

*Approved*

**Public Safety Committee  
July 3, 2003  
Scott Heyman Conference Room  
2 p.m.**

Present: B. Blanchard, K. Herrera, L. McBean, M. Robertson, G. Totman  
Staff: R. Stolp, S. Whicher, L. Shurtleff, D. Wolfe, G. Dentes, S. Robinson, W. Skinner, A. Fitzpatrick,  
P. Meskill  
Guests: T. Bassoni, Media; O. Mack, OAR; A. Agnew, Drug Court

**Called to Order**

Ms. Blanchard called the meeting to order at 2 p.m.

**Changes to the Agenda**

The following items were added to the Agenda:

Budget Adjustment - Department of Emergency Response  
Update on Dispatch Negotiations

**District Attorney**

Mr. Dentes reported on staffing in the District Attorney's Office from the period 1998-2003. During that time, there has been an increase of .25 in F.T.E. in 2001 when the County Drug Court came into existence; there was increase of 1.0 F.T.E. secretarial staff in 2003 when the City Prosecutor's Office was eliminated. The total number of F.T.E.'s currently working in that office is 12.75.

It is estimated the District Attorney 's Office will handle 2,900 cases in 2003. Mr. Dentes said there has been a 45 percent increase in cases over the 2002 level as a result of the elimination of the City Prosecutor's Office. He reviewed a list of the most common prosecutions with the most coming from DWI offenses and other prosecutions that are directly related to domestic violence. He briefly mentioned the Integrated Domestic Violence Court that will open in January, 2004. He stated he expects that court will require more than an hour per week of staff time from the D.A.'s Office as it has been projected.

In response to the Committee's request for an overview of the District Attorney's Office, Mr. Dentes felt the best way to demonstrate the functions of his office would be explain the actions that take place with regard to factual case. The case Mr. Dentes explained was that of William Marshall in December, 2001.

Based on the suspicion of marijuana possession, Deputy Dawn Caulkins pulled a vehicle over that belonged to a Mr. Brown. During a search of Mr. Brown's vehicle, Deputy Caulkins did not find any drugs; however, learned of Mr. Brown's visits to a Mr. William Marshall's residence at Farview Apartments in Dryden near the TC3 campus. She then went to Mr. Marshall's apartment to speak to him. Mr. Dentes provided the details of the visit to the apartment which, following an admission by Mr. Marshall of having the drug, Ecstasy, resulted in an arrest by Deputy Caulkins and a backup deputy. Following the execution of a search warrant, a significant amount of cash and drugs was seized, including 3 1/2 pounds of cocaine. Mr. Dentes explained that this amount of cocaine can be purchased on the street in New York City for \$50,000 and resold for \$325,000; resulting in a profit for the dealer of \$275,000. Often, dealers dilute the cocaine, and this can increase the profit by as much as four to eight times that amount.

At this point the District Attorney's Office becomes heavily involved in a case. Mr. Dentes explained the stages of a typical criminal case.

**Arrest.** This applies in both misdemeanor and felony cases where probable cause has been shown.

**Local Criminal Court Arraignment.** Applies to both misdemeanor and felony cases; charges are filed; defendant has the right to counsel; bail is established by the city, town, or village court.

**Preliminary Hearings.** A hearing is held for a defendant arrested on a felony charge; that defendant has the right to an impartial testing of the evidence within six days of the arrest. At this hearing the prosecution must present evidence to establish probable cause to prove the defendant committed the felony. If the prosecution succeeds in doing that the court will order the defendant to be held for action by the Grand Jury.

**Grand Jury.** This jury is composed to determine if there is adequate evidence to charge a defendant with a crime. A Grand Jury can be empanelled up to five times per year and they meet every two weeks. The table below outlines the differences between the Grand Jury and a trial jury.

	<b>Grand Jury</b>	<b>Trial Jury</b>
What is determined?	Whether to charge	Whether to convict
Prosecution's burden of proof	probable cause	proof beyond a reasonable doubt
Number of jurors	23	12
Number of jurors who must be present to conduct business	16 of 23	12
Number of jurors the Prosecution must convince	12	12
Product of a convinced jury	Indictment	Guilty verdict
Public access	closed to the public	open to public

**County Court Arraignment.** This follows the same process as the local court arraignment.

**Discovery.** This is a pre-trial stage where the parties exchange information about the evidence and contentions they will offer at trial. In criminal cases the burden of supplying discovery information rests almost entirely upon the prosecution. In the Discovery phase, everyone is entitled to due process, notice, and an opportunity to be heard.

**Pre-Trial Motions and Hearings.** A motion is a request by which a party asks a judge to issue an order. For example, in criminal cases, pre-trial motions by defendants commonly include motions to dismiss the indictment and to suppress evidence. Motions that are contested result in hearings. A hearing may simply be an argument by attorneys of legal issues, or it may be an evidentiary hearing at which witnesses testify. The most common pre-trial evidentiary hearing is a suppression hearing, at which the prosecution calls one or more police officers to testify about the manner in which evidence was obtained. If the prosecution fails to establish that the evidence was obtained in a manner consistent with the defendant's constitutional rights, the evidence will be suppressed.

**Exclusionary Rule.** This rule provides that evidence obtained through unconstitutional acts of law enforcement officers cannot be used to prove the defendant's guilt at trial. If the exclusionary rule is applied against crucial evidence, the result may be dismissal of the charges even though the evidence is reliable and proves that the defendant is guilty.

**Trial.** The stages of trial are:

1. Jury selection
2. Preliminary legal instructions by the court to the jury
3. Opening statement by the People
4. Opening statement by the Defense (optional)
5. Presentation of the People's evidence
6. Presentation of Defense evidence (optional)
7. Presentation of rebuttal evidence by the People (optional)
8. Summation by defense counsel
9. Summation by prosecutor
10. Legal instructions by the court to the jury ("the charge" to the jury)
11. Deliberations and verdict

**Sentencing.** This is the phase where punishment is ordered following a conviction. The range of sentences depends on the level of the offense committed.

**Post Judgement Motion.** Very common motion that is filed following a conviction. The most common but rarely proven is for ineffective or incompetent counsel.

**Appeal.** This is a review by a higher court. The New York State Court System has three tiers: Trial-level courts, Appellate Division, and the Court of Appeals being the highest. A case appealed from the County Court or the Supreme Court to the Appellate Division, which has four departments. Tompkins County cases go to the Third Department, in Albany. If a case is tried in a local criminal court, it is appealed to the County Court or the Supreme Court.

Mr. Dentes concluded his presentation by stating many cases result in plea bargain situations and never reach the trial phase. Of the total number of cases that could potentially end up in trial, approximate ten percent of those actually do. In the case of Mr. Marshall the jury reached a verdict of guilty and Mr. Marshall was sentenced to a lengthy prison term.

### **Discussion - Assigned Counsel vs. Public Defender**

Mr. Stolp reported he has contacted counties with populations similar to Tompkins County (75,000 to 125,000) and has found there is a vast array of activities currently taking place. He noted that some counties do not handle family court cases which account for 30 percent of Tompkins County's cases. He also said Tompkins County has the most FTE's in its District Attorney's Office when compared to counties similar in size to Tompkins County. Mr. Dentes disagreed; Mr. Stolp agreed to provide him with a copy of the information he has received. Mr. Stolp said he will be sending out a questionnaire to these counties to obtain a greater amount of information. Those questions will include: do they have an Assigned Counsel Program, District Attorney's Office, number of caseloads in each, population figures, information about colleges located in the County, special characteristics of the County, and a request for any other information that may be useful. Mr. Dentes said Nelson Roth conducted a similar exercise several years ago and suggested Mr. Stolp review that information. Mr. Whicher said he would provide this information to the entire Committee. Ms. Robertson said she would like this questionnaire to include information on the experience other counties have had with public defender programs. Mr. Stolp will provide all Committee members with a copy of the questionnaire.

Ms. Blanchard reported counties will not get reimbursed for increased Assigned Counsel costs until 2005 and it is unknown to what degree that reimbursement will be. She said counties are responsible for all charges in 2004. She will also meet with Mr. Whicher and Mr. Stolp to discuss this issue further.

Ms. Blanchard spoke of the upcoming NYSAC Conference and said she would ask the individual assigned to public safety for input. She stated that if anyone has a resolution they would like NYSAC to consider at this Fall Conference, they need to be received by NYSAC prior to August 29<sup>th</sup>.

### **Probation Department**

Ms. Robinson reported on the Criminal Justice Advisory/Alternatives to Incarceration Board and stated a small subcommittee has been working on membership issues of that Board. Ms. Robinson also explained documents contained in the agenda packet, including work accomplishments, things not accomplished and projects that are undone or incomplete.

Ms. Robinson said the Criminal Justice Advisory/Alternatives to Incarceration Board will now only meet every other month and the Restorative Justice Committee will meet every other month. This is because there is a lot of overlap between these two committees.

### **Budget Adjustment**

It was MOVED by Ms. Robertson, seconded by Ms. Herrera, and unanimously adopted by voice vote, to approve the following budget adjustment:

<b><u>Revenue Acct</u></b>	<b><u>Title</u></b>	<b><u>Amt</u></b>	<b><u>Approp Acct</u></b>	<b><u>Title(s)</u></b>
3989.42705	Gifts and Donations	\$ 5,000	3989.54491	Sub-Contracts
3989.42705	Gifts and Donations	\$ 1,763	3989.54333	Education and Promotion
3989.42705	Gifts and Donations	\$ 2,000	3989.54412	Travel/Training
3989.42705	Gifts and Donations	\$ 1,719	3989.54470	Building Repairs

**Explanation:** Appropriation of remaining drug courts grant funds.

Ms. Robinson reported work has been completed that was part of the Community Foundation grant that was received in May, 2002. She said four booklets on domestic violence were written with the goal of making them easy to understand for individuals with a lower education or reading level. Ms. Robinson also distributed a copy of the definition of a family as outlined in Article 8 and CPL 530.12 in Family Court. This information was requested at a previous meeting. She also reported on the Integrated Domestic Violence Court that is being established in Tompkins County and said the three phases of the court have now been more clearly defined. Ms. Robinson also distributed information on intimate partner violence from the Bureau of Justice Statistics, 2003.

### **Department of Emergency Response**

Mr. Shurtleff said over the next few months he will be presenting the Committee with a variety of plans the emergency response community has been working on. He said these are part of the Tompkins County Fire and Mutual Aid Plan which will be incorporated into the Comprehensive Master Plan. He said it has been ten years since the Plan received a thorough update.

Mr. Shurtleff reported on a grant opportunity through the State Emergency Management Office. He said they are asking every county to update its Emergency Management Plan and there is \$43,000 available for Tompkins County through a reimbursement process. Mr. Shurtleff said he has an intern in his office and can have that individual do this work through the end of the year. Sheriff Meskill and the American Red Cross have also said they would help perform some of this work.

It was MOVED by Mr. Totman, seconded by Ms. Robertson, and unanimously adopted by voice vote, to authorize Mr. Shurtleff to perform work related to this grant and apply for reimbursement from the State. MOTION CARRIED.



Ms. Herrera said she is interested in seeing several plans and does not want the resolution to include wording that is restrictive. Ms. Blanchard said members should plan on seeing a variety of alternatives on July 31<sup>st</sup> and at some point will need to decide on one of those alternatives to be taken to the schematic design phase.

Ms. Herrera said she wants it to be clearly articulated what the number of alternatives are the Committee is choosing from. Ms. Blanchard noted this Committee is getting to a "fork in the road" in terms of the decision-making process.

A voice vote on the amendment resulted as follows: Ayes - 4, Noes - 1 (Totman). MOTION CARRIED. A voice vote on the resolution resulted as follows: Ayes - 5, Noes - 0. MOTION CARRIED.

WHEREAS, the County of Tompkins has an approved Capital Project in the 2003-2007 Capital Program in the amount of \$5 million for renovation and improvements to the Public Safety Building, and

WHEREAS, no funds were appropriated in the 2003-2007 Capital Program for the Public Safety Building renovation project, and

WHEREAS, residual funds from appropriations in the 2000-2004 and 2001-2005 Capital Programs enabled the Legislature by Resolution No. 86 of 2003 to authorize a contract in the amount of \$90,000 with Jacobs Facilities, Inc., for conceptual design services for this project which services are now underway, and

WHEREAS, the County wishes to accelerate the progress of this project in order to be in a better position to address space and general building needs in a timely fashion and to meet the requirements of the New York State Commission on Corrections, and

WHEREAS, Jacobs Facilities, Inc., has provided a Scope of Work for services including the development of Preliminary through Schematic design that will result in plans for phased improvements to the building to address deficiencies as well as provide additional capacity in the jail, as may be necessary in the next 20-30 years, and

WHEREAS, the cost of these services is \$228,000, and

WHEREAS, Jacobs Facilities, Inc., also outlined a fee schedule for development of a final design, development of bid documents, and release and award of bid for the first phase of building improvements at such time as the County makes a determination of what that phase should include, and

WHEREAS, the cost of completing this additional work is estimated to be approximately \$572,000, resulting in a total of \$800,000, now therefore be it

RESOLVED, on recommendation of the Public Safety and Budget and Capital Committees, That the 2003-2007 Capital Program be amended to provide funding in the 2003 budget for planning and design services and to provide the flexibility to accommodate additional planning and design services as the project progresses,

RESOLVED, further, That the County Administrator be authorized and directed to amend the agreement with Jacobs Facilities, Inc., to include the Preliminary through Schematic phases of design as specified within this resolution, not to exceed \$228,000,

RESOLVED further, That the Finance Director is authorized to advance funds in connection with the project and prepare a bond resolution for approval by the Legislature.

**SEQR ACTION: TYPE II-20**

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### **Appointment**

It was MOVED by Ms. Herrera, seconded by Ms. Robertson, and unanimously adopted by voice vote, to approve the appointment of Olan Mack to the Advisory Board on Indigent Representation as an At-large representative; term expires December, 31, 2005.

Public Safety Committee  
July 3, 2003

**Approval of Minutes of May 14, May 20, and June 5, 2003**

It was MOVED by Ms. Robertson, seconded by Ms. McBean, and unanimously adopted by voice vote, to approve the minutes of May 14, May 20, and June 5, 2003 as corrected. MINUTES APPROVED

**Executive Session**

It was MOVED by Ms. Herrera, seconded by Mr. Totman, and unanimously adopted by voice vote, to enter into executive session at 4:12 p.m. to discuss public safety matters. The meeting returned to open session at 4:40 p.m.

**Adjournment**

The meeting adjourned at 4:40 p.m.

Respectfully submitted by Michelle Pottorff, Tompkins County Legislature Office