



COMMITTEE ON
Correction

2019 ANNUAL REPORT

NEW YORK STATE ASSEMBLY



CARL E. HEASTIE, *Speaker*

DAVID I. WEPRIN, *Chair*



DAVID I. WEPRIN
MEMBER OF ASSEMBLY
24TH DISTRICT

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Correction Committee

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Codes
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Ways and Means

TASK FORCE
Puerto Rican/Hispanic Task Force
Asian Pacific American Task Force

December 15, 2019

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

Dear Speaker Heastie:

As Chairman of the Assembly Standing Committee on Correction, I am pleased to present to you the Annual Report for the 2019 Legislative Session.

The Annual Report continues the long-standing 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 correction legislation. As always, your continued support is deeply appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "David I. Weprin".

David I. Weprin
Chairperson
Standing Committee on Correction

2019 ANNUAL REPORT

STANDING COMMITTEE ON CORRECTION

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Nily Rozic
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Latrice Walker

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Gary Finch
Philip A. Palmesano

Staff

Daniel Salvin, Assistant Secretary for Program and Policy
Cheyenne Burke, Associate Counsel
Tahirih Anthony, Legislative Analyst
Sumeet Sharma, Committee Clerk



2019 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 52 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 45,000 incarcerated individuals housed in state facilities and 22,354 incarcerated individuals 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, Mental Health and Governmental Employees to discuss issues that affect correctional staff and incarcerated individuals. Public hearings held by the Committee on Correction are reviewed in Section IV.

Assembly Member David I. Weprin was appointed Chair of the Committee on Correction in January 2017. Chairman Weprin represents Assembly District 24 in Queens, New York, and has been a member of the Assembly since 2010.

NEW YORK STATE'S CORRECTIONAL POPULATION

A. State Correctional Facilities and Community Supervision

As of November 1, 2019, the prison population of the Department of Corrections and Community Supervision (DOCCS) was 44,137 incarcerated individuals and 777 parolees returned and are awaiting disposition of violation charges. The overall population has now declined 30% since the peak of 71,538 in 1999. The total under-custody population is 48.1% African American, 24.5% Caucasian, and 24.5% Hispanic as of November 1, 2019, approximately the same as in 2018. Additionally, there were 406 persons of Native American descent, 281 persons of Asian descent, and 866 individuals in the "other" category. Women comprise 5% of the prison population. There were reportedly 376 state-ready incarcerated individuals (individuals held in a local correctional facility waiting transfer to state prison) as of November 1, 2019, and 26 state-ready parolees. Additionally, there were 158 persons convicted of sex offenses and 2 persons convicted of other offenses living in residential treatment facilities operated by the Department of Corrections and Community Supervision as of November 1, 2019.

There were 15,232 admissions to state correctional facilities from January 1, 2019, through October 31, 2019, 1,145 less than in the same period in 2018, and 3,003 parolee re-admissions. New court commitments for this period were 8,855, including 612 judicially sanctioned admissions to DOCCS' facilities. There were 3,138 returned parole violators and 2,999 conditional release revocations, including 1,525 violators who were

admitted into DOCCS-operated alternative-to-incarceration 90-day drug treatment programs. Additionally, 626 parolees were mandated to the Willard drug treatment program and 104 parolees voluntarily went to Willard rather than face revocation. There were 1,037 people on parole returned to prison for new felony offenses.

B. Local Correctional Facilities

The total under-custody population among local correctional facilities as of March 2019 was 22,355. For the City of New York, there were 8,093 individuals under custody, a 948 population decrease compared to last year. County correctional facilities outside of the City of New York had an under-custody population of 14,262 at that time a 968 population decrease compared to last year.

C. Community Supervision

The Department of Corrections and Community Supervision (DOCCS) 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 adjustment to community living and assisting individuals 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 that 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, 2019, there were 36,668 individuals in New York State under parole supervision, which is 279 fewer parolees than at the same time last year.

Almost half, 48%, of the parolees under community supervision as of December 31, 2017 were African-American. The median age of these parolees was 37, with 51% from New York City, reflecting the continued decline among the population of incarcerated individuals committed from New York City. 93% of all parolees are male, 57% reportedly have a drug abuse history and 5% are under supervision for a sex offense. Among all parolees, 53% were convicted of a statutorily-defined violent felony offense, and 20% were convicted of a drug offense. Only 2%, or 626, parolees were sentenced with youthful offender status.

Currently 54% of the individuals on community supervision live in the five boroughs of New York City, while 46% reside outside of the city. Many 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.

D. Board of Parole

The Board of Parole (Board) reviews the records of parole-eligible individuals 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 sentenced to a determinate term of imprisonment or those eligible for conditional release. The Board also sets conditions of release for anyone who is subject to a period of community supervision.

Between January and October 2019, there were 9,005 parole release interviews, which are 433 fewer hearings than in the same period in 2018. However, the release rates rose to 40% for initial appearances and 38% for reappearances. Initial release rates were reportedly 38% for class A violent felony offenses, 41% for other violent felony offenses, 40% for drug offenses, 38% for other coercive offenses, 52% for major property offenses and 38% for youth offenses.

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 2018-2019, there were 92,093 adults under probation supervision across New York State, a decrease of 2,997 since last year at the same time. The adult probation population includes 43,852 people on felony probation and 43,347 persons on misdemeanor probation, as well as 4,894 people on probation for offenses other than felonies or misdemeanors, such as disorderly conduct, crimes against public order and probationers who transferred to New York after convictions in other states. In addition, local probation departments supervise youth placed under supervision by the family court, which included approximately 2,231 juvenile delinquency cases (a decrease of 315 cases compared to the previous year), and 559 persons in need of supervision (PINS) cases (a decrease of 96 cases) in this last fiscal year.

Among specialized projects lead by OPCA is the Sex Offender Address Confirmation Project. Probation is frequently used as a part of the 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 3,600 registered sex offenders under probation supervision, a decrease of 200 from the previous year.

III. STATE BUDGET IMPACT ON CORRECTIONAL AGENCIES

The SFY 2019-2020 Budget for DOCCS appropriates \$2.84 billion in state operations funding. 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 \$136.9 million for the supervision of people released to parole and post release supervision, and \$7 million to support the functions of the Board of Parole. The Department has the largest state operations budget of any state agency and the average cost to house an individual is approximately \$60,000 per year. The budget also includes approximately \$29.6 million in Aid to Localities funding.

A. Department of Corrections and Community Supervision

Facilities

After three years of no closures, during the 2019-20 Budget the legislature passed legislation that authorized the Governor to close up to 3 correctional facilities in this fiscal year provided that the Governor provides the Legislature with 60 days' notice. On September 1, 2019 the Governor closed Lincoln and Livingston Correctional Facilities. The closing of these two facilities will result in a cost savings of \$36 million annually. 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. Prior to this year the last prison closures were in 2014. Since 2011, the state has eliminated more than 6,650 prison beds and closed a total of 17 correctional facilities due to excess bed capacity resulting in an overall annual savings of approximately \$193 million.

As part of the Raise the Age legislation that passed during the 2017-2018 budget process, the Office of Children and Family Services (OCFS) took over the administration of programs at Hudson Correctional Facility as of October 2018. As of October 1, 2018, all 16-and 17- year-olds were moved off Rikers Island and moved to either the Horizon Juvenile detention facility, or to the Crossroads Juvenile center.

Implementation of the Raise the Age Law has shown promising results for the decline of youth in prison as well as overall arrests. Arrests continue to decline dramatically for those under 18 – down 65 percent since 2010, with a decline of nearly 25 percent in the last year alone. Since the law became effective, felony arrests for 16-year-olds fell an additional 40 percent. As of December 4, 2019, there were forty 16- or 17-year-old offenders being housed at adolescent offender units rather than prisons within the state. The full implementation for Raise the Age took place as of October 1, 2019.

Prisoners Legal Services

The SFY 2019-2020 Executive Budget again included \$2.2 million for Prisoners Legal Services (PLS), which provides legal representation and assistance to indigent incarcerated individuals in civil matters. In this fiscal year,, the Assembly was able to secure an additional \$750,000 for PLS, bringing the total funding for the organization to \$2.95 million to match the funding amount that PLS received the prior year. For the first time in years the Senate joined the Assembly and provided PLS with a total of \$350,000. The Committee believes 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 incarcerated individuals attitudes and behavior and has promoted constructive policy and programmatic modifications within DOCCS.

Security Staffing

As of November 1, 2019, there were 19,040 corrections officers, sergeants and lieutenants employed by the Department, a 14.9% reduction when compared to the number of such employees in 1999 when the state correctional population was at its peak. During this same time, the incarcerated population declined by 30%. Security staff reductions have been consistent with the declining population of incarcerated individuals. The ratio of incarcerated individuals to officers in New York prisons is currently 2.5 to 1. The national average ratio of incarcerated individuals to officers is around 4:1 in state correctional facilities, and 9:1 in federal prisons.

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 2019-2020 Board of Parole budget is \$7.1 million; this amount remained the same as the previous year.

The Board of Parole is statutorily maintained as a 19-member appointed body with independent decision-making authority. There are 16 commissioners currently serving on the board with 5 of those appointments taking place this year. The appointments included three men and two women of Latino, Korean and African American descent. The Legislature has pushed the Executive to not only fill the empty seats but to diversify the Board of Parole. The appointments this year helped the Board of Parole reflect the diversity of the prison population.

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 indeterminately sentenced individuals, the setting of release conditions for all individuals, revocation of community supervision for individuals charged with violating conditions of release, and 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 2019-2020 is \$136.9 million, approximately the same as 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.

Community supervision staff members oversee approximately 36,688 people on parole and post-release supervision out of seven regional offices around the state.

Many 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" individuals. "State-ready" refers to individuals who have been sentenced to state prison and are being held in a county jail awaiting transport. The reimbursement for "state-ready" individuals was basically eliminated in the SFY 2009-10 Budget but the state will still reimburse counties up to \$100 per day for each "state-ready" individual who is not transferred to state prison within 10 days of the locality notifying DOCCS that the individual 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 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 \$44.8 million for aid to local probation departments and additional federal funds are also directed to help offset probation aid cuts, the same amount was budgeted in the previous year. 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 52 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 2019-2020 is \$2.95 million.

In 2017, the last year for which data is available, the Commission's Citizen Policy and Complaint Review Council reviewed 2,499 individual letters of complaints concerning state and local correctional facilities. The Commission handled 3,376 county facility grievances, a decline of 468 since the last report in 2015. The Commission testified to receiving 770 reported incidents from local police agencies with over 90% of the incidents falling into the *Inmate Injury/Illness Requiring Hospitalization* category. The Commission's Forensic Medical Unit investigated 70 deaths, which were 25 more than were investigated the year prior. There were 170 deaths in state and local facilities in 2017, 21 less than were reported in 2016. Of these, 143 occurred in a state correctional facility, a slight decrease of 4 from 2016. In state facilities, 13 deaths were from suicide, 29 were from causes unknown, and 2 were in the "other" category. Additionally, there was 1 death from HIV/AIDS and 1 death from homicide in a state correctional facility in 2017. The remaining 97 state-housed individuals were reported to have died from

natural causes. In total there were 19 suicides in state and local correctional facilities in 2017, which is four less than in 2016.

In the City of New York, there were 23 deaths in correctional facilities, 8 more than in 2016, and no deaths were the result of a homicide; 5 deaths were the result of suicide, none from HIV/AIDS, 8 from natural causes, 7 from unknown causes, and 3 “other” deaths.

For the year 2017, the Commission received and responded to 165 Freedom of Information Law requests for records of the Commission on Correction.

During 2016, a change in Correction Law 611(1) (e) required an annual report on the shackling of pregnant women for the first time. Five incidents were reported, one each out of Chemung, Livingston, Otsego and Schenectady Counties and one from the Rose M. Singer Center at Rikers Island in New York City. In two cases the women were alleged to be verbally abusive or acting out, one woman was in disciplinary segregation so staff decided to handcuff her for the duration of the time spent in the transport vehicle, one woman reportedly misreported the date of the end of her pregnancy so staff did not know she was within the eight-week postpartum period covered by the correction law and one woman was a federal detainee who was reportedly in handcuffs for five minutes while the transport team explained the change in law to the U.S. Marshall.

IV. COMMITTEE ACCOMPLISHMENTS

A. Significant Legislation Advanced by the Correction Committee in 2019

The Correction Committee advanced the following legislation which passed both houses in 2019.

HIV Education – requires the DOCCS to provide information about the prevention of human immune deficiency virus (HIV) infection, instructions about how to obtain free HIV testing upon release and contact information for HIV counseling along with testing of service providers. (A.916, Peoples-Stokes / S.5945, Sanders; Chapter 385 of 2019 laws)

Special Housing Calls – permits incarcerated individuals in facilities entering solitary confinement in special housing units (SHU) and in residential mental health treatment units to make a telephone call upon admission into SHU and at least once a week thereafter. (A.2285, Rozic / S.1850, Sepulveda; Chapter 261 of 2019 laws)

Medical Review Board – requires that the State Commission of Correction may only redact death reviews to the extent required by state and federal law in order to protect

confidential medical and behavioral health records (A.4336, Weprin / S.2692 Sepulveda; Chapter 657 of 2019 laws))

Legislative Staff Visitation – authorizes legislative staff to accompany members of the legislature on visits to correctional facilities. (A.6849, Weprin / S.4566 Sepulveda; Chapter 274 of 2019 laws)

Re-Entry Planning – requires the Office of Temporary and Disability Assistance and Department of Corrections and Community Supervision to conduct an evaluation and report study results on barriers to re-entry planning. (A.7103, Cruz / S.3550, Carlucci; Chapter 670 of 2019 laws)

Off-hour Arraignment – allows for pre-arraignment detention of arrested individuals in a county jail facility when done as part of a plan for an off-hours arraignment part established by the Chief Administrative Judge. (A.7647, Weprin / S.5593 May; Chapter 665 of 2019 laws)

Protection and Advocacy Services – requires DOCCS to provide records to the state’s authorized protection and advocacy organization within three days of the receipt of a records request. (A.7686, Quart / S.5511, Sepulveda; Veto No. 253)

Beneficial Program Transfers – authorizes an incarcerated individual to apply for a transfer to another local correctional facility in order to participate in beneficial programming. (A.7944, Weprin / S.6154 Sepulveda; Chapter 305 of 2019 laws)

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

CASAT Temporary Release – permits incarcerated individuals who are ordered by judges to attend comprehensive alcohol and substance abuse treatment (CASAT) programming to participate in the work release portion of the program. (A.1527, Richardson; Passed Assembly)

Birth Certificates – requires DOCCS to make best efforts to assist incarcerated individuals in having birth certificates corrected, reissued and provided to them on their release. (A.4310, Aubry; Passed Assembly)

Serious Mental Illness – alters the definition of serious mental illness in the Correction Law to match the definition in the Mental Hygiene Law. (A.4507, Aubry; Passed Assembly)

Program Integration – permits individuals on parole who are gainfully employed to attend required programs outside of their work hours. (A.5104, Davila; Passed Assembly)

Classification of Transgender Housing – authorizes the chief administrator of a local correctional facility to assign a transgender or intersex individual to any facility housing

unit to ensure the incarcerated individual's health and safety. (A.7394, Davila Departmental Bill; Passed Assembly)

B. Budget Highlights from State Fiscal Year 2019-2020

The 2019-20 SFY enacted budget included Article VII language to:

- Authorize the Governor to close up to 3 correctional facilities within the state.
- Expand eligibility for the Shock Incarceration Program to allow persons convicted of burglary in the 2nd degree or robbery in the 2nd degree to participate in the program.
- Enact a comprehensive reentry package to improve outcomes for formerly incarcerated individuals by:
 - Removing mandatory bars to certain licensing and employment opportunities for people with criminal histories;
 - Removing mandatory six-month driver license suspensions for individuals convicted of a drug offense;
 - Limiting law enforcements release of “mugshots” if not for a specific law enforcement purpose;
 - Limiting disclosure of undisposed cases on criminal history reports unless the district attorney confirms a case is actually pending;
 - Requiring DCJS to automatically seal cases that were dismissed in favor of the accused or disposed by way of violation prior to 1991;
 - Extending Human Rights Law protections against the consideration of sealed arrests and convictions and Youthful Offender (YO) adjudications to include housing and volunteer work. Landlords and volunteer entities can no longer ask applicants about or otherwise consider such sealed arrests, sealed convictions, or YO adjudications; and
 - Amending the Human Rights Law to add adjournments in contemplation of dismissal (ACDs) to the list of case outcomes that cannot be considered.
- Enact the “Pre-Trial Justice Reform Act,” including provisions to reform the bail system, criminal discovery laws and speedy trial laws.
 - Bail reform includes provisions to eliminate cash bail-based detention for lower level offenses that include violations, most misdemeanors, and non-

violent felonies. The law retains a class of charges for which the court may still require cash or property bail, or remand the person to the custody of the sheriff. Judges will now be authorized to set a number of non-monetary conditions to ensure an individual's return to court which will ensure fairness for all individuals regardless of their financial position.

- Discovery reform includes provisions for the expeditious, fair and equitable exchange, prosecution-to-defense, as well as defense-to-prosecution, of pre-trial information and documents in criminal cases. The law provides for oversight and involvement by the judge throughout the discovery process. Enhanced language will enable the judge to issue a protective order, at any time, to condition, limit or deny disclosure to assure the safety of any person, and to bar the disclosure of irrelevant information.
- Speedy trial reforms allow the court to inquire, on the record, as to the prosecution's actual readiness for trial when the prosecution claims readiness and require that the prosecution's statement of readiness be accompanied by a good faith certification by the prosecution that it has complied with its discovery requirements. Additionally, these reforms eliminate generalized court congestion, in most circumstances, as an excuse for the prosecution's lack of readiness for trial.

C. Public Hearing

Alternatives to Incarceration (ATI) and Pretrial Services

On November 14, 2019, the Committee, in conjunction with the Assembly Committee on Codes, held a hearing to examine the adequacy of Alternatives to Incarceration (ATI) and pretrial services in light of recent criminal justice reform initiatives.

The Committee heard testimony from several defenders, New York State Association of Counties, and New York Civil Liberties Union, along with several advocacy groups such as JustLeadershipUSA, Center for Employment Opportunities, Drug Policy Alliance, the Osbourne Association, the Fortune Society and the Brooklyn Community Bail Fund.

The Committee will consider legislative and policy changes to improve and expand pretrial services and alternatives to incarceration.



Chairman David Weprin along with Assembly Member Joseph Lentol and Assembly Member Edward Ra

Sealing of Criminal Records and Expansion of Youthful Offender Status

On December 10, 2019, the Committee, in conjunction with the Assembly Committee on Codes, held a hearing to examine the effectiveness of current laws regarding the sealing of criminal records and to explore expansion of such laws as well as expanding laws related to youthful offender status.

The Committee heard testimony from various organizations including but not limited to: Albany County District Attorney, the Legal Aid Society, Legal Action Center, Youth Represent and New Yorkers United for Justice.

The Committee will continue to research and evaluate policy changes to expand sealing and youth offender laws.

D. Prison Tours

Since becoming Chairman of the Correction Committee in January 2017, Assembly Member David I. Weprin has toured both local and state correctional facilities along with a number of re-entry and alternatives to incarceration programs and the DOCCS training center. In 2017, he visited the following state correctional facilities: Bedford Hills, Otisville, Queensboro, Sing Sing, Taconic; and Rikers Island. In 2018, he visited the following state correctional facilities: Otisville, Green Haven and Lincoln; and the following local correctional facilities: Rikers Island, Albany and Orange County. In 2019 he visited the following state correctional facilities: Queensboro, Fishkill, Wallkill, Otisville, Eastern, Sullivan and Woodbourne. In addition to those state facilities, Chairman Weprin visited the Orange county jail in 2019. At each correctional facility, Chairman Weprin met with the superintendent, staff and members of the Inmate Liaison

Committee and other incarcerated individuals. During 2020, the Chair will continue to revisit and tour more facilities throughout the State.



Chairman Weprin visiting the Thoroughbred Retirement Foundation Farm at Wallkill Correctional Facility

V. ISSUES TO BE ADDRESSED IN 2020

A. Solitary Confinement

1. Overuse of Solitary

At any given moment there are approximately 4,500 New York State incarcerated individuals, or approximately 9% of the prison population, being housed in segregated disciplinary units, known as Special Housing Units (SHU). An unknown number of individuals are also confined in keep-lock units or are keep-locked in their own cells. Individuals 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. Individuals in SHU are denied most commissary privileges, personal property and most programming, including classroom-based educational programming. They have restricted visitation rights and are not permitted to attend religious services. There is no express limit on the amount of SHU time an individual may receive as a sanction for misbehavior in New York prisons and individuals with serious or multiple infractions, as well as individuals under “administrative segregation,” may stay in SHU for years. A few individuals have been held in SHU for decades. In 2014, over 45% of all suicides that occurred in prisons took place in solitary confinement.

Since the New York Civil Liberties Union (NYCLU) reached a settlement agreement with DOCCS regarding the use and conditions of solitary confinement in 2015, the use of SHU has dropped drastically. Last year DOCCS was able to close/convert more than 1,200 SHU beds, and this year DOCCS will open a 252-bed step-down unit at Southport.

These efforts have significantly reduced the number of individuals serving an SHU sanction 40 percent and shortened the average time spent in a SHU cell by 30 percent.

In 2018 the Assembly passed A.3080-A, (Aubry) also known as the HALT Act. HALT stands for the "Humane Alternatives to Long-Term Solitary Confinement" Act. This bill would limit the time a person can spend in segregated confinement, end the segregated confinement of vulnerable people, restrict the criteria that can result in such confinement, improve conditions of confinement, and create more humane and effective alternatives to such confinement.

The Governor, through regulation, has agreed to limit the length of time an individual may be in solitary confinement to a maximum of 30 days, prohibit the use of solitary confinement for pregnant women and disabled individuals, restrict the type of misconduct that will allow staff to put individuals into solitary confinement when they pose a significant risk to the safety or security of the correctional facility, and shift individuals into therapeutic units aimed at rehabilitation and support instead of punishment.

The Committee will continue to explore ways and work diligently to limit the use of solitary confinement in New York State.

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 once again passed a bill (A.3206, 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.

B. Parole

More than half a million people have been released from New York State prisons since 1985. Today we have fewer than 36,000 individuals on community supervision and 47,000 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 into the community. Only 8.6% percent of parolees return to incarceration within three years of their release for a new felony 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 the Department and the Board of Parole in their reentry missions. The Committee regularly consults with professionals, academics, law enforcement experts, staff, 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 2020, the Committee will focus on reforming the parole revocation process, continue to advance bills for needed parole reforms and support legislation to make sure that individuals who do not pose a public safety risk are released to community supervision.

C. 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 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 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 2019, the Committee was able to make great strides in reducing the barriers many people face to successful reentry into society though the comprehensive Reentry Package included in the SFY 2019-2020 budget. The Committee also met with several Alternatives to Incarceration groups that specialize in re-entry to determine how the Assembly can aid in this crucial process. 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.

D. Visitation

Visitation is the most important predictor of successful re-entry for people leaving prison. Visitation not only eases re-entry into society, but also promotes the adjustment and well-being of individuals during their incarceration. Chairman Weprin has advanced and was

able to have passed A.2483 that would formally establish in law in-person visitation programs in state and local correctional facilities. Additionally, A.6710-A sponsored by Assembly Member Rozic was reported from the Committee, which would require DOCCS in most instances to place persons in correctional facilities located in closest proximity to the primary place of residence of their minor children.

In the 2018-2019 state budget process, the Executive proposed reducing visitation in maximum security prisons to three days a week in order to save \$2.6 million. Committee Chairman Weprin vigorously opposed the reduction of visitation and the item was removed from the final budget. The Committee strongly supports in-person visitation, supplemented where needed with video visitation in all correctional facilities.

The committee hopes to see A.5942, (De La Rosa) pass the Assembly next year which would restore transportation for visitors from certain cities to state correctional facilities. In 2020, the Committee will continue to explore legislation to expand and strengthen visitation programs in state and local facilities.



Chairman Weprin with the Osborne Association's Youth Action Council in Albany

E. Immigration

There have been several instances where undocumented immigrants and asylum seekers have been held for extended periods of time while awaiting court proceedings or additional instructions; despite either having demonstrated a credible fear and being deemed eligible for asylum, having already volunteered for deportation, or being held as a result of administrative violations. Following visits to the Albany County Correctional Facility and Orange County Correctional Facility to meet with staff and immigration detainees and local incarcerated individuals, Chairman Weprin joined the New York Immigration Coalition, Legal Action Center, Chhaya Community Development Corporation (CDC) at the ICE Varick Street Detention Facility to call on U.S.

Immigration and Customs Enforcement (ICE) and the United States Department of Justice (USDOJ) to end the indefinite detention of asylum seekers and other immigrants being held on administrative violations in local jails in New York State. In 2020 the Committee will explore how New York State can reunite these individuals with their loved ones.

F. Housing

Thousands of incarcerated individuals are released to community supervision from New York State correctional facilities, the majority of whom are sent to New York City. A significant number of formerly incarcerated individuals are discharged into the local shelter system directly from state correctional facilities. This does little to support the parolee or lower recidivism rates, and it exacerbates the homelessness crisis in local communities to which parolees are being discharged. The New York City social services district has implemented a broad range of programs and services aimed at lowering the shelter census and for the first time in a decade the number of people in its shelter system has stabilized. The current number of formerly incarcerated individuals entering shelter comes at great cost to New York City and other localities, and undermines local efforts to control spending and reduce the number of people in shelters. Research suggests that securing stable housing is a critical first step to successful re-entry. A 2004 study of over 40,000 individuals returning to New York City from state correctional facilities reveals a strong correlation between shelter use and risk of recidivism. We would like to address the relationship between housing instability and recidivism, with a goal of giving formerly incarcerated individuals the best chance to achieve true independence. In 2020, the committee will review and strategize ways to promote better housing opportunities for incarcerated individuals upon their release.

G. Higher Education

The benefits of post-secondary correctional education are clear. Studies have consistently found that the higher the level of education attained, the more likely a former incarcerated individual will be to obtain gainful and stable employment, and the less likely he or she will be to engage in future criminal activity. 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 asserts that while nearly 40% of incarcerated individuals 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.

There are 29 state facilities operating degree-granting programs in New York, with over 1,100 enrolled students. While there is still great unmet need for college programs in New York correctional facilities, money from the Manhattan District Attorney's Office and from an Obama-era pilot Pell program should help increase enrollment in these vital rehabilitation programs. Assembly Member Aubry sponsors A.3943 that would repeal

paragraph d of subdivision six of section 661 of the education law relating to the eligibility of incarcerated students for general or academic performance awards. This would reverse a 1995 action when New York prohibited incarcerated individuals from accessing state funds through the Tuition Assistance Program (TAP) for post-secondary education. Many college programs operating in prisons throughout the state shut down after TAP was discontinued. Although this bill is in the Education Committee, the Correction Committee supports this legislation. The Committee will continue to work for expansion of correctional college programs and urges the Governor to reinstate TAP grants for incarcerated individuals.



Chairman Weprin gives a commencement speech at the John Jay College Prisoner Reentry Institute College Graduation

APPENDIX

2019 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 | 13 |
| To Ways and Means Committee | 19 |
| To Codes Committee | 13 |
| To Rules Committee | 5 |
| Total | 50 |

Committee Action

| | |
|--------------------------|---|
| Held For Consideration | 0 |
| Defeated | 0 |
| Enacting Clause Stricken | 3 |

Total Assembly Bills in Committee **158**

Total Number of Meetings Held **6**