

NEW YORK STATE
PROBATION COMMISSION MEETING

This meeting was conducted virtually via Cisco Webex on May 26, 2022

Members Present: Robert M. Maccarone, Deputy Commissioner and Director – DCJS - OPCA
Rocco Pozzi, Commissioner Westchester County Department Probation
Anthony Perri, Counsel to Chief Administrative Judge Lawrence Marks, NYS
Office of Court Administration
Jeffrey Butts, Ph.D, John Jay School of Criminal Justice, CUNY
MaryEllen Still, Dutchess County Probation Director
Joseph Wargo, Jefferson County Probation Supervisor

DCJS Staff Present: Joseph Popcun, Executive Deputy Commissioner - DCJS
Matthew Charton Interstate Compact Unit Manager, DCJS-OPCA
Patricia Clements, Training Unit Director, DCJS-OPCA
Gary Govel, Adult Operations Unit Manager, DCJS-OPCA
Teresa Scanu-Hansen, Juvenile Probation Operations Unit Mgr. DCJS-OPCA
Kimberly Schiavone, Criminal Justice Program Rep 4.

Special Guests:
Gladys Larsen: President of NYSPOA
Luci Taylor-Welch: President of NYSCOPA

Welcome and Introductions:

Deputy Commissioner and Director Robert Maccarone welcomed the members of the NYS Probation Commission as well as special guests Luci Taylor-Welch and Gladys Larsen. DC Maccarone asked Executive Deputy Commissioner Joseph Popcun for any remarks.

Executive Deputy Commissioner Joseph Popcun thanked everyone on behalf of Commissioner Rosanna Rosado, who was unable to attend today. He provided some thoughts on where DCJS was heading in regard to the DCJS and criminal justice agency leaders. Over the last six months they've appreciated the opportunity to meet with and hear from all corners of the Criminal Justice System, Probation Leaders, Police Chief's, Sheriff's, District Attorney's as well as Community Leaders and Legislators. Deputy Commissioner Popcun also shared the proposals that were included in the state budget and the work of DCJS in the upcoming year. NY remains the safest large state in the country and maintains the lowest rate of incarceration. However, this work is unfinished. Just as NY's recovery from Covid-19 has been challenging, so too has been the issue with gun violence and violent crimes. This year, the Governor has included in the DCJS budget more than one hundred million dollars extra to address gun violence. This will help with law enforcement in communities with programs and strategies necessary to address the persisting problem with crime. This will also help support law enforcement partners. DCJS has invested \$18.2 million in the gun violence involved violence elimination, as well as \$15 million in our crime analysis center network. Also, recognizing that the Pre-trial reforms were implemented without dedicated resources, the budget will provide \$10 million to support pre-trials service outside of New York City. We are also working now on a disbursement plan that will offset the costs of pre-trial services, many which are covered by probation departments throughout the state. This funding will be used to expand services, including screening and assessment, supervision, case management and information-sharing with the courts. Discovery funding will also be continued; there were some questions from the local level-- that will be continued at \$40 million. We are also working to extend a steering committee on hate crimes program to protect our not-for-profit organizations that are at risk for hate crimes. We will be putting \$25 million towards that program, along with a new 10 million dollars to protect reproductive health centers. We look forward to sharing more updates and information with you to make a difference in the lives of New Yorkers.

DC Maccarone thanked Joe Popcun for the informative description of DCJS funding. He then asked if everyone would bow their heads and observe a moment of silence for the innocent victims of mass shootings in Buffalo, New York and Texas.

DC Maccarone next acknowledged the passing of Alan Lizotte, a former member of the NYS Probation Commission, and former Dean of the School of Criminal Justice School at SUNY Albany. Alan contributed much to the NYS Probation Commission over the years and will be long remembered for his achievements in criminal justice research and policy development.

DC Maccarone then asked Commission Members to look over the minutes from the last meeting and asked for a motion to accept the minutes. Commissioner Pozzi made a

motion to accept the minutes, which was seconded by Commissioner member Joseph Wargo. The motion passed.

Mr. Maccarone then welcomed to the NYS Probation Commission two newly appointed members and very respected probation professionals.

Mary Ellen Still, Dutchess County, explained she has been a director of probation for many years, and has over 40 years in the department. Director Still's extensive experience has provided her with a broad understanding of probation and the good and effective work accomplished in the department and the probation field. The Department is very committed to evidence-based practice. She is also very active member of the Criminal Justice Advisory Board, and she currently chairs the Dutchess County Advisory Board. Her department is very much integrated into the criminal justice functions of the county including the jail and re-entry programs. Director Still stated she is very happy to be a part of the Probation Commission.

Joe Wargo, Jefferson County Probation Supervisor explained he's excited to be a part of the NY Probation Commission. He is currently the immediate past president of the NY State Probation Officer's Association where he served for well over a decade. One of the things the NYS POA does every year, with the exception of the two covid years, is the Annual Training Conference. The departments across the State have been extremely supportive as has DCJS/OPCA. The Annual Training Conference is scheduled for later July. There will be a lot of great vendors coming in as well as training programs. Probation Supervisor Wargo also stated that he also serves as Fire Chief at a local fire department. He also has 25 years in as a Probation Officer and is now the Supervisor of the Juvenile Unit.

COVID-19 DISCUSSION:

OCA Counsel Anthony Perri commented that since the last meeting one of the largest changes for the court operations has been the social distancing, which has been reduced from six feet to three feet. The courts have made an attempt to take an approach to prevent the spread of Covid-19 in the courthouse. That is one part of the approach; another includes vaccination mandates for judicial and non-judicial employees as well as Judges and non-Judges, as well as the regular disinfecting and cleaning of spaces and provisions for those who have to be in the courtroom, such as jurors and witnesses, providing them with N-95 masks to be worn in the courthouse. This has been a game changer for trial capacities and the ability to have proceedings in the spaces that they were originally taking place. We still maintain temperature screenings and signage request.

DC Maccarone asked Anthony Perri if the Probation Departments keeping up with pre-sentence reports?

Anthony said there was recent discussion about that topic, we have found that Probation has been a very willing and an able partner with the courts with respect to the pre-sentencing courts.

Luci Taylor-Welch, President of the Council of Probation Administrators:

Director Welch reported things are pretty normal, as normal as they could be. They were working a hybrid schedule back in early 2019. Probation Departments have long returned to the offices. Things are just about back to normal, and the numbers are also growing across the state with the regards to COVID and we are trying to adapt to business as usual.

Gladys Larsen, President of the Probation Officer's Association:

Wanted to say how proud the NYS POA is to have Probation Supervisor and Past President of the NYS POA Joseph Wargo as part of the Probation Commission. He has served the Probation s well and she knows he will serve the Probation Commission well also.

There was a recent meeting in April, where the department reported that things were pretty much back to full service in person. Some counties still require mask or allow it to be the choice of the officers. Lot of the Officers have reported that things have changed despite being back to normal. Obviously with violence things are changing, but the one thing that rings true across the State that the one agency that remained consistent throughout was the Probation Department. The Directors and Commissioners should all be proud of their departments for being the constant in the lives of the people that we work with when they needed it. We are getting ready for our first conference since COVID, which is scary because it will be a lot of people in one place. However, we are taking the proper precautions with asking people not to come to the conference if they are feeling ill, making sure that hand sanitizer is available, telling people to feel safe wearing their mask if that's what they would like, and holding outdoor events instead of indoors. It has definitely changed the way the Association plans conferences.

Commissioner Pozzi commented that the Covid numbers are up in Westchester County, but the good news is they have not skipped a beat as indicated. Probation continues to get their responsibilities done. We have some officers that are out that have to quarantine, but the good news is that they are getting better. Commissioner Pozzi thinks that there will be a big push soon from the County to get more information out to try to get people to take the boosters.

Probation and Pre-Trial Services:

Luci Taylor-Welch reported that some Counties have experienced significant increases in cases, and some counties are not. There is a lot of uncertainty as far as what this may look like after filling out the pre-trial service survey. Questions like, what will the expectations be and what expectations will we be able to fulfill. They are also eager to find out about the 10-million-dollar allocation in state aid that will be sent out. There is a lot of uncertainty, and everyone is experiencing things differently across the State of NY. We are anxiously awaiting to hear some kind of guidance.

Gladys Larson commented that there was a discussion at a meeting in April, and participants identified pre-trial numbers are going up, however, some of the smaller Justice Courts are not following the proper process for the Pre-Trial. The discussion turned how to get the small courts receive the proper training. The concern is there is a large number of people being released and the paperwork doesn't make it to probation. We think more training needs to be done in the smaller courts.

Part 359-Intra-Interstate Transfer:

Bob commented that a lot of work went into this. It is now approved and with Chamber. This should be approved soon and will be ready for public comment. A number of provisions in Interstate Transfer, Part 349 that will help departments particularly in conflict-of-interest cases. Bob commends Matthew Charton and members of the workgroup for heading up this project.

Part 357, PINS intake:

Teresa Scanu-Hansen, Manager of the OPCA JPO Unit updated Part 357, consistent with recent legislative changes which were then inserted into the proposed regulation, along with recommended guidelines for the use of electronic monitoring. That is going through regulatory review, but that has come back to DCJS for some comments. We will make changes and return them to the regulatory review unit so it can be advanced to the Governor's Counsel . We are making progress on Part 349 and Part 357.

Updates:

DC Maccarone commented that he wanted to lay a foundation for the Basic Course for Peace Officers. The law has changed, and we have learned late in 2021 that all Peace Officers will be required to complete the course which is now 162 hours. This spring – March 7--Patty Clements and Bob met with the members of the Municipal Police Training Council and sought permission to extend the deadline to January 1, 2023. This was approved by the MPTC.

Patricia Clements-Overview/Training Unit:

Patty Clements congratulated MaryEllen Still and Joseph Wargo for their appointment to the NYS Probation Commission.

Patty reported to the Commission that OPCA had been using the Fundamentals of Probation Practice curriculum since 2005, which initially exceeded and satisfied the statutory requirement for Peace Officers training. Things have changed and the law is now saying that all Peace Officers including Probation Officers will have to complete the BCPO curriculum, which requires 162 hours of training. Importantly, the probation training academies in NYS have taken on the task of ensuring they have qualified instructors to provide the BCPO to all new probation officers. This will also ensure the BCPO curriculum is delivered in a manner that is probation centric, with hypotheticals and scenarios relevant to probation practice

OPCA has conducted some outreach to the different Police Academy's and Zone Commanders and each of the fourteen zones across NYS, just to get a sense of who offers the course, under what circumstances, and at what cost, and we've populated that information into an interactive google maps which we've shared out to field. As we get more information from other sites, we will continue to update the map.

OPCA has also partnered with the Office of Public Safety which is offering the special certifications courses. There are a number of modules within the curriculum that will require a certification above the general topics such as defensive tactics and crisis intervention. We've partnered with the Office of Public Safety to make sure seats are reserved for the instructors of those academies to be able to get in and the certifications. Many of the instructors already have what they need, but some do not have all credentials. We are happy that this is moving forward, and we intend by January 1st to be able to have that course offered in as many of those academies as possible.

Lastly, a workgroup has been formed and described as the NYS Probation Academy Directors (NYPAD). We will be convening our first forum on August 3, 2022 in Oriskany, NY--the first of what we hope will be an annual gathering. The focus of this group will be to ensure the consistent delivery of the BPCO curriculum across New York State.

Gary Govel--Probation Financial Obligations Workgroup:

The CPL requires the Chief elected officials in each jurisdiction to identify a designated restitution collection agency. In NYC that agency is Safe Horizon's, outside of NYC in the 56 of the 57 counties it is Probation. So, this is largely a probation function. In 2020, we were affected by the pandemic, Probation and Safe Horizon was able to collect over

\$14 million in restitution. However, this is a complex function that involves multiple agencies at different stages and different parts of the law. Many Probation Departments have been subject to audits over the years by the Office of the State Comptroller. The Comptroller's Office identified some of our strengths as well as our areas that need improvement. We will look at those audits as well as other concerns brought forward by the field.

OPCA has convened a Financial Obligation Workgroup which also includes Safe Horizons, and is co-chaired by Joanne Miller, Probation Director of Madison County and Tim Davidian, Probation Director of Orange County.

In October, at OPCA's request, the NYS Comptroller did a basic fiscal control training for probation. OPCA and AutoMon also presented to members of the workgroup and Probation Directors, a demonstration of caseload explorer financial module.

The goal of the Workgroup is to develop a NYS Uniform Restitution Order that meets the requirements of the law and provides notification of the restitution order to all parties including probation, the victim, and DOCCS. Additionally, OPCA will be working with AutoMon to review a list of proposed enhancements to caseload explorer, including a section of enhancements to the financial module. We are certain that there will be some lingering issues that we will need to work through, we do hope to incorporate it into the uniform order, but the CPL requires restitution orders to be filed in a means as a civil judgement with the County Clerk's office. Notably NYS DOCCS has also participated and collects a significant amount of restitution from persons incarcerated in State facilities. We want to ensure that Probation Departments are regularly able to accept those monies to make sure that the orders are in place.

Teresa Scanu-Hansen--Juvenile Probation Operations Unit

DCJS and OCFS were successful in convincing NYS to invest in the very front end of the juvenile justice system. NYS has a unique provision in the law that provides for the probation intake and adjustment process, which provides a mechanism to adjust JD matters prior to formal petition, fact-finding, and disposition.

DCJS has also developed and published a series of data reports that are shared with probation departments and posted to the DCJS website to inform policy and decision-making, including the evaluation of equity in the decision-making process.

Lastly, DCJS has utilized RTA funding to develop the Juvenile Probation Operations Unit within OPCA to provide technical assistance to probation departments and ensure the provision of evidence-based services to capitalize on the state's investment in RTA with a focus on equitable outcomes and attention to any disparity and outcomes for youth. The design of our technical assistance with probation departments consists of hearing the perspective from the departments that we are working with, reviewing the designs of the local systems, looking at data, not only volumes but outcomes achieved,

and working collaboratively with departments to identify goals that they would like to achieve.

Nicole Aldi-ATI Unit

DCJS released its ATI Request for Proposals on April 27, 2022, which will make some 15.3 million dollars available to community programs and services. The applications and proposals are due June 15, 2022, at 12 noon. DCJS held a webinar on May 4, 2022, for questions and answers regarding the RFP, this webinar has been posted to our DCJS main website under the funding opportunities tab. If you missed that webinar, you will be able to get the recording from the main website.

New program funding contracts will commence on January 1, 2023.

Nicole also described the Units work with localities pertaining to local Criminal Justice Advisory Boards or Criminal Justice Coordinating Committees. The Advisory Board is made up of all law enforcement individuals from all aspects including Sheriffs, Judges and Attorneys. OPCA is working to support the County's development and utilization of these planning bodies for the coordination of ATI programs but also for other initiatives such as the GIVE or gun initiatives. In the past, the ATI Unit has made a series of presentations to communities including Herkimer and Westchester Counties. Nicole then advised Commission members that OPCA was planning a August 25th webinar on the topic of the ATI Advisory Board and its functionality. The webinar will be open to Judges, Probation, ATI Programs, Sherriff's, District Attorneys, Legal Aid, etc.

Matthew Chaton-Interstate Compact:

Interstate Transfer is at the discretion of the sending State or the sending jurisdiction. Once that interstate transfer is accepted, either by acceptance of the reporting instructions or the acceptance of a full transfer request, only the supervision of that sentence is transferred to receiving state. The jurisdiction of that case remains with the sending county. If an individual is in another state and they are non-compliant to the point of that receiving state submitting a violation requiring retaking, by the submission of that violation, this triggers certain compact rules. Depending on the nature of non-compliance, the violation may require a warrant being issued by the sentencing court.

Prior to April 1, 2022, there were six different time frames in the compact rule that were associated with the issuances of warrants. Effective April 1st, the new federal ICAOS Rules provide for a uniform 15 business daytime frame for courts to issue a warrant and for that warrant to be entered into the NCIC system. The 15 business days includes from the time the request is received in the compact office until it is approved by the Judge and entered into the NCIC. As many departments are aware, in New York State,

we instituted this anticipated rule about a year ago and began to work with our county probation departments as well as the NYC Department of Probation and the courts to implement this 15-day timeframe. Compliance with the rule is closely monitored by the Interstate Unit.

Luci Taylor-Welch-- Detention Facilities:

COPA President Luci Taylor Welch reported about ongoing problems with detention. Unfortunately, those problems are getting worse instead of better. Director Taylor-Welch is hearing from a lot of Directors on a regular basis that things are getting worse and more complicated, seems like the rules are always changing and when the directors try to call detention centers there are different things they are asking for. The bottom line is that we have some very serious offenders that are being pushed back down on county supervision and need to be placed in detention. She believes that this is one of the biggest issues facing probation departments right now.

Commissioner Pozzi mentioned that this is a big issue. There was not enough time given to counties that have juvenile detention centers to prepare for the increase population. We all know that it's nearly impossible at that compacity going through the capitol project systems in our counties in getting something done within an 18-month period. Police are reluctant to enforce juvenile warrants or arrest, because if they take a juvenile into custody, they have no place to put them. In some serious cases where they have to take the kids into custody, it's not unusual for the police to be sitting on kids for hours, sometimes even overnight before they can work out something for detention facilities to take a kid.

Hearing no other business, the meeting was called to closure.

The next meeting of the NY Probation Commission will be **Thursday, November 17, 2022.**

Respectfully submitted,

LaTrenda Buchanon

July 1, 2022