

New York State Assembly

Carl E. Heastie

Speaker



Committee on
Correction

Daniel J. O'Donnell

Chairperson

2016

ANNUAL REPORT



DANIEL O'DONNELL
Member of Assembly
69th Assembly District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Committee on Correction
Codes Subcommittee on
Criminal Procedure

COMMITTEES
Codes
Education
Environmental Conservation
Tourism, Parks, Arts and
Sports Development

December 15, 2016

The Honorable Carl E. Heastie
Speaker of the Assembly
Capitol, Room 346
Albany, NY 12248

Dear Speaker Heastie:

As Chairperson of the Assembly Standing Committee on Correction, I am pleased to present to you the Annual Report for the 2016 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.

Very truly yours,

Daniel J. O'Donnell
Chairperson
Standing Committee on Correction

2016 ANNUAL REPORT

STANDING COMMITTEE ON CORRECTION

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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 54 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 51,000 inmates housed in state facilities and 25,038 inmates in local facilities. More than 40,000 correctional personnel combined are employed in all correctional facilities.

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 are reviewed in Section IV.

II. NEW YORK STATE'S CORRECTIONAL POPULATION

A. State Correctional Facilities and Community Supervision

As of November 1, 2016, the prison population of the Department of Corrections and Community Supervision (DOCCS) was 50,903 inmates and 767 parolees under custody for a violation of the conditions of their release. This is 1,222 fewer inmates than at this time in 2015. The overall population has now declined 29% since the peak of 71,538 in 1999. The total under-custody population is 48% African American, 24.7% Caucasian, and 24% Hispanic as of November 1, 2016, which reflects a decline in the proportion of African American and Caucasian inmate populations and an increase in the proportion of Hispanic inmate population. Females comprise 5% of the inmate population and males represent 95% of the inmate population. The number of state-ready inmates (inmates held in a local correctional facility waiting transfer to state prison) as of November 1, 2016, was 504, and 28 state-ready parolees. It should be noted that, although not recognized as part of the prison population, the Willard Drug Treatment Campus, which houses low-level drug offenders and parole violators, typically confines an average population of between 600 and 900 inmates. Willard counted for an additional 758 persons on November 1, 2016. The three-month length of stay for Willard inmates resulted in a population of 2,482 during the first ten months of 2016.

There were 18,084 inmate admissions to state correctional facilities from January 1, 2016, through October 31, 2016, and 2,833 parolee admissions in that same time. New court commitments for this period were 10,683, including 575 judicially ordered admissions into a DOCCS' Shock incarceration facility. There were 3,258 returned parole violators and 3,800 conditional release revocations, including 1,724 violators who were admitted into DOCCS-operated alternative-to-incarceration programs, some of which are 45-day or 90-day drug treatment programs. These alternative-to-incarceration

programs are often referred to as Alt 45 and Alt 90 programs, and are located in Edgecombe Correctional Facility and Willard Correctional Facility. Additionally, two other specialized parole diversion programs are located in Orleans Correctional Facility and Hudson Correctional Facility. While the location of some of these DOCCS-operated alternative-to-incarceration programs may be in current or former correctional facilities, the persons on parole who are diverted to these programs, and successfully complete them, are released without a parole revocation violation on their record. The 1,099 persons on parole returned for new felony offenses are included in the total new court commitments. Separately, 7,076 technical violators were returned to prison.

B. Local Correctional Facilities

The total under-custody population among local correctional facilities as of the end of the fiscal year 2016 was 25,143. For the City of New York, there were 9,809 inmates under custody while county correctional facilities outside of the City of New York had an under-custody population of 15,334 at that time. These populations are in line with last year's populations.

C. Community Supervision

The Department of Corrections and Community Supervision is 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 November 1, 2016, there were 36,024 persons in New York State under parole supervision, which are 254 fewer parolees than at the same time last year.

Almost half, 48%, of the parolees under community supervision as of December 31, 2015, were African-American. The median age of these parolees was 37, and 47% are from New York City, reflecting the continued decline among the inmate population of persons committed from New York City. The large majority of people on parole, 93%, are male. 58% had a drug abuse history, 3,001 or 8% are registered sex offenders, and 7% are female. Among all parolees, 49% are convicted of a legislative violent felony offense, followed by 21%, who are convicted for a drug offense. Only 2%, or 626, parolees have Youthful Offender status.

In 2014 the Department released a recidivism report that showing that just 9% of prisoners released in 2010 were sent back to prison within three years for a new felony

conviction. This figure was the lowest since 1985. For prisoners released in 2011 the recidivism rate for a new felony conviction has been lowered further to 8.6%.

D. Board of Parole

The Board of Parole (Board) reviews parole-eligible prison inmates sentenced to an indeterminate term of imprisonment and either denies or approves release on parole. This is separate and apart from the release mechanism for those inmates sentenced to a determinate term of imprisonment or those eligible for conditional release. The Board also sets conditions of release for all persons who are subject to a period of community supervision.

In the calendar year 2015, there were 12,190 interviews, of which 9,110 were initial interviews and 2,936 were reappearance interviews. Release rates were 25% and 20%, respectively. There were 679 Shock interviews with a release rate of 80%, and 18 Medical Parole interviews with a release rate of 67%. Limited Credit Time Allowance, enacted in 2011 as a means to recognize and incentivize significant programmatic achievement by providing a potential reduction of six months in a term of incarceration, yielded 106 interviews with only a 21% release rate. The Merit Time program, on the other hand, yielded 1,464 interviews of which 35% were released.

January through September 2016 resulted in 10,193 non-administrative interviews and 9,228 parole eligible hearings, which is 152 fewer hearings than the same period in 2015. The overall approval rate, however, increased to 26.2% from 24% for the same period. Initial release rates by category of crime include 26% for A1 offenders, 9% for legislative violent felony offenders, 21% for drug offenders, 21% for other coercive offenders, 31% for major property offenders and 21% for youthful offenders.

The number of rescission hearings has held steady with 33 rescission hearings in 2013 of which 25 were subsequently granted release; 36 rescission hearings in 2014 of which 23 were subsequently granted release; and 33 rescission hearings in 2015 of which 13 were subsequently granted release.

In September 2016, the Board of Parole released draft language to amend the regulations that govern their decision-making process. The proposal would repeal sections 8002.1 – 8002.3 of the New York Codes Rules and Regulations and replace them with regulations providing significant improvement over the language adopted by the Board in 2014. At that time, the Board received many comments on their proposed language, including comments from the Chair of the Committee on Correction, but failed to take the comments into account and adopted their own language as proposed. The 2014 regulations did not comply with the intent of the Legislature in that they treated risk and needs principles enacted in 2011 as a mere factor in the decision-making process rather than as the fundamental basis for release decisions. The Committee is pleased to see the old regulations are now proposed to be repealed in their entirety. The proposed

regulations better reflect the change in procedure and change in perspective required by the consideration of risk and needs principles. Another improvement in the proposed regulations would require consideration of the diminished culpability of youth for certain inmates who committed their offenses prior to attaining the age of eighteen. We have submitted additional comments to help the Board better understand the intent behind the statutory amendments enacted during the 2011 legislative session.

E. Community Corrections Programs

According to data obtained from the Office of Probation and Correctional Alternatives (OPCA), which is housed in the Division of Criminal Justice Services (DCJS), at the end of the SFY 2015-2016, there were 101,413 adults under probation supervision across New York State, a decrease of 4,097 from the prior fiscal year. The adult probation population includes 49,736 persons on felony probation and 46,994 misdemeanor offenders on probation. In addition, local probation departments supervise youth placed under supervision by the family court, which includes approximately 2,447 juvenile delinquency cases and 744 persons in need of supervision (PINS) cases in this last fiscal year.

Probation departments are also called upon to investigate and prepare pre-sentence reports based upon those investigations. Through the end of fiscal year 2016, probation departments conducted 51,778 investigations for both felony and misdemeanor cases, which is 4,587 fewer than in the year prior.

Among specialized projects lead by OPCA is the Sex Offender Address Confirmation Project. Probation is the most frequently used disposition for defendants convicted of sex offenses in New York State. The supervision period for sex offenders under probation is longer than the supervision period for offenders convicted of other offenses. Probation officers regularly confirm offender addresses, comparing them to the State's Sex Offender Registry (SOR), require that offenders complete change of address forms, and file violations and request warrants on absconders. There are approximately 3,500 registered sex offenders under probation supervision. Heeding suggestions from probation officers, the SOR database was modified to allow searches by supervising agency. This will enable each probation department to identify its cases on the Sex Offender Registry.

III. STATE BUDGET IMPACT ON CORRECTIONAL AGENCIES

The SFY 2016-17 Budget for DOCCS appropriates \$2,842,898,000 in state operations funding, which is a \$60 million decrease in state operations funding from the budget for the prior year. The DOCCS budget represents funding for the operation of state correctional facilities as well as community supervision and the Board of Parole. Included within the DOCCS budget is \$148.7 million for the supervision of persons

released to parole and post-release supervision, and \$6.6 million to support the functions of the Board of Parole. The Department possesses the largest state operations budget of any state agency and the average cost to house an inmate is approximately \$50,080 per year, a slight decrease from the year prior. The budget also includes \$29.5 million in Aid to Localities funding, which includes funding for increased use of Medicaid reimbursement for inmate health services.

A. Department of Corrections and Community Supervision

Facilities

For the second year in a row there were no correctional facilities closed in fiscal year 2016-2017. Previous facility closures have resulted in a number of property sales and conversions of such properties for new uses often benefitting the community at large.

In 2016, the Department proposed to convert Hudson Correctional Facility, located in Columbia County, into a hybrid youth facility for 16- and 17-year old male and female inmates. In partnership with the Office of Children and Family Services (OCFS), the Department will continue to oversee the administration, security and programs of Hudson Correctional Facility and OCFS will assist DOCCS in implementing the specialized youth facility by facilitating specialized trainings, reviewing DOCCS policies and procedures for this youth population, and consulting on difficult cases. Applicable OCFS staff will participate with DOCCS in video conferences, site visits, shared training sessions, and case consultations. It is anticipated that the case consultations will include both agencies' clinical teams and case managers, and will involve the youth and their families at some point in the process. Services will also be provided by staff from the Office of Mental Health for those youth who present mental health needs. New York State is one of two remaining states in the nation that still treats 16- and 17-year old offenders as adults in the criminal justice system.

Prior to this proposal, 16- and 17-year old offenders were housed in general population facilities across the state with other adult offenders. Hudson Correctional Facility, along with a maximum security juvenile unit at nearby Coxsackie Correctional Facility, will be home to all 16- and 17-year old offenders committed to the Department. As of November 1, 2016, there were 53 such offenders, including 1 female, housed in Hudson Correctional Facility, and 22 such offenders housed in the Coxsackie Correctional Facility juvenile unit. Aside from the adult work-release and industrial training program, which remains in an entirely separate and segregated part of the facility, there are no inmates other than 16- and 17-year old offenders housed in Hudson Correctional Facility. Funding for Hudson's conversion comes from DOCCS' \$310 million capital budget.

Education

Despite the benefits of post-secondary correctional education programs, only a relatively small number of programs currently operate in New York State prisons, funded mostly through private sources, federal grants for youth offenders or small legislative initiative

grants. Identifying resources (both private and public) to expand post-secondary education in prison is challenging. The Assembly was able to provide \$175,000 to the Mohawk Consortium which has created an innovative, cost-effective model to provide secondary education to inmates in Attica and Mohawk Correctional Facilities. The Committee was also able to provide \$100,000 to John Jay College for their Prison to College Pipeline program which provides prisoners with access to public university-level education, mentorship, and community support to increase their chances of timely graduation and employment upon release

Separately, in 2016 the Manhattan District Attorney announced he would fund \$7.5 million for the education of state prison inmates over a five-year period. Specifically, the initiative would fund educational programming at New York State prisons to help qualifying inmates earn college degrees and industry-recognized certificates in order to support successful reentry into the community and reduce recidivism. The Manhattan District Attorney's Office is funding the college-in-prison program through the Criminal Justice Investment Initiative ("CJII"), which was created to provide grants for programs improving public safety, crime prevention, and fairness in the justice system. The CUNY Institute for State and Local Governance, technical assistance consultant for CJII, will manage the program on behalf of the District Attorney's Office. No taxpayer funds will be used in this initiative.

Technology

In the aftermath of the high profile escape of two inmates from Clinton Correctional Facility in 2015, and the high profile death of a mentally ill inmate at Fishkill Correctional Facility, the Department announced an investment of \$25 million to enhance and upgrade technological resources that would improve prison safety for staff and inmates. These initiatives include installation of fixed cameras, the deployment of thermal imaging and heartbeat detection devices, the installation of a rounds tracker system, the procurement of portable metal detectors, and the piloted use of body cameras to be worn by staff. The Correction Committee has long supported the use of body cameras in correctional settings. It is our understanding that the Department's pilot program consists of two phases; the first phase piloting three body cameras in order to select a vendor and the second phase to pilot the body camera technology chosen.

Prisoners Legal Services

The SFY 2016-2017 Executive Budget again included \$2.2 million for Prisoners Legal Services (PLS), which provides legal representation and assistance to indigent prisoners in civil cases. The Assembly was able to secure an additional \$250,000 for PLS, but the program continues to be funded below its traditional support level. 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.

Funding for Alternative to Incarcerations programs is \$20,134,000 in SFY 2016-2017. The Assembly included more than \$703,000 in additional funding for various ATI programs. These funds are appropriated in the Division of Criminal Justice Services budget.

Security Staffing

Each year the Department convenes a number of correction officer training classes to increase the ranks of its security personnel. Each year the Department also sees a significant number of retirements. In the calendar year ending 2015, there were 19,293 correction officers, sergeant and lieutenant positions filled, an increase of 1.9%, or 363, officers over 2014. During this same time the inmate population shrank 1.5% from 53,157 to 52,363. From the peak population of 1999, the ranks of correction officers, sergeants and lieutenants were reduced by 13.1% or 2,894 positions. The ratio of inmates to officers is currently 2.7 to 1. The national average in 2005 was 5.1 inmates per correctional officer.

These numbers take on even greater meaning in light of what has been characterized as an inmate population with a greater percentage of violent offenders. The increase in the percentage of violent felony offenders in the state's prison population is a result of the reduction in the number of drug offenders incarcerated in a state correctional facility due to the reform of the Rockefeller Drug Laws. However, the number of inmates convicted of a violent offense has actually been on the decline for some time. As of November 1, 2016, there were 17,778 offenders convicted of a violent felony housed in a maximum security correctional facility compared to 19,189 such offenders in 2011. In medium security facilities there are 13,968 current inmates convicted of a violent felony versus 14,931 such offenders in 2011.

Board of Parole

Funding for the Board of Parole is separately appropriated and may not be decreased by interchange with any other appropriation in the DOCCS budget in order to ensure adequate funding to perform its mission with the required independence. The SFY 2016-2017 Board of Parole budget is \$6.6 million, which is unchanged from the year prior.

The Board of Parole is statutorily maintained as a 19-member appointed body with independent decision-making authority. However, there are only 13 commissioners currently serving, and at any given time there may only be 10-11 commissioners actively serving across the state. 2016 saw the departure of the Board's only Hispanic member who had served as commissioner for the last ten years. Five more commissioners will have their terms expire in June of 2017. We look forward to a robust number of appointments and confirmations that we hope will result in a balanced and fair Board.

The Board of Parole is housed within DOCCS for administrative support and maintains its independence with its own counsel's office and cadre of Administrative Law Judges.

The Board continues to make discretionary determinations regarding the release of indeterminate sentenced inmates, the setting of release conditions, revocations of supervision for parolees charged with violating conditions of release, and the three-year discharges of sentence for certain persons under supervision. Former Board functions of granting merit termination of sentences, granting certificates of rehabilitation and preparing parole summaries have been carried out by DOCCS since 2011.

Community Supervision

The DOCCS budget allocation for supervision of persons released to the community in SFY 2016-2017 is \$148.7 million, an increase of \$6.5 million from the prior year. Community Supervision is entirely separate from the Board of Parole budget, since community supervision is no longer a function of the Board following the merger with DOCCS in 2011.

Two new parole officer training classes were scheduled for this fiscal year. Community supervision staff members oversee approximately 36,024 people on parole and post-release supervision out of seven regional offices around the state.

Currently 55% of the individuals on community supervision live in the five boroughs of New York City or are on Long Island, while 45% reside Upstate, representing no change from the year prior. Many of the ex-offenders have high educational and vocational needs, a history of substance abuse and problems maintaining stable housing and employment. The Correction Committee recognizes the importance of supportive reentry services and continues to advocate for increased funding and diversity of programming to help people coming out of prison successfully reintegrate into the community.

B. Local Correctional Agencies

The DOCCS budget continues to include \$200,000 in aid-to-localities funding to local correctional facilities for reimbursement to counties for housing “state-ready” inmates. “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 basically 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 of the locality notifying 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), among other appropriations, have been consolidated. The new program structure of DCJS now consists of the offices of Administration, Crime Prevention and Reduction Strategies and separate programs for each of the newly merged agencies.

Thus, the appropriation for OPCA is unspecified within the Executive Budget and contained within a larger \$72 million appropriation for DCJS Crime Prevention and Reduction Strategies Program covering additional programs for organizations and services such as Aid to Prosecution, Crime Labs, and Drug Diversion, among others.

The DCJS budget includes \$44.9 million for aid to local probation departments and additional federal funds are also directed to help offset probation aid cuts. It should be noted that state aid to local probation departments represents only a small percentage (less than 20%) of the actual costs of these services.

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 54 state correctional facilities, 62 county jails and the New York City correctional system comprising 18 facilities and 200 police lockup facilities, and five secure centers operated by the Office of Children and Family Services. The Commission's budget for SFY 2016-2017 is \$2.89 million.

In 2015, the last year for which data is available, the Commission's Citizen Policy and Complaint Review Council reviewed 2,287 individual letters of complaints concerning state correctional facilities and 1,329 complaints regarding local correctional facilities. The Commission handled 1,766 county facility grievances. The Commission's Forensic Medical Unit fully investigated 22 inmate deaths, which are four fewer than were investigated the year prior, and conducted an abbreviated investigation of 19 additional deaths, which are 8 more than were investigated the year prior. There were 157 inmate deaths in state and local facilities in 2015, 15 fewer than were reported in 2014. 116 occurred in a state correctional facility, a reduction of 9 from 2014. Of those, ten deaths were from suicide, six deaths were ruled a homicide, nine were from causes unknown which is a significant contrast to zero the year prior, but none were from an "other" category which is a significant reduction from seven the prior year. There were no deaths from HIV/AIDS in a state correctional facility in 2015. The remaining 91 were reported to have died from natural causes. In total there were 22 suicides in state and local correctional facilities in 2015 which is 7 fewer than in 2014.

In the City of New York, there were twelve deaths in correctional facilities, two fewer than in 2014, and no deaths were the result of a homicide; two deaths were the result of suicide, two were from unknown causes, and the remaining eight from natural causes.

The Commission has reported no change to the 99 double-bunked cells resulting from variances that remain in the Department of Corrections and Community Supervision. Seventy-two of those cells are located in the Walkkill Correctional Facility and twenty-seven in Clinton Correctional Facility.

For the year 2015 the Commission received and responded to 262 Freedom of Information Law requests for records of the Commission on Correction.

IV. COMMITTEE ACCOMPLISHMENTS

A. Significant Legislation Advanced by the Correction Committee in 2016

The Correction Committee advanced the following legislation which passed both houses in 2016.

Sex Offender Registrants Residence and Domicile clarifies the Sex Offender Registry Law by defining "residence" and directs the Division of Criminal Justice Services to develop a notification procedure for mandatory reporting by offenders who have multiple residences. ([A.1819-A](#) / S.1608-A; Vetoed, Message 229)

Posting Parole Appeal Decisions on Web Site requires decisions from the Parole Appeals Unit to be published on the agency's web site. ([A.1984](#) / S.6806; Vetoed, Message 231)

Translation Services for Inmates Appearing Before the Parole Board requires the Department of Correction and Community Supervision to provide a deaf language interpreter and/or a certified or credentialed English language interpreter for certain inmates in connection with their appearance before the parole board. ([A.5548](#) / S.992; Chapter 473 of the Laws of 2016)

Notifying Next of Kin of Inmate Death requires the Department of Corrections and Community Services to be responsive to the inquiries made by a deceased inmate's next of kin and to provide the inmate's family with a preliminary death certificate. ([A.7500-A](#) / S.5427-A; Chapter 447 of the Laws of 2016)

Annual Training Related to Mental Health requires all new staff of the Department of Corrections and Community Supervision (DOCCS) to receive a full curriculum of mental health-related training when assigned to a mental health treatment unit. The bill also requires that all DOCCS staff receive training each year in the identification of, and care for, inmates with mental illness. ([A.9162](#) / S.6380-A; Chapter 20 of the Laws of 2016)

Strengthens Prohibition on Shackling Pregnant Prisoners strengthens the prohibition against shackling women in labor by prohibiting the use of wrist restraints on a pregnant woman during transportation, child birth or during a postpartum period of eight weeks absent extraordinary circumstances. ([A.9163](#) / S.6695; Chapter 17 of the Laws of 2016)

Notification Upon Sex Offender Change of Address directs the Division of Criminal Justice Services to notify the appropriate local law enforcement agency within 48 hours of the receipt of a change of address, or enrollment, attendance, employment or residence at an institution of higher education by a sex offender. ([A.9239](#) / S.7252; Chapter 456 of the Laws of 2016)

Inmate Medical Form to Disclose Medical Information requires the Department of Corrections to provide all inmates with a medical authorization and mental health treatment information consent form, to keep such form when executed in an inmate's medical file, to provide such forms in prison libraries and to make the forms available to authorized persons. ([A.9406](#) / S.6892; Vetoed, Message 244)

Crime Victim Statements Preservation requires the statements made by victims to the state board of parole be permanently maintained in an inmate's parole file so that such statements are always available for the board to consider during their deliberations on whether to grant parole. ([A.9696](#) / S.7224; Chapter 130 of the Laws of 2016)

Prohibits Fees for Certain Records establishes free-of-charge access to clinical mental health records to non-profit organizations providing protection and advocacy services to disabled individuals. This bill was reported by the Mental Health Committee and has an effect on the state prison population. ([A.9117](#) / S.6622; Chapter 453 of the Laws of 2016)

Parole Officer Duties requires that within the Department of Corrections and Community Supervision only certain duties may be performed by a parole officer. ([A.10190-A](#) / S.7862; Vetoed, Message 293)

Inmate Death Certificate requires a single death certificate for an inmate who has died under the custody of the Department of Corrections and Community Supervision to be provided by the county at no charge. ([A.10200-A](#) / S.7853-A; Chapter 323 of the Laws of 2016)

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

Pregnant Women in Solitary Confinement restricts the placement of pregnant inmates in the Special Housing Unit to those exceptional circumstances when any other housing option would create an unacceptable risk to other inmates or staff. ([A.1347](#); Passed Assembly)

Reporting on Demographics by Board of Parole requires the state board of parole to

track and report statistical information on the demographics of people appearing before the board, including age, gender, race, ethnicity, region of commitment and other factors. ([A.2943](#); Passed Assembly)

Permitting Personal Phone Calls for Inmates permits a telephone call by an inmate upon admission into solitary confinement and monthly thereafter. ([A.4620](#); Passed Assembly)

Female Inmate Rehabilitation Programs requires that rehabilitation programs for female inmates in state correctional facilities be equivalent to those provided to male inmates elsewhere in the state. ([A.7363](#); Passed Assembly)

Aging Prison Population Study authorizes a study by the Department of Corrections and Community Supervision to examine the treatment of aging prison populations. ([A.7407-A](#); Passed Assembly)

Office of the Correctional Ombudsman establishes the office of the correctional ombudsman to create public oversight of the Department of Corrections and Community Supervision in order to achieve transparency, fairness, impartiality and accountability in our state correctional system. ([A.9939](#); Passed Assembly)

Attorney Access to Mental Health Records grants attorney access to an inmate's mental health records for the purpose of representing an inmate in a disciplinary hearing, including for cases involving involuntary psychiatric hospitalization or treatment proceedings. ([A.5431](#); Passed Assembly)

B. Public Hearings

Devising a Smart Supportive Housing Strategy for Ex-Offenders Upon Reentry

On June 13, the Committee, in conjunction with the Assembly Subcommittee on Transitional Services, held a hearing examining unmet housing needs for ex-offenders returning to New York City after incarceration. The lack of suitable housing puts the 26,000 New Yorkers exiting state prisons each year, and a significant number of more than 80,000 inmates exiting local jails, at a high risk of homelessness and recidivism. Many prisoners are being released to the shelter system while others are sent to halfway houses and three-quarter houses, and housing discrimination in affordable and market-rate housing is still a major issue. Currently, the city does not prioritize supportive housing for people reentering the community from prison.

The Committee heard testimony from a representative of the Mayor's office as well as experts, formerly incarcerated people and service providers in New York City. The Committee will consider legislative and policy changes to open up more affordable housing options for people reentering society after incarceration in New York City and throughout the state.

C. Prison Tours

Assemblymember Daniel O'Donnell has toured 30 prisons and jails in the four years of his tenure as Committee chair. In 2016, he went to visit four state correctional facilities: Clinton, Great Meadow, Green Haven and Hudson. At each correctional facility, Chairperson O'Donnell met with the superintendent, staff and members of the Inmate Liaison Committee and/or other inmate associations. During 2017, the Chair will tour more facilities throughout the State.

V. ISSUES TO BE ADDRESSED IN 2017

A. Office of the Correctional Ombudsman

Over the last few years, there have been a number of unusual incidents within DOCCS, including a spike in suicides, an escape out of Clinton Correctional Facility where two inmates were assisted by a civilian employee, and a number of inmate deaths at the hands of security staff. The union for correctional officers, NYSCOBA, asserts that violence is on the rise in our state prisons, with 747 reported assaults on staff by inmates in 2014, compared to 524 such assaults in 2012. The union contends that prisons have become much less safe for staff and inmates, at least in part because of the increasing concentration of violent offenders in the system. Each one of the reported incidents of violence is investigated internally, with some investigations being turned over to the state police if DOCCS believes a crime has been committed.

Most investigations at DOCCS are conducted by its own Office of Special Investigations (OSI). The investigators are DOCCS employees, many of whom are former security staff. There is a growing consensus in the criminal justice community that police departments should have oversight by non-police agencies. In 2016, the Chair of the Committee introduced a bill to create the Office of the Correctional Ombudsman (A.9939/S.8059), which passed the Assembly but died in committee in the Senate. The ombudsman would have independent oversight of the department and an ability to conduct its own investigations involving complaints or unusual incidents, and would report back to the Governor, the Legislature and the public. The ombudsman would refer criminal matters to law enforcement with any subsequent prosecution by local district attorneys or the state Attorney General. In 2017, the Committee will again advance this important bill and work toward its passage in both houses of the Legislature.

B. Solitary Confinement

1. Overuse of Solitary

At any given moment there are approximately 3,500 New York state prisoners, or 7-8% of the prison population, being housed in segregated disciplinary units, known as Special Housing Units (SHU). An unknown number of inmates are also confined in keep-lock units or are keep-locked in their own cells. Inmates in keep-lock and SHU are locked into their cells 23 hours a day, with one hour of recreation time. Out-of-cell recreation is usually spent alone in a bare outdoor cage. Inmates in SHU are denied phone calls, most commissary privileges and personal property and most programming, including classroom-based educational programming. They 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 as a sanction for misbehavior in New York prisons and prisoners with serious or multiple infractions, as well as prisoners under “administrative segregation”, may stay in SHU for years. A few prisoners have been in SHU for decades.

In December 2015, DOCCS entered into a settlement agreement in the federal civil rights case Peoples v. Fischer, that should reduce the number of people in SHU, increase their programming options and provide more SHU diversion units. It also will decrease or eliminate SHU time for first-time, non-violent offenses, among other important and welcome changes.

Heavy reliance on solitary confinement has not only been a state prison policy. In March 2012, the former 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 Riker’s Island over the previous two years. An October 2013 report by the New York City Board of Correction stated that 27% of the 16-, 17- and 18-year olds at Riker’s Island were in punitive segregation and that 71% of all inmates in punitive segregation were mentally ill. Since that time Rikers has made enormous strides in removing young people from isolation and intends to divert all inmates under 21 from solitary confinement in the near future.

The Committee on Correction advanced two new bills in 2015 (A.1346-A, O’Donnell; A.1347, Rozic) following guidelines recommended by the United Nations Committee Against Torture. The bills would limit the time an inmate could spend in solitary confinement and prohibit the use of solitary confinement for adolescent, developmentally and cognitively disabled and mentally ill inmates and pregnant women. A.1346 passed the Assembly in 2015, the first year of the two-year legislative cycle, and A.1347 passed the Assembly in 2016. The Committee will again advance these bills for consideration in 2017 and will continue to consider other bills to limit SHU time in New York.

2. Prisoners with Mental Illness and Cognitive/Physical Disabilities

Correction Law § 137 (6) (d) and (e) was enacted in 2008, excluding “seriously mentally ill” prisoners from solitary confinement of more than 30-days duration. Eight years out,

there are still 650 to 700 inmates in SHU who suffer from some form of mental illness. This year the Assembly passed a new bill (A.9559, Aubry) which would conform the definition of serious mental illness to the definition used in the mental hygiene law, thereby increasing the number of inmates who are eligible for diversion from SHU to treatment units. The Committee will continue to examine the mental health SHU exclusion law to see if it should be amended to broaden the eligibility for SHU exclusion, including prisoners with cognitive impairment or physical disabilities. The Committee will also consider other needed changes to ensure that people who need mental health treatment or special accommodations do not have their conditions made worse by disciplinary segregation.

C. Parole

More than half a million people have been released from New York State prisons since 1985. Today we have fewer than 35,000 individuals on community supervision and 51,000 individuals in state prison, an approximately 26% 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. Only 8.6% percent of parolees return to incarceration within three years of their release for a felony new 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.

Although New York has medical parole for inmates who are either terminally ill or medically incapacitated, the process has been so slow that nearly a quarter of the inmates who have sought medical parole die before they can be interviewed by the board. Additionally, eligibility for medical parole may be too restrictive and in need of expansion.

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.

In 2015, the Committee advanced a bill which was signed into law (A.7685, O'Donnell) to provide capacity hearings for mentally ill parole violators who seem to be legally incapacitated. In 2016, the Assembly introduced a new bill (A.9960, O'Donnell, which was advanced to third reading) mandating that the board use risk and needs assessment instruments as the basis of their release decisions. As mentioned above, the Board recently proposed a change to its regulations giving more importance to risk assessments in the decision-making process, which change is strongly supported by the Committee. In 2017, the Committee will continue to advance bills supporting needed parole reforms and will introduce several new pieces of legislation to make sure that inmates who do not

appear to pose a public safety risk are released to community supervision as quickly as possible.

D. 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 education. Most college programs operating in prisons throughout the state shut down after TAP was discontinued.

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%. The Bard Prison Initiative reports that while nearly 40% of inmates statewide return to prison within three years for a new crime or a parole technical violation, only 4% of students who have spent any time in the Bard College program return to prison within three years.

In 2016, the federal government selected seven New York prison college programs to participate in a pilot study on the effects of the restoration of Pell grants to inmates, which should help increase enrollment in these vital rehabilitative programs. In the past year, the State University of New York (SUNY) decided to join the City University of New York (CUNY) in dropping consideration of a prospective student's criminal history from his or her admission decision. The Committee strongly supports SUNY's decision to ban the box for college admissions.

E. Re-Entry

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 affect 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 their Uniform Collateral Consequences of Conviction Act. In 2006, 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.

This year the Committee will again advance bills to help law-abiding formerly incarcerated people stabilize their lives by eliminating or reducing barriers to education, employment, housing and public benefits and by supporting programs and initiatives to encourage successful re-entry into their home communities.

F. Women in Prison

Women inmates have special needs, including hygiene and medical needs, and unique therapeutic, social and educational problems and family issues. Far more female prisoners than male prisoners were custodial parents prior to incarceration and more women than men were subject to sexual trauma at some point in their lives. It is estimated that nearly 75% of female inmates have at least one mental health problem compared to around 50% of incarcerated men. While the Legislature passed an amended law prohibiting the use of shackles on pregnant women, there are still many unmet needs among women prisoners. In 2017, the Committee will explore this topic and possibly advance legislation to provide specialty programming and services to women in our state prisons.

APPENDIX

2016 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	10
To Ways and Means Committee	14
To Codes Committee	19
To Rules Committee	0

Total **43**

Bills Having Committee Reference Changed **1**

Senate Bills Substituted or Recalled

Substituted	5
Recalled	0

Total **5**

Total Assembly Bills in Committee **191**

Total Number of Meetings Held **6**