the Board of Parole are fair and effective, and to make recommendations to improve future outcomes. The Committee will once again consider legislation to promote safe parole practices and will introduce bills to permit increased parole release of inmates posing little risk to the public.

The scope of our inquiry during the 2013 legislative session will include consideration of the importance of vocational training and employment in fostering successful re-integration into the community. Post-incarceration employment has been shown to be the single most important factor in preventing recidivism, regardless of any other offender risk factor. In 2012, the governor introduced a new Work for Success initiative aimed at reducing the high unemployment rate among formerly incarcerated New Yorkers. The Committee will explore new legislation to promote employment opportunities for persons returning from incarceration. The Committee will also examine other programs and policies to increase the number of job opportunities available for people leaving prison and will work closely with advocacy groups and members of the Work for Success Executive Committee to promote and expand programs that have been proven effective in providing formerly incarcerated people with job skills.

C. Expungement of Criminal Records

Thousands of New Yorkers deal with the stigma associated with having a criminal record for the rest of their lives as they seek employment and housing and strive to become productive members of society - even after they have fully paid their debts to society and, in many cases, lived law-abiding lives for many years after completion of their sentences. New York State has long been a leader in providing fair employment opportunities for qualified individuals with criminal histories for the sensible reason that people with criminal records who are able to earn a living are much more likely to lead productive, tax-paying lives and much less likely to return to crime. Recognizing the wisdom of assisting individuals who are not a threat to public safety to obtain employment and housing, New York enacted a conditional sealing provision for certain drug offenders as part of the 2009 Rockefeller Drug Law Reform legislation. Expansion of this legislation is necessary to allow more people who have completed appropriate treatment and/or remained crime-free an opportunity to rebuild their lives without the stigma of a criminal record.

D. Collateral Consequences of Criminal Convictions

Legal disabilities and state or local policies can operate as barriers to re-entry after incarceration is long over. While such disabilities tend to be added piecemeal to statutes and regulations, the overall effect can be to stymie efforts by ex-offenders to find housing or jobs or to continue education and training programs. In 2010, the National Conference of Commissioners on Uniform State Laws recommended that all states enact the Uniform Collateral Consequences of Conviction Act. The New York State Bar Association's report "Re-entry and Reintegration: The Road to Public Safety" made a number of specific recommendations for New York legislative reforms aimed at decreasing the collateral consequences of incarceration, including streamlining the process for ex-offenders to obtain a Certificate of Relief from Disabilities or a Certificate of Good Conduct and expanding Article 23-A of the Correction Law to prevent discrimination against persons with a criminal record who pose no threat to public safety. Next year the Committee will continue to examine the recommendations of the state bar and the Uniform Law Commission, as well as recommendations from re-entry advocates and other sources, and advance bills to help law-abiding formerly incarcerated people stabilize their lives by eliminating or reducing barriers to education, employment, housing and public benefits.

E. Evidence-based Examination of the Risk Posed by Sex Offenders

The legislature created a Board of Examiners of Sex Offenders in 1995 as part of the Sex Offender Registration Act. In order to promote public safety, the Board is responsible for making individualized recommendations to the court system concerning the likelihood of sex offenders to commit new sex offenses. Such recommendations are considered by the court in determining the level of community notification assigned to a sex offender.

To carry out its mandate, the Board uses a risk assessment instrument (RAI) that it created in 1996 to assign re-offense risk levels to all sex offenders. A Level 1 sex offender has been determined to present a low risk of re-offending, a Level 2 offender a moderate risk and a Level 3 sex offender a high risk of committing a new sex offense. Appellate courts have held the RAI score to be presumptively correct in determining an offender's risk level and do not generally authorize departure from the risk level recommended by the Board except under situations in which an aggravating or mitigating factor not taken into account by the RAI is present. Departures are the exception, not the rule, in risk level determinations. However, in spite of the presumptive validity of the RAI and the fact that we now have 15 years of data to determine if the RAI is actually predictive of an individual's propensity to re-offend, the state has never done the calculations necessary to see if the RAI in fact provides an accurate assessment of risk of recidivism.

Additionally, there has not been any attempt to update the RAI to reflect extensive research conducted in the last two decades on the risk of recidivism by sex offenders. If

the RAI is not accurate, it is possible both that high risk sex offenders are mistakenly designated as Level 1 and, on the other hand, that scarce public resources are being invested in supervising low risk sex offenders who have been mistakenly designated as Level 3. In 2012, the Committee advanced a bill to require that the current RAI be replaced by a validated, evidence-based instrument with demonstrated reliability. A similar bill will be advanced in 2013.

In 2013, the Committee will again advance legislation creating a temporary commission on sex offender supervision and management to examine, evaluate and make recommendations concerning the effectiveness of sex offender programs and to investigate all factors that impact the risk of recidivism, including the public safety risk posed by the concentration of sex offenders in certain residential neighborhoods.

F. Solitary Confinement

At any given moment there are approximately 4,500 New York state prisoners being housed in segregated disciplinary units, known as Special Housing Units (SHU). Inmates in those units are locked into their cells 23 hours a day, with one hour of out-of-cell recreation time, usually alone in an outdoor cage. Inmates in Upstate Correctional Facility or SHU 200 units are double bunked with another person in lock down, sharing in-cell toilet and shower facilities and a small recreational area for one hour a day. SHU inmates are denied commissary privileges, phone calls, personal property and most programming, while the majority of them are housed in remote parts of the state. They also have restricted visitation rights and are unable to attend religious services. There is no limit to the amount of SHU time an inmate may receive in disciplinary hearings in New York prisons, a practice contrary to national trends. Disciplinary hearings are conducted by hearing officers who are DOCCS employees, most of whom are correctional lieutenants or captains working at the same prison where the alleged misconduct occurred. According to an investigation by the New York Civil Liberties Union, only about 16% of the inmates in SHU are placed there for incidents involving assaults or weapons. Built to house the “worst of the worst,” special housing units are primarily populated by average prisoners who have committed minor infractions that do not jeopardize the safety of staff or other inmates.

Heavy reliance on solitary confinement is not only a state prison policy. In March 2012, the Commissioner of the New York City Department of Correction testified at a city council budget hearing that the use of solitary confinement had increased 44% at Rikers Island over the previous two years. While the over-use of solitary confinement is being reexamined and questioned in much of the rest of the country, with resulting policy changes in states as diverse as Maine, North Carolina, Wisconsin, Mississippi and Colorado, New York seems to be increasing its reliance on such confinement.

In September 2012, DOCCS began an internal review of its SHU policies, and plans to produce a list of recommendations as to changes needed in placements and lengths of stay in SHU. In December 2012, the New York Civil Liberties Union filed suit in federal

court to challenge the constitutionality of the state's SHU practices and policies. The Committee on Correction will continue to explore the use of solitary confinement and consider recommendations or legislation limiting SHU time for adults and juveniles in New York State jails and prisons.

G. Fulton Correctional Facility

In 2012, the Assembly passed a bill to convey the former Fulton Correctional Facility to the Osborne Association in order to run a full service re-entry program serving the Bronx and Westchester communities. The proposed program included training in "green" jobs, therapy, family re-engagement programs, substance abuse treatment and other services as well as a residential unit. The Osborne Association has a proven track record of successful re-entry work throughout the state and has been an innovator in the criminal justice community. The Correction Committee strongly supports this use of the closed facility and will again seek to address this issue in the 2013-14 legislative session.

APPENDIX

2012 SUMMARY SHEET

**Summary of Action on All Bills
Referred to the Committee on
CORRECTION**

Final Action on Assembly Bills

Bills Reported With or Without Amendment

To Floor; Not Returning to Committee	7
To Ways and Means Committee	9
To Codes Committee	12
To Rules Committee	2
Total	30

Bills Having Committee Reference Changed **0**

Senate Bills Substituted or Recalled

Substituted	0
Recalled	0
Total	0

Total Assembly Bills in Committee **158**

Total Number of Meetings Held **7**