

STEBEN COUNTY PUBLIC SAFETY & CORRECTIONS COMMITTEE

Special Meeting

Monday, December 17, 2018

9:20 a.m.

*Legislative Committee Room
Steuben County Office Building
Bath, New York*

****MINUTES****

COMMITTEE:	Aaron I. Mullen, Chair Frederick G. Potter	Kelly H. Fitzpatrick, Vice Chair Thomas J. Ryan	Steven P. Maio
STAFF:	Jack K. Wheeler James Allard Brooks Baker Jennifer Prossick	Mitchell Alger Noel Terwilliger Tammy Hurd-Harvey Alan Reed	Brenda Aston Pat Donnelly Shawn Sauro
LEGISLATORS:	Joseph J. Hauryski Hilda T. Lando Robert V. Nichols Scott Van Etten	Carol A. Ferratella Robin K. Lattimer Gary B. Roush Randolph J. Weaver	K. Michael Hanna John V. Malter Gary D. Swackhamer
OTHERS:	James Post, <i>The Leader</i>		

I. CALL TO ORDER

Mr. Mullen called the meeting to order at 9:20 a.m. and asked Mr. Maio to lead the Pledge of Allegiance.

II. GENERAL BUSINESS

A. **Counsel at Arraignment Plan** – Mr. Mullen stated the committee has received the letter from the Sheriff. Did anyone prefer an option other than the “Plan B” version of transportation? He asked how do we want that to function? The first part of the letter talks about the Sheriff’s current process and he does not understand that very well. After an individual goes to the judge, they are remanded to Jail or released. If they are remanded, our Corrections Officers take them to Jail. Is that a place where we could save time or another similar process?

Sheriff Allard explained on two mornings, or three days per week, there will still be a Public Defender in city court, so they can still do immediate arraignments, and in those cases, our staff transports them up here. Many times that will correspond to our runs. Our process should be fairly stable. It will depend on the Jail population and the number of preliminary hearings. We do expect an uptick in preliminary hearings. There are a lot of moving parts that we cannot predict yet.

Mr. Reed stated the preliminary hearings would be on felony cases which go back out to the court of jurisdiction. Attorneys at CAP are required to have preliminary hearings scheduled at the court of jurisdiction. Mr. Potter asked so this is not new? Mr. Baker replied to a certain extent it is. Now we are waiving or reserving. Now, the CAP court judge will not be able to waive or reserve; all cases will be set for a hearing. Mr. Maio asked CAP does not have jurisdiction? Mr. Baker replied they are not supposed to. His understanding is that the Public Defender will not be able to waive or reserve. From what he heard Judge Doran say, the judges are not waiving or reserving; they are only scheduling. Mr. Sauro commented we do not want to establish at that time, an attorney-client relationship.

Mr. Potter stated the cities of Hornell and Corning have holding facilities. Why do we need three shifts of deputies, 24 hours per day to transport? Could the cities hold people and then have them transported in the morning or afternoon? Sheriff Allard replied that is a decision on their part. The issue is if you hold a person in lockup during mealtime, you

have to provide them with food. If they have a specific need; mental, physical, etc., you have to take them for treatment. The idea of the Jail as a holding facility is that we are holding for all. For example, he could foresee that we would hold someone all night and the cities could call and we only would have one deputy that is scheduled to do transports for two ends of the County. Sheriff Allard stated if there is a female in custody, you have to have a female officer in the building working. You have to have someone in the building at all times who is able to respond if there is a problem.

Mr. Reed stated another issue is what Judge Doran stated about the city courts, and that they are not to have arraignments without counsel present. It would then fall upon the County to provide counsel to go out at all hours to do that.

Mr. Potter stated you are talking about a \$500,000 proposal and he does not think the cities are willing to come up with \$250,000 each. Mr. Mullen stated the cost is for the entire County, however, he thinks that Mr. Potter's point is well taken on the scheduling times. What would be the cost share of this?

Sheriff Allard replied it would be a cost per hour reimbursement with mileage and a fiscal cap for the year. Mr. Wheeler commented the cities were comfortable with the cap being higher. The proposed reimbursement would cover one-half to three-quarters of the cost of one deputy.

Mr. Potter stated his understanding in other jurisdictions is that the arresting officer is responsible for transporting them. The cities don't want the cost to do that. This plan is to accommodate that. Sheriff Allard commented the Village of Bath is also interested. The County has three 24-hour police departments in the County; Corning, Hornell and Bath. All of the rest of the departments are not 24-hour and they have mandatory minimum staffing.

Ms. Fitzpatrick stated this is mandated and someone will incur the cost and Corning and Hornell are looking to us to incur it. Mr. Mullen stated he thinks this plan brings cost savings to everyone. The other option was providing numerous attorneys across the County. He thinks we should be focusing on what is the most efficient form of this plan.

Mr. Maio commented however we decide to implement the plan, there will be fine-tuning as we get into things. Mr. Mullen stated there was some mention of transporting youthful offenders to Albany. Does this plan cover the ability to do that as well? Sheriff Allard replied yes. We are assessing transport needs and Raise the Age and these deputies will be tasked with that as much as we can. Mr. Wheeler stated under Raise the Age, we plan to submit one deputy and overtime transport for \$40,000. We will see what they approve. There is a need for law enforcement transport.

Mr. Malter asked when you hire a Deputy, how long does it take to train them? Sheriff Allard replied it depends on the level of deputy. The last seven position he filled had been trained. They had six weeks of field training and then went to full duty. When that happens, it saves us about \$70,000.

Mr. Maio asked is there any sense as to how much time is involved in transporting as opposed to something else? Sheriff Allard stated the best estimate from the cities is around 300 – 350 transports per year. Mr. Maio commented so that is less than one transport per day. Would the worst case scenario for the rest of the County be about that many? Sheriff Allard replied it is difficult to get a number. Mr. Maio stated on average you would be looking at two transports per day. Sheriff Allard stated transports will be determined by the shift supervisor. There will not be one person doing transports. We will try to make it make sense. Mr. Maio asked can anyone on the road do a transport? Sheriff Allard replied yes. Mr. Maio commented from the farthest reaches of the County, it will take about three hours for a transport if everything goes smoothly. Mr. Potter commented often times, more than one person is arrested and you cannot plan on only have one transport per day. Mr. Wheeler stated CAP is only in session twice per day. Sheriff Allard stated we have the availability to transfer a number of people at a time.

Mr. Hauryski commented this is not going to be an exact science. The plan that the Sheriff has proposed is excellent and there will be fine-tuning. This will be evolving as you move along.

Mr. Mullen asked will there be one car per deputy for the five deputies? Sheriff Allard replied each deputy will be assigned a vehicle; that is standard policy. With the size of the County, deputies are assigned a zone, typically where they

live. With the tactical team and special duties, the deputies have an enormous amount of personal gear that they have to take with them.

Mr. Mullen asked if the cost the cities are paying is one-half to three-quarters of a deputy, does that include everything? Sheriff Allard replied that is just for the deputy. Mr. Wheeler commented we are thinking it might be \$50,000 combined. Mr. Mullen stated you are looking at 5.25 deputies to cover 21 shifts per week. He stated Chief Murray had stated they could hold people and we could schedule pickups. Could we do two shifts with four deputies? Sheriff Allard replied that is an option for you to discuss. We did our analysis based on coverage 24/7. Any reduction will reduce your coverage. Mr. Maio stated we have to do 24/7 because only the cities have holding cells.

Mr. Baker stated you are going to 365 days. Sheriff Allard stated if you are reducing the number of deputies, the cities could call and say that we guaranteed 24/7 coverage and we may not have someone available. It will look as if we are not holding up our end of the agreement. These numbers are based on 24/7 coverage and his understanding is to get transport for the cities.

Mr. Van Etten commented the cities are getting a very lucrative deal. We are doing this to handle what is coming out of the cities. They have already said to take it out of their sales tax. The County is only doing this to cover the volume from the cities. Mr. Mullen stated he would like to ask them what they propose.

Mr. Reed stated you need to keep in mind that historically, the city courts have not required the Public Defender to be there; they always had immediate arraignments. From the State's perspective, which they have passed on to the city court judges, is the County needs to have counsel present. Mr. Van Etten asked did they say they would opt out of us having to hire 9 additional attorneys? Mr. Baker replied they can direct us to show up. How we deal with that is up to you. Mr. Reed stated Judge Doran raised the issue that by not having counsel at arraignment, it was violating constitutional rights. Mr. Mullen commented if we do a holding facility that will not meet the immediacy requirement. Mr. Reed stated the Office of Court Administration (OCA) wants arraignments to be held every 12 hours.

Mr. Maio asked many days per week do you go to Hornell and Corning for transports to court? Sheriff Allard replied we go every Public Defender day. Mr. Sauro stated that is 2 – 3 times per week in each location. Sheriff Allard explained you cannot confuse remanded inmates with pre-arraignment. Those are separate transports and we will not be able to mix those.

Mr. Malter asked where we are with the CAP process approval and what is the timeframe? Mr. Wheeler explained process wise, from the State there was no final deadline. However OCA in Rochester told us we need to do this as soon as possible. Mr. Maio stated according to Judge Doran we are violation of the law. Mr. Mullen stated we are in violation if arraignment is done without counsel present. Mr. Wheeler stated almost all counties in New York are in violation. Now the Judge in our area is fast tracking this. He stated in his opinion, he would like to see this body review and approve the CAP as they want it operational by February 1st.

Mr. Malter asked who is covering arraignments now? Mr. Sauro replied he forecasted a little in his 2019 budget. We can get it done with one attorney and a stipend to work with part-time ADA's to fill in. That one attorney would be responsible just for counsel at appearances and CAP. If we have central arraignment, he is in good shape to get it covered. Ms. Fitzpatrick commented you would be doing arraignments in Hornell, Corning and Bath to do that. Mr. Sauro stated on a regular court day we would be going to all three locations, however, after-hours arraignments would come to Bath. They would have am and pm arraignments and everything would center around that.

Mr. Van Etten asked if we send this to the State, will they approve it and let us implement it in February? Mr. Wheeler stated they want this to happen.

Mr. Mullen asked for the committee's general opinion. He stated his preference is to have 4 deputies covering 2 shifts rather than 5 deputies covering 3 shifts. Mr. Ryan stated we could do on a trial basis and as things go along, tweak as necessary. Mrs. Lando asked if you start with what has been suggested, can we modify it at a later date? Mr. Wheeler

replied Judge Doran has indicated that the plan can be amended. Mr. Potter commented it makes sense to try it with two shifts, but the cities should be brought in.

Mr. Wheeler stated we will talk to the cities and could take action in January. We will come to the committee with reclassifications to get those positions active. In the meantime, they will be going to Corning on December 27th to discuss this with the City Council. We will get feedback from the cities prior to the January meeting. Mrs. Lando asked is it legal for us to use sale tax money as reimbursement? Mr. Van Etten commented it is a financial vehicle. Mr. Wheeler explained it would be in lieu of cash payments. You will withhold that amount from the sales tax.

MOTION: TO ADJOURN MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

Respectfully Submitted by

Amanda L. Chapman
Deputy Clerk
Steuben County Legislature