

**Testimony of**

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**As part of the**

**Joint Legislative Public Hearings**

**on the**

**2024-2025 Executive Budget Proposal: Public Protection**

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Chairwoman Krueger, Chairwoman Weinstein, and other distinguished Chairs and members of the Legislature, I am Chris Summers, President of the New York State Correctional Officers & Police Benevolent Association, Inc. (NYSCOPBA). On behalf of the more than 30,000 active and retired members of NYSCOPBA, thank you for the opportunity to submit this testimony and discuss the current state of New York's correctional facilities.

I would especially like to acknowledge the members of NYSCOPBA who serve our State with distinction. NYSCOPBA's members are comprised of hard-working and dedicated correction officers and sergeants who are charged with maintaining the care, custody, and control of our State's prison population. Our members also include security hospital treatment assistants and safety and security officers who maintain safety and security at our State's mental health institutions. We also represent the security screening technicians here at the Empire State Plaza that ensure that these historic buildings and government institutions are safe to conduct the people's business.

As President of NYSCOPBA, I have the privilege of advocating for my members and ensuring that the State is making decisions which positively impact my members and recognizes them for the extremely difficult jobs they perform. Unfortunately, their interests and concerns have been ignored for far too long. My members are reaching a breaking point. They continue to be overworked and they endure some of the most hazardous working conditions in New York. With your help, I am confident that we can accomplish what is so desperately needed right now – the creation of safer correctional facilities for all who work and live in New York's prisons.

#### **Prison Closures**

With respect to prison closures, NYSCOPBA is strongly opposed to the language proposed in the Governor's Executive Budget that would authorize the Department of Corrections and Community Supervision (DOCCS) to close up to five (5) correctional facilities in the next fiscal year. NYSCOPBA argues that closures will exacerbate violence at facilities because it will increase the density of incarcerated individuals and understaffed facilities will be unable to provide the level of care, custody and control required to maintain safe living and working conditions. Violence against other incarcerated individuals and staff continues to break records since the implementation of the Humane Alternatives to Long-Term Solitary Confinement Act (HALT). Members continue to resign or retire at unsustainable rates due to the dangers and rigors of the job not being commensurate with the salary, the quality of life, and the risk of harm. Recruitment efforts are ineffective for the same reasons. Closures do not provide long-term staffing relief because members will be forced to choose between uprooting their lives and families to find a new place to call home or leaving in retirement or for a different career. The mandated overtime required to cover those inevitable staff departures will further strain existing staff already at their breaking point. Numerous scientific and workforce studies regarding the negative effects of shift work and mandatory overtime in law enforcement support this and the conclusion that burnt out staff cannot provide their best quality work product. Therefore, the cycle of increased violence due to higher incarcerated individual density, along with employee burnout, will make prison conditions even more volatile.

Closures do not provide a long-term solution to staffing deficiencies. Staffing shortages create a long-term problem for increased violence. When five (5) more of our facilities close, those people who can retire will retire. People who cannot uproot their lives will quit instead of driving hours each day to get to and from work. To make matters worse, closing prisons within ninety (90) days, regardless of

Correction Law 79-a & 79-b (which requires that one (1) year notification be given for proposed correctional facility closures), and without an economic impact study, devastates affected communities.

NYSCOPBA calls for the State to reconsider its position on closures, keep facilities open, decrease incarcerated individual density so they are not forced to live on top of one another, provide additional compensation for staff to incentivize recruitment and retention, and take other affirmative steps to reduce the violence and increase safety. Prisons should be safe for everyone. Failing to recruit and retain staff, and instead closing prisons and filling blocks and housing units to maximum capacity, makes prisons more dangerous. We encourage the members of the Legislature to support NYSCOPBA's call to reject the language contained in Part D

### **Morale/Recruitment/Retention**

The Executive Budget proposal unveiled last week highlighted a State workforce crisis throughout various agencies. No agency, however, has been more negatively impacted by a declining workforce pool than DOCCS. For various reasons already conveyed and for the reasons explained below, the State is not only unable to recruit new DOCCS employees, it is also unable to prevent the mass exodus from the Department that has been occurring in recent years – an exodus exacerbated by the implementation of HALT. Officers who have decades of experience are simply walking away from the job because it is too dangerous. Perhaps more troubling is the fact that officers with very few years of service on the job – many of whom who are not yet vested in the State's pension system – are walking away from DOCCS out of fear. People are genuinely afraid to come to work!

Prospective candidates see the skyrocketing prison violence data and simply withdraw their applications. Others begin employment at the corrections academy only to quit once they take their initial prison tour. The inability to hire and the inability to retain staff create daily staffing shortages, mandated overtime, and loss of regularly scheduled days off for existing officers. The working conditions are so grim, I fear not only for the health and safety of our members, but for the future of our facilities. We simply cannot continue down this path.

The news of additional facility closures is certainly not going to have a positive impact on employee morale. Sadly, morale has plummeted to an all-time low and relief does not appear to be in sight. The current staffing crisis is largely to blame for low employee morale. The State's inability to attract new employees is being outpaced by those separating from service. This results in the current staff being overworked to levels that are not healthy or sustainable. It should come to no one's surprise that the State Comptroller's annual report on State agency overtime spending routinely cites DOCCS, OMH and OPWDD as the State agencies creating the highest amounts of overtime.

Aside from the traditional methods of attracting new employees (i.e., standard State civil service entrance examinations, job fairs, marketing campaigns, etc.), current employees are oftentimes our best recruiters. For years, working in corrections was a generational rite of passage. Sons and daughters would follow in their parents' and grandparents' footsteps in this career. Today, however, more and more of my members are dissuading their family members and friends from entering into a career in corrections, or law enforcement, because the risk is no longer worth the reward. The same can be said for our brothers and sisters in OMH and OPWDD who are subjected to very similar working conditions and overtime mandates and are less likely to encourage others to follow in their career path.

As previously stated, we are losing our most seasoned correction officers at a staggering rate. The risk of remaining on the job is surpassed by the need to provide financial security and for my members to "be there" for their loved ones. One solution that NYSCOPBA has brought to the State to address retention issues is our "Death Gamble" legislation. This legislation would provide NYSCOPBA members in the section 89 retirement plan with a benefit that would allow the beneficiaries of an employee who is retirement eligible but who unfortunately dies, to receive the member's pension benefit. This is a benefit that our members' beneficiaries will only receive upon the employee's death. It is time that we start providing incentives for our employees while they are still living.

We are grateful for the Legislature's overwhelming support on the Death Gamble bill last session and in prior sessions. However, we were disappointed in December when the bill was vetoed for a third time, citing the cost that the State would be required to pay into the retirement system (approximately \$11 million). Should prison closure language be included in the enacted fiscal plan, NYSCOPBA is requesting that a portion of the projected cost savings be reallocated to fund NYSCOPBA's Death Gamble legislation, as well as additional financial incentives for my members.

### **Violence**

For years, the leadership of NYSCOPBA has sat before you here and warned that enacting policies like HALT would lead to more violence, and unfortunately, we were right. The proponents of HALT in the New York State Legislature refuse to acknowledge the data, instead doubling down on their misguided beliefs that HALT would make our prisons and jails safer. They were wrong then and they still refuse to acknowledge the carnage that they have unleashed in our facilities.

Unfortunately, due to the implementation of the HALT law, corrections staff have been stripped of the tools needed to separate those who continue to cause chaos in our prisons. The watered-down disciplinary system has emboldened incarcerated individuals who have no fear of consequences that result from violent and dangerous acts. In society, law breakers go to prison to keep them separate from the population. The same used to be true in our correctional system, which was certainly more beneficial to DOCCS employees and the incarcerated population from a safety perspective. Now, the worst of the worst roam freely without meaningful consequence for their egregious behavior and staff suffer, those seeking to rehabilitate themselves suffer, and their families suffer.

After another record setting year for violence in 2022, 2023 has now been recorded as the most violent year since DOCCS has been recording statistics. According to DOCCS statistics, in 2023 there were 1,672 recorded inmate assaults on staff (2022 – 1,474) and 2,113 inmate-on-inmate assaults (2022 – 1490). These statistics prove that we are headed in the wrong direction. NYSCOPBA has continuously called for a bi-partisan commission to be formed to effectively study the causes and impacts of violence in State prisons. Those calls have been met with silence. Until we have a clearer understanding of what is causing the violence in our facilities, the State should refrain from creating more uncertainty and alarm by closing more prisons.

It should be noted that even with prison closures and a significant decrease in the incarcerated population, (currently at one of the lowest levels in decades), the violence in State prisons has continued to increase to levels we have never seen before. In 1999 at its peak population, New York State prisons held 72,649 individuals in custody. On January 1st of this year, there were 32,766 individuals in custody, a 45% decline in the population. However, the individuals held in prison today are more likely to have

been convicted of violent felonies. The chart below illustrates the significant increase in violence in relation to the declining inmate population from 2012-2023.

Of the 32,766 individuals currently in custody, 30,580 (over 90%), are housed in medium and maximum security-level facilities. 3 out of every 4 (23,049 or 75%) inmates held in medium and maximum security facilities have been convicted of violent felony offenses. When broken down by security level, 87% of those held in maximum-security facilities have been convicted of a violent felony offense. 65% of those held in medium-security facilities have been convicted of a violent felony offense. Closing more prisons will only increase the concentration of violent felony offenders by cramming more inmates into less space resulting in more violence.

As described above, our members are being assaulted in record numbers. What seems to be forgotten by the decision makers is that the incarcerated population is also suffering from the record number of assaults committed by other incarcerated individuals. Since the implementation of the HALT Act on April 1, 2022, violent assaults among the incarcerated population have exploded. From 2022 to 2023, there was a 42% increase on the inmate-on-inmate assaults from year to year. Comparing the inmate-on-inmate assaults from 2021 and 2023, the number of inmate-on-inmate assaults grew by a staggering 90% (1110 inmate-on-inmate assaults in 2021; 2113 inmate-on-inmate assaults in 2023).

NYSOPBA continues to call on the Legislature to reject closing prisons and rather spread out the remaining inmate population among the existing facilities. We should allow the staff to separate disruptive inmates from those simply trying to complete their programs, attend their schooling, or learn a trade so they can be productive members of society when they are released.

I propose to you that it's time for our elected leaders to finally listen to the subject matter experts, recognize the factual data, and act accordingly to rectify these extremely serious situations. Ignoring the rise in violence isn't an option. The health and safety of everyone who works or resides in a prison facility is in jeopardy and inaction only puts more lives at risk.

### Number of Assaults in Relation to Inmate Population - 2013-2023

