

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: CRIMINAL JUSTICE (PUBLIC DEFENDER)

DATE: SEPTEMBER 11, 2012

COMMITTEE MEMBERS PRESENT:

SUPERVISORS BENTLEY
KENNY
STRAINER
MONROE
MASON

OTHERS PRESENT:

JOHN WAPPETT, PUBLIC DEFENDER
PAUL DUSEK, COUNTY ADMINISTRATOR
JOAN SADY, CLERK OF THE BOARD
KEVIN GERAGHTY, BUDGET OFFICER

COMMITTEE MEMBERS ABSENT:

SUPERVISORS DICKINSON
VANSELOW

SUPERVISORS CONOVER
GIRARD
MCDEVITT
STRAINER
THOMAS
WESTCOTT
WOOD
DON LEHMAN, *THE POST STAR*
JOANNE COLLINS, LEGISLATIVE OFFICE SPECIALIST

Mr. Bentley called the meeting of the Criminal Justice Committee to order at 8:31 a.m.

Motion was made by Mr. Kenny, seconded by Mr. Mason, 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 Paul Dusek, County Administrator, who stated the purpose of today's meeting was to review the draft Agreement between the New York State Office of Indigent Legal Services (NYS OILS) and Warren County. Mr. Dusek explained that indigent services were handled through both the Public Defender (PD) and Assigned Counsel Offices at a cost of approximately \$600,000 to \$700,000 per year for each Office, totaling \$1.2 million per year depending upon caseloads. He advised that historically, the County received approximately \$200,000 annually from the State which the County assigned as Legal Aid Revenue. The new funding scenario, Mr. Dusek explained, included the creation of the NYS OILS, whose mission was the improvement of services. He asserted that the State's edict required that all monies received for services must be used to improve services. Last year, he advised, the County's ability to recapture \$23,000 in funding depended upon the Public Defenders ability to improve legal services, which resulted in the PD handling appeals in-house. This being the second consecutive year, Mr. Dusek said, total funding was reduced to \$160,000 and \$53,406 could be recaptured if evidence of improved services was provided.

Mr. Dusek stated the PD Office was running in an optimum manner and ideas for improvement had already been implemented, making the ability to recapture funds in the future difficult or unlikely. Mr. Dusek informed that Supervisor Westcott had raised the issue through New York State's Mandate Relief Council; and a letter had been sent to other counties and to the New York State Association of Counties (NYSAC). He further explained that Warren County had conveyed to the State their acknowledgment and understanding of the requirement for improved services. However, he said, the County would ask the State to consider the authorization of funds as the PD's Office had made improvements and was operating at an optimum level. Mr. Dusek stated the second item requested by the County was a request to amend the statute to allow legal aid to handle conflict cases where contracts with private counsel had been used which would result in cost savings. If the County were unable to recapture the funds, Mr. Dusek expounded, there were other solutions such

as the creation of conflict defender services in-house, and shared services among counties which Mr. Wappett had already initiated. Unfortunately, he noted, the County would need to spend money in order to recapture funds the State had taken away.

Mr. Dusek distributed copies of the Agreement, a copy of which is on file with the minutes. He said the Agreement included the following:

- Appendix A - Standard Clauses for New York State Contracts;
- Appendix B - Three-Year Distribution (June 1, 2012 -May 31, 2015);
- Appendix C - Payment and Reporting Schedule; and
- Appendix D - Three-year Distribution and Work Plan.

Mr. Dusek stated the overall goal was to improve the quality of services provided under Article 18-B of the County Law and maintain Public Defender and Assigned Counsel services with existing and increasing County funds but reduced State funding. He enumerated the seven Tasks and Performance Measures included in the Work Plan as follows:

1. Warren County PD will replace and upgrade the entire communications and computer system (*to seek improvements in the system through increased attorney productivity and/increased ability to prepare effective presentations*);
2. Replace and upgrade Office furniture (*to present professional public image*);
3. Provide CLE training for attorneys working in the PD office (*number of attorney who attend CLE courses is related to the provision of Article 18-B services*);
4. Continue to handle appeals in felony cases originally in Warren County or within other counties through inter-municipal cooperative agreements (*to increase number of appeals in felony cases handled by PD and reduce cost to Assigned Counsel*);
5. Provide salary increases to Assistant Public Defender's, Confidential Secretary and Assigned Counsel Administrator to retain experienced and professional personnel (*to reduce turnover of experienced professional staff*);
6. Provide projected increases in health and retirement benefits over and above the current cost making the lack of funds and the availability of services mutually exclusive (*continue indigent services at the current levels of efficiency*); and
7. Provide for projected increases in legal fees over and above the current budgeted funds to help offset the loss of State revenues (*continue County funding at or above the current levels*).

In conclusion, Mr. Dusek said he felt the County should be able to use State funds to offset future needs and not be limited to expenses for improvements.

Motion was made by Mr. Kenny, seconded by Mr. Strainer and carried unanimously to approve the agreement between Warren County and the New York State Office of Indigent Services for the period from June 1, 2012 through May 31, 2015 as outlined above and the necessary resolution was authorized for the September 21, 2012 Board meeting. *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 8:51 a.m.

Respectfully submitted,
Joanne Collins, Legislative Office Specialist