



NYS Assembly Correction Committee Newsletter



YEAR IN REVIEW, DECEMBER 2014

Sheldon Silver, Speaker • Daniel O'Donnell, Chair

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LETTER FROM CHAIR

Dear New York Corrections Stakeholder,

In the two years that I have had the privilege of chairing the Assembly Correction Committee, I have worked hard to improve the correctional system in our state. While I am proud of the progressive reforms that have been introduced during my tenure as Chair, I am looking forward to fighting for further changes during the 2015-16 legislative session. With this newsletter I want to tell you what the Committee accomplished in 2014 and share some of our aspirations for the new session. In late 2013, the Committee held a public hearing on parole practices in New York State. As a result of that hearing, I introduced a number of bills in the 2014 legislative session to increase public safety while releasing prisoners from state custody to parole as soon as it is safe to do so. In the coming year, we will again advance legislation to rationalize and modernize the Parole Board's decision-making process.

This November the Committee held a joint public hearing with the Assembly Committee on Mental Health focusing on mental illness in correctional settings. The Committees heard testimony from stakeholders, experts, advocates and family members about progress in correctional mental health treatment and the challenges that still remain in helping New Yorkers with mental illness who are caught up in the criminal justice system. Following up on that hearing, I will introduce new legislation to change some of the current policies and practices around mental health services in jails and state prisons.

The Committee will also continue to focus on the reform of solitary confinement practices throughout New York, both for the general population of inmates and for inmates with special vulnerabilities. The state prison system is involved in settlement negotiations concerning the use of Special Housing Units (SHU). Once those negotiations are completed, my colleagues and I will evaluate the need for legislation relating to the settlement agreement.

Additionally, the United Nations Committee Against Torture has made some specific recommendations regarding the overuse of solitary confinement in this country. The Committee will take those recommendations seriously and seek solutions to make sure that New York correctional facilities comply with international human rights standards.

As we begin the new year and the new legislative session, I know we still have much work to do to improve the correctional system in New York State, but we also have achievements of which to be proud. New York's prison population continues to decline, four more prisons were closed in 2014, Rikers Island has removed very young inmates from solitary confinement, and State DOCCS has begun to divert adolescent, developmentally disabled, and pregnant inmates from SHU. I look forward to more progressive changes that will solidify New York's role as a leader in criminal justice reform in the United States.

Very truly yours,



Assembly Member O'Donnell, joined by his colleagues Aileen Gunther, Chair of the Committee on Mental Health; Ellen Jaffee; and Donna Lupardo, questions an attendee of the Hearing on Mental Health in Correctional Settings.

Correction Committee Efforts in 2014 and 2015

In 2014 the Correction Committee advanced legislation addressing a number of top priorities, including critical improvements to prison discharge planning for people with mental illness, exclusion of pregnant women from solitary confinement, HIV prevention, protection of formerly incarcerated people from employment discrimination, changes to the parole process, educational opportunities for prisoners, and improvements to the state's sex offender registry. In the coming year, Assembly Member O'Donnell will pursue progressive legislation to build on his previous efforts and improve our criminal justice system. His particular emphasis in 2015 will be on enhancing mental health treatment for parolees and inmates in local and state correctional facilities, expanding medical and geriatric parole, banning solitary confinement for especially vulnerable segments of the prison and jail populations, limiting solitary confinement for all prisoners, increasing access to higher education for prisoners, and removing barriers to re-entry into society.

In the following pages, you will find information about individual pieces of legislation that were passed and/or signed into law in 2014, as well as related sections on how Assembly Member O'Donnell and the Correction Committee plan to advance these efforts further.

Mental Illness in Correctional Settings

2014 PUBLIC HEARING

On November 13th, Assembly Member O'Donnell and Assembly Member Aileen Gunther co-chaired a joint public hearing held by the Assembly Committees on Correction and Mental Health, focusing on the status of mentally ill inmates in our prisons and jails. The issue is widespread: approximately 40 percent of the inmates on Rikers Island have a diagnosed mental illness, while 17 percent of the prisoners in the state correctional system are on the Office of Mental Health caseload. The Committees sought to investigate what changes are necessary to provide adequate treatment for those with mental illness in the criminal justice system, and to promote the diversion of individuals who do not belong in the criminal justice system and would be much better served by mental health or other facilities. The Committee specifically solicited testimony on mental health treatment programs in prisons and jails throughout the state, and the effectiveness of the SHU mental health exclusion law. This law, which came into effect in 2011, requires diversion for seriously mentally ill inmates who "could potentially" be in SHU for over 30 days.

The hearing format followed the experience of a mentally ill person through the system, starting with arrest, then moving to arraignment, jail, prison, and finally parole and/or release. Committee members heard testimony from stakeholders at each stage of this process, from public defenders to correctional staff, and from family members and former inmates themselves. The commissioners of the New York City and state correction departments, as well as other city and state officials, testified about innovations in programs for the treatment and housing of inmates with mental illness within their respective correctional systems. In especially moving testimony, the parents of a 21-year-old man with mental illness who committed suicide at Fishkill Correctional Facility in October testified about the circumstances leading up to their son's death. Another man testified about his own lapse into psychosis over a weekend in a county jail without access to his psychiatric medications. Families of prisoners, public defenders, non-profit service providers, union members and advocates testified as to improvements that could be made to prevent mentally ill inmates in state and local correctional facilities from having their symptoms exacerbated while in custody. It is clear that change is needed, and Assembly Member O'Donnell will continue to work with his colleagues to pass legislation to improve the treatment and diversion of people with mental illness who are caught up in the criminal justice system.

2014 LEGISLATION

Mental Health Discharge Planning (A.10071, Passed Both Houses)

Requires mental health discharge planning for all prisoners with a recent history of mental health treatment, including an appointment with a community prescriber and sufficient medications to bridge the gap between release from prison and the first psychiatric appointment. The bill also allows regional directors of community supervision to initiate involuntary mental hospital commitment proceedings for mentally ill people under community supervision.

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 de-compensate.

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

Ensures that mental health training is updated annually for prison employees who have direct contact with inmates in order to prevent suicide and self-harm.

"Younger inmates with mental illness are especially vulnerable."

PLANS FOR MENTAL HEALTH TREATMENT REFORMS

Many mentally ill inmates have a particularly difficult time adapting to life in prison. Younger inmates with mental illness are especially vulnerable. While the state Department of Corrections and Community Services' (DOCCS) Intermediate Care Program is a successful model for providing mental health treatment and programming for a small number of people, most inmates with mental illness live in general population, where therapeutic services are limited. Additionally, although the majority of prisoners have experienced violence or abuse, there is very little trauma-informed therapy within the prison system.

In the coming year, the Correction Committee plans to explore legislation to implement needed reforms to mental health services in jails and prisons. It will specifically consider legislation mandating adequate therapy and services for traumatized and mentally ill inmates.

Public Safety, Public Health

2014 LEGISLATION

All Sex Crimes on Sex Offender Registry (A.6074, chapter 462 of the Laws of 2014)

Requires the Division of Criminal Justice Services to publish all offenses of which a sex offender has been convicted—including all which require registration on the sex offender registry database—not just the most recent crime of conviction.

Preventing HIV (A.3496, Passed Assembly)

Requires DOCCS 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.

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

Ensures that offenders with out-of-state convictions for offenses that in New York would require registration as a "sexually violent offender" appear on the sex offender registry as such.



Christine Pahigian (center), Executive Director of Friends of Island Academy, testifies about the plight of the mentally ill in prisons at Assembly Member O'Donnell and Assembly Member Gunther's hearing. Also pictured: Lisa Schreibersdorf, Executive Director of Brooklyn Defender Services, and Kevin O'Connell, Supervising Attorney for New York County Defender Services.

Solitary Confinement

OVERUSE OF SOLITARY

The United Nations Committee on Torture has identified the use of solitary confinement in the United States as a violation of the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). The Committee recently recommended that long-term solitary confinement in US prisons be eliminated or at least reduced. At any given moment there are approximately 3,800 New York state prisoners, or 7% of the prison population, housed in segregated disciplinary units known as Special Housing Units (SHU). An unknown number of inmates are also confined in similar long-term “keeplock” units or are keeplocked in their own cells. Inmates in keeplock and SHU are locked into their cells 23 hours a day, with one hour of recreation time, usually spent alone in a bare outdoor cage. Inmates in SHU are denied phone calls, personal property, commissary privileges, and out-of-cell programming, including classroom-based educational programming. There is no limit to the amount of SHU time an inmate may receive as a sanction for a finding of misbehavior in New York prisons; prisoners with serious or multiple infractions may stay in SHU for years. Only about 16% of the inmates in SHU are placed there for incidents involving assaults or weapons, meaning the majority of inmates in SHU are there for non-violent misbehavior and drug use. A limited interim settlement agreement in a class action law suit has removed most

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adolescents, pregnant women, and developmentally disabled inmates from SHU. This still leaves a great portion of the overlarge SHU population behind.

Heavy reliance on solitary confinement is not only a state prison policy. The use of solitary confinement has increased 44% at Riker’s Island since 2010. In a positive development, the commissioner of the city Board of Correction has pledged to remove adolescents from SHU by the end of 2014.

The Committee on Correction will continue to seek a reduction in the use of solitary confinement for both juveniles and adults in New York State jails and prisons. Committee members will introduce new legislation concerning solitary confinement in 2015.

2014 LEGISLATION RELATING TO PREGNANT INMATES

In 2014, the Assembly passed a bill to exclude pregnant women from SHU and to ensure that they receive appropriate medical care, mental health care, and nutrition throughout their pregnancies, regardless of any disciplinary charges against them. The Committee will place this bill on the agenda again in 2015.

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

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

Parole and Recidivism Prevention Bills Passed in 2014

Providing Notice of Availability of Services to Prisoners upon their Release from State Prison (A.231; Passed Both Houses)

Requires state prisons to provide notice of services available in the community to which an inmate is being released. Such services would include mental health services, drug treatment, employment-related opportunities, vocational training, housing-related services, medical services, and programs that facilitate the re-entry of such persons into the community.

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

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

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

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

Administrative Bills Passed in 2014

Increases the Internet Availability of Visitation Rules for Correctional Facilities (A.4606, chapter 286 of the Laws of 2014)

Requires DOCCS to make available on their website the individual rules and restrictions relating to visitation for each of its fifty-four correctional facilities.

Expands Appointments to the Citizen’s Policy and Complaint Review Council (A.9166, chapter 139 of the Laws of 2014)

Permits appointment to the State Commission of Correction’s Council to include a veteran of any foreign war, conflict, or military occupation (rather than just the Vietnam War) and allows appointment of a licensed health care professional to the Council.



Assembly Member Nily Rozic (L) and Assembly Member O’Donnell listen to testimony at the mental health hearing.



Assembly Member O'Donnell visits Attica Correctional Facility this fall.



Assembly Member O'Donnell and Manhattan District Attorney Cyrus Vance participate in a Columbia University Mailman School of Public Health Conference, A Public Health Approach to Incarceration, in June, 2014.

Prison Tours in 2014

Assembly Member Daniel O'Donnell visited 13 state and local correctional facilities in 2014: Albion, Attica, Cape Vincent, Clinton, Eastern, Greene, Green Haven, Ogdensburg, Riverview, Sing Sing, Taconic, Rikers Island, and Albany County jail. With the 12 visits conducted in 2013, he has now visited 23 prisons for a total of 25 visits. At the state correctional facilities, Chairperson O'Donnell met with the superintendents, staff, and members of the Inmate Li-

aison Committee and other inmate associations. He also visited the special housing unit in each of the prisons that he had not previously toured. During 2015, Chairperson O'Donnell and Committee members will tour more state facilities throughout New York, as well as go on tours of local correctional facilities and attend several parole board interviews.



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