

**Nassau County
Office of Legislative Budget Review**

Spotlight On:



Probation

July 30, 2003

**Prepared by
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Inter-Departmental Memo

To: Hon. Lianne Altmann, Chairperson
Members of the Budget Review Committee

From:  Eric C. Naughton, Director
Office of Legislative Budget Review

Date: July 30, 2003

Re: Probation Department

At the Legislative Budget Review Committee hearing in May the issue of caseload and the number of probation officers became an area of interest. As the County prepares its FY 04 budget and new multi-year plan the operations of the Probation Department have to be a major concern because of the potential impact on public safety.

The attached report is intended to provide a better understanding of the workings of the Probation Department. Senior Analyst, Stephanie Rubino, interviewed staff and judges, went out on a ride-along with two investigators and contacted seven of the largest counties in New York State to obtain accurate, current and extensive data. Although there are statistics available through the State on caseloads per officer and overall probationers, it was determined that the State's databank is inaccurate as many probationers who have left the system are still counted. Also, only an overall average number is provided and we thought it was more helpful to see an actual caseload per officer. For instance, the State's database would include low-risk probationers reporting by phone (about 23% of all probationers) in the total average although in reality this group is reporting in to only a few officers. This has the effect of greatly increasing the State's average caseload.

While it is clear that the County is in the midst of a financial crisis and is trying to reduce headcount, the potential impact on the public's safety cannot be ignored.

The Probation Department is responsible for the protection of the public from criminal recidivism while rehabilitating offenders sentenced to Probation as an alternative to incarceration. Other options include either local jail, state prison, or unsupervised release. With the cost of putting one additional defendant on probation at under \$10 per day and the cost of housing an additional inmate at the Correctional Center at close to \$90, it is clearly a more cost effective solution to put a defendant on probation and to do as much as possible to prevent recidivism.

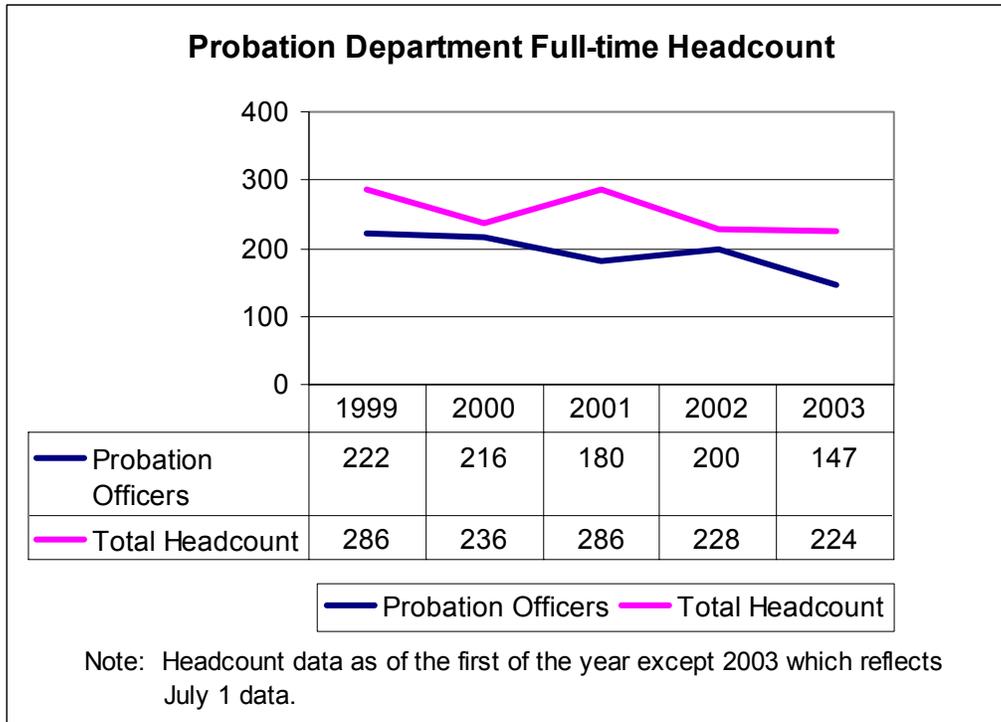
The three main divisions of Probation are Administration, Criminal Division and Family Division. The Criminal Division conducts mandated pre-sentence and pre-pleading investigations. This area also includes Criminal Investigations, Supervision, Court Liaison, and Specialized Units. The specialized units are Electronically Assisted Reporting System (EARS), DWI, Compact, Warrants, Sex Offender and Domestic violence, Community Service, Victims Assistance and Intensive Supervision.

The total 2003 expense budget is \$18.7 million with a revenue budget of \$8.5 million. State aid reimburses salaries at a rate of about 21%, down from 28% last year. Fringe is also reimbursed at a rate of 20%. It must be noted that almost all of the Probation Department's responsibilities, with the exception of some pre-trial services, are mandated by the State. The pre-trial services are covered by a grant with a 50% match by the County and are cost effective services aimed at lowering the Correctional Center population of detainees who can be released to Probation instead of bail. Non-mandated services were eliminated several years ago. The following is a chart of the various salaries that new Probation Officer Trainees make and the average salaries of Probation Officers and Supervisors eligible to retire by the end of 2005.

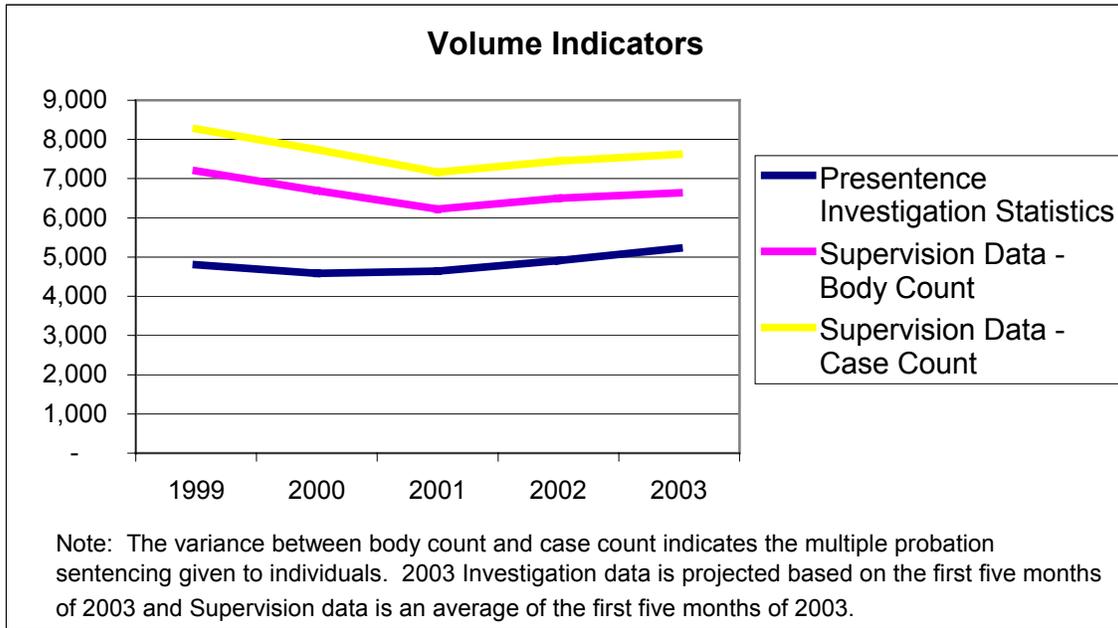
<u>SALARY SCHEDULE</u>		
<u>Starting Salaries</u>	<u>Step OA</u>	<u>Step 11</u>
Probation Assistant	\$22,299	\$42,972
Probation Officer Trainee	\$27,097	\$53,212
<u>Average Salary of Employees Eligible to Retire by the End of 2005</u>		
	<u>Avg. Current Salary</u>	
Probation Officer II	\$72,965	
Probation Supervisor I	\$78,657	
Probation Supervisor II	\$93,244	
Note: Because most trainees are hired from Social Services, very few start at Step OA.		

The Probation Department is at its lowest headcount level in the past ten years. The FY 03 adopted budget provides for 260 positions in the department. The July 1, 2003 headcount report reflects 224 full-time filled positions, which are 36 positions under the budget. Administration has 32 positions, the Criminal Division has 135 and the Family Division has 57. Administration is responsible for records keeping, budgets, personnel, restitution fees and training. The major areas in the Criminal Division include specialized units with 36 full-time employees, investigations with 22 employees, and supervision with 31. The biggest component of the

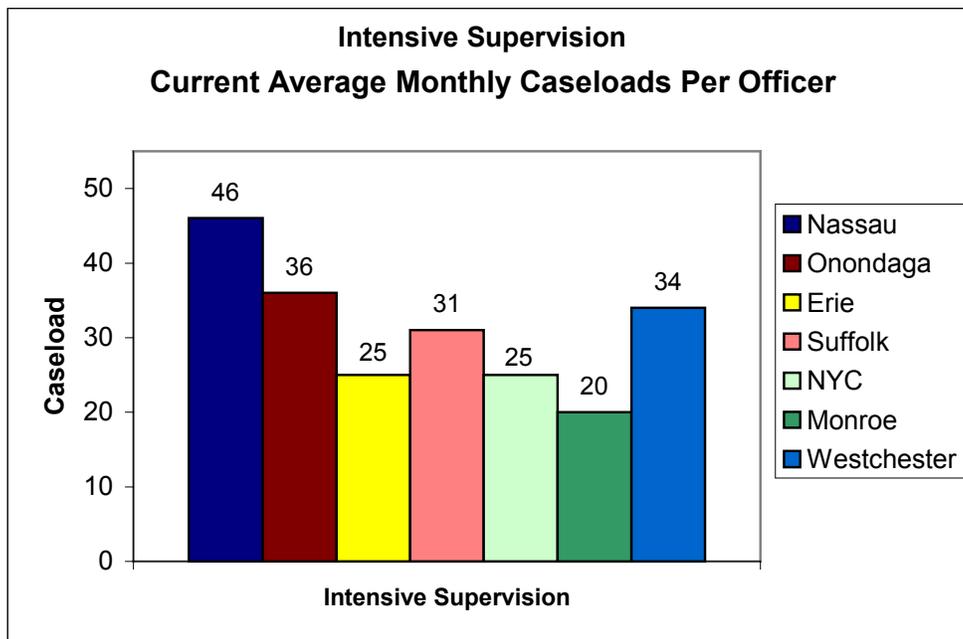
Family Division is investigators/supervisors (many Probation Officers in this division perform both functions) with 22 full-time employees. The variance between the budget and the projected salaries in the department is about \$2.5 million. About 37% of the Probation Officers and Supervisors will be eligible to retire by the end of the year and 50% by the end of 2005 since Probation Officers are eligible to retire after 25 years of service regardless of age. It takes two years for a Probation Officer to complete training. Despite this, the Department has not been allowed to fill any vacancies and the Administration has slated Probation to lose an additional 16 employees if other budget-cutting measures are not met.



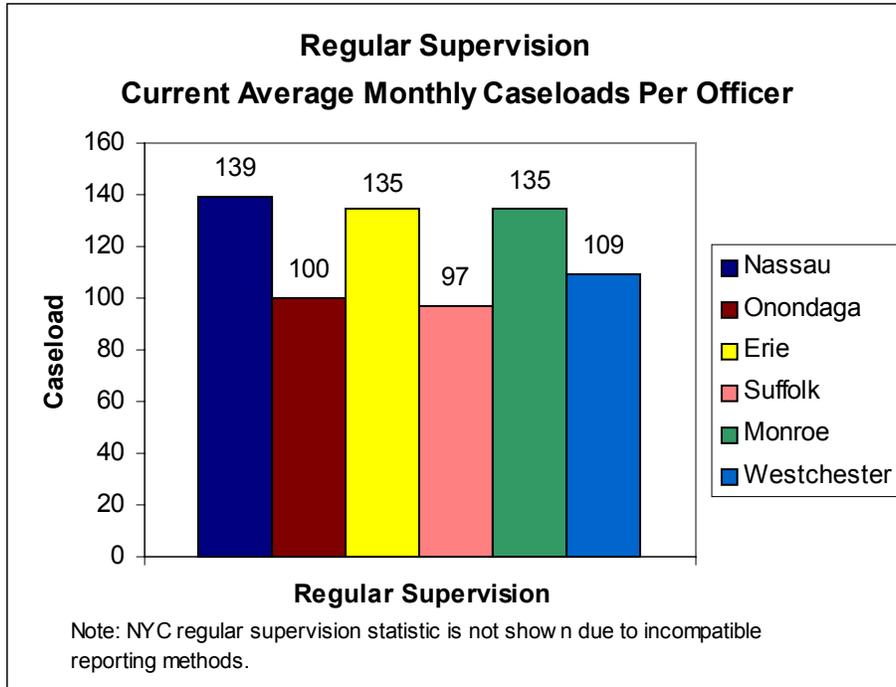
Although the number of investigations and supervisions declined steadily until 2000 and 2001 respectively, they have been on the rise again since then. Despite this, headcount levels continue to drop.



The following is a comparison of seven of the largest probation districts in New York State. They are Nassau County, New York City, Westchester, Suffolk, Erie (Buffalo), Monroe (Rochester), and Onondaga (Syracuse).

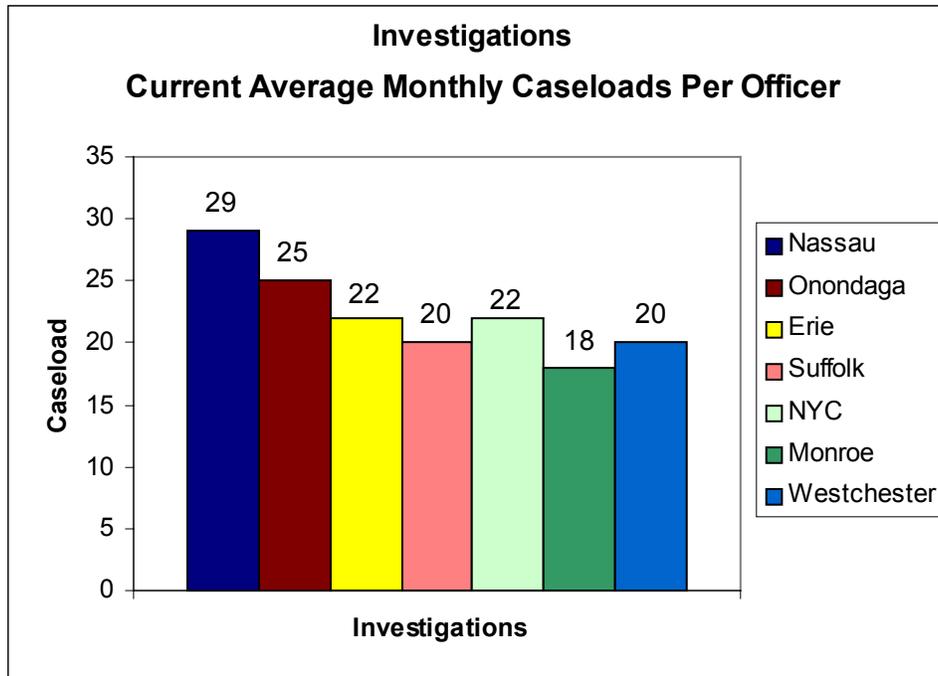


With intensive supervision (ISP) caseloads of about 46 per officer, Nassau Probation Officers are handling significantly more cases than the other counties' officers.



Nassau County also has the highest regular adult caseload per officer. The Suffolk County Probation Administration has stated that a regular caseload should not exceed 75 persons per officer. The Probation Commissioners in both Erie and Monroe Counties, the only counties with caseloads similar to Nassau, have stated that their current caseloads are unmanageable. The Probation Commissioner from Erie states that anything over a caseload of 100 is unmanageable and that when the caseload ratio is higher the potential for recidivism increases dramatically.

It is also important to note that with the use of EARS, as discussed later in the report, the cases requiring less supervision are taken out of the case mix and the Nassau County officers are only dealing with more serious cases. No other County has a comparable system except New York City, which uses kiosks as described later in this report. The New York City regular supervision statistic is not included on the chart because, though 416 cases per officer is reported, the officers are not actually overseeing this many people.



With investigation caseloads at about 29 per Probation Officer per month, Nassau County’s officers are performing well above other comparable counties’ officers in New York. Nassau Probation Officers verify all information in their investigations. Although New York City and Onondaga County are completing an average of 22 and 25 investigations per month per officer respectively, very little personal information is checked. The Probation Department Administration believes that 20 investigations per officer is a reasonable caseload with overtime and 15 without overtime available.

Supervision is one of the primary roles of Probation. The New York State Division of Probation & Correctional Alternatives has identified three levels of supervision. The first level requires four or more personal contacts per month, one of which must be a home visit, and six or more collateral contacts per month. Level II requires two or more personal contacts per month, one of which may take place during a home visit and two or more collateral contacts per quarter. The third level includes one or more contacts per month and at least one collateral contact per quarter. Collateral contact occurs with any entity other than the probationer, including family members, treatment providers or other law enforcement officials, that has direct knowledge of the probationer’s actions while on probation. The level at which a probationer is supervised is based on a computer risk assessment program called COMPAS. Information about a probationer is put into the system such as the crime committed, previous record, and history of drug or alcohol abuse.

The primary danger of increased supervision caseloads is the inability to properly supervise probationers. Any follow up and additional attention the probationer may need will be minimal and victim contact may be insufficient. One example of this is the diminished ability of the officer to perform home visits. Not only does a home visit verify the person’s address, but also the environment in which the probationer lives may determine recommendations, and reveal

whether or not the person is adhering to the conditions of probation. These visits often turn up illegal possession of drugs and weapons. It may also indicate other interests or hobbies that may spur the officer on to ask additional questions or cause concern to the Probation Officer. For instance, a sex offender may live in close proximity to young children or have young children in the house, which may be a violation of probation, but not detectable if the probationer is only seen during office visits. It may also be difficult to verify information.

Although home visits are critical to a thorough supervision, they are often missed due to limited time and inflexible hours. With a high caseload, it is possible that an officer can meet State requirements without actually seeing the probationer at home. Because the supervised individual is often not home when an officer visits, the State accepts the officer leaving his card in the door as a completed visit. This situation is exacerbated by the 9:00 am to 4:45 pm hours an officer is expected to work since the supervised individual is also often at work during these hours. In addition, the number of times a team of two officers visit a home has been significantly reduced. This is important as searches can only be conducted with two officers present, due to safety concerns.

As an example of the importance of home visits, about two years after a County employee was fired, he began sending threatening communications, some of a sexual nature, to his former supervisor and coworkers in September 2002, continuing through February 2003. A few months later he was arrested and ultimately sentenced to probation. At this time he was assigned to the Sex Offense Unit.

Recently a team of officers visited this probationer's parents' home and left their card as no one was home. About a week later, another officer working alone was admitted to the home and observed a shotgun and ammunition in the probationer's room. The probationer was not at home and his elderly father claimed possession of the weapon. The next morning, the probationer, who has a history of mental illness and substance abuse and has been living apart from his family due to conflict with his family, reported to his probation officer as directed. He was transported to his parents' home where, with the assistance of two detectives, the home was searched, and a total of five shotguns and rifles and the ammunition was recovered. More alarming is that the search also produced a receipt for the 12-gauge ammo, revealing the offender purchased it in August 2001, four months after his dismissal.

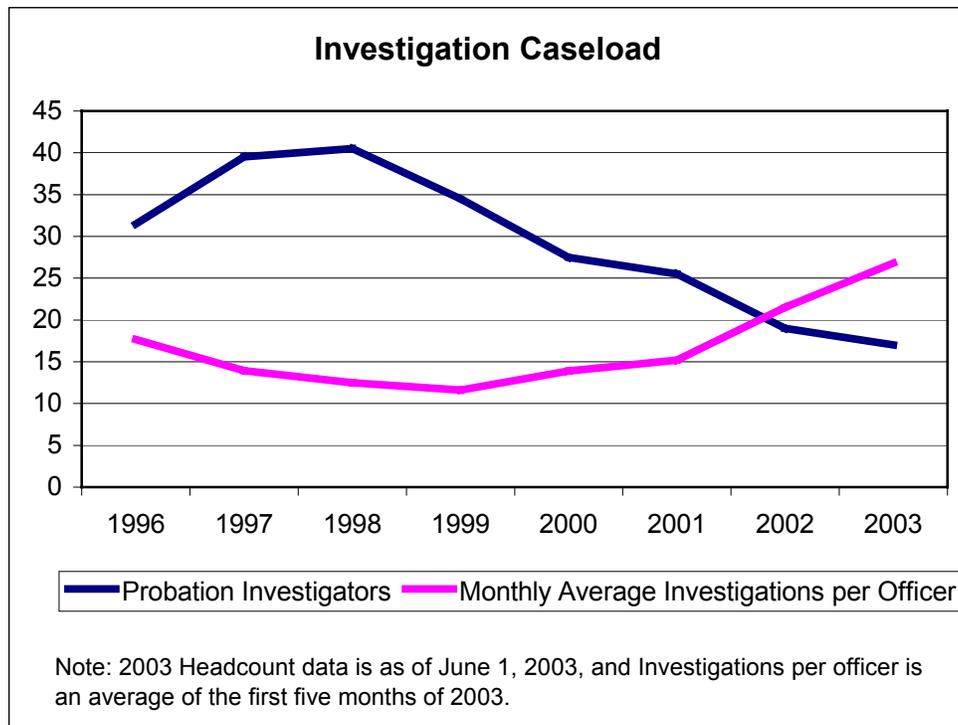
Had it not been for the sexual nature of some of the material, this case would have been assigned to a line supervision officer with an unmanageable caseload who likely would have never been to the parents' home, as it is not the probationer's primary address.

This example is not unusual. It was in the evening of my ride-along that the probationer's parents' home was first visited and in the same evening a number of disturbing things were discovered at another probationer's home. This person, convicted of possessing child pornography, had developed an interest in rock climbing and attended a local library everyday for access to the Internet. Both situations bring him in close contact to children, which was a violation of his parole. Also found in his home or car were ropes (handcuffs had been confiscated the week before), pornography and a box cutter. It was also revealed that he was living upstairs in a two family home with children living downstairs.

The following example demonstrates the advantages of better investigations and more intensive supervision. A current probationer, arrested in Queens in April 2000 after sodomizing an eight-year-old boy he was tutoring, was sentenced to 3 years probation in Queens Criminal Court. He ultimately pled guilty to Endangering the Welfare of a Child, avoiding registration as a sex offender. He was also required to surrender his NYS teaching license and was terminated from his full-time special education teaching position in NYC. As he resided in Nassau County, the case was transferred to Nassau Probation. The case came without special sex offender conditions, which the Probation Department had to have imposed by a Nassau court, and which precluded his unsupervised access to children. While intensively supervised by the County it was discovered that he never surrendered his license, continued to teach children at local academies, car-pooled his children's friends, and was about to host a children's birthday party when the Probation Officer visited the home.

Although Nassau's Sex Offense Unit handles a smaller caseload (68 probation cases per officer in June) than regular supervision, it is still high compared to New York City, whose Special Offenders Unit handles 43 cases per month per officer, Monroe County whose Sex Offenders Unity handles 40, and Westchester County whose unit handles 39.

Pre-sentence investigations are performed for the courts to assist in sentencing and future supervision. It typically includes a criminal background check, verification checks with family members, employers, victims and others, and may include substance abuse and mental health assessments and referrals.



As investigative caseloads increase, the ability of the officer to provide a complete, verified report diminishes. Home visits, which used to be done for all investigations, are only done for about half now depending on whether or not there is a question about the probationer's residence. Home visits not only verify the probationer's address, but the home environment may also help dictate recommendations to the court.

One recent problem has been the backlog of investigations, causing costly adjournments. For the first three months of 2003, 543 cases had to be adjourned and the backlog at the end of March was 450. With the use of limited overtime, the Department has been able to reduce this backlog to 336 cases as of July 17th. One result of an adjournment is that a person is sometimes forced to spend more time than necessary in the County Correctional Center, which is considerably more expensive than putting a person on probation or having them declared "State Ready" if they are to be sentenced to state prison where costs are born by the NYS Department of Corrections.

A frequent theme in discussions taking place during this research has been the low morale experienced by the probation staff. They no longer feel they are serving the courts or the public properly, and the pride they once felt in their work has declined dramatically. Many believe the low morale will contribute greatly to the number of retirements that will occur in the next couple of years.

The primary solution must be to increase the number of full-time Probation Officers. Part-timers have recently been hired from a group of retired officers to help handle investigation, but there has been a lot of resistance from full-time officers who feel the part-timers interfere with career paths and take away overtime.

Electronically Assisted Reporting System (EARS) is the electronic voice verification system that also identifies a probationer's location using caller ID. Probationers utilizing this are categorized as low risk offenders by the COMPAS Risk Assessment. EARS has been utilized since January 2002 and is currently handling about 23% of all probationers. The Probation Officers and Probation Assistants assigned to this unit handle about 300 cases per month. Although this is a cost effective system for low-risk offenders, it makes the regular caseloads more intensive as they no longer include probationers that require minimal supervision. As the supervision caseloads become more and more unmanageable, more cases are put into EARS. One danger in this is that as the definition of a low-risk offender becomes broader the system may begin to include probationers that need more intensive supervision.

One way to handle the increased workload is to increase available overtime. This is already being utilized for investigations on a limited basis, but more may be needed. One way to approach this is for each officer to be given a set number of hours of overtime for each investigation completed above a predetermined regular quota. Overtime may help with supervision by allowing the officer to contact probationers during off-hours when the probationer is more likely to be home.

Other counties utilizing overtime are Westchester, which covers hours after 5:45 pm and weekend hours with overtime and Erie County, which uses overtime for court appearances and special caseloads requiring night calls and curfew checks. Supervision officers in Onondaga

County must work in the field 14 hours per month on nights and weekends. Seven of the hours, which will be paid overtime, must be on Friday and Saturday nights between 6:00 pm and midnight. All other time is compensatory time. In Nassau however, the CSEA contract (Section 28) precludes designating any overtime hours as “compensatory time only”. Overtime is either cash or compensation at the request of the employee.

Another way of improving the efficiency of the Probation Officer may be to offer flex-hours, evening shifts or telecommuting. The chances of finding a probationer at home increase greatly during off-hours. These options have been used successfully in other counties.

Westchester County has had telecommuting for over a decade. Although the officers still interview in the office, they only come in two days a week so they are able to share office space. Suffolk County used telecommuting successfully for investigations and found productivity went up. Unfortunately it was discontinued because the union wanted telecommuting for all departments, not just probation. A pilot program to implement telecommuting in the Queens Investigation Branch is awaiting final City approval.

Most of Westchester’s officers work flex schedules that run Monday through Thursday 8:00 am to 5:45 pm. In Onondaga County the probation office is open three nights per week until 6:00 pm and Probation Officers are allowed to work very flexible schedules with supervisor approval. In New York City, some field units work in the evenings or on weekends.

New York City has time shifting available for fieldwork for all supervision officers. Suffolk uses shift work for warrants, electronic monitoring, juvenile detention, and pretrial work. Erie County requires all new hires to work 10:00 am – 6:00 pm shifts. In Nassau, the Probation Office is open 5 nights per week until 8 P.M. for night reports to accommodate probationers who must work during the day. Each supervision Probation Officer works one night per week and comes in late on that day.

Although New York City technically has a regular caseload per officer of 416, this does not mean that each officer manages this many cases. New York City, with such a high number of probationers per supervising officer is using ATM-like kiosks to handle the workload. The probationer reports to a kiosk located in a probation office and inputs information such as employment and change of address, which is then downloaded into their database. It also automatically prints out usage reports and Failure To Report letters to all probationers who do not report. A case is only assigned temporarily to an officer if a specific situation arises.

This type of system is probably not a good idea for Nassau County. As the New York City Probation Commissioner, Martin Horn, stated in a recent New York Post article about the City, “To pretend that public safety is served by taking a convicted felon and exposing them to that low level of supervision would be a disservice.”¹ The article also states that a letter circulated by the United Probation Officers Association president Dominic Coluccio advises the union’s members to tell judges that burgeoning probation caseloads make imprisonment the best option to protect the public. A number of cases where loosely supervised probationers committed serious crimes are also cited.

¹ Glart, Al, “City \$\$ Trouble Cheers Ex-Cons”, New York Post, April 27, 2003.

Many districts also have other treatment programs, which it could be argued will save money in the long run with decreased recidivism, jail time and general cost to society. Some of these programs include job placement assistance, a mandated sex offender treatment program, and living situation assistance.

As the consequences of an understaffed Probation Department are not immediately measurable and there is no mandate dictating caseloads, it is easy for the Administration to cut headcount from this Department without immediately recognizing the results. Unfortunately, these consequences can be costly and detrimental to the safety of Nassau County. Costly adjournments and defendants housed in prison instead of out on probation are becoming more common. The aging of the staff and low morale will contribute to a high level of retirements in the next couple of years. Without additional staff to replace these retirees it is unclear how the department will function. As caseloads grow, the occurrence of recidivism becomes greater and the likelihood of dangerous probationers slipping through the cracks with disastrous consequences to society increases.

ACKNOWLEDGEMENTS

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- Mary Winter, Commissioner of Onondaga Probation
- Todd Duncan, Principal Probation Officer, Onondaga Probation
- Vincent Iaria, Director of Suffolk County Probation
- George Alexander, Director/Commissioner Erie County Probation and Youth Detention Services.
- Robert Burns, Probation Administrator Monroe County Office of Probation - Community Corrections
- Martin Horn, Commissioner, New York City Department of Probation
- Jerry Alpern, Associate Commissioner Adult Operations, New York City Department of Probation
- James Birrittella, Director of Program Development II, Westchester Probation Department