

NEW YORK STATE
PROBATION COMMISSION MEETING MINUTES

This meeting was conducted virtually via Cisco Webex on November 16, 2021.

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, JJAY and Member, NYS Probation Commission

DCJS Staff Present: Mark White, First 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
 Ian Grugan, Juvenile Probation Operations Unit, DCJS-OPCA

Welcome and Introductions:

First Deputy Mark White welcomed NYS Probation Commission and thanked everyone for joining.

DC Maccarone asked members to review the minutes. Commissioner Rocco Pozzi made a motion to accept the minutes of May 20, 2021. Seconded by Counsel Anthony Perri. Motion passed.

Probation and Impact of COVID-19

DC Maccarone reported that on September 1, 2021, State Director’s Memorandum # 2021-8 was issued. This rescinded the Emergency Procedures that were issued through State Director’s Memorandum #2002-3, issued in March of 2020. Director Maccarone noted that the newest guidance to Probation Departments provided flexibility and the opportunity for Probation Directors to request waivers from DCJS Regulations as the COVID pandemic changes over time. Probation Departments are largely seeing clients by appointments in the office, and meeting clients outside their homes.

Commissioner Pozzi reported that Westchester County was following protocols for safety and operating close to normal.

OCA Counsel Anthony Perri reported that the unified court system tries to expand as much as possible. Statewide, we are continuing to move forward as much as possible in this new world. The entire court system and workforce is at about 98% vaccinated. We are still requiring mandatory masking. We are working with NYS Health Department regarding the six feet distance requirement. He noted that many of the court facilities are hampered by limitations of space.

Madison County Probation Director Joanne Miller--Vice-President of COPA. Director Miller represented COPA President Luci Taylor Welch who was unavailable for this meeting. Director Miller reported that she reached out to the members to see how departments were faring during Covid-19 and learned that most departments were fully operational with the smaller justice courts a little slower. There were very few problems reported regarding accessing courts. Most of the counties are reporting that arrests are down, but among juvenile and youths, there are more serious violent crimes reported. With regards to Probation Supervision, most counties are reporting lower supervision caseloads ranging from 5-30% pre-Covid. Some counties are seeing a surge in investigations. High pre-trial caseloads are being experienced by some counties. Concerns expressed by Directors are the increasing number of interim probation supervision cases, as well as the cases being sent to probation without any investigation being ordered. This may be the result of the courts attempting to clear their backlog of cases. Most departments staffing levels are stable, but some are having problems hiring clerical positions. Some positives include the increase in the use of technology and Caseload Explorer Check-In, which is widely used. Counties are also reporting that they are getting away from designated reporting days to reduce traffic within the departments.

DC Maccarone thanked Director Miller for her report:

Commissioner Rocco Pozzi stated that they recently took a snapshot of Woodfield Detention Center. Of the 33 kids that were in the detention center, 18 of those juveniles were there on homicide offenses. There were a few others that were there on serious weapon possession charges.

Commissioner Pozzi also talked about the staffing issues. He mentioned that due to Covid a lot of people have retired.

DC Maccarone expressed concern with the lack of pre-sentence investigations being ordered. He said the investigation report is essential to probation's supervision of the individual. He said probation was understanding of the backlog but asked Probation Directors to work with their Administrative Judges to address this issue.

Director Joanne Miller agreed with DC Maccarone's statement and added that it has been difficult to meet the needs of the individuals without knowing anything at all about them. Especially with the increase of interim cases.

Anthony Perri stated that he would speak with the Administrative Judges concerning the importance of PSI and Probation.

Gladys Larsen: NYSCOPA President

Gladys Larsen stated that Probation Officers are concerned with the backlog in the court system and lower number of supervisions. Most of the Probation Officers recognize that the lower numbers may be due to Covid. There were fewer arrests which led to fewer investigations. Although, budgeting looks good right now, that could mean in the future that Counties could not need as many Police Officers. Another concern is the arrest that are occurring now are much more violent. Gladys went on to advise that most staff are back in the office full time and have mandatory mask rules regardless of vaccination status. They are seeing people in person and home visits are picking up. Officers have found it difficult to get their mandatory training hours because the only training available has been via web or webex. Many of the officers are excited for the upcoming conference because it provides an opportunity for in-person training. POA Conference will be held on July 27-July 29, 2021 at the Embassy Suites in Syracuse, NY. Gladys also mentioned that she sent Patricia Clements a list of training needs that was expressed during a survey that was conducted.

DC Maccarone thanked President Gladys Larsen for her report. He went on to report that OPCA Community Correction Representative Danielle Brendese kicked off our 2nd Statewide training for Officer Wellness and Peer Support. We had 29 participants in a three-day training. We appreciate Tompkins, Rensselaer and Monroe Counties for showing us the way.

Gladys Larson mentioned that POA continues to make Peer Support a priority. They have a Committee designated to following up on trainings and making sure that those trainings have all resources necessary.

DCJS Regulation Update:

Matthew Charton provided an update on proposed changes to DCJS Regulation Part 349—the Inter/Intrastate Rule, which instructs on the transfer of individuals under Probation supervision, juvenile and adults. The Statewide workgroup met for the first time on February 26, 2020, a month later Covid hit, and the work group was off track for about a month. In April of 2020, the workgroup reconvened to review and make changes to Part 349. The results and recommendations that were made are in five key areas:

- 1) Current regulations were confusing and not clear to most partitioners. The workgroup wanted a more clear and concise text. The sending and receiving Probation Departments were sent responsibilities on what would be needed to submit an Interstate Transfer.
- 2) Notion of the 60-day period in which the receiving county has to investigate, address and respond to the sending county for Interstate. The workgroup wanted to make sure to provide public safety and to provide services and supervision that the individual needs. The workgroup wanted to reduce the investigation and transfer period from 60 to 45 days; 45 days for Interstate transfers. Most transfers are electronically submitted. The

workgroup wanted to see that the individual was living in that receiving county to bring that person under supervision as soon as possible.

- 3) In the existing regulation there is a temporary transfer. What the workgroup concluded was there were other reasons that people may need to be in the receiving county for a period of time. The temporary transfer was being utilized for other reasons, not allowed under the current regulation (i.e. courtesy supervision). The workgroup recognized there were other reasons for people to be under supervision and changed the term from temporary transfer to temporary supervision.
- 4) The workgroup strengthened the Administrative appeal section of the Interstate transfer rule; this was done to make sure that Probation Directors are advised immediately of any dispute and to resolve any issues.
- 5) The workgroup established a protocol to address conflict of interest cases. The workgroup wanted to make sure that the contiguous county that provides supervision in conflict cases has the authority and approval of the court to do so.

The workgroup had two primary goals: to ensure supervision was provided where the individual was actually residing; and to identify supervision that supports the rehabilitation of the individual under supervision.

DCJS Basic Course for Peace Officer Training: Patricia Clements:

Patty Clements, the OPCA Director of Training reported that she has been making calls to Zone Commanders and Academies to determine how best to ensure probation officers complete the 162-hour training. Thusfar, every Zone Commander has ensured they can provide the BCPO to accommodate Probation Officers. Training has met with DCJS Public Safety and First Deputy Mark White, to discuss intent to address March meeting of the Municipal Police Training Council, where we expect to submit a plan for probation departments to come into compliance later in 2022. Until then, OPCA will continue to offer the Fundamentals of Probation Practice in satisfaction of the BCPO. In the future, Probation Officers will complete the 162-hour BCPO (six weeks), and the Fundamentals of Probation Practice (2-3 weeks).

Gladys Larson asked if the new requirements pertain to existing Probation Officers, and DC Maccarone replied that the new requirements pertain to newly hired Probation Officers, prospectively. The 21-hour in-service will continue.

Gladys also asked that some of the counties restrict the Probation Officers' activities and with that in mind do you expect some push back from some of the smaller counties? DC Maccarone responded that this is something that we would want to talk to the counties, but the training requirements are State Law.

ICAOS Annual Business Meeting, Matthew Charton:

Matt Charton, Deputy Compact Administrator (Probation) advised the ICAOS Annual Business meeting was held in September 2021 and the Commission voted on three rule changes.

The first rule change pertained to warrants and their timely issuance. Effective April 1, 2022, a sending state must issue a warrant and upload it into NCIC within 15 days for all violations that require retaking. This was the most impactful regulation that was voted on. DCJS OPCA has worked over the past two years with OCA and NYC Probation and implemented the 15-day warrant rule in 2021 in anticipation of the passage of this important rule.

The next rule change redefined “resident”. The Commission realized that this didn’t address individuals move to a State between the commission of their offense and the sentence start. Once proposed by the Western Region, New York State refined the proposed definition of resident as one year prior to the sentence or supervision start date.

These changes will take effect April 2022.

DC Maccarone would like to send thanks to Judge Michael Yavinsky, OCA Justin Barry, Counsel Anthony Perri, NYC Probation, and Judge Robert Mendelbaum in implementing the rule changes a year in advance of the proposed rule change.

NYS was also successful in convincing the National Office that it change the ICOTS system to track and manage warrants in the system.

Formation of Probation Financial Obligation Workgroup:

Gary Govel reported that there has been a lot of guidance published over the years by the agency as well as the State Comptrollers. There are a number of agencies that will be involved in helping to examine the issues such as DCJS Legal services, Comptroller’s Office, Attorney General’s Office, Office of Court Administration, Office of Victim Services, District Attorney’s Association, Autmon, and NYS DOCCS. There may be restitution issues that cross over to Social Services as well as NYS Labor Department, where restitution may be needed in a frauds case, this is something Probation would need to know. OPCA has been working with COPA and has asked that Madison County Probation Director Joanne Miller and Orange County Probation Director Tim Davidian to serve as Co-Chairs of the Workgroup. We are meeting with the co-chairs on December 1st to formulate what the goals are. We are excited and eager to get this underway. Some of these materials are posted in the IJ Portal.

Juvenile Justice Update: Teresa Scanu-Hansen

Teresa Scanu-Hansen, Director of the Juvenile Probation Operations Unit at OPCA reported that the DCJS Office of Youth Justice and the SUNY Youth Justice Institute launched the Policy Equity Academy in June of 2021 with the Center for Children’s Law & Policy (CCLP).

The Policy Equity Academy was formed to provide local jurisdictions with targeted training and strategies to improve equity at the local level. A variety of local jurisdictions were invited to hear more about the policy equity academy; five were selected to participate. The learning environments concluded in October and additional technical assistance has been provided to the through the Center of Children’s Law and Policy in drafting and refining plans of action for their jurisdictions. They will reconvene in February to review the status of plans of action that were developed by each of the five jurisdictions. Five Probation Departments --charged with serving as lead agencies, included Albany, Monroe, Onondaga, Westchester and Schenectady.

We look forward to hearing more about the plans of action that have been developed in each jurisdiction.

CE/Sync Data:

In May Teresa talked to the Commission about the newly developed report called the Youth Justice daily processing reports, which are generated through the collection of probation data from each department through CE Sync. This data provides meaningful reports so Probation can analyze decision making points in various juvenile processes. We have since transitioned to six-month periods for the Youth Justice processing reports, which are sent to each Probation Director. Teresa advised the Commission of an additional set of reports that was launched through the DCJS public website in late Mar of 2021. What CE/Sync allowed us to do was analyze new categories of data and tie it to outcome, so now what the public can see in the Youth Justice section of DCJS statistics page, assorting by age grouping. We've also added sex categories and race and ethnicity categories. This was launched just prior to the beginning of the Policy equity academy. We have two years of data posted: 2019 and 2020.

SOGIE-Ian Grugan

Ian Grugan reported that the SOGIE—Sexual Orientation Gender Identification and Expression—began 2018 as a partnership with the Office of Youth Justice, the Ceres Policy Institute, and three pilot counties—Suffolk, Schenectady, and Onondaga Probation Departments. The overall vision is to make visible and to create policy, services, and functions that support LGBTQ individuals and their well-being while on probation. Most recently, DJCS OPCA and OYU have been working with New York City, which is a large jurisdiction with over one thousand officers that will need to be trained. They anticipate starting their training in January or February. NYC DOP has developed a policy that is based on supporting LGBTQ individuals. The Department has been uplifting services and taking the initiative themselves, which has enabled DCJS to move on to Phase 3—Western New York Counties including Niagara, Erie, Chautauqua, Cattaraugus, and Allegany Counties. A train the trainer session was held at the end of October. The larger jurisdictions will provide their own training, but DCJS will assist smaller counties. The goal of the SOGIE Initiative is now expand to the next region of the State in January, and continue to expand to a new region every six months until the entirety of NYS is trained including data collection, and referral to services.

DC Maccarone thank Teresa and Ian for their work, and everyone for participating. He wished everyone a Happy Thanksgiving and Holiday season!

The NYS Probation Commission meeting will be held **May 26, 2022.**