# State of New York Department of Correctional Services

Building Number 2 Harriman Office Campus Albany, New York 12226

### VIDEO TELECONFERENCING FOR DEPORTATION HEARINGS

**JULY 2007** 



**Eliot Spitzer Governor** 



**Brian Fischer Commissioner** 

#### **EXECUTIVE SUMMARY**

- The average number of monthly televideo deportation hearings increased from 144 during calendar year 1999 to 198 during calendar year 2001. However, the average number of monthly televideo deportation hearings decreased dramatically during calendar years 2002 and 2003 (145 and 120, respectively). Staffing shortages in the Bureau of Immigration and Customs Enforcement (ICE) were responsible for the decreasing Immigration Court docket.
- The average number of monthly televideo hearings increased from 120 in calendar year 2003 to 147 in calendar year 2004. This recovery occurred primarily during the second half of the 2004 calendar year when ICE redirected more resources to the Inmate Removal Program (IRP)<sup>1</sup>. The higher level of ICE IRP resources continued to have a positive effect in calendar year 2005 when the average number of monthly televideo hearings reached an all-time high of 255. The average number of monthly televideo hearings in 2006 was 171. The 2,046 televideo hearings in 2006 reflected a 33 percent decrease from the 2005 level of 3,061.
- The redirection of ICE resources in the fourth quarter of calendar year 2004 corresponded to an increase in the average monthly number of televideo hearings from 131 during the first nine months of 2004 to 196 during the last three months of 2004. The total number of hearings increased by 73 percent between 2004 and 2005, from a total of 1,769 televideo hearings in 2004 to 3,061 televideo hearings in 2005. While the number of televideo hearings decreased by 1,015 hearings between 2005 and 2006, the number of televideo hearings in 2006 was still 16 percent higher than the number of televideo hearings in 2004.
- The average round trip from the Televideo Hubs to the Downstate or Ulster reception centers where in persona deportation hearings are held is approximately 500 miles and would cost an estimated \$197 per inmate for a total of \$3,259,759 for the 16,547 inmates involved in televideo deportation hearings from those hubs during calendar years 1999 through 2006.
- The estimated cost of a televideo connection is \$3 per televideo hearing for a total of \$49,641 for the 16,547 televideo deportation hearings conducted at the Televideo Hubs during calendar years 1999 through 2006.
- The total estimated cost savings attributable to the televideo deportation hearing program is \$3,210,118 (i.e., \$3,259,759 saved in transportation costs minus \$49,641 expended in televideo connection costs).

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<sup>&</sup>lt;sup>1</sup> The Inmate Removal Program (IRP) is the name of the program used by the Bureau of Immigration and Customs Enforcement (ICE), the Federal agency responsible for enforcing the Immigration Law. The Institutional Hearing Program (IHP) is the name of the program used by the Executive Office for Immigration Review (EOIR), the Federal agency responsible for adjudicating immigration cases in Immigration Court.

#### THE INSTITUTIONAL HEARING PROGRAM

The Institutional Hearing Program (IHP) is a Federal and State initiative designed to begin deportation proceedings against criminal aliens under the Department's custody. The IHP has been operating in varying forms at selected Department facilities since 1986.

In April 1994, most aspects of the IHP were consolidated at the Downstate and Ulster reception centers for male inmates and the Bedford Hills reception center for female inmates. The United States Bureau of Immigration and Customs Enforcement (ICE) has staff from the Investigations, Litigation, and Detention & Removal Units from the New York City District Office permanently stationed at Castle Point, a federal facility nearby the Downstate Reception Center. ICE sends its Castle Point investigators to Bedford Hills to interview female foreign-born inmates.<sup>2</sup>

The Executive Office for Immigration Review (EOIR) which conducts the deportation hearings has staff permanently assigned to the Downstate and Ulster Reception Centers. The Immigration Judge assigned to the Downstate Reception Center also adjudicates deportation cases for female foreign-born inmates at the Bedford Hills Reception Center.

This consolidation was designed to improve the efficiency of ICE and EOIR in obtaining final orders of deportation against criminal aliens under the Department's custody. The consolidation was also designed to expedite the actual deportation of criminal aliens when they are released from the Department's custody.

<sup>&</sup>lt;sup>2</sup> ICE had its staff permanently stationed at the Downstate and Ulster reception centers from 1994 through 2004. ICE moved its staff from the reception centers to offices in the Castle Point federal facility in January 2005.

# THE DEVELOPMENT OF THE TELEPHONIC/TELEVIDEO DEPORTATION HEARING INITIATIVE

The use of telephonic deportation hearings was first proposed by the Department and EOIR in January 1989. The primary benefit of telephonic hearings for the Department was the minimization of transportation costs associated with moving inmates from their owning facility to the Downstate Correctional Facility; the only Department facility hosting deportation hearings at the time. Telephonic deportation hearings were not implemented at that time for the following reasons.

First, an examination of the location of owning facilities that had hearings in March, 1989, indicated that the majority of inmates scheduled for deportation hearings were being transported from facilities geographically proximate to the Downstate Correctional Facility. Therefore, the overall transportation savings did not appear significant enough to justify the requisite expenditures on equipment during a recessionary budget year.

Second, the use of telephonic hearings would have required an increase in the number of staff and facilities that would be directly involved in the deportation hearing process, thereby increasing the complexity of administering the deportation hearing process. State budgetary constraints prevented the acquisition of the required staff.

Finally, although the deportation hearings were centralized at the Downstate Correctional facility, two separate ICE District Offices (Buffalo and New York City) had the responsibility for litigating deportation cases. Consequently, administrative problems existed between the two ICE District Offices which would reduce the bed space savings that could be realized by the Department by increasing the duration of the deportation hearing process.

# HEARINGS UTILIZING VIDEO TELECONFERENCING TECHNOLOGY

Following the centralization of the IHP in April, 1994, the New York City ICE District Office assumed primary responsibility for all IHP activities. The number of cases processed through the IHP increased as a result of the centralization. Correspondingly, there was an increase in the number of foreign-born inmates requiring transportation from general confinement facilities to attend their deportation hearings at either the Downstate or Ulster reception centers.

For example, the Department transported inmates to 3,531 deportation hearings in calendar year 1996; an average of 294 transports per month to and from deportation hearing sites. The numbers increased in calendar year 1997 to 4,034 deportation hearings for an average of 336 transports per month to and from deportation hearing sites.

Based upon the 1996 and 1997 transportation data presented above, the Department entered into discussions with ICE and EOIR regarding the use of the Department's newly acquired technical capabilities in the area of video teleconferencing. ICE and EOIR agreed in principle to the idea and meetings were held in January, 1998, during which a final implementation agreement was reached.

The video teleconferencing of deportation hearings began as a ninety-day pilot project in the Spring of 1998. During the pilot project, only initial appearances before an Immigration Judge were scheduled for video teleconferencing. The pilot was also limited to three general confinement facilities and the two male reception centers. The general confinement facilities were selected to provide maximum-security inmates for the Downstate Immigration Court and medium or lower security inmates for the Ulster Immigration Court.

Medium-security inmates in the Watertown Hub were transported to the Riverview Correctional Facility for initial deportation hearings to be conducted by an Immigration Judge located at the Ulster reception center. Maximum-security inmates at the Attica and Wende Correctional Facilities had their initial deportation hearings video teleconferenced from Attica or Wende with an Immigration Judge located at the Downstate Reception Center.

Each facility hosting the deportation hearings had a senior counselor assigned to coordinate facility video teleconferencing operations. All activities involving the ICE, EOIR, general confinement facilities, and reception centers were coordinated by the Department's Central Office.

The pilot project was quite successful. Consequently, the Department worked with EOIR to develop a plan that would gradually expand the use of televideo deportation hearings. The expansion of the video teleconferencing initiative began in January, 1999. Current televideo deportation hearing sites include the Clinton, Elmira, Great Meadow, Oneida, Watertown, and Wende Hubs. The Department will continue to expand the video teleconferencing initiative to the remaining hubs.

#### **HEARING ACTIVITY**

The dramatic decrease in televideo deportation hearings in calendar years 2002 and 2003 was the result of ICE staffing shortages, some of which were related to the terrorist attacks on September 11, 2001. However, the number of televideo deportation hearings increased during calendar year 2004 and slightly exceeded the 2002 calendar year level. This recovery occurred primarily during the second half of the 2004 calendar year when ICE redirected more resources to the Inmate Removal Program (IRP). The benefits of the redirection of resources by ICE continued to be apparent in 2005 when the number of televideo hearings increased by 73 percent (or 1,292 hearings) over the 2004 level.

The number of televideo hearings decreased between 2005 to 2006, from 3,061 to 2,046 respectively. This 33 percent decrease in the number of televideo hearings between 2005 and 2006 may reflect the completion of cases that were backlogged from 2004 as well as the overall decrease in the foreign-born under custody population (see the Department Report "The Impact of Foreign Born Inmates On The New York State Department of Correctional Services, February 2007"). However, the 2,046 televideo hearings conducted in 2006 was still 16 percent higher than the number of televideo hearings in 2004.

The cumulative number of televideo deportation hearings during the 72 month period beginning in January, 1999 and ending in December 2006 was 16,547. As the program was being implemented in 1999, the Department conducted 144 hearings per month. For the next two years, nearly 200 televideo hearings per month were conducted. This was followed by a two years in which a decreasing number of hearings were held (i.e., 2002 and 2003). The number of hearings in 2004 returned to the level observed in 2002. The average monthly number of 255 televideo hearings in 2005 reflected an increase of 108 hearings over the 2004 average of 147. The average monthly number of televideo hearings in 2006 was an average of 84 fewer hearings per month conducted in 2006 as compared to 2005.

#### TOTAL NUMBER OF TELEVIDEO DEPORTATION HEARINGS BY MONTH AND CALENDAR YEAR

									GRAND
MONTH	1999	2000	2001	2002	2003	2004	2005	2006	TOTAL
JANUARY	38	220	213	123	144	174	303	176	1,391
FEBRUARY	41	197	213	72	108	167	235	185	*
									1,217
MARCH	82	292	250	124	112	118	280	234	1,492
APRIL	127	213	168	152	103	144	195	169	1,271
MAY	128	264	243	124	102	120	271	208	1,460
JUNE	149	209	173	177	119	35	402	190	1,454
JULY	197	188	185	194	125	141	299	140	1,469
AUGUST	115	200	207	152	77	168	255	123	1,297
SEPTEMBER	253	183	239	164	173	113	235	140	1,500
OCTOBER	232	152	209	197	140	167	249	116	1,462
NOVEMBER	212	160	158	136	116	230	192	228	1,432
DECEMBER	156	114	121	120	117	192	145	137	1,102
GRAND TOTAL	1,730	2,392	2,378	1,735	1,436	1,769	3,061	2,046	16,547
MONTHLY AVERAGE	144	199	198	145	120	147	255	171	172

The Clinton, Watertown, and Wende Hubs hosted 98, 619, and 1,000 televideo deportation hearings respectively during calendar year 1999 (see Table 2). In contrast, the Elmira, Great Meadow, and Oneida Hubs hosted 4, 5, and 4 televideo deportation hearings respectively during calendar year 1999 to assist the Immigration Court with some non-routine and problem cases.

The Clinton, Watertown, and Wende Hubs hosted 407, 576, and 1,226 televideo deportation hearings respectively during calendar year 2000 (see Table 4) whereas, the Elmira and Great Meadow Hubs hosted 9 and 174 televideo deportation hearings respectively during the calendar year 2000. The increase in the number of televideo hearings hosted in the Great Meadow Hub calendar year 2000 was due to the upgrade of the Greene Correctional Facility from a part-time televideo site to a full-time televideo site in February, 2000.

The Oneida Hub was added as a full-time televideo deportation hearing site in 2001. The Clinton, Oneida, Wende, and Watertown Hubs hosted 322, 348, 1,013, and 508 televideo deportation hearings respectively during calendar year 2001. The Great Meadow Hub hosted 187 televideo deportation hearings, which were all conducted at Greene Correctional Facility during the calendar year 2001. All facilities in the Great Meadow Hub became full-time televideo deportation hearing sites in June, 2002.

TABLE 2

NUMBER OF TELEVIDEO HEARINGS
BY HUB

	1999	2000	2001	2002	2003	2004	2005	2006	Total
Clinton Hub	98	407	322	335	299	247	538	389	2,635
Elmira Hub	4	9	0	0	39	52	173	97	374
Great Meadow Hub	5	174	187	179	187	218	420	278	1,648
New York City Hub	0	0	0	0	0	0	1	0	1
Oneida Hub	4	0	348	243	188	276	374	246	1,679
Watertown Hub	619	576	508	313	164	348	496	384	3,408
Wende Hub	1,000	1,226	1,013	665	559	628	1,059	652	6,802
Total	1,730	2,392	2,378	1,735	1,436	1,769	3,061	2,046	16,547

Note: There was one televideo deportation hearing conducted at Sing Sing Correctional Facility to assist the Immigration Court in completing the case in a timely fashion

#### **ESTIMATED COST SAVINGS**

It is difficult to enumerate all of the costs associated with the deportation hearing process. However, transportation, staff, and housing costs are quantifiable. The Clinton, Elmira, Oneida, Watertown, and Wende hubs hosted 90 percent (or, 14,899) of the 16,547 televideo deportation hearings during calendar years 1999 through 2006 (see Table 2). These hubs are located at the extreme northern and western borders of New York State. The average round trip from these hubs to the Downstate or Ulster reception centers where in persona deportation hearings are held is approximately 500 miles.

The estimated transportation, staff, and housing costs associated with an average round trip of 500 miles is \$197 per inmate (\$29 contract transportation cost per inmate + \$32 for 1 Sergeant and 2 officers working 7.5 regular hours and 1.5 hours over time + \$136 in housing costs attributable to 1 depot bed day and three reception bed days). Therefore, the estimated transportation, staff, and housing costs for the televideo deportation hearings held between January 1, 1999 and December 31, 2006 is \$3,259,759 (\$197 per inmate x 16,547 hearings).

The average televideo deportation hearing lasts approximately fifteen (15) minutes and the televideo connection cost is 17.5 cents per minute or almost \$3 per televideo hearing. Therefore, the estimated televideo connection cost for the televideo hearings is \$49,641 (\$3 per hearing x 16,547 hearings).

The total estimated cost savings attributable to the televideo deportation hearing program then is \$3,210,118 (\$3,259,759 transportation, staff, and housing costs minus \$49,641 televideo connection costs).

#### CONCLUSION

The use of video teleconferencing technology for initial deportation hearings has been an important Federal and State initiative. The primary benefit for the Department is the reduction in transports from general confinement facilities to the reception centers in which Immigration Courts are located and the reduction in the number of reception beds required to house inmates scheduled for in persona deportation hearings. The Department has saved an estimated \$3,210,118 between January 1, 1999 and December 31, 2006.

The Department continues to work with EOIR to implement the televideo deportation hearing program in all of the Hubs. The reduction in ICE staffing in 2002 and 2003 clearly had a negative impact in the number of televideo hearings held during that time period. It is equally clear that the redirection of ICE resources in the fourth quarter of calendar year 2004 corresponded to an increase in the average monthly number of televideo hearings from 131 during the first nine months of 2004 to 196 during the last three months of 2004. The redirection of the resources by ICE has continued to increase the average monthly number of televideo deportation hearings. The average monthly number of televideo deportation hearings nearly doubled between 2004 and 2005 (The average monthly number was 147 in 2004 compared to 255 in 2005) but decreased by an average of 84 hearings per month in 2006 when the average number of monthly televideo hearings was 171.

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# TELEVIDEO DEPORTATION HEARINGS

HUB/FACILITY	SECURITY LEVEL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ОСТ	NOV	DEC	YEAR TO DATE
CLINTON HUB														TOTAL
Adirondack	Medium	3	1	1	4	2	6	11	4	5	5	6	0	48
Altona	Medium	5	8	4	7	5	8	5	4	2	3	4	2	57
Bare Hill	Medium	0	5		14	13	20	1	17	7	5	4	9	95
Chateaugay	Maximum	0	0	0	1	0	0	0	0	0	0	0	0	1
Clinton	Maximum	9	3	8	4	6	14	12	18	22	24	14	16	150
Franklin	Medium	9	13	12	13	15	21	24	17	10	10	7	2	153
Upstate	Maximum	2	1	2	1	1	0	6	5	2	10	0	4	34
SUBTOTAL		28	31	27	44	42	69	59	65	48	57	35	33	538
ELMIRA HUB														
Auburn	Maximum	12	3	2	1	4	2	7	1	4	3	4	0	43
Cayuga	Medium	4	4	2	0	9	8	6	2	3	4	4	4	50
Elmira	Maximum	0	3	2	0	2	2	5	2	3	4	5	0	28
Five Points	Maximum	0	2	2	1	2	5	6	2	5	5	5	0	35
Southport	Maximum	0	1	1	0	0	1	3	0	3	1	7	0	17
SUBTOTAL		16	13	9	2	17	18	27	7	18	17	25	4	173
GREAT MEADOW H	UB													
Coxsackie	Maximum	9	3	6	0	5	14	12	3	6	6	7	0	71
Great Meadow	Maximum	0	2	4	0	6	1	7	2	9	5	0	0	36
Greene	Medium	28	10	19	24	13	0	19	13	16	17	0	16	175
Mt. McGregor	Medium	3	4	5	0	5	11	3	1	1	0	2	1	36
Washington	Medium	7	12	14	11	6	16	9	6	6	8	6	1	102
SUBTOTAL		47	31	48	35	35	42	50	25	38	36	15	18	420
ONEIDA HUB														
Hale Creek	Medium	0	0	0	0	0	0	0	0	0	1	0	0	1
Marcy	Medium	8	8	12	4	6	8	13	2	6	4	5	0	76
Mid-State	Medium	7	4	8	6	9	18	11	3	3	5	6	6	86
Mohawk	Medium	12	12	19	7	23	22	10	13	6	8	11	5	148
Oneida	Medium	9	8	7	0	6	6	7	8	4	5	2	1	63
SUBTOTAL		36	32	46	17	44	54	41	26	19	23	24	12	374

HUB/FACILITY SECURITY	LEVEL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YEAR TO DATE TOTAL
NEW YORK CITY H	UB													
Sing Sing		0	0	0	0	0	0	0	0	0	1	0	0	1
WATERTOWN HUB														
Cape Vincent	Medium	7	6	4	6	10	12	7	6	6	10	0	12	86
Gouverneur	Medium	9	8	8	9	8	16	8	7	8	9	4	5	99
Ogdensburg	Medium	10	11	15	13	9	15	6	4	9	7	7	6	112
Riverview	Medium	12	9	6	8	17	17	4	2	4	6	2	5	92
Watertown	Medium	6	14	8	9	14	25	13	8	3	3	4	0	107
SUBTOTAL		44	48	41	45	58	85	38	27	30	35	17	28	496
WENDE HUB														
Attica	Maximum	3	0	1	0	2	8	0	10	0	4	6	5	39
Collins	Medium	13	9	7	9	10	14	9	8	4	5	5	0	93
Gowanda	Medium	15	23	18	9	12	16	19	14	10	9	3	7	155
Groveland	Medium	1	11	16	0	8	9	2	3	1	1	1	0	53
Lakeview	Minimum	63	17	41	26	13	46	27	37	49	20	23	22	384
Livingston	Medium	4	5	7	0	6	12	7	7	2	4	10	3	67
Orleans	Medium	12	6	7	7	6	8	5	10	3	8	5	5	82
Wende	Maximum	2	0	3	1	1	0	0	2	2	4	4	0	19
Wyoming	Medium	19	9	9	0	17	21	15	14	11	25	19	8	167
SUBTOTAL		132	80	109	52	75	134	84	105	82	80	76	50	1,059
GRAND TOTAL		303	235	280	195	271	402	299	255	235	249	192	145	3061

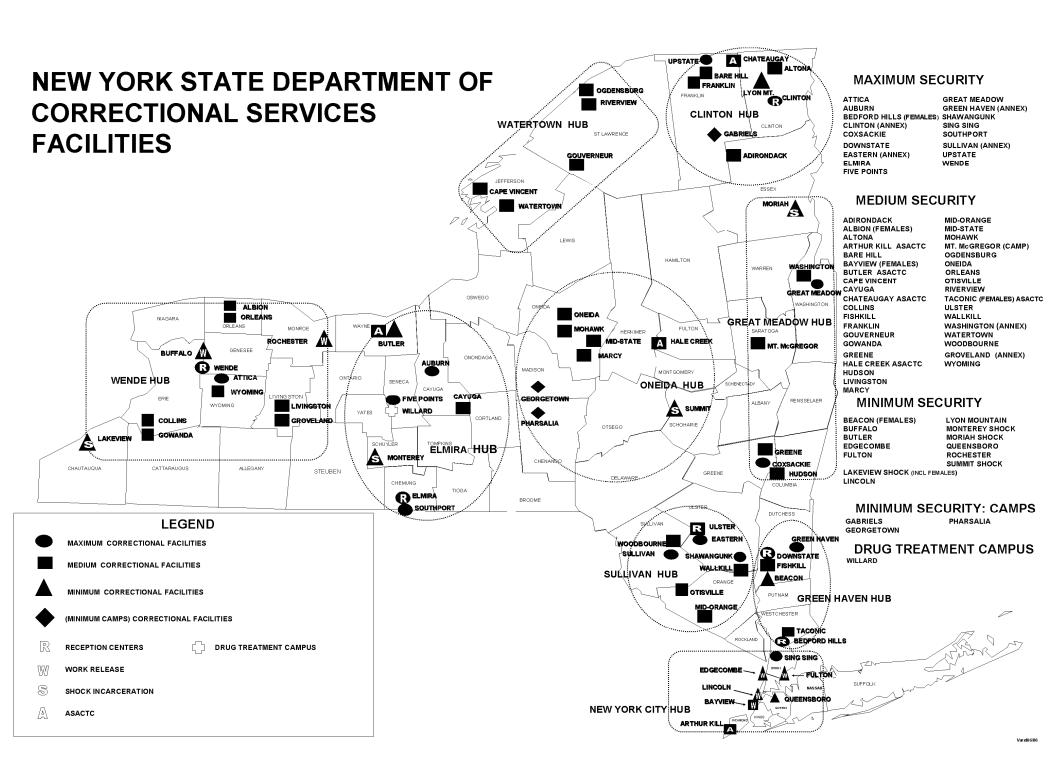
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# TELEVIDEO DEPORTATION HEARINGS

HUB/FACILITY	SECURITY LEVEL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ОСТ	NOV	DEC	YEAR TO DATE
CLINTON HUB														TOTAL
Adirondack	Medium	3	0	5	0	2	1	1	0	1	0	1	0	14
Altona	Medium	4	3	5	1	11	7	5	7	5	5	5	0	58
Bare Hill	Medium	10	11	13	4	13	10	10	0	10	8	8	12	109
Chateaugay	Maximum	0	0	0	0	0	0	0	0	0	0	0	0	0
Clinton	Maximum	4	13	4	13	9	6	3	9	3	1	6	5	76
Franklin	Medium	8	2	11	1	9	6	6	7	6	8	10	5	79
Upstate	Maximum	10	3	10	8	5	3	2	0	2	3	5	2	53
SUBTOTAL		32	29	38	26	36	25	21	16	21	20	29	24	317
ELMIRA HUB														
Auburn	Maximum	2	3	0	1	1	0	0	0	0	0	0	2	9
Cayuga	Medium	4	2	2	2	6	2	0	6	0	8	0	2	34
Elmira	Maximum	5	4	0	3	1	3	2	0	2	0	5	2	27
Five Points	Maximum	5	2	0	0	1	0	2	0	2	0	5	3	20
Southport	Maximum	3	0	0	1	0	1	0	0	0	0	2	0	7
SUBTOTAL		19	11	2	7	9	6	4	6	4	8	12	9	97
GREAT MEADOW H	UB													
Coxsackie	Maximum	5	3	7	4	5	4	0	5	0	1	5	2	41
Great Meadow	Maximum	4	0	1	4	3	0	1	0	1	5	0	6	25
Greene	Medium	14	13	15	11	10	13	13	6	13	0	21	9	138
Mt. McGregor	Medium	0	1	3	6	0	2	2	0	2	0	4	4	24
Washington	Medium	6	7	7	6	3	1	6	3	6	1	0	4	50
SUBTOTAL		29	24	33	31	21	20	22	14	22	7	30	25	278
ONEIDA HUB														
Hale Creek	Medium	0	0	0	0	0	0	0	0	0	0	0	0	0
Marcy	Medium	7	6	11	7	4	4	4	4	4	1	7	0	59
Mid-State	Medium	5	6	6	3	8	2	6	5	6	0	6	0	53
Mohawk	Medium	12	8	12	6	20	13	7	9	7	9	12	10	125
Oneida	Medium	0	1	1	0	2	0	0	0	0	4	1	0	9
SUBTOTAL		24	21	30	16	34	19	17	18	17	14	26	10	246

HUB/FACILITY SECURITY	LEVEL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YEAR TO DATE TOTAL
NEW YORK CITY H	UB	0	0	0	0	0	0	0	0	0	0	0	0	0
Sing Sing		0	0	0	0	0	0	0	0	0	0	0	0	0
SUBTOTAL		0	0	0	0	0	0	0	0	0	0	0	0	0
WATERTOWN HUB														
Cape Vincent	Medium	4	2	7	2	8	9	4	8	4	4	4	3	59
Gouverneur	Medium	2	10	6	4	12	13	7	0	7	10	13	11	95
Ogdensburg	Medium	8	8	7	10	6	7	6	6	6	3	7	1	75
Riverview	Medium	10	5	6	8	9	14	6	6	6	7	8	11	96
Watertown	Medium	0	6	8	5	2	2	7	5	7	6	5	6	59
														0
SUBTOTAL		24	31	34	29	37	45	30	25	30	30	37	32	384
WENDE HUB														
Attica	Maximum	0	4	0	0	0	4	1	4	1	0	3	0	17
Collins	Medium	6	5	8	1	5	6	4	7	4	6	6	4	62
Gowanda	Medium	5	10	12	13	7	3	2	5	2	0	21	5	85
Groveland	Medium	0	0	7	2	3	0	2	0	2	1	4	5	26
Lakeview	Minimum	18	35	30	21	26	37	16	19	16	13	32	15	278
Livingston	Medium	3	1	7	3	5	0	2	2	2	6	4	0	35
Orleans	Medium	0	5	4	4	3	1	2	0	2	0	4	1	26
Wende	Maximum	1	0	2	0	1	1	0	0	0	0	0	2	7
Wyoming	Medium	8	6	17	15	8	15	11	0	11	6	14	5	116
SUBTOTAL		30	47	60	43	43	54	31	21	31	25	54	23	462
GRAND TOTAL		158	163	197	152	180	169	125	100	125	104	188	123	1,784

# MAP OF NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES FACILITIES



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**Program Planning, Research & Evaluation**