

STEBEN COUNTY PUBLIC SAFETY & CORRECTIONS COMMITTEE

Monday, February 4, 2019

9:00 a.m.

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

****MINUTES****

COMMITTEE:	John V. Malter, Chair Frederick G. Potter	Kelly H. Fitzpatrick, Vice Chair Thomas J. Ryan	Steven P. Maio
STAFF:	Jack K. Wheeler Tim Marshall Jennifer Prossick Shawn Sauro	Amy Dlugos John McNelis Jennifer DeMonstoy Brooks Baker	Tina Goodwin Andy Morse Craig Patrick
LEGISLATORS:	Joseph J. Hauryski Hilda T. Lando	Carol A. Ferratella Robert V. Nichols	K. Michael Hanna
OTHERS:	Kristin Klemenz, B & W Towing Mary Perham Doug Mitchell, SCOPE David Sutfin, SCOPE		

I. CALL TO ORDER

Mr. Malter called the meeting to order at 9:00 a.m. and asked Mrs. Chapman to lead the Pledge of Allegiance.

II. APPROVAL OF MINUTES

MOTION: APPROVING THE MINUTES OF THE JANUARY 7, 2019, AND JANUARY 28, 2019, MEETINGS MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

III. PRESENTATION

A. **SCOPE Request for a Memorializing Resolution Re: 2nd Amendment** – Mr. Mitchell thanked the committee for giving him a moment to discuss this important issue. He is the Chairman of the Steuben County Chapter of S.C.O.P.E. and David Sutfin who is also here with him, is the Treasurer. The government was to address the violence and eliminate the cause of recent behaviors. This is a two-prong problem; the immediate and how to deal with it going forward. Sufficient resource officers are needed in the schools. It has been shown that most shooters are cowards and gravitate toward gun-free zones, such as schools. He stated 50 years ago we had firearms in unlocked vehicles. We need to help expose and change the lucrative world of video games, all in the name of entertainment which is having a detrimental effect on our youth.

Mr. Mitchell stated in 2013 New York State passed the Safe Act and this was aimed at the one million law-abiding gun owners, to stop one or two from committing heinous acts. They trampled due process. Recent FBI figures show that 35,000 people died by the use of a firearm in one year, however, 24,000 of those were suicides. In the same period, 66,000 people died or were killed in alcohol related deaths. We have a six times greater chance of dying from alcohol than from a firearm. If the Legislature is concerned about people dying, they would require breath activation on every vehicle. They don't trust the public with firearms.

Mr. Mitchell stated over the last four weeks, 1,200 residents have requested the County take a meaningful stance on the onslaught of our gun rights. This petition is asking for something more than lip service. The Legislators in Albany watched from their windows while 20,000 people protested in opposition, knowing that all they needed to do was weather the anger. We are asking the County, along with others, to send a message to Albany and the Courts that there are certain aspects of the NYS Safe Act that should be challenged at every opportunity.

Mr. Malter asked are you requesting a memorializing resolution to oppose the NYS Safe Act? Mr. Ryan replied the petition states that it wants to ensure that those politicians who take the oath to uphold the Constitution, do just that. As it stands today, some have snubbed their noses at the Constitution. We know this is symbolic in a way, but if enough counties pooled their effort, it would send a message. Mr. Wheeler stated the Legislature could do a memorializing resolution and we have done that in the past. When the law first came out, you got on record as opposing. Orleans County has recently passed a similar memorializing resolution. Mr. Ryan stated that would be fine.

Mr. Maio stated we need to know what it will say before we can vote on it. Mr. Wheeler stated the resolution will say what you want it to say. Staff is not bringing this forward today. If you choose to act, you could be memorializing in opposition to the Safe Act and the new proposals. Mr. Maio stated it is **premature** to ask for something and not have anything to see. Mr. Malter stated we will put a resolution together. Mr. Maio stated it is not for the County Attorney to do; this is a political issue. Mr. Malter stated then let's have Mr. Ryan put something together. He asked Mr. Ryan to draft a resolution and bring it back for consideration at the March PS&C meeting.

IV. DEPARTMENTAL REQUESTS

A. Law Department

1. **Transfer of Funds** – Ms. Prossick informed the committee that for 2018, the Assigned Counsel budget is short \$42,095.06. She commented they did have some untimely appeals as well as a few costly appeals. Mr. Malter asked where does this leave you for 2019? Ms. Prossick replied they have not touched the 2019 funds yet. Ms. Fitzpatrick asked how many more bills are outstanding? Ms. Prossick replied there does not appear to be any other outstanding bills.

Mr. Wheeler commented the submission of late bills is happening at a lower frequency than what is used to be. The committee did set submission deadlines and that is getting better. Ms. Fitzpatrick asked will you be able to track these better? Ms. Prossick replied they did ask for a list from the Appellate Division and we believe we are good.

Mr. Wheeler stated this will be a transfer from the 2018 Contingent Fund. Mr. Van Etten asked have there been any other transfers to Assigned Counsel for 2018? Mr. Wheeler replied no. Normally we are doing about \$75,000.

MOTION: AUTHORIZING A TRANSFER OF \$42,095.06 FROM THE 2018 CONTINGENT FUND TO COVER SHORTAGES IN THE 2018 ASSIGNED COUNSEL BUDGET MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

B. 911

1. **Acceptance of 2018-2019 PSAP Operations Grant** – Mrs. Goodwin requested authorization to accept \$187,541 under the New York State 2018-2019 Public Safety Answering Point (PSAP) Grant Program. She requested authorization to accept this funding and appropriate it to the capital project entitled “911 System Upgrades”. Mr. Wheeler commented we have been doing this for about three years.

MOTION: AUTHORIZING THE DIRECTOR OF 911 TO ACCEPT \$187,541 UNDER THE NEW YORK STATE 2018-2019 PUBLIC SAFETY ANSWERING POINT (PSAP) GRANT PROGRAM AND APPROPRIATE TO THE CAPITAL PROJECT ENTITLED “911 SYSTEM UPGRADES” MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER FOR DISCUSSION.

Mr. Van Etten asked how much is in the capital project? Mr. Wheeler replied we have about \$400,000, not including this grant award.

VOTE ON PREVIOUS MOTION: ALL BEING IN FAVOR. MOTION CARRIES 5-0.

2. **Automated Secure Alarm Protocol** – Mrs. Goodwin requested authorization to add Automated Secure Alarm protocol to the CAD solution. This would be a bi-directional interface between the alarm companies to our 911 center. This is done through a switch that is used for the State integrated portal. The alarm will come to the CAD system already done, which will eliminate the need for a phone call and any human errors. When we acknowledge and dispatch, it will automatically send a message to the alarm company. Mrs. Goodwin explained now, when we take an alarm call, there are three phone calls. The initial call, an update and then a follow-up call. This will cancel out all phone calls. The annual subscription cost is \$15,664.00 and we do have money available in the capital project.

Mr. Van Etten asked how many alarm calls do you average per year? Mrs. Goodwin replied in 2017 we had between 3,500 – 4,000 alarm calls. Mr. Maio asked where do those calls come from? Mrs. Goodwin replied they are medical alarms, break-in alarms, fire alarms, panic alarms and school alarms.

MOTION: AUTHORIZING THE 911 DIRECTOR TO SPEND \$15,664.00 ON AN ANNUAL SUBSCRIPTION TO ADD AUTOMATED SECURE ALARM PROTOCOL TO THE CAD SOLUTION, SAID FUNDS TO BE APPROPRIATED FROM THE 911 SYSTEM UPGRADE CAPITAL PROJECT MADE BY MS. FITZPATRICK. SECONDED BY MR. RYAN. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

B. District Attorney

1. **Position Requests** – Mr. Baker stated he is here today to request funding for positions to cover CAP (Counsel at Arraignment Part). In order to cover CAP requirements 365 days per year, he is requesting a full-time Assistant District Attorney, a clerical position and funds for stipends for current staff. He stated that he does not have space to place people right now, so he is not looking to fill the clerical position until desk space is available once the office space project is up and running. With respect to the stipends for current staff, the attorneys are covering the off-hours arraignments outside of what the full-time attorney can cover. He is requesting \$45,000 for stipends; \$40,000 to be paid to those ADA's who are covering the non-working hours arraignment part, divided equally among them, and \$5,000 to be paid as a salary increase to his full-time investigator. Again, he would not implement this until after CAP starts, which is anticipated in March or April. He stated that the Legislature has already approved a Paralegal and a full-time District Attorney, both of which have not been filled yet. This request should be budget neutral. Right now we have three ADA's that are working on CAP. The full-time DA position will be filled once CAP is up and running.

Mr. Malter asked what is the timeframe for filling the ADA positions? Mr. Baker replied he does not know as he has not been able to fill the vacancy for their Schuyler County contract. We have posted for the ADA position at Syracuse, Buffalo, Albany and through the District Attorney's Association. We have not heard anything and that is a problem across the state. He anticipates filling the vacancies will take a while. He would like to start looking, with the understanding that the positions will not be filled until CAP is up and running. Mr. Malter stated so we do not really need to approve these right now. Mr. Baker replied he does not have to have the positions ready until March or April. He would like to be able to advertise in good faith once his first position is filled. Additionally, he would like to be able to do the stipend piece.

Mr. Potter asked there will be more of an impact on your 2020 budget? Mr. Baker replied yes, as he does not anticipate a start date for CAP until March, although we do need the stipend funds for that.

Ms. Fitzpatrick asked are you requesting salary increases and stipends because there will be more preliminary hearings? Mr. Baker replied he is requesting the stipend because he cannot cover CAP with one person. We also anticipate there will be an increase in the number of preliminary hearings. Most preliminary hearings are waived.

Under CAP, the CAP judge will be directed to schedule preliminary hearings in every case, which must occur within 144 hours in each case where a defendant is remanded. We expect to see a significant uptick in the number of preliminary hearing activity.

Ms. Fitzpatrick asked if an ADA and a Public Defender are at every arraignment, wouldn't that hearing be handled? Mr. Baker replied no. The Public Defender is only there for the purposes of the arraignment. The Public Defender is there to handle issues relative to bail or orders of protection; they are not there to discuss the merits of the case.

Ms. Fitzpatrick commented that other CAP courts that she has been to, for example in Livingston County, the District Attorney does the arraignment by phone call. Is there any opportunity for you to do that as well? Also, why are you only using one person to cover CAP? Mr. Baker replied we rotate our staff and we are asking them to do more work. He will spread the stipend across eight attorneys. With respect to what other District Attorneys are doing, they have made other decisions. My decision is based on our duty to protect the people and victims and we need to be physically present at CAP.

Ms. Fitzpatrick commented it might be better to wait until CAP is in operation to see what you find out in terms of volume. We are planning for something that we have no idea about. Mr. Baker stated we know that we will be required to be at CAP twice a day, every day. Ms. Fitzpatrick stated that's assuming there are any arraignments at all. Mr. Baker stated the ADA will have to be on call the entire time, regardless of whether there is an arraignment. Ms. Fitzpatrick stated they are asking the Magistrate's to do the same, and if there is no arraignment, they don't get paid. Mr. Baker commented my people did not sign up for this.

Mr. Malter asked how much are you requesting for a stipend? Mr. Baker replied he is requesting a total of \$45,000 for the entire year which will be spread over eight attorneys. Mr. Wheeler commented this is not in the budget; however, with the various personnel positions having not been filled yet, there is some flex. The amount will be prorated based upon when CAP actually starts. We will not need to transfer any additional funds.

Ms. Fitzpatrick stated you are asking for a stipend and are automatically going to give it to them? Mr. Wheeler replied yes. The adjustment to the salary will not kick in until CAP starts.

Mrs. Lando commented that if she had to be on call and did not sign up for it, she probably would be done. The stipend will hopefully help to retain people. Mr. Wheeler commented we know our salaries are low to begin with and he would agree with that statement.

Mr. Potter commented after this year you may have a better idea of how to budget for the following year. Mr. Wheeler stated you may find that you may not need to hire an additional attorney. The position that was originally set aside for the CPL 370.15 will initially cover CAP.

Mr. Maio asked do you currently go to every arraignment now? Mr. Baker replied no, we only go if the Public Defender goes.

Mr. Wheeler stated different District Attorneys are handling this in different ways. The Public Defender's staff is mostly covered. The other side of that is the District Attorney. Some of the other counties are experiencing the same things that we are.

Mr. Maio asked the Public Defender if he has all of the positions he needs? Mr. Sauro replied that he has been approved for two full-time positions and his intent is to fill one immediately.

Mr. Malter stated so today we are being asked to approve the stipend? Mr. Baker replied yes and he is also looking for authorization to put the 370.15 position on hold and then after five or six months, we will know where CAP stands.

Mr. Van Etten stated the CPL 370.15 has been in effect since June. Have you seized any guns? Mr. Baker replied we have done none. It is a mandate from the State, but we are not doing it right now. The CAP is the more immediate issue.

MOTION: AUTHORIZING THE DISTRICT ATTORNEY TO PAY STIPENDS, NOT TO EXCEED \$45,000 TO PAY FOR EIGHT ATTORNEYS WHO WILL BE ROTATING CAP COVERAGE, SAID AMOUNT TO BE PRORATED BASED UPON THE ACTUAL START OF CAP MADE BY MR. MAIO. SECONDED BY MR. POTTER. MOTION CARRIES 4-1. (MS. FITZPATRICK OPPOSED)

Mrs. Lando asked will we get reports from the District Attorney and Public Defender once CAP is up and running? Mr. Wheeler replied yes. We had talked about providing quarterly reports.

C. Personnel

1. **Reclassification – Public Defender** – Mr. Wheeler stated originally we were proposing appointing the Assistant Public Defender above the mid-point. However, after discussion with Personnel and Mr. Sauro, it was determined that it makes more sense to amend the salary plan and reclassify one 1st Assistant Public Defender, Grade E to a Senior Assistant Public Defender, Grade G. Mr. Sauro commented we are finding that turnover is happening and it is difficult to retain attorneys.

MOTION: AUTHORIZING THE RECLASSIFICATION OF ONE 1ST ASSISTANT PUBLIC DEFENDER, GRADE E, TO A SENIOR ASSISTANT PUBLIC DEFENDER, GRADE G IN THE PUBLIC DEFENDER'S OFFICE AND TO AMEND THE SALARY PLAN TO REFLECT THIS CHANGE MADE BY MR. MAIO. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

D. Sheriff's Office

1. **Budget Adjustment for SRO Uniforms/Equipment** – Undersheriff McNelis requested authorization to encumber \$3,709 in 2018 funds to purchase uniforms and equipment for the School Resource Officers. The costs for uniforms and equipment are reimbursed by the schools.

MOTION: ENCUMBERING \$3,709 FROM THE 2018 SHERIFF'S BUDGET TO THE 2019 SHERIFF'S BUDGET FOR THE PURCHASE OF UNIFORMS AND EQUIPMENT FOR SCHOOL RESOURCE OFFICERS MADE BY MS. FITZPATRICK. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

2. **Inmate Housing Contract** – Undersheriff McNelis requested authorization to renew the contract with Livingston County for inmate housing. Ms. Prossick commented the inter-municipal agreement that the Legislature approved expired last year. A new resolution authorizing an inter-municipal agreement with other counties for inmate housing is required and the term will be five years.

MOTION: AUTHORIZING THE SHERIFF TO ENTER INTO AN INTER-MUNICIPAL AGREEMENT WITH LIVINGSTON COUNTY FOR THE HOUSING OF INMATES MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

3. **STOP DWI Law Enforcement Agreements** – Undersheriff McNelis requested authorization to enter into agreements with law enforcement agencies for the disbursement of STOP DWI funds.

MOTION: AUTHORIZING THE SHERIFF TO ENTER INTO CONTRACTS WITH LAW ENFORCEMENT AGENCIES FOR THE DISBURSEMENT OF STOP DWI FUNDS MADE BY MR. MAIO. SECONDED BY MR. POTTER FOR DISCUSSION.

Mr. Van Etten asked has the allocation changed? Undersheriff McNelis replied no, not much. The allocation is based on activity. Mr. Wheeler commented the allocations are detailed in the STOP DWI Plan.

VOTE ON PREVIOUS MOTION: ALL BEING IN FAVOR. MOTION CARRIES 5-0.

4. **Accept Funding from State Criminal Alien Assistance Program** – Undersheriff McNelis requested authorization to accept \$2,568 in funding from the State Criminal Alien Assistance Program.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT \$2,568 IN REVENUE FROM THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

5. **2018-2020 Bullet-Proof Vest Grant** – Undersheriff McNelis requested authorization to accept the 2018-2020 Bullet-Proof Vest Grant for \$11,250.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT THE 2018-2020 BULLET-PROOF VEST GRANT IN THE AMOUNT OF \$11,250 MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

6. **Empire Access Contract** – Undersheriff McNelis requested authorization to enter into a service contract with Empire Access to provide Wi-Fi at the Public Safety Building. Due to CAP, the Office of Court Administration requires us to have secure communication for the visiting judges. Mr. Van Etten asked what is the cost? Undersheriff McNelis replied \$94.00 per month.

MOTION: AUTHORIZING THE SHERIFF TO ENTER INTO A CONTRACT WITH EMPIRE ACCESS TO PROVIDE WI-FI ACCESS AT THE PUBLIC SAFETY BUILDING AT A RATE OF \$94.00 PER MONTH MADE BY MS. FITZPATRICK. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

V. OTHER BUSINESS

A. *Committee Goals* - Mr. Hauryski stated in the past he has asked the committees to set goals, but he is changing that this year. When he first started, our employment level was over 1,000. Since that time we have been reducing staff. We are down considerably, but in the last six months, it seems to him that we are going right back up. One thing he would ask this committee, particularly with Raise the Age, CAP and other programs, is that we will have to be careful going forward because we will run into fiscal issues. He is asking the committee to ask the departments to look at how they are operating. Are they operating efficiently and effectively and do they have the tools they need to do so. Don't be afraid to explore this and find out.

Mr. Wheeler commented we had talked about getting the department goals for the committee to look at, but a lot of committee goals are covered by the department goals. We thought that may have been duplicitous. Mr. Hauryski stated it is good to set some direction of where you want to go. Mr. Wheeler stated the committee can highlight the department goals that they feel are very important. He should have the list of department goals to the committee by the end of February.

Mr. Van Etten commented that he would like to push the Administration Committee to look at salaries as we have an issue with retention because we are a cheap county. If we continue along this path, we will continue to lose good talent. He would like the Administration Committee to do a complete analysis of salaries and look at what the market can bear. Mr. Wheeler stated they have been piecemealing that. He has asked Personnel to get data from ten comparable counties. This is one of his goals. He commented that Genesee County did something similar two years ago and phased in a plan. Mr. Maio stated in addition, it may be beneficial to look at numbers for all of the counties, as we are competing with the entire State. He would like to see what that looks like. Mr. Wheeler replied we can show you that.

MOTION: TO ADJOURN MADE BY MR. POTTER. SECONDED BY MR. RYAN. ALL BEING IN FAVOR.
MOTION CARRIES 5-0.

Respectfully Submitted by

Amanda L. Chapman
Deputy Clerk
Steuben County Legislature

****NEXT MEETING SCHEDULED FOR****
Monday, March 4, 2019
9:00 a.m.

PLEASE PROVIDE AGENDA ITEMS
NO LATER THAN NOON
Monday, February 25, 2019.