



NEW YORK STATE
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**TESTIMONY SUBMITTED TO
 THE JOINT LEGISLATIVE PUBLIC HEARING
 ON PUBLIC PROTECTION**

2016-2017 EXECUTIVE BUDGET PROPOSAL

February 4, 2016

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The following written testimony is submitted by the New York State Probation Officers Association (NYSPOA). We're honored to have this opportunity to discuss the future of Probation Services in New York State.

The New York State Probation Officers Association is a professional organization that promotes public safety for all citizens through the effective use of Community Corrections. We believe that this can only be accomplished within a comprehensive Criminal Justice System, which includes a seamless system of community and institutional corrections provided by both the Localities and State. Being at the front-end of the Correctional System, Probation Services are generally the first involvement offenders have with the Criminal Justice System. True *prevention* of victimization can best occur with the most effective Juvenile and Adult Probation Services possible. Even if an offender does not respond positively to community supervision, they can be incarcerated on technical issues, before victimizing another citizen. This uniqueness enables probation to prevent victimization instead of reacting to tragedies.

In addition to supervision, local Probation Departments are also responsible for conducting investigations for Family Court and the various Criminal Courts. Aside from enabling the Courts in making the most appropriate dispositions, presentence/predisposition investigations also address the concerns of victims. Although these investigations are mandated for all offenders sentenced to the Department of Correctional Services (DOCS) and are utilized by the Division of Parole, they are not necessarily required for criminals sentenced to probation.

The objective of this testimony is to discuss Probation in New York State and the impact the Governor's Proposed 2016-17 Budget will have on these services, including:

- the diminished State Funding for Probation Services, which has resulted in an Unfunded Mandate to Localities
- the lack of Caseload Standards for Probation Officers
- Probation's essential responsibilities in Juvenile Justice Reform
- Probation's critical role in addressing the Heroin Epidemic

Reimbursement to Localities

Probation has long been the "sentence of choice" for both felons and misdemeanants. Indeed, more felons continue to be sentenced to probation than are either in prison or on parole. The merits of effective Probation Services were touched upon in the 2016-17 Executive Budget Documents, without directly citing "probation." The NYSPOA concurs with the Governor that stopping the "cycle of incarceration" is a major challenge and that it is "madness to spend over \$50,000 a year for a prison cell while ignoring the wisdom of early intervention." Furthermore, we agree that the utilization of "alternatives to incarceration to better rehabilitate at-risk individuals" is preferable to "the trend of mass incarceration." Although the Governor indicated that "use the time in prison to change behavior is wise," the NYSPOA advocates the wiser use of resources is to prevent the necessity of incarceration in the first place. Furthermore, the Governor indicates that Alternatives to Incarceration (ATIs) have worked for more than thirty years and "need to be expanded." A pro-active approach necessitates the use of effective Probation, instead of a re-active approach emphasizing incarceration. Indeed, Probation is the first and foremost ATI.

But what has the trend of funding for Probation Services been in the past thirty years? Until the early 1990s, Aid to Localities was approximately 46.5% annually. Then instead of budgeting by percentage, Aid to Localities began to be allocated by specific dollar amounts. The "50-50" State-Local Partnership in the "front-end" of the Criminal Justice System readily disappeared. By the time Aid to Localities was replaced with the present Block Grant, reimbursement rates had dwindled to below 15%. Since the Block Grants were initiated in the 2010-11 Budget and numerous ATIs (which were reimbursed at higher rates), such as the Intensive Supervision Program (ISP), were eliminated, the percentage has hovered around 10%. The proposed 2016-17 Executive Budget would continue this decline.

At the present time, Probation Services have become little more than an unfunded mandate. Ironically, the proposed 2016-17 Executive Budget espouses the merits of ATIs and provides enhanced funding for them. But Probation Services have no such fiscal commitment. Even as Juvenile Reform suggests that related Probation Services will be funded at 100%, the bulk of probation through the Block Grant has had the same allocations since 2012-13, resulting in Counties being responsible for approximately 90% of the funding. This apparent inconsistency with the Governor's support for reducing incarceration through effective community corrections should be rectified. The NYSPOA advocates for returning funding for Probation Services to the previous partnership between the State and Localities by enhancing funding for the Block Grant. Since probation is generally the "earliest intervention," this commitment would likely minimize the need to fund other ATIs as proposed, let alone the "trend of mass incarceration."

Caseload Standards

"Standards" for Probation are practiced in New York State. The recently adopted "Probation Supervision Rule" recognizes the importance of "Case Standards." Based on the COMPAS Assessment, each case has a risk level (i.e. Greatest, High, Medium, or Low) and specific supervision standards are expected to be met for each category. Appendix H-10 (Standard Specifications for Professional Probation Positions) addresses the importance of limiting the number of Probation Officers a Probation Supervisor can be directly responsible for. Thus, cases and Probation Supervisors have standards. Probation Officers do not. If a Probation Officer has 20 or 200 cases, the same standards apply to each case. This has too often led to unmanageable caseloads for Probation Officers and ultimately community safety is compromised. The NYSPOA supports the establishment of supervision and investigation "Workload Standards" for individual Probation Officers. Such standards previously existed in the former Intensive Supervision Program (ISP), but have yet to be established for probation in general.

Juvenile Justice Reform ("Raise the Age")

The NYSPOA supports the Governor's efforts to remove youths from State Prison. Furthermore, we support the moving of juvenile jurisdiction through age sixteen (tentatively on January 1, 2018) and through age seventeen (tentatively on January 1, 2019).

As previously recommended by the Governor's "Commission on Youth, Public Safety, & Justice," the Executive Budget would raise the minimum age of delinquency to age twelve (presently age seven) and the maximum age of delinquency to age eighteen (presently at age sixteen). The proposed creation of a "Youth Part of the Superior Court" in each County would allow for these youths to access resources available in Family Court. These resources include Probation Services, such as Intake Diversion, Risk and Needs Assessments, Investigation, and Probation Supervision.

Local Probation Departments would also be responsible for conducting risk and needs assessments for youths following arraignment in the Youth Part Court. This "PreTrial Service" would likely be added duties for existing staff or necessitate the hiring of additional trained staff. Probation Departments would also be responsible for the hiring of "Family Engagement Specialists." This title is not clearly defined, but appears that it would require trained staff at an additional financial burden.

A major objective of creating a Youth Part Court is to access services not normally available to this population. Since today's Person In Need of Supervision (PINS) is often tomorrow's Juvenile Delinquent (JD), the concept of the earliest intervention possible is warranted. "Family Support Centers" should be available in all jurisdictions.

The NYSPOA supports 100% State funding, as the Governor is proposing, for all expenditures local Probation Departments will assume resulting from "Raise the Age." Furthermore, Maintenance of Effort is necessary to insure this funding is dedicated to probation.

Combating the Heroin Epidemic

Probation Officers are on the front-line of one of the greatest challenges before our State: the heroin epidemic. In many jurisdictions Probation Officers are being trained and equipped with Narcan. An untold number of offenders in our communities, who have addiction issues, are being referred into treatment by utilizing orders and conditions of probation. These are often individuals who would ordinarily not be in treatment at all and would continue their addiction or perhaps overdose. The resistance to treatment can be very great and at times remanding offenders to jail on Violations of Probation is necessary in order to get them into treatment. The Governor's Budget rightfully enhances resources to assist in the heroin epidemic, but none are allocated for probation.

In summation, the NYSPOA supports the Juvenile Justice Reform proposed in the 2016-17 Executive Budget. The State's commitment to fund 100% of the financial burden "Raise the Age" will cause County Probation Services must occur for it to be successful. At the same time, the majority of Probation Services cannot continue to be little more than an "unfunded mandate" for the Counties. Probation is not a "local issue," but the front-end of the State's Criminal Justice System and needs to revert back to the previous "50-50" State-Local Partnership. Furthermore, in order not to compromise public safety, Probation Officers must have responsible caseload standards.

The New York State Probation Officers Association has always been more than eager to be a part of the future direction of our profession. Most importantly, our goal is to minimize future victimization through the most effective community corrections possible. We have consistently advocated for a Comprehensive Criminal Justice Plan that coordinates services and provides the most cost effective and efficient way to provide for the needs of all communities in New York State.

Thank you for holding this very important Public Hearing and the privilege to submit testimony before it.

PROBATION PROTECTS...PROTECT PROBATION

Larry S. Evans
Legislative Chair