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INSIGHT

PANJ Litigates to Protect Our Work

by George Christie, John Morton,

and Deneen Hohman

On October 11, *The Press of Atlantic City* ran an article indicating that a pilot program whereby teachers would be employed as part time "pseudo probation officers" was ongoing at Middle Twp. High School in Cape May County. PANJ has objected to aspects of this program in the past. The work of offender supervision is to be carried out by properly sworn and certified Probation Officers, according to statutes. PANJ responded with a press release, and a follow-up article covering PANJ's viewpoint was printed on November 6. Excerpts from the press release follow:

PANJ has filed litigation against the New Jersey Judiciary, the Middle Township Board of Education and the Teaching Mentors citing violations of state law. The New Jersey Judiciary and the Middle Township Board of Education have entered an agreement to have Teaching Mentors work with juveniles who have been sentenced to probation in the Middle Township High School funded by a grant. The teachers will be in effect "pseudo probation officers" according to a recent *Atlantic City Press* article. The Probation Association of New Jersey points out that the state statutes empower Probation Officers as constables and the same statutes dictate the duties and responsibilities of those same officers.

The Probation Association of New Jersey looks favorably on all programs to prevent violence in schools. There are many programs that have been successful in surrounding states, which involve bringing Probation Officers into schools. PANJ has several concerns about the current Teaching Mentor Program in the Middle Twp. High School, Cape May County, and the false representations in the October 11 article in *The Press of Atlantic City*. This program not only fails to follow the law, but there are significant differences between this program and other successful models that will undoubtedly affect its ultimate

performance. PANJ would like to see the successful program elements incorporated from the start, to ensure that this endeavor is the best that it can be.

The New Jersey Legislature, through various statutes, has designed a plan for probationers to be supervised by properly certified and sworn Probation Officers. The Teaching Mentor Program calls for many of the duties of offender supervision to be carried out by school personnel, who are not qualified to do so. The simple solution is to bring a Probation Officer into the school, as has been done in the other favorable programs.

The Teaching Mentor Program has not freed the Probation Officer from time consuming duties concerning the probationers in the program; in fact it has required more effort to supervise the same juveniles. The PO now supervises the activities of the two mentors and serves as a conduit for information, between the probation division administration and the school officials. The mentors have not gone to court in connection with the juveniles they supervise, despite being informed of the hearings. Sensitive and important information is not being recorded in a timely fashion in the case notes which could cause critical delays in dealing with any number of probationer issues.

Regarding some of the inaccuracies in the article, the program actually began as late as March, 1999. This left approximately four months in the school year for this program to operate. Judge Batten is quoted as saying that there is monitoring going on 24 hours a day. PANJ questions whether this quote was taken out of context. Certainly, the juveniles in the Teaching Mentor Program are not exposed to 24 hour supervision on the order of a home detention or electronic monitoring program. The article states that this program has survived a supreme court challenge from the union. This is completely inaccurate. The attorneys for PANJ have recently filed litigation in this matter.

There is ample evidence that bringing actual Probation Officers into the schools is the right course of action. PANJ supports goal 3.2 of the Strategic Plan for Probation Services, which calls for school based supervision. *The Atlantic City Press* article states Judge "Batten said the recurring theme of a recent conference on juvenile criminal justice in New Jersey was the need to bring probation officers into the schools." (emphasis added) The State Assembly Task Force on Adolescent Violence recommended (June 7, 1999) "25. Allow probation officers to use school facilities to meet with youth who are under their supervision to impress upon students that delinquent acts result in real consequences." The Preliminary Action Plan of the New Jersey Conference of Mayors, Special Task Force on School Violence (September 25, 1999) cited two success stories, one from the Borough of North Arlington and one from Hudson County. These showed the effectiveness of Probation Officers in schools.

Probation Officers are employed for a specific function. They are not signing up to teach classes such as social studies or biology. PANJ recognizes that partnerships with different professionals that are in the best interest of young people can have a powerful effect. School professionals should also do what they do best and leave offender supervision to Probation Officers.

Incident Reports go Online

by John Morton, Editor

and George Christie, President

PANJ is collecting information on occurrences where a concern for safety is raised. Because of the importance of this endeavor, the PANJ Webmaster has modified the website to include the Incident Report. Just enter **panj.org** on the address line (not the search line) of your browser and click on **What's New**. This will take you to the link for the Incident Report. The PANJ website is truly interactive!

Some of the incidents that have been reported to PANJ recently include the following:

Essex County: Officers made a home visit to a probationer who is suffering from a mental disorder. The probationer screamed at officers in a threatening manner and attracted the attention of neighbors. He had to be taken to Mountainside Hospital by police.

Passaic County: Four Probation Officers from Criminal supervision made a home visit and found 70 grams of cocaine, \$7,200 in cash, and some knives in the probationer's apartment. Arrests were made and the probationer was charged.

Essex County: Officers on field duty encountered police barricades and were told by police to stay out of the area because of high crime and police were making arrests.

Being a Probation Officer and a community corrections professional is without doubt a high risk occupation. Many of our clients are extremely dangerous to both the public and to us if encountered at the wrong time. Essex County Probation Officers are going into the community where armed police are having difficulty. The Passaic County incident is a perfect example of how effective probation can be if given the proper resources. Excellent probation work led to the removal of a suspected drug dealer, who was allegedly conducting his criminal activity while on probation.

PANJ encourages communication of all incidents where safety is concerned, no matter what form this takes, or the level of seriousness which is approached.

VCCB Collections Up

by George Christie, President

The Probation Divisions and especially the Officers should be given a word of praise for their efforts in collection of VCCB (Victims of Crime Compensation Board) penalties. In fiscal year 1999, probation collected \$2,062,781.38 which was 9% better than last year. The Acting Administrative Director received a letter of congratulations from Douglas Brooks of the VCCB, highlighting these accomplishments. A copy of this letter made its way to the PANJ office, and I thought this positive feedback should be shared with the professionals whose drive helped produce the result.



**ISP...TO
BE OR
NOT TO
BE? (with
PANJ)**

by Peter
Tortoreto, First
Vice President

Over the past few years and in particular this past year, we at PANJ have had numerous inquiries from

many ISP Officers from

Tim Bishop, Frances Nunan, and Thea Fitzpatrick enjoy the PANJ Conference

the various regions as to the feasibility of affiliating with PANJ. During the month of October, 1999, PANJ met with the ISP Officers at a special luncheon sponsored by PANJ in order to discuss the concerns of the ISP Officers as well as the procedure we would need to follow in order for them to be represented by PANJ for collective bargaining. This meeting was very productive and well attended as all regions were represented. Many of our ISP Officers know what it was like as a line officer in the counties prior to the state takeover and many have held union leadership positions within their organization. Just off the top of my head I could name a dozen past local representatives of their local executive boards. We will be pleased to welcome these individuals to the PANJ ranks where they belong.

At this meeting much of PANJ's top leadership were in attendance, including the President George P. Christie, Vice Presidents Peter Tortoreto, Stephanie Hennessey, and John Mooney, and Business Manager, John Morton. Also attending were David I. Fox, Esq., Stacey Rosenberg, Esq., as well as our Public Affairs Counsel, Rob Nixon from Princeton Public Affairs.

The last PANJ contract narrowed the salary gap between the ISP Unit and the PANJ Unit. The major difference now is accounted for by the fact that the ISP Officers work a 40 hour week and the PANJ Unit works a basic 35 hour week. There is little question that both units perform virtually the same function in two parallel bands of the classification system. This is the most important factor the Public Employment Relations Commission (PERC) will look at when they review this matter.

Since the October meeting, the ISP Officers have gathered signatures requesting to be represented by PANJ from an overwhelming majority. These signatures were collected and given to the PANJ President who, along with the advice of legal counsel Fox and Fox, filed a petition with PERC which is called a clarification of the unit petition. Based upon the criteria used to determine what a case-related professional does in order to be classified as such, PERC will make a decision as to whether the ISP officers belong with PANJ or not. Included on this petition are several other titles in the same unit as ISP, the holders of which perform similar duties to Probation Officers: JISP officers, Community Development Specialists, and Family Counseling Specialists.

There is no question in the minds of Probation Officers that the ISP Officers do case related professional work, very similar to the functions of Probation Officers. Now the ISP Officers are making their move to be included as Case Related Professionals. (Their supervisors have already been included as members of the PANJ Professional Supervisory Unit.)

We will be pleased to have them with us since they have a great deal to offer the profession. PANJ offers our commitment to make our profession more effective, safer, and better educated. Among the Judiciary's labor organizations, only PANJ uses resources in these pursuits. The petition was filed with PERC and the wheels of change have started to roll.

PANJ PREVAILS IN PERFORMANCE EVALUATION

by Peter Tortoreto, First Vice President

On December 6, 1999 PANJ entered into an agreement with the Administrative Office of the Courts which pays thousands of dollars to employees who were the victims of a double rater evaluation system which is contrary to our Collective Bargaining Agreement (CBA).

PANJ has argued in our step three grievance that the single rater evaluation procedures of the 1998 performance evaluation program as set forth in the CBA were violated by the use of multi-raters with

regard to 1998 evaluation ratings received by the employees represented by PANJ as grievants. PANJ maintains that all of these step three grievances presented were the result of the ratings being lowered from exceptional to meets quality standards.

As early as January 1999 PANJ filed double rater performance evaluation grievances. They were numerous and every division was represented. In February 1999, Elaine D. Dietrich Esq., Chief Employee Relations from the AOC requested that all performance evaluation grievances be held in abeyance until they were all heard at step one and two, so they may all be heard together at step three. In March 1999, PANJ agreed with this proposal with the understanding that we would have a quicker and expedited resolution. In June all of the performance evaluation grievances were heard at step one and two and as a group were sent to the AOC for processing.

Upon receiving the documents along with the request to have these heard at a step three hearing, Ms. Dietrich, Esq. met with PANJ Legal Chairman and First Vice President, Peter Tortoreto in Camden to discuss and identify those people involved as grievants in this matter. The essence of this grievance is that employees were evaluated by a second rater after they were notified and given their exceptional rating. Their rating(s) were then lowered to meets quality standards. PANJ believes this was the result of a quota system linked to budgetary considerations, which would also violate the contract. The relief sought was that all exceptional ratings be restored and money paid out appropriately.

Finally, on November 19, 1999 we were informed of the hearing date of December 6, 1999 at the Justice Complex in Trenton, NJ. Stacey Rosenberg, Esq. from our General Council Office of Fox and Fox did extensive preparation in this regard along with the various county representatives, supervisors, and grievants. Karen Morse, the new Central Regional Vice President from Middlesex County was particularly helpful.

As preparation for this hearing PANJ worked tirelessly to compile data, gather facts and prepare testimony. We might add that the PANJ supervisors were extremely helpful and cooperative with regard to supporting their employees by providing truthful testimony and by being on call for telephonic testimony to be recorded by the court reporter. They were represented by special PANJ consultant, John Marinan, Esq.

In an attempt to resolve the matter without the need of further grievance hearings, appeals, litigation and/or arbitration the parties agreed amicably to find resolution as follows:

The parties understand and agree that the performance evaluation process is a dynamic system that requires continued discussion as the process evolves to establish and develop best practices.

Although the AOC admits to no wrong doing or liability they do acknowledge the Collective Bargaining Agreement (CBA) provides for a single manager to review the performance evaluation instrument, and such review does not in itself constitute a multi-rater system. This review is to be limited to the performance evaluation instrument and supporting documentation and does not result in an independent evaluation of the employee by the manager.

The final settlement in this matter is that all those employees who received an exceptional rating that was lowered upon review (but after the employee(s) were given their performance evaluation) will be paid the full amount of \$811.11 as exceptional performance pay for the 1998 calendar year consistent with Article 2(b) of the (CBA).

This settlement involves 17 employees in four counties, Middlesex, Ocean, Monmouth, and Passaic. Even though the AOC will not change the final performance evaluation they have agreed in this settlement that they will abide by the terms of the contract in regard to all negotiated items. This is a major victory even though it took almost one year to resolve.

ARBITRATION AVERTED BY AOC

by Peter Tortoreto, First Vice President

The Administrative Office of the Courts has averted arbitration filed by PANJ regarding alleged violation of the Collective Bargaining Agreement (CBA) with regard to procedural violations of the 1998 performance evaluations. These two grievances were filed separately in Burlington County and Statewide. They were later combined at step three. These allegations surround the fact that various vicinages failed, during the calendar year 1998, to adhere to contractual time limitations whereby interim evaluations were not performed to develop remedial corrective plan, that if followed, may have led to a rating other than Needs Improvement.

This settlement will pay \$1,000.00 to 12 employees in seven different vicinages, Essex, Hudson, Middlesex, Morris, Ocean, Union, and Somerset who have received Meets Quality Standards ratings on or about June, 1999. This money will be paid retroactively to January 2, 1999 and will become part of their base pay.

Moreover, this Settlement Agreement confirms the parties acknowledgment that the CBA provides for a contractual time frame within which the Judiciary shall provide, in accordance with the terms and conditions of the contract an interim evaluation whereby an employee shall have sufficient time to participate in and develop a remedial corrective plan, under which an employee can achieve an Exceptional or Meets Quality Standards rating.

Nothing contained in this agreement shall foreclose the right of any employee, who has not received compensation under this settlement, to pursue his/her right and seek remedy before the Department of Personnel Merit System Review Board with regard to the appeal of their final rating for the calendar year 1998.

This Settlement Agreement shall resolve any and all grievances between the Judiciary and PANJ regarding the issue of the applicable time frames to improve performances to a higher performance evaluation rating for the calendar year 1998. The PANJ Legal Committee is pleased to have settled this grievance without the need for an independent arbitrator since it has the same effect without any further delays to the employees who will receive compensation under this agreement.

PANJ Accountant Harris L. Olen offers financial services to members

Harris Olen will prepare Federal and State Income Tax returns for any PANJ member at a discount of 25% off the regular fee. For Form 1040 and Schedule A (itemized deduction) with a State Return the total Fee would be \$125.00. Additional schedules would increase the cost, but the 25% discount would apply to all schedules. If there were sufficient interest, Mr. Olen would like to set up appointments on Saturdays and Sundays in February and March at the PANJ office. If this were not convenient for the members Mr. Olen would provide postage paid envelopes for submitting documentation. Members would be provided with a tax organizer in order to more efficiently gather the necessary information.

Additionally, Mr. Olen would be able to provide preparation of Personal Financial Plans to PANJ Members at a similar discount. The Financial Plans include Budgeting, Net Worth calculations, Education Funding Goals, Pre-retirement Analysis, Life Insurance needs, Retirement Funding and Long-Range Goal Funding, and Investment Illustration Comparisons. An associate who is a Certified Financial Analyst and Mr. Olen would prepare these plans. The cost for the plan would be about \$200.00. If you have interest in this proposal, FAX your name, address and phone numbers (both work and home) to the PANJ Office at 732-223-8363.

PANJ AWARDS FOR 1999

by Stuart Martinsen, Awards Chairman

The 1999 PANJ Awards were given out at our 57th Annual Training Conference held at Trump Plaza in Atlantic City, New Jersey on Monday, November 22, 1999. The Probation Officer of the Year Award was presented to **Joan D. Neubert**, Senior Probation Officer in the Passaic Vicinage, Probation Division. Our Supervisor of the Year Award was given to **Glen Moton**, Team Leader in the Camden County Criminal Division. Senior Probation Officer **John Smack** of the Monmouth Vicinage, Probation Division was honored with the John Augustus Award. The 4th Annual PANJ Legislator of the Year Award was given to the **Honorable James E. McGreevey** for his support of PANJ issues. Finally, our first annual Citizen of the Year Award was given to **William H. Thomas** for his victim rights work and as an active PANJ supporter. All of the award recipients were recognized for their dedication and outstanding character.



Nashville, Tennessee • February 13-16 2000

Community Corrections in the Third Millennium: A Partner in Creating Safe and Vital Communities

The American Probation and Parole Association's Winter Training Institute offers over 50 educational sessions for all levels of experience. National known speakers will share their vision for the future of community corrections. Sessions will provide educational information on officer safety, juvenile justice, victims, parole, management, research, substance abuse and many more topics. Special networking and social events make interacting with your peers easy and fun. See, test and discover the latest products and services in the exhibit showcase.

Opryland Hotel

All APPA workshops, general sessions, exhibits and receptions will take place at Opryland Hotel, 2800 Opryland Drive, Nashville, Tennessee. For reservations call (615) 883-2211. As special lodging rate of \$119 (single/double occupancy) for traditional rooms and \$144 (single/double occupancy) for garden terrace rooms is available to APPA participants who make their reservations prior to January 12.

For more information, please contact:
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Hardship Committee Established

by Peter Tortoreto Under the terms of the Compensation Plan of the Collective Bargaining Agreement for the Case Related Professionals, pg. 15 2(b) which states that due consideration be given to safety, health, employee hardship and need for performance of services in the community, these issues can now be addressed at a state committee consisting of two representatives from the AOC and two from PANJ regarding the alternative work week.

This committee shall study problems and make recommendations for a suggested solution to those problems which cannot be resolved in the first instance. The AOC representatives are Frank Farr and Hank Fichter. PANJ will be represented by Legal Committee Representatives Susan Ormsby-Cuozzo and Peter Tortoreto.

Actually this problem of not having a state committee to resolve these issues which may arise from time to time first emerged in Ocean and Hudson Counties. A local President wrote to a Vicinage Chief Probation Officer requesting relaxation of the alternative work week due to pregnancy.

Without receiving an answer to her letter the employee was transferred to Child Support. Naturally PANJ grieved this matter for various reasons and prior to a step 2 hearing the Trial Court Administrator, Joseph Davis, intervened to mediate a resolution.

We have found that some Vicinages have a committee or forum to resolve issues with respect to these matters and some do not. The establishment of this committee shall serve to help resolve confusion. This committee shall be available to all for guidance.

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