



THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY

Public Protection Joint Legislative Budget Hearing
2025-2026 Executive Budget Proposal
February 13, 2025

Testimony by Wayne Spence

Good morning Chairs Krueger, Pretlow, 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 portion of the proposed Executive budget relating to public protection.

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (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. However, we believe that the state must also do much more to meet its obligation to provide accessible state-operated supports and services for both the incarcerated and formerly incarcerated population. We are pleased that Governor Hochul has previously provided additional resources for re-entry and other services to facilitate the re-integration of formerly incarcerated individuals back into their communities. Programs and services inside of the correctional facilities need attention as well to help incarcerated individuals be productive members of society once they are released.

On the heels of the reprehensible actions we saw on body worn cameras at Marcy Correctional Facility, the Governor has proposed to increase 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). **PEF FULLY SUPPORTS THESE PROPOSALS.**

DOCCS Staffing:

Many programs are not living up to their full potential as there is not enough staff in place to meet the high demand. We agree with Commissioner Martuscello that there is a dire need for better recruitment and retention within DOCCS in order to staff up programming.

PEF members at DOCCS provide direct health, wellness, education and other services to the incarcerated population – these titles include nurses, rehabilitation specialists, and mental health and addiction specialists. Given our mutual goal of reducing the incarcerated population, we believe the state has a responsibility to expand the number and types of support staff who render mental health, wellness, education, training and addiction services so that taxpayers can be comfortable knowing that the rehabilitation of incarcerated individuals is already happening in advance of what we all hope will be a successful release.

According to the Office of the New York State Comptroller, DOCCS continues to see a decrease in staffing. In 2013, DOCCS had a staff level of 30,162. In 2023, that number dropped to 23,911 (a 21% decrease). While some of this decline can be attributed to the right-sizing of the system with the decrease in the prison population, that is not the only factor. Salary, benefits, mandated overtime, job security and personal safety all contribute to the shortage of DOCCS staff.

The Governor has proposed to increase the staffing level by an additional 481 FTEs as part of this year's budget. This is a good starting point, but setting a staffing level and having the actual employees working are often two different things. The staffing shortage is also demonstrated by the amount of overtime and workers' compensation that emanates from the agency. In 2023, DOCCS accounted for 30% of all state agency overtime payments, at \$353 million. This represents 6.1 million hours of overtime, the highest of any agency. That averages out to 258 hours of overtime for every DOCCS employee.

In addition, for 2023-24, DOCCS had nearly 7,000 workers' comp incidents, resulting in almost 110,000 lost days due to injuries and a total cost of more than \$21 million. These numbers are double that of the next highest state agency (the Office of Mental Health).

Recruitment and Retention:

Salary:

Nearly two years ago as part of the 2023-24 budget, you approved funding for the state Department of Civil Service to conduct a study to examine the pay grades for all state employees. To date, the study has not been completed. A contract for this study was recently awarded to Deloitte and we are hopeful that results will be available by the end of the year. One of the challenges the state faces in attracting and retaining talent is that state salaries are too low for high demand and dangerous jobs. We need to address this problem.

Benefits:

Tier 6 has been a major impediment to both bringing in and keeping employees. While we certainly appreciate the reforms that the Legislature has implement over the last few years (five year vesting, three year final average salary calculation), much more needs to be done, including lowering the employee contribution, providing enhanced benefits after 20 years of state service and allowing for retirement at age 55 with 30 years of service. We believe that further changes will help to make public employment a more appealing option for job seekers.

Mandated Overtime:

Mandated overtime creates a vicious cycle. As employees, particularly health care workers, are forced to work overtime and find that there is no work/personal life balance, they often leave state employment. This further increases the need for overtime for the workers who remain to provide the necessary services for the incarcerated individuals.

Job Security:

While the state claims that no one loses their jobs when correctional facilities are closed, we know that many employees choose not to continue state service after their work location changes. As part of this difficult process when a prison is closed, the Legislature has allowed the last few Governors to circumvent the 12-month notice period. Budget language has allowed for closures to occur within 90 days of the announcement. This is an added stress to those with families trying to decide if they want to move their family or add more time, sometimes hours, to their commute. Having facilities close nearly every year with little notice is not a great selling point for trying to recruit new employees.

Personal Safety:

Safety for both staff and incarcerated individuals is of the utmost importance to PEF. As the prison population has decreased significantly in the last decade, we are concerned about the incidents of violence substantially increasing.

If the state wants to hire and keep the staff it needs for quality programming, they must ensure the safety of the workers. Increased staffing is one component of the solution. Staff also need proper equipment, such as panic buttons, to notify others if there is an emergency situation and they need help.

Improve Agency Culture and Address Bullying and Abuse:

Workplaces have been different since COVID-19 and are losing qualified employees due to inappropriate workplace conduct. The state needs a legislative or regulatory policy to identify and eradicate “bullying” and “abusive conduct” in all state agencies. The state currently has a law requiring all state employees to undertake an education program to identify and eradicate sexual harassment in the workplace, but no training to identify and prevent workplace “bullying” and “abusive conduct.” PEF supports the legislation passed by both houses last year which would include “bullying” and “abusive conduct” in the workplace violence law, require training to identify and eradicate it, and provide formal mechanisms to report and track incidents (S. 3065-B by Sen. Ramos/A.8934-A by Asm. Bronson). PEF is open to any and all solutions to this workforce problem as continued inaction is hurting the state’s efforts to attract and retain staff.

Real Accountability: Enhanced Penalties for Assaulting State Employees in the Performance of Their Jobs:

The state of New York has rightly enacted enhanced penalties for individuals who knowingly and willfully assault workers performing their responsibilities. The list of covered employees includes peace officers, nurses, sanitation workers, housing authority staff, train operators, and public school teachers and staff.

PEF is seeing an increase in the frequency and the severity of assaults against PEF members. New York needs to expand this law to cover any state employee who is willfully and intentionally assaulted in the course of delivering services. The state of New York can no longer afford to tolerate these behaviors and must hold all New Yorkers accountable for their actions. A. 3282 (Bronson) would accomplish this goal by increasing the penalty for an assault against any public employee.

PEF BUDGET REQUEST:

- SUPPORT the Governor’s proposal to provide \$425 million for additional fixed and body worn cameras at all correctional facilities.
- SUPPORT the Governor’s proposal for 481 new FTEs at DOCCS.
- FIX Tier 6.
- ADD employee protections to end bullying/abusive behavior in the workplace and increase penalties for assaults against any state employee.

OTHER PROPOSALS TO CONSIDER AS PART OF THE BUDGET:

Authorize the Deployment of Body Scanners in OMH, OCFS, OPWDD and OASAS Facilities

To reduce the flow of weapons, drugs and other contraband, New York State rightly enacted legislation and provided funding to equip DOCCS facilities with body scanners. The state must provide similar authorization and funding for the other agencies that deal with at-risk New Yorkers – OMH, OCFS, OPWDD and OASAS.

The surge in assaults has been demonstrated by the findings documented in the “*Prison Violence Task Force*,” Department of Corrections and Community Supervision (June 2023); and the “*Oversight of Juvenile Justice Facilities*,” Office of Children and Family Services; Office of the State Comptroller (April 2024), as well as the stabbing of three mental health professionals at the Buffalo Psychiatric Center on April 3, 2024, and the recent rape of two staff members at Hutchings Psychiatric Center in Syracuse.

The increase in assaults and injuries at these agencies is also reflected in the “Annual Report of NYS Government Employees’ Workers’ Compensation Claims” from 2022-2023 which clearly indicates the

differentiation of these agencies versus other agencies and our collective need to find solutions to keep workers safe on the job.

In addition to keeping weapons out of these facilities, the use of body scanners will help prevent illegal drugs and other contraband from being smuggled into OMH, OCFS, OPWDD and OASAS facilities. Recently, there have been several incidents at DOCCS facilities where staff were sickened due to unknown substances. Drugs like fentanyl are easily brought into facilities with lax security. The use of body scanners will help prevent clients and staff from being exposed to these types of threats.

The use of body scanners will reduce risks for both staff and clients.

Amend “Less is More” Law and Provide Needed Resources

PEF supports the continued effort to de-institutionalize the criminal justice system where appropriate. PEF opposed the “Less is More” law (Chapter 427 of 2021), but supports the intent of this law and many of its components like providing earned time credits for adhering to the parole plan and ensuring parolees have expedited proceedings.

It is important to remember that individuals on parole have not completed their court-ordered sentence for the crime(s) for which they were convicted. Parole is a tool to reward positive behavior and an opportunity for individuals to build upon their successes by serving out the remainder of their sentence back in the community.

PEF supports providing incarcerated individuals and parolees with opportunities for success and rewarding individuals for their efforts to become productive citizens. However, reforms are needed to ensure that parolees serving sentences for violent felony offenses are held accountable for their failure to adhere to their agreed-upon parole release plan. This is necessary to shape and reinforce appropriate behaviors for long-term success and to protect the public. According to data that PEF received as part of a Freedom of Information Law request from DOCCS, the number of parolees in New York City has continued to decrease since 2021.

However, over this same period, the number of parolees rearrested for a misdemeanor or felony offense in New York City has increased.

PEF believes that this increase is due, in part, to certain parolees no longer feeling compelled to adhere to their court-ordered addiction treatment plan, mental health plan or other parole plans. Under the current law, parolees may not be reincarcerated for failure to adhere to their drug treatment plans, mental health treatments or other offenses like consuming alcohol, violating curfew, failing to report to their officer or bureau, etc. This lack of accountability leads to the compounding of behaviors that are inconsistent with success. These individuals re-offend because they lack the tools and effective oversight to maintain their level of success back in the community.

- (1) **Set a Higher Standard of Conduct for Parolees with Violent Felony Offenses**: The original law did not differentiate between parolees with non-violent felony convictions or violent felony convictions. As such, violent felony offenders on parole cannot be reincarcerated for violating their parole plans, including skipping court-ordered addiction treatment, mental health treatment, missing curfew or failing to report to their parole officer. Individuals convicted of possession or use of a firearm or dangerous weapon, criminal contempt, kidnapping, and failure to register as a sex offender should maintain a higher standard of conduct while on parole to ensure they are meeting their rehabilitative goals and to protect the public from the potential for re-offenses while they are serving their sentences.
- (2) **Real Sanctions for Parolees Convicted of Violent Felony Offenses**: We believe this law should provide for the potential for immediate reincarceration of any parolee who fails to register on the sex offender registry, skips court-ordered mental health or drug treatment, threatens or engages in domestic abuse and/or purposefully absconds from custody. In order to protect due process and individual rights, the ultimate decision on reincarceration should be subject to immediate judicial review and determination. We believe these immediate sanctions should be authorized for these violations as they constitute a significant departure from the conduct needed for successful re-integration and an identifiable, immediate and unnecessary danger to the public.
- (3) **Correct Shortcomings of Earned Time Credits (“30 for 30”)**: PEF fully supports awarding earned time credits for parolees adhering to their agreed-upon parole plan. These individuals should be lauded for their efforts and awarded reduced time commensurate with their success on parole. However, parolees who have not been adhering to their parole plan have also been receiving earned time credits. This is unfair to those who are working toward success, provides

negative reinforcement to parolees violating their parole plans and ultimately, it is dangerous for the public. The state should not award earned time credits if the individual is violating their parole plan.

It is important to note that PEF does not support parolees being reincarcerated unfairly or for indeterminate sentences; PEF supports the role of the judiciary and believes judges should render any and all determinations on re-incarceration for offenders; PEF believes public safety should have equal weight with regard to violent felony offenders who violate their parole agreements; and PEF believes immediate support and resources should be provided to parolees who fail to meet their parole plan objectives. The reforms we are seeking are designed to affirm a court's ordered parole plan, to increase opportunities for success by adhering to such a plan and protecting the public from individuals who are still serving the sentence for their original conviction.

Support Changes to the “Humane Alternatives to Long-Term Solitary Confinement Act” (HALT)

All New Yorkers support the humane treatment of all people in this state. The HALT law ignores the need to provide humane treatment to all staff and all incarcerated individuals who face the ongoing threat of assault by other incarcerated individuals.

This imbalance in approach has led to an increase in assaults against staff and against other incarcerated individuals. The staff need tools to:

- (1) keep people safe so they can effectively address those few incarcerated individuals who have no respect or boundaries when it comes to the safety of their fellow incarcerated individuals and staff;
- (2) safely and effectively deliver needed services and support to foster a rehabilitative environment for the entire incarcerated population; and
- (3) provide secure, protective custody to incarcerated individuals who have been targeted.

Data released by DOCCS indicates that assaults and injuries against incarcerated individuals and staff are up significantly since this law was enacted in 2021. Assaults against incarcerated individuals are

up 11% and assaults against staff are up 29% from 2020 to 2022, despite the incarcerated population shrinking by more than 20% during that time.

OFFICE OF INFORMATION TECHNOLOGY SERVICES (OITS)

PEF represents roughly 10,000 employees at the Office of Information Technology Services (OITS). While this agency is generally successful, there is always room for improvement. OITS suffers from the same issues as all other state agencies—difficulty recruiting and retaining employees, bullying by some managers and low worker morale.

The Governor has proposed 295 new FTEs to support new initiatives she wants to deploy at OITS. While we are pleased that she wants to enhance the state workforce, this does not go far enough. Evidence of the need to further bolster the state ranks is OITS' continued dependence on costly private consultants. The Governor also suggested that OITS maintain its level of consultants at 474 FTEs at a cost of more than \$89 million. This works out to more than \$188,000 per consultant.

One way to decrease the number of consultants needed is to make sure that existing staff has the skills and training to perform the tasks needed by the state. The Governor has once again proposed \$1.7 million to provide necessary training for OITS employees. We believe that this amount should be doubled and the Legislature must ensure that the money is being spent for the intended purpose.

PEF BUDGET REQUESTS:

- SUPPORT additional staff at OITS and increase the number as budget allows to reduce the outsourcing of state work.
- Double the \$1.7 million for staff training to \$3.4 million and provide oversight to guarantee the money is spent properly.

Thank you for the opportunity to provide testimony today on the public protection portion of the 2025-26 budget.

Respectfully submitted,

Wayne Spence

President, New York State Public Employees Federation