

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: CRIMINAL JUSTICE

DATE: APRIL 27, 2015

COMMITTEE MEMBERS PRESENT:

SUPERVISORS DICKINSON
KENNY
MONROE
VANSELOW
BROCK
SEEBER
SIMPSON

OTHERS PRESENT:

ROBERT IUSI, DIRECTOR OF PROBATION
JOHN WAPPETT, PUBLIC DEFENDER
MARCY FLORES, FIRST ASSISTANT PUBLIC DEFENDER
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ADMINISTRATOR
MARTIN AUFFREDOU, COUNTY ATTORNEY
AMANDA ALLEN, DEPUTY CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER
SUPERVISORS CONOVER
FRASIER
MERLINO
STROUGH
TAYLOR
WOOD
BUD YORK, SHERIFF
SHAWN LAMOUREE, UNDERSHERIFF
BRIAN LAFLORE, DIRECTOR OF OFFICE OF EMERGENCY SERVICES/FIRE
COORDINATOR
AMY HIRSCH, EMERGENCY SERVICES COORDINATOR
DON LEHMAN, *THE POST STAR*
THOM RANDALL, *ADIRONDACK JOURNAL*
JODI CENTERBAR, LEGISLATIVE OFFICE SPECIALIST

Mr. Dickinson called the meeting of the Criminal Justice Committee to order at 9:30 a.m.

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

Privilege of the floor was extended to John Wappett, Public Defender, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review, Mr. Wappett presented a request to allocate a stipend salary increase to the Public Defender and Assistant Public Defenders in the amount of \$3,600 each per year beginning 1/1/2014 through 12/31/2016, as provided by the Office of Indigent Legal Services (OILS) grant.

Mr. Dickinson questioned if the salary increases discontinued when the grant expired, and Mr. Wappett replied affirmatively.

Motion was made by Mr. Kenny, seconded by Mr. Vanselow and carried unanimously to approve the request as outlined above. *A copy of the resolution request form is on file with the minutes.*
NOTE: per the County Attorney, no resolution was necessary as prior authorization had already been provided for this request.

Privilege of the floor was extended to Marcy Flores, First Assistant Public Defender, to review the remainder of the agenda.

Ms. Seeber entered the meeting at 9:34 a.m.

Ms. Flores reviewed the caseload study for the Public Defender's Office that was completed upon Mr. Monroe's request at last month's Criminal Justice meeting. She informed that the caseload analysis was based on the counties that Gretchen Steffan, County Human Resources Director, had polled. Ms. Flores noted there were corrections to the salary survey completed by the Human Resources Department; *a copy of the survey is on file with the minutes.*

Ms. Flores listed the corrections as follows:

- #4 - The number of full-time employees in the Essex County Public Defender's Office was two;
- #15 - The salary for the Washington County Public Defender was \$81,068 and there was one full-time employee;
- #16 - The salary for the Livingston County Public Defender was \$96,000;
- #17 - The number of full-time employees in the Warren County Public Defender's Office was six;
- #18 - The salary for the Cattaraugus County Public Defender was \$95,758 and there were seven full-time employees;
- #26 - The salary for the Schenectady County Public Defender was \$121,000 and there were eight full-time employees; and
- #29 - The salary for Saratoga County Public Defender was \$124,306 and there were seven full-time employees.

Ms. Flores stated that she chose six relevant counties for the caseload analysis: Livingston, Saratoga, Essex, Cattaraugus, Warren and Washington. She explained that the analysis contained 2013 figures as New York State had not completed analysis of 2014 data. Ms. Flores informed that OILS also relies on these statistics.

Ms. Flores provided the following breakdown for caseloads by county:

- Livingston County had 23% more cases than Warren County;
- Saratoga County had 34% more cases than Warren County due to increased activity from Saratoga Performing Arts Center and the Saratoga Race Course;
- Essex County had 54% less cases than Warren County;
- Cattaraugus County had two and half times more cases than Warren County; and
- Washington County had 15% less cases than Warren County.

Ms. Flores remarked she was concerned by the difference in cases between Cattaraugus County and Warren County given the similarity in population size. She explained the difference was a result of Cattaraugus County having 34 town courts, with Allegheny Town Court being the largest. Ms. Flores commented that Warren County had 12 town courts. She stated that while the population size between the two counties was similar, the caseload increase in Cattaraugus County was due to more town courts.

Mr. Dickinson noted that Cattaraugus County had the highest number of Family Court cases, and Ms. Flores informed that Cattaraugus County had one more Family Court Judge than Warren County.

Moving on, Ms. Flores presented a salary study by County. She apprised that she contacted each Public Defender's Office for the counties listed in the study. Ms. Flores informed that Cattaraugus County was the only other County that receives OILS grants out of the grouping within the salary study.

Next, Ms. Flores provided a breakdown of Public Defender salaries relative to the District Attorney salaries for 2007 to 2015 to demonstrate they were not comparable. She advised that she had not included grant stipends in the salary totals, noting that if the stipend was discontinued the salary would no longer include this amount.

Ms. Flores presented a request to appoint herself as Public Defender at an annual salary of \$104,143 effective July 1, 2015, due to Mr. Wappett's impending retirement. She presented a request to amend the Table of Organization to increase the salaries of the Assistant Public Defenders as follows:

- First Assistant Public Defender, increase from \$66,390 to \$69,544;
- Second Assistant Public Defender, increase from \$56,838 to \$59,538;
- Third Assistant Public Defender, increase from \$54,196 to \$56,770;
- Fourth Assistant Public Defender, increase from \$52,443 to \$54,934; and
- Fifth Assistant Public Defender, increase from \$51,638 to \$54,091.

Ms. Flores provided a detailed summary of her qualifications. She noted her employment history as follows:

- Admitted to the New York State Bar Association in 1983 and worked in the Suffolk County District Attorney's Office for 11 years, handling organized crime, white collar crime and civil forfeitures;
- Promoted to the Deputy Bureau Chief of the District Court Bureau, handling misdemeanors and violations; supervised 46 secretaries, 36 attorneys, ten detectives and four crime victim advocates, with a caseload of 140,000 cases of misdemeanors and violations per year;
- Co-authored a book that advised police of best practices for filling out paperwork to ensure accusatory instruments were not dismissed as being legally insufficient;
- Served on the committee that created the Driving While Intoxicated (DWI) Bill supporting depositions;
- Served on committee to computerize the District Attorney's Office as a precursor to the Probation Case Management System;
- Moved to Warrensburg, NY and worked part-time in the Warren County District Attorney's office as the coordinating Assistant District Attorney for Sterling Goodspeed for eight years;
- Formed a law partnership with Sterling Goodspeed in North Creek, NY; and
- Completed the request for proposal for the Warren County Public Defender's Office, and has been in the Office since inception.

Ms. Flores explained that the structure of the Public Defender's Office was different from other agencies in relation to management succession planning. She stated that she was hands on and was involved with OILS grants and Court of Appeals cases.

Ms. Flores explained that she knew the position of Public Defender from a Prosecutor's, Defense Attorney's and Victim's point of view. She stated that while in law school she was kidnapped at gunpoint. Ms. Flores also informed that she was a victim in a case where a man killed his girlfriend, set the bed on fire, and the arson burned down the complex she lived in. She apprised that she would bring a different perspective to the job of Public Defender.

Ms. Flores apprised that she had been working with Kate Hogan, District Attorney, on proactive changes to save Warren County money. She informed that they were in negotiations and discussions with the courts, however, no approvals had been granted. Ms. Flores explained that the Public Defender's Office collaborated with the District Attorney's Office with the goal being to move cases along expeditiously.

Ms. Flores asserted that her qualifications justified her receiving the same salary as Mr. Wappett. She informed that she had recently been offered a job at a higher salary. Ms. Flores noted that the County could not meet the salary she had been offered, however, the County made a compromise with a salary of \$80,000 which she accepted. She stated that she did not want to leave the County and wanted the opportunity to be Public Defender when Mr. Wappett retired. Ms. Flores opined that the higher salary had been offered to her because of her qualifications.

Ms. Flores reviewed the salary structure she proposed for the Assistant Public Defenders, noting she wanted to apportion the difference in her proposed Public Defender's salary and her current salary to the other attorneys in the Office. She stated that she wanted to retain the quality attorneys employed by Warren County.

Mr. Dickinson thanked Ms. Flores for her detailed presentation, and remarked that her resume sounded like a pilot for a full-length movie.

Mr. Monroe asked for clarification on the funding for the salary increase. Ms. Flores explained the funding would come from the OILS grant and apportion it to the First Assistant Public Defender as this position was excluded from the earlier request presented by Mr. Wappett because Ms. Flores had already received this funding in her Assistant Public Defender's salary.

Mr. Brock asked what law school Ms. Flores attended and she replied Emory University School of Law in Atlanta, GA.

Ms. Seeber thanked Ms. Flores for the corrected salary survey information. She questioned if an updated salary structure could be completed that included the OILS money, and Ms. Flores replied in the negative, noting it would not be included because it was grant money that was not budgeted.

Motion was made by Mr. Monroe, seconded by Mr. Kenny and carried unanimously to approve the appointment and salary increases, and refer same to the Personnel Committee. *A copy of the request is on file with the minutes.*

Ms. Seeber asked for clarification on whether the approval had been for the appointment, or the salary increases as well. Mr. Dickinson confirmed that the approval was for both the appointment and salary increases. Ms. Seeber questioned if sufficient funds were available in the 2015 Budget for these increases, and Mr. Dickinson replied affirmatively.

This concluded the review of the Public Defender's agenda and privilege of the floor was extended to Robert Iusi, Director of Probation, who distributed copies of the Probation agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review, Mr. Iusi presented a request to amend the 2015 County Budget to accept funds in the amount of \$2,500 from the Warren/Washington Victim Impact Panel. He informed this funding would be used to pay Walter Joseph Lashway to facilitate three sessions for the Addictive Thinking Group for the remainder of 2015. Mr. Iusi explained that Mr. Lashway had previously been employed by Conifer Park and part of his duties included the Addictive Thinking Group facilitation.

Motion was made by Mr. Kenny, seconded by Mr. Vanselow and carried unanimously to approve the request as outlined above and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

Continuing, Mr. Iusi presented a request to authorize extension of the agreement with Gov Paynet, to provide credit card payment options for Probationers to pay restitution and DWI Supervision fees, for the term 7/16/15 to 7/16/16 with an option of renewing for up to five additional one-year periods, at no cost to the County. He apprised a 3% surcharge was paid to Probationers who used the service. Mr. Iusi informed that this service was used once per month.

Motion was made by Mr. Vanselow, seconded by Mr. Monroe and carried unanimously to approve the request as outlined above and the necessary resolution was authorized for the May 15, 2015 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Next, Mr. Iusi presented a request for himself to attend the 2015 New York State Council of Probation Administrators Summer Conference and Training Seminar in Lake Placid, NY on June 29-July 1, 2015. He apprised that the cost of the conference was covered by annual dues.

Motion was made by Mr. Monroe, seconded by Mr. Simpson and carried unanimously to approve the request as outlined above. *A copy of the Authorization to Attend Meeting or Convention form is on file with the minutes.*

Concluding the agenda review, Mr. Iusi provided an update on New York State's proposed Raise the Age legislation. He informed that the item was not included in Governor Cuomo's 2015 Budget due to the complexity of the issue. He remarked that the Senate was in opposition, but it was believed that Governor Cuomo would resubmit the bill and it would pass in 2015. Mr. Iusi informed they had met with the New York State Association of Counties (NYSAC), and NYSAC wanted to get the involved County entities, such as the Probation, Social Services, County Attorney and Sheriff Divisions, together and schedule a meeting with the Governor's Council to understand the impacts

the legislation would cause at the County level. He apprised that \$25 million was allocated for planning purposes for the Raise the Age legislation in the Governor's 2015 Budget.

Mr. Monroe asked if the Probation Department was still in support of the bill, and Mr. Iusi replied affirmatively. Mr. Iusi informed that the Governor's Office had indicated New York State would provide 100% funding of all expenditures incurred by Probation Departments for intake of 16 and 17 year olds.

Ms. Seeber stated that there had been communication from NYSAC that the Public Defenders Association along with the District Attorneys Association had opposed raising the age of criminal responsibility. Mr. Iusi remarked that the Public Defender's Office had consistently supported the bill as long as it was completely funded by New York State. He stated the belief was that 16 and 17 year olds were better dealt with in a Family Court setting as opposed to a criminal setting. Mr. Iusi informed that the bill would bring additional positions to the Probation Department. He stated that if there was no State funding, the Probation Department would be in opposition of the legislation.

Mr. Monroe remarked that if there was no funding in the Budget this year, then only planning would take place in 2015, and Mr. Iusi replied affirmatively. Mr. Iusi explained that the bill incorporated a phased-in approach with implementation not occurring until 2017 and 2018.

Mr. Monroe opined that the bill could be passed this year without knowing if there would be funding in place, and Mr. Iusi replied affirmatively. Mr. Iusi stated the assumption was that when the bill was passed the State would identify how it would be funded. He said the hope was that when the bill was submitted, it would identify and outline the fiscal impact.

Mr. Brock questioned what the cost would be to Warren County. Mr. Iusi replied that there would be a need for one additional Probation Officer and one Assistant to deal with the intake and extra caseload. He stated the combined salaries would be between \$70,000 and \$75,000 annually without benefits. Mr. Iusi added that the additional contractual services for kids pursuant to the legislation would bring the total cost to approximately \$300,000 annually.

Mr. Strough asked how much would be saved by the adult system with the burden of 16 and 17 year olds being transferred to Probation. Mr. Iusi advised that he did not have this information as it had to do with the prosecution, which was handled by the District Attorney's Office. He stated the County Attorney's Office would now be responsible for bringing these cases into Family Court, and he indicated that costs would be offsetting to some degree.

There being no further business to come before the Criminal Justice Committee, on motion made by Mr. Kenny and seconded by Mr. Vanselow, Mr. Dickinson adjourned the meeting at 10:04 a.m.

Respectfully submitted,
Jodi Centerbar, Legislative Office Specialist