



**NEW YORK STATE COMMISSION OF CORRECTION
ANNUAL REPORT
2010**

**THOMAS A. BEILEIN
CHAIRMAN**

**DANIEL L. STEWART
COMMISSIONER**

**PHYLLIS HARRISON-ROSS, M.D.
COMMISSIONER**

**“TO PROVIDE FOR A SAFE, STABLE AND HUMANE
CORRECTIONAL SYSTEM.”**



STATE OF NEW YORK • EXECUTIVE DEPARTMENT
STATE COMMISSION OF CORRECTION
80 WOLF ROAD, 4TH FLOOR
ALBANY, NY 12205-2670
(518) 485-2346
FAX (518) 485-2467

CHAIRMAN
Thomas A. Beilein

COMMISSIONER
Phyllis Harrison-Ross, M.D.

June 10, 2011

THE HONORABLE ANDREW CUOMO
Governor

THE HONORABLE DEAN G. SKELOS
Senate Majority Leader

THE HONORABLE SHELDON SILVER
Assembly Speaker

THE HONORABLE JOHN L. SAMPSON
Senate Minority Leader

THE HONORABLE BRIAN M. KOLB
Assembly Minority Leader

Governor and Members of the Legislature:

I am pleased to submit to you the New York State Commission of Correction's Annual Report for the year 2010.

The Commission continues to stand by its mission to provide a safe, stable and humane correctional system in New York State. Governor Andrew Cuomo's commitment to the improvement of the correctional system in New York and his support of corrections professionals throughout the state gives the Commission added leverage to further its mission.

The statutory mandate of the Commission of Correction is a broad and multi-faceted one. The Commission has continuously carried out its mandate effectively and efficiently, and stands out in the correctional arena as an innovator and provider of quality services to New York State.

The Commission's commitment to the correctional community and the people of New York State will remain strong. The agency looks forward to continuing to serve the best interests of both.

Respectfully,

THOMAS A. BEILEIN
Chairman

cc: Elizabeth Glazer, Deputy Secretary for Public Safety

HISTORY

The State Commission of Correction is the current-day embodiment of the New York State Commission of Prisons, which was established in July of 1895. The Commission of Prisons was meant to function as an autonomous body for the sole purpose of monitoring all detention and correctional facilities within the State.

While the State Commission of Correction essentially functioned in its original capacity for almost eighty years, in the 1970's, the Commission underwent a series of administrative and legal changes which significantly affected its mission in the correctional field.

As the State Commission of Correction's autonomy and mission were expanded and made more credible, the Governor and Legislature also restructured the agency's administration. A full-time, three member Commission was established, appointed by the Governor with the advice and consent of the Senate. A Citizen's Policy and Complaint Review Council (CPCRC), consisting of nine gubernatorially appointed positions, of which seven are currently filled, was also established, and the Medical Review Board was reorganized.

Correctional Oversight-Legal Authority

Correctional facilities in New York State operate pursuant to a body of carefully formulated constitutional and statutory law and regulations. The State Commission of Correction's legal authority is derived from the following:

- County Law, Article 5, Section 217: "Each county shall continue to maintain a county jail as prescribed by law."
- Correction Law, Article 6: Management of state correctional facilities.
- Correction Law, Article 20: Statutory provisions governing New York State penitentiaries and jails.
- Article XVII, Section 5 of the New York State Constitution provides that there shall be a State Commission of Correction, which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime.
- Correction Law, Article 3, establishes the Commission and its oversight and regulatory powers. Section 45(6) of the Correction Law provides for the State Commission of Correction to promulgate rules and regulations establishing minimum standards for the care, custody, correction, treatment, supervision, discipline, and other correctional programs for all persons confined in correctional facilities for adults and correctional facilities for juvenile offenders.
- Title 9, Subtitle AA of the Official Compilation of Codes, Rules and Regulations of the State of New York contains the minimum standards and regulations for the management of correctional facilities, as promulgated by the State Commission of Correction.

Organizational and Statutory Authority

The New York State Commission of Correction is an Executive Department correctional oversight and technical services agency first established in the New York State Constitution (Article XVII) in 1895. The Commission's services are delivered to all state, county, and New York City correctional facilities, including police department detention facilities. Its organization, functions, powers and duties are set forth in New York State Correction Law,

Article 3.

The Commission's duties include:

- advising the Governor on correctional policy;
- promulgation of rules and regulations establishing minimum standards for the care, custody, treatment, supervision and discipline for all persons confined in correctional facilities;
- ensuring compliance with minimum standards;
- monitoring, adjusting and enhancing prison and jail population capacity;
- reviewing all inmate grievances, complaints, and reportable incidents;
- overseeing new correctional facility development;
- providing staffing services;
- assisting in the implementation of new correctional technologies;
- review of inmate mortality;
- evaluation and development of health and mental health services; and
- overseeing secure juvenile centers operated by the NYS Office of Children and Family Services.

The Commission's mission is to provide for a safe, stable and humane correctional system and for the delivery of essential services therein.

The three deliberative members of the Commission are appointed by the Governor to statutory terms with the advice and consent of the New York State Senate. One commissioner serves as chair and chief executive officer. The other two commissioners are assigned to head the Medical Review Board and Citizen's Policy and Complaint Review Council respectively, members of which are also appointed to terms by the Governor.

The Commission is primarily a field services agency with 20 Correctional Facility Specialists in its Field Operations Bureau and Forensic Medical Unit. Legal, Buildings/Construction and Support Services units complete the agency's staff complement of 27. The present staff represents a reorganized approach to the agency mission associated with a downsizing and streamlining of operations.

In summary, the Commission is a small, specialized criminal justice service agency supporting the statewide correctional community, working on behalf of the Governor to professionalize and enhance the quality of corrections in New York.

MEDICAL REVIEW BOARD

The Medical Review Board (MRB) was established by the Legislature in 1972 to investigate deaths in correctional facilities within the state and to make recommendations for improving the

delivery of health care to detainees and sentenced offenders.

Section 46 of the Correction Law provides for an organized Correction Medical Review Board within the State Commission of Correction. The Board must consist of two physicians who are board certified respectively in forensic pathology and forensic psychiatry, another physician, an attorney admitted to the New York Bar, and two at-large members, all appointed by the Governor to statutory terms with advice and consent of the Senate. Section 47 of the Correction Law empowers the Board to:

- “(1.) (a) Investigate and review the cause and circumstances of the death of any inmate of a correctional facility and,
- (1.) (e) Investigate and report to the Commission on the condition of systems for the delivery of medical care to inmates of correctional facilities and where appropriate, recommend such changes as it shall deem necessary and proper to improve the quality and availability of such medical care.”

The Commission and the Medical Review Board pursue the following objectives:

- Conduct timely and thorough investigations of all mortality and serious incident cases in the correctional system;
- Develop and administer cost-effective plans, projects, and programs to address identified problems in the health care delivery of all correctional facilities; and
- Maintain continuous oversight of correctional health care trends by substantive response to inmate health care grievances and review of Medical Review Board recommendations.

The Medical Review Board meets on a quarterly basis. The 2010 MRB members included:

Phyllis Harrison-Ross M.D., Chairperson
Michael Baden, M.D.
Robert Kurtz, M.D.
Bruce David, M.D.
Scott S. Coyne, M.D.
Marjorie Blieka, M.D.
Allison Bishop, Esq.

CITIZEN’S POLICY AND COMPLAINT REVIEW COUNCIL

The Council was established by the Legislature to address the need for increased public

participation in the oversight and regulation of local correctional facilities. Its mandate includes: improving conditions in local correctional facilities, overseeing the inmate complaint and grievance process, and advising the Commission.

The Council is comprised of nine members appointed by the Governor with advice and consent of the Senate. The statute requires that one member shall have been a Vietnam veteran, or a licensed mental health professional with expertise in Post-traumatic Stress Disorder, an attorney, a former inmate of a correctional facility, a former Office of Children and Family Services (OCFS) resident, and a former OCFS employee.

The Citizen's Policy and Complaint Review Council (CPCRC) convened monthly. The 2010 CPCRC members included:

Daniel L. Stewart, Chairperson

Brian Cotter

Thomas Cross

Theodore Hilscher, Esq.

Nicholas LaBella

Douglas Landon, Esq.

Jimmie Seright

Julie Scalione, Esq.

**FIELD OPERATIONS MANAGEMENT AND SUPERVISORY
STAFF
2010**

JAMES E. LAWRENCE
Director

RICHARD KINNEY
Deputy Director

STEVEN SAVOY
Field Supervisor
Metro South-Central Region

TERRENCE MORAN
Field Supervisor
Capital West Region

WILLIAM BENJAMIN
Field Supervisor
Hudson Lakes Region

PEGGY LOFFREDO
Field Supervisor
Forensic Medical Unit

ROBERT MASON
Facilities Planning and Improvement

FIELD OPERATIONS MISSION DIRECTED PROGRAMS

Facility Monitoring, Evaluations and Incidents

Inmate Complaints and Grievances

Capacity Management

Staffing Services

Facilities Development and Operational Transition

Technical Assistance

Compliance Monitoring for the Handling and Processing of Juveniles

Healthcare, Mental Health and Suicide Prevention

**Regulatory Oversight of Secure Facilities Operated by the Office of Children
and Family Services (OCFS)**

BUREAU OF FIELD OPERATIONS

The Bureau of Field Operations has primary responsibility for performing the Commission's agency functions. Among them are correctional facility evaluations, incident investigations, mortality investigations, health system evaluations, facilities planning and improvement, technical assistance, New Institutions and Transition Program (NITAP), inmate grievance and complaint review, and several other undertakings.

The Bureau of Field Operations operates throughout the correctional system of New York State. This system includes all state, county, and New York City correctional facilities, local police department lockups, as well as the five secure centers operated by the New York State Office of Children and Family Services. In 2010, the Bureau of Field Operations was reorganized into three regions: Hudson Lakes, Capital West, and Metro-South Central.

Facility Evaluations and Monitoring: Site Visits, Incidents, Complaints and Grievances

Staff assigned to the field units, located in Albany and New York City offices, conducted on-site visits to various state and local correctional facilities to assess compliance with Commission minimum standards, monitor unusual conditions (disturbances, strikes, staff job actions, unstable conditions, etc.), evaluate the management of correctional facilities, prepare comprehensive reports and provide technical assistance to facility administrators to address areas of concern and/or non-compliance. In the event that problems remain unresolved, the Commission has recourse to the courts.

Site Visits-Minimum Standards Evaluation

Essential standards monitoring selects a cohort of essential minimum standards for annual compliance evaluation in every jail. Follow-up for compliance problems and technical assistance continues during the year. This corrective action approach assures that every jail will receive an evaluative visit at least annually. Additionally, staff is instructed to informally assess operational competencies, facility atmosphere, cleanliness and orderliness, staff and staff/inmate relations and general conditions of confinement while present in a facility. Problems and complaints are elicited from management as well.

During 2010, every county correctional facility was evaluated for compliance with Part 7000, Minimum Standards (64 upstate and Long Island/11 New York City). In addition, 122 police lock-up/detention facilities were also evaluated to assess compliance with Part 7500 Lockup Minimum Standards.

Priority was given to the following standards:

- 7002 Admissions
- 7003 Security & Supervision
- 7004 Correspondence
- 7008 Visitation
- 7009 Food Services
- 7013 Classification
- 7015 Sanitation
- 7017 Personnel Standards
- 7022 Reportable Incidents
- 7024 Religion
- 7031 Legal Services
- 7039 Fire Prevention & Safety
- 7040 Maximum Facility Capacity
- 7050 Variances
- 7051 Funeral & Deathbed Visits
- 7063 Chemical Agents

Instances of non-compliance were brought to the attention of the commissioner, county sheriff and/or the facility's chief administrative officer. SCOC staff provided specific recommendations for the amelioration of any problems and technical assistance was delivered wherever needed. The Commission also followed up on any remaining open issues from previous evaluations.

Metro- South Central Region

During 2010, the Metro Region evaluated the following facilities for compliance with minimum standards:

- New York City Department of Correction
 - Anna M. Kross Center
 - Brooklyn House of Detention
 - Eric M. Taylor Center
 - George Motchan Detention Center
 - George R. Vierno Center
 - Manhattan Detention Complex
 - North Infirmary Command
 - Otis Bantum Correctional Center/Central Punitive Segregation Unit
 - Rose M. Singer Center
 - Robert N. Davoren Center
 - Vernon C. Bain Maritime Facility
 - West Facility

Chenango County Jail
Columbia County Jail
Hamilton County Jail
Jefferson County Jail
Lewis County Jail
Madison County Jail
Nassau County Correctional Center
Oneida County Jail
Onondaga Justice Center
Onondaga Penitentiary
Otsego County Jail
Suffolk (Riverhead)
Suffolk (Yaphank)
Tioga County Jail
Warren County Jail

Hudson-Lakes Region

During 2010, the Hudson-Lakes Region evaluated the following facilities for compliance with minimum standards:

Broome County Jail
Cattaraugus County Jail
Chautauqua County Jail
Clinton County Jail
Cortland County Jail
Delaware County Jail
Dutchess County Jail
Essex County Jail
Franklin County Jail
Genesee County Jail
Orange County Jail
Putnam County Jail
Rensselaer County Jail
Saratoga County Jail
Tompkins County Jail
Wayne County Jail
Westchester County Jail
Westchester County Penitentiary
Westchester County Annex
Wyoming County Jail
Washington County Jail
Yates County Jail

Capital-West Region

During 2010, the Capital West Region evaluated the following facilities for compliance with minimum standards:

- Albany County Jail
- Allegany County Jail
- Cayuga County Jail
- Chemung County Jail
- Erie County Holding Center
- Erie County Correctional Facility
- Fulton County Jail
- Greene County Jail
- Herkimer County Jail
- Livingston County Jail
- Monroe County Jail
- Monroe County Penitentiary
- Montgomery County Jail
- Niagara County Jail
- Ontario County Jail
- Orleans County Jail
- Oswego County Jail
- Rockland County Jail
- St. Lawrence County Jail
- Seneca County Jail
- Schenectady County Jail
- Schoharie County Jail
- Schuyler County Jail
- Steuben County Jail
- Sullivan County Jail
- Ulster County Jail

In 2010, the Commission began a redesigning of the agency's compliance activities with the purpose being a more effective and efficient strategic approach. Beginning in 2011, the agency will direct more of its field staff resources to those facilities in most need of such assistance. This approach will allow the Commission to provide a greater degree of technical assistance where it required. As in the past, all state, county and local facilities will be subject to compliance monitoring by Commission staff.

County Facility Reportable Incidents

In fulfilling its oversight and regulatory responsibilities, the Commission requires that all local correctional facilities report incidents of an unusual nature which endanger inmates or staff, or disrupt facility operations. The Commission received over 2,000 reportable incidents from the county jail system this past year. Incident reports are received around the clock. Every incident report is screened by a Correctional Facility Specialist, logged, and assigned a file number. The reports are then reviewed daily to determine the necessary level of inquiry or other response.

| Table I: 2010 County Correctional Facilities Reportable Incidents | |
|--|--------------------|
| CATEGORY | # INCIDENTS |
| Inmate on Inmate Assault | 344 |
| Personnel/Inmate Assault | 3 |
| Inmate/Personnel Assault | 86 |
| Inmate on Inmate Assault (Sexual) | 9 |
| Personnel/Inmate Assault (Sexual) | 6 |
| Individual Inmate Disturbance | 751 |
| Minor Disturbances | 310 |
| Major Disturbance | 11 |
| Maintenance/Service Disruption | 2 |
| Inmate Introduced Contraband | 280 |
| Visitor Introduced Contraband | 67 |
| Unknown Source Contraband | 23 |
| Suicides (County) | 9 |
| Suicide (NYC DOCS) | 3 |
| Suicide (NYPD) | 1 |
| Attempted Suicide | 133 |
| Accidental Inmate Physical Injury | 52 |
| Self-inflicted Injury | 77 |
| Personnel Accidental Injury | 2 |
| Escape (County Supervision) | 1 |
| Attempted Escape | 13 |

| Table I: 2010 County Correctional Facilities Reportable Incidents | |
|--|-------------|
| Fire (Arson) | 1 |
| Fire (Non-Arson) | 6 |
| Inmate Contagious | 12 |
| Firearm Discharge | 4 |
| Abscondence | 3 |
| Natural or Civil Emergency | 2 |
| Miscellaneous | 180 |
| TOTAL | 2391 |

Office of Children and Family Services' Facility Reportable Incidents

Pursuant to New York State Correction Law, §§ 45 [6-b], 47 [2], the five secure centers operated by the Office of Children and Family Services (OCFS) are required to report to the Commission of Correction all incidents deemed to be of a serious or potentially problematic nature. In 2010 the Commission received over 300 separate incident reports from the OCFS Secure Centers. Reports are taken twenty-four hours a day, seven day a week by Commission staff. Each individual report is reviewed by a Facility Specialist, assigned a tracking number and logged in the Commission's incident data base. In many cases OCFS incidents involve more than one category type. For example, an incident reported by OCFS as a "major disturbance", may also have involved a "resident on resident assault" or "resident group action." When such multiple incidents are identified, Commission staff record them individually in order to ensure that all such serious incidents are properly recorded and tracked. Following this initial review, the Commission then determines if additional information should be gathered or if the incident merits an on-site investigation. The various total figures below list only the primary category reported to the Commission of Correction in 2010 by OCFS officials to the Commission of Correction.

| Table II: 2010 OCFS Secure Center Reportable Incidents | |
|---|--------------------|
| CATEGORY | # INCIDENTS |
| Resident on Resident Assault | 80 |
| Child Abuse | 7 |
| Major Service Disruption | 20 |
| Natural Civil Emergency | 1 |
| Resident Group Action | 7 |
| Employee Misconduct | 41 |

| Table II: 2010 OCFS Secure Center Reportable Incidents | |
|---|------------|
| Major Disturbance | 9 |
| Contraband | 36 |
| Suicides | 0 |
| Attempted Suicide | 2 |
| Serious Accidental Resident Injury | 33 |
| Self-inflicted Injury | 5 |
| Attempted Escape | 1 |
| Miscellaneous | 89 |
| TOTAL | 331 |

Local Police Agencies' Reportable Incidents

Pursuant to Correction Law, § 45[6], local police departments operating certified lockups are required to report to the Commission, those incidents deemed to be of an unusual nature which may endanger detainees, law enforcement staff, or otherwise disrupt facility operations. In 2010, the Commission received over 700 reportable incidents from local police agencies. Reportable incidents are received around the clock. Every incident report is reviewed by a Facility Specialist, assigned a tracking number and logged. Based upon the initial review, it is then determined if additional inquiry, technical assistance, or an on-site investigation is necessary.

| Table III: 2010 Local Police Reportable Incidents | |
|--|--------------------|
| CATEGORY | # INCIDENTS |
| Suicides | 0 |
| Attempted Suicide | 24 |
| Detainee to Hospital | 633 |
| Miscellaneous | 120 |
| TOTAL | 777 |

Complaints

On a daily basis, complaints from inmates, their families, advocates, and other state and local agencies are received by the Commission. In 2010, 2845 complaints were received by the Commission of Correction from, or on behalf of, state and county inmates. Since 1984, the Commission has overseen a centralized compilation system of inmate complaints from state and

local facilities. This procedure breaks complaints down into discrete categories, and allows Correctional Facility Specialists to respond to specific problems and trends in a methodical fashion. While inmates often report multiple issues within a single piece of correspondence, the numbers reported below represent only the primary issue raised by the inmate in the complaint correspondence.

When complaints are received, they are classified, electronically logged, and screened for grievable issues. Many county complaints are grievable at the facility level, and such complaints are returned to the sender for filing with the facility grievance program. Those retained are referred to a Correctional Facility Specialist for response. Sensitive or seriously problematic complaints are referred directly to the field supervisor for special handling. Health complaints are referred to the Forensic Medical Unit. Files are then followed at thirty day intervals until satisfactory closure is achieved. Electronic query reports of complaints by classification are used for preparation for site visits.

Table II is a summary of complaints received during 2010.

| Table II | State Complaints | | Local Complaints |
|------------------------------------|-------------------------|--------------------------------------|-------------------------|
| CATEGORY | Total | CATEGORY | Total |
| Administrative Segregation | 1 | Staff Conduct | 119 |
| Commissary | 9 | Medical Services | 109 |
| Correspondence and Telephone Calls | 36 | Legal Services & Parole | 31 |
| Dental Treatment | 6 | Too Vague to Classify | 52 |
| Disciplinary and Special Housing | 115 | Inmate Grievance Program | 86 |
| Facility Transfers/Classification | 102 | Disciplinary & Special Housing Units | 37 |
| Food Service | 15 | Classification Designation | 9 |
| Harassment & Staff Verbal Threats | 6 | Personal Safety | 26 |
| Inadequate Staff Training | 8 | Correspondence and Telephone Calls | 9 |
| Inappropriate Use of Force | 1 | Physical Plant Conditions | 14 |
| Inmate Housing | 33 | Property and Package Room | 18 |
| Inmate Grievance Program | 108 | Personal Hygiene, Grooming & Showers | 5 |
| Inmate Organizations | 1 | Administrative Segregation | 1 |
| Inmate Records | 20 | Food Services | 16 |
| Invalid Company | 64 | Programs and Counseling | 5 |
| Keyplock and Punitive Segregation | 5 | Commissary | 5 |
| Legal Services and Parole | 68 | Dental | 2 |
| Loss of Good Time | 5 | Inmate Housing | 8 |
| Medical Services | 553 | Inadequate Staff Training | 1 |

| | | | |
|--------------------------------------|--------------|-------------------------------------|------------|
| Mental Health | 11 | Inmate Records | 4 |
| Package Room-Allowable Items | 6 | Invalid Company | 12 |
| Personal Hygiene & Grooming | 8 | Keeplock and Punitive Segregation | 1 |
| Personal Safety | 227 | Mental Health | 1 |
| Personnel on Inmate Physical Assault | 2 | Racial Prejudice and Discrimination | 3 |
| Physical Plant Conditions | 24 | Religion | 16 |
| Personnel on Inmate Assault | 2 | Security and Supervision | 6 |
| Programs and Counseling | 47 | Visits | 9 |
| Property and Package Room | 48 | Work Programs | 4 |
| Racial Prejudice and Discrimination | 19 | | |
| Religion | 29 | | |
| Security and Supervision | 12 | | |
| Staff Conduct | 595 | | |
| Superintendent's Proceedings III | 5 | | |
| Visits, Family Reunion & Events | 30 | | |
| Work Programs & Pay Grade | 13 | | |
| Not Under SCOC Purview | 1 | | |
| Too Vague to Classify | 1 | | |
| TOTAL | 2,236 | TOTAL | 609 |

Grievances

According to the Commission's Minimum Standards, 9 NYCRR Part 7032, each county correctional facility is required to establish, implement and maintain a formal inmate grievance program. This program allows inmates a process at the facility level to address their complaints regarding written or unwritten facility policies, procedures, rules, practices, programs, or the action or inaction of any person within the facility. If a grievance is denied at the facility level, inmates have the option to appeal that disposition to the Commission within a specified time frame. Appeals are forwarded to the Commission for review and disposition by the Citizen's Policy and Complaint Review Council (CPCRC). During 2010, the Commission handled 1777 grievances. (See Table III). When grievances are appealed to the Commission, they are screened for proper form, categorized, electronically filed, and converted into a working file. The grievances are then sorted by geographic region, and forwarded to the appropriate Correctional Facility Specialist. Grievances that involve health care issues are forwarded directly to the Forensic Medical Unit for processing. The grievances are thoroughly reviewed and researched by the Correctional Facility Specialist, the Deputy Director of Operations, and the Commission's Office of Counsel. Grievances are then put before the CPCRC for final disposition. All grievances going before the CPCRC receive written responses to both the inmate and the facility.

As with complaints, query reports of grievances by classification are produced in preparation for site visits.

Table III shows grievances for 2010.

| Table III: County Facility Grievances, By Category 2010 | |
|--|---------------------|
| CATEGORY | # GRIEVANCES |
| Staff Conduct | 311 |
| Medical Services | 446 |
| Legal Services | 161 |
| Too Vague to Classify | 6 |
| Inmate Grievance Program | 58 |
| Disciplinary Procedure | 66 |
| Classification Designation | 14 |
| Personal Safety | 12 |
| Correspondence and Telephone Calls | 96 |
| Physical Jail Condition | 63 |
| Property and Package Room | 64 |
| Personal Hygiene, Grooming & Showers | 46 |
| Visiting | 48 |
| Food Services | 135 |
| Programs | 8 |
| Commissary | 49 |
| Security & Supervision | 21 |
| Religion | 59 |
| Work Program | 14 |
| Inmate Housing | 72 |
| Inmate Records | 4 |
| Harassment / Threats by Staff | 6 |
| Facility Issued Clothing | 1 |
| Loss of Good Time | 1 |
| Too Vague to Classify | 4 |
| Administrative Segregation | 2 |
| TOTAL | 1,767 |

Capacity Management

At the end of 2010, there were approximately 84,209 persons incarcerated within New York State's prisons and county jails, including the New York City Department of Correction. As a result, inmate capacity management within various facilities can be problematic due to overcrowding. The Commission continually monitors the capacities of these facilities, via a daily electronic population reporting system for county facilities, and via facsimile for New York City and state prisons. The latter is also utilized to monitor the census of all county-sentenced inmates scheduled for transfer to a state facility. In 2010 SCOC revised the Maximum Facility Capacity at three county facilities.

When capacity issues arise, the Commission employs its statutory authority to move local prisoners from overpopulated facilities to those with available housing. The Commission's authority to set facility prisoner capacities allows it to evaluate and approve temporary or interim space in crowded local facilities. This authority also authorizes double-bunking and double-celling programs in the Department of Correctional Services (DOCS).

Double-Bunking, Double-Celling, & Special Housing: NYS DOCS

By the end of 2010, double-bunk beds within DOCS consisted of a total of 255 in six facilities. In addition, the Commission has sanctioned the use of an additional 1,400 cells in total, located in seven 200-bed housing areas, designated as S-Blocks, or Special Housing Units, in which each cell is approved to house two individuals.

During the 2010 reporting period, Commission staff conducted site visits to all six facilities with double-bunk variances. These site visits involve the inspection of each double-bunked housing area, including the general physical condition of the space and the condition and operation of any equipment. In addition, SCOC staff noted the degree to which normal inmate services are impacted by double-bunking, such as medical, dental, food services, visitation, laundry services and the availability of academic and vocational programs.

Variances

This aspect of the Capacity Management program primarily grants authority to state and local correctional administrators to safely and securely house inmates in excess of facility capacity. Variance relief also assists jail administrators with problems such as an inability to achieve compliance with certain minimum standards within a certain time frame, or a need to employ alternative methods of compliance not contemplated by Commission Minimum Standards. According to this procedure, facility administrators may apply to the Commission of Correction

for approval of a variance from a specific standard. All such applications result in site visits for the purpose of assessing the need for the variance, as well as determining the impact the variance would have on the facility's current operation. All variances are maintained and tracked by Correctional Facility Specialists assigned to Field Operations.

During 2010, Commission staff continued to evaluate areas which required variance relief, in addition to preparing written variance recommendations for Commission approval. For the year 2010 there were only two new variances requesting authorization to increase a facility's Maximum Facility Capacity (MFC). At year's end, there were 39 variances in effect throughout the state. Most variances provide correctional facilities relief with respect to their MFC, allowing them to house inmates, in non-designated spaces, in excess of their design capacity in order to respond to short-term overcrowding conditions.

Facility Planning and Improvement

The basic function relegated to Facility Planning and Improvement is set forth in two areas of New York State Law. According to NYS Correction Law, Section 45(10), the Commission of Correction shall "approve or reject plans and specifications for the construction or improvement of correctional facilities." The second area is found in County Law, Section 216. This statute states that "no site or location for any county jail shall be selected or acquired by such board of supervisors which shall not have been approved by the State Commission of Correction." The Commission provides technical planning, capital project development and construction plan review services for development of new correctional facilities. The Commission has viewed the modernization of an aging and overcrowded local correctional infrastructure as a major priority. The agency reviews and approves site selection and construction plans, monitors progress, and assists in problem identification and solution. In carrying out these responsibilities, the staff responsibility goes far beyond the simple review of blueprints and plans. Particular attention is directed to building code requirements, operational rules and regulations, and case law affecting conditions of confinement. Additionally, Commission staff provides local decision makers with technical assistance to help assure the jurisdiction of satisfactory, safe and secure methods of incarcerating offenders in a cost effective manner.

During 2010, findings and determination reports relative to construction plans and specification were prepared by Commission staff and forwarded with recommended action on 42 projects variously submitted by county correctional facilities, police/court detention units, New York City Department of Correction (NYCDOC) and Office of Children and Family Services (OCFS) institutions. Those projects were as follows:

| Jan-10 | |
|---------------|--|
| CJ | Genesee: Enclose Parking Lot With A New Security Fence |

| | |
|---------------|---|
| CF | Bayview Correctional Facility OGS Project No. 43340: Provide CCTV / Audio Monitoring System |
| Feb-10 | |
| CJ | Nassau County Correctional Center-Kitchen Retrofit Project: Capital Project # 51044 |
| CF | Butler Correctional Facility-OGS Project No. 43651: Rehabilitate Shower Rooms |
| NYCDOC | North Infirmiry Command (NIC): Temporary Recreation Yard-NYCDOC Project#: NI003 |
| Mar-10 | |
| NYCDOC | Shower/Toilet Reconstruction at North Infirmiry Command and at The Annex Building (NI004) |
| CF | Wende CF: Provide Handicap Accessibility, Phase II, OGS #43946 |
| Apr-10 | |
| NYCDOCS | (NI006) North Infirmiry Command (North Infirmiry Command), Third Floor, "D" Tier: Add Separation To Cell Block. (Change Order dated 5-4-10) |
| CJ | Niagara County Jail: Security Camera System |
| CJ | Sullivan County Sheriff's Patrol Offices, Two New Holding Cells |
| May-10 | |
| NYSDOCS | Hudson CF: OGS Project No. 43334: Repair / Replace Doors, Frames & Hardware (25 Buildings) |
| Jun-10 | |
| CJ | Chemung County Jail – Roof Replacement – Old Jail |
| Jul-10 | |
| NYCDOC | VC003. Vernon C. Bain BARGE. Temp Out. Rec. Yard |
| NYCDOC | Ni008. North Infirmiry Command Main Recreation Yard, Individual Pens |
| NYCDOC | MD006. Manhattan Detention Complex Exterior Holding Pens |
| NYCDOC | MD005. Manhattan Detention Complex. Dayroom Hold. Pens (TABLED- 60 days). |
| CJ | CJ. Erie County Holding Center-Suicide Prevention Renovations |
| PD | Cheektowaga PD - Police and Courts. Renovation and Addition |
| CJ | Oswego CJ Black Creek System |
| CJ | Genesee CJ Booking and Visitation Area Renovations |
| Aug-10 | |

| | |
|---------------|---|
| CJ | Erie County Holding Center: Roof Replacement and Exterior Improvements - Phase 1 |
| CJ | Erie. Holding Center. Gym Windows (to qualify the GYM for Outdoor Recreation)- Project Disapproved |
| CF | Auburn. Replace Windows- A and B Block- Bldg. 5. |
| PD | NYNJ Port Authority.ARFFF Building. 4 Holding Cells |
| NYCDOC | MD005. Manhattan Detention Complex - Dayroom Hold. Pens (Project was tabled at the July 2010 Meeting) |
| Sep-10 | |
| CJ | Erie County Holding Center - Sick Call Rooms (7) |
| CJ | Monroe County Jail - Replace Skylights in the Gymnasium (11) |
| CJ | Monroe County Jail- SHU Recreation Areas (2) |
| NYCDOC | George R. Vierno Center (GRVC), NYCDOC Project #: GR001, M.H.A.U.I.I Isolation Booths for Inmate Visiting Area |
| CJ | Westchester County Department of Correction, Forensic Medical Unit Renovations |
| CJ | Westchester County Department of Correction, Norwood E. Jackson Correctional Center, (1. Contract # 08-549: Building Renovations, 1932 Jail, 1. Contract #10-525: Electrical and Elevator Renovations |
| Oct-10 | |
| CJ | Clinton County Jail: Outdoor Recreation Yard Repairs |
| NYSDOCS | OGS Project No. 44137: Provide DAI Doors at Various Keeplock SHU Units. |
| Nov-10 | |
| CJ | Dutchess. Security and Control system Improvements |
| PD | Hyde Park. New Police and Court Facility |
| NYSDOCS | Elmira CF Electrical Work- Provide CCTV Sys. Draft Processing and SHU |
| NYCDOC | NYCDOC.NI007. NIC. 2C Tier. Proposed Gate |
| NYCDOC | NYCDOC. RN005. RNDC Modular. Classroom Addition |
| PD | Tonawanda PD - Female Cell Block - Window Replacement (1) |
| Dec-10 | |
| Courts | Yonkers. Temporary Segregation Cell at The Robert Cascade Justice Center |
| CJ | Erie County Correctional Facility-Kitchen Renovations |

| | |
|----|---|
| PD | Village of Walton: New Police Department Building |
|----|---|

New Institutions Transition Assistance Program (NITAP)

Through its New Institutions Transition Assistance Program (NITAP), Commission technical assistance teams work closely with localities constructing new correctional facilities or additions to existing facilities. Such assistance includes policy and procedure reviews, staff training, reviews of moving logistics plans, on-site monitoring of inmate transfers and post-transition jail operations. During the new facility transition process, the Commission establishes formal liaisons with county executives and managers, legislative public safety committees, and county sheriffs. The Commission and its staff meet regularly with all involved officials, correctional facility executive teams and facility transition staff to assess transition-related progress to ensure that new institutions are opened and operated in a safe, efficient, and cost-effective manner.

2010 NITAP PROJECTS

- Albany County Throughout 2010, the Commission worked closely with the county as they continued construction on two new 40-bed mental health housing units. Assistance included on-site assessment of construction, staff training, and policy related matters.

- Herkimer County The Commission continued dialogue with county officials in their efforts to move forward with plans to construct a new county jail. Discussions concerning potential staffing needs of a new facility as well as preliminary facility designs were held with the sheriff.

- Livingston County The Commission continued to provide technical assistance to the county as they progressed with their jail expansion project consisting of 128 additional beds, kitchen, admissions area, and program space. The addition opened in January 2011.

- Rensselaer County The Commission provided technical assistance to the county as they opened a new 192-bed jail addition. Commission staff was on site during the phased opening of the addition. The addition also included a new kitchen, laundry, visiting area, as well as program and training rooms.

- Suffolk County The Commission continued to work with the county as part of their jail expansion project. Commission staff continues to provide on-

site technical assistance in areas of operations, policies and procedures, and staffing.

Sullivan County

The Commission provided technical assistance in the design of a new detention facility for the sheriff's Road Patrol Division. On-site assistance, as well as construction document reviews, was provided.

Albany PD

The Commission worked closely with the department as they completed a renovation project of their detention areas. Detention cell fixtures (toilets, sinks, and lights) as well as walk-way windows, lights, and HVAC vents were upgraded. Additionally, two new holding tanks were constructed.

Buffalo PD

The Commission commenced work with the City of Buffalo, as they identified the need to construct a new lockup facility. Commission staff provided technical assistance in the early design stage which is ongoing as of this report. The new facility will be located within the basement of the Buffalo City Court building.

Cheektowaga PD

Commission staff provided technical assistance in the design of a new detention area (expansion) at the facility. On-site meetings with the police chief and administrative staff were held to discuss the plans. The plans were approved by the Commission.

Staffing Services

Commission Minimum Standards, 9 NYCRR Part 7041, Staffing Requirements, provide that the Commission shall determine the minimum number of staff necessary to operate each correctional facility in New York. Upstate county jails and New York City correctional facilities are unique institutions with wide variation in size, age, and configuration. Each must be staffed at a cost-effective level which provides for adequate levels of inmate supervision and for staff and public safety. The Commission provides the correctional staffing services for all county correctional facilities and more recently, for the City of New York. Commission staffing specialists travel to facilities upon local government request, and to all newly constructed facilities. The staffing assessment is based on specific correctional functions, physical plant configuration, inmate population trends, and other factors unique to a particular correctional facility. Detailed guidelines direct staff in developing a facility staffing plan. A proposed minimum institutional position and staffing analysis is prepared, and then negotiated to consensus with county legislative officials, the county executive and the sheriff. The Commission affords timely security staffing expertise not available in localities, eases the local criminal justice budget

process and promotes local government confidence in the safety of widely disparate facilities.

During the 2010 reporting period the revision of six staffing analyses were finalized by Field Operations staff:

- Livingston County Jail
- Monroe County Jail
- Monroe County Penitentiary
- Suffolk County Jail (Riverhead)
- Suffolk County Jail (Yaphank)

Training

In August, 2009 training responsibilities previously overseen by SCOC were transferred to the Division of Criminal Justice Services. The Commission of Correction did, however, conduct the following specialized training in 2010.

- Conducted Portal Training for all Sheriff's Departments with regards to the Sheriffs' Annual Report
- Franklin CJ – Sexual Misconduct Training

Technical Assistance

During the course of field evaluations, Commission staff frequently renders technical assistance to facility administrators in order to resolve any number of problems. Generally, the assistance involves policy and procedures review, standards interpretation, referrals to other agencies, training issues, development of operational procedures, modifications or improvements to physical plant and implementation strategies. Staff record significant technical assistance contacts so that the data can be used to identify future projects.

During 2010, twenty-four facilities/departments received technical assistance from Commission staff:

- Albany CJ - Construction and operational planning of two new mental health housing units
- Albany PD – Renovation of current lockup
- Brookwood Secure Center- For meeting compliance with minimum standards (Admission, Discipline, Security, & Fire Safety)

Buffalo PD – Designing new lockup
Cayuga CJ – Inmate classification workshop
Cayuga CJ – Technical assistance regarding inmate classification
Chautauqua CJ – Request for inmate wedding
Chemung CJ – Developing policies and procedures
Chemung CJ – Technical assistance site visit regarding sub-division of inmate housing
Clinton CJ – reportable incident response
DOCS Central Office – MFC’s Otisville and Woodbourne CF’s
Franklin CJ - Standard compliance
Franklin CJ- Addressing sexual misconduct reportable incident/in-house training
Franklin CJ– Daily Population Reporting
Greene CJ - Operational areas including inmate grievance program and inmate classification
Herkimer CJ - Inmate capacity needs
Herkimer CJ - New jail staffing projections
Jefferson CJ – Daily Population Reporting
Lewis CJ - Physical Plant issues
Livingston CJ – Construction and operational planning of new jail expansion
Madison CJ – Assisting new jail administration
Madison CJ – Managing population overcrowding
Madison CJ – Developing a work release program
Nassau County – Grievance Program
NYC DOC – Swine Flu Monitoring
NYPD- Construction and operation of the lockup at the new Yankee Stadium
OCFS- Restraint policies and emergency response procedures
Orleans CJ – Improvement of jail’s physical plant and operational procedures
Rensselaer CJ - Construction and operational planning of new jail expansion
Saratoga CJ – Inmate classification system
Schenectady CJ – Multiple jail operations issues
St. Lawrence CJ – Managing population overcrowding
St. Lawrence CJ – Managing population overcrowding and double celling
Suffolk CJ– Classification
Suffolk CJ – Discipline Procedures
Suffolk CJ – Suicide Smocks
Sullivan CJ - Improvement of jail’s physical plant and operational procedures system
Tompkins CJ – Reportable incidents
Tompkins CJ – Technical assistance on visitation restrictions
Utica PD - Female prisoner housing
Walton PD – Lockup design
Washington CJ – Education Program
Washington CJ – Minimum Standard compliance
Wayne CJ – Overcrowding/ Inmate Classification

Information Management

The Commission is the only central repository for local correctional information in New York State. The Commission provides electronic and retrospective management information to assist local correctional administrators. The Jails Daily Population Reporting System reports inmate population counts in all local facilities each day through the eJustice portal. The Commission also tracks New York City population levels, parole violators and "state-ready" inmates in jails. The Sheriffs' Annual Report provides comprehensive data on an annual basis for sheriffs on admissions, discharges and inmate characteristics. SCOC works closely with the Rockefeller Institute of Government in preparing pertinent data for that organization's annual publication of public safety and criminal justice statistics.

Compliance Monitoring for Handling and Processing of Juveniles

In 2010 the State Commission of Correction continued to expand and enhance its resources focused on the manner in which juvenile detainees are handled and processed when in the custody of law enforcement. The results of this effort served to further demonstrate how New York State law enforcement agencies operate in compliance with the requirements of the Juvenile Justice and Delinquency Prevention Act 2002 (JJDP). By exhibiting conformity with the federal legislation, local jurisdictions are assured of their continued eligibility for the monetary anti-crime assistance provided by the Act. JJDP grant funds are a major source of support for local prevention programs that target youth under the age of criminal responsibility. The Commission verified a monitoring universe of approximately 500 agencies that may detain juveniles. Those locations are all subject to on-site monitoring by Commission staff for the purpose of assessing compliance with the JJDP.

In 2010, the work of the Commission toward assuring New York's adherence to the Act also included the training of New York State law enforcement personnel through a series of regionally-based one-day sessions that concentrate on both federal and state law. In providing this training, Commission staff once again collaborated with the State of New York Police Juvenile Officer's Association to conduct 18 training sessions to sheriff's deputies, police, parole and probation officers.

Toward its effort to accurately identify its monitoring universe, the Commission conducted a comprehensive survey of all New York State Sheriff's Offices in order to identify their active satellite locations. As part of its overall commitment to improving the understanding and practical application of the laws that pertain to the custody of juveniles, Commission staff

provided hundreds of hours of on-site and remote technical assistance to numerous law enforcement agencies throughout New York State.

Chairman's Memoranda

The Commission is a key player in the delivery of salient correctional management information and education to county correctional facilities. The Chairman's Memorandum, a bulletin that is sent to all county sheriffs and administrators of correctional facilities and police departments, is an efficient vehicle for the delivery of such information. In 2010 the following Memorandums were issued:

- Announcement from the NYS Department of Health Regarding Prevention and Treatment of HIV/AIDS and Hepatitis C in Local Correctional Facilities

Special Investigations

At times, it becomes necessary for field staff to conduct investigations of incidents, complaints and other matters requiring intensive scrutiny. The following is a summary of noteworthy special investigations conducted during the year 2010:

| | |
|-------------------------|--|
| Goshen Secure Center | Commission staff completed a detailed investigation of incidents occurring during a scheduled social event held at the Goshen Secure Center in December, 2009. |
| Utica Police Department | Commission staff conducted an investigation into the escape of a detainee from the Utica Police Department lock-up. |
| Montgomery CJ | Commission staff conducted a preliminary investigation into the death of a detainee during a return transport to the jail from a local court. |
| Erie County Holding Ct. | Completed the investigation into the October 4, 2009 escape of inmate Brian Collins from his cell at the Erie County Holding Center. |
| Lackawanna Police Dept. | Conducted an investigation of a prisoner's escape. |
| Troy Police Dept. | Conducted an investigation into the erroneous release of a detainee. |

FORENSIC MEDICAL UNIT

The Forensic Medical Unit is a Field Operations unit within the State Commission of Correction. It is intended to fulfill the health care oversight mandate of the Correction Law, Article 3 by providing the SCOC and its Medical Review Board (MRB) with staff expertise in the investigation of inmate mortality, in evaluation of State and local correctional facility health care delivery, and in technical assistance to State and local correctional facilities for the improvement of health care delivery. Technical assistance is regularly provided in development of HIV precautions, tuberculosis control, occupational health and safety, health care staffing, health facility designs and handling of pharmaceuticals, among others. Each year, approximately half of New York's jails are visited by trained health care system evaluators. Health care delivery systems are evaluated in each facility, recommendations are made and technical assistance is rendered. The Forensic Medical Unit also presents its cases to the MRB, investigates medical grievances and complaints, and conducts various special investigations as directed by the Commission. This includes the following activities:

- Field mortality investigation;
- Health services evaluation;
- Standards development and compliance;
- Resolution of complaints and grievances;
- Collection and interpretation of data and statistics;
- Development and administration of technical assistance programs and
- Policy formulation and advice.

The Forensic Medical Unit also provides technical assistance in development of blood borne infectious disease precautions.

Mortality Investigations

The Commission of Correction's Forensic Unit conducted thirty-one (31) mortality investigations at the following state and local facilities: Attica CF (2)

Chautauqua CF

Chenango County

Clinton CF

Downstate CF

Elmira CF

Erie County Holding Center (4)

Great Meadow CF (2)

Green Haven CF

Lakeview CF
Monroe County
Nassau County
Niagara County
NYC DOC (2)
NYPD (3)
Onondaga County
Ontario County
Shawangunk CF
Suffolk County Jail
Summit Shock CF
Ulster County
Warren County
Wende CF

Health Services Evaluations

Technical assistance in the form of health services evaluations is usually requested from a county correctional facility, and can also be provided subsequent to repeated problems stemming from inadequate health care delivery. During 2010, the following facilities were evaluated for health services and/or offered technical assistance in the health care arena:

Health Care Evaluations - Technical Assistance

- Erie County Holding Center
Issue: Inmate Withdrawal - Policy and Procedures, Housing Designation

Health Services - Confinement Conditions Monitoring

- Nassau CJ's Weekly D2D (medical tier)
- Nassau CJ's Weekly BHU Medical
- Suffolk CJ's Weekly BHU Medical

Medical/Mental Health Evaluations - Technical Assistance

- Suffolk CF/Transition Staffing
- Livingston CJ/ Transition Staffing
- Albany County Mental Health Annex/Transition Staffing
- Buffalo Police Department
- Wyoming County CF (Mental Health Observation Housing Retrofits)
- Westchester County Forensic Unit
- Erie County Holding Center Booking Medical Room

Mental Health and Suicide Prevention

During the 1970's and early 1980's, suicide was the leading cause of death in county jails and preventable suicide emerged as a major source of successful litigation against local government. The Commission, in conjunction with the NYS Office of Mental Health (OMH), researched, developed and obtained federal financing for a state-of-the-art suicide prevention program which has yielded a sustained annual reduction in suicide of more than 70%, despite extraordinary increases in local inmate populations. This program is wholly financed with federal dollars, is nationally recognized and won a statewide productivity award in 1988. The Commission and OMH deliver suicide prevention training to all incoming correction officers, either directly, or by offering training to established correctional staff, who in turn, trains their own incoming correction officers. The training conducted for incoming correction officers is an intensive eight hour module. During 2010, **two** regional Suicide Prevention Train-the-Trainer Programs were conducted in Westchester County on April 20-22 and in Niagara County on October 5-7.

Training Attended By Forensic Unit Staff

- CQC Investigator Training
- Cycle Training at SCOC
- AMC HIV Teleconferences
- Infection Control Training

Special Investigations

- Franklin CJ - Timeliness of medical care
- Albany CCF - HIV Care

Interagency Activities

- NYS DOCS IG, Review of Mortality Cases
- OMH, Development of revised Suicide Risk Assessment Training for Local Correctional Facilities
- CQC Meeting/Roles
- DCJS Monthly Computer Liaison Meetings
- DCJS/OMH Monthly Training Initiative Meetings
- AIDS Institute/AMC Regarding Assistance to County Jails (HIV, Hep C DOH Oversight)
- NYPD Meeting Re: Open Cases, revision of request response
- NYPD (CJB, IAB, Counsel) 1/10 re: Detainee Mortality Request for records, Investigations, Legal Authority

- Sheriff's Association/AIDS Institute (HIV, Hep C DOH Oversight)

INMATE MORTALITY DURING 2010

The following table lists the numbers and causes of death for inmates in all correctional facilities in New York State during the year 2010. The Commission receives notice of each of these deaths within 6 hours of occurrence. Each case is separately investigated by the Commission's Forensic Medical Unit. Problematic cases are investigated in the field, carefully documented, presented to the Medical Review Board and published. In 2010, the Board and Commission published 31 problematic cases in which recommendations to prevent similar recurrence and to improve medical and mental health care were made to correctional facility administrators.

TABLE IV

INMATE DEATHS IN STATE AND LOCAL CORRECTIONAL FACILITIES 2010

| | SUICIDE | AIDS | NATURAL | HOMICIDE | UNKNOWN | OTHER | TOTAL |
|------------------------|---------|------|---------|----------|---------|-------|-------|
| DOCS | 19 | 1 | 97 | 1 | 4 | 0 | 122 |
| COUNTY JAILS | 9 | 1 | 8 | 0 | 2 | 1 | 21 |
| NYCDOC | 3 | 0 | 12 | 0 | 1 | 1 | 17 |
| POLICE LOCKUPS | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| NYCPD PRECINCTS | 1 | 0 | 2 | 0 | 3 | 0 | 6 |
| TOTAL | 32 | 2 | 119 | 1 | 11 | 3 | 168 |

COUNSEL'S OFFICE

The Office of Counsel is responsible for the interpretation and analysis of all legal issues related to the work of the Commission. Part of this function includes the coordination of the Commission's legislative program, including the submission and review of legislation affecting the correctional and criminal justice system in New York State. Working with administrators, the Commission has successfully pursued legislation to reduce the number of mandated classification categories in local correctional facilities, to assist in the treatment of mentally ill inmates in local correctional facilities, to facilitate the rapid and accurate transfer of vital medical information between facilities and to add a former correction officer to the membership of the Citizen's Policy and Complaint Review Council. In addition, agency attorneys represent the Commission in litigation related to conditions of confinement such as overcrowding, civil rights, and medical care. Counsel also acts in an enforcement capacity in regard to facility compliance

with minimum standards.

In addition to all the above listed functions, Counsel's Office has developed a technical assistance approach to correctional jurisdictions by providing legal opinions to sheriffs and jail administrators.

Regulatory Reform

In 2010, the Commission adopted the addition of section 7016.2 of Title 9 NYCRR to allow for automated and electronic deposits to inmate institutional fund accounts in county correctional facilities.

Further, the Commission proposed the amendment of sections 7003.5 and 7003.6 of Title 9 NYCRR to eliminate the requirement for overlapping officer shifts in conducting prisoner population counts. Adoption of the proposed rulemaking is anticipated in early 2011.

Additionally, the Commission, pursuant to State Administrative Procedure Act §207, carried out the required regulatory review of all rules adopted in the calendar years 2000 and 2005. After publishing notice and an invitation for public comment, said rules were continued without amendment.

Legislation Summary

The following legislative proposals were made to the Governor's Counsel's Office for the 2010-11 session:

- 1.) Amending subdivisions (3) and (4) of Correction Law §46 to establish venue for enforcement actions brought by the Commission in the county of Albany.
- 2.) Amending Correction Law §46 to correct a technical deficiency which may prevent the Commission from obtaining the medical records of certain inmates being treated in outside medical facilities.
- 3.) Adding a new subdivision (3) to Correction Law §500-h to authorize the imposition of an inmate medical co-payment for certain medical and dental services provided by local correctional facilities.

Litigation

In the course of the year, eighteen (18) new cases were opened, twelve (12) were closed, and forty three (43) were pending as of the end of 2010.

By Decision dated March 8, 2010, the Hon. Diane Y. Devlin, Justice of the Supreme Court, Erie County, granted the Commission's petition to enforce a directive, requiring the Erie County Sheriff to remedy certain violations of the Commission's regulations. Specifically, the Commission sought compliance in the areas of maximum facility capacity and proper inmate housing, the issue of prisoner personal hygiene items and bedding, inmate exercise, facility rules/inmate discipline, inmate grievance programs and inmate visitation. The Erie County Sheriff has appealed the action to the Appellate Division, Fourth Department, with a decision anticipated in early 2011.

Legal Opinions

In 2010, Counsel's Office rendered 103 legal opinions by telephone and 14 legal opinions in writing.

Freedom of Information Law (FOIL) Requests

For the year 2010, the Office of Counsel received and responded to 192 Freedom of Information Law (FOIL) requests for records of the Commission of Correction.

Juvenile Justice

In 2010, Counsel's Office continued to conduct legal research and gather other information for the Commission's Administrative and Training Manual for the New York State Juvenile Monitoring Project. Counsel's Office assisted Commission staff in the development and delivery of training to assist local correctional facilities in the handling and processing of juvenile detainees.

EPILOGUE

The Commission continues to strive toward its mission-directed goals. The facility evaluation cycle for 2010 is completed and the next evaluation cycle will begin in January, 2011. The Commission will persevere in its role in fulfilling New York State's public protection mandate.