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Testimony, Public Protection Joint Legislative Public Hearing
On the 2016-2017 Executive Budget Proposal

Good afternoon distinguished committee members. My name is Steve Drake and I am a Vocational Instructor at Mohawk Correctional Facility I have worked for the Department of Corrections for over 23 years.

The New York State Public Employees Federation (PEF) represents thousands of members within The Department of Corrections and Community Supervision (DOCCS). These include those who work in the prison health system, rehabilitative services, education, vocational training, and drug treatments. These are all areas critical to help DOCCS maintain their mission, which is preparing and ensuring an inmates ability to become a productive member of our communities upon their release.

Four years ago, DOCCS merged with Parole, which consolidated the duties of a Correction Counselor and a Parole Officer. Prior to this merger, Correction Counselors had the appropriate time to properly evaluate the inmates assigned to them within their caseload. Since the merger, DOCCS implemented the COMPAS program, which is a sterile computer program and does not allow for proper human interaction of Correction Counselors and the inmates. Because of the COMPAS program, DOCCS has increased Counselors caseloads to the point of simply entering data, which negatively impacts the assistance and treatment received by inmates. In short, the true tools necessary to generate the needs of a potentially productive incarceration has been removed.

In his Executive Budget proposal, the Governor announced that he will partner with Manhattan District Attorney Cyrus R. Vance, Jr., SUNY and CUNY to invest \$7.5 million to expand college in prison programming in state prisons. We would request that the legislature support the expansion of the HSE program which includes all aspects of educational programs in DOCCS. These programs are a more effective

way of giving inmates the skills they need to become productive citizens when released from prison. You cannot take advantage of college programs if you have not completed high school. In order to perform their core mission of programing inmates with the educational tools they need for successful re-entry into the community, the teacher to inmate ratio should increase by 50 percent to match enrollment.

Despite the fact that over the past 14 years the staffing ratio of inmates to uniformed staff within the facilities has been reduced consistently, there has been an increase in violence within these facilities because it was not accomplished proportionately. Since 2010, there has been a 40% increase statewide of assaults on staff in NYS prisons, and a 20% increase of assaults on inmates. (DOCCS Fact Sheet, Dec. 1, 2015) The statewide ratios may have remained consistent; however, this trend in workplace violence clearly indicates the need for additional highly trained staff. We believe there is a need for additional training for current staff and the hiring of trained staff necessary to combat the increased workplace violence, thereby to improving the safety for both staff and inmates.

With that being said, I would like to bring an issue of urgency to you attention. Our members rely on personal alarms for their safety in the prisons, commonly called a personal alarm system or PAS. These are small devices similar to a pager that our members activate during an inmate assault or potential danger. The current PAS system is, in some instances twenty years old or older. Technology has advanced greatly during this time period and there are now PAS systems that can pinpoint locations, which we would request, for quicker response times by security. There was a plan in place to update the PAS system, but with budget cuts in recent years, this very important item has been pushed to the back-burner. As a priority and for everyone's safety, I am requesting that you help us make this life-line possible.

PEF represents numerous licensed medical professionals within DOCCS. These medical professionals provide vital health care 24-hours a day, every day for all of the inmates in the facility and any staff who get hurt or have other medical emergencies at work. DOCCS, as with many state agencies, suffers from recruitment and retention problem of licensed professionals, which PEF represents, such as nurses, doctors, pharmacists, and nurse practitioners within its facilities. The nurse vacancy rate has increased from 10 percent in January 2015 to 15.85% in November 2015 -- an increase of nearly 6% in less than one year-- and this situation isn't improving.

These vacancies are attributed to, in part, salary disparities between what is offered by New York State compared to similar jobs in the community, resulting in the inability to attract and maintain a sufficient number of staff. Salary disparities are further exacerbated by the workplace conditions for these professionals. Recruitment and retention problems result in frequent scheduling and assignment changes as well as a high volume of voluntary and mandatory overtime. Medical professionals represented by PEF are unsung, undervalued, and needlessly overstretched.

Some key points:

- DOCCS has the most "No Mandatory Overtime" Violations of all state agencies.
- DOCCS has violated this law 2,729 times between July 1, 2009 and November 2015 forcing nurses to work beyond their regular shift. Repeatedly and unethically, in violation of *NYS Labor Law 167 - Part 177*.
- DOCCS Medical Unit continually lowers the minimum staffing level at each facility forcing nurses to work short-handed, which in turn can contribute to increased medication errors and the inability to provide quality care. This practice also puts a nurse license at risk.

- Nurse vacancy rate has increased from 10% in January 2015 to 15.85% in November 2015, an increase of 5.83% in less than 1 year, and it isn't getting any better.
- DOCCS pharmacists have a vacancy rate of 16%.
- Recruitment of licensed professionals such as nurses, doctors, pharmacists, and nurse practitioners is nearly impossible due to salary disparities between what is offered by NYS compared to the community, resulting in the difficulty to hire enough staff.
- The MOU between NYS OMH and DOCCS expired in 1999; the document was created to clarify the roles and responsibilities of OMH operating within DOCCS. We have been told that the current MOU in draft does not include a breakdown of nursing responsibilities between an OMH Nurse 2 Psychiatric and a DOCCS Nurse 2.

I would like to say at this point, that it is imperative that we begin to take a look at increasing the base pay of a nurse from a Grade 16 to a Grade 18 to help in the recruitment and retention of qualified nurses. With Tier 6 in place and stagnant salaries, there is no incentive for qualified nurses to come to the state for employment or remain with the state for a career.

While I chose to highlight only a few issues today, there are other areas in DOCCS that remain understaffed and underfunded. Please keep in mind, that overtime expenses at state agencies continue to grow and the over reliance on overtime demonstrates the need to reinvest in the state workforce. The public interest is best served by state agencies that are fully staffed with public employees. Thank you for your time and the opportunity to speak with you today.

New York State Department of Corrections and Community Supervision

Testimony for Public Protection Hearing February 4, 2016

Thank you for the opportunity to comment on the Executive Budget proposal for the state fiscal year 2016 – 2017 and the opportunity to provide testimony for the Public Protection Hearing. My name is Paul Rigby and I'm employed as a Senior Parole Officer for the Department of Corrections and Community Supervision. I have worked for the Department for 17 years in the capacity of a Corrections Officer, Parole Officer, Parole Revocation Specialist and as a Senior Parole Officer. I come before you today as the Council Leader for Division 236 of the Public Employees Federation representing Parole Officers, Senior Parole Officers, Parole Revocation Specialists, Parole Hearing Officers and Parole Administrative Law Judges.

The Department of Corrections and Community Supervision's proposed 2016-2017 budget showed an increase to Community Supervisions budget, but provided no change in the FTE (Full Time Equivalent) level.

Currently, there are approximately 650 Parole Officers in Community Supervision that are assigned to the direct supervision of approximately 36,000 parolees. In comparison, there are approximately 24,000 Correctional Officers assigned to 52,000 inmates.-hat gives a ratio of inmates to Correctional Officers 2 to 1. The parolee to Parole Officer Ratio is approximately 55 to 1. Due to changes in Sentencing Guidelines and the closing of DOCCS Facilities, more and more parolees have been released to Parole Supervision.

As the PEF Council Leader of Division 236, I receive reports and news articles of Parolees who have engaged in new criminal behavior , which results in a new arrest for new crimes. Some of the crimes in the last year have included, narcotic sales, possessing weapons, assaults, sex crimes and murder to name a few. I have attached in my written testimony some news articles for your review. Due to the increase in crimes being committed by Parolees, many local municipalities have questioned DOCCS on what they are doing to prevent this from happening and they are calling for Parole reform. I can assure each and everyone of you that Parole Officers give 200%, all of the time to try and prevent these crimes from happening. The problem is directly related to the Standard of Supervision that has been in place for the last few years.

Currently, DOCCS uses what is called the COMPAS system, which is tool to assess the risks and needs of an inmate or parolee to determine what level of supervision will be on that case. Before I tell you about the problems with COMPAS, let me give you a brief description of how parolees were supervised prior to the implementation of COMPAS. When a parolee was released from Corrections, he was considered an Intensive Parolee. He would be supervised at that level for minimally one year. A Parole Officer would have that parolee make office reports 2-4 times a month and would be visited by the Parole Officer 1-2 times a month at his home. The Parole Officer would also visit local law enforcement to review the case, treatment providers and employers. After one year of proving to his Parole Officer, that he was following his conditions, the parolee earned his way to a lower level of supervision. A Parole Officer could supervise up to 40 Intensive Parolees. If the parolee did well, his supervision level would decrease to Regular Supervision and a Parole Officer could supervise up to 60 regular parolees.

PEF Division 236 discussed with Division of Parole Managers and DOCCS Managers that COMPAS would jeopardize community safety if you let a series of questions and answers determine a parolees level of supervision. The COMPAS model requires that each inmate take a questionnaire and based on the risk level, he would be assigned a COMPAS Score. The Parole Officer would then be required to conduct supervision based upon that COMPAS score. There are COMPAS Level 1, COMPAS Level 2, COMPAS Level 3 and COMPAS Level 4 parolees. COMPAS Level 1 being the highest level of supervision and at most risk and COMPAS Level 4 being the lowest level and deemed at least risk. COMPAS level 1 cases require 4 face to face contacts per month which is Similar to the old Intensive Parole Cases. 1 Parole Officer supervises 25 COMPAS Level 1 parolees. COMPAS Level 2 cases require 3 face to face contacts per month. 1 Parole Officer can supervise 40 COMPAS level 2 cases. COMPAS level 3 cases require 2 face to face contacts every 3 months. 1 Parole Officer can supervise 80 COMPAS level 3 cases. COMPAS level 4 cases require 2 face to face contacts every 4 months. 1 Parole Officer can supervise 160 COMPAS level 4 cases. Just like the old style of supervision, sex offenders and mentally ill parolees are supervised at a 25-1 or 15-1 standard.

It is in the opinion of my members, that the COMPAS Level 1 and 2 cases may be deemed high risk, but the problem clearly lies with the impossible task of supervising the COMPAS level 3 and 4 cases. Parole Officers are making supervision standards, but the standard does not adequately provide the amount of supervision necessary in the community. Many drug dealers are COMPAS Level 3 parolees. Where there are drugs, there are weapons. Many times, Parole Officers find these parolees have engaged in narcotic sales and find drugs and weapons at their homes. Many of the COMPAS level 4 parolees are people convicted of murder, homicide, robbery 1^s to name a few. Due to the fact that the COMPAS tool weighs age as a strong factor that person will score low. So how does it make sense for a person who just served

30 years of his life behind bars to see a Parole Officer 2 times every four months.

PEF suggests that the COMPAS tool should either be eliminated or modified to an earn your way program and the staffing ratio of parolees to Parole Officer be re-examined. No Parole Officer can effectively supervise more than 60 parolees in the community. This would obviously result in the need for more Parole Officers to be hired, but I believe that the Communities Safety is well worth it.

Another reason for the possible increase in crimes in the community can be directly related to Parole Officers being directed to perform non-Parole Officers duties. About 6 years ago, Magnetometers (metal detectors) were installed into the field Community Supervision Offices. PEF agreed to "TEMPORARILY" help staff that position until a work force could be developed. The State created an ISO Grade 9 position to fill that position. DOCCS ran a training Academy and those items were filled. The problem is that DOCCS has failed to take into an account the staffing shortages when an ISO either quits or is fired. When that happens, DOCCS Managers have ordered Parole Officers to cover that vacancy. PEF Division 236 has argued unsuccessfully through Labor Management that utilizing Parole Officers to cover a Grade 9 ISO position was a waste of resources by limiting the Parole Officer's community contact.. DOCCS refused to pay overtime to cover the extra duty and directed the Parole Officer to run the Magnetometer. DOCCS Assistant Commissioner Martuscello informed us that he would not run a DOCCS Training Academy until there were 5 ISO Vacancies. This has led to Parole Officers working the Magnetometers for tens of thousands of hours instead of supervising parolees. PEF requests that Parole Officers be relieved of covering the Magnetometer shortages and be allowed to return to their normal duties and supervise New York State parolees.

Another problem leading to the increase of Parolees being involved in violence is the Parole Revocation process. Once a parolee is deemed to have violated his conditions of parole, a parole warrant can be issued. There are Parole Revocation Guidelines that direct the sanctions associated with the parolee's case. Category 1 Parole Violators can receive a minimum of 15 months incarceration. Category 2 violators are a Revoke and Restore to the WDTC (Willard Drug Treatment Campus), Category 3 violators are time served plus ninety days incarceration. An Administrative Law Judge can also find no violation to have occurred or Revoke and Restore the Parolee to the community. The problem that we witness in the community is the guidelines do not address parole violations. The Category 1 violators are now being considered to attend WDTC for ninety days instead of being incarcerated for 15 months. The DOCCS have developed Parole Diversion Programs that allows a Parolee who has been found in violation of his parole to go into a Diversion Program, Orleans Parole Diversion Program or Edgecombe Diversion Program in lieu of going through the violation process. Many of these Parolees come back onto parole in 45 days and start to violate the conditions all over again.

In the Rochester Area Office, the DOCCS is running a Pilot Program called RESET. The RESET program is intended to immediately address violations with the hope that it would deter future crimes. There have been conflicting studies stating that this either works or it has been removed from supervision at other jurisdictions. This once again is used to circumvent the Violation Process. Now a Parolee could spend 1 night in jail if he violates his parole, up to one week. Most parolees have been incarcerated many times in their lifetime and 1 to 5 nights in jail is not the answer. PEF requests that the use of Diversion programs be eliminated and that a new category for Parole Absconders be developed. Currently, if a parolee absconds from supervision, stops making office reports and changes his residence, they are treated just like any other parole violator. Sometimes, these parolees are on the run for months,

years, only to have his parole violation hearing and be sentenced to time served plus ninety days. PEF requests that a new category be written into law giving a parolee found guilty of absconding from supervision be returned back to DOCCS for a minimum of one year.

DOCCS Administration would like the public to believe the parole absconders are the reason for the spike in criminal behavior and they have conducted two warrant sweeps in the last two months. PEF was informed of the first warrant sweep during a Labor Management meeting in December 2015. They were told by DOCCS Deputy Commissioner Martuscello that the OSI (Office of Special Investigation) (formerly DOCCS IG), would be running and supervising the warrant sweeps. PEF questioned why OSI was running the warrant sweep and argued for many reasons why this was not in the best interest of the Parole Officers, the parolees and the community at large. DOCCS Deputy Commissioner Martuscello stated that this was a management decision and that was how it was going to be handled. Since the two warrant sweeps, public safety has been jeopardized and the community has been put in harms way. During the planning phases for each operation, investigators failed to include the Parole Officer of record in developing leads and getting crucial information on many of the target homes. The Parole Officer of record would have knowledge of pets, possible weapons and other potential threats associated with those targets. When the Rochester warrant sweep occurred in December 2015, DOCCS sent over 100 Officers, a majority of them from OSI and CERT to conduct the warrant sweep. These officers were shipped in from all over the state and worked from Sunday through Wednesday. During the warrant sweep, OSI Officers greeted the family members and associates who answered their door with a ballistic shield and many times with a firearm drawn. There were canine units at the door and OSI or CERT Officers with assault rifles. This tactical approach is in direct contradiction to the style of warrant attempts trained to Parole Officers. Parole Officers use their relationship developed with these family

members and their ability to talk to them to allow for Parole to search. This tactical approach freighted many citizens and lead to complaints. The Rochester Parole Office was directed to have that person call the OSI Office in Albany. How is a person supposed to have any recourse if he/she complains to the same body that caused the complaint? These OSI Investigators lack real life warrant experience and rely on classroom and simulation training. The OSI Officers also failed to provide in Rochester any notes to the Parole Officer in regards to what addresses were used, who they contacted and what additional information was gathered. The Rochester warrant sweep resulted in 13 parole absconders out of 36 taken into custody.

At what cost was that Warrant attempt done? The crucial relationship and trust developed over time between the Parole Officer and the community was severely damaged. Many times, the warrant teams went back to the same homes 4-6 times harassing those community members. When they introduced assault weapons, now the Parole Officer is viewed as a Law Enforcement Officer and his dual role as a Counselor has been diminished. Officer safety was put at high risk when the OSI failed to provide each team member with a radio and many team members were not able to communicate with one another. During the Rochester sweep, an OSI Officer was posting on Social Media about the sweep that put all members' lives into risk.

The fiscal cost of the Rochester sweep also raises concerns. The 100 DOCCS Officers worked 24 hours of regular time, 22 hours of overtime plus per diem and lodging. Using the average salary rate of \$40 an hour, the operation cost tax payers over \$250,000. That represents the cost per each absconder taken into custody of \$19,000.

The Brooklyn warrant sweep utilized approximately 120 DOCCS Officers that worked 40 regular hours, 34 over time hours, per diem and New York City Lodging costing around \$475,000. That warrant sweep worked along with New York City Detectives and NYS Police and

worked the most recent 200 absconder cases. Many of these cases had little or no prior casework due to 35 Parole Officer Items that were vacant.. That warrant sweep caught 59 out of 200 parole violators. The cost per absconder was\$8,000.

DOCCS has informed PEF that there will be warrant sweeps to come. If they continue to do these warrant sweeps monthly, at the current rate it would cost the State approximately \$4,350,000. There has to be a better way to do that job and prior to the merger with DOCCS there was a better way.

There are roughly 3,000 absconders in the State with the and the majority in New York City. Approximately 10 years ago, the New York City area had two JAWS Teams that consisted of 1 SPO and 6 PO's per team. They worked with the NYC Warrant squad closing parole warrants. Both of those JAWS teams have been eliminated and never back filled. Also, each of the four Bureau's in New York City had a warrant team consisting of 1 SPO and 6 Parole Officers. Today, three of those warrant teams have been eliminated and never back filled. There is also a US Marshall's team that works on warrants in NYC that has 1 SPO and 6 POs assigned to them.

PEF requests that instead of wasting \$4,350,000 on a temporary fix that those resources be used to fill the vacant 50 Absconder Search Parole Officer Items assigned to the Community Supervision Bureaus to address the absconder rate. Each office would have their own dedicated, Parole Officer that has a working knowledge of the community and resources available to him to apprehend these absconders in a quick and safe manner.

PEF also has several concerns with the use of OSI Investigators to conduct and supervise warrant attempts in the community. In December 2015, The Correctional Association of NY testified before the NYS Assembly Committee on Corrections and made several recommendations on prison reform. Some of those recommendations

included that DOCCS OSI should lose the ability to perform internal investigations and that ability should be outsourced to a separate agency. Both the testimony of the Correctional Association of NY and several articles from the Albany Times Union alluded to many problems with the Office of Special Investigation. A past director of operations for the DOCCS IG, now OSI was recently indicted and plead guilty to criminal charges involving his misconduct in the position. The State Inspectors General Office is currently investigating the Office of Special Investigations for misconduct that includes complaints of corruption, cover-ups, harassment, hostile work environment and nepotism that has plagued the Department. Acting Commissioner Annucci wrote an editorial for the Albany Times Union explaining the changes and the complete overhaul of OSI in the last two years. I believe that they are definitely moving in the right direction and I commend him for doing so. However, many complaints have been made of OSI in their handling of the Clinton Correctional escape. Many prisoners from Clinton Correctional Facility complained about OSI Investigators who beat them and tortured them for information on the escape. Many of these same OSI investigators are still working for OSI and now they are being sent into our communities to take over the Parole Warrants.

PEF urges this body to restore funding for the vacant Parole Absconder Warrant items and to have the DOCCS cease and desist the reckless and wasteful manner of sending OSI Investigators to do the Parole Officer's work. I have had many conversations with local Senators and Assemblymen in regards to tools much needed by Parole Officers in order for them to do their jobs in a safe, efficient manner.

In the last nine years since I have been involved as a union leader, transportation has been an ongoing problem. In December 2015, PEF requested data information regarding State vehicles assigned to Community Supervisions from DOCCS Labor Management. There were a total of 219 vehicles assigned to Community Supervision that included

27 new vehicles delivered that following week. Those 27 vehicles replaced 29 vehicles that were unsafe to operate. PEF argued that the current amount of vehicles was insufficient to handle the needs of Parole Officers. Many times, a Parole Officer would come into the office and a vehicle was unavailable because it was in for repair, another Parole Officer or Manager was using it or it was being used for a transport. This resulted in the Officer being stuck in the office or being forced to use their own vehicle. Many Officers do not feel safe using their own personal vehicles because they do not want the parolees to know what vehicle that they and their families use when they are off duty. Also, if the Parole Officer is involved in an accident, the State Comptroller's Office stated that the Parole Officer would not be covered by the State Insurance Fund. This system to reimburse the Parole Officer for mileage expenses used to conduct official duties is also broken. Prior to the merger, a Parole Officer who chose to use his own car would be reimbursed within 2 weeks. Currently, reimbursement takes 4 months, which is approximately \$3,000 to \$5,000 out of pocket expenses. PEF requested that the Community Supervision fleet be increased and Deputy Commissioner Martuscello stated that this was not something that he could not accommodate in the current budget. PEF also brought to the attention of DOCCS DC Martuscello that the NYS POLICE brought up to their administration that their State Police Cars with over 125,000 miles on them were unsafe to operate and requested to have them replaced once they hit 125,000 miles. PEF asked if DOCCS would consider the same plan for the Community Supervision fleet and DC Martuscello stated that this was not fiscally possible. He stated that Parole Officers have historically used their own cars when necessary and this is something that could not be changed overnight. Unfortunately we live in more dangerous times and past practice is irrelevant. I mentioned before that the Community Supervision fleet is 219 vehicles. There are 7 vehicles assigned to Administrators leaving 212. Twenty-eight of the 212 vehicles are assigned to the Bureau of Special Services

and those Parole Officers do not directly supervise parolees. This leaves Community Supervision Parole Officers with approximately 184 vehicles to supervise 36,000 parolees. Nineteen vehicles have between 100,000 to 125,000 miles on them, 18 vehicles have between 125-150,000 miles on them, 19 have between 150-175,000 miles on them, 12 have between 175-200,000 miles on them, and 7 have over 200,000. As you can see, many of these vehicles are well past their life expectancy and no longer safe to operate. Many of these high mileage vehicles are constantly in and out of repair shops. Some of these vehicles have cost the over \$40,000 to repair. The State can purchase a new Chevy Impala on the State Rate for approximately \$15,000. When a vehicle is surplus, DOCCS have come up with the strategy of going to auctions and looking at used vehicles that other State agencies have disposed of as a way of replacing our vehicles. PEF requests that the fiscal budget for DOCCS Community Supervision be increased for the purchase of 150 additional vehicles assigned to Community Supervision. These new vehicles would replace the 57 vehicles that are over 125,000 miles and increase the working total number of Community Supervision vehicles to 325 for their fleet. DOCCS should maintain the 325 numbers of vehicles assigned to Community Supervision and adjust accordingly to the number of parolees on supervision. I will leave you with a very serious situation that occurred about one month ago when 2 Parole Officers were driving one of these unsafe vehicles that had 180,000 miles on it. Those Officers smelled something smoking and once they got out of the vehicle it became fully engulfed in flames. The officers could have been seriously injured or killed. Please dedicate the necessary resources to our Parole Officers so that they and the Community can be safe.

Thank you.

Good afternoon distinguished committee members – thank you for your time and for allowing me this opportunity to speak with you on behalf of the more than 3,500 PEF-represented members employed by the Office of Information Technology Services (OITS); the people who provide critical IT services to the State agencies and to the citizens of New York State.

My name is Penny Howansky. I am a PEF Council leader and a Manager of Information Technology Specialist 1 for the New York State Office of Information Technology Services. I have worked to serve the agencies and citizens of New York State for 32 years. I am here today to speak to you about our grave concerns regarding what appears to be an ongoing effort by OITS to further privatize the functions of the State workforce, and especially of the critical front-line services and functions currently performed by PEF members, such as the IT Help Desk.

First, I would like to provide some context for the current situation:

Several years ago, New York State spent millions of taxpayer dollars on a private consulting firm to provide a workable business strategy to modernize the IT landscape of New York State. Out of this, a recommendation was made to create the Office of Information Technology Services, or OITS.

OITS represented a large-scale effort to consolidate IT services and to ultimately save the State, and taxpayers by extension, a great deal of money. Throughout the establishment of OITS as well as the related IT Transformation, the State maintained that one of the primary benefits of centralized services would be a reduction in the State's reliance on consultants and contracted services.

However, what we see is quite the opposite. OITS' reliance on outside consultants and contracts for services which it should be providing in-house are growing exponentially. This is not because of a long-term or well-thought-out strategic plan. Rather, the dramatic increase of

consultants is the result of mismanagement and it runs contrary to the stated objectives from the time when OITS was created just a few short years ago.

Over the past two years, OITS has *decreased* the number of Full Time Equivalents, or FTEs – hardworking public servants and New York State citizens like yourselves - from 3,819 FTEs in 2014 to a projected 3,585 FTEs in 2016. In other words, we have seen a *reduction* of about 6% of the *State* workforce – not of consultants. During the same period, the number of consultant staff OITS employs has risen from 164 in 2014 to a projected 849 in 2016. Far from a reduction on consultants, this represents an *increase* of 517%.

It is important to understand that we are not comparing apples to apples when we talk about the cost of FTE State employees versus consultants. Even accounting for State employee benefits, consultant staff cost on average 60% more than their State equivalents.

OITS expects that these costs will simply be absorbed by NYS taxpayers – your constituents – because a State agency cannot go out of business. However, it is equally important to understand that for this dramatic increase in spending, we have not seen an increased *value* in the level of service that OITS can provide the taxpayers.

Prior to the centralization of IT services, State agencies had their own in-house IT Departments, agencies were satisfied with the service level and quality of the services that the IT staff under their control were able to provide. Now, we hear horror stories about the mismanagement of these resources under OITS and the decrease in the quality and service levels that the State is able to deliver to its customers. These complaints come both from rank and file staff and leadership at State agencies.

I want to speak about help desk services as a primary example. The Help Desk is one of OITS' most essential functions. The Help Desk provides IT support services to the thousands of staff at New York State

agencies who may be experiencing problems with their computers and technology equipment.

OITS, in centralizing IT functions, has removed knowledgeable and experienced IT Help Desk or “Break / Fix” staff located at the State agencies they serve and has failed to redeploy trained staff to replace them.

OITS mismanagement has created barriers to the success of Help Desk and Break/Fix functions – such as failing to ensure that IT staff servicing the various State agencies’ technology systems have access to those systems and the appropriate networks required to do their jobs. So, for example, an OITS employee charged with providing support to DOT employees often does not even have the necessary access to DOT’s network and systems and has to delay work while obtaining such access.

Tasks which used to take ten minutes can now take weeks to complete due to the increased bureaucracy and convoluted ticketing system which OITS has implemented. Help Desk employees are routinely denied access to the systems of different State agencies, eliminating their ability to provide adequate levels of service.

In some cases, they are denied access to the basic resources necessary to do their jobs. For instance, OITS employees who use vehicles owned by the Department of Transportation are told that they can only go to DOT offices, and *cannot* provide service to any other agency while riding in a DOT vehicle, even though their job requires that they provide support to many different agencies. This is not what a consolidation of resources is supposed to entail. These are resources which are owned by New York State and which should be shared by all State agencies in order to ensure the proper function of government. These barriers and silos make no sense, and they cost the taxpayers money while reducing the services they receive.

We hear about the need to bring in “skills” that don’t exist in the State workforce. This is often associated with OITS’ purchase of proprietary software requiring specific skills. With appropriate planning and an investment in training State staff, OITS would not be in the position of needing to outsource. Even more troubling is that we have learned that OITS management has trained consultants to gain the skills they were supposed to have when they walked in the door.

We had a system that worked, and it has been broken. It was broken after implementing a plan that cost millions of dollars to create, and it has been broken by OITS’ own mismanagement. I ask you: how is it possible that an agency created to provide “best in class” technology services are unable to provide basic in-house help desk functions?

I want to reiterate that the goal of the IT Transformation was to reduce the State’s reliance on consultants by employing a highly-skilled in-sourced and talented NYS workforce. Now, OITS is trying to outsource these jobs to other states – potentially to other countries.

The RFP for the Help Desk function does not require that the contractor’s employees be located in New York State. At a time when the State is spending millions of dollars to create “tax free zones” as a way of creating jobs– what possible justification could there be to send these jobs to other States or overseas? At a time when thousands of our recent college graduates are struggling with student debt and high unemployment – what possible justification could there be to take these jobs away from them?

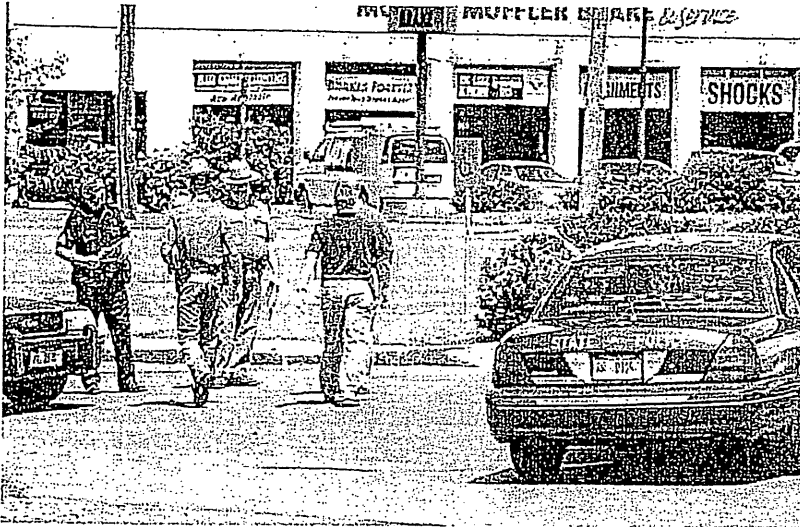
And the RFP for Help Desk is only one example of the kinds of problems that outsourcing our NYS workers can bring to service delivery. Outsourcing is a bigger problem than just this RFP. As you probably know, because of the huge expense of contractors, the City of New York and other public sector entities are now in the process of insourcing an increasing volume of IT work. New York State government should not be on the wrong end of this trend. The answer is

insourcing, not outsourcing. The budget proposals before you dramatically continue the trend of decreasing the OITS workforce and increasing the consultant workforce. Outsourcing is not good for workers or taxpayers.

These are our jobs, our livelihoods, and our futures. These types of jobs are the cornerstones of the communities you represent. And we believe, as we hope you do too, that OITS should not be allowed to contract out for services to cover their mistakes and poor management or their desire to bypass the Civil Service merit and fitness system. The answer is to invest in our people, our citizens, and our communities – to utilize our current State employees and to hire additional employees when needed, not contractors, and to deploy them appropriately with the training and resources necessary for their success.

Thank you very much for your time.

NY state police union complains about unsafe patrol cars



New York State Police and Onondaga County sheriff's deputies investigate a bank robbery in the Western Lights Plaza in this July 26, 2010 file photo. (Dick Blume/The Post Standard)

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on July 28, 2015 at 5:53 PM, updated July 28, 2015 at 8:19 PM

ALBANY, N.Y. (AP) — The union representing state troopers has filed a complaint saying many patrol vehicles have too much mileage to be safe.

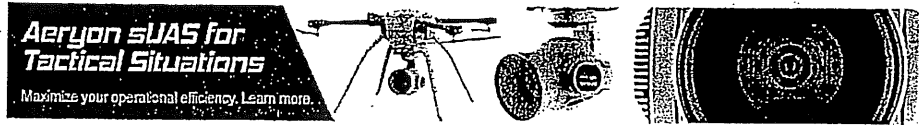
The New York State Troopers Police Benevolent Association says 45 percent of roughly 1,300 patrol vehicles in use statewide have traveled more than 100,000 miles.

According to the union, significant breakdowns have occurred, including bearing failure and axle shaft fracture while driven.

Union President Tom Mungeer says the cars are driven in severe weather, at high speeds and on various terrain and the high mileage adds another layer of difficulty.

The union says its complaint was filed since timely action hasn't been taken to replace vehicles despite concerns raised at legislative hearings on the budget and police safety.

The State Police didn't immediately reply to a request for comment.



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N.Y. State Police Update Fleet After Trooper Complaint

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August 04, 2015 |



Image: New York State Police Facebook Page

The New York State Police plan to remove higher-mileage vehicles in answer to a complaint filed by the agency's troopers that the vehicles continuously break down.

The agency will remove from service vehicles with more than 125,000 miles on their odometer in an update that will be completed by the next fiscal year, reports the Associated Press.

The announcement comes on the heels of a complaint filed by the New York State Troopers Police Benevolent Association claiming the agency was creating unsafe working conditions with the high-mileage cars.

Of the approximately 1,300 agency patrol vehicles, 45% have more than 100,000 miles. Of those, 29% have more than 125,000 miles. There have been significant breakdowns of patrol vehicles, including instances of bearing failure and axle shaft fracture while the vehicles were being driven, according to a release from the police union.

"While we appreciate the significant progress made over time in terms of automotive engineering, you're comparing apples to oranges when looking at a



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family vehicle with 125,000 miles on it and a patrol car with 125,000 miles on it," said Thomas H. Mungeer, union president. "Patrol vehicles are driven in severe conditions — including weather, speed, and different types of terrain — and the extremely high mileage on the vehicles adds another layer of adversity to an already difficult situation."

The association represents more than 6,500 active and retired, uniformed members of the New York State Police from the rank of trooper through the rank of major.

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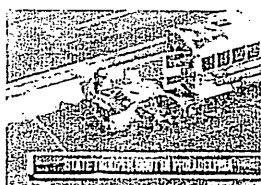
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Jon Retired LEO @ 8/4/2015 7:29 PM

There is just about no comparison between civilian vehicles and police units when it comes to driving. No matter how much care you give the units, idling, speed, braking and turning all take a toll. They need to be replaced at 100,000 at the most.

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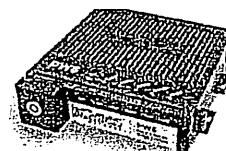
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Suspect in New York cop killing ID'd as recent parolee

Published September 04, 2014

FoxNews.com

Upstate New York police Thursday identified the suspect in Wednesday night's fatal shooting of a police officer as a parolee released in August who served three years for attempted robbery.

The Democrat and Chronicle reported that the suspect, Thomas Johnson III, was in surgery early Thursday and his condition was not immediately clear.

The Rochester Police officer, who was not immediately identified, was shot just before 9:30 p.m. in a shootout with Johnson during a chase, Rochester Police Chief Michael Ciminelli said. The killing marks the first time since 1959 that an officer from the department was killed in the line of duty.

Johnson was reportedly released in August after serving a year on a parole violation, the paper reported. He had served three years for an attempted robbery.

The officer was taken to Rochester General Hospital, where he died. The suspect was taken to Strong Memorial Hospital.

"It is with a sad and heavy heart that I come before you to announce that tonight we lost one of our own," Ciminelli said at an early Thursday news conference. "A police officer who gave his life in the line of duty, who made the ultimate sacrifice protecting the people of Rochester."

Ciminelli said there are no other suspects and that an investigation was continuing.

Rochester Mayor Lovely A. Warren asked the community to keep the officer's family in their prayers.

"Words simply cannot express the sense of sorrow and deep loss that we feel at this moment," Warren said.

Before the news conference, dozens of police officers met with the mayor and police chief at Rochester's public safety building, some reportedly in tears.

The Associated Press contributed to this report

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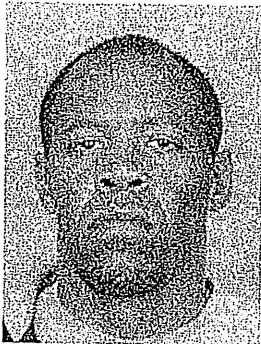
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Parolee facing sex act charges 2 days after release

 **Bennett J. Loudon, @BennettLoudon** 12:33 p.m. EDT October 26, 2015



(Photo: Provided by Rochester Police Department)

Rochester Police say a man who was paroled Oct. 16 sexually assaulted one woman and tried to assault another two days later.

Korane Womack, 42, was charged Oct. 18 with first-degree criminal sexual act and attempted first-degree criminal sexual act.

According to the state Department of Corrections and Community Supervision, Womack was released to parole supervision on Oct. 16. He had been serving a sentence for a first-degree robbery conviction.

The crimes allegedly happened about 11 p.m. Oct. 18 on Driving Park Avenue, near the Maplewood YMCA.

A 29-year-old woman escaped after she screamed for help and two men pulled up in a car. They distracted Womack and told her to run, according to a statement she gave to police.

A short time later, a 28-year-old woman was grabbed while walking down the sidewalk on Driving Park and forced to go to a secluded area, where the crime occurred.

"Then a cop ran up and arrested the guy," she said in a statement to police.

"I was scared that I would be beat up or killed if I didn't do what he said," the woman said in the statement.

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Michael Caruthers convicted of raping girl, 14



Victoria E. Freile, @vfreile

7:02 p.m. EDT April 21, 2015



A Rochester man on Tuesday was convicted of raping a 14-year-old girl near the Liberty Pole last summer.

A Monroe County Court jury convicted Michael Caruthers, 23, of the seven-count felony indictment he faced following a week-long trial, according to the Monroe County District Attorney's Office.

Caruthers was released from state prison one day before he attacked a 14-year-old girl ([/story/news/2014/08/25/michael-caruthers-released-state-prison-last-week/14582451/](http://story/news/2014/08/25/michael-caruthers-released-state-prison-last-week/14582451/)) who was walking on Liberty Pole Way on Aug. 23. Jurors found that Caruthers that morning grabbed the girl, raped her on the sidewalk, dragged her to the porch of a nearby abandoned building, where he further attacked her.

He was apprehended that same day by Rochester police, after the girl described her attacker.

Caruthers was convicted Tuesday of two counts of first-degree rape, two counts of second-degree rape, and one each of first-degree criminal sex act, second-degree criminal sex act and criminal obstruction of breathing or blood circulation.

Caruthers, who faces up to 50 years in state prison, is scheduled to be sentenced by Judge James Piampiano on May 21. Assistant District Attorney Sara VanStrydonck prosecuted the case.

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Abuses detailed in N.Y. state prison internal affairs unit

Nepotism, cover-ups and retaliation detailed in court papers, investigative reports

By Brendan J. Lyons Updated 8:49 am, Sunday, January 10, 2016



IMAGE 1 OF 3

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James A. Ferro arrives at the Albany City Court Monday afternoon Jan. 12, 2015, in Albany, N.Y. (Skip Dickstein/Times Union)

Albany

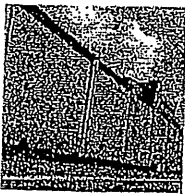
The internal affairs unit that investigates misconduct and abuse in state prisons was for years mired in cover-ups, nepotism and unbridled sexual harassment, and investigators who questioned or reported the problems faced threats of retaliation, including being returned to their prison-guard jobs and marked as "rats."

The allegations are outlined in court records and investigative reports gathered by the office of state Inspector General Catherine Leahy Scott, and were buttressed by interviews the Times Union conducted over the past year with current and former employees at the Department of Corrections and Community Supervision.

The internal affairs office, with an estimated 125 investigators, has come under scrutiny in the past two years, in part because of its alleged mishandling of investigations — including inmate abuse cases — and as a result of the fallout from last year’s escape by two convicted murderers from the maximum-security Clinton Correctional Facility in Dannemora. The Times Union previously reported that investigators in DOCCS’ internal affairs unit privately criticized its pre-escape investigation into the relationship between the escapees and a female prison employee who aided their historic breakout.

Many of the accusations about the troubled unit became public as a result of the prosecution of James A. Ferro, 56, the former director of operations for DOCCS’ inspector general’s office. Ferro whose office was renamed the Special Investigations Unit after a scandal prompted a leadership shake-up two years ago, was arrested in January 2015 on charges of harassment, coercion and official misconduct. He was accused of sexually harassing a subordinate employee, Mark Miller, and threatening to cut Miller’s overtime and have him sent back to his guard job at Coxsackie Correctional Facility if he reported the abuse.

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'Beaten ... to the ground': Interviews with inmates reveal claims of abuse

On Tuesday, as Miller prepared to testify at Ferro's criminal trial in Albany County Court, Ferro abruptly pleaded guilty under a deal with the state attorney general's office, which prosecuted the case. Ferro was sentenced to 120 hours of community service and fined \$1,000.

Although Miller never testified, his lengthy interviews with investigators from the state inspector general's office detailed systemic corruption and nepotism at DOCCS, which is headquartered at the Harriman State Office Campus.

In April 2014, Ferro was placed on administrative leave as state investigators began probing the allegations against him. That same month, Miller, who worked under Ferro, met with the state investigators in a 16th-floor conference room at the state inspector general's office.

In addition to providing lurid details of Ferro's alleged sexual harassment, including grabbing Miller's genitals and kissing his cheeks, Miller also told the investigators about "cover-ups." One incident centered on the suspected withholding of documents by DOCCS' officials when the state inspector general investigated the questionable appointment of a high-ranking DOCCS' employee **Daniel F. Martuscello III**, as the agency's director of human resources.

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Miller described Martuscello and his family as powerful figures in DOCCS who he said often promoted or secured jobs for female acquaintances and other friends and family members. Martuscello's brother, Christopher, is deputy inspector general of the DOCCS' internal

affairs narcotics unit. Their father, Daniel F. Martuscello Jr., is superintendent at Coxsack Correctional Facility, where Miller worked as a guard before joining the internal affairs unit in the late 1990s.

According to notes from the interviews, Miller told state investigators that DOCCS officials may have tampered with records in 2011 when the state inspector general's office was investigating Martuscello's appointment as human resources director. Miller said that **Vernon Fonda**, who was Ferro's close friend and chief of the DOCCS' internal affairs unit, ordered him to go to a warehouse in Menands where the agency stored personnel records, including files related to the hiring of employees. Miller said he was told to gather the records related to Martuscello's appointment.

"Fonda told Miller to keep the matter confidential and directed him to go to the caged storage area maintained by DOCCS in Menands ... to pull files," the state investigators' notes say. "Miller went to **Darren Ayotte**, the assistant director of personnel and a former college roommate of Chris Martuscello, to get the keys to the caged area."

After Miller and another investigator stacked the boxes of records they needed, they locked the restricted area and left for the night.

"When Miller returned to the caged area to retrieve the files he was greeted by Chris Martuscello, who offered a cart to transport the documents and, with a wink, told Miller that he wasn't going to find anything in them," the investigators' notes state. "Miller reported that Fonda most likely told Chris Martuscello that Miller was traveling to Menands to get the files. He also testified that someone would have had to provide Chris Martuscello with a key to enter the storage area."

It's unclear whether the state inspector general's office pursued the investigation of Daniel Martuscello III or took any action in connection with his 2007 appointment as director of human resources. He has since been promoted to deputy commissioner for administrative services and according to multiple agency sources, is in line to take over as commissioner of the agency later this year.

Another internal investigation that Miller said was troubling centered on allegations that Martuscello Jr. hired a female acquaintance, **Heather Welch**, for a job at the Coxsackie prison he oversees. In 2010, DOCCS received complaints that Welch was sleeping in Martuscello's office and parking in his reserved spot at the prison in Greene County.

"Miller testified that investigative staff members were afraid to look into the complaint, fearing that it would put their jobs at risk because of the Martuscello connection," according to an inspector general's report. Miller told investigators that Fonda, who is close with Martuscello, told him to investigate the allegation but allegedly said, "There's nothing there."

Still, the allegations against Welch were substantiated, Miller said, but Martuscello's name and **Social Security** number were not included in the report. Also, when Miller sent an investigator to take photographs of **Welch's** car parked in the superintendent's spot, he said, Martuscello berate the investigator and then contacted Miller "and told him that he could no longer file for overtime pay," according to a state report.

Martuscello had that authority, according to state officials, because Miller's assignment as an investigator is technically temporary and he remains on the books at the Coxsackie prison, where he was recruited to join the internal unit.

Miller outlined other instances in which he said female acquaintances of the Martuscellos were hired by DOCCS. Another time, Miller told investigators, he was instructed to hire the husband of **Catherine Martuscello**, who worked in the health services unit for DOCCS.

In her opening statements at Ferro's criminal trial on Tuesday, Assistant Attorney General **Bridge Holohan-Scally** outlined a system in which nepotism and connections were common, and investigators or other employees who challenged supervisors or reported abuses were threatened with retaliation. She said internal affairs investigators like Miller — nearly all of whom were reassigned from their correction officers jobs — feared returning to work inside a prison.

"Instead of wearing a uniform and dealing with violent inmates every day, you get to wear a tie," she told the jury. "Instead of being called a 'guard,' you're called an 'investigator,' and Mr. Miller took pride in what he did. And let's face it ... he most certainly didn't want to go back to a prison working with other guards that he investigated. He was concerned that if he did that they wouldn't always have his back."

In a court filing in October, Holohan-Scally described in greater detail the power that Ferro wielded over the investigators he supervised, including several others who also alleged that Ferro had assaulted or sexually harassed them.

"To control his subordinates, (Ferro) frequently threatened that he would send the employees back to the prison facilities from which they came," she wrote in a motion. "That was a serious threat. ... The subordinates were aware that if they returned to a prison facility, they would be marked as 'rats' or 'traitors' and other correctional officers would shun them, or worse, put them in harm's way."

Fonda, who was chief of operations for the DOCCS' inspector general's office and a close friend of Ferro's, abruptly retired in April 2014 after the state inspector general's office launched the investigation that led to Ferro's arrest. Fonda retired as state inspector general's investigators tried to arrange an interview with him. Miller said Fonda "laughed" when he reported Ferro's abusive behavior and threats. Miller then sought advice on how to report the abuse from Benjamin H. Rondeau, a DOCCS attorney, "only to have (Rondeau) warn him of retaliation if he were to do so," the state inspector general's interview report said.

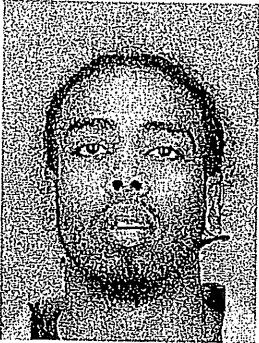
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H E A R S T

Parolee charged in drive-by shooting that killed 3

Gary Craig, Rochester (N.Y.) Democrat and Chronicle 5:25 p.m. EDT September 15, 2015



(Photo: Provided photo)

ROCHESTER, N.Y. — A parolee has been [charged with murder \(http://on.rocne.ws/1UST55g\)](http://on.rocne.ws/1UST55g) in the August drive-by shooting at the Boys & Girls Club that left three people dead.

Johnny Blackshell Jr., 21, of Chili is accused of murder in the triple homicide. Blackshell was on parole when arrested Aug. 24, less than a week after the killings.

He was charged then with illegal weapons possession and possession of stolen property. Police announced days later that they had arrested a suspect in the killings, but were holding him on other charges as the investigation continued.

Authorities announced Tuesday afternoon that Blackshell is now accused of first-degree murder. He will be arraigned Wednesday, said Monroe County District Attorney Sandra Doorley, who added that Blackshell had admitted the homicide to others.



USA TODAY

[3 killed in Rochester, N.Y., drive-by shooting ID'd](http://www.usatoday.com/story/news/nation/2015/08/20/3-killed-rochester-ny-drive-shooting-idd/32094971/)

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Killed in the shooting at the Boys & Girls Club were Raekwon Manigault, 19, Jonah Barley, 17, and Johnny Johnson, 25.

Doorley said the murder charge is in connection with all three victims, though a grand jury may consider additional charges.

Mayor Lovely Warren commended law enforcement and local residents for their help in this case and said Tuesday was proof that officials meant what they said when they announced that the suspect would be "prosecuted to the fullest extent of the law."

She said families of the victims have relief, but now they're entering into the prosecution phase "of this horrible crime."

Blackshell also has been charged with federal crimes, alleging that he committed what are known as Hobbs Act violations related to a 7-Eleven robbery, according to U.S. Attorney William Hochul.

The Hobbs Act prohibits crimes of robbery or extortion that impede interstate or foreign commerce, and have become a popular tool in the past decade for federal prosecutions. Locally, the federal statute has been used to prosecute drug dealers accused of robbing other drug dealers.



Mayor Lovely Warren speaks at Tuesday's news conference. (Photo: MAX SCHULTE / Staff photographer)

Hochul added that Blackshell also was associated with a gang called the Maroon Goons. Chief Michael Ciminelli, however, would not go as far as saying the crime was gang-related.

Blackshell was arrested on Aug. 24 after police allegedly found a .25-caliber semi-automatic handgun in his car when he was driving it. On parole for an attempted burglary conviction, Blackshell could not legally own a firearm.

Police have said they recovered a gun they suspect was used in the killings. Sources had told the *Democrat and Chronicle* that the firearm used in the homicides was an AK-47 and Ciminelli confirmed that Tuesday. Police say they also recovered the car used in the drive-by shooting.

Police stopped Blackshell's car as part of an investigation into the theft of almost \$2,600 in clothes from a mall.

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'He should not have been on the streets': Tyrone Howard charged with murder in the shooting death of NYPD Officer Randolph Holder

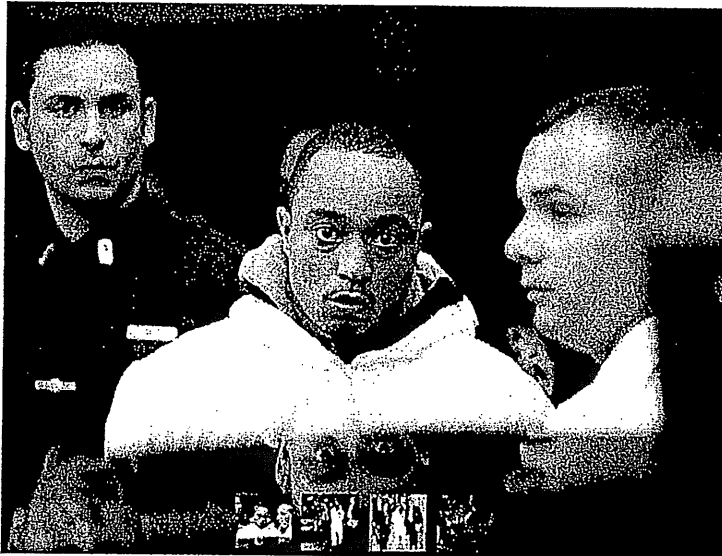
BY RICH SCHAPIRO, SHAYNA JACOBS, ROCCO PARANSCANDOLA, LARRY MCSHANE / NEW YORK DAILY NEWS / Updated: Thursday, October 22, 2015, 5:51 AM

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JEFFERSON SIEGEL/NEW YORK DAILY NEWS

Tyrone Howard appears at his arraignment in Manhattan Criminal Court on Wednesday night.

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Not only did murder suspect Tyrone (Peanut) Howard dodge a six-year prison term after selling a sob story to a Manhattan judge, he repeatedly eluded arrest for seven weeks after a Sept. 1 shooting, police said.

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Sherry Holder, Officer Randolph Holder's sister, leaves following Howard's arraignment. She could barely contain her anger at the accused killer in court.

"The perpetrator involved here was obviously a hardened and violent criminal," de Blasio said Wednesday at a news conference at police headquarters. "He should not have been on the streets."

An irate Bratton blasted the May decision to spare the recidivist drug dealer with at least 23 arrests — including one for the 2009 shooting of an 11-year-old boy — from jail time.

Howard, 30, was instead steered to a drug diversion program, despite the Manhattan district attorney's demand for the six-year sentence.



NYPD Officer Randolph Holder is shot and killed in Harlem

The accused cop killer was arraigned Wednesday night on first-degree murder and robbery charges, surrounded by a sea of cops and furious family members.

Wearing a white Tyvek jumpsuit while shackled and handcuffed, Howard collapsed to his knees and refused to get up during the proceeding.

'ALL THE DREAMS WENT DOWN THE DRAIN': SLAIN NYPD COP HOPED FOR DETECTIVE'S BADGE, HOUSE IN SUBURBS AND WEDDED BLISS WITH LIVE-IN GIRLFRIEND



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JEFFERSON DIEGEL/NEW YORK DAILY NEWS
Before a packed courtroom, Tyrone Howard (right, bottom) falls to his knees and refuses to get up during his arraignment Wednesday night.

"I hope you burn in hell," someone yelled from the ranks of uniformed and plainclothes cops.

Holder's sister, standing feet away from the accused murderer could barely contain her anger.

"Kill his f---g ass!" Sherry Holder shouted.

EDITORIAL: HOLDER A TAKEN-FOR-GRANTED HERO COP SLAIN



TODD HANSEL/NEW YORK DAILY NEWS
Mayor de Blasio comforts Princess Holder, a family member of the slain Officer Randolph Holder, who was shot to death Tuesday night in East Harlem.

Howard, who limped his way from the courtroom, did not enter a plea as he was ordered held without bail.

The slain cop's partner managed to wound the suspect in the leg, police said.

Cops said Howard pulled a .40-caliber handgun with a 30-shot clip and fired a single bullet into Holder's forehead Tuesday night.



Former girlfriend of slain NYPD cop expresses outrage
NY Daily News

The decorated cop died two hours later at Harlem Hospital — the fourth killing of an NYPD cop in the line of duty in the past 11 months.

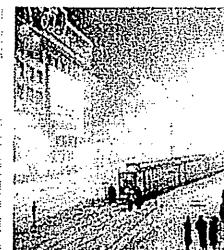
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DAILY NEWS PIX MAN



"If ever there was a candidate not to be diverted, it was this guy," Bralton said of Howard. "He's a poster boy for not being diverted. His whole life has been about an escalation of crime ... and now we have the murder of a New York City police officer."

From 1939 Times Square to the T 90's, the Daily News has the leger of NYC.

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Manhattan Supreme Court Justice Edward McLaughlin, while calling the Tuesday night killing of Holder "an absolute tragedy," defended his decision to spare Howard from jail.

"I don't get a crystal ball when I get the robe," McLaughlin told the Daily News. "I know I made the right decision. ...I'm confident it's accurate and appropriate."

While McLaughlin insisted he was unaware of any violent crimes involving Howard, a News review of a December court transcript indicates a defense lawyer broached the subject.

"And there is another thing ... which shows arrest for violent crime," said attorney Robert Levy. "No complaint, no indictment. But it's there."

Suspect Tyrone Howard — who was shot in the legs and wounded in the gunfight by Holder's partner — is no stranger to the law. Sources indicate the 30-year-old was involved in a pair of earlier shootings.

McLaughlin agreed to refer Howard for diversion assessment, and Justice Patricia Nunez ultimately approved the deal May 14. Howard then skipped out on a Sept. 17 court date, and a bench warrant was issued.

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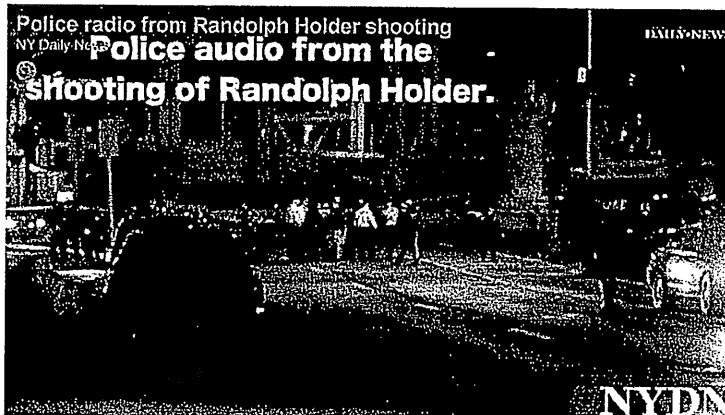
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A source indicated Howard's lawyer wrote a letter asking for special treatment because prison time would have made life tough for the defendant's girlfriend and two kids

The murdered Officer Holder, of Brooklyn, left behind a 16-year-old daughter, according to his dad.

Howard was rejected from the diversion program in 2011 after his arrest for smoking PCP while carrying 22 bags of crack and cocaine, court records show. He instead pleaded guilty, and was sentenced to 18 months.

Manhattan District Attorney Cy Vance Jr. was fuming Wednesday about the lenient treatment given to Howard,





despite his office's strenuous objections.

"I am deeply angered and saddened by the senseless murder of Police Officer Holder," said Vance. "This defendant was part of a strategic investigation and prosecution conducted by our violent criminal enterprises unit, targeting the individuals driving crime in East Harlem.

"We recommended state prison for the defendant, and opposed his request for diversion."

Howard was one of 19 people arrested in a law enforcement crackdown last year in the East River Houses and the surrounding area. The crew was suspected of selling drugs in lobbies, stairwells and playgrounds.



DEBBIE EGAN/CHIV/NEW YORK DAILY NEWS

Malik Clarke-Yarde, 33, a close friend of slain police officer Randolph Holder cries in grief at his father's house on Wednesday.

The 2009 shooting case, which also included a 77-year-old victim, was dropped because "we didn't have any eyewitnesses saying that he was the shooter," a law enforcement source said.

But Howard's criminal pedigree was hardly in doubt.



ANDREW KELLY/REUTERS

NYPD block FDR Drive where Holder was shot Tuesday night.

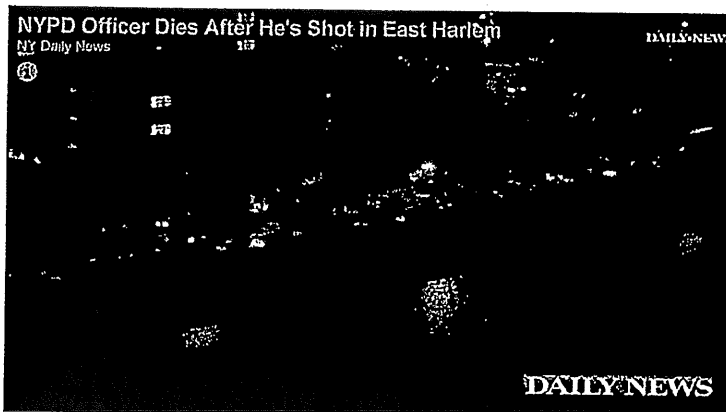
A member of the East Harlem Army gang, he owned a rap sheet that included a gun arrest at 14 and three convictions for drug possession with intent to sell, officials said.

He was wanted at the time of Holder's killing for a drug-related Sept. 1 shooting on E. 105th St. in which he fled on a bicycle, sources said. The victim was on parole.

De Blasio and Bratton stopped by the Far Rockaway, Queens, home where Holder's father, Randolph Sr., lives with his wife, Princess, to offer their condolences. The elder Holder and his father were both police officers in their native Guyana.

Holder, on the force five years, was mortally wounded without even getting off a shot in the deadly Tuesday night showdown in East Harlem.

Howard was shot by Holder's plainclothes partner, Officer Omar Wallace, who recognized the suspect from a previous arrest scene, sources said.



Manhattan Chief of Detectives William Aubry detailed the 13-minute stretch that began with gunfire in a E. 102nd St. housing project and finished with a bleeding Holder mortally wounded on a ramp over the FDR Drive.

Two NYPD housing cops on a rooftop saw a gunfight down below at 420 E. 102nd St., and called for backup, he said. A gun-toting Howard bolted northbound, running toward the promenade along the East River.

He stole a bicycle at gunpoint from a man "sitting there, enjoying a nice night," said Aubry, before pedaling north from the scene of the crime.

Holder and his partner, working plainclothes anti-crime, encountered the fleeing suspect at 120th St. as he rode toward them on a pedestrian ramp.

Howard "drops the bike, pulls out a weapon, and fires it once into (the officer's) head," Aubry said.



NYPD Officer Randolph Holder is shot and killed in Harlem

When Howard was arrested nearly five blocks away, wounded and bleeding, it ended a string of 10 failed NYPD attempts to bring him into custody since the Sept. 1 shooting.

At some point, the suspect managed to ditch the gun and toss the magazine into the East River — where it was recovered Wednesday, police said. There were still 13 shots in the magazine.

One shell was found near the spot where Holder was killed, while another 11 rounds were discovered near the area of the original shootout, police said.

The suspect initially lied to cops, insisting his name was "Juan Gonzalez," before police used facial recognition technology to determine his true identity, police said.

With Molly Crane-Newman, Jennifer Fermino, Edgar Sandoval

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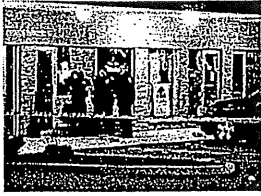


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Police release details on Gates shooting victims



Sean Lahman, @seanlahman 2:48 p.m. EDT April 27, 2015



(Photo: JOHN SPAULDING)

Police have released more information about the survivors of a [deadly shooting at Gates Pub](#) ([/story/news/2015/04/25/killed-hurt-gates-pub-shooting/26355003/](#)) over the weekend.

Officials had earlier identified Ricky C. Jones, a 37-year-old Rochester resident, who was killed in the shooting early Saturday morning.

On Monday, Gates police identified the six other individuals who were wounded. They are:

- Clinton Hankerson, 37, of Rochester
- Shana Forte, 26, of Rochester
- Timothy H. White, 29, of Rochester
- Shirley Barnes, 33, of Rochester
- Johniesha Hartzog, 27, of Rochester
- Kamara Snead, 30, of Rochester



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[Man charged after Gates shooting leaves 1 dead, 6 injured](#)

(<http://www.democratandchronicle.com/story/news/2015/04/25/killed-hurt-gates-pub-shooting/26355003/>)

Hankerson remains hospitalized in intensive care and is listed in guarded condition. Forte and White are both in satisfactory condition. The other three victims have been released from local hospitals.

David Allgood, 31, was charged with second-degree murder in the fatal shooting of Jones. Police said he was on parole for an earlier drug-sales felony. He was taken into custody near the Gates Pub, which is located on Hinchey Road in the town of Gates.

Gates police chief James VanBrederode said the bar was filled with a normal Friday-night crowd when Allgood allegedly began firing at about 1:30 a.m. Police have said that they believe Jones was Allgood's intended target.



[ROCHESTER DEMOCRAT AND CHRONICLE](#)

[Community reacts to deadly bar shooting](#)

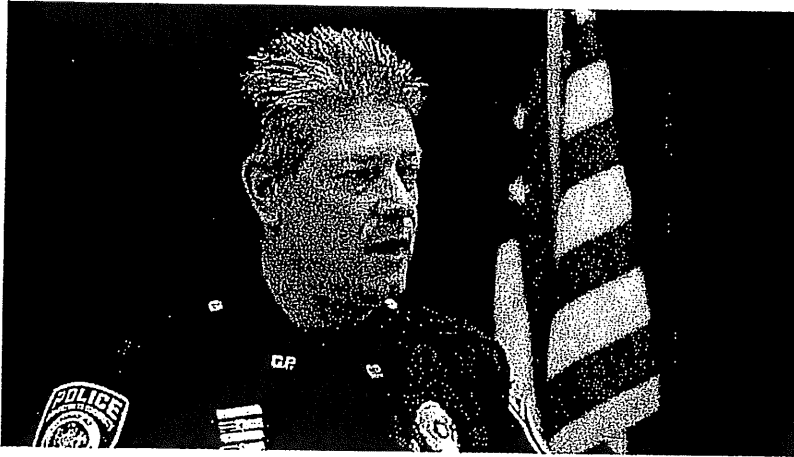
(<http://www.democratandchronicle.com/story/news/2015/04/26/families-gates-dealing-shooting-aftermath/26410597/>)

The other six victims apparently were innocent bystanders who happened to be standing near Jones when the firing began.

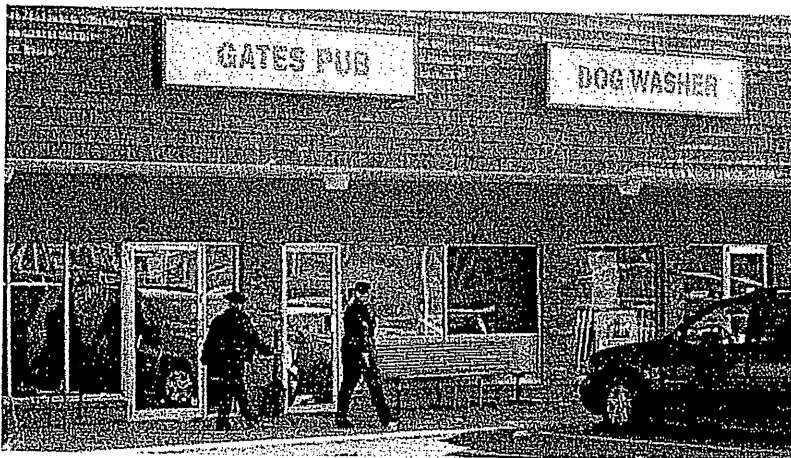
"To my knowledge, the people didn't know each other and just got caught in the gunfire," VanBrederode said. "When you're in a confined area like that and someone decides to discharge a gun, every round is likely to hit someone."

On Monday, VanBrederode said that his department was working with multiple agencies on the investigation, but that there was no new information to pass along at this time.

SLAHMAN@Gannett.com




Gates Police Officer Lance Duffy updates the media on a shooting at Gates Pub early Saturday, April 25, 2015. LAUREN PETRACCA/@LaurenPetracca/staff photographer



David Allgood was been arrested and charged with second-degree murder after a shooting at Gates Pub. Chief James VanBrederode says a firetruck observed Allgood on the side of the road on a cellphone. Video by Tina MacIntyre-Yee

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Thomas Johnson convicted, led away in Pierson's cuffs

 [Gary Craig, @gcraig1](#) 7:20 p.m. EDT May 8, 2015



(Photo: Jamie Germano/@jgermano1, STAFF PHOTOGRAPHER)

Thomas Johnson III was led from the courtroom Friday, a jury having deemed him a murderer and his wrists secured by handcuffs from the Rochester police officer whom he fatally shot on Sept. 3.

"Those were the handcuffs he was supposed to be wearing that night," Assistant District Attorney Brian Green said of Johnson, who was convicted Friday of aggravated murder of a police officer.

After 16 hours of deliberation spread out over three days, [a jury \(/story/news/2015/05/08/thomas-johnson-trial-jury- jurors-verdict/27010387/\)](#) Friday found Johnson guilty of the intentional murder of a police officer — a charge that carries a life without parole sentence.

On the night of Sept. 3, Johnson turned and shot Pierson under the chin as Pierson, an officer with the police tactical unit, chased him along Hudson Avenue. The shot severed an artery, causing a rapid loss of blood. The 32-year-old Pierson — a married father of two — died over an hour later at Rochester General Hospital.

Throughout [more than a week of testimony. \(/story/news/2015/04/20/thomas-johnson-iii-trial-coverage-gary-craig/26076061/\)](#) attorneys sparred over the few seconds when Johnson pulled the trigger. Monroe County District Attorney Sandra Doorley contended that the shooting was clearly intentional; defense lawyers never questioned that Johnson killed Pierson, but said the shooting could have been accidental.



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[Complete coverage: Thomas Johnson III trial](#)

[\(http://www.democratandchronicle.com/story/news/2015/04/20/thomas-johnson-iii-trial-coverage-gary-craig/26076061/\)](http://www.democratandchronicle.com/story/news/2015/04/20/thomas-johnson-iii-trial-coverage-gary-craig/26076061/)



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Thomas Johnson III trial

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For prosecutors, police and, perhaps most importantly the Pierson family, a conviction on aggravated murder was the desired and just outcome of the trial, for it acknowledged that Pierson was serving the city as a police officer when he was slain.

"He was doing his job," Doorley said after the verdict. "He was protecting the community.

Thomas Johnson convicted, led away in Pierson's cuffs

"For his life to be taken away by someone with so little regard for life ...," she said, her voice trailing off and the silence in itself completing her thought.

Of the aggravated murder conviction, Pierson's mother-in-law, Joan Evans, said, "That's what we hoped for Daryl's sake.

"Daryl was our hero," she said. " ... He didn't have to die to be a hero."

Rochester police union president Michael Mazzeo said, "We saw justice but it's not going to make our hearts any less heavy."



ROCHESTER DEMOCRAT AND CHRONICLE

Amy Pierson: 'Perfect news, but overwhelming'

(<http://www.democratandchronicle.com/story/news/2015/05/08/amy-pierson-thomas-johnson-verdict/26994423/>)



Family members, police and others react to the verdict in the Thomas Johnson trial. Video by Lauren Petracca Video by Lauren Petracca

Guilty of five counts

The state Supreme Court jury convicted Johnson of multiple criminal counts, including a charge that he also tried to murder Pierson's partner, Officer Michael DiPaola.

After his partner was gunned down, DiPaola chased Johnson and shot him. As they ran, Johnson pointed the .25-caliber handgun he carried — a pistol with its serial number defaced — at DiPaola, but never fired a shot.

Prosecutors contended that the gun jammed; defense lawyers said no shots were fired because Johnson did not try to kill DiPaola.

The jury acquitted Johnson of a first-degree assault charge for the shooting of a bystander, Jamal Bollar. He was convicted of a lesser, second-degree assault charge.

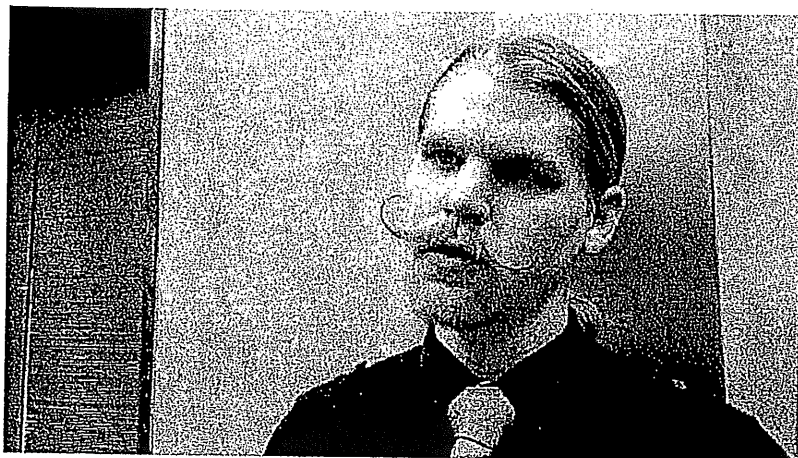


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Johnson trial juror: 'Not an open-and-shut case'

(<http://www.democratandchronicle.com/story/news/2015/05/08/thomas-johnson-trial-jury-jurors-verdict/27010387/>)

Video: Juror says it wasn't an easy decision



Juror Trevor Harrington talks about the decisions the jury had to make during the trial of Thomas Johnson III.

Johnson, 39, was also convicted of three criminal possession of weapons charges.

Johnson was wanted on a parole violation when he murdered Pierson. He'd been released after serving prison time for an attempted robbery conviction, but had failed to continue to report to his parole officers.

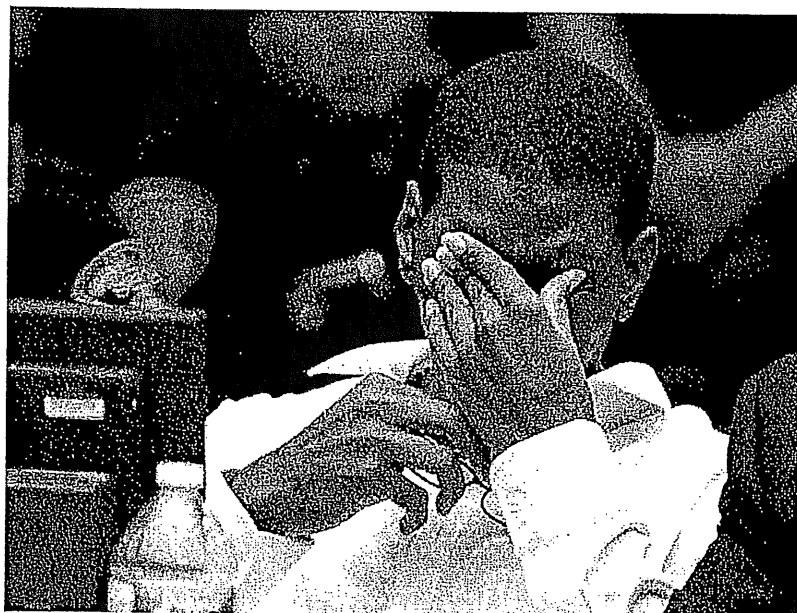
Johnson's parents are deceased but some family, [including two sisters. \(/videos/news/2015/05/08/26999783/\)](#) were in court Friday. One sister, Ebony Singleton, [said she has had a brother murdered. \(/media/cinematic/video/26988811/johnsons-sister-remains-supportive-says-shooting-wasnt-intentional/\)](#) so she could sympathize with the pain the Pierson family endured throughout the trial.

"I absolutely know how the other side of the family feels," she said, remembering court proceedings she sat through with the loss of her brother.

Still, she said, she felt the need to support her brother Thomas, who insisted in conversations with her that the killing was not intentional.

"At the end of the day, everybody has a family," Singleton said. "You still care for them."

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Thomas Johnson III was found guilty of aggravated murder in the death of Officer Daryl Pierson. He reacts to the verdict in court Friday afternoon. (Photo: [Jamie Germano/@jgermano1](#), STAFF PHOTOGRAPHER)



[\(http://www.democratandchronicle.com/story/news/2015/05/08/reaction-thomas-johnson-trial-verdict/27004557/\)](http://www.democratandchronicle.com/story/news/2015/05/08/reaction-thomas-johnson-trial-verdict/27004557/)

The events unfold

The events that led to Pierson's murder started almost innocuously, with other tactical unit members suspicious about a white Pontiac G6 driven by Anson Clark, a man known to police because of past crimes. He had a passenger in the car.

Police went to stop Clark for alleged traffic violations, but lost sight of the car. When they found the car parked, Clark was alone. DiPaola and Pierson, who'd helped with the stop, went in search of the passenger who'd left the car, using a description from a bystander.

They spotted Johnson on Hudson Avenue, attired in a sweatshirt and cap matching the description. Once Johnson saw the police car, he ran. Pierson chased him on foot; DiPaola pursued in the car.

As Pierson caught Johnson, the parolee fired the fatal shot. Pierson fell into him, knocking him to the ground. Johnson jumped up, and again began running.

DiPaola then gave chase, shooting Johnson.

Photos: The night of the shooting

Police quickly responded, pulling Pierson into a patrol car and dashing him to Rochester General, where he died.

On Friday, Clark was actually in the Hall of Justice as a crowd waited for a verdict. He was not there for the Johnson trial, however; instead he was to be in court for an outstanding weapons charge that had nothing to do with Sept. 3.

Defense lawyer James Hinman argued that the initial stop of Clark, and the subsequent chase of Johnson, were not legally justifiable. While he was able to challenge the stop during the trial, state Supreme Court Justice Thomas Moran ruled that an aggravated murder conviction only required that Pierson be acting in his "official duties" as a police officer, as the law mandates.

The stop did not have to be lawful, Moran said.

"The judge foreclosed that argument that we had advanced all along," said Hinman, who partnered with attorney Daniel Aureli to defend Johnson.

Moran and County Court Judge Victoria Argento had also earlier ruled the stop and chase legal.

The long deliberations showed that the case was "not nearly as clear-cut a case as everyone wanted to make it out to be," Hinman said.

Hinman said he thinks there are issues to build an appeal around, such as the legality of the stop. Geoffrey Kaeuper, the deputy chief of the District Attorney appeals bureau and part of the prosecution team in the Johnson case, said he feels sure the convictions can withstand appeals.

'Daryl was there with us'



District Attorney Sandra Doorley reacts after Thomas Johnson III was found guilty of aggravated murder for the death of Officer Daryl Pierson. Video by Tina MacIntyre-Yee

On a Friday afternoon lunch break, only 90 minutes before the jury returned with its verdict, Sandra Doorley and the prosecution team went to the corner of Hudson Avenue and Ernst Street, ([/story/news/2015/05/07/daryl-pierson-sign-hudson-avenue-rochester-amy/70942850/](http://www.democratandchronicle.com/story/news/2015/05/07/daryl-pierson-sign-hudson-avenue-rochester-amy/70942850/)) where Daryl Pierson was murdered.

"I woke up this morning and I had this sense that I needed to go there," Doorley said after the verdict. "I went there and I prayed."

"I felt like it was calling me. I believe that Daryl was there with us."

Though the verdict could not completely heal the wounds of the loss, Pierson's family felt that the jury had brought some justice for the fallen officer.

"It's been a long journey but we're proud of the justice system," said Pierson's father, Steve Pierson.

As Johnson was escorted from court, many Rochester police officers stood in solidarity and watched. For them, the loss of a brother in such a jarring painful fashion was previously a foreign concept. Pierson was the first Rochester police officer fatally shot on the job since 1959.

Pierson's handcuffs — the ones he carried the night he was slain — were more than just a physical reminder of how a young cop lost his life, Mazzeo said.

"That was Daryl putting the handcuffs on him."

GCRAIG@DemocratandChronicle.com

Includes reporting by staff writers Tina MacIntyre-Yee and David Andreatta.



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[Amy Pierson: We must 'rise above' violence](http://www.democratandchronicle.com/story/news/2015/05/07/daryl-pierson-sign-hudson-avenue-rochester-amy/70942850/)

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(<http://www.democratandchronicle.com/story/news/local/columnists/andreatta/2015/05/08/andreatta-daryl-pierson-police-restraint-hudson-avenue-rochester/26978447/>)

Video: Juror talks about the process

<http://www.democratandchronicle.com/story/news/2015/05/08/thomas-johnson-jury-deliberations/269715...> 2/2/2016



Juror Pete Doherty talks about the decisions jury had to make during the trial of Thomas Johnson III.
Video by Tina MacIntyre-Yee



Tina MacIntyre-Yee
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One of the defense attorney's Dan Aureli waits in front of the courtroom

12:18 PM - 8 May 2015

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Video: Johnson's sister remains supportive as as she awaits a verdict



Sister of Thomas Johnson speaks about being on both sides in the courtroom. One brother was killed, now her brother is accused of homicide. Video by Tina MacIntyre-Yee

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Times Union Editorial- Corrections agency committed to better accountability

By Anthony J. Annucci

January 19, 2016

The state Department of Corrections and Community Supervision recognizes the need to constantly adapt, innovate and improve to meet the challenges facing our organization. Over the past two years, DOCCS has done just that, and we are determined to continue making real progress that will bring about greater accountability and professionalism in our department.

The most significant of these changes began two years ago when DOCCS completely overhauled its Inspector General's office. This decision was prompted in the wake of an investigation that led to criminal charges against a former staff member within that office. We quickly established a new unit — the Office of Special Investigations — staffed with new leadership from outside the department to ensure internal investigations are handled aggressively and appropriately.

Since its creation, OSI has bolstered its ranks with highly qualified investigators and analysts with decades of experience at places like the U.S. Department of Homeland Security, the U.S. Drug Enforcement Agency, and the state Attorney General's office. OSI also parted ways with more than a dozen former investigators, who failed to meet the standards we expect. The result has been more effectiveness, accountability and integrity. OSI is relentlessly investigating allegations of employee misconduct, and it will continue to refer those cases for disciplinary action or prosecution when it is warranted.

DOCCS understands maintaining public safety requires teamwork, and the department has established strong working relationships with local, state and federal law enforcement agencies, including the FBI and the U.S. Attorney's offices.

Anthony J. Annucci is the acting commissioner of the Department of Corrections and Community Supervision.

Just last week, DOCCS and OSI were recognized by the FBI and the U.S. Attorney's office in Manhattan for their work in apprehending an employee allegedly involved in criminal wrongdoing.

In the office, OSI is better managing and reviewing the thousands of inmate, staff and citizen complaints filed on an annual basis through an intake and case management unit. A new analysis unit, headed by an analyst from the Office of the State Inspector General, will also examine DOCCS trends, emerging issues, investigative statistics and pro-active solutions. Both of these units are integral to our future success.

The vast majority of our staff members do the right thing when they come to work each day. The actions of a few bad apples does not reflect the culture of our department, nor should we let those rogue actions serve as the lens for which we judge our entire staff. Tens of thousands of hardworking DOCCS employees do a tough job with commitment and integrity, and we thank them for their service.

To maintain our forward momentum, we are continuously reviewing and improving our processes and protocols to ensure the safety of staff, inmates and the community. While no one is satisfied yet, these reforms are having a positive impact and moving us in the right direction.

