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Grieve \$1 Paycheck

By William Van Auken

March 22, 2002

The union representing state jail officers at the Sing-Sing Correctional Facility in Ossining, N.Y. filed charges with the Public Employment Relations Board accusing a Deputy Superintendent at the prison of docking large portions of employees' pay checks in violation of previous policy and state law.

"We had one guy who got a check for \$1 right before the holidays," said Edwin Mercado, the New York State Correctional Officers and Police Benevolent Association's vice president for the southern tier. "How do you even go to work with \$1?"

CO Took Heavy Hit

The improper practice complaint that NYSCOPBA brought to PERB March 6 centers on the case of Correctional Officer Henry Alston, who was informed in a memo dated Nov. 14, 2001 that he would be subjected to payroll deductions of \$570.24 from his biweekly pay checks. The deduction is roughly equivalent to one-third of the officer's salary.

According to the union official, Mr. Alston was determined by the Department of Correctional Services

to owe \$32,000 in overpaid salary, meaning that the deductions could continue for more than two years. Another officer was found to owe \$15,000 and faced similar deductions, said Mr. Mercado.

In most cases, the deductions are the result of the department controverting Workers Compensation claims after injured officers return to work. In the case of Officer Alston, the union official said, the State Insurance Fund ultimately ruled in his favor.

Supt. 'Out of Control'

The union blames Sing Sing Deputy Superintendent for Administrative Services Carl Oken for changing the policy on recovering alleged salary overpayments. "We've grieved this before and won, but they're letting this Dep go ahead and do this," said Mr. Mercado.

"He's out of control."

Mr. Oken declined to comment on the policy, while the department's public information office did not return calls.

Until last November, according to the NYSCOPBA complaint, the policy had been to limit the deductions for alleged salary overpayments to 10 percent of an employee's pay. In cases where docking 10 percent caused undue hardship, the amount could be reduced.

NYSCOPBA called upon PERB to order the department to rescind the new policy and to repay the docked employees all cash taken above 10 percent per pay check.

The union said that in most facilities, the money is recovered by deducting sick or leave time as it is accumulated, without slashing pay

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Corrections Department's Policy on Sick Leave Violates ADA

By John Caher New York Law Journal

A New York State Department of Correctional Services policy requiring employees to provide a medical diagnosis when they are absent from work violates the Americans with Disabilities Act, a Northern District federal judge in Utica has found.

Although the policy is apparently enforced rarely, it "allows inquiry after only a single day's absence from work" and, as such, is overly intrusive, U.S. District Judge David N. Hurd said.

Judge Hurd said the broad policy cannot be reconciled with a limited exception in the Americans with Disabilities Act (ADA), which allows medical inquiries where necessary to ensure that the employee can perform essential functions.

"[T]he sick leave policy provides no limitation on the ability of the defendants -employer to ask for medical diagnosis," Judge Hurd said in Fountain v. State, 99-CV-389. "Employees may take an unplanned single day leave of absence for a myriad of reasons, the vast majority of which do not suggest an inability to do their job or a threat to their work environment. Examples of such reasons include the common cold or care of a sick child."

Judge Hurd said "no reasonable factfinder could conclude that an inquiry triggered by a single day's

absence from work" is reasonable, and he granted the plaintiff summary judgment and attorney's fees.

The case arose when Belinda Fountain challenged under the ADA a policy promulgated by her employer, the Department of Correctional Services (DOCS). Ms. Fountain, a corrections officer, objected to DOCS' requirement that employees who call in sick provide a medical diagnosis for their absence. Under the policy, a supervisor can request certification for any sick-leave absence, regardless of duration, and require the employee to provide a letter from a physician containing a brief diagnosis, a prognosis and a statement that the employee was unable to work.

Judge Hurd said the ADA generally bars employers from inquiring into whether an employee suffers a disability and restricts the employer's ability to conduct inquiries that may reveal disabilities. He said an exception is recognized when the employer reasonably fears that the employee is unable to perform job functions or could jeopardize the health and safety of other workers.

For example, he said, in the Northern District case Ditullio v. Village of Massena, 81 F. Supp 2d 397, decided in 2000, then Chief Judge Thomas J. McAvoy upheld an employer's request for medical documentation regarding a police officer who had suffered an eye injury that caused blindness.

Judge Hurd permanently enjoined DOCS from enforcing its policy, but suggested that a revised policy would satisfy ADA requirements. "DOCS must have more reason to suspect that an employee is unable to perform their job functions or needs an accommodation than a few days' absence from work," the judge wrote.

Edward J. Greene Jr. of Hinman Straub PC in Albany appeared for Ms. Fountain. The state was defended by Assistant Attorney General Bruce J. Boivin.

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N.Y. Ends Sales, Show of Inmate Art

By RIK STEVENS .c The Associated Press

ALBANY, N.Y. (AP) - The Department of Correctional Services has discontinued its annual inmate art show and banned the sale of art produced in prisons amid an uproar over a serial killer who profited from his works.

Corrections spokesman James Flateau confirmed Friday that the ``Corrections on Canvas'' show, held for 35 years in the Legislative Office Building in Albany, has been eliminated.

At the same time, Corrections Commissioner Glenn Goord ordered, effective immediately, that the state's 67,000-plus inmates are not allowed to profit from their art or handicraft, though they can still produce it.

Inmates, who buy their own art supplies, had been allowed to keep half the proceeds from their sales in the nine-day show, with the other half going to the state Crime Victims Board.

Last year, \$5,395 went to the Crime Victims Board, bringing the total over the past 16 years to more than \$45,000, Flateau said.

``It was designed to allow inmates to show that during incarceration, they were finding positive ways to use their time in a manner that was felt contributed to rehabilitation," Flateau said. ``In more

recent years, the show has been perceived by some as the state providing a forum for inmates to profit from their crimes."

Last year, a portrait of the late Princess Diana was among 10 sketches and paintings by convicted serial killer Arthur Shawcross selling for up to \$540 each.

Relatives of Shawcross' victims were outraged. Shawcross, 56, is serving a 250-year sentence for killing 11 Rochester-area women a decade ago.

Robert Gangi, executive director of the Correctional Association of New York, called the ban a ``blow to the rehabilitative process, at least for those inmates who produce attractive art."

Gangi said most inmate artists are not predatory or dangerous, and selling their art helped rehabilitating inmates ``increase their sense of themselves."

After the uproar over Shawcross, Gov. George Pataki directed Goord to review the rules to disallow participation by notorious violent criminals. Goord took the directive one step further and barred it for all inmates.

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CON'S LOVE NOTES NO CRIME OF PASSION

By KENNETH LOVETT

April 12, 2002 -- ALBANY - A convicted murderer didn't get the girl, but he's off the hook. A state court ruled that Michael Henriquez did not threaten a female guard simply by sending out letters to state and federal agencies professing his love for her.

Henriquez is currently in Attica state prison serving 271/2 years to life for the 1994 shooting death of his Bronx girlfriend.

In the March 2001 letters, Henriquez, who was at western New York's Wende state prison at the time, requested a private meeting with the guard so he could "persuade her that she harbored similar feelings for him," according to court documents.

He even went as far as to say he could be handcuffed and shackled during the meeting so she wouldn't feel she was in danger.

Prison officials deemed the letters threatening, and ultimately sanctioned Henriquez, 32, to 90 days in disciplinary housing.

But the appellate court overruled, saying that while Henriquez's search for love was a "fatuous and futile act," it did not represent a threat to the guard.

Henriquez, the court ruled, did not communicate with the guard, and made no threats to her.

The decision was blasted by state correction officials, who say the court did not take into account Henriquez's past prison behavior.

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Guards protest Mohawk suspension

Guards at Mohawk prison in south Rome are protesting the suspension of a fellow officer, union officials said.

State Department of Corrections spokesman James Flateau identified the suspended officer as Sgt. Rickie Weber. He said Weber was suspended for revealing private medical information about an inmate, for disobeying a direct order to reveal his source for that medical information, and that as a sergeant, Weber should be setting an example for other corrections officers.

Robert Centore is the union representative at Mohawk for the guards' union, the New York State Correctional Officers & Police Benevolent Association, Inc. (NYSCOPBA). He said Weber was suspended after filing a grievance concerning the discipline problem of an inmate.

Union official Centore said Weber complained that psychiatric inmates should be in a secure psychiatric facility like Central New York Psychiatric Center in Marcy -- not in a state prison.

"The officers are going to get hurt. We're not even trained to deal" with psychiatric patients, Centore said.

But Flateau said he "it is the OMH" -- state Office of Mental Health -- "professionals, not corrections officers, who decide if an inmate requires placement in an OMH unit, and how long that inmate has to be there."

Flateau said he would not discuss the medical condition or past medical treatment of the inmate in question.

However, Flateau said, in "general terms," Weber "complained that with inmates suffering dementia, Weber was being told to ignore standard security rules." But "he wasn't" told that, Flateau said. "He was told that when someone is sick, with something like dementia, you take that into consideration if they misbehave. It may be something over which they have no control."

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Inmate Sues Over NY Son of Sam Law

Associated Press Last Updated: April 17, 2002 at 6:14:01 a.m.

NEW YORK - A black radical convicted in the 1981 killing of a police officer has sued the state over a law that allows the victim's family to collect \$15,000 he was awarded in a legal settlement.

Abdul Majid's lawsuit in U.S. District Court in Manhattan challenges the constitutionality of a new provision of the state's Son of Sam law, named after the case of serial killer David Berkowitz, who was offered huge sums of money for the publishing rights to his story.

The law originally allowed victims to recover gains from a convicted person's commission of a crime. But the state Legislature expanded it last year to allow the state Crime Victims Board to recover money and property received from any source.

Majid, a former Black Liberation Army member, was known as Anthony LaBorde when he was

sentenced in July 1986 to at least 33 years in prison for the ambush murder of Officer John Scarangella and attempted murder for wounding a second officer.

Majid sought through his lawsuit Tuesday to protect the proceeds of a 1999 lawsuit he filed against several state corrections officers.

He alleged that his civil rights were violated when he was subjected to excessive force from three corrections officers as he returned to his cell from the prison's law library.

He was scheduled to receive \$15,000 six months after a settlement agreement reached in November was entered into court records on Dec. 27. He filed the lawsuit against the state Crime Victims Board after the money was forwarded to the board to be placed in an escrow account until the dead officer's family can be notified.

Caroline Quartararo, a spokeswoman for Gov. George Pataki, predicted the lawsuit would not succeed.

``We don't think cop killers should profit from their vile crime, and we're 100 percent confident our Son of Sam law is constitutional," she said.

A lawyer for Majid did not immediately return a telephone message for comment.

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Why prison art show was discontinued

April 22, 2002 By Glenn S. Goord

Your April 17 editorial ("Prison Art") did not address most of the issues that I considered in my decision to end the sale of art and handicrafts by state prison inmates. I think if it had, both you and your readers might agree with my position.

First, let me say that inmates will continue to purchase art and handicraft supplies and will continue to create art for art's sake.

That's because I agree with those who see such artistic creations as a positive. They are a means for offenders to produce creative results that could arguably display a movement toward rehabilitation or sensitivity. I also agree it is a means to reduce inmate idleness, just as it could be a positive outlet for many emotions. I believe those are among the reasons inmates participate in these activities.

That will all continue. Inmates may continue to create their artwork, just as they are now. They will continue to be able to send their creative works home to their families and friends. We will continue to display their works in state prisons.

But having said that, I believe we have to separate the desire and need of an artist to create art from this public-policy question: Should the state be in the position of offending crime victims and others by using their tax dollars to promote and finance art shows displaying for profit the works of inmates?

Taxpayers pay for packaging artwork and handicrafts for shipment, state employees and trucks transporting the wares from around the state to Albany, state workers erecting the displays, providing state-paid staff on site for the 10 days of the show to display and sell artwork, and then providing security overnight and on the weekend between the show's two weeks.

Then, unsold art must be crated by state employees and returned by state employees using state vehicles to the prison of origin. The state's taxpayers are in no way recompensed for the expense of the art show, nor could they be and still leave even a modest stipend for inmates.

When a piece sells, at least 50 percent of the sale price is donated to the Crime Victims Board, the balance being paid to the inmate's account. Last year, 200 inmates participated in the show from 31 facilities. They sold 174 pieces, with inmates receiving \$3,192 (an average of \$18.34) and the Crime Victims Board, \$5,394. Those receipts would be wiped out if show proceeds were to replace the taxpayer dollars used to put on the show.

In addition, crime victims have made clear to me that the show is an insult to them and their families, I can certainly understand why they would object to the state providing such a forum for felons.

I do not believe my termination of the art show - which annually attracted the participation of 200, or .3 percent of our 67,000 inmates - is too great of an accommodation to make to show our respect for the harm done to thousands of crime victims statewide. Glenn S. Goord is commissioner of the New York Department of Correctional Services.

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Gov. Pataki and state lawmakers should rethink upstate priorities

First published: Monday, April 22, 2002

If and when a new state budget is in place, it will include plans for a new, \$73 million upstate prison for violent youth. But Gov. Pataki and lawmakers should stop this ill-advised project while there is still time.

The prison is being touted by supporters, including some leaders of the Southern Tier localities where it might be built, as an economic boost to a region still coping with the loss of family farms and industries that have relocated. In that respect, the Southern Tier differs little from many upstate regions. But the Pataki administration's proposed solution -- an economic growth strategy based heavily on casino gambling and prisons -- leaves much to be desired.

Although the exact locale remains undecided, it likely will be in the rural towns of Walton or Bainbridge. Besides the \$73 million cost, the project would bring with it hundreds of new jobs. But those jobs are likely to go to out-of-towners because of the system's seniority rules, as happened in the town of Malone when a new prison opened there in 1999.

Just as important, a prison can often have a negative impact on a local economy, as some residents of Walton and Bainbridge are warning. As an example, they point to a slowing of the region's second - home market -- previously, a positive for the economy -- as word spreads of a possible prison site.

But there are larger issues than economics. One is geography. The new facility, which would replace the Harlem Valley prison in Dutchess County, would be 150 miles from New York City, where most of the inmates have families. That would place a strain on relatives seeking to visit them. While such considerations are often dismissed by those who take a hard line on crime, the fact remains that these would be young inmates who still have a chance to repair their lives. Providing close family support is crucial to meeting that goal. Moreover, while 65 percent of juveniles in state custody are from New York City, 35 of the state's 40 detention facilities for youth are located outside the five boroughs.

Then there is the question of whether the state needs a 300-inmate facility -- Harlem Valley's capacity is 150 -- when all national statistics show that juvenile crime has fallen some 50 percent. In New York state, the numbers fell by 66 percent between 1993 and 2000.

What is more, a state audit last year found that juveniles confined to such facilities often did not receive mandated treatment for substance abuse, counseling and after-care services. That has led reform groups like the Correctional Association of New York to push for more alternatives to incarceration for the prison population under the age of 16.

At the least, Mr. Pataki and the Legislature should change the proposed location of the new prison to within easy driving distance from New York. But ideally, they would heed the advice of reformers and consider alternative programs that have a proven record of reducing recidivism among young people.

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Visiting teens charged in Sing Sing bomb threats

By THE JOURNAL NEWS STAFF AND WIRE REPORTS (Original publication: April 26, 2002)

Two teen-agers visiting Sing Sing in a program intended to steer them away from crime were arrested yesterday and accused of making false bomb threats from pay phones inside the prison, authorities said. "Each caller said that there was a bomb in the Sing Sing Correctional Facility," said state Correction Department spokesman James Flateau.

Both calls, made to 911 operators shortly after 10 a.m., were traced by Ossining police to phones in the waiting area of the prison administration building, he said. The 17-year-olds were charged with second-degree aggravated harassment, a misdemeanor.

They are due May 2 in Village Court, said state police Investigator David Williams. Their names weren't released because they may ! get youthful offender status, he said. "They were cooperative and admitted to it," Williams said. They were returned yesterday to Abbott House, a residential treatment center for troubled youths in Irvington, he said.

The teens were at the prison as part of a program in which selected inmates "explain to troubled teenagers and other teen-agers the problems of committing crimes, drug use and what have you," Flateau said. There was no search of the Ossining prison for bombs since it was quickly determined to be a false threat, Flateau said. The 30 other youths, who also had also come with six counselors from Abbott House, went back earlier. Sister Mary Jane Fitzgibbon, director of community relations at Abbott House, said the two boys were residents of a group home in the Bronx who were taking part in a substance-abuse prevention program run by Abbott House.

They had gone through a security check on their way into the prison and were waiting in a room unsupervised when they made the calls, she said. The counselors and other boys were outside. "They decided to do this as a joke. They know it's no joke now," Fitzgibbon said. "They know they did the wrong thing, they're remorseful, and they are taking it seriously. We are taking it seriously, and we will follow through on it." Police were considering whether to bring a felony charge of falsely reporting an incident, Williams said.

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Attica hostages finally get voice

Hearings will document what prison workers, families endured

By Gary Craig Democrat and Chronicle

May 1, 2002) - More than three decades after the bloody riot at Attica Correctional Facility, the surviving hostages will finally have the chance to tell their stories.

State officials have agreed to a series of public hearings at which hostages, the relatives of prison employees slain during the prison retaking and some officials knowledgeable about the riot will testify.

The hearings, to be held in Rochester and possibly Albany, will create a public record about what the hostages and their families endured during the riot and in the years afterward.

"I think finally our side is going to be able to have its story told and a permanent record of our stories, of what happened during the Attica riot," said Deanne Quinn Miller, whose father, corrections officer William Quinn, was slain by inmates during the riot.

In 2000, inmates who were imprisoned at Attica testified as part of a court settlement to end a 25year-old lawsuit in which they claimed they were brutalized after the retaking.

The settlement by the state of New York also awarded \$12 million to the former inmates and their lawyers.

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Attica task force schedules hearings for riot victims

May 1, 2002, 4:50 PM EDT

ATTICA, N.Y. -- Former prison guards and their family members can finally tell their side of the story about what happened during the deadly 1971 Attica prison riot.

Gov. George Pataki's 1-year-old task force on Attica has scheduled its first series of hearings for May 9 and 10 in Rochester, a group representing the victims learned earlier this week.

More sessions are expected, said lawyer Gary Horton, who helped The Forgotten Victims of Attica in establishing the hearings.

"It's a huge step," Horton told The Batavia News in Wednesday's paper. "We finally have an official organ of the state government listening to what these people are saying. We're going to take as much time as it takes to fully tell this story."

The hearings will allow former guards held hostage, and family members of both slain and surviving hostages, to recount the riot and how it affected them. For some, it will be their first chance to tell their side of what happened.

"There really should be a record of that," said Dee Quinn Miller, daughter of a prison guard slain in the riots. "It's also part of the healing."

Forty-three people _ 11 state employees and 32 inmates _ died in the riot. All but four were shot to death when state police retook the prison, 30 miles east of Buffalo, on Sept. 13, 1971, after a four-day standoff.

Forgotten Victims, which pushed for the hearings, is also seeking compensation, an apology from the

state, access to sealed Attica records, counseling for members still affected by the riot, a monument and permission to hold an annual memorial service at Attica.

The group formed in 2000 after a federal judge awarded an \$8 million settlement to inmates injured in the riot.

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Judge urges voice for Attica hostages

By Michael Zeigler Democrat and Chronicle

(May 2, 2002) - The federal judge who engineered an \$8 million civil settlement for inmates injured in the 1971 Attica prison riot said Wednesday that he strongly supports hearings where hostages will speak about their experiences.

"We should wish them every success. Their cause is just," U.S. District Judge Michael A. Telesca told a Law Day luncheon sponsored by the Monroe County Bar Association.

It was announced Tuesday that the state would allow corrections officers who were held hostage during the riot -- and the relatives of officers who were slain when the prison was retaken -- to create a public record of what they went through during the riot and its aftermath.

Of 43 inmates and corrections officers killed, 39 were shot by law enforcement officers when the prison was retaken.

Although the state awarded \$8 million to be divided among inmates who said they were brutalized during the prison's retaking, slain hostages' relatives had accepted workers' compensation payments, making them ineligible to sue the state.

Speaking publicly for the first time about his role in the 2000 settlement, which ended a court battle that took nearly three decades, Telesca told 400 people that inmates and hostages deserve justice.

"There are those who would like to shorten the reach of the courtroom beyond prison walls," he said. "It is up to us to make certain that does not happen."

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Attica riot victims seeking \$30 million in reparations

By MICHAEL VIRTANEN Associated Press Writer

May 6, 2002, 4:33 PM EDT

ALBANY, N.Y -- Former Attica prison guards and their relatives are seeking more than \$30 million in reparations for the 1971 prison riot, reflecting amounts received by one widow and by a group of inmates who sued.

Survivors will tell their stories beginning Thursday in Rochester to a state task force formed by Gov. George Pataki and headed by corrections Commissioner Glenn Goord. The group calls themselves The Forgotten Victims of Attica.

"Our members have felt abandoned by the state of New York, for which they gave their lives literally and figuratively," said the group's attorney, Gary Horton.

Forty-three people _ 11 state employees and 32 inmates _ died after prisoners took control of Attica. All but four of the victims were shot to death when state police retook the prison, 30 miles east of Buffalo, on Sept. 13, 1971, after a four-day standoff.

"Only one of the 11 was slain by inmates," Horton said. The guard, who had been beaten, was among 12 hostages released by prisoners and died of his injuries.

But 10 of the 38 other guards and civilian employees held by inmates died "in the ill-planned assault that made the lives of the hostages expendable," Horton said.

"I could hear the bullets going over my head," recalled G.B. Smith, a guard who was blindfolded and tied up in the prison yard. An inmate designated his "executioner," holding a metal ratchet against his head in the event of a police assault, instead threw him to the ground.

Smith untied his ankles and stood up again, pulling off the blindfold to find a trooper pointing a 12gauge shotgun in his face, screaming not to move. He said a prison officer came up then and identified him.

"There's 11 of us still alive," he said Monday of the former hostages.

Smith returned to work, to a job with little inmate contact, after 10 weeks off. He retired more than 20 years later.

Families of the killed hostages received death benefits. Survivors received medical reimbursements and paid time off. But some money came from workers' compensation even though they didn't personally apply for it, Horton said. One widow with five children got slightly more than \$200 a week.

"Even in 1971 terms, that was not a lot of money," he said.

The state Court of Appeals in 1983 dismissed 20 survivor lawsuits, Horton said, on the grounds that even accepting the workers' compensation payments constituted a choice that precluded other recovery.

However, the widow of accounting clerk Herbert Jones didn't take the money and after 10 years of litigation won a court judgment, including interest, of \$1.6 million, Horton said.

Almost two years ago, an \$8 million settlement in federal court went to a group of about 500 inmates injured in the riot, with individual amounts ranging from about \$10,000 to \$250,000, Horton said.

The survivors are seeking reparations in like amounts _ no less than any inmate, Horton said. "With reparations and counseling, this could be anywhere from \$30 million to \$50 million," he said.

Forgotten Victims seeks an apology from the state, greater access to records, counseling for members still affected by the riot, and permission to continue holding an annual memorial service at the Attica monument to the 11 dead state employees.

It was the inmates' suit that prompted the survivors to start talking again, Smith said.

State Sen. Dale Volker, an Erie County Republican, put together legislation that would compensate each of the 11 widows \$50,000, and the money was put in the budget two years ago and appropriated, a Volker aide said. Most widows rejected it, said Deanne Quinn Miller, a daughter of the guard beaten to death by inmates.

Volker and Assemblyman Arthur Eve, an Erie County Democrat who was an Attica negotiator, are also on the task force.

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Attica survivors, families prepare for local hearings

Sessions at RIT will give group members a chance to tell their story

By Gary Craig Democrat and Chronicle

(May 7, 2002) - In 1975 Tom Wicker, then a New York Times columnist, wrote A Time To Die, a harrowing account of the 1971 Attica riot and his role as a negotiator between inmates and authorities.

In 1988, Malcolm Bell wrote The Turkey Shoot, a book recounting what he claimed was a state cover - up of the facts of the deadly retaking at Attica. Bell was tapped by the state to prosecute law enforcement officials who stormed the prison on Sept. 13, 1971, leaving 39 people dead.

Now a group of surviving hostages and the families of hostages slain at Attica want to hear from Wicker and Bell, and a number of others who played central roles during the riot.

The state has agreed to hold hearings Thursday and Friday at the Rochester Institute of Technology. There, members of the Forgotten Victims of Attica -- a group of surviving hostages and Attica employees and families of hostages slain during the retaking -- will testify.

The hearings are designed to give the group a public airing of what they endured at the riot and in the decades afterwards -- an opportunity members of the group say has long been denied them.

But the Forgotten Victims group also wants to hear from others connected to the Attica riot. Twelve people, including Wicker and Bell, have agreed to testify at other hearings the group hopes to schedule later in the summer.

Among others the group wants to hear from are a coroner involved with autopsies after the retaking, an investigator for a state commission that investigated the riot, and a lawyer who represented the widow of a slain hostage in a successful lawsuit against the state.

State officials say it's too early to determine whether they'll allow the testimony of people other than group members. A state task force which works with the Forgotten Victims isn't opposed to the testimony, said Department of Correctional Services spokesman James Flateau.

But the testimony may be unnecessary, he said. The task force has advised the group that if they know of others who may also wish to testify, "let us know and we'll consider it."

But, Flateau added, the testimony from members of the Forgotten Victims may provide the task force

with all of the information it needs.

"It could make the testimony of some outsiders irrelevant or repetitive," he said.

The task force, appointed by Gov. George Pataki, has been negotiating with the Forgotten Victims over demands from the group, including requests for compensation and counseling for members.

Bell said Friday in a telephone interview that he hopes the state does not veto testimony from people like himself who are connected to Attica.

Bell has maintained that he was ultimately prevented from prosecuting law enforcement officials because authorities did not want to admit they were responsible for the fatalities in the retaking.

Ten prison employees and 29 inmates were slain by gunfire during the retaking.

For too long, Bell said, the state has been "ignoring, denying and revictimizing the Forgotten Victims."

"There was a reluctance of state officials to face up to the enormity of what they did on Sept. 13, 1971," Bell said.

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Families want state to address Attica's past

Hearings this week may lead to compensation for guards' survivors.

May 07, 2002

By Jon Hand Staff writer

For 31 years, Ann D'Arcangelo Driscoll felt as though no one was listening.

On Friday, her voice finally will be heard.

D'Arcangelo Driscoll, who lives in Auburn, will be one of 30 to 40 people to testify in hearings before the Attica Task Force, formed by Gov. George Pataki to examine the 1971 Attica prison riot and the requests of former corrections officers and their families. "For 31 years we've just wanted to tell our story," said D'Arcangelo Driscoll, whose first husband, corrections officer John D'Arcangelo, was held hostage by rioting prisoners and killed by a police bullet as the prison was retaken.

She said she is planning on taking her late husband's photo and his death certificate with her when she testifies at 10 a.m. Friday in Rochester. "We're finally going to get our chance."

As part of the group Forgotten Victims of Attica, former officers and the families of former officers will tell their side of what happened Sept. 13, 1971, when 43 people - 11 state employees and 32 inmates - died in the riot. All but four were shot to death when state police retook the prison, 30 miles east of Buffalo, after a four-day standoff.

The hearings scheduled for Thursday and Friday on the campus of the Rochester Institute of Technology are before an impressive group of panel members, including several state legislators and state Department of Correctional Services Commissioner Glenn Goord.

The panel was formed in 2001 to investigate the claims of Forgotten Victims, which is seeking satisfaction in five areas:

Financial compensation

An apology from the state

Access to sealed Attica records

Counseling for members still affected by the riot

A monument and permission to hold an annual memorial service at the prison.

Forgotten Victims formed two years ago after a federal judge awarded a multimillion-dollar settlement to inmates injured in the riot.

In contrast, D'Arcangelo Driscoll said she received \$36 per week in worker's compensation payments and now is not allowed to sue because, as a 22-year-old widow and mother, she accepted the weekly payments and continued to do so later.

"A little over a year ago, the inmates that started the riot finally got their lawsuit heard," she said. "We can't sue, but we still feel we've been the forgotten victims of Attica.

"It's up to (state lawmakers) whether we are compensated, but Gov. Pataki has been wonderful through this and we're hopeful that things are going to move forward," she said.

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Attica hostage hearing: 'You could hear ... pain and death'

May 10, 2002 Posted: 4:09 AM EDT (0809 GMT)

ROCHESTER, New York (AP) -- John Stockholm, a guard taken hostage at Attica prison in 1971, stood blindfolded on a catwalk as state police responded to a four-day inmate uprising with an assault that left dozens of corrections officers and prisoners dead.

Gunfire bounced off the ground all around him, kicking up a hail of cement chips. An inmate who'd been holding a knife to his throat suddenly dropped away, apparently felled by a bullet.

"You could hear the sounds and (taste) the smell of pain and death," Stockholm said Thursday. "It's haunted me for over 30 years and it keeps replaying in my nightmares."

Surviving hostages and their families, along with widows and children of their slain comrades, recounted their harrowing ordeals Thursday at the start of a two-day public hearing designed to redress grievances they say have long been ignored.

Police fired more than 2,000 rounds of ammunition in six minutes on September 13, 1971, quelling the siege at the maximum-security Attica Correctional Facility near Buffalo. In all, 11 corrections officers and 32 inmates died. All but four were shot to death when state troopers retook the prison.

The hearing was held by a task force appointed by Gov. George Pataki last year to hear the pleas of The Forgotten Victims of Attica, a group representing surviving Attica prison guards and the relatives of those who were killed.

Dean Wright, one of 39 hostages who survived, recalled a bullet whizzing past his ear during the police assault on the prison. He also remembered walking over bodies littering the prison yard.

New York state should at least acknowledge that "they did us wrong," he said. "If they have to acknowledge it in a paycheck, that's fine."

The group wants state officials to apologize for the slayings of "loyal state employees." It also wants the state to pay about 50 families between \$30 million and \$50 million in total compensation, and provide counseling to those who still need it.

After Attica was retaken, the state urged the families of slain hostages to accept limited death benefits and offered survivors six months of paid leave. Unknown to them, the pay included workers' compensation funds that, once accepted, barred them from suing the state.

One widow who didn't accept the money sued and, more than a decade later, was awarded \$1.6 million for the death of her husband, Herbert Jones.

Forgotten Victims, created in 2000 after a federal judge in Rochester awarded \$8 million to former inmates who were injured, is seeking reparations in like amounts.

"We deserve at the very least the same compensation that Frank Smith got," said Wright, referring to one of the inmate ringleaders who was awarded \$250,000. Smith was tortured, burned with cigarettes and beaten by guards after the prison's recapture.

"Show us that our lives were worth something to the state," Stockholm told the four -man panel.

Stockholm, now 54, retired in 2000 after 31 years employed at Attica. Just being able to tell his story in public "is like a weight's been lifted off my shoulders," he said later.

Until just a few years ago, he never talked in depth with his wife, Mary, about his captivity.

"John has always felt guilty for his life being spared," she told the panel. "I did not know how to deal with my husband's mood swings, night sweats and, worst of all, his silence."

Dabbing her tears with a tissue, she ended her address with an appeal. "Please help all of us come to some closure of these horrific events," she said.

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Victims of Attica relive the nightmare

Former guards testify before task force in bid for compensation

By Gary Craig Democrat and Chronicle

(May 10, 2002) - Even now, the sounds of Attica still linger, still terrify.

For Dean Wright, a hostage in the 1971 prison uprising, there was the unforgettable sound of a bullet whizzing by his ear. Then, a split-second later, there was the sound of death as the gunshot struck an inmate.

"It's a sound I will never forget," Wright said Thursday, testifying before a state task force about the Attica riot. "It's like you took a pumpkin and smashed it on a blacktop road, just that sound."

Another hostage, John Stockholm, also never cleared his head of the sounds of Sept. 13, 1971. There were the humming blades of a helicopter overhead, dropping gas into the prison yard, and the subsequent seemingly endless barrage of gunfire during the retaking of the prison.

"You could hear the sounds and the smell of pain and death," Stockholm said. "And they've haunted me for over 30 years. It keeps replaying in my nightmares."

Wright and Stockholm, who were both corrections officers at the prison, are members of a group called The Forgotten Victims of Attica. The group consists of surviving hostages and their families and the families of prison employees slain during the nation's deadliest prison riot.

A state task force, appointed by Gov. George Pataki, is holding two days of hearings to hear from members of the group. The Forgotten Victims is seeking compensation for its members. The group has other demands as well, including state-funded counseling and an apology from New York for how it handled the prison retaking and how it treated the hostage families in the years afterward.

"For 30 years the state of New York did not hear from the employees who survived being taken hostage at Attica in 1971," said Department of Correctional Services Commissioner Glenn Goord, the task force chairman. "It denied a voice to the survivors of the employees killed there.

"Governor Pataki changed that last year," Goord said. "He announced the voice they were denied was to be heard -- officially and publicly."

The hearing also revealed that the tragedy at Attica left few people connected to it unscarred. A member of the state task force is Assemblyman Arthur Eve, D-Buffalo, who was part of an "observers committee" that tried to negotiate a settlement between the inmates and authorities during the five - day standoff in 1971.

"I almost lost my mind," Eve said about the months after the riot. "My wife went through hell with me for about six months.... It changed me, and I almost destroyed my family in the process."

On Sept. 9, 1971, inmates seized control of the prison. On the morning of Sept. 13, with negotiations stalled, authorities stormed the prison with a blaze of gunfire that left 39 people -- 10 prison employees and 29 inmates -- dead.

In all, 43 people died in the riot. But prison workers, many of whom think the state acted wrongly when it retook the prison, allege that New York officials then purposefully worked to ensure that hostages and their families could not sue the state.

Several hostages and their families testified that the hostages were allowed six months off from work and told they'd continue to be paid. What was not made evident to them, they said, was that they were receiving workers' compensation. By accepting this, they were precluded from suing the state.

Lynda Jones, the widow of slain hostage Herbert Jones, was the only widow not to accept the compensation and was the only one to successfully sue the state.

She received nearly \$1.1 million -- an award of \$550,000 plus interest for the 13 years the lawsuit wound its way through the courts.

"Think how much courage it took for thirteen years for Lynda Jones to see justice," her lawyer, William Cunningham, told the task force Thursday.

Cunningham contrasted the deaths at Attica -- and the response of the state -- to what happened 30 years later with the terrorist attacks at the World Trade Center.

"Governor Pataki ... rushed to see that those innocent victims were compensated," Cunningham said. But, in 1971, the state appeared determined to ensure that Attica victims received as little as possible, he said.

"Why are they any less worthy than the poor people in the World Trade Center?" Cunningham said.

In 1971, the state even refused to pay hostages for all of the time they were held captive, Wright said. Instead, the state withheld nighttime pay when it assumed the hostages were sleeping, he said.

June Fargo, whose husband, Richard, was a hostage at Attica, said her husband never recovered from the psychological trauma of the riot.

He refused to return to the prison and worked a series of odd jobs afterward. He was sometimes volatile, sometimes lost in a quiet and deep funk.

"Our lives were governed by Richard's moods," she said. "Plans were always at the last minute."

But it wasn't the days as a hostage that troubled him the most, she said. Instead, it was what he considered a betrayal by state officials.

"Richard survived the hostage situation physically but not emotionally," she said.

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Finch Named Ranker Of Assembly Correction Committee

News from Assemblyman Gary D. Finch 126th Assembly District

Finch Named Ranker Of Assembly Correction Committee

Key ally of new Assembly minority leader named to head up important panel April 30, 2002

Assemblyman Gary D. Finch (R,C-Springport), a key ally of newly elected Assembly Minority Leader Charles H. Nesbitt (R-Albion), has been named the ranking minority member of the New York state Assembly's Correction Committee, the lawmaker announced today.

The appointment, made by Nesbitt, makes Finch one of the top two assemblymembers on the committee that will govern the state's prison system, including the three correctional facilities in Finch's 126th Assembly District. The panel reviews legislation involving state and local corrections issues, including the prison population, prison expansion, implementation of imprisonment terms and alternatives to incarceration, the lawmaker said.

"I am pleased to have been selected to head up this important committee in Albany. With three correctional facilities in my Assembly District, the work I will be doing will have a real impact on the families of this community," Finch said.

According to Finch, he will be responsible for considering legislation related to security, health care, civil rights, and privileges of inmates and individuals on temporary release.

"The men and women who work in correctional facilities in New York state have an extremely difficult and demanding job. My aim is to help craft a common-sense policy on corrections that recognizes that," Finch concluded.

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State: Prison towers safe

Corrections officers have called them "death traps."

Report finds no violations. May 16, 2002

By Tom Murphy - Staff writer

The state Labor Department has rejected a complaint filed by corrections officers about new, medium - security prison towers the officers call "death traps."

An investigation of prison towers at Mohawk Correctional Facility in Rome revealed no violations of state Public Employee Safety and Health regulations, according to a report from the state Public Employee Safety and Health Bureau.

"The report simply confirms what the department has been saying about the towers," said Jim Flateau, speaking for the state Department of Correctional Services.

Corrections officer Robert White, chief sector steward at Mohawk for the union that represents corrections officers, said there is "no doubt in my mind" that the towers pose a safety threat. He said the state Correctional Officers Police Benevolent Association would still pursue this issue, but he declined to elaborate.

The state has built roughly 30 of these towers since 2000 at medium-security prisons, including Cayuga Correctional Facility in Moravia and several Oneida County locations.

Superintendents, corrections and weapons officers and security experts were consulted about the tower design, state officials have said. Each tower cost about \$130,000.

The towers were built to help quell recreation-yard violence. But the officers' union filed a complaint with the Labor Department, alleging state officials failed to account for fire prevention and medical emergency concerns in designing the towers.

It lists 21 problems with the two towers at Mohawk, and notes that since the new towers are identical, the union has similar concerns with all of them.

The list of officers' concerns included lack of fire extinguishers, a trapdoor as the only entrance and exit, no toilets, exposed stairways, and windows that can freeze shut.

The report states that an inspection and discussion of the Mohawk towers was conducted last January. The inspectors also reviewed plans for the towers.

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Safety gloves for correction officers

May 17, 2002

By John Milgram - Ottaway News Service

Albany - Every state correction officer will be getting a pair of knife-proof gloves, thanks to an additional \$642,000 lawmakers put into the state budget.

"They're slash-proof gloves," said Denny Fitzpatrick, spokesman for the New York State Correction Officer and Police Benevolent Association. "They are essential for doing frisking."

The \$642,000 is expected to cover the costs for the approximately 20,000 pairs needed to get a pair to every correction officer.

"It's an issue of having the kinds of gloves necessary to protect them when they do cell searches," said Assemblyman Jeffrion Aubry, a Queens Democrat and chairman of the Assembly Corrections Committee. "It was something the union put forward that made sense." Fitzpatrick said it's not unusual for inmates to hide items such as razors smeared with blood or feces, meant to injure guards searching them or their cells.

Prison system spending for the 2002-2003 fiscal year is budgeted at about \$13 million more than last year's amount. The Department of Correctional Services is cutting 536 beds by closing the medium security section of Sing-Sing prison in Westchester

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Early Retirement Packages Offered

By BILL FARRELL Daily News Staff Writer

As expected, the state budget approved last week in Albany includes an early retirement incentive package for civil servants.

Or, as Art Wilcox, director of the public employee committee for the state AFL-CIO, explained, "Actually, it's a ...bill cobbled together to provide for cost savings without resorting to layoffs."

Because the bill has different implications for different agencies and locales, we cannot provide specific details as to just how the retirement incentive will affect everyone. But we can say the plan has two tiers.

Part A provides a temporary, targeted incentive for employees already eligible to retire, or workers 50 or older with more than 10 years of service.

Localities such as New York City must opt in to this program by the end of August.

The mayor will determine "eligible titles" for city workers, and the schools chancellor will do the same for the Board of Education. Employee eligibility will be based on seniority.

Eligible employees will receive one month of additional service credit for each year of service, to a maximum of 36 months. Employees over age 50 with at least 10 years of service would receive a reduced retirement incentive, depending on their age.

The bill also allows localities to offer an additional severance incentive to employees to elect this option.

"The difference between this program and those in the past is there is no requirement to abolish the positions," said Wilcox. "Employers only have to achieve a savings."

Part B is a nontargeted 55/25 plan.

This would allow any eligible employee age 55 or older with at least 25 years' service to retire without penalty.

According to Wilcox, the employer may exempt certain positions deemed critical to public health and safety.

"A school nurse would not be considered critical. A burn center nurse might," explained Wilcox.

Those employees deemed critical will be permitted to challenge the decision in an Article 78 procedure.

Employees will be eligible to apply for a package during designated 90-day windows, which will be determined.

Employees eligible under both plans must choose one or the other.

We hope this answers some of your questions, although it's best to check with your union officials to see how the plan affects you.

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Inmates Denied Access to State Database Files

By Mark Hamblett - New York Law Journal

Prisoners challenging the double-celling of inmates in the state's maximum security prisons will not have access to the Department of Correctional Services' electronic databases, a Southern District judge has ruled.

Citing the enormous burden on New York State in a class action that has already generated "nearly three quarters of a million pages of records" in discovery, Judge Gerard E. Lynch said that the "security burdens on the State will be massively increased by production in this form"

Judge Lynch is the latest in a series of judges to preside over the seven -year old case of Jones v. Goord, 95 Civ. 8026. The suit charges that the housing of two prisoners in a cell designed for one due to prison overcrowding increases the transmission of disease and the incidence of violence, and therefore deprives "inmates of the minimal civilized measure of life's necessities"

Relief on a similar claim concerning the practice of double-celling in the state's minimum-security prisons was rejected following a trial on the merits in 1998 before Judge Sidney Stein.

And in his own opinion, Judge Lynch said the prisoners face a "difficult burden" in proving their case.

"The problem for a court is not to enforce its idea of an ideal prison budget, but to decide when economies in prison spending create conditions that cannot be tolerated in a humane society," Judge Lynch said.

"The plaintiffs' contention that New York's policy oversteps this line faces the further obstacle that double-celling is not a universal or even widespread condition in New York's prisons," the judge said. The practice involves less than 5 percent of the state's maximum-security cells, and inmates are "double-celled" for no longer than 60 days, he said.

Even though the prisoners had obtained a great deal of information about double-celling, they asked Judge Lynch for six different electronic databases that they claimed were "essential to the effective prosecution" of the case. The databases would enable the lawyers for the class to track the locations of prisoners, recover incident reports and disciplinary records and monitor prisoners medical problems and treatment.

Fried, Frank, Harris, Shriver & Jacobson has handled the prisoners' claims pro bono in both the Bolton and Jones case since 1995.

Ira S. Sacks of Fried Frank said the problem with the Bolton case was that the plaintiffs were "able to demonstrate a risk of harm, but not actual harm," caused by the practice of double-celling. So during discovery in the Jones case, Sacks said, the aim was to move beyond anecdotal evidence of harm to prisoners and show how problems exist on a "facility-wide or system-wide basis."

"What we were looking for was a way to do statistical analysis by using the existing database rather than recreating our own," from the paperwork already turned over in discovery, he said. The difficulty with creating an electronic database from existing paperwork, he said, was that errors are often made in data entry.

Vulnerable to Hacking

But despite the plaintiffs' assurances on confidentiality, attorneys for New York State had several objections, including that the structure of the databases and the technical specifications that would have to be provided to plaintiffs' experts would leave the computer system vulnerable to hacking.

In a case where discovery has been so extensive that the New York Attorney General has hired three full-time clerks to work on it, Judge Lynch said the prisoner plaintiffs were unable to counter the state's objections.

The judge first determined that the information on the databases was indeed relevant discovery material.

But he said that the "databases appear to be general DOCS managerial tools, covering all inmates," in the state system, and "nothing in the record suggests that the databases are easily broken down in such a way that only the portion relating to the institutions involved in this lawsuit can be separately reproduced or disclosed."

Moreover, he said, the data sought "are not readily available to the statistical manipulations proposed by plaintiffs," and the process of getting meaningful access to the system "is not a matter of duplicating discs and handing over copies."

In addition to the expense and burden involved in the effort, he said, "the security risks of producing the databases are substantial"

The databases contain a host of sensitive material, and as the extended discovery period has already shown, extensive redaction of such material takes a great deal of time and effort, he said.

While it may be easier to guard against physical theft of paper documents entrusted to plaintiffs who are working under a confidentiality agreement, he said, "computer security is an entirely different matter."

"The ease with which entire databases can be reproduced or transmitted radically alters the security stakes and requires a rebalancing of the factors that permitted unredacted information to be disclosed in paper form," he said. He added that disclosure of the codes and documentation required to utilize the databases would provide access to the "highly confidential" techniques used by prison authorities to record and store data.

In the end, Judge Lynch said the plaintiffs had not made the necessary showing that access to the databases was so critical as to outweigh the burden on New York States.

Stephane Clare and Midwin Charles of Fried Frank also represented the plaintiffs. Assistant Attorneys General Barbara Demchuk Maddox, Barbara Hathaway and Steven N. Shulman represented the state.

Date Received: May 21, 2002

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Even in harshest prisons, women work as guards

The pay and the benefits are an attraction, and some say their presence leads to better behavior by inmates.

April 21, 2002

By MAREK FUCHS

The New York Times

OSSINING, N.Y. -- Cheryl Patton walks into work wearing no makeup, no perfume and no jewelry, and with her hair pulled up and back in a bun. She cannot be a temptation, nor can she be an easy mark to grab.

"There are only predators here," Patton said, "and the preyed upon." Patton is a corrections officer in Sing Sing, the all-male maximum-security prison here, where 2,400 of the state's most-violent criminals serve their sentences. Most are serving at least 10 years; many are serving life sentences.

Patton doesn't want to know what the prisoners did. "A person may have never been disrespectful," she said, "and then you find out that they pushed a baby off a roof. Or cut their mother's head off."

In the five years she has worked here, Patton, 41, has guarded every inch of the facility, including Tappan, the medium-security wing.

As Patton hands out volleyballs in B-block gym, escorts inmates to the mess hall or locks one into his cell on a wintry day, she occasionally rubs her belly or presses her palms against the small of her back. Patton is six months' pregnant with her first child.

How does that play out at work?

Patton's gaze turned fixed. "It doesn't." vOf the 754 corrections officers on staff at Sing Sing, 177 are women. In New York state, of the 22,135 corrections officers, 1,935 are women. But with women in the workplace for generations now, doing everything from driving forklifts to refereeing NBA games, a female guard in a men's maximum-security prison still has the power to shock.

"Almost everyone is surprised to learn that there are women guarding maximum - security men convicts," said Ted Conover, a journalist who became a corrections officer at Sing Sing in the late 1990s and wrote about his experience in "Newjack: Guarding Sing Sing," (Random House) which was nominated for a Pulitzer Prize in 2000. "On an intuitive basis, it's ill-advised, just as men guarding women seems ill-advised."

Women began to enter the system as corrections officers at men's maximum-security prisons in the late '70s. Glenn S. Goord, commissioner of the New York State Department of Corrections, was working then at Eastern, a men's maximum-security facility in Napanoch.

"What I saw happen as they started to come in was that the inmates behaved themselves better," he said from his office in Albany. "There was more pride in how they looked, and they watched their words."

Both Charlotte Wellington, another female Sing Sing guard, and Patton are African-American. At Sing Sing, only 10 of the female officers are white; 138 are black; and 26 are Hispanic. The great majority of the inmates are black and Hispanic.

Patton, a former youth counselor, keeps everything about her personal life private, for security reasons. She said there was an element of curiosity to her decision to become a corrections officer.

"I wanted to see what was lurking behind those big walls," she said. "It felt like history, like a lot of stuff happened there."

But her prime concern was more basic: "I wanted the paycheck."

Corrections officers are paid \$33,567 after one year of probationary status, and they can retire after 25 years of service. They work eight-hour shifts, day or night.

Financial security also drew Wellington, 31. "Some people work until they are 65, get a pension and die," she said. "I can get one at 47, and that sounds inviting."

Wellington didn't want to guard women. "I thought they'd give me too many problems," she said. "I thought the men would be easier, that, since I was a woman, the men would be more compliant." But compliance is only one of the challenges she faces. "Men think you like them or they like you, and that's a problem," Wellington said.

"You have be a strong individual to do this job and to really make a difference," Wellington said. "But do we make a difference? Can we really do anything for these guys? In essence, in reality, no, we really can't. But we can make their life calmer by being calm ourselves. But if you want purpose, this isn't the job for you."



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