

NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER



2014 ANNUAL REPORT



Committee on
Correction

Daniel O'Donnell, Chair



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

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December 15, 2014

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

Dear Speaker Silver:

As Chairperson of the Assembly Standing Committee on Correction, I am pleased to present to you the Annual Report for the 2014 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

2014 ANNUAL REPORT

STANDING COMMITTEE ON CORRECTION

Daniel J. O'Donnell, Chair

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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 53,000 inmates housed in state facilities and 27,370 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 and other committees are reviewed in Section IV.

II. NEW YORK STATE'S CORRECTIONAL POPULATION

A. State Correctional Facilities and Community Supervision

As of November 1, 2014, the prison population of the Department of Corrections and Community Supervision (DOCCS) was 52,856 inmates and 624 parolees. This is consistent with the prison population from 2013 and is consistent with an overall population decline of 26% since the peak of 71,538 in 1999. The total under-custody population is 48.7% African American, 24.4% Caucasian, and 23.9% Hispanic as of November 1, 2014. The number of state-ready inmates (inmates held in a local correctional facility waiting transfer to state prison) as of November 1, 2014 was 543 and 25 state-ready parolees. 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 600 and 900 inmates. Willard counted for an additional 681 persons on November 1, 2014. The three-month length of stay for Willard inmates resulted in an population of 2,431 during the first ten months of 2014. Additionally, there were 807 persons under Community Supervision diverted to a residential treatment facility operated by the Department of Corrections and Community Supervision as of November 1, 2014, which is 47 persons fewer than this time last year.

There were 19,004 inmate admissions to state correctional facilities from January 1, 2014 through October 31, 2014, and 2,312 parolee admissions in that same time. New court commitments for this period were 11,230 including 530 judicially sanctioned admissions to DOCCS' facilities. Returned parole violators and conditional release revocations were 7,142, including 1,607 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 (PDP) 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 parolees who are diverted to these programs and successfully complete them are released without a parole revocation violation on their record. 1,189 parolees returned for new felony offenses are included in the total new court commitments.

B. Local Correctional Facilities

The total under-custody population among local correctional facilities as of the end of the fiscal year 2014 was 27,370. For the City of New York, there were 11,246 inmates under custody while county correctional facilities outside of the City of New York had an under-custody population of 16,124 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, 2014, there were 36,359 persons in New York State under parole supervision, which are 189 fewer parolees than at the same time last year.

Recidivism rates for parolees returned to prison have reached their lowest levels since tracking began in 1985. Three year follow-up data released in 2014 showed that of 24,605 parolees released in 2010 and tracked thereafter only 9% (2,248) were returned to prison for the conviction of a new offense throughout the three year period of this study. Separately, 32% (7,969) were reincarcerated for technical violations of the conditions of their release in the same period of time. The number of parolees found convicted of a new offense during their release remains on the decline.

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. Data received from the Board of Parole shows that in the first 10 months of 2014, initial Board interview releases have continued their downward decline to an average of 24.5% of persons interviewed, including Shock and Presumptive Release, as compared to 26.4% release rates for this same period in 2013. Lesser and greater rates of release apply within each category of crime of conviction. Persons subsequently appearing before the Parole Board after initially being denied were granted parole release at an average rate of 21.1% in the first 10 months of 2014, up from 18.7% during this same period in 2013. However, subsequent appearances remain significantly down from 36% in the recent 2010-2011 SFY and higher historical norms. Unknown as of this writing are release rates for those inmates eligible for merit time credit, limited credit time allowance, deportation and Shock.

The number of non-administrative release interviews conducted by the Board between January 1 and October 31, 2014, was 10,737 overall, representing 185 fewer inmates than the 10,922 interview held a year ago during this same period. Non-administrative release interviews are those interviews conducted in person, including interviews conducted by video teleconference. Administrative releases by DOCCS are forwarded to the Board of Parole in order to set conditions of release. Non-Administrative release rates during the first ten months of 2014 were 19% for initial interviews and 21% for reappearance interviews. Specific category of crime release rates include 19% for A1 violent offenders, 9% for statutorily defined violent felony offenders, 18% for drug offenders, 14% for other coercive offenders, 27% for major property offenders and 21% for youthful and juvenile offenders. These category of crime release rates are consistent with the rates last year at this time.

The Board of Parole also reviews parole violation cases and either revokes parole or restores parolees to supervision, often with revised conditions. Through October 31, 2014, 8,348 parolees were ordered returned to DOCCS, including 1,189 who were returned for a new felony conviction and 7,159 returned for a technical rule violation, which includes those who were returned to an Alt-90 and Alt-45 program.

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 2013-2014 SFY, there were 109,284 adults under probation supervision across New York State, a decrease of 3,600 since last year at this time. The adult probation population includes 52,855 felony probationers and 51,581 misdemeanor probationers, an even reduction of more than three thousand fewer probationers in each category. In addition, local probation departments supervise youth placed under supervision by the family court, which includes approximately 3,219 juvenile delinquency cases, and 887 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 2014, probation departments conducted 60,624 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 2014-15 Budget for DOCCS appropriates \$2,789,124,000 in state operations funding, which is a \$3.25 million decrease in state operations funding from the budget for the prior year. It is important to note that 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 \$142.2 million for the supervision of persons released to parole and post release supervision and \$6.5 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 now more than \$50,000 per year. The SFY 2014-2015 budget also includes \$31.19 million in Aid to Localities funding, which includes funding for increased use of Medicaid reimbursement

for inmate health services. The budget has benefited from savings associated with the recent prison closures.

A. Department of Corrections and Community Supervision

As part of the SFY 2014-2015 Budget, the Department closed four men's correctional facilities; three medium security facilities and one minimum security Shock facility. The closed facilities were Mt. McGregor Correctional Facility in Saratoga County, Chateaugay Correctional Facility in Franklin County, Butler Correctional Facility in Wayne County and Monterey Correctional Shock Facility in Schuylar County. The closure of these facilities resulted in the elimination of 1,280 beds from operation and an annual savings of \$30 million. The justification for prison closures is the continued decline of the prison population to new historic lows. The system currently houses 18,000 fewer inmates than in 2000 – a greater than 26 percent decline. In spite of the closure of some medium and minimum correctional facilities in the past few years, excess capacity is still significant. The Department continues to maintain over five thousand vacant beds throughout the prison system.

The previously shuttered Camp Gabriel Correctional Facility was sold this year to a private buyer from Kings County as was the former Arthurkill Correctional Facility in Staten Island. Bayview Correctional Facility in Manhattan appears to be in the process of being sold for commercial development. New uses for the remaining correctional facilities closed in prior years continue to be explored, and buyers for such facilities continue to be sought.

The SFY 2014-2015 Executive Budget again included \$1 million for Prisoners Legal Services. The Assembly was able to secure an additional \$1.2 million for PLS, but the program was still 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.

It is also important to note that the SFY 2014-2015 enacted budget continues the consolidation of \$11.9 million in funding for existing alternative to incarceration (ATI) programs, including \$7 million to replace prior-year Federal Byrne/JAG funding. Additionally, the Assembly included more than \$800,000 in additional funding for various ATI programs. These funds are appropriated in the Division of Criminal Justice Services budget.

Board of Parole

The Board of Parole is statutorily maintained as a 19-member appointed body with independent decision-making authority. Housed within DOCCS for administrative

support, the Board maintains its independence in conjunction 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 are carried out by DOCCS.

This year saw the retirement of the only African American male commissioner appointed to the Board of Parole. Among those currently serving commissioners, two were reappointed for an additional term and were confirmed in June, 2014. However, no new appointments were made to fill the six vacancies on the Board including the seat of the retired commissioner.

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 2014-2015 Board of Parole budget is \$6.5 million.

Community Supervision

The DOCCS budget allocation for supervision of persons released to the community in SFY 2014-2015 is \$142.2 million, an increase of \$1.9 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.

Community supervision staff members oversee approximately 34,800 people on parole and post-release supervision out of seven regional offices around the state. Currently 58% of the individuals on community supervision live in the five boroughs of New York City or are on Long Island while 42% reside Upstate. Many of the ex-offenders have high educational and vocational needs, a history of substance abuse and problems maintaining stable housing and income. 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 for 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 that 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 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 \$56.7 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 2014-2015 is \$2.89 million.

In 2013, the last year for which data is available, the Commission’s Citizen Policy and Complaint Review Council reviewed 1,939 individual letters of complaints concerning state and local inmates and handled 1,812 grievances. The Commission’s Forensic Medical Unit fully investigated 20 inmate deaths and conducted an abbreviated investigation of 18 additional deaths. Of the 198 inmate deaths in state and local facilities in 2013, 141 occurred in a state correctional facility. Of those, 13 were suicides, two were from HIV/AIDS, five were from causes unknown while seven were from another category. The remaining 114 died from natural causes. Thirteen of the reported suicides were in DOCCS facilities. In the City of New York, there were 25 deaths in correctional facilities including six suicides, three from unknown causes, one from another category and the remaining 13 from natural causes.

IV. COMMITTEE ACCOMPLISHMENTS

A. Significant Legislation Advanced by the Correction Committee in 2014

The Correction Committee advanced the following legislation which passed both houses in 2014.

Providing Notice of Availability of Services to Prisoners upon their Release from State Prison (A.231; Passed Both Houses) Requires state prisons to provide notice of services available in the community to which an inmate is being released. Such services would include mental health services, drug treatment, employment related opportunities, vocational training, housing related services, medical services, and programs that facilitate the reentry of such persons into the community.

Requiring Visitation Rules for Correctional Facilities to be Provided on the Internet (A.4606, chapter 286 of the Laws of 2014) 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.

All Sex Crimes on Sex Offender Registry (A.6074, chapter 462 of the Laws of 2014) Requires the Division of Criminal Justice Services to publish all offenses that a sex offender has been convicted of, and that require registration, on the sex offender registry data base, not just the most recent crime of conviction.

SCOC Citizen's Policy and Complaint Review Council Appointments (A.9166, chapter 139 of the Laws of 2014) Permits appointment to the council to include a veteran of any foreign war, conflict or military occupation instead of a Vietnam War veteran and allows appointment of a former Division for Youth secure facility resident or a licensed health care professional to the Council.

Jefferson County Pre-Arrest Detainees (A.9520, chapter 346 of the Laws of 2014) Allows detainees in Jefferson County to be held in the county jail prior to arraignment.

Extends Albany County Correctional Facility to Board Out-of-State Inmates (A.9642, chapter 155 of the Laws of 2014) Extends the authority 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.

Mental Health Discharge Planning (A.10071, Passed Both Houses) Requires mental health discharge planning, including an appointment with a community prescriber and

sufficient medications to bridge the gap between release from prison and the first appointment. The bill also allows regional directors of community supervision to initiate involuntary mental hospital commitment proceedings for mentally ill people under community supervision.

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

Preventing HIV (A.3496, Passed Assembly)

Requires the Department of Corrections and Community Supervision to provide information to inmates upon their release about the availability of free HIV testing, counseling and treatment in the community to which they are being released.

Provides inmates an opportunity to obtain a GED (A.4106, Passed Assembly)

Requires DOCS to establish academic programs to prepare all inmates to complete the General Equivalency Diploma (GED) and provides inmates with an opportunity to complete a GED before release on parole, conditional release, post release supervision or presumptive release.

Authority to Hold Mentally Ill Inmates in Psychiatric Center (A.4583, 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.

Definition of Sexually Violent Offenders from Out of State (A.4586, Passed Assembly)

Clarifies the definition of “sexually violent offender” as it relates to out of state offenders.

Relates to the Definition of “Direct Relationship” for the Purposes of Article 23-A of the Correction Law regarding certain Licenses and Employment (A.4887, Passed Assembly)

Changes the definition of "direct relationship" to require a substantial connection between the specific the job duties or license sought and the nature of the criminal conviction in order to deny employment to a person with a criminal conviction on the basis of unreasonable risk to property or public safety.

Requires Additional Mental Health Training for Certain Prison Employees (A.7659, Passed Assembly)

Ensures that mental health training is updated annually for certain prison employees who work in direct contact with inmates in order to reduce inmate suicide and injuries resulting from inmates who suffer from mental illness

Certificates of Relief (A.8564, 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.

Publication of Parole Appeal Decisions on Public Web Site (A.9285, Passed Assembly)

Requires decisions from the Parole Appeals Unit to be published on the agency web site.

Reporting on Demographics by Board of Parole (A.9370, Passed Assembly)

Requires the Board of Parole to track and report statistical information on the demographics of people appearing before the board, including age, gender, race, ethnicity and region of commitment, among other factors.

Prohibition Against Placing Pregnant Women in Solitary Confinement (A.9550, Passed Assembly)

Prohibits placement of pregnant inmates in Special Housing Unit (SHU) absent exceptional circumstances creating an unacceptable safety risk, prohibits disciplinary restriction of diet, medical and mental health care for such prisoners, and provides for post-partum care for inmates in SHU.

B. Public Hearing

Mental Illness in Correctional Settings

On November 13th, the Correction Committee held a joint public hearing with the Assembly Mental Health Committee focusing on the status of mentally ill inmates in our prisons and jails. Approximately 40% of the inmates on Rikers Island have a diagnosed mental illness and 17% of the prisoners in the state correctional system are on the Office of Mental Health caseload. The Committee sought to determine what changes are necessary to facilitate treatment, diversion and recovery of mentally ill New Yorkers involved in the criminal justice system. The Committee specifically solicited testimony on the efficacy of Correction Law §137 (6) (d) and (e), the SHU mental health exclusion law, and on programs for mentally ill people in prisons and jails throughout the state, among other topics.

A panel including the Commissioner of City of New York Department of Corrections, the Assistant Commissioner of Correctional Health Services for New York City's Department of Health and Mental Hygiene and the Executive Director of Mayor DeBlasio's Task Force on Behavioral Health and Criminal Justice testified about the diversion programs for mentally ill inmates in punitive segregation and the changes being made in the treatment of adolescent inmates at Rikers Island. Advocates, family members and public defenders also testified about conditions at Rikers and emphasized the need for bail reform, alternatives to incarceration and community mental health treatment to keep people out of the criminal justice system.

The Commissioner of the New York State Department of Corrections and Community Supervision and the Assistant Commissioner of Forensic Services for the Office of

Mental Health testified about policy changes in mental health treatment inside the state's prisons over the last few years, including reviews of clinicians' decisions to drop a diagnosis that qualifies an inmate for exclusion from punitive segregation, mental health discharge planning and programs within the prison system for the treatment of mentally ill inmates.

The parents of a 21-year-old man with mental illness who committed suicide in Fishkill Correctional Facility in October testified about the circumstances leading up to their son's death. Another man testified about his own lapse into psychosis over a weekend in a county jail without psychotropic medications. Families of prisoners, public defenders, non-profit service providers, union members and advocates testified as to improvements that could be made to prevent mentally ill inmates in state and local correctional facilities from having their symptoms exacerbated while in custody.

The Committee will use the testimony of the witnesses at the hearing to propose amendments to existing legislation and new bills in the upcoming legislative session.

C. Prison Tours

The Committee Chair, Assembly Member Daniel O'Donnell visited 13 state and local correctional facilities in 2014: Albion, Attica, Cape Vincent, Clinton, Eastern, Greene, Green Haven, Ogdensburg, Riverview, Sing Sing, Taconic, Rikers Island and Albany county jail. At the state correctional facilities, Chairperson O'Donnell met with the superintendents, staff and members of the Inmate Liaison Committee and/or other inmate associations. He also visited the special housing unit in each of the prisons that he had not previously toured. During 2015, Chairperson O'Donnell and Committee members will tour more facilities throughout the state, and will also go on tours of local correctional facilities and attend several parole board interviews.

V. ISSUES TO BE ADDRESSED IN 2015

A. Solitary Confinement

1. Overuse of Solitary

At any given moment there are approximately 3,800 New York state prisoners, or seven percent 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 long-term keeplock units or are keeplocked for fewer than 30 days in their own cells. Inmates in keeplock 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 privileges and are unable to attend religious services. In some cases, a restricted diet may be given as punishment for misbehavior when an inmate has SHU time added to his or her maximum expiration date or when the inmate is being punished for food-related misconduct. There is no limit to the amount of SHU time an inmate may receive as a sanction for a finding of misbehavior in New York prisons but prisoners with serious or multiple infractions may stay in SHU for years. The average length of stay in SHU in New York is approximately five months. 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, meaning the majority of inmates in SHU are there for non-violent misbehavior and drug use.

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 has been increasing its reliance on such confinement. An October 2013 report by the New York City Board of Correction stated that 27% of the 16-, 17- and 18-year olds at Rikers Island were in punitive segregation and that 71% of all inmates in punitive segregation were mentally ill. The new commissioner of the city Department of Correction has pledged to remove young inmates from solitary by the end of 2015.

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. As a result of that law suit, a partial settlement has been reached and experts for both sides are evaluating DOCCS use of SHU to make recommendations for reform.

The Committee on Correction will continue to explore the use of solitary confinement and consider recommendations on limiting SHU time for both juveniles and adults in New York State jails and prisons. The Committee will introduce new legislation concerning solitary confinement in 2015.

2. Adolescents

New York is one of only two states that prosecute 16- and 17-year olds as adults in criminal court. As a result, we have over 2,300 young offenders under the age of 21 in our state prison system. Research has shown that people of that age do not have fully mature brains and use different neurological pathways for decision-making than older

people. In spite of this, young offenders in our correctional facilities are subject to the same kinds of prolonged disciplinary sanctions as adults in the system. The evidence for keeping adolescents out of solitary confinement entirely is particularly compelling since inactivity and isolation exact a great emotional and physical toll on teenagers. In 2015, the Committee will again seek to advance legislation banning solitary confinement for prisoners under the age of 21 in both jails and prisons.

3. Pregnant Women

As a result of the New York Civil Liberties law suit, the Committee learned that pregnant women are being placed in SHU in New York State. In 2014, the Assembly passed a one-house bill to exclude pregnant women from SHU and to ensure that they receive appropriate medical care, mental health care and nutrition throughout their pregnancies regardless of any disciplinary charges against them. The Committee will place this bill on the agenda again in 2015.

4. 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. Six years out, there are still 650 to 700 inmates in SHU who suffer from some form of mental illness. The Committee will reexamine 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.

B. Mental Health Treatment

Outside of the issue of SHU, many mentally ill inmates have a difficult time adapting to life in prison. Younger inmates with mental illness are especially vulnerable. While DOCCS’ Intermediate Care Program is a successful model for providing shelter and programming for a small number of people with mental illness within the prison system, most such inmates live in general population where services, other than medication, are limited. Additionally, although the vast majority of prisoners have been subject to serious trauma, there is very little trauma-informed therapy within the prison system. The Committee will explore the issue of needed reform in mental health services in jails and prisons and will consider legislation mandating therapy and services.

C. Parole

Records show that since 1985 more than half a million people have been released from New York state prisons. Today we have fewer than 35,000 individuals on community supervision and 53,000 individuals in state prison, an approximately 27% 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 9% percent of parolees return to incarceration within three years of their release for a new offense. Viewed in terms of total statewide arrests, parolees represent less than five percent 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 will continue to examine bills supporting needed parole reforms and will introduce several new pieces of legislation to make sure that inmates who do not pose a public safety risk are released to community supervision as quickly as possible. The Committee will also reintroduce bills to modify the medical parole process and to introduce geriatric parole for inmates over 60 years of age who have completed at least one half of their minimum sentences.

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. Recently, 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 Commission recommended that more post-secondary educational opportunities be made available to inmates. One small program in Wyoming County, the Consortium of the Niagara Frontier, calculates that it has saved the state over \$13,000,000 in the last ten years because of the reduced recidivism of its students. 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.

Despite the 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 small legislative initiative grants. Identifying resources (both private and public) to expand post-secondary education in prison is challenging. The Governor has publically stated his support of college programs and is seeking private funding to expand college programs in New York prisons.

In 2015, the Committee will consider legislation to prohibit discrimination against people with criminal histories in admission to New York's colleges and universities and will urge the Governor to reinstate Tuition Assistance Program eligibility to incarcerated men and women.

E. 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 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. In 2015 the Committee will seek to advance bills to help law-abiding formerly incarcerated people stabilize their lives by eliminating or reducing barriers to education, employment, housing and public benefits.

APPENDIX

2014 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	12
To Codes Committee	7
To Rules Committee	6
Total	35

Bills Having Committee Reference Changed **0**

Senate Bills Substituted or Recalled

Substituted	6
Recalled	0
Total	6

Total Assembly Bills in Committee **165**

Total Number of Meetings Held **6**