

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: CRIMINAL JUSTICE

DATE: APRIL 30, 2012

COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:

SUPERVISORS BENTLEY
KENNY
STRAINER
DICKINSON
VANSELOW
MASON

ROBERT IUSI, DIRECTOR OF THE PROBATION DEPARTMENT
JOHN WAPPETT, PUBLIC DEFENDER
PAUL DUSEK, COUNTY ADMINISTRATOR
JOAN SADY, CLERK OF THE BOARD
KEVIN GERAGHTY, BUDGET OFFICER
SUPERVISOR WOOD
SUPERVISOR TAYLOR

COMMITTEE MEMBER ABSENT:

SUPERVISOR MONROE

SUPERVISOR GIRARD
BUD YORK, SHERIFF
BRIAN LAFLURE, DIRECTOR, OFFICE OF EMERGENCY SERVICES
DON LEHMAN, *THE POST STAR*
JOANNE COLLINS, LEGISLATIVE OFFICE SPECIALIST

Mr. Bentley called the meeting of the Criminal Justice Committee to order at 9:31 a.m.

Motion was made by Mr. Strainer, seconded by Mr. Dickinson, and carried unanimously to approve the minutes from the previous Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to John Wappett, Public Defender (PD) who would first address the matter of State funding. He advised that since his Office was formed in 2004, annual State funding, had been available for indigent/legal services for defendants in family and criminal courts. More recently, he stated, there had been an effort to develop criminal defense services for criminal indigent defendants into a State-wide agency, and in so doing, the State would withhold increasing portions of funding over the next four years, until the County provided evidence that additional services were in place for indigent persons, which would enable the County to "earn" funds withheld.

Mr. Wappett advised the portion of funding withheld by the State in the first year was \$23,000, which the County would provide. In the first year of the funding changes, he said, his Office had begun handling criminal appeals funded by 18B Assigned Counsel funds and he noted his Office could process the appeals in a more efficient and less costly manner; providing cost savings. Moreover, he noted, the handling of appeals by the Public Defender could account for a portion of the necessary work to insure or "earn" the withheld funding, as well as creating educational and professional development opportunities for staff.

The problem, Mr. Wappett pointed out, occurred when criminal convictions were appealed to the Appellate Division, who then notified the defendants, often incarcerated at the time, of their representation by the PD. Prison attorneys, he noted, often advised defendants to seek the services of private attorney's to obtain stronger representation when, in fact, Mr. Wappett asserted, he and his staff were highly experienced in handling the cases. Subsequently, he said, the defendants would appeal for a private attorney, and the requests, which were not reviewed in detail, were consistently granted. He noted private attorneys were paid from Assigned Counsel's 18B account. Mr. Wappett advised that he spoke to the Chief Clerk at the Appellate Division, who confirmed the process of granting the reassignments, and advised he would speak to the presiding judge regarding the matter. Mr. Wappett informed he discussed the issue with Messrs. Bentley and Monroe suggesting

a resolution to urge the Appellate Division to review requests for appeals due to conflicts of interest. Mr. Wappett noted a copy of the draft resolution was distributed to Committee members; a copy of which is on file with the minutes.

Motion was made by Mr. Kenny, seconded by Mr. Dickinson and carried unanimously to approve the request for a resolution urging the Appellate Division to review appeals for conflicts of interest prior to their reassignment to private attorneys, and the necessary resolution was authorized for the May 18, 2012 Board Meeting.

With regard to earning the remaining portion of funds withheld, Mr. Wappett suggested that upgrades to computers be considered an option and he referenced the County's initiative to upgrade computers on a rotating basis. The PD's Office, he said, could carry out the upgrades as the Saratoga County Public Defender had done; thereby justifying additional services. Mr. Mason noted that the change would result in a savings for the County.

With the Committee's consent, Mr. Wappett stated, he would draft a proposal to present to Mr. Dusek and Mr. Bentley with regard to computer upgrades. He advised his Office was operating quite optimally and it would be a significant challenge to develop areas of additional services in order to obtain funding in the future.

It was the consensus of the Committee to approve the request to upgrade computers in the Public Defender's Office as outlined pending review of the County Administrator, and to remove the Public Defender from the list of computer upgrades for the applicable cycle(s).

Mr. Wappett addressed the matter of shared services among PD's and cited a situation where another county had requested assistance with sealed indictments due to time restraints and volume. Mr. Wappett suggested that an agreement be developed for similar situations involving shared conflict defender services among four or five counties. He asserted private attorneys would be paid from the 18B fund and shared services always presented cost savings (at a savings rate of 33-50% savings as compared to the cost of private attorneys). Mr. Wappett said an agreement to exchange services would enable counties to assist one another when necessary and feasible, would ensure quality representation, and overall, was an effective use of resources. Mr. Bentley pointed out that an agreement for shared services was already in place in the District Attorney's Office. Mr. Wappett said he would research this proposal and bring it back to the Committee.

Next, Mr. Wappett advised of the need to extend the contract with the Office of Indigent Legal Services (OILS), to provide appellate work. Paul Dusek, County Administrator, noted that he had presented the request to the Finance Committee on April 11, 2012; therefore, no further action was necessary at this time.

Lastly, Mr. Wappett informed of an oversight pertaining to a payment for maintenance for the case tracking software. The software, he stated, was necessary to provide reports for OILS and an invoice in the amount of \$2,625 for the maintenance program was erroneously overlooked, but would be paid from the current departmental budget. He further advised that the \$2,625 was included in the original contract and he would ensure that the correct amount was included in the departmental budget moving forward.

Privilege of the floor was extended to Robert Iusi, Director of the Probation Department, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing his agenda review, Mr. Iusi requested permission to appoint ten members to the Criminal Justice Advisory Board pursuant to Article 13-A of the Executive Law. He stated the State had sought to strengthen the Advisory Board and Mr. Iusi stated members included Paul Dusek, County Administrator; William Valenza, Chief, Glens Falls Police Department (GFPD); Ralph Bentley, Criminal Justice Committee Chairman; Nathan York, Sheriff; Lori Donahue, ASP Director, Community Action Center; John Wappett, Public Defender; Robert York, Director, Community Services; Amy Bartlett, First Assistant County Attorney; Debra Holderman and Frank Rock, County residents.

Motion was made by Mr. Strainer, seconded by Mr. Kenny and carried unanimously to approve the request to appoint members of the Criminal Justice Advisory Board as outlined, and the necessary resolution was authorized for the May 18, 2012 Board Meeting. *Copies of the resolution request forms are on file with the minutes.*

Mr. Iusi presented a request for an agreement with the National Toxicology Center, to provide drug testing services for probationers. He advised that preparation of the agreement was underway in the County Attorney's Office.

Motion was made by Mr. Strainer, seconded by Mr. Kenny and carried unanimously to approve the request for an agreement with the National Toxicology Center for drug testing services as outlined above, and the necessary resolution was authorized for the May 18, 2012 Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Pertaining to travel and training, Mr. Iusi presented two requests which would incur no cost to the County as follows:

- ◆ 2012 New York (NY) State Police Sex Offense Seminar, Albany, NY, from May 21 - 25, 2012.
Attendees: Martha DeLarm and Mark Murray
- ◆ New York State Council of Probation Administrators (COPA) Summer Conference and Training Seminar, Lake Placid, NY, from June 26 - 27, 2012.
Attendee: Robert Iusi

Motion was made by Mr. Strainer, seconded by Mr. Dickinson and carried unanimously to approve both travel requests as outlined above. *Copies of the Authorizations to Attend Meeting or Convention are on file with the minutes.*

Mr. Iusi informed of an expansion to the DNA testing procedures which would include all probationers as opposed to approximately half, which had been the case. Mr. Iusi said he supported the change and noted it represented a small unfunded mandate which produced additional work for staff. He added that testing kits were paid for by the State.

Also pertaining to unfunded mandates, Mr. Iusi apprised of a component added to the Annual Community Corrections Plan and State Aid Application requiring a data analysis report. The purpose of the document, he explained, was to provide information for problem resolution to the Advisory Board. Mr. Iusi advised of the factors which caused him to challenge the effectiveness of the document for this particular purpose due to the disproportionate amount of funding for the staff time required to produce the voluminous report, as well as the relevance of the data for the particular user groups. In essence, he said, this large unfunded mandate produced an unnecessary burden on the County, and could better serve its purpose in another arena. Mr. Iusi stated he would forward his concerns to the New York State Association of Counties (NYSAC).

This concluded the Probation portion of the Criminal Justice Committee meeting and Mr. Bentley advised an executive session would be necessary with regard to matters leading to the appointment of a specific person.

Motion was made by Mr. Kenny, seconded by Mr. Mason and carried unanimously to enter into executive session pursuant to Section 105 (f) of the Public Officers Law.

Executive session was declared from 10:05 a.m. to 10:10 a.m.

Upon reconvening, motion was made by Mr. Kenny, seconded by Mr. Strainer and carried unanimously to appoint Joy Lafountain as Assigned Counsel Administrator, and to refer same to the Personnel Committee. *A copy of the resolution request form is on file with the minutes.*

There being no further business to come before the Criminal Justice Committee, on motion made by Mr. Strainer and seconded by Mr. Kenny, Mr. Bentley adjourned the meeting at 10:10 a.m.

Respectfully submitted,
Joanne Collins, Legislative Office Specialist