

ANNUAL REPORT 2021



CARL E. HEASTIE, SPEAKER
DAVID I. WEPRIN, CHAIR

NEW YORK STATE ASSEMBLY
COMMITTEE ON CORRECTION



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MEMBER OF ASSEMBLY
24TH DISTRICT

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
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Codes
Judiciary
Ways and Means

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

December 15, 2021

The Honorable Carl E. Heastie
Speaker of the Assembly
932 Legislative Office Building
Albany, NY 12248

Dear Speaker Heastie:

As Chairman of the Assembly Standing Committee on Correction, it is with great pleasure I submit to you the Annual Report for the 2021 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, all the members of the Assembly and staff 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,

David I. Weprin
Chairperson
Standing Committee on Correction

2021 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 50 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 has approximately 31,555 incarcerated individuals housed in state facilities and 15,328 incarcerated individuals in local facilities. More than 17,573 correctional personnel combined are employed in all correctional facilities.

The Committee on Correction works closely with other committees of the Assembly, including the Committees on Alcoholism and Drug Abuse, Codes, Health, Mental Health and Governmental Employees to discuss issues that affect correctional staff and incarcerated individuals.

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

II. NEW YORK STATE'S CORRECTIONAL POPULATION

A. State Correctional Facilities and Community Supervision

As of November 1, 2021, the prison population of the Department of Corrections and Community Supervision (DOCCS) was 31,555 incarcerated individuals and 31,899 parolees under custody. The overall population has now declined by approximately 57.3% since the peak of 72,649 in 1999. The total under-custody population is 15,511 African American, 7,451 Caucasian, 7,493 Hispanic, 301 Native American, 193 Asian and 586 individuals in the "other category." Additionally, there are 538 females under-custody in state correctional facilities. There were 384 state-ready incarcerated individuals (individuals held in a local correctional facility waiting transfer to state prison) as of November 1, 2021, and 24 state-ready parolees. Additionally, there were 148 individuals living in residential treatment facilities operated by the Department of Corrections and Community Supervision, pending SARA compliant housing.

There were 6,500 new admissions to state correctional facilities between January and October 2020, 8,732 less than in the same period in 2019, and 1,040 parolee admissions. New court commitments for this period were 509, including 273 judicially sanctioned admissions to DOCCS' facilities. There were 3,696 returned parole violators and 3,217 conditional release revocations, including 744 violators who were admitted into DOCCS-operated alternative-to-incarceration 90-day drug treatment programs. Additionally, 107 parolees were mandated to the Willard drug treatment program and 38 parolees voluntarily went to Willard rather than face revocation. There were 509 people on parole that returned to prison for new felony offenses.

B. Local Correctional Facilities

The total under-custody population among local correctional facilities as of November 2021 was 15,328. For the City of New York, there were 5,443 individuals under custody, a 643 population increase compared to last year. County correctional facilities outside of the City of New York had an under-custody population of 9,886 at that time, a 1,111 population increase compared to last year.

C. Community Supervision

The Department of Corrections and Community Supervision (DOCCS) is the sole agency responsible for the supervision of all persons under custody or released from state correctional facilities and subject to a term of parole or post-release supervision. This responsibility includes efforts to ensure successful adjustment to community living and assisting individuals with drug treatment, job training, job placement and other services to enhance the likelihood of a self-sufficient and crime-free lifestyle. DOCCS staff is also responsible for identifying violations of parole conditions that may result in the use of corrective measures, including revision of parole conditions and, in some cases, parole revocation. According to DOCCS, as of November 1, 2021, there were 31,899 individuals in New York State under parole supervision, which are 4,295 fewer parolees than at the same time last year.

The Correction Committee recognizes the importance of supportive reentry services and continues to advocate for increased funding and diversity of programming to help people coming out of prison successfully reintegrate into the community.

D. Board of Parole

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

There were 15,580 releases to supervision in 2021, which was a decrease of 33% from the 23,170 releases in 2011. During this same period, there were 9,870 conditional releases and these made up 63% of the releases to community supervision in 2021. The Board of Parole released 4,883, or 31%, of releases to community supervision. Initial release rates were 46% for A1 violent felony and legislative violent felony offenses, 21% for drug offenses, 10% for other coercive offenses, 13% for major property offenses, 9% for other felony offenses, 2% for youth offenses and 2% for juvenile offenses.

E. Community Corrections Programs

According to data obtained from the Office of Probation and Correctional Alternatives (OPCA), which is housed in the Division of Criminal Justice Services (DCJS), at the end of the SFY 2020-2021, there were 73,089 adults under probation supervision across New York State, a decrease of 13,491 since last year at the same time. The adult probation population includes 36,967 people on felony probation and 32,442 misdemeanor offenders on probation, as well as 3,680 people on probation for offenses other than felonies or misdemeanors, such as criminal mischief, crimes against public order and probations who transferred to New York after convictions in other states. In addition, local probation departments supervise youth placed under supervision by the family court, which includes approximately 1,248 juvenile delinquency cases (a decrease of 674 cases compared to the previous year), and 117 persons in need of supervision (PINS) cases (a decrease of 325 cases) in this last fiscal year.

Among specialized projects lead by OPCA is the Sex Offender Address Confirmation Project. Probation is the most frequently used disposition for defendants convicted of sex offenses in New York State. The supervision period for sex offenders under probation is longer than the supervision period for offenders convicted of other offenses. Probation officers regularly confirm offender addresses, comparing them to the State's Sex Offender Registry (SOR), require that offenders complete change of address forms, and file violations and request warrants on absconders. There are 3,914 registered sex offenders under probation supervision, an increase of 236 from the previous year.

III. STATE BUDGET IMPACT ON CORRECTIONAL AGENCIES

The SFY 2021-2022 Budget for DOCCS appropriates \$3.44 billion in state operations funding. The DOCCS budget represents funding for the operation of state correctional facilities as well as community supervision and the Board of Parole. Included within the DOCCS budget is \$150.65 million for the supervision of people released to parole and post-release supervision, and \$7.1 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 individual is approximately \$60,000 per year. The budget also includes approximately \$34.5 million in Aid to Localities funding.

A. Department of Corrections and Community Supervision

Facilities

During the SFY 2021-2022 Budget, the legislature passed legislation that authorized the Governor to close correctional facilities in this fiscal year provided that the Governor provide the legislature with at least 90 days' advance notice before the closure of any correctional facilities. The notice includes: the list of correctional facilities projected to close, the number of incarcerated individuals housed in the facilities and the number of staff working in the facilities. A provision in the law also requires the Commissioner of the

department to produce a detailed report to the legislature on the results of staff relocation efforts within 60 days after the closure of any correctional facility. In SFY 2021-2022, the Governor closed 6 correctional facilities including Ogdensburg, Moriah Shock Incarceration, Willard Drug Treatment Campus, Southport, Downstate and Rochester correctional facilities which resulted in an annual cost savings of \$30 million. Previous facility closures have resulted in a number of property sales and conversions of such properties for new uses often benefitting the community at large.

Prisoners Legal Services

The SFY 2021-2022 New York State Division of Criminal Justice Services Budget included \$3.55 million for Prisoners Legal Services (PLS), which provides legal representation and assistance to indigent individuals that are incarcerated in civil cases. The Assembly secured an additional \$750,000 and the Senate added \$600,000 to bring the total funding for PLS up to \$4.9 million, surpassing the funding amount that PLS received last year. 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 incarcerated individuals' attitudes and behavior and has promoted constructive policy and programmatic modifications within DOCCS.

Board of Parole

Funding for the Board of Parole is separately appropriated and may not be decreased by interchange with any other appropriation in the DOCCS budget in order to ensure adequate funding to perform its mission with the required independence. The SFY 2021-2022 Board of Parole budget is \$7.1 million; this amount remained the same as the previous year.

The Board of Parole is statutorily maintained as a 19-member appointed body with independent decision-making authority. There are 15 commissioners currently serving on the board with 5 of those appointments taking place in 2019. The appointments included three men and two women with Latino, Korean and African American descent. The Legislature has pushed the Executive to not only fill the empty seats, but to diversify the Board of Parole. The appointments last year helped the Board of Parole reflect the diversity of the prison population.

The Board of Parole is housed within DOCCS for administrative support and maintains its independence with its own counsel's office and cadre of Administrative Law Judges. The Board continues to make discretionary determinations regarding the release of indeterminately sentenced individuals, the setting of release conditions for all individuals, revocations of community supervision for individuals charged with violating conditions of release and the three-year discharges of sentence for certain persons under supervision. Former Board functions of granting merit termination of sentences, granting certificates of rehabilitation and preparing parole summaries have been carried out by DOCCS since 2011.

Community Supervision

The DOCCS budget allocation for supervision of persons released to the community in SFY 2021-2022 is \$150.65 million. Community supervision is entirely separate from the Board of Parole budget, since community supervision is no longer a function of the Board following the merger with DOCCS in 2011.

Community supervision staff members oversee approximately 31,899 people on parole and post-release supervision out of seven regional offices around the state.

Many ex-offenders have high educational and vocational needs, a history of substance abuse and problems maintaining stable housing and employment. The Correction Committee recognizes the importance of supportive reentry services and continues to advocate for increased funding and diversity of programming to help people leaving prison successfully reintegrate into the community.

On March 20, 2020, the Department of Corrections and Community Supervision shifted its internal operations due to the COVID-19 pandemic, when the department temporarily suspended all in-person reports of individuals under state community supervision. The department has increased ongoing efforts to vaccinate the incarcerated population and the community at large and has seen a decline in the positivity rate of COVID-19. The decline in cases of COVID-19 has allowed in-person visitation to resume. Additional safety and screening protocols have been implemented for all visitors. Upon entry into the facility, visitors are required to answer a health and travel questionnaire to eliminate possible exposure within the facilities. All incarcerated individuals, staff and visitors are required to wear a mask within all correctional facilities.

B. Local Correctional Agencies

The DOCCS budget continues to include \$200,000 in aid-to-localities funding to local correctional facilities for reimbursement to counties for housing “state-ready” individuals. “State-ready” refers to individuals who have been sentenced to state prison and are being held in a county jail awaiting transport. The reimbursement for “state-ready” individuals was basically eliminated in the SFY 2009-10 Budget, but the state is still liable to reimburse counties up to \$100 per day for each “state-ready” individual who is not transferred to state prison within 10 days of the locality notifying DOCCS that the individual is ready for transport.

C. Office of Probation and Correctional Alternatives

The SFY 2011-12 Budget restructured certain appropriations so that formerly separate programs within the Division of Criminal Justice Services (DCJS) such as the Office of Probation and Correctional Alternatives (OPCA), among other appropriations, have been consolidated. The new program structure of DCJS now consists of the Offices of

Administration, Crime Prevention and Reduction Strategies and separate programs for each of the newly merged agencies.

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

The DCJS budget includes \$34.5 million for aid to local probation departments and additional federal funds are also directed to help offset probation aid cuts; which is the same amount that was budgeted in the previous year.

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 50 state correctional facilities, 62 county jails and the New York City correctional system comprising 18 facilities, and three secure centers operated by the Office of Children and Family Services. The Commission’s budget for SFY 2021-2022 is \$2.95 million.

In the State of New York, there were 51 deaths in correctional facilities, and 4 were the result of a homicide; 15 deaths were the result of suicide, 14 from overdose, 16 from natural causes, 1 from unknown causes and 1 from COVID-19. The Commission received and responded to 162 Freedom of Information Law requests for records of the Commission on Correction.



Chairman Weprin outside Rikers Island advocating for safer working conditions for women working in correctional facilities, joined by City Council Speaker Adrienne Adams and Correction Officers' Benevolent Association (COBA) President Benny Boscio Jr.

IV. COMMITTEE ACCOMPLISHMENTS

A. Significant Legislation Advanced by the Correction Committee in 2021

The Correction Committee advanced the following legislation which passed both houses in 2021:

Double-Bunked Housing – Relates to the prohibition of double-bunked housing in correctional facilities. (A.702, Jones/S.2211, Sepulveda)

Good Conduct Certificates – Relates to certificates of relief from disabilities and certificates of good conduct upon discharge. (A.5549, Richardson/S.2630, Sanders)

Less is More – Relates to revocation of community supervision. Modifies the standard of evidence and certain other procedures when determining whether to revoke the community supervision of a person. (A.5576-A, Forrest/S.1144-A Benjamin)

Pregnant Incarcerated Women’s Rights – Permits a pregnant incarcerated woman to choose one support person to accompany her into the delivery room during the birth of a child. (A.616-A, Rosenthal L/S.5399-A, Biaggi)

Prison Oversight – Relates to the correctional association’s ability to access, visit, and examine all state correctional facilities. (A.1249, Weprin/S.875, Sepulveda)

Medicated Assisted Treatment – Relates to the establishment of a program for the use of medication assisted treatment for incarcerated individuals in both state and county correctional facilities; reporting requirements; substance use disorder treatment and transition services implemented in jails. (A.533, Rosenthal L/S.1795, Bailey)

Merit Time Expansion – Adds the completion of 18 credits in a degree-granting higher education program registered by the New York State Education Department (NYSED) to an existing list of criteria that may qualify an eligible incarcerated individual for merit time allowance. (A.3078, Epstein/S.261, Myrie)

Solitary Confinement – Restricts the use of segregated confinement and creates alternative therapeutic and rehabilitative confinement options; limits the length of time a person may be in segregated confinement and excludes certain persons from being placed in segregated confinement. (A.2277-A, Aubry/S.2836, Salazar)

In addition, the Assembly passed the following bills:

Dyslexia Screening – Requires a reading proficiency level assessment and dyslexia screening for certain incarcerated individuals. (A.2062, Simon, Passed the Assembly)

Breast Cancer Screening – Provides incarcerated individuals with access to breast cancer screenings and information about breast self-examinations. (A.2147-A, Jean-Pierre, Passed the Assembly)

Inmate Information – Requires that websites providing incarcerated individual information be searchable by the individual’s name, former name or alias. (A.7247-A, Abinanti, Passed the Assembly)

Discharge Planning – Relates to the role of the Department of Correction and Community Supervision in planning and facilitating the discharge or release of incarcerated persons to the community. (A.8022, Davila, Passed the Assembly)



Governor Kathy Hochul signs the “Less Is More Parole Reform Act” into law. Sponsored by Assemblymember Pharra Souffrant Forrest, Chairman David Weprin championed the bill for years in the state Legislature, culminating in this historic moment.

B. Budget Highlights from State Fiscal Year 2021-2022

The SFY 2021-2022 enacted budget included language to:

- Provide \$11 million in the State Operations budget for Medicated Assisted Treatment (MAT) in DOCCS facilities
- Provide \$42.3 million for therapeutic and programmatic services related to the HALT Solitary Confinement Act
- The Legislature provided \$30,000 for a Sonogram for Bedford Hills Correctional Facility.

C. Public Hearing: Conditions within the New York City Department of Correction Facilities

On October 1, the Committee on Corrections held a public hearing to discuss the current conditions and seek suggested strategies for improving conditions for incarcerated persons, visitors (including attorneys), corrections staff and court-system employees. Reports indicated that conditions had deteriorated as the Department has confronted the impact of COVID-19, staffing shortages, and other circumstances. The Committee was interested to learn whether changes in state law were needed, such as laws related to the oversight of correctional facilities and the reporting of illnesses, deaths and unusual and violent incidents.



Chairman Weprin leads the October 1st Public Hearing called to obtain information about conditions within the New York City Department of Correction and to seek strategies for improving conditions for incarcerated person, visitors, corrections staff and court system employees.

V. ISSUES TO BE ADDRESSED IN 2022

A. Parole

More than half a million people have been released from New York State prisons since 1985. As of November 1, 2021, there are 31,899 individuals on community supervision and 31,555 individuals in state prison. The declining population of people in custody and on community supervision indicates that most parolees successfully re-integrate back into the community.

Given the importance of a successful parole system, we must ensure that we do everything we can to support the Department and the Board of Parole in its reentry mission. The Committee regularly consults with professionals, academics, law enforcement experts, advocates and the public to evaluate whether the practices and procedures in place today

for both DOCCS and the Board of Parole are fair and effective, and to make recommendations to improve future outcomes. In 2022, the committee will focus on reforming the parole revocation process, continue to advance bills for needed parole reforms and support legislation to ensure that individuals who do not pose a public safety risk are released to community supervision.

B. Visitation

Visitation is the most important predictor of successful re-entry for people leaving prison and has a major effect on preserving family ties. The committee recognizes the vital impact that this legislation will have on bringing parents closer to their children.

On July 3, 2021, DOCCS began to allow family members to embrace individuals at the beginning and at the end of each visit. The Family Reunion Program was also resumed on September 8, 2021, which provides incarcerated individuals and their families the opportunity to meet in a private home-like setting. Research demonstrates that visitation not only eases re-entry into society, but also promotes the adjustment and well-being of individuals during their incarceration.

This is why the Committee strongly supports A.4250-A (Weprin), which would formally establish in-person visitation programs in state and local correctional facilities and ensure that video visitation cannot replace in-person visits. The Committee understands the importance and value that family and visitation bring to incarcerated individuals and hopes to see the bill pass the Assembly next year.

C. Housing

Thousands of incarcerated individuals are released to community supervision from New York State correctional facilities, the majority of whom are sent to New York City. A significant number of formerly incarcerated individuals are discharged into the local shelter system directly from state correctional facilities. This does little to support the parolee or lower recidivism rates, and it exacerbates the homelessness crisis in local communities across the State where parolees are being discharged. The Assembly passed A.8022 (Davila) in the 2021 legislative session, which would ensure individuals being released from state and local correctional facilities receive appropriate support and services when reentering the community. This bill would include an assessment of the individual's access to housing and preparation to aid for such a person's successful transition to adequate and stable housing.

In 2022, the committee also hopes to see A.7593 (Weprin) pass the Assembly, which would require the department to assist incarcerated individuals with housing before they are discharged from a correctional facility to community supervision. The city social services district has implemented a broad range of programs and services aimed at lowering the shelter census and, for the first time in a decade, the number of people in its shelter system has stabilized. The current number of formerly incarcerated individuals entering shelters comes at great cost to New York City and other localities and

undermines local efforts to control spending and reduce the number of people in shelters. Research suggests that securing stable housing is a critical first step to successful re-entry.

D. Higher Education

The benefits of post-secondary correctional education are clear. Studies have consistently found that the higher the level of education attained, the more likely a formerly incarcerated individual will be to obtain gainful and stable employment, and the less likely he or she will be to engage in future criminal activity. The New York State Commission on Sentencing Reform reported that post-secondary correctional education programs have been shown to reduce recidivism by up to 40%. The Bard Prison Initiative reports that 97.5% of BPI graduates who leave prison never return back, and similarly 85% of BPI alumni are employed within two months of returning home¹. The committee saw the passage and signage of A.3078 (Epstein), which would add the completion of eighteen credits from a degree-granting higher education program registered by the New York State Department of Education, to an existing list of criteria that may qualify an eligible incarcerated individual for merit time release.

There are 29 state correctional facilities operating degree-granting programs. While there is still great unmet need for college programs in New York correctional facilities, this year, the U.S. Department of Education selected 67 new higher education institutions², including 5 from New York, to participate in a second cohort of the Second Chance Pell Program. According to the DOCCS, to date, there are 12 state correctional facilities, including Bedford Hills and Taconic that are funded by the Second Chance Pell Initiative³. The expansion of this program should help increase enrollment in these vital rehabilitation programs. Assembly Member Aubry sponsors A.2276 that would repeal paragraph d of subdivision six of section 661 of the education law relating to the eligibility of incarcerated students for general or academic performance awards. This bill would reverse the 1995 decision when New York prohibited incarcerated individuals from accessing state funds through the Tuition Assistance Program (TAP) for post-secondary education. Many college programs operating in prisons throughout the state shut down after TAP was discontinued. Although this bill is in the Education committee, the Correction committee supports this piece of legislation and will continue to work for the expansion of higher

¹“By The Numbers Archive,” Bard Prison Initiative (Bard Prison Initiative), accessed December 9, 2020, <https://bpi.bard.edu/by-the-numbers/>.

² U.S. Department of Education. (2020, April 24). *Secretary DeVos Expands Second Chance Pell Experiment; More than Doubling Opportunities for Incarcerated Students to Gain Job Skills and Earn Postsecondary Credentials*. <https://www.ed.gov/news/press-releases/secretary-devos-expands-second-chance->

³ Department of Corrections and Community Supervision. College Programs. <https://doccs.ny.gov/college-programs>.

education in correctional facilities and urges the Governor to reinstate TAP grants for incarcerated individuals.



The first annual Suitcase Sunday took place on July 18th at Baisley Pond Park in Queens. Chairman Weprin speaks with advocates representing Release Aging People In Prison (RAPP), From Tragedy 2 Triumph, Katal Center and Father's Alive In the Hood. The event, organized by Witness to Mass Incarceration and sponsored by Speaker Adrienne Adams, was an opportunity for formerly incarcerated individuals to showcase their goods and services.

