

TESTIMONY OF LAWRENCE FLANAGAN, JR., PRESIDENT

New York State Correctional Officers and Police Benevolent Association, Inc.

February 14, 2007

Good afternoon.

Chairman Johnson, Chairman Farrell, and members of the State Legislature, I want to thank you for giving me an opportunity to present testimony regarding the Executive Budget and its impact on NYSCOPBA's membership as well as the Corrections System in New York State.

My name is Larry Flanagan, and I am President of the New York State Correctional Officers and Police Benevolent Association, – NYSCOPBA.

NYSCOPBA represents more than 23,000 critical uniformed law enforcement personnel who provide the “care, custody, and control” of the more than 60,000 inmates inside New York's prisons.

To put it bluntly, many of our members deal with the worst of the worst. Our members deal with the murderers, rapists, drug dealers, and child molesters that populate our nation's fourth-largest corrections system.

It's because of the professionalism we bring to the job every day that New York's prisons are the safest in the nation.

We also proudly represent the Security Hospital Treatment Assistants and Safety and Security Officers who provide the security and maintain the safety of our State mental health institutions. Our membership also consists of the Security Services Assistants who provide security at State facilities on a multi-agency level and Warrant and Transfer Officers employed by the Division of Parole who travel across the country returning parole violators to New York.

The membership also includes Capital Police Communication Specialists, Security Screening Technicians, Forest Rangers in the Office of Parks & Recreation, Lifeguards, Correction Community Assistants and Security Officers.

I would like to focus my remarks today to a few crucial areas of concern with respect to the recently proposed Executive Budget:

The most significant and troubling concern of the Union with respect to this year's Budget presentation is the proposed creation of a Prisons Closure Commission. The recommendations of the Commission would be binding, unless rejected in its entirety by the Governor or the Legislature.

The proposal would follow Section 79-a of the Correction Law requiring DOCS to take certain actions before a prison closure can be effectuated. Specifically, the Commissioner of DOCS must provide notice by certified mail, at least 12 months prior to any such closure, to all employee labor organizations operating within, or representing employees of the correctional facility. Similar notice must also be provided to localities that will be impacted by a closure.

This extremely important statutory provision was enacted at the specific request of NYSCOPBA, only a few years ago.

While Section 79-a doesn't operate to prevent a prison closure, it does ensure that our dedicated officers and their families are given at least a year to plan for a potential transition to another part of the State.

On behalf of NYSCOPBA, I thank you, members of this Panel and all Members of the Legislature, for taking the necessary steps in 2005 to establish this reasonable and equitable notification requirement now codified in statute.

We strongly oppose the creation of Prison Closure Commission.

Not because we fear an exhaustive review of the system, but because we feel this approach contains a fatal flaw that I would like to explain to you in more detail.

Like the recent Berger Commission, the proposed Commission on Prison Closures makes claims it would be comprised of “experts.”

It would also claim to undertake a “fair and transparent” examination of the state’s institutional capacity needs, only this time focusing on New York’s prisons.

Like the Berger Commission, claims it would determine which facilities may no longer be needed or are not cost-efficient to operate.

Unlike the Berger Commission, the Prison Closures Commission proposal unfortunately makes provision for merely one public employee - the Commissioner of the Department of Corrections – who is appointed by the Governor.

We feel any “fair and transparent” examination of Corrections in New York State cannot be provided without the full participation of NYSCOPBA’s membership.

Collectively, NYSCOPBA’s statewide leadership has more than a century’s experience in working inside prisons – from the time inmates begin serving the first day of their sentence to the day they are released back on to our streets.

We represent men and women in every state corrections facility in New York. But under this proposal, our voices, our unique perspectives and our real-world experience would be locked out.

We do not fear the creation of a Commission. . We recognize the importance of “fairness,” and “transparency.” However, it must also be a realistic portrait.

A truly “fair and transparent” evaluation would recognize the fact that despite seeing a decrease of more than 7,000 inmates since the all-time-high of more than 70,000 in the late 1990’s, the system is still over capacity today.

Our members still have to deal with more than 2,000 double bunked inmates in medium security facilities and several hundred in maximum security facilities.

Our union has seen a reduction in more than 1,200 Correctional Officers through attrition since 1999; while there have been almost zero reductions at the administrative level.

For any system to run efficiently, it must not only rely on reductions in one area. Especially one as critical as the men and women who actually maintain the security everyday inside New York’s prisons.

A “fair and transparent” look at Corrections would recognize that “empty beds” in the system do not necessarily mean “unneeded space.”

An experienced member of our union knows that empty beds serve as a safety valve to alleviate treacherous situations for inmates and Correctional Officers alike. Someone who has never been “on the job” might not make that distinction and carelessly recommend eliminating what we know to be a necessity.

NYSCOPBA’s primary concern has always been maintaining the highest level of safety and security for our members, other staff, inmates, and ultimately the public. We would argue safety relates directly to the number of correctional staff available to perform their duties.

While pointing out “realistic” inmate to Correctional Officer ratios, let me point out DOCS has taken the position that our prison system is adequately staffed, it has pointed to a flawed staffing ratio of three (3) inmates to one (1) officer as justification for its position.

This arbitrary “three to one” ratio is arrived at by counting EVERY officer — those on-duty and those off- duty, those on vacation and those on sick and disability leave — when comparing the number of officers to inmates.

However, as you know, while inmates remain inside the walls 24/7, not all officers are inside at every moment of every day

In many facilities, the inmate to officer ratio is actually fifty (50) to one (1) or sixty (60) to one (1). Any rationale person would realize that those chilling statistics do not support an argument for facility closures.

Having said that, I would again like to stress to you that preventing us from positively contributing to the process and playing a role in forming the Commission’s recommendations is not what we consider “fair and transparent.”

Another aspect of the Executive Budget we would like to discuss today is the proposal to form a Commission on Sentencing Reform.

The goal of this commission would be to “conduct a comprehensive review of State laws governing how persons are sentenced and released from prison, as a close examination of the alternatives to incarceration.”

NYSCOPBA does not oppose a thoughtful, complete assessment of sentencing guidelines. What we do strenuously oppose is to using the term “alternative sentencing,” as a cover to pursue the privatization of New York’s prisons.

I think we could all agree that one of government’s top priorities is the protection of its citizens. Quite simply, it’s something that the public sector provides that is far superior to anything the private sector has to offer.

Clearly the rationale for the privatization is to save the state money. While it is certainly good policy to continually pursue ways to save the state dollars, it should not be at the expense of law enforcement. Pursuing this initiative would be “penny wise and pound foolish,” placing officers, inmates and the public in harms way. Furthermore, some analysis indicates there is little or no savings by privatizing prisons.

The Immigration and Naturalization Service recently canceled a contract with a private company when it learned that as part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards who were completely unaware of their responsibilities in case of an emergency.

I would like to take this opportunity to recognize the legislature's efforts to stop this trend by passing legislation last year requiring the custody and supervision of state and local inmates be exercised by certain police officers and peace officers. As you know that bill was ultimately vetoed.

In closing, I would once again like to thank you for providing NYSCOPBA the opportunity to discuss these very important issues with you.

NYSCOPBA firmly believes that these proposed changes directly impact the safety and security of the entire prison system; affect each officer, their families and their respective communities.

I would be happy to answer any questions you have at this time, or please feel free to call upon me personally to review these matters.