

STEBEN COUNTY PUBLIC SAFETY & CORRECTIONS COMMITTEE

Monday, February 3, 2020

9:00 a.m.

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

****MINUTES****

COMMITTEE:	John V. Malter, Chair Frederick G. Potter	Steven P. Maio, Vice Chair Thomas J. Ryan	Jeffrey P. Horton
STAFF:	Jack K. Wheeler Brenda Aston Tim Marshall Nate Alderman James Allard	Christopher Brewer Veronica Berry Jennifer Prossick Shawn Sauro Craig Patrick	Cheryl Crocker Brenda Mori Noel Terwilliger Brooks Baker
LEGISLATORS:	Scott J. Van Etten K. Michael Hanna	Carol A. Ferratella	Kelly H. Fitzpatrick
OTHERS:	Mary Perham	McKenna Ryan	

I. CALL TO ORDER

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

II. APPROVAL OF MINUTES

MOTION: APPROVING THE MINUTES OF THE JANUARY 6, 2020, MEETING MADE BY MR. POTTER. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

III. DEPARTMENTAL REQUESTS

A. Emergency Management Office

1. **Graybar Contract Extension** – Mr. Marshall requested authorization to extend the contract with Graybar through December 31, 2020. This is for the maintenance of the generator and UPS at the 911 Center.

MOTION: AUTHORIZING THE DIRECTOR OF THE EMERGENCY MANAGEMENT OFFICE TO EXTEND THE CONTRACT WITH GRAYBAR THROUGH DECEMBER 31, 2020 FOR THE MAINTENANCE OF THE GENERATOR AND UPS AT THE 911 CENTER MADE BY MR. POTTER. SECONDED BY MR. RYAN. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

2. **Acceptance of FY19 SICG Grant** – Mr. Marshall requested authorization to accept a FY19 Statewide Interoperable Communications Grant in the amount of \$796,257. These funds will be used for radio maintenance and ongoing radio projects.

MOTION: AUTHORIZING THE DIRECTOR OF THE EMERGENCY MANAGEMENT OFFICE TO ACCEPT A FY19 STATEWIDE INTEROPERABLE COMMUNICATIONS GRANT IN THE AMOUNT OF \$796,257 MADE BY MR. MAIO. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

B. Sheriff's Office

1. **Donation** – Sheriff Allard requested authorization to accept a \$50.00 donation from the Hammondspport Women's Club for the K-9 Fund.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT A \$50.00 DONATION FROM THE HAMMONDSPORT WOMEN'S CLUB FOR THE K-9 FUND MADE BY MR. POTTER. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

Sheriff Allard commented Mike McCartney's family has indicated they would be interested in donating another K-9 to the K-9 Unit. We currently have three. Mr. Maio asked do we need more dogs? Sheriff Allard replied yes as we do not have a Nitrate dog and they would be able to perform bomb detection for the schools. Mr. Van Etten asked will this result in additional staff increases? Mr. Wheeler explained there will be some additional costs for training, but they will be using existing deputies.

2. **State Criminal Alien Assistance Program Grant** – Sheriff Allard requested authorization to accept a 2019 State Criminal Alien Assistance Program Grant in the amount of \$2,987. This is a reimbursement for housing non-documented individuals at the Jail.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT THE 2019 STATE CRIMINAL ALIEN ASSISTANCE PROGRAM GRANT IN THE AMUONT OF \$2,987 MADE BY MR. POTTER. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

3. **Accept Trinity/Swanson Grant** – Sheriff Allard informed the committee that he had applied for the Trinity/Swanson Grant to purchase safety and security equipment for the Jail, specifically Tasers for the Supervisors in the Jail. He was awarded \$13,380 and he requested authorization to accept the non-matching grant.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT THE TRINITY/SWANSON GRANT IN THE AMOUNT OF \$13,380 FOR THE PURCHASE OF TASERS FOR THE SUPERVISORS AT THE JAIL MADE BY MR. RYAN. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

4. **Bids** – Sheriff Allard requested authorization to go out to bid for milk products for the Jail and uniforms for the Sheriff's Office and Jail.

MOTION: AUTHORIZING THE SHERIFF, IN CONJUNCTION WITH THE PURCHASING DIRECTOR, TO SOLICIT BIDS FOR MILK PRODUCTS FOR THE JAIL AND DEPARTMENT UNIFORMS MADE BY MR. MAIO. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

5. **CAP Court** – Mr. Maio asked the Sheriff if we are taking people to CAP Court for cases they cannot be held on? Sheriff Allard replied no. Anyone going to CAP Court has a valid reason within the constraints of bail reform where they can be arraigned.

C. Public Defender

1. **CAP Court** – Mr. Sauro commented in response to Mr. Maio's question to the Sheriff, individuals are also brought to CAP Court for arraignments that cannot be completed within the twenty-day requirement. Mr. Maio asked are there some courts that are not doing the twice monthly CAP Court? Mr. Sauro replied yes and that is due to staffing. Mr. Wheeler stated there is some push for limited reform to address that.

Mr. Malter asked have you seen a reduction in the number going to CAP Court? Mr. Sauro replied no. Their average is two per shift for a total of four per day. The numbers are staying about the same. Sheriff Allard commented the population as of today at the Jail is 125 and we are seeing a steady increase due to warrants.

2. **Update on AmeriCorps Volunteer Program** – Mr. Sauro introduced McKenna Ryan who is their first AmeriCorps volunteer. This is her third week on the jail and she has already done a fantastic job with revamping our website and social media platforms. Ms. Ryan is planning three events for the office; one information session for the public, one session for teenagers and one volunteer opportunity to be held around the holidays. This is working out well and we still have one position open.

3. **Update on Current Staffing Losses** – Mr. Sauro informed the committee that he is currently down one part-time Public Defender and will lose another March 1, 2020. Due to these two vacancies, the western and southern portion of the County, including the City of Corning court, will not have coverage. He stated he does have potential candidates for both positions, but if those do not work out, he will be coming back to committee next month.

Mr. Malter asked why are you losing attorneys? Mr. Sauro replied they are getting other opportunities, better paying opportunities. Mr. Maio asked are full-time Public Defenders getting paid less than full-time Assistant District Attorneys? Mr. Sauro replied yes. Mr. Wheeler stated they are not supposed to and with the new salary grid, the goal is to not have people jumping from department to department as they should be hiring based on experience at the same levels. The Public Defender, District Attorney and Social Services are each facing recruitment issues for attorneys.

D. District Attorney

1. **Driver Diversion Status Update** – Mr. Baker stated Noel Terwilliger has been heading up the Driver Diversion Program. We had been trying to find a vendor to automate our system as much as possible. We had one vendor from California that had initially said they would be able to do that, but then they were including additional costs. We went back to Information Technology (IT) to see if they could automate our program. Our IT Department has indicated they can automate our process and that we can roll that out within the near future. Right now we have determined this is our best option.

Mr. Malter asked what about the plan to test this in a large and small court and have it up and running? Has that happened yet? Mr. Terwilliger replied we have had several conferences through December and January with the vendor and have been working with our IT and Finance departments. We will have more of a savings by going with the IT Department and they can get the program up and running within three to four weeks for the pilot for a small court. We still have some MOU issues to work out with the courts. Additionally, getting the RMS (Records Management System) up and running from the ground up is a lengthy process. We anticipate it to be up and running by the end of February.

Mr. Malter stated his concern is that we budgeted money for a program that was going to be up and running at the beginning of this year. Mr. Van Etten asked what was the cost for the California vendor? Mr. Terwilliger replied it was \$12,000 for the first phase with the second, third and fourth phase at a cost of between \$4,000 to \$8,000 depending on number of hours and bells and whistles. Mr. Baker commented the vendor was also going to charge a monthly fee and that was not what they had talked about initially. Mr. Van Etten asked what are other counties using? Mr. Terwilliger replied there is not any RMS currently that is handling a DDP like ours. Broome County would probably be the closest.

Mr. Malter asked from the original program, what do we have to modify? Mr. Terwilliger replied we are working with IT on an online application and that is about 80 percent complete. We also need to make sure that marries to our RMS. After that, we will work with the Finance Office on the auto payment feature. He stated they already have the judge's portal ready. Mr. Baker explained the on-line application is the critical piece to this. Mr. Malter suggested that the committee should get a report from IT on the status of the project.

Mr. Maio asked doing this internally will make the process quicker and less expensive than using an outside vendor? Mr. Baker replied yes. We will be using the same process as we had previously except it will be automated. Mr. Potter asked with the automated payment, will that create a hardship for some people? Mr. Baker replied those individuals will be able to go and pick up a prepaid VISA card and we will provide instructions for

that. Mr. Potter asked is there a surcharge that the individual will have to pay? Mr. Baker replied that will be included in the fee.

2. **Budget Transfer** – Mr. Terwilliger requested authorization to transfer \$6,000 from the 2019 Fringe line into the 2019 contractual lines to cover expenses, specifically for witness fees and travel reimbursements. He explained they had more grand juries and they also had an extradition to California.

MOTION: AUTHORIZING THE DISTRICT ATTORNEY TO TRANSFER \$6,000 FROM THE 2019 FRINGE LINE ITEM INTO THE 2019 CONTRACTUAL LINE ITEMS TO COVER EXPENSES, SPECIFICALLY FOR WITNESS FEES AND TRAVEL REIMBURSEMENT MADE BY MR. RYAN. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

Mr. Terwilliger noted that with respect to last month's request for video equipment, the actual cost came in at \$13,000, not the \$16,000 he had originally requested.

E. Personnel

1. **16B Waiver – District Attorney** – Mr. Alderman stated the District Attorney is requesting a 16B Waiver to create 1 part-time Assistant District Attorney position, Management Grade H. Mr. Baker explained he had a shared services contract with Schuyler County for a part-time ADA. Schuyler County can no longer fulfill this contract. He requested authorization to create one part-time ADA and the cost would be the same as what they were paying through the contract with Schuyler County.

MOTION: WAIVING THE 16B PROCESS AND AUTHORIZING THE CREATION OF ONE PART-TIME ASSISTANT DISTRICT ATTORNEY POSITION, MANAGEMENT GRADE H, IN THE DISTRICT ATTORNEY'S OFFICE MADE BY MR. POTTER. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

2. **16B Waiver – Conflict Defender** – Mr. Alderman stated the Conflict Defender is requesting a 16B Waiver to create 1 part-time Assistant Conflict Defender position, Management Grade H. Ms. Aston explained we have 2 full-time defenders. Our caseload is increasing and we are getting a lot of discovery materials and two people cannot cover 1,400 square miles.

Mr. Wheeler stated the Conflict Defender and Public Defender positions have been submitted under the Hurrell-Harring plan and will be offset by State revenues. The Public Defender positions were anticipated in the 2020 budget, however, the Conflict Defender position was not, but this saves us as it helps prevent cases from going to Assigned Counsel.

Mr. Maio asked has there been any attempt to get all the courts together to see if the courts could arrange their schedules so they were not all holding court at the same time? Mr. Baker replied each judge and clerk has a work schedule to work around and there are 52 courts. Ms. Prossick stated on Friday she attended a Regional 7th District meeting and there was discussion about how the court schedules are causing more stress on the Public Defenders and Assigned Counsel regionally. A status meeting is scheduled for June to see if the issue is getting worse and Judge Doran has stated that if necessary, they will adjust the schedules.

Ms. Aston commented they are barely making it and are constantly, unfortunately, late for court. We are reviewing voluminous packages of discovery materials. With this part-time position, they would be handling court in the Hornell area including Arkport and Fremont and would be handling the D and E level felonies to begin with.

MOTION: WAIVING THE 16B PROCESS AND AUTHORIZING THE CREATION OF ONE PART-TIME ASSISTANT CONFLICT DEFENDER POSITION, MANAGEMENT GRADE H, IN THE CONFLICT DEFENDER'S OFFICE MADE BY MR. MAIO. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

3. **16B Waiver – Public Defender** – Mr. Alderman stated the Public Defender is requesting, one Typist, Grade IV; 1 Senior Typist, Grade VI; 1 Paralegal Assistant, Grade XI and 1 Senior Assistant Public Defender, Management Grade I. Mr. Sauro explained these positions are all very important for different reasons. The Senior Typist will have the State mandated duties of Data Control Officer and under the ILS mandate, we need to get that position up and running as training for Data Control Officers is already occurring. This individual will be coordinating communications of data from all three indigent defense departments to ILS to ensure that we are in compliance. Mr. Malter asked is there an annual audit? Mr. Sauro replied yes and they will also be doing quarterly monitoring.

Mr. Sauro explained by 2023 there will be certain benchmarks that we will need to meet to ensure that the quality of services is as high as they can be. Additionally, the caseload caps will become effective and each attorney will be capped at 150 cases. If we hit our cap, then those additional cases go to the Conflict Defender, and when they hit their cap, then the cases go to Assigned Counsel.

Mr. Sauro explained with the Senior Assistant Public Defender position, he will have more flexibility in hiring and will be able to hire an individual with more experience. He explained with the Typist and Paralegal Assistant positions, as we add additional attorneys, support staff is required to assist them. A general rule of thumb is one support staff for every two attorneys. Right now the attorneys are preparing their own motions and doing their own typing.

Mr. Malter asked do you have people in mind for these positions? Mr. Sauro replied he has one potential individual for the Senior Assistant Public Defender positions, and he does not have anyone for the other positions. Mr. Alderman explained these remaining positions are open-competitive positions. Mr. Wheeler commented they are also working with CSS Workforce NY to get paralegals as a demand occupation. Mr. Sauro stated he is also working with the Steuben County Bar Association to put together something where they can begin advertising and recruiting on a perpetual basis. He would like to put some serious energy into that so we can all have a pool of attorney applicants.

MOTION: WAIVING THE 16B PROCESS AND AUTHORIZING THE CREATION OF ONE TYPIST POSITION, GRADE IV; ONE SENIOR TYPIST POSITION, GRADE VI AND ONE PARALEGAL ASSISTANT POSITION, GRADE XI IN THE PUBLIC DEFENDER’S OFFICE MADE BY MR. MAIO. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

Mr. Potter commented he knows all of these positions are being mandated, but his concern is that no one is giving consideration to the victims in these situations and that is getting worse for them. He understands there is nothing we can do here and that is not right. Mr. Baker stated no, it is not right. Mr. Maio commented he saw that the Police Chief’s Association and State representatives were set to meet and there was some feeling that some things need to be switched up.

Sheriff Allard stated last week at his Sheriff’s Association conference in Albany, our association met with the Chief’s Association and the District Attorney’s Association and we sent a joint letter to the Senate and Assembly requesting a meeting to discuss this. Both the Senate Majority and Minority leaders met with us. The Assembly has refused to meet with us. He stated tomorrow he and Mr. Baker, along with a couple of the police chiefs, will be attending a rally in Albany.

Mr. Ryan asked if the State does reverse this, what will we do with all of these positions? Mr. Wheeler replied you have a few separate issues; bail reform and discovery. The positions we just discussed fall under Hurrell-Harring and nothing will change with those. The other requirements we will have to wait and see. Mr. Baker commented no one is predicting that it will change back; it will continue to be what it is. Mr. Wheeler stated the hope is that they listen to the feedback from all of the stakeholders and do things that make sense.

IV. OTHER BUSINESS

A. *District Courts* – Mr. Maio stated four years ago when Dan Farrand was the head of this committee, one of the goals of the committee was to establish district courts in the County. We have been hearing about staffing for the past four years and about part-time judges who cannot meet as often as they should. What the Constitution of New York State says is that a County may request from the State, legislation and a resolution establishing a district court by referendum. Mr. Maio stated he thinks this committee needs to take a look at, either by a subcommittee or an ad hoc committee, whether that would be efficacious for this County to do and what the structure might look like, how many districts, the costs, cost savings, etc. We are a big county, but we are not the biggest.

Mr. Baker commented we have the most courts in the State. Mr. Maio stated we would be the test case for this and if any County is suited to this, it would be us. We should look at the process to move along and if there is an appetite among the Board, to move it along.

Mr. Malter stated we can look at this as a committee. We will need to get some information about the law. Mr. Wheeler commented OCA (Office of Court Administration) has to be involved. Ms. Prossick stated the regional meeting she attended Friday was the first time they admitted that district courts may be coming. It seems like OCA is setting things up to see if they can consolidate and make it smaller.

Mr. Potter stated he agrees this is something we should look at. With a referendum vote you are taking the vote of the local people away and voters do not like that. Mr. Maio replied the people would get a vote. The people of the district outside of the city have to vote in favor, and the people within the city have to vote in favor. If there is not a majority vote, then it does not happen. Ms. Prossick stated this would be similar to the assessor situation. You will lose judges and clerks that cannot be replaced. Mr. Potter commented it is more difficult to get people to run. Mr. Malter stated we experienced this when we went from a Board of Supervisors to a Legislature. That process has to happen.

Ms. Fitzpatrick stated as the local judges handle more and more CAP cases, they do not like it. You may have a handful of judges doing CAP and getting better at it. There may be judges that will no longer want to run.

Mr. Van Etten stated he thinks it is a good idea and we have talked about this for a number of years. His question is on the district courts and the judges; are they appointed or elected? Mr. Maio replied the judges would be elected by the people who live in the district. Mr. Wheeler stated it would be under OCA. Mr. Ryan asked how is it that OCA has the power to create so much havoc? Ms. Prossick replied they are elected judges. Mr. Wheeler stated under State Law they have this authority. Mr. Malter stated we will need a total overview of this and what the cost savings are at one end and the loss of revenue at the other end.

Mr. Van Etten asked with regard to CAP Court, he has heard that we do not always have a District Attorney present? Mr. Baker replied once we have the additional part-time attorney, we will be able to have attorneys present at CAP court. With our staffing issues, we were calling in to see if it was something that required staff to be present. He commented the Corning City Court is a pretty big lift by itself. Mr. Van Etten stated we changed from giving the attorneys a stipend to increasing the salary and making it permanent, and yet people are not showing up to do their job. Mr. Baker stated we will be able to be present in CAP court with this additional part-time ADA. Now that Mike McCartney's position is filled, we have been in court more.

Mr. Sauro stated he wanted to mention that due to bail reform, a number of indigent clients who were victims of the system are now at liberty and he has seen positive changes. These are very grateful people and families have been made better. These individuals are able to more fully participate in their defense. Please do not lose sight of that.

MOTION: TO ADJOURN REGULAR SESSION AND RECONVENE IN EXECUTIVE SESSION PURSUANT TO PUBLIC OFFICERS' LAW, ARTICLE 7§ 105.1.F. THE MEDICAL, FINANCIAL, CREDIT OR EMPLOYMENT HISTORY OF A PARTICULAR PERSON, OR MATTERS LEADING TO THE APPOINTMENT, EMPLOYMENT, PROMOTION, DEMOTION, DISCIPLINE, SUSPENSION, DISMISSAL OF A PARTICULAR PERSON MADE BY MR. POTTER. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

MOTION: TO ADJOURN EXECUTIVE SESSION AND RECONVENE IN REGULAR SESSION MADE BY MR. MAIO. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

B. *Drug Court* – Mrs. Crocker stated she wanted to let the committee know that she is considering the possibility of withdrawing from the drug court team. Over the next few weeks, another judge will be filling in and will try to get the team on the same track that we were on before. She hopes they will be able to put a more concrete procedure in place so when the original judge returns, hopefully he will continue to follow that. Mrs. Crocker stated she will be participating on some subcommittees over the next few weeks to make changes that we will be more comfortable with pertaining to public safety. She explained one of the issues is that participants that are being allowed in felony drug court have violent offenses or are violent; additionally, if they commit another offense while in the program, some are not being discharged unsuccessfully from the program. The integrity of the program is at issue, as well as the current participants' attitudes as it is becoming more difficult for her officers that are supervising them. It is slowly getting out of control.

Mr. Maio asked does the team make the decision of who participates? Mrs. Crocker replied not anymore; now it is only the judge. Mr. Maio asked when people are accepted into the program is it the judge or team's decision? Mrs. Crocker replied if the judge agrees, it is the team. If the judge does not agree, then the judge makes the determination. Mr. Maio asked if you withdraw from the team, who will supervise the people in drug court? Mrs. Crocker replied we would have to supervise them, the difference would be how. Right now, we go by the drug court program and we see them once or twice per week. If we go by regular probation, we would do a risk assessment and supervise based on that; most likely less than weekly. Mr. Maio stated so if you do not participate in drug court, then these people are getting less supervision? Mrs. Crocker replied yes. Our voice is not being heard anyway. Mr. Maio stated so you are saying the public would be better served with less supervision.

Ms. Prossick stated Mrs. Crocker is voluntarily pursuing a program that is not required and it is putting violent people into the community and putting liability on her office. She is participating in the release of these people. What she is doing in drug court is not under State statute.

Ms. Fitzpatrick asked are you concerned about officer safety as well? Mrs. Crocker replied yes. Ms. Fitzpatrick asked if you continue to participate in drug court, does that put your officers at higher risk? Mrs. Crocker replied that is part of it. Mr. Wheeler stated our goal would be to participate, but there needs to be some changes and we cannot force those. With us withdrawing, hopefully it will self-correct.

Mr. Malter asked have we withdrawn at this point? Mrs. Crocker replied to some extent; she is still participating. Mr. Malter asked is it your decision to withdraw? Mrs. Crocker replied yes. Mr. Wheeler explained this is just informational for you. Our goal is to be a partner.

Mr. Baker commented there have been times when the District Attorney's Office has pulled out in the past. This is not uncommon. Mr. Malter stated if that has worked in the past, why not do it again. Mr. Wheeler stated we hope that it does not come to that and we will see what happens over the next four weeks.

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

Respectfully Submitted by Amanda L. Chapman, Deputy Clerk, Steuben County Legislature

****NEXT MEETING SCHEDULED FOR****

March 2, 2020

Legislative Committee Room

9:00 a.m.

Please send agenda items to the Clerk of the Legislature's Office

NO LATER THAN NOON

Monday, February 24, 2020.