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C.O.P.E. Convention

On 8/13/98 the New York State AFL-CIO held its annual COPE Convention Endorsement Candidates for the up-coming November elections.

On this date George Pataki signed into law the increase in unemployment insurance.

During the Governors speech only two Unions were mention one of which was Council 82.

This is just a small piece of recognition now being enjoyed by our Union.

It is further proof that Council 82 is now a major player in State Employee Politics and enforces further why we must back Council 82 in its efforts to finish the Job started in 1997, a job mandated by the membership. L.E.O.U. must receive the recognition for walking the meanest beat in the world.

A.J.Sportiello

President

S.S.C.O.U.

Local 1413, Council 82

AFSCME, AFL-CIO

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Temp. Sergeants READ THIS

The following is being posted for a fellow employee, Sgt, Williams from Greenhaven

To all you temp. Sergeants and Ex-temp. Sgts:

Are you aware that C-82 and the State of NY DOCS made a 87.5 and an 85 off the old Sergeants list permanent ahead of everyone else. A deal was made, and C-82 President Rich Abrahamson knew about this deal , knew that the list was being jumped, and still let this happen. He alone sold us down the road because he had a friend who had an 87.5 on the test that he wanted made permanent off the old list. He let DOCS make 2 people permanent off the list ahead of all of us. He kept it hush hush so we who are still hanging in and those who turned the strips in would not know of this.

Is he sleeping with the State????

Where is his heart??? Not with the membership.

P.B.A. needs votes so this doesn't happen again, and "Lets make a deal" with the State must stop.

Sgt. R. Williams

This is the reply from Correction Policy Chairman, John Butler

*** Well Sgt Williams that is interesting, but not what I told you. The 87.5 was Frank Caminiti and he got it fair and square. Seemed no one wanted Parkside at the time and when it came to him he took it. I'm not sure if that one at DOCS was an 85 for sure, but the Sgt told me that. I did know about the position over there though. The Sgt.s local is well aware of this too. The only deal that was cut was when the Sgts local approached us and wanted the cut off to be the 90s and we agreed thinking thats what their local

wanted. After that all went south we said straight down the list and where it stops on 2/2/98 that's it and the new list takes over on the 3rd. The rest was from the lawsuit we filed on behalf of the Sgts local. I suggest you talk to them,

I've said more than I care to.

John

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Pualine Kinsella answers A.J. Sportello

Mr. Sportello:

You have stated publicly and in writing that I made a telephone call on August 5, 1998 to the second floor of the Capitol (i.e., the Governor's office) and threatened litigation if an upgrade of correctional officer positions is approved. This is a complete and unadulterated lie.

I have not called or otherwise communicated with anyone in the Governor's office since my departure from State service in December 1997. I have not threatened, directly or indirectly, litigation concerning any issue, on behalf of NYSCOPBA or any other person or entity.

Therefore, the answer to your questions is a resounding and unequivocal no.

The information you are providing via the internet or otherwise is a complete fabrication and should stop immediately.

Pauline Kinsella

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Council 82 could face battle to represent correction officers

Staff and wire reports

ALBANY -- A group of dissident state correction officers, angry that some of their dues money goes to a national union, wants to oust the organization that has represented them for more than 25 years.

Council 82 of the American Federation of State, County and Municipal Employees (AFSCME), which has bargained on behalf of 25,000 of the state's correction officers and some other law-enforcement personnel for almost three decades, is under fire by a group known as the New York State Correctional Officers and Police Benevolent Association (NYSCOPBA) for sending \$2 million of union dues out of state to AFSCME.

Last week, the group filed a petition with the state Public Employee Relations Board (PERB) calling for an election to see which group should represent the correction officers, said Monte Klein, director of employment practice for PERB.

The organization claims that Council 82, which is affiliated with AFSCME, has done nothing to improve the contract terms of the state's law-enforcement officers.

"We believe that members' dues should be used to improve their working conditions, increase the professional training that they receive and enhance the legal and legislative services which are so necessary for their protection," according to NYSCOPBA president Brian Shanagher, a correction officer at Green Haven Correctional Facility in Dutchess County.

An attorney representing the organization said its members want more bargaining power for the \$17 in union dues taken from every paycheck.

"We feel that money could be better used in organizations such as COPBA," said Herbert D. Wild, a correction officer at Southport Correctional Facility in Southport and local COPBA representative. "We want direct representation.

"When the state gives up a percentage pay increase or added benefits, they have to include tens of thousands of clerical employees as well as the correction officers," Wild said. "We want a union that just represents correction officers and law enforcement."

The 56-year-old Wild, a 20-year veteran officer, was expelled from Council 82 in 1985 for representing a competitive union. Some of the correction officers feel the money they pay to AFSCME is not well spent, said Garrett W. Conover, a correction officer at the Elmira Correctional Facility.

"We feel that the correction officers are a very minute part of AFSCME and AFSCME doesn't understand the diversity and needs of modern day correction officers," said Conover, who has worked at Elmira for eight years.

Southport has about 240 correction officers and the Elmira Correctional Facility has about 460 officers.

The petition the group sent to PERB was accompanied with signatures of at least 30 percent of current union members, which Klein said is needed to call an election.

"A significant amount of that dues goes to Washington, and they get nothing for it," said NYSCOPBA attorney Bill Sheehan. He said the correction officers in New York are trying to organize an independent union similar to one organized in California and several other states

A conference is scheduled for Sept. 9, when both sides will raise any issues about the elections.

Although Klein would not discuss the issues, he did say that union members would have three options when deciding on which organization would have the bargaining power: Council 82, NYSCOPBA or neither.

An election date would be decided after that meeting and if PERB verified the signatures, Klein said.

Representatives for Council 82 didn't return phone calls seeking comment Thursday.

A similar attempt to replace Council 82 lost in 1994, when a group called The Union of Federated Corrections Officers failed to win in an election against Council 82, Klein said.

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COUNCIL 82 LEGAL UPDATE (8/14/98)

COUNCIL 82 SEEKS TO REQUIRE DOCS TO ADHERE TO ITS OWN DIRECTIVES

Council 82 has recently filed two Article 78 petitions which seek Court orders requiring DOCS to adhere to its own directives which impact Officer safety. Both petitions relate to the construction and operation of the SHU drop-ins at the Cayuga Correctional Facility and were filed at the request of Local 3551 President Thomas Mulhern.

The first petition seeks adherence to Directive 4900 regarding the screening of people and vehicles entering a correctional facility. During the construction of the SHU drop-in at Cayuga Correctional Facility a temporary truck trap was created, but construction vehicles and personnel were not screened and escorted consistent with the requirements of Directive 4900, thus putting the safety and security of staff at substantially higher risk. Requiring the adherence to Directive 4900 will benefit not only our members at Cayuga Correctional Facility, but also those at Fishkill , Lakeview Shock and Gouverneur where SHU space is also being constructed.

The second petition seeks a court order requiring DOCS to adhere to Directive 4933 regarding the requirement that maximum security risk inmates be escorted with a Correction Sergeant (or higher ranking supervisor) for non- routine moves or while under a restraint order. With the opening of the SHU drop-ins, many medium security jails have seen an influx of maximum security inmates to whom Directive 4933 should be applicable.

IMPROPER PRACTICE SEASON

As the summer heats up, it appears that certain individuals in management are more likely to lose their cool and attempt to do things that are blatantly illegal. As a result, the Council 82 Legal Department has been pumping out an unprecedented number of improper practice charges.

Camp Pharasalia: Council 82 has filed a charge alleging that a certain Lieutenant has retaliated against the Sergeant's Union Steward, Sergeant Cappadonia, for filing a grievance and for signing a letter requesting legal assistance from Council 82 to end the same Lieutenant's harassment of staff. Incidentally, over 90% of Officers, Sergeants and Lieutenants signed this letter.

Oneida: Council 82 has filed an improper practice charge alleging unionbusting in retaliation for a grievance filing by Sergeant Ficchi in his capacity as the Sergeant's Steward.

Lakeview Shock: Council 82 has filed an improper practice charge alleging union-busting by Deputy Superintendent Colly and Superintendent Mosicki against Officer Bankoski and Local President Delmonte for engaging in protected activity.

Willard DTC: Council 82 filed an improper practice charge against Captain Reynolds and the Superintendent for threatening to write-up two Officers for a late relief unless a grievance has pulled.

Mid-State: At Mid-State Correctional Facility, Council 82 filed an Improper practice charge against I.G. Investigator Panko for threatening Local Secretary David Caruso when he was trying to represent an

Officer.

This is just a random sample of a few of our recent charges. This much is clear however, there are many in management who are abusing their authority and Council 82 will push back with the full force of the law when they do

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A.J. Sportello response back to Pualine Kinsella

Tue, 18 Aug 1998

Dear Ms. Kinsella,

Thank you very much for your purported response, I appreciate that you took purportedly the time to write a response.

As you must agree I'm a little skeptical in accepting a posting done on another's E-mail address. Especially since the address is not one of the listed officials of NYSCOPBA. It would have more credibility if it came from Mr. Stanson who is known for his position with NYSCOPBA on the net.

Please send me a letter containing your response and upon receipt I will acknowledge the correspondence on this net.

If you could answer the other part of the question I will also acknowledge it on the hacknet.

Does NYSCOPBA plan to challenge the up-grade through PERB ?

Oh, could you tell me if on 8/5/98 you spoke with Monty Klien (PERB) concerning the up-grade and did Mr. Klien on any ones behalf call the Governors Office in relation to the up-grade and relate to them on any ones behalf that if an up-grade was approved prior to the challenge election it would be considered as preferential treatment ?

And is Monty Klien the same individual who was appointed by you to PERB and is this the same Monty Klien that is now the Director of Representation and Employment Practice ?

My address is;

Antony J. Sportiello
President
Sing Sing Correction Officers Union
Local 1413, Council 82 AFSCME
354 Hunter Street
Ossining, NY 10562

Thanking you in advance for your cooperation in this matter.

Yours truly,

A.J. Sportiello
President

S.S.C.O.U.
Local 1413
Council 82, AFSCME

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Uniformed unions hail wins in Albany

Two of the city's largest uniformed unions, the Correction Officers Benevolent Association and the Uniformed Firefighters Association won major legislative victories in recent weeks as Gov Pataki signed two long sought bills.

Leaders of the Correction Officers Benevolent Association, as well as those in the Correction Captains Association and Assistant Deputy Warden/Deputy Wardens Association, were absolutely brimming with joy when Pataki signed a bill extending the heart bill law to there members.

Under the bill, cops and firefighters who develop a heart problems on the job get three quarters tax free disability pension.

The signing on Aug 5 ended a 16 yrs lobbying effort by the unions, which felt they deserved the same benefit long enjoyed by police and firefighters.

Like the three quarters disability bill enacted last year, the heart bill has been promised to correction officers for years, said association President Norman Seabrook, in a message to members.

The passage of both those bills is a long overdue triumph for correction officers of all ranks, who for decades have sought equality in benefits with the city's other uniformed officers. Now having won that fight. Seabrook and his legislative chairman, William Kwasnicki, and lobbyist Floyd Holloway are seeking total parity with the cops and smoke-eaters on the Variable Supplement Pension.

Every Civil Service union in the city has been looking for that VSP which provides an annual pension supplement payment now at \$8,500 to all retired cops and firefighters with 20 years and who aren't collecting a tax free disability pension. Our legislative score is two down and one to go, said Seabrook. The remaining bill is the variable supplement bill. We are totally committed to its passage. Over at UFA headquarters, the praises of legislators and the governor were being sung, too, now that a pension reopener bill has been signed.

The reopener signed last month affects only a little more than 250 firefighters, but the union has been fighting for its passage for four years. The new law allows firefighters to transfer time accrued in other municipal pension funds into the Fire Dept. pension fund. Under Law a member has one year to transfer his or her retirement service credit from another city or state agency into the FDNY fund. According to UFA Vice President Michael Carter, there were many of those who had the accrued time in other pension systems who were not properly notified of the procedure and missed the deadline. Through this legislation, the UFA has been able to win justice for some 250-plus firefighters and return to them the pension fund credit earned long ago, Carter said.

Since we're on the subject of new legislation, all workers in New York State in and outside of Civil service will soon have new privacy protection with regard to medical information gathered in workers

records. The new law, which goes into effect Jan 1, prohibits the unauthorized disclosure of records to protect claimants against an invasion of their privacy. Pataki signed it last week. In this electronic age, organizations obtain and collect data on compensation claim histories and turn around and sell the information for profit," said Assemblyman Dan Feldman (D- BROOKLYN), who sponsored the bill with Sen Hugh Farley (R-Schenectady). After Jan 1, officers employees and agents of the Workers Compensation Board may only disclose records in accordance with a subpoena or court order, or under limited circumstances.

We can now assure New Yorkers that their sensitive labor and medical information does not fall into the wrong hands to be used for blacklisting and other nefarious purposes,' Feldman said.

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Prison guard's union seeks political clout

ALBANY (AP) - In a drab, squat, yellow brick building on the outskirts of Albany, the state Capitol's newest power player is set to enter the next phase of its political clout.

The accommodations are modest enough. A room with a long table surrounded by comfortable chair, a few small offices and a kitchenette in back. These unprejudging digs represent the trapping of power for Council 82, a union whose 27,000 members include state prison guards, forest rangers, lifeguards and State University of New York security guards.

The phone bank is another phase of a two-year effort by the union to make itself a force in New York's local and state politics. The phone bank will be operational for this fall's campaigns.

It is one of the byproducts of an infusion of funds Council 82 has directed into political activities. Last fall, union leaders got rank-and-filers to boost from 25 cents to more than \$3 per month the amount members contribute for political activities. A union which had historically spent about \$75,000 a year on political action plans to spread about more than \$1 million.

And the union isn't just concentrating on a political donations to gain clout. From nowhere in Albany lobbying, to the No. 2 spot behind the New York State United Teachers union in lobbyist spending this past year.

Council 82's legislative director, John D'Alessandro, said the union's added leverage in Albany has gone hand in hand with an effort to get its members more involved in local politics.

"I kind of liken it to stakes in a poker game," D'Alessandro said. "Money gets you noticed and money gets you to the table. But you still need to know the rules of the game and still need to know how to play well to win."

There are any number of corporations, union and individuals willing to throw money at politicians in New York, he said. The trick is to maximize the impact of those contributions by having active, informed members who are willing to vote and otherwise participate in political process.

"Certainly we are raising a lot of money to get noticed and to get too the table," D'Alessandro said. "But I'd like to think that we are not escalating all that's bad about the process because we are trying to do the other parts of the process."

Critics are not so sure.

“This ups the ante and show how New York is miserably behind the rest of the country related to campaign finance reform,” Rachel Leon, executive director of New York Common Cause, said “They are giving to both Republicans and Democrats and it’s an increasing trend. It is all about access. Money is the political currency, so that’s how everyone shows their strength.”

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CORRECTIONAL OFFICERS DESERVE SUPPORT AS DEDICATED PROFESSIONALS.

Below is an "editorial " that appeared in the "Batavia Daily News" on Aug. 19, 1998.

CORRECTIONAL OFFICERS DESERVE SUPPORT AS DEDICATED PROFESSIONALS.

I read with great interest your article, " Attica prison guards stage rally " (Aug. 7). Violence in our nations's prisons is now at an all time high with over 16,600 assaults being reported last year. That's 45 per day, a near 15 percent increase from the 14,471 assaults reported the previous year according to the Criminal Justice Institute. We have had nine officers murdered in the past two years and suffered 117 line of duty deaths in 1997.

As professional correctional officers who risk our lives every day to protect and ensure the public's safety we take great offense to being referred to as "guards." We are highly skilled, professionally trained and dedicated correctional officers. We do a job very few would dare to do. We are the police in a society where all the citizens are murderers, rapists, arsonists, armed robbers, child molesters and an assortment of other social deviants. We are not "guards" who watch empty buildings or patrol our nation's malls. When we punch the clock we know that on any given day we may not come out the way we went in, and in some cases not come out at all.

Mr. (Richard) Abrahamson's failure to support the officers at one of our nation's most infamous prisons in favor of management's "soft" position on locking down the facility is, to be kind, unfortunate, but very revealing.

He had the time to stop by "The Daily News" for an interview but not to stand beside the officers at Attica. Is it any wonder why the correctional officers in New York have formed their own independent union to unseat Abrahamson's incumbent organization?

The New York State Correctional Officers and Police Benevolent Association filed with the PERB on Aug. 11 seeking an election to oust Council 82 of AFSCME. Which brings me to my final point.

In your article you state that according to Abrahamson the Attica officers under (Richard) Harcrow's leadership are seeking to throw out AFSCME Council 82 and join a new union, Corrections USA.

We certainly hope that the Attica officers do join Corrections USA, but we are not a union. We are a coalition of various unions, associations, fraternal orders and organizations who advocate for the advancement and recognition of the correctional officer profession. We are not a union and do not negotiate contracts or file grievances.

We pose no threat to Abrahamson. It appears from his actions and comments that he is his organization's greatest threat.

We stand beside Officers Harcrow, Canterbury and the men and women at Attica and throughout New York. Management's handling of this matter borders on deliberate indifference.

As for Abrahamson, as a 16 - year veteran correctional officer I consider his actions nothing shy of treason. He has abandoned the officers he was elected to serve. I venture to guess that the officers in New York will return the favor.

Brian F. Dawe
Director of Operations
Corrections USA
Newton, N.H.

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Pauline Kinsella responds to AJ

A.J. Sportiello
President
Local 1413 Council 82 AFSCME
354 Hunter Street
Ossining, New York 10562

Dear Mr. Sportiello

I am writing to you in response to your recent hacknet inquiry. The response to your previous false allegations was written by me and merely forwarded on my behalf. It was not a "purported" response, it was my response.

Additionally, you make in your most recent message yet another totally false allegation about me and my conduct. I did not contact Monte Klein or anyone else at PERB on August 5 or any other day about NYSCOPBA or the purported upgrade. Indeed, I have not spoken to Mr. Klein in many months about anything at all. Like the previous one, this insulting attack on my integrity has no basis whatsoever.

With regard to another question you raised, I did indeed appoint Mr. Klein (with the approval of Governor Pataki's Appointments Office and the Division of the Budget, as is required for policy-making positions in State government) as Director of Employment Practices and Representation several years ago, during my tenure as Chairwoman of the Public Employment Relations Board. I appointed a number of other persons to positions at the agency during the 6 ½ years I served in that position. It was, of course, part of my job.

Prior to his appointment as a Director, Mr. Klein served as an administrative law judge at PERB for approximately 20 years. He is a person of tremendous ability and integrity, and your suggestion that he would discuss any pending matter with me is an insult to him as well as to me.

Finally, responding to the other part of your question, I am not aware of any plans by NYSCOPBA to

challenge an upgrade, if one should occur.

Let me be very clear. First, contrary to your baseless claim, I have not and will not appear before the agency at which I was employed for a minimum of two years from my departure, in accordance with the requirements of the Public Officers Law. Second, you would be well advised to avoid making further false and malicious attacks on my reputation.

Sincerely,
Pauline R. Kinsella

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USA TODAY TUESDAY 8/25/98

California - Sacramento.

The 28,000 correctional officers at 33 state prisons and 44 other detention facilities will get 10% raises under an agreement between their union and the state. Five percent of the raise would be retroactive to July 1, and the other half would take effect Oct. 1. The raise must be OK'd by legislators and the union membership.

NOTE the contract is for 12%. Of that 12%, 2% is marked for their retirement package only. Of the remaining 10% it is broken down into 2 years, 5% this year and 5% next year. NOW WAIT A MINUTE -- the truth of the matter is California CO's got NO raise for 1996 and 1997, so that 10% is actually for 4 years (hence, 2.5% a year). And, the 5% for next year is a PERFORMANCE EVALUATION raise, it is NOT automatic -- you HAVE to get a good evaluation to get the 5%.

Aaaaaaaah, yes, the other "benefits" they got in this contract -- 2 more hours a week of work (42 hour work week) at REGULAR pay, as part of the 5% raise.

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Seek to Quit AFSCME

THE CHIEF 08/28/98

Council-82 Facing Dissident Challenge

Council-82 of the American Federation of State, County and Municipal Employees, representing 25,000 state correctional officers and some other law enforcement personnel, is facing its third representation challenge by dissident members in 14 years. The Public Employment Relations Board reported accepting petitions for a bargaining representation election from the New York State Correctional Officers and Police Benevolent Association (NYSCOPBA), a group that says it wants to set up an independent union, unaffiliated with any national labor organization.

Questions Affiliation

The dissident group claims that union money going to AFSCME is wasted and that AFSCME is not

qualified to represent correctional personnel. The leadership of Council-82 charges that the dissidents are backed by an Albany law firm that has been promised a lucrative contract should the union be voted in. Monte Klein, Director of Employment Practices at PERB, said that the petitions were submitted earlier this month but have yet to be verified. PERB has set a meeting for Sep. 9th, at which any challenges to the petitions or other issues concerning an election could be raised.

"Assuming that they have a showing of interest by 30 percent of the bargaining unit, then an election would be held," Mr. Klein said. Members of the unit would be able to vote for Council-82, the dissident group or no union whatsoever. Representation elections are allowed during an open challenge period of six months before the expiration of a collective bargaining agreement. Council-82's contract expires on March 31, 1999.

Out of the Umbrella

"We've formed an independent union in order to get out of the big umbrella of AFSCME, because we don't believe that such a union can adequately represent law enforcement personnel," Brian Shanagher, the NYSCOPBA president, told THE CHIEF LEADER.

Mr. Shanagher, a Correction Officer at Green Haven Correctional Facility in Dutchess County, said that his group intended to use \$2 million in annual dues money going to AFSCME to provide additional services, particularly legal representation, for state prison officers. He added that the affiliation with AFSCME, which began 25 years ago, served to lock the union into pattern bargaining with other AFSCME affiliates.

"It doesn't make any more sense for us to be part of AFSCME than for the Patrolmen's Benevolent Association or the Correction Officers Benevolent Association to be part of District Council-37 in the city," he said.

Council-82 President Richard Abrahamson said the dissident group is backed by the Albany law firm of Himan, Straub, Pigors and Manning, which has provided the NYSCOPBA a storefront office for its operations. "They've been promised \$3 million in legal business the first year if this group is elected, and they're footing the bill for all of this" Mr. Abrahamson said. Mr. Shanagher said that the group would have nothing more than a "handshake agreement" with the firm to provide legal services. The firm already represents the State Troopers Police Benevolent Association.

To Challenge Petitions

Council-82 intends to challenge the NYSCOPBA petitions, but if they are validated, Mr. Abrahamson said, the union will "have a fight on our hands." He declined to speculate whether it would face as serious a challenge as in 1994, when it barely held onto the bargaining union by a vote of 8,400 - 7,500.

That was the second challenge by a group calling itself The Union for Correction Officers and Law Enforcement, or TUFECO. Mr. Abrahamson acknowledged that he himself voted for TUFECO that year and that its former supporters were to be found both within his own leadership and among his challengers.

"They're trying to run under the banner of a group that had legitimate gripes," he said. "But out of the 15 issues that TUFECO raised, 14 of them have already been carried out." The Council-82 leader said that the bitter experience of the union in 1994-95, when it was rocked by financial crisis and corruption

allegations before being placed under administratorship by AFSCME, showed the importance of a national union.

"It's like an insurance policy," he said. "If you were to have a serious problem like that, it's good to have a parent organization that can step in."

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Cost Of Living

Regardless of bargaining agent for our next contract, in order to make an informed decision on whether to vote yes or no consider the following:

Using the American Institute for Economic Research Cost of Living Calculator <http://www.aier.org/> I've listed below our salaries at several steps as of April 1, 1990 (before the zeros). The calculator tells you the amount you must make in 1998 to maintain the same "**STANDARD OF LIVING**" as your money could buy in 1990.

(In other words to keep yourselves and/or of course X's in a manner to which they have become accustomed.)

1990	Job Rate	Need in 1998	Actual 10/98	+ or -
CO	32,266	40,111	37,860	(-2251)
SGT	37,990	47,230	44,566	(-2664)
LT	44,463	55,277	52,161	(-3116)
1990	10 Year			
CO	33,817	42,042	39,680	(-2362)
SGT	39,768	49,440	46,652	(-2788)
LT	46,504	57,815	54,556	(-3259)
1990	15 Year			
CO	35,368	43,970	41,500	(-2471)
SGT	41,546	51,651	48,738	(-2913)
LT	48,545	60,352	56,951	(-3401)
1990	Top			
CO	36,919	45,898	43,320	(-2578)
SGT	43,324	53,861	50,824	(-3037)
LT	50,586	62,890	59346	(-3544)

As you can plainly see, we are in the minus column. So regardless of where you live, our standard of living has not gotten better over the last eight years. Now factor in two additional steps and the decline in other benefits. We've got some serious catching up to do.

I think newer members might fare a little better in the beginning, just like I did when I first started, but it will catch up with them too. Some of you newer guys can visit the site and let us know.

Just some food for thought.

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COUNCIL 82 TAKES SHOT AT DOCS' MEDICAL NOTE POLICY

Diagnosis/Prognosis

COUNCIL 82 LEGAL UPDATE (8/28/98)

Council 82 has fired the first shot to challenge in Federal court DOCS' policy and practice of requiring correction officers to provide a medical diagnosis/prognosis before DOCS allows them to return to duty after taking sick leave of more than three days.

A charge of discrimination based on the confidentiality section in the Americans With Disabilities Act, the federal anti-discrimination law, was filed in August with the United States Equal Employment Opportunity Commission ("EEOC") on behalf of a correction officer. Federal law requires that this claim be filed with the EEOC before it can be brought in Federal court.

In the EEOC charge, a correction officer who has been subjected to DOCS' policy, alleges that by requiring a medical diagnosis/prognosis, DOCS has violated the confidentiality provisions of the federal disability discrimination law. That law requires DOCS to maintain correction officers' medical information on separate forms in separate files and to treat it as confidential medical records. Those records may not be shared with supervisors or managers unless DOCS is trying to identify a necessary restriction on a correction officer's job duties or to identify necessary accommodations of the correction officer's disability. We believe DOCS' practice of requiring correction officers to submit medical diagnoses on return to work certifications and its practice of having non-medical personnel review these documents violates the ADA. DOCS does not use these documents to identify necessary work restrictions or to identify necessary accommodations of the correction officer's disability.

We anticipate that one or two additional correction officers will file similar charges with the EEOC in the coming week. Federal law requires plaintiffs to first file charges of employment discrimination with the EEOC before filing a complaint in federal court. We have already asked the EEOC to release a Notice of Right To Sue letter on the charge that has been filed. The Notice of Right To Sue letter allows us to file a federal lawsuit without having to wait for the EEOC to complete its process. The lawsuit in federal court will be a class action suit and it will be filed promptly after receiving the Notice of Right To Sue letter.

In it, we will challenge DOCS' practice not only under the Americans With Disabilities Act, but also under the confidentiality provisions of the Family Medical Leave Act and as an invasion of privacy under the First Amendment of the United States Constitution.

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A letter from Wisconsin detailing the similarities in AFSCME's

To: NY State Correctional Officers
From: Joe Callahan, WI Correctional Officer
RE: Independence

Fellow Officers,

I would like you to know that the problems you are experiencing are nearly identical to those we have here in Wisconsin. Poor representation, pay that is far below surrounding and independent states, contract raises that are less than the cost of living, and a lack of support on our issues as professional Correctional Officers are just some of the problems we share. This should not be surprising though, as we share the same controlling labor organization - Afsme.

As union members, we should be the ones that determine the course and direction of our union, but as you know that is not currently the case. Most decisions are made by the union hierarchy, without the input of the members. Then the explanation is given that it was done "in your best interest." Witness the recent \$1.00 per month dues increase voted in at the Afsme convention in Hawaii last month. Did your 'leaders' inform you of this proposal and ask for your input? Did your Council president, or delegates -- who are supposed to be representing YOU - ask for your opinion? Of course not, they keep you in the dark then try to put a positive spin on it later. If they have to let you vote on something, like a contract ratification, they always slant the issue to get you to vote the way they want. If they can't get what they want that way, they try to come up with an alternate means to get it, even if it is not what YOU want. One example is your current contract.

Members of Afsme don't even control how their union is organized or where most of their dues money goes. The Afsme International Constitution lays out the dues structure and form of our local unions. We must abide by what it dictates, and don't have any voice in changing it, or the international leaders. Even at the council level we always get the handpicked insiders appointed to the positions of power. It's never someone that is loyal to the members, rather it's always one who is loyal to the 'powers that be.' That's why things will never change, under Afsme, to meet our needs.

If your Executive director is incompetent can you vote him out? No, he's appointed not elected. If your staff rep. is the absolute worst can you get rid of him/her? Forget it, they're appointed to the position and given their huge salaries without any input from you. You don't even have the power to control what should be your union!

Then they can increase our dues without even getting us a raise. 30% of our dues automatically go to Afsme Intl. in Washington to use as they see fit. Nearly half of that money is used for nothing but organizing (recruiting) new workers to replace those they have lost. The \$1.00 per month (\$15.6 million per year) dues increase approved last month is targeted for even more recruiting activities and staff. The main reason for this is that in the last three years Afsme gained 100,000 new members, but at the same time lost 104,000 members, for a net loss of 4,000 dues payers. Instead of focusing on what they could do better to retain members, like providing better representation, proper bargaining preparation, etc., they simply throw more money at recruiting new members.

AFSCME takes our money and uses it as they see fit, regardless of the members' views. It's used to lobby to represent 'welfare workers', to raise the min. wage, and to bargain with Corrections Corp. of America (CCA--the nations largest operator of private prisons) to represent their employees. Then, while they negotiated and made agreements with CCA they told us they were fighting prison privatization! Our union, in WI (Council 24), gave its blessing to sending inmates to private prisons, in TN and OK, and never even asked us. They give 95% of our political action money to one political party and say they're lobbying for us! They endorse and contribute to politicians in our name, without asking. In your state they even endorsed Mario Cuomo in the last governor's election, while members at several prisons were protesting his policies! They even sneak money under the table, illegally, to the Teamsters good old boys, and tell us it's for our own good!?! What do these things have to do with our interests? Nothing, it's all our money wasted -- on someone else's politics.

One of our biggest complaints has been our pay. We have gone over 10 years with raises that have not kept up with the cost of living. Sound familiar? In Wisconsin, as in NY, we are paid thousands, even tens of thousands less than states like California, Massachusetts, Rhode Island, and Oregon - states with Independent COs' unions. We don't expect to make the kind of money they do in CA., but our pay is thousands less than in EVERY state we border. A \$2.00 per hour raise would not even get us out of last place when compared to COs in bordering states! So what did Afscome Council 24 do LAST YEAR when they negotiated a contract? They accepted raises of about 1.6% per year over two years! We got the same as the Private Sewer Consultants and the Secretaries!

When we first brought the issue of pay in bordering states up they called us liars. They even tried to tell us how well paid we were. Now that it has backfired, and we have an active decertification movement, they have gone to the state begging for an UPGRADE because our pay is so poor compared to surrounding states! This less than a year after they accepted a contract -- Shameless! Does this sound familiar to you? It should, because it is the same thing YOUR Afscome Council is doing! Attempting to save their skins by trying to get the state to GIVE them what they couldn't get you at the bargaining table.

Enough of the complaints though, what's the solution? How about a union where the members have a real voice - One member, one vote! -- on all issues. A union in which ALL the leaders are elected. A union that understands and knows you and how to represent you, because it is YOU. A union that has SOLIDARITY because YOU are the majority. A union where you never have to play second fiddle to, or pattern bargain with, anyone else. What kind of union is this? An INDEPENDENT UNION for Law Enforcement professionals, free of Afscome's interference and control. That's NYSCOPBA!

It is also what we are attempting to do here in Wisconsin, and has been done by Correctional Officers in New Jersey, California, NY City, Rhode Island, Oregon, Massachusetts, and even Alaska. What do these unions have in common, other than independence? The highest salaries in the nation for one, along with excellent political and media relationships, superb representation, and high member participation -- because of the voice they are given. In other words, they have the things that we, in WI and NY, are lacking under Afscome.

Together with Corrections USA they have SOLIDARITY with COs everywhere, and INDEPENDENCE from the dues machine of Afscome.

Remember, a vote for Afscome is nothing but a vote for more of the same. Is that what you want? Forget the past and you are destined to relive it.

Sincerely, SGT J. Callahan

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PRISON UNION HAS NO MUSCLE: Editorial

Below is an editorial that appeared in the "Post Star" on Sept. 5th, 1998.

I read with amusement your front page article by Associated Press reporter Joel Stashenko, "Prison Guard union flexes muscle." (Post Star, Aug. 23.)

Council 82, being in the midst of a challenge by The New York State Correctional Officer and Police Benevolent Association, is pushing the panic button by broadcasting their large political action fund.

If asked, I'm sure the New York State United Teachers Union would stress the importance of discretion when dealing with politicians and political action contributions. They would probably even cringe to see a front-page newspaper article mapping out the contributions and who in state government received them.

Not Council 82, no, they can't wait to brag about their new found political "muscle." Unless they are all fools they must realize that exposing the breadth and depth of their PAC fund and blatantly naming its benefactors seriously jeopardizes the fruit that could be borne from a large PAC fund.

However, I believe that is merely a secondary consideration in their grand scheme. Their primary concern is deluding their members into keeping AFSCME Council 82 as their bargaining agent when NYSCOPBA comes knocking on the door.

Council 82's political report card is a resounding "F" for the 1997 - 1998 legislative session (which was the first for the large PAC fund). Not one bill was signed into law that would benefit the everyday lives of New York State Correctional Officers. The flexing Council 82 "muscle" couldn't even lift the inmate testing and disclosure bill into law, which would have mandated inmates who throw feces, or other body fluids on officers to be tested for HIV, tuberculosis, etc.

New York state correction officers would be much better served by NYSCOPBA, which will emulate the other major independent correction officers' unions nationwide, like New Jersey, California and Massachusetts. These independent unions don't talk about what they will do for you, they just do it.

Mr. D'Allesandro also made a very symbolic statement. He said things usually move along at a "glacial pace." For more than 25 years, AFSCME Council 82 has moved along at a "glacial pace." Finally, NYSCOPBA offers all of us an opportunity to get out of the ice age.

Robert J. Cronin
NYS Corrections Officer
Hudson Falls

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Independence

WAPCO

WISCONSIN ASSOCIATION OF PROFESSIONAL CORRECTIONAL OFFICERS

Jim Wurtz, President- Mark Towne, Executive Vice-President- Richard Malchow, Executive Secretary

Vincent Caporale, Executive Treasurer- Paul Wright, Grievance Coordinator

"Solidarity and Independence"

TO: All New York Correctional Officers

FROM: Jim Wurtz, President

Wisconsin Association of Professional Correctional Officers (WAPCO)

RE: Independence

Brother and Sister Officers;

I would like you to know that the problems you are experiencing in New York are nearly identical to those we have here in Wisconsin. Poor representation, pay that is far below surrounding and independent states, contract raises that are less than the cost of living, and a lack of support on our issues as professional Correctional Officers are just some of the problems we share. This should not be surprising though, as we share the same controlling labor organization - Afsome.

One of our biggest complaints has been our pay. We have gone over 10 years with raises that have not kept up with the cost of living. Sound familiar? In Wisconsin, as in NY, we are paid thousands, even tens of thousands less than states like California, Massachusetts, New Jersey, Rhode Island, and Oregon - states with Independent COs' unions. We don't expect to make the kind of money they do in California, but our pay is thousands less than in EVERY state we border.

A \$2.00 per hour raise would not even get us out of last place when compared to CO's in bordering states! So what did Afsome Council 24 do LAST YEAR when they negotiated a contract? They accepted raises of about 1.6% per year over two years! We got the same as the Private Sewer Consultants and the Secretaries!

When we first brought the issue of pay in bordering states up they called us liars. They even tried to tell us how well paid we were. Now that it has backfired, and we have an active decertification movement, they have gone to the state begging for an UPGRADE because our pay is so poor compared to surrounding states! This less than a year after they accepted a contract -- Shameless! Does this sound familiar to you? It should, because it is the same thing YOUR Afsome Council is doing! Attempting to save their skins by trying to get the state to GIVE them what they couldn't get you at the bargaining table.

What is most disturbing to us is that once the Governor told Afsome that an upgrade was not going to happen they started the rumors throughout Wisconsin that it was because of the WAPCO decertification, and that we, WAPCO, "lost" the upgrade. They told the membership that if they signed WAPCO cards that the upgrade was off, knowing full well that they were not getting the upgrade to begin with. The Governor told them to negotiate pay raises at the contract table, which they have proven to be incapable of doing, so now they try to blame us.

Does this sound familiar? The same pattern of events is happening in Wisconsin and in New York simultaneously. If it wasn't for the internet we never would have known that they are running the same scam on Officers in Wisconsin as they are on Officers in New York, and probably throughout the country.

We can no longer allow ourselves to be "mis"-represented by that organization. We cannot afford to support an organization which continues to show that it is the almighty dues dollar that is their sole motivation. They lie in New York, they lie in Wisconsin, anything to keep that per-capita extortion tax coming out of our paychecks and going to Washington. They do not deserve the privilege of representing Correctional Officers in Wisconsin, New York or anywhere else. Let them represent the "mall guards", we as professionals are joining the ranks of the most successful organizations in Corrections and going independent.

We hope you are successful in your search for true, honest and responsive representation through independence. If there is anything WAPCO can do to help now or in the future rest assured all you need do is ask.

Solidarity and Independence!

Jim Wurtz

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Halloween 97 Elmira Escape Attempt Verdict is in

A former Elmira Correctional Facility inmate's failed prison escape got him another 1.5-3 years behind bars.

But that's nothing compared to the punishment the New York State prison system gave Timothy C. Fair. He'll spend the next 10 years locked in solitary confinement at Southport Correctional Facility.

"One of the prime responsibilities of government is to protect the public," said Mike Huston, a spokesman for the state Department of Correctional Services. "Inmates who choose to break the law while in custody, can be assured they will face swift and severe disciplinary action at the facility level as well as criminal prosecution."

On Friday, Chemung County Judge Samuel J. Castellino completed the criminal prosecution when he sentenced Fair on the first-degree attempted escape charge.

Seconds later, Fair -- manacled in handcuffs -- walked away from the judge laughing and smiling as he spoke with his lawyer, Paul Corradini of Elmira.

Corradini said they were discussing Fair's planned appeal of the jury verdict and sentencing. Fair was convicted July 28 in Chemung County Court.

He and another inmate, 43-year-old Aguedo J. Chevez, a convicted murderer, had planned the escape for months. The caper featured tunnels, ingenious tools and inmate mannequins. But the ploy was discovered the night of the planned escape -- Halloween eve 1997 -- when another inmate snitched to prison officials.

"The attempted escape was very well planned and thought out," Castellino told Fair. "It wasn't a spur of the moment thing. It seems to me you can put your spare time to better use rather than planning and plotting something like this."

Fair will have a lot of spare time now at Southport, an all-solitary confinement prison where inmates are locked in cells 23 hours a day.

The 34-year-old Fair, of Rochester, was serving 13 years for burglary, auto theft and other crimes. He'll do at least 10 years of that sentence, as well as the attempted escape sentence at Southport, along with Chevez.

Because of their attempted escape, the two men also lost the following privileges: phone, packages, movies, commissary and recreation, said Mike Huston, a spokesman for state Department of Correctional Services.

Chevez, who was serving a 25-years-to-life sentence for murder, pleaded guilty to the attempted escape charge May 1, said Assistant Chemung County District Attorney Christopher Baker.

Chevez of Rochester, was sentenced June 19 by Chemung County Judge Samuel J. Castellino to 1.5-3 years. That time will be added to his murder sentence, Baker said.

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AFSCME Council 82 Files Charges and Expels Our Members

AFSCME Council 82 has filed formal charges and/or expelled NYSCOPBA Officers and supporters. These members are exercising their right under the guidelines of the New York State Public Employee Relations Board (PERB) to challenge AFSCME Council 82 for representation of our bargaining unit.

AFSCME Council 82 has decided that these members deserve to be expelled from the Union for trying to improve the working conditions of the membership. PERB gives the membership the right to challenge, yet AFSCME Council 82 penalizes them for the same activity. Does AFSCME Council 82 want what is best for the members or what is best for AFSCME Council 82?

Independence from national unions is the current trend across the country. As fiscal restraints of government agencies becomes the norm, the advantages of a national umbrella are diminished. It is clear that our membership in AFSCME is negatively effecting our memberships contract negotiations. NYSCOPBA wants independence for the membership, and AFSCME Council 82 wants NYSCOPBA to go away. AFSCME Council 82 is willing to sanction its own members to this end.

If AFSCME Council 82 was a lean, responsive and aggressive union there would not be a challenge. If AFSCME Council 82 was confident in their organization, there would be no need to charge and expel these members.

AFSCME Council 82 Members Charged or Expelled

CHARGED- Brian Shanagher under Article X, section 2 of the AFSCME Constitution

CHARGED- William West under Article X, section 2 of the AFSCME Constitution

CHARGED- Robert Cronin under Article X, section 2 of the AFSCME Constitution- Hearing date 09/18/98

EXPELLED- Darren Butchino under Article X, section 2 of the AFSCME Constitution

EXPELLED- Phil Bijeau under Article X, section 2 of the AFSCME Constitution

CHARGED- Joe Green under Article X, section 2 of the AFSCME Constitution- Hearing date 09/22/98

CHARGED- Pat Vaccaro under Article X, section 2 of the AFSCME Constitution- Hearing 09/22/98

Members have also been suspended from their positions at their locals for following the mandate of their membership. A local official may do as their membership mandates as long as it is not counterproductive to the goals of AFSCME Council 82.

SUSPENDED- Mark Lewandowski under Article IX, section 43 of the AFSCME Constitution- Hearing 09/23/98

SUSPENDED- Grant Marin under Article IX, section 43 of the AFSCME Constitution- Hearing 09/23/98
