

Holley Tufco

ROWLEY, FORREST AND O'DONNELL P.C.

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ALBANY, NEW YORK 12207
(518) 434-6187

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RUSH W. STEHLIN
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ROBERT S. HITE
KATHARINE F. NELSON



December 22, 1983

New York State Inspection, Security
and Law Enforcement Employees, Dis-
trict Council 82, AFSCME, AFL-CIO
63 Colvin Avenue
Albany, New York 12206

Attention: Mr. John Burke
Executive Director

Re: Council 82 v. TUFCO
Our File No. 10614

Dear Mr. Burke:

We enclose herewith a more fully reproduced copy of the letter dated December 17, 1980, signed by Dennis J. Fitzpatrick and addressed to the President of the Catskill Village Board of Trustees, together with a copy of the letter which we received from the Catskill Village Clerk. You will note from the letter from the Village Clerk that the Village Clerk was unable to locate the letter of introduction from Morrissey and Fitzpatrick. Please be advised that we will contact Mr. Walsh in an endeavor to locate this letter of introduction from Morrissey and Fitzpatrick, and we will promptly advise you of any results.

Sincerely yours,

ROWLEY, FORREST AND O'DONNELL P.C.

By *Robert S. Hite*
ROBERT S. HITE

RSH/ks

Enclosures

TRUSTEES:

Florence M. Fielman
John R. Sencabaugh
Jean Deyo
Michael J. Battaglino
Nita Blauberg



ATTORNEY FOR VILLAGE
Peter M. Margolius

FLORENCE M. FIELMAN
President

JOHN R. SENCABAUGH
Vice President

CAROLYN S. PARDY
Clerk-Treasurer-Collector

BUILDING INSPECTOR
Frank E. March

VILLAGE OF CATSKILL

422 MAIN STREET
CATSKILL, NEW YORK 12414

Tel. (518) 943-3830

December 20, 1983

Robert S. Hite
Rowley, Forrest and O'Donnell P.C.
Attorneys
90 State Street
Albany, New York 12207

Dear Mr. Hite:

Thank you for your letter dated December 14, 1983. Regarding the requests you made:

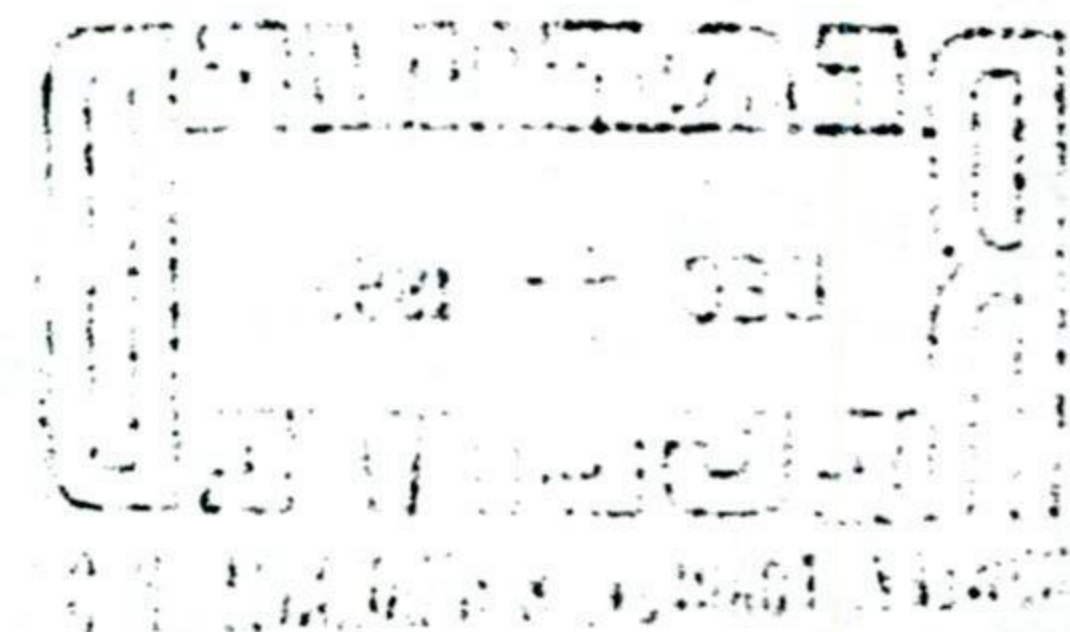
1. I have enclosed a full and complete copy of the letter of December 17, 1980 from Dennis Fitzpatrick to Patrick Walsh.
2. I am unable to locate a copy of the letter of introduction from Messrs. Fitzpatrick and Morrissey. to Mr. Walsh.

Please contact if more information is desired.

Very truly yours,

Carolyn S. Pardy
Carolyn S. Pardy
Clerk-Treasurer-Collector

Encl.



Union Negotiation

DENNIS J. FITZPATRICK
10 FIRST STREET
HUDSON FALLS, N.Y. 12839
PHONE 518-747-0696

JAMES MORRISEY
24 FLEMING STREET
AUBURN, N.Y. 13021
PHONE 315-252-0525

Dec. 17, 1980

Mr. Patrick Walsh
President-Village Board
422 Main Street
Catskill, N. Y. 12414

Dear Sir;

On August 26, 1980, a letter of introduction was sent to you, asking that we be considered for any upcoming consultant work. On Dec. 10, 1980, Mrs. Florence Fielman called and indicated the Village is in need of a negotiator. She requested that we prepare a proposal and send it to you for the entire Board's review. If we are accepted, we will require the following:

1. In preparation for negotiations, we would require a meeting with the Board, to establish the direction the Village is seeking on possible changes in the present agreement.
2. Copies of the past two agreements.
3. Time sheets on employees.
4. The Village's projected budget on salaries for the bargaining unit.
5. The use of Village Attorneys for legal advice on contract language if needed.

We will serve as negotiators for the Village of Catskill until a final agreement is reached. We will prepare, review and draft contract proposals.

Our fee is \$2,500.00, paid in installments of \$500.00 down and the balance paid at the conclusion of negotiations.

If negotiations require mediation, fact finding or arbitration, an additional \$500.00 will be required. We look forward to serving you and will try to make this negotiation process a smooth and efficient effort. If you have any questions or need further clarification, please feel free to call.

Sincerely,

Dennis J. Fitzpatrick
Dennis J. Fitzpatrick

DJF:kaf

P. J. Walsh
[Signature]
11-8-80

Dennis J. Fitzpatrick
[Signature]
James P. Morrissey



Tupco

STATE OF NEW YORK
DEPARTMENT OF LAW

ROBERT ABRAMS
ATTORNEY GENERAL

ALBANY, N.Y. 12224
(518) 474-5481

ROBERT J. BUCHNER
ASSISTANT ATTORNEY GENERAL
CONSUMER FRAUDS & PROTECTION BUREAU

September 19, 1983

Security and Law Enforcement
Employees Council 82
63 Colvin Avenue
Albany, New York 12206

Attention: Mr. John W. Burke,
Executive Director

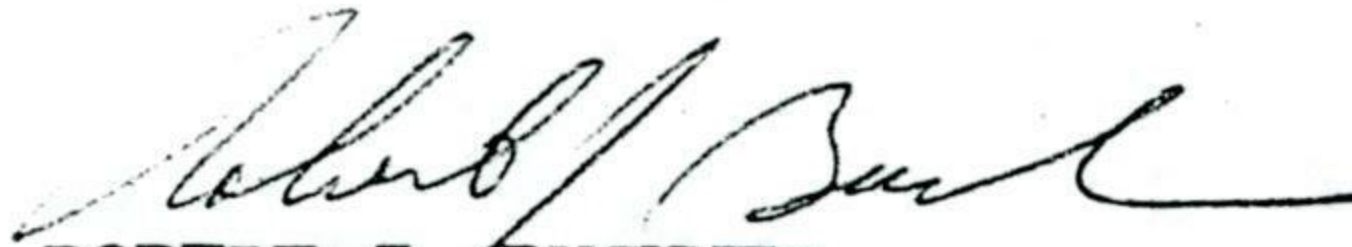
COUNCIL 82
RECEIVED
SEP 20 1983
AFSCME AFL-CIO

Dear Mr. Burke:

I am in receipt of your letters of September 6 and September 8, 1983 in connection with the alleged misuse of the State's coat-of-arms by the United Federation of Correction Officers, Inc.

I have referred your complaint to Philip Sparkes, Esq. at the Department of State, 162 Washington Avenue, Albany, who will be handling this matter.

Very truly yours,


ROBERT J. BUCHNER
Assistant Attorney General

R U L E S O F T H E P O O L

VICTORY POOL THAT IS

OUT OF 15,727 BALLOTS SENT TO MEMBERS

YOU WERE ASKED TO MARK THE TOTAL NUMBER OF VOTES YOU THINK WERE CAST

" FOR COUNCIL 82 "

YOU WERE ALSO ASKED TO MARK THE TOTAL NUMBER OF VOTES YOU THINK WERE CAST

" AGAINST COUNCIL 82 "

BASED ON THE ABOVE INFORMATION.....

25% OF POOL WILL GO TO THE INDIVIDUAL WHO CAME CLOSEST TO THE TOTAL
BALLOTS CAST. BALLOTS MARKED NEITHER DO NOT COUNT.

75% OF POOL WILL GO TO THE INDIVIDUAL WHO CAME CLOSEST TO THE TOTAL
BALLOTS CAST FOR THE REAL UNION COUNCIL 82 .

THE POOL FEE WAS/IS FIVE DOLLARS A POP.

FRIDAY FEBRUARY 15, 1985 NOON - THE POOL WILL BE CLOSED.

THE POOL BOX WILL BE SEALED AND PLACED IN A NEARBY VAULT.

IT IS ESTIMATED THAT 25 INDIVIDUALS WILL BE IN THE POOL.

DRAWING AND POOL MONEY WILL BE RELEASED AS SOON AS WE RETURN FROM PERB
FRIDAY FEBRUARY 22, 1985

Tufco File

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF _____ :
STATE OF NEW YORK, _____ :
Employer, _____ :
- and - _____ :
THE UNION OF FEDERATED CORRECTION _____ : Case No. C-2825
OFFICERS, _____ :
Petitioner, _____ :
- and - _____ : Date Issued 2/22/85
COUNCIL 82, AFSCME, AFL-CIO, _____ :
Intervenor. _____ :

TALLY OF BALLOTS

The undersigned agent of the Board certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Number of Eligible voters	<u>15,727</u>
2. Void Ballots	<u>206</u>
3. Votes cast for . TUFCO	<u>4,006</u>
4. Votes cast for . COUNCIL 82	<u>7,733</u>
5. Votes cast for	<u>-</u>
6. Votes cast <u>against</u> participating employee organizations	<u>127</u>
7. Valid votes counted (sum of 3, 4, 5 and 6)	<u>11,866</u>
8. Challenged Ballots	<u>21</u>
9. Valid votes counted plus challenged ballots (sum of 7 & 8)	<u>11,887</u>
10. Challenges are (not) sufficient in number to affect the results of the election.	<u>NOT</u>
11. A majority of the valid votes counted plus challenged ballots (Item 9) has (not) been cast for	<u>COUNCIL 82</u>

FOR THE BOARD

Kenneth Gormey

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained and that the results were as indicated above.

We also acknowledge service of this tally.

For STATE OF NEW YORK
[Signature]

For THE UNION OF FEDERATED CORRECTION OFFICERS
[Signature]

For _____

For COUNCIL 82, AFSCME, AFL-CIO
[Signature]

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

CERTIFICATION ON CONDUCT OF ELECTION

Name of Public Employer STATE OF NEW YORK

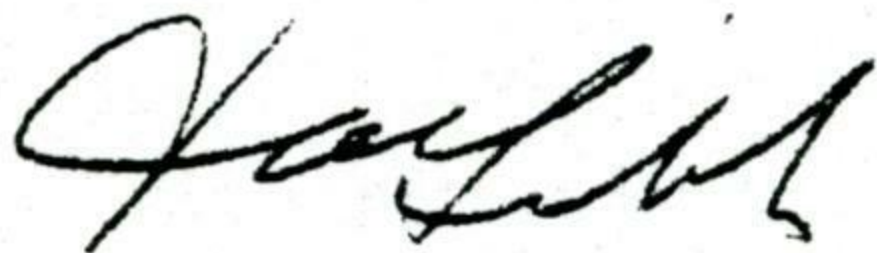
Case No. C-2825

Date of Election February 22, 1985 Place Meeting Room 6
9:00 a.m. Empire State Plaza
Albany, NY 12223

The undersigned acted as agents of the Board and as authorized observers, respectively, in the conduct of the balloting at the above time and place.

WE HEREBY CERTIFY that such balloting was fairly conducted, that all eligible voters were given an opportunity to vote their ballots in secret, and that the ballot box was protected in the interest of a fair and secret vote.

FOR STATE OF NEW YORK
Public Employer

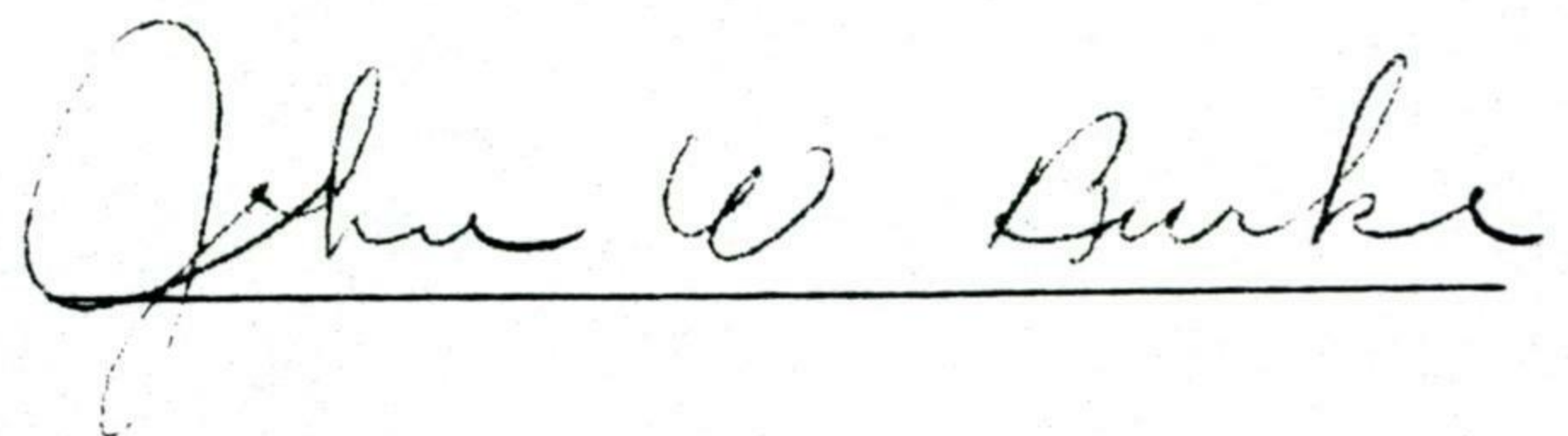


FOR THE UNION OF FEDERATED CORRECTION
Employee Organization OFFICERS



FOR _____

FOR COUNCIL 82, AFSCME, AFL-CIO



FOR THE PUBLIC EMPLOYMENT RELATIONS BOARD

UNION ELECTION DELAY BLASTED

To the Editor of Press Republican, Plattsburgh:

From: Phil Dobie, Saranac Lake

Now that a date has been set for the election between Tufco and Council 82, let's hope that Council 82 doesn't find any more reason for further delay. Tufco has been ready for this election since late August. Council 82 has been using just about every delay tactic they can think of.

The law firm that represents Council 82 makes about \$58,000 per month off them. Why should they rush matters? Lawyers are not expected to work for nothing. I don't mean to imply that this law firm is wasting our dues but if the election was held in September instead of February, they would have been out over \$348,000. Council 82 would like everyone to believe that this election is holding up negotiations but whose fault is it? The record is very clear on the matter. All anyone would have to do is contact PERB and see for themselves who has held up these elections.

Tufco has a professional negotiating team with over 40 contracts to its credit. If Council 82 should win this election it would be correction officers with no expertise in the field of negotiations against the state, which has a battery of professionals. We, as dues-paying members should have professionals in there against professionals. Correction officers are very good at their job but ours is not negotiating contracts, with lawyers, budget specialists and the team the state uses during negotiations. Correction officers are professionals in their field; let the negotiations be done by professionals.

Remember in the 1976 contract no raise that year. Remember lag pay. These are just two of the many items that we have lost out on. No wonder the state loves Council 82.

Supreme Court—Appellate Division
Third Judicial Department

Tufco

January 17, 1985

48569

In the Matter of RICHARD A.
CURKENDALL,
Respondent,

v

UNITED FEDERATION OF CORRECTION
OFFICERS, INC.,
Appellant.

Appeals (1) from an order of the Supreme Court at Special Term (Cerrito, J.), entered June 27, 1984 in Schenectady County, which granted petitioner's application pursuant to section 621 (subd [d]) of the Not-For-Profit Corporation Law to inspect and copy respondent's membership list and certain minutes of membership meetings of respondent, and (2) from an order of said court, entered August 30, 1984 in Schenectady County, which denied respondent's motion, inter alia, to reargue and renew.

Respondent, a not-for-profit corporation organized under the laws of New York, administers various types of member-funded benefits, such as group life and disability insurance, for its members. Respondent was apparently funded by leaders of The Union of Federated Correction Officers (TUFCO), an unincorporated association currently engaged in an attempt to win the right to represent, for collective bargaining purposes, correction officers employed by New York State in the Security Services Unit. At present, this unit's bargaining agent is the New York State Inspection, Security and Law Enforcement Employees, District Council 82, AFSCME, AF L-CIO (Council 82), which allegedly does not want to be decertified as bargaining agent and has attempted to discredit and undermine employee support for respondent and TUFCO.

Petitioner is a member of respondent and alleges that respondent is mismanaged. In an apparent attempt to garner information to support this claim, petitioner sent respondent a written demand, including an affidavit of purpose (see Not-For-Profit Corporation Law, § 621, subd [c]), to inspect its records. After respondent refused to permit the inspection, petitioner made an application pursuant to section 621 (subd [d]) of the Not-For-Profit Corporation Law to compel respondent to permit him to inspect the minutes of its proceedings and the list of its members. Special Term granted the application and, from the order entered thereon, an appeal followed. Respondent also moved for, inter alia, renewal, but Special Term denied the motion. From the order entered thereon, an appeal followed.

Supreme Court—Appellate Division
Third Judicial Department

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48569

The right to inspect corporate books under section 621 of the Not-For-Profit Corporation Law requires good faith and a proper purpose on the part of the petitioner (see, e.g., Matter of De Paula v Memory Gardens, 90 AD2d 886, 886-887). If a respondent raises a substantial question of fact concerning the petitioner's good faith and proper purpose, a hearing must be held to determine whether the petitioner in fact seeks to examine the records in good faith and with proper motive (id. at 887). At the hearing, it is the respondent's burden to show bad faith and improper purpose on the part of the petitioner (id.).

It is evident that the documents originally submitted by respondent in opposition to petitioner's application consisted largely of conclusory assertions that petitioner was acting in bad faith without a proper purpose. For example, respondent's president affirmed that, upon information and belief, petitioner was aligned with Council 82 and planned to undermine respondent's support, but no facts to support these assertions were presented. On such a record, Special Term properly granted the application, concluding that respondent failed to present substantial questions of fact (cf. Matter of Lewis v J. & K. Plumbing & Heating Co., 71 AD2d 708, 709, not for lv to app den 48 NY2d 610).

Respondent's motion to renew, however, was supported by affidavits presenting new information which constitutes more than mere conclusory assertions and makes out a prima facie case of bad faith by petitioner. Respondent's president affirmed that he knew that petitioner is a supporter of Council 82 and maintains a personal relationship with Council 82's executive director. A director of respondent stated that he was informed by a Council 82 supporter that petitioner was going to deliver respondent's membership list to Council 82. A member of respondent employed at Wallkill Correctional Facility indicated that he was threatened and harassed by Council 82 members, including the executive director, because of his involvement with respondent. These facts establish a possible link between petitioner, Council 82's executive director, and Council 82's alleged intimidation tactics and raised factual questions concerning petitioner's good faith and proper purpose in requesting to inspect respondent's membership list and minutes. Thus, on this record, a hearing is required to determine the good faith of petitioner in seeking inspection of the requested records of respondent, and Special Term abused its discretion in denying respondent's motion to renew.

Supreme Court—Appellate Division
Third Judicial Department

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48569

Order entered June 27, 1984 reversed, on the law, without costs, and matter remitted to Special Term for a hearing to determine the good faith of petitioner in seeking inspection of the requested records of respondent.

Appeal from order entered August 30, 1984 dismissed, as academic, without costs.

KANE, J.P., MAIN, CASEY and WEISS, JJ., concur.

)

AFFIDAVIT

I, Dennis Fitzpatrick, being duly sworn, deposes and says:

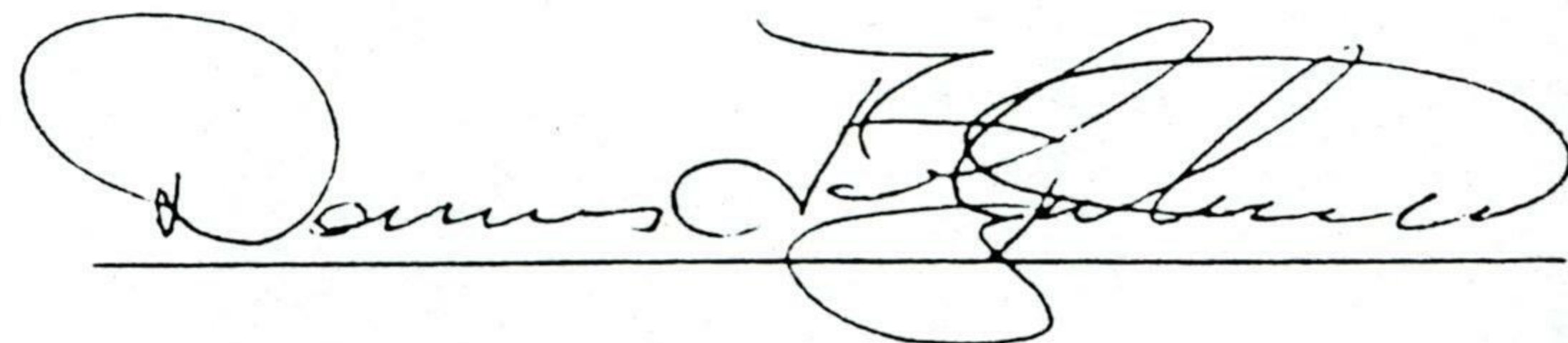
1. That I reside at 10 First Street, Hudson Falls, New York.
 2. That I am a director of The United Federation of Correction Officers, Inc.
 3. That I am the President of The Union of Federated Correction Officers.
 4. From the Mid 1970's until 1980, I held various union positions within AFSCME Council 82 on both the statewide and local level.
 5. I am personally acquainted with the leadership of AFSCME Council 82 including but not limited to such individuals as John W. Burke, who is the executive director of Council 82.
 6. Of my own knowledge, I know that Richard A. Curkendall was an active union supporter of Council 82 and a personal acquaintance of John W. Burke.
 7. Of my own knowledge, I know that this relationship between Mr. Burke and Mr. Curkendall continues to exist.
 8. I know of my own knowledge that Council 82 of AFSCME has made it a policy of their union to destroy both The United Federation of Correction Officers, Inc., and The Union of Federated Correction Officers as they consider both of these organizations a threat to them.
-

9. I know of my own knowledge that dozens of fraternal members of The United Federation of Correction Officers, Inc., have been approached by Council 82 representatives and subjected to verbal intimidation and they have been requested to drop out of the fraternal organization. Specifically, these occurrences have taken place at Great Meadows Correctional Facility at Comstock, Auburn Correctional Facility and Downstate Correctional Facility.

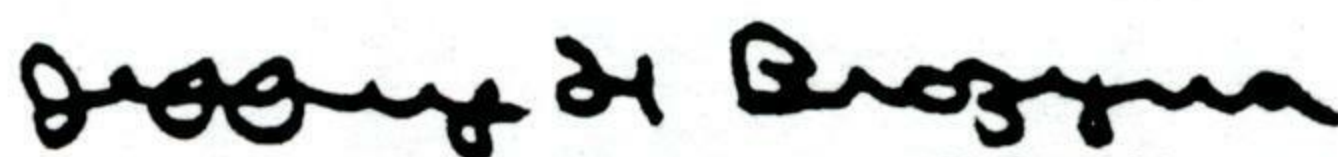
10. I have been told by William West, who is employed at the Wallkill Correctional Facility and who is a fraternal member of The United Federation of Correction Officers, Inc., that telephone death threats were made to his home on or about March 15, 1984. I became aware of this situation on or about June 18, 1984.

11. I have been informed by Bruce Farrell that direct evidence of Mr. Curkendall's involvement with Council 82 surfaced during a rally at Coxsackie in May.

12. If the membership list of The United Federation of Correction Officers, Inc., becomes public knowledge, I sincerely believe that the members will come under threats and intimidation tactics by AFSCME Council 82.



Sworn to before me this
29th day of June, 1984



Notary Public

JEFFRY H. BROZYNA
Notary Public, State of New York
Qualified in Schenectady County
Commission Expires May 1, 1986

AFFIDAVIT

I, Bruce Farrell, being duly sworn, deposes and says:

1. That I reside at 2 Hudson View Drive, Newburgh, New York.

2. That I am a director of The United Federation of Correction Officers, Inc.

3. That I am a Vice-President of The Union of Federated Correction Officers.

4. On May 26, 1983, James Morrissey, who is another union officer, and I held two union rallies outside of the Cocksackie Correctional Facility. The first rally was at approximately 6:00 p.m. and the second rally was at approximately 11:30 p.m.

5. Council 82 AFSCME representatives attended the first meeting in an attempt to disrupt our rally.

6. Just prior to the second rally I was approached by an individual who I had seen earlier conferring with Council 82 representatives.

7. This individual was a Caucasian male who was approximately 5'9" in height and he wore a brown suit, a white shirt and green tie.

8. This individual laughed at me and told me that "we are getting your signature cards revoked anyway, and it won't be much trouble because Curkendall is about to get the membership list of your fraternity and give it to Council 82."

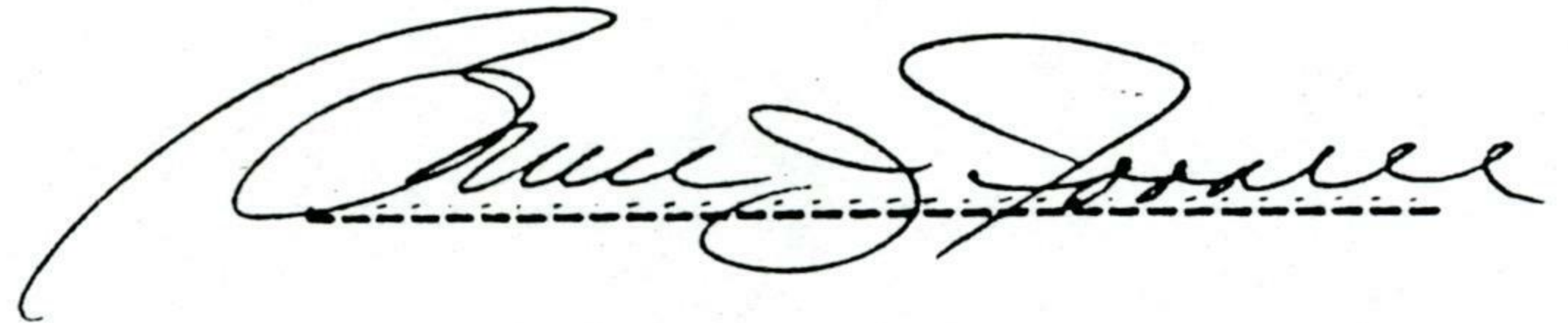
9. I demanded that this man identify himself but he simply laughed

and walked away.

10. Since this time we have tried to find out the identity of this person without success.

11. I brought this incident to the attention of the legal counsel for The United Federation of Correction Officers, Inc., on or about June 10, 1984.

12. I also informed the legal counsel for The Union of Federated Correction Officers of this incident.



Paul J. Jones

Sworn to before me this
2nd day of July, 1984.



Jeffrey H. Brozyna

Notary Public

JEFFRY H. BROZYNA
Notary Public, State of New York
Qualified in Schnectady County
Commission Expires March 30, 1986

STATE OF NEW YORK
SUPREME COURT

COUNTY OF SCHENECTADY

Applicaton of

RICHARD A. CURKENDALL,

Petitioner,

AFFIDAVIT

Index No.
84-1411

For an Order Permitting the Inspection of
the Minutes of Proceedings of the Members
and the Record of Members of The United
Federation of Correction Officers, Inc.

I, William West, being duly sworn, deposes and says:

1. That I reside at *54-C.E. PENNEY DR. WALLKILL N.Y. 12589*

2. That I am a New York State Correction Officer and I am employed
at the Wallkill Correctional Facility in Wallkill, New York.

3. That I am a member of the fraternal organization known as The
United Federation of Correction Officers, Inc.

4. That I am also a supporter of The Union of Federated Correction
Officers (TUFCO Union).

5. That during the month of March of 1984, I was told by various
officers of Council 82 of AFSCME that only Council 82 was empowered to
represent correction officers and that my support of TUFCO Union and my
membership in the fraternal organization known as The United Federation
of Correction Officers, Inc., was "not appreciated" and would "get me in
trouble."

6. On or about March *25*, 1984, a telephone call was made to my

residence. The unidentified male caller made death threats against me and said that I must "think I was Jimmy Hoffa."


7. In May of 1984 I received a harassing letter from the Executive Director of AFSCME Council 82, John W. Burke, in which he threatened me with union action, legal action, and other action if I continued to support TUFCO Union or the fraternal organization. (Copy of the May 14, 1984, letter is attached.)

8. I personally beleive that my physical safety and the safety of other TUFCO supporters will be jeopardized should a list of the fraternal membership be made public.



William West

Sworn to before me this
27th day of *June*, 1984.



Notary Public

MICHAEL J. WALE
Notary Public, State of New York
Qualified in Ulster County 86
Commission Expires March 30, 1986



Security and Law Enforcement Employees Council 82

AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES AFL-CIO

63 COLVIN AVENUE, ALBANY, N.Y. 12206

PHONE 518/489-8424

May 14, 1984

Mr. William West
Wallkill Correctional Facility
Box G, Route #208
Wallkill, NY 12589

Dear Mr. West:

I am writing to inform you that Council 82, AFSCME is the exclusive bargaining agent for members in the Security Services and Security Supervisors Units.

This information is clearly stated in Article 2, the Recognition Article of the 1982-85 Contract Agreement between New York State and Council 82, AFSCME.

Concerned members of Council 82 have brought to my attention that you have been illegally handing out literature which is slanderous of Council 82, AFSCME and which supports a competing organization. This is in direct violation of your membership obligations.

Additionally, you have been soliciting and signing up on our turf, members for the so-called "Union" "T.U.F.C.O." This is impeding our progress to prudently serve our members - this, of course, is very distasteful as it is equally wrong and a disservice to your Union.

I am respectfully requesting that you cease and desist these activities immediately -- your actions cannot and will not be tolerated any longer.

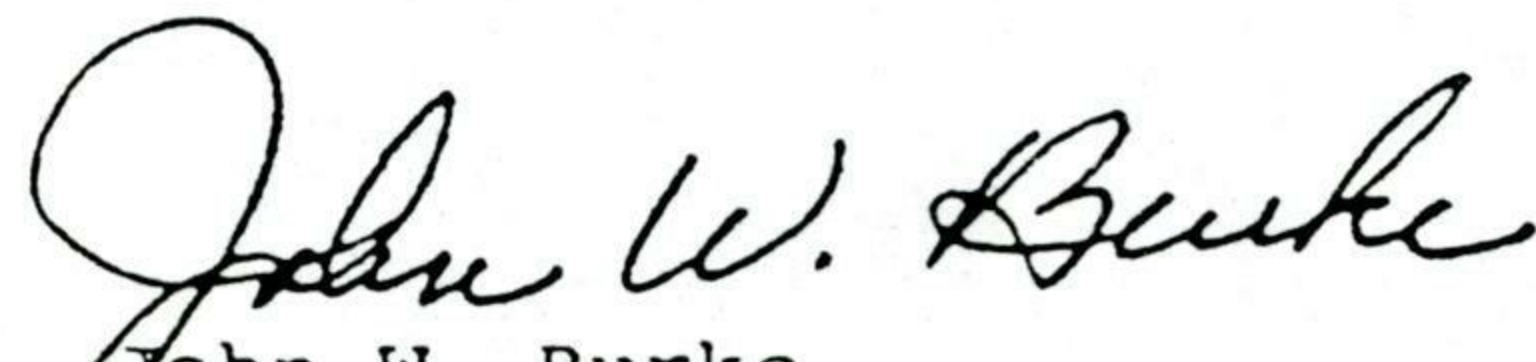
Further, I must advise you that if you do not cease these activities, Council 82 will take appropriate legal or administrative action against you or any member who is disloyal to Council 82, or who illegally solicits membership in a competing organization such as T.U.F.C.O. Specifically, Council 82 has the authority to bring you up on union charges, permanently expel you from membership, and impose other penalties under our Union Constitution. In addition, you may be named as a Respondent to Improper Practice Charges, prepared by our attorneys. Finally, you may be named as a Defendant in other law suits being contemplated by Council 82.

EXHIBIT "A"

In the event you have a concern or a problem regarding the services being provided by Council 82, please do not hesitate to call me and I will be pleased to discuss it with you. I am confident that any legitimate problems you have can be resolved.

Actions which aid a competing organization have the impact of destroying correction officers' ability to resist management's and inmate groups' efforts to weaken seniority and other vital provisions of our Council 82 Contract which have recently been under attack. Don't be a T.U.F.C.O. dupe for management and inmate groups. Instead, let us work together to make a great Union better.

Fraternally,


John W. Burke
Executive Director

JWB:kd

cc: Executive Board Local 613
R. Vosper
W. Cavanagh
F. Benedetto

STATE OF NEW YORK
SUPREME COURT

COUNTY OF SCHENECTADY

Application of :
RICHARD A. CURKENDALL, : AFFIDAVIT
Petitioner, : Index No.
84-1411
For an Order Permitting the Inspection of :
the Minutes of Proceedings of the Members :
and the Record of Members of the United :
Federation of Correction Officers, Inc. :

STATE OF NEW YORK)
) ss.:
COUNTY OF CHEMUNG)

RICHARD A. CURKENDALL, being duly sworn, deposes and says
that:

1. I am the petitioner in the above-entitled proceeding
and I make this affidavit in opposition to the motion for
renewal, reargument and a stay made by the United Federation of
Correction Officers, Inc. by order to show cause signed by Hon.
D. Vincent Cerrito on July 9, 1984.

2. I became a member of the United Federation of
Correction Officers, Inc. on or about June 9, 1983.

3. I did not receive any benefits or notices of corporate
meetings thereafter.

4. On or about March 19, 1984, I wrote to the United
Federation of Correction Officers, Inc. and requested financial
information and a copy of the corporation's constitution and
by-laws.

5. In response to my letter of March 19, 1984, I received
a letter dated April 2, 1984 from Dennis Fitzpatrick, a copy of

which is annexed to this affidavit as Exhibit A. I also received a document purporting to be a financial statement for the period ending September 30, 1983 containing a letter from Arthur Place and Company dated January 27, 1984 and showing a deficit. A copy of that document is annexed to this affidavit as Exhibit B.

6. I also received a document purporting to be the minutes and by-laws of the United Federation of Correction Officers, Inc.

7. Article IV of the minutes and by-laws, a copy of which is annexed to this affidavit as Exhibit C, provides for an annual meeting to be held not later than November 30 of each year together with notice of the meeting to each member at least two months prior to the date.

8. I have never received notice of an annual meeting of the United Federation of Correction Officers, Inc.

9. Upon information and belief, no such meeting has ever been held.

10. By letter dated April 5, 1984 (a copy of which is annexed to my petition in this proceeding as Exhibit 3), I requested the minutes of proceedings of the members of the United Federation of Correction Officers, Inc. and the list or record of members of the corporation.

11. Upon information and belief, my attorney and accountant, Mark S. Pelersi, Esq., was refused access to those documents and refused permission to make extracts from them.

12. Upon information and belief, the officers and

directors of the United Federation of Correction Officers, Inc. are mismanaging the corporation and wasting its assets.

13. If my suspicions of mismanagement and waste are correct, I intend to communicate with my fellow members to seek their support for an effort to remove the incumbent directors from office.

14. I have not requested any documents from the Union of Federated Correction Officers.

15. Upon information and belief, the United Federation of Correction Officers, Inc. (the organization from which I have sought records) is a totally separate organization from the Union of Federated Correction Officers, and is not seeking to challenge Council 82 or any other organization.

16. I do not know William West and do not believe I have ever met him. To the best of my knowledge I have never had any conversation with him whatsoever. I am certain that I have never threatened him with death nor requested anyone else to do so.

17. I do not know William Brahney and do not believe I have ever met him. To the best of my knowledge I have never had any conversation with him, nor have I ever requested anyone else to do so.

18. I did not have anything to do with the alleged seizure of cards of the Union of Federated Correction Officers at Fishkill Correctional Facility, nor have I requested anyone else to do so.

19. I did not tell anyone at Coxsackie Correctional

Facility that I have made the application in this proceeding. I have no idea how the incident set forth in the affidavit of Bruce Farrell sworn to July 2, 1984 could have occurred if in fact it did.

20. Upon information and belief, the incumbent officers and directors of the United Federation of Correction Officers, Inc. are mismanaging the corporation, wasting its assets and attempting to make it extremely time-consuming and prohibitively expensive for me and my fellow members to examine the corporate records and communicate with each other or remove them from office.

21. I respectfully request the Court to deny the motion of the United Federation of Correction Officers, Inc. for renewal, reargument and a stay. In view of the unnecessary expense and delay which has been occasioned by the actions of the United Federation of Correction Officers, Inc., its incumbent officers and directors and the attorneys representing it, I further request the Court to reinstate its judgment directing that the records which I have sought be produced for my attorney immediately and I renew my request for the Court to impose sanctions and/or attorneys' fees upon the United Federation of Correction Officers, Inc., its officers, directors and attorneys individually.

Richard A. Curkendall
RICHARD A. CURKENDALL

Sworn to before me this
12th day of July, 1984.

Dorothy A. Gusewite
Notary Public

Tufco

INLAND ABSTRACT CORPORATION further certifies that on searching the records in said County Clerk's Office for Judgments, Transcripts of Judgments and Decrees, unsatisfied of record docketed against:

I, Mary Anne Jakovic, have carefully searched the index of judgments for the year 1984, maintained by the Albany County Clerk for judgments against the Union of Federated Correction Officers and find the following: A judgment of the Supreme Court, Albany County, perfected 8/29/84 and docketed 8/30/84, in the amount of \$74.00 which according to the record, remains wholly unpaid and unsatisfied.

INLAND ABSTRACT CORPORATION

BY Mary Anne Jakovic
AUTHORIZED OFFICER

Dated: November 14, 1984

no check rec'd
as of 1/21/85
HWC



VOTE TUFCO

TUFCO Union Values Your Support!

TUFCO Union wants to thank everyone for having the courage to fight by our side and the faith in us to push this to the limit. Without your support, nothing could have been done. Now the most important moment in your life as a union man is approaching. You must decide your future in the next coming weeks. A vote for Council 82 is a vote for the continued deterioration of your pride as a law enforcement officer, continued degradation by the Department of Correction Services such as time abuse, illegal or unfair suspensions without pay, inmates word taken over yours, constant lawsuits with improper representation on your behalf, breaking of your contractual rights, lag payroll, erosion of your seniority system, and the frustration of always feeling like you're standing alone. That is what you will continue to have from the liberal, passive and State orientated AFSCME union you now belong to unless you as the Rank and File stand shoulder to shoulder as you did to get this election and continue this fight by casting your ballot for TUFCO Union. TUFCO Union is the union that will hear you, respect you, defend you, stand beside you and fight for you like no other public employee union has ever done before. We will help reinstate your pride, give up nothing and move heaven and earth for better benefits, raises, establishment of the death penalty and reform of Tier III. We have the professional staff to accomplish this and we have the will and the fight to see it through. Vote for Independence - Vote for TUFCO Union.

Ignore Council 82's Mudslinging Tactics

Throughout this union challenge, Council 82 has waged a campaign of character assassination, half-truths and vicious lies involving TUFCO Union and its leaders. In doing this, Council 82 sells the intelligence of the bargaining unit short. We will continue our professional campaign based on issues and programs. We know that you are intelligent enough to ignore 82's gutter tactics.

COUNCIL 82 CLAIMS 1982 CONTRACT BEST EVER

Here are a couple of examples of their best contract ever. Excerpts taken from Page #95, #96 and #99 of your current contract:

Trainee Rate

Dear Jack:

This is to confirm our discussions during the recent negotiations regarding the correction officer trainee rate and trainee period.

I advised you that it is the State's intention to continue the trainee rate for correction officer trainees at the level of \$12,920 for persons hired on and after April 1, 1982. Employees hired at this rate would remain at that level for six months when they would be increased to \$13,654. At the completion of a year, the correction officer trainee would be eligible for movement to the hiring rate of grade 14 at the schedule rate in effect at the time of upward movement.

This trainee rate will be reviewed and if necessary revised periodically during the term of this Agreement. The State will consult with Council 82 prior to making any such change.

Consistent with the above paragraph, we will extend the correction officer trainee period from its present level of 12 weeks to 12 months for persons hired on and after April 1, 1982.

These actions will take effect on April 1, 1982.

Sincerely,

/s/ Meyer S. Frucher

99

<-- Look who lost \$3,786.00 in salary the first year

TIME ABUSE

Dear Jack:

The State has become increasingly aware of problems created by employee attendance abuse. This abuse has resulted in excessive overtime costs, poor employee morale, inability to achieve programmatic goals due to personnel shortages, and added administrative costs in monitoring these problem areas.

The Time Abuse Control Unit has been created in the Department of Correctional Services to monitor all absences including but not limited to sick leave, Workers' Compensation leave, absences without leave, family illness, and sick leave with half pay.

The Time Abuse Control Unit is a means of administering preexisting sick leave policies as set out in the Attendance Rules (4N.Y.C.R.R. ch. 2). This unit will audit the attendance records of each facility, identify attendance problems and possible abuse, monitor patterns of abuse, and recommend means to correct such problems. The Time Abuse Control Unit is a means by which this particular problem will be investigated and deterred. It is not in itself an imposition of discipline; however, the Unit's operations may indeed result in tighter administration of discipline on the matter of time abuse and thereby produce certain efficiencies and economies as a legitimate aim.

The State will appropriate \$150,000 in each year of this Agreement to underwrite the operation of this unit.

Sincerely,

/s/ Meyer S. Frucher

Look who funded it

YOU DID!

-->

Who will Council 82 target next in order to fund your contract? One year employees? Five year employees? Ten year employees? Fifteen year employees?

A REAL UNION WOULD NOT DO THIS TO ITS MEMBERS

VOTE TUFCO UNION



VOTE TUFCO

TUFCO UNION'S REGIONAL CONCEPT GUARANTEES A BETTER
FUTURE FOR WESTERN CORRECTION OFFICERS

Working Together

Over the past several months, The Union Of Federated Correction Officers (TUFCO Union) has mounted an aggressive challenge to AFSCME Council 82. Why does Council 82 fear TUFCO Union? Why does Council 82 provide you with hysterical and unfounded misinformation? Why does Council 82 attempt to turn different groups against each other (Black and Hispanic vs White, Downstate vs. Western, etc.)?

The answer is simple. TUFCO Union has assembled a strong coalition with people of different backgrounds from all over the State. As far as TUFCO Union is concerned, WE ARE ALL CORRECTION OFFICERS, Western, Downstate, Black, White, Hispanic. Only by working TOGETHER are we strong enough to overthrow Council 82. Only by working TOGETHER can we reverse the eroding position of correction officers. Only by working TOGETHER can we stand up to the State and reestablish equality between correction officers and the State.

Stirring up prejudice plays into the hands of Council 82, the inmate groups, and the State. They fear TUFCO Union because we have done what no one else has yet done. We have brought about unity among correction officers. Together we can accomplish anything! If we fight among ourselves, we accomplish nothing!

A Strong Voice For The Western Region

TUFCO Union T R E A S U R E R James Morrissey has been stationed at Auburn for a number of years. He has worked as a correction officer side by side with men from all over Central and Western New York. He knows your problems and needs first hand. Being stationed at a maximum security facility, he knows the special requirements of such jails through his own experience. TUFCO Union representative Herb Wild has been stationed at Attica for years. He has first hand knowledge of the special dangers and problems facing correction officers at that over crowded facility. These people have direct input into making TUFCO Union policy. They are well qualified to serve your needs.

TUFCO Union Protects Seniority

The biggest lie of this campaign is that TUFCO Union will erode the seniority system. Nothing is farther from the truth! It is the seniority system that prevents chaos in the system. The seniority system is the cornerstone of a strong union. TUFCO Union is dedicated to the seniorty system!

Home Rule

TUFCO Union will provide you strong and aggressive representation and a PROFESSIONAL contract negotiation staff. Also, because TUFCO Union is independent, it does NOT have to send \$749,000 per year of your money to AFSCME like Council 82 does. TUFCO Union will not increase your dues. The \$749,000 that is saved will be spent on various programs for our members, such as a prepaid legal program, retirement planning, computerized grievance systems, etc. That is how we can afford to provide you these benefits! We can do more for you than just negotiate a better contract!

Contract-Benefits-Secure

Council 82 has charged that if TUFECO Union wins the election, you lose your contract benefits and contract negotiations will be delayed. THAT IS TOTALLY UNTRUE! IMMEDIATELY after the election, TUFECO Union takes over as bargaining agent REGARDLESS of any Court challenge. Also, the Taylor Law and Triborough Amendment REQUIRE the State to continue ALL the existing contract terms until a new contract is negotiated. The State is required by law to negotiate promptly with TUFECO Union as soon as the election is over. [Section 209a(1)(e) of the Taylor Law.]

TUFECO Union-Has-Strong-Legislative-Contacts

Our senior union officials have long standing personal contacts with their State Senators and Assemblymen. Our professional contract negotiator also has negotiated contracts for a multitude of labor organizations. His firm presently represents the Metropolitan Police Conference of New York State, Inc., the Nassau County Patrolmen's Benevolent Association, Yonkers Police Benevolent Association, Suffolk County Police Conference and several Village and City Departments on Long Island, as well as the Port Authority of New York and New Jersey Police Benevolent Association.

As you can see, TUFECO Union will have ample access to the legislature and will not be isolated from other labor organizations.

'82--Is-Partially-Responsible-For-Death-Penalty-Fiasco

Council 82 is responsible in part for the death penalty mess that threatens all correction officers. During his election campaign in 1982, Governor Mario Cuomo promised to veto any death penalty legislation submitted to him as Governor. This did not stop Council 82 and AFSCME from giving the Cuomo campaign money and substantial support. Now, Council 82 spends thousands of additional dollars to try to undo what Cuomo has done! If AFSCME has so much pull, why couldn't they get Cuomo to reverse himself on this issue? This is a shocking example of what happens when AFSCME, an organization which does not understand law enforcement, comes to represent correction officers.

Vote-TUFECO-Union-And-Receive-The-Following:

1. A strong Western voice in making union policy.
2. Professional contract negotiation team.
3. One man - one vote.
4. Home rule.
5. Take \$749,000 out of AFSCME's hands, and put the money into your programs.
6. A union that exists for you, not the other way around.
7. A union that will fight for the death penalty and 20 year retirement for co's.

Your vote matters! Western New York matters! Vote TUFECO Union!

Vote for TUFECO Union, the union that will hear you, respect you, defend you, stand beside you and fight for you like no other public employee union has ever done before. We will help reinstate your pride, give up nothing, and move heaven and earth for better benefits, raises, reestablishment of the death penalty and reform of Tier III. We have the professional staff to accomplish this and we have the will and the fight to see it through. Vote for Independence - Vote TUFECO Union!

Security and

IN A FEW DAYS YOU WILL BE VOTING FOR A BARGAINING AGENT.....THAT IS AN IMPORTANT VOTE BECAUSE IT WILL DECIDE WHO WILL BARGAIN FOR YOUR WAGES AND WORKING CONDITIONS AND WHO WILL PROTECT YOUR JOB SECURITY.....BEFORE YOU VOTE WE THOUGHT ~~THAT~~ THERE ARE SOME FACTS THAT YOU ~~SHOULD~~ SHOULD HAVE SO THAT YOU CAN DECIDE FOR YOURSELF A QUESTION THAT WE HAVE HEARD A LOT.....

WHAT IS A ~~UNION~~ A TUFCO
is a

FACT + THERE ARE TWO tufcos. One ~~is~~ *is* benevolent ~~society~~ society, the other claims its a union but BOTH tufcos ARE REGISTERED WITH THE NEW YORK STATE ~~STATE~~ *State Charitable & Foundation Commission* OFFICE OF CHARITIES..... REAL UNIONS STAND PROUD AND TALL AS UNIONS OF WORKING PEOPLE FOR WORKING PEOPLE, ~~REAL UNIONS~~ ~~AREN'T~~ REAL UNIONS AREN'T CHARITIES. ?

FACT BOTH TUFCOS HAVE THE SAME 5 OFFICERS AND DIRECTORS.

FACT THE ~~UNION~~ TUFCO that CLAIMS ITS A UNION HAS 5, that's right 5 members. Fiszatrick, Morrissey and three other complainers and whiners. Around here we call them the losers

FACT ~~In~~ In 1983 the 5 losers got together ~~and~~ and adopted a constitution for their tufco they ~~call~~ *that* call a union. Then they adopted a constitution ~~calling~~ *calling* for the original officers to serve until December 1988 and who do you ~~think~~ think they elected as officers? You guessed it, themselves. Then to be sure they had a lock on that things, they provided ~~in~~ the constitution ~~that~~ couldn't be amended except if they originated the amendment and then they provided in the constitution that the same 5 losers as ~~a~~ as the officers and a majority of their board of directors would set their own salaries. ~~Tufco~~ Tufco ~~had~~ never provided you, the people, with a copy of their constitution (that in ~~it~~ itself should tell you something) so we spread it all

Handwritten text, possibly a title or header, located in the upper middle section of the page.

Handwritten text, possibly a paragraph or list, located in the middle section of the page.

Handwritten text, possibly a signature or date, located in the lower left section of the page.

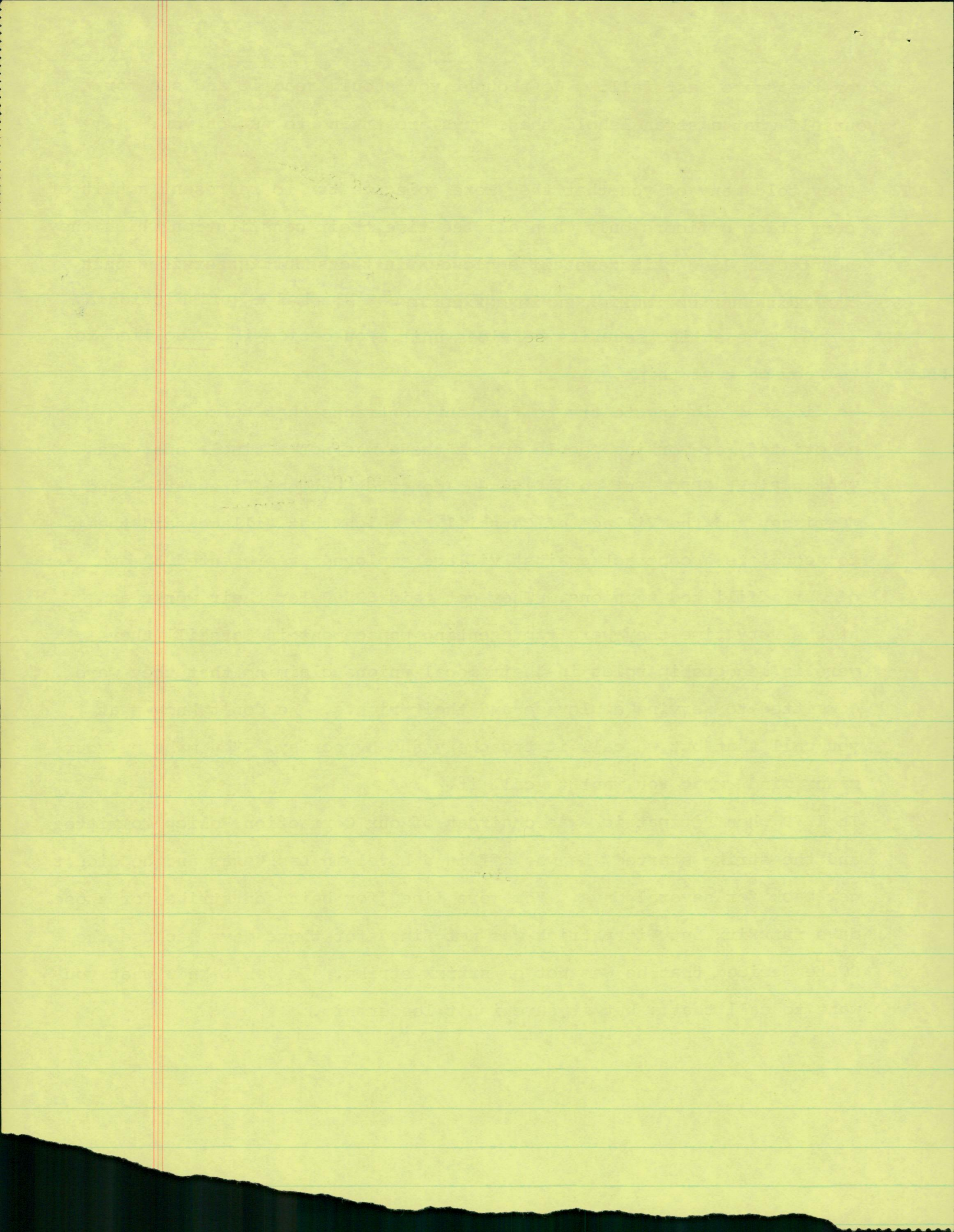
over the state last fall. We thought you should read it and see for yourself what a stranglehold these guys are trying to put on you.

FACT: They told many of you that they were going to try to represent a unit of correction officers only when all the time their constitution which they adopted in 1983 ~~was for the entire security services unit,~~ ^{closed} established a jurisdiction ~~of~~ ^{of} the entire security services unit. You decide if tufco lied. ~~no~~

~~FACT:~~ We know what we think.

FACT: We did some digging to try to find any contracts that tufco had negotiated for working people and ~~we~~ ^{we could not find even} there was not a single one. ~~no~~ That's Right ZERO But we did find a contract between Fitzpatrick and MORrissey and the Village of Catskill by which that Village paid them to negotiate a contract against village employees represented by one of our affiliated ~~to~~ unions. They got paid \$2500 for their work~~s~~ and at the very time they were representing management in Catskill they were in leadership roles in their local unions claiming that they were committed to serving employees and their rights. We don't know what you call that but we call it treachery and hypocrisy. You make up your ~~own~~ mind what you want to call it.

FACT In 1979 when Fitzpatrick was chairman of our Correction Policy Committee and the strike started, he was off in a hotel in Las Vegas and he didn't get back for several days. You were fined for being on strike for those days ~~but~~ but Fitzpatrick was not fined for those days because the State decided that he was not on ~~the~~ strike. We don't know what you want to call that; but it sure isn't leadership.



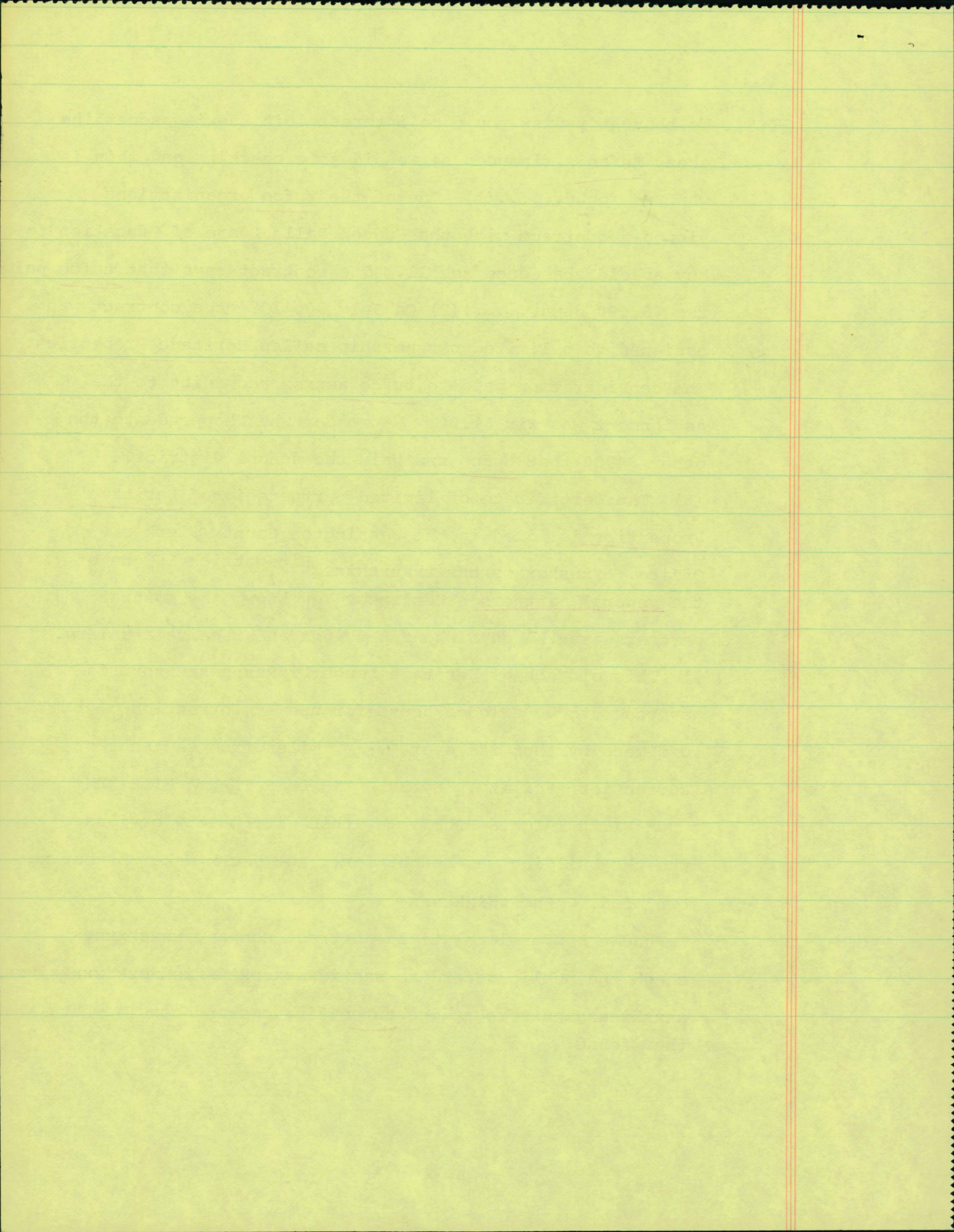
FACT: We thought ~~you'd~~ you'd be interested in knowing something about tufco's finances so we did some checking and this is what we found.....(1) One of the tufco organizations signed a contract with the Hudson Falls Board of Education to buy an old abandoned scholl. The contract says that tufco paid ~~the~~ \$5,000 down.....(2) On July 30, 1984 the contract was assigned to a limited partnership called Heritage Properties. The consideration paid to tufco ~~was~~ according to the assignment was ~~the~~ \$1.00. We wonder what happend to the other \$4900 that tufco ~~paid~~ paid the school district.

(3) The certificate of limited partnership of Heritage Properties is filed in the Washington County Clerk's Office. ~~Fitzpatrick~~ Fitzpatrick is one of the general partners. ~~You know, the general partners are the guys who run things and receive a salary.~~ *and her limited partnership ended up owning the building*

(4) This old school Heritage bought ~~is~~ is supposed to be a lodge house for use by Correction officers ~~but~~ but its over 12 miles from the nearest correction facility. HOWEVER ITS LESS THAN A MILE ~~FROM~~ FROM FITZPATRICK'S HOUSE. WE think its pretty obvious who the building was bought for. But you ~~make~~ make up your own mind. ~~the~~

FACT

We had a professional title abstract company ~~check~~ check the public record ~~regardongg~~ tufco finances and here's what they found:



THAT' RUGHT A JUDGMENT FOR A LOUSY \$76 that was taken in ^{August} ~~September~~ and still hasn't been paid. We will leave it up to you to decide if you want to be represented by ~~an~~ an organization that can't pay a judgment for a lousy \$76. ~~We~~ don't know how ~~many~~ many creditors tufco has

Since both tufcos have the same officers its pretty ~~xxx~~ tough to figure out which is which and to figure out the answer to our question WHAT'S A TUFECO???????

WE THINK THAT ~~WANTEX~~ ~~XXXXXXXXXXXX~~ WHATEVER A TUFECO IS, AN ~~XXXXXXXXXXXX~~ ITS NOT ~~THEXXXXXXXXXX~~ ORGANIZATION ~~XXXXXXXXXXXX~~ ^{TO} BE TRUSTED WITH NEGOTIATION OF YOUR WAGES, ~~AND~~ WORKING CONDITIONS, ~~WE~~ *Simply your*

YOU NEED A REAL UNION WITH EXPERIENCE, ~~XXXXXXXXXXXX~~ COMMITMENT, STAFF, FINANCES

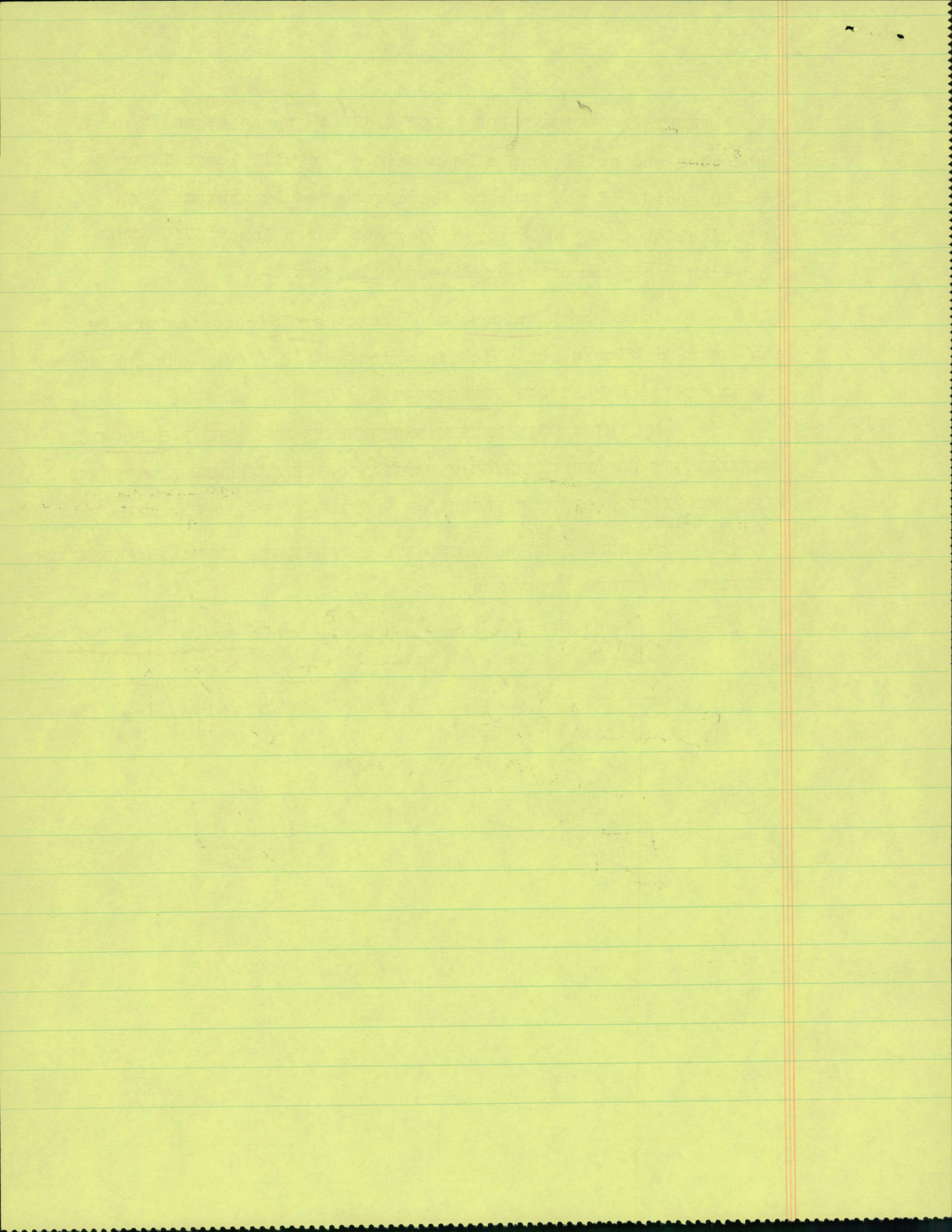
You need Council

Council & Oppose 8/2/AFC-CCO

Vote

Vote

?





VOL. 2, NO. 2

February, 1985

The Union of Federated Correction Officers Association

The Challenger

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Vote For TUFCO Union In Upcoming Election

TUFCO Union Assembles its Professional Contract Negotiation Team

Working in conjunction with our professional negotiator, Michael C. Axelrod, Esq., and our CPA and General Counsel, the TUFCO Union leadership has assembled its negotiating team for the 1985 contract.

Finalization of the entire contract proposals were not completed until this fall, so that input from our local leadership and members could be obtained. However, we believe very strongly that the State should be put on notice that TUFCO Union intends to take a strong stand on the issues that concern you the most.

Our negotiator: Michael C. Axelrod, Esq., has a long list of favorable contract negotiations under his belt. His firm presently represents the Metropolitan Police Conference of New York State Inc., the Nassau County Patrolmen's Benevolent Association, Yonkers Police Benevolent Association, Suffolk County Police Conference and several

Village and City Departments on Long Island, as well as the Port Authority of New York and New Jersey Police Benevolent Association.

A 1969 graduate from the University of Miami in Coral Gables, Mr. Axelrod was admitted to the New York State Bar in March of 1974 as well as the Florida Bar in December of 1973. He attended the New England School of Law in Boston, Massachusetts, graduating at the top of his class, having received numerous awards and being an editor on the *New England Law Review*. His first years in practice were spent as a criminal defense attorney with the Legal Aid Society of Nassau County, before joining the Law Offices of Richard Hartman through 1980 and 1981 and received his Masters in labor law from New York University in June 1981.

In addition to being admitted to the New York and Florida Bars, Mr. Axelrod is licensed to practice before the

Supreme Court of the United States, U.S. Circuit Court of Appeals, Second Circuit and The Eastern and Southern Districts of the Federal District Court in New York. Mr. Axelrod engages primarily in labor relations for police unions in Nassau and Suffolk Counties, as well as the New York State Police and the Metropolitan Police Conference.

We have also sought input on contract proposals from the rest of our professional staff. By virtue of their expertise and their experience, our staff will be able to provide the professional guidance that is so important in today's day and age. These people are all hard workers, they are self-made and throughout their entire careers they have shown a dedication to individuals and working people.

Our general counsel: Jeffrey H. Brozyna. Jeff's legal practice in Albany, New York, is concentrated in tax law, business law, real estate,

retirement planning, pensions, and other employee benefits. He is a graduate of Hobart College and Albany Law School. At one time he was a senior counselor with a national tax and financial counselling firm which provided tax and financial planning for individuals, family businesses, and others in over 35 states, and several foreign countries.

In addition to business law and tax law, he has done legal work for various not-for-profit organizations.

Since he has been in private practice, his primary goal has been to help individuals (at all levels) to achieve income tax savings and financial security through adequate tax and retirement planning. In addition, he has guided many individuals through very tough IRS tax audits. In 1977, he was a recipient of the National Commercial Bank and Trust Company (now Key Bank) Estate Planning Award.

His community work includes works with the Schalmont High School, Mohonasen High School and Draper High School Adult Education
Continued on Page 2

The Membership of the Union of Federated Correction Officers Bill of Rights

We, the members of the New York State Security Services Unit, in order to bring about better working conditions and a brighter future for ourselves and our families, and in conjunction with The Union of Federated Correction Officers (TUFCO Union), which pledges itself to helping us attain these rights, hereby decree that the following rights and privileges should be ours from this day forward.

FIRST: We have the right to safe working conditions without the fear of physical or verbal abuse or violence. We have a right to be backed up by our union and by the State of New York in our efforts to secure these conditions.

SECOND: We have a right to the support, understanding, and appreciation of the public as our work is both important to society and necessary to law and order in our society.

THIRD: We have a right to a union

which will represent us in an aggressive and professional way.

FOURTH: We have a right to a professional contract negotiation team.

FIFTH: We have a right to "Independence" and to "Home Rule" by a union which specializes in law enforcement, and which can run itself without taking orders from outsiders in a distant international.

SIXTH: We have a right to the same types of special programs as do employees who belong to innovative unions such as prepaid legal services, lower insurance rates, computerized grievance systems, educational programs for our children, retirement planning, income tax planning and disaster relief.

SEVENTH: We have a right to legal representation in major disciplinary proceedings brought against us.

EIGHTH: We have a right to a
Continued on Page 2

AN OPEN LETTER TO OUR SUPPORTERS

In August, TUFCO Union submitted its petition cards to the Public Employee Relations Board as required under the Taylor Law. In order for a challenging union to bring about a representative election with the incumbent union, the challenger must get 30% of the bargaining unit to sign petition cards in its favor. This TUFCO Union did, and there is no doubt that TUFCO Union will win the representational election between TUFCO Union and Council 82 which has been called by PERB.

The TUFCO Union movement was begun by five individuals. However, these five men alone could never have been successful. We have been successful because of grass roots support we have had from individuals just like you all over the State. We have been successful, and we are only one step away from displacing Council 82.

Those of you who have worked for TUFCO Union number in the hundreds and TUFCO Union supporters number in the thousands. We wish to thank everybody who signed a petition card in our favor. We would like to thank everyone who has helped

distribute our literature and everyone who has helped man the telephones. We wish to thank everyone who has supported TUFCO Union by oral statement, written word and by example. Without you, we never could have gotten off the ground.

We would like to give a special thanks to those of you who have donated money as well as their time to our efforts. Any donation made to TUFCO Union will be applied to your first year's dues payment when we are victorious.

Your efforts have made possible a better future for yourselves and your families. The benefits of an aggressive and professionally run union can be tremendous and, in addition to the collective bargaining agreement, our union has the capability of providing independent programs for its members and their families. TUFCO Union can get its message across and together we can fight to stop the erosion of correction officers' authority and safety and bring a better future for you and your families.

Despite all of your work and all
Continued on Page 4

82 Makes No Progress on Death Penalty Legislation

Council 82 claims it supports the Death Penalty, but 82 and AFSCME Support Cuomo, the man most responsible for the current state of affairs.

As you all know, Lemuel Smith sits in his jail cell at Comstock, convicted of several murders. His most recent victim was Correction Officer Donna Payant. He killed her, dismembered her, and threw her body out with the garbage. The taxpayers spent hundreds of thousands of dollars to prosecute him. The trial court sentenced him to death in the electric chair. Early in July, the Court of Appeals, by a 4 to 3 vote, held unconstitutional the State statute requiring the death penalty for a person serving a life sentence who was found guilty of killing a correction officer. Lemuel Smith sits in his cell completely unpunished.

On the other hand, four correction officers at Downstate Correctional Facility are under suspension for allegedly using excessive force against inmates. The suspensions handed out against them were apparently based purely on uncorroborated testimony from convicted felons and other prisoners.

Lemuel Smith, a murderer, goes unpunished. At the same time, innocent correction officers are suspended based on convicts' testimony. "How did the world ever come to this?"

The answer unfortunately lies with Council 82, and its parent organization, AFSCME, a passive union.

There can be little argument over the fact that the man primarily responsible for there being no death penalty legislation in this state is Governor Mario Cuomo. There is also no contesting the fact the AFSCME and Council 82 supported Governor

Cuomo in his bid to become Governor in 1982. Somewhere along the line, the leaders of AFSCME analyzed Mario Cuomo's labor record and found it satisfactory to them. For years Mario Cuomo's stand against the death penalty was public knowledge and he has not wavered from that position. The leaders of AFSCME must have known what Mario Cuomo's position was on the death penalty, yet they did not elicit a promise from him to abandon this position. It is sad to say that the death penalty issue is not a matter of life or death for most of the member unions of AFSCME. It is a matter of life and death to correction officers! Yet Council 82 gave approximately \$20,000 to Cuomo's gubernatorial campaign!

The plain and simple truth is that correction officers have unique needs and they must be represented by a specialized labor organization. Organizations such as AFSCME are dominated by groups of employees outside of the field of corrections. AFSCME Council 82 fights for death penalty legislation on one hand, but with the other hand they are forced to contribute your money to a political candidate who is apparently blind to the special importance this issue has for correction officers.

Governor Cuomo's position against the death penalty is based, as he says, on moral considerations. We believe that he is sincere in this belief. However, correction officers do not have the luxury of this type of viewpoint. When an inmate serving a life

sentence knows that he will go unpunished if he kills a correction officer, the correction officer becomes a marked man. This is an issue of life and death for correction officers, but it's not important enough to AFSCME to withdraw their support for Cuomo because of his death penalty stand.

TUFCO Union intends to hold Council 82 accountable for the activities of its parent organizations.

TUFCO Union will do more than just talk about reinstating the death penalty. Once TUFCO Union is elected as the exclusive bargaining agent for the Security Services Unit, we will undertake the following political actions on your behalf. Remember, there are approximately 15,000 voters in the Security Services Unit. If you add in the voters in your immediate family, we can form a voting block of 50,000 people if we stick together on this crucial issue. Specifically, we will do the following:

1. We will make available to you information as to where your assemblyman and senators stand on the issue of capital punishment.

2. We will bombard the state representatives with a concerted campaign, not only to reinstate capital punishment, but to override any governor's veto.

3. TUFCO Union will make it clear that it will work for the political defeat of any candidate who will not support a properly drafted and constitutional death penalty law.

4. TUFCO Union will undertake

intense lobbying efforts for a death penalty statute.

5. TUFCO Union will provide aggressive and strong representation for correction officers on this and on a host of other issues. The State must come to know that we mean business when we talk. Unlike Council 82, we will not say one thing and do another.

6. TUFCO Union will undertake a television and radio public relations campaign designed to enhance the image of the correction officer and obtain support from the general public on these issues. The public must come to know that we have special needs as a group.

All across the board, the prestige and status of correction officers has been eroded. It has been eroded by the Courts, our pleas have fallen on deaf ears in the Legislature, the Correction Department conducts illegal and unethical investigations of correction officers, and civilians on Grand Juries have shown that they will believe the testimony of a convicted felon over the testimony of an innocent correction officer. This trend must stop! We cannot reverse this trend and reinstate our proper position in the jails and in the communities while being represented by a passive union like Council 82. Only through aggressive representation and only through unified efforts can correction officers right the wrongs which exist.

Please support TUFCO Union. We are an independent union which will represent you, not a group of people who do not share our needs.

Bill of Rights

union which will be proud of us and which will publicize and broadcast our achievements and our community involvement so as to enhance our image with the public.

NINTH: We have a right to a union which will protect our seniority rights within the framework of existing law.

TENTH: We have a right to a union which will set up a computerized financial system to prevent waste and mismanagement.

ELEVENTH: We have a right to a union with a strong system of locals.

TWELFTH: We have a right to a union run on the principal of "one man - one vote."

THIRTEENTH: We have a right to a union which will represent all geographic areas of the State equally and fairly, and all members regardless of race, color or creed.

FOURTEENTH: We have a right to a union which does more than negotiate our contract. Our union should exist for our benefit, not the other way around. Our union should secure

Continued from Page 1

available benefits and programs for us and our families in addition to those available through the collective bargaining agreement.

We declare these rights to be ours as free men and women, working in a democracy where people should matter more than bureaucracies. These rights are ours to enjoy and our rights should never be eroded. We declare ourselves to be equal to the State of New York, not subservient to it. We declare ourselves to be equal to the union that should represent us, not subservient to it.

We hereby declare and adopt this Bill of Rights so that the rest of this society will know that we too have rights, dignity and power, both individually and collectively.

This Bill of Rights is adopted, this 1st day of October, 1983.

The Members of The
Security Services Unit
The Union of Federated
Correction Officers
(TUFCO Union)

82 Sold Out Trainees in the Last Contract

Recently, Council 82 sent out a campaign bulletin titled *Right Union, Right People, Right Stuff*.

The main thrust of this propaganda was geared toward the new employee. They indicated that the new employee would receive vast sums of money after a period of time. Let's examine the facts!

In 1977, Council 82 negotiated a trainee rate that would last for one year and trainees would be in direct supervision of a senior correction officer. However, this buddy system failed and trainees were used as seasoned correction officers, as they are now, doing grade 14 work for grade 10 pay.

Under the leadership of Dennis Fitzpatrick, Correction Policy Chairman, (who is now the President of TUFCO Union) the State of New York has been forced to give trainees equal pay for equal work. In 1978 (a non-contract year), correction officer trainees were advanced to grade 14 after 12 weeks of on-the-job training. In 1982-1985 contract negotiations,

Council 82 again negotiated a one-year trainee rate, only this time they

The plain and simple fact is that Council 82 negotiated a wage increase for all its members off the backs of correction officers hired after April 1, 1982.

reduced the trainee pay grade lower than it originally was in 1977.

The plain and simple fact is that Council 82 negotiated a wage increase for all its members off the backs of correction officers hired after April 1, 1982.

Council 82 would like people to believe the 1982-1985 agreement was the greatest thing since the invention of sliced bread. In reality the officer who was hired after April 1, 1982, lost over \$4,000.00 the first year and can never recoup it.

If Council 82 were to negotiate the next contract, we would wonder who they would target next to help finance the contract.

Is this the Right Union, Right People, Right Stuff?

TUFCO PROFESSIONAL NEGOTIATION TEAM...

Continued from Page 1

Programs, and he is well known in the Albany, New York area for his seminar work on tax and retirement planning.

Our certified public accountants: Arthur Place & Company. Art Place maintains an accounting firm of fourteen professionals in Albany, New York. His firm has a blend of

highly trained professionals and sophisticated computer hardware and software. This combination provides efficient and modern service.

Currently, Art Place does accounting work for the Electrical Workers' Pension and Welfare Fund as well as the Apprentice Training Fund. In the past he has done accounting work for the Telephone Traffic Union, the

Telephone Commercial Union, and the Operating Engineers and Structural Iron Workers. Art's father was a member of the Seamen's Union.

Art Place is a graduate of Bucknell University. He completed a program in labor relations and management accounting. Art was a lieutenant in the military police in Germany in 1960. He was assigned to NATO

Security. He was also a graduate of the NATO Security CBR Warfare School.

Art Place is a self-made man who understands the personal and accounting needs of working people.

TUFCO Is convinced that the only way to negotiate an effective collective bargaining contract is to use the best people available to work with us.

TUFCO'S PROFESSIONAL FINANCIAL PROGRAMS WILL HELP THE UNION SERVE YOU

A union is established in order to serve its membership, not the other way around. We want to restore some of the good old unionism, such as existed years ago when the union took care of its people, not the other way around. That is the reason we became active in this union challenge, and we are very confident that our financial program can achieve these goals for our members.

The TUFCO Union constitution provides for a unique blend of strong local input with the efficiency that can be provided by a centralized financial system. TUFCO Union will hire professional business agents who will work in a given region of the State. The business agent of the region will work on a close basis with the treasurers of each local in formulating the locals' budgets and the regional budget. A legislative body (made up of the chief stewards in each local) is created in each region with one of its principal jobs being the approval of regional and local budgets. This important information will then be blended into the state-wide budget. Budget dollars are then allocated back to the locals to be spent as the locals see fit.

TUFCO Union has access to the very sophisticated computers maintained by our certified public accountant in Albany. Through the system, we can maintain the efficient and orderly flow of expenditures and reimbursements throughout the TUFCO Union system.

Based on our computerized information, we will be able to earmark the proper funds for each local, each region not only guarantees orderly payment, reimbursement and banking deposits, but it also allows us to maximize earnings on our cash reserve. Also, the computer system will be very helpful in formulating the programs which we are providing for our members and their families.

Educational Assistance

Education assistance will be provided for all college-bound children of correction officers and security personnel. We will establish a sinking fund which will be professionally invested for maximum security and a good strong yield. In a very short period of time, this fund will generate monies which will be available to college-bound students. Everyone

who applies will obtain college assistance. The exact amount of this assistance depends upon the earnings of the fund in a given year and the number of students who wish to attend school.

Income Tax and Retirement Planning Seminars

Income tax and retirement planning seminars will be provided by our professional staff. In the Spring of 1985, we expect to present these tax reduction, deduction programs at several locations all around the State. This will allow our members and their families to become updated on the new and complex law changes. It will give you an opportunity to ask specific questions which will help with the preparation of your own income tax returns. It will also give you members a chance to start formulating your retirement plans. This seminar program will be put on by our tax attorneys and accounting staff.

Legal Counsel

TUFCO Union will provide you with an attorney to represent you in all major disciplinary proceedings. In the past it has been the correction officer who has been at a disadvantage. It seems there is no limit to the legal representation that the State will provide itself, nor is there a shortage of attorneys to represent inmates. By providing you legal counsel, we will even the odds and we will get the word out that we will not be taken lightly.

Professional Negotiator

TUFCO Union will provide a professional outside negotiator at contract time in order to present the most comprehensive negotiating package possible. All too often in the past Council 82 has been outgunned and outmaneuvered by experts who have provided service to the State. It is time that professional expertise is provided on our side for a change. A professional negotiator cannot only offer a strong proposal for negotiations, but he can formulate a specific and constructive plan as to where the State can find the money to fund our contract.

Prepaid Legal Program

TUFCO Union will provide its members with a state-wide prepaid legal program. This program will provide groups rates for legal representa-

tion on a wide range of legal services. Such a program will guarantee you legal representation by a competent attorney practicing in your area at reasonable rates. This representation will include real estate transactions, family law issues, traffic law, civil matters, etc. All attorneys participating in the program will be answerable to TUFCO Union so as to assure first rate representation and good service for members.

Public Relations Campaign

TUFCO Union will undertake a comprehensive public relations campaign designed to enhance the status of correction officers and security personnel. This will be done not only through the media, but our locals will be active in community programs as well. Such union public relations campaigns have been successful for other professions (most notably school teachers in 1983). It is time your union took an active role in broadcasting your dedicated work and achievements to the community.

Elections

Over the last 14 years, the membership of Council 82 has had very little control over who runs their union. With The Union of Federated Correction Officers, you, the member, will determine who will run your union. There will be no doubt who controls your union under The Union of Federated Correction Officers, because our by-laws call for a one-man-one-vote state-wide election for our state-wide leadership.

You may well say that these programs sound good, but where will the money come from to pay for them? The answer is simple. Because TUFCO Union is an independent union, it does not have to charge its members high fees which are destined for AFSCME or any other national organization. Almost \$749,000 of your money is spent in this fashion every year. The \$749,000 can be utilized for the programs which we propose and there will be money to spare. We can institute these programs for our membership without the permission of the State, as these programs are in addition to and independent of the collective bargaining agreement. We can charge the same dues Council 82 charge and still provide these additional programs.

With careful fiscal planning and financial responsibility, these programs can be highly effective. It is an important priority of TUFCO Union that the union should be made to work for the members, not the other way around. These programs will add to your financial security of your family. We have strength in numbers. It is high time that we put this strength to our financial advantage.

The Union Challenge In a Nutshell

You may be one of those individuals who has yet to make up his mind about whether to support TUFCO Union or Council 82 in the coming election. With all the radio, television and newspaper coverage, and with all the conflicting claims to the participants, you may well wonder what the truth is. How do you make an informed decision as to whom to vote for? If you find yourself in that position, the following summary should be helpful to you in making your decision. You should vote for TUFCO Union if you are in favor of the following:

1. Aggressive and active representation.
 2. Leadership that is not afraid to take on anybody, including the Commissioner or the Governor.
 3. Legal representation at major disciplines.
 4. Election of statewide union officers on a one man, one vote system.
 5. Election of local officers on a one-man, one-vote system.
 6. Home rule right here in New York State rather than by a distant international.
 7. A union that believes in protecting your rights at all costs.
 8. Instead of sending \$749,000 a year to AFSCME for the privilege of being affiliated, you would rather see those monies reinvested in educational programs, prepaid legal programs, retirement planning, income tax planning, disaster relief, and other programs for the membership.
 9. Professional contract negotiations based on an innovative program designed to achieve pay increases and sick time reform.
 10. The dismantling of the time abuse truant squad.
- You should vote for Council 82 if you are in favor of the following:
1. Sending \$749,000 a year to AFSCME and getting nothing in return.
 2. Having your money thrown away on endorsements to liberal candidates without even a say so in how the money is spent or who is endorsed.
 3. No professional negotiator.
 4. Passive representation.
 5. A lack of innovative programs.
 6. Unprofessional union representatives.
 7. Unprofessional representation in grievances and disciplines.

Your choice should be clear. TUFCO Union is trying to revive the old fashioned unionism where the union functioned for the benefit of its members rather than the other way around. For too long, unions such as Council 82 have become big bureaucracies which simply devour your dues without giving you full value for your money. In the coming election, you will be provided with a real alternative.

Vote TUFCO Union.

AFSCME SELLS OUT CORRECTIONS ON 'PRISONS FOR PROFIT ISSUE'

ATTENTION ALL CORRECTION OFFICERS!!

A vote for Council 82 is a vote for AFSCME. A vote for AFSCME is a vote for the possible loss of your job and the fall of the seniority system, possible loss of your civil service status, and your pension!

Let us explain why . . .

AFSCME supports the American Correctional Association (ACA). Council 82 supports the ACA and Council 82 AFSCME has vigorously tried to get you to sign up for the ACA membership. The ACA allows inmates to join their organization. The ACA makes the Guidelines with inmate input and liberal organizations input for accreditation of our prisons, which Commissioner Coughlin pushes very hard for. Now it

is revealed that the new President of ACA, the most liberal prison organizations input for accreditation of our Vice-President of Corrections Corporation of America which is a private organization that runs on a "Prisons for Profit" theory. Your present union knew of this and never complained of it until the challenge by TUFCO Union. McEntee spoke against "Prisons for Profit" (as head of AFSCME) to the delegates at your last convention. Yet, neither Mr. McEntee nor Jack Burke, ever divulged that behind your back their organization was allowing a cancer to grow. Maybe, they hoped its slow growth would not be discovered by the membership.

Well, we know of it now and we are

alerting you to the fact that TUFCO Union will never stand for this vile act of back-door politics and will never belong to a liberal organization that would take your livelihood from you!

Let us help you save your jobs and future. Put TUFCO Union in office so this cancer can be cut out now! Vote for your Independence! VOTE TUFCO UNION!

Note: We are sure many members who joined the ACA in corrections or who went to meetings of the ACA were not aware of the vile back-door politics. But there is no excuse for McEntee, the head of AFSCME, who allowed your negotiated funds in the QWL Program to be used for these meetings and some memberships.

State Law Guarantees Strength of TUFACO Union's Finances Upon Certification as Bargaining Agent

Questions have been asked pertaining to where the money is coming from which will enable TUFACO Union to mount its challenge against Council 82. TUFACO Union, being an independent union, does not have hundreds of thousands of dollars to spend on a union challenge. Our movement is a grass roots movement which depends on the hard work and financial contributions made by our leadership and our supporters. We wish to thank those of you who have donated to our cause. You will help bring about a brighter future!

Although it is true that our independence imposes a modest budget

on our activities, our independence does guarantee that we will not be controlled by big money interests, nor will we be controlled by national or international organizations which cannot meet the specialized needs of correction and security officers.

In the November issue of the Council 82 Review, emphasis was put on the fact that we are not a wealthy organization. Perhaps they feel that it is funny or humorous not to have large monies at one's disposal. However, we are wealthy in dedication, and although our supporters are not individually wealthy, together we will generate the funds necessary to

mount our challenge.

It's also important to remember that immediately upon becoming certified as the bargaining agent, the Taylor Law gives TUFACO Union access to the union dues paid by all members of the bargaining unit. Although our funds during the challenge period are limited, once we win the representative election we immediately reach the same financial strength that Council 82 now enjoys. This is guaranteed by law.

Council 82 has millions of dollars of dues money available to fight us, and they can call on the services of AFSCME. They, no doubt, will use

huge expenditures to fight us, and your dues money will be used to pay their attorneys in an effort to set up legal roadblocks to our representative election. However, we have faith in the individuals in our bargaining unit, and we feel very strongly that we are entitled to our day at the ballot box. That is the democratic system, and correction officers and security personnel everywhere should demand that they have their right to exercise their ballot.

At least for now, TUFACO Union is a union of modest financial means. Arranged against it are vast money interests which will try to stop us. But despite our modest means, we are dedicated to this challenge and we will continue it to its successful conclusion.

'One-Man, One-Vote' and 'Home Rule' are the TUFACO Alternative

You may well ask yourself, why is this union challenge important? What kind of choice do I have? The answer lies in the fact that this union challenge is a struggle between two different conceptions of what the relationship between the union and its members should be.

In the early days of the union movement in the United States, unions were organizations designed to care for and help their members. The union had a role to play in people's lives. Part of the goal of the union was not only to improve the economic status of its members but to assist the members and their families when they needed help. Since the early days, a great deal has changed in the union movement. All too often the unions themselves have become huge bureaucracies. Like all bureaucracies, they have become impersonal and detached from the people that they serve. The union leadership and the union bureaucrats have become so detached from their membership, that the original purpose of the union has been lost. The union leadership loses touch with its membership. Its membership loses faith in the leadership.

That is what has happened to many labor unions in this country. It has happened to AFSCME. It has happened to Council 82. Council 82 has lost touch with its membership. It has become a bloated bureaucracy whose primary purpose is its own self-preservation. It no longer exists for the benefit of the members. Somehow, they have come to feel that the members exist for the benefit of the union.

TUFACO Union is committed to re-establishing the time honored relationship between the members and their union. TUFACO Union exists for the benefit of the membership, not the other way around. Not only does TUFACO Union wish to assume the role of bargaining agent for contract negotiation purposes, but the union wishes also to provide programs which will fundamentally improve people's lives. Salary increases, seniority rights and a good contract are important goals to TUFACO Union. Of equal importance, however, are the benefits which TUFACO Union sponsored programs will provide for the members and their

families.

The \$749,000 a year that the members lose to AFSCME and AFL-CIO will be rechanneled into programs for the benefit of our members. These benefits include tax and retirement planning, income tax assistance, educational funding for your children, disaster relief in times of need, neasy access to the union leadership, a computerized grievance system, and legal representation when you need it. Council 82 cannot provide these programs without rais-

ing the dues \$749,000 per year. This they cannot do. They lack the expertise. They lack the commitment to the membership that is necessary.

Council 82 is a passive union, a union which has degenerated into a bloated bureaucracy, and a union which lacks the professionalism and determination to represent its members and move on into the future. Council 82 must pay thousands of dollars to a Washington, D.C. polling firm in order to find out what its members think about the important

issue. They have simply lost touch with their membership. The leadership of TUFACO Union is made up of men who work with you on a day to day basis. They do not need public opinion polls to tell them what you think. They provide strong and aggressive leadership. They will restore the old balance and proper relationship between the members and the union. TUFACO Union exists for the benefit of the members, not the other way around.

This is an important choice you must make. This is a struggle between two different ways of life and two different ways of looking at the world. TUFACO Union respectfully asks for your support. Your choice should be clear.

The Myth of Council 82 Legal Supremacy

Council 82 has made a big deal over the activities of their high price lawyers and legal staff. They seem to be quite proud of this situation and they point to a so called long list of legal victories to support their claims. When one examines the record closely, however, the real truth emerges.

In the December, 1984, issue of the Enforcer, Council 82 boasted that they had won two rounds in the challenge. They proudly proclaimed that the petition of the Lifeguards had been defeated and the petition of the Parkway Police to leave the bargaining unit had also been defeated.

What Council 82 forgot to tell you was that the Lifeguards voluntarily withdrew their petition to form a separate bargaining unit. (There is nothing like winning by default.)

As to the petition of the Parkway Police, it should be noted that it was primarily the opposition of the State and the past legal decisions established by PERB that led to the defeat of the Parkway Police petition to with-

draw from the bargaining unit.

Council 82 also forgot to tell you that the gradiose claims and attacks leveled against the TUFACO Union petition to unseat Council 82 and represent the entire Security Services Bargaining Unit had been totally rejected by PERB. Council 82 had alleged that TUFACO Union could not serve as bargaining agent because its constitution was not sufficiently democratic. Council 82 had also alleged that TUFACO Union had misrepresented precisely what groups within the bargaining unit they intended to represent. PERB was so unimpressed with the evidence submitted by Council 82's attorneys that they threw out Council 82's arguments without even conducting a formal trial on the matter. And, of course, they couldn't prevent PERB from ordering an election between TUFACO Union and Council 82. It is no wonder that Council 82 did not bother to tell you the entire story. Such a defeat must be truly embarrassing!

We would also like to remind our readers that TUFACO Union's attorneys scored a smashing victory against the State at PERB in the improper practice lawsuit brought about due to the confiscation of confidential petition cards at the Fishkill Correctional Facility in March of 1984. PERB recently ruled in Case U-7385 that the State was guilty of an improper practice for the card seizure and that the State had violated the rights of TUFACO Union and their supporters to freely associate and unionize. Council 82's high priced legal talent also leveled a series of charges at TUFACO Union based on this case. While TUFACO Union proved its primary charges against the State of New York, Council 82's high priced attorneys were totally unsuccessful.

Council 82 keeps charging that TUFACO Union's attorneys are incompetent. If TUFACO Union's attorneys are so incompetent, how come Council 82's high priced legal talent cannot seem to beat them?

OPEN LETTER TO OUR SUPPORTERS...

Your support, we must remind you that the job is not yet done. There is still one more hurdle to get over, one more step in the long road. We need your support in the election. The election will be conducted by secret ballot mailed directly by PERB to your residence. Please take the time to fill out the ballot and mail it back to PERB. Don't forget to sign your name on the return envelope so your vote counts. (Don't worry, we will have representatives at PERB when the votes are

counted to see to it that your vote remains confidential.) Even if you signed a petition card for TUFACO Union during the past six months, you must still exercise your vote during the election in order to name TUFACO Union as collective bargaining agent.

Council 82 is through. It is people like you who have made it possible. One more hurdle and one more step need to be taken. We need your vote in the election. A vote for TUFACO

Continued from page 1

Union is a vote for a better future for you and your family. We will never betray your trust.

Very truly yours,
The TUFACO Union Leadership

The Challenger

Published by The Union of Federated Correction Officers Association - TUFACO.
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The Challenger

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November 1984

The Union of Federated Correction Officers Association

State Found Guilty, TUFCO Wins

Dennis Fitzpatrick, President of The Union of Federated Correction Officers (TUFCO Union), has announced that the Public Employee Relations Board (PERB) has recently ruled that the State of New York was guilty of improper labor practices when it seized confidential TUFCO Union petition cards at Fishkill Correctional Facility in March of this year. The petition cards were being collected by TUFCO Union as part of its campaign to unseat Council 82

AFSCME as the bargaining agent for the Security Services Unit.

The PERB decision, dated Nov. 8th, 1984, states that the State of New York violated Sec. 209-a 1 (a) of the Taylor Law which reads in part:

"Improper employee practices. It shall be an improper practice for a public employer or its agents to deliberately (a) to interfere with, restrain or coerce public employees in the exercise of their

rights..."

TUFCO Union had alleged in its legal papers that the illegal seizure of the confidential petition cards violated the State's duty to remain neutral during this challenge, and that the State's action violated the rights of TUFCO Union supporters to organize.

TUFCO Union also has charged repeatedly that actions such as the State seizure of our petition cards shows a bias in favor of the incumbent union on

the part of the Department of Correction and the Governor's Office of Employee Relations.

The Fishkill Correctional Facility card seizure incident was tried at PERB in a formal hearing on June 18th and June 22nd.

TUFCO Union was represented by special trial counsel Eugene R. Spada of Loudonville, N.Y., and TUFCO's general counsel Jeffrey H. Brozyna.

Various charges were made by the incumbent union, Council 82 AFSCME, against TUFCO Union and the State. Council 82 was represented by Rowley, Forrest and O'Donnell.

While TUFCO Union was successful on its primary charge against the State, Council 82's allegations on the other hand were dismissed by PERB.

Council 82 Delays Election, Then Blames TUFCO Union

Through a series of legal maneuvers at PERB, Council 82 has tried to delay the election between TUFCO Union and Council 82. This delay clearly demonstrates the great fear Council 82 has for the democratic process. If they were truly confident of winning, they would want the vote tomorrow. However, that clearly is not the case.

Council 82's record of delay at the Public Employment Relations Board is shameful. On August 29, 1984, TUFCO Union submitted its petition to represent the Security Services Unit along with the required official signatures of over 30% of the bargaining unit. It should be noted that the Lifeguards petitioned to get out of the bargaining unit as did the Long Island Parkway Police. Also, the State petitioned to move correction Sergeants into the Security Supervisors Unit. On September 24, 1984, in an official press release, PERB announced that TUFCO Union had indeed met the 30% requirement, and that the various parties were to meet on September 26, 1984, at PERB in order to schedule a prompt election.

Instead of agreeing to a prompt election, Council 82 submitted a series of frivolous challenges to the TUFCO Union petition. Despite the fact that all the other parties stated publicly that they would be available for a prompt hearing on the various petitions, Council 82's attorney Richard Rowley stated that he was "booked up" and unavailable until well into November. PERB went along with the November hearing dates, thus assuring further delay.

Why would Council 82 attempt to delay the election? We believe that the answer is obvious. Council 82 fears the democratic process. They prefer an election where a controlled group of delegates makes decisions. The thought of a democratic election by the membership on a one-man-one-vote basis scares the daylights out of them!

Also, Council 82 must consider the AFSCME people in Washington who really control Council 82. Each year

AFSCME bleeds our bargaining unit for over \$700,000 per year in affiliation dues. Every month that goes by allows AFSCME to collect that much more money out of our bargaining unit. How else could AFSCME afford to give money to the Mondale-Ferraro campaign fiasco? How else could financial support be given to Governor Mario Cuomo, the one man most responsible for the lack of effective death penalty legislation? Let's face it, it is in AFSCME's best interest to delay this representational election.

Of course, there are other reasons Council 82 wants to delay this election. Every month of delay guarantees another month of ample salary and expense accounts for the Council 82 leadership in Albany. We are quite certain that Council 82 Executive Director Jack Burke has no desire to return to his job inside the jail, especially in light of the fact that it would be an awkward learn-

ing experience for him since he has never actually served as a corrections sergeant or a lieutenant since he was promoted to those positions by the State while on union leave!

Every month of delay means that additional legal fees will be paid to Council 82's law firm of Rowley, Forrest and O'Donnell. Council 82's legal budget is almost \$700,000 per year based on their own budget. That's \$58,000 per month! Of course, it is not illegal or unethical for a law firm to make a lot of money. However, this fee schedule is hardly one which would encourage the Council 82 attorneys to rush matters.

What's truly incredible is that having undertaken these delaying tactics, Council 82 has attempted to deceive you into thinking that the delay is TUFCO Union's fault! Council 82 published two letters from Thomas Hartnett, who is the director of the Governor's Office of Employee Relations. These letters

blamed TUFCO Union alone for delaying contract negotiations despite the fact that Mr. Hartnett knew of the delay caused by the State's own petition to remove correction sergeants from our bargaining unit. Evidently, Mr. Hartnett and the Governor's Office will do whatever they can to help Council 82 out of this bind. TUFCO Union attorneys have filed improper practice charges against Council 82 and the State, alleging collusion.

TUFCO Union officials have said time and time again that they are ready for an election **anytime**, the sooner the better. In order to make their point, TUFCO Union has recently collected thousands of signatures on petitions requesting PERB to call for a prompt election. It's time for Council 82 to take the consequences of its delay tactics and face the music of a secret ballot election.

TUFCO Union Welcomes Constitutional Comparison!

As you are aware and as discussed elsewhere in this newspaper edition, Council 82 published a comparison between the TUFCO Union Constitution and their own. Council 82's intent was to distort the TUFCO Union Constitution. However, this has clearly backfired. In formulating our Constitution, the TUFCO Union leadership was sensitive not only to democratic principles but also to the needs and requirements of the bargaining unit.

Of great importance to the TUFCO Union founders was the concept of "one-man-one-vote." All statewide union officers would be elected by the membership themselves, not by a hand-picked group of delegates as is the case in Council 82. The original slate of state-wide TUFCO Union officers will serve just over three-year terms until 1988 when the membership can either reelect them or vote for someone else.

Subsequent terms of office are three years.

The term of office for statewide officials was arrived at after giving careful consideration to the studies made by the University of Michigan political scientists involving the United States Constitution, conducted in the early 1970's. It was determined that two-year terms of office, such as those given to the United States House of Representatives, are inefficient and too short. A member of the House of Representatives is always running for reelection, it seems. The United States Senate terms (six-year terms) have been considered by certain scientists as being too lengthy as these individuals lose touch with their constituents. A three-year term of office, as is provided under the TUFCO Union Constitution, seems to provide a good workable compromise on this subject.

Of course, if one is unconcerned with

the democratic process or if statewide officers are hand-picked instead of voted in by the members, term of office is irrelevant. As the Executive Director of Council 82, Jack Burke proudly proclaimed in the September issue of the Council 82 newspaper (the *Review*) at page 7, "one of the benefits of my job is that it is not an elective position and I do not have to consider politics when making a decision. An example of this being at the last convention when I supported dues increase which should have been implemented a long time ago."

This is what happens when union leadership is no longer responsible to the members.

Besides the one-man-one-vote principle, another important aspect of the TUFCO Union Constitution is the theory of checks and balances. The members retain the ultimate authority as exer-

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You Be the Judge

Council 82 is trying to distort the truth about our union structure. Our illustration clearly demonstrates our intentions to structure two separate legislative bodies. Council 82 on the other hand believes that the intermingling of all groups into

one body shows equality. Although there are approximately 13,000 correction personnel in the bargaining unit, they only have 49% of the say on the Executive Board. You talk about the tail wagging the dog!

Council 82 Board

POSITION	JOB TITLE	ELECTION PROCEDURE
Executive Director		Hired by Executive Board (term ?)
Associate Director		Hired by Executive Director (term ?)
President	Correction	Elected by Delegates at convention
Vice President	Correction	Elected by Delegates at convention
Secretary	Non-Correction	Elected by Delegates at convention
Treasurer	Non-Correction	Elected by Delegates at convention
21 Additional Vice Presidents		
10 seats held by Non-Correction		Elected by Delegates at convention
10 seats held by Correction		Elected by Delegates at convention
1 Delegate at large	Non-Correction	Elected by Delegates at convention
3 Trustees - Non-voting members		

Total 13 - voting seats held by non-correction
12 - voting seats held by correction

NOTE: The membership did not have a vote in filling any of these seats. You call that a democracy?

TUFCO Union Board

POSITION	JOB TITLE	ELECTION PROCESS
President	Correction	Elected by statewide membership one-man-one-vote
Vice President	Correction	Elected by statewide membership one-man-one-vote
Vice President	Correction	Elected by statewide membership one-man-one-vote
Sec-Treasurer	Correction	Elected by statewide membership
Assistant Sec-Treas	Correction	
Associate Vice President	Non-correction	— see next box

Union Board Members

Elected by membership on the local level — one-man-one-vote.

Adirondack	Camps	Fulton	Mid-Orange
Albion	Clinton	Gabriels	Mid-State
Altona	Collins	Great Meadow	Mt. McGregor
Arthurkill	Coxsackie	Greene	Ogdensburg
Attica	Downstate	Green Haven	Ossining
Auburn	Eastern	Groveland	Ottisville
Bayview	Edgecomb	Hudson	Sergeants
Bedford	Elmira	Lincoln	Queensboro
Brentwood	Fishkill	Lyon Mountain	Taconic
Wallkill	Washington	Watertown	Wende
Woodburne	Wyoming		

Each local will have one seat on the Union board.
Total: 47 voting seats from correction.

NOTE: TUFCO believes every local should have a say in the decision-making process, regardless of their size or political beliefs.

Council 82 Also Represents the Following:

Council 82 Also Represents	Will TUFCO?
Auburn & Seneca Falls	No
Ulster County	No
Albany County	No
Otsego County	No
Plattsburgh	No
Olean Police	No
Command Unit	No
Broome County	No
Catskill Police	No
Albany Police	No
Geneseo Police	No
Gowanda Police	No
Alfred Police	No
Marlboro Police	No
New Paltz Police	No
Waterford Police	No
Guiderland Police	No
Security Supervisors	No
Monroe County	No
Orleans	No

NOTE: These groups also have a say in the decision-making process of Council 82. Contracts have to be negotiated, grievances handled, etc.

Our petition to challenge Council 82 did not include these groups, as Council 82 is trying to lead you to believe.

TUFCO will do a better job of representing YOU!

Compare these points and ask yourself: what do I really get for my du

	TUFCO UNION
Dues	\$8.63 bi-wkly
Negotiator	Professional outside negotiator
Experience	Negotiated over 40 contracts
Education	Masters degree in Labor Law
Pre-paid legal program off the job	Yes
Representation major disciplines	Attorney
Workers Compensation assistance	Attorney
Professional Lobbyist	Yes
Severance pay from union upon retirement	Yes
Educational funds for dependent children	Yes all dependent children
Life insurance	Yes
Disability insurance available	Yes first day coverage payable to age
Car insurance available	Yes
Payroll deduction	Yes
Income tax assistance	Yes
Estate planning	Yes
Retirement planning	Yes
Assistance to survivor upon death of spouse	Yes attorney
Computerized grievance process	Yes
Public relations program to improve image of members	Yes
Disaster fund for members	Yes
All union positions elected by membership	Yes
Political endorsements	Yes after the membership is polled

The Taylor Law Protects Your Rights During TUFCO Challenge

The State enacted the Taylor Law in order to regulate the activities of public employers and labor unions in the public sector. Council 82 has generated a large amount of propaganda in which they alleged that you will lose certain contractual and legal rights if TUFCO Union is elected to replace them as bargaining agent for the Securities Services Unit. Nothing is farther from the truth and the purpose of this article is to give you the straight story.

The Taylor Law requires that any union that is to be a bargaining agent for a unit of State employees must be an "employee organization." TUFCO Union qualifies as such an "employee organization" by virtue of its written

constitution.

If a challenging union such as TUFCO Union can demonstrate a sufficient interest in its program, PERB (Public Employee Relations Board) will call for a representative election in order to determine whether you want a new bargaining agent. Under the Taylor Law, this showing of interest can be met if 30% of the bargaining unit sign petition cards designated for this purpose. These cards must be signed within six months of August, 1984 in order to be valid. TUFCO Union has complied with this requirement.

TUFCO Union has delivered their required 30% in the form of signature cards; PERB will declare that a secret

ballot election will be held between TUFCO Union and Council 82. Once TUFCO Union obtains a majority of the votes cast in that election, TUFCO Union will replace Council 82 as the bargaining agent for your unit. It will then be TUFCO Union's responsibility to negotiate the collective bargaining agreement and contract with the State of New York.

Council 82, through its propaganda, has completely misstated the Taylor Law. When TUFCO Union is victorious, you will not lose your benefits under the existing contract. The existing contract expires on March 31, 1985. Even if no new contract is negotiated at that point in time, the Taylor Law, the Triborough Amendment, and certain court deci-

sions provide that the State of New York is bound by the terms and conditions of the expired contract until a new contract is signed.

The Triborough Doctrine (interpreting Section 209 (a) (1) (d) of the Taylor Law and in the Triborough Amendment Section 209-a (1) (e) of the Taylor Law) states very clearly that the existing contract continues with the State if a new bargaining agent takes over the unit or if the contract date (March 31, 1985) passes without a new contract being signed. The law reads in part as follows:

"Improper practices. It shall be an improper practice for a public employer or its agents to deliber-

You Be the Judge

TUFCO Union Board - Non-Correction

Associate Vice President Non-Correction Elected by Non-Correction membership one-man-one-vote

Non-Correction Board

Parks	Non-Correction	Elected by local membership
Safety Officers	Non-Correction	Elected by local membership
University Police	Non-Correction	Elected by local membership
Capital Police	Non-Correction	Elected by local membership
Lands & Forest	Non-Correction	Elected by local membership
Conservation	Non-Correction	Elected by local membership
Building Guards	Non-Correction	Elected by local membership
Mid-Hudson Phys.	Non-Correction	Elected by local membership
Central, NY Phys.	Non-Correction	Elected by local membership
Jones Beach	Non-Correction	Elected by local membership

Total 10 voting seats from non-correction

NOTE:

Non-correction have their own legislative body, their own budget, their own director, their own structure.

These comparisons between TUFCO Union and Council 82 have been graphically illustrated to demonstrate TUFCO's innovative programs designed for you the member vs. Council

82's.

Please don't be misled by Council 82's drastic attempts to distort and misinform you, via their propaganda attacks on TUFCO Union and its officers.

TUFCO believes these vicious attacks offer ample proof of the panic created by the TUFCO challenge.

You owe it to yourself, your family and your future to honestly evaluate both sides. We believe in doing so, you will vote for TUFCO — "a union with a future."

Desperation politics

Council 82 paid thousands of dollars of your dues money to a polling firm out of Washington, D.C. They did this to find out what their membership felt about them. Apparently the results were not favorable.

Now Council 82 has resorted to a contest: apparently they are at a loss for words and now offering a \$100.00 reward for anyone to bail them out.

How childish! Incompetence at its best!

TUFCO Union Announces Plan to Recoup the \$749,000 Fed Annually to the AFSCME Money Machine

As indicated by the Council 82 budget, over \$749,000.00 per year of the 3.6 million dollar 82 budget is bled out of Council 82's coffers, and is sent down to AFSCME headquarters in Washington. (\$700,000.00 of this figure is paid by the Security Services Unit.) This is necessary so as to enable AFSCME to donate your money to political candidates the members have no say in, and to run the AFSCME bureaucracy.

TUFCO, being an independent union, doesn't have to pay international affiliation dues to anybody. Since TUFCO Union will charge the same dues as Council 82, this leaves \$700,000.00 surplus which can be spent on programs for the membership themselves.

The re-allocation of monies for the benefit of the members themselves is authorized by several Internal Revenue code sections including section 120 and

TUFCO Union Explains Its Legislative Philosophy, Myth of AFSCME "Clout"

Correction officers in New York State are being deceived by Council 82, CSEA/AFSCME. CSEA/AFSCME claims they put political clout behind correction officers. The real fact is that correction officers are diluted by the conglomerate created by the marriage of CSEA/AFSCME. This dumping of correction officers, management personnel, file clerks, secretaries, etc., has denied correction officers and security service personnel the long-deserved attention to their specialized needs.

CSEA/AFSCME claims they have an enormous amount of political clout. If that is true, then why did they allow the Tier III Retirement System to pass, or were they concerned more with the agency shop legislation they got in return? Where were their priorities?

Most of the other law enforcement agencies were unaffected, only correction officers were required to reach age 62 before they could retire.

Why, with all of CSEA/AFSCME's political clout, can't correction officers be treated as law enforcement officers and receive the same benefits?

From 1973 through 1978, CSEA/AFSCME could not even get a Tier III Retirement Reform Bill introduced into the legislature, much less passed.

In 1980 legislation was introduced to give correction officers a 25-year retirement bill, and this bill stated correction officers only. This attack on the Tier III Retirement System spearheaded by Jim Morrissey passed unanimously in the Senate and there was only one vote against it in the Assembly.

That particular piece of legislation is proof that the legislators will address correction officers' special problems, but not if they are tied to thousands of other state employees who don't face what correction officers and security personnel face on a daily basis.

In 1983 correction officers again suffered another blow to their retirement system. Correction officers are the only group who still have the Social Security offset. In 1983 the legislators passed a reform bill that did away with the Social Security offset for all state employees except correction officers. Where was

CSEA/AFSCME's political clout for corrections then?

Why do correction officers have a Social Security offset when no other state employees have it? Why were correction officers left out?

Where was CSEA/AFSCME political clout for correction officers, or didn't they decide to use it? Maybe CSEA/AFSCME wanted some people in CSEA to look good this legislative season and corrections paid the price.

Maybe the majority leader of the Senate remembers being personally and publicly attacked by Jack Burke, then the president of Council 82.

Whatever the reason, correction officers cannot afford any more of CSEA/AFSCME political clout.

CSEA/AFSCME backed Governor Cuomo in the last election, despite his campaign promise to close Long Island (Brentwood) Correctional Facility on Long Island. Council 82 then decided to expend your union dues on legal fees in order to fight Cuomo and keep Brentwood open at least for now. Despite CSEA/AFSCME's alleged political pull, it took a group of inmates to get the job done. Some political clout! It seems that the inmates have more political clout than the union that is supposed to be representing correction officers.

The death penalty is another example. Cuomo's position is deadly to correction officers. Still CSEA/AFSCME endorsed and made large contributions to Cuomo's election. Correction officers must look foolish. Their union backed a Governor who refused to protect their lives with a death penalty.

The choice is easy to make; correction officers do not need any more of CSEA/AFSCME's political clout. Correction officers cannot afford it.

What correction officers do need is a legislative program that will have a full-time lobbyist. A full-time lobby that will carefully and closely monitor all legislation, and submit new legislation that will place the correction facilities back in the hands of correction officers and legislation that will protect the lives of correction officers.

to the State. It is time that professional expertise is provided on our side for a change. A professional negotiator cannot only offer a strong proposal for negotiations, but he can formulate a specific and constructive plan as to where the State can find the money to fund our contract.

3. TUFCO Union will establish a state-wide "disaster fund" in order to assist correction officers and their families who are in need. It is high time that your Union stand behind its members in the event of medical emergency, financial stress and personal tragedy. A committee will be established to review potential recipients, and it will be their job to see to it that you and your families will never stand alone in your hour of need.

4. TUFCO Union will establish a system of Educational Scholarships so as to assist your children in gaining a college

Continued on Page 4

es?

COUNCIL 82 (AFSCME International dues are 8.63 bi-wkly going up again Jan. 1st, 1985)

Executive Director

Negotiated (1) contract

?

No

Usually staff rep.

No

Yes

No

Yes one from each local

Yes depending on loss of dues check off

Yes 14 day waiting period one year benefit

Yes

Yes

No

No

No

No

No

No

No

No

Yes whoever the International mandates.

ately....

(e) to refuse to continue all the terms of the expired agreement until a new agreement is negotiated....

In short, none of your rights are lost when TUFCO Union replaces Council 82 as your bargaining agent and the courts have so held. For instance, in the *City of Albany* 7 PERB par. 3079 (1974) it was held that Section 209 (a) (1) (d) protected a public employee's seniority rights during a challenge or contract negotiation period. Wage levels have been protected in a host of cases under both Taylor Law Sections. Also, wage increments were also protected in court. (*Cobleskill Central School District* 16 PERB par 7023)

Council 82's assertions that your contract rights are harmed by the TUFCO challenge are totally false!!!

TUFCO Welcomes Comparison

Continued from Page 1

cised through their convention. The membership elects the statewide union officers as well as virtually all of the local union officers. The elected chief steward at each local (who serves in effect as the local president) sits on a regional and statewide legislative board which has the ultimate authority for passing the TUFCO Union budget.

The Executive Board of Directors proposes a union budget, but only these democratically elected legislative bodies can approve it.

While the members have retained certain powers and while regional and statewide legislative bodies have a sig-

nificant budgetary role to play, the TUFCO Union Constitution still provides for a strong executive branch. A strong executive is necessary in order to effectively run a union which proposes the wide range of membership programs, legal programs and employee benefits that TUFCO Union will implement. These statewide office holders are still answerable to the democratic vote of the members. They are strong enough to do their job, but yet the ultimate authority rests with the members themselves. It is just this type of effective checks and balances which has contributed to the success of the United States Constitution for almost 200 years.

TUFCO to Recoup Your \$749,000

Continued from Page 3

education. All college-bound children will receive assistance depending on the earnings in the fund and the number of applicants. There will be no patronage or discrimination as is the case with other scholarship funds.

5. TUFCO Union will provide its members with a statewide prepaid legal program. This program will provide group rates for legal representation on a wide range of legal services. Such a program will guarantee you legal representation by a competent attorney practicing in your area at reasonable rates. This representation will include real estate transactions, family law issues, traffic law, civil matters, etc. All attorneys participating in the program will be answerable to TUFCO Union so as to assure first-rate representation and good service for members.

6. TUFCO Union will provide a comprehensive program of tax and retirement planning services. This service will provide you with information regarding your employee benefits, income tax reduction through careful planning, insurance, wills and trusts, inheritances, investments, and retirement planning. This confidential service will help you keep more of your hard earned money

TUFCO Union Challenges Council 82 to a Debate, But Council 82 Backs Down

TUFCO Union President Dennis Fitzpatrick has issued a challenge to either Richard Bischert, President of Council 82, or Jack Burke, Executive Director of Council 82, to participate in a debate on the issues presented in this union challenge. This debate challenge was issued from Fitzpatrick to Mr. Bischert through a newspaper article which appeared in the *Albany Times Union* on October 8th. Bischert said that he would agree to a debate but he did not want to have to discuss certain issues. Bischert said he would not debate on the records of himself or Jack Burke. Nor would he debate the issue of the 1979 Strike and the AFSCME International failure to support the correction officers at that time. The TUFCO Union leadership is ready, willing and able to debate any and all issues at anytime with the leadership of Council 82. Let's see if Council 82 has the stomach for a debate; the members don't think so. Council 82 has more experience at playing "let's make a deal" than facing the issues. That's more their style.

now and will help you plan for your future retirement by utilizing legitimate tax planning techniques. It will also help to guarantee your family's financial security.

7. TUFCO Union will provide lower rates for life insurance and disability insurance. This will be accomplished by constantly monitoring the ever changing insurance market, and by providing the best coverage possible at any given point in time.

8. TUFCO Union will undertake a comprehensive public relations campaign designed to enhance the status of correction officers and security personnel. This will be done not only through the media, but our locals will be active in community programs as well. Such Union public relations campaigns have been successful for other professions (most notably school teachers in 1983). It is time your Union took an active role in broadcasting your dedicated work and achievements to the community.

9. OUR COMPUTER SYSTEM. The grievance system with Council 82 is a complete disaster. The same grievances at two different facilities are given opposite answers, and the same grievance at still another facility is given still another answer. Labor Management agreements that are agreed to at one facility are refused at another.

Examples such as these are widespread throughout the State. Under our system everything will be computerized. This will allow for uniform application of the contract and all agreements.

The 82 Convention: Watergate Revisited?

Attention Council 82 Convention Delegates: Were you bugged by the convention, or did the convention bug you? Only your executive committee knows for sure.

Through several confidential sources in western New York, TUFCO Union has determined that Council 82 officials electronically bugged their own convention.

Word has it that 82 officials bugged conference rooms and meetings between senior 82 state officials and certain local officials. While the recording was done in a manner which was not illegal, unethical or improper, it is still a sad state of affairs. They don't trust their delegates, their committees or each other.

Is this the way a democratic union is supposed to be run?

Open Letter to the Membership

By Kevin Casey
Vice President

By now it should be apparent to one and all, even the most staunch 82 supporters, that Council 82 and not TUFCO Union is delaying the inevitable election for representation.

You may recall that Mr. Burke has been deceiving the membership of the union since the beginning of TUFCO's challenge by stating TUFCO would never gather the signature cards required (30%) by PERB to justify an election for representation, that TUFCO's campaign was a fraud, and our signature cards were forgeries, that TUFCO has misrepresented its programs and objectives, and that they had the proof.

TUFCO challenged 82 to prove their allegations, but Burke and his high-priced legal staff failed again and again and again.

The facts are that TUFCO fulfilled PERB's requirement for the election way back in August. Predictably Council 82 panicked and began filing frivolous paperwork with PERB in an expensive but futile effort to discredit TUFCO with the end result being the delay in the election that will surely follow.

The State of New York Department of Correction Services even jumped into the fight. They illegally seized confidential signature cards at Fishkill. The State's actions were, by the way, illegal, and PERB ruled it was an improper practice and has ordered the cards returned.

To set the record straight, TUFCO was ready for the election in August and had nothing to do with delaying the election.

By virtue of their propaganda consisting of misleading statements, half-truths and character assassinations regarding TUFCO's objectives, progressive programs and officers, 82 has systematically misled the membership by proclaiming TUFCO to be the bad guy. This I must add was fueled by the Governor's Office of Employee Relations jumping into the game in order to help their friend, Council 82, attempt to defeat TUFCO. Remember the letters from Council 82's *Enforcer* from Mr. Thomas F. Hartnett to Mr. Burke. TUFCO has filed an improper practice charge; it's pending.

Council 82 boasts of all they have done for you. Just ask yourself, what have they really done for you? Mr. Burke is presently extolling the goodness and virtues of 82 when during the challenge by C.O.B.A., Mr. Burke was an ardent supporter to unseat Council

Your Input

If you have any suggestions or input on contract negotiation, we encourage you to mail your written suggestion to:

TUFCO Union
Box 310
Hudson Falls, NY 12839

The Challenger

Published by The Union of Federated Correction Officers Association - TUFCO.

Dennis J. Fitzpatrick, President
Kevin W. Casey, Vice-President
Bruce J. Farrell, Vice-President
James Morrissey, Secretary-Treasurer
Marie Dantzer, Assistant Secretary-Treasurer

82.

Ask yourself, what is Burke's current civil service rank and salary grade? The last we knew he was a lieutenant. Has he been promoted to captain yet? Either way, he is a hired manager of the Department of Correction Services, but it always makes it convenient for the State of New York to have one of their own managers running the union they must negotiate with.

Why not Council 82 sponsored a 20-year half-pay bill for correction officers? It has for the forest rangers.

Why, during the last negotiations, did Council 82 re-negotiate a training rate for new hires that in fact helped finance pay raises off the backs and out of the pockets of the rookies?

Why can't Council 82 uphold the contract they negotiated with and agreed to with the State of New York with regard to resolving grievances in accordance with the prescribed time limits? The inmates receive a far more timely and, in most cases, more favorable response than the correction officer.

Why was the membership fined 2 days' pay for each day on strike way back in 1979, but Council 82 hasn't paid a dime? You talk about being fed the lions. Right there shows Council 82's clout. A lot of clout for AFSCME money machine pay backs, but forget the members. I know even Burke remembers that one.

Did you know the real reason Council 82 can't poll the membership with regard to endorsements of political candidates? The international union won't let them — it's in Council 82's real constitution, not the misleading one published in 82's propaganda when they compared constitutions. Another classic example of Council 82's deceiving the membership: they printed their 8-page Council 82 guideline and intended people to believe that was Council 82/AFSCME's total constitution. Their constitution is approximately 174 pages, not 8!

Why does Council 82 proclaim to be fighting time abuse when they themselves agreed to fund it through the last contract?

Why hasn't Council 82 sponsored legislation that would provide for built-in cost of living raises for our retired brothers and sisters, so they can retire with dignity and not be living at the poverty level in just a few short years?

Burke talks about how much support we receive from our so-called friends in the labor world. Did you know that in 1980 Burke led the drive for Council 82 to pull out of the AFL-CIO due to that organization's total lack of support for 82 during the strike?

Did you know that agency shop was the pay-off for the Tier III retirement system that many of our members are presently suffering under? AFSCME and Council 82 love it. You pay whether the union produces or not. It makes a lot of sense for a do-nothing union like Council 82.

TUFCO believes agency shop is a farce. If your union is worth its weight in salt, people belong because they are proud to and not because they are coerced.

Most of Council 82's programs are deceptively clever but quite frankly produce little in the form of tangible benefits for the members.

They have proven time and again that deception is what they are all about. Vote TUFCO.

Tufco

NOTICE OF ELECTION

TO DETERMINE THE REPRESENTATIVE FOR COLLECTIVE NEGOTIATIONS DESIRED BY EMPLOYEES OF
THE STATE OF NEW YORK IN THE SECURITY SERVICES UNIT

An election will be conducted by the Director of Public Employment Practices and Representation of the New York State Public Employment Relations Board for the purpose of determining whether the employees described below desire to be represented for purposes of collective negotiations by Council 82, AFSCME, AFL-CIO; or The Union of Federated Correction Officers (TUFCO); or Neither.

The decision of the majority of those actually voting will be determinative.

ELIGIBILITY OF VOTERS

Those eligible to vote are; Employees of the State of New York in the Security Services Unit who were on the payroll as of December 1, 1984.

THIS ELECTION WILL BE CONDUCTED BY SECRET MAIL BALLOT

This election will be conducted by SECRET MAIL BALLOT. Those eligible to vote will receive by mail at their home address the official ballot with attached letter of instruction and a return, preaddressed stamped envelope. Eligible voters should receive such documents no later than February 5, 1985. If you fail to receive them by this date, you should telephone the Public Employment Relations Board, collect, between 9:00 a.m. and 4:30 p.m., at (518) 457-6410, or, if you live in New York City, Nassau, Suffolk or Westchester, at (212) 587-4111, or, if you live in the vicinity of Buffalo, at (716) 847-3449. Board representatives will be available only on February 6 and 7, 1985, to receive these telephone calls. The procedure established for the conduct of this election is one which ensures the secrecy of your vote.

INSTRUCTIONS TO VOTERS

You should mark the ballot by placing an "X" in the box which designates your choice. The ballot should contain no other mark than the one indicating your choice. DO NOT SIGN THE BALLOT. Fold the letter of instruction so as to cover the ballot and insert the folded document in the return, preaddressed stamped envelope. Sign your name on the signature line on the back of the return envelope and mail it to the Public Employment Relations Board so that it is received at the Latham post office no later than 9:00 a.m. on February 20, 1985. DO NOT REMOVE THE LABEL FROM THE BACK OF THE RETURN ENVELOPE.

AUTHORIZED OBSERVERS

The employer and the employee organizations may each designate observers, who will be appointed by the Board. These observers may be present when your name on the return envelope is verified against the voter eligibility list. After eligibility has been verified, the ballot will be removed from the return envelope in such a manner as to ensure the complete secrecy of your vote.

THIS IS THE ONLY OFFICIAL NOTICE OF THIS ELECTION
OFFICIAL BALLOT
SECRET POLL OF EMPLOYEES OF

STATE OF NEW YORK (SECURITY SERVICES UNIT)

MARK AN X ON THIS BALLOT IN ONE BOX ONLY

IF YOU DESIRE TO BE
REPRESENTED BY:

Council 82,
AFSCME, AFL-CIO

IF YOU DESIRE TO BE
REPRESENTED BY:

The Union of Federated
Correction Officers
(TUFCO)

IF YOU DESIRE TO BE
REPRESENTED BY:

NEITHER

SAMPLE BALLOT

THIS IS A SECRET BALLOT AND MUST NOT BE SIGNED

Tufco



(gs)

Local guards favoring TUFCO

Hudson Register Star 1/29

HUDSON - The consensus of Hudson Correctional Facility's 149 corrections officers is that TUFCO would be a better representative than Council 82, says Richard Bitel, president of Local 738, which represents the prison's officers.

TUFCO is trying to unseat Council 82 in a representation election that is under way. Ballots on who will represent the statewide, 16,500-man bargaining unit were mailed to corrections officers Monday. Votes received by Feb. 20 will be counted and the winner will be announced Feb. 22.

Mr. Bitel had declined comment on the election last week when contacted by The Register-Star.

Although the local's executive board has not taken a stand on the race, Mr. Bitel says the prison has been a "TUFCO jail for a long time."

He said he recommended the local's executive board not take a position to protect it against retribution from the winner.

He said Council 82, which he accused of passive representation, has not spoken with the membership about negotiations for a new contract, but TUFCO has outlined over 90 points it wants to raise with the state. The current contract expires March 31.



Albany NY 122-6

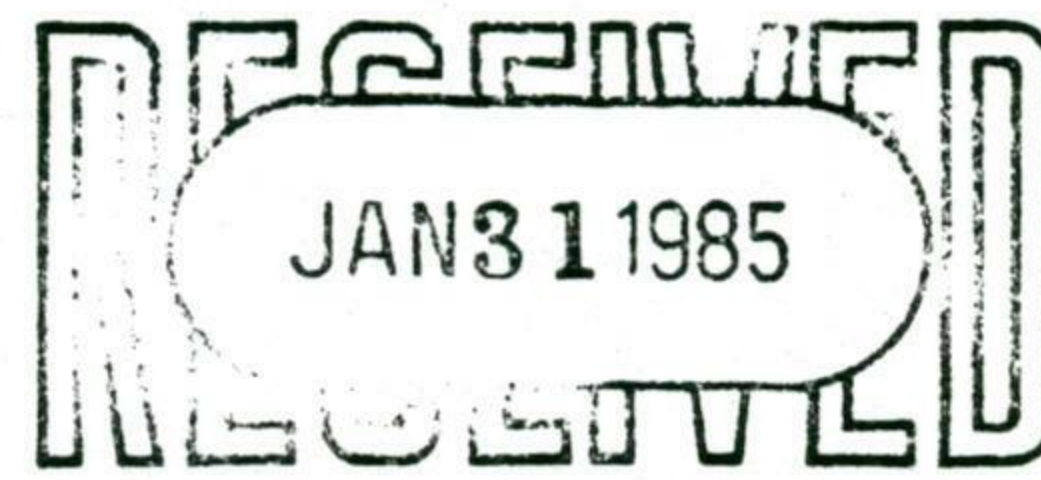


% Chris Gardner



ROBERT T. SECOVNI
4 SPRUCE STREET
VALATIE, NEW YORK 12184

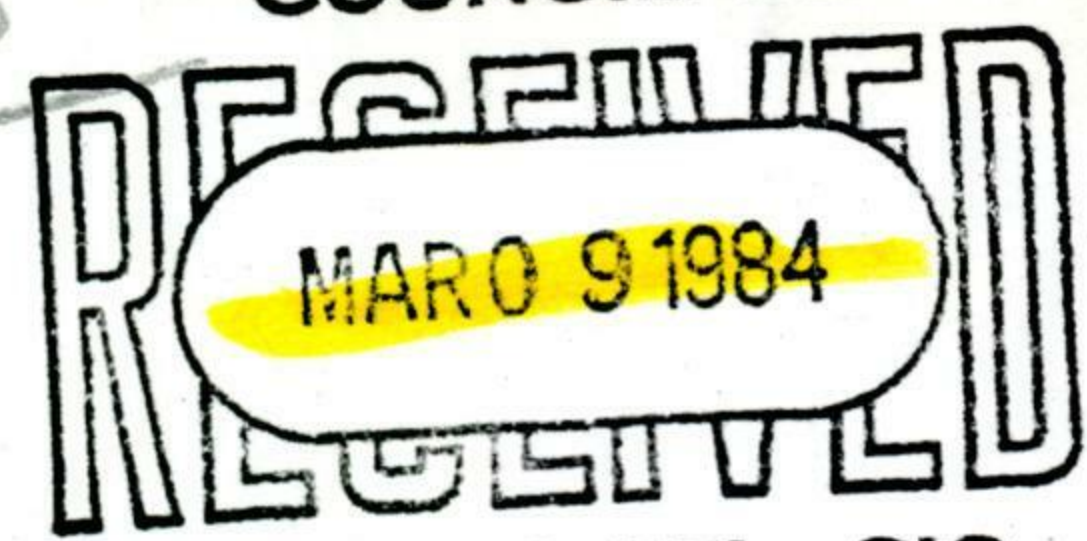
COUNCIL 82



AFSCME AFL-CIO

*1/31/85 cc file
Original to Chris Gardner*

Tufco



TO: Theodore C. Reid, Superintendent

FROM: Ronald Edwards, Acting President/Local 1255
Cindy Trimble, Executive Board Member/Local 1255 AFSCME AFL-CIO

DATE: March 5, 1984

On February 2, 1984, we found T.U.F.C.O. literature in the lobby of our Administration Building, which was immediately reported and turned over to Deputy Superintendent Piacente.

On February 27, 1984, we also reported that on Thursday and Friday evenings, February 23rd and February 24th, T.U.F.C.O. hand-outs were folded and placed in the time card slots as well as being placed on the bulletin boards. The information given to us was that Robert Farrell and John VanHouten had done this.

On March 1, 1984, we received telephone calls that Officers Farrell, Weaver and Shannon were walking throughout the buildings having our members sign T.U.F.C.O. cards, which was also reported.

Last evening at approximately 10:48 p.m. we were notified by Officers on the Afternoon shift that four (4) 2:30 p.m. Officers, John VanHouten, Gary Stevens, Robert Farrell and Terry McKinney had gone back inside the facility after their tour of duty, to have the night shift Officers sign T.U.F.C.O. cards.

Ronald Edwards arrived at the Administration Building at approximately 11:00 p.m.

Cindy Trimble arrived at the Administration Building at approximately 11:05 p.m.

Ronald Edwards reported the situation to the Watch Commander, Walter Thorne.

The Watch Commander then telephoned and radioed each building, notifying his supervisors to have all four (4) Officers report to his office immediately and bring all materials with them.

At approximately 11:15 p.m., Officers VanHouten and Stevens arrived at the Administration Building. At this time, Lieutenant Walter Thorne confiscated both blank and signed T.U.F.C.O. cards. The Officers then exited the facility by way of Administration Gate at 11:26 p.m.

At approximately 11:31 p.m., Lieutenant Walter Thorne telephoned Gate #2 to inform the Officers that no one was to enter or exit through Gate #2, nor use their telephone.

At approximately 11:34 p.m., Lieutenant Walter Thorne received a telephone call from Officer Robert Farrell requesting permission to exit the facility through Gate #2.

The request was denied and he was given a direct order, by the Watch Commander, to report immediately to his office, and to bring all materials in his possession.

At approximately 11:46 p.m., Officers Farrell and McKinney arrived at the Administration Building. At this time, they were informed by Lieutenant Thorne that what they were doing was a violation of the contract and they were to turn over the cards and leave the facility.

Officer Farrell requested a receipt which was given to him by the Watch Commander.

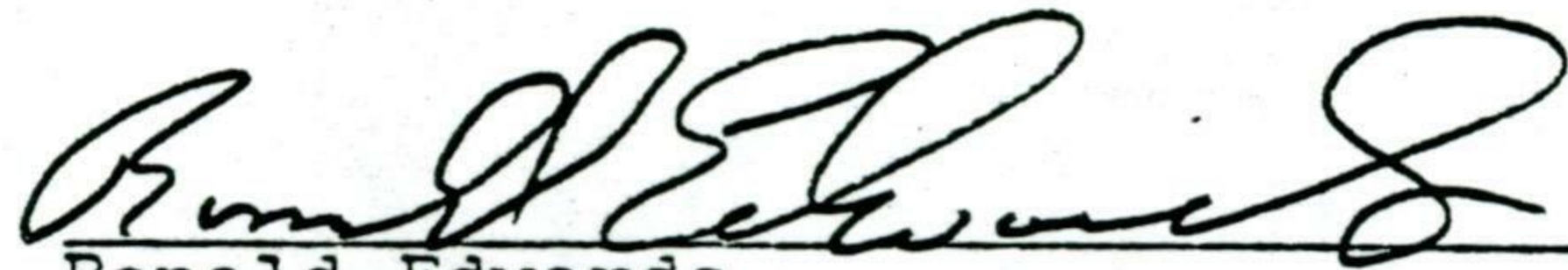
At approximately 11:51 p.m., Officers Farrell and McKinney exited the facility.

Lieutenant Walter Thorne then placed all confiscated T.U.F.C.O. cards, both signed and blank, in an envelope and stated he would turn them over to the Superintendent in the morning.

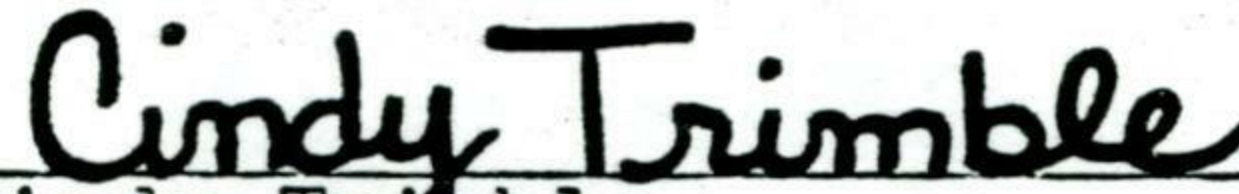
Attached to this letter are copies of the sign-in sheets, sign-out sheets for keys and a T.U.F.C.O. card.

Please note that these Officers drew keys after their tour of duty, as their keys are signed out with the night shift Officers.

Respectfully submitted and witnessed by,





Ronald Edwards
Acting President/Local 1255



Cindy Trimble
Executive Board Member/Local 1255

/cmt

cc: Jack Burke, Executive Director/Council 82
Richard Bischert, President/Council 82
Joseph Puma, Correction Policy Chairman
Ed Dean, Staff Representative/Council 82
Carmine Piacente, Deputy Superintendent for Security
John Battista, Captain
Walter Thorne, Watch Commander/10:00 p.m. shift

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p>DIRECTIVE</p>	CLASSIFICATION #2101	DATE 7/23/75
	SUPERSEDES	DISTRIBUTION
APPROVING AUTHORITY  For Wim van Eekeren Deputy Commissioner	SUBJECT Employee Organizations	

A. Scope

The right to organize and join an employee organization is guaranteed by law and may not be restrained. An employee may not be discriminated against as a result of his membership in, or his refusal to join a union.

B. Information

1. Visits to Facilities and Area Offices

Official union and employee organization representatives who wish to visit facilities or offices for any purpose are to obtain advance approval. No union or organization activity is to interfere with any of the Department's programs or operations, and organization representatives should be restricted to non-housing areas unless specifically authorized and/or escorted by the Superintendent or a designated deputy.

2. Meeting Space

For information on the utilization of meeting space by employee organizations, consult the appropriate State-employee unit agreements.

3. Employee Organization Notices (Bulletin Boards)

a. Security Unit

- (1) The Department agrees to furnish and maintain suitable bulletin boards in convenient places in each working area to be used exclusively by the union.
- (2) The union agrees to limit its postings of notices and bulletins to the official bulletin boards and will not post material which may be profane, is derogatory to any individual, or constitutes election campaign material. All bulletins or notices are to be signed by the Council President, local union president, the Executive Director, or their designees.

(3) Any material which the Department alleges to be in violation of this agreement is to be promptly removed by the union. The matter will then immediately be referred to Step 4 of the grievance procedure for resolution.

(4) In those institutions or facilities having repeated violations, the State Office of Employee Relations may require advance approval of all material prior to posting.

b. Administrative Services Unit, Institutional Services Unit, Professional, Scientific and Technical Services Unit and Operational Services Unit.

(1) The State is to provide a reasonable amount of exclusive bulletin board space in an accessible area normally used by a substantial number of employees to post bulletins, notices and informational material issued by CSEA. All materials are to be signed by the designated official of CSEA or the appropriate chapter president. No material is to be posted which is profane or obscene, or contains defamatory remarks about the State or its officials, or which constitutes election campaign material for or against any person, organization or faction. Only employee organizations which have been certified or recognized as the representative for collective negotiations of other State employees employed at the same location have the right to post material on bulletin boards.

(2) The number and location of bulletin boards as well as any arrangements to post and remove material is subject to union-employee agreement at the agency level.

(3) This provision for official bulletin boards should not be confused with granting office space, which, under no circumstances is to be provided by a state agency to employee organizations.

4. Access

a. Definition

"Access" is defined as the granting time to employees during normal working hours to meet with representatives of recognized employee organizations for the purpose of discussing membership services and programs.

SUBJECT Employee Organizations	CLASSIFICATION #2101	DATE 7/23/75	PAGE 3 OF 4
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b. Background

- (1) Access will be granted at the request of a recognized employee organization providing that it does not interfere with duties or normal performance of work assignments.
- (2) Employees do not charge time spent in Access activities against leave accruals. An employee who represents an employee organization at this type of a meeting does not charge time against leave accruals, but against the allowable Access Time.
- (3) Access Time is not to be used as leave to attend professional or scientific meetings, nor should it include time spent by employees serving as official organization representatives conferring with Department officials relative to the agreements between the State and recognized employee groups.
- (4) The amount of Access Time granted an employee organization is determined by a formula which provides that Access be limited to no more than 15 minutes per employee per month, and is not to exceed an average of 10 percent per month of the employees at a particular location.

c. Procedure

- (1) Requests for Access Time are referred to the appropriate administrator at individual work locations.
- (2) The appropriate administrative office processes requests for Access Time using the following guidelines:
 - (a) Receives requests from authorized individuals representing recognized employee organizations.
 - (b) Requires reasonable notice that Access Time is requested.
 - (c) Determines the employees for whom Access is sought, as well as the date, time, location and approximate length of the meeting planned.
 - (d) Forwards the request to the appropriate discretionary authority for determination. The discretionary authority is defined as

a Group Head, Superintendent of a facility, Area Parole Office Supervisor, or Division Director supervising employees to whom Access is sought. He has the responsibility to decide whether the requested Access is appropriate or potentially interferes with work performance.

- (e) Responds to the employee organization at least two working days prior to the scheduled meeting indicating approval or denial of request.
- (3) When a request is approved by the discretionary authority, Access will be granted in the following manner:
- (a) The appropriate administrator ascertains that meeting space is available.
 - (b) The appropriate supervisors are notified, arrangements are made for the employees to be granted Access Time and a meeting scheduled.

740/741 FARRELL
 786 RA [unclear]
 101 M [unclear]
 648 RA DIENSIEL
 645 RA LINDSEY
 627 RA DECKER
 657 RA S. Croce
 658 RA Dziengiel
 669, 670, 671 RA R. Ward
 684P SAUER
 687P Turotte
 99 M PRESTI
 5M J. HAIGHT
 711P Tomlinson
 676 + 714 P Nicholson
 80 + 988 M ~~Shank~~ SEAMATKE
 46 M K. Willis
 79 M P. LAVELLIA
 78 M B. WALSH
 24 M T MCKINNON
 653 RA BRIGGS
 654 RA SUTTER
 656 RA FERRARO
 11-M WALSH
 7M R. DEPEN
 724 RA NEWTON
 505 RA L Thomas
 5 RA L Thomas
 8 ~~RA~~ C. Lee
 529 J SALVADORE
 646 RA K. GRANSBURY
 16 M WAINER
 641, 642, 643 ~~FRANKLIN, J~~
 878M Fran Enigh
 505 RA D Brown
 504 RA J. Desotelle
 579 P. Paddy
 75 FARRELL
 647 RA D. Lloyd
 707 RA BRAVINO
 012 Seddemia
 4M Mt. Caron
 13 M M Parker

Farell
 [unclear]
 [unclear]

Saw
 W. [unclear]
 Ch. Gesto
 J. Haight
 J. [unclear]

[unclear]

Wald ✓
 [unclear]
 [unclear] ✓
 [unclear]
 Lee

[unclear]
 [unclear]
 [unclear]
 Fran Enigh

J. Desotelle
 [unclear]
 [unclear]

[unclear]
 BRAVINO

M. A. Parker ✓

543 RA Mark Mulla
HRA A. Lacy

Mullen, M
An Lacy

12m T. MCKENNA
129m J. VAN HOUTEN
91 Stockpelt

~~T. MCKENNA~~
~~J. VAN HOUTEN~~
~~Stockpelt~~

11 Sytky P. Winnie
5m J. Pataro I. PATARO

P. Winnie
J. Pataro

726 P RT THORNE
684⁶⁸⁸ L. ARMSTRONG

L. Armstrong

687

NAME	DATE	Time OUT	Time In	REASON
Dave Cohen	2/29/84	2:30		Early Out
Mike Cohn	2/29/84	2:30		Early Out
W. B. ...	2-1-84	2:30		
A. Cameron	3-1-84	2:30 AM		Early out
T. Whaley	3-1-84	2:40 AM		Early out
FERRARI	3-1-84	2:40 AM		E/O
BARONE	3-1-84	2:45 AM		E/O
R. MULLER	3-1-84	2:45 AM		E/O
Crews	3-1-84	2:45 AM		E/O
R-T MORTON	3-2-84	1:15 PM		E/O
Feller	3-3-84	10:36		E/O
FURCHYMER	3-3-84	10:55		E/O
OSWALD	3-3-84	10:55		E/O
AL STANISH	3-4-84	12:35		E/out
R. FERRARI	3-3-84	1:10		E/O
A. Castro	3-3-84	1:25		PL
S. Vuch	3-3-84	1:30		PL
Castellano	3-4-84	5:00	4:45	PL
MORAN	3-4-84	6:45	4:45	Camp Beacon Meet.
G. Stephens	3/4/84	11:25 PM	11:26 AM	Sick
V. B. ...	3/4/84	11:15 PM	11:26 AM	Business
T. ...	3/4/84	11:51	11:26 AM	Business
T. MCKINNEY	11/1/84	11:51	11:26 AM	Business
R. FURR	3-4-84	11:51	11:26 AM	Business
Maney Stubbs	3/4/84	12:00		STICKS

Watch
Commanders
Initials

4:45
4:45
PL
PL
Camp Beacon Meet.
Sick
Business
Business
Business
Business
STICKS

DESIGNATION CARD THE UNION OF FEDERATED CORRECTION OFFICERS

I hereby designate The Union of Federated Correction Officers as my agent for bargaining with the State of New York for all matters permitted by the Taylor Law, and I support its filing of a petition for a secret ballot election for the right to represent my bargaining unit. This card may be used to secure such an election.

NAME (Please Print): _____

ADDRESS: (Street & No.) _____

(City) _____ (State) _____

HOME PHONE: () _____

DEPARTMENT: _____

FACILITY: _____

JOB TITLE _____

SIGNATURE _____

DATE OF SIGNATURE (IMPORTANT: This date must be filled in): ____ / ____ / ____

NOTICE: The Union of Federated Correction Officers was established by the same men who founded the United Federation of Correction Officers, Inc. However, the two organizations are totally separate legal entities, with separate purposes. Only the Union of Federated Correction Officers can bargain with the State of New York pursuant to the Taylor Law.

I officer Robert Jappoliti was approached while on duty on March 1, 1984 by another officer asked to sign a T.U.F.C.O. card. I refused to sign the card.

Robert G. Jappoliti
R.G. Jappoliti

3/6/84

I, Officer James Steinliden while
working H.U. 12-2, was approached by Officer
McKinney, a representative of T.U.F.C.O
and asked to sign a designation card
and make pretenses. ^{3/4/84} Therefore, I will
and void my endorsement of the
T.U.F.C.O. card, and hereby deny recognition
of the bargaining agency.

James Steinliden CO.

Alice Fenzy received and signed a
T.U.F.C.O. card brought to me by Officer
Farrell on 3/4/84 on 7-1 rec. Main Blding.

Alice A. Fenzy C.O.

of Miss Lawrence Conklin's received and
signed a T.V.C.C.O. and brought to me
by Miss French on 3/4/84 with
copy in W.C. = 9.1 Miss Boly,

C.S. Conklin
05/06/84

I OFFICER DAVID W. KOSTER RECEIVED
AND SIGNED A TUFFCO. CARD BROUGHT TO ME
BY OFFICER FARRELL ON 3/4/84 WHILE
ON DUTY ON H.O. 5/1

D.W. ~~Wass~~
3/6/84

On 3/5/84 I was approached by an
Correction Officer who said he was from
Clinton Correctional Facility. He asked
me to sign a Turbo card and I did

James Smith

On 3-4-84 C.O. FARRELL CAME AROUND
AND ASKED ME TO SIGN A T.U.F.C.O.
CARD. He said he also had the o.k. of the

LT.

P. M. Farber

J

I OFFICER E. Suvenga signed a
Tufco card Brought to me by Officer
VanHouten on 3-4-89 while on duty
on H.V. 1-W. G. STEVENS was here also.

E. Suvenga

I officer J. Detraff received a TUFED card and signed it. The card was brought to me on H.U.-B/west on 3/4/84 while on the 10³⁰pm - 6³⁰am shift. The officers ^{gave me the} which card were J. VanHouten and G. Stephens.

Respectfully yours,

J. Detraff
Corrections Officer

I Officer Dennis Buchal
was approached while on
duty on March 3rd by
another officer and asked
to sign a TUFCO card and
I refused.

Dennis P. Buchal
Dennis P. Buchal

I, Cindy Trumble, witnessed Robert Farrell ask Officer Lucas Marrero if he had signed a T.U.F.C.O. card yet, on March 6, 1984 in the Admin. Lobby while both officers were on duty. Officer Marrero was inside the Key Office.

Cindy Trumble
T.U.F.C.O.

3/19/84
cc: H. Chase
R. Bischoff
J. Puma
J. Mann

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

Tufco

IMPROPER PRACTICE CHARGE

INSTRUCTIONS: File an original and four (4) copies of this charge with the Director of Public Employment Practices and Representation, New York State Public Employment Relations Board, 50 Wolf Road, Albany, New York 12205. If more space is required for any item, attach additional sheets, numbering item accordingly.

DO NOT WRITE IN THIS SPACE

Case No.

Date Received:

1. CHARGING PARTY

- a. Name (If employee organization, give full name, including affiliation and local name and number): New York State Inspection, Security and Law Enforcement Employees, District Council 82, American Federation of State, County and Municipal Employees, AFL-CIO
- b. Address (No. & Street, City and Zip Code): 63 Colvin Avenue
Albany, New York 12206
Telephone Number: (518) 489-8424
- c. Name and title of the representative filing charge: John W. Burke
Executive Director
- d. Name, address and telephone number of attorney or other representative, if any, to whom correspondence is to be directed: Rowley, Forrest and O'Donnell P.C.
90 State Street
Albany, New York 12207
Attention: Brian J. O'Donnell, Esq.

2. PUBLIC EMPLOYER AND/OR EMPLOYEE ORGANIZATION AGAINST WHOM CHARGE IS BROUGHT

- a. Name and Address (No. & Street, City and Zip Code): State of New York
Office of Employee Relations
Agency Building 2
Empire State Plaza
Albany, New York 12223
A group claiming to be an employee organization by the name of The Union of Federated Correction Officers and/or the United Federation of Correction Officers, Inc., a/k/a TUFCA and/or TUFCA, Inc., P.O. Box 72, Hudson Falls, NY 12839 (518) 792-3535
- b. Telephone Number: (518) 474-6988

3. If the charge alleges a violation of Section 209-a.1 (d) or 209-a.2(b) of the Act, has the charging party notified the Board in writing of the existence of an impasse pursuant to Section 205.2 of the Board's Rules of Procedure?

YES

NO

X

4. Is the charging party available immediately to participate in a pre-hearing conference and a formal hearing?

YES

X

NO

On or after March 29, 1984

VIOLATIONS ALLEGED

5. Pursuant to Article 14 of the Civil Service Law, as amended (Public Employees' Fair Employment Act), the charging party hereby alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in an improper practice within the meaning of the following subsections of Section 209-a of said Act (check the subsection(s) allegedly violated):

If by a public employer

. a purported
If by ~~xx~~ employee organization

- (X) 209-a.1(a)
- () 209-a.1(b)
- () 209-a.1(c)
- (X) 209-a.1(d)
- () 209-a.1(e)

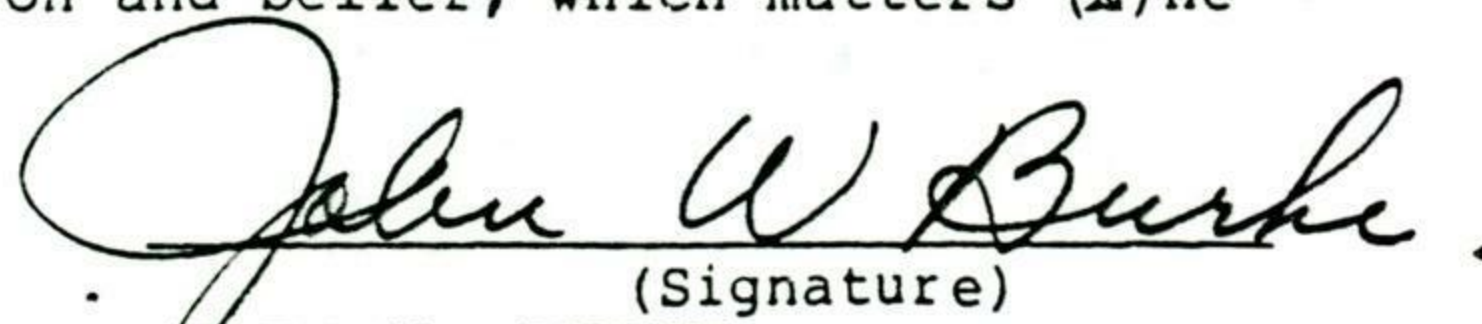
- (X) 209-a.2(a)
- () 209-a.2(b)

DETAILS OF CHARGE

6. Specify in detail the alleged violation(s). Include names, dates, times, places and particular actions constituting each violation. Use additional sheet(s), if necessary. Failure to supply sufficient factual detail may result in a delay in processing or dismissal of the charge.
- a) The Charging Party is an employee organization within the meaning of N.Y. Civil Service Law §201.
 - b) Upon information and belief the State of New York is a public employer within the meaning of N.Y. Civil Service Law §201.
 - c) The Charging Party is the employee organization certified as the representative of the employees in New York State's Security Services Bargaining Unit pursuant to N.Y. Civil Service Law §204.
 - d) Upon information and belief the respondent TUFCO and/or TUFCO, Inc. claim to be an employee organization within the meaning of N.Y. Civil Service Law §201.
 - e) The Charging Party and the State of New York have entered into a collective bargaining agreement due to expire concurrently with the end of the employer's fiscal year on March 31, 1985.
 - f) Upon information and belief the respondents State of New York and TUFCO and/or TUFCO, Inc. and/or their officers, agents or employees have agreed or acted in concert with one another to permit representatives of TUFCO and/or TUFCO, Inc. to enter and remain in job sites operated by the State of New York for the purpose of leaving and/or distributing literature and other material, campaigning against the Charging Party and attempting to obtain signatures with which to attempt to decertify Charging Party as the employee organization representing employees in the Security Services Bargaining Unit.
 - g) Upon information and belief the aforesaid conduct has occurred at facilities including but not limited to Fishkill Correctional Facility, Clinton Correctional Facility, Watertown Correctional Facility & Brentwood C.F.
 - h) Upon information and belief the agents of TUFCO and/or TUFCO, Inc. who engaged in the aforesaid conduct include but are not limited to Robert Farrell, John VanHouten, Gary Stevens and Terry McKinney.
 - i) Upon information and belief the aforesaid conduct occurred on but not limited to the following dates: February 2, 23, 24, March 1 and 2, 1984 and on other dates within 4 months preceding the filing of this charge.
 - j) Upon information and belief the aforesaid conduct constituted a violation of the guidelines for organizational activities and campaigns promulgated by the Office of Employee Relations of the State of New York.
 - k) Upon information and belief the aforesaid conduct constituted a violation of N.Y. Civil Service Law §209-a(1)(a) and (d) and §209-a(2)(a) in that the respondents have, upon information and belief, negotiated, agreed and acted in concert with one another to interfere with, restrain and coerce or in the case of TUFCO and/or TUFCO, Inc. to cause or attempt to cause the State of New York to interfere with, restrain or coerce employees in the New York State Security Services Bargaining Unit of the rights contained in N.Y. Civil Service Law §202 and through that statute §§203, 204 and 208.

STATE OF NEW YORK)
 COUNTY OF ALBANY) SS.:

JOHN W. BURKE, being duly sworn deposes and says, that (x)he is the charging party above named, or its representative, and that (x)he has read the above charge consisting of this and 0 additional page(s), and is familiar with the facts alleged therein, which facts (x)he knows to be true, except as to those matters alleged on information and belief, which matters (x)he believes to be true.


 (Signature)
JOHN W. BURKE
 Executive Director
 (Title)

Subscribed and sworn to before me
 this 15th day of March, 1984.

Tufco

Holly

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

MEMORANDUM

3/16/84

From the desk of: Charles M. Devane
Assistant Commissioner

TO: Jack Burke
Council 82

I believe the first set was
missing a page or two.

Here is the complete memorandum.

K. McCoy



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

THE STATE OFFICE BUILDING CAMPUS

ALBANY, N.Y. 12226

THOMAS A. COUGHLIN III

COMMISSIONER

March 8, 1984

MEMORANDUM

TO: ALL SUPERINTENDENTS, DISTRIBUTION LIST #3
FROM: Charles M. Devane, Deputy Commissioner *CMD*
SUBJECT: REPRESENTATION CAMPAIGN ACTIVITIES

During the last several weeks, questions have been raised concerning employee organization activities during a challenge period under the Taylor Law. As you are probably aware, a challenge to most of the incumbent employee organizations for rights to represent unit employees may be filed in August of this year.

Organizational campaigns are subject to the State's policy and guidelines set forth in Section 12 of the Employee Relations Manual. Section 12 provides that the position of the State during any organizational campaign, pre-election period or election period is one of complete neutrality, and establishes limitations on employee organization activity to prevent undue interference with State operations.

While the guidelines contained in Section 12 allow certain organizational activities to take place, including the posting of meeting notices and the placement of manned tables in non-work areas for the distribution of literature, obtaining of signatures, etc., these activities are not permissible until the date recognized by the State as the commencement of the campaign period, May 1.

Please take whatever steps may be necessary to assure that the activities described in paragraphs 4, 6 and 7 of Section 12 are not permitted before May 1. Any complaints from employee organizations arising in connection with these matters should be handled in accordance with the procedure described in Section 12. Complaints should be referred to Mr. John J. Cassidy, Director of Labor Relations, at (518) 457-7383.

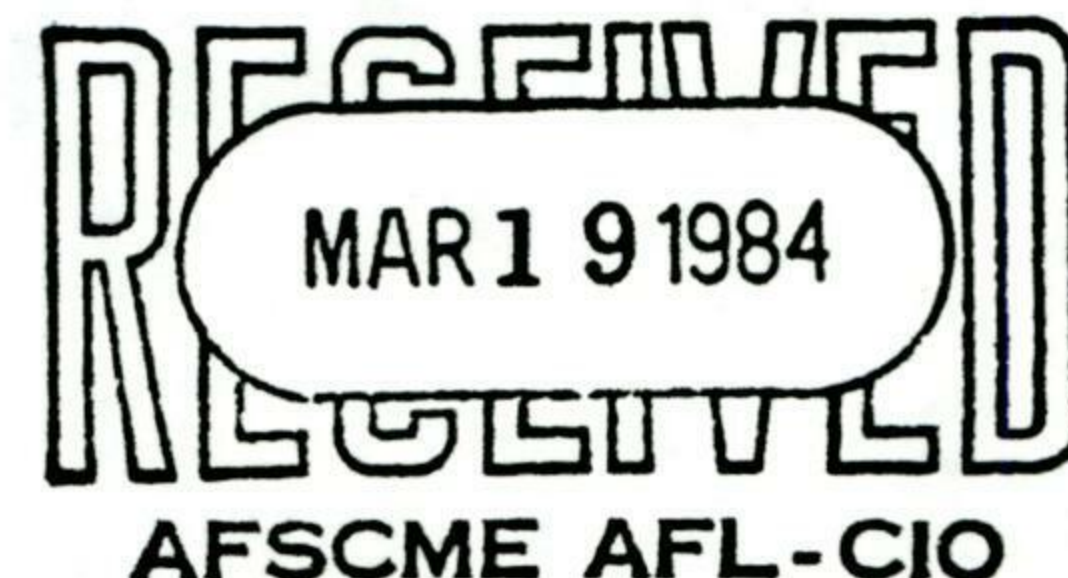
CMD/JJC/km

3/20/84

cc: H. Chase F. Benedetto,
R. Bischoff, & J. Puma

[Signature]

COUNCIL 82



GUIDELINES FOR ORGANIZATIONAL ACTIVITIES AND CAMPAIGNS

1. *Position of the State.* Employees have the right under Section 202 of the Taylor Law to form, join and participate in, or to refrain from forming, joining or participating in, any employee organization of their own choosing. Employee organizations have the derivative right to undertake to persuade public employees to engage in organizational activities, including the signing of authorization cards and election petitions.

The State's position is one of neutrality during organizational campaigns, pre-election periods and the election process. Management/confidential employees shall not use their official positions to help or hinder employee organizational campaigns or activities, nor shall management/confidential employees permit employees under their supervision to use their official positions to help or hinder such activities.

The State shall not harass, coerce, promise or give special treatment to employees in an effort to influence them to join or support a particular employee organization or to participate in its activities. Management/confidential employees shall not distribute material or any information to any employee organization or interrogate any employee concerning his or her organizational activities.

Organizational activities by employee organizations must be conducted so as not to interfere with the safe and efficient conduct of State operations and the discharge of work responsibilities by State employees. The State shall take appropriate action to prevent the violation of these guidelines by any person acting on behalf of an employee organization.

2. *Requests for Lists of Names and Addresses of Employees and Related Information.* Lists of names and addresses of employees and related information demanded for organizational purposes will not be released by any department, agency or board. Agencies receiving requests for such lists should transmit them to OER. OER will provide such information to all employee organizations, incumbents and challengers alike, upon request and appropriate charges for such lists will be made. An employee organization shall be provided such information unless there is substantial evidence that the organization is seeking this information for purposes unrelated to organizational activities among the employees in the negotiating unit involved.

3. *Policy of Nondiscrimination Between Incumbent Organizations and Challenging Organizations.* All organizations shall have equal access to employees for campaign purposes, *i.e.*, soliciting memberships, distributing literature, obtaining signatures on authorization cards and petitions and related activities during a campaign period. When an employee organization has been recognized or certified as the representative of the employees in a negotiating unit, the campaign period shall begin no earlier than 90 days prior to the date upon which the incumbent organization's representation status is subject to challenge under Section 208 of the Taylor Law.

4. *Use of State Facilities for Meetings.* The State will not make meeting space in buildings or areas which it owns or leases available to an employee organization for campaign purposes (as defined above in subdivision 3) except under the following conditions: (a) suitable space is not reasonably available elsewhere in the area, (b) the employee organization reimburses the State for any costs which the State incurs as a result of making such space available, and (c) the organization requests the use of such space in advance, pursuant to the rules of the department or agency concerned.

No employee shall be released from work for the purpose of attending such meetings.

5. *Organizational Activities in an Agency by Employees of That Agency.* Discussions between and among such employees concerning organizational activities, the solicitation of organizational support, and the distribution of membership and authorization cards and organizational literature during nonworking hours *and* in nonworking areas, such as lounges, restaurants and cafeterias, are permissible. Such activities shall not impair the safe and efficient conduct of the operation, nor shall they interfere with work duties or work performance.

6. *Organizational Activities in an Agency by Employees of Some Other Agency or Persons not Employed by the State.* Such persons shall have access to employees for the purpose of soliciting memberships, distributing literature, obtaining signatures on authorization cards, and other organizational activities in parking lots, entrances to buildings, and other areas to which members of the public are admitted, provided

that such activities do not inhibit the movement of people or vehicles, impair the safe and efficient conduct of the operation, or interfere with work duties or work performance.

Employee organizations shall be permitted to set up manned tables in such areas during normal working hours subject to the proviso set forth above.

7. *Use of Bulletin Boards, Posting of Organizational Materials, and Utilization of Agency Communications Systems.* The policy of nondiscrimination set forth in subdivision 3 above shall be applicable to the use of bulletin boards and the posting of materials for campaign purposes (as defined in subdivision 3 above.)

Meeting notices and other organizational materials shall not be hung upon, posted or otherwise affixed to the walls, doors, windows or other appurtenances of facilities and buildings owned or leased by the State. The State's inter- and intra-agency office mail, messenger, reproduction and similar facilities shall not be used for the distribution or duplication of organizational materials.

PROCEDURES FOR HANDLING COMPLAINTS

Agencies should designate responsible officials at the local level to receive initial complaints at that level. The employee organization will be asked to direct the complaints, insofar as possible, to the appropriate level. Complaints should be addressed in the first instance to the local level. If the institution or local designee cannot dispose of the problem or has any questions as to how to handle it, he should request advice of the agency central office designee. If the central office designee cannot dispose of the complaints or would like advice from OER as to the State's policy with respect to the complaint, the matter should be referred to OER. When calling OER, the designee should state that he is a central designee and wishes to consult about campaign practices. He will be referred promptly to the appropriate OER staff member.

If one of the local or central office's designees has disposed of a complaint which he feels is particularly significant, a report of such disposition should be sent to OER.

In connection with the disposition of complaints, local supervision should exercise its best judgment in applying the following guidelines:

1. Disposition of complaints should be handled quickly by informal contacts, such as a telephone call or, if essential, by an informal meeting of as small a group as is necessary to dispose of the matter.

2. The general standards for disposition are (a) even-handed treatment of interested employee organizations, (b) avoidance of annoyance to the public and (c) avoidance of interference with the agency's operation.

JEFFREY H. BROZYNA
ATTORNEY AT LAW
313 WASHINGTON AVE.
ALBANY, NEW YORK 12206

Typewriter

COUNCIL 82
RECEIVED
FEB 06 1984
AFSCME AFL-CIO

PHONE 518-465-3352

January 31, 1984

John W. Burke
Executive Director
Council 82
63 Colvin Avenue
Albany, New York 12206

Re: November, 1983 issue of The Review

Dear Mr. Burke:

I represent The Union of Federated Correction Officers. The purpose of this letter is to demand a retraction for certain statements made by your organization in the November, 1983 issue of The Review. Specifically, this retraction should deal with the following items:

1. On page one of your publication you state that my clients have resorted to threats of physical violence. This is untrue.
2. On page two you imply that Mr. Fitzpatrick was voted out of office. This is untrue.
3. On page two you imply that my clients formed the not-for-profit organization (The United Federation of Correction Officers) for personal gain and you imply that funds will be misused. This is untrue.

2/8/84

cc: H. Chase

R. Bischoff

T. Inglee

Mr. Rowley

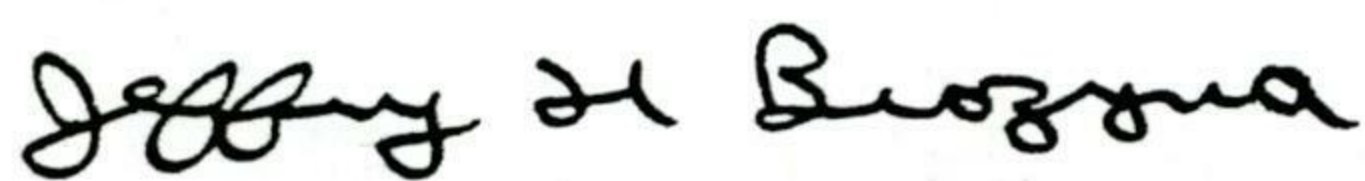
(Signature)

4. On page two you state that members of the United Federation of Correction Officers, Inc. have been denied copies of our By-laws. This is untrue.
5. On page two you state that Mr. Morrissey and Mr. Fitzpatrick represented management in the Town of Catskill in labor negotiations with Council 66. This is an incorrect representation of that situation.
6. On page two, your characterization of "The TUFCO Letter" is completely inaccurate.

In only two pages of print you have managed to accuse my clients of several acts, some of which can be interpreted as improper, and some of which can be interpreted as illegal. You do this without supporting facts. I hereby demand a retraction on these points. I also remind you that the Statute of Limitations on a damage suit for liable and defamation is one year.

Over the next several months my clients and your organization will be locked in a heated political debate. It would be nice if this campaign could be waged without libelous statements and without resort to profanity in your publication. However, I guess you must make your own decisions on the quality of the campaign you will run.

Respectfully,



Jeffrey H. Brozyna

JHB/ns



Setting The Record Straight: As you all know, TUF CO, Inc. has come under attack in the "Review". Council 82's official publication. Everyone recognizes that there are political reasons for this attack. However, we would like to respond so as to set the record straight. The United Federation of Correction Officers, Inc. (TUF CO, Inc.) was incorporated under New York State Law as a Not-For-Profit Fraternal Benefit Corporation. The purposes of the organization, as stated in the by-laws, is to provide for the mutual fraternal, social, cultural, and moral advancement of any correction officer who wishes to join. We have also worked to provide life insurance and disability benefits for our members at a cost which was substantially lower than that offered by Council 82. Our efforts have been warmly received by the rank and file, and we currently can boast of over 150 new members, joining our ranks (Monthly) . Council 82 has attempted to blur the separate existence of TUF CO, Inc. in an effort to create confusion among correction officers, This is because of the pending union representation challenge being mounted by (the Union of Federated Correction Officers Association.) Dennis Fitzpatrick, James Morrissey, Kevin Casey, Bruce Farrell and Marion Dantzler have established a new union in order to mount the representation fight against Council 82. They have done this at the request of correction officers all over the state who believe strongly that Council 82 has lost touch with it's members and that a new independent union can provide better representation at substantially less cost to the Correction Officer. TUF CO, Inc. has been and always will be a fraternal, nonpolitical organization. It has separate books, accounts, legal identity and accounting records. Your TUF CO, Inc. dues will not be utilized by any other organization. TUF CO, Inc. is not empowered to become a union, nor will it ever become one. TUF CO, Inc. will continue to provide service to it's members regardless of the outcome of any union representation challenge conducted by any organization. Council 82 has made a host of personal attacks against the TUF CO, Inc. directors. In the November issue of the "Review" they implied that the founders of TUF CO, Inc. have personal gain as their motive. This is totally untrue as anyone who has worked with us can attest. Council 82 has attacked our VEBA Trust Fund (Voluntary Employee Benefit Association) on the basis that one can do better in any IRA or retirement plan. They are not comparing apples to apples. A VEBA can provide life insurance and other benefits, and the earnings in the trust are tax deferred. Section 501c (9) of the Internal Revenue Code allows such a trust fund so that everyday people like you and me can pool our purchasing power and obtain group rates on a wide range of benefits that we don't have to wait until retirement to enjoy. A VEBA is not even designated to provide retirement benefits as a review of the Tax Law reveals. Council 82 has also attacked the vacation package we have given to our members, " That vacation package was the subject of litigation by the New York State Attorney General". It seems that someone at Council 82 goofed. The pending lawsuit is against a totally unrelated organization! Mr. Joseph DeFalco, President of V.I.P. Vacations of New York has demanded a retraction from Council 82, or he will institute a legal action for liable! On another topic, any TUF CO, Inc. member can arrange to see a copy of our by-laws with Dennis Fitzpatrick or James Morrissey. We are proud of our organization. We have nothing to hide. We also wish to point out that our accountants, Arthur Place & Co., CPA, and our tax Attorney, Jeffrey H. Brozyna, have seen to it that all necessary reports and filings have or are being made with the appropriate agencies and taxing authorities. In the months ahead, TUF CO, Inc. will no doubt be unfairly attacked by Council 82. Despite the non-political nature of TUF CO, Inc., we will respond in writing to any distortions or attacks and we will continue to set the record straight.

MARCH OF DIMES WALKATHON A BIG SUCCESS: In April of this year the Board of Directors were asked to help in the March of Dimes Walkathon. Our members responded with enthusiasm and generosity, pledging money and working on check points during the walk. TUFACO, Inc. publicly challenged any team of runners to a contest on what team could raise the most money based on pledges for their runners. TUFACO, Inc. supplied the Trophy to the winners. Our team fell short of winning the Trophy but the challenge proved to be profitable for the March of Dimes. TUFACO, Inc. runners ran the entire 15 miles. They were: John LaValley, Neal Sokol, Harold Austin, Jeffrey Corbin and Jerry Buell. The March of Dimes raised over \$70,000.00 in the Capital District and we are pleased we had a part in making the fund raiser for the March of Dimes a success. Doug Williams, Wayne LaFrance, Don Hall, William Gosline, Richard Rodriguez, Larry Ginter, Robert Lennox deserve a big thanks.

OFFICE ESTABLISHED: TUFACO, Inc. has established an office at 9 Pearl St. Glens Falls, N.Y. 12801. Our members can now call collect 518-792-3535 for inquiries for any or all insurance needs. Homeowners, Car Ins., Disability Ins., Hospital Indemnity, Veba Trust, etc.. Hours of operation are 9:00 a.m. to 5:00 p.m., Monday thru Friday.

MEMBERSHIPS DUES DUE IN JANUARY: All members who joined TUFACO, Inc. before Oct. 1, 1983, will be required to pay their membership dues in January 1984. We will be sending you notice along with your new membership card. Your dues are only \$10.00 annually and we are working on a very tight budget, your cooperation in this matter will be appreciated.

TRIBUTE TO ANTON "BUTCH" GEERTS: One of our Brother members was recently killed in a tragic car accident. Butch was a family man, a 16 year Veteran in the U.S.N.R. SeaBees and an excellent Correction Officer. Our Hearts and Prayers are out to his family in this time of sadness. God Bless You.

NEWS WANTED: Items of interest, notable events, individual accomplishments, want to sell something, services offered.- Mail them to TUFACO, Inc. P.O. Box 72, Hudson Falls, N.Y. 12839. We will publish in our next issue.

VACATION PACKAGES ARE A BIG HIT: Many of our members utilized the V.I.P. Vacation packages we sent out, just for being a member of TUFACO, Inc.. We have received many compliments on the accommodations and treatment they received during their stay at the resort of their choice. We intend to expand this program next year for our members. The cost of providing this benefit is expensive but it is well worth the cost. When our members can take a mini-vacation where accommodations are paid in full and in some cases meals are provided free. We all need to get away from the daily routine and what better way to go, on someone else.

SOLID GOLD VOLUME II CONCERT HELD: TUFACO, Inc. entered into the world of Show Business when we sponsored an evening of Solid Gold Volume II at the Colonie Coliseum, Oct. 1st, 1983. Groups from the fifties and sixties entertained to the delight of 1700 in the audience. The groups who performed were; Street Corner Society, an Acappella group, Willie Winfield and the Harptones, who got the crowd reminiscing when they sang one of their hits: (Gee Whiz). The Mystics stole the show. They were scheduled to be on stage for only 30 minutes, but the crowd went wild and would not let them leave. They ended up performing for over an hour. Larry Chance and The Earls got the crowd going again when he went into the audience looking for singers, The song was appropriate: " Charlie Brown " (why is everybody always picking on me). We were surprised on how many talented Correction Officers there are. Herbie Cox and The Cleftones finished up a most successful show. A good time was had by all. Our hats are off to Robert Doll a Correction Officer at Mt. McGregor, who promoted the show. He did an excellent job. We are planning to sponsor another show in May or June, possibly featuring Bobby Rydell, Leslie Gore and The Shirrels. We will keep you posted.

VEBA TRUST REACHES 6 MILLION: The death benefit of the Veba Trust has reached the 6 million plateau. Many of our members have enrolled in the Veba Trust and enrollment continues to grow at a rapid rate. We anticipate the death benefit to reach 10 million in our first year. Many members who are drawing near to retirement have looked into the advantages of the Veba Trust and have saved a considerable amount of money. Money becomes precious when you are on a fixed income and the more you can free up to use now the better off you are in the future. Our younger members have certainly taken advantage of the Veba Trust. If you haven't looked into it, take the time to do so. Call collect for an appointment: 518-792-3535.

QUOTA PHONE SAVES MONEY: TUFACO, Inc. is an independent agent of Sentinel Motor Club. One of the advantages of belonging to Sentinel is Quota Phone, a buying service that definitely saves you money. Many members have used Quota Phone and have saved many dollars on various merchandise. What they have saved in buying through Quota Phone, more than paid for their membership in Sentinel. Membership in Sentinel is \$45.00 a year. You really can't go wrong.

WHAT'S IN A NAME?: WIN A \$100.00 SAVINGS BOND: You tell us, our paper must have a name. We are offering a \$100.00 Savings Bond to the member who's name submitted is selected. Send your suggestion to TUFACO, Inc., P.O. Box 72 Hudson Falls, N.Y. 12839. (Members only are eligible). Directors and their families are not eligible.

SPONSOR A BROTHER OFFICER: Have him fill in the application below today to become a member of TUFACO, Inc.. Mail it to TUFACO, Inc. P.O. Box 72, Hudson Falls, N.Y. 12839.

THIS IS NOT A CONTEST! EVERYONE IS A WINNER!

**JUST JOIN T.U.F.C.O. INC.
for the Unbelievable price of \$10.00
AND RECEIVE A FABULOUS VACATION PACKAGE!**

THE UNITED FEDERATION



OF CORRECTION OFFICERS INC.

MEMBERSHIP APPLICATION

I HEREBY APPLY FOR MEMBERSHIP IN THE UNITED FEDERATION OF CORRECTION OFFICERS INC., AND AGREE TO CONFORM TO THE BYLAWS OR ANY AMENDMENTS THEREOF IN THE UNITED FEDERATION OF CORRECTION OFFICERS INC. I AGREE TO PAY AN ANNUAL MEMBERSHIP FEE OF \$10.00.

Last Name _____ First Name _____ M. I. _____

Street Address _____ City _____ State _____ Zip _____

Place of Employment _____ Home Phone _____

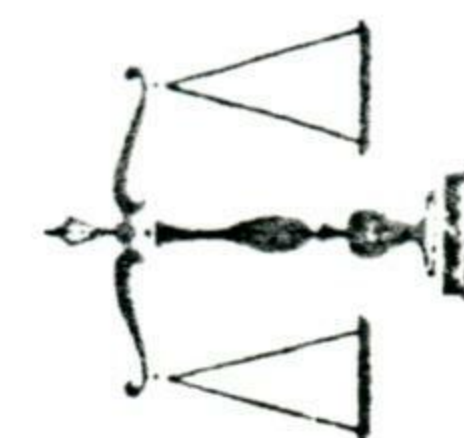
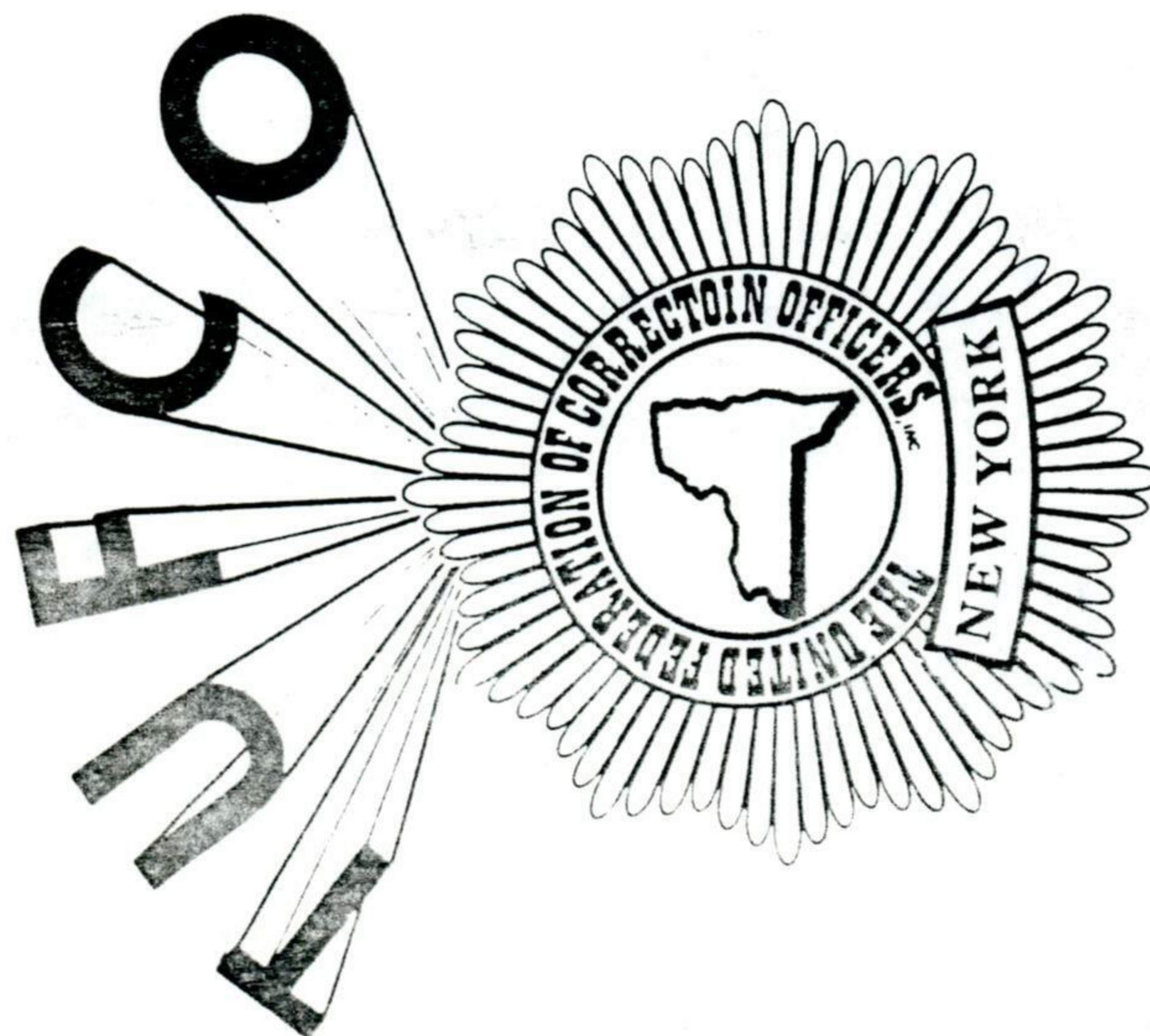
Signature _____ Date _____

_____ Yes I Would Like To Hear More About The Veba Trust. Age _____
 _____ Please Send Me More Details On The Motor Club.

LOCAL LODGES BEING FORMED: Local Lodges have been formed at Great Meadow, Mt. McGregor and Auburn. Elections have been held and Lodge Officers have been seated. Local Lodges will be established at Downstate, Green Haven, Mid-Orange, Adirondack, Long Island, Bedford Hills, Taconic, Hudson and Fishkill in the very near future. Lodge # 1 consisting of Great Meadow and Mt. McGregor's number one priority is to build a Lodge centrally located between the two facilities. They are putting together a package necessary to be presented to a Financial backer. The building proposed is a steel building 80 X 100 with a full cellar. The contents will consist of a lounge, banquet hall, complete nautilus, sauna, racket ball court, etc.. When completed it will be used exclusively by it's members and their families. Lodge #1 had a Christmas Dance at the Ramada Inn, Lake George, N.Y. featuring Bobby Dick and The Sundowners. Free Beer and a hot Hors D;oeuvres buffet. The proceeds went directly to Lodge #1 to be used as a down payment for the property needed for their future building. Local Lodge # 2 - Auburn, recently held their first lodge meeting and there were over 100 members in attendance. President Minehold gave a brief summary of what was being proposed at Lodge #1, The membership voted to follow suit.

NEW BENEFIT ESTABLISHED: TUF^{CO}, Inc. has been working very hard to secure meaningful benefits for it's members. The cost of retaining an Attorney can be devastating. With that in mind, we sought out understandings with many Law Firms throughout the State. We are pleased to announce that we can now direct you to Law Firms who will offer concessions on legal Fees, on specified common legal problems. This would include consultations, House Closing, Civil Suites, Motor Veichle infractions, Wills, etc.. We will be sending you a complete list of the Firms along with their address and phone numbers. All you are required to do is show your TUF^{CO}, Inc. membership card to be eligible for the concessions being offered. Please retain the listings when sent, it could be quite valuable to you.

DISABILITY INSURANCE WELL RECEIVED: It took TUF^{CO}, Inc. about 6 months to find an Insurance Company that would write the in depth Disability Insurance coverage we wanted for our members. Fortunately we were able to find a company who could offer the comprehensive coverage needed particular in our line of work. Our members can now receive 1st day coverage for an accident both on and off the job. This benefit is payable to age 65, it does not have a one year limitation. Sickness coverage requires a 14 day waiting period but it also is payable to age 65. The cost is competitive to other programs being offered, but in our opinion there is no comparison to the coverage.





STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

HUDSON CORRECTIONAL FACILITY

HUDSON, N.Y. 12534

THOMAS A. COUGHLIN III
COMMISSIONER

DEPT. OF
CORRECTIONAL SERVICES
RECEIVED
SEP 19 1983 - 1
Tufco
File
DEPUTY COMMISSIONER
ADMINISTRATION
Dr. WIM VAN EEKEREN
SUPERINTENDENT

M E M O R A N D U M

TO: Russell O. DiBello, Deputy Commissioner
FROM: Dr. Wim van Eekeren, Superintendent
DATE: September 14, 1983
SUBJECT: TUFCO

Pursuant to your telephone call of yesterday, pleased be advised as follows:

1. The attached folder was posted in the locked bulletin board case of Local 738, belonging to Council 82.
2. The vice-president of the local (C.O. Sal Floria) was requested to remove the folder, which he subsequently did.
3. Further information received from the local's treasurer, C.O. R. Chiulli, indicated the folders were handed out during the regular local union's meeting recently held in the VFW Building in Hudson. As a result the folders seem to be all over the facility in the possession of Correction Officers.
4. Mr. Dan Fitzpatrick and a number of other TUFCO representatives had requested and were granted permission from the local's officers to attend the meeting and to explain the objectives of TUFCO.

In conclusion, facility's administration had nothing to do with the posting of the material, as it does not control the local union's bulletin case.

It might have been better for the IG representative to have communicated on the spot with either the Deputy Superintendent for Security or a union's representative about the posting. The implication that the administration allowed TUFCO material on the facility's bulletin board would then not have occurred.

allie?
cc - Jack Burke

9/27/83
cc: R. Bischoff
H. Chase
J. Pageau

**ACT NOW
AND RECEIVE
THESE OTHER
VALUABLE BENEFITS...**

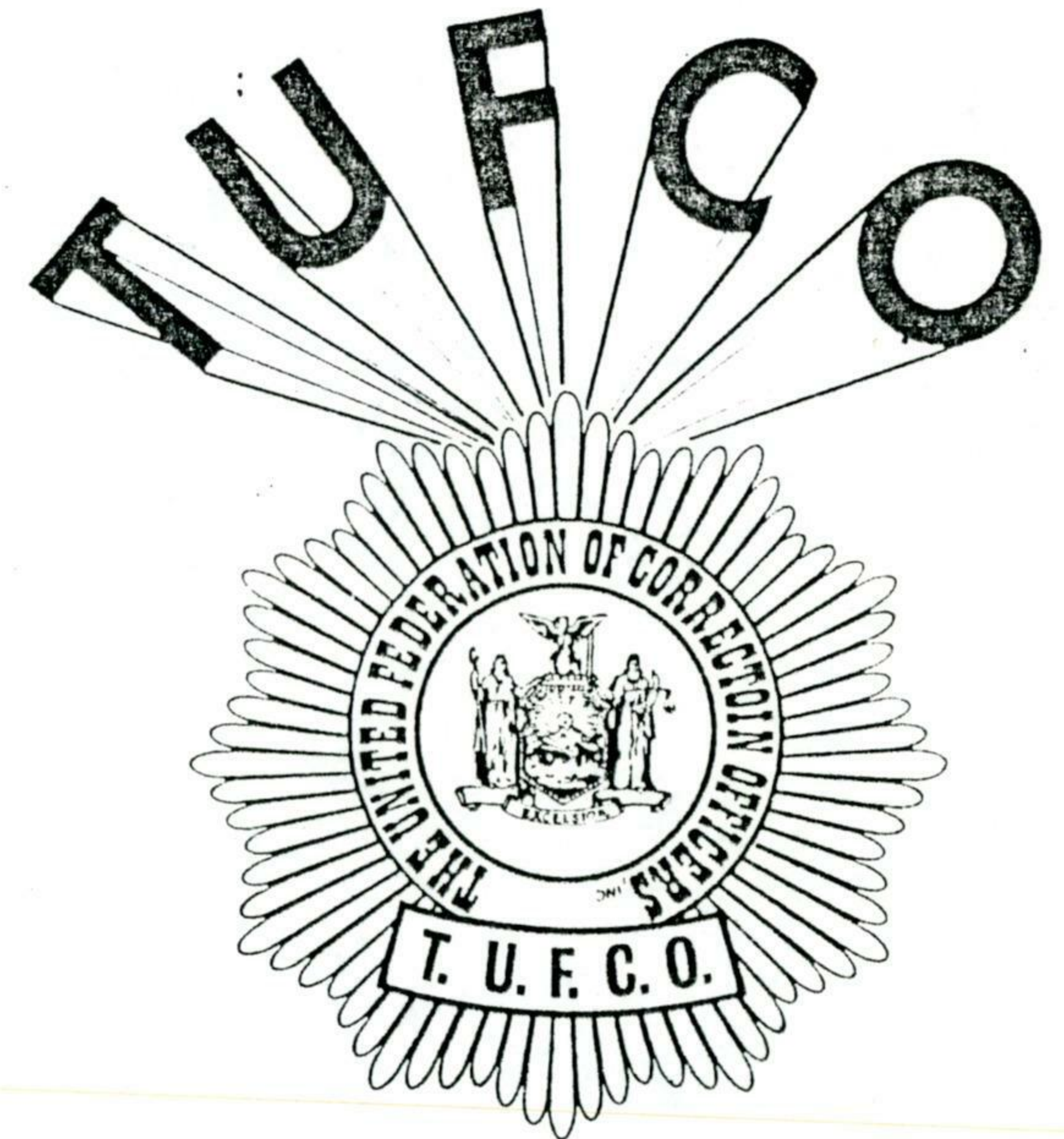
- *TUFCO, Inc. offers permanent, not temporary insurance, to protect you and your family.*
- *Disability Insurance both on and off the job, at lower rates.*
- *Protection against automobile related accidents and breakdowns through a unique motor club.*
- *Participating members of the TUFCO, Inc. program who retire are still eligible for group rates.*

**MAKE
YOUR
DECISIONS
TODAY**

**FOR
A
BETTER
TOMORROW**

For more information and to enroll contact

The United Federation
of Correction Officers
TUFCO, Inc.
P.O. Box 72
Hudson Falls, N.Y. 12839



Why support TUFCO, Inc.?

This question must be answered by each individual based on personal experience and need. However, take a moment and ask yourself the following questions:

- Can additional benefits be provided if I decide to retire after 25 years of service?
- Can I establish an affordable means of subsidizing my children's college education?
- Can TUFCO, Inc. provide me with extra funds for emergency expenses?

The answers to the above questions are yes, based on the length of participation in the TUFCO, Inc. program.

See your TUFCO, Inc. representative now for further details.

Who are we?

The United Federation of Correction Officers, Inc. (TUFCO, Inc.) was originally chartered in December of 1982 as a not-for-profit organization developed exclusively for the benefit of its members and their families.

What are our goals?

To provide tangible assets to correction officers above and beyond what is available to them now through conventional means. TUFCO, Inc.'s responsibility is to its members and *only* to its members.

Why should I join TUFCO, Inc.?

By utilizing the full concepts TUFCO, Inc. offers through a program that will qualify under special tax code provisions, you and your family obtain services that can be used and enjoyed now, while at the same time providing protection and security for the future.

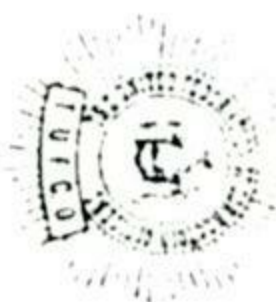
How can I join TUFCO, Inc.?

If you now hold the rank of Correction Officer, Correction Sergeant, or Correction Lieutenant, you are eligible. Simply fill out the TUFCO, Inc. membership card and pay the current \$10.00 annual membership fee.

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

MEMBERSHIP

APPLICATION



I hereby apply for membership in the United Federation of Correction Officers, Inc., and agree to conform to the Bylaws or any amendments thereof in the United Federation of Corrections Officers, Inc. I agree to pay an annual membership fee of \$10.00.

Last Name _____ First Name _____ Middle Initial _____

Street Address _____ City _____ Zip _____

Place of Employment _____ Home Phone _____

Signature _____

Tufco

COUNCIL 82
RECEIVED
MAY 24 1983
AFSCME AFL-CIO

May 23, 1983

John W. Burke
Executive Director
Council 82, AFSCME, AFL-CIO
63 Colvin Avenue
Albany, NY 12206

RE: TUFCO
Unity Life, Sentinel Motor Club

Dear Jack:

As I mentioned the other day, I have asked Unity Life for printout proposals for a \$50,000 program for you and for Holly. Once I have these proposals we can review them, and you will be able to see precisely what is being offered by TUFCO.

They also are apparently offering the Sentinel Motor Club program. Enclosed is a photocopy of the brochure they are using, plus a photocopy of the local AAA Auto Club brochure.

With both Unity Life and the Sentinel Motor Club, it appears that there is nothing special about belonging to TUFCO. The rates, to the best of my knowledge, for the Unity Life program are identical whether a person belongs to TUFCO or not. Regarding the motor club, since it appears that this is a standard brochure with the rates already printed on the brochure and that TUFCO has merely added their rubber stamp, the brochure shows no formal endorsement and, in fact, shows four items that they do not even make available in New York State.

It appears to me that TUFCO is merely trying to get their name on some standard material to help them gain stature.

Sincerely,

Robert E. Tenney, CPCU

RET:am
Encs.
cc: Hollis Chase

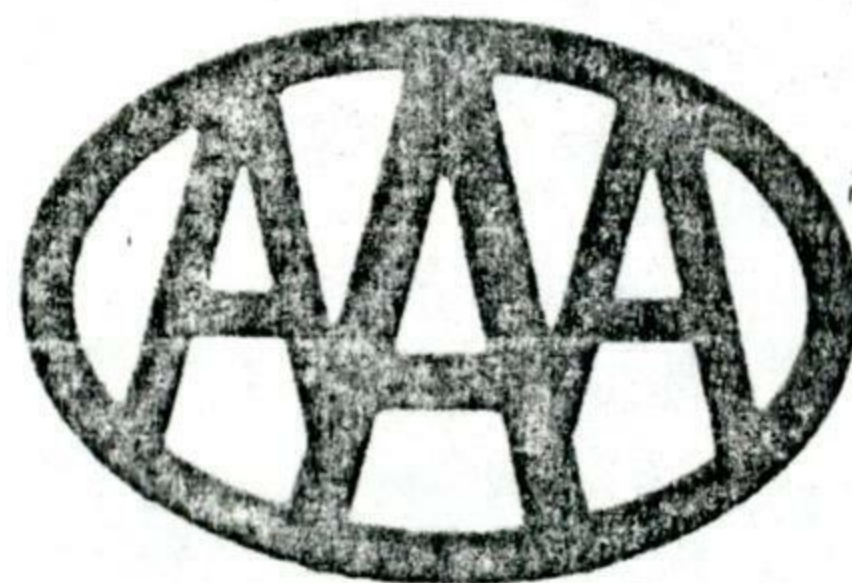
So Much Service . . . for So Little Cost

3 Emergency Road Service calls per
associate membership per year.
5 Emergency Road Service calls per
Master membership per year

A Membership Card Gives You Unquestioned Service When You Need It

When you travel with your AAA
membership card, you have the
peace of mind knowing that people
who care are as near as the phone.

The entire staff of 750 AAA offi-
ces plus 24,000 contract garages
are dedicated to serve you.



**HUDSON VALLEY
AUTO CLUB**

Hudson Valley Auto Club

World Wide Service



Albany Office

828 Washington Ave., Albany, N.Y. 12203
Mon. thru Wed. & Fri. 9-5 Thurs. 9-7:30
Office: 482-3321
Road Service: 482-3321

Troy Office

257 Broadway, Troy, N.Y. 12180
Mon. thru Fri. 9-5 Sat. 9:30-12
Office: 272-3650
Road Service: 272-3650

Hudson Office

527 Warren St., Hudson, N.Y. 12534
Mon. thru Wed. & Fri. 9-5 Thurs. 9-6:30
Office: 828-4537
Road Service: 828-4537

Less Than 8 Cents Per Day

HUDSON VALLEY AUTO CLUB MEMBERSHIP APPLICATION



First Year's Payment \$28.00. Associate Membership for spouse or dependent minors residing in same household of Master Member \$14.00 each. Associate members anniversary date must be the same as Master Member.

I hereby make application for membership Master \$28.00 Associate \$14.00 and agree to abide by the rules and regulations and By-Laws of the Hudson Valley Auto Club, Inc.

Please remit payment with application. Date _____

Name (Master Member) _____

Name (Assoc.) _____

Street and No. _____

City _____ State _____ Zip _____

Recommended by (Not required) _____

Address _____
Membership No. _____

FOR OFFICE USE ONLY

Typed _____

Computer _____

Amt. Col. _____

D.O.B. _____

of Members _____

Co. _____

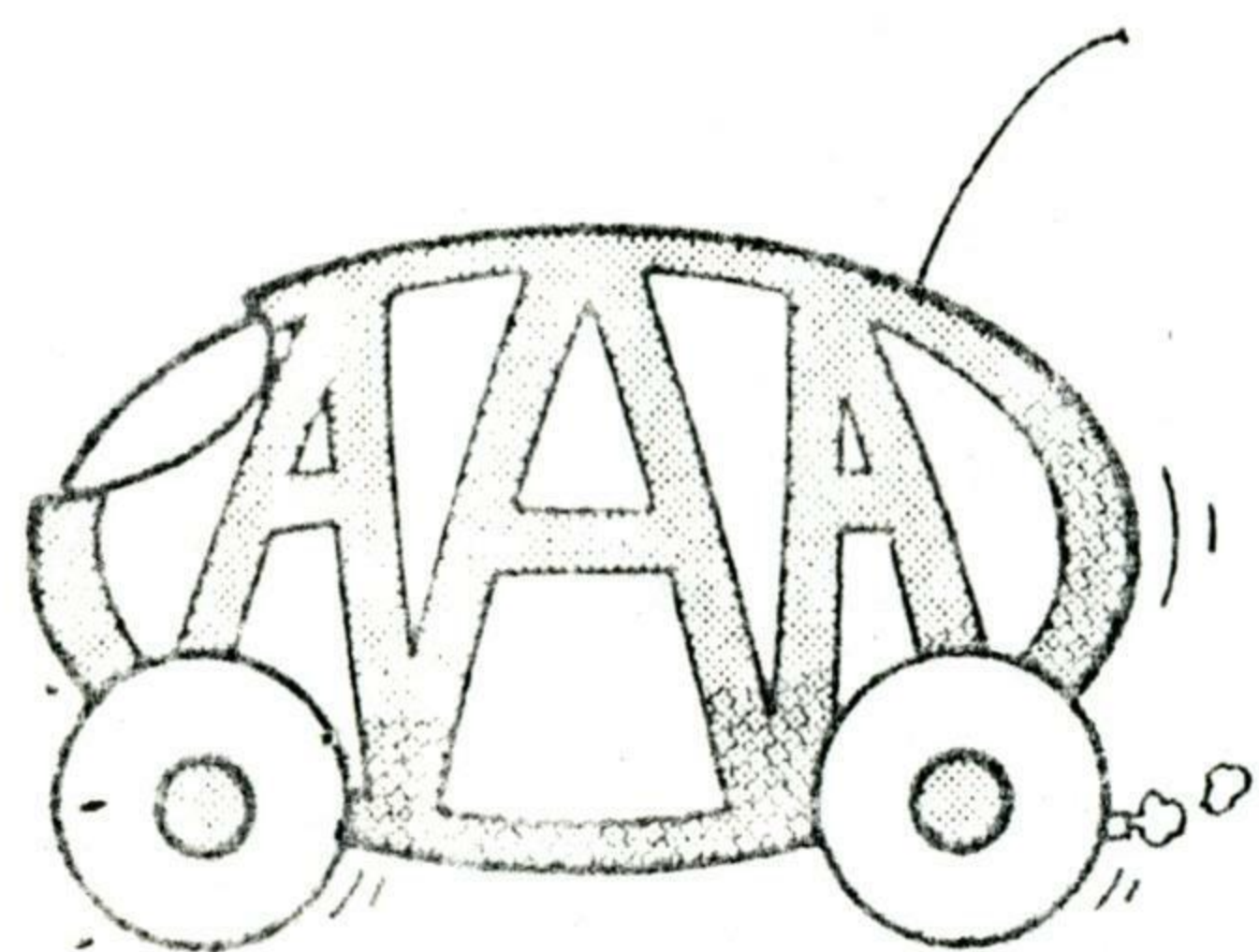
Date _____

Albany: 828 Washington Ave. Albany, N.Y. 12203 482-3321 Troy: 257 Broadway Troy, N.Y. 12180 272-3650
Hudson: 527 Warren St., Hudson, N.Y. 12534 828-4537

For more than 77 years the AAA has been the friendly protector of the motorists' welfare at home and on the road. Founded during the pioneering days of the automobile to assist and protect the motorist in all phases of car ownership and operation, the AAA still devotes itself from day to day providing essential, nationwide motoring and travel services to its members.

As we travel more miles and extend to further horizons, motorists depend to a greater extent on efficient personal services; informed assistance and advice. As more cars take to the highways and as efforts are continued to impose inequitable taxes and laws, motorists' more than ever before require organized representation to help bring about traffic and parking relief, modern highway facilities and equitable motor vehicle legislation and regulations, which the Hudson Valley Auto Club fosters.

We Fix More Than Flats



Services Just For You

Immediate Personal Assistance for Members

- Flat tire changing
- Emergency service on the road
- Emergency battery service
- Emergency delivery of gas
- Towing when car won't start
- Assistance when locked out of car
- 24,000 garages under contract to render service
- Latest road conditions
- 24 hour emergency service
- Notary Public service
- \$200.00 reward for auto theft conviction
- \$5000.00 bail bond anywhere in the United States
- \$200.00 guaranteed arrest bond certificate

General and Civic Activities

- Emblem on your car, nationally respected by officials and motorists
- Safety education work with schools
- Safety posters, lessons, booklets for teachers and pupils
- Driver training in high school
- School Safety Patrols to protect children
- Educational motion pictures for schools and organizations
- Bicycle safety program for children

Touring and Travel Service

- Trained travel specialists
- Personal trips planned in detail
- Hotel-Motel reservations throughout the world
- Trip-Tiks, latest system of handy in the car maps
- Reciprocal privileges at all AAA offices
- Arrangements for car shipment overseas
- Foreign travel information
- International Driving Permit
- Foreign documents for automobiles
- Special group tours
- Foreign car rentals
- Foreign maps
- Foreign travel literature
- World Wide air reservations
- World Wide steamship reservations
- Reports on detours and construction throughout the United States

Personal Accident Insurance

- Death benefits to \$10,000.00
- Hospital indemnity
- Ambulance fee, \$10.00
- Operating room, \$10.00
- Anaesthetic administration, \$10.00

Exclusive Publications Revised and Reprinted Annually

- National Emergency Road Service Directory
- More than 60 state and local maps
- Complete tour books
- Special travel publications on National Parks, Motoring Abroad etc.
- Camp ground directories

Here's what our friends have to say about Sentinel.

"Upon joining Sentinel, I learned of the Car-puter service and within one week received an estimate for a Mazda GLC which was \$600 less than the dealer's price. That paid for my membership 10 times over!"

John Dennis Janiski
Stuart, Florida

"I saved over \$100 on a Westinghouse refrigerator with Quota-phone. The price at a local store was \$479 compared to Quota-phone's price of \$358 delivered. My local merchant then lowered his price to \$364 and I went home with a new refrigerator."

Pierre Smith
Lewisville, Georgia

"Thanks to Sentinel, instead of paying \$10 for my name brand medicine from my local druggist, I pay just 64¢ for the generic substitute through Sentinel's Pharmacy Program."

Debbie Page
Augusta, Georgia

"My Sentinel membership saved me \$87 when I bought my Dunlop tires."

Nick Howley
Key Point, New Jersey

"I saved \$30 in 30 days by patronizing restaurants listed in Sentinel's Preferred Merchants programs."

Joe Coccaro
Vineland, New Jersey

"After trying unsuccessfully to sell my home through a local real estate firm, I called Quota-phone which referred me to another agent. Within 3½ weeks my home sold for the \$70,000 asking price. I even got a rebate from the agent's commission because of Quota-phone."

Mary Lou Romano
Virginia Beach, Virginia

"Being in the Navy I travel almost constantly and enjoy Sentinel's services everywhere I go."

Danny W. Zeller
New York

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.
T.U.F.C.O.
P.O. BOX 72
HUDSON FALLS, NY
12835

Motor Club Comparison Chart

Benefits	AAA	Sentinel	Your Motor Club
Towing Reimbursal	First 12 mi. free \$1/mi. thereafter	\$50	
Trip Guarantee	\$300	\$300	
Emergency Check Cashing	\$50	\$100	
Customized Touring Maps	Strip maps	Full map of state by Rand McNally	
Stolen Vehicle Reward	\$500	\$500	
Cash Appearance Bond	\$200	\$1500	
Legal Defense Fee	\$650	\$1500	
Police Bail Bond	\$5000	\$20,000	
Hospitalization	\$10/day	\$60/day unlimited per family	
Claims Reimbursed	Takes several weeks	Claims reimbursed every Wednesday	
Age Requirements	YES	NO	
Car Rental Discounts	YES	YES	
Gasoline Credit Card Protection	NO	YES up to \$200	
CB/Stereo Theft Reward	NO	\$100	
Hit & Run Reward	NO	\$500	
Nuisance Damage Legal Fees	NO	\$300	
Accidental Death or Disability	NO	\$10,000	
Emergency Medical	NO	\$150	
Local Preferred Merchants Program	NO	YES	
National Merchants Savings Program	NO	YES	
CAR/PUTER, Save up to \$1000 on new car	NO	YES	
QUOTA-PHONE Save up to 50%	NO	YES	
Federal Pharmacy, Save up to 70%	NO	YES	
Dunlop Tires, 10% below wholesale	NO	YES	
Tax Sheltered Income/Savings Plan	NO	YES	
Yearly Membership	VARIES	\$45	

Would you and your family like to save over \$1,000 a year with Sentinel?



Local discounts are available at restaurants, clothing stores, sporting goods shops, appliance dealers and other locations.

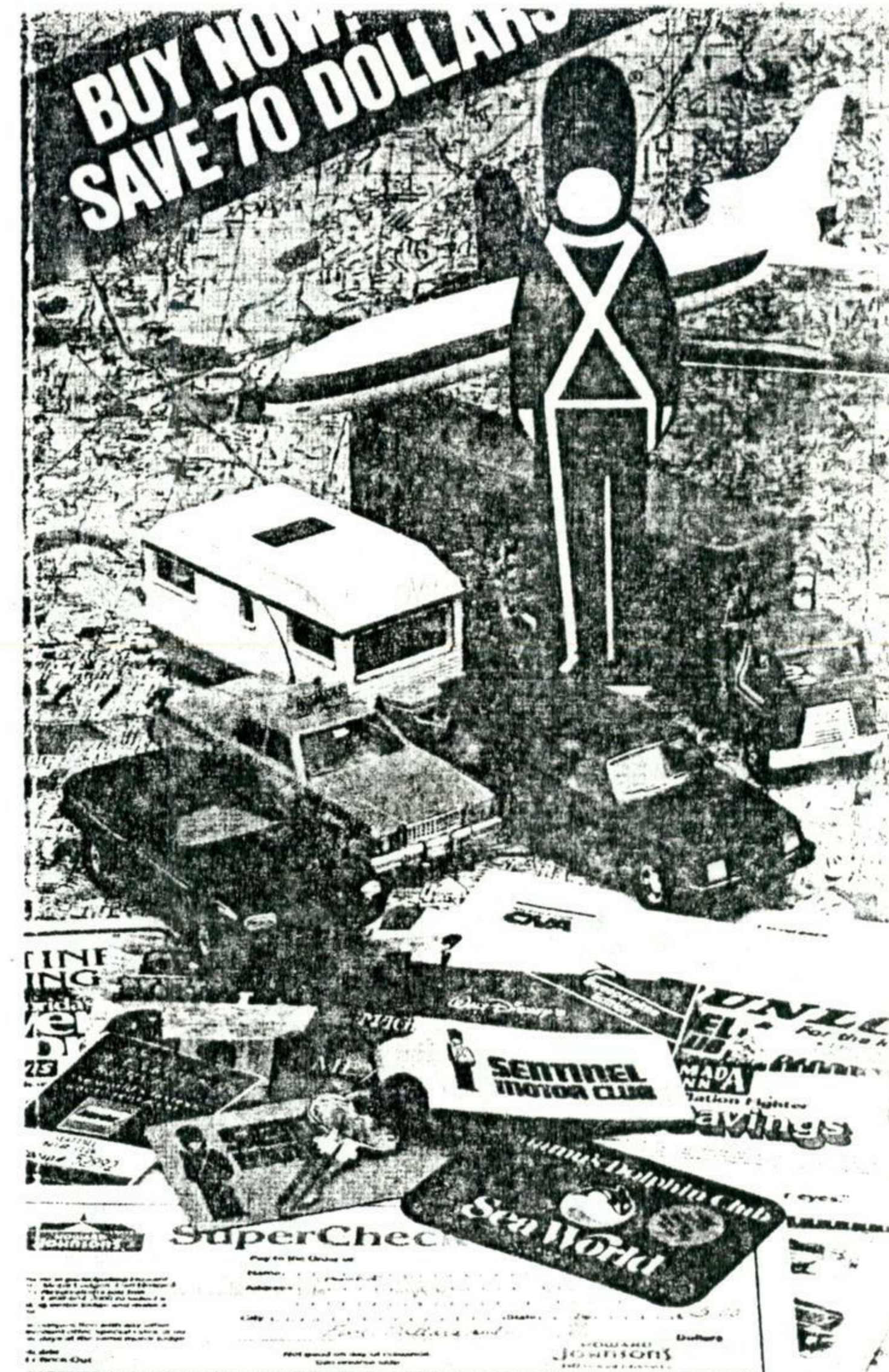
Worldwide wholesale prices are possible through surplus buying power. Receive discounts on Dunlop tires, prescriptions and pharmaceuticals, major brand merchandise from Showcase catalog, SENTINEL magazine and other catalogs.

Car-puter is a new car pricing service that can save you up to \$1,000 over your best deal on your next new car purchase. Car-puter has been praised by NEWSWEEK, BUSINESS WEEK, FAMILY CIRCLE, Sylvia Porter and Jane Bryant Quinn.



And Quota-phone—a \$70 value—is your FREE BONUS if you join Sentinel within the next 30 days.

Quota-phone is a discount purchasing and price quoting service available exclusively for Sentinel card holders. You'll save up to 50% on top brand stereos, televisions, cameras, appliances, luggage, furniture and other purchases including real estate. For a limited time only, new Sentinel members will receive Quota-phone—a \$70 value—absolutely free.



SENTINEL MOTOR CLUB

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.
P.O. BOX 72
HUDSON FALLS, NY
12835



SENTINEL MOTOR CLUB

120 Interstate North Parkway East
Suite 224, Atlanta, GA 30339
404/952-9090

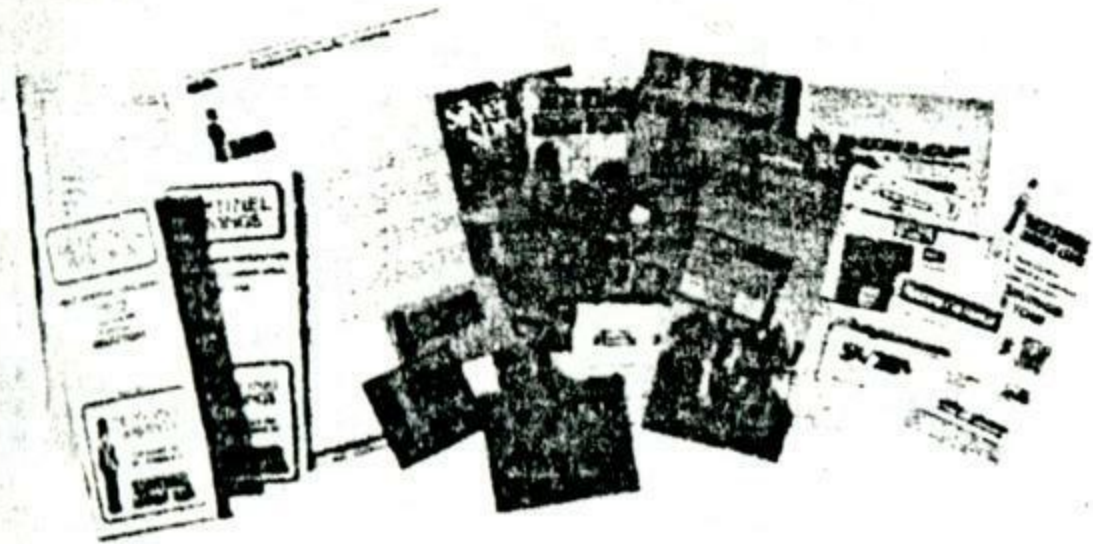


It pays to join Sentinel Motor Club

As a Sentinel member, you travel with confidence knowing you are protected by the most comprehensive automotive benefits in the world, whether you are traveling by car, motor-home, truck, motorcycle or as a fare-paying passenger in a taxi, airplane, bus, subway, steamship or train.

Do you think motor clubs are just for emergencies? You haven't met Sentinel.

Sentinel not only comes to your assistance at the time of an accident or mechanical breakdown, but everyday in the form of discounts and wholesale prices on meals, lodging, transportation, entertainment and name brand products and services.



It's easy to become a Sentinel member. Just complete and mail the membership application and we'll send you your Sentinel Motor Club membership. There are no age limits, health requirements or complicated forms to fill out. All payments are made in addition to any insurance or other benefits for which you may be eligible. And, we have no deductible.

Would you like a card that saves you money instead of costing you money?

Your Sentinel membership kit includes an embossed plastic ID card with cash appearance bond on the back, a service contract of automotive benefits, an agreement for accidental injury benefits, your Sentinel Motor Club display sticker, and a stolen vehicle reward decal. In addition, we include information covering all the discounts and pricing services available.



Here's how Sentinel works for you.



\$50 towing service reimburses your towing expenses for accidents or mechanical breakdowns. You select the wrecker service and destination.

\$10 problem service calls cover flat tires, gasoline delivery, battery quick starts and keying services.

Would you like a club that pays your towing charges and service call costs?

\$300 no-fault trip guarantee pays for transportation, lodging and meals up to three days when your vehicle is disabled by accident 50 miles or more from home. Sentinel guarantees your personal check up to \$100.

Customized touring service provides you with scenic or direct routes for business trips or vacations. You receive Rand McNally maps, outlined routes, points of interest, mileage charts, city indexes, road conditions and detour information.



How would you like to save \$100 on your next vacation?

Advance reservation information provides toll-free telephone numbers for hotels/motels and car rentals. Members also enjoy discounts at locations including Days Inn, Howard Johnson's and Best Western, to name a few. Save on Hertz, Avis, Budget and National car rentals, too.

National discounts are offered for airlines, chain stores and amusement parks including Sea World; Six Flags Funseekers Group; the Pro Football Hall of Fame in Canton, Ohio; and Plitt Movie Theatres.



- \$100 maximum in Virginia
- Not available in New York
- Not available in Kentucky, California or New York. \$200.00 maximum in Virginia and Florida.
- Not available in Kentucky, New York or Cooke County, Illinois.
- Not available in New York. \$300.00 maximum in North Carolina. \$400.00 maximum in Kansas. \$500.00 maximum in Virginia.
- Accidental injury benefits not available for motorcycles.

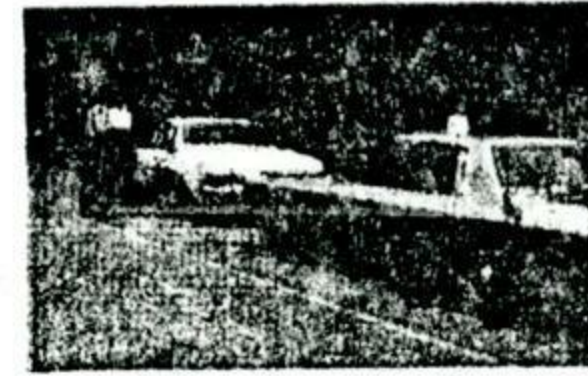
Would you like to be able to offer a \$500 reward if your vehicle is stolen or broken into?

\$500 stolen vehicle reward and \$100 CB or stereo radio theft reward are paid to anyone with information leading to the arrest and conviction of the thieves.¹

\$500 hit and run reward is paid to the informant upon conviction of the driver causing injury to a member as a pedestrian, driver or passenger.

What about legal fees and bail bond protection?

\$300 legal fee is paid to your attorney in cases involving damages to your car or personal injury caused while driving, riding in or being struck by an automobile.²



\$1500 cash appearance bond may prevent the loss of your driver's license for moving violations. Use your Sentinel card as cash bond or call collect to wire bond by Western Union.³

\$20,000 police bail bond may keep you out of jail should you be charged with a moving violation resulting in an accident. Bond is wired via Western Union.⁴

\$1500 legal defense fees follow police bail bond protection for your defense and any appeals.⁵

Could your family use \$60 a day if you are hospitalized?



Members are protected 24 hours a day, worldwide while driving or riding in any automobile; when struck by a vehicle while on foot or bicycle; when injured by auto fire or explosion; when traveling as a fare-paying passenger on a commercial carrier.

All payments are made to the member, tax-free, regardless of any insurance coverage or other benefits. You pay no deductible.

\$150 emergency medical services are reimbursed for emergency room, x-rays, casts, tests, anesthetics, operations, blood and oxygen.⁶

\$60 per day during hospital confinement is paid up to 365 days, beginning on the first day of admission. Payments may be used for any family needs.⁶

Up to \$10,000 accidental death or disability benefits are paid to the member or beneficiary.⁶

Become A Sentinel Member Today And Get The Quota-Phone Buying Service Free!

to join, just fill out the membership application below and drop it in the mail with your payment. As soon as the envelope is postmarked all the Sentinel Motor Club benefits are yours for a full year.

Membership Application

Name _____
 Date of Birth _____ Social Security Number _____
 Address _____ City _____ State _____ Zip _____
 Telephone _____ Beneficiary _____
 (could be a spouse, adult or child at the same address)
 Name _____
 Beneficiary _____
 (Name(s) of children members from the above address (Children's discounts are only available with a paid principal and associate membership))
 Non-drivers _____
 Drivers 16-21 _____
 You may cancel this contract without penalty or obligation within three (3) business days from date of application. If you do not receive your membership package within 20 days please notify the offices of Sentinel Motor Club

MEMBER(S)	ANNUALLY	NUMBER	TOTAL
Principal	\$45 each	_____	_____
Associate(s)	\$35 each	_____	_____

Could be a spouse, adult or child at same address as principal member

If you have applied for both a principal and associate membership, you may take advantage of the children's discounts below. If there is not a spouse or second adult at the same address, one child must pay the associate membership fee.

Child Drivers Age _____ \$25 each
 Children 0-15 All for \$20
 Gift certificate \$45 each
 With Spouse Add \$35

Total Amount Due _____

Make check payable to Sentinel Motor Club
 Master Card Visa American Express
 Card No. _____ Expiration _____
 Signature _____ Date _____

funding, she added.
MAY 16 1983

TUFCO denies challenge to Council 82

By LORI VAN AUKEN

A fraternal organization of corrections officers has denied speculation that it is trying to undermine the officers' current contract with Council 82.

However, Council 82 Policy Chairman Richard Bischert said The United Federation of Corrections Officers (TUFCO) was organizing with the chief goal of "de-certifying" Council 82.

"Perhaps that is wishful thinking on someone's part," TUFCO organizer Dennis Fitzpatrick said.

"TUFCO, Inc. is and will always be a fraternal organization," Fitzpatrick emphasized, likening the fraternity to the Policemen's Benevolent Association.

TUFCO developed 15 months ago in an effort to supplement the benefits and programs currently offered by Council 82, according to Auburn Union President James Morrissey.

TUFCO offers a Visa Trust insurance policy, Fitzpatrick said. According to Bischert, this alternative insurance policy is about \$5 less than the policy offered to Council 82 by Mang Associates Agency of Albany.

"We don't feel threatened by TUFCO," Bischert said, but he added its development shows that Council 82 must discover better insurance and benefits packages.

The corrections officers are bound by contract to Council 82 as their bargaining agent until 1985. No organization can legally

six months before the contract with Council 82 expires.

According to Coxsackie Union President Joseph Puma, TUFCO is accumulating membership and money to challenge Council 82 in 1985.

Puma criticized TUFCO for its attempts to splinter corrections officers into two factions.

"Council 82 is a pretty good organization, but it is

only as strong as its members make it. Any challenges only make us weaker," Puma said.

But according to Fitzpatrick, TUFCO's intention is to unite corrections officers in an organization they alone can identify with.

Council 82 represents all security and law enforcement officers in New York, which includes Environmental Conservation safety officers, police officers and

even lifeguards.

"Because corrections officers constitute the majority of the Council's membership," Fitzpatrick said, "we need to generate a large, unified lobbying organization which will concentrate on our special interest."

"Corrections officers need to feel more of a common bond than they do with simply a monthly newsletter

Continued on Page 12



B

In The Albany Area There Is One Restaurant That Stands Alone:

IT'S

... Council 82 challenge denied

Continued from Page 6
or a gold pin" they now receive from Council 82, Fitzpatrick added.

According to Bischert, the council has recently tried to open communications with its members by hiring public relations coordinator Chuck Booth and publishing a monthly newsletter.

While current membership in TUFCO is approximately 10 per cent of all corrections officers,

Fitzpatrick said they hoped to provide additional dental and medical centers as well as lodges and vacation sites for members and their families.

But other corrections officers are reluctant to join. Greenhaven Union President Robert Zeller said TUFCO sent Greenhaven guards flyers and membership forms a couple of months ago.

"The majority of people did nothing with it," he said, "because the application said we had to abide by the by-laws. But we didn't get to see any of the by-laws."

"I'm not 100 per cent satisfied with Council 82 and the people there," Coxsackie union leader Puma said. "But we are not going to turn around and join a Mickey Mouse organization."

1553 Central Ave., Colonie
For Reservations
869-0634

th
B
O

...in my opinion, consists of many ideas which are consistent with many people's goals in life."

Sen. Ralph Marino: "Yes. There's no question that as a result of the strong independent vote in New York State, more and more elections are decided by the independent voter who is not controlled by party machinery, but is more issue-oriented."

Sen. John Marchi: "There's been some erosion of power from political organiza-

...the last gubernatorial race. That could very well be short term. Everything is relative. Are they stronger than they were 20 years ago? Well, they're just different, especially in that political parties now have a much greater challenge in communicating with their constituency."

Sen. Jeremy Weinstein: "I think political parties, like anything else, have their peaks and valleys. At this point they are not as powerful as they once were, but diminishing

Assemblyman Clarence D. Rappleyea, Jr.: "Given the enrollment figures, they've lost something. The past 10 years state-wide Democrats lost 9 percent enrolled voters and Republicans 16 percent and Independent increased 58 percent."

Assemblyman William R. Sears: "No, I don't think they've lost power. The Democrats in New York State have controlled the governor's mansion for nine years. On the local level, counties, county

However, my answer applies only to the Democratic party, because there has not been any diminution of control of jobs and implementation of programs by elected Democrats."

Assemblyman Mark Alan Siegel: "Power is relative. There has been a general decline in the concentration of power in the hands of political parties, but they are still tremendously strong and important institutions."

editorial

We support Toxic Victims Access bill

Sen. James J. Lack is sponsoring legislation called Toxic Victims Access to Justice. It's a bill that would change state law to aid persons who were exposed to toxic materials. It's a bill whose time has come, in our view.

The Assembly has approved the bill. Now it's the Senate's turn. And there are many reasons why the Senate should

approve the proposal.

We tend to favor caution, and certainly the Senate has used caution in denying approval of this bill in the past. But now we know more about toxic substances. We know, for instance, that persons exposed to such substances may not become ill, as a result, for decades.

There are many examples of persons learning years after exposure that asbestos or the drug DES, which doctors prescribed to women prone to miscarriage, caused disease. Under

present state law, the three-year statute of limitations had expired. The reason is that state law now requires that a person who believes he or she has cause for legal action must do so within three years of exposure.

Many victims didn't learn they were victims until many years after the three-year period expired.

We applaud Senator Lack for introducing this proposal, which requires that persons litigate a claim within two years of discovering that an illness or disease was caused by exposure to a toxic substance.

We trust his colleagues will recognize the importance of his proposal and add their approval to that of the Assembly.

Correction

Melvin Zimmer was incorrectly identified as Hyman Miller in a photo in last week's issue of The Legislative Gazette.

LETTERS to the editor

TUFCO story criticized

I am writing this letter in regard to an article which was published in Vol. 6, No. 15, May 16, 1983 issue of The Legislative Gazette entitled "TUFCO denies challenge to Council 82."

It has been my understanding that The Legislative Gazette is a newspaper for articles of interest pertaining to the State Legislature and pending legislation. I was very disturbed when I reviewed this issue and read the above named article.

The same day this reporter was gathering

information on this article, we had 200 state correction officers at the Capitol lobbying for a change in the Tier III Retirement System. There was no mention whatsoever of this printed in The Legislative Gazette. This is irresponsible journalism, and certainly does nothing for the credibility of The Legislative Gazette.

John W. Burke
Executive Director
Council 82

Assemblyman likes Gazette

One of the things I look forward to each Monday during the Legislative session is the arrival of The Legislative Gazette. I have noted with pleasure the improvement of the Gazette as the weeks of session continue.

It is my hope that your fine publication will continue in the future and continue to

provide the excellent training ground for journalism and political science students at SUNY-New Paltz.

Again every success in the future.

Gary Proud
Member of Assembly

The Legislative Gazette

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Gazette Accountant
Willen and Klapper, CPA

COUNCIL 82

RECEIVED
APR 30 1984

AFSCME AFL-CIO

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

----- x

In the Matter of :

STATE OF NEW YORK and THE UNION OF
FEDERATED CORRECTION OFFICERS, :

Respondents, :

- and - :

ANSWER

Case No. U-7375

NEW YORK STATE INSPECTION, SECURITY
AND LAW ENFORCEMENT EMPLOYEES,
DISTRICT COUNCIL 82, AMERICAN FEDERA-
TION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO, :

Charging Party. :

----- x

The Union of Federated Correction Officers (hereinafter referred to as "TUFCO"), Respondent, as and for its answer to the charge and amended charge herein, upon information and belief:

1. Admits the allegations contained in paragraphs a, b, c and e of the charge.

2. Denies the allegations contained in paragraphs f and l of the charge, as well as any allegations not otherwise specifically dealt with herein.

3. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the vague or open-ended allegations contained in paragraphs h, j and k

4-30-84
cc: Frank B.
Dick
Holly
Puma
ka

of the charge

4. With respect to the allegations of paragraph c of the charge, alleges that The Union of Federated Correction Officers is an unincorporated association, and admits that it is an employee organization within the meaning of the Taylor Law, but alleges that the United Federation of Correction Officers, Inc., is merely a not-for-profit corporation organized by TUFCO's leaders for the purpose of providing the corporation's membership with a variety of recreational and tax-sheltered benefits.

5. denies that the State of New York has failed to enforce its "rules" governing access to employees for organizing purposes, and refers the charging party to TUFCO's own charges in PERB Case Nos. U-7385 and U-7406.

6. With respect to the allegations of paragraph i of the charge, admits that officers Farrell, VanHouten, Stephens and McKinney, solicited authorization cards, as is detailed in TUFCO's aforementioned charges, but denies that said solicitation was in any way unlawful, and denies that such card solicitation constitutes an improper practice.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE
RESPONDENT TUFCO ALLEGES AS FOLLOWS:

7. The charging party's "unchallenged representation status" is not adversely affected by TUFCO's alleged collection

of authorization cards within the six-month time period allowed therefor by PERB Rule 201.4(b).

AS AND FOR A SECOND AFFIRMATIVE DEFENSE
RESPONDENT TUFACO ALLEGES AS FOLLOWS:

8. PERB does not have jurisdiction to enforce Office of Employee Relations "guidelines."

AS AND FOR A THIRD AFFIRMATIVE DEFENSE,
RESPONDENT TUFACO ALLEGES AS FOLLOWS:

9. After receiving the charge herein, TUFACO duly moved, pursuant to PERB Rule 204.3(b), for an order directing the charging party to file a verified statement specifying certain particulars of the vague and open-ended charges herein.

10. On April 11, 1984, a PERB Administrative Law Judge ("ALJ") granted the motion, in part, and ordered the charging party to file and serve a verified statement satisfying parts 1, 2 and 3 of TUFACO's demand for particulars. The ALJ ordered the charging party to do so on or before April 20, 1984.

11. On or about April 20, 1984, the charging party served and filed a paper styled a "Particularization of Charge" in which the said charging party purports to reserve its "rights" to "supplement its particularization" without regard to the Administrative Law Judge's April 20 deadline.

STATE OF NEW YORK
COUNTY OF ALBANY SS:

AFFIDAVIT OF
SERVICE BY MAIL

Nancy K. Stockwell , being duly sworn, deposes and says that he is over the age of 18 years; that he served the within Answer in PERB Case No. U-7375 upon the following at the following time(s) and place(s) in the following manner *April 27* , 1984

New York State Inspection,
Security and Law Enforcement
Employees, District Council 82,
AFSCME, AFL-CIO
63 Colvin Avenue
Albany, New York 12206

State of New York
Department of Correctional
Services
State Office Bldg. #2
Albany, New York 12226

State of New York
Office of Employee Relations
Agency Bldg. #2, E.S.P.
Albany, New York 12223

Brian J. O'Donnell, Esq.
Rowley, Forrest & O'Donnell, P.C.
90 State Street
Albany, New York 12207

by depositing a true and correct copy of the same properly enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 118 Bradford Street, Albany, New York, directed to said parties respectively, at said address(es), respectively mentioned above, that being the address(es) within the state designated for that purpose upon the last papers served in this action or the place where the above then resided or kept offices, according to the best information which can be conveniently obtained.

X Nancy K. Stockwell

Sworn to before me this
27th day of *April* , 1984.

Jeffery H. Brozyna
Notary Public

JEFFERY H. BROZYNA
Notary Public, State of New York
Qualified in Schenectady County
Commission Expires March 30, 1986

JEFFREY H. BROZYNA
ATTORNEY AT LAW
313 WASHINGTON AVE.
ALBANY, NEW YORK 12206

Tufco
Correspond.

PHONE 518-465-3352

September 14, 1984

Mr. Thomas Hartnett
State of New York
Office of Employee Relations
Agency Bldg. #2 E.S.P.
Albany, New York 12223

Re: The Union of Federated Correction Officers (TUFCO Union)
Council 82 campaign activity in the jails

Dear Mr. Hartnett:

At their convention in Syracuse on September 12, 1984, Council 82 adopted an anti-TUFCO petition to be circulated in the jails for signatures. These petitions are to be returned to Albany on September 21, 1984 for use against TUFCO Union at PERB on September 26, 1984.

I expect that the State will enforce the O.E.R. Access Rules as stringently against Council 82 as it did during TUFCO Union's campaign over the past several months.

TUFCO Union representatives have been instructed to report Council 82 activity directly to their watch commanders if such campaign activity takes place on working time in working areas.

We will be monitoring this situation carefully.

Very truly yours,

Jeffrey H. Brozyna

Jeffrey H. Brozyna, Esq.

JHB/ns

9-19-84

*cc: R Rowley
Chris Gardner
A. Chase
J. Puma
R. Bischoff
J. Benedetto
JWB:kd*

Tufco

THE UNION OF FEDERATED CORRECTION OFFICERS
SETS THE RECORD STRAIGHT REGARDING ITS CONSTITUTION

Council 82 is running scared. They have undertaken a campaign to distort TUFCO Union's Constitution. The TUFCO Union Constitution was carefully drafted by our legal staff and was adopted on October 1, 1983. Our Constitution was submitted to PERB in August of 1984 and filed with the Department of Law in March of 1984. Here is the TRUTH about the TUFCO Union Constitution: (Article and Page Numbers reference the actual text of the Constitution itself.)

Council 82's Distortion

The Truth From
TUFCO Union

1. TUFCO is run by a dictatorship.
2. The TUFCO leadership is put in power permanently.
3. TUFCO does not have conventions.
4. TUFCO will have its main office in Hudson Falls and ignore the rest of the State.
5. TUFCO lied to people and refuses to represent the whole security services unit.
6. Local officers are appointed by the directors.

Who are also the original Exc. Bd.

1. The statewide officers are elected on a one man - one vote system by the members. *after 1988*
(Article VIII, page 10)
2. The statewide officers serve an initial term until 1988 at which time they must face re-election if they wish to remain in office. Subsequent terms of office expire every 3 years. All statewide elected officials are elected on a one man - one vote basis by the membership at large at the end of each term of office.
(Article VIII page 10, 11 and 12)
3. TUFCO Union's conventions are held every two years, beginning in December, 1985 and every 2 years thereafter.
(Article VI page 4-8)
4. The original office is in Hudson Falls, but it can and will be re-located to Albany.
(Article IV page 3)
5. TUFCO Union will represent the entire bargaining unit as required by the Taylor Law, however, a separate structure is put into place for noncorrection groups.
(Article II page 1, and Article VIII page 10 and 12)
6. The local's chief steward, at least 3 shift stewards, 1 steward at large (secretary-treasurer) are elected in a one man - one vote election by the local members every year. Assistants to each of these officers are elected by the local officers immediately after they themselves have been elected by the members.
(Article XI page 21)

Council 82's Distortion

The Truth From
TUFCO Union

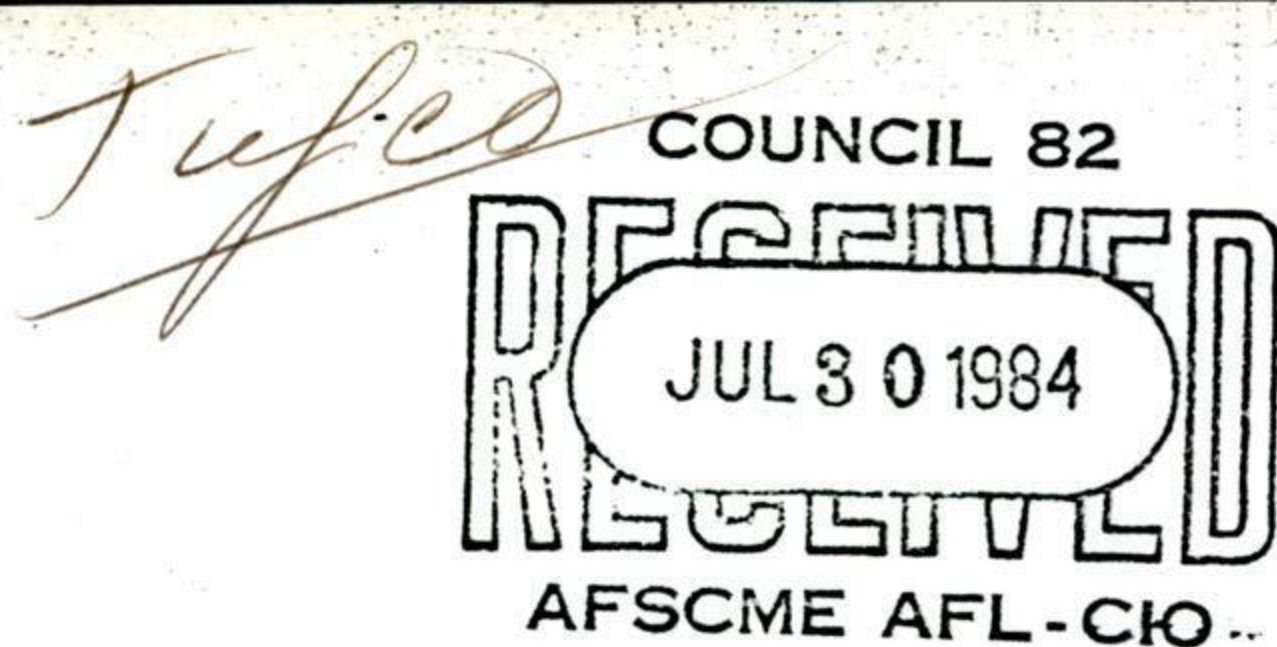
7. The TUFCO directors set the budget for the whole union without local input.
 8. There will be an initial fee of \$200 per man. The TUFCO directors set initiation fees and dues arbitrarily at any time.
 9. The TUFCO Constitution doesn't allow referendums or votes by the members.
 10. The TUFCO Constitution can only be amended by the Directors.
 11. The original members control the organization forever.
7. The TUFCO annual budget is proposed by the Directors based on input from the locals and regional business agents. The proposed budget must then be approved by the Union Board (a congress made up of the chief stewards of all the locals). The monies allocated to each region and each local are then spent as determined by the regional board and the locals.
(Article XV page 32 and 33)
 8. The dues and initiation (if any) are set by the regular TUFCO Union Budget Process. No initiation fee is required.
(Article XV page 32 and 33)

The initiation fee is your dues. The current union budget guarantees your dues structure will not exceed Council 82's current dues structure.
 9. The TUFCO Union Constitution provides referendums by the membership for statewide elections, amendments, etc.
(Article XVI pages 34 and 35)
 10. The Directors may propose amendments but the regular or special conventions must approve the amendment by majority vote. The membership at large then may approve the amendment by majority vote.
(Article XVII page 35)
 11. Once TUFCO Union is certified as a bargaining agent, it is constitutionally required to admit all members of the bargaining unit. The directors may admit members sooner.
(Article XVIII page 36 and 37)

AS ANYONE CAN CLEARLY SEE, COUNCIL 82 MUST BE DETERMINED TO INTENTIONALLY DISTORT THE LANGUAGE OF THE TUFCO UNION CONSTITUTION.

NOTE: Council 82 is circulating what they claim to be copies of the TUFCO Union Constitution. As of this date, we are unable to determine whether the material they are handing out is accurate or authentic. All references to Articles and page numbers shown above have been authenticated with our General Counsel in Albany.

TO: N.Y.S CORRECTION OFFICERS
COUNCIL 82
TUFCO



FROM: JOHN BORDI, CORRECTION OFFICER

There is the old saying "two heads are better than one", but there may be situations that require yet another solution to a set of problems. Such a case in point is the existing infrastructure of support systems and services for New York State Correction Officers: AFL-CIO, TUFCO, and COBA. Lets examine these support systems under a central theme - NEW YORK STATE CORRECTION OFFICERS.

The time has come for the realization of two basic facts that are all-to-often ignored, but are pivotal to the solutions sought after by AFL-CIO, TUFCO, and COBA.

New York State Correction Officers contribute \$500,000.00 a half million dollars each and every single year to the coffers of the AFL-CIO in Washington D.C. and for 99% of the time - each and every single year do we, the Correction Officers of New York State, ever see a penny of it, use it directly, or even control what is done with these funds; let alone the sheer interest collected and invested.

That any politician, in any state, that received such a return of such huge amounts of monies would certainly face a sound defeat in a election recall with horrific press coverage and demands for investigations for years.

And what are the Correction Officers of this fine state doing? Adding yet another union? Why add something that already exists when consolidation of present state support services and withdrawal from national albatross could perhaps create the finest lobbying force possible for ourselves. Please - ponder with me and think of the possibilities - let alone of the ramifications.

The current negotiating rules and regulation procedures that should keep the administration and officers in synchronization do exist, but are all-too-often ignored and not properly forced into a strong negotiating perspective for the correction officer. The AFL-CIO, (AFSCME, COUNCIL 82) in Albany has, at times, certainly displayed the expertise, but nowadays lacks the necessary luster because Correction Officers are but a part of their organizational structure. On the other hand, the TUFCO and COBA organizations possess all of the necessary motivation and drive but lack in experience and funding.

An evident answer now begins to appear on the horizon for the New York State Correction Officer. Why send half a million dollars, per year, out of state when we can correctly unionize and organize ourselves, fund ourselves hire the finest staff available from these existing support services, and really get matters accomplished for ourselves. Does anyone seriously believe that we couldn't hire, with \$500,000.00 per year, the best bargaining organization specifically targeted for NEW YORK STATE CORRECTION OFFICERS?

Or should we continue to send half a million dollars per year to the bureaucratic jungle that does not meet our concerns full time - only needing our money constantly and probably weakening our present structure with two unions vying at each others throats rather than our issues and concerns?

The solution will take hard work, organizational motivation and money. Ninety percent of all such union efforts start with only the hard work and organizational motivation.

Why do I suddenly feel so stupid?

7-30-84
cc: F. Benedetto
H. Chase
J. Puma
J. Mann
S. Funtauzzo
JWB:RC

John Bordi



Tufco

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
50 WOLF ROAD
ALBANY, NEW YORK 12205

September 19, 1984

RE: Case No. C-2825
State of New York

Richard R. Rowley, Esq.
Rowley, Forrest & O'Donnell
90 State Street
Albany, NY 12207

Dear Mr. Rowley:

This will confirm that a document entitled "Constitution of The Union of Federated Correction Officers", constituting Exhibit D to the petition in Case No. C-2825, was served on you on or about September 6, 1984.

Very truly yours,

Kenneth J. Toomey
Administrative Law Judge

KJT/ml

Tufco

Constitution Of
The Union Of Federated Correction Officers

ARTICLE I

-Name-

The name of this union shall be The Union of Federated Correction Officers, herein referred to as the "union."

ARTICLE II

-Jurisdiction-

The jurisdiction of the union shall embrace the entire "Security Services Unit" (law enforcement and security personnel) personnel employed by the State of New York including but not limited to correction officers under the rank of Captain, Capital Police, Park Police, building guards, environmental conservation officers, forest rangers, security staff at State University and mental hygiene facilities as well as such other public employees employed in the State of New York as the Executive Board of Directors may determine.

Exhibit D

ARTICLE III

-Objects-

The objects of this union shall be:

- (a) To unite into one labor organization all workers eligible for membership, regardless of religion, race, creed, color, national origin, sex, or age.
- (b) To engage in organizing workers and to provide services and benefits to those who are organized.
- (c) To secure as its primary purpose improved wages, hours, working conditions and other economic advantages through lawful organization, negotiation, and collective action.
- (d) To provide educational advancement and training for workers.
- (e) To receive, manage, invest, expend, or otherwise use the funds and property of this organization to carry out the duties and to achieve the objectives set forth in this constitution and for such additional purposes and objectives not inconsistent therewith as will further the interests of this local and its members, directly or indirectly.

ARTICLE IV

-Principal Office-

(a) The principal office of this union shall be located in the City of Hudson Falls, County of Washington, State of New York, or at such other place as the Executive Board of Directors may designate. The Union may have such other suboffices either within or without the State of New York as the Executive Board of Directors may require from time to time.

(b) All books, records, and financial documents shall be kept at the principal office of the union.

ARTICLE V

-Government-

The structure of authority of the union shall be as follows and in the order listed:

- (a) The convention.
- (b) The Executive Board of Directors (a/k/a the Executive Board).
- (c) The Regional Executives.
- (d) The Union Board.
- (e) The Regional Boards and Associate Regional Board.
- (f) The Business Agents.
- (g) The locals.

ARTICLE VI

-Conventions-

(a) Authority. The convention of the union shall be its highest governing body. It shall have full power to make all decisions affecting the union, its members, and its locals.

(b) Time of meeting. The union shall meet in regular convention every two years in the month of December. At least three months in advance, the Executive Board of Directors shall determine where and when the convention shall meet.

(c) Composition of convention. The convention shall consist of delegates elected in accordance with this constitution.

(d) Eligibility of the local. A local is entitled to send delegates to the convention if it has been chartered by the union for at least three months before the convention opens, and if it has paid in full all its per capita taxes, assessments, loans, and other liabilities owing to the union on the first day of the month preceding the convention, unless any such payment has been waived for good cause for this purpose by a convention of the Executive Board of Directors.

(e) Number of delegates. Each local shall have two delegates and one additional delegate for every 100 members or major fraction thereof. The average numbers of members in good standing in the local during the last six months of the calendar year immediately preceding the convention shall be the basis for determining the number of delegates for each local.

(f) Alternate delegates. If a delegate fails to serve, dies, resigns, becomes disabled, or is otherwise disqualified as a delegate, his place shall be taken by the elected alternate.

(g) Credential committee. A credential committee shall be appointed by the Executive Board of Directors at its last meeting before the convention opens but not less than 90 days before it opens. The committee shall have at least three members. Each delegate must present to the committee his credentials signed by the chief steward of his local and under seal of the union. The committee shall meet at least 60 days before the convention opens. It shall examine each delegate's credentials and membership standing. It shall report to the convention its findings on the right of each delegate to be seated at the convention under this constitution. The convention shall by a majority vote pass on the right of each delegate to a seat at the convention.

(h) Rules or procedure. Each convention may adopt rules for the conduct of its business not in conflict with this constitution.

(i) Quorum. A quorum for the transaction of business at a convention shall be 50% of the delegates accredited to the convention.

(j) The first convention shall be in December, 1985 and every second year thereafter. The convention shall, by majority vote of those members present, have the power to do the following:

- (1) pass resolutions which are not inconsistent with the structure of this Charter and By-laws.
- (2) Approve amendments to this Constitution.
- (3) Set matters of union policy which shall be carried out by the officers of the union.

(k) The convention shall not elect officers or any other union office holders. The election of officers will be a power retained by the members themselves as detailed in other sections of this Constitution.

(1) The president of the union, or if he be absent, the secretary-treasurer shall preside over the convention. The president shall have the power to appoint committees and chairman of such committees.

(m) Special conventions. A special convention of the union may be called by a majority vote of the Executive Board of Directors or by a referendum vote of the membership. Such referendum vote must be initiated by the written request of at least two-thirds of the locals in good standing. In the case of such a referendum vote, if at least two-thirds of the total membership of the union votes in such referendum and a majority of those voting are in favor of calling a special convention, the Executive Board of Directors shall, no later than 90 days after all the votes are counted, issue a call for a special convention.

(1) At least 30 days before a special convention opens, the Executive Board of Directors shall announce where and when it will meet.

(2) The delegates to the last regular convention who are still eligible to be delegates under this Constitution shall be the delegates to the special convention.

(3) The members of the credential committee of the last regular convention who are still eligible to be delegates shall function as the credential committee of the special convention.

(4) Unless otherwise provided in this article, each of the provisions of this constitution dealing with regular conventions shall apply to special conventions.

ARTICLE VII

-Executive Board of Directors-

(a) Composition. There shall be an Executive Board of Directors composed of six members. Membership shall include the union president, secretary-treasurer, three vice-presidents, and an additional associate vice-president who shall not be a corrections officer.

(b) Powers and duties. The Executive Board of Directors shall have general supervision over the affairs and properties of the union. Between conventions it shall be the supreme governing body of the union. It shall have all powers necessary or appropriate to effectuate the powers granted to it by the constitution.

(1) The Executive Board of Directors shall have the power to authorize the expenditure of the funds or the use of the property of the union for the effectuation of any of the objects of the union: the borrowing of money and the pledging of property or securities of the union as security therefor; the making of guarantees; the buying, selling, exchanging, renting, leasing or otherwise acquiring or disposing of real or personal property; and the investment of the funds or properties of the union.

(2) A majority of the members of the Executive Board of Directors shall constitute a quorum for the transaction of business at any meeting and all decisions of the board shall be by the concurring vote of a majority of all its members. The Executive Board of Directors may take action, without meeting, by the written approval of a majority of its members, after notice to all its members of the question to be decided.

(3) By majority vote the Executive Board of Directors shall elect a successor to any officer who is unable to complete his term of office due to resignation, death, or disability. Said successor shall serve out the term of the departing officer.

(4) The Executive Board of Directors may elect or authorize the president to appoint from among its members such committees, and delegate to them such functions and powers, as it deems desirable.

(5) The Executive Board of Directors shall present a report of its activities to each convention for approval.

ARTICLE VIII

-Officers-

(a) Union officers. The officers of the union shall be the president, secretary-treasurer, three vice-presidents, and the associate vice-president. The original officers shall be elected

by the original members, and shall serve until the election to be held in December, 1988. All subsequent terms of office shall be of thirty-six months in duration, and until their successors are elected and assume office. Any officer may run for reelection to his office.

(b) Qualifications. Except in the case of the original officers, no person shall be eligible for nomination or election as an officer or vice-president unless, for not less than one year immediately preceding the date of his nomination, he has been a member of the union in good standing or employed by it, by one of its locals, by an organization with which it is affiliated, or in its jurisdiction; provided that the Executive Board of Directors may suspend these requirements in the case of any candidate who was a member of another labor organization that has affiliated itself with and become a part of the union within such one year period.

(c) Election. The president, secretary-treasurer, and three vice-presidents shall be elected by plurality vote of the members who are eligible to vote in the officer election. The associate vice-president shall be elected by the Associate Regional Board.

(1) The first regular election shall be held on December 1, 1988 before the union convention.

(2) Any incumbent office holder, (whether elected or appointed), shall have his name on the ballot automatically. He must give notice to the union's certified public accountant if he should seek reelection at least 60 days before the election. Any member who meets the qualifications specified herein may run for union office if he first presents a petition with the valid signatures of two hundred union members in good standing at least 90 days prior to the election date. The petitions shall be reviewed and validated or rejected by the union's certified public accountant within 10 days of the petitions presentation at union headquarters.

(3) Not less than 60 days before the election, the union's certified public accountant shall post the names of the candidates for each office.

(4) A list of eligible voters will be sent to each local by the union's Executive Board of Directors at least 20 days prior to the election. A member will be eligible to vote if he was a member in good standing in the union 90 days prior to the election.

(5) On the appointed election date, the local's chief steward will supervise the collection of secret ballots. He shall request the signature of each voting member, collect the ballots and deposit them in a sealed container for transport to union headquarters within 48 hours of the end of voting hours.

(6) The ballots will be counted at union headquarters by the union's certified public accountant. The results of the election will be posted by the certified public accountant not less than 3 days after all ballot containers have been received at union headquarters.

(d) The associate vice-president will not be elected by the membership as specified under the procedure outlined in this article. He will be elected by a plurality vote of those members of the Associate Regional Board who are present and voting. The Associate Regional Board consists of the chief stewards of all locals other than corrections. A meeting of the Associate Regional Board will be called one week prior to the general election. The Associate Regional Board members shall nominate candidates (said nominations must be seconded by at least three Associate Regional Board members) and the Associate Regional Board members will then elect the associate vice-president by plurality vote.

(e) The Executive Board of Directors may provide a procedure for members to vote by mail on official voting forms. Balloting by mail may be utilized in addition to polling at a facility, or instead of onsite polling at the Boards discretion. If both methods are used, a common counting date must be utilized.

(f) Vacancies. A vacancy in the office of any officer or vice-president may be filled by a qualified person elected by the Executive Board of Directors who shall hold office until his successor is elected at the next regular election and assumes office.

(g) Powers and duties of president. The president shall be the principal executive officer of the union. His powers and duties shall include the following:

(1) The president shall preside at conventions and at meetings of the Executive Board of Directors. He shall convene meetings of the Executive Board of Directors at least four times a year, and at any time on the request of not less than 50% of the members of the Executive Board of Directors.

(2) The president may call and attend meetings of locals and their boards and committees.

(3) The president may employ and discharge such representatives (subject to the approval of the Executive Board of Directors) organizers, attorneys, lobbyists, administrative, technical and other employees as may be required. He shall fix the salaries of all persons employed by him.

(4) The president shall appoint committees where empowered to do so by the Executive Board of Directors, or where otherwise provided for by this constitution.

(5) The president shall have such further powers, in addition to those herein enumerated, as are usual to his office. He may delegate any of his powers and duties under this constitution, subject to disapproval by the Executive Board of Directors.

(6) The president shall make a report of his activities to each convention and to each meeting of the Executive Board of Directors for approval.

(7) The president shall receive such compensation as shall be set by the Executive Board of Directors.

(h) Powers and duties of secretary-treasurer. The secretary-treasurer shall have the following powers and duties:

(1) The secretary-treasurer shall act as secretary of conventions and of meetings of the Executive Board of Directors and shall keep a record of their proceedings. He shall have custody of the seal of the union and of all its books, records, and papers.

(2) The secretary-treasurer shall keep accurate accounts of all financial transactions of the union, receive all funds due it, and deposit such funds in its name in depositories or invest them in securities authorized by the Executive Board of Directors. He shall cause such accounts to be audited annually by an independent certified public accountant approved by the Executive Board of Directors and a

report thereof to be made to the membership annually. He shall submit a financial report to the Executive Board of Directors at each meeting thereof and to each convention. He shall instruct locals as to the manner in which they shall keep accounts of their financial transactions, and may require them to submit to him written reports containing such information in such form as he may prescribe.

(3) The secretary-treasurer may issue charters to locals when signed by the president and countersigned by him, subject to the disapproval of the Executive Board of Directors. He shall report to each meeting of the Executive Board of Directors the applications for charters received by him since its last meeting and the action, if any, taken thereon.

(4) The secretary-treasurer, with the approval of the Executive Board of Directors, shall make appropriate regulations relating to the reimbursement of expenses or other obligations incurred by officers or representatives of the union in the performance of their duties.

(5) The secretary-treasurer shall have such further powers, in addition to those herein enumerated, as are usual to his office, and may delegate any of his powers and duties under this constitution, subject to disapproval by the Executive Board of Directors. He may also serve as a Regional Executive and will exercise the powers and authority of that office as described elsewhere in this document.

(6) The secretary-treasurer may give bond in such amount and executed by such surety company as may be determined by the Executive Board of Directors. The premium on the bond shall be paid by the union.

(7) The secretary-treasurer shall receive such compensation as shall be set by the Executive Board of Directors.

(i) Powers and duties of the vice-presidents. The powers and duties of the vice-presidents shall be as follows:

(1) The vice-presidents may serve as Regional Executives as specified by the Executive Board of Directors. They will regulate the activities of the business agents in their region.

(2) They will preside over the Regional Boards, and will have the power to appoint committees and their chairman on their Regional Board.

(3) They will have such further powers as are usual to the office of vice-president and may delegate such powers and duties subject to the disapproval of the Executive Board of Directors.

(4) Their compensation shall be set by the Executive Board of Directors.

(j) The powers and duties of the associate vice-president. The powers and duties of the associate vice-president shall be as follows:

(1) He may serve as Regional Executive for the region comprising all employee locals other than corrections, and shall have all the powers and responsibilities of a Regional Executive as discussed elsewhere in this document.

(2) He will preside over the Associate Regional Board, and will have the power to appoint committees and their chairman on the Associate Regional Board.

(3) He will have such further powers as are usual to the office of vice-president and may delegate such powers and duties subject to the disapproval of the Executive Board of Directors.

(4) His compensation shall be set by the Executive Board of Directors.

ARTICLE IX

-The Regional Executives-

(a) Composition. The Executive Board of Directors shall divide the State into five geographic regions. Each region shall have a Regional Executive appointed by the Executive Board of Directors by majority vote of the Board. A member of the Executive Board of Directors may also serve as a Regional Executive.

(b) Powers and duties. The Regional Executive shall supervise the Regional Board of his geographic region, the Business Agents in his region, and the locals in his region.

(1) The Business Agent of that region will report directly to the Regional Executive.

(2) The Regional Executive will preside over the Regional Board and will have the power to appoint committees and their chairman on the Regional Board.

(3) Prior to its submission to the Regional Board, the Regional Executive will review the proposed regional budget prepared by the Business Agent.

(4) The Regional Executive shall have such other powers and responsibilities as may be determined by the Executive Board of Directors.

ARTICLE X

-Business Agents-

(a) Powers of the Business Agents. The powers of the business agents will be as follows:

(1) The business agent will represent the union on local matters which are not within the scope of the local stewards. He will be directly responsible to his Regional Executive. Each local's chief steward in that region will be responsible to the business agent in that region.

(2) There will be one business agent in each region, and as many assistant business agents as the Executive Board of Directors may decide. The business agent need not be a member of the union. Each business agent shall be hired or fired by the majority vote of the Executive Board of Directors.

(3) The business agent will propose a regional budget and present it to the Regional Board for approval.

(4) The business agent will attend all Regional Board meetings as a non-voting member.

(5) He will have such further powers as are usual to the office of business agent and may delegate such powers and duties subject to the disapproval of the Executive Board of Directors.

(6) His compensation shall be set by the Executive Board of Directors.

ARTICLE XI

-Locals-

(a) Formation. The membership of the union shall be organized into locals as certified by the Executive Board of Directors. One hundred or more workers who are members of, or eligible for membership in the union may apply for a charter as a local and on receipt of a charter shall constitute a local. There will be no more than one local at each corrections facility. Correction sergeants and lieutenants shall each have their own state wide local. Capital police, park police,

building guards, environmental conservation officers, forest rangers, state university security staff, mental hygiene security staff, and any other non-correction employee group shall each have their own state wide locals.

(b) Application and fee. Applications for charters shall be made to the secretary-treasurer. They shall be accompanied by the share of the initiation fee of each new member provided elsewhere in this constitution. On approval of the application by the general officers, a duly executed charter, containing such provisions as the Executive Board of Directors may prescribe, shall be delivered to the applicants, together with such other initial supplies as may be necessary.

(c) Powers and duties. A local shall carry out objectives, policies, and decisions of the union. A local shall organize and recruit members for it and the union, publicize benefits offered by the union and do other acts consistent with this constitution.

(d) Local bylaws. Subject to the continuing approval of the Executive Board of Directors, each local shall adopt bylaws for its government. These bylaws shall not be inconsistent with the provisions of this constitution. Such bylaws for each local subject to the continuing approval of the Executive Board of Directors, shall provide, among other things, for regular periodic meetings. In the event of a

conflict between the bylaws of the local and this constitution, this constitution shall be controlling.

(e) Dissolution, merger, or reorganization of local. The Executive Board of Directors may consolidate two or more locals or may reorganize or dissolve any local or may amend the charter or jurisdiction of any local.

(f) Local officers. Each local shall elect the following officers once a year by plurality vote except for the assistant stewards who shall be appointed:

- (1) a chief steward
- (2) a shift steward for each shift
(at least three in number)
- (3) a steward at large
- (4) assistants to serve in the absence of
each officer listed above
(one assistant per office)

The chief steward will be the chief union representative at the local level. He will be responsible for coordinating the activities of the other stewards, and assistant stewards. He will be the primary spokesman for the local and will coordinate the grievances of his local in their initial phases. The chief steward shall serve as a member of the Regional Board and the Union Board. He will be the liaison between the local and that region's business agent. He will preside at the meetings of the local.

The shift stewards shall be available for membership contact, and shall bring grievances to the attention of the chief steward, and shall perform such other services as the chief steward shall dictate.

The steward at large will have the same rights and responsibilities as shift stewards. He shall be available to members for consultation in addition to the shift stewards. His presence will help to ensure adequate representation for the members at all times.

Each steward shall have an assistant steward appointed to serve in his absence. (If a steward is present at the facility, he must serve in his capacity as steward.) The chief steward shall appoint the assistant chief steward. Nominations for the other assistant steward positions will be made by the chief steward. The assistant stewards will then be elected by majority vote of the chief steward, shift stewards and steward at large. In the event of a tie vote, the chief steward shall appoint the assistant steward in question.

No person shall be eligible for office in any local unless he has been a member in good standing of such local for at least one year; provided that a member of a local that has been chartered by or affiliated with the union for less than one year shall be eligible for office if he has been a member in good standing of such local from the date of its charter or affiliation and for at least one year pre-

ceding the date of his nomination he has been employed in a trade or industry within the jurisdiction of the union or is employed by the union or one of its locals or by an organization with which it is affiliated.

The other powers and duties of the officers of the local shall be as provided in local bylaws.

ARTICLE XII

-The Union Board-

The Union Board will be comprised of the chief stewards of each local. The Union Board will meet at least once a year at such time and place as designated by the Executive Board of Directors.

(1) The president of the union will preside over the meetings of the Union Board. He shall cast the deciding vote in event of a tie vote on any matter. He shall appoint committees and committee chairman. He may appoint another union officer to preside over the meetings of the Union Board in his absence.

(2) The Union Board's primary purpose is to review and ratify a budget for the union. The secretary-treasurer of the union shall present a proposed budget to the Executive Board of Directors for their approval by majority vote. The adopted proposed budget will then be submitted to the Union Board for ratification. Amendments may be allowed on the floor. The final version of the budget shall be adopted by majority vote of the Union Board who are present and

voting. The business agent in each region will be sent a notification of the money allocated to his region so that he can prepare his proposed regional budget for his region.

If for some reason a new annual budget is not approved on time, the previous year's budget shall be operative until the new budget is finally adopted.

(3) The Union Board may pass nonbinding resolutions on any other union issue for consideration by the Executive Board of Directors. These resolutions will be advisory only.

ARTICLE XIII

-The Regional Board-

The Regional Board will be comprised of the chief stewards of each local. The Regional Board will meet at least once a year at such time and place as designated by the Regional Executive of that region.

(1) The Regional Executive of the Region will preside over the meetings of the Regional Board. He shall cast the deciding vote in event of a tie vote on any matter. He shall appoint committees and committee chairman. He may appoint another union officer to preside over the meetings of the Regional Board in his absence.

(2) The Regional Board's primary purpose is to review and ratify a budget for the Region. The secretary-treasurer of the union shall present a proposed budget to the Executive Board of Directors for their approval by majority vote. The adopted proposed budget will then be submitted to the Union Board for ratification. Amendments may be allowed on the floor. The final version of the budget shall be adopted by majority vote of the Union Board who are present and voting. The business agent in each region will be sent a notification of the money allocated to his region so that he can prepare his proposed regional budget for his Regional Board. The Regional Board will then consider the proposed Regional budget and accept or amend it by majority vote. The final Regional Budget may not exceed the total dollar allocation made to that region in the Union Budget.

If for some reason a new annual Regional Budget is not approved on time, the previous year's Regional Budget shall be operative until the new budget is finally adopted.

(3) The Regional Board may pass nonbinding resolutions on any other union issue for consideration by the Regional Executive. These resolutions will be advisory only.

(4) The Associate Regional Board shall consist of all chief stewards other than corrections, and shall have all the powers and responsibilities of a Regional Board except that the Associate Regional Board will concern itself exclusively with the affairs of the noncorrection's personnel within the Securities Unit. In addition, the Associate Regional Board shall nominate and elect the Associate Vice President of the union by plurality vote.

ARTICLE XIV

-Membership-

(a) Eligibility. Any person of good character shall be eligible for membership in the union and its locals provided he is employed within the jurisdiction thereof. Also, any employee of the union itself may become a member of the union. No member or applicant for membership in the union or in any local thereof shall be in any manner discriminated against because of race, creed, color, national origin, sex, or age.

(b) Application. Any person meeting the eligibility requirements set forth above may obtain membership by the signing of the membership application, the payment of the local's initiation fee, and taking the membership oath as administered by an officer or signing the membership oath in writing. Candidates must join the local having jurisdiction over them. Where the number of employees in any locality is insufficient to form a local, they must belong to the nearest local in which their dues and assessments then become payable, and their membership rights and privileges shall be the same as the other members of that local.

(c) Oath. After having successfully met the application requirements, candidates shall be required to assume the following obligation either in writing or by repeating it when read to them by the presiding officer of the meeting in which they are initiated:

"I, (name), solemnly promise to maintain the constitution of The Union Of Federated Correction Officers and the bylaws of this local or any other local with which I may become affiliated, as they are now constituted or may later be changed. I promise to maintain the dignity of this organization and to further its objectives."

(d) Duties. Membership in the union constitutes an acceptance by each member to be bound by the provisions of the constitution, the oath of membership, and the law, policies and directives of the union and the locals. Membership in the union constitutes a designation of the union by each member to engage in collective bargaining on his behalf, and an undertaking to be bound by all the sessions of the union affecting his status and duties as a union member.

(e) Dues obligations. Dues shall be paid commencing with the month in which application for membership is made. Dues and assessments for each calendar month must be paid on or before the first day of the calendar month in order to avoid delinquency. When payable only at meetings, members shall be in arrears a full month if payment is not made at the last meeting of the month. No dues shall be accepted by locals unless all outstanding assessments uniformly required have first been paid in full by the member.

(f) Suspension, expulsion, and other penalties for dues delinquency. As soon as a member becomes delinquent in his duties, he becomes immediately subject to the following:

(1) Members in arrears with dues and/or assessments more than two months shall be suspended by the local to which they belong as well as by the union. Suspension shall mean loss of all local and union privileges and benefits and of all rights to participate in local proceedings.

(2) Members may be expelled for being in arrears with their regular dues or any assessment more than four months, provided that they shall have received notice of their delinquency at least ten days prior to the expulsion.

(g) Reinstatement of expelled members. Any member who has permitted his membership in the union or any local to terminate for any reason or who has been expelled shall, on rejoining, comply with all conditions set forth in this constitution covering admissions of new members and shall pay a new initiation fee and in addition thereto a readmission fee to be set by the Executive Board of Directors to be remitted by the local to the union together with the application and registration fees. Nothing contained in this subparagraph (g) shall be deemed to require the local or the union to forgive any dues, fines, or assessments arising out of his previous period of membership.

In any case, for cause shown and with the approval of the local and the president of the union, any of the requirements of this article may be waived.

(h) Withdrawal cards. Any member who has been in good standing for the preceding six months may apply to the Executive Board of Directors of his local for a withdrawal card. On establishing to its satisfaction that he has ceased to be employed within the jurisdiction of the union, a withdrawal card shall be issued to him on surrender of his membership book or card. The withdrawing member shall thereupon lose all the rights and privileges of membership and shall be exempt from the payment of dues and assessments falling due during the period of his withdrawal. A member so withdrawing, if eligible for membership, may apply for readmission within one year from the date of his withdrawal and, if readmitted, shall not be required to pay an initiation fee. A member so withdrawing who applies for readmission after one year from the date of his withdrawal shall be considered as a new applicant.

(i) A member may be expelled from the union for Dual Unionism, for taking actions which are contrary to the welfare of the union or if he be convicted of a Felony. Such proceedings will be conducted by the Executive Board of Directors.

ARTICLE XV

-Revenue-

(a) Initiation fees. The initiation fee for membership in the union shall be such sum as may be fixed by the Executive Board of Directors and the Union Budget. Each local shall pay to the union an annual fee as specified by the Executive Board of Directors and the Union Budget.

(b) Dues. Subject to the approval of the officers and the Executive Board of Directors, each local shall have the power to fix the dues of its members, which shall be payable in advance or more often.

(c) Per capita tax. Each local shall pay to the secretary-treasurer of the union an annual per capita tax to be set by the Executive Board of Directors and the Union Budget.

(d) Assessments. The Executive Board of Directors shall have the power to require special assessments in addition to per capita payments.

The Executive Board of Directors of any local shall also have the power to provide assessments on the members within its jurisdiction, provided that the purpose, amount, and methods of payment of such assessments receive the prior approval of the general officers and provided further that such assessments are then approved by a majority of the members voting, in the manner required by law, among the members subject to such assessments in a meeting or meetings called pursuant to notice for such purpose.

(e) Application of revenue. Moneys received by the union in payment of assessments or per capita tax shall be credited first to the payment of any assessment then due and unpaid, and the balance to the payment of per capita taxes.

(f) Stamps and receipts; dues books and cards. The payment of dues and assessments by members shall be evidenced by appropriate stamps, issued by the secretary-treasurer, which shall be affixed to the dues book or card of each member. No local shall collect dues or assessments without issuing stamps as receipts therefor. No local shall have the power to print or use its own stamps for such purpose.

(g) Suspension or expulsion of local for nonpayment. The Executive Board of Directors may suspend any local union that fails to pay any per capita tax or assessment to the union within two months after the same is due. In the event that any local fails to pay such per capita tax or assessment within four months after it is due, the general Executive Board of Directors may expel such local from the union. No local shall be entitled to representation or other rights or benefits in the union during the period of its suspension.

(h) Inspection of books and records. On demand therefor by an officer or the Executive Board of Directors of the union, the officers of a local shall produce or cause to be produced forthwith at a place designated by him or it, all the books and records of such local, or

subject to the control of such local, before such general officer, the Executive Board of Directors, or such other person as he or it may designate, for examination and audit.

(i) The budget process. At least 90 days prior to the end of each fiscal year of the union, the business agent in each region will prepare a proposed regional budget to the secretary-treasurer dealing with the next fiscal year.

(1) The secretary-treasurer shall prepare a proposed budget for the entire union for the next fiscal year at least 30 days before the beginning of the new fiscal year. The proposed budget shall be submitted to the Executive Board of Directors who shall review the budget. A final proposed budget shall be adopted by majority vote of the Executive Board of Directors, and submitted to the union board for ratification, at least 15 days before the end of the next fiscal year.

(2) The secretary-treasurer shall present the final proposed budget to the union board. Amendments shall be allowed on the floor. The final proposed budget (as originally offered or as amended) shall become the budget for the next fiscal year upon the approval of the majority of the union board who are present and voting.

(3) The business agent in each region will be sent a copy of the union budget, as well as the basic budget for his region. The business agent will then present his proposed regional budget which

adds any additional detail or specifics that the regional board may adopt but only within the framework of the union budget. The proposed regional budget (as originally submitted or as amended) will become the regional budget for the next fiscal year upon the approval of the majority of the members of the regional board who are present and voting.

(4) As the locals incur bills, the bills will be forwarded to the business agent in that region. The business agent and regional executive of that region will forward the bills to the secretary-treasurer with a recommendation as to payment. The secretary-treasurer will make the final decision on payment, and will authorize payment to be made directly from the union headquarters.

(5) In the event of impasse on any budget vote, the previous year's budget shall be operative until a new budget is passed.

(6) The secretary-treasurer may sign checks as well as any other officer as designated by the Executive Board of Directors.

(7) Regardless of any other provision in this constitution, the union dues and other fees associated with union membership may be adjusted each fiscal year as part of the union budget without the requirements of a formal amendment to this constitution.

ARTICLE XVI

-Referendum Elections-

Whenever a referendum election is permitted or required under the provisions of this constitution, it shall be held in the manner provided by this article.

(a) Supervision. All referendum elections shall be held under the general supervision of the Executive Board of Directors.

(b) Notice; election. The secretary-treasurer of the union, shall prepare referendum ballots and transmit them, in appropriate number, to each local together with a notice of the referendum election. He shall also give notice of referendum elections to the membership. Within three days from the date of the notice of a referendum election, each local shall, after written notice sent by it to its members three days prior to the election, take a secret vote among its members at such place or places as the local in its discretion may determine. The vote shall be by ballot on the ballots prepared by the secretary-treasurer. Before any member is permitted to vote, he shall be required to identify himself as a member in good standing.

(c) Count of ballots. A board of election designated by each local shall count the ballots and forward to the secretary-treasurer of the union within two days after the election has been held, a certificate executed by it recording the result of the election, together with

all original ballots, shall be made available to the tellers' committee approved by the convention last preceding the election. The secretary-treasurer of the union shall cause the results of the election, as certified by the tellers' committee, to be published for each local separately. The secretary-treasurer shall retain the certificates recording the result of the election together with all original ballots, for the period required by law.

(d) Deciding vote. Except as otherwise provided by this constitution, all referendum elections shall be determined by a majority of the votes cast.

(d) Announcement of result. The results of each referendum election, including the vote of each local, shall be announced by the secretary-treasurer of the union within three days from the date on which the notice therefore was issued by him.

ARTICLE XVII

-Amendments-

The union's Executive Board of Directors may propose amendments to this constitution at any regular or special convention, and such proposed amendments shall become effective when adopted by the affirmative vote of a majority of the delegates seated at the convention. The Executive Board of Directors may also propose amendments to this constitution between conventions and submit them to a general

referendum election, and such proposed amendments shall become effective when approved by a majority of those voting in such referendum election.

ARTICLE XVIII

-Creation of the Organization and Original Members and Officers-

The original members of the organization met on October 1, 1983 in order to create this organization and elect the original officers. The original members of the organization are listed on Schedule A of this document. By unanimous vote, the original members elected the original officers as listed on Schedule B of this document.

All future members of the organization shall enjoy equal privileges with the original members except that only the original members were empowered to elect the original officers of the organization.

The original officers shall serve until December 1, 1988 or until new officers are elected. They may run for reelection.

The original members may adopt a Union Budget effective for October 1, 1983-September 30, 1984 by majority vote. If the original members are the only members of the union as of September, 1984, the original members may adopt a Union Budget effective for October 1, 1984-September 30, 1985. After that the standard budget adoption process will be utilized for subsequent fiscal years.

The Executive Board of Directors may by majority vote, designate a date upon which new members may be added to the original members. In no event will such date be later than the date the union is certified as Bargaining Agent under the Taylor Law. On such date, the union is automatically open to new membership.

The language of this Article shall supercede any inconsistent language, if any, in any other article.

ARTICLE XIX

-Severability-

If any provision of this constitution or the application of such provision to any officer, member, person, or circumstances shall be held invalid, the remainder of this constitution or the application of such provision to the officers, members, persons, or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

ARTICLE XX

-Effective Date-

This constitution shall take effect on October 1, 1983.

Signed this 1st day of October, 1983.

Dominic T. Galante

Martin L. Daffin

Tom J. Jossue

Kevin D. Casey

James P. Morrissey

Original Officers:

Dominic T. Galante

Martin L. Daffin

Tom J. Jossue

Kevin D. Casey

James P. Morrissey

SCHEDULE A
Original Members

Dennis Fitzpatrick

Bruce Farrell

Kevin Casey

Marion Dantzler

James Morrissey

SCHEDULE B

Original Officers and
Executive Board of Directors

Dennis Fitzpatrick	President
Bruce Farrell	Vice President
Kevin Casey	Vice President
Marion Dantzler	Vice President
James Morrissey	Secretary-Treasurer
	Associate Vice President

JEFFREY H. BROZYNA
ATTORNEY AT LAW
313 WASHINGTON AVE
ALBANY, NEW YORK 12206

PHONE 518-465-3352

March 2, 1984

State Of New York
Office Of The Attorney General
Charitable Foundations Division
Two World Trade Center
New York, New York 10047

Re: The Union Of Ferderated Correction Officers
Filing of Form NYCF-1

Gentlemen:

Please find enclosed Form NYCF-1 as well as a conformed
copy of our Union Constitution for your records.

Very truly yours,

Jeffrey H. Brozyna

Jeffrey H. Brozyna, Esq.

JHB/ns
Encs.

Exhibit D

P 442 572 464

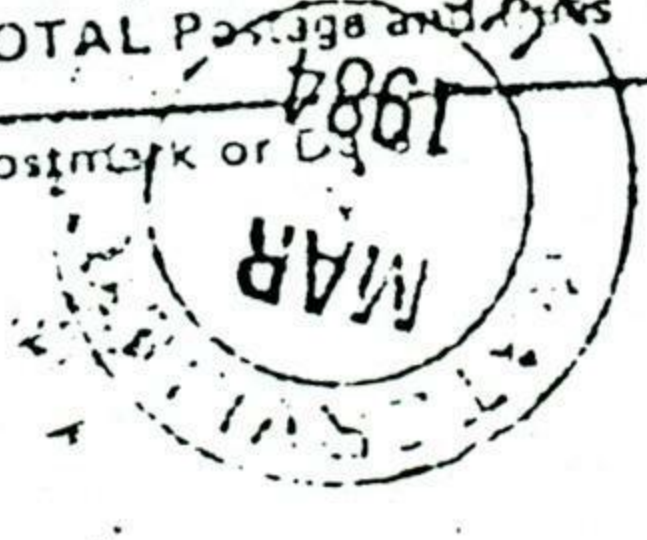
RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

TUPCO
Union
for NYCE-1
Construction

Sent to State of New York	
Office of the Attorney General	
Street and No. Charitable Foundations Div. 200	
Two World Trade Center	
P.O., State and ZIP Code	
New York, New York 10047	
Postage	\$ 139
Certified Fee	75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	60
Return Receipt Showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 2.74
Postmark or Date	

PS Form 3800, Feb. 1982



STATE OF NEW YORK
 OFFICE OF THE ATTORNEY GENERAL
 CHARITABLE FOUNDATIONS DIVISION
 TWO WORLD TRADE CENTER
 NEW YORK, NEW YORK 10047

REGISTRATION OF CHARITABLE TRUST OR CHARITABLE CORPORATION

Date: March 2, 1984

1. Name of Charitable Trust or Charitable Corporation
 The Union of Federated Correction Officers
2. Mailing Address (Principal Office in this State)
 P.O. Box 310
 Hudson Falls, New York 12839
3. Established under
 - A. Will of

Admitted to probate by decree of the Surrogate's Court
 County on (date)

Court File No.

Final (intermediate) decree settling accounts of executors entered on (date)
 Last accounts of trustees settled by decree entered on (date)
 - B. Inter-vivos trust created by

Date of instrument
 Date of any amendments
 Last accounts of trustees settled by order of the Court,
 County, on (date) Court file No.
 - C. Charitable corporation
 Date of Incorporation
 - D. Other form of organization Labor Union: Unincorporated Association
4. Names, titles and addresses of trustees or corporation officers, directors, and trustees or others
 Dennis Fitzpatrick - President
 10 First Street, Hudson Falls, NY 12839

 James Morrissey - Treasurer-Secretary
 24 Fleming Street, Auburn, NY 13021

 Kevin Casey - Vice President
 R.D. #2 Burt Road, Fort Edwards, NY 12828

 Bruce Farrell - Vice President
 2 Hudson View Drive, Newburgh, NY 12550

 Marion Dantzler - Vice President
 Apartment F, 325 East 106th Street
 New York, NY 10029
5. Documents required to be attached: (Check appropriate box showing attachment)
 - A. By executor: copies of will codicils decree admitting will to probate and decree settling last prior accounts of executors .
 - B. By testamentary trustee: copies of will codicils and decree settling last prior accounts of trustees .
 - C. By inter-vivos trustees: copies of trust instrument and any amendments thereto and of last prior order settling accounts of trustees .
 - D. By corporate directors: copies of certificate of incorporation and amendments thereto . If corporation was created pursuant to directions in a will or other instrument, please annex a copy thereof .
 - E. By other form of organization: copies of agreement or other governing instrument . Unincorporated Association - Union Constitution attached.

6. Description and book value of assets and liabilities or attach copy of last balance sheet.

Organization has just started doing business. Financial statement will be provided upon completion.

7. Has any governmental agency, including the United States Internal Revenue Service, determined that the organization is tax exempt? Yes No

If answer is "Yes" give the following information pending

NAME	CITY	STATE	LAW	SECTION	DATE OF DETERMINATION		
					MONTH	DAY	YEAR
Internal Revenue Service	Andover	Mass.	Internal Revenue Code	501c(5)	pending		

8. Has tax exemption been denied or cancelled by any governmental agency? Yes No

If answer is "Yes" give complete information

Not applicable

9. Date fiscal year ends

September
Month

30th
Day

CERTIFICATION

WE CERTIFY THAT THE INFORMATION FURNISHED IN THIS STATEMENT AND ALL ATTACHED DOCUMENTS IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

Name	Title	Date Signed
<i>James Fitzpatrick</i>	President	October 1, 1983
<i>James J. Marissey</i>	Treasurer-Secretary	October 1, 1983
<i>Chris J. Farrell</i>	Vice President	October 1, 1983

AMENDMENTS TO THE CONSTITUTION OF
THE UNION OF FEDERATED CORRECTION OFFICERS

AMENDMENT I

Regardless of any other language in Article VIII of this Constitution, the audited annual report of the union may be performed by the union's certified public accountant at the discretion of the Executive Board of Directors.

AMENDEMNT II

The "steward at large" in each local (described in Article XI of this Constitution) shall also function as the Secretary-Treasurer of that local. He shall be primarily responsible for keeping the books, records and accounts of the local and shall make this information available to the Executive Board of Directors upon request and to any employees of the union as the Executive Board of Directors shall specify.

AMENDMENT III

The governing documents of any local may provide for the creation of a Board of Directors elected by the members of the local who shall exercise the rights and obligations normally assigned to the directors of a Not-For-Profit Corporation under the laws of the State of New York. If such a local Board of Directors is created, it shall have no less than three members and no more than nine members. In any case, all elected officers of the local shall continue to be elected by the members of the

locals on a one man-one vote system. Elected officers shall ~~not~~ be elected by the Board of Directors.

AMENDMENT IV

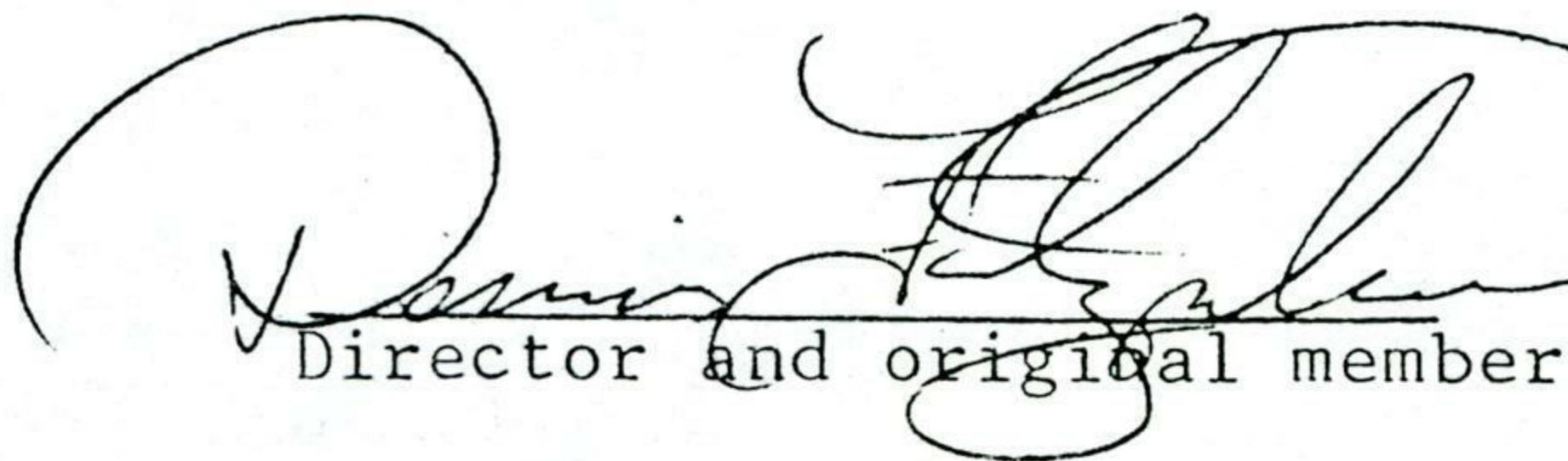
Each local may establish a petty cash account for its convenience. The size of this account shall be regulated by the Executive Board of Directors pursuant to the annual budget.

AMENDMENT V

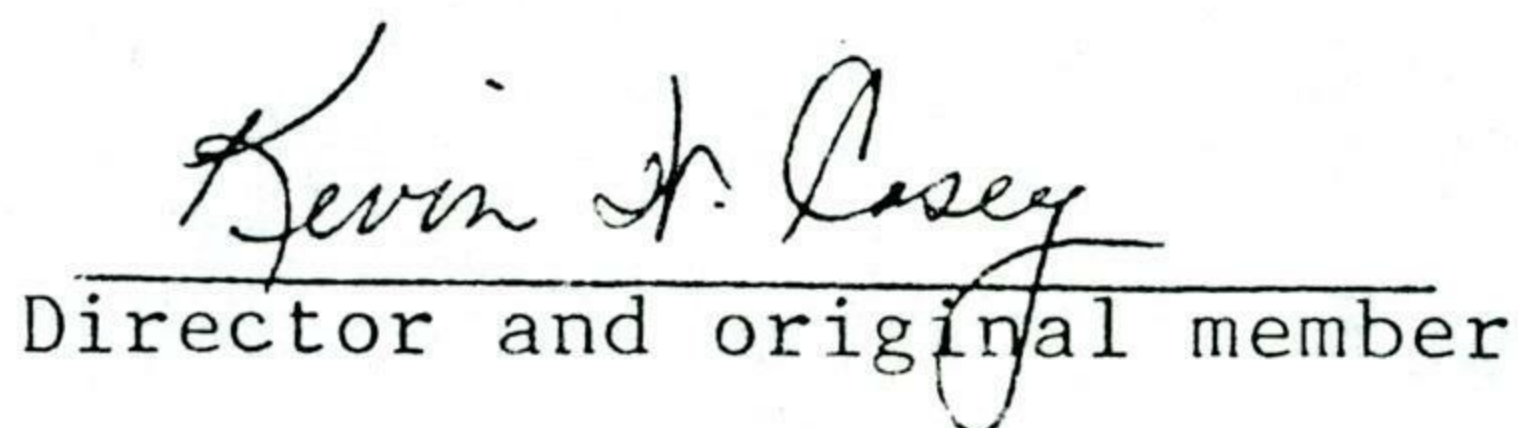
At the time that the union is certified as a collective bargaining agent for any bargaining unit by the Public Employees Relation Board, the Executive Board of Directors may appoint a temporary slate of local officers to serve each local until such time as the local can be certified by the Executive Board of Directors and a regular officer election is held by the local on a one man-one vote basis. In no event may this temporary slate of officers serve more than 90 days after the later of the date that The Union of Federated Correction Officers is certified as a bargaining agent by the Public Employee Relations Board or the date that said certification has reached a final judicial determination.

These amendments to the Constitution of The Union of Federated
Correction Officers are hereby adopted on this 17th day of June, 1984,
by unanimous vote of the Executive Board of Directors and by the
original members whose signatures appear below.


Director and original member


Director and original member


Director and original member


Director and original member


Director and original member

STATE OF NEW YORK, COUNTY OF

SS.:

AFFIDAVIT OF SERVICE BY MAIL

, being duly sworn, deposes and says: that he is over the age of 18 years; that he served the within upon the following attorney(s) at the following time(s) and place(s) in the following manner: 19

by depositing a true and correct copy of the same properly enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at directed to said Attorney(s), respectively, at said address(es), respectively mentioned above, that being the address(es) within the state designated for that purpose upon the last papers served in this action or the place where the above then resided or kept offices, according to the best information which can be conveniently obtained.

Sworn to before me, this day of 19 (PRINT NAME BELOW SIGNATURE)

Notary Public—Commissioner of Deeds

STATE OF NEW YORK, COUNTY OF

SS.:

VERIFICATION

INDIVIDUAL

read the foregoing the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. , being duly sworn, deposes and says that deponent is in the within action; that deponent has and knows the contents thereof; that

CORPORATION

the of read the foregoing named in the within action; that deponent has and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. , being duly sworn, deposes and says that deponent is the corporation

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this day of 19 (PRINT NAME BELOW SIGNATURE)

Notary Public—Commissioner of Deeds

STATE OF NEW YORK, COUNTY OF ALBANY

SS.:

ATTORNEY'S AFFIRMATION or CERTIFICATION

The undersigned, an attorney admitted to practice in the courts of New York State,

[X] Certification By Attorney certifies that the within copy has been compared by the undersigned, with the original Constitution of The Union of Federated Correction Officers and found to be a true and complete copy thereof (pursuant to Sec. 2105 CPLR).

[] Attorney's Affirmation shows: deponent is the attorney(s) of record for in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: August 28, 1984

Signature of Attorney

CONSTITUTION OF
THE UNION OF FEDERATED CORRECTION OFFICERS

Jeffrey H. Brozyna, Esq.

Office and Post Office Address
313 Washington Avenue
Albany, New York 12206
(518) 465-3352

Due and timely service of a copy of the within
Dated,
Attorney(s) for

is hereby admitted.

.....

(NOTICE OF ENTRY)

Sir:—Please take notice that the within is a true copy of a

duly entered in the office of the clerk of the within named court on , 19 .

(NOTICE OF SETTLEMENT)

Sir:—Please take notice that an order of which the within is a true copy will be presented for settlement to the
Hon. one of the judges of the within named Court,

at
on the day of 19 at M.

Dated, Yours, etc.

To

Attorney(s) for

Office and Post Office Address



STATE OF NEW YORK
 GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
 AGENCY BUILDING NO. 2
 ALBANY, NEW YORK 12223

Tufco
 COUNCIL 82
RECEIVED
 SEP 21 1984
 AFSCME AFL-CIO
 NANCY L. HODES
 EXECUTIVE DEPUTY DIRECTOR
 JOSEPH M. BRESS
 GENERAL COUNSEL

THOMAS F. HARTNETT
 DIRECTOR

September 19, 1984

Jeffrey H. Brozyna, Esq.
 Attorney at Law
 313 Washington Avenue
 Albany, New York 12206

Dear Mr. Brozyna:

Regarding your letter dated September 14, 1984 and our telephone conversation today, I have alerted the Department of Correctional Services, Labor Relations Bureau that you have complained about Council 82 distributing anti-TUFCO petitions at the Fishkill, Downstate and Ossining facilities. While you were unable to furnish me with dates, times, sites or names, such activity if performed in work locations would violate our guidelines.

The Department is looking into your allegations and Council 82, which shall receive a copy of this letter, is hereby notified that such activity if violative of our guidelines cannot be condoned.

Sincerely,

Walter J. Pellegrini
 Deputy Counsel

cc: Thomas F. Hartnett
 Joseph M. Bress
 Kevin Breen
 = ✓ John Burke
 Thomas A. Gibbs

9-24-84
copy
Dick
Hully
Frouh
JaBika

Letter to the Editor : For Publication

Tufco

TO: N.Y.S CORRECTION OFFICERS
COUNCIL 82
TUFCO

FROM: JOHN BORDI, CORRECTION OFFICER - *FISHKILL CORRECTIONAL FACILITY.*

There is the old saying "two heads are better than one", but there may be situations that require yet another solution to a set of problems. Such a case in point is the existing infrastructure of support systems and services for New York State Correction Officers: AFL-CIO, TUFCO, and COBA. Lets examine these support systems under a central theme - NEW YORK STATE CORRECTION OFFICERS.

The time has come for the realization of two basic facts that are all-too-often ignored, but are pivotal to the solutions sought after by AFL-CIO, TUFCO, and COBA.

New York State Correction Officers contribute \$500,000.00 a half million dollars each and every single year to the coffers of the AFL-CIO in Washington D.C. and for 99% of the time - each and every single year do we, the Correction Officers of New York State, ever see a penny of it, use it directly, or even control what is done with these funds; let alone the sheer interest collected and invested.

That any politician, in any state, that received such a return of such huge amounts of monies would certainly face a sound defeat in a election recall with horrific press coverage and demands for investigations for years.

And what are the Correction Officers of this fine state doing? Adding yet another union? Why add something that already exists when consolidation of present state support services and withdrawal from national albatross could perhaps create the finest lobbying force possible for ourselves. Please - ponder with me and think of the possibilities - let alone of the ramifications.

The current negotiating rules and regulation procedures that should keep the administration and officers in synchronization do exist, but are all-too-often ignored and not properly forced into a strong negotiating perspective for the correction officer. The AFL-CIO, (AFSCME, COUNCIL 82) in Albany has, at times, certainly displayed the expertise, but nowadays lacks the necessary luster because Correction Officers are but a part of their organizational structure. On the other hand, the TUFCO and COBA organizations possess all of the necessary motivation and drive but lack in experience and funding.

8-20-84
cc: H. Chase
JWB:kd

An evident answer now begins to appear on the horizon for the New York State Correction Officer. Why send half a million dollars, per year, out of state when we can correctly unionize and organize ourselves, fund ourselves hire the finest staff available from these existing support services, and really get matters accomplished for ourselves. Does anyone seriously believe that we couldn't hire, with \$500,000.00 per year, the best bargaining organization specifically targeted for NEW YORK STATE CORRECTION OFFICERS?

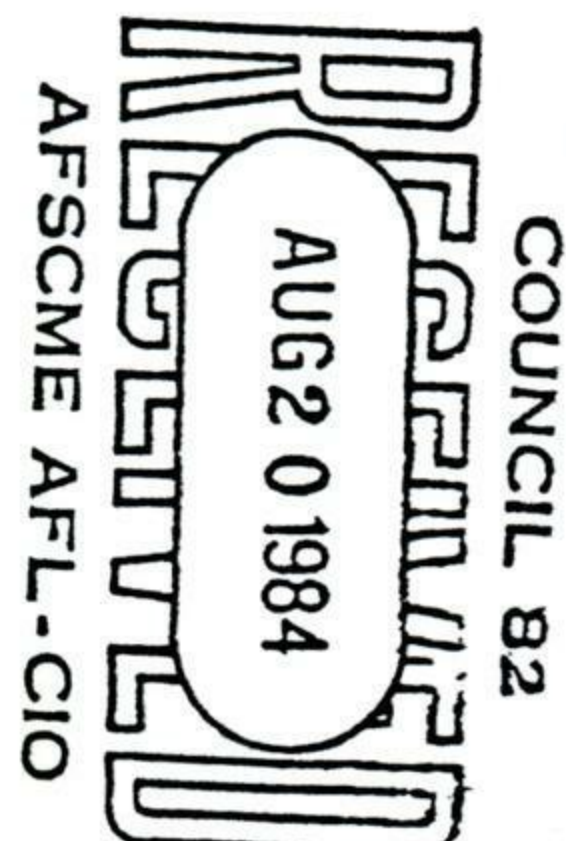
Or should we continue to send half a million dollars per year to the bureaucratic jungle that does not meet our concerns full time - only needing our money constantly and probably weakening our present structure with two unions vying at each others throats rather than our issues and concerns?

The solution will take hard work, organizational motivation and money. Ninety percent of all such union efforts start with only the hard work and organizational motivation.

Why do I suddenly feel so stupid?

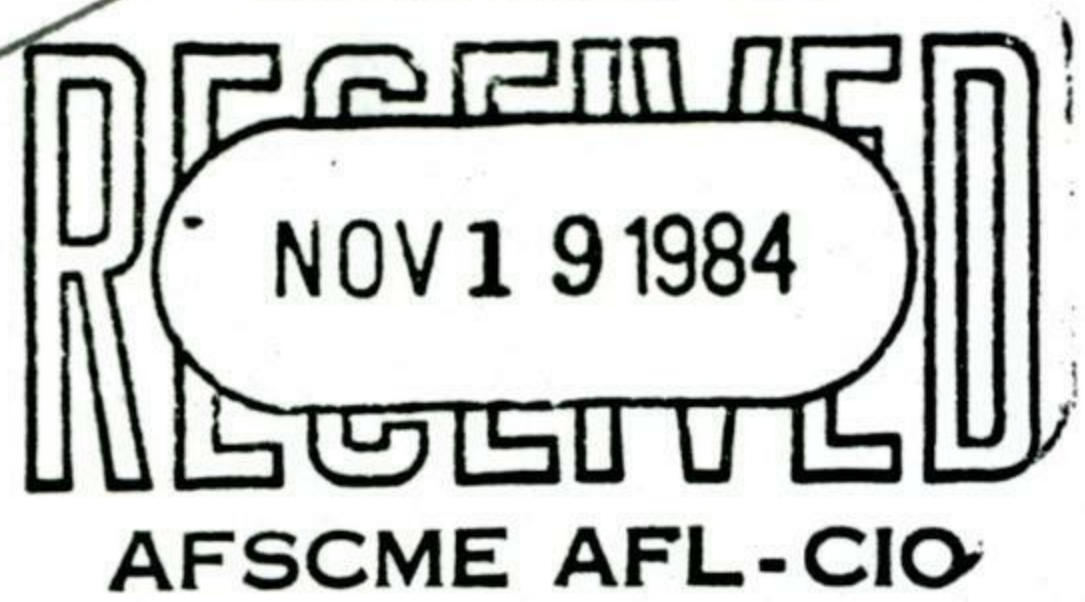
John Bordi

4/2000 file + 10/1/84



Tufco

COUNCIL 82



COUNCIL 82 v THE PROBLEM

Since Council 82 is now facing a challenge we never thought would go this far, it is now time for us to ask ourselves -

WHO OR WHAT IS THE REAL PROBLEM?

- Do we really want to get rid of Council 82?
- Why does the Council have such a poor image?
- Why are members dissatisfied with their Union?
- Is the Council passive toward the employer?
- Has the Council cut deals that have hurt us?
- Who runs the Council?
- Is the Council really a Democratic organization?
- Who is responsible for decisions we don't like?
- Is the Council to blame?
- When we blame the Council don't we really need to blame ourselves and our local leaders?
- What about our leadership?
- Think - Why is Jack Burke called the Ayatolla?

Questions like these deserve answers.

We think the problem is not the Council as a whole - the Executive Board has been responsive to our needs. We think the reason for Council 82's problems stems from the highest paid employee, Lt. Executive Director John W. Burke.

Burke lives on past reputations, from Elmira thru the 1979 strike.

In 1979 Burke became President of Council 82. He soon became very close personal friends with Commissioner Thomas A. Coughlin and his mentor, William Coleman.

Think - Every year Coleman hunts deer with Burke on his private property in Elmira. We all know people listen to and are influenced by their friends. Coleman gave us:

- Time and attendance guidelines
- Military leave exchanging RDO's
- Uniforms in line-ups
- Lag pay
- Trainee rates
- Workmans Compensation

Coleman saved us from ourselves- he says. What did we give Coleman - \$65,000 a year job as Chairman of QWL and support for him to become an arbitrator for the State of New York against public employees - and the right to hunt deer with Burke.

What did Executive Director Burke do when Coleman gave us these things? Nothing, until pressure from the field forced him to react.

11/19/84 cc file
Originals to S Pagan, H Ottaviani, L Germano,
E Deane, H Beverly, W Cavanaugh, R Maloney,
R Brown, N Pinto

Does the Council have a poor image? Is it passive? If you answer yes - it is because of Burke.

Does Burke run a Democratic Council? No Way! Have you ever tried to talk to him? Have you ever had an opposing view? Watch his reaction. He treats the Council's Executive Board members and Local leaders with disdain and distrust. There is no way but his way. He will not tolerate opposition. The Ayatolla? Yes!

Examples:

He fired Peter Henner without due process. As a result of that action, the Executive Board passed a motion that there can be no firing or hiring without the Executive Committee's prior approval. Does Burke follow the Boards' decision? He hired Chet LaDuke for Downstate without consulting anyone.

The Executive Board discussed the Director's role at length but as more are being hired as staff, there is less pressure on Burke.

Burke neutralizes opposition:

Clinton was giving Burke a problem - he hired Steve Pageau as a Staff Representative.

Elmira - Ed Dean was challenging Burke. He was hired as a Staff Representative.

Downstate - LaDuke was a problem. He was hired by Burke.

Germano - was a problem, hired by Burke.

Zeller - also a problem, hired by Burke.

Anyone who becomes a problem is either abused (Henner) or hired and therefore neutralized.

On the other hand, Burke needs his cronies and he takes care of them.

Examples:

Ottavianni - Elmira, hired as a Staff Rep.

Benedetto - Project staff to QWL to Executive Assistant, groomed to become Director of QWL. He's a real "Yes Boss" employee for Burke.

Morris - Elmira to QWL. He is falling out of favor.

Kleinschmidt - Clinton to QWL

Smith - Safety officer to QWL

The list is endless when it comes to deals cut with the State. Yet we know Burke obstructs any new ideas that will benefit our members. These are only a few examples.

Why is Attica receiving Rowley and Forrest to represent officers that are undergoing IG investigations; while Downstate has four officers suspended and they have not received Rowley and Forrest to represent them? Why? He thereby neutralizes any Attica opposition. Burke selects who will receive representation. The Downstate officers ~~have~~ to go it alone.

Read Burkes column in the Enforcer/Review. Can anyone so negative do anything positive? Negative people breed negative actions.

Many local leaders can attest to their treatment. Ask them or any Executive Board or Staff member - they know the real deal.

We know how difficult it has been for our elected leadership to accomplish any changes at all with Dictator Burke; but it is time for them to grow a set of balls NOW to deal with Burke. Haven't we had enough? Together we can change what is happening. There are a number of people who would do a better job for us.

This letter is going to every Council 82 Local President, Staff Representative, and Board official. We want you to be aware of the real problem and our feeling and the only possible resolve available - get rid of Burke and save Council 82. The challengers are not the answer. They could not represent us for years. They have no money, no experience, and no track record.

The Devil you know is better than the Devil you don't know.

Together we can change what is happening. We must put pressure on the Executive Board and it's Burke supportive President. Word is even he has given up trying to work with Burke. Bishard even sent a letter to the Department of Correctional Services informing them that he is tired of being passed over for Burke.

We must demand that the Board request Burkes resignation for the good of the whole organization! OR Fire him!!

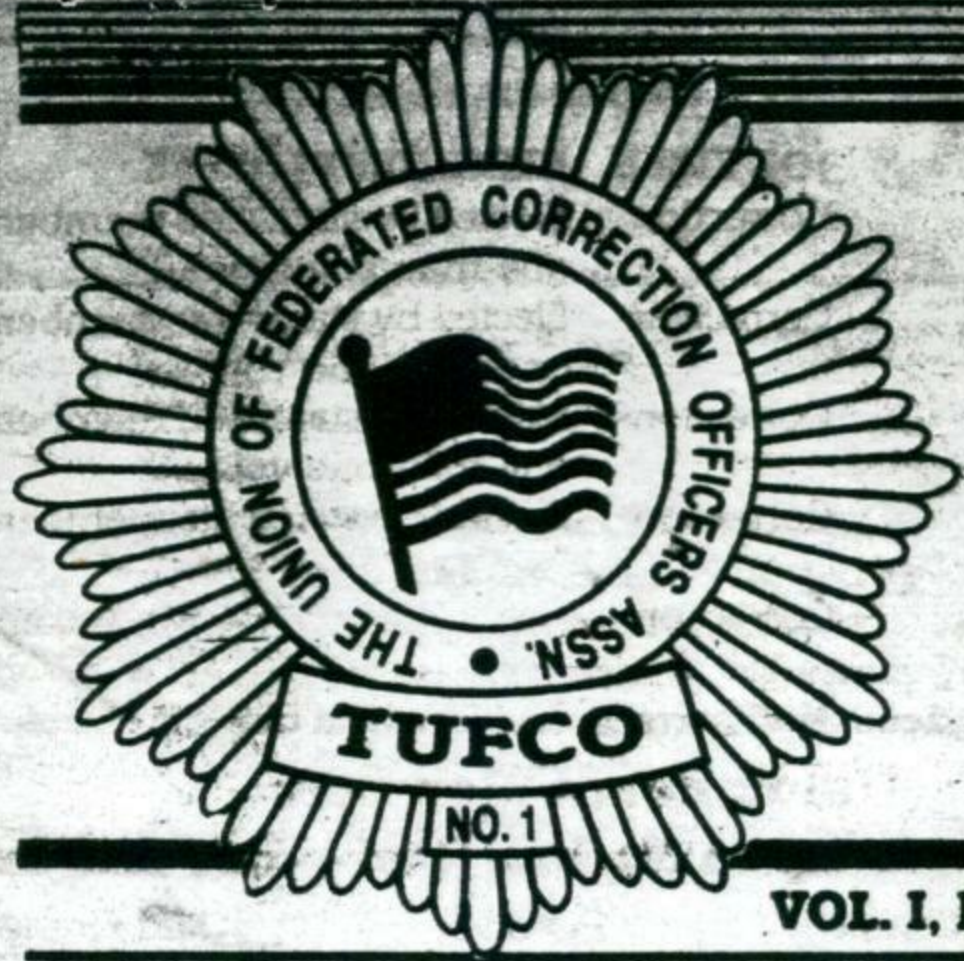
You can do your part. Inform the membership, get a motion to get rid of Burke. Send the results to the Executive Board. Mandate them to take action.

The bottom line is that we must save the Council and the Council must be more responsive to our needs, and less passive to the State.

WE MUST TAKE ACTION NOW!

Think - With a more receptive and responsive Executive Director, would the Council be facing this challenge?

File Folder



The Challenger

VOL. I, NO. 6 November 1984 The Union of Federated Correction Officers Association

State Found Guilty, TUFCO Wins

Dennis Fitzpatrick, President of The Union of Federated Correction Officers (TUFCO Union), has announced that the Public Employee Relations Board (PERB) has recently ruled that the State of New York was guilty of improper labor practices when it seized confidential TUFCO Union petition cards at Fishkill Correctional Facility in March of this year. The petition cards were being collected by TUFCO Union as part of its campaign to unseat Council 82

AFSCME as the bargaining agent for the Security Services Unit.

The PERB decision, dated Nov. 8th, 1984, states that the State of New York violated Sec. 209-a 1 (a) of the Taylor Law which reads in part:

"Improper employee practices. It shall be an improper practice for a public employer or its agents to deliberately (a) to interfere with, restrain or coerce public employees in the exercise of their

rights..."

TUFCO Union had alleged in its legal papers that the illegal seizure of the confidential petition cards violated the State's duty to remain neutral during this challenge, and that the State's action violated the rights of TUFCO Union supporters to organize.

TUFCO Union also has charged repeatedly that actions such as the State seizure of our petition cards shows a bias in favor of the incumbent union on

the part of the Department of Correction and the Governor's Office of Employee Relations.

The Fishkill Correctional Facility card seizure incident was tried at PERB in a formal hearing on June 18th and June 22nd.

TUFCO Union was represented by special trial counsel Eugene R. Spada of Loudonville, N.Y., and TUFCO's general counsel Jeffrey H. Brozyna.

Various charges were made by the incumbent union, Council 82 AFSCME, against TUFCO Union and the State. Council 82 was represented by Rowley, Forrest and O'Donnell.

While TUFCO Union was successful on its primary charge against the State, Council 82's allegations on the other hand were dismissed by PERB.

Council 82 Delays Election, Then Blames TUFCO Union

Through a series of legal maneuvers at PERB, Council 82 has tried to delay the election between TUFCO Union and Council 82. This delay clearly demonstrates the great fear Council 82 has for the democratic process. If they were truly confident of winning, they would want the vote tomorrow. However, that clearly is not the case.

Council 82's record of delay at the Public Employment Relations Board is shameful. On August 29, 1984, TUFCO Union submitted its petition to represent the Security Services Unit along with the required official signatures of over 30% of the bargaining unit. It should be noted that the Lifeguards petitioned to get out of the bargaining unit as did the Long Island Parkway Police. Also, the State petitioned to move correction Sergeants into the Security Supervisors Unit. On September 24, 1984, in an official press release, PERB announced that TUFCO Union had indeed met the 30% requirement, and that the various parties were to meet on September 26, 1984, at PERB in order to schedule a prompt election.

AFSCME bleeds our bargaining unit for over \$700,000 per year in affiliation dues. Every month that goes by allows AFSCME to collect that much more money out of our bargaining unit. How else could AFSCME afford to give money to the Mondale-Ferraro campaign fiasco? How else could financial support be given to Governor Mario Cuomo, the one man most responsible for the lack of effective death penalty legislation? Let's face it, it is in AFSCME's best interest to delay this representational election.

Of course, there are other reasons Council 82 wants to delay this election. Every month of delay guarantees another month of ample salary and expense accounts for the Council 82 leadership in Albany. We are quite certain that Council 82 Executive Director Jack Burke has no desire to return to his job inside the jail, especially in light of the fact that it would be an awkward learn-

ing experience for him since he has never actually served as a corrections sergeant or a lieutenant since he was promoted to those positions by the State while on union leave!

Every month of delay means that additional legal fees will be paid to Council 82's law firm of Rowley, Forrest and O'Donnell. Council 82's legal budget is almost \$700,000 per year based on their own budget. That's \$58,000 per month! Of course, it is not illegal or unethical for a law firm to make a lot of money. However, this fee schedule is hardly one which would encourage the Council 82 attorneys to rush matters.

What's truly incredible is that having undertaken these delaying tactics, Council 82 has attempted to deceive you into thinking that the delay is TUFCO Union's fault! Council 82 published two letters from Thomas Hartnett, who is the director of the Governor's Office of Employee Relations. These letters

blamed TUFCO Union alone for delaying contract negotiations despite the fact that Mr. Hartnett knew of the delay caused by the State's own petition to remove correction sergeants from our bargaining unit. Evidently, Mr. Hartnett and the Governor's Office will do whatever they can to help Council 82 out of this bind. TUFCO Union attorneys have filed improper practice charges against Council 82 and the State, alleging collusion.

TUFCO Union officials have said time and time again that they are ready for an election **anytime**, the sooner the better. In order to make their point, TUFCO Union has recently collected thousands of signatures on petitions requesting PERB to call for a prompt election. It's time for Council 82 to take the consequences of its delay tactics and face the music of a secret ballot election.

TUFCO Union Welcomes Constitutional Comparison!

As you are aware and as discussed elsewhere in this newspaper edition, Council 82 published a comparison between the TUFCO Union Constitution and their own. Council 82's intent was to distort the TUFCO Union Constitution. However, this has clearly backfired. In formulating our Constitution, the TUFCO Union leadership was sensitive not only to democratic principles but also to the needs and requirements of the bargaining unit.

Of great importance to the TUFCO Union founders was the concept of "one-man-one-vote." All statewide union officers would be elected by the membership themselves, not by a hand-picked group of delegates as is the case in Council 82. The original slate of state-wide TUFCO Union officers will serve just over three-year terms until 1988 when the membership can either reelect them or vote for someone else.

Subsequent terms of office are three years.

The term of office for statewide officials was arrived at after giving careful consideration to the studies made by the University of Michigan political scientists involving the United States Constitution, conducted in the early 1970's. It was determined that two-year terms of office, such as those given to the United States House of Representatives, are inefficient and too short. A member of the House of Representatives is always running for reelection, it seems. The United States Senate terms (six-year terms) have been considered by certain scientists as being too lengthy as these individuals lose touch with their constituents. A three-year term of office, as is provided under the TUFCO Union Constitution, seems to provide a good workable compromise on this subject.

Of course, if one is unconcerned with

the democratic process or if statewide officers are hand-picked instead of voted in by the members, term of office is irrelevant. As the Executive Director of Council 82, Jack Burke proudly proclaimed in the September issue of the Council 82 newspaper (the Review) at page 7, "one of the benefits of my job is that it is not an elective position and I do not have to consider politics when making a decision. An example of this being at the last convention when I supported dues increase which should have been implemented a long time ago."

This is what happens when union leadership is no longer responsible to the members.

Besides the one-man-one-vote principle, another important aspect of the TUFCO Union Constitution is the theory of checks and balances. The members retain the ultimate authority as exer-

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Instead of agreeing to a prompt election, Council 82 submitted a series of frivolous challenges to the TUFCO Union petition. Despite the fact that all the other parties stated publicly that they would be available for a prompt hearing on the various petitions, Council 82's attorney Richard Rowley stated that he was "booked up" and unavailable until well into November. PERB went along with the November hearing dates, thus assuring further delay.

Why would Council 82 attempt to delay the election? We believe that the answer is obvious. Council 82 fears the democratic process. They prefer an election where a controlled group of delegates makes decisions. The thought of a democratic election by the membership on a one-man-one-vote basis scares the daylights out of them!

Also, Council 82 must consider the AFSCME people in Washington who really control Council 82. Each year

You Be the Judge

Council 82 is trying to distort the truth about our union structure. Our illustration clearly demonstrates our intentions to structure two separate legislative bodies. Council 82 on the other hand believes that the intermingling of all groups into

one body shows equality. Although there are approximately 13,000 correction personnel in the bargaining unit, they only have 49% of the say on the Executive Board. You talk about the tail wagging the dog!

Council 82 Board

POSITION	JOB TITLE	ELECTION PROCEDURE
Executive Director		Hired by Executive Board (term ?)
Associate Director		Hired by Executive Director (term ?)
President	Correction	Elected by Delegates at convention
Vice President	Correction	Elected by Delegates at convention
Secretary	Non-Correction	Elected by Delegates at convention
Treasurer	Non-Correction	Elected by Delegates at convention
21 Additional Vice Presidents		
10 seats held by Non-Correction		Elected by Delegates at convention
10 seats held by Correction		Elected by Delegates at convention
1 Delegate at large	Non-Correction	Elected by Delegates at convention
3 Trustees - Non-voting members		
Total 13 - voting seats held by non-correction		
12 - voting seats held by correction		

NOTE: The membership did not have a vote in filling any of these seats. You call that a democracy?

Council 82 Also Represents the Following:

Council 82 Also Represents	Will TUFCO?
Auburn & Seneca Falls	No
Ulster County	No
Albany County	No
Otsego County	No
Plattsburgh	No
Olean Police	No
Command Unit	No
Broome County	No
Catskill Police	No
Albany Police	No
Geneseo Police	No
Gowanda Police	No
Alfred Police	No
Marlboro Police	No
New Paltz Police	No
Waterford Police	No
Guilford Police	No
Security Supervisors	No
Monroe County	No
Orleans	No

NOTE: These groups also have a say in the decision-making process of Council 82. Contracts have to be negotiated, grievances handled, etc.

Our petition to challenge Council 82 did not include these groups, as Council 82 is trying to lead you to believe.

TUFCO
will do
a better
job of
representing
YOU!

TUFCO Union Board

POSITION	JOB TITLE	ELECTION PROCESS
President	Correction	Elected by statewide membership one-man-one-vote
Vice President	Correction	Elected by statewide membership one-man-one-vote
Vice President	Correction	Elected by statewide membership one-man-one-vote
Sec-Treasurer	Correction	Elected by statewide membership
Assistant Sec-Treas	Correction	
Associate Vice President	Non-correction	— see next box

Union Board Members

Elected by membership on the local level — one-man-one-vote.

Adirondack	Camps	Fulton	Mid-Orange
Albion	Clinton	Gabriels	Mid-State
Altona	Collins	Great Meadow	Mt. McGregor
Arthurkill	Coxsackie	Greene	Ogdensburg
Attica	Downstate	Green-Haven	Ossining
Auburn	Eastern	Groveland	Ottisville
Bayview	Edgecomb	Hudson	Sergeants
Bedford	Elmira	Lincoln	Queensboro
Brentwood	Fishkill	Lyon Mountain	Taconic
Wallkill	Washington	Watertown	Wende
Woodburne	Wyoming		

Each local will have one seat on the Union board. Total: 47 voting seats from correction.

NOTE: TUFCO believes every local should have a say in the decision-making process, regardless of their size or political beliefs.

Compare these points and ask yourself: what do I really get for my du

	TUFCO UNION
Dues	\$8.63 bi-weekly
Negotiator	Professional outside negotiator
Experience	Negotiated over 40 contracts
Education	Masters degree in Labor Law
Pre-paid legal program off the job	Yes
Representation major disciplines	Attorney
Workers Compensation assistance	Attorney
Professional Lobbyist	Yes
Severance pay from union upon retirement	Yes
Educational funds for dependent children	Yes all dependent children
Life insurance	Yes
Disability insurance available	Yes first day coverage payable to age
Car insurance available	Yes
Payroll deduction	Yes
Income tax assistance	Yes
Estate planning	Yes
Retirement planning	Yes
Assistance to survivor upon death of spouse	Yes attorney
Computerized grievance process	Yes
Public relations program to improve image of members	Yes
Disaster fund for members	Yes
All union positions elected by membership	Yes
Political endorsements	Yes after the membership is polled

The Taylor Law Protects Your Rights During TUFCO Challenge

The State enacted the Taylor Law in order to regulate the activities of public employers and labor unions in the public sector. Council 82 has generated a large amount of propaganda in which they alleged that you will lose certain contractual and legal rights if TUFCO Union is elected to replace them as bargaining agent for the Securities Services Unit. Nothing is farther from the truth and the purpose of this article is to give you the straight story.

The Taylor Law requires that any union that is to be a bargaining agent for a unit of State employees must be an "employee organization." TUFCO Union qualifies as such an "employee organization" by virtue of its written

constitution.

If a challenging union such as TUFCO Union can demonstrate a sufficient interest in its program, PERB (Public Employee Relations Board) will call for a representative election in order to determine whether you want a new bargaining agent. Under the Taylor Law, this showing of interest can be met if 30% of the bargaining unit sign petition cards designated for this purpose. These cards must be signed within six months of August, 1984 in order to be valid. TUFCO Union has complied with this requirement.

TUFCO Union has delivered their required 30% in the form of signature cards; PERB will declare that a secret

ballot election will be held between TUFCO Union and Council 82. Once TUFCO Union obtains a majority of the votes cast in that election, TUFCO Union will replace Council 82 as the bargaining agent for your unit. It will then be TUFCO Union's responsibility to negotiate the collective bargaining agreement and contract with the State of New York.

Council 82, through its propaganda, has completely misstated the Taylor Law. When TUFCO Union is victorious, you will not lose your benefits under the existing contract. The existing contract expires on March 31, 1985. Even if no new contract is negotiated at that point in time, the Taylor Law, the Triborough Amendment, and certain court deci-

sions provide that the State of New York is bound by the terms and conditions of the expired contract until a new contract is signed.

The Triborough Doctrine (interpreting Section 209 (a) (1) (d) of the Taylor Law and in the Triborough Amendment Section 209-a (1) (e) of the Taylor Law) states very clearly that the existing contract continues with the State if a new bargaining agent takes over the unit or if the contract date (March 31, 1985) passes without a new contract being signed. The law reads in part as follows:

"Improper practices. It shall be an improper practice for a public employer or its agents to deliber-

You Be the Judge

TUFCO Union Board - Non-Correction

Associate Vice President Non-Correction Elected by Non-Correction membership one-man-one-vote

Non-Correction Board

Parks	Non-Correction	Elected by local membership
Safety Officers	Non-Correction	Elected by local membership
University Police	Non-Correction	Elected by local membership
Capital Police	Non-Correction	Elected by local membership
Lands & Forest	Non-Correction	Elected by local membership
Conservation	Non-Correction	Elected by local membership
Building Guards	Non-Correction	Elected by local membership
Mid-Hudson Phys.	Non-Correction	Elected by local membership
Central, NY Phys.	Non-Correction	Elected by local membership
Jones Beach	Non-Correction	Elected by local membership

Total 10 voting seats from non-correction

NOTE:

Non-correction have their own legislative body, their own budget, their own director, their own structure.

These comparisons between TUFCO Union and Council 82 have been graphically illustrated to demonstrate TUFCO's innovative programs designed for you the member vs. Council

82's.

Please don't be misled by Council 82's drastic attempts to distort and misinform you, via their propaganda attacks on TUFCO Union and its officers.

TUFCO believes these vicious attacks offer ample proof of the panic created by the TUFCO challenge.

You owe it to yourself, your family and your future to honestly evaluate both sides. We believe in doing so, you will vote for TUFCO — "a union with a future."

Desperation politics

Council 82 paid thousands of dollars of your dues money to a polling firm out of Washington, D.C. They did this to find out what their membership felt about them. Apparently the results were not favorable.

Now Council 82 has resorted to a contest: apparently they are at a loss for words and now offering a \$100.00 reward for anyone to bail them out.

How childish! Incompetence at its best!

TUFCO Union Announces Plan to Recoup the \$749,000 Fed Annually to the AFSCME Money Machine

As indicated by the Council 82 budget, over \$749,000.00 per year of the 3.6 million dollar 82 budget is bled out of Council 82's coffers, and is sent down to AFSCME headquarters in Washington. (\$700,000.00 of this figure is paid by the Security Services Unit.) This is necessary so as to enable AFSCME to donate your money to political candidates the members have no say in, and to run the AFSCME bureaucracy.

TUFCO, being an independent union, doesn't have to pay international affiliation dues to anybody. Since TUFCO Union will charge the same dues as Council 82, this leaves \$700,000.00 surplus which can be spent on programs for the membership themselves.

The re-allocation of monies for the benefit of the members themselves is authorized by several Internal Revenue code sections including section 120 and

TUFCO Union Explains Its Legislative Philosophy, Myth of AFSCME "Clout"

Correction officers in New York State are being deceived by Council 82, CSEA/AFSCME. CSEA/AFSCME claims they put political clout behind correction officers. The real fact is that correction officers are diluted by the conglomerate created by the marriage of CSEA/AFSCME. This dumping of correction officers, management personnel, file clerks, secretaries, etc., has denied correction officers and security service personnel the long-deserved attention to their specialized needs.

CSEA/AFSCME claims they have an enormous amount of political clout. If that is true, then why did they allow the Tier III Retirement System to pass, or were they concerned more with the agency shop legislation they got in return? Where were their priorities?

Most of the other law enforcement agencies were unaffected, only correction officers were required to reach age 62 before they could retire.

Why, with all of CSEA/AFSCME's political clout, can't correction officers be treated as law enforcement officers and receive the same benefits?

From 1973 through 1978, CSEA/AFSCME could not even get a Tier III Retirement Reform Bill introduced into the legislature, much less passed.

In 1980 legislation was introduced to give correction officers a 25-year retirement bill, and this bill stated correction officers only. This attack on the Tier III Retirement System spearheaded by Jim Morrissey passed unanimously in the Senate and there was only one vote against it in the Assembly.

That particular piece of legislation is proof that the legislators will address correction officers' special problems, but not if they are tied to thousands of other state employees who don't face what correction officers and security personnel face on a daily basis.

In 1983 correction officers again suffered another blow to their retirement system. Correction officers are the only group who still have the Social Security offset. In 1983 the legislators passed a reform bill that did away with the Social Security offset for all state employees except correction officers. Where was

CSEA/AFSCME's political clout for corrections then?

Why do correction officers have a Social Security offset when no other state employees have it? Why were correction officers left out?

Where was CSEA/AFSCME political clout for correction officers, or didn't they decide to use it? Maybe CSEA/AFSCME wanted some people in CSEA to look good this legislative season and corrections paid the price.

Maybe the majority leader of the Senate remembers being personally and publicly attacked by Jack Burke, then the president of Council 82.

Whatever the reason, correction officers cannot afford any more of CSEA/AFSCME political clout.

CSEA/AFSCME backed Governor Cuomo in the last election, despite his campaign promise to close Long Island (Brentwood) Correctional Facility on Long Island. Council 82 then decided to expend your union dues on legal fees in order to fight Cuomo and keep Brentwood open at least for now. Despite CSEA/AFSCME's alleged political pull, it took a group of inmates to get the job done. Some political clout! It seems that the inmates have more political clout than the union that is supposed to be representing correction officers.

The death penalty is another example. Cuomo's position is deadly to correction officers. Still CSEA/AFSCME endorsed and made large contributions to Cuomo's election. Correction officers must look foolish. Their union backed a Governor who refused to protect their lives with a death penalty.

The choice is easy to make; correction officers do not need any more of CSEA/AFSCME's political clout. Correction officers cannot afford it.

What correction officers do need is a legislative program that will have a full-time lobbyist. A full-time lobby that will carefully and closely monitor all legislation, and submit new legislation that will place the correction facilities back in the hands of correction officers and legislation that will protect the lives of correction officers.

section 501 c (9) among others. The following programs will be provided by TUFCO Union without raising your dues:

1. TUFCO Union will provide you with an attorney to represent you at all major disciplinary proceedings. In the past, it has been the correction officer who has been at a disadvantage. It seems there is no limit to the legal representation that the State can provide itself, nor is there a shortage of attorneys to represent inmates. By providing you legal counsel, we will even the odds, and we will get the word out that we are not to be taken lightly.

2. TUFCO Union will provide a professional outside negotiator at contract time in order to present the most comprehensive negotiating package possible. All too often in the past, Council 82 has been outgunned and outmaneuvered by experts who have provided service

to the State. It is time that professional expertise is provided on our side for a change. A professional negotiator cannot only offer a strong proposal for negotiations, but he can formulate a specific and constructive plan as to where the State can find the money to fund our contract.

3. TUFCO Union will establish a state-wide "disaster fund" in order to assist correction officers and their families who are in need. It is high time that your Union stand behind its members in the event of medical emergency, financial stress and personal tragedy. A committee will be established to review potential recipients, and it will be their job to see to it that you and your families will never stand alone in your hour of need.

4. TUFCO Union will establish a system of Educational Scholarships so as to assist your children in gaining a college

Continued on Page 4

TUFCO Welcomes Comparison

Continued from Page 1

cised through their convention. The membership elects the statewide union officers as well as virtually all of the local union officers. The elected chief steward at each local (who serves in effect as the local president) sits on a regional and statewide legislative board which has the ultimate authority for passing the TUFCO Union budget.

The Executive Board of Directors proposes a union budget, but only these democratically elected legislative bodies can approve it.

While the members have retained certain powers and while regional and statewide legislative bodies have a sig-

nificant budgetary role to play, the TUFCO Union Constitution still provides for a strong executive branch. A strong executive is necessary in order to effectively run a union which proposes the wide range of membership programs, legal programs and employee benefits that TUFCO Union will implement. These statewide office holders are still answerable to the democratic vote of the members. They are strong enough to do their job, but yet the ultimate authority rests with the members themselves. It is just this type of effective checks and balances which has contributed to the success of the United States Constitution for almost 200 years.

TUFCO to Recoup Your \$749,000

Continued from Page 3

education. All college-bound children will receive assistance depending on the earnings in the fund and the number of applicants. There will be no patronage or discrimination as is the case with other scholarship funds.

5. TUFCO Union will provide its members with a statewide prepaid legal program. This program will provide group rates for legal representation on a wide range of legal services. Such a program will guarantee you legal representation by a competent attorney practicing in your area at reasonable rates. This representation will include real estate transactions, family law issues, traffic law, civil matters, etc. All attorneys participating in the program will be answerable to TUFCO Union so as to assure first-rate representation and good service for members.

6. TUFCO Union will provide a comprehensive program of tax and retirement planning services. This service will provide you with information regarding your employee benefits, income tax reduction through careful planning, insurance, wills and trusts, inheritances, investments, and retirement planning. This confidential service will help you keep more of your hard earned money

TUFCO Union Challenges Council 82 to a Debate, But Council 82 Backs Down

TUFCO Union President Dennis Fitzpatrick has issued a challenge to either Richard Bischert, President of Council 82, or Jack Burke, Executive Director of Council 82, to participate in a debate on the issues presented in this union challenge. This debate challenge was issued from Fitzpatrick to Mr. Bischert through a newspaper article which appeared in the *Albany Times Union* on October 8th. Bischert said that he would agree to a debate but he did not want to have to discuss certain issues. The records of himself or Jack Burke. Nor would he debate the issue of the 1979 Strike and the AFSCME International failure to support the correction officers at that time. The TUFCO Union leadership is ready, willing and able to debate any and all issues at anytime with the leadership of Council 82. Let's see if Council 82 has the stomach for a debate; the members don't think so. Council 82 has more experience at playing "let's make a deal" than facing the issues. That's more their style.

now and will help you plan for your future retirement by utilizing legitimate tax planning techniques. It will also help to guarantee your family's financial security.

7. TUFCO Union will provide lower rates for life insurance and disability insurance. This will be accomplished by constantly monitoring the ever changing insurance market, and by providing the best coverage possible at any given point in time.

8. TUFCO Union will undertake a comprehensive public relations campaign designed to enhance the status of correction officers and security personnel. This will be done not only through the media, but our locals will be active in community programs as well. Such Union public relations campaigns have been successful for other professions (most notably school teachers in 1983). It is time your Union took an active role in broadcasting your dedicated work and achievements to the community.

9. OUR COMPUTER SYSTEM. The grievance system with Council 82 is a complete disaster. The same grievances at two different facilities are given opposite answers, and the same grievance at still another facility is given still another answer. Labor Management agreements that are agreed to at one facility are refused at another.

Examples such as these are widespread throughout the State. Under our system everything will be computerized. This will allow for uniform application of the contract and all agreements.

The 82 Convention: Watergate Revisited?

Attention Council 82 Convention Delegates: Were you bugged by the convention, or did the convention bug you? Only your executive committee knows for sure.

Through several confidential sources in western New York, TUFCO Union has determined that Council 82 officials electronically bugged their own convention.

Word has it that 82 officials bugged conference rooms and meetings between senior 82 state officials and certain local officials. While the recording was done in a manner which was not illegal, unethical or improper, it is still a sad state of affairs. They don't trust their delegates, their committees or each other.

Is this the way a democratic union is supposed to be run?

Open Letter to the Membership

By Kevin Casey
Vice President

By now it should be apparent to one and all, even the most staunch 82 supporters, that Council 82 and not TUFCO Union is delaying the inevitable election for representation.

You may recall that Mr. Burke has been deceiving the membership of the union since the beginning of TUFCO's challenge by stating TUFCO would never gather the signature cards required (30%) by PERB to justify an election for representation, that TUFCO's campaign was a fraud, and our signature cards were forgeries, that TUFCO has misrepresented its programs and objectives, and that they had the proof.

TUFCO challenged 82 to prove their allegations, but Burke and his high-priced legal staff failed again and again and again.

The facts are that TUFCO fulfilled PERB's requirement for the election way back in August. Predictably Council 82 panicked and began filing frivolous paperwork with PERB in an expensive but futile effort to discredit TUFCO with the end result being the delay in the election that will surely follow.

The State of New York Department of Correction Services even jumped into the fight. They illegally seized confidential signature cards at Fishkill. The State's actions were, by the way, illegal, and PERB ruled it was an improper practice and has ordered the cards returned.

To set the record straight, TUFCO was ready for the election in August and had nothing to do with delaying the election.

By virtue of their propaganda consisting of misleading statements, half-truths and character assassinations regarding TUFCO's objectives, progressive programs and officers, 82 has systematically misled the membership by proclaiming TUFCO to be the bad guy. This I must add was fueled by the Governor's Office of Employee Relations jumping into the game in order to help their friend, Council 82, attempt to defeat TUFCO. Remember the letters from Council 82's *Enforcer* from Mr. Thomas F. Hartnett to Mr. Burke. TUFCO has filed an improper practice charge; it's pending.

Council 82 boasts of all they have done for you. Just ask yourself, what have they really done for you? Mr. Burke is presently extolling the goodness and virtues of 82 when during the challenge by C.O.B.A., Mr. Burke was an ardent supporter to unseat Council

82.

Ask yourself, what is Burke's current civil service rank and salary grade? The last we knew he was a lieutenant. Has he been promoted to captain yet? Either way, he is a hired manager of the Department of Correction Services, but it always makes it convenient for the State of New York to have one of their own managers running the union they must negotiate with.

Why hasn't Council 82 sponsored a 20-year half-pay bill for correction officers? It has for the forest rangers.

Why, during the last negotiations, did Council 82 re-negotiate a training rate for new hires that in fact helped finance pay raises off the backs and out of the pockets of the rookies?

Why can't Council 82 uphold the contract they negotiated with and agreed to with the State of New York with regard to resolving grievances in accordance with the prescribed time limits? The inmates receive a far more timely and, in most cases, more favorable response than the correction officer.

Why was the membership fined 2 days' pay for each day on strike way back in 1979, but Council 82 hasn't paid a dime? You talk about being fed to the lions. Right there shows Council 82's clout. A lot of clout for AFSCME money machine pay backs, but forget the members. I know even Burke remembers that one.

Did you know the real reason Council 82 can't poll the membership with regard to endorsements of political candidates? The international union won't let them — it's in Council 82's real constitution, not the misleading one published in 82's propaganda when they compared constitutions. Another classic example of Council 82's deceiving the membership: they printed their 8-page Council 82 guideline and intended people to believe that was Council 82/AFSCME's total constitution. Their constitution is approximately 174 pages, not 8!

Why does Council 82 proclaim to be fighting time abuse when they themselves agreed to fund it through the last contract?

Why hasn't Council 82 sponsored legislation that would provide for built-in cost of living raises for our retired brothers and sisters, so they can retire with dignity and not be living at the poverty level in just a few short years?

Burke talks about how much support we receive from our so-called friends in the labor world. Did you know that in 1980 Burke led the drive for Council 82 to pull out of the AFL-CIO due to that organization's total lack of support for 82 during the strike?

Did you know that agency shop was the pay-off for the Tier III retirement system that many of our members are presently suffering under? AFSCME and Council 82 love it. You pay whether the union produces or not. It makes a lot of sense for a do-nothing union like Council 82.

TUFCO believes agency shop is a farce. If your union is worth its weight in salt, people belong because they are proud to and not because they are coerced.

Most of Council 82's programs are deceptively clever but quite frankly produce little in the form of tangible benefits for the members.

They have proven time and again that deception is what they are all about. Vote TUFCO.

Your Input

If you have any suggestions or input on contract negotiation, we encourage you to mail your written suggestion to:

TUFCO Union
Box 310
Hudson Falls, NY 12839

The Challenger

Published by The Union of Federated Correction Officers Association - TUFCO.

Dennis J. Fitzpatrick, President
Kevin W. Casey, Vice-President
Bruce J. Farrell, Vice-President
James Morrissey, Secretary-Treasurer
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R. Brown

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84-111 PUBLIC EMPLOYEES INJURED ON THE JOB MAY BE TERMINATED

The Court of Appeals has decided that the State legislature has authorized the termination of a public employee who is absent from work for more than one year as a result of an occupational injury or disease. This ruling resolves a long standing question concerning the proper interpretation of §71 of the Civil Service Law.

Except with respect to work related injuries resulting in a permanent disability, §71 grants all public employees injured on the job a leave of absence without pay of not less than one year. (An employee on such leave may use accrued leave credits and, or, be eligible for other paid leave pursuant to a collective bargaining agreement.) However, §71 does not specifically provide for the termination of the employee after the minimum one year leave period expires. Instead it permits the appointing authority to replace the employee while providing the injured worker with a number of rights to reemployment upon his or her recovery. These include reinstatement or placement on a preferred list, depending on the availability of the position at the time the employee is certified able to return to duty.

As a result of the decision in *Duncan v Workers' Compensation Appeals Board*, the ambiguity regarding the status of the injured worker upon the expiration of his or her §71 leave has been resolved. According to the Court, the employee may be terminated. (See also §73 of the Civil Service Law which provides for termination of an employee absent for more than one year because of injury or illness which is not work related.)

The case arose when *Duncan* was injured on the job and placed on §71 leave. She was later found to be no longer disabled by the Workers' Compensation Board physician and benefits were discontinued. When she attempted to return to work, the civil service physician ruled that she was not yet fit to perform the duties of her position. It was not until some 12 months later that *Duncan* was certified as fit for reinstatement

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to her position by the civil service physician, and it was six months later still before she was actually restored to the payroll.

Duncan had claimed that §120 of the Labor Law (no retaliation for filing a Workers' Compensation Claim) had been violated when she was refused reemployment at the time the Board's physician said she was no longer "disabled." The Court of Appeals said that this did not constitute a violation as "...§71 authorizes the termination...(and) so long as the termination is not made in retaliation for the employee's compensation claim or testimony, §120 is not violated...."

84-112 CONTROVERTED WORKERS' COMPENSATION CLAIM REJECTED

In another case involving the Workers' Compensation Law, the issue involved a "controverted claim." When an employee claims to have been injured on the job, the employer may sometimes take the position that the injury did not arise out of or in the course of the performance of the worker's duties. This type of objection is called a "controverted claim." (See §25.2(b), Workers' Compensation Law.)

However the employer must notify the Workers' Compensation Board that it is controverting the claim within 25 days of the mailing of the notice that the claim has been filed with the Board. If this is not done, the employer (or its insurer) will not be able to later argue that the injury did not arise in the course of employment.

While the time for controverting the claim might be waived by the Board in the "interests of justice" if lateness is shown to have resulted because of mistake, irregularity, surprise or similar reasons, the fact that the employer can show that the claim is meritless is not sufficient to overcome the failure to file an objection within the 25 days permitted. (Kent v Buffalo Board of Education, Appellate Division, 3rd Dept.)

The Appellate Division indicated that while the requirements of §25 could result in a "substantial penalty," the "fundamental principle of the compensation law is to protect the worker, not the employer." The lesson to be learned here is that if the employer intends to controvert a Workers' Compensation claim, it must make a prompt investigation of the claimed injury so as to be able to file a timely notice objecting to the employee's claim that he or she was injured on the job if it is alleged that the injury was not job related.

84-113 JURISDICTIONAL CLASSIFICATION NOT SUBJECT TO HUMAN RIGHTS REVIEW

Claiming that he had been rejected for employment as an Associate Attorney (a competitive class position) with the State's Division of the Lottery because of age and disability, the applicant filed a complaint with the Division of Human Rights. Human Rights said that there was no probable cause to believe that there was any unlawful discrimination. This decision was affirmed by the (now defunct) Human Rights Appeals Board. The applicant appealed to the Courts. (Reiniger v NYS Division of the Lottery, Appellate Division, 3rd Dept.)

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The Court upheld the decision by the Division of Human Rights as Reiniger's "unsupported allegation of discrimination (were) insufficient to support the charges." A person complaining of unlawful discrimination must do more than merely state a belief that he or she has been discriminated against.

However, in the course of investigation it was determined that the vacancy sought by Reiniger had not been filled and that the position had been changed to "a temporary noncompetitive classification." This change was claimed to be some evidence of unlawful discrimination. The Court ruled that "a proceeding under §298 of the Human Rights Law is not the appropriate vehicle to challenge the reclassification of a civil service position from the classified to the unclassified." (COMMENT: the Court may have meant jurisdictional reclassification from the competitive class to the noncompetitive class.)

It appears that the jurisdictional classification and reclassification of a position, even if it is claimed that such action was motivated by unlawful discriminatory considerations cannot be determined by the Commissioner of Human Rights. The Civil Service Law provides that such determinations are made by, or subject to the approval of, the State Civil Service Commission.

84-114 DATE OF APPOINTMENT SET BY CIVIL SERVICE DEPARTMENT

¶84-74 of the REPORTER summarized the Appellate Division's decision in Marlow v Tully where the Court said that a permanent appointment becomes effective on the date set by the Civil Service Department. Marlow had been approved for a "temporary" appointment pending verification of his claim of eligibility for veteran's credits under §85 of the Civil Service Law.

The Court of Appeals has considered the case and agreed. The high court found that the Civil Service Department had established rules and internal procedures which it followed in Marlow's case. (See ¶84-74 for the facts relating to this.) So long as its rules and procedures do not erect a barrier to a benefit granted by the legislature such as veteran's credits or are inconsistent with some specific provision of law, the Department may apply such rules or procedures.

Apparently the fact that Marlow did not require the addition of veteran's credits to his test score in order to be reachable for appointment was not sufficient to persuade the Court that the delay in the effective date of his appointment resulting from the need to verify his eligibility for such credits should be a consideration in the case.

84-115 REASONABLE ACCOMMODATION OF A HANDICAPPED PERSON REQUIRED

That a handicapped individual who is "otherwise qualified" may not be discriminated against is clear. A subscriber has asked "What is meant by the term 'otherwise qualified' so frequently referred to?"

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According to the U. S. Supreme Court, a person is "otherwise qualified" if he or she is able to perform all of the duties of the position in question despite the handicap (Davis v Southeastern Community College, 442 US 397). In contrast, the Supreme Court rejected the argument that a handicapped individual is covered by the Rehabilitation Act of 1973 if that person is able to meet most but not all of the job requirements because of the limitations caused by the handicap itself.

In the latter case, however, an employer is required to make a reasonable accommodation of a known disability by adjusting some of the job requirements. Such adjustments include enhancing access to the work site, job restructuring, part time work assignments, modified work schedules, modification of equipment, providing assistance such as readers to work with blind persons, etc. The fact that these adjustments may have an economic impact or cost is not usually considered an excuse if an employer fails to make such reasonable accommodations. Unless it can be shown that providing the necessary accommodation would be economically prohibitive or impose an undue hardship, the employer will not be excused if it fails to reasonably modify the job for the disabled individual seeking employment if later sued for alleged violations of the Human Rights Law.

84-116 EMPLOYEE'S DISMISSAL FOLLOWS SETTLEMENT OF DISCIPLINARY ACTION

Blackwell, a Corrections Officer, was alleged to have threatened "to shoot a visitor if he were not removed from the assignment" given to him. Served with disciplinary charges, the contract disciplinary action which followed was settled by Blackwell's agreeing to serve a twelve month disciplinary evaluation period, referred to as a "DEP."

A DEP is a disciplinary penalty which may be imposed as an alternative to dismissal where it is believed that the employee's behavior has seriously compromised his or her ability to serve in the position effectively. An individual subject to a DEP may be terminated at any time without further appeal or review should the appointing authority determine that the employee's performance is unsatisfactory. Found unsatisfactory at the end of the DEP, Blackwell was discharged.

Challenging the dismissal, Blackwell won an order requiring a determination to be made as to whether the decision to dismiss him at the end of the DEP was made in bad faith and lacked any rational basis.

It was then shown that during the DEP Blackwell had improperly left doors opened, permitted inmates to violate facility rules, failed "to maintain a posture of alertness" with an inmate, had a poor attendance record, and other problems. The Court decided that Blackwell had failed to show that his dismissal was made in bad faith and dismissed the law suit. (Matter of Blackwell, Supreme Court, New York)