

Public Safety Committee
Regular Meeting Minutes
Monday, November 16, 2009 2:30 PM
Scott Heyman Conference Room

APPROVED

Call to Order – 2:30 p.m.

Attendee Name	Title	Status	
Martha Robertson	Chair	Present	
Michael Sigler	Vice Chair	Present	Excused at 4:07 p.m.
Carol Chock	Member	Present	
James Dennis	Member	Present	
Greg Stevenson	Member	Arrived Late	Arrived at 2:38 PM

Staff: M. Lynch, J. Mareane, P. Younger, County Administration; G. Wilkinson, District Attorney; B. Stolp, J. Hughes, Assigned Counsel; P. Meskill, Sheriff; J. Wood, County Attorney; M. Pottorff, Legislature Office

Guests: W. Furniss, ABIR; V. Sykes, D. Dietrich, OAR

Call to Order

Ms. Robertson called the meeting to order at 2:30 p.m.

Changes to Agenda

The resolution entitled Resolution of Appreciation – Chief Brian H. Wilbur, was added to the agenda.

Chair's Report

Ms. Robertson had no report.

Resolution of Appreciation

Resolution (Id # 1611): Resolution of Appreciation - Chief Brian H. Wilbur

RESULT:	RECOMMENDED [UNANIMOUS]
MOVER:	Carol Chock, Member
SECONDER:	Michael Sigler, Vice Chair
AYES:	Robertson, Sigler, Chock, Dennis, Stevenson

WHEREAS, Ithaca Fire Chief Brian H. Wilbur has recently concluded a forty-two year career in the fire and emergency services, having served Ithaca and the greater Tompkins County community since 1988, and

WHEREAS, throughout his tenure, Chief Wilbur has provided unfailing leadership and steadfast commitment to the steady improvement and effective delivery of vital public services to our residents and visitors, and

WHEREAS, Chief Wilbur has continually forged consensus and fostered partnerships among the many levels of governments and public safety disciplines, “town and gown” interests, career and volunteer companies, and throughout the community at large, and

WHEREAS, Brian Wilbur’s role in Tompkins County’s public safety efforts contributed significantly to the development of the County’s Radio Communications System, the implementation of Enhanced 9-1-1 Service, the crafting of a Comprehensive Emergency Management Plan, and unprecedented levels of mutual aid assistance, good-will and cooperation, and

WHEREAS, Chief Wilbur served Tompkins County as a member of the E911 Task Force,

member and Vice Chair of the former E911 Advisory Board, and then as Chair of the successor Emergency Communications Review and Operations Committee, in addition to his long-time and active membership with the Tompkins County Fire, EMS and Disaster Advisory Board and County Emergency Planning Committees, and

WHEREAS, Chief Wilbur guided the formation of a County Hazardous Materials Response Team within the Ithaca Fire Department, and facilitated the creation of a joint County/City Fire Training Center and educational initiatives that benefit responders throughout the region, and

WHEREAS, the community will pause to recognize Brian Wilbur's career and community achievements on November 21, 2009, now therefore be it

RESOLVED, on recommendation of the Public Safety Committee, That the Tompkins County Legislature does hereby recognize and express our sincere appreciation and gratitude to Chief Brian H. Wilbur for his many years of service, leadership and dedication to the citizens of Tompkins County, and further extends our wishes for a happy, safe and healthy retirement, and acknowledges, as well, Brian's continuing contributions as a community volunteer and resident.

* * * * *

Report or Discussion Item (Id # 1517): OAR Bail Information

Ms. Dietrich distributed graphs on bail intakes, bail denials, and discrepancy in bail amounts by courts. She said she had thought there was an issue with bail inflation, however, after reviewing the data that does not appear to be the case. The Committee reviewed the following statistics contained in the charts:

Out of a total of 197 bail intakes completed in 2008 there were 130 bails denied by OAR. A total of 77 out of 121 bail intakes have been denied so far in 2009. Reasons for denial included: no cosigner, type of charge, flight risk, probation, bench warrant, concurrent, boarded or detainer/warrant. Ms. Wilkinson said the purpose of setting bail is to see that a person returns to court. She noted that a bail is set based on the risk of flight and that the more serious a charge, the more likely it is that the flight risk is also higher. Bail also usually goes up if there is a longer criminal history. She said this is why you can't easily compare bails across courts because a judge has to take into account the defendant's flight risk and not just the crime. Ms. Robertson said while the information is a good start, there is not enough to identify any trends.

Ms. Sykes spoke of a defendant who was charged with petit larceny and had a \$10,000 bail.

Ms. Chock asked Ms. Wilkinson if she had any suggestions for ways to indentify trends in this data. Ms. Wilkinson spoke of the importance in tracking information over a longer period. Ms. Dietrich said OAR is limited in the types of information they are able to access.

Mr. Sigler said he does not think this Committee should interfere with the bails set by judges because he does not believe the Legislature has the right to circumvent the judicial process. Sheriff Meskill noted that bails are set without regard to a person's ability to pay.

Ms. Wilkinson said she agrees with the County gathering and analyzing the data for the purpose of gaining a better understanding of how one is incarcerated and why but she does not agree that the information should be communicated to the judges.

Ms. Robertson said people should not be incarcerated until a plea bargain is reached just because they cannot come up with the money for bail. She said justice shouldn't be different based on a person's ability to pay. Ms. Wilkinson said there is a provision in law to argue against excessive bails.

OAR will continue to gather information and report to Public Safety in the future.

Sheriff's Office

Sheriff Meskill spoke of the Erie County texting while driving law that was included in the agenda packet and said the State law went into effect and supersedes any county law. There was no interest expressed by the Committee to pursue a discussion of the Erie County law.

Budget Adjustment (Id # 1514): Auto Supplies

RESULT:	RECOMMENDED [UNANIMOUS]
MOVER:	Michael Sigler, Vice Chair
SECONDER:	Carol Chock, Member
AYES:	Robertson, Sigler, Chock, Dennis, Stevenson

<u>REVENUE:</u>		
ACCOUNT	TITLE	AMOUNT
T20830000	Drug Foreclosure	\$6,000

<u>APPROPRIATION:</u>			
ACCOUNT	TITLE	AMOUNT	DETAILED EXPLANATION
3113-54306	Automotive Supplies	\$6,000	Dare Campaign against drugs
* * * * *			

Report Or Discussion Item (Id # 1582): October Jail Stats

The Committee briefly reviewed October Jail statistics.

* * * * *

Report Or Discussion Item (Id # 1584): 2009 Boardout Costs

Mr. Meskill said there is a considerable savings as a result of the variances. He reported he has sent a letter to the Commission of Correction requesting an extension of the variances. Ms. Chock suggested adding a note to the document showing the date that the variances took effect.

* * * * *

Report Or Discussion Item (Id # 1521): Discussion Of Assigned Counsel Task Force Recommendations

Mr. Stolp said staff is attempting to implement some of the recommendations.

Recoupment of Assigned Counsel costs

Mr. Stolp said Jonathan Wood reported there is a movement afoot among county attorneys to see if they can reach a consensus on recoupment of costs from responsible persons (e.g. parents) for representation of youth. Mr. Wood said this will be difficult to do. Mr. Stolp said they will be adding a request for students to list parents' names and addresses on the Assigned Counsel application along with a statement that they may be liable for the legal bills incurred by their children. He said they have found that students will sometimes take the free attorney rather than tell their parents about a charge. If a parent is aware of a charge against their child they may be more inclined to retain their own outside counsel. Ms. Robertson asked whether a student who is 18 or older could be required to provide that information. Mr. Stolp said the answer to that question is not clear. The Public Defenders' Association says it is based on the individual's income and the assets, not on what they have available to them. Mr. Stolp explained how difficult it would be for the County to proceed with an attempt to recoup those costs. He said most of the charges against students are relatively minor and the cost of filing a judgment may not be worth the effort involved.

Ms. Chock asked if students have financial aid information on file. Mr. Stolp said Assigned Counsel has this information; they have to document their income and assets in an affidavit. Mr. Dennis asked how many students who get arrested use the Assigned Counsel Program. Ms. Hughes said approximately 100 to 150 per year. She also said it is very common for students to request that parents not be contacted.

There were questions raised about whether parents know about the arrests of children under the age of 21. Mr. Wood did not have any objections to adding parental contact information to the affidavit. Mr. Stolp will discuss this at the next meeting of the Advisory Board on Indigent Representation.

Ms. Robertson spoke of non-indigent specialty courts and a situation where someone is in one of the drug courts and represented by a drug court attorney. She asked if ABIR could develop a fee structure or recovery mechanism, which had been one of the Task Force's recommendations. Mr. Stolp said this would work only if the judge would go along with making part of the sentence a condition that reimbursement of Assigned Counsel expenses be made to the County. He said a large majority of the people involved in the specialty courts are indigent. Ms. Robertson suggested there be discussion at ABIR about making reimbursement by individuals who are not indigent a requirement for individuals dropping out of the program.

Ms. Robertson spoke of repayment of Assigned Counsel expenses and asked what happens if it is determined that a client no longer is qualified for assignment of counsel. Mr. Stolp said once a client is assigned, that relationship between the attorney and client becomes confidential. The attorney may, but is not required to, report a change in circumstances to the court. The affidavit also contains a statement that if there is a change in the client's circumstances they are to notify the office immediately. He said there is rarely a change in circumstances and if there has been it has not been reported.

Returning to the issue of students, Ms. Robertson asked if there is any reason why the County could not contact the colleges. Mr. Stolp said he will call the local colleges and discuss what options might be available for assisting the County in recouping these costs. She also asked Mr. Stolp to check with Judge Rossiter to see what happens in the City court system.

Eligibility Guidelines

Mr. Stolp said he believes the Assigned Counsel guidelines are pretty solid and are based on the federal poverty guidelines. However, Mr. Stolp is allowed to use discretion when assigning an attorney. There was a discussion of how assignments of attorneys are made and the legal issue of when the power to assign an attorney falls upon the County. Mr. Wood said he issued an opinion several years ago and will try to locate a copy of it. Mr. Stolp said the usual practice is the decision is made by Ms. Hughes and

then by Mr. Stolp. However, a judge may assign from the bench regardless of whether the individual meets the criteria. Mr. Stolp said this happens frequently, particularly in family court cases. Ms. Hughes will be providing information on this to the ABIR but will not be naming judges. She estimates at least \$50,000 is spent annually in family court on non-indigent cases. Ms. Robertson asked that the Public Safety Committee also receive this information. Mr. Wood stated that the Legislature and the Assigned Counsel Program have no control over these assignments, but the staff probably does help to minimize the number of cases where this happens. Ms. Hughes will also provide the Committee with information on how many students from local colleges receive Assigned Counsel services.

Other recommendations contained in the report were reviewed. It was noted that these items are on the agenda for the upcoming ABIR meeting:

1. Establish continuing legal education relevant to areas of assignment. There is a model already in place and people who are on the law guardian panel have requirements to complete 12 hours of continuing legal education every year in order to stay on that panel. Mr. Furniss said the same applies to attorneys on the family court panel and noted many of those attorneys are also on the law guardian panel. With regard to the Assigned Counsel program, a form would be completed by all assigned counsel attorneys that would be submitted to Ms. Hughes, asking attorneys on an annual basis to certify that they have completed this same amount of CLE. Ms. Hughes will work with the law guardian on this.
2. Mechanism to Suspend or Remove Attorneys. Mr. Furniss said ABIR bylaws say that they can oversee the panel. This formalizes a practice that currently takes place by Mr. Stolp and Ms. Hughes. If a determination is made by Mr. Stolp that someone should be suspended or reviewed there would be an appeal process that would go through ABIR. Mr. Furniss said ABIR will work with Mr. Stolp and Ms. Hughes on implementing this recommendation.
3. Minimize number of Court Appearances and Pre-trial Conferences. Ms. Wilkinson said they are exploring an idea of not having an Assistant District Attorney present in justice courts on a regular basis because of the potential dollar savings. She spoke of pre-trial conferences and said a lot of communication could be taken care of through telephone calls and correspondence. Mr. Furniss said while he believes there are times decisions could be made without a judge there are also times when he thinks a judge needs to be present. Ms. Robertson suggested there be more discussion of ways this could work and asked Mr. Stolp and Ms. Wilkinson to set up a set of procedures and see if any of the courts would be interested in running a pilot. She also suggested inviting someone from the Magistrates Association to attend a Public Safety Committee meeting.

* * * * *

Administrative Items

Appointments

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Dennis, Member
SECONDER:	Carol Chock, Member
AYES:	Robertson, Sigler, Chock, Dennis, Stevenson

Family Court Advisory Council

Nancy Zook – At-large representative; term expires December 31, 2012

Advisory Board on Indigent Representation

Minutes
Public Safety Committee
Monday, November 16, 2009

Julia Dietrich - term expires December 31, 2011

Traffic Safety Committee

William Sczesny – Tompkins County Highway representative; term expires December 31, 2012

STOP-DWI Advisory Board

Matthew Kochman – Youth At-large representative; term expires December 31, 2012

Minutes Approval (Id # 1585): October 19, 2009

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Dennis, Member
SECONDER:	Greg Stevenson, Member
AYES:	Robertson, Sigler, Chock, Dennis, Stevenson

* * * * *

Next Meeting

The December 21 meeting was rescheduled to December 10.

Adjournment

The meeting adjourned at 4:20 p.m.

Respectfully submitted by Michelle Pottorff, TC Legislature Office