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### **Council 82 members OK contract**

From: dailygazette.com 08/02/00

ALBANY - The pared-down membership of Council 82 has approved a new contract.

The pact calls for salary increases of 13 percent over a four-year period retroactive to April 1, 1999, when the union's old contract expired. It also provides members with a \$500 bonus.

Council 82 represents about 780 supervisory personnel in the state Department of Correctional Services, the State University of New York, the state Department of Environmental Conservation and other state agencies.

The union also once represented more than 24,000 state prison guards before guards voted in 1999 to change their bargaining agent to the state Correctional Officers and Police Benevolent Association

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## "Letter to the Editor" 8/3/00

To the Editor,

I am a Corrections Officer, a parent, and a resident of Oneida County. This letter is written in response to many articles that have been placed in the news of late dealing with NYS Corrections Officers voting down the contract offered by the state. I would like to share with you some of the information that has led Sergeants/Officers to vote down this proposed contract.

The director from Governor Pataki's "Governors Office of Employee Relations" Linda Angello has stated that the offer made to the Officers of this state is fair and equitable and that there is no money for better percentage compensation. Yet as the officers are offered raises of of 13% over the four year life of the contract, Ms. Angello enjoyed a 28.3% raise on 4-15-99. At this time the state is enjoying a 1.5 billion dollar surplus and has rewarded its Governor, Legislators, and Executive Employees with significant salary increases ( as high as 38%) but would like to forget the people that makes the state work, the employees. Ms. Angello also states that recently legislation passed involving a COLA (cost of living adjustment for retirees) and the elimination of a 3% mandatory contribution to the retirement system ( for any tier 3 or 4 employees) with more than 10 years service. These benefits are going to be denied to Corrections because they failed to ratify their contract. This is our states version of good faith bargaining? It would seem that denying a benefit for "ALL" state employees is not unlike extortion on the part of the state. The Taylor law states that until a new collective bargaining agreement is reached that the state and the Correction Officers will abide by the terms of the last ratified agreement. As usual the Corrections Officers of this state are living up to their end of the bargain. Protecting our communities by keeping one of the best fewest escape records in the country, endangering our lives by working in a prison system that is overcrowded, and subjecting ourselves to illnesses that very few others deal with in their work environment. Ms. Angello has stated that there is no more funding to pay for the dramatic increase in our prescription drug costs and believes we should pay our fair share. Ms. Angello makes 127,000 dollars a year and has probably never set foot in a Correctional Facility. I would hate to guess what she considers her fair share. Corrections Officers make approximately 33% of her salary to do what she will never have to do. She will never be involved in breaking up a disturbance or be subjected to a riot situation. She will never do a cell extraction. She never is anywhere near an institution where approximately 68% of the population is HIV positive. Not to mention the multi drug resistant TB and Hepatitis C that are commonplace in these facilities. I would like to express to the community that we are looking for a fair "Law Enforcement Contract". No more, no less!

Here are some facts that will never make Ms. Angello's press releases. Right now, this states inmate population is 130% compacity! Over 900 Seargeants/Officers were assaulted in Correctional Facilites in 1999! The average life expectancy of a Correction Officer is 57 years as compared to the national average life expectancy of 76.5 years. The divorce rates for Correction Officers is 3 times higher than the average citizen. These are not complaints, they are simple facts! We do a very stressful job and we do it to the best of our ability.

Please remember that we are members of your community and have dedicated ourselves to making our communities safe for your family and ours. We have dedicated ourselves to a career few people wish to

do or even consider. We seek to be fairly compensated for the job we perform. Is it really that much to ask? Think of the criminals whose crimes have bothered us the most. Think of the life without the possibility of parole sentences that these criminals received for these crimes. Now a Corrections Officer/Sergeant has to deal with with this individual and hundreds like him everyday, 24 hours a day, Christmas Day, New Years Eve, all the time! We are Law Enforcement Professionals and will continue to do what is expected of us. We expect the Governor and his staff to do the same. Our contract will now go to fact finding (a process that involves the state Legislature) for alternatives to reaching a good faith agreement. Corrections Officers/Sergeants are on the side of our community. We ask you to stay on our side!

John Gavin  
Correction Officer  
Marcy Correctional Facility

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## **Sing Sing censors 6 pages of expose**

By JEFFREY SCOTT SHAPIRO

The Journal News

Publication date: 8/3/2000

OSSINING -- Sing Sing inmates with a literary bent won't get to read six pages about security measures at the prison in a new expose -- but they can't read literature on bomb making, racism, revolution or child pornography, either.

The state Department of Correctional Services' decision last week to literally cut six pages from any copy of Ted Conover's book "Newjack" that is sent to the prison shines a light on a dark corner of society where censorship is not only accepted -- it's expected." When a criminal is locked up in a maximum-security prison like Sing Sing, a lot of rights are taken away, including the right to read whatever he wants. "Prisoners are dealing with a limited First Amendment right," said Tom Terrizzi, the director of Prisoner Legal Services, an advocacy group for prisoner rights. "Not everything written or published can go inside the prison. Most prisons have a media review board to determine what can go in and what can't." Conover's book, published in June after he went undercover as a Sing Sing guard for a year, is full of frightening incidents that he witnessed as a "newjack" -- the new guard on the prison block. But the book's realistic depiction of degradation and violence isn't what drew the prison censors; it was Conover's descriptions of how guards subdue prisoners by using gas, clubs and martial-arts techniques that did. Conover dismissed the state's defense based on security precaution. "I think the real reason the department did this was to maintain a grip and reinforce control as a symbolic gesture," he said. But the longstanding prison policy, dictated by the state DOCS in Albany, has been in place for decades, giving the state the right to censor anything it finds inappropriate. The Facility Media Review Committee censors questionable reading materials sent to prisoners each week, based on statewide guidelines. Each of Westchester's three state prisons, including Sing Sing, the Bedford Hills Correctional Facility for women and the Taconic Correctional Facility, also in Bedford, has committees. The committee determines which publications stay and which are sent back. If the committee approves the publication, it is forwarded to the inmate. In some instances, only sections of an article or book are

censored.

If the inmate doesn't like the decision, he can appeal it to a higher committee in Albany. Prison guidelines forbid anything promoting violent rebellion against government authority or pornography beyond what officials consider acceptable boundaries. The penalty for a prisoner caught with contraband publications range from loss of telephone privileges to a lockdown in his cell, depending on their prior offenses. Despite prison efforts, organizations try to find ways to legally get their publications past censors. Neo-Nazi organizations operate under the cover of Christianity, using religious freedom as a legal argument to circulate racist literature within prisons, said Mark Potok of the Southern Poverty Law Center. "Many of these publications come into the prisons under the guise of religious protection, and there have been lawsuits around the country which prisons have lost trying to keep out these materials," Potok said. Groups like the New York-based Church of the World Creator and the infamous Church of Aryan Nations subscribe to a new, underground cult religion called Christian Identity that redefines Christ as an Aryan, Potok said. Pastor Richard Butler, who founded the Aryan Nations, said its newsletter, *The Way*, is sent to prisoners all over the world. "I don't know of any political newsletters we send out," Butler said. "But we do send out religious ones, and we send them out with a copy of the Bible. Then we let the prisoner make up their own mind if they want to join us." Potok said such literature creates conflict within prisons. "There are white gangs, black gangs and brown gangs in prison," he said, "and these publications can raise the political consciousness of some very scary people who in the past were very violent criminals and transform them into fully fledged members of any supremacist movement." Sometimes, prisoners get help getting past censors. "Lots of times, studies have shown that those kinds of materials actually come from guards who advocate those viewpoints," Terrizzi said. "They are trying to raise a certain level of consciousness from the prisoners who share their own views." Organizations that promote the overthrow of the government, but not in their literature, can make it past censors. *The Revolutionary Worker*, for instance, a publication of the Revolutionary Communist Party, is allowed in the state prison system. The National Prison Project of the American Civil Liberties Union has handled class-action lawsuits filed by inmates for nearly 30 years, often making a dent for prisoners' civil liberties in cases of both politics and pornography. But the group lost a battle in 1997, when Congress enacted a law enabling prisons to ban sexually explicit publications. The ACLU, along with lawyers for both *Playboy* and *Penthouse*, filed lawsuits against the federal Bureau of Prisons and lost. Nonetheless, some prisons still permit inmates to subscribe to *Playboy*. Despite the controversy over Conover's "Newjack," published by Random House Inc., Kara Gostch, public policy coordinator for the Prison Project, said she didn't expect the group to file a lawsuit over the book. "In cases involving security issues," she said, "the prisons will usually win every time." "In cases involving security issues," she said, "the prisons will usually win every time."

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## Guards' union sues over violations in privacy law

th-record.com 08/17/00

By Matt Smith  
Ottaway News Service  
msottaway@aol.com

Albany - A federal lawsuit filed yesterday against the state Department of Corrections claims prison inmates are obtaining guards' Social Security numbers and other personal information.

"It's absolutely incomprehensible," said Corrections Department spokesman James Flateau after learning of the lawsuit filed by the New York State Correction Officers and Police Benevolent Association.

The union, which represents some 24,000 prison guards statewide, claims the Corrections Department is not safeguarding, and has even released on occasion, officers' private information to inmates.

In a written statement released yesterday, union officials said the department's "practice of mishandling private information jeopardizes the officers' safety and causes unwarranted intrusions into their personal lives."

Flateau said the suit stems from the "traditional policy" of using guards' Social Security numbers on certain official documents.

The union claims that "wrongfully" requiring such information violates officers' constitutional rights. The union also maintains that by releasing the information, the department has violated federal privacy law.

The union is seeking unspecified damages, as well as an order forcing the department to change its policies.

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## **NY Prisons restoring beard- length rules**

timesunion.com 08/16/00

Albany -- One-inch rule for facial hair is back, and exemptions based on religious grounds are out

The state prison system has taken steps to restore an old rule limiting inmates' beards and mustaches to one-inch in length and eliminating exemptions on religious grounds.

The one-inch rule had been in effect for years and considered a security measure, as inmates could hide weapons, such as razor blades, in long beards, said James Flateau, spokesman for the state Department of Correctional Services.

Previously, inmates needed a court order for longer beards. Then in 1994, Congress passed the wide-ranging Religious Freedom Restoration Act (RFRA). Based on that legislation, a group of Rastafarian inmates sued the department claiming their religion required long beards, said Flateau.

Federal court sided with the Rastafarians, and the department revised the rule to allow exemptions to the length restriction based on an inmate's religious beliefs, Flateau said.

But in June 1997, the U.S. Supreme Court struck down the Religious Freedom Restoration Act as unconstitutional in a Texas case unrelated to inmates.

As a result, the state plans on restoring the one-inch rule to the way it was before RFRA was enacted, Flateau said. That means inmates can't claim a religious exemption. The only way seriously religious



inmates can wear a long beard is to be successful in court, he said.

The restored rule takes effect in 45 days, Flateau said. No legislative action is required. During the next six weeks, the public can comment on the rule change, and reasonable objections will be considered by the commissioner, Flateau said.

Dennis Fitzpatrick, spokesman for the New York State Correctional Officers and Police Benevolent Association, which has 24,000 members, said he prefers to see facial hair banned altogether.

By allowing an inmate to "change his appearance at will by growing a beard or growing a mustache," it becomes costly for the state, which has to photograph the prisoner's new appearance, Fitzpatrick said.

Also, by requiring short beards and mustaches, the outline of an inmate's face or jaw line is not disguised, Flateau said.

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## State fair opens amid Co pickets

Syracuse: Gov. Pataki takes in the annual state fair while pickets march outside the front gate.

With a sparkling summer day as the backdrop, Gov George Pataki and tens of thousands of people headed to the opening yesterday of the 2000 New York State fair, out for a day of fun and frolic.

For about 200 people, though, visiting the fair was strictly business.

Correction officers from across the state picketed outside the main gate for several hours as Pataki toured the fair.

The state's prison guards have been working without a contract since April 1, 1999. In July, the union's 24,000 members barely defeated a proposed four-year contract offering a salary increase totaling 13 percent

Union leaders said the contract still left New York corrections officers \$10,000 to \$20,000 less than their counter-parts in other states.

"Now the governor is trying to blackmail us by not paying our 3 percent retirement enhancement benefits because we didn't ratify the contract, said Richard Harcrow, assistant to the president of the New York State Correctional Officers & Police Benevolent Association.

"We won't stand for it We will follow him from Albany to Buffalo and wherever until we get a fair, respectable contract," Harcrow said.

"The contract offered... is a fair contract that recognizes the important work of our correction officers while protecting the taxpayers," said Suzanne Morris, a spokeswoman for Pataki.

Morris noted the same contract received resounding ratification by all other state employee unions, including correction supervisors, and was defeated by the union membership by only a small margin.

Currently, negotiations between the state and union have moved into fact-finding, a stage under state law

in which a mediator holds hearings and then makes a recommendation for a settlement.

It was the second consecutive year a statewide union protested over no contract during the governor's annual appearance at the fair.

Last year, members of the Civil Service Employees Association and Public Employees Federations, the two largest state employee unions, shouted down Pataki during the opening ceremony and then chased him around the fairgrounds as the governor walked through the displays and exhibits. Both unions have since settled on a contract, leaving correction officers as one of the last unions still seeking to reach a new contract with the state.

Yesterday, correction officers stayed outside the main gate. Walking wide circles around the base of the towering state fair sign, each carrying a sign, they chanted, "We want a fair contract."

Pataki arrived by a side gate on another side of the fairgrounds and did not see the demonstrators. Inside, the governor helped open the 154th edition of the state fair and then toured the fair mixing in some business of his own.

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## **Arbitration viewed as answer to solving officers' concerns**

FISHKILL: Correction officers want a 'fair contract.'

By A. Tacuma Roeback  
The Times Herald-Record

The union represents the state's 24,000 corrections officers has long bemoaned the contractual never-neverland it has shared with Gov. George Pataki's administration.

The union has preached long about the scars its members incurred on the job - both visible and invisible.

And a growing body of members are disgruntled with how their union has handled its latest contract negotiations.

All of these gripes came to a head at last night's meeting between New York State Corrections Officer's Police Benevolent Association and area lawmakers from the state.

The main point that members impressed to lawmakers was binding arbitration.

"We know that's the only way we'll get a fair contract," said Dave Melendez, a union steward and correction officer with the Beacon Correctional Facility.

Nearly 150 correction officers jammed a meeting hall at the Fishkill-Beacon Correctional Facility to find out what options the have left.

Union sympathizers believe that a law calling for binding arbitration, which would be passed during the next legislative session, will be The best option.

Currently NYSCOPBA, which has been without a contract for 16 months, is locked into an impasse with

Pataki's administration.

The union is now in fact-finding phase of its contract negotiations.

Simply put, it can take months before an agreement is reached.

With binding arbitration, the period after a contract impasse is expedited. A specific time provision is set to achieve a contract.

Assemblywoman Nancy Calhoun, R-C Blooming Grove, and Assemblyman Tom Kirwan, R-C Newburgh, were on hand to listen to union gripes and give a few recommendations of their own.

"I think the real battle lies in the increase of (salary) grade," said Calhoun, who believes that's a better alternative for the union than simply seeking salary increases.

A tentative contract was reached in May, but it was later rejected by a union vote.

Under state law, if Pataki rejects the recommendations that result from the fact-finding phase, a committee of lawmakers can still establish a contract without his approval.

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## **Letter to the Editor - Poughkeepsie Journal on 8/08/00**

Letter to the Editor

I am sure that the New York State Department of Corrections is wondering why they are having such a hard time recruiting people to take the up coming Correction Officers exam. Could it be that the public has finally figured out that an Officer is locked in a prison with violent criminal offenders, whom I might add are not kept behind bars 24 hours a day, with nothing but a baton and their wits to protect themselves? Maybe they have discovered that the Correction Officer is the number one crime victims group in New York State? Where else can you have aids infected urine and feces thrown at you or be exposed to hepatitis C infected blood for \$30,000 a year? Corrections Officers have a high rate of stress related illnesses and the divorce rate is unparalleled by any other profession. So why do these men and women put their lives on the line for a State that doesn't give them the respect they deserve? Good question, one that can't be answered in this forum.

Michael Mazzella  
New York State Correction Officer  
Green Haven Correctional Facility  
Newburgh, NY (914) 561-7258

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## **Letters to the editor 8/11/00**

Serious prison incidents are being downplayed

This is in response to Superintendent Michael McGinnis' letter to the editor about the June 24 incident at



Southport Correctional Facility being "blown out of proportion." It is clear to me that he is doing nothing but damage control for the New York State Department of Correctional Services. The incident on June 24 was a bloody carnage initiated by a razor-touting felon bent on carving another inmate's face like a Thanksgiving turkey.

Three brave correctional officers suffered significant exposure as blood coated their bodies and uniforms. Days later, a fourth officer was rushed to the hospital with blood clots from bruises sustained quelling the disturbance. He nearly died as a result of the melee.

The three officers were placed on a concoction of numerous pills used to help stem the spread of AIDS. They were sent home, as this treatment leaves the taker sick and weakened. To compound matters, the state insurance fund has denied workers compensation benefits to these officers.

Despite the superintendent's assertions, departmental sanctions and/or outside criminal charges are of little consequence to "box" or special housing unit inmates who on many occasions are serving life terms. Violent attacks in the visitation rooms by these Southport inmates are not unusual.

Just months ago, a corrections officer at Wende Correctional Facility was slashed across the face in the visitation room. Another officer nearly lost his life in Shawangunk Correctional Facility as a 9-inch shank was plunged into his chest.

The correctional officer at Southport will continue to protect and serve the public in protecting society from New York state's most violent felons.

What confuses and angers the officers involved is the Department of Correctional Services' public relations efforts to downplay these serious incidents, workers compensation being denied for performing their duties and the lack of cooperation from the Department of Correctional Services in revealing whether they face a deadly disease such as AIDS.

GRANT R. MARIN

Vice President

New York State Correction Officers and Police Benevolent Association

Albany

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## **Letter to the Editor - Times Herald-Record 8/17/00**

The current problems between State Correction Officers and state government seems to be taking a new twist, particularly in the level that politician's like George Pataki will stoop down too, to force a poor contract on Correction Officers. Members of NYSCOPBA recently turned down a contract offer that was meager compared to the vast sums of money now in the state coffers he could have and should have done better by Correction Officers. He severely underestimated the frustration that Correction Officers are feeling at these types of offers during times of prosperity. That was bad enough but what he has done since is even worse.

NY State Correction Officers operate under the Taylor Law which has tight restrictions on what can be done by the union during contract negotiations, basically its like boxing with one hand tied behind your

back. The restrictions include making it unlawful for Correction Officers to strike. In fact Correction Officers can expect to be fined two days pay for every day they walk a strike line. The law further mandates that the state must promote a harmonious relations and bargain in good faith at the tables. The whole process of negotiating has the chips stacked in the governors favor. It is my contention that Mr. Pataki does not know the meaning of bargaining in good faith, so far he has shown State Correction Officers nothing but contempt, which has now reached a new level.

In the past few weeks Governor Pataki finally confirmed what he had been threatening to do, use upcoming retirement benefits as a negotiating tool. These benefits provide many state workers the benefit of no longer having to contribute towards their retirement after 10 years of service. Mr. Pataki will provide this benefit across the state except for NY State Correction Officers. This is nothing more then legalized extortion, as retirement benefits are not negotiable, they must go through the legislature for approval, and to state openly that Officers will not receive this benefit for only one reason, their failure to ratify a contract they feel is unfair. George Pataki is clearly violating the entire sprit of the Taylor Law and does not care, he chooses the low road in his treatment of Correction Officer's, he prefers holding a gun to their heads to illegally force a contract no one wants.

Like most politicians Pataki has no clue as to what goes on in this system and never will. A politician who made a similar mistake was Nelson Rockefeller when he did not see a system crying out for reform before the disaster at Attica. George Pataki could do something to change it, but he knows that for now we will comply with the Taylor Law even if he chooses not to. But he should see the writing on the wall these are not the same people that he dealt with when AFSCME was running our union. He should not take CO's for granted and if his wish is to provoke a strike he is sure on his way to seeing ti to fruition.

David F Melendez  
Chief Sector Steward  
NYSCOPBA  
Beacon CF

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## **Wanted: Solid Prison Guard Candidates**

State Launches recruitment drive, but union says higher standards, better pay needed.

By Jon Hand  
staff writer

State prison officials are hoping an aggressive recruitment drive will produce a bountiful harvest of candidates from which to choose corrections officers.

But union leaders say that without higher standards and better pay and benefits for officers, the new crop will yield only one thing: Green Recruits.

" We want to gear our recruitment toward people who have two years of criminal justice under their belts," said Officer John Bielowicz, a New York State Corrections Officers and Police Benevolent Association steward at Auburn Correctional Facility. " You have people who are coming in who are green, coming in from working at Burger King and McDonald's, and then they're in charge of a company

with 50 inmate's."

The State held a job fair at Auburn Correctional Facility last week to recruit people to take the Nov.18 test. The exam is given on average every two years,said Sandra Brown , a spokeswoman for the State Department of Civil Service, which administers the test.

" The agencies request exams based on manpower needs," Brown said. James Fleteau, spokesman for the state Department of Correctional Services, said the need rises from the state opening new prisons, such as Five Points Correctional Facility in Seneca County. He said the state is trying to bring in more minority hires.

Similar fairs have been held across the state, but local and state union leaders say those fairs are lacking.

" Our bone of contention is that both the union and the department that we deal with should be trying to professionalize the job." said Brian Shanagher, president of the New York State Corrections Officers and Police Benevolent Association. " They should start raising the bar instead of lowering it. They recruit out of unemployment offices, welfare offices, places like that, and certainly undesirables are taking advantage of that fact."

The union would like a two year criminal-justice degree to be a requirement for the job, as it is with some other Law Enforcement agencies in the state.

In New York City, for example, candidates for corrections officer must have 60 college credits, Shanagher said.

Fleteau counters that if the state began to require a college degree, some 80 percent of the corrections officers currently working for the state wouldn't make the grade.

" The commissioner's (position) is that we have a damn good work force, a professional one, and a dedicated one ... if Shanagher is saying they are sub-standard because they don't have two-year degrees, that's Shanagher's issue, not ours."

State officials will not find qualified candidates until they and the union reach a contract that puts officer's salaries in line with other state jobs and corrections officers across the country, union officials said.

State Corrections Officers in July narrowly defeated a contract negotiated by their union and the state. The union's 24,000 members turned down the four year contract 10,960 to 9,746, with more than 85 percent of the union voting. Sticking points included dissatisfaction with the proposed pay and the benefits package offered, particularly the drug prescription plan.

Officers start at \$25,029 the first year and move up to about \$30,000 after a probationary year.

" You can pretty much go anywhere and make that," Bielowicz said. " Let's be honest about it, I could go to Austeel and with overtime make that, and I don't have to worry about walking into 1,800 convicted felons to make my money."

Fleteau disagrees, noting the average weekly salary in Cayuga County, for example, is \$23,504 a year, according to state department of Labor statistics. Considering the starting salary for corrections officers, he said, " You're going to try and tell me that puts you on welfare?" As part of the union's aggressive

campaign against the state and Gov. George Pataki, who the union say's has balked on promises he made to corrections officers, officials took out a full page advertisement last month in papers across the state.

The ad reads: " Help wanted: Get Stabbed, kicked, punched, spit on, cursed and mentally tortured on a daily basis. " Be one of the 1,000 correction officers who are assaulted each year."

Flateau declined to talk about the ad. He said there has been minimal change in recruiting numbers in recent years. He added that the state's correction's officer-to-prisoner ratio is better than those of similar-sized states.

Union leaders, meanwhile, are afraid inexperience will manifest itself inside the lockups.

" They (State Officials) are not trying to get the best wood out of the forest, so to speak. It's not the best timber." Shanagher said,. " The real bottom line is, the criteria for the job is a GED (General Equivalency Diploma)and a Heartbeat."

Flateau responded, "Everyone is a rookie, when they start, aren't they ?"

" You have to have a GED, pass a civil service exam, a physical, a psychological screening and background investigation, you're automatically excluded if they have a felony conviction. ... and the training academy and on-the-job training. That's a lot more than a Heartbeat."

Officers Exam:

The exam for state corrections officers will be Nov. 18 at civil service testing centers across the state. Applications can be requested from local state employment offices and the New York State Department of Civil Service, Building One, State Office Campus, Albany 12239. Applications and a \$25 nonrefundable fee are due at that office by Oct.25.

This article appeared in the Syracuse Post Standard on Tuesday September 5th 2000.

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## **FOR IMMEDIATE RELEASE**

**NYSCOPBA SUES STATE OVER GOVERNOR'S REFUSAL TO MAKE NYSCOPBA MEMBERS ELIGIBLE FOR ENHANCED RETIREMENT BENEFITS**

On August 31, 2000, NYSCOPBA, the union representing approximately 25,000 Correction Officers and other law enforcement personnel employed by the State of New York, and nine individual NYSCOPBA members, filed suit in State Supreme Court, Albany County, challenging the legality and constitutionality of recent legislation providing for enhanced retirement benefits for some groups of State employees.

This legislation, Chapter 126 of the Laws of 2000, signed into law by the Governor on July 11, 2000, gives the Governor the authority to "elect" whether to provide certain enhanced retirement benefits to all Executive Branch employees, or only to employees represented by a specific certified labor union, and/or to unrepresented employees.

The Governor has elected to provide the Chapter 126 benefit enhancements to all Executive Branch employees in the State and Local Retirement System EXCEPT those employees represented by

## NYSCOPBA.

On July 11, 2000, NYSCOPBA members, in a fair and democratic vote, rejected a tentative agreement with the State for the period of April 1, 1999 through April 1, 2003. NYSCOPBA believes that the Governor's failure to elect to provide these benefit enhancements to its members is a direct result of the rejection of the tentative agreement.

"The members of this unit perform difficult and dangerous work, day in and day out, with or without a contract. They deserve these retirement benefits as much as employees who have a ratified agreement," said Brian Shanagher, NYSCOPBA President. "The Governor's refusal to treat us at least as well as other State employees is unfair and unjustified."

The bill provides significant retirement benefits to State employees who are members of the State and Local Employees Retirement System.

- Employees in Tiers 1 and 2 (those who became members of the System prior to July 27, 1976) will be entitled to up to two years of additional retirement service credit.
- Employees in Tiers 3 and 4 (who became members of the System after July 27, 1976) and who have or reach ten or more years of membership in the Retirement System will, as of October 1, 2000, no longer be required to contribute 3% of their salary to the Retirement System.

The complaint alleges that excluding NYSCOPBA members from these benefit enhancements impairs and diminishes the contractual relationship with the State and the Retirement System pursuant to Article 5, Section 7 of the State Constitution. The complaint also raises Equal Protection and Due Process claims under the State and Federal Constitutions, as well as claim that connecting enhanced retirement benefits to a ratified collective bargaining agreement is illegal and unconstitutional.

NYSCOPBA is represented Hinman Straub, P.C. (Richard E. Casagrande, Esq., of counsel). Further information can be obtained from Denny Fitzpatrick, NYSCOPBA Director of Public Relations, at (518) 427-1551, Extension 246, or by contacting Hinman Straub P.C. at (518) 436-0751

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## **Solitary for Inmates Who Nix DNA Samples**

From: nydailynews.com 09/13/00

State prison officials will put inmates in solitary confinement if they refuse to provide authorities with DNA samples, the Daily News has learned

The new rule grows out of a 1999 law requiring felons to provide a sample to a state DNA database intended to enhance the ability of cops to solve violent crimes.

DNA samples have been taken from about 26,000 of the 70,000 convicts packing New York's prisons, said Department of Correctional Services spokesman James Flateau.

And only two inmates tried; in vain, it turns out; to resist.

"We held them down and we took it,"; Flateau said. Solitary confinement is officially known as "special

housing units." Inmates call it "the box" because they are locked in small cells for virtually the entire day.

Prisoners Legal Services Director Thomas Terrizzi voiced concern over the new rule, saying he believes there is already "an overuse of special housing units" by the prison system.

To get the samples, blood is drawn by pricking an inmate's finger, he said.

But Flateau said the new rule simply changes the place where insubordinate inmates are held from "keeplock" confined to their own cells, to the special housing units.

The DNA data bank, at state police headquarters in Albany, opened in August 1999 and includes DNA from some 9,500 criminals; it will grow significantly once all the samples collected from inmates are analyzed, said Caroline Quartararo, the Pataki administration's criminal justice spokeswoman.

Officials said the databank already has helped solve numerous crimes; including the 1979 stabbing death of a 22-year-old Westchester County woman.

Bloodstain evidence collected at the crime scene was matched last year with a career criminal.

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## **Are killers eyeing your records?**

Prison officials find a computer disc containing DMV memoranda on an inmate in Arthur Kill customer service program

September 19, 2000

By ROBERT GAVIN  
ADVANCE STAFF WRITER

State investigators are probing whether personal motor vehicle records fell into the hands of prisoners -- including a convicted killer -- at Arthur Kill Correctional Facility.

The concerns arose after a computer disc containing computer games and memoranda from the Department of Motor Vehicles (DMV) was found on inmate Mark Yacubovich, 37, during a random, routine pat-and-frisk Friday morning, said John Schiavone, a correction officers' union leader at the medium-security lockup in Charleston.

Since the 1980s, state prison inmates have served the DMV as customer service representatives, handling phone calls from motorists routed to a call center inside the 900-bed jail. Yacubovich works in the program. Arthur Kill is one of two prisons in the state with a DMV call center.

Following the discovery of the disc, officers searched Yacubovich's locker and other areas of the prison and turned up 30 to 35 other discs, authorities said. Yacubovich and three other inmates suspected of possessing the contraband discs have been placed in solitary confinement, officials said.

Yacubovich is serving 12 to 25 years for first-degree manslaughter in connection with a Brooklyn crime. Schiavone said Yacubovich has a master's degree in computer science and should have been kept out of the DMV program, had he been properly screened.



The stolen discs have raised concerns about the possibility -- at least in theory -- that inmate hackers with access to DMV computers could break into databases to access information on where people live, what cars they drive and other private details.

The Arthur Kill call center was shut down Friday. The call center at Bayview Correctional Facility in Manhattan remains open, officials said.

"That call center has been temporarily shut down," said Ken Brown, a spokesman for the DMV. He said calls are being rerouted to the Manhattan jail and to DMV headquarters in Albany.

The state Department of Correctional Services (DOCS), which runs Arthur Kill, did not return numerous phone calls from the Advance seeking comment yesterday.

"There should be no way for the inmates to get their hands on it," said Schiavone, referring to motorists' records. "This issue should not be an issue. We should not even have to worry."

Schiavone said it is unknown if Yacubovich or any other inmates involved accessed personal motorist information.

Joe Picchi, another DMV spokesman, said Friday night investigators had yet to check the content of all 35 discs. No sensitive motorist information was found on any of the discs already checked, he said.

"He did not breach our security system and he didn't even have access to our security system," Picchi said of Yacubovich. He said inmates in the call center can only look at license validity and expiration dates, not personal information.

"We don't consider this a major incident, but we're still investigating," he said.

Schiavone, the Staten Island delegate for the state Correctional Officers and Police Benevolent Association, said in a statement that he and other union leaders were immediately informed of the situation and were assured a thorough investigation would occur. Outside law enforcement units and deputy commissioners from DOCS and DMV are expected to probe the prison, he said.

Schiavone stated that he urged management to enhance security in the call-center area. He wants another officer there, plus other security measures, to eliminate such potential problems in the future.

In the union statement, regional vice president Edward Mercaldo was quoted as saying if management does not increase staff for the program, that area of the prison should be closed permanently. It was noted in the statement that "DMV is saving millions of dollars a year utilizing inmate labor."

Arthur Kill made headlines this year with more than one inmate being investigated on heroin charges. Schiavone said in August that there had been an increase in drug possession, violence and assaults on staff in the prison.

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## County prosecutes inmates in attacks

By Don Lehman, Staff Writer The leg came flying out of nowhere, striking the correction officer solidly in the groin. Doubled over, the officer staggered down a hallway at Great Meadow Correctional Facility, moaning in pain.

The inmate who delivered the kick could be heard laughing and yelling over and over, "How'd you like that?"

A video camera at the Comstock prison caught the June 18, 1999, assault on tape, the first of two that inmate Larry Porter committed on an officer there in eight months, according to prison officials.

They weren't the first times Porter had been combative toward officers, however.

His prison disciplinary record shows 49 other assaults on staff at five other prisons over a 10-year period, including a handful of incidents in which he tossed bodily fluids at guards, officials said.

But despite the fact Porter has injured dozens of guards, it wasn't until this year that he was prosecuted criminally for his violent behavior inside prison walls.

The 33-year-old Porter made the mistake of assaulting officers at Great Meadow Correctional Facility. The Washington County district attorney's office is one of the few in the state that prosecutes crimes that occur inside state prisons.

In a span of a month, two Washington County juries convicted Porter of felony assault, the latest conviction coming Friday when a jury found him guilty of second-degree assault after just 45 minutes of deliberations. He could face another 14 years in prison on top of the 4-years-to-life term he's serving for a 1988 New York City drug conviction.

Washington County District Attorney Robert Winn said the attacks show the type of violence correction officers deal with on a daily basis, as well as the need to prosecute them. Violence can snowball if not handled in the proper forum, he said.

"If the (criminal justice) system doesn't do anything, the staff might take things into their own hands," he said. "The tapes (in the Porter incident) show remarkable restraint. There was no retaliation at all."

Dennis Fitzpatrick, spokesman for the New York State Correction Officers and Police Benevolent Association, which represents more than 20,000 correction officers around the state, said the lack of prison-crime prosecution in other counties has been a bone of contention for years.

An estimated 1,000 officers a year are assaulted, he said. The potential to add extra prison time serves as a deterrent to inmates, he said. District attorneys in many counties don't prosecute prison cases because of budget constraints, Fitzpatrick acknowledged.

Washington County's policy to prosecute them began in the 1970s under then-District Attorney Thomas Mercure, who is now a state Appellate Division justice, he said. The office has prosecuted 30 prison cases so far this year.

The union simply wants prisoners held to the same standards behind bars that they would be on the street, Fitzpatrick said.

"It's a major problem," he said of the lack of prosecution around the state. "The bottom line is: if a person did this to a police officer on the street, there'd be no question."

In Porter's case, neither of the officers he allegedly assaulted at Great Meadow was seriously hurt, though one was briefly knocked unconscious when he was kicked in the groin and head by Porter. The other officer suffered bruised testicles as the result of a kick to the groin.

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## **Coxsackie prison guards cleared**

Albany -- Arbitrator rules against ex-inmate who alleged he was beaten by 3 officers in July 1999

Going against the suspicions of the state Department of Correctional Services, an independent arbitrator discounted the story of a former state prisoner who said he was kicked and beaten by officers who planted a knife, stole a personal letter and framed him.

As a result, three correction officers charged in the beating of Justin Eldred, 20, of Liverpool at Coxsackie Correctional Facility have been cleared. Suspensions dating to early May have been lifted and the officers will be paid for lost time.

The Department of Correctional Services wanted to dismiss the officers after its investigation of allegations by Eldred and other prisoners.

The officers all faced misdemeanor charges of beating Eldred, setting up a fight between Eldred and another inmate, submitting false reports on the July 24, 1999, incident and lying to investigators. Officer Michael Carroll, 42, was also charged by the department with a felony -- planting a knife in the prison.

"In my opinion there wasn't sufficient evidence," said Peter A. Prosper, an arbitrator for the Public Employment Relations Board. He ruled Sept. 16 that the state witnesses -- essentially prisoners -- were unreliable.

Earlier this year, Prosper also ruled in favor of an Albany patrolman facing disciplinary action in the case of Jermaine Henderson, a College of Saint Rose basketball player who claimed he was beaten while handcuffed and in custody.

Carroll was the centerpiece of the Department of Correctional Services investigation and charged with beating Eldred while he was handcuffed. Carroll is out on workers' compensation, partly because of aggravating an injury during his brush with Eldred, and can't return to work immediately, said Linda Foglia, a department spokeswoman.

His colleagues, William Drumm and Douglas Smith, both 32, can return to work as soon as today, Foglia said.

The department has not commented on the ruling. The officers referred questions to their lawyer, Thomas Latin, who said the charges had no merit and were brought more than nine months after the incident. Eldred's case touched off an investigation by the FBI, Latin said, which the bureau declines to acknowledge.

"I'm sure they were unhappy with the fact that management took the word of inmates over officers," Latin said. "As to why the department chose to prosecute Mike Carroll, I really can't say. He has to continue to work there. I'd just as soon not comment on that."

Carroll has been active in union affairs and a critic of the department.

According to Prosper's ruling, the officers said they struck Eldred after he failed to respond to orders and resisted their efforts to restrain him during a fight with another inmate. Carroll was pushed into metal bars and injured, Latin said.

Carroll testified that Eldred had a weapon during the fight. Officers found a knife, allegedly used by Eldred, in a puddle in the prison. It was analyzed without detecting the prisoner's fingerprints.

Eldred, who received parole last fall, also claimed that Carroll stole a letter written by another inmate about the incident and gave it to the FBI.

The New York State Correctional Officers Police Benevolent Association argued that the letter was found in the trash. The officers also said Eldred's contention that he was kicked in the testicles and beaten after being handcuffed were lies.

Eldred was arrested in 1998 for using a credit card from the stolen wallet of a judge. Police said Eldred's friend stole the wallet. Eldred was among three teenagers who charged dinner on one of the judge's credit cards, then used \$200 in cash from the wallet to buy crack cocaine, police said.

Drumm will receive back pay of \$9,294, Smith will be paid \$6,244 and Carroll, \$5,022.

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## Lennon's Killer Seeks Jail Release

newsday.com 09/26/00

ROCHESTER, N.Y. (AP) -- The man who killed John Lennon says the ex-Beatle would want him released from prison.

Mark David Chapman has almost finished his minimum sentence of 20 years in prison for the slaying of Lennon in 1980, and will have his first parole hearing Oct. 3. Chapman is serving a life sentence at Attica Correctional Facility.

In an interview to be aired on Court TV the day before the hearing, Chapman said he thinks Lennon would have wanted him to be set free.

"I think he would be liberal, I think he would care," Chapman said. "I think he would probably want to see me released."

Elliot Mintz, a spokesman for Lennon's widow, Yoko Ono, said he has no idea whether Lennon would have approved of parole for Chapman.

"John would have loved to have been here to speak for himself," he told Tuesday's New York Post.

Chapman, in his first public remarks in eight years, says he wants to be released to start a new life.

"The mental illness is over. I often sit, particularly lately, and think, 'Gee, I'm 45 years old, and I'm a living human being,'" Chapman said. "Who knows when I'll get out? But I'm alive. I'm breathing. I'm eating. I'm playing guitar, singing."

During the interview, excerpts of which were published in Monday's Rochester Democrat and Chronicle, Chapman described how he killed Lennon when the musician and his wife, Yoko Ono, were coming home from a late-night recording session.

"I grabbed the album I had leaning against the rail and I said 'John, would you sign my album?' He said 'Sure' and wrote his name and he handed it back to me. He looked at me and nodded his head down and said 'Is that all you want?'"

Lennon disappeared into a waiting car with his wife.

When Lennon returned to his Manhattan apartment building later that evening, Chapman approached him from behind and fired five bullets.

"It was a ruse," Chapman said. "I really didn't want his signature, I wanted his life. And I ended up taking both."

If Chapman's parole is approved, he could be released in December. Mintz told Tuesday's Daily News that Ono has written a letter to the parole board, but he would not disclose what the letter said.

Chapman has been disciplined for only minor infractions while in prison, where he has worked as a clerk in the law library.

He has also expressed remorse for killing Lennon.

"I see John Lennon now differently than only a Beatle or a famous musician, singer, songwriter," Chapman said during his interview for Court TV with Jack Jones, a reporter for the Rochester newspaper and author of a book on Chapman. "I see him as a person, a father. It's a terrible thing that he's gone."

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## **Green Haven Deputy Superintendent of Security and Officer Stabbed**

Department of Correctional Services

Glenn S. Goord, Commissioner

Contact: Spokesman James B. Flateau at 518-457-8182

FOR IMMEDIATE RELEASE: WEDNESDAY, SEPTEMBER 27, 2000

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Green Haven Deputy Superintendent, C.O. stabbed in attack by inmate

The Deputy Superintendent for Security and a Correction Officer at Green Haven Correctional Facility

were treated for multiple stab wounds after a 2 p.m. attack by a convicted murderer in an outdoor exercise yard at the maximum-security prison in Stormville in Dutchess County.

Deputy Superintendent George S. Schneider, 52, and Correction Officer Gary L. Mitchetti, 28, were both taken by ambulance to St. Francis Hospital in Poughkeepsie. Schneider is being treated for puncture wounds to the back, shoulder and above the right eye, as well as for a broken nose. Mitchetti was released after being treated for puncture wounds to the back of the head and base of the skull.

Their alleged attacker is inmate Tyrone Walker, 31, committed out of Kings County. Received into the prison system on July 26, 1994, he is serving a sentence of 322 years to life for murder, robbery and criminal possession of a weapon. He won't be eligible for parole until August of 2025. Walker, who was not injured, has been moved to the disciplinary housing unit at Great Meadow Correctional Facility pending investigations by the Department's Inspector General, the New York Division of State Police and the Dutchess County District Attorney's Office.

Schneider was making his normal rounds through the prison this afternoon when he inspected the yard serving E and F blocks. Walker called out to Schneider and the Deputy Superintendent turned to face the inmate. Walker, displaying homemade knives in each hand, lunged and attacked Schneider. C.O. Glen M. Williams, accompanying Schneider, struck Walker repeatedly with his baton to stop the attack on Schneider. Walker then circled behind Schneider and began attacking him from behind. As Williams was again using his baton to protect Schneider, Walker stabbed CO Mitchetti. Simultaneous with the assault, an Officer in a wall tower fired one warning round from an AR-15 into a hillside just outside the wall.

"It is my intention to pursue the stiffest charges and the longest sentence possible against Walker," Commissioner Goord said. "I will not tolerate any assault on our employees, anymore than I would tolerate any staff mistreatment of an inmate. I will encourage Walker's vigorous prosecution."

None of the other 360 inmates in the yard participated in the attack. The yard was closed immediately following the assault and all inmates were returned to their cells. All inmates will be fed their dinner meal in their cells, where they will remain tonight while the investigation continues. Green Haven was last locked down on Christmas Eve of 1999 because of incidents related to threats of disruptions on January 1, 2000.

Preliminary investigation has found that Walker gave another inmate the two weapons he allegedly used in the attack: two homemade knives, one round and the other flat, each 6 to 8 inches in length. The second inmate surrendered them to staff in the yard. The origin of the weapons is under investigation. The reason for the attack is also under investigation.

Deputy Superintendent Schneider has been the chief of security at the prison since July 1996. Schneider, who joined the Department in 1973, has spent most of his career at Green Haven, working his way up through the ranks as a C.O., Sergeant, Lieutenant and then Captain. He is paid \$83,737 annually. C.O. Mitchetti started his career in 1997 at Sing Sing and transferred to Green Haven in August 1997. He is paid \$33,000 annually. C.O. Williams, 37, has been continuously employed at Green Haven since he became an Officer in 1986. He is paid \$39,680 annually.

Walker's most recent prison disciplinary infraction occurred in February of this year when he was counseled for refusing a direct order, a movement violation and being out of place. His most serious infraction occurred in September 1996 when he spent 40 days in disciplinary housing for possession of a weapon. He has a total of 13 infractions, the others covering such actions as refusals to obey direct



orders, harassment, creating a disturbance, making threats, possession of contraband and smuggling weapons.

His criminal conviction history began in 1992 with his Sullivan County arrest for criminal sale of a controlled substance. While incarcerated at the county jail awaiting disposition of that charge, he stabbed another inmate 18 times. His one-year sentence for the drug conviction also covered charges related to the assault.

On February 23, 1993, Bonnie Bear was shot in the head while she loaded packages into her car in the TriBeCa section of Manhattan. That same day, a robbery with a weapon occurred elsewhere in Manhattan. Later that same day, based upon witness identification in the Bear shooting, Walker was arrested for both crimes. Ms. Bear died of her injuries eight days later.

In July of 1994, Walker was sentenced to a term of 7 1/2 -15 years on the armed robbery charges and was sent to state prison that same month.

In October of 1994, federal officials obtained custody of Walker to face outstanding charges. They had linked the handgun used in the Bear murder to one used in the February 1993 murder of Michael Monsour in Cragmoor. Convicted of capital murder, the federal jury deadlocked 11-1 in favor of imposing the death penalty. Because of the lack of unanimity among jurors, the judge imposed a sentence of life without parole.

He was returned to state prison custody in August of 1996. He was later taken into custody by New York County officials for prosecution in the Bear murder. Following a trial, he was sentenced on April 29, 1997, to 25 years to life for murder, robbery and criminal possession of a weapon.

That sentence, combined with the July 1994 sentence of 7 1/2-15 years, results in his current sentence of 32 1/2 years to life.

Green Haven, opened in 1949, has a capacity of 2,170 inmates. It housed 2,116 today. The prison is located 95 miles south of Albany.

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