



# Department of Correctional Services

Glenn S. Goord, Commissioner

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## Prison safety, inmate program enrollments continue to increase

Prisons have continued to become safer for staff and inmates under the administration of Governor George E. Pataki while more and more inmates continue to be enrolled in rehabilitative programs, Commissioner Glenn S. Goord said today.

"The Department of Correctional Services continues to set the benchmark for the safe and secure operation of prison facilities, which must occur in order to give rehabilitative programs the opportunity to be successful. The professionalism of our uniformed and civilian employees continues to provide felons with the opportunity to participate in programs that will help offenders return to society with the greatest chance for successful reintegration," Commissioner Goord said.

The Commissioner made his remarks as he released a policy paper today evaluating the effects of the state's expansion of maximum-security disciplinary housing space as well as the overall status of inmate programs.

Among the highlights of the report are the following:

- All 1,500 disciplinary housing double-cells (3,000 beds) proposed by Governor Pataki and approved by the Legislature since 1997 are now in full operation.
- That has allowed more than 2,200 general confinement cells to be freed up by moving inmates "keeplocked" in them for disciplinary violations into the new disciplinary cells.
- Freeing up those general confinement cells has helped reduce the number of "state ready" inmates awaiting transfer from county jails from a record 4,425 in July of 1999 to fewer than 700 last month.
- A total of 5,505 inmates were in disciplinary housing on November 27, 2000, only 234 more than the 5,271 on December 31, 1997, just before the new disciplinary housing cells began opening in January of 1998. Last month's total was the lowest number in such housing since March of 1999.
- The amount of time inmates are *sentenced* to spend in disciplinary housing has dropped each year since 1997, when the average sentence was 253 days, to 193 days in July of 2000.
- The actual time *served* in disciplinary status has dropped over the same period from an average of 181 days in 1997 to 169 in July of 2000.
- The percentage of inmates serving disciplinary sentences of a month or less dropped by a third between 1997-99, while the percentage serving 1-3 years decreased by a quarter. The percentage serving three years or more remained the same.

- Screening of inmates entering the double-cells has resulted in unusual incident rates of one-half of those found in single-cell disciplinary housing units.
- In large part as a result of increased disciplinary housing space, the number of inmate-on-staff assaults last year was the fewest in 14 years.
- Additionally, the number of inmate-on-inmate assaults was the fewest in seven years.

“The Governor’s decision to increase disciplinary housing space to remove disruptive inmates from the general population has made facilities safer for staff and inmates alike,” Commissioner Goord said. “Having the disciplinary housing unit space available to lock up inmates who violate prisons rules removes from general population the inmates who are a threat to staff, other inmates and facility operations. That allows the majority of inmates to continue their increasing participation in meaningful programs. That better prepares them for release and their return to our streets.”

On program data, Commissioner Goord noted that between December 1995-99:

- Education staffing for inmate programs has increased by 9 percent, compared to a 4 percent increase in the inmate population.
- The total number of inmates in daily academic programming has increased by 27 percent.
- The number of inmates in daily vocational enrollment has increased by 8 percent.
- The number of high school equivalency degrees awarded annually has increased by 14 percent.

In addition, the Commissioner noted that, annually:

- More than 28,000 inmates are participating in drug treatment programs.
- Nearly 20,000 inmates are participating in aggression replacement programs.
- More than 4,350 inmates are participating in sex offender treatment programs.
- More than 15,000 inmates are participating in transitional services programs to prepare them for release.

Inmates released in 1999 served an average of 31 months in prison. The average inmate therefore had the opportunity to complete multiple programs, since each requires less than a year to complete.

Commissioner Goord said, “There is no doubt that our level of successful programming is directly related to our employees: the ability of our uniformed staff to maintain security, and the commitment of our civilian program staff to offer every inmate the opportunity to participate in meaningful programs.”

# **Commissioner's policy paper**

## ***On prison safety and inmate programming***

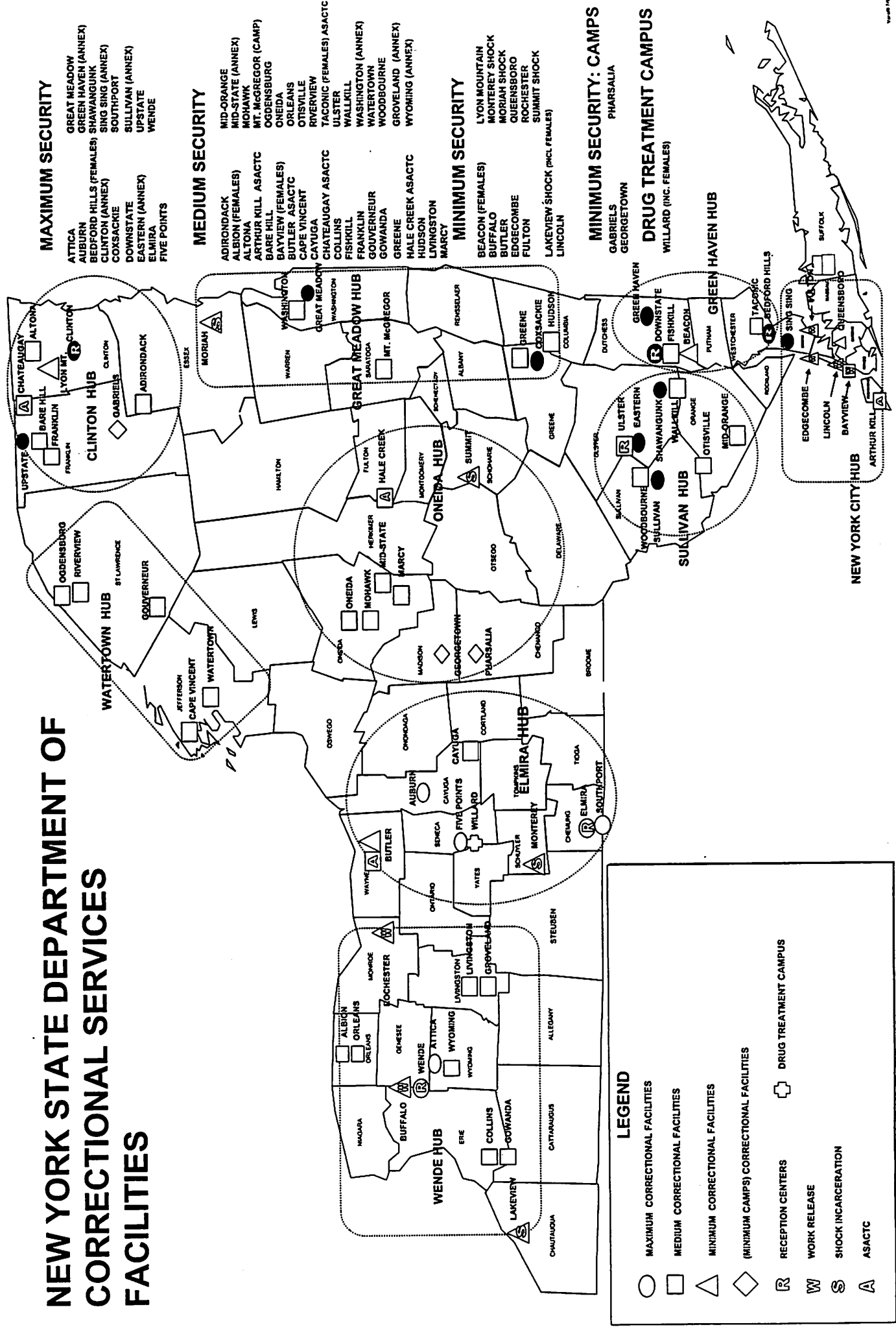


**Glenn S. Goord**

**Commissioner**

***November 2000***

# NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES FACILITIES



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*Maximizing the opportunity for effective programming*  
**Making the system safe and secure for staff and inmates**

**By Glenn S. Goord**  
**Commissioner**

Since Governor George E. Pataki took office in 1995, paramount among his concerns for this Department has been the safety and security of staff as well as inmates, and ensuring that inmates receive the meaningful programs necessary to assist them when they leave the system. Such concerns are paramount in a system where the average time served is 31 months and 99 percent of inmates will eventually be released.

These are two interrelated subjects: proper security and safe prisons are necessary to protect the lives of staff and inmates, as well as the community at large. When appropriate security is in place, then programs can operate in an orderly manner and allow staff to address inmate needs. This report describes how Governor Pataki and this Department have addressed these related topics.

Security needs have been addressed in large part through the Governor's proposals, enacted overwhelmingly by the Senate and the Assembly, to construct 4,950 prison beds for mostly violent offenders. Of those, 3,000 were constructed as disciplinary housing beds. The remainder include the 1,500-bed Five Points Correctional Facility in Seneca County and a 150-bed addition to the Southport Correctional Facility in Chemung County. The remaining 300 beds are for cadre at the Upstate Correctional Facility in Malone, described later in this paper.

I announced on October 20 that our prison population is expected to decrease by more than 2,400 mostly nonviolent inmates to a total of 69,000 inmates by the end of the current fiscal year. I noted that our annual rate of growth during the Pataki Administration was under 2 percent, compared to a national average increase of 5 percent each year among all states.

New York's population growth has been moderated by the fact that initiatives proposed and supported by the Governor and enacted by the Legislature will have allowed a cumulative total of about 37,000 selected nonviolent offenders to earn early release from prison by the end of this fiscal year. They include shock incarceration, the Willard Drug Treatment Campus and merit time. With other programs options, inmates have a host of rehabilitative offerings available to them.

Felons, violent and nonviolent, are sent to prison as punishment and not for punishment in New York state. Our obligation is to provide a safe, secure and constitutional environment. In New York, we have expanded upon that system to offer programs to inmates and then urge them to participate in them to better prepare themselves for release back into the community.

While incarcerated, however, it should surprise no one that some felons again commit infractions – and, in some cases, serious felonies – that include assaultive behavior, possession of contraband, weapons use, use of illegal drugs and a host of other offenses. The question then becomes: what to do with felons incarcerated for breaking state laws who go on to violate prison rules once they are incarcerated? In New York, as in states across the nation, the answer is SHU's.

## **Special Housing Units (SHU's)**

### **The concept behind them**

Let me first address the subject of Special Housing Units. The concept underlying their purpose and need is a simple one.

Section 137 of the Correction Law states that "The commissioner shall provide for such measures as he may deem necessary or appropriate for the safety, security and control of correctional facilities and the maintenance of order therein."

That section further states "The superintendent of a correctional facility may keep any inmate confined in a cell or room, apart from the accommodations provided for inmates who are participating in programs of the facility, for such period as may be necessary for maintenance of order or discipline..."

The Department's rules and regulations formulating how Section 137 will be carried out are codified in Title 7, Chapter 6 of New York Codes, Rules and Regulations on file with the state's Secretary of State.

Every maximum-security prison has an SHU, as do most medium-security facilities. The exceptions are Bayview, Butler, Chateaugay, Hale Creek, Hudson, Taconic and Wallkill. Whether in a max or a medium, all SHU's are built to and operated at maximum-security standards and conditions. Generally, they all operate in the same manner.

New York has 2,469 single-occupancy SHU cells with an average size of 56 square feet. Inmates in these cells need to be escorted out of their cells for showers and court-mandated exercise. There are also 1,500 double-occupancy SHU cells with 105 square feet each, which have built-in showers and attached enclosed exercise areas, both controlled by Officers from outside of the cells.

Besides inmates housed in SHU's, there are inmates in a status called "keeplock" – those kept locked in their own cells with most of their property as a shorter-term, lesser punishment than that meted out to inmates moved to SHU's with minimum property. Long-term Keeplocks in SHU are treated like SHU inmates with limits on the amount of personal property they may possess.

A total of 4,521 inmates serving SHU or long-term Keeplock sentences were physically housed in SHU's on November 13, 2000. That number represents 6 percent of the inmate population of 70,799 on that date.

Such disciplinary housing goes by many names across the nation. But by-and-large, it is defined as virtually around-the-clock cell time with minimum privileges. Inmates only leave their cells for medical and legal visits, court-mandated exercise periods and limited other visits. But there are some key distinctions:

- Inmates in SHU or Keeplock status in New York know the length of their sentences. Inmates in such status in some other jurisdictions do not.
- In some jurisdictions, inmates have no option to earn additional privileges based upon their improving conduct. They do in New York.
- Some jurisdictions operate "super max" facilities to concentrate the "worst of the worst" inmates. New York does not follow that model. We have no "super max" facilities.

In New York, inmates place themselves in disciplinary housing based upon their own conduct after they arrive in prison. It is really as simple as that. Based upon my 26 years of experience within this system, it is my observation that most inmates want to follow the rules, participate in programs, do their time and get out.

But for those who choose to misbehave, they place themselves in disciplinary housing for specific periods of time, periods that grow longer based upon either the severity of the infraction or the repetition of infractions by the same inmate.

#### **Types of offenders in SHU's**

To understand the need for SHU's one needs to know the profile of the types of offenders who are sent to them. Here are some examples of the types of offenses and the background of some of the inmates now in the SHU:

- Leroy Webster (96-B-2043) received three years for assaulting another inmate with the handcuffs and chain the former was wearing. A review of his record shows 12 previous infractions that included weapons possession, extortion, bribery, violent conduct, interference with staff, harassment, unauthorized group activity and creating a disturbance. Webster, previously identified as a member of the Bloods gang, may have committed the attack on the orders of other gang members. He is serving an Onondaga County

<b>Sentences by major offenses</b> <i>on 11/16/00</i>		
<b>Offense</b>	<b>SHU</b>	<b>Keeplock</b>
Penal law offenses	22	2
Assaults on staff	248	16
Assaults on inmates	261	25
Fighting	72	177
Sex offenses	50	21
Disturbance/demonstration	952	514
Unauthorized organization	62	41
Refusal to obey orders	174	300
Interfering with employees	148	222
Contraband: weapon	357	84
Contraband: drug use	488	323
Contraband: drug possession	163	61
Contraband: other	151	176
All other offenses	303	342
<b>Total</b>	<b>3,451</b>	<b>2,304</b>



sentence of 3½-7 years for criminal possession of a weapon and criminal possession of a controlled substance. It should also be noted that, among all inmates cited for unauthorized group activity, the vast majority are for gang-related conduct.

<b>SHU average sentences in days</b>		
Year	Sentence	Served
1997	253	181
1998	238	185
1999	214	177
2000	193	169
2000 data is through July 31, 2000		

- Anthony Louis (96-A-5774) received six years for assaulting another inmate in a holding cell. Louis was just one of the attackers. But a review of his disciplinary record shows 11 prior disciplinary infractions. These included fighting, making threats, violating direct orders, unauthorized group activity, weapons possession, drug use and interfering with staff. He is serving a Rensselaer County sentence of 1½-3 years for criminal possession of a controlled substance and promoting prison contraband. There is also an outstanding warrant against him by the INS for his return to Jamaica. He is an example of inmates committed for nonviolent offenses who engage in violent conduct once incarcerated.
- Benjamin Serrano (95-A-3627) received five years for fighting, violent conduct, inmate assault and creating a disturbance. He had prior misbehavior reports for fighting, assaulting inmates, weapons possession, unauthorized group activity, violating direct orders, violent conduct and unhygienic acts (includes the throwing of bodily wastes, fluids or toilet contents at staff). Many of his activities are suspected of being related to his gang membership. He is serving a Bronx County sentence of 5-10 years for assault and robbery.
- Anthony Burton (92-A-9123) received five years for punching and stabbing an Officer in the side and back of the head with a pen as he was exiting his SHU cell to be taken out to exercise. He had previously been found guilty of five misbehavior reports, including staff assaults, harassment and the commission of unhygienic acts. He had also been found guilty of four lesser offenses that included making threats and movement violations. He had more than 18 months remaining on his SHU sentence when he attacked the Officer. He is serving a Sullivan County sentence of 66⅔ years-to-life for seven counts of murder plus four each for robbery and burglary as well as one count of rape and another of grand larceny.
- Stacey Knight (90-T-2238) received five years for violent conduct, making threats, participating in demonstrations and unauthorized group activity. A review of his prior record shows three serious offenses and six less serious offenses for weapons possession, fighting, unauthorized group activity and being out of place. This inmate has been identified as one of the leaders of the Bloods gang. During the recent Y2K disturbance, he was giving orders to other gang members to refuse staff orders and to assault staff. These incidents occurred over several days with multiple staff assaults perpetrated by Blood members at his behest. He is serving a Kings County sentence of 12½-25 years for robbery.

*Commissioner Goord's policy paper on prison safety and program services*

- Al Kirby (93-A-6135) received nearly 10 years for attacking two Officers with a shank as they entered his cell to remove him. One Officer was cut on the arm and the second in the abdomen. This inmate has nine serious prior misbehavior reports ranging from multiple unhygienic acts to weapons possession, assaults on staff, flooding his cell and refusing to obey direct orders. He is serving a Queens County sentence of 15 years to life for murder.
- Melvin Rodriguez (93-A-6075) received six years for assaulting another inmate in a yard during a major disturbance, then received another six years concurrently for attacking an Officer who came to his inmate victim's aid. A review of his disciplinary record shows 12 prior disciplinary reports, including assaults on inmates, weapons possession, fighting, making threats, creating a disturbance and committing unhygienic acts. He is serving a New York County sentence of 6-12 years for robbery.
- Claudio Cuadrado (89-A-6998) is serving a five-year sentence for cutting an Officer with a razor blade. This inmate had previously received 14 serious misbehavior reports for such offenses as staff assaults, arson, lewd exposure, making threats, unhygienic acts and weapons possession. He had approximately three years remaining on an old SHU sentence when he attacked the Officer. He is serving a Bronx County conviction of 5-10 years that includes criminal possession of a weapon and assault. His time also includes an added sentence of promoting prison contraband.
- Marvin Brown (94-A-8458) received a six-year sentence for stabbing an Officer in the left shoulder when that Officer and others were part of an extraction team removing Brown from his cell. He had eight previous serious misbehavior reports for such offenses as arson, assault on another inmate, gang activity, fighting and participating in a demonstration. He also had prior lesser offenses for fighting and gang activity. He is serving a Kings County conviction of 21½ years to life for robbery, as well as for absconding from a prison work release program and promoting prison contraband.
- Carlos Rodriguez (88-B-0742) received nine years in the stabbing death of another inmate in a prison yard. A review of his disciplinary history shows that he had 17 prior disciplinary infractions that included assaults on other inmates, fighting, weapons possession, arson, lewd exposure, threats, violation of direct orders and harassment. Originally committed out of New York County, he is now serving a sentence of 42½ years to life for criminal possession of a controlled substance, robbery, manslaughter and murder.

### **Summarizing SHU placement**

A quasi-judicial hearing is required before an inmate's placement in an SHU is confirmed. Hearings for the most serious offenses are conducted by a Captain or other designee, in accordance with the due process requirements of Chapter V of the Department's regulations. If the inmate is confined prior to the hearing, the hearing must start within seven days and conclude within 14 days of the date of the misbehavior report.

The inmate is served with charges at least 24 hours before the hearing, can call witnesses and present evidence. The inmate must be offered an employee assistant if the inmate is confined prior to the hearing, is non-English speaking or illiterate. The inmate may appeal an adverse decision to the Commissioner's designee, who reverses or modifies adverse decisions in more than 29 percent of appeals. By comparison, that is a better appeal success rate than inmates find when contesting their crimes of commitment in appeals courts.

Once in SHU's, New York has a system where, as their behavior improves, SHU inmates may earn additional privileges, such as the ability to make commissary purchases and possess more than minimum amounts of personal property. In some facilities, inmates may earn as much as a 25 percent reduction in their SHU sentence through improved behavior.

SHU inmates have access to books from the law and general libraries and may also participate in cell study programs. Most cells are equipped with headphones that allow inmates to plug into AM or FM radio broadcasts or to receive television audio feeds. Inmates in older cells not equipped for such reception are allowed to purchase modest personal radios for their cells.

Some of the inmates locked up for substance abuse are participating in a substance abuse pre-treatment pilot program under the National Institute of Corrections. Upon completion of this individual cell study program, inmates are moved to a Residential Substance Abuse Treatment program. Upon completion of that program, good time lost for prison drug offenses may be restored. The pilot program operates at the Mid-State and Greene S-Blocks with 26 participants each.

The overall progress and condition of every inmate in disciplinary status is monitored constantly through interaction with Correction Officers, security supervisors, facility administrators, teachers, counselors, mental health professionals, chaplains and medical staff.

### **Constitutionality and oversight**

While the conditions imposed in SHU's are admittedly stringent, they are also necessary to meet the Department's obligation to maintain a safe and secure environment for staff as well as inmates in the general population. Outside oversight of SHU's helps to maintain and ensure our operating standards, just as the courts have ruled those standards are constitutional, legal and logical.

Let me summarize a few pivotal appellate decisions:

- In *Scott v. Coombe*, the Appellate Division of state Supreme Court ruled that confinement of even 1,000 days in SHU is constitutional, even coupled with loss of privileges and loss of good time as added penalties. The court ruled the penalty was not "unduly harsh or disproportionate to the sustained offenses so as to be shocking to one's sense of fairness."
- In *Proctor v. Coombe*, the Appellate Division went further, ruling confinement of 10 years in an SHU was constitutional. The court went so far as to say "under the circumstances" of the inmate's own decision to misbehave, the confinement was proportionate.

*Commissioner Goord's policy paper on prison safety and program services*

- In *Malik v. Coughlin*, the Appellate Division made clear that loss of privileges and property while in SHU is constitutional: “[p]etitioner is not physically injured by the lack of a watch, hairbrush or more than 10 family photographs.”
- In *Anderson v. Coughlin*, the Second Circuit of the U.S. Court of Appeals ruled it would not be swayed by critics who banded about such terms as “possible” and “potential harm” in alleging undocumented mental health issues related to SHU confinement:

“There are numerous aspects of prison confinement that have the potential for causing deleterious effects on the physical and mental well-being of prisoners. The fact of confinement itself is chief among them. The Eighth Amendment does not guarantee that all such effects will be prevented, nor even that all reasonable steps will be taken to minimize the risks. By prohibiting cruel and unusual punishment, the Amendment stands as a barrier against fundamental and shocking indecency to those whom the state has chosen to confine for their crimes.”

Besides the appellate courts, there are a host of others with oversight of our facilities in general and SHU's in particular.

Our prisons and SHU's are open to access by outsiders. They include the Correctional Association of New York as well as trial and claims courts, in which inmates file 5,000-7,000 actions annually. Prisoners' Legal Services and the Legal Aid Society visit SHU inmates regularly and can tour SHU's with a court order.

State Correction Law §146 also grants virtually unlimited access to all areas of prisons to the Governor and Lieutenant Governor, Attorney General, Comptroller, Secretary of State, Office of General Services Commissioner, the State Commission of Correction, each member of the Legislature, judges and prosecutors.

Every one of New York's 70 facilities (except Five Points, which opened less than three months ago) has been visited, inspected and accredited by the independent American Correctional Association, non-partisan criminal justice professionals and experts who have certified that 69 of our prisons meet nationally-accepted standards for the operation and administration of correctional facilities, which include a review of SHU policies and procedures.

Having explained our philosophy on SHU's, generally describing their process and establishing their constitutionality and oversight, let me discuss the policy issues as to their operation.

#### **How today's system evolved**

Understanding the evolution of our disciplinary housing practice into what it is today requires some state penal history and the perspective of looking at its development contemporaneously with what was happening around the nation.

After the “crack cocaine” epidemic struck in the early 1980’s, the state’s response was more than a decade’s construction of approximately 30,000 prison beds around the state. Most of these came from a medium-security “cookie cutter” design of a 700-bed prison with open barracks-style housing units that were built across the state. Most of these were planned with a 32-bed SHU which was believed to be sufficient for such a facility.

These facilities were hardly in design when their capacity was raised to 756 beds. Along the way, many of them were double bunked to add another 504 beds. Some were given annexes that added still another 600 beds. However, no additional SHU space was constructed.

The additional bed capacity at medium-security prisons without accompanying increases in disciplinary housing was problematic. Because inmates in medium-security prisons live in open barracks and dormitories, both SHU and Keeplock sentences are served in the SHU.

Inmates in medium-security prisons who received SHU or Keeplock sentences filled their SHU’s and spilled over to fill the available cells in the SHU’s of maximum-security facilities. More than 2,200 maximum-security cells had to be diverted from general population use to house SHU’s and Keeplocks from the medium-security prisons as well as those sentenced to disciplinary confinement (SHU or Keeplock) in maximum-security prisons. The problems that caused included:

- Maximum-security prisons saw dramatic changes in their operations. Rather than being designed to have all of their inmates in daily program activities except for the 100 or so in SHU status, a fifth to a quarter of their cells housed disciplinary inmates. That meant full programming was disrupted.
- Some security staff who normally monitored program areas had to be reassigned back to the cell blocks now housing disciplinary inmates around-the-clock. It meant they had to ensure the delivery of food to hundreds of inmates in disciplinary status. They had to divert their time to escorting these inmates for medical, legal and family visits. It also meant taking inmates in single cell SHU’s to showers and outside exercise on a regular basis.
- Because disciplinary inmates were taking up additional cell space, “state readies” were backing up in record numbers in county jails across the state, most of them in urban settings such as New York City and its suburbs. That pressured the limits of county operations. Eventually, the total number of state readies would reach an all-time high of 4,425 in July of 1999. The state has paid court-ordered settlements exceeding \$36 million for delays in accepting custody “forthwith” of these offenders.

### **Governor, Legislature act**

In 1996, Governor Pataki and the Legislature initiated the first steps in a plan to add SHU space. They approved the construction of a 100-double cell prototype unit to be built on the grounds of the existing medium-security Marcy Correctional Facility. They also approved the construction of a 75-double cell unit at Southport. It would free up 150 disciplinary single cells by allowing the double celling of cadre inmates. The Legislature approved these initiatives in 1996.

In 1997, Governor Pataki and the Legislature agreed to build eight units like Marcy's within the perimeters of as many more pre-existing medium-security prisons at Cayuga, Collins, Fishkill, Gouverneur, Greene, Lakeview, Mid-State and Orleans. The nine smaller units are known as S-Blocks. The Governor and Legislature also agreed to build a 750-double cell, maximum-security prison in Malone as a disciplinary housing unit. The new prison at Malone is the Upstate Correctional Facility. Approval for eight S-Blocks and Upstate was given by the Legislature in 1997.

Upstate Correctional Facility is a larger SHU with 1,200 inmates confined plus 300 cadre to operate the mess halls and laundries and to perform other work assignments. But its general operation is not significantly different than a smaller SHU. While some inappropriately refer to it as a "super max," its housing and security perimeter is identical to that at Five Points Correctional Facility, the new maximum-security general confinement facility in Seneca County. Construction of Five Points was approved by the Legislature in 1998.

The other prison that some mistakenly refer to as a "super max" is Southport, located south of Elmira. It was originally built as a basic general confinement maximum-security facility. It was converted to use as an SHU facility in 1991 as a result of a statewide shortage of such space.

Some jurisdictions group the "worst of the worst" inmates in a single SHU facility and designate it and operate it as a "super max." New York has consistently rejected that philosophy because:

- We believe there are some serious security concerns in concentrating such offenders in one place when, even with limited contact among them, they can plot to act as a group.
- We move long-term SHU inmates from one facility to another on a regular basis to prevent them from becoming too knowledgeable of operations in any one facility.
- We believe such a concentration would place undue stress on facility staff who would have to deal long-term with large numbers of especially violent offenders.
- Because SHU's in maximum-security, medium-security, S-Blocks and Upstate are all built to maximum-security specifications, our system provides us with a myriad of options and complete flexibility in dealing individually with inmates who refuse to follow facility rules.

### **Concerns about SHU expansion**

Because the S-Blocks began opening in early 1998, I use 1997 as the base year in comparing the changes that have occurred in disciplinary housing operations since the expansion.

As the Governor and Legislature voted to approve this 3,000-bed expansion of disciplinary housing space, some offered three major concerns about that construction:

- The prison system would use the added beds to arbitrarily lengthen the sentences served by inmates in disciplinary housing, because we would have the additional beds to house them.



- That if we built the beds, we would fill them by simply "widening the net" of what constitutes a disciplinary offense in order to fill all the new beds.
- That the use of double celling would only worsen an already dangerous SHU policy.

The chart below plus those on pages 11 and 14 address these concerns.

<b>Breakdown by year of disciplinary sanctions by status, length of sentence</b>										
Year	Inmates confined	≤30 days	31-59 days	60-89 days	90-119 days	120-179 days	180-364 days	1-2 years	2-3 years	3+ years
<b>Inmates confined in SHU status in calendar year</b>										
1997	3,975	23%	2%	7%	12%	6%	30%	15%	3%	1%
1998	4,710	20%	2%	7%	15%	8%	29%	15%	3%	1%
1999	6,517	15%	3%	7%	18%	10%	30%	12%	2%	1%
<b>Inmates confined in Keeplock status in calendar year</b>										
1997	28,861	83%	2%	4%	5%	2%	3%	1%	x	x
1998	29,538	83%	2%	4%	5%	2%	3%	1%	x	x
1999	30,370	88%	2%	4%	4%	1%	2%	x	x	0
Virtually all Keeplocks of 120+ days are in maximum-security facilities										
Rows do not total 100 percent due to rounding										
x = Value is less than one-half of one percent.										

The chart above demonstrates that, after the additional 3,000 beds went into service, the percentage of inmates serving SHU sentences of 6-12 months remained the same while the percentage serving 1-3 years actually dropped by a quarter. Those serving three years or more remained the same. The percentage serving the shortest sentences (30 days or less) dropped by a third. The bulk of the increases in sentences was in the moderate range, among those serving sentences of 3-6 months.

Among Keeplock inmates, 83 percent were serving sentences of 30 days or less in 1997 but they rose to 88 percent in 1999. All other sentence lengths remained the same or decreased.

Snapshot comparison of inmates in disciplinary status on one day							
	SHU Status		Keeplock status				
Date	In SHU	Other	In SHU	Other	Total	Population	Rate/1K
12/31/97	1,442	486	567	2,776	5,271	69,672	76
11/13/00	3,314	140	1,207	917	5,578	70,682	79
Change	1,872	(346)	640	(1,859)	307	1,010	3

In a general confinement maximum-security facility, SHU's generally house inmates in disciplinary status, plus 74 inmates statewide in administrative segregation or involuntary protective custody. Keeplocked inmates serve their time locked in their general confinement cells.

In a medium-security facility, both SHU and Keeplock sanctions are served in the SHU, because inmates cannot be confined in the non-cell, barracks- or dormitory-style housing units of these facilities. Thus, one must examine whether a medium-security inmate is in SHU or Keeplock status, and then determine if their physical location is in an SHU or in a general confinement cell.

In 1997, as the chart above shows, 1,442 inmates serving SHU sanctions were physically housed in SHU's, but another 486 were housed in general confinement cells. Similarly, 567 inmates serving Keeplock sanctions were housed in SHU's, but another 2,776 were housed in general confinement cells.

That means there were 2,009 inmates serving disciplinary sentences in SHU's plus 3,262 serving such sentences in general confinement cells.

The construction of 3,000 disciplinary housing beds between S-Blocks and Upstate allowed us to free up general confinement beds by transferring disciplinary inmates into the new disciplinary beds.

By last month, 4,521 inmates were in SHU beds and only 1,057 inmates assigned to Keeplock were in general confinement beds.

This swap of location with 3,000 new beds was accomplished while the total number of inmates in disciplinary status rose by only 307 on November 13, 2000 – equivalent to just 10 percent of the beds added. The rate of confinement of inmates to the general population rose from 76 to 79 per 1,000 inmates, an increase of only 4 percent. As the updated figure in the chart on the next page shows, the number in disciplinary housing was only 5,505 on November 27, 2000.

Despite the inmate population increase and the increased percentage of violent offenders in the system (noted on page 15), the massive "build them and they will come" scenario feared by critics did not materialize.

For the counties, the freeing up of thousands of general confinement cells helped us to reduce the number of "state readies" from 4,425 last year to fewer than 700 last month. That becomes a major change for counties who have themselves become so hard-pressed for space that some were forced to house their offenders in other counties.

### The national perspective

In deciding to double cell our new SHU cells, New York reviewed practices in other states to determine the best ways of ensuring the safety and security of its new units:

- California has always double celled its SHU inmates.
- The U.S. Bureau of Prisons has double celled its SHU inmates for more than 25 years.
- Florida and Illinois have been double celling SHU inmates for more than 20 years.
- Ohio has been double celling SHU inmates for more than a decade.

Many states also double cell in SHU-like conditions inmates who are in either administrative segregation or protective custody. California has 8,372 inmates in such conditions and Florida has 7,224 – two of the three state prison systems that house more inmates than does New York.

The third state with more inmates than New York is Texas. In part due to litigation, it houses its approximately 9,000 segregated inmates in single cells – while the balance of its 155,000 inmates are all in double cells or double bunks.

Disciplinary status by month (Data reported the last Monday of the month)			
Month	Keeplock	SHU	Total
January 1999	3,091	2,384	5,475
February	3,119	2,407	5,526
March	3,002	2,491	5,493
April	3,037	2,593	5,630
May	2,933	2,757	5,690
June	2,748	2,843	5,591
July	2,639	2,918	5,557
August	2,771	3,031	5,802
September	2,632	3,220	5,852
October	2,549	3,324	5,873
November	2,457	3,408	5,865
December	2,489	3,476	5,965
January 2000	2,522	3,826	6,348
February	2,382	3,846	6,228
March	2,386	3,722	6,108
April	2,376	3,648	6,024
May	2,241	3,608	5,849
June	2,209	3,600	5,809
July	2,152	3,581	5,733
August	2,179	3,586	5,765
September	2,111	3,539	5,650
October	2,112	3,466	5,578
November	2,064	3,441	5,505

Chart above shows November's number of inmates in disciplinary status, regardless of location, is the lowest since March of 1999. Note the decrease in the number of inmates housed in Keeplock is almost identical to the increase in inmates now being housed in SHU's.

### **SHU screening process**

We examined double celling in other states. We decided that the safety of double celling SHU inmates was in ensuring a proper and well-defined screening process to determine which inmates were the best candidates for such housing. Our extensive screening process:

- Prohibits the double celling of inmates determined to be victim-prone, those who are highly-assaultive, those exhibiting histories of aggressive homosexual behavior and those with histories of extreme violence.
- Bars any inmate with a communicable disease from being housed in a double cell, including those who are on "directly observed therapy" for treatment for exposure to TB (even though these inmates do not have the disease).
- Requires each facility medical director to review candidates for double celling to see if such placement is contraindicated or if special requirements apply. Those could include placement in a bottom bunk because of limited mobility, for example, or require placement in a non-smoking cell for medical reasons.
- Provides for the interviewing and evaluation of inmates placed in SHU by Office of Mental Health staff within 48 hours of their arrival, exclusive of weekends and holidays.
- Demands an assessment of compatibility, which includes taking into account an inmate's religious or ethnic background, physical size and capabilities, known enemies, smoking and history of escape attempts.

### **Double celling made safe, secure**

Some question whether or not double celling can be made safe, arguing that the placement of two disruptive inmates into one cell is dangerous, in and of itself.

The chart on the next page analyzes unusual incidents by looking first at all areas of all prisons, then at SHU's in all prisons, then at just the single-celled SHU's in maximum-security prisons, then at the double-celled Upstate SHU and then, lastly, the double-celled S-Blocks.

It shows that the rate of incidents are much higher in single-celled maximum-security SHU's than at Upstate. Meanwhile, the S-Blocks have lower rates of incidents, generally, than does Upstate. I believe the screening process has contributed to making double cells even more secure than single-cell SHU's.

The simple fact that we barred inmates with certain histories of violent behavior from the double cells should, inherently, make them safer than single cell SHU's. The numbers on the next page document that.

<b>Comparison of Unusual Incident Rates in SHU's by Location</b>		
	Rate per 1000 inmates in '99	Rate per 1000 inmates in '00
<b>Total Unusual Incidents</b>	(calendar year)	(annualized*)
All facilities, all locations	109	96
SHU's in all facilities	204	175
Maximum-security SHU's except Upstate	338	333
Upstate	188	130
S-Blocks	143	111
<b>Inmate-on-Staff assaults</b>		
All facilities, all locations	11	10
SHU's in all facilities	55	46
Maximum-security SHU's except Upstate	106	127
Upstate	49	15
S-Blocks	30	16
<b>Inmate-on-Inmate assaults</b>		
All facilities, all locations	18	14
SHU's in all facilities	27	20
Maximum-security SHU's except Upstate	53	47
Upstate	21	7
S-Blocks	21	15
*2000 data is through October and then annualized for the year.		

I also looked at the unusual incidents in SHU's to determine if there was a difference between those occurring in single-cell versus double-cell units. The double-cell units housed 55 percent of the inmates actually in SHU's on November 13, 2000 (2,502 of 4,521). The differences are startling. From October 1999 through September 2000:

- There were 809 incidents in all SHU's that year, but only 331 of them occurred in double-cell units that comprise more than half our SHU space.

*Commissioner Goord's policy paper on prison safety and program services*

- There were 209 inmate-on-staff assaults, but only 52 in double cells.
- There were 227 incidents involving contraband, but only 110 in double cells.
- There were 94 inmate-on-inmate assaults, but only 37 in double cells.

I believe these numbers speak well for our screening process and the professionalism of staff in protecting inmates in all of our SHU's, but especially in the double-celled units. The fact that our double cell SHU's reduce staff-to-inmate and inmate-to-inmate contact by eliminating shower and exercise trips also contributes to a major reduction in the opportunity for incidents.

The numbers are even more impressive as the result of legislation that has increased the length of time that violent offenders will spend in the system:

- The Sentencing Reform Act of 1995, which lengthens the sentences of repeat violent offenders and eliminates their discretionary parole, passed the Legislature in 1995.
- Jenna's Law, which applies the same sanctions against first-time violent offenders, was passed by the Legislature in 1998.

As a result of those initiatives, the majority of today's inmate population is composed of violent offenders. Of the 70,342 total inmates on November 4, 2000, 37,580 were violent offenders ( 53.4 percent) and 32,762 were nonviolent (46.6 percent).

By comparison, when Governor Pataki took office on January 1, 1995, there were 66,750 inmates. Of them, 34,463 were violent offenders (51.6 percent) and 32,287 were nonviolent (48.4 percent). Nearly 87 percent of the inmate population growth was among violent offenders (3,117 of 3,592).

### **How SHU expansion affects the system**

Having discussed the operation of our SHU's, the question turns to what impact their expansion has had on the overall operations of our prisons. That is shown dramatically in the chart on the next page.

It clearly shows that since 1998, when the S-Blocks began to open, both the number and rate of inmate-on-staff and inmate-on-inmate assaults declined sharply. There has simply been no other change in prison operations and security procedures that would account for these major decreases.



<b>Comparison of Number, Rates of Inmate Assaults</b>					
Calendar Year	Average Population	Inmate-on-Staff Assaults		Inmate-on-Inmate Assaults	
		Number	Rate per 1K	Number	Rate per 1K
1994	65,681	1,003	15	1,472	22
1995	68,156	947	14	1,753	26
1996	68,934	889	13	1,638	24
1997	69,672	985	14	1,860	27
1998	69,882	963	14	1,551	22
1999	71,118	755	11	1,310	18
2000	71,305	602	8	800	11
2000 data is through the end of October					

In addition to the numbers cited in the chart above, further data going back two full decades shows the following:

- 1999's *number* of overall inmate-on-staff assaults, 755, is the fewest in 14 years.
- 1999's *rate* of inmate-on-staff assaults, 11 per 1,000 inmates, is the lowest in 20 years.
- 1999's *number* of inmate-on-inmate assaults, 1,310, is the fewest in seven years.
- 1999's rate of inmate-on-inmate assaults, 18 per 1,000 inmates, is the lowest in 19 years.

#### **Providing mental health services**

Mental health services are available to DOCS inmates in SHU's. Such services are provided by and through the state Office of Mental Health (OMH).

First, 1.5 percent of our staffing is devoted to mental health services, compared to 1.2 percent in both California and Texas. Our percentage does not include the 286 OMH personnel working in our facilities, which will increase to 353 during Fiscal Year 2000-01 due to a Governor's proposal enacted by the Legislature.

OMH services and oversight in prisons includes:

- OMH has mental health input into the disciplinary hearing process, wherein "mental health factors" will be taken into consideration by the hearing officer when deliberating over a case involving an inmate who is on the OMH caseload. We have piloted at Attica Correctional Facility the Joint Management Committee, which formalizes this process and documents

alternative placements and mitigating factors affecting an inmate's initial and/or continuing stay in SHU.

- OMH policy is consistent with and exceeds American Correctional Association (ACA) standards with respect to the mental health screening for all inmates admitted to SHU. These cases are periodically reviewed thereafter, as prescribed by OMH policy and ACA standards.
- In OMH satellite units in nine maximum-security facilities, a weekly minimum of 10 hours of each clinician's time must be spent in SHU's interviewing and counseling SHU inmates. Clinicians' times are logged and audited by the Central New York Psychiatric Center's (CNYPC) quality assurance program. Each satellite unit has a designated clinician to do rounds in SHU, and OMH caseload inmates are closely monitored and followed. Treatment plans are developed to gear therapeutic programs toward individual needs. Such units are located at Attica, Auburn, Bedford Hills, Clinton, Elmira, Great Meadow, Sing Sing, Sullivan and Wende, with one opening this fiscal year at Five Points.
- CNYPC and the satellites are fully accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO), which includes a review of mental health services provided in SHU's. DOCS' mental health system is the only statewide correctional-based mental health system in the country to have attained this distinction.
- If an inmate in SHU requires care and treatment beyond what can be attained in SHU, they may be removed to a satellite bed and/or committed to inpatient psychiatric care at CNYPC.
- All SHU commitments to CNYPC are subject to specialized team meetings between the inpatient treatment staff, plus the prison DOCS and mental health staff, to develop appropriate plans for individual care once inmates return to prison or the SHU.
- There are individual interview rooms in proximity to SHU so that mental health staff may conduct therapeutic interchanges with patients in a confidential setting.
- There is continuous collaboration between DOCS and OMH staff regarding all aspects of the treatment and management of mentally disabled offenders who may be the subject of disciplinary hearings and/or placed in SHU. This interagency collaboration has led to the development of a Special Treatment Program (STP) to be initially implemented at Attica and Five Points correctional facilities. It will significantly enhance designated SHU inmates' access to mental health services outside of the immediate confinement of their cells in secure therapeutic treatment areas. This program will also substantially increase the amount of time designated inmates will have access to the STP.

### **Effects of SHU status**

There is a common misconception that SHU inmates are in "solitary," as if this means some sort of "sensory deprivation tank."

The opportunity for human interaction for an inmate in SHU is quite prevalent. DOCS staff are moving through the SHU's continually. Among those whose duties include interacting with SHU inmates are facility medical staff, mental health staff, counseling staff, Inmate Grievance Program staff, ministerial services staff and facility executive teams. Each of these staffs have a routine presence in SHU, as well as responding to individual inmate requests for consultation.

The Correction Officers who staff the area have a variety of duties which involve interpersonal interaction with the inmates. This includes one hour per day out-of-cell exercise period, which (except in double-celled SHU's) necessitates an escort to and from the exercise area, both opportunities for interaction. In the double-celled SHU's there are two inmates in each cell. Consequently, the opportunity for interpersonal interaction is constant.

Additionally, the inmates have continual opportunities to interact with each other. Inmates in adjoining cells can converse with no difficulty all day long if they want.

Consequently, the concept of "isolation" or "sensory deprivation" in an SHU is a fallacious one based on faulty assumptions. The opportunity for interpersonal interaction and intellectual stimulation is present.

Secondly, to attempt to generalize the psychological effect that depriving inmates of their liberty and freedom of movement or to somehow attempt to create an "unusual" response profile to this phenomenon would be, in my opinion, meaningless given current empirical data. As with all human response issues, how a specific individual reacts to a particular situation is dictated by individual life experiences, intellectual capacities, personality development and social growth and maturation levels. Without some form of empirical data looking at population characteristics and response patterns, it would be useless, or worse, to attempt to postulate the effect that SHU placement has on the individual.

Which brings me to my next point: as far as DOCS and OMH staff have been able to determine, there is virtually nothing in the scientific literature regarding an empirical explanation of this issue. Some overzealous advocates have attempted to quote literature ranging from prisoner of war data to sterile, laboratory-based sensory deprivation studies. Since our system resembles neither prisoner of war conditions nor sensory deprivation tanks, any generalizations to the conditions existent in our SHU's would be specious at best.

However, there is one generalization I can make. SHU's are meant to be a disciplinary response to an inmate's behavior which violates the rules and, in most cases, puts staff and other inmates in danger. Our disciplinary response is a deprivation of liberty, just as incarceration itself was a response to felonious conduct on our streets.

As a rule, inmates do not like their liberty restricted, whether on the street or in prison. The fact that we choose to enforce a disciplinary system that they do not like sends the message to inmates that we intend to balance the severity of their choice to misbehave against our responsibility to provide a safe environment for staff and inmates alike.

## **Inmate programming and transitional services**

### **The mission of program services**

The mission of the Division of Program Services derives in part from §137 of the Correction Law of the state of New York:

“The commissioner shall establish program and classification procedures designed to assure the complete study of the background and condition of each inmate in the care or custody of the department and the assignment of such inmate to a program that is most likely to be useful in assisting him to refrain from future violations of the law.”

The legal requirements to provide programming is reflected in our mission statement:

“The mission of the New York State Department of Correctional Services is to provide for public protection by administering a network of correctional facilities that: (1) retain inmates in safe custody until released by law; (2) offer inmates an opportunity to improve their employment potential and their ability to function in a non-criminal fashion; (3) offer staff a variety of opportunities for career enrichment and advancement; and (4) offer stable and humane ‘community’ environments in which all participants, staff and inmates, can perform their required tasks with a sense of satisfaction.”

The mission of Program Services, in turn, takes its direction from the above statements:

“The mission of the Division of Program Services, in furtherance of the Departmental mission, is to develop and manage programs that effectively address the basic educational, vocational, social, psychological, and spiritual needs of inmates in the custody of the Department in a setting comparable to the ‘real world’.”

### **Identification of inmate needs**

It is the Department's view that all program planning, from the day each inmate enters a reception center, is geared toward preparing that inmate for release. Thus, every inmate program is a part of transitional or pre-release services. In fiscal year 1999-2000, a total of \$194,296,667 in state funds and \$8,813,277 in federal funds was expended for Program Services.

Taking that long view of the importance of all inmate programming being keyed to transitional services, let me discuss how individual inmate program plans are written and how they carry through with inmates to their release.

### **Reception and classification**

Every inmate enters the Department through the Classification and Reception Center at Downstate, Elmira, Ulster or Bedford Hills. There, inmates receive a thorough security, medical,

psychological, substance abuse and educational assessment to determine the appropriate level of security required and, also, to determine individual program and service needs in each of these areas. Once this reception and classification process is completed, the inmate is transferred to an appropriate facility based on the needs identified, available space and security level.

### **Development of program plans**

Once inmates reach their first general confinement facility, the assigned correction counselor interviews the individual inmate and reviews the assessment conducted at the Reception and Classification Center. An individual program plan is then developed, which defines the major programs in which the inmate needs to participate while incarcerated to prepare for transition back into society.

Depending on the individual needs of the inmate, the following five major program areas are considered: education, vocational training, substance abuse treatment, aggression counseling and/or sex offender counseling. In addition, all inmates are assumed to need work and Transitional Services.

<b>Inmate program needs</b>	
Academic education	67%
Vocational education	87%
Substance abuse treatment	76%
Aggression replacement	68%
Sex offender counseling	10%

It is important to note that, in virtually all cases, inmates have needs in more than one area. The same inmate who needs education, for example, may also need vocational training, substance abuse treatment, aggression counseling or, in some cases, sex offender counseling. The decision now has to be made as to the order in which those multiple needs should be addressed.

### **Facility program committees**

Since most inmates have multiple needs, it is the job of the facility program committee, in consultation with inmates and their counselor, to determine placement in a particular program and/or job assignment when the inmate first arrives at a general confinement facility.

The facility's program committee, generally chaired by a senior counselor or other program supervisor, has responsibility for identifying vacant job or program assignments in the facility and identifying appropriate inmates to fill these slots. These decisions are based on inmate needs, inmate interest and the needs of the facility.

Every three months thereafter, every inmate meets with an assigned counselor to review programmatic progress and to plan future participation in needed programs.

### **Major program options**

The following is a brief description of each of the Department's major programs which address the needs identified in the inmate program plan.

- Academic basic education provides inmates with the academic skills and credentials necessary to function in a productive manner while incarcerated and upon release into the

community. Academic programming is mandatory for inmates who read and /or have a math score below the eighth grade level on a standardized achievement test. The program has three basic components: adult basic education for those below the fifth grade level; pre-GED for those between the fifth and eighth grade level and GED for those above the eighth grade level who are preparing for the GED exam. This classroom instruction is supplemented by computer-aided instruction in computer labs. More than 47,000 inmates participate annually.

- Bilingual education programs provide the same components as the regular academic programs, but are conducted in Spanish for those who have limited English speaking ability. In addition to basic skills and the GED in Spanish, the program also provides English-as-a-Second-Language instruction. Some 2,400 inmates participated in these programs last year.
- Vocational education provides training in a wide variety of vocational trades to prepare inmates for facility work assignments and, ultimately, for employment in the community upon release. Instructors provide hands-on, individualized, competency-based instruction in entry level job skills. Trade areas include air conditioning, appliance repair, auto mechanics, barber/beauty, building maintenance, cabinet/millwork, carpentry, commercial arts, computer operator, computer repair, cosmetology, video production, custodial maintenance, drafting, electrical trades, electronic repair, floor covering, food service, general business, horse handling, horticulture, machine shop, masonry, painting, plumbing/heating, radio/TV repair, small engine repair, upholstery and welding. More than 33,000 inmates participated in these programs last year.
- Substance abuse programs offer education, individual and group counseling, relapse and transition counseling and self-help assistance to address inmates who are addicted to drugs and/or alcohol. This competency-based, six-month program is offered in both residential and modular settings at general confinement facilities. Specialized substance abuse programming is provided at Shock Incarceration facilities, the Willard Drug Treatment Campus, the Gowanda DWI program and in Eastern's chemical dependency/domestic violence program. More than 28,000 inmates participated in such programs last year.
- Sex offender programming offers group counseling, individual counseling and education to develop awareness of factors related to sexual offending to help inmates learn alternative skills and behaviors and prepare them for re-entry into the community. More than 4,350 inmates participated in the program last year.
- Transitional services, discussed in detail later, is a comprehensive mandatory program which begins at reception and continues until the inmate is released. It is designed to assist inmates in preparing for their return to the community in four distinct phases: orientation for all new inmates; core programs to assist inmates in developing skills necessary to live a productive, crime-free life; advanced phase for individuals needing specialized or additional assistance preparing for the future, and the transitional phase which is the final preparation for release. More than 15,000 inmates participated in these programs last year.



- Aggression replacement training is provided by trained inmate facilitators, under the supervision of a counselor, designed to assist inmates in identifying and controlling aggressive behavior. More than 19,600 inmates participated in the program last year.

### **Other programs and services**

In addition to these major programs, the Department also provides a wide variety of other programs and services aimed at assisting inmates with their life in the facility and, especially, with preparing them for return to the community.

*Title I programs* are federally-funded supplementary instructional programs for inmates under 21 who are enrolled in school.

*Special education* provides instruction and support to inmates under 21 years of age who are identified as being educationally disabled. Inmates who may require special education services are identified during the reception process and sent to a facility where special education programs are available. An individualized education plan is tailored to comply with all federal and state laws and regulations related to the provision of appropriate educational services to these individuals.

*Incarcerated youth grant programs* from the U.S. Department of Education have, since 1998, ensured that inmates under 26 years of age have the necessary skills, knowledge, attitudes and support to complete vocational training and have access to comprehensive job development/placement upon release.

*College programming* is provided by colleges funding this program through grants, donations or other means at Bedford Hills, Attica, Collins, Wyoming, Sing Sing and Green Haven. As you know, the Governor and Legislature in 1996 decided to eliminate prison inmates from among the indigents who are eligible for state Tuition Assistance Program funds in support of a college education, shortly after the same decision was made on federal Pell grants by the President and Congress. These were both funds that flowed from education sources directly to inmates without any involvement by this Department. Fewer than 5 percent of inmates participated in such programs. Both the Governor and the Legislature continue to fully support secondary education for inmates funded through this Department, where 65 percent of inmates enter the system without a high school degree or GED. Our studies have shown inmates who earn a GED in prison return at a rate of only 34 percent, compared to 39 percent among those who do not.

*Inmate program associates* are offenders taught the responsibility and skills to work under staff guidance and direction to provide services to other inmates as tutors and facilitators in many academic and counseling areas.

*Correctional Industries* provides real-life work assignments for inmates who are trained to produce products sold to state agencies and other municipalities. In the process, inmates learn the job skills and work ethics that many of them lacked prior to coming to prison, preventing many of them from finding and holding legitimate jobs. Industries' product lines include metal products, furniture, textile products, maintenance products, foundry products, modular homes, eyeglasses,

printing and signs. In addition, inmates are also trained to provide services in telephone answering for the Department of Motor Vehicles, labor crews for the Thruway Authority and the Office of General Services and construction and asbestos abatement services for this Department.

*Group counseling* allows counselors to meet with groups of inmates to engage them in self-reflection, sharing feelings, dealing with attitudes and behaviors and weighing consequences of decisions and behaviors.

*Library services* at every facility offers inmates services and programs equivalent to those offered by public libraries in the community.

*Law libraries* provide basic resources for legal research and preparation of legal papers.

*Ministerial services* allows facility chaplains, representing all major faith groups, to provide religious worship, education and pastoral care at each facility. At most facilities, these opportunities are supplemented by religious volunteers from the community.

*Agri-business programs* provide training and work opportunities for inmates at 12 facility farms which provide dairy, beef and vegetable products to facilities to offset vendor purchases for the nutritional services program.

*Waste management* programs provide training and work opportunities for inmates in the areas of recycling and organic waste diversion.

*Hispanic and cultural affairs* are addressed through a variety of programs and services to meet the needs of Hispanic inmates, including research, planning, recruitment, training, translation services, community networking, materials development and evaluation.

*Recreation programs* at every facility provide inmates with a wide variety of recreational opportunities including individual and team sports, physical education classes, fitness programs, sports clinics and other leisure time activities. In addition, some facilities provide music, art and handicrafts programming.

*Volunteer services* recruits responsible and qualified members of the community to conduct activities and programs which supplement the efforts of professional staff. More than 4,000 volunteers serve in various programs on a monthly basis, the majority of whom support religious activities and services while the remainder are involved in such activities as AA and NA meetings, work readiness classes, programs on nonviolent conflict resolution, parenting and classes on the constructive use of leisure time.

### **Community contracts**

The Department contracts with a number of community-based organizations to provide community reintegration and job development and employment services for inmates to assist them in transition back into the community. The current contracts include:

Special Contracts, FY 2000-01				
Vendor	Site	Contract	Inmates	Service provided
Altamont Program	Hudson	\$365,000	20	Community reintegration
	Buffalo	\$501,875	25	Community reintegration
Phoenix House	Marcy annex	\$3,692,019	200	Drug treatment program
	NYC residential		100	Community residential
	NYC outpatient		200	Outpatient services
	Bayview	\$1,887,361	95	Community reintegration
New York TCI	Bayview, Arthur Kill	\$1,332,906	220	Drug treatment services
South Forty	Queensboro	\$441,000	300	Job development and services
CEO (Vera)	Lincoln, Fulton	\$311,204	300	Job development and services
Wildcat	Bayview, Edgecombe	\$441,694	300	Job development and services
Osborne Association	Sing Sing, Bedford, Woodbourne	\$180,000	220	Parenting skills, strengthening family ties

The above is a complete list of the outside groups with whom the state has opted to contract for inmate transitional services. This Department does not maintain a listing of what other services might be available to ex-offenders on the street. While other programs may exist in the community to help offenders reintegrate into society, inquiries about their availability to former inmates should more appropriately be addressed to those providers or the Division of Parole.

### Family-oriented programs

*Family visiting* occurs in the visiting room at each general confinement facility on a schedule to allow families, friends and others to visit inmates seven days per week (in maximum-security facilities) or on the weekends and holidays (all facilities). Approximately 68,600 individuals visit inmates each month.

*Family reunion program* allows intimate visiting for an extended period. Inmates eligible for this program are at Attica, Auburn, Bedford Hills, Clinton, Collins, Downstate (cadre only), Eastern, Elmira, Fishkill, Great Meadow, Green Haven, Shawangunk, Sing Sing, Southport (cadre only), Sullivan, Wallkill, Washington, Wende and Woodbourne. Approximately 18,000 visitors participate annually.

*Family visiting program* provides free transportation from major metropolitan areas to many of the Department's facilities. Some 24,097 visitors ride these free buses annually.

*Facility visitor centers* are located at approximately 36 facilities to provide inmate family members with a place to stop and refresh themselves prior to actually entering the facility. The centers provide families with an opportunity to take care of children's needs, obtain refreshments and speak with individuals who can provide information and assistance as needed. The visitor centers are staffed by individuals contracted through non-profit organizations, typically charitable or religious organizations, established specifically for the purpose of operating these centers.

*Parenting programs* at 18 facilities offer structured classes designed to provide parenting education to inmates who want to develop knowledge and skills to improve family relationships and guide children in a positive and non-threatening environment. Recently, the Governor and the Legislature appropriated \$200,000 to establish a family ties program for women at Albion.

### **Program completions**

The following chart shows the number of inmates who completed major programs during calendar year 1999:

<b>Program completions in calendar 1999</b>		
<b>Program area</b>	<b>Program Goal</b>	<b>Completions</b>
Academic education	Reached fifth grade (English and Spanish)	9,247
	Reached eighth grade (English and Spanish)	10,714
	Reached English language fluency	235
	Obtained high school equivalency diploma	3,216
	Obtained a college degree or certificate	70
Vocational education	Inmates obtaining vocational job titles	11,147
	Inmates earning job titles	24,897
Substance Abuse Treatment	Completed treatment program	20,009
Sex offender treatment	Completed program	1,000
Aggression Replacement Training	Completed program	19,610

### **Annual program participation**

Since some inmates are initially reluctant to participate in needed programs, the Department has policies and procedures in place which provide external motivation to participate. These include two major programs established by the Governor and the Legislature: the Earned Eligibility Program and Merit Time which reward certain nonviolent inmates who program successfully with the possibility of early release.

In addition, inmates who have a good disciplinary record and who participate in needed programs are eligible for transfer to facilities closer to home. Finally, the inmate pay scale provides monetary incentives by restricting the higher-paying facility and Industries' jobs to inmates who, in addition to having a good disciplinary record, obtain their high school equivalency diploma.

Accompanying the increased focus upon program services, Governor Pataki and the Legislature have increased staffing for inmate programs. Participation by inmates in these programs has increased, shown on the next page.

When it comes to drug treatment, for example, New York is in the national forefront with 26 percent of inmates having participated in such programs last year compared to a national average of only 16 percent among state prison inmates. That translated into roughly 28,600 participants last year. Drug treatment and interdiction programs are sufficient that, in 1999, only 4.4 percent of 96,571 inmate drug urinalyses were positive.

During the fiscal crisis the state faced when he took office, Governor Pataki led the Legislature toward innovative and cost-effective ways to deliver inmate programming. For example, the Governor and Legislature opted to increase inmate class size, reducing the need for new teachers but adding to the number of inmates in the classroom. The Governor and Legislature opted to rely more heavily upon the kind of on-the-job vocational training that has served tradespeople well since time immemorial. That reduced the need to hire new vocational instructors at a time when the number of inmates in such programs were increasing.

I agree with the Governor and the Legislature that the criteria for evaluating program availability should be the number of inmates in programs – not how well we are doing in being an employment agency for teachers, vocational instructors or any other job title.

The chart on the next page displays the results of the Governor's and Legislature's actions.

It shows the population grew by 4 percent from December 31, 1995, through December 31, 1999, increasing from 68,484 to 71,472.

It also shows that all but one category measuring major inmate program areas grew by at least twice the rate of growth in the inmate population.

<b>Education program staffing, enrollment and increases, 12/95-12/99</b>						
<b>Category</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>% change</b>
Inmate population	68,484	69,709	69,108	70,001	71,472	4
Total education staffing	1,126	1,192	1,246	1,216	1,229	9
Voc enrollment on 12/31	10,334	10,360	10,864	11,266	11,194	8
Voc enrollment annual	31,413	37,669	35,521	35,107	33,526	7
Voc titles earned	22,123	23,396	25,483	23,769	24,897	13
Academic on 12/31	17,389	18,406	21,005	21,668	22,116	27
Academic annual	42,915	44,188	45,651	47,096	47,308	10
GED's awarded	2,821	3,434	3,133	3,426	3,216	14
Program numbers exceed inmate population due to multiple program enrollments						

### Completing the circle

The Transitional Services program is a four-phase program that is designed to assist inmates in preparing for their return to the community. Additional activities have been developed to assist inmates as they transition within the correctional system.

The program phases are:

- *Orientation/Introductory phase:* Provided for all new inmates entering their first general confinement facility. This program includes a facility orientation and form completion for document retrieval. Mini-workshops and seminars are used to help introduce inmates to the Transitional Services Program.
- *Core phase:* Consists of a sequence of courses, introduced in the introductory phase, designed to provide inmates with the basic skills necessary to live a productive, crime-free life in society. Minimum completion time is six months.
- *Advanced/Assessment phase:* An updated assessment of individual needs, advanced, elective or remedial courses are provided to further assist inmates, especially those serving longer sentences, in achieving their educational, health, psychological and social needs.
- *Transitional phase:* Provides a review of the core phase and the availability of other services.

Transitional Services has revised its program content. A new manual has been developed and the revised program is being piloted at six facilities (Albion, Green Haven, Hudson, Orleans, Otisville and Washington). The remaining facilities continue to use the core curriculum that was established in 1996. The 1996 core curriculum includes:



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- *Orientation:* A two-week program is provided at the first general confinement facility for all new inmates entering the system. It explains the programs offered at the facility.
- *Employment:* Inmates are taught to complete a job resume and job application. Prior to participating in mock job interviews, they are taught how to dress and conduct themselves during a job interview. The Department has contracted with South Forty, Wildcat and CEO to assist the inmate in securing employment. (See list on page 24.)
- *Family reintegration:* The classes include the development of parenting and family skills.
- *Community reintegration:* The classes include how to search for and obtain affordable housing. They also include how to identify and access necessary community services.
- *Personal preparation:* These classes include courses on life skills (how to open and use a checking account, for example), as well as obtaining needed personal documents such as social security cards and birth certificates.
- *Substance abuse treatment aftercare:* These classes identify licensed substance abuse programs located in communities into which inmates will be released.
- *Parole preparation:* These classes prepare inmates for their appearance before the Parole Board. Further, the classes help them to learn and understand the conditions of parole.

Goals and objectives of the curricula include:

- To identify and evaluate the needs of each inmate and to develop an individualized transitional program for them to follow from reception through release.
- To utilize established Department and community resources to develop new program initiatives to satisfy the needs of each inmate in a holistic manner.
- To provide opportunities for inmates to develop life skills which will realistically assist them in a successful return to the community.
- To coordinate and monitor the transition of each inmate beginning with enrollment in applicable programming throughout incarceration, and finally, identification of referrals to appropriate resources of community support.
- To reduce recidivism.

### **Work release participation**

The work release program is designed to transition nonviolent offenders from prison to the street by assisting them in obtaining jobs and residences prior to their release.

Inmates must be within two years from their earliest release date and meet all statutory requirements described in Title 7, Part 1900.4. They must file an application which is scored using the Vera point system. If inmates have the requisite points for the requested temporary release program, they meet with the facility Temporary Release Committee. If it approves the application, it is forwarded to the facility superintendent. If the superintendent approves, the application is forwarded to the Central Office Temporary Release Committee in Albany where a final decision is rendered.

There are appeal mechanisms for each level of review. The applicant's entire criminal history will be reviewed and evaluated, including incidents of violence or weapons use, community supervision record, prior incarceration program and custodial record. Institutional history will be examined for positive programming in areas of vocational, academic and special needs, and for custodial stability. Medical and mental health needs, if any, will be evaluated as well. Prior social and employment histories will be examined for past domestic issues or employment problems. Inmates will be interviewed by the facility committee to assess inmate demeanor, attitude and responses to relevant questions and issues. Release housing and employment plans are reviewed.

Those who commit violent acts, however, have been barred from work release by actions of the Governor and Legislature. Chapter 60 of the laws of 1994, as proposed by Governor Cuomo and enacted by the Legislature, restricted the participation of certain violent offenders but barred the participation of those convicted of homicide and sex offenses.

In 1995, Governor Pataki signed Executive Orders which barred from work release anyone who was convicted of an offense that included violence.

Later that same year, via the Sentencing Reform Act, the Legislature approved a modification of the Correction Law enabling the Governor to change the criteria for work release eligibility via Executive Order. That clarified the Governor's power to exclude or limit participation of any class of inmates from work release.

While that resulted in a 60 percent decline in inmate participation in the program, it led to:

- An 87 percent decrease in felonies allegedly committed by work release inmates,
- A 79 percent decline in absconders and
- A 78 percent drop in the arrest of work release inmates.

## **Finding common ground**

Each year, the two houses of the Legislature reach agreement with the Governor on the future direction of this agency. We follow-up by implementing the initiatives agreed to in the budget and the policies attached to them.

This paper is replete with references to the direction given to and followed by this agency. Governor Pataki and the Legislature continue to ensure that New York operates the safest, most secure and constitutional system in the nation. Every initiative discussed in this paper finds its starting point in some decision made jointly by the Governor and the Legislature.

Those decisions are made in the context of discussions with the Legislature and among other interested parties as to the future and direction of this agency. We welcome that input and the opportunity to highlight how effective the Governor and the Legislature have been in the judgments and decisions that they have made.

One of the groups active in these discussions is the New York State Catholic Bishops, which recently issued an important pastoral statement entitled "Restoring all to the fullness of life." This thoughtful tract is an example of the type of input that provides a basis for future thought and agreement.

While admittedly offering a different viewpoint on many of the issues discussed here, the pastoral statement equally endorses many of the prison programs and policies that the Legislature has joined with the Governor to enact. Here are a few of those areas where I believe we have all reached a consensus:

- Just as the bishops point to the Altamont program in Albany as one of the outreach programs that it supports to help inmates rejoin society, the state has backed that same organization as well as several others. Altamont programs receive \$866,875 in state funding. Another eight organizations share \$8.3 million for inmate community reintegration, drug treatment services, employment services, community chaplains and parenting plus family ties programs.
- As the church leaders rightly point out their appointment of chaplains to state prisons, it should be noted that not only does the state employ 105 Catholic chaplains, but also 73 Protestants, 53 imams, 39 rabbis, five Nation of Islam, three Rastafarian and one each of the Greek Orthodox and Native American faiths.
- The state joins the bishops in believing that we must focus upon the incarceration of those who endanger public safety. That is why, since Governor Pataki took office, there has been a 9 percent increase in violent offenders under custody and only a 2 percent increase in nonviolent offenders.

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- Toward that same end, the state barred from work release those convicted of committing violent acts. As discussed earlier, the Legislature made such changes under Governor Cuomo and then extended them at the request of Governor Pataki.
- The state implements the bishops' call for identifying and treating the root causes of crime through programs that have seen increases under Governor Pataki in terms of the number of inmates in academic enrollment, vocational enrollment and earning GED's.
- The bishops are correct in their call for drug treatment, which is why 26 percent of New York's inmates participated in such programs last year, compared to a national average of 16 percent in state prison systems.
- The bishops are right again in identifying the need for mental health services, which is why we allocate 1.5 percent of our staffing to that purpose, compared to an average of 1.2 percent in both California and Texas. That excludes the 353 Office of Mental Health professionals who will be working inside of state prisons by the end of the current fiscal year.
- New York supports the bishops' call for appropriate medical services as well. That's why New York has seen a 90 percent reduction in AIDS deaths among inmates between 1995-99, along with a reduction in the TB case rate from 124 inmates per 100,000 in 1995 to only 37 last year.
- The Governor also supports the bishops' call for alternative programs. From April 1995-2001, nearly 38,000 selected nonviolent inmates will have earned release from prison prior to their court-set minimum sentences through their participation in such programs as Shock Incarceration, Merit Time and the Willard Drug Treatment Campus.
- Our SHU screening policies contribute significantly to the security of these units, addressing the bishops' concern for the safety of inmates. It should be noted that, in six of nine other states surveyed in which such inmates are double celled, no written screening policies exist.
- The state is also responsive to the bishops' concern that we simply not fill SHU beds because they are there. The state has added 3,000 SHU beds since 1997 but the number of inmates in disciplinary housing has increased by only 307.
- The bishops are correct that inmates in SHU should have productive ways to spend their time. That's why inmates in disciplinary housing can participate in cell study programs and have access to books from both the law and general libraries.
- Like the bishops, the state is concerned that inmates have contact with other persons. That is ensured by inmates having interaction with the wide array of persons cited earlier. Inmates in double cells can also speak to their cell mates.

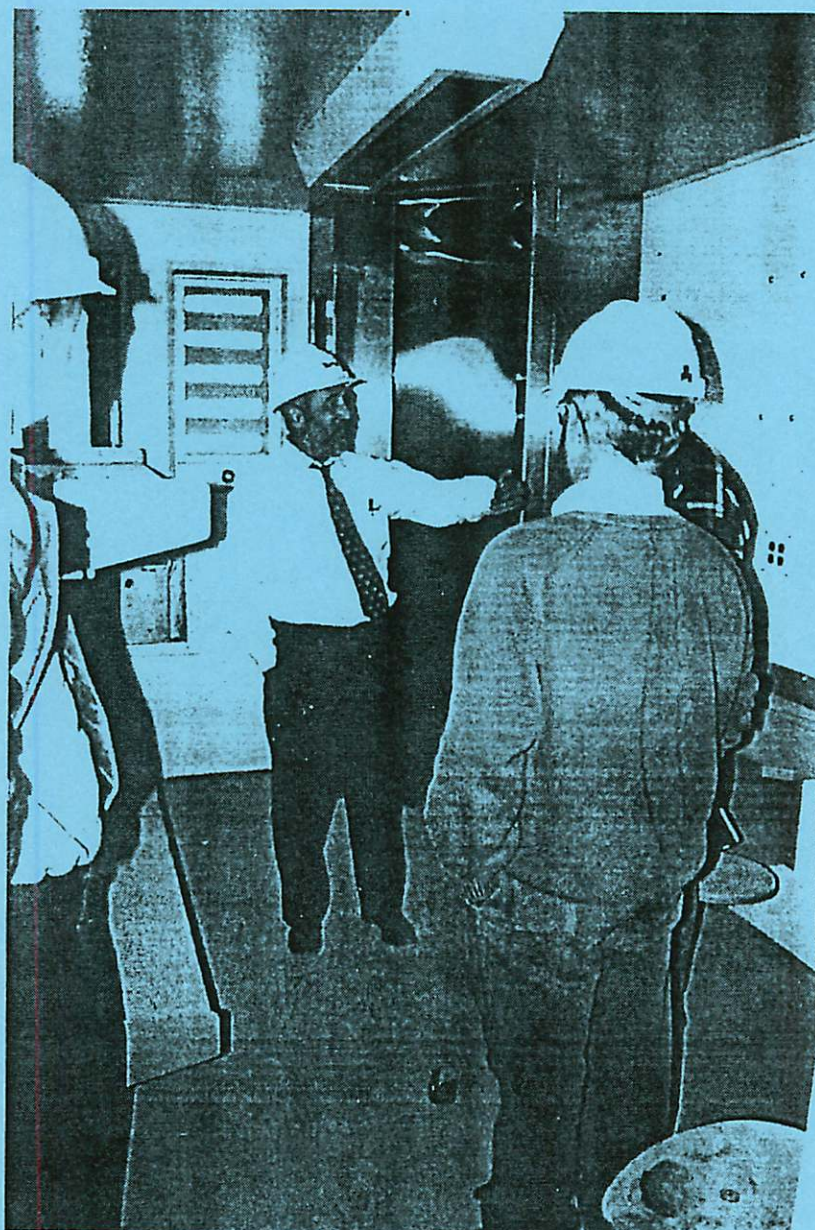
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- The oversight that the bishops support also exists. Many outsiders visit prisons and SHU's, while state law extends that visiting privilege to "every minister of the gospel having charge of a congregation in the town wherein any such (correctional) facility is situated."

Just as we look favorably upon the opportunity to continue our association and dialogue with the bishops and other concerned groups, it is my hope that this policy paper will give all readers a better understanding and appreciation of the challenges before the Department of Correctional Services.







Commissioner Goord and 3 others inspect a double cell.

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