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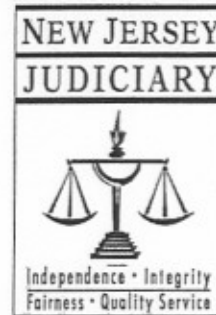
**INTEROFFICE MEMORANDUM**

**To:** Honorable Philip S. Carchman

**From:** Gail Richardson, CWA Representative  
Joseph H. Orlando, Esq., Chief,  
Labor & Employee Relations Unit

**Subject:** Statewide Labor Management Health & Safety Committee  
Recommendation

**Date:** January 10, 2007



Attached is a recommendation from the majority of the Statewide Labor Management Health and Safety Committee members. The Committee designated us to draft the attached recommendation. At its November 8, 2006, meeting, the majority of labor and management representatives voted to dissolve the Committee because there are alternatives to the committee that are more effective to address health and safety issues.

In deference to the minority viewpoint, the Committee also recommends the establishment of separate committees to address health and safety concerns applicable to the respective PANJ bargaining units.

Also, attached are letters from David I. Fox, Esq. representing the dissenting view of the two PANJ representatives to the Committee. As indicated in the attached, PANJ objects to dissolving the Statewide Committee but asserts that they should have a separate committee consisting of high level (e.g. Assistant Director) representation from the Judiciary.

Please feel free to contact us if you have any questions or require additional information.

Thank you.

cc: Health and Safety Committee Members (Primary and Alternates)  
Jerry Williams  
Steve Yang

## Majority Recommendation Regarding the Statewide Labor Management Health and Safety Committee

### RECCOMENDATIONS

The Statewide Labor Management Health and Safety Committee hereby recommends the dissolution of the Committee for the following reasons:

1. The Committee has outlived its usefulness. The early years of the Committee were fruitful in successfully moving forward such important statewide issues as HEP B policies, blood borne pathogen policies and TB policies. However, there is now the recognition that most, if not all, of the remaining and recurring health and safety issues are local, on site issues best dealt with locally at the vicinage or central office level.
2. In 2000, the Committee strongly advocated for the establishment of a statewide position of Health & Safety Officer. In 2001, that recommendation was acted upon with the hiring of a Health and Safety Officer. That office now includes an assistant as well. It is this office that now deals most directly and effectively with Health and Safety issues as they arise and has been the locus of the development and establishment of statewide health and safety policies. Therefore, many of the issues that might in the past have been dealt with by the Committee are now handled by this office.

In recognition of the dissenting view by the PANJ representatives on the Committee, it is further recommended that separate Health and Safety Committees be appointed for each of the PANJ units.

## BACKGROUND

The Committee was established pursuant to paragraph nine of the Letter of Agreement between the New Jersey Judiciary and labor representatives of the employees in the New Jersey Judiciary, dated December 28, 1994. Paragraph 9A states that: the Committee was established "to foster an effective transition to a unified court system characterized by cooperative labor-management relations, high performance and a quality workforce, and to advise the Chief Justice on consensus approaches to the issues of concern to the Judiciary and Judicial employees." Paragraph 9C established the Health and Safety Committee (page 5). It provided as follows:

Health and Safety – this committee will evaluate health and safety conditions throughout the Judiciary, and make recommendations to the Chief Justice for the maximum protection of Judicial employees and the citizens of New Jersey in their use of the Judicial system. In these discussions, the committee will be guided by the standards established by the Public Employee Occupational Safety and Health Act, and will make recommendations for effective partnerships for county and state officials, and landlords where appropriate, toward compliance with those standards.

For the past decade, the Committee has made numerous recommendations, many of which have been implemented by the Judiciary. With respect to PEOSHA matters, the Judiciary implemented a state health and safety office. The Committee has also made recommendations outside the scope of PEOSHA, such as a recommendation to establish field safety standards for staff which was implemented a few months ago.

The Committee's recommendation should by no means be construed as an indication that there are no health and safety matters left to address. Rather, the

Committee has merely concluded that an advisory committee is not the most effective means of addressing the numerous and varied health and safety issues that exist throughout the state. There are alternatives in lieu of this advisory committee that can more quickly and effectively improve health and safety, including the following:

1. Continuing a culture that encourages managers and employees alike to identify, call attention to and resolve health and safety concerns for the common benefit of both the public and those who serve the public;
2. Continuation of the health and safety office and other resources that provide important resources for the central office and vicinage management to solve ongoing health and safety issues;
3. Continuing to establish and expand, where appropriate and helpful, partnerships between labor and management to deal with difficult facility and security issues that often arise;
4. Continuing to encourage an open and candid dialogue between labor representatives and management so that these and other matters can be efficiently and reasonably resolved;
5. Continuation of vicinage labor management committees where health and safety matters can be discussed and hopefully resolved.

The ideal environment is one in which management, employees and their labor representatives are free to engage in a discussion via phone or email so that problems can be quickly addressed where possible. Naturally, however, there will not always be

agreement between people as to what is a reasonably healthy and safe environment or how to best resolve such matters. In this event, there are appropriate mechanisms to resolve such disputes, including, but not limited to, the following:

1. Contacting PEOSHA and filing a complaint when an employee or labor union feels that an issue has not be adequately addressed by management (preferably after bringing it to the attention of management);
2. The filing of a grievance under the health and safety article of the applicable collective bargaining agreement; and
3. The filing of a complaint in a court or administrative agency to seek other remedies that may be available under law or equity.

When this matter was discussed at the November 8, 2006 Committee meeting, this recommendation was not unanimous. The PANJ Supervisory Unit representative and the PANJ Case-Related representative voted to continue the Committee. While the majority of the Committee did not agree with these PANJ representatives, it did acknowledge that there were different health and safety issues that were more common to PANJ members. Accordingly, the majority of the Committee recommended that these PANJ units have separate committees established so that health and safety concerns that apply to its members can be discussed in the hopes of resolving them amicably. In addition, members indicated the desire to make a recommendation on the part of the minority perspective.

Recognizing that health and safety matters impact both the public and those who serve the public, it is the hope of the Committee that open and candid dialogue with respect to health and safety matters will continue to be encouraged.

Please feel free to contact us or any member of the Committee to discuss this matter more fully.

Thank you.

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December 1, 2006

Dear Mr. Orlando:

As you know, we represent the Probation Association of New Jersey which represents Judicial employees in the Case-Related Professional Unit.

We also represent PANJ Supervisors which represents certain Professional Supervisors employed by the Judiciary.

Ordinarily concerns with regard to these groups are handled separately. However, there is now a matter which uniquely should be handled, we believe, jointly since it involves the very important statewide Health and Safety Committee.

Without PANJ's consent, in violation of contract requirements including the "Letter of Agreement" which is part of the contracts, apparently there was an effort to disband this Committee. The Committee has been in existence at a minimum since Judicial Unification. The Committee's continuance is protected by contract, by practice, and by the Letter of Agreement.

You have received the enclosed November 13, 2006 e-mail from Stuart Martinsen of PANJ who is a member of the Committee and the attached November 13 e-mail from the President of PANJ.

The following contractual provisions apply as to the Case-Related Professional Unit:

1. The Preamble, which incorporates the terms of the "Letter of Agreement."

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Joseph H. Orlando, Esq., Chief

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2. Article 25 at page 59 with regard to Health and Safety, the provisions of which include the following:

### **"25.1 Maintenance of the Workplace**

(a) The Judiciary shall continue to make reasonable provisions for the safety and health of its employees during the hours of their employment. The Judiciary will discharge its responsibility for the development and enforcement of occupational safety and health standards to provide a safe and healthful environment in accordance with PEOSHA and any other applicable statutes, regulations or guidelines outlined in the New Jersey Administrative Code which pertains to health and safety matters. The Judiciary will provide a reasonably safe and healthful place of employment for all employees.

(b) The parties agree to cooperate in maintaining and improving safe working conditions and health protection for the employees consistent with established safety standards and in the promotion of safety, safe working habits and good housekeeping throughout the work environment. Where reasonably possible, each employee will comply with all safety rules and regulations."

3. Article 27 which provides as follows:

**"MAINTENANCE AND TERMS AND CONDITIONS OF EMPLOYMENT.** Unless specifically altered by this Agreement, existing practices, as well as the Letter of Agreement entered into between the Judiciary and its employee representatives on December 28, 1994, shall remain unchanged."

The Professional Supervisors Union contract contains similar provisions in the Preamble and in Article 25 entitled "Health and Safety," and elsewhere.

Health and Safety is, as you know, a special and unique issue for Probation Officers and others involved in probation work.

You should be aware of the critical nature of this issue from the matters which have crossed your desk involving safety and PANJ and PANJ Supervisors.

Only Probation Officers in the Judiciary are required to have daily contact with convicted criminals who are on probation including dangerous contact during home visits in areas where even



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police do not venture, and office visits.

The safety grievances and arbitrations involving these matters are too numerous to mention specifically here.

However, the problems are daily.


The one place where they have received high level attention as in the past is at the meetings of the Health and Safety Committee where PANJ and PANJ Supervisors representatives have had an open and viable dialogue with Judicial representatives on the issues.

The effort to terminate this Committee is, it seems to us, a clear violation not only of the contract, practices and the Letter of Agreement.

I am pleased to note that in a conversation between you and George Christie yesterday, you apparently agreed that issues of health and safety are primarily and properly raised by PANJ and PANJ Supervisors in Committee meetings and not by other labor organizations. Accordingly, I understand that you suggested that the Committee be re-constituted as a viable, and continuing Committee consisting of high ranking representatives from the Judiciary and PANJ members. I understand that you have suggested that the Judiciary representatives include the Director of Probation Services, the Director of the Criminal Division, the Director of the Family Division, and you.

This recommendation makes sense provided that the Committee continues to be a high-level Committee which has the same effective representation from the Judiciary. I suggest that we immediately meet to put together language consistent with these concepts.

Very truly yours,



DAVID J. FOX

DIF:brm  
2640.00  
Enclosures

cc: Mr. George P. Christie, President (VIA E-MAIL: [GPChristie@aol.com](mailto:GPChristie@aol.com))

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December 29, 2006

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**Re: Illegal Abolishment of Safety Committee**

Dear Mr. Orlando:

You are aware that safety issues are a primary concern of the Judiciary's Probation Officers, and of PANJ and its representatives.

This safety problem is evidenced in part by the hazards involved in Probation Officers meeting with convicted criminals on a "one-to-one" basis in the field and in the offices.

These meetings alone have resulted in many dangerous and life-threatening situations both for Probation Officers and members of the public they serve.

Near death situations for Probation Officers are not uncommon in these situations and are evidenced by the incident where two such Probation Officers were held at gunpoint by a Newark gang while the officers were doing field investigations.

Joseph H. Orlando, Esq., Chief  
December 29, 2006  
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I have personally been present in Camden where there are perhaps more serious safety issues resulting from field visits than any other location in the State. I have observed these very dangerous situations.

The New Jersey Supreme Court has recognized these safety issues from time to time and even recognized them in its recent decision involving the legislature's mandate that certain Probation Officers be armed. This decision simply declares this to be an unconstitutional intrusion on the Supreme Court's prerogative, but did not disregard the need for safety as to the public and Probation Officers, which need was recognized by the legislature and the Appellate Division decision which the Supreme Court reviewed.

The abolishment of the Health and Safety Committee is an issue which you should address.

I am making another effort to request that you respond with specifics as to the December 1, 2006 letter e-mailed to you.

In other words, in spite of the violations of the Letter of Agreement and the contract as to the Health and Safety Committee, we are looking to have an agreement in writing consistent with the comments in the last page of my letter, and to have regular meetings with the newly formed Committee referred to there, if in fact that is to take place.

PANJ's representatives on the State-wide Health and Safety Committee have continued to point out to you as we have, the unresolved health and safety issues.

I take it that you have not yet reviewed my December 1 letter since you have in no way responded to it. I remind you that the agreement and these issues which has been discussed, is to have a meaningful Health and Safety Committee, with members from the Judiciary's side consisting of the Director of Probation Services, the Director of the Criminal Division, the Director of the Family Division and you, hold monthly meaningful meetings with PANJ in which there are procedures for the investigation and remediation of health and safety problems.

Very truly yours,



DAVID I. FOX

DIF:klr  
Enclosure

cc: George P. Christie, PANJ President (via e-mail)