

Protest targets court's ruling

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[Probation officers protest court ruling](#)

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PATERSON

Probation officers plan to throw in their handcuffs today -- a symbolic protest against a new state judiciary order that they believe strips them of their powers.

Probation officers will gather in front of the Passaic County Courthouse at about 12:30 p.m. and place their handcuffs in a box, which they will deliver to state Supreme Court Chief Justice Deborah Poritz.

The protest comes after the state judiciary released a new set of standards Thursday that prohibit probation officers from making arrests, conducting field searches or seizures, and requires them to leave that duty to trained law enforcement officials.

"They want the cops to do our job," said Daniel M. Bergin, president of the Passaic County Probation Officers Association, which has 125 members.

But Winnie Comfort, a spokeswoman for the courts, said that law enforcement was the function of the executive branch and that probation officers work for the judiciary branch.

"The courts do not enforce laws," she said. "Law enforcement does."

And that is what the state Supreme Court decided in a landmark case earlier this year when it declared a 2002 state law that would have armed some probation officers as unconstitutional, Comfort said. The case led directly to the new rules set out on Thursday by the state judiciary.

But Bergin said that the order was rooted in the state Supreme Court's "torturous logic" to uphold the separation of powers between the Legislature and the judiciary.

"From a procedural point of view, that was right, but from a practical point of view that was way off base," Bergin said in a telephone interview.

The job of probation officers requires them to supervise clients, typically offenders serving probation in lieu of prison time. The officers go to clients' homes to make sure that offenders are following the terms of their probation. Probationers include sex offenders, thieves, drug users and dealers.

"We must intervene with the lives of probationers, in some cases going into high crime areas and clearly dangerous neighborhoods, but they're not giving us the proper training and tools to complete the job. It's like throwing unarmed peasants to the lions in ancient Rome," Bergin said.

Comfort said that the safety of probation officers was the prime reason for the new set of guidelines.

"One of the things that the standards were designed to do was to make sure there was no misunderstanding among probation officers that they are expected to put themselves in danger," she said. "They are not."

But the order basically deems probation officers as "social workers," according to George P. Christie, the president of the Probation Association of New Jersey. He said that's contrary to what the state "Legislature wants, what the citizens want, and what the governor wants."

Probation officers, he said, are "not as well trained as they should be. It's nothing near what a police officer or a parole officer would get."

He said that parole and probation officers do much the same work and supervise many of the same people, including offenders who have committed major crimes.

"I think when probationers know that their probation officers have no authority to make an arrest or enforce the law, I think probationers are going to feel more freedom to continue to do criminal activities," Christie said.

Parole officers are governed by the executive branch and their clients are former prisoners, typically released from incarceration before they serve their full time. Parole officers are armed and are recognized by the state as law enforcement officers.

People who serve probation are typically doing so in lieu of prison time, Christie said.

Rules for whether probation officers are armed or not, and whether they are considered law enforcement, differs from state-to-state and jurisdiction to jurisdiction, said Mark Carey, the president of the Kentucky-based American Probation and Parole Association.

In New York, for instance, probation officers are entitled to carry firearms, according to a national survey conducted by the APPA. In Connecticut, probation officers have the power to arrest but do not carry firearms.

"There's debate about whether one can protect him or herself without the necessity of a firearm," Carey said, speaking by phone from Minneapolis, where he maintains his office. "In some states they won't do any kind of arrests without law enforcement present."

Carey said that if he were a New Jersey probation officer he would be concerned about increased safety risks.

"It does hamper them," he said. "It's going to require a re-tooling of their policy."