

***PUBLIC SAFETY COMMITTEE***  
***OF THE***  
***SUFFOLK COUNTY LEGISLATURE***

**Minutes**

A regular meeting of the Public Safety Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on Thursday, November 15, 2012 at 9:30 a.m.

**Members Present:**

*Legislator Kate Browning - Chairperson*  
Robert Calarco - Vice-Chair  
Legislator DuWayne Gregory - Member  
Legislator William Spencer - Member  
Legislator Kara Hahn - Member  
Legislator Lou D'Amaro - Member

**Also In Attendance:**

*Deputy Presiding Officer Wayne Horsley - District #14*  
George Nolan - Counsel to the Legislature  
Sarah Simpson - Assistant Counsel to the Legislature  
Renee Ortiz - Chief Deputy Clerk/Suffolk County Legislature  
John Ortiz - Budget Analyst/Legislative Budget Review Office  
Josh Slaughter - Aide to Legislator Browning  
Bobby Knight - Aide to Presiding Officer Lindsay  
Michael Pitcher - Aide to Presiding Officer Lindsay  
Lora Gellerstein - Aide to Legislator Spencer  
Paul Perillie - Aide to Legislator Gregory  
Alyssa Turano - Aide to Legislator Hahn  
Ali Nazir - Aide to Legislator Kennedy  
Justin Littell - Aide to Legislator D'Amaro  
Tom Vaughn - County Executive Assistant  
Marie Berkoski - County Executive Assistant  
Tedd Nieves - Deputy Inspector/Suffolk County Police Department  
Tracy Pollak - Headquarters/Suffolk County Police Department  
Mike Sharkey - Chief of Staff/Suffolk County Sheriff's Office  
Anthony Papparatto - Deputy Sheriff/Quartermaster - SCSO  
Robert Holly - Chief/Suffolk County Fire Academy  
Russ McCormick - Sergeant-at-Arms/Suffolk Detective's Association  
Arthur Sanchez - Suffolk County Deputy Sheriffs Police Benevolent Association  
Peter Dykeman - Delegate/Suffolk County Probation Officer's Association  
Patrice Dlhopsky - Principal Probation Office/SC Probation Department  
Robert Marmo - Suffolk County Criminal Justice Coordinating Council  
All Other Interested Parties

**Minutes Taken By:**

Alison Mahoney - Court Reporter

(\*The meeting was called to order at 9:43 A.M. \*)

**CHAIRPERSON BROWNING:**

Good morning. We will start the Public Safety meeting with the Pledge of Allegiance led by Legislator Calarco.

***Salutation***

And we'll have a moment of silence for those two defend our country.

***Moment of Silence Observed***

Thank you. Okay, we'll do the Public Portion. We have one card, and that is Peter Dykeman

**MR. DYKEMAN:**

Good morning. In the aftermath of Hurricane Sandy, great effort was demonstrated by government at all levels to assist the victims of that storm. Maintaining Public Safety was of the utmost concern to facilitate all recover efforts and to ensure the most affected Suffolk County residents were not further victimized. Suffolk County Probation Officers were instrumental in this effort, working extended overtime shifts to provide security at Red Cross shelters, staffing shelters that temporarily housed homeless sex offenders, and stepping up supervision of other current probation offenders to ensure that those offenders were not taking advantage of an already battered Suffolk County.

No doubt, in times of chaos, public safety is tantamount to any and all restoration efforts, and overtime is often necessary to provide -- and provided to maintain order and restore normalcy. The state of our economy needs no great discussion and the Suffolk County Probation Officers Associations has long taken great steps in working with County government to maintain public safety with the taxpayer in mind. Of great concern, however, are instances where Suffolk County Probation Officers are instructed to compromise public safety because the performance of their duties may incur the slightest amount of overtime.

About one year ago, a homeless probationer, being supervised for felony DWI, had absconded from Probation's supervision and was accordingly violated. The Probation Officer supervising this case showed the utmost due diligence in obtaining any information regarding the probationer's whereabouts in preparation of executing the associated warrant, and did obtain information on several potential hang-outs where the probationer could be located. The officer and her partner were able to locate the probationer at a laundry mat across from the Third Precinct Bay Shore and arrested the probationer pursuant to the violation probation warrant. The probationer was intoxicated at the time of the arrest and, consequently, began to vomit just prior to being arraigned at County Court in Riverhead. He was brought to Peconic Bay Medical Center in Riverhead where the medical staff at the hospital indicated that the probationer would not be medically cleared for some time. The officers immediately contacted their supervisor to relay all that had transpired.

The officers received a call back that efforts were being made for a County Court Judge to perform a bed-side arraignment at about 3:30 PM because the probation officers would not be permitted to monitor the probationer after 4:30 PM. The officers were further instructed that if the arraignment did not occur by the end of their shift, that as per the Director, the offender was to be released from their custody and left at the hospital unattended. A County Court Judge did arrive by 4:30 PM and did arraign the probationer, causing no overtime to be incurred by Probation Officers. Yet Court Officers were forced to remain with the probationer until Deputy Sheriffs were able to assume the custody. No doubt their overtime rate is higher than that of Probation Officers.

While this story had a relatively innocuous conclusion, it still raises many questions. What if a County Court Judge could not be located? What if they could not be there in time, coming from the west end and hit traffic at four o'clock in the afternoon? The POA is very concerned over the legality of the order given by the Administration to basically disobey the order on the warrant, as signed and ordered by a County Court Judge. The POA is even more concerned over the potential impact on the safety of the workers and patients in the hospitals that day, and of the public at large if they were to release the probationer and walk away as ordered. Being homeless with no documented address, the probationer may never have been seen again.

*(\*Legislator Spencer entered the meeting at 9:48 A.M. \*)*

Should that intoxicated probationer have gotten out of his hospital bed and gone on to hurt himself or someone else that evening, the financial burden associated with the windfall of liability inherent in such a decision would eclipse the relatively few dollars it would have cost up front to maintain custody and supervision of an arrested felon who violated his probation. Far more important than any financial burden is the potential for lives to be shattered by this administrative decision to walk away.

**CHAIRPERSON BROWNING:**

Thank you, Peter. Does anybody have any questions? No. You know, I just -- I mean, I'm trying to figure out when a person is in custody -- so it depends on what the judge says when that person's in custody in a hospital or wherever, that -- who's going to watch over them?

**MR. DYKEMAN:**

Well, the arresting agency, by virtue of the fact, they're the ones placing the subject under arrest pursuant to -- whether it's a summary arrest or a warrant, you're under that agency, and more specifically that officer's custody until it can be transferred legally.

**CHAIRPERSON BROWNING:**

Okay. So if you arrest them, then he should be in your custody until such time as he's in a secured location.

**MR. DYKEMAN:**

Yes.

**CHAIRPERSON BROWNING:**

And in this case, you guys were told that because of overtime, you could not -- you couldn't continue to stay there.

**MR. DYKEMAN:**

That -- correct. That the shift that day I believe ended at either 4:30 or five o'clock PM, and if the probationer was not arraigned -- because once they're arraigned, I believe that's when custody can be transferred to the Sheriff's Department, you know, on the correction side of things. So if that wasn't done by the end of the Probation Officer's shift, four thirty, five o'clock PM, that, you know, basically, yeah, they were to release him; release him from their custody and walk away from the hospital.

**CHAIRPERSON BROWNING:**

Okay. Yeah, he absconded already, that's not so good. And the current policy -- I mean, are you being prevented from doing overtime when it's necessary currently?

**MR. DYKEMAN:**

I -- other than this instance, I don't have any other, you know -- any other examples in front of me. I mean, there's 250 some of us, so. I don't think it's being denied across the board. I believe

obviously there -- you know, for planned overtime and other things, there are criteria that may be scrutinized. I don't -- you know, again, I don't have any examples to say one way or another, you know, a percentage of what's being put in for and rejected or approved, I don't have that information.

**CHAIRPERSON BROWNING:**

Okay. Kara, you have a question?

**LEG. HAHN:**

Yes. I do find this outrageous, as I'm sure you expected we would. And without knowing how often this is happening or -- you know, it's hard to comment further, but certainly this should be a wake-up call to us that there could be individuals that were in custody and then let go, and we cannot have that happening. So thank you for bringing this to our attention, and we certainly will follow-up with the Director of -- is he gone

**CHAIRPERSON BROWNING:**

We'll bring it up with somebody, how's that? *(Laughter)*

**LEG. HAHN:**

This is -- we clearly need leadership here. And thank you.

**CHAIRPERSON BROWNING:**

Okay. Thank you, Peter. And we do not have any more cards, but I did see a hand up. So if there's anyone else who would like to speak?

**MS. DLHOPOLSKY:**

Good morning. I'm Patrice Dlhopsky, Suffolk County Probation Department. I'm here today in lieu of the Director who is out of state at the moment.

I just wanted to comment on that. I have been taking on, over the past several years, some of the duties of the Deputy Director of Probation, so, therefore, I am aware of some of the background on this. I cannot speak to the specifics on the date in question, which was, I believe, last November, so it's been a full year. I did want to assure you of this; no one who is in the custody of the Suffolk County Probation Department is ever simply released from custody because the Probation Officer's shift has ended and overtime is not approved. I sign overtime slips and I can assure you that we do an awful lot of overtime in our department, and when there is an arrest in question, we certainly do. I can only make conjectures on this case that the director believed that since this person was in a hospital bed and Court Officers would be there and there was expected to be an arraignment, that it was safe to allow the Probation Officers to leave at that point. I simply want to assure you that no probationer has ever been arrested and then, you know, *"Duty is over for the day. Well, let's them go and we'll leave"*; that would never happen, and I just wanted you to be aware of that fact.

**CHAIRPERSON BROWNING:**

Why would a Court Officer be called to come to the hospital?

**MS. DLHOPOLSKY:**

I really don't know the circumstances there. I'm assuming that the Court Officers would have been there because of the fact that an arraignment was going to take place, and the Judge was going to be there. So, I'm assuming that that would be the reason. As I say, I was not involved in the specifics of this, so I cannot speak to the specifics. I just want you to rest assured that we don't release probationers from custody because it's five o'clock and the day is over. And I can assure you that overtime is given as needed.

**CHAIRPERSON BROWNING:**

Right.

**MS. DLHOPOLSKY:**

We do obviously try to keep it to the minimal to avoid, you know, budgetary strain, shall we say.

**CHAIRPERSON BROWNING:**

Okay. If you could just give us, you know, what the general policy. And I'm sure the Police Department would probably have the same thing, if they were an arresting agency and someone was being arraigned in the hospital. You know, I'd be curious what the policy is when the arresting officer and the arraignment and who would take over from there.

**MS. DLHOPOLSKY:**

Okay. That would be something I would research for you. Frankly, it is not something that happens very frequently on our watch, that they wind up in the hospital, but I will check.

In general, I would -- obviously, the main concern would be to ensure public safety, to make sure that somebody was there so that the person couldn't leave custody and to make sure that some appropriate arrangements were made for the person to be watched over. But as I say, I can get back to you, if you like, with a written statement.

**CHAIRPERSON BROWNING:**

Okay, what your procedures are, what your policies are, that would be appreciated. Thank you.

**MS. DLHOPOLSKY:**

Certainly.

**CHAIRPERSON BROWNING:**

Thank you.

**MS. DLHOPOLSKY:**

Okay. Thank you.

**CHAIRPERSON BROWNING:**

Okay. We have no more cards. Anyone else in the room that would like to speak? No. Okay. Seems to me we're going to have a quick meeting today.

**LEG. HAHN:**

Do we have -- I know that the EOC is still operating and we are still in a state -- you know, a state dealing with the emergency. But maybe at some point we can have everyone in and talk about --

**CHAIRPERSON BROWNING:**

Actually, I was --

**LEG. HAHN:**

-- what we can learn and what we might need in the future.

**CHAIRPERSON BROWNING:**

I see Wayne is here. And actually I haven't reached out to him yet, but I would be interested, Legislator Horsley, your committee and my committee, I think it would be important that we have a meeting. I'd like to have a joint meeting on the evacuations, on the storm situation and how everything was handled. So I see Commissioner Williams is not here, I'm sure he's got a lot of stuff going on right now.

**LEG. HAHN:**

Yes.

**CHAIRPERSON BROWNING:**

So that's why I wasn't going to bring anything up about it today.

**LEG. HAHN:**

Yeah. No, I recognize today wouldn't have been an appropriate day, but --

**CHAIRPERSON BROWNING:**

It's early. Because I know in my district, there's a lot still going on. I'm sure Legislator Horsley can say the same. You know, Lindenhurst, Babylon, Mastic Beach are still going through a lot with clean-up and everything else. Homes are still not with electricity yet, many of them.

**LEG. HORSLEY:**

Yep.

**CHAIRPERSON BROWNING:**

But I think it would be a good idea to have a joint committee meeting and have a hearing on what was done.

**LEG. HAHN:**

Sure. Sounds good.

**CHAIRPERSON BROWNING:**

You know, I don't want to be beating people up. I think that we always learn. You know, I think everybody was as prepared as they thought they were. However, I think it's important to make sure that, you know, whatever happens, we learn. So, because I'm not going to be shocked if we have another hurricane next year.

**LEG. HAHN:**

Exactly my reason for bringing it up.

**D.P.O. HORSLEY:**

As the Governor says, we have the storm of the century every two years. And he's got a point; it does seem to be so lately.

**CHAIRPERSON BROWNING:**

Yeah. Well --

**D.P.O. HORSLEY:**

I'd be happy to work with you on that and facilitate that. That makes a whole lot of sense. And we've also got to look at the changes that the Governor is going to be putting in place for LIPA and what does that mean for us and where should this Legislature fall as far as, you know, where are we going into the future as well. So Kate, I'd love it. Sounds like good stuff.

**LEG. HAHN:**

And there are also probably other committees that might be appropriate as well. You know, we should think through just to make it a super joint committee.

**CHAIRPERSON BROWNING:**

Yeah. No, that's -- I think we're going to have probably a very long meeting.

**D.P.O. HORSLEY:**

Well, I think that's a good idea. And I'd be glad -- as Energy, I'd be glad to sponsor it.

**LEG. HAHN:**

Like the Health Department and the inspections that went on of the restaurants immediately following and just knowing everything.

**D.P.O. HORSLEY:**

It sounds like an all-day affair.

**CHAIRPERSON BROWNING:**

Yes, it definitely does.

**D.P.O. HORSLEY:**

A lot to talk about.

*(\*Legislator Gregory entered the meeting at 9:58 A.M. \*)*

**LEG. HAHN:**

Yeah. I just think that, you know, there's always -- like you said, there's always things that you learn from the experience and it's better to debrief immediately.

**CHAIRPERSON BROWNING:**

Well, I felt a lot of it falls on under Public Safety.

**LEG. HAHN:**

Yes.

**CHAIRPERSON BROWNING:**

I mean, talking about Probation, the main -- one of the first things I did, you know, before the storm came was I called FRES and I said, "What are you doing about the sex offenders? You know, the sex offenders have to be housed elsewhere. Have you got something in place for that?" They got back to me, they said yes. You know, so, again, Probation, the Police Department, every --

**LEG. HORSLEY:**

Right down to --

**CHAIRPERSON BROWNING:**

I think every department played a role.

**D.P.O. HORSLEY:**

Right down to Public Works, you know, how close we were to having the Bergen Point Plant overflow. You know, things like that, there's a million more items out that we have to -- we should talk about. So Kate, maybe myself, Kara, we can sit down at some point and we'll move this forward. I like it.

**LEG. HAHN:**

Yes. And tomorrow in Environment we're going to get a little presentation about, you know, what happened to some of the coastal resources that we have as a result. So -- okay.

**CHAIRPERSON BROWNING:**

You know, I have to say, since I've been in office, you know, we had the {NOAH} presentations and, you know, a couple of years went by and they kept saying we're in a 20-year cycle where we could face a major hurricane. And, you know, out of my office, and probably most of us have done

hurricane preparedness and people get it and they kind of, "Yeah, yeah, yeah," you know? And then we got a good one last year and it was even worse this year. So, you know, again, now we really have to realize that they were right and we have to make sure everybody's prepared. So we will --

**LEG. HORSLEY:**

Maybe we should plan for maybe like the week after -- next week is the Leg, maybe the following week. After that, maybe things will get back to some sort of normal so we can talk about it in a non-emotional way.

**MR. PERILLIE:**

It's committee week.

**MS. ORTIZ:**

Yep.

**D.P.O. HORSLEY:**

Oh, again? It's committee week?

**CHAIRPERSON BROWNING:**

Yeah. I think it would be a matter of talking to FRES, Joe Williams, make sure when they're free. Because I know they're doing a lot with FEMA right now, so.

**LEG. HORSLEY:**

You're right.

**CHAIRPERSON BROWNING:**

Anyway, with that, we will go to the agenda.

Okay. We have no Tabled Resolutions.

**Introductory Resolutions**

***1943-12 - Directing the Suffolk County Police Department to offer drug treatment referrals to individuals receiving Narcan (Hahn).***

**LEG. HAHN:**

I would like to make a motion to table for one cycle.

**CHAIRPERSON BROWNING:**

Okay.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second by Legislator Calarco. All in favor? Opposed? Abstentions? ***It's tabled (VOTE: 7-0-0-0).***

***1958-12 - Accepting and appropriating a grant in the amount of \$50,000 in Federal pass-through funds from the New York State Division of Homeland Security and Emergency Services for the Explosive Detection Canine Team FY 2011 Grant Program with 100% support (County Executive).*** I'll make a motion to approve and place on the Consent Calendar.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Calarco. All in favor? Opposed? Abstentions? *It's approved (VOTE: 7-0-0-0).*

*1987-12 - Accepting and appropriating Federal funding in the amount of \$17,202 from the United States Department of Justice, Federal Bureau of Investigation, for the Suffolk County Police Department's participation in the FBI Joint Terrorism Task Force with 78.89% support (County Executive). Motion to approve.*

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Calarco. All in favor? Opposed? Abstentions? *It's approved (VOTE: 7-0-0-0).*

*1988-12 - Accepting and appropriating Federal funding in the amount of \$17,202 from the United States Department of Justice, Federal Bureau of Investigation, for the Suffolk County Police Department's participation in the Long Island Cyber Crime Task Force (LICCTF) with 78.89% support (County Executive). Same motion, same second, same vote. Approved (VOTE: 7-0-0-0).*

*1989-12 - Accepting and appropriating a grant in the amount of \$20,500 in Federal pass-through funding from the State of New York Governor's Traffic Safety Committee, for the Suffolk County Police Department's Motorcycle Safety Enforcement and Education Program with 79.30% support (County Executive). Same motion, same second, same vote. Everybody is good with that? Approved (VOTE: 7-0-0-0).*

*1990-12 - Accepting and appropriating Federal pass-through funding in the amount of \$160,639 from the New York City Police Department in conjunction with the Federally sponsored Securing the Cities Program with 78.90% support (County Executive). Same motion, same second, same vote. Approved (VOTE: 7-0-0-0).*

*2014-12 - Directing the Criminal Justice Coordinating Council to study the effectiveness of the County's Alternative to Incarceration Programs (Hahn) Legislator Kara Hahn?*

**LEG. HAHN:**

I'm going to make a motion to table.

**CHAIRPERSON BROWNING:**

Motion to table.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Okay. Second, Legislator Calarco. All in favor? Opposed? Abstentions? *It's tabled (VOTE: 7-0-0-0).*

*2018, okay, was withdrawn.*

**2035-12 - Appropriating funds in connection with improvements to the Fire Training Center (CP 3405)(County Executive).**

**LEG. CALARCO:**

Motion.

**LEG. HAHN:**

Motion.

**CHAIRPERSON BROWNING:**

Motion to approve, Legislator Calarco. Second, Legislator Hahn. All in favor? Opposed? Abstentions? ***It's approved (VOTE: 7-0-0-0).***

**2037-12 - Accepting and appropriating 100% Federal Grant Funds awarded by the U.S. Department of Justice under the Edward Byrne Memorial Justice Assistance Grant to Suffolk County Departments of Probation, Police, Sheriff, Social Services and District Attorney (County Executive).** Motion to approve and place on the Consent Calendar. Second?

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Legislator Calarco. All in favor? Opposed? Abstentions? It's ***approved and placed on the Consent Calendar (VOTE: 7-0-0-0).***

**2039-12 - Accepting and appropriating 100% State Grant Funds awarded through the New York State Division of Criminal Justice Services Funding to the Suffolk County Department of Probation (County Executive).** Same motion, same second, same vote. ***Approved and placed on the Consent Calendar (VOTE: 7-0-0-0).***

**2047-12 - Accepting and appropriating a grant from the United States Department of Homeland Security (DHS) in the amount of \$25,000 for FY2012 Port Security Grant Program (PSGP) to be administered by the Suffolk County Sheriff's Office, a partner of the East End Marine Task Force and to execute grant related agreements in Suffolk County with 100% support (County Executive).** Same motion, same second, same vote. ***Approved and placed on the Consent Calendar (VOTE: 7-0-0-0).***

**2048-12 - Accepting and appropriating Federal pass-through grant funds from the NYS Office of Homeland Security (NYS OHS) in the amount of \$110,500 for "Operation Shield" under State Homeland Security Program (SHSP) to be administered by the Suffolk County Sheriff's Office in partnership with the East End Marine Task Force, the Suffolk County Police Department and various other Federal State and Local Agencies and to execute grant related Agreements with 100% support (County Executive).** Same motion, same second, same vote. ***Approved and placed on the Consent Calendar (VOTE: 7-0-0-0).***

**2049-12 - Accepting and appropriating a grant in the amount of \$4,000 from the New York State Governor's Traffic Safety Committee Grant (GTSC FFY 2013) Highway Safety Program with 100% support for Sheriff's Traffic Safety Initiative (County Executive).** And I guess this is something to do with bicycle helmets, so it sounds good. So I guess same motion, same second, same vote.

**LEG. HAHN:**

Do we have a new grant writer?

**CHAIRPERSON BROWNING:**

Say again?

**LEG. HAHN:**

Do we have a new grant writer?*(laughter)*.

**CHAIRPERSON BROWNING:**

I don't know. No, actually, I was looking at \$4,000; what are they going to do with that? But it's actually bicycle helmets that they're donating, so that's a good thing.

Anyway. With that, we have no more on the agenda. I'll make a motion to adjourn.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Calarco. All in favor? Opposed? We are adjourned. Thank you.

*(\*The meeting was adjourned at 10:06 A.M. \*)*