COURTS AND LAW ENFORCEMENT COMMITTEE MEETING
September 6, 2018


Legislator Kulzer called the meeting at 8:30 a.m.

Legislator King made a motion to approve the 8/9/18 committee meeting minutes, seconded by Legislator Kulzer and carried.

Probation Director MaryJo Burkhard reviewed her report (attached).

She informed that Marcus Spaulding would start work as a Lewis County Probation Officer on 9/10/18. In addition to those listed on the attached, Marcus has also worked at DSS and had worked with Persons In Need of Supervision (PINS) Program. MaryJo plans to hold off sending him to Albany training until spring 2019.

MaryJo was appreciative of the summer intern’s initiative to pen her gratitude for the beneficial experiences. The written summation listed various experiences that attest that employee time spent to mentor a student is truly worthwhile.

She reminded that the 10/1/18 implementation date for “Raise the Age” regulations is near. The secure detention facility that houses juveniles from 4-counties (Albany/Rensselaer/Schenectady/Saratoga) is a viable option for temporary placement of a Lewis County youth, if there is a bed open when it is needed. It has the capacity for 8 males and 4 females. However, if one of the 4 primary counties needs the bed, the Lewis County youth would have to be transferred. In the absence of another immediate option, MaryJo recommends the Board approve an agreement with the capital District Regional Planning Commission at a daily cost of $1,900.00, which is expected to decrease to $740/day effective 1/1/2019. Legislator Kulzer made a motion to enter the agreement, seconded by Legislator King and carried.

MaryJo credited Assistant County Atty. Kari Fahrenbach for spearheading coordination of meetings and trainings for all law enforcement agencies. Ryan Piche informed there are 3 training sessions scheduled. Effective 10/1/18 criminal offenses by 16 yr. olds will be prosecuted through the County Attorney’s office. In response to Legislator King, based on statistics, MaryJo estimates there being less than 5 respective offenders annually that may require secure detention. She is confident that Lewis County officials are prepared for “Raise the Age” procedures.

She distributed the attached publication entitled “Behind closed doors: A look at the lives of probation officers in Cayuga County”. MaryJo informed being hired 9/2/1980 and attested her desire to continue doing the job. The department still has a total of 4 probation officers, albeit two females and two male officers, a switch from when she started as the sole female.
Memo

TO: Courts and Law Committee

FROM: Mary Jo Burkhard, Director

DATE: September 5, 2018

RE: Probation Update

1. I am pleased to report that we will have a new Probation Officer starting work on Monday, September 10, 2018. His name is Marcus Spaulding and he has spent the last 5 years working as a Security Aide on the Behavioral Health Unit at Samaritan Medical center's Emergency Room. He actually worked as a Pratt Northam Student Intern with our Summer Youth At Risk program in 2010 while he was a criminal justice student at Niagara University. He commented how that experience was one of the reasons he has always been interested in the field of probation. I believe he is going to be a great fit for our department.

2. Speaking of Pratt Northam Interns, we had a very positive experience with our summer intern, McKenzie Sauer, a Roberts Wesleyan College student. She wrote a summary of her experiences and it truly made me proud to read how rewarding she found her time here. It was a great reflection about what she observed, her insight gained and a very nice tribute to our hardworking department. It is gratifying to feel our difficult work is appreciated.

3. The deadline for RTA looms....October 1, 2018. As I have said right along, we will make the new process for 16 old arrests work out as best we can. Our interagency group continues to meet and our assistant County attorney has been diligently working on developing a training for all law enforcement agencies to assist them with the process. Of interest, I did receive an invite from Mark Castiglione, Chief Administrator and Executive Director for the Capital District Regional Planning Commission, inviting us to enter into contract with their secure detention facility at a whopping $1900.00 per diem rate. He expects that as of Jan.1, 2019 the rate may move to a more modest rate of $740.00/day!!!!
'Behind closed doors': A look at the lives of probation officers in Cayuga County

Megan Blarr  megan.blarr@lee.net  Aug 19, 2018

Members of the Cayuga County probation department, from left, John Murley, Kim Marshall, Michele Taylor, Joanna LoBisco Jay De Wispelaere, Kelly Murphy, Jay Mastroianni, John Madden and Nick Flanigan.

Kevin Rivoli, The Citizen
In 1841, a boot-maker named John Augustus bailed out a common drunkard in Boston, believing he could be rehabilitated through community supervision rather than jail. Three weeks later, he returned to court for sentencing a sober man, and Augustus began an 18-year career as the nation's first true probation officer.

Since that time, the probation system has grown significantly throughout the United States, including in Cayuga County.

In the past six months, The Citizen observed multiple home and office visits with the Cayuga County Probation Department and spoke with several officers about the difficulty of dealing with an abundance of case loads and an overall lack of resources.

Probation practice

Earlier this year, Cayuga County senior probation officers John Murley and Joanna LoBisco were seated in their car, eyes locked on a woman pacing aimlessly outside her residence. But with their attention placed roughly 100 feet in front of them, neither officer noticed the masked man who approached their car from behind.

With his car door open, Murley was preparing to exit the vehicle when the first two shots were fired.

Fortunately, the bullets weren't real, as it was all part of a training exercise with the department. However, Cayuga County Director of Probation Jay De Wispelaere said that wasn't the case for probation officers in Monroe County who were attacked in a similar manner in the past.

In that case, De Wispelaere said, two female officers were observing an offender's residence when a person came out of an alley and fired at the officers seated in their car. The shooter then fled the scene and was never found.

"Things can happen," De Wispelaere said. "We spend a lot of time in and around our cars, which become our office when we're out in the field ... and if someone were to suddenly threaten you or if you perceive something wasn't quite right, getting out of your vehicle under stress can be tricky."

That's why this spring the Cayuga County Probation Department decided to do drills surrounding a vehicle, something many of the officers had never done. All of the drills were based on actual events that happened to probation officers in the field, and all of the officers were given a "simunition gun," a training replica of a Glock pistol that shoots wax bullets.

"As far as training goes, to be able to come out and use or replicate levels of force as close to reality as we can get is something you can't do in classroom training or in just standard firearms training," De Wispelaere said. "The more we can practice these things and predict what may happen, the easier it will be for officers to respond to those things in the field if it actually does."

Still, De Wispelaere said, the level of probation training has changed over the years and often varies among departments.

In the past, he said, New York state actually had an academy for probation officers, but now, the peace officers go through a five-week training cycle called the Fundamentals of Probation Practice. Prior to training, probation officers must also obtain a graduate degree in social science or a bachelor's degree and two years experience in counseling or casework, and must pass a civil service exam.
Then, in addition to the state-mandated training, De Wispelaere said, there is sometimes special training for departments like Cayuga County, which issues handguns, ballistic vests and radios to its officers. He estimated that roughly half of the state's departments actually provide their officers with such defensive tools.

"Probation in New York state is not a uniform type of service," he said. "Every county is set up somewhat differently. ... It's a county-by-county option and those options extend to how counties want their officers to enforce the orders of the court."

For example, in Tompkins County, De Wispelaere said, probation officers are not armed. Rather, the department takes a more therapeutic approach focused on community engagement.

"Some departments are very, very social work-oriented in their approach and their training while other departments tend to be more on the law enforcement end," he said. "I see probation as a spectrum because we have both law enforcement and social work imperatives, and I think you need to be willing to slide back and forth on that spectrum."

Cayuga County Probation Supervisor Kelly Murphy agreed.

"When you knock on that door, you never know what's on the other side," she said. "So you have to be prepared and use your skills you learn in training, just like any other law enforcement, to prepare for anything on the other side of that door."

**Search and seizure**

On a Saturday in May, Cayuga County Probation Officer Nick Flanigan was conducting a routine visit in the town of Niles when he came across several illegal weapons in the home. And suddenly, he said, the visit was far from routine.

In January 2016, Michael Podolak, 33, of 4469 Twelve Corners Road, was convicted of fourth-degree criminal possession of a weapon and sentenced to three years probation in Onondaga County. At the time, he admitted to possessing a long gun near school property in Skaneateles, claiming he forgot to remove his hunting gear from his vehicle.
As a result, Podolak was not allowed to possess weapons while he was on probation. However, according to the Cayuga County Probation Department, officers found weapons at his home on at least two occasions.

During a court appearance in July, Podolak admitted to illegally possessing five shotguns and two rifles, violating the terms and conditions of his probation. And Flanigan discussed the dangers of finding weapons in a home.

"As a probation officer, guns are the most dangerous thing we can run into," he said in court.

Guns, he said, and drugs.

Flanigan, who started with the Cayuga County Probation Department in February, said heroin has become a particularly big problem for probation officers, and he recalled another home visit when he walked in on a person injecting drugs.

"Just as police officers have risks every time they pull a car over, the same can be said for probation and parole personnel who walk into houses," he said. "Walking into a house, we don't know who or what is behind closed doors."

Of course, the same can be true at the office, De Wispelaere said, as probation officers never really follow a set schedule. In fact, he said, there's nothing really routine about it.

"No two days are usually alike," he said. "You're not always here to do the same thing day in and day out, and the fact that something totally unexpected can happen can give you an adrenaline rush or take you in a different direction. It helps keep things fresh and helps keep you motivated."

However, while home visits are a regular part of the job, many of the officers said more and more of their time is now being spent in the office.

Crushing caseloads
When Officer LoBisco started with the Cayuga County Probation Department in 1994, she was assigned around 50 cases.

Now, she said, that workload has doubled.

On average, LoBisco said, each Cayuga County probation officer is assigned 90 to 100 cases at a time. The county currently employs eight full-time probation officers, one supervising officer and one director.

Compare that to Tompkins County, where Officer Flanigan worked prior to coming to Cayuga County this year. In Tompkins County, he said, there are 27 probation officers and the average work load is roughly 40 to 50 cases.

"Tompkins County has ample resources and they have a lot of funding in their budget," he said. "There is a significant lack of resources here (in Cayuga County). ... The numbers here, they're too high, and it's hard to adequately supervise that many people."

Then, add in the piles of state-mandated paperwork and, Officer Murphy said, there is very limited time for field work.

"Unfortunately, the state is mandating us to do more and more (paperwork) ... and the problem is it takes people off the road," she said.

In the past, Murphy said, officers could conduct surprise home visits every afternoon, allowing the department to better observe and interact with clients. Now, she said, officers primarily schedule home visits — usually one day a week — and they are
typically reserved for high-risk offenders.

"It's more scheduled visits than it used to be," De Wispelaere said. "For probation to really be meaningful, we need to have that element of surprise or the potential to show up anywhere at anytime."

Probation Officer Jay Mastroianni added, "Most of our time is spent behind a computer now doing paperwork, where before it wasn't. ... It's taken away from the flexibility to be in the community as much as we should be. The community wants us out there."

Probtion priorities

When Cayuga County Administrator J. Justin Woods addressed a report on county government efficiency earlier this year, he said he had two priorities: one of them was hiring new probation officers.

In March, the Center for Governmental Research compiled a report highlighting areas in which Cayuga County could become more efficient, and Woods said there was a large focus on fixing the probation department. At the time, he said the department had long been understaffed and there was a growing urgency to address the issue.

Late last year, Gov. Andrew Cuomo announced new legislation to raise the age of criminal responsibility from 16- and 17-year-olds to 18, and De Wispelaere expressed concerns about Cayuga County's ability to comply with the new law. He estimated that Raise the Age could add nearly 100 cases to the probation department's workload.

In April, Woods said he'd like the Cayuga County Legislature to hire two new probation officers now with two more slotted down the road.

"My recommendation is that because we expect to request two new probation officers to handle the caseload related to Raise the Age, we should look at hiring now to get our new people into the hiring (and) training cue," he said in an email to The Citizen. "The state is just now rolling out information about our local plans and how to submit for reimbursement, and once we have that information, we will present it to the Legislature."
De Wispelaere added, "Without help to deal with Raise the Age, our ability to be in the community and be proactive and intervene in our cases and keep that spontaneity and element of surprise is going to continue to get eroded. ... Of all the changes we have seen in the course of our careers, this (Raise the Age) is probably the biggest. It's kind of a neat time to be in the profession, but it's a little scary at the same time. We simply need more support."

Gallery: Behind the scenes with the Cayuga County Probation Department
Aug 19, 2018