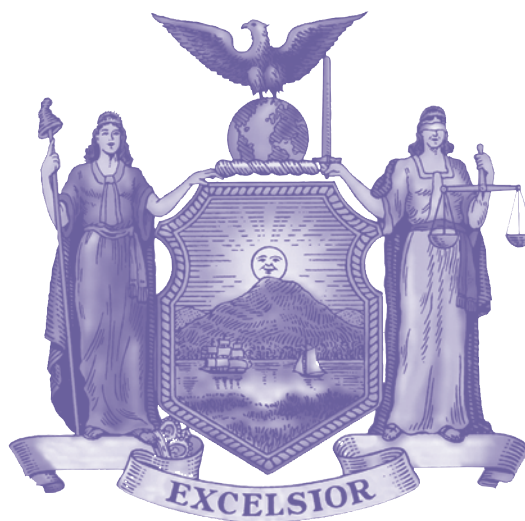




The Assembly Minority Task Force on Workforce Issues in the Correctional System Report



Brian M. Kolb,
Assembly Minority Leader

Co-Chairmen
Gary D. Finch, Joseph M. Giglio

March 2010



Foreword from Assembly Minority Leader Brian M. Kolb

Few issues are more important than ensuring the collective safety and security of all New Yorkers through the proper supervision of dangerous, incarcerated criminals. This is what we ask of the men and women working in our State's correctional system who risk their lives and personal safety on a daily basis enduring some of the most stressful conditions imaginable. They perform this increasingly difficult task with professionalism, efficiency and a selfless dedication that too often goes unrecognized and underappreciated.

New York's ongoing fiscal crisis and \$9.05 billion state budget deficit has put our correctional system – and those working in it – under tremendous personal and financial pressure. While there is an urgent need to maximize efficiencies and save taxpayer dollars in all areas of State government, this cannot occur at the expense of our correctional system and the personnel who are literally on the front lines of public safety. More than ever before, we must make certain that every dollar of New York's corrections budget is put to smart use.

In recognition of this, the **Assembly Minority Task Force on Workforce Issues in the Correctional System** was formed in June 2009 to gather suggestions on how to enhance safety and streamline internal administration within New York's correctional facilities, while utilizing taxpayer dollars as economically as possible.

Assemblyman Gary D. Finch and **Assemblyman Joseph M. Giglio**, Ranking Minority Member on the Assembly Committee on Correction, were appointed to lead this important Task Force. Between them, they have extensive knowledge about the challenges facing our correctional system. Mr. Finch is a former Ranking Minority Member of the Assembly Committee on Correction and Mr. Giglio is a former Sheriff's Department employee and Deputy Inspector General for New York State. Their collective insights, knowledge and practical experience made them both especially well suited to oversee this important effort.

The Task Force held 10 public hearings throughout New York State. Each was well publicized, attended and open to anyone wishing to participate. Task Force members heard and evaluated compelling testimony from rank-and-file officers, medical personnel, educators and counselors, along with members of the New York State Correctional Officers & Police Benevolent Association, Inc. (NYSCOPBA), the Civil Service Employees Association (CSEA) and the Public Employees Federation (PEF) who are charged with the day-to-day operational responsibility of keeping our correctional facilities safe and secure.

The Assembly Minority Task Force on Workforce Issues in the Correctional System

Numerous invitations were extended to State Department of Correctional Services Commissioner Brian Fischer and other administration officials, who, unfortunately, chose not to testify.

I am pleased to present our ***Workforce Issues in the Correctional System Report***, which provides specific policy and programmatic recommendations gathered from the feedback received at our public hearings. These findings will be formally submitted to Governor David Paterson, Members of the New York State Legislature, the State Department of Correctional Services and the New York State Commission of Correction for enactment as legislative initiatives and administrative policies.

For more information, suggestions or to request additional copies of this report, please call Laurie Ammerman, Director of my Office of Public Affairs at (518) 455-5073.

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Executive Summary

The official mission statement of the New York State Department of Correctional Services is to “Enhance public safety by providing appropriate treatment services, in safe and secure facilities, that address the needs of all inmates so they can return to their communities better prepared to lead successful and crime-free lives.” In furtherance of this public safety mission, – and in recognition of the critical contributions made by the men and women serving on the front lines of New York’s correctional system, – Assembly Minority Leader Brian M. Kolb established the “Assembly Minority Task Force on Workforce Issues in the Correctional System” in June of 2009.

The Task Force, led by Co-Chairs Assemblyman Gary D. Finch and Assemblyman Joseph M. Giglio, was charged with gathering feedback from the professionals working in New York’s correctional facilities to learn what policymakers could do to increase worker safety, reduce waste and maximize the most efficient use of taxpayer dollars.

This report synthesizes feedback gathered from 10 public forums convened in Albany, Alden, Auburn, Comstock, Fishkill, Gouverneur, Malone, New Windsor and Verona throughout the summer and fall of 2009. The forums focused on exploring ways to improve safety and enhance efficiency within State prisons. Personnel and administrators from the Department of Correctional Services, correction officers, health care professionals, educators and support staff were invited to participate, testify and attend. This report reflects the cumulative input of those who testified, highlights the key issues they identified, and provides several specific policy and programmatic recommendations intended to improve the operational security and effectiveness of New York State prisons. Key findings include the following:

- The Department of Correctional Services has changed the way it reports “percentage of occupancy data,” maintained unsafe inmate-to-staff ratios, allowed the double bunking of inmates, failed to maintain the required number of Crisis Intervention Personnel and downgraded certain violent incidents by not reporting them as assaults.
- Maintaining prison capacities below 100 percent, ensuring proper staffing ratios, eliminating double bunking and keeping the number of Crisis Intervention Personnel at appropriate levels will reduce serious injuries occurring in State prisons.
- The New York State Commission of Correction should initiate a study to determine the most accurate way of reporting prison capacity statistics, review the current practice of counting temporary, infirmary and special housing unit beds as permanent beds, and establish appropriate inmate-to-officer staffing ratios that will reduce prison violence and the number of “Unusual Incidents.” Additionally, the study should verify the necessity of administrative positions based in Albany, evaluate which services and programs the Hubs can administer, determine the scope of responsibilities for each administrator and closely examine State-funded housing and other public benefits allegedly given to superintendents and administrators.
- Administrative personnel at the Department of Correctional Services Control Center provide an overlap of non-essential services. The size of the Department of Correctional Services’ internal administration needs to be right sized accordingly.

- The Department of Correctional Services has not used taxpayer money wisely in its prison closures, adaptive reuse plans or the elimination of prison farm operations. Careful consideration needs to be given toward the development and implementation of a reasonable, three-year reuse plan for facilities that have been closed or are slated for closure. Tailoring a viable reuse plan to an affected local community's specific needs to make up for the devastating impact of facility closures on local economies and quality of life is of paramount importance. The report also recommends that New York explore moving federal prisoners to State facilities to generate revenue and making effective use of vacant prison farmland.

The Assembly Minority Task Force on Workforce Issues in the Correctional System will submit these specific findings to Governor David Paterson, the State Legislature, the New York State Department of Correctional Services and the New York State Commission of Correction for their review and input. The ultimate goal of these recommendations will be the creation and implementation of comprehensive legislative initiatives and administrative policies that will keep New York State correctional facilities safe and secure, while ensuring that the Department of Correctional Services utilizes taxpayer dollars and State resources in the most efficient manner possible.

TASK FORCE HEARINGS

Tuesday, June 2, 2009

ALBANY, NY-HEARING ROOM B, LOB

MEMBERS:

Leader Brian M. Kolb
Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblyman James G. Bacalles
Assemblywoman Nancy Calhoun
Assemblyman Clifford W. Crouch
Assemblywoman Janet L. Duprey
Assemblyman Steve Hawley
Assemblyman Tony Jordan
Assemblyman Pete Lopez
Assemblyman David G. McDonough
Assemblyman Joel M. Miller
Assemblyman Marcus Molinaro
Assemblyman Thomas O'Mara
Assemblyman Robert C. Oaks
Assemblywoman Annie Rabbitt
Assemblyman Joseph S. Saladino
Assemblywoman Teresa R. Sayward
Assemblywoman Dierdre Scozzafava
Assemblyman Lou Tobacco

SPEAKERS:

Donn Rowe, President, NYSCOPBA
Gail Noble, Representative, PEF
Chris Hickey, Executive Vice President, NYSCOPBA
John Telisky, Treasurer, NYSCOPBA
Al Mothershed, Western Region Vice President, NYSCOPBA
Kevin Walker, Mid-Hudson Region Vice President, NYSCOPBA
Tom Haas, Central Region Vice President, NYSCOPBA
Randy Page, Northern Region Vice President, NYSCOPBA
Jerry Dewitt, Statewide Law Enforcement Vice President, NYSCOPBA

INVITED BUT DID NOT ATTEND:

Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Wednesday, July 15, 2009

GOUVERNEUR, NY-GOUVERNEUR FIRE DEPARTMENT

MEMBERS: Assemblyman Gary D. Finch
Assemblyman James G. Bacalles
Assemblywoman Dierdre Scozzafava

SPEAKERS:
Tom Haas, Central Region Vice President, NYSCOPBA
William LaMere, Gouverneur Correctional Facility
Nick Kogut, Correctional Officer, Watertown Correctional Facility
Mike Powers, Member, NYSCOPBA
Pat Pratt, Correctional Officer, Cape Vincent Correctional Facility
Don Jewett, Correctional Officer, Cape Vincent Correctional Facility
Pat Kelly, Correctional Officer, Gouverneur Correctional Facility
Chris Leo, Legislative Director, NYSCOPBA

INVITED BUT DID NOT ATTEND:
Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Thursday, July 16, 2009

COMSTOCK, NY-PK HILL BUILDING

MEMBERS: Assemblyman Joseph M. Giglio
Assemblyman Tony Jordan

SPEAKERS:
Donn Rowe, President, NYSCOPBA
Chris Hickey, Executive Vice President, NYSCOPBA
John Telisky, Treasurer, NYSCOPBA
Randy Page, Northern Region Vice President, NYSCOPBA
Chris Hansen, Business Agent-Northern Region, NYSCOPBA
Dan Mulligan, Chief Sector Steward, Great Meadow Correctional Facility
Robert Hartung, Steward, NYSCOPBA
Chris Leo, Legislative Director, NYSCOPBA

INVITED BUT DID NOT ATTEND:
Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Wednesday, August 19, 2009

AUBURN, NY-CAYUGA COUNTY LEGISLATIVE CHAMBER

MEMBERS: Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblyman Robert C. Oaks

SPEAKERS:
Chris Hickey, Executive Vice President, NYSCOPBA
Al Mothershed, Western Region Vice President, NYSCOPBA
Chuck Weed, Chief Steward, Auburn Correctional Facility
Tim Casper, Chief Steward, Butler Correctional Facility
Tom Mulhern, Chief Sector Steward, Cayuga Correctional Facility
Chris Leo, Legislative Director, NYSCOPBA
Patricia Casler, Department of Corrections Labor Management Chair, CSEA

INVITED BUT DID NOT ATTEND:
Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF

Thursday, August 20, 2009

**BEACON, NY-FISHKILL CORRECTIONAL FACILITY'S
QUALITY OF WORK LIFE BUILDING**

MEMBERS: Assemblyman Gary D. Finch
Assemblyman Marcus Molinaro

SPEAKERS:
Donn Rowe, President, NYSCOPBA
Diane Davis, Recording Secretary, NYSCOPBA
Kevin Walker, Mid-Hudson Vice President, NYSCOPBA
Charlie Warner, Chief Sector Steward, Beacon Correctional Facility
Chris Leo, Legislative Director, NYSCOPBA

INVITED BUT DID NOT ATTEND:
Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Wednesday, August 26, 2009

ALDEN, NY-ALDEN HIGH SCHOOL LIBRARY

MEMBERS: Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblyman James G. Bacalles
Assemblywoman Jane Corwin
Assemblyman James P. Hayes
Assemblyman Jack Quinn

SPEAKERS:

Chris Hickey, Executive Vice President, NYSCOPBA
Joe Kaczmarczyk, PAC Chair, NYSCOPBA
Al Mothershed, Western Region Vice President, NYSCOPBA
Mike Dildine, Business Agent-Western Region, NYSCOPBA
Chris Leo, Legislative Director, NYSCOPBA
Louie Delmonte, Steward, Lakeview Correctional Facility
Steven McKeel, Correctional Officer, Wende Correctional Facility

INVITED BUT DID NOT ATTEND:

Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Wednesday, September 2, 2009

NEW WINDSOR, NY-NEW WINDSOR COMMUNITY CENTER

MEMBERS: Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblyman James G. Bacalles
Assemblywoman Nancy Calhoun
Assemblyman Joel M. Miller
Assemblywoman Annie Rabbitt

SPEAKERS IN ATTENDANCE:

Donn Rowe, President, NYSCOPBA
Chris Hickey, Executive Vice President, NYSCOPBA
Thomas Farrell, Chief Sector Steward, Eastern Correctional Facility
Chris Leo, Legislative Director, NYSCOPBA
Kevin Walker, Mid-Hudson Vice President, NYSCOPBA

INVITED BUT DID NOT ATTEND:

Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Wednesday, September 16, 2009

VERONA, NY-VERNON-VERONA-SHERRILL HIGH SCHOOL

MEMBERS: Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblyman Will Barclay
Assemblyman Marc W. Butler
Assemblyman David R. Townsend, Jr.

SPEAKERS:
Donn Rowe, President, NYSCOPBA
Chris Hickey, Executive Vice President, NYSCOPBA
Chris Leo, Legislative Director, NYSCOPBA
Tom Haas, Central New York Vice President, NYSCOPBA

INVITED BUT DID NOT ATTEND:
Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Thursday, September 17, 2009

MALONE, NY-NORTH FRANKLIN EDUCATIONAL CENTER

MEMBERS: Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblywoman Janet L. Duprey
Assemblywoman Dierdre Scozzafava

SPEAKERS:
Chris Hickey, Executive Vice President, NYSCOPBA
Randy Page, Northern Region Vice President, NYSCOPBA
Chris Leo, Legislative Director, NYSCOPBA
Hugh Hill, President, Malone Chamber of Commerce

INVITED BUT DID NOT ATTEND:
Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Brian Curran, Legislative Director, PEF
Danny Donohue, President, CSEA

Wednesday, October 21, 2009

ALBANY, NY-ASSEMBLY PARLOR, STATE CAPITOL

MEMBERS:

Leader Brian M. Kolb
Assemblyman Gary D. Finch
Assemblyman Joseph M. Giglio
Assemblyman James G. Bacalles
Assemblywoman Jane Corwin
Assemblyman Clifford W. Crouch
Assemblyman Joseph A. Errigo
Assemblyman Joel M. Miller
Assemblyman Robert C. Oaks
Assemblywoman Annie Rabbitt
Assemblyman Joseph S. Saladino
Assemblywoman Teresa R. Sayward
Assemblyman David R. Townsend, Jr.

SPEAKERS:

Donn Rowe, President, NYSCOPBA
Chris Hickey, Executive Vice President, NYSCOPBA
Al Mothershed, Western Region Vice President, NYSCOPBA
Tom Donahue, Labor-Management Chair at DOCS, PEF

INVITED BUT DID NOT ATTEND:

Brian Fischer, Commissioner, DOCS
Erik Kriss, Director of Public Information, DOCS
Robert Gangi, Executive Director, Correctional Association of NY
Danny Donohue, President, CSEA

WRITTEN TESTIMONY SUBMITTED BY:

Lisa Borello, Former Cook, Lakeview Correctional Facility

SAFETY: HISTORY

Throughout its history, New York's correctional system has experienced a series of insurrections. These incidents occurred at Clinton (1929), Auburn (July and December 1929), Great Meadow (1955), Attica (1971), Southport (1990, 1991) and Mohawk (1997) correctional facilities. The events can be attributed to a combination of factors, including overcrowding, high inmate to officer ratios and lack of oversight.

The Attica insurrection is considered one of the deadliest prison riots in our nation's history. The prison was running at 185 percent capacity. When the riot broke out on September 9, 1971, there were fewer than 100 officers on duty managing 2,225 inmates. The riot ended in 41 deaths – 32 inmates and nine hostages. 83 others were seriously injured. The Attica riot has cost New York State \$24 million in settlements.

In 1999, the Department of Correctional Services' inmate population reached an all-time high, housing 71,900 inmates and operating at 130 percent capacity. Former Governor George Pataki's anti-crime agenda and prison reforms drove the population down to approximately 63,000 or 118 percent capacity in 2006. This decline was attributed to "right-sizing" - allowing non-violent



Assemblyman Tony Jordan (L) and an officer discuss safety issues within the Great Meadow correctional facility.

offenders to earn early release by participating in rehabilitative programs while building maximum security prison cells to house violent and predatory felons. In addition, the Rockefeller Drug Law Reforms of 2004 and 2005 allowed class A-I and A-II felons to be re-sentenced and reduced prison sentences for other non-violent offenders.

Drug reform measures passed in the 2009-10 State Budget now allow judges to divert felons to drug treatment instead of prison, without the consent of a district attorney. Also,

approximately 700 drug felons will receive early release, pursuant to the law's re-sentencing provisions. Additionally, a law permitting murderers and other violent felony offenders to earn reductions in their prison sentences was enacted in 2009.

As a result of the actions taken by the Majorities in the Senate and Assembly and the Governor to reduce the prison population, crime will increase, the decline in prison population will end and a need for additional capacity will be created. New York is whittling away at the anti-crime measures that made it the safest large State in the nation.

Today, the inmate population stands at about 58,000. Despite numerous reforms, prisons continue to operate at 102 percent capacity.

SAFETY: ISSUES

Capacity - According to testimony given by NYSCOPBA, the Department of Correctional Services recently changed the way it reports its "percentage of occupancy" data, suggesting there are thousands of empty, permanent beds in the State's prison system, when in fact there are none.



Assembly Members (L-R) Joel M. Miller, Gary D. Finch, Joseph M. Giglio, Teresa Sayward and Joseph A. Errigo listen to testimony on prison capacity.

Every day, the Department of Correctional Services publishes and distributes its "Daily Population Capacity Report" to government agencies and watchdog groups. For decades, the document showed the prison system operating above capacity. In fact, on April 26, 2009, it was reportedly operating at 102 percent capacity. Days later, that percentage disappeared from the report and thousands of temporary beds

– typically subtracted from the total permanent bed count – were now being included, giving the appearance of significantly more beds in the system. NYSCOPBA claimed this was done to justify the Department of Correctional Services' decision to close prisons and reduce correctional staff.

The Department of Correctional Services disputed NYSCOPBA's claim, saying it was based on a 20-year-old federally mandated reporting requirement. The statistics were actually provided in the Department of Correctional Services' daily report, which showed the system was, indeed, operating over capacity until they abruptly changed the way data was calculated.

Staffing Ratio - The Department of Correctional Services claims the inmate to correctional officer staffing ratio is 3:1 in New York's correctional facilities. A facility like Gouverneur, which has an inmate population of about 835, should have 278 correctional officers on duty at all times. In reality, there are only about 250 correctional officers employed there.

According to testimony, New York's prison staffing ratio is closer to 60:1, as each correctional officer is not on duty 24 hours a day, seven days a week. This is especially dangerous when considering that inmates are housed in open dormitories, – with beds bunked on top of beds, – and no bars or walls separating them. Most often, one correctional officer is responsible for the safety of all of these individuals. This staffing ratio is unsafe for prisoners, correctional officers and support staff alike.



Assemblywomen Nancy Calhoun (L) and Annie Rabbitt (R) are briefed on the vital role of Crisis Intervention Personnel.

Crisis Intervention Personnel - The duties of Crisis Intervention Personnel are among the most important in any correctional facility. Crisis Intervention Personnel are the first responders to emergencies. They are not assigned to specific inmate duties or units and can go where they are needed most to intervene in emergency situations. The number of Crisis Intervention Personnel varies at

each facility and is determined by the size of the prison and the number of inmates.

The Crisis Intervention Personnel officer moves about his/her assigned area and walks from post to post. Other correctional officers are assigned to specific inmates and cannot leave their posts or leave inmates unattended. Since most prison incidents can escalate quickly, the

Crisis Intervention Personnel officer must be available to diffuse the situation. If these events are not handled immediately, serious injury or loss of life may occur.

As the number of security staff decreases, keeping Crisis Intervention Personnel positions filled becomes problematic. When a Crisis Intervention Personnel officer retires or the position is vacated for other reasons, it must be filled immediately. Forum participants said this is not always the case and follow-up with the facility is often required. This is completely unacceptable – prison employees have the right to know they are safe and secure.

As the number of correctional officers decreases, Crisis Intervention Personnel are often asked to fill other positions. For example, if a busload of inmates is due to arrive at a facility, a Crisis Intervention Personnel officer may be asked to escort the bus and monitor the prisoners. This usually happens far from the Crisis Intervention Personnel officer's post and becomes an immediate safety risk.

Crisis Intervention Personnel keep prisons safe and running efficiently. Inmates and officers are dependent upon them for protection. To ensure safety, we must fully staff these positions and limit situations that remove them from their posts. When a Crisis Intervention Personnel post is compromised, the safety of an entire correctional facility is at risk.

Double Bunking - The Department of Correctional Services says it shut down six prison annexes located at the Eastern, Green Haven, Groveland, Lakeview, Sullivan and Washington correctional facilities and three minimum security camps (Mt. McGregor, Gabriels and Pharsalia) without adding a single bed in 2009, proving there were empty beds in the system all along.

NYSCOPBA maintains that the Department of Correctional Services accomplished this by double bunking thousands of inmates in medium security prisons.

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According to the Department of Correctional Services, double-bunks are spread across numerous open rooms, or “dormitories.” In these dormitories, up to 60 inmates sleep in one large room. According to NYSCOPBA, only one correction officer is typically on duty, creating a potentially volatile situation. Correction officers reportedly see more inmate-on-inmate violence in these situations. Double bunking poses a serious security threat to correction officers, prison staff, and inmates.



Assemblyman Joseph M. Giglio (L) discusses prison safety with a correctional officer.

Unusual Incidents and Assaults – The Department of Correctional Services says assaults on staff and inmates are down. Correctional officers contend that Department of Correctional Services administrators downgrade certain incidents by not reporting them as assaults. The procedures on reporting such incidents lack clarity and oversight.

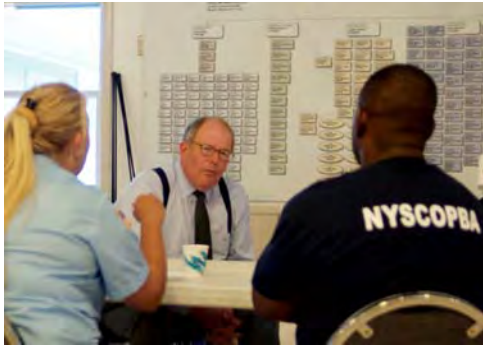
According to the 2006, 2007 and 2008 Unusual Incident Reports produced by the Department of Correctional Services, the number of Inmate Assaults on Staff increased by 8 percent from 2006 to 2008, while the number of Inmate Assaults on Inmates decreased by 4 percent.

| Year | Inmate on Staff | Inmate on Inmate | Injury to Staff |
|------|-----------------|------------------|-----------------|
| 2006 | 532 | 683 | 667 |
| 2007 | 556 | 701 | 689 |
| 2008 | 580 | 656 | 858 |

The Extent of Injury to Staff incidents increased by 22 percent from 2006 to 2008. Almost 200 more injuries to staff occurred in 2008 than in 2006, with an increase of 169 incidents between 2007 and 2008. The Inmate Assault on Staff category produced the most staff injuries in 2008, resulting in minor injuries to 535 staff (23 percent), and moderate injuries to 26 staff (1.1 percent).

There were five potentially life-threatening injuries to staff in 2008. Although they were not caused by Inmate Assault on Staff incidents or Inmate Assault on Inmate incidents, two were labeled “Accidents” and three were labeled “Other Incidents”. No definition of “Other

Incidents” is included in the Unusual Incidents Report. There were also eight staff deaths in 2008; however, the Unusual Incident Report offers no explanation as to how these deaths occurred. Knowing how “Other Incidents” is defined and what caused these serious injuries and deaths would help keep our prisons safer.



Local correctional officers share their ideas for improving prison safety with Assemblyman Gary D. Finch (C).

It is clear that prison closures and circumvention of safety and budgetary regulations cannot continue. An article appearing in the March 4, 2010 *New York Times* entitled “Safety is Issue as Budget Cuts Free Prisoners” reports that states’ rush to save money in grim budgetary times by lowering their prison populations through expanding parole and early release programs has unleashed a backlash in the form of more convicted felons on the streets, not behind bars.

SAFETY: SOLUTIONS/LEGISLATION

To make our prisons as safe as possible, New York must maintain prison capacities below 100 percent, ensure proper staffing ratios, sustain Crisis Intervention Personnel levels, eliminate double bunking, and streamline and clarify procedures for reporting Unusual Incidents and Assaults.

The Assembly Minority Conference recommends that the New York State Commission of Correction initiate a study to determine the most accurate way to report prison capacity statistics, review the current practice of counting temporary, infirmary and special housing unit beds as permanent beds, and establish inmate to officer staffing ratios to cut down on prison violence and the number of ‘Unusual Incidents.’



Assemblymen (L-R) Will Barclay, Gary D. Finch, Joseph M. Giglio and David R. Townsend, Jr. listen to testimony on the Department of Correctional Services administration.

Our Conference will introduce legislation prohibiting double bunking and establishing a staffing plan for all security staff in each prison. Staffing ratios should be completely filled at all times. This would ensure that as prison populations fluctuate, New York's prisons will be sufficiently staffed. The days of insufficient oversight and accountability must come to an end.

ADMINISTRATION: HISTORY

When prisons first opened in New York in the 1700s, wardens lived on-site to ensure the prisons were running properly. There were no telephones, fax machines or hidden cameras. Historically, wardens were politically appointed and provided with housing, sustenance, and household staff. Today, wardens have been replaced by superintendents trained in the management, security and rehabilitation aspects of prisons. Housing is the last remaining piece of the archaic system.

As prisoners gained more rights and freedoms, the role of superintendents became more restrictive. As the number of lawsuits among prisoners increased, the documentation required for reporting unusual incidents increased. Currently, the final decision-making authority for correctional facilities is made at the Department of Correctional Services control center.

Since 1999, prison populations have decreased by more than 11,000 prisoners, yet the number of administrators has increased by the hundreds. NYSCOPBA claims the number of administrators working at the control center in Albany is about 900 today, while the Department of Correctional Services claims it is closer to 750. Even with this increase at the control center, there remain full sets of administrators at each correctional facility. In addition, there is an overlap of services among prisons located near each other. At a time when we need to be fiscally prudent, this abundance of administration needs to be addressed.

While the prison population decreases and cuts are made to vital services, such as educational, drug treatment, or security services programs, administrative positions at the Department of Correctional Services seem to be the least impacted by budget cuts. This is a case of misplaced priorities and a waste of taxpayer dollars.

ADMINISTRATION: ISSUES

Administrative Growth and Duplication of Services – The Department of Correctional Services increased the size of its administration in the past decade, while the prison population has decreased by almost 11,000 inmates. The Department of Correctional Services Communication Control Center has an annual administrative payroll of \$52,666,783, with benefits and salaries totaling \$75,666,783. This figure does not include the salaries and benefits of the administration at each of New York’s 67 correctional facilities.

Additionally, several facilities located near each other have full sets of administrators. Most superintendents earn upwards of \$100,000 annually. In the past, a full administration was needed at each location, but today it is a waste of taxpayer money.

Tom Donahue, PEF Labor Management Chairman of the Department of Correctional Services, spoke at the October 21, 2009 forum in Albany about budget cuts that “took a cleaver to the most useful programs in the Department of Correctional Services.” He stated:

NYSCOPBA claims the number of administrators working at the control center in Albany is about 900 today, while the Department of Correctional Services claims it is closer to 750.



Assemblyman Joseph M. Giglio (C) and Marc W. Butler (R) discuss administrative benefits.

“The budget cut 40 PEF employees from the program services unit, which provides all educational and drug treatment services to inmates. The cuts are a result of vacant titles and without these items, it is impossible to reduce caseloads. Inmates who earn a high school degree or successfully complete a substance abuse program have significantly lower recidivism rates than inmates who do not complete the programs. The budget cuts increase recidivism.”

In other words, due to attrition, these positions have resulted in cuts to rehabilitative services for inmates.

While the prison population decreases and cuts are made to vital services, such as educational, drug treatment or security services programs, administrative positions at the Department of Correctional Services seem to be the least impacted by budget cuts. This is a case of misplaced priorities and a waste of taxpayer dollars.

Ineffective use of Hubs - In 1992, the Department of Correctional Services reorganized delivery services to inmates to be more efficient and cost-effective. Correctional facilities were grouped by geographical proximity into administrative regions. These regions became known as Hubs. Hubs are core facilities where inmates are received and inmate movement and other administrative functions are controlled. Many functions are shared between neighboring facilities, removing the need for a full administration at each.

There are nine Hub regions in New York that share administrative functions, yet more levels of administration are being created. Regional administrators implement Hub programs and receive additional pay, which the Department of Correctional Services terms “merit pay.” This is given to regional administrators when funds are available. However, facilities within each of the Hubs still fund full administrations. As one correctional officer stated at the Gouverneur Forum, “The Legislature and the Department of Correctional Services should look at why Hubs were created in the first place and the savings they were meant to achieve.”



Assemblymen Jim Bacalles (L) and Jim Hayes (R) discuss how the Department of Correctional Services can create savings in its administrative spending.

Administrative Perks - While the Department of Correctional Services institutes drastic cost-saving measures – jeopardizing the safety of its staff and inmates – many superintendents benefit from State-funded housing and other special benefits. They pay no property taxes and, according to NYSCOPBA, their homes and properties are maintained by inmate work crews.

During his September 9, 2009 telephone press conference, Department of Correctional Services Commissioner Brian Fischer said only a few superintendents have State-funded homes. However, a NYSCOPBA official stated that in addition to their \$100,000-plus salaries, more than 15 superintendents live in taxpayer-financed homes on prison grounds.

Department of Correctional Services officials said superintendents are required to make payments subject to the Budget Policy & Reporting Manual. Specifically, they are subject to the same payment schedule as all other Management/Confidential Employees living in State-funded housing.

ADMINISTRATION: **SOLUTIONS/LEGISLATION**

The size of the Department of Correctional Services' administration must be addressed to ensure our prisons run safely and cost-effectively. We must also take a closer look at the reported State benefits to prison superintendents and administrators.



Assemblyman Gary D. Finch (L) talks about reuse plans while Assembly Members (L-R) Jane Corwin and Jack Quinn look on.



NYSCOPBA President Donn Rowe testifies at the Albany forum.

The New York State Commission of Correction study we have recommended should review the responsibilities of the administration in Albany and verify the necessity of these positions. It should also evaluate which services and programs can be administered by the Hubs, and determine the responsibilities of each administrator. Additionally, it should be charged with examining the State-funded housing and benefits allegedly given to superintendents and administrators and determine if

this an effective use of taxpayer dollars.

FISCAL IMPLICATIONS: HISTORY

To minimize the consequences of potential prison closures, a 2005 law required the Department of Correctional Services Commissioner, prior to closing any facility, to confer with the Department of Civil Service, the Governor's Office of Employee Relations, the Department of Economic Development and other appropriate agencies to minimize the adverse impact on employees and the local economy. It required the commissioner to provide at least 12 months notice of a closure to the affected employees and local governments.



Assemblyman Marc Molinaro listens to testimony in Beacon.

In 2009, the Legislature and Governor overrode provisions of this law. As a result, the Department of Correctional Services closed three prison camps (Gabriels, Pharsalia, and Mt. McGregor) on July 1, 2009 – less than three months after the announced closure. The reuse plan, due at least six months prior to the date of closure, was required to be published by October 1, 2009, three months after the July 1st closing.

Prison farms were established over a hundred years ago to provide food and milk for inmates, offer vocational skills, and instill a work ethic to help them succeed after prison. These farms provided a way for prisoners to

experience hard work and appreciate a new way of life. Prisoners produced their own food and thus helped the economy. In 2009, the Department of Correctional Services decommissioned all prison farm operations, claiming the State would see savings of \$3.4 million. They also claimed prison farms were not part of the Department of Correctional Services' core mission. Critics have argued that closing prison farms is the wrong way to cut costs.



Assemblymen David R. Townsend, Jr. (L) and Joel M. Miller (R) discuss the costs of maintaining prisons.

New York must stop making hasty decisions that could cost the State money. Thoughtful consideration must be given before entire prisons, prison camps or prison farms are closed.

FISCAL IMPLICATIONS: ISSUES

Ineffective Reuse Plans - The Adaptive Reuse Plan published on October 1, 2009 for Camp Pharsalia says New York must “care for and maintain the camp buildings until such time as circumstances warrant reuse or removal.”

Camp Gabriels’ Adaptive Reuse Plan offers reutilization without limitation, except by regulatory agencies having jurisdiction, including DEC and the Adirondack Park Agency (APA). Although interest has been shown in the property, the reuse plan states, “based on the interest shown so far, it is reasonable to anticipate difficulty in attracting a responsible party for reutilization. At some point, in the interest of public safety, it may be necessary to consider the demolition and removal of all buildings and restoration of the site by re-grading and the introduction of topsoil and seeding.” In the meantime, the buildings must be secured against the elements, entailing the use of heat, electricity, and fire suppression/detection and wastewater treatment.



Assemblyman Robert C. Oaks asks for background on administrative growth.

The reuse plan for Camp Mt. McGregor continues the use of the six buildings that make up the camp. According to the plan, “there are no good possibilities for use by another State government entity, whether by lease, sale or transfer and there has been no community input for local development.”

Each of these plans requires continued maintenance paid for by taxpayers. Any cost-savings from closure of these facilities is diminished by the cost of upkeep. Correctional facility closures should allow for community input on how to best reuse these facilities. The 2010-11 Executive Budget calls for the January 2011 closure of the minimum security portion of the Butler Correctional

Facility in Wayne County, with a reuse plan due in June 2010. Wayne County has made an infrastructure investment of \$350,000 to maintain the facility and the federal government has

contributed between \$3 and \$4 million, yet local officials have no input on the proposed facility closure or its viable reuse, leaving the economic health of Wayne County in jeopardy.



Assemblyman Cliff Crouch (L) talks about farm closures as Assemblyman David R. Townsend, Jr. (R) looks on.

Farm Closures – The Department of Correctional Services recently closed New York’s 12 prison farm operations to save \$3.4 million, because “the usefulness of these programs as a vocational tool has diminished.” Closing these farms is the wrong way to cut costs, as the products they supplied must now be purchased from outside vendors.

Decommissioning the farm program, which instilled work ethics and responsibility, reduces the options for rehabilitation. This, and the 2009 closure of three minimum security prisons, will leave inmates less prepared to return to their communities and families.

2010-2011 Executive Budget and Overtime - The 2010-11 Executive Budget proposes closing three correctional facilities and part of a fourth, and consolidating dormitories for savings and staff reductions. Two prisons would close in January 2011: Lyon Mountain Minimum Security in Clinton County and Butler Minimum Security in Wayne County. Another two would close in April 2011: Moriah Shock Facility in Essex County and Ogdensburg Medium Security in St. Lawrence County. The savings and staff reduction breakdown follows:

| Facility | 10-11 Savings | 11-12 Savings | FTE Reductions |
|-----------------------|--------------------|---------------------|----------------|
| Butler Minimum | \$1,270,000 | \$5,182,900 | 80 |
| Lyon Mountain Minimum | \$1,776,000 | \$7,245,300 | 93 |
| Ogdensburg | \$0 | \$23,910,500 | 291 |
| Moriah Shock | \$0 | \$9,500,000 | 108 |
| Dorm Consolidations | \$3,954,000 | \$6,410,000 | 65 |
| Total | \$7,000,000 | \$52,248,700 | 637 |

As the above chart shows, closing these facilities would result in the elimination of 637 full-time positions. However, Governor Paterson claims these people would not lose their jobs

because of attrition and transfer options. The Division of Budget predicts there will be an estimated 30,027 correctional employees in the 2009-10 Fiscal Year. It anticipates 1,689 attritions with 1,629 refills. This would leave a net decrease of 60 positions for an estimated correctional workforce in 2010-11 of 29,967. This could lead to increased overtime costs for taxpayers to bear.

According to a report published by New York State Senators Jeffrey Klein and Diane Savino entitled, "Cutting Spending at the Department of Correctional Services," New York is wasting money paying overtime. For example, five officers at the Clinton Correctional Facility received



Assemblyman Jim Hayes (L) discusses the Department of Correctional Services budget expenditures as Assemblyman Joseph M. Giglio (R) looks on.

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overtime payments of \$263,167 in 2008. Because correctional officers are covered by mandatory overtime provisions, if there are not enough officers on duty, those from a previous shift must provide coverage, resulting in overtime pay.

Additionally, a nurse at the Bedford Hills Correctional Facility earned \$149,290.99 in overtime in 2009. Her annual salary was \$55,716 and she earned \$227,529.96 that year with overtime and additional salary adjustments. Nurses are not covered by mandatory overtime provisions, but are able to volunteer for it. This excessive overtime pay shows that the Department of Correctional Services has cut too many vital positions. If our correctional facilities maintained adequate staffing levels, New York's taxpayers would receive significant savings.

It is the State's responsibility to ensure that security personnel and other vital positions are properly staffed. When prisons are chronically understaffed, overtime pay remains high. If cuts must be made, the Department of Correctional Services should make cuts to its administrative expenditures to ensure safety and rehabilitation while spending taxpayer money efficiently.

Prison Closures - The closure of three minimum security prison camps and six annexes in 2009 – the March 15, 2010 decision to “temporarily” shut down 22 housing units in one minimum and 16 medium security prisons, leaving 1,023 fewer beds, and the budget proposal to close four additional facilities – have prompted fierce debate over whether use of temporary beds and double bunking in medium security facilities create more dangerous conditions.



Assembly Members (L-R) Dierdre “Dede” Scozzafava, Gary D. Finch, Joseph M. Giglio and Janet L. Duprey attend the Malone forum.



Assemblyman Joseph M. Giglio addresses budgetary concerns in Comstock.

Minimum security prisons prepare inmates to return to their communities. According to testimony, eliminating the most vital part of the Department of Correctional Services' mission to “...address the needs of all inmates so they can return to their communities better prepared to lead successful and crime-free lives...” may save the state money in the short run, but may lead to higher recidivism in the near future.

PEF opposes closing more prisons, because the Department of Correctional Services uses thousands of temporary and double bunk beds to house inmates.

The budget proposes closure of the Moriah Shock Facility. However, a 2009 law increased the maximum age at which an eligible inmate can participate in shock incarceration from 39 to 49. In addition, recently enacted drug law reforms have expanded the opportunity for judges to sentence offenders to this program. Closing the facility is unwise, as more inmates are now allowed to participate in the program.

Also slated for closure in the budget is the Ogdensburg Correctional Facility. Like other regions in the state that are home to prisons, the impact of this closure on the local economy will be devastating. Prison closures eliminate or transfer jobs out of the area, which often leads to families being uprooted, businesses going bankrupt and viable communities falling apart. The effect of the closure does not stop at the prison; it ripples into local businesses, school districts, and taxpayers.

FISCAL IMPLICATIONS: SOLUTIONS/LEGISLATION

“THE NORTH STAR INITIATIVE”

New York can no longer allow impulsive decisions to be made about closing prisons and cutting front-line staff. The Assembly Minority Conference will introduce legislation requiring a reasonable, three-year reuse plan, entitled “**The North Star Initiative**,” to be implemented at the time of an entity closure notification. “**The North Star Initiative**” would establish a temporary board consisting of the NYS Empire State Development Corporation Chairman, Chief Executive Officer of the municipality affected, the Director of the Economic Development Agency of the region affected, and representatives from the financial, education and business community. In



Assembly Minority Leader Brian M. Kolb (third from the left) and Members (L-R) Robert C. Oaks, Janet L. Duprey, Joseph M. Giglio, Gary D. Finch, Marc Molinaro, Joel M. Miller and Annie Rabbitt attend a meeting in Albany.

addition the bill would require a plan to address the economic and quality of life needs of the affected community, including a component for replacing lost revenue that significantly impacts the community, and a viable reuse of the building itself. This would ensure that any entity closings designed to save taxpayer money would allow the locality to reuse the former site in a way that provides income for the community. This would give the affected personnel

time to make arrangements for a transfer to another facility or find alternative employment in the area.

The Department of Correctional Services is closing minimum security prisons because they are operating below capacity. According to PEF, over 1,200 federal prisoners are being housed in county jails. A 2009 law authorizes the Department of Correctional Services to house federal inmates in its facilities, requiring the federal government to pay the cost. The Assembly Minority Conference recommends moving these federal prisoners to State facilities to generate revenue, ease the locality's burden, and keep facilities open. The days of hasty, poorly planned closures must end.

CONCLUSION

Although New York State faces an unprecedented fiscal challenge, safety and security within its prisons must remain a top priority. The Assembly Minority Conference recommends the following:

- The New York State Commission of Correction should initiate a study that would:
 - ✓ Determine the most accurate way to report prison capacity statistics;
 - ✓ Review the current practice of counting temporary, infirmary and special housing unit beds as permanent beds;
 - ✓ Establish appropriate inmate-to-officer staffing ratios that will reduce prison violence and the number of "Unusual Incidents";
 - ✓ Review the responsibilities of administration in Albany and verify the necessity of these positions;
 - ✓ Evaluate which services and programs the Hubs can administer and determine the scope of responsibilities for each administrator; and
 - ✓ Examine State-funded housing and other public benefits allegedly provided to superintendents and administrators and determine whether or not the practice should continue.
- Tailoring a viable reuse plan to an affected local community's specific needs to make up for the devastating impact of facility closures on local economies.
- Moving federal prisoners to State facilities to generate revenue and making effective use of vacant prison farmland.

Each of the aforementioned recommendations will be submitted to the Governor, Members of the State Legislature, the New York State Department of Correctional Services and the New York State Commission of Correction for consideration and enactment as policy and programmatic solutions to the challenges facing New York's correctional system.

To assert that current budgetary realities leave state officials to decide between saving money and maintaining public safety is a "false choice." Budgetary and safety priorities are not mutually exclusive. With adoption of the specific recommendations contained within this report, both goals may be achieved.

ADDENDUM

OGDENSBURG FACILITY CLOSURE



Assemblyman Will Barclay addresses the crowd at the March 12, 2010 Ogdensburg Correctional Facility rally.

The 2010-11 Executive Budget calls for the closure of the Ogdensburg Correctional Facility in St. Lawrence County. As in other areas of upstate New York that house prisons, this proposed closure will be devastating to the local economy and community's quality of life. Prison closures either eliminate or transfer jobs out of a community, which often leads to families being uprooted, businesses in

the same geographic region going bankrupt for lack of patrons, and previously viable communities suffering. Without question, the effect of a closure does not stop at the prison walls and its adverse financial impact lasts for years. These facilities are lifelines to their respective communities and, when the connection is severed, the negative consequences are profound and lasting.

The proposed closure of Ogdensburg will be especially devastating for several reasons. According to facts released by the Ogdensburg Correctional Facility Community Task Force, Ogdensburg is one of the few areas of the State with a cost structure below the national average. According to the US Census Bureau's 2006-2008 American Community Survey, St. Lawrence County's Per Capita Income was only 62.4 percent of New York State's Per Capita Income. (Per Capita Income is how much each individual receives, in monetary terms, of the yearly income generated in a region). The median household income in New York State during that time period was \$55,401, but only \$41,526 in St. Lawrence County. This region is one of the lowest cost areas in the State and the prison is vital to its economy.



Assemblywoman Dierdre “Dede” Scozzafava and Ogdensburg Mayor William D. Nelson listen to a young speaker at the 3/12/10 Ogdensburg Correctional Facility rally.

Ogdensburg prison employs 287 employees with a payroll of \$22.2 million. According to the Ogdensburg Correctional Facility Community Task Force, the income generated by prison employees has a trickledown effect into the community affecting local schools, retail and service businesses, health care facilities, and virtually every sector of the economy. If Ogdensburg closes, the majority of the employees will be forced to leave the area. According to Ogdensburg correctional officer Michael B.

Powers, “There will be community groups that will lose volunteers, coaches, EMTs, volunteer fire departments will also lose out.” The loss of the positions and the income they generate will further widen the economic inequities that exist between the North Country and the rest of New York State.



Assemblywoman Dierdre “Dede” Scozzafava, Ogdensburg Mayor William D. Nelson, Assemblyman Gary D. Finch and Assemblyman Will Barclay listen to a speaker at the Ogdensburg Correctional Facility rally.

As the Ogdensburg Correctional Facility Community Task Force points out, finding communities to accept facilities like prisons can be a controversial and difficult process. In the early 1980’s, the City of Ogdensburg sought out, welcomed, and worked with the Department of Correctional Services to bring the prison to the community. Fiscally responsible industries locate where they can find, afford and keep their workforces. New York State should be no different in this regard. The prison is located in a low-cost location, has an experienced, proven and

efficient workforce and provides needed capacity within the Department of Correctional Services system, especially as it has thousands of double-bunked beds in the State. As previously noted, this is dangerous to the inmates and the officers responsible for overseeing them.



Assemblywoman Dierdre “Dede” Scozzafava and Ogdensburg Mayor William D. Nelson listen to a local girl address supporters of the Ogdensburg Correctional Facility.

As with previous prison closures, there is no viable reuse plan for the Ogdensburg Correctional Facility and the prospect of ever having one is unlikely. According to a local county legislator who is a member of PEF and an employee within the Department of Correctional Services, the Ogdensburg Correctional Facility will only join a large number of abandoned State buildings on the St. Lawrence Psychiatric Center grounds. The people of Ogdensburg have been waiting 40 years for a viable “reuse plan” for the already vacant buildings which exist. As of this addendum’s writing, such a plan has not been advanced.

The residents of Ogdensburg have shown their support for keeping the prison open by attending rallies, lobbying legislators, and voicing their opposition with the Governor. They will not stop until the decision is made to keep this vital community lifeline open. In recent a meeting and conversation with Governor David Paterson, Task Force Co-Chairs Assemblyman Gary Finch and Assemblyman Joe Giglio asked the Governor to reevaluate the closures and were informed that he would do so.

In addition to Ogdensburg (St. Lawrence County), the minimum security portion of Butler Correctional Facility (Wayne County), Lyon Mountain Minimum Security Facility (Clinton County) and the Moriah Shock Facility (Essex County) are also slated for closure. The effects of the proposed closures will be equally devastating to the economies in which these prisons are located.

Much like Ogdensburg, Clinton and Essex counties are part of the North Country. Loss of these prisons will further contribute to the economic inequality between the North Country and rest of the State.

TEMPORARY PRISON CONSOLIDATIONS

On March 15, 2010, the New York State Department of Correctional Services announced plans to “temporarily” consolidate 22 housing units at 17 prisons over several weeks. This will result in a loss of 1,023 general confinement beds. The Department of Correctional Services claims the consolidation is being done to reduce overtime and other staffing costs due to the ongoing decline in the State’s prison population.

Sixteen of the prisons to be consolidated are medium security prisons where thousands of inmates are already double-bunked in open dormitory settings, housing up to 60 inmates in a room. NYSCOPBA claims this consolidation plan will further tax a prison system that is already overcrowded and understaffed. Moving more prisoners into these already congested housing units will further jeopardize the safety of correction officers and inmates.

The Department of Correctional Services disputes NYSCOPBA’s concerns about overcrowding saying there are more than enough vacant beds, but NYSCOPBA claims the Department of Correctional Services over-inflates this bed count by erroneously adding in temporary, infirmary, and special housing unit beds.

The Department of Correctional Services’ unilateral decision to take 1,000 or more prison beds off-line reemphasizes the need for greater supervision of a prison system that has seemingly lost sight of its mission to “enhance public safety” for the sake of allegedly saving money. Most troubling, this shifting of inmates lacks a specific rationale or organized plan, which underscores the need for greater internal and external oversight of the department.