



# THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY

Joint Legislative Hearing Senate Crime Victims, Crime and  
Correction and Assembly Standing Committee on Correction

*“Safety of Persons in Custody, Transparency, and  
Accountability within State Correctional Facilities”*

May 14, 2025

Testimony by Wayne Spence, President

Good morning, Chairpersons Salazar and Dilan and other honorable members of the Legislature. My name is Wayne Spence and I am the President of the Public Employees Federation (PEF). I want to thank you for the opportunity to provide testimony on behalf of our 54,000 members about the safety of persons in custody, transparency, and accountability within state correctional facilities in New York State.

**I. Background of PEF Members at DOCCS:**

The NYS Public Employees Federation represents nearly 4,500 Department of Corrections and Community Supervision (DOCCS) members, including those who work within the prison health system, rehabilitative services, education, vocational training, drug treatment and many other titles that provide programs and services to incarcerated individuals. We also represent Parole Officers and Revocation Specialists, who work with the formerly incarcerated. These are all areas critical to help DOCCS fulfill its mission and provide needed services to those who are part of the criminal justice system.

PEF fully supports the effort to reduce the state's incarcerated population and to enhance security and safety for all incarcerated individuals and staff at DOCCS. To that end, we believe that the state must also do much more to meet its obligation to increase staff, enhance staff training and support and provide accessible state-operated support and services for both the incarcerated and formerly incarcerated population.

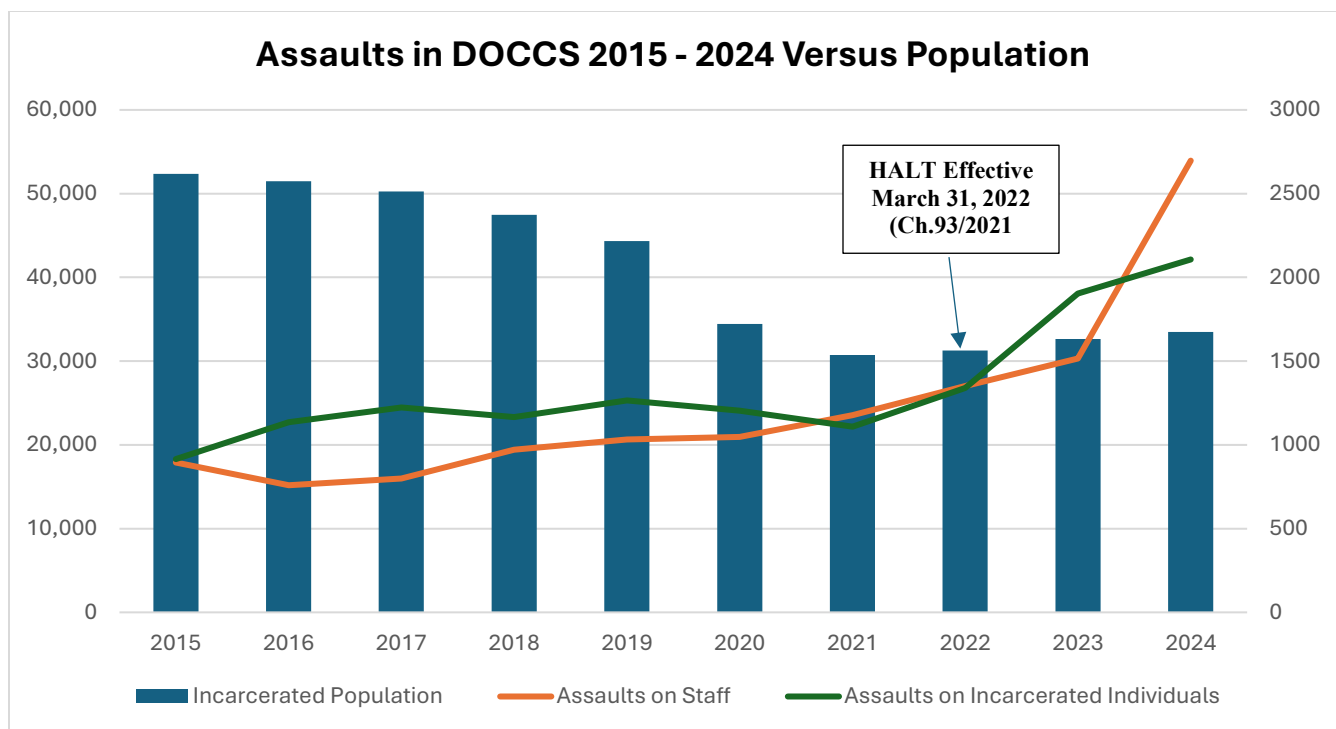
**II. Universal Pillars of Understanding Regarding Violence at DOCCS:**

- All New Yorkers support the humane treatment of all people in this state;
- It is absolutely unacceptable for any individual to come into harm's way while in the custody of or working for DOCCS;
- All incarcerated individuals and staff want to return home to their lives, families and their communities without injury or harm;
- Violence is violence regardless of who perpetrates such violence;

- All stakeholders should have a seat at the table, all stakeholders should be heard and all stakeholders have a responsibility to work toward common sense and common ground solutions to end the cycle of violence in the state’s DOCCS facilities.

### III. Understanding the Problem:

- A. **Assaults of Incarcerated Individuals and Staff Are Increasing:** Data released by DOCCS indicates that assaults and injuries against incarcerated individuals and staff are up significantly since the enactment of the “Humane Alternatives to Long-Term” (“HALT”) Solitary Confinement Act was enacted in 2021. Assaults against incarcerated individuals are up 57% and assaults against staff are up 99% from 2020 to 2024.



**Increase in Assaults in NY Correctional Facilities 2020-2024**

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
<b>Total Population</b>	52,344	51,466	50,271	47,459	44,334	34,446	30,746	31,269	32,633	33,465
<b>Assaults on Staff</b>	895	759	799	972	1,033	1,047	1,177	1,351	1,516	2,697
<b>Assaults on IIs</b>	915	1,135	1,224	1,165	1,265	1,205	1,108	1,340	1,904	2,107

(Source: DOCCS Monthly Fact Sheets, December 1, 2015 – December 1, 2024<sup>1</sup>)

<sup>1</sup> See also, <https://doccs.ny.gov/research-and-reports>

The increase in assaults and injuries at DOCCS is also reflected in the “Annual Report of NYS Government Employees’ Workers’ Compensation Claims” from 2023-2024, which clearly indicates the differentiation of DOCCS versus other agencies and our collective need to find solutions to enhance security for all.

#### 2023-2024 Workers’ Compensation Claims at DOCCS

	Incidents	Lost Days	Workers Comp Costs	Medical Costs	Total WC Costs
DOCCS Vs.	6,949	109,831	\$9,055,748	\$12,275,339	\$21,331,087
Total all Agencies	14,993	303805	\$36,055,739	\$29,483,347	\$65,539,086
% of DOCCS Claims	46.3%	36.2%	25.1%	41.6%	32.5%

(Source: NYS Department of Civil Service “Annual Report of NYS Government Employees’ Workers’ Compensation Claims;” [Annual Report of NYS Government Employees' Workers' Compensation Claims 2023-2024](#))

#### B. Staffing Issues Persist at DOCCS:

DOCCS cannot deliver quality and effective services or maintain appropriate security protocols to protect incarcerated individuals and staff without adequate staffing. The state has rightly begun to address its long-standing staffing issues by reducing arbitrary barriers to hiring practices and improving compensation and benefits for employees, but even more needs to be done to support DOCCS and other state agencies supporting at-risk New Yorkers.

#### Staffing Levels at DOCCS

					Staffing 2013-23		Gov. Hochul Staffing 2021-23		Overtime Cost
Select Agencies	Staff	Staff	Staff	Staff	2013 vs. 2023	2013 vs. 2023	2021 vs. 2023	2021 vs. 2023	
Year	2013	2021	2022	2023	Difference	Percentage	Difference	Percentage	2023
DOCCS	30,162	26,845	25,202	23,911	-6,251	-20.7%	-2,934	-10.9%	\$353M

(Source: NYS New York State Agency Use of Overtime and State Workforce Trends, 2013 – 2023, Office of the State Comptroller, May 2023)

The continued loss of staff has equated to an explosion in overtime costs and decreases in safety and security. Even before the “wildcat strike,” the state continued to pay significantly more in personnel costs to provide a minimal baseline of security, oversight and programming.

The reliance on mandatory and other overtime to cover shifts, to deliver services and to monitor incarcerated individuals is not a cost-effective method to support the needs of this population.

**Total Hours Overtime Worked  
2020-2023**

<b>Agency</b>	<b>OT Hours 2021</b>	<b>OT Hours 2022</b>	<b>OT Hours 2023</b>	<b>OT Difference 2021 vs. 2023</b>	<b>% Increase</b>
DOCCS	4,525,292	5,290,451	6,160,437	1,635,145	26.5%

(Source: *NYS New York State Agency Use of Overtime and State Workforce Trends, 2013 – 2023*, Office of the State Comptroller, June 2024)

**V. Policy Solutions in Motion:**

PEF appreciates the efforts of policymakers to address violence in the state’s correctional facilities on the heels of the murder of Robert Brooks, which was captured on body-worn cameras at Marcy Correctional Facility, and in the wake of the recent death of Messiah Nantwi at Mid-State Correctional Facility. To enhance transparency and accountability, the Governor has proposed increasing DOCCS’ budget by adding \$400 million for acceleration and continued installation of fixed cameras in all facilities, \$18.4 million for the expansion of the body-worn camera program and \$7.2 million to expand and restructure the Office of Special Investigations (OSI).

Additionally, the Governor also proposed the following policies which were included in the final 2025 State Budget.

- A. Expanded use of body cameras, including use by certain civilian staff;
- B. The expedited closure of up to three more prisons with 90 days’ notice; and
- C. Expanded oversight and latitude available to the State Commission on Corrections.

**VI. Additional Policy Prescriptions That Require Additional Consideration:**

**A. Rebuild DOCCS Professional Workforce:**

One area that was not addressed in the state budget was how to deal with the staffing crisis at every level of DOCCS. Policymakers repeatedly indicate that New York wants to transform

its correctional system to provide more therapy and support, but resources dedicated to those purposes continue to be elusive.

By most estimates, about 40% of the incarcerated population have mental health issues, addiction problems, and/or learning or behavioral disabilities. Yet, the state does not have adequate staffing to provide even a base level of security, let alone treatment and support. The state needs to invest in staffing and professionalize the staff at DOCCS. To that end, PEF recommends the following:

1. Increasing Compensation for Staff: The state just increased compensation for corrections officers and should do the same for the civilian staff so the state can attract and retain quality candidates and so quality candidates from across the state actively seek employment at DOCCS. These are difficult jobs that require significant training and re-training. Simply opening up the candidate pool to younger, less experienced individuals as staff simply doubles down on the current system that undercuts the need for educational experience and maturity to provide effective rehabilitation and treatment;
  2. Expand Educational Requirements for Staff: Increase the academic and other qualifications for corrections officers so the state is attracting quality candidates for these important roles;
  3. Professional Development: Expand training and professional development opportunities and requirements so staff can deal with behavioral and other issues, training on de-escalation techniques, and requirements for periodic re-training so staff can stay current; and
  4. Mental Health Support: Develop professional mental health support networks for corrections officers and staff and de-stigmatize such support by making it a regular and normal requirement of employment.
- B. Expand Access to Protective Custody: The HALT Act restricted the use of segregated housing units for protective custody. PEF supports allowing facilities to use segregated housing units for protective custody, if needed. The state needs to develop a fair process for placement and such placement could not extend beyond a certain point without extenuating circumstances. Allowing incarcerated individuals to access this type of safe space enhances the security of the individual, while also mitigating any need to commit an assault or other offense to be remanded to segregated housing under the current law (Correction Law, Section 136 (6)(k)).

C. **Personalized Treatment and Sanctions for Repeat Offenders:** The HALT Act required “therapeutic programming” for incarcerated individuals who committed certain dangerous violations (Correction Law, Section 137 (6) (k)(ii)). However, under current law, there are limited sanctions available for incarcerated individuals who repeatedly violate those provisions. In order to establish the need for personalized mental health treatment and to remediate behaviors through progressive discipline for incarcerated individuals who commit two or more dangerous violations in a 12-month period, PEF supports the following course of action:

1. **Personalized Mental Health Treatment for Repeat Offenders:** PEF proposes altering the current recreation requirements of two hours of treatment and two hours of recreation time for incarcerated individuals remanded to segregated housing for violations of Correction Law, Section 137 (k)(ii) to three hours of personalized treatment per day with a mental health specialist, with an additional hour of recreation time;
2. **Restraints Required for Repeat Offenders:** Currently the use of restraints is optional for a single violation. PEF proposes requiring restraints required for incarcerated individuals who commit two or more violations of Correction Law, Section 137 (k)(ii) in a 12-month period. Such restraints would be removed after the completion of the individual’s six-day stay in segregated confinement;
3. **Expanded Segregated Confinement for Repeat Offenders:** PEF supports requiring segregated confinement for a mandatory duration of six days for two or more violations of Correction Law, Section 137 (k)(ii) in a 12-month period; and
4. **Expand the Offenses in Correction Law, Section 137 (k)(ii):** PEF supports expanding the list of offenses in Correction Law, Section 137 (k)(ii) to include other actions that harm other incarcerated individuals and/or staff, including:
  - (a) Possession or use of fentanyl or any fentanyl analog or any other narcotic or poison that can harm others if intentionally or accidentally exposed;
  - (b) Engaging in unhygienic acts, including causing or attempting to cause a person to come into contact with blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material (Current Penal Law Section 240.32); or
  - (c) Engaging in lewd behavior in front staff or other incarcerated individuals, including intentionally exposing the private or intimate parts of a person’s body in a lewd

manner or committing any other lewd act in which such person may readily be observed with intent that such person be so observed (Current Penal Law Section 245.00).

- D. **Expanded Treatment**: PEF supports programming to address the mental health, behavioral, addiction and other issues experienced by the incarcerated population to reduce violence and provide for a more successful re-integration upon release. This will break down barriers between staff and the incarcerated population and provide a menu of more effective violence remediation strategies based on the individual's condition(s).
- E. **Merit Time**: PEF support the recent expansion of the merit time program. Merit time programs foster understanding on appropriate conduct and help shape positive behaviors. All merit time programs, however, must have actual benchmarks and demonstrate success. Providing merit time based on time already served, without identifiable and achievable benchmarks to demonstrate positive individual change or achievement, undermines the judicial system and entire merit time concept. Additionally, when expanding these types of programs, the state cannot ignore the fact that parolees who are released through merit time or other early release programs, are still serving the sentences for their original convictions. As such, appropriate staffing is also needed in Community Supervision so there is appropriate oversight and parole officers can continue to support the parolee and build on the positive momentum established with the merit time release.

Thank you for the opportunity to provide testimony on this important matter.

Respectfully submitted,

Wayne Spence

President, New York State Public Employees Federation