

Minutes

Erie County Charter Revision Commission

Public Safety Standing Committee

February 2, 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.

Present by invitation was Sheriff Tim Howard and Sergeant Greg Savage, a representative of the PBA. Accompanying the Sheriff were several of his Chief Deputies, including Brian Doyle, Rick Donovan, Scott Patronik and Dennis Rankin. Commissioners Reese and Comerford also attended the meeting; both participated in the discussions. There were no members of the public present.

The Sheriff began his remarks by observing that the County, in his view, intentionally under-budgets his office, which results in an annual budget shortfall of several million dollars. Eighty-six percent of the Sheriff's budget is directed to the Erie County Holding Center (AKA, ECHC or the jail), which is chronically understaffed and under-funded. The understaffing forces the Sheriff to spend millions in dollars in overtime wages. The State mandates a particular ratio of guards to rooms containing prisoners. That means that the number of housing units is just as significant (if not more so) than the number of prisoners. Due to its design, the structure of the older portion of the jail consists of several floors with three separate blocks; that architecture requires the deployment of more officers than would be needed to guard the same number of prisoners in the newer portion of the jail.

While it would be an unpopular proposal, the Sheriff explained that a newer facility would allow him to use fewer deputies more efficiently because the physical plant downtown is antiquated and not cost effective. In addition to a shortage of space to house inmates (they now sleep them wherever they can find room), he does not have sufficient area for the booking process, and driveway space is limited and congested.

The jail is certified to hold 1350 inmates; however, the Sheriff has been able to obtain variances to increase that number to 1550. The mandatory minimum number of guards will not decrease unless the prisoner population dips below 1300. That makes the staffing needs fairly predictable. In other words, the Sheriff can safely assume that the jail will house at least 1300 inmates every day of the year. He can then calculate how many guards the state mandates for every shift. Problems arise when Deputies take sick time. To replace that sick or injured Deputy requires the replacement to receive pay at the rate of time and one-half. In addition, Deputies earn comp-time for working overtime. So, every time a Deputy works unplanned overtime, he earns comp-time.

When he elects to take his comp-time, another Deputy will have to replace him and earn the overtime rate of pay as well as comp-time. The cycle repeats itself. Due to staffing shortages, it is not uncommon for some Deputies to work a full week, then two extra days of sixteen-hour shifts. When that Deputy is unable to work on Monday, the overtime cycle repeats itself. (The Sheriff added that he will attempt to reduce the use of Deputies for such an extended sequence of shifts.)

If the Sheriff loses his variance or exceeds capacity, he will be forced, at his expense, to find housing for prisoners in other places, perhaps outside the County.

The primary purpose of the ECHC is to house accused criminal defendants awaiting trial or sentencing. One of the population issues concerns the housing of “state ready” prisoners; those are the prisoners convicted of crimes and awaiting transportation to a state correctional facility. There currently is a 10 day lag between notification to the state to retrieve a prisoner and his removal. The State reimburses the County at an established rate of \$34 per day; however, the real cost to the Sheriff is higher. When the State does provide reimbursement funds, they enter the County’s general fund, not the Sheriff’s account. The County is responsible for the housing costs of inmates convicted of crimes but awaiting sentence. The delays caused by reductions in staffing levels of the Probation Department (whose officers prepare the mandatory pre-sentence investigation reports) forces courts to schedule sentencing procedures farther into the future, driving up the cost of keeping the inmate.

The Sheriff, too, wishes he could submit his budget directly to the Legislature. That would allow him to provide an honest presentation of the projected actual costs he anticipates. He does not demand the right to a true lump-sum budget (over which he would maintain absolute discretion and control) but asks for some ability to rearrange his finances if he sees an impending shortfall. For example, if the Legislature approved his request to buy five new police cars, but he saw a shortfall in another department, he should have the flexibility to make do with fewer police cars in order to avoid the deficit.

The Sheriff also observed that “red tape” keeps him from operating a full compliment of Deputies. His experience has been that even if the Legislature approves a certain sum to spend on personnel, when openings occur in the force he is not able to fill them until the Executive branch approves the hiring (F 77s). Recently, the Sheriff received permission to hire some new deputies; however, it was too late to enroll them in the current police academy class. The savings of not paying the salary of a budgeted employee then goes into the County’s general fund. The Sheriff then finds himself short-staffed and more dependant on the use of over-time, and the cycle continues. The Sheriff predicts that the hiring of 100 new deputies could save the County five million dollars over the next four years. His interpretation of New York County Law allows him the freedom to hire personnel within the limits of the money appropriated by the Legislature.

The Sheriff’s major complaint about the system today is that he has “no seat at the table” and is left out of the budget-setting process. As an example, the Sheriff learned only after reading the current budget that 14 dispatchers had been cut from his staff and transferred

to CPS. Were you to ask him, he would argue that without having dispatchers available to receive calls and direct Deputies to the appropriate places, their abilities to protect the public are compromised. Fortunately, some of the positions were restored, but at the cost of funding in other parts of the budget.

When asked how the Erie County Sheriff became involved in police protection, in addition to the keeper of the jails and protector of the courts, the Sheriff observed that the Erie County Sheriff traditionally provided a base level of police protection and as certain towns grew in population and wealth they decided to pay for their own police forces. The comparison was made between bus service and taxicabs; buses are there for everyone to use, but if you choose to spend more money for the convenience of a taxicab, you may do so. Like the public school system which is open to all, parents have the choice of sending their children to the Catholic Schools, but that does not mean that they do not have to pay school taxes. Likewise, the Sheriff provides a base level of services for the entire County.

He emphasized his belief that all local municipalities should have the option of operating their own police department. He sees cost savings in the economies of scale, and Sgt. Savage observed that the pay rate of deputies lags that of the other departments, helping to make the Sheriff's services a relative bargain. The risk of going to a single metro police force is the fear that the local populations would lose contact with the police. The Sheriff recognizes this real concern and has attempted to assign his Deputies to cover particular towns, so that they become familiar with the residents. Were Erie County voters to choose a metro police force, Sgt. Savage observed the Sheriff would be the ideal leader of that force, and that costs would decrease. Merging the Sheriff's Department (or any departments) would create expensive collective bargaining issues; the union members would be allowed to receive the best benefits from all the contracts. One of the reasons the Sheriff is able to control personnel issues so well is that, unlike BPD, his Deputies have binding arbitration for financial matters only, not for other rules. That allows the supervisors, not the union, to decide methodology.

In 1972 the County Charter caused the creation of Central Police Services to provide certain law enforcement services to all providers. A Board of Directors would propose a list of three possible Commissioners to the County Executive, and CPS would manage a training academy, forensic laboratory and communications. Today, the County Executive, through the power of the budget, controls CPS; the Board is now only advisory. Employees of the County Executive have access to the computer network maintained by the Sheriff and local police agencies.

The Sheriff also proposed a local law mandating reporting of all crimes committed against the County or occurring on County property.

The Sheriff has forty fewer road deputies than were budgeted for 2005. Twenty-two road deputies work on transporting prisoners between the jails and courts.

Services the Sheriff provides to local police forces include air support, bomb-squad (which receives 150 calls a year), underwater support, a marine unit and polygraph services. In addition, the Sheriff's Office provides booking services for all arrestees in the City of Buffalo, no matter which agency makes the arrest.

The Sheriff expressed concern over what he interprets to be signs that the current County Executive is wresting from law enforcement professionals the job of policing. In the current budget, the County Executive created a new department called the office of Public Safety to supervise existing departments such as Central Police Services and Emergency Services. The Sheriff believes that his office should have the responsibility for those services because he is in the business of law enforcement, while the County Executive is not.

At the request of Commissioner Rath, the Chairman inquired about the feasibility of using video systems to allow prisoners to attend court electronically, rather than pay to transport the prisoners to court. The Sheriff has the equipment and is ready to implement that practice (obviously, for some proceedings [hearing, trials] the defendant must be physically present, if he wishes) once the Office of Court Administration approves the process.

At the request of Commissioner Kelly, the Sheriff will send us a detailed proposal of particular changes he would like to see in the Charter.

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

All Commissioners were present except for Mr. DePasquale.