

**PROTECTIVE SERVICES COMMITTEE MEETING**

**Held In Room #318**

**PUTNAM COUNTY OFFICE BUILDING**

**CARMEL, NEW YORK 10512**

**Members: Chairman**

**Chairman Albano & Legislators Gross & Oliverio**

**Wednesday**

**August 22, 2012**

The meeting was called to order at 6:40p.m. by Chairman Albano. He led in the Pledge of Allegiance. Upon roll call, Legislators Oliverio, Gross and Chairman Albano were present.

**Item #3) Approval of Minutes-Protective Svcs Committee Mtg. June 11, 2012**

Chair Albano stated that the minutes were accepted as submitted.

Legislator Oliverio made a motion to waive the rules and accept the additional; Seconded by Legislator Gross. All in favor.

**Item #4) Discussion/Financial Impact of Vehicle & Traffic Law Section 1806/District Attorney Levy**

District Attorney Levy stated that he wanted to thank the Committee Members for allowing him to address this matter in this meeting forum. He stated that the discussion of this matter began in June of 2012. He stated that he is looking to this Committee for some help. He stated that the Vehicle & Traffic Law Section 1806 has changed. It no longer provides for one court appearance on Traffic matters in our local justice courts. Instead there are two court appearances required in order to resolve a traffic summons. He stated that he finds this to be an important matter in respects to the Taxpayers' dollars. He stated that the State Police approximately two (2) years ago implemented this new procedure in an attempt to reduce overtime. He stated that the Ticketing Officer, in the amended law, does not have to appear in court for the first appearance. He stated for the Vehicle & Traffic violations that went to the Town Courts were assigned to a Town Attorney, if it was the first appearance. He stated that the Town Attorney handled the cases on behalf of the State Troopers. He stated that the Taxpayers of the State of New York benefited. The State Troopers were no longer receiving the overtime for the Court appearance. He stated that a couple of years back, when this change went into effect, Putnam County Sheriff Smith requested that his Deputy Sheriff's be allowed to continue to handle their own cases. He stated that he did not have an issue with that request at the time; because that was the way it had been done for decades. He stated that quite frankly he was not in the position to start changing that around. Until Section 1806 was changed, effective March 6, 2012. He stated that now the Law provides if the case is not resolved on the first date, it is automatically adjourned for a trial. Therefore requiring/resulting in two court appearances, for one traffic summons. He stated that potentially that could cost hundreds and thousands of dollars in overtime costs. He stated that he asked Sheriff Smith if there is an increased public service benefit to having Deputies attend each of the court appearances for Vehicle and Traffic appearances. He stated that he has not received an answer from Sheriff Smith. He stated that the Sheriff has said "as District Attorney you have the authority to change it." He stated that is true. However he is not about to make that change until he knows what the reasons are that Sheriff Smith would like the current system to continue. He stated that he would like the Legislators to keep in mind during the budget process when the matter of the Sheriff's overtime is discussed, and ask the Sheriff the

question “what is the increased public service benefit”. He stated that if there is an increased public service benefit he will support the continuation of the program as it exists without hesitation. He stated that he is not looking to take away overtime from hard working Deputies or Investigators. The work that they do to keep our constituents safe is bar-none fantastic.

Legislator Oliverio stated for clarity as the Law stands now, there is a first appearance they do the conference, if they cannot resolve their issue in the conference then they go back to court. So the current situation is that the Sheriff’s Deputy would be at the conference and then again at the trial appearance.

District Attorney Levy stated that is correct. As opposed to the way that the State Police handle their Vehicle & Traffic cases. The assigned Town Attorney shows up at the local justice court. Paid for by the local Town Boards. They conference the cases. There are no State Troopers in the Court during the first conference. He stated that many of the cases can be negotiated and such is done. He stated that when a motorist insist on a trial, because they do not like the offer, the case is adjourned for the trial date and the Town Attorney serves a subpoena on the State Police. The State Police Officer will receive their overtime for that appearance and the case is resolved. He stated that there is no reason, that he can see at this time, why that same system cannot work for the Deputy Sheriff’s. He stated that they will still receive overtime when they appear at the trial dates, but there won’t be two separate court appearances. He stated that the numbers are going to add up and we know how hard our Taxpayers work for their money. He stated that he is not looking to cut out a program if there is that increased public service benefit. However like he stated he does not know what Sheriff Smith’s rationale is on this.

Captain McNamara stated that the Sheriff has responded to the District Attorney’s request for input on this, on more than one occasion. He stated that he would like to provide a bit of background. For the past eighty (80) to ninety (90) years the practice across New York State has been, in Traffic Court, to have the issuing Police officer present to prosecute. He stated this is certainly nothing unique to Putnam County and it is not a practice that Sheriff Smith has implemented. He stated that when the New York State Police, as a matter of an administration policy, decided to tell their Troopers not to engage in plea bargaining, they had their own rationale for making that change. He stated that he would like to point out that while conducting some research on-line on this matter he found many articles stating that some District Attorneys and Judges are concerned with the issues of due process rights. There is question out there whether the State Police change is appropriate. He stated that there are arguments for and against the change. He stated that he invites everyone to research it on-line. The point here is that the District Attorney has asked the Sheriff, in a sense, to justify why a process that has been in place for eighty (80) to ninety (90) years should be continued. He stated that he believes really the question is why the process should be changed. He stated that the Sheriff has made it very clear that it is his position under the State Constitution that the Prosecutorial Powers is vested in the District Attorney. He stated that it is the District Attorney’s prerogative to designate whomever he/she wishes to prosecute a traffic case. He wanted to reiterate, to say that the Sheriff has not responded is not correct. He has responded, but essentially has put the ball back in the court where it belongs. He stated this is a call to be made by the District Attorney. He stated that also he would like to mention that approximately 90% of Traffic Violations do not go to Trial Dates.

District Attorney Levy stated that it is unfortunate that the Sheriff is not here tonight. He stated that he does have the correspondence from Sheriff Smith. His response is simple, as the Sheriff's Designee stated, the system has been in place for eighty (80) to ninety (90) years why change it now? He stated that his response back to Sheriff Smith was, "because the Law changed in April 2012 ." Law changed. He stated that the issues brought up about due process applied to the old law. He provided further explanation on that. He stated that this new amended law addresses the due process concerns. He stated that he is suggesting that the antiquated process that has been in place for the past eighty (80) to ninety (90) years, may not best suite us today. He provided further scenarios supporting the amendment to section 1806.

Chair Albano questioned if the local police departments have made the change and have eliminated the Officers from appearing in court for the first appearance.

District Attorney Levy stated they have. He would like to suggest that the Legislature address this matter with Sheriff Smith during the budget process.

Legislator Oliverio stated that District Attorney Levy has proven himself to be fiscally responsible time and time again. He stated that he believes if District Attorney Levy believes this is the appropriate path for the County to take; he does not see the need to wait for the budget process. He stated that he trusts District Attorney Levy's ability to oversee what needs to happen as far as the Courts go.

Chair Albano stated that he agrees with Legislator Oliverio.

Chair of the Legislature Conklin requested that Protective Chair Albano request that the Sheriff's Department provide monthly overtime reports for this year thus far and 2011. She stated only the overtime that involves the Vehicle & Traffic Court appearance. She stated that in her mind the biggest factor is that the law has been changed.

**Item#5) Other Business**

**a.) Approval/Budgetary Amendment (12A065)/District Attorney's Office/  
Asset Forfeiture Program**

Legislator Oliverio made a motion to approve Budgetary Amendment (12A065); Seconded by Legislator Gross. All in favor.

**b.) Approval/Budgetary Amendment (12A066)/Sheriff's Department/Jail  
Security Fence**

Legislator Oliverio made a motion to approve Budgetary Amendment (12A066); Seconded by Legislator Gross. All in favor.

**Item #6) Adjournment**

There being no further business at 7:10p.m. Legislator Oliverio made a motion to adjourn; seconded by Legislator Gross. All in favor.

Respectfully submitted, Deputy Clerk of the Legislature- *Diane E. Trabulsy*