



**New York State Assembly**

**Sheldon Silver**  
Speaker



# 2013

## ANNUAL REPORT

Committee on

**Correction**

**Daniel J. O'Donnell**  
Chairperson





DANIEL O'DONNELL  
Member of Assembly  
69<sup>th</sup> Assembly District

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

CHAIR  
Committee on Correction  
Codes Subcommittee on  
Criminal Procedure

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

December 15, 2013

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

Dear Speaker Silver,

As Chairman of the Assembly Standing Committee on Correction, I am pleased to present to you the Annual Report for the 2013 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,

A handwritten signature in black ink, appearing to read "Dan O'Donnell", with a long horizontal flourish extending to the right.

Daniel J. O'Donnell  
Chairperson  
Standing Committee on Correction

2013 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 58 state correctional facilities and 62 local correctional systems, including all local jails and police lockups operated by municipalities across New York State. New York's correctional system is the third largest in the nation with approximately 84,000 inmates housed in state and local facilities and employing more than 40,000 correctional personnel.

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

## **II. NEW YORK STATE'S CORRECTIONAL POPULATION**

### **A. State Correctional Facilities and Community Supervision**

As of December 1, 2013, the prison population of the Department of Corrections and Community Supervision (DOCCS) was 52,748. This represents a 2.5% decrease in the prison population from 2012 and an overall population decline of 26% since the peak of 71,538 in 1999. The under-custody population is 49.3% African American, 24.0% Hispanic, and 23.9% white as of November 1, 2013. The number of state-ready inmates (inmates held in a local correctional facility waiting transfer to state prison) as of November 1, 2013 was 725 including 24 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 700 and 900 inmates. Willard counted for an additional 705 persons on December 1, 2013. The three-month length of stay for Willard inmates in 2013 resulted in an annual population of approximately 2,431. Additionally, there were 850 persons under Community Supervision diverted to a residential treatment facility operated by the Department of Corrections and Community Supervision as of December 1, 2013.

There were 19,533 inmate admissions to state correctional facilities from January 1, 2013 through October 31, 2013, and 2,291 parolee admissions in that same time. New court commitments for this period were 11,481 including 451 judicially sanctioned admissions to DOCCS' facilities. Returned parole violators and conditional release revocations were 7,737 including 1,622 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. 1,167 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 2013 was 28,130. For the City of New York, there were 11,546 inmates under custody while county correctional facilities outside of the City of New York had an under-custody population of 16,584 at that time. These populations are in line with last year's populations.

## **C. Community Supervision**

After the merger of the Division of Parole and the Department of Correctional Services in 2010, DOCCS became the sole agency responsible for the supervision of all persons under custody or released from the state correctional facilities and subject to a term of parole or post-release supervision. This responsibility includes efforts to ensure successful, law-obedient adjustment to community living and help with drug treatment, job training, job placement and other services to enhance the likelihood of a self-sufficient and crime-free lifestyle. DOCCS staff is also responsible for identifying violations of parole conditions which may result in the use of corrective measures, including revision of parole conditions and, in some cases, parole revocation. According to DOCCS, as of November 1, 2013, there were 36,548 persons in New York State under parole supervision, which are 64 fewer than there were at the same time last year.

## **D. Board of Parole**

The Board of Parole (Board) reviews all parole eligible prison inmates and either denies or approves release on parole. In spite of the general decline in crime and recidivism, data received from the Board of Parole shows that in the last four quarters beginning October 1, 2012, and ending September 30, 2013, initial Board interview releases dropped to an average of 15%. This is down from 19% in 2011-2012 SFY and 18% in the 2010-11 SFY. Persons subsequently appearing before the Parole Board after initially being denied were granted parole release at a rate ranging from 16.8% to 20.4% during this same four quarter period. Subsequent appearances were also down from 21% in the 2011-2012 SFY which was down from 36% in the 2010-2011 SFY. Inmates interviewed for release as a result of merit time credit, limited credit time allowance, deportation and Shock all have better rates of release.

The number of non-administrative release interviews conducted by the Board between January 1 and October 31, 2013 was 10,922 overall. 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 2013 were 20% for initial interviews and 18% 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.

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, 2013, 8,929 parolees were ordered returned to DOCCS, including 1,167 who were returned for a new felony conviction and 7,762 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 2012-2013 SFY, there were 113,251 adults under probation supervision across New York State. This is more than 4,300 fewer than last year at this time. The adult probation population includes 56,122 felony probationers and 55,529 misdemeanor probationers, an even reduction of more than two thousand fewer probationers in each category. In addition, local probation departments supervise youth placed under supervision by the family court, which includes approximately 3,594 juvenile delinquency cases, and 901 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. Each year, probation departments conduct more than 60,600 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 2013-14 Budget for DOCCS appropriates \$2,792,379,000 in state operations funding, which is an almost \$300 million, or 10.7%, 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 \$140.3 million for the supervision of persons released to parole and post release supervision and \$6.1 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 approximately \$46,000 per year. The SFY 2013-2014 budget also includes \$31.17 million dollars 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 2013-2014 Budget, the Department closed two women's correctional facilities, one medium and one minimum security prison – Bayview Correctional Facility in Manhattan and Beacon Correctional Facility in Dutchess County. The closure of these facilities resulted in the elimination of 430 beds from operation and a savings of \$18.7 million in SFY 2013-14 and is projected to save \$62.1 million in SFY 2014-15. The justification for prisons closures is the continued decline of the prison population to new historic lows. Prior to the recent closures in 2012 and 2013, the system maintained nearly 8,000 empty prison beds and currently houses 15,000 fewer inmates than in 2000 – a greater than 20 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.

In order to effectuate the closures and realize the savings in SFY 2013-2014, the budget included a one-time exception to the requirement of Correction Law §79-a that twelve months' notice be provided for the closure of any state correctional facility. Instead, the legislature agreed to authorize the Governor to close Bayview and Beacon Correctional Facilities with at least 60 days' notice to the legislature.

The previously shuttered Mid Orange Correctional Facility was sold this year to the Town of Warwick, Orange County. Additionally, this year saw the sales of the previously Camp Georgetown Correctional Facility of Madison County and the Lyon Mountain Correctional Facility of Clinton County. 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 2013-2014 Executive Budget again included \$1 million for Prisoners Legal services. The Assembly was able to secure an additional \$1,050,000 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 2013-2014 enacted budget consolidates \$11.4 million in funding for existing alternative to incarceration (ATI) programs, targeting those programs that serve high risk offenders. To replace prior-year Federal Byrne/JAG funding, the Executive included \$7 million in General Fund support for ATI programs and the Assembly included \$1.3 million in additional funding for ATI. 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 indeterminately 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. Board functions of granting merit termination of sentences, granting certificates of rehabilitation and preparing parole summaries are carried out by DOCCS.

This year Chairwoman Andrea Evans left the Board of Parole to join the DOCCS central office staff and a new chair, Tina Stanford, was appointed in June 2013, along with three new Board members, bringing the total number of commissioners up to fourteen. Among those currently serving commissioners, four were reappointed for an additional term.

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 2013-2014 Board of Parole budget is \$6,086,000.

### **Community Supervision**

The DOCCS budget allocation for supervision of persons released to the community in SFY 2013-2014 is \$140,278,000, a decrease of \$28 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 36,500 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, 7% are on Long Island and 38% are 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 \$76.6 million appropriation for DCJS Crime Prevention and Reduction Strategies Program appropriation covering additional programs for organizations and services such as Aid to Prosecution, Crime Labs, and Drug Diversion, among others. \$44.9 million of the total DCJS appropriation is budgeted for the operation of the OPCA.

The DCJS budget includes \$31 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 58 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 2013-2014 is \$2.915 million.

In 2012, the last year for which data is available, the Commission's Citizen Policy and Complaint Review Council reviewed 2,421 individual letters of complaints concerning state and local inmates and handled 1,495 grievances. The Commission's Forensic Medical Unit fully investigated 22 inmate deaths and conducted an abbreviated investigation of 17 additional deaths. Of the 161 inmate deaths in state and local facilities in 2012, 24 were suicides, 4 were from HIV/AIDS, and 5 were homicides. Fourteen of the reported suicides were in DOCCS facilities. Of the homicides, 2 were in DOCCS facilities, 2 in county jails and 1 in a New York City Department of Correction facility.

### **IV. COMMITTEE ACCOMPLISHMENTS**

#### **A. Significant Legislation Advanced by the Correction Committee in 2013**

The Correction Committee advanced the following legislation that was signed into law in 2013.

***Protecting Victims of Domestic Violence (A.7690, chapter 368 of the Laws of 2013)***

Protects victims by enabling certain employees of state prisons access to the database of open warrants and orders of protection.

***Ensuring Medical Care for Incarcerated Juveniles (A.5008B, chapter 437 of the Laws of 2013)***

Provides that where no parent or guardian is available that a court's commitment order shall constitute consent to routine medical, dental and mental health care.

***Extending The Interstate Compact for Juveniles (A.4105, Chapter 335 of the Laws of 2013)***

Extends New York's participation in the Interstate Compact for Juveniles (ICJ) which governs the interstate management, monitoring, and supervision of juvenile delinquents and provides for the return of non-adjudicated juveniles who have run away from home to another state.

***Relates to Substitute Jail Designations (A.7695, Chapter 133 of the Laws of 2013)***

Facilitates the substitution of a designated jail when requested of the State Commission on Correction.

***Legislative Visits to Correctional Facilities (A.7385, Chapter 234 of the Laws of 2013)***

Authorizes certain personnel to accompany legislators on visits to state correctional facilities.

***Relates to the Powers of the Chairman of the Board of Parole (A.7970, Chapter 135 of the Laws of 2013)***

Clarifies that the Chairman of the Board of Parole is responsible for the day to day administrative functions and operations of the Board of Parole.

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

***Relates to Establishing Terms of Probation Sentences and Pre-Sentence Reports (A.4582, Passed Assembly and Passed Senate)***

Authorizes judicial discretion in certain cases where judges order sentences of probationary supervision to determine the length of such supervision in consideration of the individual's prior criminal history; degree of culpability and risk level they pose to public safety. Specifically, this legislation provides the court with the discretion to impose a probation term of three, four or five years for certain felonies, a probation term of two or three years for a class A misdemeanor other than a sexual assault, and a probation term of two or three years for an unclassified misdemeanor, for which the authorized sentence of imprisonment is greater than three months. Additionally no longer requires a presentence report in New York City for persons receiving an agreed upon sentence of less than one year.

***Certificates of Relief (A.2204, 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.

***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.

***Prohibiting Employment Discrimination (A.4589A, Passed Assembly)***

Prohibits employers, creditors and licensing agencies from acting adversely against a person whose criminal charges have been adjourned in contemplation of dismissal.

***Availability of Visitation Rules for Correctional Facilities on the Internet (A.4606, Passed Assembly)***

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

***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 the Assembly)***

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

**B. New Chairperson of the Committee**

This year the Committee welcomed a new chairperson, Assemblymember Daniel O'Donnell from Assembly District 69 on Manhattan's Upper West Side. The Committee's long-time Chair, Assemblymember Jeffrion L. Aubry, left the Committee to

become Speaker Pro Tempore of the Assembly. Assemblymember O'Donnell was appointed to chair the Committee in January, and has been actively visiting correctional facilities since that time, meeting with superintendents and prisoners in each of the twelve facilities he has toured thus far. Before joining the Assembly in 2002, Assemblymember O'Donnell was a public defender for seven years and then opened his own public interest law firm on the Upper West Side, focusing his community work on tenants' issues and civil rights litigation. His broad legal experience and long-standing interest in criminal justice issues makes him an excellent chair for the Committee.

## **C. Public Hearing**

### **Board of Parole**

On December 4<sup>th</sup>, the Correction Committee held a public hearing focusing on the processes used by the Board of Parole in determining whether or not a parole applicant should be released from prison. The purpose of the hearing was to examine the current practices of the Board and DOCCS during the parole process and to determine what changes, if any, are necessary to ensure that inmates who do not pose a public safety risk are released from prison in a timely and rational fashion. Specifically, the committee requested testimony on 1) the use of risk and needs assessment instruments in the parole decision process, 2) the role of offender rehabilitation counselors in supplying information to the Board, 3) the effect of the use of videoconferencing on the parole interview process, 4) how the commissioners balance the statutory requirements to arrive at individual decisions and 5) what changes, if any, might improve the Board's ability to identify inmates who are suitable for parole release.

The committee heard testimony from the Board of Parole Chairwoman, the Acting Commissioner of DOCCS, former parole commissioners, union leaders, prisoner family members, academics, advocates and people who have been released to parole in the past.

## **D. Prison Tours**

The new Committee Chair, Assemblymember Daniel O'Donnell, visited a number of prisons this year in order to gain familiarity with the correctional system and its challenges. He visited 12 state prisons and one jail in 2013: Bedford, Cossackie, Eastern, Fishkill, Great Meadow, Hudson, Shawangunk, Sing Sing, Sullivan, Taconic, Washington, Woodbourne and Riker's Island. At the state correctional facilities, Chairperson O'Donnell met with the superintendent, staff and members of the Inmate Liaison Committee and/or other inmate associations. During 2014, the Committee members plan to tour more facilities throughout the State, as well as local correctional facilities, and attend several parole board interviews.

## **E. Fulton Correctional Facility**

In the 2012 session, the Assembly passed a bill (A.10643, Aubry) to transfer the former Fulton Correctional Facility in the Bronx to the Osborne Association. This bill was ultimately enacted as part of the SFY 2013-2014 Budget conveying Fulton to the Osborne Association for use in providing reform and rehabilitation programs, victim services, alternatives to incarceration and reentry services and related community activities to individuals in conflict with the law. It is estimated that the transfer of this shuttered facility will save the state \$215,000 per year in maintenance and security expenses. More importantly, much of the Bronx is a high crime area, so the services provided will be essential to the community. The Osborne Association has an excellent track record of providing such services in New York, managing large tangible assets, and has demonstrated fund-raising ability to support such a program. The conveyance permits an exciting opportunity for the Osborne Association to provide services to parolees leaving prison to head home to the Bronx.

## **V. ISSUES TO BE ADDRESSED IN 2014**

### **A. Higher Education in Prison**

Studies have consistently found that the higher the level of education attained, the more likely a former inmate will be to obtain gainful and stable employment, and the less likely he or she will be to engage in future criminal activity. However, in 1994, federal tuition assistance in the form of Pell Grants for individuals incarcerated in federal and state correctional facilities was terminated with the enactment of the Violent Crime Control and Law Enforcement Act. Then in 1995, New York prohibited inmates from accessing state funds through the Tuition Assistance Program (TAP) for post-secondary education. Most college programs operating in prisons throughout the state shut down after TAP was discontinued. In the last fifteen years, several new privately-funded college programs have been opened in state correctional facilities, but they still reach only a fraction of the inmate population compared to programs prior to 1995.

The benefits of post-secondary correctional education are clear. Several years ago, 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 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. Another program, Hudson Links, has never had a graduate recidivate. The Bard Prison Initiative reports that while nearly 40 per cent of inmates statewide return to prison within three years for a new crime or a parole technical violation, only 4 per cent 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 Correction Committee will continue to seek public money for the support of these vital programs.

For the last few years the Correction Committee advanced a bill (A.4109 of 2013, Aubry) to establish a commission on post-secondary correctional education to examine, evaluate, and make recommendations concerning the availability, effectiveness and need for expansion of post-secondary education in the New York state prison system. In 2014, the Committee will also consider new legislation to prohibit discrimination against people with criminal histories in admission to New York's colleges and universities.

## **B. Solitary Confinement for Adolescents**

New York is one of 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.

At any given moment there are approximately 4,500 New York state prisoners, or 8% of the prison population, being housed in segregated disciplinary units, known as Special Housing Units (SHU). Inmates in those units are locked into their cells 23 hours a day, with one hour of recreation time. Out-of-cell recreation is usually spent alone in a bare outdoor cage. Inmates in SHU are denied commissary privileges, phone calls, most personal property and most programming, including educational programming. They have restricted visitation privileges or may lose 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 until 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 misbehavior in New York prisons; the average length of stay in SHU in New York is approximately five months, however some inmates may be in SHU for several years. 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, so the majority of inmates in SHU are there for non-violent misbehavior and drug use.

Heavy reliance on solitary confinement is not only a problem on the state level. 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 Riker's Island over the previous two years. While the over-use of solitary confinement is being reexamined and questioned in much of the rest of the country, with resulting policy

changes in states as diverse as Maine, North Carolina, Wisconsin, Mississippi and Colorado, New York seems to be increasing its reliance on such confinement. 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.

In September 2012, DOCCS began an internal review of its SHU policies, and plans to produce a list of recommendations as to changes needed in placements and lengths of stay in SHU. In December 2012, the New York Civil Liberties Union filed suit in federal court to challenge the constitutionality of the state's SHU practices and policies. The Committee on Correction will continue to explore the use of solitary confinement and consider recommendations on limiting SHU time for both juveniles and adults in New York State jails and prisons. However, 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 2014, the Committee will consider legislation banning solitary confinement for prisoners under the age of 21 in both jails and prisons.

### **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 37,000 individuals on community supervision and 53,000 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% 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 5% of all felony arrests and just 2.5% of all misdemeanor arrests per year statewide.

Given the importance of a successful parole system, we must ensure that we do everything we can to support DOCCS and the Board of Parole in its reentry mission. The Committee regularly consults with professionals, academics, law enforcement experts, advocates and the public to evaluate whether the practices and procedures in place today for both DOCCS and the Board of Parole are fair and effective, and to make recommendations to improve future outcomes. This year the Committee's public hearing focused on the parole process in order to gather information on what changes, if any, should be made to the parole statutes. The Committee will once again consider legislation to promote safe parole practices and will introduce bills to permit increased parole release of inmates posing little risk to public safety.

## **D. Expungement of Criminal Records**

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

## **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 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. This year the Committee will consider bills to help law-abiding formerly incarcerated people stabilize their lives by eliminating or reducing barriers to education, employment, housing and public benefits.

## **APPENDIX**

### **2013 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	8
To Ways and Means Committee	7
To Codes Committee	11
To Rules Committee	3
<b>Total</b>	<b>29</b>

##### **Bills Having Committee Reference Changed** 0

##### **Senate Bills Substituted or Recalled**

Substituted	0
Recalled	0
<b>Total</b>	<b>0</b>

##### **Total Assembly Bills in Committee** 150

##### **Total Number of Meetings Held** 6