

5



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

By:

NYS Public Employees Federation President Wayne Spence

Good afternoon distinguished committee members: my name is Wayne Spence and I am president of the Public Employees Federation. Before I begin my testimony, I want to thank you for the opportunity to speak to you today on behalf of my 54,000 members – the people who provide critical services to the residents of New York State. I take a lot of pride in the work our members do because I know they are the best qualified for the jobs.

The good news in this Executive Budget is that there are no planned layoffs and no newly announced facility closures. What is worrisome, is the Executive's continued reliance on consultants to do the work my highly trained and qualified members should be doing. I'm going to highlight for you several areas in this year's budget proposal that diminish public services to your constituents at the expense to my hardworking members.

### **OFFICE OF INFORMATION TECHNOLOGY SERVICES (OITS):**

I am very concerned with a situation that has developed in the Office of Information Technology Services. In two short years OITS has lost 6% of its state workforce while the number of consultants employed by OITS has grown five times over (from 164 to 849) – despite the fact that consultants cost an estimated 60 percent more than comparable state employees (including benefits).

OITS has issued an RFP to privatize more jobs – the end user/help desk service currently provided by state employees.

Please consider the following:

- NYS spent millions of tax dollars on a private consultant who advised them to create the Office of Information Technology to consolidate services and save money.
- During the transformation and creation of this new agency, OITS stated that a benefit of centralized services would be a REDUCTION in the state's reliance on consultants.
- Prior to the centralization of services, agencies were satisfied with the help desk services under their control.
- OITS has mismanaged the implementation of centralized help desk services by creating a system that cripples the ability of employees to provide help desk services. We have learned that tasks that used to take ten minutes, now take ten days to complete due to the bureaucracy and ticketing system. Help desk employees are denied access to the systems of different agencies, thus preventing them from providing adequate service
- The employees of OITS have been set up to fail by management and now management's solution is to privatize these services.
- A system that worked has been broken by expensive consultants and poor management. How is it possible that an agency that was created to provide

“best in class” information technology services is unable to provide basic help desk functions?

Why is this important to you? Currently, state employees provide help desk services in every region of the state, including yours. These are solid middle class jobs that are the backbone of every community. Now OITS says they may outsource these positions to other states. Let me ask you this question. When NYS is spending millions of dollars creating “Tax Free” zones under the Start Up NY scheme as a way of creating jobs throughout New York State, does it make sense that OITS would spend millions to possibly send middle class jobs to another state? Clearly, the answer is NO.

### **DESIGN BUILD:**

As you are aware, the budget includes a proposal to establish the Design and Construction Corporation Act – another name for design build procurement, a process that PEF opposes for several reasons. First, the professional staff employed by New York State agencies is the most competent and cost-effective solution to most of the state’s design needs. Multiple studies have shown that consultant engineers cost up to 87% more than in-house engineers, yet staffing levels at the State Department of Transportation remain at historic lows. Design build legislation effectively removes these cost-effective employees from the playing field since my members only design and inspect, not build. New York State can save money and get greater value from our dwindling transportation dollars by doing more engineering work in-house and decreasing reliance on consultants. Any legislation that increases the state’s reliance on expensive consultants is misguided.

### **SUNY HOSPITALS:**

As I am sure you know,, our public teaching hospitals are vital resources for the community. Yet, once again they are being targeted with a proposal in the budget to reduce state support for SUNY’s three teaching hospitals by 18.6 million dollars. SUNY hospitals are hallmarks of excellence and provide vital medical education, research and essential health care services to their communities. We thank you for your support in the past by restoring cuts to SUNY hospitals and rejecting language that would have opened the door to private investments in public hospitals. I urge you to do the same again this year and keep our public hospitals public.

### **OFFICE OF MENTAL HEALTH (OMH) & OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES – DOWNSIZING:**

New York State’s behavioral health care services are facing a mandated community-based transition or transformation that lacks a clear plan, while at the same time enduring changes that will be brought forth by the likes of Managed Care, Value-Based Payment models and the Delivery System Reform Incentive Payment (DSRIP) program. With so many changes occurring at once, PEF is concerned with the continuity of care for those served every day by our members.

Currently, PEF represents approximately 3,800 members at OPWDD and 6,800 at OMH. The underlying theme for the past few years has been the continued diminishing of the **public** services available for those with developmental disabilities and behavioral health needs. As the state continues to shift these services from the highly-trained, experienced professionals located within public facilities to community based providers, we worry that the quality of care is suffering. We fear that the state lacks a comprehensive plan and the resources necessary to shift the services at the rate at which it is currently occurring.

With respect to OPWDD, the Executive Budget continues the plan to downsize the state-operated developmental center system. The budget removes the remaining inpatient capacity of beds and closes Broome Developmental Center by March 31, 2016, Bernard Fineson by March 31, 2017, and the change of Auspice for 11 small residential units on Long Island that was announced on December 1, 2015 will be completed by March 2016.

We ask the legislature to delay the closures of these facilities. There is no clear plan for those who require the intensive services offered at these sites and the closures may severely disrupt their care and the consistency that they depend upon. PEF asks that these closures be delayed until a comprehensive plan is developed that ensures these individuals have access to the appropriate quality care and services they deserve.

It has been reported that the Executive Budget includes a **decrease** of \$21.4 million in support for OPWDD state-operated facilities. In turn, the Executive Budget proposes \$120 million to support new service opportunities for individuals currently living at home or in residential schools. However, all of these funds will be used to support new service opportunities in the **private sector**. The result is the loss of vital public services to the most vulnerable populations and a shifting of financial and programmatic responsibility from the state.

It has been noted that that there are more than 11,000 OPWDD consumers that have unmet needs, including out of home residential and in-home support needs

In short, the Executive Budget cuts the number of OPWDD employees and OPWDD funding, maintains the level of support at \$2.2 million for the existing pilot program that authorizes state employees to provide services in the community, while providing \$120 million to support new service opportunities in the private sector.

While there are no planned closures of state-operated psychiatric centers for SFY 2016-17; the Executive will continue with the planned transfer of children's inpatient services from Western New York Children's Psychiatric Center to the Buffalo Psychiatric Center. The WNYCPC is a true center for excellence serving children and teenagers in 19 western New York counties. WNYCPC's quality of care is evidenced by its low re-admission rates. Last fall, to draw attention to the plight of WNYCPC, one of my members, Stephanie McLean-Beathley held a two day sit-in in the cold and rain to bring

attention to the ill advised plan to close the facility and move the children to an adult facility. That is just one example of the passion my members have for the work they do.

The budget also includes other proposals that would reduce the number of state-operated inpatient psychiatric beds by 225 adult, children's and/or forensic beds.

The state budget is proposing the closure of beds within OMH without requiring the office to give the legally required one year notification. Providing the legally required one-year notice when downsizing OMH services is a necessity and for the greater good of the patients, their families, and the community. The one year notice allows these patients to be transitioned with a method that is rational and individualized to ensure the continuity of care.

The need for additional, not fewer, mental health resources is clear. We must expand services and allow people to have access to the treatments that they need.

Flooding the available service options with private sector/not-for-profit services is not truly providing this vulnerable population the choice of care that is promised through this "transformation" of services. It is instead, forcing individuals to utilize providers that may not be as educated, trained, or experienced as those that currently serve them.

The quality of care available depends on the quality of staff employed. Private not-for-profit providers tend to pay substandard wages, provide little or no benefits, and have lower educational and experience requirements for their employees.

The transition to community-based care cannot be set in motion until the community has the resources in place to ensure that individuals released into their care are guaranteed to receive the treatments that they need.

Thousands of mentally ill people are released from care, whether in hospitals or prisons, every year without proper follow-up. As Police Chief (Ret.) Michael Biasotti, former President of the New York State Association of Chiefs of Police explained to Congress in 2014, "We have two mental health systems today, serving two mutually exclusive populations: Community programs serve those who seek and accept treatment. Those who refuse, or are too sick to seek treatment voluntarily, become a law enforcement responsibility." In recent months, there have been a number of reports indicating that mentally ill individuals were released into the community and did not receive the proper care they required:

- In December, a schizophrenic man slashed without warning a young woman in Chelsea. After his arrest, police determined that a few days earlier the man had randomly slashed a woman in the Bronx. A week earlier, police had arrested him for punching a stranger. This occurred after several hospitalizations over the past few years for his psychiatric state.

- In January, a 28-year-old man with long histories both of mental illness and of violence, was involved in random knifings in New York City.

PEF supports deinstitutionalization that does not involve privatization. An effort that requires more pilot programs involving state employed professionals moving into community settings with appropriate supervision and linkage to the institutions. We would like the plan to stress the importance of continuity of care at the one-on-one professional care provider and facility level. The pilot program that was created last year utilizing state workforce for community-based care has worked. There is a need for this service and there is a need to expand this program. There is currently a waiting list for the services provided by these highly trained, experienced public employees. However, to serve those on the waiting list and to serve the 11,000 others who have unmet needs, this program must be expanded. PEF requests that a portion of the \$120 million the Executive Budget included to support new private sector services be used to expand this successful and necessary state-workforce community-based program. State-operated facilities should be a part of this transformed system to ensure that low-income populations with complex health issues continue to receive the care they need. Given the managed care incentives, this population may not be as readily served by the private-community-based providers.

To accomplish this effort, there must be a reinvestment of OMH & OPWDD resources to allow the current care providers, state employees, to be an integral part of the care provided in any setting.

**Justice Center for the Protection of People with Special Needs (Justice Center):**

The Justice Center oversees cases of abuse and neglect in state operated, licensed or certified programs and facilities in agencies that care for individuals with developmental disabilities, mental illness, substance abuse disorders and children in residential facilities.

The Justice Center has had a negative impact on health care professionals in this field. Clients repeatedly use the threat of Justice Center charges to manipulate their care givers. Nurses who become subjects of a Justice Center interrogation and investigation leave for nursing positions outside of State service. They fear that if they are found guilty their licenses will be in jeopardy and they will be unable to work with children or vulnerable clients.

Justice Center involvement has resulted in OPWDD and OMH having higher staff turnover rates than our prisons.

There has been inadequate training and support provided to the Justice Center and the OMH and OPWDD workforce to meet the requirements under the new law. These agencies are in need of workforce training, recruitment, retention and other resources to continue to meet the needs of individuals with mental illnesses.

PEF recognizes that all of our clients deserve individualized care plans shaped to their needs. State-operated facilities should be a part of the system to ensure that low-income populations with complex health issues continue to receive the care they need. Given the managed care incentives, this population may not be as readily served by the private-community-based providers.

Historically speaking, de-institutionalization and the wholesale closures of inpatient facilities has not been successful. This approach was tried with the mentally ill in the 1960s and 1970s. The result was an epidemic of homelessness and jails filled with the former wards of our mental health facilities. It has been said that the definition of insanity is doing the same thing over and over again and expecting a different outcome. Unless something is done to change the current climate, New York State is doomed to repeat the mistakes of the past.

## **DOCCS/PAROLE**

The Department of Corrections and Community Supervision (DOCCS) operates 54 facilities that house 53,000 inmates and is responsible for 36,000 parolees. With the development and expansion of a number of initiatives, an increase in staffing is a necessity for the well-being of DOCCS facilities, staff and the surrounding communities. The Executive Budget provides for an increase of 220 fulltime employees. Most of the additional positions in SFY 2016-17 are to implement Executive Order 150 which has moved all 16 and 17 year old offenders to Hudson Correctional Facility. These youth will receive specialized age-appropriate programming, and individuals presenting with mental health needs will have access to services provided by staff from the Office of Mental Health. And, it is unclear how DOCCS can add 220 positions while cutting its funding for these positions by \$100 million.

In his Executive Budget proposal, the Governor announced that he will partner with Manhattan District Attorney Cyrus R. Vance, Jr., SUNY and CUNY to invest \$7.5 million to expand college in prison programming in state prisons. While PEF commends the Governor for his expansion of this program and the \$2.5 million allocation of existing resources to be used to train staff to test inmates for learning disabilities; if these educational programs are to be more effective in giving inmates the skills they need to become law-abiding citizens when released from prison, DOCCS needs more staff. In order to perform their core mission of preparing inmates with the educational tools they need for successful reentry into the community the teacher-to-inmate ratio should also increase by 50 percent to match potential enrollment.

Despite the fact that over the past 14 years the staffing ratio of inmates to uniformed staff within the facilities has been reduced consistently with the decline in the inmate population, there has been an increase in violence within these facilities. Since 2010, there has been an approximately 40 percent increase statewide in assaults on staff in NYS prisons, and a 20 percent increase in assaults on inmates. (DOCCS Fact Sheet, Dec. 1, 2015) The statewide ratios may have remained consistent; however this trend in workplace violence clearly indicates the need for additional highly trained staff. We believe there is a need for additional training for current staff and the hiring of trained

staff necessary to combat the increased workplace violence and to improve the safety for both staff and inmates.

DOCCS, as with every agency in the state, suffers from recruitment and retention problems of licensed professionals such as nurses, doctors, pharmacists, and nurse practitioners within its facilities. The nurse vacancy rate has increased from 10 percent in January 2015 to approximately 16 percent in November 2016 -- an increase of nearly 6 percent in less than one year-- and this situation isn't improving. These medical professionals provide vital health care 24-hours a day, every day for all of the inmates in the facility and any staff who get hurt or have other medical emergencies at work. These vacancies are attributed to, in part, salary disparities between what is offered by New York State compared to similar jobs in the community, resulting in the inability to attract and maintain a sufficient number of staff. Salary disparities are further exacerbated by the workplace conditions for these professionals.

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

Recruitment and retention problems result in frequent scheduling and assignment changes as well as a high volume of voluntary and mandatory overtime. DOCCS has the most No Mandatory Overtime Violations of all state agencies, including the three SUNY Hospitals. Medical professionals in DOCCS facilities are unsung, undervalued and needlessly overstretched.

### ***Parole Officers***

In addition, to the staffing levels within the DOCCS facilities, we are just as concerned about the understaffing of parole officers. As reported by DOCCS in their most recent (Dec. 2015) fact sheet, there was a 51 percent return rate of individuals released on parole in 2010, with nearly 43 percent returned due to a parole violation.

You cannot help but see evidence of the need for an adequate level of parole officers when you pick up any newspaper today. One newspaper recently reported that there are 33 officers monitoring 1800 parolees in Monroe County. However, that story only shines a brighter light on worse ratios, such as those occurring within the downstate region. One bureau within the Bronx region experienced a 45 percent increase, since 2014, to their parolee to parole officer ratio, with there being 62 parolees for every 1 parole officer. While this does not take into account the severity or extent of each case load, the rate of recidivism warrants concern. In that bureau, from April 2014 to December 2015, the number of parolees increased by 7 percent, while the number of Parole Officers & Senior Parole Officers decreased by 26 percent.

The budget proposes an increase to the Community Supervision program, but provides no change in the FTE level. It appears that this funding may be utilized to pursue a new



initiative, the “right priorities.” We believe that increasing the number of FTEs for this program is the right priority. There needs to be more trained boots on the ground out there day-to-day supervising parolees. To be successful at their jobs and provide the safe environment necessary for all New Yorkers, there needs to be an increase in resources and training for the staff that are out on the line each and every day.

One aspect of supporting parole officers includes caring for them when they are injured in the performance of their duties. Under the existing provisions of General Municipal Law Section 207-c, the law provides for the continued payment of salary as well as medical expenses of police officers and sheriff’s deputies as well as other law enforcement officers who are injured in the performance of their duties. This provision of law recognizes that law enforcement officers are unavoidably exposed to serious personal risk in the line of duty. Parole Officers serve warrants and arrest felons, often working alongside other law enforcement officers and facing the same risks. Despite this, the present law does not include coverage for State Parole Officers who are sworn peace officers and who serve an essential law enforcement function. These DOCCS parole officers are the only DOCCS law enforcement employees who do not have this benefit. They deserve the same protection as the DOCCS Corrections Officers who have this benefit. The Public Employees Federation urges you to support legislation (A.7784/Skoufis, S. 5762/Robach) which corrects this inequity. Similarly, we ask you to introduce legislation that provides a “heart bill” for New York State Parole Officers. It would establish a presumption that a Parole Officer who becomes disabled due to a heart condition while employed as a Parole Officer is entitled to a disability

We must ensure that the professional workforce who provides this care in prisons and the parole officers who oversee their release have the support and resources they need to provide to keep the inmates, the public and the professionals safe.

We respectfully urge the Legislature to invest the scarce resources of this agency in the option proven to improve safety in our communities and overall correctional system. That is investing in additional fully trained and equipped DOCCS staff who risk their lives every day to educate, care for, and maintain a safe environment for those within and outside of the system.

I will conclude with just a few remarks about a budget proposal that would implement differential health care premiums for retirees based on years of service. We are very concerned about this proposal and view it as a retirement incentive – a negative incentive - but an incentive just the same. We believe this could result in some state employees rushing to retire before the proposed October 2016 implementation date, to avoid higher health insurance costs. This would leave an already decimated workforce in even more dire straits. We urge you to take a careful look at this proposal and imagine the ramifications of a workforce suddenly and quickly being pared even further because employees are being forced to retire earlier than they had planned to avoid higher health insurance costs during retirement.

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