

INSIGHT



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LEGISLATIVE UPDATE

By Gerry Gibbs & Jeanette Hoffman, Capital Impact Group

Beginning a new legislative session for 2014 to 2015, the Governor and state Legislature have proposed several measures which will have a direct impact on New Jersey's probation officers. As your advocates in the State House, we have been involved in ensuring PANJ's interests are being well-represented on several important issues.

Governor, Legislative Leaders Call for Bail Reform

In his State of the State address, Governor Christie announced that reducing violent crime and reforming our state's bail system is one of his top priorities for the upcoming year. Legislative leaders, including Assemblyman John Burzichelli and Senator Donald Norcross, have sponsored bail reform measures, and PANJ is working with our state legislators to underscore the important role probation officers play in our community supervision system.

Governor Christie has proposed denying bail to violent offenders and key proposals of bail reform also include:

- Mandating a system of non-monetary release options;
- Establishing a comprehensive pretrial services agency within each county to monitor and counsel those awaiting trial;
- Requiring arrestees to undergo a risk assessment before their initial bail hearing in order for the court to make individualized determinations of what, or if, monetary bail is appropriate
- Eliminating private financial incentives to set high bail amounts by prohibiting the operation of commercial bail bonding companies in the state.

PANJ looks forward to working with our state and local officials in making our streets safer through comprehensive bail reform, as well as addressing the discrepancies in our state's community supervision system.

OFFICIALS

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First V.P., Line Staff

Gavin Cummings
First V.P., Supervisor's Unit

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Miriam Abreu-Borchert, Hudson

Region 2

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Lynne Taylor, Somerset
Nicholas Briscuso, Monmouth

Region 3

A. Francis Nunan, Cape May
Susan Lively, Cumberland
Greg Wolf, Salem

A Message From The President

Brothers and Sisters,

While transitioning after the election, PANJ and its leadership have hit the ground running. Within the first week, PANJ was faced with the news that the Judiciary would not pay the January increments and that both Units also were at impasse. Both units met approximately 20 times during negotiations in an effort to secure a fair contract for the Line Staff and Supervisors Units. The proposals from the Judiciary would erode the fair contracts that have been negotiated since unification in 1994 and would adversely affect every member regardless of their time on the job. Both units are united in an effort to secure fair and reasonable contracts. Ellen Cribbin, First Vice President, Line and Gavin Cummings, First Vice President, Supervisors are preparing for mediation and I am very confident in their abilities, as well as both negotiation teams.

Concerning finances, Jackie Guarini-Sheehan, Second Vice President has been working on the PANJ finances and has instituted new procedures and practices.

On the Legislative front, PANJ continues to work on the Constitutional Amendment to transfer all PANJ represented employees to the Executive Branch. In addition, legislation that specifically benefits members is being prepared for introduction.

In an effort to meet with members in the three regions, PANJ has held Southern and Central Regional meetings to hear from members and a Northern Regional meeting is being rolled out.

As spring is upon us, I wish all of our members all the best and assure you that the Board is hard at work on your behalf.

In Solidarity,

Dwight Covalleskie

Dwight Covalleskie
President

A Message From The Editor

Brothers and Sisters,

Welcome to the March 2014 edition of the Insight! I hope you find it informative and enjoyable. Please allow me to introduce myself. I am your new editor, Nick Briscuso, PIPC Chair. I would like to take this opportunity to thank my predecessor, Ellen Cribbin, for all of her hard work and dedication to this newsletter, as well as our website and Facebook page. As I take over these responsibilities, I will try my best to come close to matching her efforts and enthusiasm!

In Solidarity,

Nick Briscuso

Nick Briscuso
Editor



PERC Reverses Dynamic Status Quo Doctrine

By Daniel J. Zirrith, Esq

The New Jersey Public Employment Relations Commission ("PERC") is a State agency which implements the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq. The PERC Act governs certain aspects of the relationship between public employers, such as the New Jersey State Judiciary, and public employee organizations, such as PANJ. The PERC Act addresses, amongst other things, the procedures by which public employers and public employee organizations negotiate collective bargaining agreements. As part of its function, PERC decides contested cases which are within its jurisdiction and brought before it, including alleged unfair practices by employers or employee organizations.

On December 19, 2013, PERC issued a significant decision in County of Atlantic and PBA Local 243, P.E.R.C. No. 2014-40, (December 19, 2013). The case addressed the claim by three police union locals in the County of Atlantic that the employer of its members, the County, had committed unfair practices under the PERC Act by failing to pay salary increments pursuant to the parties' expired collective negotiations agreements. With respect to each local, the expired Agreement with the County contained a salary schedule or guide, which required the payment of a set salary increase as a member reached a new anniversary date and a separate salary increase as of January 1 of each year. For the first time many years, in 2011, the County did not pay step increments to employees on their anniversary date of employment pursuant to the salary schedule.

The "dynamic status quo doctrine" was a creation of PERC and first applied over thirty (30) years ago in Galloway Twp. Bd. Educ. v. Galloway Twp. Educ. Assoc., P.E.R.C. No. 76-32 (April 28, 1976), rev'd 149 N.J. Super. 352 (App. Div. 1977), rev'd 78 N.J. 25 (1978). The dynamic status quo doctrine required the continued payment of salary increments after the expiration of a collective bargaining agreement. Both PERC and the Courts in New Jersey have generally upheld the dynamic status quo doctrine since its first application.

In County of Atlantic, the Employer County took the position it would not pay step increments to the members of the three police union locals and the locals filed Unfair Practice Charges with PERC. Although the PERC Hearing Examiner assigned to decide the Unfair Practice Charges found in favor of the locals by applying the dynamic status quo doctrine, the PERC Commission reversed the Hearing Examiner's decision in its December 19, 2013 Commission Decision. In its Decision, the Commission explained that it found the dynamic status quo doctrine no longer effective in large part due to the economic constraints placed upon municipalities by the tax levy cap law which requires an employer's tax levy not exceed 2% more than the previous year's tax levy, as well as the interest arbitration reform law which was passed in 2010 and sets an upper limit of a 2% increase in base salary items per year for police and fire unions. The result of PERC's recent decision in County of Atlantic is that employers are no longer required to pay salary increments to employees based upon salary guide movement after the parties' collective bargaining agreement has expired and where a new agreement has not been reached.

Both the PANJ Professional Case Related Unit and PANJ Supervisors Union Agreements with the Judiciary require salary progression payments to be made to PANJ members during the second pay period of January of each calendar year. On December 17, 2013, the Judiciary informed the Supervisors Union at the negotiations table that it would not pay the salary progression payments. Likewise, on December 18, 2013, the Judiciary informed the Professional Case Related Unit that salary progression payments would not be made in January 2014. Although PANJ filed Unfair Practice Charges on behalf of both Units and sought interim relief, PERC denied PANJ's request for interim relief based upon its recent decision in County of Atlantic. The County of Atlantic decision has been appealed to the Superior Court of New Jersey, Appellate Division. Although PANJ's request for interim relief was denied, both PANJ Units are proceeding forward with their Unfair Practice Charges and Grievances based upon our position that the clear language of the contract requires payment of the salary progression payments, regardless of the dynamic status quo doctrine. Additionally, both PANJ Units have entered Mediation with the Judiciary under the auspices of PERC and are hopeful that a resolution will be reached sooner than later.

The Southern Region

By Linval Lewis, Southern Regional VP, Gloucester County Local 108 Pres.

On February 20, 2014, a Southern Regional meeting was held at the Camden County Library in Bellmawr, New Jersey. This was an informational session to provide updates regarding contract negotiations and answer any and all questions from the PANJ Professional Case-Related Unit and the Supervisor's Unit. The line staff and supervisor's unit are led by 1st Vice President Ellen Cribbin and 1st Vice President Gavin Cummings. Both units are continuing to aggressively negotiate on the members behalf. Discussion at the meeting included salary progression, 9.8, health benefits increase, bail reform initiative, grievances, clothing allowance, and the rising number of disciplines just to name a few of the topics. President Dwight Covalleskie presented information regarding the Segal Report, Transfer bill, PANJ's finances, and the status of the interim relief with the Public Employee Relations Committee (PERC). Glen Moton, Southern Regional VP, Susan Campbell, Treasurer, Stephen McMullen, Central Regional VP, Daniel Zirrieth, Esq. of Fox and Fox and other PANJ Executive Board members were in attendance as well. This was not just an informational session but a time for members from the southern counties to network, socialize, and display fellowship.

Acting Appointment Arbitration

By Ellen Cribbin, First Vice President, Line Staff

In December of 2013 PANJ received an arbitration award in reference to a grievance that was filed in Monmouth County on December 9th, 2010. The grievance was filed due to management assigning and requiring Probation Officers to perform the Calendar and Case Management functions for the Criminal Division Judges and Trial Teams. The grievance was sustained by the Arbitrator and a monetary award was issued for those Probation Officers who had been and continue to work in an acting appointment capacity in Criminal Case Management. The arbitrator agreed with PANJ that the Officers were performing the vast majority of the duties of a Team Leader.

Since the time that the award was received by both PANJ and the Judiciary a couple of things have happened. Two more grievances were filed, one in Morris County and one in Ocean County for the same issue in their Criminal Case Management Units. The Judiciary has also filed a summary action in Superior Court asking that the Court vacate the arbitrator's award. The Judiciary has a very heavy burden in demonstrating that the award should be vacated. Courts do not set aside arbitration awards simply because the Court would have decided differently. In order to over-turn awards evidence needs to be demonstrated by the charging party, in this case the Judiciary, that the arbitrator made a fatal flaw in the decision making process of the award. The date has not been scheduled as of yet for the order to show cause.

Ad Hoc Committee Meeting Update

By Stuart Martinsen, Financial Secretary, PANJ Representative

The fifth meeting with the Chief Justice's Probation Ad Hoc Committee was held at the AOC on Sept. 24, 2013. Present from PANJ were: PANJ 1st VP Dwight Covalleskie; PANJ Sgt. At Arms Ellen Cribbin; PANJ Acting President Brad Fairchild; PANJ 2nd VP Supervisors Unit Gavin Cummings; PANJ Northern Reg. Supervisors VP Don DeHart; PANJ Labor Consultant George Christie; PANJ Legal Counsel Dave Fox Esq. and this writer. Committee members included the Chair, Judge Yolanda Ciccone, A.J.S.C.; Judge Donald J. Volkert Jr, A.J.S.C; Elizabeth Domingo, Assistant Director of Probation Services; Janet Zatz, AOC Assistant Director of Employees Relations; John Pizarro, Chief of Adult Probation Services; Deidre Naughton, AOC Director of Professional and Governmental Services and Erin Catalfamo (staff) also of the AOC.

It should be noted that the purpose of the formation of this committee by Judge Grant and Chief Justice Rabner, was to foster improved and direct communication between PANJ and the AOC in order to address mutual labor, safety and workplace concerns. During this Sept. 2013 meeting, PANJ expressed concerns over replacing Probation Officers with civil service investigator titles. The position on this by management was that the staffing of the judiciary was a management prerogative based upon classification of titles. PANJ contested this position and there was lengthy discussion.

PANJ addressed concerns about field officers encountering missing probationers and how to deal with this as well as where in what area a violent crime had occurred. Judge Ciccone recommended that there be group communication between probation and police in the field in order to safeguard officer safety. PANJ discussed the concerns we had over field safety, especially where there have been shooting incidents in that same field work area that day. Chief Domingo indicated that where that ROIC report indicated there was a shooting in that field area, the officer should share with police any concerns over "hot spot" incidents. Judge Ciccone recommended that the probation chiefs reach out to the local prosecutors' offices in turn to report to the local police departments the need for them to protect the probation officer in the field. Chief Domingo also indicated she would address this matter at her next meeting with the chief's conference committee.

Concerning ROIC and Alert reports, PANJ and the ad hoc committee agreed that these reports should be organized at the local level by the vicinages and that each vicinage download the appropriate software. This was also going to be addressed by the ad hoc management committee members. Also, the AOC is looking into police radio usage in all vicinages for field officers as well. PANJ reported that a large number of active probationers seem to be committing more violent crimes and for 2013 they were responsible for about ten percent of all new state-wide shootings. This points to a new culture of violent probationers who are dangerous to both the community and the supervising officer who has limited training and no ability to do anything else then get away from the incident. Also, the ad hoc members agreed to study the relationship between gun violence and high risk probationers. PANJ also expressed concerns over the 19,000 probation absconders committing violent crimes while fugitives. Further, PANJ again raised the problem that the AOC is not properly tracking probationer recidivism. The AOC members indicated that this issue is being studied by the strategic planning committee. Also, warrantless search module training was discussed and Judge Grant has asked the Attorney General's office to contact the local police to assist probation officers when they start to conduct these searches. Also, Tac Pro training was going to be rolled out for family probation officers as well.

The ad hoc committee was updated by PANJ on the study and census being developed by the Bureau of Justice programs on probation officer assaults and deaths nationally while in the line of duty. This is a very important study as probation and parole officers incidents are not being reported as are executive branch safety incidents involving law enforcement officers.

Finally, PANJ stated that our feedback from the membership is that violation of probation charges are not resulting in prison time. Probationers are being returned to court numerous times on VOP's and they are just being continued on probation or negatively terminated. Judge Ciccone indicated that new judges receive training on sentencing but that ultimately it is judicial discretion unless a plea agreement is in place.

The next ad hoc committee meeting is scheduled for April 2, 2014. If a PANJ member has any items or matters that you believe the ad hoc committee should consider for discussion, please contact the PANJ office at panj1@optimum.net with your suggestions.

Governor Christie Proposes Budget with State's Largest Pension Payment, Calls for Additional Pension Reform

By Gerry Gibbs and Jeanette Hoffman, Capital Impact

On February 25th, Governor Christie proposed a \$34.4 billion state budget for Fiscal Year 2015, the largest spending plan in New Jersey history. Included in the budget is the largest payment in history to the state's pension fund — \$2.25 billion. However, that payment is still only 57 percent of what actuaries say is needed for the fund to be solvent. Governor Christie has committed to making increased payments each year until reaching 100 percent in 2018.

The Governor continues to call for additional changes to the pension system, despite requiring public employees to pay more in 2011 and raising the retirement age from 62 to 65. He has not mentioned any specific proposals, but has called on the Legislature to address further pension reforms.

Legislative leaders are opposed to implementing additional pension reforms. "We're not doing it," said Senate President Sweeney, in response. "If we stay the course, the pension system will be fine — it's not going to bankrupt us. ... What's missing here is we haven't grown our economy, and that's the issue."

FY 2015 Budget Includes Expansion of the Drug Court Program

Last year, Governor Christie signed into law legislation to help individuals dealing with drug addiction reclaim their lives with treatment, rather than warehousing them in prison. In this year's budget, Governor Christie proposes to expand drug courts and increase funding by \$4.5 million.

This additional funding will permit the Department of Human Services to expand treatment to approximately 1,000 clients in both inpatient and outpatient facilities, providing the capacity needed to continue drug court expansion.

Legislation would Establish Compensation Program for Injured Probation Officers

At the request of PANJ leadership, Assembly Law and Public Safety Chairman Charles Mainor recently introduced legislation to establish a compensation program for probation officers who suffer bodily injury as the result of an assault by a probationer under their care or supervision.

Under the provisions of the bill, an injured probation officer would be entitled to his or her salary until their workmen's compensation payments begin. Once their workmen's compensation payments begin, the injured officers would be entitled to regular supplemental payments from their employer. The amount of these payments would be sufficient, when added to the injured officer's workmen's compensation, to equal his or her net wages at the time of the injury. These supplemental payments are to continue as long as the officer remains a State probation officer and continues to receive workmen's compensation for the injury.

PANJ looks forward to working with Chairman Mainor in advancing this important legislation.

Bill would require AOC to Record Recidivism Rates of Probationers

New legislation sponsored by Assemblyman Ronald Dancer would require the Administrative Office of the Courts to establish a program to record and analyze recidivism rates for adults sentenced to a period of probation. The purpose of this provision is to measure the effectiveness of the State's probation rehabilitation initiatives and programs. The bill is modeled on a similar program established in 2009 to record and analyze recidivism rates for adult and juvenile inmates released from incarceration.

PANJ strongly supports this legislation as an important measure in analyzing the effectiveness of the community supervision system and, in turn, ensuring our officers have the tools and training they need to safely and effectively perform their jobs.

In Memoriam

By Dwight Covalleskie, President

It is with much sadness that I inform you of the passing of several of our members in Essex and Cumberland Counties. Janine Pearson, Robin Saunders and Christy Ezekwe were dedicated PANJ members in Essex County. Maureen Wiley was a dedicated member in Cumberland County. Whenever a member passes, it causes us to reflect upon those who touch our lives on a daily basis.

Whether they are family, friends or colleagues, the loss has a deep impact on all of us. To our brothers and sisters in PANJ, friends and colleagues of our fallen members, my thoughts and prayers are with you as we grieve their loss.



SAVE THE DATE!

PANJ-EF GOLF OUTING

May 5th 2014

At 1pm

Mercer Oaks Golf Course

For details, please visit our website at

WWW.PANJ.ORG

or our

FACEBOOK PAGE

