

**PUBLIC SAFETY AND EMERGENCY SERVICES COMMITTEE  
MINUTES**

**THURSDAY, AUGUST 22, 2019  
3:30 P.M.**

PRESENT: Kevin W. Hines, Chairman  
Thomas Faggione, **Kevindaryán Luján**, Rob Sassi,  
Joel Sierra, Kathy A. Stegenga, John S. Vero

ALSO

PRESENT: L. Stephen Brescia, Chairman  
Katie Bonelli, Majority Leader  
Antoinette Reed, Legislative Counsel  
Harold J. Porr, III., Deputy County Executive  
David M. Hoovler, District Attorney  
Robert Conflitti, Executive Assistant District Attorney  
Donna McCarey, Deputy Commissioner, Human Resources  
Alison Tyack, Director of Personnel Management, Human Resources  
Carl E. DuBois, Sheriff  
Anthony Mele, Corrections Administrator  
Lawrence Catletti, Jail Administrator  
Brendan R. Casey, Commissioner of Emergency Services  
Alan C. Mack, Deputy Commissioner, Emergency Services/Emergency Management  
Vini Tankasali, Deputy Commissioner, Emergency Services/ Div. of Fire Services  
Derek Miller, Director, Probation Department  
Gretchen Riordan, Budget Analyst  
Stewart A. Rosenwasser, Founder, Rosenwasser Law, Attorneys at Law

Chairman Hines opened the meeting at 3:30 p.m. and asked everyone to stand for the Pledge of Allegiance. All committee members were present.

Mr. Faggione moved the request to accept and appropriate funding from the Governor's Traffic Safety Committee, \$11,625.00, seconded by Ms. Stegenga.

Sheriff DuBois stated this is for "Buckle Up New York" which is seatbelt enforcement and the funds pay for the overtime.

Motion carried. All in favor.

Mr. Faggione moved to discuss the Corrections Report, seconded by Ms. Stegenga.

Mr. Catletti stated that the current head count is 582 inmates of which 145 are ICE detainees and 52 Marshalls. The current boarder revenue is \$6,032,094.00.

Mr. Hines clarified that the Marshalls Program is going better than planned.

Sheriff DuBois stated that is correct and they would like to go further anticipating possible reduction in population on bail reform.

Mr. Hines asked if the transporting of sixteen- and seventeen-year olds will affect the budget.

Sheriff Dubois replied that it has not raised any red flags at this point. He then mentioned that the generator project is hooked up and he would like to schedule a tour so that the legislators can see it.

Ms. Stegenga moved to discuss the Sheriff's Report, seconded by Mr. Faggione.

Sheriff DuBois explained that there is nothing remarkable to report other than it has been a busy summer. He mentioned that he would like to have a meeting soon regarding the Orange County Police Academy so that the legislature is aware of what is happening.

Mr. Hines stated they should also speak to the Police Advisory Board and then come to the legislature with any solutions they may have.

Mr. Lujan moved the request to create one (1) part-time Assistant Fire Coordinator, Management Grade 23 position and one (1) part-time Emergency Management Program Coordinator, Grade 13 position, seconded by Mr. Hines.

Mr. Casey stated that these are grant funded positions and he suggested that Mr. Tankasali put together an organizational chart for the division. These positions will oversee the three field units (HAZMAT, Technical Rescue, and Fire Investigation).

Mr. Hines asked if the person will be limited to work 19 hours, what the work hours would be, if they would respond after hours and if he/she will be on the road.

Mr. Tankasali replied yes, and they would be normal working hours such as 9:00 a.m. until 12:00 p.m. and this is a tested position. He stated that the grant is received every year.

Mr. Hines clarified that the individual must have a background in Fire Investigation, Technical Rescue and HAZMAT.

Mr. Tankasali stated that they would look for someone who has experience that at least has an awareness background to each of these positions.

Mr. Sierra asked if the position is held by a volunteer or if it is being created.

Mr. Tankasali replied no, the position for Fire Coordinator is not volunteer.

Motion carried. All in favor.

Mr. Brendan explained that the Emergency Management Program Coordinator position is a grant funded part-time position which will assist in planning drills and give them another mobile command operator. It will give Mr. Mack more flexibility when they are dealing with certain situations.

Motion carried. All in favor.

Ms. Stegenga moved the request to accept and appropriate funds for the Byrne Justice Assistance Grant (JAG) from the Department of Criminal Justice Services for the Orange County District Attorney. The term of the grant is 8/1/19 – 7/31/20, \$50,000.00, seconded by Mr. Lujan.

Mr. Hoovler stated that this is a yearly grant for equipment such as computers and peripheral.

Motion carried. All in favor.

Mr. Sierra moved the request to accept and appropriate funds for the Byrne Justice Assistance Grant (JAG) from the Department of Criminal Justice Services for the Orange County District Attorney. The term of the grant is 8/1/19 – 7/31/20, \$25,000.00, seconded by Ms. Stegenga.

Motion carried. All in favor.

Ms. Stegenga moved to discuss an update regarding an update on costs and plans associated with Criminal Justice Reform, seconded by Mr. Lujan.

Mr. Hoovler, Mr. Borek, Mr. Conflitti, Mr. Miller and Mr. Rosenwasser addressed the committee.

Mr. Hoovler distributed a few handouts (see original minutes) Discovery Changes-2019, and two articles; NY District Attorneys Protest lack of Funding for Criminal Justice Reform and Island DA Office needs \$2.8M To Implement Albany's Criminal Justice Reform Package. He explained that in April of this year, encompassed in Article VII of the State Budget, the State incorporated Criminal Justice Reform which meant that when the State Legislature voted on the budget, they also voted on the reform; therefore, if they voted yes, they voted for all reforms in addition to the rest of the budget. It passed very handily and put a series of new laws which will take effect on January 1, 2020 regarding bail, speedy trial and discovery. Essentially, these new laws are undoing 60 years of criminal practice in the State of New York and is bringing about an extreme culture change. He stated that it is radically changing the system from what it is now. There was not a dime afforded for the new laws and no law enforcement agency, Police Chief's Association, District Attorney's Association or Sheriff's Association were consulted in any way shape or form regarding the passing of it. Once it has been passed, it will be problematic across the state and cost an exceptional amount of money in urban areas and will be harder in suburban and rural areas to implement. It will also influence public safety because it is radically different from the way business is currently done. He

would like to briefly discuss Orange County and the numbers before continuing to discuss the reforms because he does not think everyone understands the dilemma they have in Orange County. In Orange County there are 22 towns, 19 villages and three cities and with the latest addition there is Palm Tree. Those towns, villages, and cities generate about 20,000 cases a year that the District Attorney's Office is going to process. Of those 20,000, about 9,600 are new cases and/or new arrests and of those 9,600, there is about 2,500 to 2,700 serious felonies of those cases. In addition to that there is an additional 33,000 traffic tickets that he delegates to the local towns and villages that they prosecute which has been the practice of the county since 1968. What people do not understand about Orange County is that there are seven city courts even though there are only three cities, there are sixty-seven local courts and of those sixty-seven local justice courts, 65% of them meet after 5:00 p.m. The bottom line is that 19 days a month, there are multiple courts holding court after 5:00 p.m. somewhere in Orange County. On some nights it is as many as five and a lot of times it can be as little as two. Sixty-two percent of all the cases they have in the county misdemeanor and felony, come out of the local courts, the ones that are meeting at night. The other thirty-eight percent come from the city courts which meet during the day. To complicate matters, the county has 37 primary law enforcement agencies that service all the 76 courts. They all operate under different orders, they all have their own chief, counsel, supervisor and/or mayor. There are 19 different computer operating systems that our local towns use, generally speaking there are only two forms that each of the departments use that are the same; the arrest report and the incident report. Everything else the departments use can be different because it is tailored to what the department wants over the years. He stated that Orange County is a very fragmented system of law enforcement and has been that way for as long as Orange County has existed because that is what the constituency of the county has always wanted. It has worked efficiently over the years because under the previous system that has been in place up until this coming January, the system was extremely flexible. He continued to give the committee a few examples of the process for different types of cases. Under the new statute that has passed, every single relevant document related to the arrest and prosecution meaning everything from the police department, come January every single item for every single case has to be turned over within 15 days of someone being arraigned. He pointed out that in the vast majority of cases, hardly anything gets turned over, so that is the dilemma that has been placed upon them on the discovery side of it. How they are planning to deal with that is to create a "Complaint Room" like they have in the city when police officers arrest individuals, they are going to come to the District Attorney's Office which will be a room at the 911 Center or via telephone and/or electronically where they talk to them about the facts of the arrest. All the paperwork would be transferred to them at the time or very shortly after the time of arrest, so they get more of it upfront in order to turn more of it over at a faster pace. In order to that, they have to shift the fundamental way they do business from paper to purely electronic. The "Complaint Room" serves one great purpose, it creates a funnel at the beginning of the case where everything can be gathered and brought in, evaluated and then passed out by them. The new law requires the prosecutor, not the police, to be the gatekeeper of everything. He stated that their goal is to create this "Complaint Room" that will work from extended hours such as 7:00 a.m. to 7:00 p.m., Monday through Friday as well as weekend hours in order to accommodate the flow of arrests in the county. An interesting statistic about Orange County is 50% of all the people in the county get arrested one minute after midnight on Friday morning to Sunday afternoon. Of those days, government offices are not open and that is the reason they need to have a "Complaint Room." Furthermore, to complicate that even more they have changed the Speedy Trial Rules. It used to be they had up to 184 days for a felony case and misdemeanor case is a lot less, in order to bring the case to trial. Now under the Speedy Trial Rules, until they have all the paperwork turned over, they cannot say they are ready for trial, which forces them to move faster than they have ever moved before. A third complicated matter is this will be very costly because they changed bail to say the cash bail has been altered in New York. It has completely ended but still exists to some extent. He stated that there is

about eight categories of offenses that one can automatically be held on, a defendant can voluntarily be asked to be held in and then there are four categories that if a person threatens a witness in contempt, they are released on a felony, they commit a new felony and the last one is the willful and persistent failure to appear. This new law complicates things even more because if they would like to hold people in or state they should be held in, they would now have to have a hearing which would have to be held within 72 hours of the time of the initial arrest. The hearings will cost the police officers a lot of money because the hearings are not on time and/or run late. Using their numbers from this past year, 91% of all people arrested in Orange County will be presumptively released, as opposed to right now, it is about 60%. One would ask themselves, what is the group of individuals that is going to be released back out? He stated that it will be the drug sellers, the people who possess with intent to sell, burglary, robbery, drunk drivers, etc. All these offenders will be released right away because there is very little cause they can be held in. The bottom line with bail is that it has been designated in this State to one purpose, appear in court. If the offender appears in court drunk or high, no one cares because the judge is satisfied that he/she appeared for the court date. Furthermore, the law is "toothless" when it comes to giving judges power to control people on bail. The only way they will get held back in is if they reoffend, threaten a witness, or they are held in contempt. There are other aspects of it where the court or pre-trial service agency is going to have to notify the defendant of their date and time that they need to show up for court. From his standpoint as the District Attorney, this is changing the entire culture of the system that he has ever known as an attorney. He knows that there are about 600 people a year who are arrested for drugs or intent to sell who will now automatically be released back on the streets which will have a devastating effect on the City of Port Jervis and the City of Newburgh. All of this is causing him to turn in the highest budget request that he has ever expected to have. He will be asking for 11 positions for various reasons, but it is not out of line with what other District Attorney Offices are doing across the State such as Albany County which is smaller than Orange County, they will have a \$1.5 million increase to their budget. When he looks at what other counties are requesting, he thinks the request he is making is reasonable. In conclusion, no one has the answers as to where this is going but what he does know is, when the District Attorney's Office is being asked to turn over every single item in every single case, everything needs to be changed in order to come close to complying with it.

Mr. Sassi clarified that come January 1, 2020, when the subject gets arrested the District Attorney's Office will have to expedite everything.

Mr. Hoovler stated that is correct.

Mr. Sassi then asked if the transcript has to be expedited once the suspect is brought to jail.

Mr. Hoovler replied that if it is a murder case, the suspect will be arrested, processed and taken before the judge. When someone is taken before the judge, the process of arraignment occurs which is when the District Attorney's Office has 15 days from that point to turn everything over to them.

Mr. Sassi asked if the cost savings will be due to less jail staffing.

Mr. Hoovler replied that is believed to some extent, but he does not necessarily think it will work the way that the State thinks it will.

Mr. Hines asked Mr. Hoover if he knows how much the cost is that is associated with the 11 positions.

Mr. Hoover replied yes, it will be between \$1.4 million and \$1.7 million.

Mr. Hines asked if there is a shortage of attorneys.

Mr. Hoover replied that he is never fully staffed because they come and go.

Mr. Hines then asked if the District Attorney would be able to partner with the Sheriff's Office.

Mr. Hoover replied that there is nothing they cannot partner on; the question becomes will the Sheriff give the funding to dedicate the people to the District Attorney. If he provides the funds for people coming to the District Attorney's Office and is okay with the attorney's telling them what to do and where to transport, then he is 100% behind it.

Mr. Hines commented that they would be much more suited with the Special Operations Group than the District Attorney would be with investigators most of which are retired police officers.

Mr. Hoover stated it is not an issue, it just has to be someone from law enforcement.

Mr. Hines asked Sheriff DuBois if that is a task they can handle.

Sheriff DuBois replied they will do anything as long as the County Executive and the Legislature understand the responsibility come budget time.

Mr. Borek stated that everyone is expecting the intimidation to rise.

Mr. Hines pointed out that they will not solve this as Legislators, but he thinks the Sheriff's Office and Mr. Hoover's staff may be able to collaborate and come up with a better idea. He then clarified that Mr. Conflitti or Mr. Borek thought that based on the statistics now, there would be 200 less people incarcerated in Orange County Jail.

Mr. Conflitti replied that the Sheriff's Office would know more about how many people are being held on misdemeanors.

Mr. Borek stated that based on the current numbers, about 200 people would be released on January 1<sup>st</sup>.

Mr. Hines asked if it will be a mass exodus come January 1<sup>st</sup>.

Mr. Conflitti replied that is the common understanding.

Mr. Lujan asked Mr. Hoover if he envisions having satellite offices in other parts of the county.

Mr. Hoover replied no.

Mr. Conflitti stated that the plan is to have a virtual "Complaint Room," not police officers coming to them.

Discussion continued among Mr. Hoovler, Mr. Conflitti and Mr. Miller regarding the "Complaint Room" and evidence turnover.

Mr. Rosenwasser stated that this law is taking effect on January 1, 2020 and is designed to have the force of a court order. Discovery is nothing new, it is in the forefront now because of this urgency and the realization that they have been given a task that may be impossible to comply with. He sat on the bench for several years where there has always been discovery, but it was more of a relaxed process which would occur over a period of months. When most of the activity happened in a case, it was either when a hearing was scheduled, and things had to be turned over because of testimony or before a trial. So, this discovery is gone and there is this new reform that is monumental compared to what it used to be.

Mr. Faggione commented that he has spoken to some of his local police agencies and asked if they are expecting to see a decrease in arrests starting January 1, 2020 and what should elected officials tell their communities because there are so many people who should be locked up and will be roaming the streets. He would like to know what they should tell the public so they can remain as safe as possible.

Mr. Hoovler replied they are planning on having four forums across the county in November to discuss the Criminal Justice Reforms. He stated that the Orange County Association of Towns, Villages and Cities will be coming to his office on September 13<sup>th</sup> to speak about the topic. He reiterated that Newburgh and Port Jervis will have public safety issues once this reform takes effect.

Mr. Hines asked that Mr. Miller brief the committee regarding his staff and how this new reform will affect the Probation Department.

Mr. Miller explained that this will hit the Probation Department in the "body business" because they are the people who are going to be submitting plans for pre-trial services and oversight. The department will end up screening a lot more people when the reform goes into effect and he will have to discuss funding with the County Executive. He is unsure of what the numbers are going to be, but they will need more staff and the automated system will have to have changes made to it. He added that they have to take a look at what the courts will expect of the department and what they will order them to do which is a big unknown issue. Furthermore, it is not feasible for the department to take all of these people upfront. He further expressed his concerns with the population the department will have to deal with as well as public safety issues they could face.

Mr. Hines asked Mr. Miller if he has submitted his staffing request to the County Executive.

Mr. Miller replied no, but he told the County Executive what he may need. He is unsure of what will be needed so he is not submitting anything until he has a better idea of what is going to take place.

Mr. Hines then asked if the Probation Department will be responsible for the inmates who will get released on January 1, 2020.

Mr. Miller replied no, they are not. He stated as of now, they are tight with staffing and this reform will be tough, but he is not a believer of panicking; therefore, he will analyze this further because there is a lot up in the air.

Mr. Hoovler pointed out that they cannot compare this county to others it is not a fair comparison because no one has the fragmentation that we have in this county. He then mentioned that in everyone's packet he included an article regarding the Cashless Bail and Criminal Justice Reform (see original minutes) which is where everyone will see that a lot less people will enter treatment due to the reform. There will also be competition between all the not-for-profits to try and get the people that are available for treatment or to provide pre-trial services.

Before adjourning, Mr. Sassi clarified that there was no input from district attorneys across the stated regarding the reform.

Mr. Hoovler stated that is correct. There was no input from DA's, police, Sheriff's or the courts.

Mr. Sassi then asked who made this decision.

Mr. Hoovler replied the legislature from New York City. Regardless of affiliation, republicans and democrats on Long Island all opposed and both of ours that voted here, voted yes. He does not think either understood the total cost that would hit the county, but he is sure they will make it appropriate somewhere down the line.

The meeting adjourned at 4:58 p.m.