

New York State  
Probation Commission Meeting  
Minutes of November 14, 2017 Meeting

Members Present: Robert M. Maccarone, Deputy Commissioner and Director – OPCA  
Rocco Pozzi, Commissioner Westchester County Department of Probation  
Distinguished Professor Alan Lizotte, School of Criminal Justice, SUNY Albany  
Paul McDonnell, Counsel to Chief Administrative Judge Lawrence Marks  
Linda Shields, Community Member, Retired Probation Director  
Robert Burns, Public Safety Director, Monroe County (via phone)  
Wayne D’Arcy, Retired Probation Supervisor (via phone)

DCJS Staff Present: John H. Adams, Executive Deputy Director, OPCA  
Matthew Charton, Interstate Compact Unit Manager, OPCA  
Linda Valenti, Assistant Counsel, OPCA  
Colleen Thorn, Community Correction Rep. 2, Adult Operations, OPCA  
Gary Govel Adult Operations Unit Manager, OPCA  
Teresa Scanu-Hansen, Juvenile Unit, OPCA  
Patty Clements, Community Correction Rep, 3 Training Unit, OPCA  
David Lewis, Community Correction Representative 1, Adult Operations, OPCA  
Dan Robertello, Community Correction Rep. 2, Training Unit, OPCA  
Michele Melendez-McKearin, Community Correction Rep 2, Adult Operations, OPCA  
Cindi Smith, Executive Secretary, OPCA

Other Attendees: Loren Stapleton, Supervisor of Warrants, Westchester County

Welcome and Introductions

Deputy Commissioner and Director Maccarone welcomed everyone to Albany and each person introduced themselves.

Approval of Minutes

Motion to approve April 18, 2017 minutes by Commissioner Pozzi, seconded by Professor Lizotte. Minutes were accepted and approved.

Approval of Today’s Agenda

Motion to approve November 14, 2017 Agenda by Linda Shields and seconded by Commissioner Pozzi.

Probation – General

Commissioner Pozzi reported on the Annual American Probation and Parole Institute (APPA). Conference was held August 27-30, 2017 in New York City. It was a huge success, great training, great quality of workshops, etc. May be back to New York City in 3-4 years. Federal Government Budget prevented more from attending. Commissioner Pozzi thanked Deputy Commissioner Maccarone for all his support of the program and Francine Peretta. Patty Clements applauds the team in the planning of APPA. Deputy Commissioner Maccarone noted the quality of the outside options provided like the visit to the 911 Memorial Museum at a reduced price, the NYC Neon Program, etc. A number of awards were presented. Commissioner Ana Bermudez served as a wonderful host.

## Raise The Age

Commissioner Green wanted to insure that members of the Probation Commission know their input and guidance on Raise The Age is encouraged and welcomed.

Updates on progress made over the last six months since we last met –

- John Adams spoke on Juvenile Justice Practice Enhancements  
Focus is OPCA and feedback from various work groups and Probation Directors  
Looking at Juvenile Justice and upfront services and detention services. Probation has a very important role as we want to engage youth in a very positive way – dealing with youth before they become entrenched in the juvenile justice system and then the criminal justice system. We looked at three areas:
  - Youth going into detention upon arrest
  - Probation intake
  - Probation adjustment processProbation Directors can issue all youth screened for JD Intake and if appropriate for release  
Youth that are detained would be screened for suitability for JD Adjustment Services

Deputy Commissioner Maccarone shared that in May we convened a workgroup of Probation Directors to gather information on the types of services 16 and 17 year old's would need. We learned that some 16-17 year old's are really independent of their families, other families heavily involved. Those independent need access to vocational/educational training. Some of them have been out of the school system for a number of years and probably aren't going to return.

Then in September we convened the first statewide workgroup to work on regulatory reform – full day talking about detention and pre-dispositional distribution. These are ongoing – second meetings this week – one is detention and predisposition and the other is on JD Intake – youth part. New regulations to be written. The goal is to finish these up by January and move on to six or seven other rules. Those don't need “major construction.” The goal is to finish regulations by April 1 and that will give us three months to promulgate.

Teresa Scanu-Hansen gave an overview of regulations and descriptions of each workgroup. The first group is focusing on detention screening and release of JD Youth and the second group is Youth Part & JD Rule 356.

Paul McDonnell gave an overview of Judge Mark's planning committee and subcommittees in dealing with youth part, family court interaction with probation, etc. The court system feels there has to be some level of flexibility with the various counties – not all will have the same workload. 45 counties are going to have fewer than 10 youth part cases per year. Cases need to be raised quickly and get probation involved earlier. Must have a plan right away before release. Commissioner Pozzi addressed planning with kids that are in detention if they have to stay there, jump start so they are eventually released. These plans have to be ready in October 2018, not after. Trust needs to be established. Some of the research that has been done has been handed over to the AJ's to develop local plans. Number of staffing will obviously vary from county to county but there still has to be adequate communication between all the players. Commissioner Pozzi planning with kids that are in detention if they have to stay there – a jump start so when they are eventually released there needs to be a program in place. We need more planning for kids who do have to potential and are in detention...what are we doing with them, what programs are available? We have to get over the idea that kids are there for a short period of time so why put in a lot of effort. Paul McDonald said he couldn't agree more but the other component of these decisions and recommendations. The greater trust that is built between attorneys and district attorney offices will allow for greater opportunity for removal at an earlier stage. If there is no planning or program in place there is less likelihood for district attorneys to move forward and will hamper the roll out of the program on October 1, 2018. There is a lot of acceptance of Raise The Age between the District

Attorneys but there are also pockets lacking trust around the state and its important to develop that trust from the onset. Wayne D'Arcy asked about numbers we are looking at. Deputy Commissioner Maccarone perspective numbers for all of this – we currently have 10-12,000, by 2020 when law is fully implemented about 26,000. We have asked for fulltime funding in New York City and six other high volume jurisdictions. They will be there at the first appearance working with those youth and to engage in what the law provides for **voluntary** case assessment and planning services working with probation to do assessments, develop case plans. The fulltime presence does two things – the front end of probation intake and adjustment services and it establishes with that one engagement and judges may be very receptive go probations recommendations for alternatives to detention. In the smaller jurisdictions we envision having we envision sending a probation officer over from nearby county to have that presence. That is how we established the staffing pattern.

Three things are occurring:

- We are looking at the annual probation plans that the counties submit yearly about community based services
- COPA has developed its own assessments of evidence based services in the communities and has shared that data with us
- The chamber has distributed to the counties a local planning guide. It was sent out the Chief Elected Officials with the request that they convene a planning committee in their counties that would include probation commissioners, social services commissioners, sheriffs, prosecutors, defense counsel, attorneys for the children, presentment agencies, treatment agencies, etc. to assess the Raise The Age regulation and the planning they need to do to prepare. We will see that Paul McDonnell and the Courts get a copy. It is a very good planning tool although voluntary.

When we get all of this back we are going to put together a statewide plan of services we think we need. We will work with juvenile courts in the counties. We think we can train staff in our OWDS.

The other two key areas we are looking at is how do we address the need for mental health services and how to make them available for regional basis and educational advocacy services for kids with special needs.

We are meeting next week in regard to all the above. Commissioner Green has done an excellent presentation to the chamber for funding. It is a big undertaking here. We have worked since April and developed a very definitive strong plan. We won't have the results we want without adequate services and staffing.

John Adams talked about what happens in the probation process. Initially youth have to be screened to assure that we don't have low risk kids penetrate the system any further than necessary and provide them with minimal services and resolve those cases up front so we can focus probation officers working with moderate to high risk youth. The second need a full assessment to determine that we are determining all their criminogenic needs. We also want to give a mental health screening so that we can identify those youth up front. Teresa Scanu-Hansen talked about determining eligibility and suitability criteria in youth going into various programs. Also need to determine what the victim is looking for in the process. Paul McDonnell said it is important that the court is informed and knows what is going on with each case to assure accountability. We should also talk to the victim to see what they are looking for. Deputy Commissioner Maccarone said that utilizing the Uniform Court Report will be important and that there is a presumption of the next 60 days to work with the case. Per Paul McDonnell – in smaller communities youth court judge may wear several hats unlike larger localities like NYC where there are specific youth court judges. We want to build a system that works. At 60 days Probation should inform the judge of what progress is being made.

Commissioner Pozzi made a formal motion for 180 days adjustment period, we are at 120 now, for all Intake and JD cases. All Commissioner Members voted in favor and It was seconded by Professor Lizzotte, fully supported by all. Professor Lizotte suggested a flexible period after 60 days. Linda Shields discussion – thinks that 90-90 makes sense and would create less paperwork. This seems to be in the best interest of the child. Linda Valente said we need to make it 90/90 – it has been proposed 3 or 4 times over 20 years, back when we were doing PINS Reform. COPA has endorsed this for years.

### Pre-Dispositional Supervision and Article 3 – JD Intake- Teresa Scanu-Hansen

We have adult standards on the side of pre-dispositional supervision but there are no regulatory documents about pre-dispositional release from family court when a youth is released to Probation. We are developing regulations in this group. The second group is looking at Article 3 – JD Intake Regulation – there is an existing rule but we are looking at enhancing that rule about how transition will take place on youth part removal to family court system. This has an impact on time frame consideration. The goal is to enhance probations role. The last thing we are working on is Voluntary Assessment and Case Planning on Youth Part – a new role for Probation. Paul McDonnell and Teresa had a discussion on these rules. This has everything to do with voluntary youth assessment. The expertise that these groups are bringing to the table is invaluable.

### Staffing and Services – Deputy Commissioner Maccarone

We worked with OJRP for several weeks on putting together documentation requested by Commissioner Green for him to present to the Chamber/Division of Budget. Also 4-6 presentations were done statewide. We did extensive review on evidence based practice – we don't want to miss an opportunity with this new law. We did present an extensive budget overview – of course what services are done in smaller counties is completely different than what larger counties have available to youth due to volume. The range is dramatic. Our task is to try to put services in place. We hope Governors State of the State will give us the funding we are looking for. Wayne D'Arcy wanted to know as far as regulatory issues and funding if electronic monitoring is an option as a deterrent to detention. Per John Adams - it is one of our alternatives that we put into our model. We recognize the value in electronic monitoring and it will continue.

### Training – Patty Clements

Our next training is in March 2018 for Fundamentals of Probation Practice – this is an opportunity to revolve all of probation practice – there are several specific areas that need enhancing with Raise the Age. One of the key pieces we are looking at is adding a fourth week of training, officers would walk away with two days of motivational interviewing, currently training offered outside of fundamentals, how do we connect case management assessment to client engagement. Part of the larger package is that probation does not have a lot of access through programs. We need to let officers know which courses they should pick, the correct referral/intervention. Another piece to be covered is cultural competency, racial diversity, etc. These need to be part of probation curriculum. Our ultimate goal is how to take current 25 modules and infuse all of this into it to submit for approval. March is our pilot program and will be an evolving practice. We will bring in Orbis Partners who have helped us in the past to enhance statewide training. There are six other locations we support who do Fundamentals of Probation training. We need to figure out how to bring them on board – we currently do an anchor training but now there will be a lot more components to add in. Anchor training will have to brought up to speed so they are trained in advance. It is an ambitious undertaking before March. A lot of departments are using Interactive Journaling. We need to invest in this – need for more Community Based Services. MPTC Council has to approve curriculum because curriculum also includes Peace Officer. Peace Officers are governed by this Council and determine subject areas. This should not be a problem but it is part of a process. We are also working on enhancing - training for Supervisors Curriculum/Training. Bob Burns said all sounds great but

it is an additional week with additional costs – he wondered if anything is outdated or obsolete that could be removed from program. Twice a year it is looked at for that exact reason to make sure it is current. She isn't even sure 4 weeks is enough. If all works out this program should be reimbursed under Raise The Age. About 12-13 modules are impacted by Raise The Age. We want to spend more time on training on Risk & Need Assessments more effectively – asking better questions. Ethics is another area that needs additional training. Linda Valenti wondered is some of the training could be put as on-line training or Webinar? Per Deputy Commissioner Maccarone – there are some sections that we could consider going that route. There is an 8 hour upcoming training in January on Mental Health. Per Gary Govel – there is a cost to that too....several thousand dollars. Some topics work best with interactive training.

### Technology

John Adams reported that we are moving forward with the Automated Probation Offender Change of Address and data upload process in Caseload Explorer. We are going to pilot this with a few counties first so probably will be enabled in January for all counties. It will automate the change of primary address, change of mailing address, if a person goes into a facility, deported, warrant issue, etc. This will all come into a new system to the Sex Offender Manager Office. There is a webinar coming up this Friday on this new technology. We are working with Automon on this. Offices will be provided with Topaz Finger Pads to sig. Probation supervises nearly 5,000 registered sex offenders second only to DOCCS. The next item is proposed interlock device changes in Leandra's law. This will fix Caseload Explorer for DWI Offenders who are sentenced to jail and then released on Probation. The second change will be in addition to Leandra's Law Quarterly Report which will add the number of uninstalls, will provide the list of the registered in LENS, vehicles found that don't have IID's installed, etc. Deputy Commissioner Maccarone stated that our probation departments do an excellent job with Leandras Law – 27% install ignition interlock within 10 days pursuant to our regulation, another 15% install when they reclaim their license. All told we are probably in the 40+% rate which is twice the national rate. The notion of compliance is very high. Unfortunately this is not a finger printable offense. Paul McDonnell said that this is something OCA has been looking into and discussing. Gary Govel stated that with finger printing is that DCJS would have the arrest and conviction information instead of having to rely on DMV on conviction information. All these concepts come out of the DCJS Workgroup. Thirdly, there will be a new Ignition Interlock Mandatory Tracking Event and related report for compliance.

Professor Lizotte wanted to comment that every time he is at one of these meetings he is just amazed at the quantity and quality of work that is done at OPCA. It just continues to amaze him and said all should be commended and realize that we are an example for the rest of the country.

### Interstate Transfers

Matt Charton talked about the retaking rules changes that were implemented in June. It went from receiving states having to show three violations to one significant violation. In October there were new rules voted on by the commission with the most prominent change allowing Interstate Offenders to remain in a state after a transfer request was denied if there was another address in that locality that the offender could go to instead of having to transfer them back. Six rules were actually implemented. Also an update on the old ICOTS VineWatch System – the most important changes are that you can now self-register and be notified by text message now instead of just email or phone notification- hopefully this will greatly increase its use. Victims can remain anonymous. We will be working on implementing this in the near future. This will be discussed at the ICAOS Meeting on December 19. We welcome any input. Interstate Unit continues to provide WebEx training to any new ICOTS users.

### Adult Operations

Colleen Thorn and David Lewis reported on our work on the Domestic Violence Screening Instrument (DVS) to offer departments training on Domestic Violence. Colleen reported that in August 2017 they

commenced a survey to the departments on Domestic Violence Assessment and Monitoring. David reported that a very low number of departments are using a Domestic Violence Screening Instrument, only 3 of the 58 counties and Erie County in the process of implanting which totals 5%. In asking if departments would be interested in training in and implementation of such an instrument we found that 85% said yes. So there is a need and want by the departments to have this available to them. The DVSI, SARA and ONDARA out of Canada are most widely used programs. There was a workgroup meeting last week on this. Connecticut has been using the DVSI for ten years and we have a call coming up to discuss the training on this. Commissioner Pozzi mentioned that he is trying to implement polygraph exams as a tool to use on this issue.

### Regulations & Program Updates

Gary Govel reported on Part 358 –Revising of Ignition Interlock Cases Involving Certain Criminal Offenders. New changes go into effect tomorrow. Linda Valenti was thanked for all her hard work on this over the last four years. There will be a State Director’s Memorandum going out and a webinar addressing these changes next week.

We currently have three Manufacturers approved for IID implementation in New York State and we did undertake another Request for Applications and received an application from an additional vendor. That application is going through the review process now. The contract is at the Attorney General’s Office and from there goes to the State Comptroller’s Office.

Part 347 - Probation Management – Appendix H-10 – Standard Specifications for Professional Probation Positions – This has been an over 10 year process working with the localities and the Department of Civil Service. Gary and John Adams presented to the Statewide Civil Conference over the summer. This is coming at an opportune time since we are implementing Raise The Age.

### New Business

Deputy Commissioner Maccarone stated that everyone has been given a copy of the new Warrant Notification System which is being implemented today. This should do quite a bit to enhance community safety.

A motion of silence was observed regarding Bob Hayden/Rensselaer County and John Mosseri/Division of Probation.

### Other Business

None.

Our next Probation Commission will be held on Tuesday, April 17, 2017 and we look forward to seeing you then.