

Minutes

Erie County Charter Revision Commission

Public Safety Standing Committee

January 12, 2006

The Public Safety Standing Committee met at its regularly scheduled time and place. The meeting was brought to order by Chairman Flaherty and the roll was called. The minutes from the meeting on January 5 were distributed electronically; due to their length, the absence of two members, and the presence of our guest speaker, it was agreed that approval of the minutes would wait so that each member of the committee had an opportunity to thoroughly review them.

Present at the meeting by invitation was Erie County Director of Probation and Youth Detention Services George Alexander; however, there were no members of the public in the audience.

At the time of his appearance, the Erie County Probation Department comprised 46 probation officers, a reduction from a staff of 90 in 2004. Probation Officers are “Peace Officers” and approximately one-half of the current staff carries a department issued firearm. The Probation Department recently began working closely with the Department of Social Services with regard to its function in handling PINS (Persons In Need of Supervision) and other youth-oriented programs.

The department’s involvement with at-risk and troubled youth is extensive. There efforts (too numerous to detail here) are to keep youth from becoming career criminals.

The Department of Probation provides many services related to Public Safety. As soon as a person enters the criminal justice system as an accused defendant, the department plays a role. For example, Probation Officers perform background checks and provide courts with information to help judges determine whether to set bail in a particular case. In some situations, the department staff monitors the behavior of released defendants ensuring that they appear in court and obey any court-imposed conditions placed on their pre-trial release.

Once a defendant is convicted, either through a plea of guilty or after a trial, Probation Officers perform a mandated service to the criminal courts by providing pre-sentence investigative reports which provide judges pertinent background material relevant to the sentencing of convicted defendants presented in a neutral format. For example, the probation officer obtains background information on the defendant’s criminal, family, social and work history, as well as details of the crime itself and its affect on the victim. Courts must review those reports prior to imposing sentences of incarceration.

More widely well-known is the supervisory role probation officers perform in the monitoring of convicted criminals whose sentence includes an alternative to incarceration. In some instances, sentencing courts confront convicted persons who may not pose an immediate threat to society and those courts may exercise discretion and allow that defendant to avoid incarceration provided that they submit themselves to monitoring by the department. This saves the cost of incarceration and allows the defendant to maintain or obtain gainful employment or education. Among the laudatory goals of a sentence of probation is to prevent recidivism; probation officers expend tremendous energy to convince their charges to lead law-abiding lives. Among the tools they employ are home visits, office conferences, and employment verification. Should a probationer violate a condition or term of his probation, the officer notifies the sentencing court; the judge may, if the court finds the probationer in violation of the terms and conditions of probation, the court may re-sentence the defendant to a term of incarceration.

Another post-conviction service provided by the department is their collection unit which receives from convicted defendants court-ordered fines and restitution payments and then distributes them on behalf of the court. The department may collect a modest fee for this service. In addition, the state reimburses the department between 18 and 20 percent of its expenditures.

Director Alexander observed that the reference to Probation in the Erie County Charter “is pretty vague” and a review of the Charter bears that out. In some parts of the United States the department of probation serves as an arm of the criminal courts, since most of their work inures to the benefit of the court system. In New York, the department functions as an arm of the Executive branch. The Erie County Director of Probation is appointed by the County Executive and confirmed by the Legislature. The County Executive has the ability to discharge the director. The department’s budget also is submitted by the Executive branch. Despite the fact that often the budget personnel lack a complete understanding of the functions performed by the Department, Director Alexander finds the autonomy from OCA beneficial to his law enforcement responsibilities.

The relationship between the County Executive and the Director of Probation may affect the Director’s ability to candidly address concerns over budgetary matters. Mr. Alexander spoke of a healthy relationship between himself and the County Executive and that the current County Executive supports him and his needs, but he agreed with a question from a member of the committee that the Director’s lack of independence limits his public comments. Mr. Alexander suggested that the position be converted to the level of commissioner and that his successor receive a definite term of employment to promote independence and provide for continuity should there be a change in the Executive office. He noted how when he became director in February 2000 the former director had already been removed and there was no one present to guide his transition.

When asked who is in the best position to evaluate the performance of the Department, Director Alexander quickly observed “the courts.” He supports the idea of a central

Public Safety Director responsible to oversee the various County wide public safety functions and suggests that such an office would have a better command of the relationships of all the public safety needs.

There being no further business, the meeting was adjourned on motion of Mr. Kelly.

All Commissioners were present except Mr. Newman and Mr. DePasquale.