

# Regional and County Jails

County Law requires that “each county shall continue to maintain a county jail as prescribed by law.” County jails house mainly pre-trial individuals as well as offenders who are sentenced to one year or less. Each county operates a jail, generally under the purview of the sheriff. These 57 jails are overseen by the State Commission of Correction (SCOC), which is established pursuant to Article XVII of the NYS Constitution. Its functions, powers and duties are set forth in the Correction Law. There was a major reform in the early 1970’s to address prison conditions following the Attica riot. The head of the Department of Corrections was removed as the chair of SCOC, and SCOC was made an independent agency. SCOC’s mission is to provide for a safe, stable, and humane correctional system and for the delivery of essential services therein.

## New County Jails

By the 1990s, SCOC began aggressively addressing overcrowded conditions, pressuring counties to expand existing facilities or construct new ones. Since 1995, over 30 counties have built more than 6000 new jail beds. When planning a new or modified jail, counties must receive approval of the plans and specifications from SCOC. The number of beds the county must build is based on SCOC’s prediction of future inmate population. Some counties believe their capacity needs were overstated by SCOC, while others planned for larger facilities to generate revenue by boarding in inmates from other jurisdictions.

SCOC, under current leadership, has made it clear that it believes that allowing counties to frequently transfer inmates, in large numbers, or over the long term, is not appropriate and would discourage counties from constructing jails that meet long-term correctional needs.

## Substitute Facilities

If a county jail becomes unfit or unsafe for some or all of the inmates, SCOC must designate another facility within the county or a jail of another county for the confinement of some or all of the inmates. Inmate

## Who’s Who?

### State Commission of Correction (SCOC)

SCOC oversees all correctional facilities in New York State including state prisons, county jails and penitentiaries, and city, town and village lockups. Correction Law provides a great deal of discretion and authority to SCOC to ensure that inmates are receiving proper care and are in a humane setting. As such, SCOC is able to promulgate rules and regulations establishing minimum standards for correctional facilities.

### Department of Correctional Services (DOCS)

DOCS operates all state correctional facilities. It is responsible for approximately 63,500 inmates held at 69 state correctional facilities as well as a drug treatment campus. DOCS houses only inmates sentenced to more than one year.

### Division of Criminal Justice Services (DCJS)

DCJS advises the Governor and the Director of Criminal Justice on programs to improve the effectiveness of New York’s justice system. Among its other duties are the collection and analysis of statewide crime data and the administration of state and federal funds for criminal justice.



transfers are handled through a substitute jail order (SJO) process, applying to both pretrial detainees as well as those inmates sentenced to jail terms of one year or less. Care must be taken in the case of pretrial detainees, however, to house them a reasonable distance from lawyers and families.

The Correction Law gives broad discretion to SCOC to ensure a safe and humane environment for inmates and staff in prisons and jails. The issue of jail population or census and over-crowding of jails has always been a fiscal struggle for counties. SCOC generally views census issues as safety issues and thus believes it has authority to deal with the issue as it sees fit. Variances may be granted where a minimum standard or code is not met.

Where counties lack beds to meet their inmate population demands, they need to “board out” inmates to other counties with SCOC’s approval of an SJO. Even where a jail’s population is less than 100% of capacity, a county may need to board out inmates due to its inability to separate inmates by statutorily mandated classifications. Generally, Correction Law requires separation of males/females and minors/adults. (Minors are age 16-18.) For example, if a county has a 16-bed wing with 5 female inmates in that wing, it may not fill the other 11 beds with male inmates. Further exacerbating underutilization of jail beds can occur when a jail is substantially non-compliant with SCOC’s minimum standards. SCOC may require that the jail also separate civil from criminal inmates and pre-trial detainees from sentenced inmates. Thus, minor, male, pre-trial detainees would have to be segregated from minor, male, sentenced inmates without regard to an inmate’s criminal history. Inmates with special needs, such as for mental health or alcohol rehabilitation services, are generally segregated as well and may also need to be boarded out.

Counties with excess capacity may “board in” or house inmates from another county if SJOs are issued. SCOC has broad discretion to manage jail population, including determining whether a county may house inmates from other counties. Counties may not generally “swap” prisoners to avoid incurring boarding costs because the current SCOC leadership does not believe that elective inmate transfers to offset costs are authorized.

SCOC takes the position that an SJO is a temporary fix to overcrowding and cannot be utilized long-term or indefinitely. SCOC’s regulations call for periodic review of SJOs in order to revoke, modify, or re-approve. Others disagree with SCOC’s view of the SJO process and argue that the Correction Law gives broad authority for the use of SJOs to deal with issues of jail population and capacity. There appears to be some truth to both sides of this argument. A solution would be to explicitly enable a system to manage jail population statewide, allowing for more routine transfers of sentenced inmates across county lines.

SCOC maintains that the only way that a county could continuously transfer its prisoners to another county’s facility is through the establishment of a regional jail. A regional jail is operated jointly by one or more counties, which the Attorney General has opined is authorized by Article 5-G of the General Municipal Law. Although legally possible, no multi-county jails have been constructed. Interest in this approach is increasing, with some counties seeking to fill jails with excess capacity and others seeking to avoid costly jail projects.



Some counties are seeking to reduce their correctional needs through alternatives to incarceration. For example, beginning in 1998 Tompkins County began adding over \$500,000 to their annual budget for alternative programs as a way of forestalling an expansion of their 73-bed facility. Since overcrowding persisted, SCOC insisted that a 160-bed facility be built. The county began planning the expansion, but after the jail population dropped due to the alternative programs the county scaled back its expansion plans, offering to build 104 beds with a “spine” that would allow up to 196 beds. The county and SCOC are currently at an impasse, with SCOC insisting that the larger facility be built, and Tompkins County taking no action. SCOC is using its power to approve or deny variances and transfers to pressure the county to comply with its determination concerning jail size and timing. SCOC has removed the county’s variances for double-bunking and has threatened to reorder the county’s jail classification system to further reduce its capacity, which would force more inmates to be boarded out.

Ulster County recently completed a new county jail with room for 426 inmates, although the current census is only around 250 inmates. Staffing of the jail is sufficient for the boarding in of non-local inmates, which generates \$100 per day per boarded inmate. Under approval from SCOC, the County is allowed to accept boarders primarily from non-contiguous counties like Suffolk County, although they have recently been approved to receive very limited transfers from Dutchess County. Neither Dutchess nor Sullivan Counties have adequate jail facilities, and both would minimize boarding out expenses and help offset facility and staffing costs in Ulster County if they were allowed to manage their inmate population more regionally. However, it is SCOC’s practice to keep the pressure on those counties that it determines need new or rehabilitated jails, such as Dutchess County, by making it inconvenient and expensive to board out prisoners, or by fining them.

### **Potential Policy Changes**

- To ensure adequate care of inmates in a cost-effective manner, provide the State Commission of Correction (SCOC) with the authority and obligation to coordinate transfer of inmates between and within counties to special population wings or facilities established by one or more counties.
- Allow multiple counties to jointly provide for care and housing of their inmates instead of requiring each to maintain a jail.
- Eliminate all mandated classifications, except male/female, to allow facility administrators to separate inmates based on the threat they present to safety and security.
- Clarify statutory provisions to indicate that the State Commission of Correction (SCOC) may approve jail plans and specifications but not determine the number of beds provided therein.
- Move toward a single statewide jail system, managed by the Department of Corrections, which would be phased in pursuant to a long-range plan.

