

APPROVED

**Public Safety Committee
September 21, 2009
Scott Heyman Conference Room
2:30 p.m.**

Member Name	Title	Status
Martha Robertson	Chair	Present
Michael Sigler	Vice Chair	Present
Carol Chock	Member	Present
James Dennis	Member	Present
Greg Stevenson	Member	Excused

Legislators: M. Koplinka-Loehr

Staff: P. Meskill, Sheriff; P. Buechel, Director of the Department of Probation and Community Justice; S. Cook, Criminal Justice Advisory/Alternatives-to-Incarceration Board; J. Mareane, K. Sutherland, M. Lynch, County Administration; L. Shurtleff, Director of Emergency Response; G. Potter, Director of Information Technology Services; J. Hughes, R. Stolp, Assigned Counsel Program; M. Pottorff, Legislature Office

Guests: D. Dietrich, OAR Executive Director and member of the Assigned Counsel/Public Defender Analysis and Review Task Force; B. Furniss, K. Damm, Members of the Assigned Counsel/Public Defender Analysis and Review Task Force; K. Shaw, Attorney

Call to Order

Ms. Robertson called the meeting to order at 2:31 p.m.

Changes to Agenda

There were no changes to the agenda.

Chair's Report

Ms. Robertson said she attended the NYSAC (New York State Association of Counties) Conference last week and reported NYSAC approved the maintenance of effort resolution relating to assigned counsel/public defender costs. She noted Tompkins County played a large role in writing that resolution and thanked Joe Mareane and Julia Hughes for their help in that effort. She also reported that it is part of a mandate relief package from NYSAC that is now in the Governor's Office. Ms. Robertson also attended a session with the Commissioner of DCJS (Department of Criminal Justice Services) on "Changes to the Rockefeller Drug Law and How Counties will be impacted". She said counties that do not have any drug courts will see the most major impacts and may get some state funding to help them adjust.

Another session at the conference she attended was with Tom Beilein, chair of the Commission of Corrections. Ms. Robertson said she thanked the Commissioner for Tompkins County's variances and inquired as to the likelihood of those variances being extended. Mr. Beilein said as long as there are no overcrowding or safety concerns he would expect a request for an extension to be approved.

Assigned Counsel/Public Defender Analysis and Review Task Force

Mr. Furniss said the Task Force met every other Tuesday since January and had a lot of different individuals speak to them. Guests included Town Judges, City and County Court Judges, District Attorney, Probation Director, Onondaga Legal Aid Society, Chemung County Public Defender and

Conflict Defender's Office, and local attorneys who have experience in working with legal aid or public defender systems. He said one of the primary concerns that came up in public defender and legal aid society systems was the difficulty in avoiding conflicts of interest. He said an attorney cannot represent two sides to any story and if someone was a client previously they cannot take a position in opposition to them in the future where confidential information gathered in one case could be used in another. In a public defender's office, each time there is a conflict of interest by one person in the office all persons in the office is deemed to have a conflict. Whenever this happens the case would be given to assigned counsel; therefore, there would always be some level of an assigned counsel program.

Mr. Furniss spoke of caseloads and said they gathered information from 11 counties in similar-size to Tompkins County. They analyzed information concerning costs, caseloads, costs per caseload, number of attorneys per cases, and from that they developed two scenarios. The first scenario, based on the State's standard for how many cases an attorney should carry, was estimated at \$2,031,000 on an ongoing basis plus startup costs, using the actual caseload experienced in 2008. He noted everyone who spoke to the Task Force thought those caseload numbers were too high to provide adequate representation to individuals. A second scenario was developed that was based on appropriate caseloads of what was believed would provide proper representation; that was estimated at \$2.9 million. This compared to the cost of the current system in 2008, which was \$1.9 million.

The Task Force heard across-the-board from town, City, and County court judges that they are very satisfied with the level of representation from the Assigned Counsel Program. He said the recommendation of the Task Force is that the Assigned Counsel Program provides the best representation at the lowest cost.

Ms. Dietrich said Ray Schlather, Chair of the Task Force, held members to a high standard and conducted well-run meetings. She said the same type of study was conducted 20 years ago and the Advisory Board on Indigent Representation (ABIR) was created as a result of that. There are suggestions contained in the report for improvement of the current system. Ms. Damm said the Task Force hopes the Public Safety Committee and the full Legislature will approve the report and forward the work of implementation of the recommendations to the ABIR.

Mr. Dennis said John Gradess of the New York State Defender's Office attended a meeting and presented a plan he had been working on at the Albany level on a State takeover of public defense. Mr. Dennis said while it sounded like a good idea, it was believed it would not be in Tompkins County's best interest to pursue that. Ms. Robertson said there was not a lot of enthusiasm expressed at the NYSAC Conference at the State level for the establishment of a commission that would define the guidelines for standards for counties with a set amount of funding. The State would then pick up the cost of anything beyond that. Ms. Robertson said this has happened before in other service areas and has resulted in a change in the rules later. She said counties would not support such a move without the State taking over responsibility for all of the funding.

Mr. Furniss spoke of the recommendations contained in the Report and said some would improve the quality of system of representation and others are targeted at cost-savings. They did suggest that there be further study of the specialty courts and the possibility of going to an institutional entity to handle the drug courts, family treatment court, misdemeanor and felony courts, and sex offender courts.

Ms. Robertson recognized Mr. Mareane for his contributions to the Task Force and said his service was extremely valuable.

At this time the Committee reviewed the following specific recommendations contained in the report:

1. The attorneys should be required to complete a certain number of CLE hours per year to continue to work in the specified area of the assigned counsel program.
2. Establish a mechanism by which attorneys may be suspended and/or removed from the panel.
3. The Assigned Counsel Program's supervising attorney should have an early and active role in reviewing the vouchers submitted by assigned counsel for payment of their services rendered in indigent cases.
4. Start using the review process authorized by 22 NYCRR 127.2. this regulation provides a mechanism whereby the County may seek administrative review in the NYS Office of Court Administration of any trial court order that is in excess of the statutory maximums to be paid.
5. There should be systematic review by the Assigned Counsel Program and the ABIR to ensure that attorneys are not over-billing and that the vouchers on similar cases are similar in nature and amount.
6. There should be regular spot auditing of vouchers throughout the Assigned Counsel Program.
7. The Assigned Counsel Program should maintain a brief bank for the panel of attorneys approved to practice on the panel. The brief bank should include all of the forms, motions, notices, petitions, etc. that regularly are used in courts.
8. The ABIR, in coordination with the Assigned Counsel Program, should institute a formal mentoring program to ensure that more experienced attorneys are mentoring newer attorneys.
9. A formal complaint form should be created for clients' use with respect to claims of inadequate counsel, lack of professionalism, or other failings of the Assigned Counsel Program and its attorneys.
10. The assigned counsel office should cluster assignments in the various local courts as much as possible.
11. The eligibility standards and related materials of the Tompkins County Assigned Counsel Program are set forth in Appendix 3. Currently, there appears to be a fair amount of discretion on the part of the Assigned Counsel Program Administrator and the supervising attorney to deviate from these standards on a case-by-case basis. The Assigned Counsel Program Administrator and supervising attorney should fashion written, realistic guidelines for the exercise of that discretion.
12. Recoupment – When a client receives written notification that an attorney has been assigned to represent him/her, the client also should be notified by the Assigned Counsel Administrator that the program will seek repayment of all assigned counsel fees and expenses if the program determines that the client no longer is qualified for assignment of counsel.
13. The Assigned Counsel Program and the ABIR should develop a fee structure and recovery mechanism for non-indigent specialty court participants that reasonably reflects the cost of participation in the specialty court program.
14. The County Attorney should seek to recover from responsible persons (typically parents) the cost of indigent representation that is provided to youth in cases where the responsible person would not qualify for indigent representation
15. The Magistrates Association should be engaged to modify local court practices in the following areas:
 - (a) The cases of individuals represented by counsel then and there present, whether assigned or retained, should be handled at the beginning of the Court session in order to minimize costly waiting time.
 - (b) The number of Court appearances and pre-trial conferences should be minimized. In this regard, monthly appearances and/or pre-trial conferences are not necessary. After an initial appearance and arraignment with counsel, the next appearance should be for argument of motions, with further appearances for trial, sentencing, etc.
 - (c) Teleconferences for administrative-type appearances should be used whenever possible, in lieu of personal appearances.
16. Additionally, the Assigned Counsel Program should develop the annual costs per court paid by the Assigned Counsel Program and related caseload data. This information should be publicly

released and distributed to the Tompkins County Legislature, the ABIR and the courts every year. (This is public information right but currently it is not being gathered together).

17. Tompkins County should explore the feasibility and cost-effectiveness of providing institutional representation in the Misdemeanor Drug Court, the Felony Drug Court, the Family Treatment Court (Drug Court), and the Sex Offender Court. The Integrated Domestic Violence Court (IDV) should continue to use assigned counsel.

Ms. Chock said while she agrees with the recommendations in general, she does have questions relating to process and questioned what opportunity the public or others had to comment on the report. Ms. Damm said there was an opportunity for public comment at the beginning of each meeting and a news reporter was present at almost all meetings. There were a number of attorneys who attended but rarely a person from the public. Ms. Dietrich said one of her roles on the Task Force was to represent the “accused” and did make comments and suggestions on their behalf.

Mr. Dennis said the Task Force heard from a number of people and all comments are included in the full report.

RESOLUTION NO - ADOPTION OF REPORT ON ASSIGNED COUNSEL/PUBLIC DEFENDER ANALYSIS AND REVIEW TASK FORCE

MOVED by Mr. Dennis, seconded by Mr. Sigler. Mr. Dennis said this Task Force was created in response to a document written last year that proposed to combine a current County department with the Assigned Counsel Program and noted there is no mention of that in the recommendation. This report shows all of the other potential changes that could be made to the system. The report ends with a conclusion that the Assigned Counsel Program is doing a very good job in taking care of the legal defense of indigents in Tompkins County.

Mr. Sigler noted this resolution is stating that what Tompkins County is presently doing is correct. If the recommendation were to change the system of representation he would then support a much larger public process.

Ms. Lynch agreed to do a press release to inform the public this report is under consideration for adoption at the October 6 Legislature meeting.

The Rules of the Legislature – Rule X was distributed for the purpose of clarifying the Legislature’s policy with regard to receipt of reports.

Ms. Hughes noted there are recommendations contained in the report that are tied to the Department’s 2010 budget submission. Mr. Mareane said the Over Target Requests in the budget that are associated with the report are included in his recommendations.

A voice vote on approving the resolution and submitting to the full Legislature resulted as follows: Ayes – 4, Noes – 0, Excused – 1 (Stevenson). MOTION CARRIED.

WHEREAS, the Assigned Counsel/Public Defender Analysis and Review Task Force was created on November 21, 2008 and charged “to explore the benefits and costs of, and recommend to the Public Safety Committee of the Tompkins County Legislature a future course of action regarding the most effective delivery of services to residents of Tompkins County who cannot afford legal representation, including analysis of an Assigned Counsel model, a Public Defender/Conflict Defenders' model or a hybrid thereof”, and

WHEREAS, the Task Force completed its work and has delivered a final report dated August 31, 2009 to the Clerk of the Legislature, and

WHEREAS, the Task Force’s report was unanimously endorsed by the Advisory Board on Indigent

Representation on September 9, 2009,

RESOLVED, on recommendation of the Public Safety Committee, That said report is hereby received and adopted by the Tompkins County Legislature, and

RESOLVED, further, that the Public Safety Committee will consider each of the report's recommendations and determine how to implement them, and

RESOLVED, further, the Legislature hereby expresses its gratitude to the Assigned Counsel/Public Defender Analysis and Review Task Force and each of its members for the thorough investigation and report.

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Criminal Justice Advisory/Alternatives-to-Incarceration Board

Ms. Cook provided a brief update on Committee activities, and said a couple of months ago they created the Restorative Justice/Victim Subcommittee for the purpose of filling a gap that is perceived to exist and make improvements in victims' services. The CJA/ATI Board will be trying to compile data for the end of the year State reporting requirements to fulfill the mandates. She said the Board is anxiously awaiting information being gathered by Ms. Bodnar in the ATI evaluation update. The next meeting will be on September 28th at noon.

Sheriff's Office

Sheriff Meskill said double-bunking began on September 1st. The Committee reviewed July Jail statistics. Ms. Chock said there was a large increase in the jail population during the second half of August and asked if Mr. Meskill knew the cause. Mr. Meskill said it could be from longer sentences or a longer period of time before they go to court. There are presently 81 inmates in the Jail with two boarded out.

Ms. Robertson commented that at NYSAC she heard that most of the jails that the Commission of Corrections had mandated to be built or expanded are actively recruiting for prisoners and are in a bidding war.

Sheriff Meskill said approximately two weeks ago he distributed copies of the 2008 Annual Report and highlighted the following items from that report:

- The Sheriff's Office amounts to 4% of the total County budget;
- There has been a 10% increase in calls for service;
- Traffic tickets issued went up in 2008 and personal injury accidents from 2007 to 2008 went down considerably;
- Violent crime went up considerably; other figures remained approximately the same

Mr. Mesill said the Office is presently experiencing a significant increase in the number of larceny and burglary-related crimes.

At a luncheon today Deputies Pete Walker and Dan Donahue were awarded with the Kiwanis Club Officer of the Month for their life-saving actions at the Grassroots Festival in August.

Ms. Cook requested a copy of the annual report. Mr. Meskill said the report will be available online in the next couple of days.

Department of Emergency Response

Mr. Shurtleff said a few years ago when they began building out the radio communications system they were also experiencing budget problems and essentially eliminated all new equipment for the budget at the time. When the negotiations took place with Motorola and the other vendors, the contract was packaged in such a manner that everything that could be bonded was. This left out other items that couldn't be bonded; these weren't either built into the budget or the Capital Program. At that time he pledged to the Legislature and County Administration that he would pursue as many grants and revenue opportunities as possible to get the County through this. He said he has been negotiating and seeking grants from Homeland Security to replace some of the other major equipment pieces and to take down the old system. The budget adjustment below reflects a negotiation that the County Attorney and he performed with a company that has secured the old microwave frequencies.

Budget Adjustment – Department of Emergency Response

It was MOVED by Mr. Dennis, seconded by Mr. Sigler, and unanimously adopted by voice vote by members present, to approve the following budget adjustment and submit to the full Legislature:

REVENUE:

ACCOUNT	TITLE	AMOUNT	DETAILED EXPLANATION
3411.42681	Legal Settlements	\$215,000	Relocation expenses have been secured from a telecommunications company that has been awarded radio frequencies previously utilized by Tompkins County. The licensed systems must be moved in an expedited fashion to the new system with costs full reimbursed.

APPROPRIATION:

ACCOUNT	TITLE	AMOUNT	DETAILED EXPLANATION
3411.54311	Maintenance	\$25,000	System maintenance costs related to retirement of legacy communications sites and relocation of equipment and systems components
3411.54425	Service Contracts	\$25,000	To complete demobilization of former legacy radio tower sites and shelters; structures removed.
3411.52222	Communications Equipment	\$140,000	Completion of replacement of microwave link to legacy site (Conn. Hill for Statewide interoperable communications.
3411.5222	Communications Equipment	\$25,000	Spare equipment for recently completed communications system

RESOLUTION NO. - ACCEPTANCE OF STATE HOMELAND SECURITY GRANTS – EMERGENCY RESPONSE

MOVED by Mr. Dennis, seconded by Mr. Sigler.

Mr. Shurtleff said they also entered into an agreement with the City of Ithaca five years ago for the designation of the City Fire Department as the Hazardous Materials Response Team. They provide

the County with the personnel and technicians and respond on a mutual aid basis. Per the agreement, equipment is a County responsibility and they have been able to secure State Homeland Security grant funds for several years to support that.

Ms. Robertson requested a bulleted list of what is included in these grants when it moves forward to the full Legislature.

A voice vote on approving the following resolution and submitting to the full Legislature resulted as follows: Ayes – 4, Noes - 0, Excused – 1 (Stevenson). MOTION CARRIED.

WHEREAS, the State Homeland Security Program (SHSP) has accepted proposals for funding in the amount of \$220,500 for Tompkins County’s public safety responders through grants to be administered through the Department of Emergency Response, and

WHEREAS, the funds will be allocated to the County for use in the implementation of State and local terrorism response strategies, and

WHEREAS, the funds must strictly support planning, vehicles, equipment, training, and exercise needs associated with preparedness and prevention activities for events using weapons of mass destruction involving chemical, biological, radiological, nuclear, and explosive materials, and

WHEREAS, emergency planning and agency equipment needs meet eligibility requirements of the program and are consistent with local public safety needs and initiatives, now therefore be it

RESOLVED, on recommendation of the Public Safety Committee, that Tompkins County accepts the SHSP funding in the total amount of \$220,500 (Contracts WM07836270 & WM08836270) for responder planning and equipment activities, and hereby assigns the Department of Emergency Response to administer the local program pursuant to the review of the Public Safety Committee,

RESOLVED, further, that the Finance Director is hereby authorized to make the following adjustment:

FROM:	(2009) 3410.43389	Other Public Safety	\$220,500
TO:	(2009) 3410.54400	Program Expense	\$220,500

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Note/Explanation:

The Department of Emergency Response has sought funding through the New York Office of Homeland Security to secure identified response equipment, provide hazardous materials team support, and conduct emergency planning activities; and has been allocated \$220,500 for these projects, including a response vehicle for hazardous materials first responders; a breathing air mobile support unit (to replace existing aged apparatus); and funding for planning activities to include information sharing and collaboration, assessment of critical infrastructure and resources.

\$32,615 will be directed toward planning activities; up to \$50,000 will be allocated to the hazardous materials team needs; and the balance toward the mobile air unit. The funds will be initially appropriated to a program expense line and adjusted according to the OHS contracts subsequent to required procurement process.

911 Landline Surcharge

Ms. Robertson said this item was withdrawn at the meeting last month because a question was raised about a user (Cornell University) being exempted from the charged based on the 1993 local law.

Mr. Mareane said this additional landline surcharge is being considered as a way to recover some of the Statewide Wireless Network monies. At the time it was brought up it was his understanding that it is completely a broad-based tax that applies to everyone except the host government. Since this process began he said it has been characterized as such; however, it was discovered that the local law adopted in

1993 carved out the three major exchanges at Cornell University (253, 254, and 255). This led to a concern that there may have been others that were also removed; he now believes there are no others.

Mr. Mareane noted two points: 1) This information does not affect the estimated revenue (\$225,000 that is included in the 2010 budget); and 2) in reading State law there is a maximum tax that can be imposed on a user (the first 75 lines of a given location). The given location could apply to a switch as opposed to a building and he has asked for clarification from Verizon. In terms of the exemption to Cornell, it is likely only valued at a few thousand dollars a year. He will be looking into this further and keep the Committee informed.

Mr. Shurtleff explained why Cornell was carved out of this charge and said it was related to the management of the database and Cornell maintaining all of the 911 calls on campus. They do transfer a fair number of calls over to the County but the initial information and sorting of the data is all done within Cornell. Mr. Sigler said he did not think that was pertinent in this situation and that these funds are being used to support the 911 system. Mr. Potter gave examples of billing issues and why this is a very confusing and complex issue.

Mr. Mareane will continue to gather information, including the definition of “per location” and whether that applies to each phone switch. Ms. Robertson said the Committee could schedule a meeting prior to the October 6 Legislature meeting if necessary.

CAD (Computer Aided Dispatch) System Update

Mr. Shurtleff said the CAD System includes the 911 database and all of the alarm interfaces and incident report records. The life of the current system was able to be extended with the cooperation of HTE Sunguard through the end of 2009. He said they began the process of replacement and activating the integrated voice and data component for the radio system in conjunction as one part of the overall communications program. When they looked at the estimates for the upgrade they were into the several hundred thousands of dollars. The funds that have been reserved in the Capital Project to complete the mobile data piece, along with the upgrade that it takes to run it, are there, but the process was put on hold because of the amount HTE was asking to perform the upgrade. There were also some operational issues so it was decided to take a look at what a CAD system replacement would be. They have also asked HTE to look at a conversion of the system to a newer operating system. The agreement with HTE was due to expire at the end of last year; however, they did approve a one-year extension.

Ms. Robertson asked how this affects other users, such as the City or Cornell. Mr. Shurtleff said when a 911 call comes in, all of the initial information is entered into the CAD system and the basic response information is maintained within it. The Sheriff’s Office works on the CRIMES software package and the information that is acquired in Dispatch then moves over to the Sheriff’s records and works through his processes. Mr. Potter said there is a series of reports available to them online and the City also has access to some information through the TRACs program. Mr. Shurtleff said with the mobile data integrated with the new voice radio system they would be able to send whatever the dispatchers see to a computer terminal through the radio system to the car. If they upgrade with HTE all of that work is essentially done and they would restore what they used to have and would be able to see the basic 911 system and mapping. With a new CAD company the County could have those same functions but it would be with a different program tailored to Tompkins County’s needs.

Mr. Mareane said Cornell is in a similar situation and the County is in communication with them. This is an opportunity to see how far the current budget can be stretched, explore whether there is additional grant money available to augment that project, and then come back to this Committee to discuss the future direction.

Ms. Chock spoke of conversations that have taken place at the ECROC (Emergency Communications Review and Oversight Committee) meetings where this has been discussed and said she is not convinced there has been sufficient discussion of whether this is something that has been done and budgeted for immediately, coupled with lack of there being someone to make a decision right now on behalf of Cornell.

Mr. Potter said Tompkins County has to do something because eventually the software will not be supported and whether or not HTE agrees to add an extension of service into 2010 is unknown. He said the County does not have the ability to re-install their software if the server breaks down. Mr. Shurtleff said it is his understanding that Cornell has budgeted for a CAD system replacement and has funding in place. By moving forward in conjunction with Cornell if possible it will reduce the County's maintenance and equipment costs by a fair amount. By having the ability to use each other's servers as a backup it eliminates the costs of having to have a second backup site, a duplicated set of server equipment and related maintenance costs. Secondly, it is key operationally to get the mobile data system restored. He said he hasn't added personnel costs to his budget for the last several years but if there isn't an improvement in technology he will be forced to request additional dispatching staff.

Calendar

Ms. Robertson invited members to submit topics they would like included on the remaining agendas for 2009.

Appointments

It was MOVED by Mr. Dennis, seconded by Ms. Chock, and unanimously adopted by voice vote by members present, to approve the following appointments and submit to the full Legislature:

Criminal Justice Advisory/Alternatives-to-Incarceration Board

Frances Helmstadter – Victim representative; term expires December 31, 2010

Approval of Minutes of August 17, 2009

It was MOVED by Mr. Dennis, seconded by Ms. Chock, and unanimously adopted by voice vote by members present, to approve the minutes of August 17, 2009 as submitted. MINUTES APPROVED.

Adjournment

The meeting adjourned at 4:38 p.m.