



Report on Attica Correctional Facility

2014 UPDATED CORRECTIONAL ASSOCIATION REPORT ON ATTICA

Forty-three years after the Attica uprising and its violent suppression by the state, Attica Correctional Facility continues to operate as a real and symbolic epicenter of state violence and abuse behind the walls of New York State Department of Corrections and Community Supervision (DOCCS) prisons. The Correctional Association of New York (CA) last documented the abuses occurring at Attica following its visit to the prison in 2011,¹ and has called for the prison's closure because of the inhumane treatment and atmosphere of brutality at Attica.² As of August 2014, Attica still incarcerates more than 2,000 people. In a continued investigation of conditions at Attica in 2014,³ the CA found that there have not been any substantial improvements since 2011, and that staff violence, brutality, intimidation, racism, and abuse remain pervasive.

This report is intended to be, not a comprehensive evaluation of Attica, but rather a supplemental update to the CA's 2011 report, with a particular focus on staff violence and abuse at Attica. Specifically, the report will document: (1) direct physical violence; (2) abuse of authority in the form of harassment, threats, intimidation, retaliation, false disciplinary tickets, excessive punishment, and solitary confinement; (3) pervasive racism; (4) targeting of particularly vulnerable groups; (5) impunity and lack of accountability mechanisms;

¹ See *Attica Correctional Facility*, Correctional Association of NY, visit conducted April 2011, available at: <http://www.correctionalassociation.org/wp-content/uploads/2012/05/Attica-2011-Report.pdf>.

² See Soffiyah Elijah, *Attica Must be Shut Down*, *City Limits*, available at: <http://www.citylimits.org/conversations/180/time-to-close-attica>

³ Since the time of our visit to Attica in 2011, the CA gathered updated information about conditions at Attica, including by: a) receiving written correspondence from nearly 100 people incarcerated at Attica, and in 2014: b) conducting 39 in-person interviews with 31 different people currently incarcerated at Attica; c) facilitating two focus group discussions with people who had formerly been incarcerated at Attica and family members of people incarcerated at Attica; d) receiving data from Attica through the Freedom of Information Law (FOIL) regarding programs and services at the facility; and e) receiving data from DOCCS through FOIL regarding Unusual Incident Reports (UIRs), disciplinary processes, and grievances.

(6) atmosphere of violence created by such aspects as Attica's history and insufficient program opportunities; and (7) indirect violence and emotional/psychological harm, including as manifested in high rates of suicide. The content of this supplemental report reflects the reported experiences of roughly 100 people currently incarcerated at Attica, data obtained through Freedom of Information Law (FOIL) requests to Attica and DOCCS, and information provided by Attica and DOCCS officials in a conference call discussing a draft version of this report in November 2014. The harrowing accounts of racialized brutality and abuse and the supporting data consistent with incarcerated person reports make it only more clear that NYS officials must close Attica. At the same time, many of the reported abuses also occur at many other DOCCS prisons, and DOCCS and state officials must end all violence and abuse against people incarcerated in all NYS prisons. As discussed in the second half of this report, there are a variety of mechanisms that could be employed to reduce violence and abuse in prisons, including by making substantial changes in the following key areas: 1) Policies and Practices Regarding Use of Force; 2) Prison Culture; 3) Empowerment of Incarcerated Persons; 4) Disciplinary System; 5) Transparency; 6) Complaint Mechanisms; and 7) Accountability Mechanisms.

DIRECT PHYSICAL VIOLENCE BY STAFF

People interviewed by the CA repeatedly spoke about, and reported specific incidents of, systematic staff assaults of people incarcerated at Attica. Nearly every interviewed incarcerated person spoke about the high frequency with which staff beat incarcerated persons, with allegations that staff assaults of incarcerated persons take place on a weekly basis. Many incarcerated persons reported that the beatings could happen to any person at any time for almost any reason. As one person incarcerated at Attica said, "if you look at the COs wrong, they will beat you; if you . . . have a sex case, they will beat you; they do it in the hallways and they stick together." Numerous people reported that for even the most minor of actions by incarcerated persons, or for no reason at all, many of the officers at Attica will use excessive force in response. As one person wrote to the CA, "since I've been here at Attica, there has been a widespread and pervasive prison condition of guard brutality – via both unjustified uses of force (where people are attacked by prison guards without due cause) and excessive uses of force, where [some intervention] may have been justified but [officers] go outside what is warranted by deliberately causing incarcerated people injuries out of a malicious and sadistic purpose to punish [incarcerated persons]. I personally have been a victim of guard brutality and retaliation here at Attica." Consistent with these accounts, DOCCS data indicates a high level of staff use of force and physical confrontations between staff and incarcerated persons at Attica. Specifically, looking at the number of staff use of force Unusual Incident Reports (UIRs) from September 1, 2010 to October 31, 2013, Attica had the second highest absolute number of use of force incidents – 182. In addition, when looking at the percentage of all UIRs in which use of force was employed,

Living in this atrocious environment, incarcerated persons are subjected to unnecessary, unprovoked physical abuse. --Anonymous

Attica ranked between the worst quarter and worst third of maximum security prisons and the worst 10% of all prisons. Similarly, Attica ranked in the same quadrants for the rates per 1,000 incarcerated persons for its 134 reported assault on staff UIRs for the same period, and ranked as one of the worst few prisons for the percentage of all UIRs that were for assault on staff. Attica did rank slightly better with regard to the rate of assault on staff disciplinary tickets per 1,000 incarcerated persons. However, there was still a high absolute number of tickets at Attica during this time period (238 for the entire prison), and Attica still ranked in the worst 40% for maximum security prisons and 15% for all DOCCS prisons. Moreover, Attica ranked as one of the worst few DOCCS prisons for the percentage of all disciplinary hearings that involved an assault on staff disciplinary charge. While assault on staff UIRs and disciplinary tickets are alleged incidents of incarcerated persons assaulting staff, they provide an indicator of the level of physical conflict between staff and incarcerated persons. Also, as discussed below, staff may reportedly write up an incident as an assault on staff after the staff had in fact assaulted the incarcerated person in order to justify staff actions.

Attica Abuse: 1971 to 2011 to Now. Urgent Need for Change

The conditions here at Attica have not changed since the CA’s 2011 visit. There are still countless instances of civil rights violations that occur here day to day. The officers here rule the prison with fear and impunity. They employ gang-style tactics to instill fear in Attica’s population. They beat and disrespect [incarcerated persons] simply because they can. And some officers see nothing wrong with having sex with [incarcerated persons] (willingly and unwillingly). [Incarcerated persons] here live in constant fear, often wondering if today is going to be my day, referring to whether or not they will be jumped on upon exiting their cells. To make matters worse, Attica’s administration is fully aware of what goes on here, yet they are unable to control the officers. Not to mention the fact that most of Attica’s administration (specifically the sergeants) have come up through the ranks here at Attica and the officers they supervise are their friends. The grievance system doesn’t work and people face severe retaliation for attempting to file complaints. All and all, Attica is in dire need of a regime change or something, because the conditions here are no different now than they were in 1971. – Anonymous.

While interviewees reported that physical abuse could occur any place or time, many reported that the most and worst staff physical violence currently occurs in C-block, particularly during the 3 pm to 11 pm shift when the administration is not at the facility, followed by A-block. As one person wrote, “the assaults by staff in C-block are horrendous. The supervising sergeants and the lieutenants are all involved.” DOCCS data regarding location of confrontations between staff and incarcerated persons is consistent with these accounts. Specifically, over 50% of all reported incarcerated person assault on staff UIRs from September 2010 through October 2013 occurred in A-block or C-block, with 28% in A-block and 23% in C-block.

Regarding the types of physical violence inflicted, incarcerated persons reported various

When the police [COs] are planning an assault, they tell everyone to leave the hallway so that there are no witnesses, but when you walk past afterward, you see the blood on the wall. --Anonymous

forms of physical assaults, including as one person summarized, correction officers “physically smacking, punching, kicking and even striking with their nightsticks for no reason at all [and] denial of medical attention afterwards.”⁴

Others reported incidents involving choking, violent cell extractions, smashing people’s heads against the walls or gates, or using tear gas in the yard. Some reported specific incidents in which the abuse was so severe that it led the incarcerated persons being beaten to the point of suffering broken bones or requiring stitches.

People at Attica also reported repeated patterns of the manner in which assaults take place. For example, many people reported incidents in which they were assaulted after being put on the wall to be searched and pat frisked, either while they were on the wall or after the officers kicked out their legs to make them fall. As one person reported about the former, “they put you against the wall, act like they’re searching you, then smash your face against the wall and call you names while doing it.” As another reported about the latter, “when they plan to beat you, they tell you to put your hands up against the wall. Then they grab your leg and pull it toward the top of your head so you lose balance and you’re forced to slip. Once your hands move off the wall, they have an excuse to beat you. Sometimes it’s done because you filed a grievance, but sometimes it’s done for no reason. The majority of staff are abusive.” Others reported numerous incidents in which they were held in the hallway or other areas where there are no video cameras, and after other incarcerated persons were told to leave, then officers would physically assault the remaining individual. Consistent with these

Beating, Solitary, and Parole Denial

Earlier this year in 2014, I was on my way to church services and was put on the wall to be frisked because I had no ID card. When the officers approached from behind, I was instructed to put my hands on the wall. I complied. After I was frisked, I was asked if I had an attitude and I said no. Next thing I knew I was struck from my right side and punched from my left side. In seconds, I was pinned down by several officers and beaten. I was then cuffed and escorted to solitary confinement. Please note I had 60 days before my Parole Board, and all I was doing was programming and successfully graduating from various programs. This experience was traumatizing, horrible, humiliating, and all because I didn't have an ID card. I received nine months solitary confinement, and with these charges it's almost certain the Parole Board will hold me for 24 months and deny my application for parole. – Anonymous, who was in fact not released by the Parole Board in 2014.

⁴ With regard to sticks, between January 2010 and November 2013, there were 17 reported use of force incidents in which staff reported that they had used a baton.

reports, from September 2010 through October 2013, there were 12 reported assault on staff UIRs that were documented to have taken place in a corridor. Given the tremendous control exerted at Attica during movement, and given that only a few prisons had any reported assault on staff UIRs in a corridor, these 12 reported corridor UIRs at Attica lend support to incarcerated person statements of people being held back in the hallways and assaulted by staff.

In addition, many incarcerated persons reported that higher level security staff, including sergeants and lieutenants, turn a blind eye to abuse or themselves carry out assaults. One person, for example, reported that he was in the sergeants' office after already being beaten by correction officers and taken to medical, and the sergeant began choking the individual and threatening to kill the man, because of a letter he had written. Similarly, many people incarcerated at Attica reported that medical and mental health staff also condone physical abuse taking place. Specifically, several people reported that nurses were intimidated into covering up abuses, there were serious delays in order to see clinical providers, and that clinical providers did not fully diagnose or document injuries resulting from staff assaults. As one person reported, "staff treat people with disrespect . . . and turn a blind eye to COs' abuse." Similarly, another incarcerated person asserted that "the medical department and mental health employees work hand in hand with the officers in doing harm to incarcerated persons and covering up illegal activities."

Interconnected with general physical abuse, numerous people incarcerated at Attica reported sexual misconduct by security staff, particularly in the form of abusive pat frisks. Innumerable incarcerated persons reported that correction officers would grab their private parts during pat frisks, perform so-called "credit card swipes," described by one person for example as officers "swiping their fingers up the crease of your anus," and literally sticking their fingers into people's buttocks. As one person graphically reported:

When I was in population they used to always put me on the wall for no reason just to search me with fondling mannerisms. You can tell when somebody intentionally is groping your private parts, [buttocks] cheeks and moving their hands up the crack of your buttocks to the point where you can feel their fingertips pressed against your anus. Some even pause there...They will beat you with sticks and punches everywhere on your body if you move without them telling you.

Incarcerated persons reported that these practices were regular common occurrences. As one person reported, "85% of Attica COs violate [people] that way, mostly to get an [incarcerated person] to drop his hands so they can brutally beat him up or to see if the [person] is a homosexual in order to house them in certain blocks for retaliation." Some people even alleged that officers literally train younger officers on how to carry out abusive pat frisks in order to provoke people and then beat them. For example, one person reported that he has "been pulled out of the line often, and witnessed it done many times to others, in order to show training officer 'rookies' how to beat an incarcerated person. They take you out by your pants and show them how to run their hands up their butt cracks – the 'credit

card swipe.’ They do penis rubs as well. People who are transgender are messed with the most.”

In addition to abusive pat frisks, a more limited number of incarcerated persons were willing to share information about other forms of sexual abuse by correction officers.⁵ Some people reported that correction officers will have sexual relations with incarcerated persons, sometimes consensual and sometimes not. A number of different incarcerated persons identified one officer in particular who engages in such conduct. For example, one story was told in which this officer went up to a young man who was sent to the Special Housing Unit (SHU) and said, “If I knock you out, you won’t feel me sliding up in you.” Some incarcerated persons also reported that security staff will “pimp out” people who are perceived to be homosexual, with incarcerated persons paying officers to bring other incarcerated persons to their cells for sex.

In a manner similar to abusive pat frisks, many people incarcerated at Attica reported that correction officers will try to push people to react in violent manners toward staff or other incarcerated persons both so as to inflict additional abuse and/or facilitate fighting among incarcerated

They test you here at Attica. They try to trigger you. --Anonymous

persons. As with abusive pat frisks, many people reported that officers will harass and goad them to try to get a response by the incarcerated person so that the officer can respond with force. Alternatively, officers will harass incarcerated persons in that way to try to push people to the point where they end up taking out their aggression on other incarcerated persons. More directly, some people reported that staff allow and encourage incarcerated persons to fight each other, even reporting that staff will have two incarcerated persons fight

People incarcerated at Attica are so scared that they let themselves be used to assault other people that the correctional staff doesn’t like. --Anonymous

in a cell block with a referee. Going further, many people reported that correction officers will bribe certain incarcerated persons to beat up other incarcerated persons that they want to target. After any of these types of fights between incarcerated persons – whether instigated, allowed, encouraged, or directly ordered – it was reported that security staff often then physically assault people involved in the fight.

Not surprisingly with this frequency and intensity of various forms of reported staff abuse, numerous incarcerated persons reported that they felt unsafe at Attica, and were particularly fearful of staff abuse. As one person wrote, “the only time anyone is safe is when they are locked in.” Many people clarified that they had much greater fear of being harmed by staff than by other incarcerated persons. As one person formerly incarcerated at Attica described, “it is constant fear because of the militarization of that facility.” Also, multiple people who wrote

⁵ While sexual abuse is likely to be underreported due to the stigma attached to being sexually violated, several people incarcerated at Attica reported that sexual abuse by staff occurs at Attica.

to the CA reported that they literally were afraid for their life at Attica. Numerous people also reported that the levels of staff violence at Attica were worse than at other prisons. For example, one interviewed person had been incarcerated at Auburn, Great Meadow, Upstate, Clinton, and Southport, and he viewed Attica as the worst of all of those prisons. Similarly, another person for example wrote, “this is the worst prison in the way they treat us that I’ve ever heard of.” People recognized that the same types of violence do occur at other prisons as well, but that Attica is one of the worst. As one person wrote, for example, “assaults and brutality is done every day to incarcerated persons statewide in all facilities, but some more than others.”

ABUSE OF AUTHORITY

In addition to physical violence committed by staff, incarcerated persons reported that Attica security staff abuse their authority in numerous other ways, including verbal harassment, threats, intimidation, retaliation, false disciplinary tickets, and utilization of solitary confinement.

Intimidation: Welcome to Attica in Past Decades

1970s: When we got off the bus at Attica for the first time, there were some tall COs with tree trunks in their hands. They said, “we don’t care who you are. Don’t care where you come from. What crime you committed. We will kill you and bury you outside these walls if you give us any problems. Welcome to Attica.” – Anonymous person arriving at Attica in 1970s.

1980s: The first time I went to Attica was in 1981. There was a reception committee waiting for us. They were waiting. You got the speech: “This is Attica.” Then they lined us up against the walls. We were still handcuffed. And they manhandled us, mistreated us, and dehumanized us. “This is Attica: if you ain’t heard of it, now you know.” They smashed guys against the wall, put guys in extreme stress positions. Attica was abuse from beginning to the end. – Anonymous person arriving at Attica in 1980s.

1990s: I arrived at Attica in 1990 right before a young man was brutally beaten and killed by guards in A-Block. Riots erupted and officers shut the prison down. They came through the cells and beat everybody up. Some officers ripped off a friend of mine’s Afro and he was bleeding at his head. That was my introduction to Attica. There are some notorious COs who killed people and are still at Attica. The guy who killed the young man around the time of my arrival was given a one year suspension only and then was back at the prison. – Anonymous person arriving at Attica in 1990s.

2000s: As we drove up to Attica, someone who had previously been there pointed out the gun shots that were still in the wall in the tower from ’71. From that moment on, the rest of us were shook, we were terrified. I had already been in prison for 20 years, but I was scared. When we got off the bus, I recall the psychological game being played. Officers said “if you do anything to Attica staff, you will not leave here.” Then they asked each person: “why are you here” because everyone came to Attica after a disciplinary issue. “If you’re here for assault on staff, you better tell us now.” Most guys say weed or a dirty urine. One brother wouldn’t answer. And they beat him bad. And the rest of us just stood there and didn’t do anything. And he still didn’t answer. – Anonymous person arriving at Attica in 2000s.

Numerous incarcerated persons reported that correction officers constantly engage in verbal harassment and threats. People described being frequently threatened with physical violence by security staff. Given, as discussed above, that staff could assault any person at any time for any reason, the verbal harassment and threats can have a major impact on people because there is always the perception that the threat could be credible, with brutal consequences. As one incarcerated person reported, Attica is laden with “COs bullying, harassing, and intimidating [incarcerated persons] to the point of being afraid and fearful to the point of defending themselves.”

Related to the constant and repeated threats is an overall level of intimidation as a form of control by correction officers, which allegedly manifests itself in two prominent ways. First, people incarcerated at Attica described how security staff severely discourage incarcerated persons from speaking with them.

Many correction officers were described as having an attitude that incarcerated persons should never speak to them and should not even look at them. Numerous people expressed fear of even raising basic issues with security staff. As one person described, “there is an extreme lack of communication. Most COs don’t like you talking to them. They think you’re gonna ask them for something and even

if it is the most basic thing that you are entitled to they will give it to you with serious attitude and animosity when it is stuff you’re supposed to get. They want to be in control.” This level of intensity by which staff discouraged incarcerated persons to communicate with them was reportedly far more elevated than at even other maximum security prisons. According to a person recently incarcerated at Attica who had been held in various maximum security prisons across the state over the last two decades, “There is an indoctrination process for COs. COs were friendly at other prisons and talkative. But once they got to Attica, it was like they were prevented from communicating with you. No conversation, or really short. Attica is just like an evil force. I can’t recall anyone ever saying at Attica, ‘yo, this or that officer is cool,’ the way that they would at other prisons.”

The second major form of intimidation described involved correction officers preventing people from leaving their cells to participate in programs or services. Often referred to as “getting burned,” COs reportedly will inflict a kind of informal intimidation, form of control, or even informal discipline instead of issuing disciplinary tickets in response to alleged misconduct or a perceived slight or action of disrespect. This informal intimidation will mean that the officers will either randomly not let someone out of their cell or threaten that if the person leaves

Threats, Fear, and Forced Idleness

When I was transferred to C-block, an officer told me before I even took my property out of the cart that it doesn’t matter if I’m an honor incarcerated person, there is still a 50/50 chance the officers will beat the sh*t out of me and send me out to an outside hospital. I stayed in my cell scared for my life. – Anonymous.

their cell the officers will assault him. As one person described, “excessive force is used very frequently. The officers get tired of writing tickets, so instead of writing someone up, they just say if you leave your cell, we’ll beat you.” Many incarcerated persons reported specific incidents of being denied showers, meals, recreation, visits, access to medical care, or participation in assigned programs in this manner. As one person reported, “all day long, they harass incarcerated persons by not letting you go to chow, yard, showers, religious call-outs, and let you out late for visits. They do not care if you are old, young, going home, to the Parole Board, trailers, or if you have a mental health diagnosis.” Another person described how “everyday, every hour this stuff goes down. For example you will put down for chow and the officer will deny you for no reason.” Incarcerated persons reported that people could be kept in their cells for days, a week, or even longer in this manner. Most people attributed this kind of intimidation to COs’ sense that they have total control and power at Attica, and so in turn have, as one person described “the power to take meals or recreation or programs” from incarcerated persons.

When COs are annoyed with you, they tell you not to come out of your cell for 3 or 4 days, or they will beat you. --Anonymous

In a related type of abuse of unchecked power, many incarcerated persons reported that COs at Attica frequently engaged in arbitrary and random acts of harassment simply to exert their power, including destructive cell searches, stealing incarcerated persons’ IDs, damaging personal property like family photographs or legal work for no reason, or carrying out collective punishment. As one person reported, “some COs may even throw brand new underclothes in toilets just to get you mad; or rip up birthday cards off the walls (where you can hang them up legally) destroying them, daring you say something.” Another reported that his family pictures and legal work were taken during a cell search, even though the officer reported that no contraband was found during the search. Moreover, numerous incarcerated persons described how visitors and volunteers at Attica also face verbal harassment, threats, and intimidation. For example, one person reported that “the visiting room is horrible – visitors are called late and COs are rude, disrespectful, and harassing;” while another reported that “this is the worst visiting room in the state. [There is] discriminatory conduct against visitors. If you have a white girlfriend or wife, they will hassle her or delay your visit.”

If you write a grievance or file a lawsuit, they're gonna come after you and jump you or set you up with a weapon. --Anonymous

While almost anyone could face the harassment, threats, intimidation, and physical violence, innumerable people incarcerated at Attica described how people who raise complaints face the worst abuse. Not only did incarcerated persons overwhelmingly report that the grievance system was completely ineffectual, as discussed further below, many people reported that those who file grievances are pressured to withdraw any grievances filed, even to the point that they can be assaulted for not withdrawing. One interviewed person, for example, reported that he himself was beaten up a few weeks prior to our interview for refusing to withdraw a grievance he

filed. Indeed, people incarcerated at Attica repeatedly described how any people who file grievances, send letters to the Commissioner or the Inspector General, file a lawsuit, or just

Harassment › Grievance › Beating

I was sexually harassed in September 2013. I wrote a grievance about the misconduct. In January 2014, I was brought into the sergeant's room and told to drop the grievance. I was then keeplocked for eight days for writing them up. I sent a letter to the IG to complain. As a response, I was questioned about why the IG received a letter and was punched in the head. – Anonymous.

informally raise complaints with staff, faced retaliation in the form of “getting burned,” destructive cell searches, being issued a false disciplinary ticket, or being physically assaulted. Many people reported that filing a grievance for staff misconduct almost automatically led to some of these forms of retaliation. With respect to getting burned, one person, for example, reported that “if you write a grievance, they will retaliate – mess with your food and the like;” while another asserted that “there is always automatic retaliation for a grievance. People are also frequently deprived

of lights, food, and water as an intimidation tactic.” With regards to destructive cell searches and false tickets, one incarcerated person, for example, wrote that “if you exercise your right to complain about a certain officer, then the officer just has to whisper and another CO would go in your cell, toss up your cell, plant something, and/or steal something.” With regard to staff assaults, one person most blatantly put, “here you get your butt kicked for writing a grievance” while another wrote that “you can be beaten within inches of your life for filing a grievance.” Many people who were interviewed or wrote to the CA described specific incidents in which they personally recently faced retaliation for raising complaints. One person, for example, reported that because he had filed a lawsuit against officers at a different prison, COs at Attica set him up with a weapon, destroyed and stole his property, and sent him to SHU.

Consistent with these accounts of retaliation for filing grievances, Attica had lower rates of grievances filed and grievances appealed than at many other maximum security prisons. People incarcerated at Attica still filed a large absolute number of grievances in the latest full year of available data (1369),⁶ and a large number of grievance appeals from January 2010 to November 2013 (1,032), but the rates of grievances and appeals per incarcerated person were lower than nearly three quarters of all maximum security prisons. On the other hand, the percentage of all grievance appeals (30%) that were for code 49 staff misconduct and the percentage of all code 49 grievances that specifically mentioned staff assault (17%) were both higher than at three-quarters of maximum security prisons. These numbers are consistent with accounts regarding both large numbers of complaints about staff misconduct, particularly staff assaults, and people's reluctance to file grievances at Attica.

⁶ *Inmate Grievance Program Annual Report 2012*, NYS Department of Corrections and Community Supervision, available at: <http://www.doccs.ny.gov/Research/Reports/2014/InmateGrievanceAnnualReport2012.pdf>.

In addition to retaliation for filing grievances, many incarcerated persons reported that they faced a high risk of retaliation for even communicating with the CA, and many people described being harassed and threatened prior to, and after, meeting with us. As one person described, “if they know you are coming to see me, there’s a chance I will get set up with a weapon or assaulted.” Another reported that “people are scared to drop a grievance so you can imagine dealing with [the CA]. Anything to do against the staff is called by them “ratting” as an informant . . . The staff use [incarcerated persons] to hurt [people] under that excuse of being a rat.” The CA’s 2011 report based on its visit to Attica in 2011 documented similar reports from incarcerated persons that they had faced harassment for participation in the CA’s survey process and feared for their safety. Some incarcerated persons interviewed in 2014 alleged that some individuals had even been beaten for participating in the 2011 survey. For some people, the need to make public the horrible abuses taking place at Attica was worth the risk. For example, one person wrote that “COs here try to intimidate people from speaking up about conditions here. But I really don’t care about that.” On the other hand, some incarcerated persons found that the risk of staff abuse was too great. One individual informed us that he did not want to be interviewed because “I can’t afford for the administration here to go any further and retaliate against me by either beating me near to death and covering it up for themselves, giving a new prison charge, or setting me up with a weapon.”

Dealing with you [the CA] is quite dangerous. --Anonymous

Interlinked with issues of retaliation, many people described how COs frequently issued false misbehavior reports (otherwise known as disciplinary tickets), resulting in sentences to solitary confinement for weeks, months, or years. Many people reported similar patterns of situations in which after a grievance was filed and/or in other circumstances, COs would assault incarcerated persons and then write false misbehavior reports. As one person reported, “the Attica COs constantly assault, and set up incarcerated persons with weapons, and rob your personal property.” Another decried that officers “feed Albany bogus claims of [incarcerated persons] assaulting them when the truth is that it’s the other way around – they beat on us whenever they want.”

There is a correlation between grievances filed, physical altercations with staff afterward, and then false misbehavior reports for assaulting staff, since that provides an after-the-fact justification for why force was used. Yet, such incarcerated persons would be suffering serious injuries while staff would not. --Anonymous

Broader than false tickets, Attica utilizes an overly punitive approach to respond to actions by incarcerated persons. As discussed above, correction officers at Attica often utilize informal methods of intimidation or physical abuse instead of issuing disciplinary tickets. However, to the extent that officers formalize the response, they utilize an excessively punitive response as exemplified by the: a) large number of disciplinary charges (despite the alternative use of informal punishment); b) high percentage of people found guilty at disciplinary hearings; c) high frequency of issuing lengthy SHU sentences; and d) common occurrences in which

individuals repeatedly received multiple disciplinary tickets in short periods of time. Specifically, based on data obtained through a FOIL request of all DOCCS disciplinary hearings from January 3, 2010 through November 8, 2013, Attica conducted 6,662 disciplinary hearings for 3,233 separate individuals over the slightly less than four year period. This number indicates that roughly 47% of all people who were at Attica at some point during that four year time period received at least one disciplinary ticket, a very high percentage of the population.⁷ Moreover, 95.5% of all disciplinary hearings resulted in guilty findings, a percentage that is higher than almost all other DOCCS prisons, and indicates a potential bias and lack of fairness in the disciplinary proceedings, which like at all facilities are conducted by DOCCS hearing officers. Worse still, for individuals charged with assault on staff, 99.51% of the hearings resulted in a guilty verdict.⁸

Even more indicative of the excessive punishment employed at Attica, many incarcerated persons received extremely long sentences to solitary confinement. First, more than 83% of all disciplinary hearings at Attica from 2010 through 2013 resulted in SHU or keeplock sentences. There were 2,766 separate individuals who served some SHU or keeplock time during this period, meaning that an average of more than 690 separate people per year were subjected to isolated confinement. The median single SHU sentence length for a single hearing at Attica was six months, much longer than the 90 day median for all SHU sentences across DOCCS prisons. Over 400 of the single SHU sentences, or 20%, were for one year or more, and 617 or 30% were for nine months or more. Over 60% of all sentences and 78% of sentences for assault on staff were six months or more, both of which rank Attica as one of the worst few DOCCS prisons for the length of time people are being sentenced to isolated confinement. Nearly 90% of all sentences were three months or more. There were ten single SHU sentences over that time period that were for either *four or five years*.

Worse still, many incarcerated individuals repeatedly received disciplinary tickets and additional SHU time. During the less than four year period, over one quarter of the people who had a disciplinary hearing had at least two hearings, and over 10% had at least three hearings. A few individuals had as many as 14, 16, 17, 20, 24, and even 31 disciplinary hearings in less than four years. Looking at the cumulative sentences to solitary confinement – calculated by adding all SHU and keeplock time minus any time cuts received – 450 people had a cumulative sentence of one year or more, over 100 people had a cumulative sentence of two years or more, and 40 people had a cumulative sentence of three years or more. There were eight people who had

⁷ This percentage is calculated from an estimate – based on the number of people entering and leaving Attica each year – that there were 6,950 total separate people who were at Attica at some point during the four year time period.

⁸ Out of 228 separate hearings in which assault on staff was one of the charges, only one person was found not guilty of all charges. There were 15 hearings in which the person was not found guilty of assault on staff, but in all but the one already mentioned, the individual was found guilty of other actions – most commonly “violent conduct” and “creating a disturbance” – and sentenced to between two and six months of SHU time. Indeed, the majority of these 15 hearings resulted in five months or more of SHU time, indicating that the not guilty finding on the specific charge of “assault on staff” did not substantially limit the harsh punishment imposed.

cumulative sentences to solitary confinement of *five years or more*, with the highest being just under *seven years* of solitary confinement.

For example, during a ten month period from May 2011 to March 2012, one individual had 12 disciplinary hearings, received nearly eight years of SHU time and received an 11 month time cut. Another individual had twenty disciplinary hearings from April 2010 to February 2013

False Tickets, Abusive SHU Conditions

A sergeant had two officers plant a weapon on me! Two state razors wrapped in electric tape. I was moved to the SHU. The officers in the SHU are denying people food and showers if they write a grievance. They take incarcerated persons' property. If a person stops a sergeant and complains about any issues, they make up something and put you on the pre-loaf for 3 days, give you a false ticket, and then when you go up to the hearing they give you seven days loaf and say you were never on a pre-loaf. Most of the people from my company in the SHU are there for false claims of an assault on an officer and all the tickets say the same thing: "John Doe" came off the wall and struck me. The same officers are on most of the tickets. – Anonymous.

and received nearly six years of cumulative SHU time. The vast majority of charges and SHU time given were for alleged "soliciting" combined with "facility correspondence," indicating that the individual seems to have been seeking "goods or services . . . without the consent and approval of the facility superintendent."⁹ The next most prevalent charge this individual received was "refusing a direct order." There was only *one* "violent conduct" charge, one "threats" charge, one "urinalysis testing violation," and no assault on staff, fighting, weapons, or any other violence charges. Yet this individual was sentenced to spend *six years* in solitary confinement. Whatever issues this individual was having and whatever misconduct he engaged in, he did not seem to pose a threat to the safety of others. Moreover, the imposition of all of this punishment and SHU time did not seem to have any impact on addressing his behavior or the underlying

reasons for it, given that he continued to receive the same tickets repeatedly. Similarly another individual had eight disciplinary hearings from April 2010 to February 2013, and received over *five years* of cumulative time in solitary confinement. All of the charges for these hearings were "refusing a direct order", and "urinalysis testing violation," with two "movement regulation" violations. This individual clearly appears to have had an addiction or substance abuse problem. Yet, rather than receiving substance abuse treatment, he repeatedly received disciplinary infractions and SHU time, which as evidenced by the repeated tickets, failed to address his addiction needs or change his behavior and instead could have exacerbated it.

All of these examples – and many more like them – exemplify the overly punitive approach used by security staff at Attica to address perceived or real misconduct, and the absurdity and ineffectiveness of this punitive and indeed abusive approach. Administrators

⁹ See 7 CRR-NY 270.2(B)(4)(ii) (103.20).

reported that DOCCS Commissioner Annucci had issued guidelines in the summer of 2014 placing some limitations on the length of individual SHU sentences for all DOCCS prisons, and that hearing officers were trained on those guidelines in November 2014. Administrators reported that these guidelines had been implemented at Attica, with some impact on the length of individual sentences imposed, although not necessarily on the frequency with which disciplinary tickets were issued. Unfortunately, once in the SHU, incarcerated persons reported continued abuse. As of September 2013, there were 98 people in Attica's SHU, more than the 83 people in the SHU during the CA's 2011 visit. Potentially connected to those limitations, the number of people in the SHU was slightly lower – 78 people – as of the most recent snapshot in August 2014. Like in all isolated confinement units across the state, these individuals are locked in their cells 23 or 24 hours per day, without any meaningful human contact or programs. Consistent with the longstanding research about the devastating consequences of such isolated confinement, many people in Attica's SHU described the negative physical, mental, and social consequences they suffered from remaining in the SHU for extended periods. Multiple people, for example, reported that they suffered from anxiety, talked to themselves, faced exacerbated medical issues, and experienced behavioral swings and outbursts.

Yet people we corresponded with and interviewed, and people they described, had remained in the SHU for months and even years. One person lamented how “there are laws that limit the amount of time that apes and monkeys can be locked in cages, but DOCCS refuses to enact laws that limit the amount of time a human [being] can be confined to solitary.” Moreover, many people described how officers continue to carry out abuses while people are in the SHU, including messing with people's food or showers, verbally harassing people, issuing additional false tickets, and inflicting “the loaf”¹⁰ or cell shields as additional punishment.

RACISM

Underlying all of the other abuses documented throughout this report are troubling reports of blatant and deep racism of staff at Attica.

Many people incarcerated at Attica reported that racial harassment occurs frequently at the facility. People reported being called the n-word, coon, spics, monkey, and other racial slurs by staff.

Several interviewed persons referred to the same or similar situations as the following: “you get called the “n” word a lot. One year on Christmas, one of the COs walked around with a white sheet on his head pretending he was a part of the Ku Klux Klan. As a part of the act, they have a statue of a black baby with a noose around its neck hanging on the Christmas tree.” Some people reported that not only security staff, but civilian

90% of the abuse has race at the heart of it; they don't like black people plain and simple; most of the guys who are beat up are black. --Anonymous

¹⁰ The loaf is a restrictive diet as a form of additional punishment that is at times inflicted on people in the SHU. The loaf is a dense lump of various ingredients, including vegetables and grains blended together and served instead of a regular meal.

staff also use racial slurs. As one person reported, “I’ve seen everything from a blue shirt to a nurse call an incarcerated person a n****r.”

In addition to racial harassment, many incarcerated persons reported that staff physical abuse is most targeted at black and Latino incarcerated persons. One person incarcerated at Attica, for example, reported a specific incident in which a sergeant was choking him while screaming “I’ll kill you n****r. F****ing n****r.” Many incarcerated persons referred to three “gangs” of correction officers, historically and currently, who carry out assaults in a racially targeted manner: the Black Gloves, the Blue Knights, and the White Sharks. The Black Gloves reportedly wear black gloves when they beat up incarcerated persons, and also carry black gloves visibly in their pockets as a sign of intimidation. The Blue Knights reportedly wear a blue band around their wrist as a symbol of their gang, while the White Sharks wear a picture of a shark on their key holder. Some reported that the Black Gloves and Blue Knights were more prevalent in the past but still operate at Attica, while the White Sharks are reportedly more prevalent among the current generation of officers. Due to the racialized violence, many people analogized Attica to the Jim Crow south and/or to slavery. As one person reported, “these officers here at this

Racism and Abuse

COs stands for “current oppressors.” They play a game for their personal recreation . . . called pick a [n-word] – pick anyone who is black, put them on the wall, and once the area is clear they attack and assault us by striking us with their sticks or gloved fist and if on the floor their boots. When they are done playing their game we are ticketed and falsely accused of either assault of one of them or having a weapon that was maliciously placed on us, in our cells, or in our belongings and then we are placed in the box/SHU. Those false charges are given anywhere from 9 months to 22 months . . . Sad but true. This Abuse Has to Stop. – Anonymous.

infamous institution known as Attica act like slave masters, always beating on us simply because we’re black or Latino or because we won’t conform to becoming a modern day house n****r, also known as a yes man, as if we have no rights.” Several incarcerated persons reported that Attica is frequently referred to on the inside as “Little Mississippi.”

Contributing to the racial tensions, people incarcerated at Attica reported that, as was true during the CA’s 2011 visit, there were only a few black correction officers, on the order of 1% of all COs. As one person incarcerated at Attica reported, “people in the area live off of poor people and people of color.” In addition, given that Attica is located in a predominantly white town, almost the only people of color that staff interact with are incarcerated persons, further fueling racist perceptions. Moreover, the limited number of Black and Latino officers, and

Attica is the most racist facility in the state of New York. The black and Latino officers that do work here turn their heads the other way out of fear. --Anonymous

other white officers who do not directly carry out racist acts, are perceived as turning a blind eye to abuse out of fear for their own safety. As one person reported, “the COs are racist. Not all the police. But when they get together, then they are all the same.”

THE TARGETING OF PARTICULARLY VULNERABLE GROUPS

In addition to the targeting of black and Latino people, many incarcerated persons reported that certain groups are more targeted for staff abuse than others, including people convicted of sex offenses, people who are or are perceived to be homosexual, poorer people with less resources, people with little or no family connections, limited education or limited English skills, and people with medical or mental health needs.

Poorer guys without family and non-English speaking guys are also more likely to be beat up because COs think they can't be written up then. --Anonymous

Most consistently reported was that people convicted of sex offenses were targeted for abuse. Numerous people reported that security staff will assault people they identify as convicted of sex offenses, will “burn” those individuals and force them to stay in their cells for several days, and/or will inform other incarcerated persons about people’s crimes of conviction as a mechanism to encourage peer violence against those convicted of sex crimes. As one person most clearly articulated the issue: “there is ‘vigilante justice’ towards people convicted of sex offenses. Officers physically attack them; officers announce what they are locked up for; officers keep them locked in their cells, denying them the ability to go to the messhall for breakfast,

People convicted of rape and child molestation get no leeway here; they are looked down upon and abused physically and mentally by staff and by incarcerated persons. --Anonymous

lunch, and dinner; and officers have other [incarcerated persons] attack them.” Multiple people reported that people convicted of sex offenses are physically assaulted whenever they first arrive in

Attica’s C-block. As one person reported, “anyone with a sex crime in C-block is assaulted [by COs] upon entering C-block and scared into not writing about it. COs also get other incarcerated persons to beat these people up and sometimes cut up.” Another reported that he himself was convicted of a sex crime and was “beaten by eight COs within 30 minutes of coming to Attica.”

Additionally of concern are the conditions faced by people with mental health needs in an environment as rigid and abusive at Attica. As of July 2013, the latest available data, there were 456 people at Attica, or roughly 21% of Attica’s total population, on the Office of Mental Health (OMH) caseload.¹¹ Seventy-five of those individuals were in an Intermediate Care Program (ICP) – a residential treatment program for patients with a “serious mental illness,” 37 were in a Transitional ICP, and an additional nine people were in a Residential Mental Health Unit – an alternative placement to the SHU for people with serious mental illness sentenced to disciplinary

¹¹ Attica is an OMH Level-1 facility, which means it should have the capacity to treat patients with the most severe mental health needs.

confinement.¹² The remaining 335 people, at least 34 of whom were diagnosed with a “serious mental illness,”¹³ were in general population or SHU, facing the same conditions documented throughout this report. The presence of such large numbers of people with mental health needs at Attica, and particularly in Attica’s general population, raises concerns about these individuals’ safety and well-being.

Moreover, of deep concern, the abusive and overly punitive environment of Attica generally permeates the mental health treatment units as well, and for the RMHU and what was previously the Special Treatment Program (STP),¹⁴ it may even be worse. Specifically looking at disciplinary tickets and SHU time imposed, the RMHU and STP were tremendously over-represented given their small size. In disciplinary hearings involving an assault on staff charge from January 2010 to November 2013, nearly 9% of all of the people found guilty of such charges were in the STP or the RMHU, even though the STP represented less than 1% of Attica’s population while it existed and the RMHU represents less than half of one percent. More disturbing, many people in the STP and RMHU received large numbers of repeated disciplinary tickets and in turn long periods of extended SHU time. Of the 34 individual persons at Attica who received the most number of disciplinary tickets from January 2010 to November 2013, nearly one third, or 11 distinct people had been in Attica’s STP or RMHU. This data indicates that while the RMHU is intended to serve as a therapeutic intervention, Attica staff continue to take an excessively punitive approach to people with serious mental illness.

As a representative example of this disturbing reality, between June 2010 and October 2011, one individual in the STP and then later in the RMHU had 13 disciplinary hearings while he was in one of those units, and received an additional 35 months of cumulative SHU time.¹⁵ During roughly one month from the end of September 2011 through October 2011, this individual had eight disciplinary hearings and received an additional eight months SHU time and two months of keeplock time. Meanwhile, he had received an additional three months of SHU time just the month before. This person was diagnosed as suffering from the most serious mental illness (which is why he was in the STP and RMHU), and he appears to have been having some behavioral issues during this time that were almost certainly connected to his mental illness and may have required some type of intervention. However, although he was supposedly in a therapeutic environment, the response over and over again – which repeatedly proved itself to fail since the alleged misconduct did not abate – was discipline and punishment rather than treatment or counseling, and the individual ended up with *three more years* of SHU time.

¹² As of August 19, 2014, there were nine people in the RMHU according to data provided by the facility in response to a FOIL request.

¹³ Attica had 155 total people with an S-designation, meaning that they have been diagnosed with a Serious Mental Illness that provides them with protection under the SHU Exclusion Law.

¹⁴ The STP was a program in which people with serious mental illness who were in the SHU received some additional mental health services while they were in the SHU. As of the time of the last CA visit to Attica in April 2011, there were 20 participants in the STP. Pursuant to the SHU Exclusion Law, in mid-2011 the STP was closed and converted into the 10-bed RMHU.

¹⁵ He received 36 months of SHU time and two months of keeplock time, and received a three month time cut.

Similarly, another individual in Attica's RMHU had nine disciplinary hearings in a 10 day period at the end of October 2013 / beginning of November 2013, and received an additional *four more years* of SHU time. The largest number of charges at these hearings was "unhygienic act", again almost certainly directly connected to the individual's mental illness and requiring a therapeutic rather than punitive intervention. A third individual in the RMHU had eight disciplinary hearings in a three month period from November 2011 to February 2012 that resulted in an additional nearly *six more years* of cumulative SHU time. Not one of the charges this individual faced involved any alleged violent conduct, but rather included refusing a direct order (most frequent charge), having property in an unauthorized area, harassment, lewd conduct, interference with an employee, one charge of threats, and smuggling. As a fourth horrific example, one individual who went in and out of the RMHU and the general population, had 17 disciplinary hearings between June 2010 and February 2013, and received an additional *four and a half more years* of cumulative SHU time. Seven of those hearings, resulting in 15 months of SHU time, all took place in a one month time period from January to February 2013, and another six of the hearings took place in a three week period in October 2012, resulting in an additional three more years of cumulative SHU time.

All of these examples are deeply disturbing, epitomize the nonsensical punitive approach taken at Attica, and demonstrate the complete failure of such a punitive approach to actually reduce misbehavior or address people's needs or underlying causes of their behavior.

IMPUNITY AND LACK OF ACCOUNTABILITY MECHANISMS

All of the violence and abuse documented throughout this report are allegedly possible because of reported general staff impunity and a lack of effective accountability mechanisms. As noted above, people incarcerated at Attica almost uniformly reported the grievance system to be completely ineffectual at curtailing abuses. Not only are people afraid to even write grievances, those who do file grievances reportedly rarely if ever have a grievance resolved in their favor. In addition, some people reported that grievances sometimes do not even make it to the grievance office from their block, either because the grievance is simply thrown away or because grievance representatives or security staff will threaten and pressure an incarcerated person to drop their grievance before it is submitted. Furthermore, as discussed at length above, those who do move forward with grievances often face severe retaliation.

Most grievances don't even make it out of the block; the grievances are trashed. It has happened to me. --Anonymous

Additionally contributing to the lack of accountability through the grievance system is the lack of education and educational opportunities for people incarcerated at Attica. While the prison may be, as one person asserted, "scared of those who are good with a pen," many people are "unable to defend themselves" because of their lack of education. Incarcerated persons reported that many people at Attica do not even know how to write or file a grievance, helping

staff to get away with abuses. According to one person incarcerated at Attica, “about a third of the people at Attica are illiterate; another group is at the high school level; a small number are at college. The illiterate folks especially don’t know how to defend themselves. Also of concern, many incarcerated persons reported that security staff place a lot of pressure on incarcerated persons who are members of the grievance committee and the “Inmate Liaison Committee” (ILC), making it more difficult for these members to most effectively represent the interests of incarcerated persons. Comparable to staff labeled as “inmate lovers” discussed below, grievance representatives who side too favorably toward incarcerated persons may be, as one person wrote, “fired, harassed or transferred to another prison.”

In addition to the ineffective grievance system leading to impunity, many people incarcerated at Attica lamented the failures of the Attica administration and outside enforcement mechanisms to address staff abuse. Incarcerated persons repeatedly conveyed that the officers run Attica and that whatever administration is in place is not able to control the officers. Incidents of staff work stoppages and slowdowns were reported as occurring in response to policies viewed by staff as unfavorable. Also, many incarcerated persons complained that there is no accountability for officers who engage in misconduct in the form of employment repercussions, prosecution, or other responses to abuse.¹⁶ As one person commented, “the Inspector General and the Commissioner do nothing to stop this corruption. And the district attorneys refuse to prosecute staff.” Similarly, another person reported that “the system covers everything up from the Governor Andrew M. Cuomo, the Attorney General, the Commissioner, Inspector General’s offices, down to the Superintendent and his administration. The officers do whatever they want more or less because their union is powerful and they do not pay for all the claims and lawsuits filed; the state does.”

It seems like everyone in a position of authority turns a blind eye in order cover up for the officers who commit these criminal acts on a daily basis. --Anonymous

¹⁶ As a rare example of where some prosecutorial action was taken, in December 2011, four security staff at Attica were indicted and charged with an alleged assault on an incarcerated person at Attica, George Williams, who suffered multiple broken bones during the August 2011 assault in C-Block. See, e.g., *4 Attica Guards are Charged in Assault on Inmate*, The New York Times, Dec. 13, 2011, available at: <http://www.nytimes.com/2011/12/14/nyregion/4-attica-guard-charged-in-harsh-assault-on-inmate.html>. Other Attica correction officers were reported to have engaged in work slowdowns to protest the prosecutorial action and to support the indicted officers. In August 2012, a local Wyoming County Court judge dismissed the original indictment. See *Judge dismisses indictment against Sean Warner of Belfast, other Attica prison officers*, Wellsville Daily, Aug. 24, 2012, available at: <http://www.wellsvilledaily.com/x1260725587/Judge-dismisses-indictment-against-Sean-Warner-of-Belfast-other-Attica-prison-officers?template=printart>. Three of the security staff were re-indicted in January 2013 for alleged gang assault, and tampering with physical evidence and official misconduct; one of the security staff – a sergeant – was also accused of falsifying a use of force report for the assault. See Matt Gryta, *Three prison guards reindicted in Attica inmate assault*, Jan. 24, 2013, available at: <http://www.buffalonews.com/apps/pbcs.dll/article?aid=/20130124/cityandregion/130129572>. Hearings for the case were postponed on multiple occasions, and at the time of this report a trial is scheduled to begin in March 2015. See Paul Mrozek, *Attica COs face assault trial in March 2015*, Aug. 11, 2014, available at: http://www.thedailynewsonline.com/news/article_d2a8e7fc-211b-11e4-8565-0019bb2963f4.html.

Many people incarcerated at Attica also strongly believe that the lack of cameras in the prison contributes to abuse and impunity. Incarcerated persons repeatedly reported that officers will bring people to areas where there are no cameras, such as the hallways, to carry out assaults. Many incarcerated persons also believed that increasing the number of cameras could help to reduce staff violence. As one person incarcerated at Attica reflected, “there are atrocities against these guys and why don’t they have cameras? Why does Five Points have 1500 cameras and hardly any here? Cameras here would expose a lot of things.”

ATMOSPHERE OF VIOLENCE

The combination of the individual acts of staff abuse, the culture of impunity, the lack of program opportunities, and Attica’s history contribute to an overall environment and atmosphere of violence and intimidation that pervades Attica. The physical character of the prison itself creates an aura of oppression among incarcerated persons. Specifically, the large concrete wall surrounding the prison, the guarded watchtowers, the use of tear gas, and the constant carrying of batons by correction officers – a practice uncommon in other DOCCS prisons – all add to the tense environment. In a related manner, many people conveyed that all of the arbitrary physical violence, harassment, threats, and intimidation, and the fact that these abuses could happen at any time to any person create an atmosphere of fear and of people being on edge. One person described Attica as having “an atmosphere of unabated lawlessness,” while another likened the prison to concentration camps because of the denial of basic human rights. Indeed, some currently and formerly incarcerated persons described how the levels of abuse at Attica themselves help to perpetuate further abuse. As one person incarcerated at Attica described, “I understand prison is not a place where a person is supposed to enjoy but when you have no regards for an individual’s human rights and where you disregard your own policies, then that is something else in which harsh treatment pours forth.”

Moreover, many incarcerated persons reported that staff attempt to create a culture of unity among staff and a sharp divide between staff and incarcerated persons, to the point that staff will harass or abuse other staff if they are perceived to support incarcerated persons at all. As one person described, “there is a ‘blue wall of silence’ mentioned by officers, intimidating not only other officers but other staff in other areas as well.” As a result, people reported that if one officer dislikes a particular incarcerated person, then all other staff will act against that person. Many people reported that any staff who try to be helpful to incarcerated persons become labeled as “inmate lovers.” Some even reported generally, and with some specific examples, that helpful civilian staff sometimes will be targeted for verbal or physical abuse, or property damage. As one person reported: “If a civilian takes an [incarcerated person’s] side, [there is a possibility that] they [could] get their tires slashed and their windows broken. They harassed one female civilian so much that she quit. They attack civilians in the parking lot. The culture of violence at Attica is fixed.” In turn, individuals conveyed how the overall institutional mindset in Attica makes the

COs who do their job well are looked at as “inmate lovers” --Anonymous

dehumanization and brutalization of incarcerated persons possible. The acts of cruelty brought to light in this report are a result, not primarily of individual bad actors, but of an institutional system at Attica, in which staff are complicit, that deprives people of their humanity and forces them to live in an oppressive environment.

Table A – Attica Program Snapshot Comparison 2014 and 2011

	Staff 2011	Staff 2014	Enrolled 2011	% of 2011 Population	Enrolled 2014	% of 2014 Population
General Academic Programs	8.5	8	264	12.27%	257	12.72%
Vocational Programs	10	10	300	13.94%	293	14.50%
Substance Abuse Treatment	3	2	82	3.81%	96	4.75%
College / Correspondence Courses			28	1.30%	25	1.24%
Sex Offense Program			12	0.56%	4	0.20%
Transitional Services Phase 1			15	0.70%	6	0.30%
Thinking for a Change			15	0.70%	0	0.00%
Transitional Services Phase 3			8	0.37%	26	1.29%
Aggression Replacement Training			28	1.30%	55	2.72%
Total			752	34.94%	762	37.70%

In addition to this sharp “us versus them” staff attitude, insufficient program opportunities and idleness at Attica are both a product of and a contributor to the environment of violence, intimidation, abuse, and fear. Like in many DOCCS prisons, Attica lacks capacity to meet the program needs of all persons incarcerated there. Vacancies, enrollments, and waitlists have remained at similar levels to their problematic levels documented in the CA’s 2011 report. As seen in **Table A – Attica Program Snapshot Comparison 2014 and 2011**, Attica has roughly the same number of people enrolled in the general DOCCS programs in 2014 as it did in 2011. Specifically, less than 20% of the total population at Attica is enrolled in any academic, vocational, or college level program, with the number of enrollees slightly below their levels in 2011. Even when combining all of the general DOCCS programs at Attica, at least 62% of the population is not enrolled in any such program.¹⁷ In addition to general programs, a number of people have jobs at Attica. Many of these jobs, however, are porter positions that involve menial tasks, although Attica does have an industry program. Moreover, for all jobs, pay is in the cents per hour. As one person who works in an industry shop at Attica and currently earns \$.33 per hour asserted, “deceiving the public that DOCCS trains us in their prison industry to become better men is nothing more than a lie. What’s true is that the prison industry is . . . a sweatshop.”

Looking at individual programs further indicates that there has not been any improvement in access to programs at Attica. For general academic programs, as seen in **Table B – Attica Academic Programs**, although at the time of our 2011 visit there were more people on the waitlist than were enrolled in an academic class, in 2014 there continues to remain the same level

¹⁷ The percentage of people incarcerated at Attica who are not currently enrolled in a general DOCCS program is likely even more than this 62%, because it is likely that there are individuals who are enrolled in more than one program at a time.

of enrollment, indicating there likely continue to be a large number of people at Attica in need of academic programming who are not enrolled. Also of concern, there appears to have been a loss of capacity for the high school equivalency course at Attica, with a drop from 59 people enrolled in 2011 to only 16 enrolled in 2014, raising concerns about whether there are enough opportunities for higher level general academic programming.

Table B – Attica Academic Programs

Course	Capacity 2011	Enrolled 2011	Waitlist 2011	Capacity 2014	Enrolled 2014
ABE	76	70	112	91	83
Pre-GED/HSE	91	91	112	122	119
GED/HSE	59	59	97	18	16
ESL	17	10	11	18	15
Multi-level	34	34	27	32	24
Total	277	264	359	281	257
Cell Study		95			77
College/Correspondence		28			25

For vocational programs, as seen in **Table C – Attica Vocational Programs**, again while the waitlists in 2011 were nearly double the number of people at Attica enrolled in a vocational program, still the capacity of the programs have remained roughly the same, with a slight decrease in the number of enrollees.

Table C – Attica Vocational Programs

Program	Capacity 2011	Enrolled 2011	Waitlist 2011	Capacity 2014	Enrolled 2014
Electrical Trades	30	29	62	Vacant	0
Radio/TV Repair	30	29	51	28	29
Welding	30	29	51	28	29
Plumbing/Heating	vacant	0		32	30
Printing	30	30	25	28	24
Custodial Maint.	30	27	104	32	32
Building Maint.	34	31	98	32	27
Small Engine	30	30	38	30	30
Floor Covering	30	29	51	28	26
General Business	74	66	84	74	66
Other	vacant			vacant	
Total	318	300	564	344	293

Also of concern, the types of vocational programs offered have also remained the same. There still are nine different vocational shops at Attica, with the only change in the type of shops being that in 2011 plumbing and heating was closed due to a vacancy and electrical trades was operating, whereas in 2014 electrical trades was closed due to a vacancy and plumbing and heating was operating. Other than this switch from electrical trades to plumbing and heating, all of the remaining shops are the same shops, raising concerns about whether the skills learned in the vocational programs are the most relevant for current job-market opportunities. For example, radio and television repair – a program that is being phased out at many DOCCS prisons – continues to operate at Attica. For substance abuse treatment, facility and DOCCS administrators indicated that they had hired an ASAT program assistant in 2014 and began operating an ASAT program in C-block in order to try to decrease idleness on that block. While positive, the total ASAT staffing level – including the new PA – was the same as during the CA’s 2011 visit.

Consistent with the continued insufficient program capacity, many interviewed persons reported that they themselves are idle and not currently participating in programs, and that many other people incarcerated at Attica are in the same situation. As one person wrote, “DOCCS needs to provide more emphasis and resources towards educational and vocational training, as well as strengthening the re-entry program. This will assist [people] in gaining the skills which are essential to success upon release from incarceration.” Incarcerated persons reported that it can take months and years to get into a mandatory program, like substance abuse treatment (ASAT) or Aggression Replacement Training (ART).

Also, numerous people have already completed all of the basic DOCCS programs and do not have any meaningful program opportunities available to them. Many people at Attica – as in DOCCS prisons across the state – have served long periods of time in prison, been successful in the program opportunities provided, transformed their lives and best prepared themselves for release, and pose little risk to the community, and yet continue to be denied parole based almost solely on the nature of their crime of conviction and/or past criminal history. Parole release rates at Attica are even lower than the already incredibly low average release rates across maximum security prisons. In fiscal year 2011-2012, the latest year of available data, only 7% of people appearing for their initial appearance before the Parole Board at Attica were released, compared to an average of 8% for all maximum security prisons and 26% for all DOCCS prisons. Similarly, for all other appearances (including reappearances, merit time decisions, and technical parole violators/conditional release cases that typically have approval rates as high as 90%), only 18% of people at Attica were released, compared to an average of 22% for all maximum security prisons and 37% for all DOCCS prisons. Several people who were interviewed or sent correspondence reported being denied parole multiple times, and being left idle with little program opportunities.

Moreover, numerous people incarcerated at Attica also reported that people who are transferred from the SHU back into general population at Attica are, through an informal practice, not allowed to participate in any programs for at least a six-month time period. Some

interviewed persons reported that they themselves had personally been told when they came to general population from the SHU that they could not enter any program, and could not even have any job other than being a porter assigned to menial tasks. Going a step further, staff threats and intimidation decrease people's ability to participate in programs, regardless of whether they have been in the SHU. Most directly, as discussed above, staff will prevent incarcerated persons from attending their program as a form of informal discipline or intimidation. Also, the overall fear of being abused by security staff, through physical abuse or false tickets, leads many incarcerated persons to remain in their cells rather than risk participating in programs or services. For example, one individual reported that he chose to pursue cell study rather than a regular academic program because he fears leaving his cell and wants to "stay under the radar." Another person reported that he has been unassigned to a program or job at Attica for the past few years, and generally just remains in his cell all day, because he worries about getting assaulted or set up with a false ticket if he leaves his cell. Due to both the direct prevention of program participation and the general fear of participation, people incarcerated at Attica described feeling stripped of their rights, living in an environment of wanton abuse, with even programs and services meant to contribute to rehabilitation often being denied by correction officers.

There is a major problem of idleness here. If you are sent to the box, you're looking at anywhere from 6 months to a year with no programming [after you are released from the box].--Anonymous

Whether because people are waiting to get into programs, have completed all of their basic programs and remain warehoused at Attica, or are informally denied access to programs because they just came from the SHU or are being "burned," many people reported that the level of idleness at Attica helps to fuel tensions and ultimately violence among incarcerated persons and between incarcerated persons and staff. Many also believed that peer-led programs at Attica and across DOCCS could provide meaningful opportunities for incarcerated persons and help to decrease violence, although presently the facility does not generally support such programs. Overall, rather than creating program opportunities for incarcerated persons to grow and change, the violent and abusive environment at Attica can become all-consuming and self-perpetuating.

This prison is a sick environment; people are not working on their spiritual development.--Anonymous

In addition to the lack of programs, perhaps most contributing to Attica's particular atmosphere, the history of the 1971 Attica rebellion, its aftermath, and the decades of continued abuse also help create the environment of violence and abuse at Attica. Many incarcerated persons reported that the history of the rebellion still infuse day-to-day life at Attica, from the bullet holes still visible in the walls to the attitudes of officers. Some incarcerated persons believe that officers act in an abusive way toward incarcerated persons because they are seeking vengeance for the officers who died during the rebellion and its aftermath (despite the fact that the vast majority of deaths came as a result of state troopers and guards violently suppressing the

rebellion). Others believe that officers carry a mentality of “not on our watch,” to the point that they will do whatever suppression and intimidation they believe is needed to ensure that there is not a repeat rebellion at the present time. As a person formally incarcerated at Attica described, “whatever is going on today at Attica is a kind of: ‘we’re going to repress you because we’re not going to let this happen again. We’re going to harass you and intimidate you. At Attica we’re never gonna let this happen again.’” Incarcerated persons reported that both of these mentalities create an environment in which Attica has its own way of operating, with an even sharper “us versus them” mentality than at other prisons, with greater fear on the part of incarcerated persons, and greater intimidation and suppression of any minor action deemed antagonistic to staff (including even looking at an officer). Also, incarcerated persons reported that the ongoing historical influence is fueled further by the fact that some current correction officers are the children or relatives of officers working at the prison during the 1971 rebellion. As one person wrote “intergenerational facilities are all notorious jails.”

INDIRECT VIOLENCE, EMOTIONAL/PSYCHOLOGICAL HARM, AND SUICIDES

As a direct result of the atmosphere and other abuses at Attica, people currently and formerly incarcerated at Attica reported that they suffer indirect violence at Attica. According to one person formerly incarcerated at Attica, “you hear about Attica when you are running through the system, but nothing is going to affect you the way it is when you are there.” People described this indirect violence as a type of emotional and psychological harm that is less tangible but at times no less harmful. As one person who was formerly incarcerated at Attica described, “there was violence and fear when you were in the corridors. You didn’t talk, you couldn’t talk, and they didn’t talk. There was just banging and marching, tension and violence. You always felt like at any point something might happen.” This harm or trauma often results from the repeated infliction of violence and other abuse. One individual who was formerly incarcerated at Attica decades ago reported that he still suffers from the long-term psychological impact of being at Attica, as well as other DOCCS prisons. As one person currently incarcerated at Attica reported, “I have been assaulted by staff in the hope that I would [act out in response] so they would have the excuse to break me up, send me to the box, and give [me] a new case. I have had to swallow my pride many times and still do in the hope of not being hurt badly. May it be physically, mentally, or spiritually. We are constantly poked in every manner hoping that we will respond. I have been beaten, robbed by staff, robbed by their ‘workers,’ and broken down in so many different ways. I have become a diabetic while in this prison and kept from eating so I would go into a hypoglycemic coma. Meds being denied, refusal of treatment for my Hep-C disease, which is causing me all kinds of related problems such as dermal problems that don’t let me even to sleep. You mention it, I’ve endured it at Attica.”

I've been at Attica for about 12 years. The things I've seen done and personally experienced are horrendous. We live in a constant fear of bodily harm - not to mention the constant psychological warfare we endure on the daily basis.--Anonymous

As the most extreme manifestation of the emotional and psychological harm endured at Attica, unfortunately the prison has had and continues to have one of the highest rates of suicide among DOCCS prisons. Specifically, Attica was one of four prisons (along with Auburn, Clinton, and Elmira), where 44% of all suicides took place during the period 2011 through October 2013. From 2000 through October-2013, there were 16 completed suicides at Attica,¹⁸ the third highest absolute number in DOCCS prisons, and in the worst 12% for the annual rate per person incarcerated.¹⁹ Moreover, between October 2013 and November 2014, there already were two additional suicides at Attica. The rate of attempted suicides at Attica was also among the highest third of all DOCCS prisons, with an additional 23 reported suicide attempts between 2000 and October-2013. Interviewed persons described how the environment at Attica contributes to self-harm at the facility. As one incarcerated person said, “Suicide is a problem because this place perpetuates depression. Officers do unnecessary things to make life more difficult. They go out of their way to make you have no peace of mind. They do a lot to make a person want to give up. It is psychological torture, complete with racial slurs.”

Several incarcerated persons described situations where people they knew had attempted self-harm and discussed the often inappropriate and abusive responses by staff. As one

This prison will make you commit suicide if you're weak mentally or spiritually.--Anonymous

particularly disturbing example, one person described a situation in which an individual “had an issue of swallowing metal objects. OMH did not properly follow-up. Correction officers gave him a razor, betting that he wasn’t going to go through with it. When he did, he got beat up. They sent him to OMH, then they sent him to the box.” In another disturbing example, one person reported that his cell neighbor told one of the OMH social workers “that he wanted to kill himself, and [she] didn’t take it seriously. She joked with him and said, ‘what day are you going to kill yourself? I’ll make sure not to show up that day.’ Not long after, he tried to hang himself, and they cut him down and beat him, stepping on him.”

THE NEED FOR ATTICA’S CLOSURE

All of the various elements of abuse documented throughout this supplemental report combine to continue to make Attica one of the worst prisons in New York State. As one person summarized the situation, Attica is marked by “guard brutality, fraudulent misbehavior reports, covering up wrongdoings and . . . assaults by staff, an ineffective grievance system, and officer retaliation for complaints against them.” Comments about Attica such as “no prison is worse than here right now” or “I have never seen a prison as bad as this” permeated correspondence and interviews with people incarcerated there.

The public has a right to know about this abuse and expose it; it needs to stop. --Anonymous

¹⁸ Seven of those 16 suicides took place from 2007 through mid-2013.

¹⁹ New York State prisons overall had a suicide rate from 2007 through mid-2013 that is 60% higher than the latest available national rate for people in state prisons (and roughly two times the rate in the community).

When asked about what should be done to reduce the levels of abuse, repeatedly people currently and formerly incarcerated at Attica responded that the abuses taking place are endemic to the culture of Attica, and that minor changes or new administrations will not be able to change the environment. As discussed above, the oppressive environment and abuse that occurs at Attica is not about just a few (or even many) staff or administrators with bad attitudes or approaches. It is a complex system encompassing deeply engrained and longstanding social structures and customs that cannot be remedied through minor reforms.

Instead, people who have experienced Attica primarily called for: a) video cameras with sound recordings throughout the facility; b) widespread public exposure of the abuses taking place; c) investigations and prosecutions by outside agencies, including the federal Department of Justice; and d) ultimately the closure of

It has to be closed down. Attica is not a prison. It is worse than slavery. It is not even for dogs or animals. Attica is cruel.—Anonymous mother of person incarcerated at Attica

Attica. As one person incarcerated at Attica proclaimed, “they either need to shut down Attica completely or change all of the staff.” Another individual who was recently at Attica concluded that Attica “should be closed down” because “it is instilling fear unnecessarily on the prison population, exploiting individuals emotionally, psychologically and through physical abuses. Years ago, prisons just had wardens before they all came under the mantel of DOCCS. Attica is resisting being under the mantel and rules of DOCCS, and there is no accountability there.”

The Correctional Association of New York has been calling for the closure of Attica for the last several years. Numerous reports have been written by the CA and others about ongoing abusive conditions at Attica in the decades since the Attica rebellion.²⁰ Interviews conducted in 2014 were consistent with the CA’s previous seven visits to Attica since 1995, and with findings from its most recent full visit of 2011. The harrowing accounts documented in the present supplemental report mirrored survey responses from the 2011 visit that ranked Attica as one of the worst CA-visited facilities in nearly every category related to staff physical violence, racial and verbal harassment, threats and intimidation, abusive pat frisks, sexual abuse, and retaliation. Similarly, 2014 reports of idleness contributing to violence at Attica indicate a lack of improvement of insufficient program opportunities documented in 2011. Also, there was a relatively constant, with a slight increase, in the percentage of people at Attica with mental health needs; and reports of frequent use of, and abusive conditions in, the SHU were consistent with the CA’s 2011 findings.

Why is Attica still open? --Anonymous

Overall, nothing from its 2014 investigations would change the necessity and urgency of Attica’s closure. To the contrary, the ongoing brutality, racism, abuses of power, impunity, overall environment of abuse and violence, and continued failure to take effective corrective

²⁰ See, e.g., *Attica 1982: An Analysis of Current Conditions in New York State Prisons*, Correctional Association of New York (1982); *Attica, A Report on Conditions, 1983*, Prisoners’ Legal Services of New York (1983); *Attica Correctional Facility*, Correctional Association of New York, visit conducted March 17, 2005, available at: http://www.correctionalassociation.org/wp-content/uploads/2012/05/Attica_3-17-05.pdf.

action, increase the urgency of the need to close Attica. The history of the 1971 rebellion and its violent suppression still infuse Attica's walls and operations, and the levels of brutality are still pervasive. Nothing short of closure will end the fundamental human rights abuses at Attica.

RECOMMENDED REMEDIES TO ADDRESS VIOLENCE AND ABUSE

At the same time that Attica must close, violence and abuse must end across all DOCCS prisons. While the combination of factors and abuses at Attica documented throughout this report make it stand out as one of the worst of the worst of NYS prisons, many of the same abusive conditions facing people incarcerated at Attica are prevalent at many other DOCCS prisons. Attica must not only close, but also must serve as a representative reminder of the worst aspects of the entire system of incarceration in New York State. Physical violence, indirect violence, abuse of authority, racism, impunity, lack of effective programming, use of isolated confinement, inadequate medical and mental health services, and repeated parole denials mark not just Attica, but also characterize the experience of many people who are incarcerated across the state.

Staff behaviour and the humane and dignified treatment of [incarcerated persons] should underpin every operational activity in a prison. – Coyle at 13.

In order to reduce violence and abuse in DOCCS prisons, including at Attica until the time of its closure, DOCCS must work with state policy-makers to make substantial changes in the following key areas:

- 1) Policies and Practices Regarding Use of Force
- 2) Prison Culture
- 3) Empowerment of Incarcerated Persons
- 4) Disciplinary System
- 5) Transparency
- 6) Complaint Mechanisms
- 7) Accountability Mechanisms

Policies and Practices Regarding Use of Force

There must be a strictly enforced, no tolerance policy for improper and excessive use of force by staff at Attica and other prisons. Policy directives on the use of force need to be strengthened to ensure that force by staff is used only in rare circumstances, with the least amount of force necessary, as a last resort method in response to imminent violence or harm to staff or other incarcerated persons.²¹ More specifically, it should be made clear to staff that use of force in the circumstances such as the following is strictly prohibited: as punishment; as a

²¹ See, e.g., *Report of the Commission on Safety and Abuse* at 32-33; *DOJ 2014 Report* at 53.

response to verbal insults, threats, or failure to follow orders; or as retaliation.²² It should also be emphasized that certain actions are strictly prohibited by staff, including verbal harassment, threats, racial and homophobic slurs, obscenities, humiliation or provocation of incarcerated persons, pressuring or coercing incarcerated persons or staff to not report a use of force incident, and utilizing certain types of force, such as headshots, or any excessive level of force.²³

Furthermore, DOCCS must clarify and emphasize that use of any force – defined as broadly as possible – requires prompt, accurate, specific, detailed, and complete reporting, documenting, and investigating.²⁴ All staff who use force, witness an incident, or provide medical or other attention following use of force must be responsible for such reporting and documenting, and all investigations should include reviewing video recordings and obtaining accounts of incarcerated persons who were involved in or witnessed the use of force.²⁵ There also must be mechanisms for staff to make reports confidentially about incidents that they witnessed, and there must be protections in place for staff to be free from retaliation by other staff for reporting incidents.²⁶ DOCCS must have a zero tolerance policy with regard to non-compliance with these reporting and investigating requirements, taking necessary and appropriate responsive actions for those who do not comply.²⁷ In addition, DOCCS must create and follow strengthened mechanisms for collecting, tracking, and publicly reporting use of force incidents and follow-up actions and outcomes.²⁸

Moreover, DOCCS must create at Attica and other DOCCS prisons alternative mechanisms to the use of force, physical abuse and punishment/discipline to resolve conflicts that arise between staff and incarcerated persons, as well as among incarcerated persons. For instance, utilizing counseling, de-escalation techniques, crisis intervention methods, and restorative justice circles or panels could provide more effective means of addressing conflicts and in turn reduce use of force, if properly established and built into prison operations.²⁹

²² Preet Bharara, *CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island*, US Department of Justice, US Attorney, Southern District of NY, p. 53, Remedial Measure C(1)(c), Aug. 4, 2014 (“*DOJ 2014 Report*”).

²³ *Ibid.* at 53, Remedial Measure C(1)(c), 58, Remedial Measure F(7) (Remedial Measure C(1)(c) notes that “headshots are considered an excessive and unnecessary use of force, except in the rare circumstances where an officer or some other individual is in imminent risk of serious bodily injury and no more reasonable method of control may be used to avoid such injury.”).

²⁴ *Ibid.* at 54-57 (specifying that the definition of the “use of force” should include “any instance where staff use their hands or other parts of their body, objects, instruments, chemical agents, electric devices, fire arms or any other physical method to restrain, subdue, intimidate, or compel an [incarcerated person] to act in a particular way, or stop acting in a particular way.”).

²⁵ *Ibid.* at 56-57.

²⁶ *Report of the Commission on Safety and Abuse* at 93.

²⁷ *DOJ 2014 Report* at 54-55.

²⁸ *Ibid.* at 55.

²⁹ See, e.g., James M. Byrne, *Myths and Realities of Prison Violence: A Review of the Evidence*, Victims and Offenders, Vol. 2, Issue 1, p. 82 (2007) (citing K. Edgar for the proposition that “building mechanisms” in prisons such as restorative justice panels “to resolve conflicts” is one method for promoting social order in prisons, along

Cultural Changes

Perhaps most importantly in addressing violence and abuse, there must be a fundamental cultural shift at Attica and at other DOCCS prisons. The culture of brutality, violence, excessive punishment, dehumanization, and abuse must end. It must be replaced by a culture that prioritizes mutual respect and communication between staff and incarcerated persons; conflict resolution, transformation, and de-escalation; and individual autonomy, support, programs, empowerment, and personal growth for incarcerated persons.³⁰ Promoting the latter type of culture can improve relations between staff and incarcerated persons, increase safety and security for all, and improve staff morale and job performance,³¹ not to mention improving the lives of people while they are incarcerated and increasing their chances of success upon return to their home communities.³²

The current culture of brutality, violence, and abuse at Attica and other DOCCS prisons self-perpetuates by creating violence by incarcerated persons, which in turn leads to further brutality and abuse by correction officers, which continues a downward spiral of violence and abuse. As renowned psychiatrists, former prison administrator/staff, and experts on violence and incarceration, Dr. James Gilligan and Dr. Bandy Lee, conclude,

Violence and abuse, and an institutional culture that condones abuse, are truly deadly to the purposes of a correctional facility. There are prisons and jails where officers too often use weapons and force instead of words and where [incarcerated persons] lash out at each other and at officers. But this is not the fate of all correctional facilities. In some institutions, officers maintain safety for everyone—in part by directly engaging with [incarcerated persons] and, in some cases, bridging race, culture, and class differences to make those connections. -- Report of the Commission on Safety and Abuse at 20.

“the more severely [incarcerated persons] are punished by the prison authorities, the more violent they become, and the more violent they become, the more severely they are punished, until they become so enraged and bitter that they do not care whether they themselves live or die, if only they can get back at their tormentors, or at any other target on whom they can vent their rage.”³³

At the psychological root of this downward cycle, Gilligan and Lee find “punishment stimulates feelings of shame and diminishes feelings of guilt, and those are precisely the conditions that stimulate violent behavior.”³⁴ “[D]epriving someone of his freedom is likely to be

with “fulfilling [incarcerated persons’] basic human needs; working to ensure personal safety; providing opportunities to exercise personal autonomy”).

³⁰ See, e.g., *Report of the Commission on Safety and Abuse* at 66.

³¹ *Ibid.* at 66-67.

³² See Byrne at 88 (noting that “improvements in the everyday quality of life of staff and [incarcerated persons] will ultimately affect the ‘moral performance’ of incarcerated persons when they return to the community.”).

³³ James Gilligan and Bandy Lee, *Beyond the Prison Paradigm: From Provoking Violence to Preventing It by Creating “Anti-Prisons” (Residential Colleges and Therapeutic Communities)*, Ann. N.Y. Acad. Sci. 1036: 300-324, 307 (2004) (“Gilligan and Lee, *Beyond the Prison Paradigm*”).

³⁴ *Ibid.* at 309-310.

experienced by most people as a form of punishment in itself, no matter how humanely it is done, and no matter how many efforts are made to mitigate the cruelty of it. To add further punishments to that, gratuitously, is not only needlessly cruel, but is also counterproductive: it only stimulates more violence on the part of the person who is subjected to it.”³⁵ Similarly, many other experts and scholars espouse a similar “deprivation model” that emphasizes that “the prison environment and loss of freedom cause deep psychological trauma so that for reasons of psychological self-preservation [incarcerated persons] create a deviant prison subculture that promotes violence.”³⁶

To change the downward spiral, the paradigm, and in turn the outcomes, requires a fundamental change in culture and environment. Gilligan and Lee conclude that prisons can never provide the appropriate environment for positive change and reducing violence.³⁷ Still, their ideas for what should replace institutions like Attica can also serve as models for what DOCCS prisons should move toward so long as they exist. As Gilligan and Lee describe:

If [prisons'] purpose had been to increase the frequency and severity of crime and violence to the highest possible level, they could hardly have been more successful. – Gilligan and Lee at 310.

*If we want to facilitate the ability of violent people to regain their humanity, or to gain it for the first time, so that after their return to the community they will behave constructively rather than destructively, it is essential that the setting in which they are temporarily separated from the community at large be as dignified, humane, and homelike as possible, and that it be a kind of microcosmic example of the kind of health-promoting and non-violent community that we would hope they could help create and maintain after they return to the community.*³⁸

A major component of transforming the culture at Attica and other DOCCS prisons involves changing the attitudes, practices, and cultural norms of staff. One part of this component requires a clear desire and articulation of this shift from top DOCCS and state officials.³⁹ Attica administrators reported in November 2014 that Attica had hired a First Deputy Superintendent in April 2014 to assist in the management of facility operations, although not

³⁵ *Ibid.* at 306.

³⁶ See Ross Homel and Carleen Thompson, *Causes and prevention of violence in prisons*, *Corrections Criminology*, p. 101-108, at 1 (2005) (citing Farrington & Nuttal, 1980; Sykes, 1958; Wortley, 2002).

³⁷ *Ibid.* at 310-311 (finding that prisons “are so irredeemably flawed, their most basic premises are so incorrigibly mistaken, that they can only be abolished and replaced with a qualitatively different kind of approach.” They term their alternative approach an “anti-prison”, which would be “reserved exclusively for those who have committed (or credibly threatened) a serious act of violence”; would aim to be a “human development center,” “behavioral health center,” or “comprehensive education center”; and would start the process of habilitation and socialization from the beginning).

³⁸ *Ibid.* at 311.

³⁹ See, e.g., *Report of the Commission on Safety and Abuse* at 70 (“efforts to improve the institutional culture must come from the top.”).

specifically related to violence and abuse. The Superintendent, First Deputy Superintendent, and Deputy Superintendent for Security at Attica and other prisons, along with the DOCCS Commissioner and other state officials, must strongly convey a new emphasis, including at a minimum the above recommended no tolerance policy for abuse and strengthened limitations on the use of force. Attica and other DOCCS administrators and state officials must work toward creating a culture that prioritizes resolving conflict and supporting and respecting incarcerated persons, does not tolerate staff violence and abuse, and holds staff accountable.⁴⁰ High level DOCCS administrators, and more elected representatives and state officials, should make periodic unannounced visits to Attica and other prisons to assess conditions. In addition, DOCCS central office should develop a system for tracking, identifying, and appropriately responding to patterns of misconduct.⁴¹

Additionally important, DOCCS needs to prioritize recruiting, hiring, and retaining staff – including correction officers, captains, lieutenants, superintendents, and deputy superintendents for security – with higher levels of qualifications and experience, as well as racial, cultural, and gender diversity.⁴² According to a Human Rights Approach to Prison Management handbook,

*It is essential that the staff should be carefully selected, properly trained, supervised and supported. Prison work is demanding. It involves working with men and women who have been deprived of their liberty, many of whom are likely to be mentally disturbed, suffer from addictions, have poor social and educational skills and come from marginalized groups in society.*⁴³

Security staff qualifications should focus more on skills related to communication, resolving conflicts, empathy, and de-escalating difficult situations.⁴⁴ DOCCS should limit the number of inexperienced security staff at prisons like Attica, and particularly in areas with the most violence like C-block and A-block, and should instead provide incentives for more experienced officers and those specialized in counseling, conflict resolution, and de-escalation to work in these prisons and areas.⁴⁵ Of course, prioritizing the hiring of the most qualified and diverse staff

⁴⁰ See, e.g., DOJ 2014 Report at 62, Remedial Measures H(9), J(1).

⁴¹ See, e.g., DOJ 2014 Report at 63, Remedial Measures J(3-4).

⁴² See, e.g., *Report of the Commission on Safety and Abuse* at 15, 70-72 (concluding that “correctional facilities cannot operate safely and effectively without a qualified, stable, and diverse corps of officers”); Byrne at 83 (linking higher levels of prison violence and disorder with staffing levels, quality, and experience); Homel and Thompson, at 9 (summarizing support for “approaches to recruitment and training to screen out inappropriate staff, to equip staff to recognize and deal with conflict, and to improve supervision.”)

⁴³ Andrew Coyle, *A Human Rights Approach to Prison Management*, Handbook for prison staff, 2nd ed., p. 15 (2009).

⁴⁴ See, e.g., *Report of the Commission on Safety and Abuse* at 147 (noting that in an alternative model, “[n]egotiation and communication become more important staff skills than brute strength”).

⁴⁵ See, e.g., DOJ 2014 Report at 49, Remedial Measures F(10, 12, 13).

would likely require shifting the current locations of many DOCCS prisons from primarily white, rural communities in many parts of upstate NY.⁴⁶

Beyond recruitment, there must be additional and enhanced periodic training of staff at Attica and throughout the DOCCS system. Such training should utilize interactive and realistic role plays and demonstrations of specific skills and techniques.⁴⁷ These skills and techniques should focus on alternatives to the use of force, conflict resolution, crisis intervention, and de-escalation techniques, along with training on use of force policies, reporting requirements, and investigations.⁴⁸ All security staff should also receive additional and enhanced interactive training on mental illness and working with people with mental health and medical needs.⁴⁹ Moreover, staff should undergo additional training on how to work respectfully and effectively with people of different races, cultures, and backgrounds.⁵⁰ At Attica and many other DOCCS prisons, where the vast majority of incarcerated persons are black and Latino and the vast majority of security staff are white, it is essential that staff participate in anti-oppression workshops in order to better understand and navigate the racial dynamics at the prison.⁵¹ Especially since most DOCCS prisons will never have substantial numbers of people of color working in them, extensive and effective training around issues of race, gender, and power must be a crucial part of staff training in order to begin to address the pervasive racism at prisons like Attica.

Empowerment of Incarcerated Persons

In addition to transforming the staff component of the culture at Attica and other DOCCS prisons, part of the necessary changes in prison culture must also involve greater empowerment of incarcerated persons to help build a more effective culture and environment. Incarcerated persons themselves can play a powerful role to decrease violence and abuse inside the prison by affecting the culture of the prison, reducing violence by incarcerated persons, empowering incarcerated persons about their rights and ability to raise complaints, and more generally serving as peer leaders, mentors, and facilitators of peer-led programs. Providing greater autonomy to

⁴⁶ See *Report of the Commission on Safety and Abuse* at 35 (calling for officials to “reexamine where prisons are located and where [incarcerated persons] are assigned” for purposes of promoting family and community ties.).

⁴⁷ See *Report of the Commission on Safety and Abuse* at 33 (“officers need guidance, inspiration, and a repertoire of effective, non-forceful responses so that the use of force is naturally limited to those rare situations where it is required to prevent serious harm.”).

⁴⁸ See, e.g., DOJ 2014 Report at 59-60, Remedial Measures G(1, 3, 5); *Report of the Commission on Safety and Abuse* at 11 (“teaching and modeling non-forceful ways for officers to resolve conflict is crucial because the unnecessary or excessive use of force and weapons provokes broader violence”).

⁴⁹ See, e.g., DOJ 2014 Report at 60, Remedial Measure G(7).

⁵⁰ See, e.g., *Report of the Commission on Safety and Abuse* at 33 (finding that “careful screening of staff at the time of employment and ongoing, in-depth training are necessary to ensure that an understanding of and respect for cultural differences shapes how staff relate to [incarcerated persons]”).

⁵¹ See *Ibid.* at 69 (noting that “where there are stark differences in race and culture between officers and [incarcerated persons], it takes real effort on the part of corrections staff to understand and effectively communicate . . . pre-service and ongoing training are critical. That training must dig deep into ingrained conceptions about people from different races, cultures, and neighborhoods.”).

incarcerated persons and fostering a sense of community among incarcerated persons and staff has been proven to help reduce prison violence.⁵² As one part of this component, joint training of staff and incarcerated persons can help empower both, and improve relationships between staff and incarcerated persons.⁵³ Similarly, increasing use of the so-called “direct supervision” model, whereby staff and incarcerated persons have constant and continuous direct interaction in common, non-cell areas, can help reduce violence if implemented properly and effectively with adequately skilled, trained, racially diverse, and culturally competent staff.⁵⁴

The more coercive the prison environment, the greater the potential for violence . . . Conversely, prisons that provide for [incarcerated persons] participation in education and vocational programs and promote self-efficacy generally report reduced levels of rule violations and violence. – Homel and Thompson at 10.

In addition, there needs to be a renewed focus at Attica and other DOCCS prisons on programs, habilitation, and transformation. It has long been demonstrated that providing meaningful program opportunities will reduce idleness, which itself can help decrease confrontations among incarcerated persons and between incarcerated persons and staff.⁵⁵ As Gilligan and Lee suggest, “To the all-too-limited extent to which prisons simply restrain people without punishing them, treat them with respect rather than contempt, and make available to them the tools (such as education, psychotherapy, employment, treatment for alcoholism, and so on) that can enable them to gain sufficient self-respect to outgrow their need to commit violent acts, prisons could (and sometimes do) actually prevent violence.”⁵⁶

College programs have long been documented to reduce violent behavior among participating students and empower those individuals.⁵⁷ Attica’s small college program needs to be expanded, and the state and federal governments need to restore Tuition Assistance Program (TAP) and Pell grants respectively in order to expand college opportunities for people incarcerated across the state. In addition, expanding general academic and vocational programs

⁵² See Homel and Thompson, at 9 (citing the example of the Barlinnie Special Unit for people convicted of violent offenses in Scotland as a successful example of violence reduction based on “a sense of community involving both [incarcerated persons] and staff, greater than usual [incarcerated person] autonomy, and distinctive incentives and disincentives.”); Coyle, at 15 (noting that “the key to a well managed prison is the nature of the relationship between [staff and incarcerated persons]”).

⁵³ *Ibid.* at 9 (citing example of a “Pennsylvania conflict resolution program that jointly trains officers and [incarcerated persons and] is successful in improving staff-[incarcerated person] relationships”).

⁵⁴ See, e.g., DOJ 2014 Report, at 52; Gilligan and Lee, *Beyond the Prison Paradigm*, at 150; *Report of the Commission on Safety and Abuse* at 29-31.

⁵⁵ DOJ 2014 Report at 58, Remedial Measure F(8).

⁵⁶ See Gilligan and Lee, *Beyond the Prison Paradigm*, at 307.

⁵⁷ See, e.g., Jack Beck, *Correctional Association Testimony*, Educational and Vocational Programs in NY Prisons, p. 27, Nov. 29, 2012, available at: <http://www.correctionalassociation.org/wp-content/uploads/2013/02/testimonu-prison-ed-voc-progs-nov-2012.pdf> (“Beck, Educational and Vocational Testimony”). Gilligan and Lee, *Beyond the Prison Paradigm*, at 314-316; *Education From The Inside, Out: The Multiple Benefits of College Programs in Prisons*, Correctional Association of New York, 2009; Laura E. Gorgol, Brian A. Sponsler, *Unlocking Potential: Results of a National Survey of Postsecondary Education in State Prisons*, May 2011.

to address the ongoing waitlists at Attica and other DOCCS prisons will help to reduce idleness and in turn confrontations with staff.⁵⁸ Moreover, DOCCS should enhance and expand specialized programs aimed at reducing violence that help incarcerated persons better address some of their underlying issues and help them grow, including anti-violence programs like the Alternatives to Violence Project (AVP), Aggression Replacement Training (ART), and cognitive behavioral therapy.⁵⁹

Moreover, incarcerated persons can play an important role in expanding program opportunities, empowering other incarcerated persons, and in turn reducing peer violence and confrontations with staff. Given that roughly 60% of the people incarcerated in DOCCS already have their high school diploma or equivalency, a small but substantial number of people have a college degree, and many others have a wealth of other forms of relevant knowledge, experiences, and expertise, incarcerated persons can be an invaluable resource.⁶⁰ Unfortunately, a decline in DOCCS support for peer-led initiatives, such as incarcerated person organizations and peer-led classes and workshops, has made opportunities for peer leadership more difficult and limited.⁶¹ Efforts such as the Lifers and Veterans Groups at Attica need to be supported, empowered, and expanded to play a more active role.

In the name of fighting crime and supporting law and order, the politicians who claim to support those goals most vociferously have systematically dismantled what may be the most effective means we have yet discovered [college] for enabling the most violent men in our society to abandon their lives of crime and violence. – Gilligan and Lee at 315.

In a related manner, individuals who participate in programs, demonstrate growth, and transform themselves inside, and/or no longer pose a substantial risk to the outside community should be granted parole release. Repeated parole denials to people who have completed a large number of programs, have transformed their lives, and/or have received low risk scores on evidence-based risk assessments can have devastating impacts on those denied parole, and on other incarcerated persons who observe these repeated denials.⁶² In turn, these denials can increase violence in prisons because some people who are denied may act out as a response; and others who are denied or who observe people being denied may become demoralized, view

⁵⁸ See, e.g., Homel and Thompson, at 7-8 (finding that “academic and vocational education help decrease prison rule violations and violence”); *Report of the Commission on Safety and Abuse* at 27-28.

⁵⁹ See, e.g., Homel and Thompson, at 7 (finding that the literature tentatively concludes that “programs that implement violence alternative training or other forms of treatment such as drug rehabilitation within a supportive and ‘opportunity enhancing’ environment of a specialist or rehabilitative unit are more likely to be effective in reducing . . . violence”); *Report of the Commission on Safety and Abuse*, at 28.

⁶⁰ See, e.g., Beck, *Educational and Vocational Testimony*, at 22-23.

⁶¹ *Ibid.*

⁶² See, e.g., Scott Paltrowitz, *Correctional Association Testimony, Board of Parole*, p. 30-33, Dec. 4, 2013, available at: <http://www.correctionalassociation.org/wp-content/uploads/2013/12/CA-Parole-Testimony-12-4-13-Hearing-FINAL.pdf>.

program participation or efforts at personal transformation as worthless, and/or lose complete faith in the rule of law or the system and thus lose the will or desire to contribute positively.⁶³

Examples of an Alternative Prison Culture and Empowerment

Some prisons and jails in various parts of the country – including certain individual facilities in California, Oklahoma, Oregon, Maryland, and Massachusetts – as well as those in other countries have received praise for reportedly making substantial efforts at transforming their institutional culture and experiencing successful outcomes.⁶⁴ According to the Commission on Safety and Abuse in America’s Prisons (*hereinafter* “*Commission on Safety and Abuse*”), the correction systems “leading those reforms understand that an ‘us versus them’ mentality endangers [incarcerated persons] and staff and, over time, harms the families and communities to which [incarcerated persons] and staff belong.”⁶⁵

One powerful example of the positive impact of a shift in culture and an emphasis on programs comes from a system developed and tested in a project at the San Francisco County Jail called the Resolve to Stop the Violence Project (RSVP). RSVP aimed to reduce violent behavior of people while they are held in jail and after they return home by changing the culture of the jail and changing the interrelated character of the individuals in the jail. RSVP utilized “an intensive, 12-hours-a-day, 6-days-a-week program consisting of group discussions, academic classes (including some emphasizing nonviolent forms of self-expression, such as art and creative writing), theatrical enactments and role-playing, counseling sessions, and presentations by and discussions with victims or survivors of rape, murder, and other serious violence.”⁶⁶ Three main components of RSVP include: 1) group discussions utilizing a cognitive behavioral approach; 2) a victim impact program where survivors of extreme violence participate in sessions in which they describe the pain they have endured; and 3) a process in which each participant writes and acts out a play based on a traumatic or turning point event in his life.⁶⁷ The program showed dramatic declines in violence in the jail. Specifically, after the program was initiated, there was only one violent incident in the first quarter of the program and zero violent incidents for the subsequent year, representing a 96.5% decline in violence incidents from the period prior to the program.⁶⁸ The program also led to greater reductions in recidivism, as RSVP participants were “significantly less likely to be rearrested on violent charges, remained longer in the community before being re-arrested, and spent less time in custody during follow-up.”⁶⁹ This

⁶³ *Ibid.* at 32-33.

⁶⁴ *See, e.g., Ibid.* at 65.

⁶⁵ *Ibid.* at 15.

⁶⁶ Gilligan and Lee, *Beyond the Prison Paradigm*, at 316.

⁶⁷ *Ibid.* at 317-319.

⁶⁸ Bandy Lee and James Gilligan, *The Resolve to Stop the Violence Project: Transforming an in-house culture of violence through a jail-based programme*, *Journal of Public Health*, Vol. 27, No. 2, p. 149-155, at 152 (“*Lee and Gilligan, RSVP: In-House Culture*”).

⁶⁹ James Gilligan and Bandy Lee, *The Resolve to Stop the Violence Project: Reducing Violence in the Community Through a Jail-Based Initiative*, *Journal of Public Health*, Vol. 27, No. 2. p. 143-148, at 145 (2005).

type of intensive program could be incorporated by DOCCS, particularly for working with groups of individuals who have engaged in violent conduct in the past or while incarcerated.

Even within New York State prisons, there are strong examples that have demonstrated the positive effects of an alternative institutional culture on the levels of violence and abuse. For example, Eastern Correctional Facility for a long time was recognized as having a very different institutional culture than other maximum security DOCCS prisons, and having much less reported violence and abuse by security staff and among the people incarcerated.⁷⁰ Eastern is a maximum security facility and the profile and crimes of conviction of incarcerated people at Eastern are similar to those of people incarcerated at Attica. Yet, the CA found, based on its visit to Eastern in 2005, that “Eastern’s program-rich environment of mutual respect among staff and incarcerated persons to be a rare example of a maximum security prison that cultivates a rehabilitative culture, promotes safety within the facility and prepares incarcerated persons for a successful return to the community.” More specifically, the CA found at Eastern in the past a “constructive environment of mutual respect and personal responsibility” and “a broad array of educational and rehabilitative programs” with “extensive opportunities for incarcerated persons to learn and enhance their skills” and “minimal complaints about staff throughout the facility.” In turn, the CA found that this culture and program focus “have helped . . . keep violent and disruptive incidents at a comparatively low level.”⁷¹ While a 2014 CA visit to Eastern raises concerns about whether this positive culture and environment continues to operate at the prison,⁷² Eastern’s history presents a powerful example of how a fundamentally different culture can lead to a fundamentally different environment with much less brutality, violence, and abuse.

As another example within New York State prisons, the now closed Merle Cooper program at Clinton Correctional Facility had a positive program-focused culture and environment with little violence and abuse by staff or incarcerated persons.⁷³ Merle Cooper – prior to its closure in the fall of 2013⁷⁴ – was a 216-bed residential program for persons at high risk of recidivism that was completely separated from the rest of the prison. While Clinton generally has some of the highest reported levels of staff brutality of CA-visited prisons, in the midst of that violent and oppressive prison environment, the Merle Cooper program was able to create a safe therapeutic space. Group sessions and community meetings were held to help participants address the harm they have caused others and delve deeply into the underlying

⁷⁰ See, e.g., *Eastern Correctional Facility*, Correctional Association of New York, visit conducted in May 2005, available at: http://www.correctionalassociation.org/wp-content/uploads/2012/05/Eastern_5-25-05.pdf. The CA has subsequently visited Eastern in October 2005, June 2007, and July 2014.

⁷¹ *Ibid.* at 1.

⁷² Unfortunately, based on the CA’s most recent visit to Eastern in July 2014, there are preliminary concerns – that will be explored further in its thorough investigations of the prison – that Eastern’s culture may be shifting away from one of empowerment and mutual respect to one more centered on security and control.

⁷³ See *Clinton Correctional Facility*, Correctional Association of New York, visit conducted in July 2012, available at: <http://www.correctionalassociation.org/pp/prison-visit-2004-present>.

⁷⁴ Unfortunately, despite the near universal praise for Merle Cooper, DOCCS closed the program after 36 years in the fall of 2013.

reasons for their behavior that led to incarceration. The program also allowed participants to work toward greater freedom and responsibility, including ultimately having single cells with unlocked doors and being able to run peer-led programs. In turn, because of this environment and focus on support and growth, participants were able to self-actualize and become better equipped to return as successful members of our communities. Indeed Merle Cooper had lower levels of violence and greater feelings of safety than most other CA-visited prisons. The program was one of the few the CA has seen that received near universal praise from participants, staff, and administrators. Although the program closed, it again provides an example of how a transformed environment, focused on empowerment and effective programming, can lead to more positive outcomes, and as such should be replicated across DOCCS prisons.

Moreover, DOCCS needs to stop the harm caused by isolated confinement. New York must stop placing anyone in solitary confinement beyond 15 consecutive days,⁷⁵ and must create more humane and effective alternatives for the small minority of persons who may need to be separated from the general prison population for serious threats to the safety of others. If someone needs to be separated from the general prison population because they have harmed others, that person should not be subjected to isolation and deprivation that will harm that person and only exacerbate the likelihood of harm to others. Rather, that individual should be provided with more support, programs, and therapy to help address the underlying causes of her or his behavior and in turn make our prisons and communities safer. Moreover, DOCCS needs to restrict the criteria that can result in isolation or separation to the most serious misconduct, and must ensure that certain groups of people more vulnerable to the negative effects of isolation or to greater abuse while in isolation, such as young people and people with mental health needs, are never sent to isolation for any length of time.⁷⁶

Transparency

To ensure that any policies or practices regarding the use of force, cultural and programmatic changes, and disciplinary measures are implemented properly, there first of all needs to be greater transparency in the operations of Attica and other prisons. Greater transparency is needed in order to shine a light on the abuses taking place, allow members of the public and policy-makers to know what is happening behind the walls, and prevent and deter

⁷⁵ See United Nations General Assembly, *Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, p. 21, 23, Aug. 2011, available at: <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf> (recommending that solitary confinement beyond 15 days be “subject to an absolute prohibition”).

⁷⁶ See *HALT Solitary Confinement Act; City Bar 2014 Report on Isolated Confinement*; Testimony by the Correctional Association of New York, Before the Senate Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, February 25, 2014, available at: <http://solitarywatch.com/wp-content/uploads/2014/02/Correctional-Association-testimony-for-Congressional-Hearing-2-25-14-with-attachment.pdf>; Testimony by the Campaign for Alternatives to Isolated Confinement (CAIC), Before the Senate Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, February 25, 2014, available at: <http://solitarywatch.com/wp-content/uploads/2014/02/Testimony-of-the-NY-Campaign-for-Alternatives-to-Isolated-Confinement-2014.pdf>.

violence and abuse.⁷⁷ DOCCS should make publically available, in easily accessible formats, various categories of data relevant to violence and abuse.⁷⁸ Currently, it is very difficult to obtain even the most basic relevant data or information. For example, the CA obtained much of the violence-related data contained in this report only through a FOIL request, which was received roughly 10 months after it was submitted, and required extensive analysis to uncover problematic outcomes within the disciplinary system. Another FOIL request made in October 2013 is still outstanding as of the time of the finalization of this report in September 2014. Most relevant to the present report on violence and abuse at Attica, DOCCS should issue quarterly public reports about Attica and other DOCCS prisons on such data as Unusual Incident Reports, Disciplinary Tickets / Misbehavior Reports, Use of Force Reports and Investigation Reports, Staff Discipline, Grievances, Injuries to staff and incarcerated persons, Deaths, Suicides, Sexual Violence as collected through the Prison Rape Elimination Act (PREA), Program Capacity and Utilization, and use of Isolated Confinement.

Our Voices are Not Heard

Some people have been handcuffed, then beaten with sticks, and **the cries for help are so loud but useless**, because there is no help. So **our voices remain trapped behind this wall**. Before the Attica riot in 1971, a lot of inhumane acts were going on in Attica. **The 1971 riot led people across the country to hear the voice of incarcerated persons**, exposing the foulness of the torture and inhumane conditions. Today, the same foulness that went on in the past is going on today. But **this time our voices are not being heard. Incidents are not being exposed to the public**. I am a NYC resident, and my family has never heard or seen reports on the violence the officers carry out on incarcerated persons, even the ones that result in the killing of an incarcerated person. The only time some things are reported are in these little towns and it's only a one sided story that the media hears. When our voices are heard, exposing the evil that's taking place, it will bring more supporters and media. When there are no consequences or anyone exposing a person's devilish acts, he will continue to act. – Anonymous.

In addition to public reporting of data, DOCCS should increase access to Attica and other DOCCS prisons to the media, policy-makers, advocates, and other members of the public. As epitomized by the horrific Abu Ghraib abuses documented in photographs, media coverage of

⁷⁷ See, e.g., Byrne at 84 (finding that “it is essential . . . to implement an external review system of the prison experiences as a mechanism for informing the public about the detrimental effects of prison violence on both individuals and neighborhoods.”).

⁷⁸ See, e.g., John J. Gibbons and Nicholas de B. Katzenbach, Commission Co-Chairs, *Confronting Confinement: A report of the Commission on Safety and Abuse in America’s Prisons*, June 2006, p. 16, available at: http://www.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf (“Report of the Commission on Safety and Abuse”).

prison abuses can help spur much needed public debate, public scrutiny, and ultimately government accountability for what takes place inside prisons.⁷⁹ Members of the press should have the ability to tour Attica and other DOCCS prisons, interview and correspond with incarcerated persons freely and confidentially, and utilize photographs and videos inside of the prisons. As the Commission on Safety and Abuse recommended, “every prison and jail should allow the press to do its job,” including through “access to facilities, to [incarcerated persons], and to correctional data.”⁸⁰

Directly connected to public reporting, and as an independent mechanism of transparency, DOCCS must increase the number of cameras at Attica and other prisons. Attica administrators reported in November 2014 that video cameras had been installed in the visiting room at Attica in 2014, and that a project had been approved to provide video camera coverage for all yards and corridors at Attica, a positive step that would potentially provide greater transparency. Administrators reported that the project has not yet received funding, and the timeline for project implementation is uncertain. Coupled with the need for cameras, DOCCS must create better mechanisms for preservation and dissemination of visual and audio recordings.⁸¹ Such recordings can provide evidence of specific incidents of violence and abuse, and can also serve as a means of refuting alleged misconduct by staff or incarcerated persons.⁸² Cameras can also serve as a deterrent to misconduct,⁸³ and to the extent recordings are disseminated as a mechanism of public transparency.

Complaint Mechanisms

In addition to fostering greater transparency, DOCCS must strengthen mechanisms to allow incarcerated persons to raise complaints about violence and abuse. As discussed above, there are serious concerns about both the effectiveness of the grievance system and retaliation often inflicted on people who file grievances. The grievance system at Attica and across DOCCS must be strengthened, including by, at a minimum, allowing people to file grievances confidentially, implementing vigorous protections from retaliation, and taking appropriate remedial action against any staff who engage in retaliation.⁸⁴ In addition, the state should explore the possibility of implementing a confidential telephone hotline, where incarcerated persons can call to report staff abuses to DOCCS Central Office or more effectively to an independent outside agency. An example outside of the prison context that could serve as a model for such a

⁷⁹ See, e.g., Susan Sontag, *Regarding the Torture of Others*, The New York Times, May 23, 2004, available at: <http://www.nytimes.com/2004/05/23/magazine/23PRISONS.html?pagewanted=all>; Paul Starr, *The Meaning of Abu Ghraib*, The American Prospect, June 2004, available at: <http://www.princeton.edu/~starr/articles/articles04/Starr-MeaningAbuGhraid-6-04.htm>; Jameel Jaffer and Amrit Singh, *Commentary: Photos key to exposing prisoner abuse*, CNN, May 20, 2009, available at: <http://us.cnn.com/2009/POLITICS/05/19/jaffer.detainee.photos/index.html>.

⁸⁰ *Report of the Commission on Safety and Abuse*, at 16.

⁸¹ *Ibid.* at 11, 34. See also *DOJ 2014 Report* at 52.

⁸² *Report of the Commission on Safety and Abuse* at 34.

⁸³ *Ibid.*

⁸⁴ See *Ibid.* at 93.

hotline is the hotline in state institutions other than prisons for reporting abuse against people with disabilities to the Justice Center.⁸⁵ PREA standards also encourage, though do not mandate, the use of toll-free independent external hotlines for incarcerated persons to report sexual abuse.⁸⁶ PREA does require that each correction department provide at least one mechanism for incarcerated persons to report sexual abuse to an external entity that is not part of the department and is wholly independent.⁸⁷ Attica does operate such a sexual abuse hotline. DOCCS should utilize and expand upon this model to allow incarcerated persons to report staff abuse more generally to an independent external entity that has effective enforcement capabilities.

As another essential complaint mechanism, there must be reforms to strengthen the ability of incarcerated persons to bring cases through the judicial system. The courts can provide an important mechanism for raising complaints and bringing accountability, although the efficacy of litigation by incarcerated persons is substantially impaired due to stringent judicial interpretations of the constitutional rights of incarcerated persons as well as restrictions on litigation imposed by the 1996 Prison Litigation Reform Act (PLRA).⁸⁸ Reform of the PLRA at the federal level is essential for making judicial oversight more effective.⁸⁹ In the meantime, Attica, DOCCS, and the state can also play a role in improving access to the courts, for instance, by increasing access to the law library and enhancing law library capacity to allow incarcerated persons to electronically copy and paste, and save typed materials.

Accountability Mechanisms

As essential as providing various effective opportunities for raising complaints, staff must be held accountable for any of those complaints that are substantiated. There must be a variety of complementary accountability mechanisms in order to provide multiple avenues of relief and checks and balances on the alternative mechanisms,⁹⁰ including: internal DOCCS staff disciplinary processes, other state and federal investigations, and an independent outside oversight and monitoring body.

Internal staff disciplinary measures must be strengthened to ensure greater accountability for misconduct. There must be more effective remedial measures taken for any violations of the policies and practices discussed above, including any unnecessary or excessive use of force,

⁸⁵ See NYS Justice Center, *Contact Us, Report Abuse*, available at: <http://www.justicecenter.ny.gov/about/contact-us>.

⁸⁶ *National Standards to Prevent, Detect, and Respond to Prison Rape*, United States Department of Justice, 28 CFR Part 115, §§ 115.51(b), 115.53, Overview Comments at p. 101, May 16, 2012, available at: http://ojp.gov/programs/pdfs/prea_final_rule.pdf (“*PREA Regulations*”).

⁸⁷ *Ibid.* at §115.51(b), Overview Comments at p. 101.

⁸⁸ See *Report of the Commission on Safety and Abuse* at 84-85.

⁸⁹ *Ibid.* at 85-87.

⁹⁰ See *Ibid.* at 78 (calling for a variety of accountability mechanisms including “independent inspection, litigation and court oversight, and direct inquiry from the public and the press . . . auditing, professional accreditation, and internal investigations,” and concluding that such mechanisms “must be mutually supportive, pointing to the same goals and being comprehensive without being redundant or overly burdensome.”)

verbal harassment and threats, failure to follow use of force reporting requirements, pressuring incarcerated persons from withdrawing complaints, engaging in retaliatory conduct, and failure to promptly and properly address violence between incarcerated persons.⁹¹ Certain staff violations should result in employment termination, such as hitting incarcerated persons already in restraints, kicking incarcerated persons on the ground, unnecessarily hitting incarcerated persons in the head, using unnecessary or excessive use of force that results in serious injury, intentionally filing a false use of force report or failing to report serious incidents involving use of force.⁹² Furthermore, supervisory staff should be subjected to equally strict remedial sanctions for improper conduct of the staff they supervise.⁹³

Beyond internal accountability mechanisms, there needs to be greater investigations and enforcement efforts at Attica and other DOCCS prisons by DOCCS' Office of the Inspector General (IG), the NYS Inspector General (NYS IG), NYS Attorney General (AG), and the federal U.S. Department of Justice (DOJ). With respect to DOCCS' own IG, various currently and formerly incarcerated persons reported concerns about the lack of capacity and independence of the IG, particularly given that many IG employees are former DOCCS correction officers. Incarcerated persons also raised concerns that the IG had little or no ability to protect or transfer them after raising complaints to the IG, and that they often did not receive any information from the IG about its investigations or follow-up action after raising a complaint and/or being interviewed by the IG. The IG must have increased capacity to promptly and thoroughly respond to complaints, carry out investigations, and take appropriate remedial action to both protect incarcerated persons raising complaints and more effectively address abuses at Attica and other DOCCS prisons.⁹⁴ Similarly, the NYS IG, AG, and federal DOJ should undertake a thorough investigation of Attica, and more generally should have additional capacity and will to carry out investigations of NYS prisons.⁹⁵

In addition to these governmental accountability and enforcement mechanisms, there should be periodic independent outside inspection, oversight, and monitoring of Attica and other DOCCS prisons by a governmental or non-governmental entity.⁹⁶ As concluded by the Commission on Safety and Abuse:

Every public institution – hospitals, schools, police departments, and prisons and jails – needs and benefits from strong oversight. Perhaps more than other institutions, correctional facilities require vigorous scrutiny: They are uniquely powerful institutions, depriving millions of people each year of liberty and taking responsibility for their

⁹¹ See, e.g., DOJ 2014 Report at 61, Remedial Measures H(1).

⁹² See, e.g., DOJ 2014 Report at 61, Remedial Measures H(2).

⁹³ See, e.g., DOJ 2014 Report at 62, Remedial Measures H(8).

⁹⁴ See, e.g., *Report of the Commission on Safety and Abuse* at 84.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.* at 16 (concluding that “the most important mechanism for overseeing corrections is independent inspection and monitoring” by an entity “sufficiently empowered and funded to regularly inspect conditions of confinement and report findings to lawmakers and the public.”).

*security, yet are walled off from the public. They mainly confine the most powerless groups in America—poor people who are disproportionately African-American and Latino. And the relative safety and success of these institutions have broad implications for the health and safety of the public.*⁹⁷

As an example of outside oversight that could be expanded upon and strengthened, PREA requires that correction departments have each of their facilities audited once every three years by an independent, outside agency.⁹⁸ Again while PREA applies only to sexual abuse, it provides a model of outside oversight that the state could expand, strengthen, and apply to all abuse in prisons. In addition, the NY State Commission of Correction is required under law to carry out investigations of NYS prisons, as well as local jails, including through “receipt of written complaints, interviews of persons, and on-site monitoring of conditions.”⁹⁹ The SCOC also is tasked with annually issuing “rules and regulations establishing minimum standards” regarding the “care, custody, correction, treatment, supervision, discipline, and other correctional programs” for all incarcerated persons.¹⁰⁰ The SCOC even has the statutory authority to close any state prison that is “unsafe, unsanitary, or inadequate.”¹⁰¹ Despite this broad authority, the SCOC has not taken substantial action to address staff violence and abuse at Attica or other DOCCS prisons.¹⁰² The SCOC must strengthen its efforts to focus on addressing violence and abuse at Attica and other state prisons, and must have increased capacity to effectively carry out investigations and remedial action. Whether it is the SCOC or another state or preferably non-state entity, there should be an independent and effective oversight body addressing violence and abuse across DOCCS prisons. Either such an independent oversight body should be provided with independent enforcement capabilities or at least DOCCS should be required to, in writing, publicly respond to the body’s findings and indicate its intention of compliance or non-compliance with its recommendations.¹⁰³

⁹⁷ *Report of the Commission on Safety and Abuse*, at 77.

⁹⁸ *PREA Regulations*, at § 115.402 (requiring that audits “be conducted by: (1) a member of a correctional monitoring body that is not part of, or under the authority of, the agency (but may be part of, or authorized by, the relevant State or local government); (2) a member of an auditing entity such as an inspector general’s or ombudsperson’s office that is external to the agency; or (3) other outside individuals with relevant experience. . . . All auditors shall be certified by the Department of Justice . . . [and] no audit may be conducted by an auditor who has received financial compensation from the agency being audited within the [prior] three years”). For more information about the PREA audit process, instrument, and auditor certification and trainings, please see *Audit*, National PREA Resource Center, available at: <http://www.prearesourcecenter.org/audit>.

⁹⁹ New York State Correction Law, §45(4).

¹⁰⁰ *Ibid.* at §45(6)

¹⁰¹ *Ibid.* at §45(8).

¹⁰² See *State Commission of Correction Annual Report*, 2013, available at: http://www.scoc.ny.gov/pdfdocs/annualreport_2013.pdf.

¹⁰³ *Ibid.* at 81.

Key Recommendations to DOCCS and Other State Officials to End Violence and Abuse Across DOCCS Prisons

- **Close Attica** to end the decades-long cycle of racialized brutality, violence, intimidation, and abuse. Until Attica closes, and at other DOCCS prisons:
 - **Implement a No Tolerance Policy for Improper or Excessive Use of Force**
 - **Strengthen prohibitions** on use of force in policy and practice, except in the rarest circumstances, with the least force necessary, as a last resort response to imminent violence or harm to staff or incarcerated persons.
 - **Ensure** prompt, accurate, specific, detailed, and complete **reporting, documenting, investigating, and remedial action** where appropriate for all use of force incidents.
 - **Fundamentally Transform the Culture and Overall Environment**
 - **End the culture of staff brutality**, violence, excessive punishment, dehumanization, and abuse.
 - **Create a culture of mutual respect**, communication, and empathy between staff and incarcerated persons.
 - **Change staff attitudes, practices, and cultural norms** through clear **mandates from top administrators, recruitment** of more **experienced** and **racially, culturally, and gender diverse** staff, and **enhanced training**
 - Focus recruitment and hands-on training on ensuring staff qualifications and skills related to **communication, counseling, empathy, conflict resolution, de-escalation, crisis intervention, and anti-oppression/racism**.
 - **Empower Incarcerated Persons to Build a More Effective Environment**
 - **Enhance and expand already-existing programs** proven to be effective at transformation, such as academic, vocational, and degree-granting college programs, ASAT, and anti-violence programs like ART and AVP.
 - **Explore new programs and community-like environments** that focus on autonomy, self-expression, peer support, therapeutic interventions, addressing harm caused to others, exploring trauma, and developing skills.
 - **Create mechanisms for incarcerated persons** to: reduce violence among incarcerated persons, empower others about their rights and ability to raise complaints, serve as peer mentors, and facilitate peer-led programs.
 - **Change Parole Board practices** to ensure fair release consideration based on each applicant's risk assessment, readiness for reentry, and rehabilitation and growth in prison.
 - **Fundamentally Transform the Disciplinary System and Use of Isolation**
 - Create a system-shift **from discipline and punishment toward rewards and positive reinforcement**.
 - **Strengthen procedural protections** for incarcerated persons at hearings to address false tickets and excessive discipline, such as providing access to legal representation and utilizing neutral, independent hearing officers.
 - **Reduce the use of SHU** and keeplock, **limit lengths of stay** in isolation, and **provide meaningful human contact and programs** for those currently in isolated confinement.
 - **Foster Greater Transparency**
 - **Issue quarterly public reports** on all relevant indicators, including UIRs, misbehavior reports, staff use of force, staff discipline, grievances, injuries, deaths, suicides, sexual violence, program utilization, and isolated confinement.
 - **Increase the number of cameras**, and create better mechanisms for preserving audio and visual recordings.
 - **Allow broad media access**, allowing press to conduct tours, interview people, and take photos and videos.
 - **Strengthen Complaint and Accountability Mechanisms**
 - Allow for **confidential filing of grievances**, and implement **vigorous protections against retaliation**.
 - Explore utilizing a **confidential telephone hotline** to report staff abuses to DOCCS or an independent agency.
 - Strengthen, expand, and make more independent: **internal DOCCS staff disciplinary processes, State Commission of Correction** oversight, PREA complaint and audit mechanisms, and **NYS Inspector General, NYS Attorney General**, and federal **Department of Justice (DOJ)** investigations and follow-up remedial actions.
 - Provide greater **independent outside inspection, oversight, and monitoring**, with independent enforcement capabilities or at least a requirement that DOCCS publicly respond in writing to findings and recommendations.

CONCLUSION

The people who are incarcerated at Attica or inside other DOCCS prisons are still part of our communities and our state, and the vast majority of them will be released from prison and return home. How these individuals are treated, and what opportunities they are provided while they are incarcerated, will not only affect their experience in prison but will also directly impact their personal success after their release and the safety and character of our communities to which they will return. Attica represents the logical manifestation of the current model of incarceration that has racism at its core and is overly focused on punishment, control, warehousing, and violence. DOCCS, state policy-makers, and the public must work to move away from this system and toward a model focused on programming, transformation, healing, growth, and empowerment. Such a shift requires fundamental changes across the DOCCS system, and must begin with the closure of Attica.