

NEW YORK STATE  
PROBATION COMMISSION MEETING  
Alfred E. Smith Building  
Albany, NY 12210  
November 16, 2023

This meeting was conducted in person at Alfred E Smith, and virtually via Cisco Webex.

Members Present: Robert M. Maccarone, Deputy Commissioner and Director – DCJS - OPCA  
Rocco Pozzi, Member, Westchester County Department Probation Commissioner  
Judge Joseph Zayas, Member, Chief Administrative Judge, represented by Paul Lewis, Chief of Staff, OCA  
MaryEllen Still, Member, Dutchess County Probation Director  
Joseph Wargo, Member, Jefferson County Probation Supervisor

Members Excused: Ana Bermudez, Member; Dr. Jeff Butts, Member

DCJS Staff Present: Matthew Charton, Assistant Director, DCJS-OPCA  
Gary Govel, Assistant Director, DCJS-OPCA  
Patricia Clements, Training Unit Director, DCJS-OPCA  
Teresa Scanu-Hansen, Juvenile Probation Operations Unit Mgr. DCJS- OPCA  
Michele Clarke, Vocation/Education, Employment and Re-Entry Unit Manager, DCJS-OPCA  
Nicole Aldi, Alternatives to Incarceration Unit Manager, DCJS-OPCA  
Frank Cangiano, Adult Operations Unit Manager, DCJS-OPCA  
Kelly Palmateer, Interstate Manager, DCJS-OPCA

Special Guests: Alan Frisbee, President, NYS Council of Probation Administrators (COPA) & Green County Probation Director  
Dan Connor, President Elect of NYS Probation Officers and Jefferson County Probation Officer

## Welcome and Introductions:

Deputy Commissioner and Director Robert Maccarone welcomed the members of the NYS Probation Commission.

DC Maccarone then had the members of the Probation Commission introduce themselves.

DC Maccarone then had DCJS Staff introduce themselves.

DC Maccarone asked for a motion to approve the minutes of the May 23, 2023 meeting of the NYS Probation Commission be approved. Commissioner Rocco Pozzi made the first motion. Director Mary Ellen Still made the second motion. The motion carried.

## **Probation Recruitment and Hiring**

Deputy Commissioner Maccarone informed members of the Probation Commission that effective January 1, 2022, the Basic Course for Peace Officers was required for all peace officers, and that they were required to complete 162 hours of training. The BCPO included the addition of three days of Crisis Intervention Training, and five days of Defensive Tactics. On March 8, 2022, the Municipal Police Training Council granted an extension until January 1, 2023 for all Probation Departments to come into compliance with the new law, in consideration of the fact that Probation Officers are employed by 57 counties and the City of New York Probation Departments, and that local employers would require sufficient notice to include the new qualifications in announcements for probation officer examinations. Deputy Commissioner Maccarone advised that all Probation Departments (localities) did meet the January 1, 2023 requirement.

Deputy Commissioner Maccarone brought up the concern that the current DCJS Regulation 346 requires that Probation Officers complete the Fundamentals of Probation Practice (FPP) within six months, but that CPL section 2.30, which pertains to Peace Officer training and certification allows peace officers to perform the responsibilities of peace officers, provided they complete the BCPO within one year, and that this may present an area of liability for probation departments/localities. He advised members of the Commission that OPCA continues to caution Probation Directors that new Probation Officers should be restricted from supervision, field operations, and warrant/arrest responsibilities until such time Officers are fully trained and certified. Deputy Commissioner Maccarone advised that the Probation Workgroup that is reviewing the Staff Development Rule—Part 346—would be examining this. He then opened the floor to discussion for feedback from members of the Probation Commission

meeting.

Director Mary Ellen Still said that this is certainly something that needs to be addressed. Different sized departments may have different challenges. Large departments may find it easier to coordinate the training that these new Officers need, but smaller to medium departments will have an issue with timing and may have Probation Officers who have not been fully trained within the Probationary period. It needs to be made consistent. Coordinating classes as quickly as possible at the time of hiring would be best. Availability to hire comes and goes so fast departments want to hire when able but may not be able to get the training completed right away. The liability for departments and counties not having Probation Officers properly trained is enormous and they cannot be used to their full extent.

Deputy Commissioner Maccarone noted that this was certainly true and that OPCA is putting together a uniform application for probation training academies to complete so it would be informed when FPP classes are being held throughout the state and to make it easier for Departments to coordinate training for their employees. At this time, OPCA holds two FPP classes each year. This may have to be increased. Director Still agreed that this would help.

Commissioner Rocco Pozzi advised that Civil Service has allowed him to have a two-year probationary period for Probation Officers as more time is needed to fully evaluate new Probation Officers before granting them permanent status. He further advised it would be beneficial to identify the tasks Probation Officers can do when hired prior to completing their training in the Academy. This is what is done in Westchester County. Probation Officers are not allowed to perform certain activities that could cause liability issues. There are other valuable functions that they can fill prior to attending the Academy. When he gets the green light to hire someone, he does it right away as these opportunities may change so quickly. They also do quarterly evaluations for all new Probation Officers.

Commission member Joe Wargo agreed with Director Mary Ellen Still. Different sized counties bring different issues and concerns. Vacancies can cause huge voids that need to be filled. Filling vacancies before they occur is almost impossible--planning ahead in hiring Probation Officers is hard. He stated it would be best if the department could plan to replace those who leave before they leave. Mr. Wargo also stated that it is hard for Jefferson County to send these Officers to be trained when they are leaving their caseloads behind to get trained for multiple weeks at a time.

OCA Chief of Staff Paul Lewis stated that they are also having challenges hiring Court Officers. OCA has had some success with recruitment by attending local fairs, meetings and committees and recruiting in schools.

COPA President Alan Frisbee has not had to hire in almost seven years and does

not face the same challenges. He noted that Greene County Probation is a smaller department. He advised that he does not have an active list but does have a test coming up and has worked with Civil Service to make changes to the announcement to let people know that they may be traveling to trainings and that there is also a physical portion involved with the position.

POA President Dan Wargo agreed with everyone. A lot of the changes hurt the small and medium sized departments. Coordinating the training with hiring would be a good solution. However, he believes some departments would not be able to time hiring opportunities with the commencement of available training.

Assistant Director Gary Govel spoke about his experience with this as a Supervisor at Albany County Probation. It is hard to evaluate new employees when they have not been fully trained and are in and out of the office working their duties as Probation Officers.

### **Interim Probation Supervision and Probation Sentences**

Deputy Commissioner Maccarone stated that OPCA has identified a number of growing concerns with the use of Interim Probation Supervision in recent months. He noted that OPCA had worked with Counsel in recent years to amend the law to grant probation officers the tools to effectively manage individuals placed on Interim Supervision by the Courts. These provisions of law included the use of search conditions, and the request for timely issuance of warrants. At the same time, OPCA recommended and saw changes in law that granted individuals placed on Interim Supervision credit for their time on Interim Supervision toward a subsequent probation supervision sentence.

Deputy Commissioner Maccarone note that in recent months, the courts have placed individuals on Interim Supervision who have pled guilty to violent crimes including gun crimes, and that this is being done without the benefit of pre-plea investigation conducted by the Probation Department. He would like to see a rule put into place by OCA that would request Judges require the probation department to conduct a pre-plea investigation before an individual who has pled guilty to a violent/gun crime is placed on Interim Supervision. This would also enable the Probation Department to recommend various conditions of supervision to the court.

Commissioner Pozzi stated that he has not seen Interim Supervision being used much in Westchester County, but that when they do see it, the courts are using it in a good way. He did have the opportunity to let the District Attorney know that when Interim Supervision is used there has to be conditions and rules set forth for each case.

Assistant Director Gary Govel stated that another issue is that individuals completing Interim Supervision are not being sentenced to probation supervision

within the requisite timeframe and that there are delays in sentencing that departments have reported to OPCA.

Director Mary Ellen Still stated that similar to Commissioner Pozzi, the County is not seeing many Interim cases. As far as they see the courts are using it appropriately in Dutchess County.

Commission member Joe Wargo has been seeing it more and more and a lot of the times they are seeing these individuals showing up to their Probation Offices not knowing such individuals have been placed on Interim Supervision.

COPA President Alan Frisbee reported that he has been seeing it more and more in his offices. He stated that violations filed while someone is on Interim result in the Courts then sentencing the individual to probation supervision. He also noted the difficulty in moving an individual case from Interim to Probation Supervision in the Caseload Explorer system.

POA President Dan Connor is currently supervising Interim cases in Jefferson County. All are under violation now. He stated he believed it is being used in some jurisdictions as an easier way to get a plea deal to get out of a mandated sentence. This does become an issue of concern when it comes to safety. He did receive reports before he had all three of these Interim cases placed on his caseload and believes that having those reports was a huge asset.

OCA Chief of Staff Paul Lewis stated that they have Judicial Seminars every year with Judges and believes that it would be very useful if there was a program during the summer seminars where Probation comes and talks to the Judges about different issues and the need for Judges to request investigations for Interim Supervision cases. He stated that he would advise Judge Zayas of these concerns.

## **OPCA Updates**

### **PSI Repository Guidance - State Director's Memorandum #2023-9**

Assistant Director Gary Govel stated the Pre-sentence investigation report template populates the statewide PSI repository. The team has gone through an extensive process to clean up access to users and put in safeguards as to who can access these PSI Repositories. He reported that OPCA recently published updated guidance, most importantly there will be a provision where certain users will have the ability to suppress or un-suppress information on reports that have been submitted. When a court needs information corrected the authorized user can change the needed information. This is not in affect yet but will be coming soon. Deputy Commissioner Maccarone asked that Alan Frisbee reach out to Probation Department to designate officials within their office who will have the access to suppress and un-suppress these reports, and that he would like this wrapped up by the end of November.

## **NYCOMPAS to COMPAS-R Migration & Training -**

Assistant Director Gary Govel stated NYCOMPAS has served the department very well, but that the transition to COMPAS-R will provide an instrument that is more transparent. Risk Classification are now being recommended via the new tool which also helps streamline different IT processes. COMPAS-R has also updated the language used in assessments and it is more representative of the times.

Community Correction Representative Frank Cangiano, who manages Adult Probation Operations stated that they are now going to begin training in the field, starting with NYCOMPAS instructors who do not need to go through the full COMPAS-R training. A 2-day training for these instructors will be provided in November and a 4-day training for new instructors will commence in early December.

Community Correction Representative Nicole Aldi, who manages the ATI Unit, stated that the travel and lodging costs of this training are being covered and that those who are being trained are being asked to be able to go back and train their own departments. Deputy Commissioner MacCarone re-iterated that OPCA is providing for training costs. The COMPAS-R transition is expected to go live in January 2024.

## **Ce Case Planning—Uniform Case Plan- My Action Plan (MAP) –**

Community Correction Representative Teresa Scanu-Hansen explained that a group of testers consisting of 27 testers have been brought together to test the system. CE Planning is a uniformed case plan format that will become available to departments. Adult and Juvenile versions (each has slight variations). YASI 2.0 is a national upgrade from ORBIS partners. YASI 2.0 has been tested in early 2023. Probation Officers no longer need to duplicate client creation or identification between two different platforms and will no longer be required to log into two different platforms. The YASI wheel enhancements tool will also transfer over. The expectation is to go live by December. Training will be available.

## **CE Universal Statement of Work –**

Deputy Commissioner MacCarone stated that the statement of work for enhancements to Ce has been developed and is extensive. The work on this will begin in the next several weeks. He noted that importance of counties populating their tenants within CE Programs, as the YASI-Ce Integration will pull juvenile referral services from Ce Programs.

## **Ce User Bi-Weekly Trainings Program (Nov 1-Jan 17) –**

Community Correction Representative Patricia Clements reported on the implementation of Ce User Training ---“Ce Users Helping Users” that commenced on Nov 1 on pre-defined topical areas. AutoMon is also present on the calls and able to intervene if there is a question regarding the software. Deputy

Commissioner Maccarone added that 450 participated in the Nov 1 training and 350 in the Nov 17 training, which reflected both a great need and interest in this training among probation officers. Jess Smith and Kristin Hinson of OPCA have led this training.

### **DCJS Regulation Part 356**

DC Maccarone reported that the proposed amendments to Part 356—the Juvenile Delinquency Intake Rule was being reviewed by the Chamber and was expected to be approved for public comment soon.

### **DCJS Regulation Part 346**

Community Correction Representative Patricia Clements is leading this work group. She raised two points – the first being that they have contemplated the ratio of SDO Officers to Probation Officers that they are overseeing within the Academy sites. They are also working on having standards for Academies. Will raise that at some point during the work group but is trying to wrap things up by early 2024.

### **Program Updates**

Community Correction Representative Frank Cangiano spoke about the Quality Assurance Webinar that was held in August. OPCA provided departments an opportunity to hear how Quality Assurance has been occurring. They have created a section established on the IJ Portal for departments to refer to. He acknowledged the Westchester, Monroe, and Onondaga County Probation Departments participation and contribution to the webinar.

Director Mary Ellen Still stated that the presentation was excellent and very useful. This information is very useful today to be able to measure performance measures and outcomes.

Community Correction Representative Teresa Scanu-Hansen spoke on the Probation Juvenile Justice Quality Assurance/Technical Assistance. Onondaga continues working with the team to identify areas of emphasis and change within youth related practices. Westchester also agreed to partner and are focusing on areas in their action plan. They will be meeting again soon. Suffolk joined a few months ago and have provided materials that the OPCA team will review and get back to them on.

Community Correction Representative Michele Clark spoke on the New DCJS-Funded EFS Programs serving Schenectady, Cayuga, Seneca and Orange counties through the increased ATI/EFS program funding--21 Probation departments can now benefit due to more funding to the Employment Focused Service Programs which now receives \$8.7 million.

Community Correction Representative Frank Cangiano spoke on GTSC Funding-

-Leandra's Law Local Assistance. There was an increase of \$250,000 in funding to \$1.49 million. All letters have gone out to all counties. Gary Govel added that we have also been awarded money for the IID Non-Installer program. Saratoga, Nassau and Monroe counties each received about \$35,000 to fund various non-Installer activities.

Community Correction Representative Nicole Aldi spoke on Increased ATI Funding and Pre-Trial Services Funding. ATI funding was increased to \$34M and permitted funding an additional five programs, which included a women's program and a gun accountability program. Pre-trial funding was also approved for \$20 million for the 2023-2024 fiscal year. They have implemented two pieces that are new when it comes to these awards. The first being that funding will be received by departments within 60 days and second, DCJS is requesting an outline from each program on how the money will be used.

### **Announcements**

DC MacCarone spoke about presenting the 2023 Outstanding Service Award to Probation Supervisor John Madden of Cayuga County. John was very deserving of that award.

He then spoke about DCJS Commissioner's Award Recipients within OPCA. Danielle Brendese in our Adult Probation Operations Unit and our ATI and VER Units were also recognized.

Deputy Commissioner MacCarone then asked Kelly Palmateer to speak on Chip Tashjian who was awarded the Interstate Compact for Juveniles (ICJ) Certificate. Chip was recognized because of the work he did with processing ICJ caseload work and for ensuring compliance with the ICJ rules.

### **New Business**

Advised that DCJS – OPCA is being Audited for our Oversight of Probation Services. We are excited about this. We have a lot of systems and controls in place.

Secondly, a Resolution passed by NYSAC and addressed to DCJS Commissioner Rossana Rosado regarding the need for additional funding to counties for probation services.

Deputy Commissioner MacCarone acknowledged the Resolution and advised Commission Members DCJS had increased GIVE Funding and 17 probation departments received a total increase in funding-- from \$1.8M to \$6.5M. He noted that \$20M was also made available to support pretrial services. He also acknowledged that regular state aid for probation had not been increased in many years.



Deputy Commissioner Maccarone advised Commission members that he would be retiring in January after almost 47 years of public service. He would like to thank everyone for all the opportunities he has had over the years.

Commissioner Pozzi thanked Deputy Commissioner Maccarone for all that he has done and for being such a strong advocate for Probation.

Alan Frisbee on behalf of COPA thanked Bob for all his support. Endurance and Energy towards the cause of Probation is undeniable and admirable.

Director Mary Ellen Still wanted to echo what was already said and she appreciated the dedication and professionalism DC Maccarone has brought to Probation. She stated that we are where we are today because of DC Maccarone.

### **Other Business**

Hearing no other business, the meeting was called to closure.

The next meeting of the NY Probation Commission will be May 20, 2024.

Respectfully submitted,

Mollie Braugher

12/5/2023