

Corrections Without Protections:

*The Increasing **Dangers** Facing
New York's Boldest Officers*



May 2017

BACKGROUND

Correction officers have one of the toughest jobs in the state of New York. Day in and day out, the proud men and women who serve as correction officers and staff in state and local correctional facilities face stressful and dangerous working conditions, which have only exacerbated in recent years. Data from the Department of Corrections and Community Supervision (DOCCS) demonstrates an alarming increase in assaults on correction officers in correctional facilities, putting officers in the hospital. Further, the increase in contraband such as synthetic drugs, and new plastic materials that evade metal detectors, which are converted into deadly objects, has put the lives of officers at risk. The increase in officer assaults and injuries has led to increase in workers compensation claims, comprised of wage replacement and medical costs for the state of New York.

This report discusses the impact of the increase in assaults on officer safety, the effect of the rise in inmate on inmate assaults within the correctional system, and the financial impact on the state of New York. Further, the Independent Democratic Conference (IDC) puts forth legislative solutions to combat this problem, which the IDC will make a priority heading into the final weeks of the legislative session.



OVERVIEW

Over the past decade, the inmate population has decreased steadily due to a historical decline in arrests and other criminal justice initiatives, and it will further decrease after passage and implementation of raising the age of juvenile jurisdiction for 16 and 17 year olds. The raise the age legislation also requires that all 16 and 17 year olds be removed from Rikers Island jails by April 1, 2018 to the extent practicable, and no later than October 1, 2018. Counties outside the City of New York are required to remove 16 and 17 year olds from custody of the sheriff over the two year phase-in under raise the age implementation.

As Table 1 below shows, the number of persons held in custody by the Department of Corrections and Community Supervision (DOCCS) and in county jails has declined each year from March 30, 2012, through March 30, 2016. The inmate population during this time declined from 85,164 inmates in March 2012 to 77,227 inmates in March 2016. The inmate numbers for DOCCS, excluding county jails, was projected to further decrease from 55,918 in March 2012, to 52,245 in March 2016, to 51,500 inmates in April 2017.

Table 1.

Inmate Population Statistics (DOCCS)

Date	Counties	NYC DOCCS	NYS DOCCS	Total
03/30/2016	15,308	9,674	52,245	77,227
12/30/2015	14,764	9,425	52,430	76,619
9/29/2015	15,991	9,804	52,673	78,468
6/29/2015	14,947	9,764	53,026	77,737
3/27/2015	15,388	11,146	52,084	78,618
12/30/2014	15,028	9,661	52,364	77,053
9/27/2014	16,643	10,923	53,635	81,201
6/30/2014	16,412	10,949	53,993	81,354
3/31/2014	16,366	11,246	53,968	81,580
9/30/2013	17,332	11,903	54,531	83,766
6/30/2013	16,982	11,518	54,725	83,225
3/31/2013	16,738	11,546	54,613	82,897
12/30/2012	15,948	11,388	56,419	83,755
9/30/2012	17,682	12,204	55,523	85,409
6/30/2012	17,030	11,728	56,027	84,785
3/30/2012	16,986	12,260	55,918	85,164

ASSAULTS ON CORRECTION OFFICERS

Despite the decrease in the inmate population, the number of assaults on correction officers is on the rise. In 2007, 556 correctional officers and staff members were assaulted in correctional facilities. That number dipped slightly to 524 assaults on staff in 2012 but jumped up to 760 assaults in 2016. For the year 2017, the number of assaults is on pace to be nearly as many as last year, at 749 projected assaults of correction officers, as shown in the bar graph below.

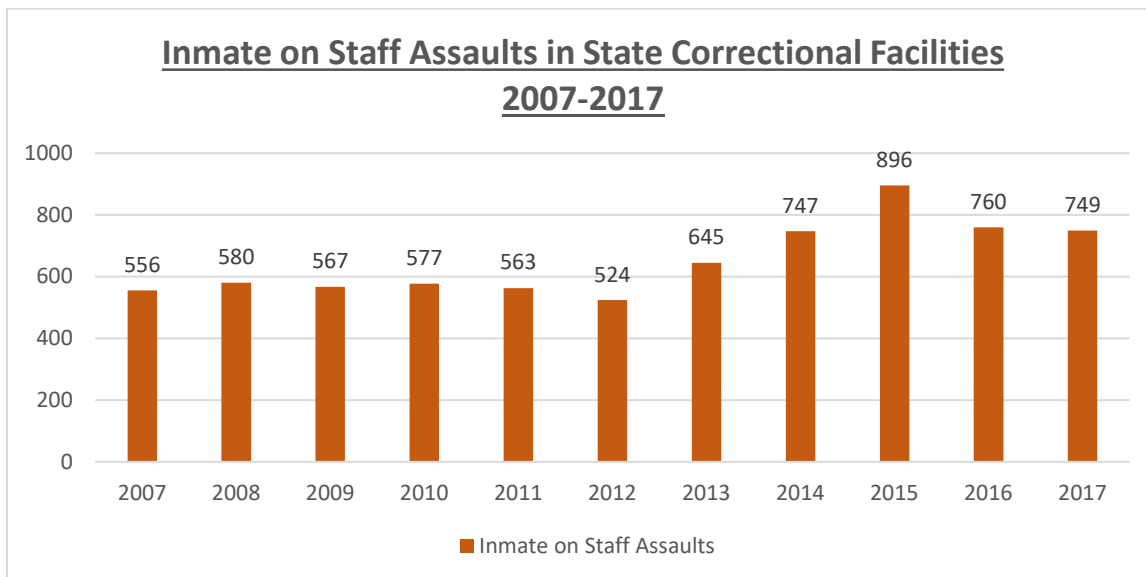
In the City of New York, 650 correction officers were assaulted in 2016, with more than 1300 correction officers assaulted since 2015.



Picture of correction officer slashed¹

The number of stabbings and slashings in jails in the City of New York also rose from 108 in 2015 to 131 stabbings and slashings in 2016, representing a 21% increase. One cause of the slashings and assaults on officers comes from gang activity within the jails and prisons. In one horrific example, members of the Bloods gang coordinated attacks at a Rikers Island jail against correction officers, delivering several blows to one officer's face.

Graph 1.



¹ Stephen Rex Brown & Reuven Blau, *Exclusive: Rikers Island Correction Officers Attacked, Inmate Slashed in Bloody Weekend at Jail Complex*, NY DAILY NEWS, Sept. 13, 2016; Picture of CO slashed at Rikers Island: Exclusive Video: Correction Officer Lured to Cell, Slashed in Face by Rikers Island Inmate, PIX11, July 27, 2016, available at <http://pix11.com/2016/07/27/video-correction-officer-lured-to-cell-slashed-in-face-by-rikers-island-inmate-facility-on-lockdown/>

Another reason for the increase in officer assaults comes from exposure by inmates to synthetic cannabinoids, such as K2, smuggled into prisons, leading to uncontrollable inmate behavior by persons exposed to these substances. In 2015, there were at least 13 state correction officers assaulted by inmates who were exposed to synthetic cannabinoids. Further, the Department of Corrections in the City of New York found that 1,463 inmates tested positive for illegal drugs in 2016. The chart below contains a summary of reported assaults in 2015 resulting from K2 exposure.

Table 2.

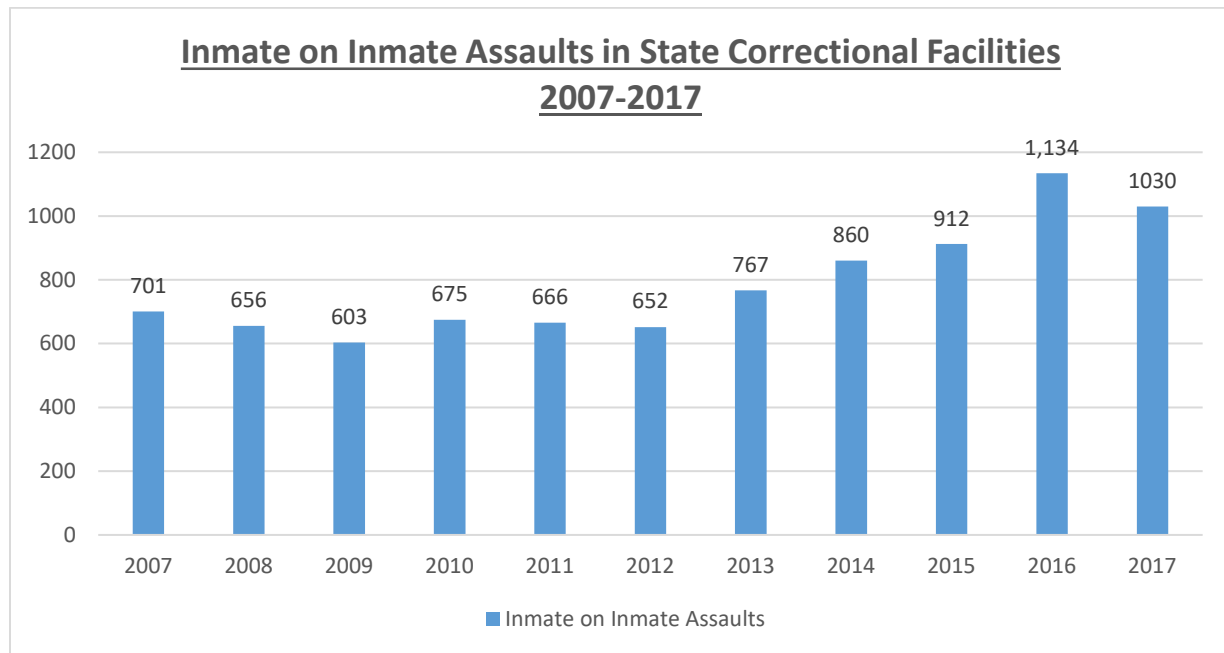
Reported Incidents of K2-Related Assaults on Staff in 2015

<u>Date</u>	<u>Facility</u>	<u>Injuries Sustained</u>
10/24/15	Marcy CF	Officer was bitten; taken to local hospital
9/25/15	Washington CF	Officer punched in the chest
9/20/15	Bare Hill CF	Officer was punched in the head; multiple officers required to restrain inmate
9/13/15	Gouverneur CF	Inmate assaulted 4 officers (officers punched in head, bitten); mechanical restraints needed
8/27/15	Auburn CF	Inmate punched 2 officers
August 2015	Collins CF	Inmate assaulted officer
4/28/15	Bare Hill CF	Officer was punched in the face
2/23/15	Marcy CF	Officer was punched and kicked by inmate; mechanical restraints required
1/7/15	Attica CF	Officer was punched in the face

Inmate on Inmate Assaults

In addition to inmate on staff assaults, the number of inmate-on-inmate assaults has also increased. As the below bar graph shows, between 2007 and 2012 assaults fluctuated within a relatively narrow range. However, since 2013, the number of inmate on inmate assaults has risen dramatically to a peak of 1,134 assaults last year. Last year, three inmates on average were assaulted by other inmates every day. That represented a nearly 48% increase in assaults in just 3 years. This year, the number of projected inmate on inmate assaults is projected to be 1,030 assaults for 2017.

Graph 2.



The assault numbers include individual fights between two inmates as well as large-scale inmate assaults involving over 100 inmates. One such example is a fight at Clinton Correctional Facility involving over 180 inmates in October 2016. These large fights, as well as fights between two inmates or an assault on a correction officer generally triggers an emergency alarms in many correctional facilities, particularly at Rikers Island. In 2013, there was an average of 1,118 emergency alarms per day, which is an average of three alarms per day at Rikers.

Despite the decline in the inmate population, more correction officers are needed to reduce the ratio of correction officer to inmate and give correction officers the personnel needed to help stem the rising violence. According to DOCCS, the current ratio is 2.5 inmates for each correction officer. Legislation pending in the Senate (S.2949-A Ritchie) would lower the ratio to 1.75 officers for each inmate for each seven day post and 1.25 officers per inmate for each five day post.

The rise in assaults on correction officers has also led to the unfortunate consequence of senior correction officers retiring earlier, fearing that staying on the job longer will unnecessarily put their health in danger. This has led to a loss of experience and mentorship to younger correction officers, a valuable feature for on the job training. To encourage correction officers to stay on the job longer without fearing loss of benefits if they retire, the IDC strongly supports passage of S.4077 (Ritchie), which has previously passed the Senate. This bill would allow the beneficiary of a deceased correction officer to receive a lump sum amount equal to the pension reserve that the correction officer would have received had the officer retired on the date of his or her death.

The bill is a one-time past service cost of \$13.7 million to the state, a worthy investment in our correctional system.

CONTRABAND IN JAILS & PRISONS

In recent years, the threat of synthetic cannabinoids (“K2”) to New Yorkers has grown steadily. In the summer of 2015 alone, more than 1,900 state residents were hospitalized due to use of synthetic cannabinoids, including 700 people in the Bronx.² These events prompted Senator Klein’s office to conduct an undercover investigation into the ease with which this dangerous drug could be purchased in New York City. Senator Klein’s office was able to purchase these drugs at over 20 stores in the Bronx for only \$5 per packet.

Another investigation in September 2015 by Senator Klein’s office, released in a report titled *The Online Smoke Shop*³ detailed how synthetic cannabinoids could be purchased online on websites such as Craigslist, eBay and Backpage. Many of these online listings were removed after letters were sent to the CEOs of these companies demanding they take action to stop the sale of the drug.

In March 2017, state police arrested one woman for attempting to smuggle prescription painkillers into Washington Correctional Facility, a medium security facility, and state police arrested two other women for attempting to smuggle synthetic drugs into Great Meadow Correctional Facility, a maximum security facility.⁴ The arrested defendants were charged with promoting prison contraband in the first degree, a class D felony, and criminal possession of a controlled substance, a misdemeanor.

The ease in which K2 and synthetic drugs is purchased at little cost has led to serious repercussions in our correctional system. On a weekly basis, attempts are made, some successful to sneak K2 into jails and prisons either during visiting hours or through the mail. Inmates exposed to K2 are not only a danger to correctional officers but also to their fellow inmates, leading to uncontrollable behavior such as assaults on other inmates and staff. As discussed by NYSCOPBA President Michael Powers at Senator Klein’s Summit on K2 at Jacobi Medical Center on October 9, 2015, a minimum of three correction officers are often needed to restrain an inmate exposed to K2. This point was echoed by NYSCOPBA Vice Presidents Joe Miano and Paul Lashway at the Syracuse Synthetics Summit hosted by Senator Valesky in December 2015 based on inmates exposed to K2.

The rise of K2 and synthetic drugs in correctional facilities is a large factor in the rise of contraband across the criminal justice system. As the graph below indicates, contraband seized at state correctional facilities rose from 2,483 pieces in 2010, to 3,915 pieces of contraband in

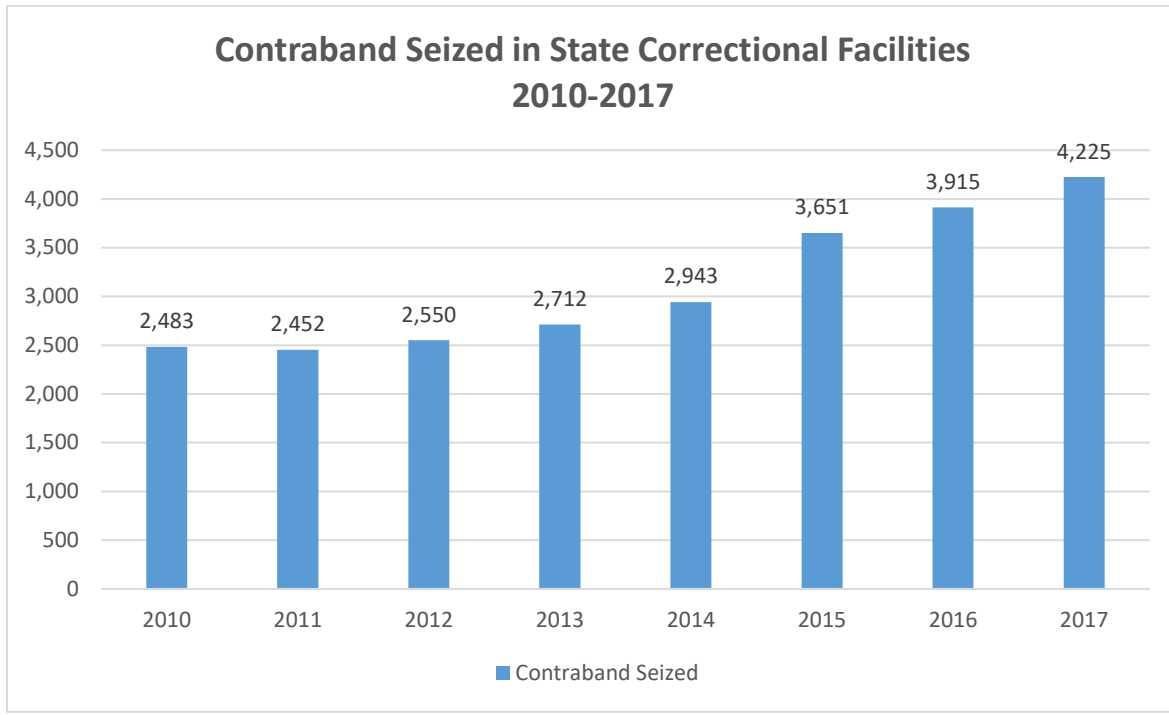
² Hays, Tom, August 8, 2015, *Associated Press*, “NYC sees surge in use of synthetic marijuana, complicating efforts to deal with the homeless”. Available at: <http://www.usnews.com/news/us/articles/2015/08/08/nyc-sees-surge-in-synthetic-pot-use-with-dire-consequences>

³ Press release and report available at: <https://www.nysenate.gov/newsroom/articles/jeffrey-d-klein/online-smoke-shop-buying-k2-online>

⁴ Don Lehman, *Three Arrested at State Prisons as Officials Crack Down on Contraband*, POST-STAR, Mar. 13, 2017.

2016, and is on pace for 4,225 pieces of contraband seized for 2017 fully annualized. Out of the 3,651 confiscations of contraband in 2015, 1,247 confiscations of contraband were for K2. By comparison, in 2012, only three confiscations of contraband was for K2.

Graph 4.



Many of these contraband items can and have been turned into deadly weapons. As the picture below demonstrates, objects that may seem harmless such as a toothbrush, spoon or pencil can be fashioned into a knife or sharp edge, leading to slashings and stabbings. To combat the rise in contraband, DOCCS has increased its use of search dogs during visiting hours, and changed its package room policy to only allow packages from pre-approved vendors.

In jails in the City of New York, contraband finds rose from 760 finds in 2015 to 859 finds in 2016, representing a 14% increase in contraband seized.



The easiest way of combatting the contraband problem is for the state to authorize the use of new body imaging scanning equipment, to be placed in local correctional facilities. The IDC supports legislation pending in the Senate, S.5357 (Hannon), which allows county jails to use body-imaging scanners to detect new forms of contraband such as plastic items smuggled into facilities. A similar bill passed the Senate in 2016, (S.5828 Hannon), and the IDC urges the Assembly to pass the bill into law. This would allow new equipment that uses low doses of ionizing radiation for the purposes of screening visitors at county jails, similar to devices used at airports.

Personnel that operate these machines at local correctional facilities would be required to undergo specialized training approved by the City's Department of Health and Mental Hygiene, with annual training thereafter. Any local jail that uses these machines would be required to submit an annual report to the state's Department of Health and to the legislature specifying the number of times the equipment was used on inmates, the number of times that the equipment detected contraband, and any illnesses or injuries reported by persons scanned by the equipment. The City of New York purchased six new body scanners in 2012 and 2013 at a cost of \$1 million but is unable to use them until this bill is passed into law.⁵

WORKERS COMPENSATION CLAIMS

When assaults on staff increase, taxpayers in New York face the financial fallout in the form of workers' compensation claims. As the below table demonstrates, workers' compensation claims as reported to the New York State Insurance Fund from 2011-2012 through 2015-2016, have increased every year for correction officers, correction sergeants and correction officers who are trained as bilingual Spanish speakers. During the 2011-2012 fiscal year, there were 3,369 workers compensation claims made by correction officers, correction sergeants and correction officers who specialize in Spanish language compared to 4,279 workers compensation claims made in 2015-2016.⁶

Work-Related Incidents 2011-2012 through 2015-2016

Table 3.

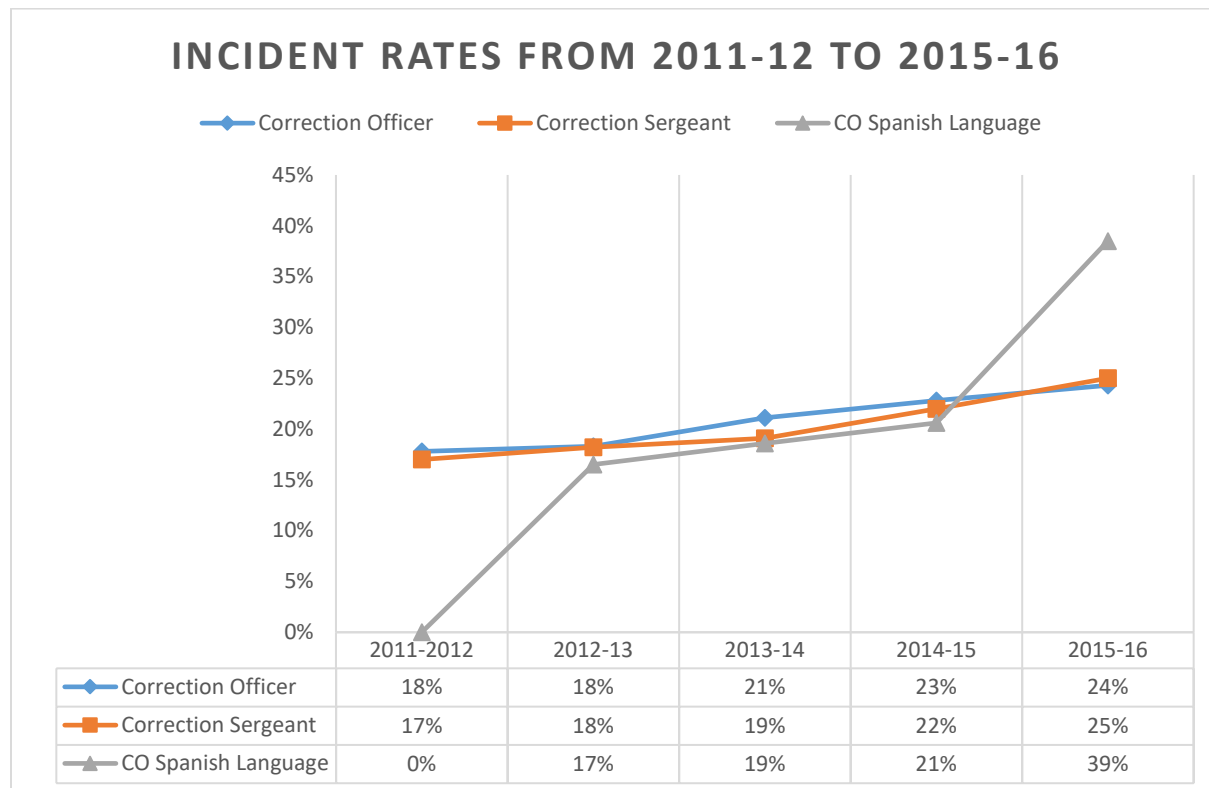
	2011-2012	2012-13	2013-14	2014-15	2015-16
Correction Officer	3,167	3,089	3,487	3,729	3,931
Correction Sergeant	202	217	227	258	298
CO Spanish Language	n/a	13	16	21	50
Totals	3,369	3,319	3,730	4,008	4,279

⁵ Reuven Blau & Stephen Rex Brown, *Rikers Inmates Smuggle Shivs 'up their a—' as Political Spats Keep Body Scanners Turned off*, NY DAILY NEWS, Feb. 5, 2017.

⁶ ANNUAL REPORT OF NEW YORK STATE GOVERNMENT EMPLOYEES' WORKERS' COMPENSATION CLAIMS FISCAL YEAR 2015/2016, available at <https://www.cs.ny.gov/pio/WorkersCompAnnualReport2016.pdf>

In addition, the incident rate percentage of work-related injuries, including assaults on correction officers has increased. This number is calculated by dividing the number of incidents by the number of FTEs for each position. As the chart below demonstrates, the incident rate has increased each year from 2011-2012 through 2015-2016. In 2011, the incident rate percentage for a correction officer was 17.8% and it rose to 24.3% in 2015-2016. This means that the likelihood of a correction officer suffering a work related injury, such as being assaulted, has increased each of the past five fiscal years.

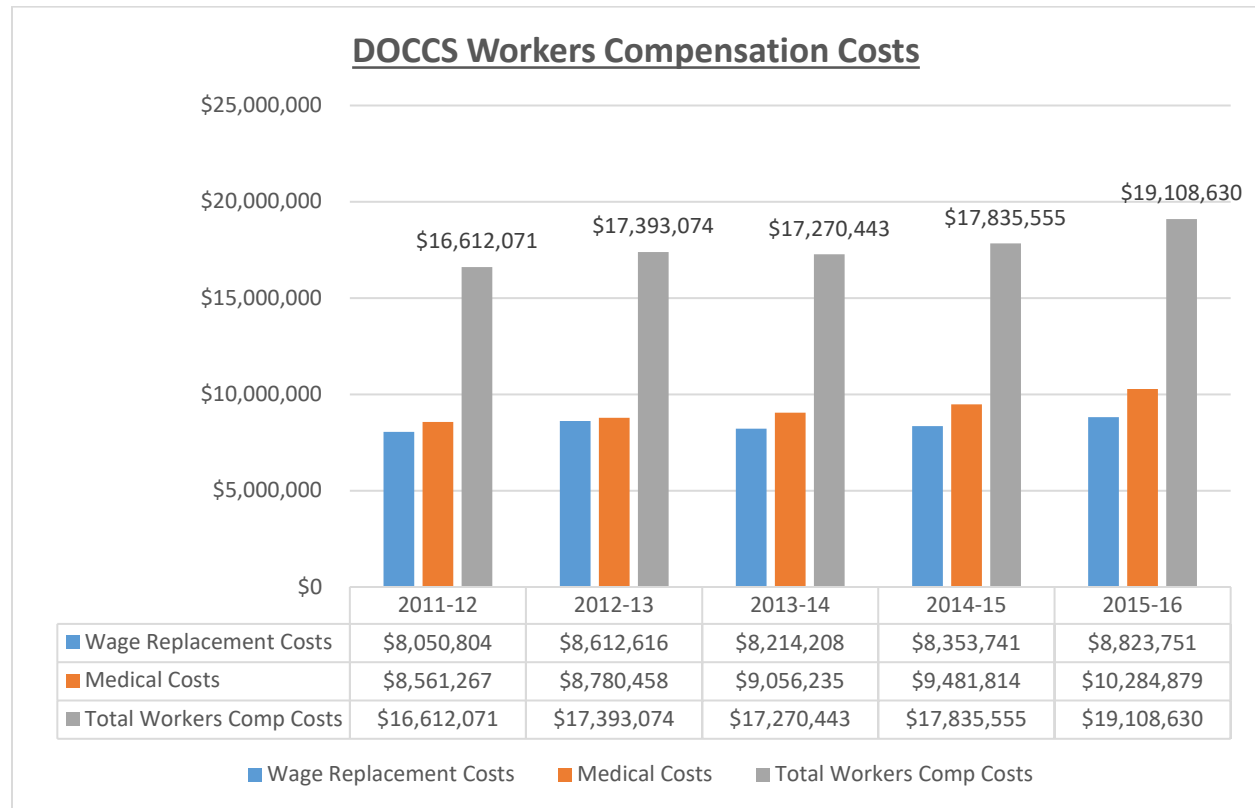
Graph 5.



DOCCS Workers Compensation Costs

Lastly, the total amount of workers compensation claims paid out by all correctional facilities combined in the state of New York has increased. These claims include wage replacement and medical costs as reported by the New York State Insurance Fund. As the data listed in the below bar graph demonstrates, the total amount of workers compensation claims have increased each of the past five fiscal years, from a total of \$16.6 million in 2011-2012 to \$19.1 million in 2015-2016. Taxpayers are left paying the bill.

Graph 6.



IDC LEGISLATION TO PROTECT CORRECTION OFFICERS

Overview

The Independent Democratic Conference has a long history of standing with the brave men and women who serve as correction officers and staff. In 2015 and 2016, Senator Carlucci and the IDC passed legislation into law (Chapter 518 of 2015 and Chapter 20 of 2016) to require correction officers to receive mental health training related to the treatment of inmates with mental illnesses. As the state advances in mental health and diagnostic research, correction officers must be given proper tools and training in the field to learn how to handle difficult situations involving inmates with mental disabilities.

This law accomplishes that purpose, requiring DOCCS to provide at least eight hours of training related to mental illness and treatment for new correction officers and other new DOCCS staff members who regularly work in programs providing mental health treatment for inmates. All security, program services, mental health and medical staff members who have direct contact with inmates must also receive training each year for the care of inmates with mental illnesses.

PTSD Coverage for Officers

The IDC also recognizes the stress and mental anguish that comes from correction officers walking their daily beat. On a weekly basis, a correction officer might be subject to an inmate intentionally throwing or tossing urine, feces, blood or other bodily fluids onto the correction officer while performing their duties, or a correction officer might be assaulted by an inmate, leading to mental illness or impairment from such treatment. According to the New York City Department of Corrections, there was an average of at least one such splashing incident per day in 2015 at local jails in the city, and as this report shows, assaults on correction officers has been on the rise in recent years.⁷

Currently, the offense of intentionally throwing feces, urine or bodily fluids onto a correction officer is a crime under section 240.32 of the penal law related to aggravated harassment of an employee by an inmate. An inmate is guilty of this offense if such person intends to annoy, harass, threaten or alarm an employee of a correctional facility, and such person causes or attempt to cause the correction officer to come into contact with urine, feces, blood or the contents of a toilet bowl, by tossing, throwing or expelling such fluid onto the correction officer. This offense is a Class E felony, punishable up to four years imprisonment.

The trauma of a correction officer experiencing an assault in the line of duty by an inmate also leaves a lingering and lasting effect, aside from the serious physical injuries. An officer who was the victim of an assault or was exposed to bodily fluids may experience post-traumatic stress disorder or symptoms thereof, causing damage to the officer's mental health and potentially affecting the officer's job performance. To further protect correction officers and to get them the services they need, Senator Alcantara and the IDC have introduced new legislation, S.5954, to include extraordinary work-related stress resulting from such treatment to be a compensable injury under the workers compensation law and eligible for coverage in a workers compensation claim.

This bill builds off legislation enacted in the 2017-2018 budget in which the workers compensation law was amended to include PTSD coverage for police officers, firefighters and emergency technicians who suffer stress-related injuries in a normal work environment. Senator Alcantara's legislation would include state and local correction officers within this same provision.

Banning K2 and Analog drugs

Based on the investigative findings and from panel discussion on synthetic drugs in the Bronx and Syracuse, Senator Klein has introduced legislation to stop businesses from selling synthetic cannabinoids. Senator Klein's bill, S.5619, which passed the Senate last year, would prohibit businesses from selling synthetic cannabinoids and upon a violation, be required to pay a fine of \$2,000. A second violation would result in a civil penalty of \$5,000 and a third violation in five

⁷ Erin Durkin, *NYC Looks to Crack Down on Rikers Inmates Who Fling Urine, Feces at Correction Officers*, NY DAILY NEWS, June 1, 2015.

years would result in suspension of the business' license to sell alcohol, tobacco and lottery tickets for a five-year period.

A second piece of legislation by Senator Klein, S.2722, would create a state analog act to criminalize substances that are substantially similar drugs on the schedule of controlled substances. This would address tweaks to the chemical formulas of synthetic drugs that are currently evading criminal prosecution. Senator Klein's legislation has passed the Senate this year and we urge the Assembly to pass the bill.

CONCLUSION

Correction officers have one of the toughest jobs in the state and society owes a debt of gratitude to the men and women who serve with distinction to keep us safe. As this report shows, assaults and contraband in the correctional system is on the rise, putting the safety of correction officers at risk. Legislative action must be taken to stop this alarming trend, including legislation to allow new body scanners, cracking down on synthetic drugs, increasing staff numbers, and ensuring equitable death benefits for our state's boldest officers. Further, expanding workers compensation coverage to include mental health-related claims of correction officers will help protect them in the line of duty. The IDC urges the legislature to swiftly act on these proposals.