

PALM BEACH COUNTY CRIMINAL JUSTICE COMMISSION  
**PROBATION ADVISORY BOARD**  
Governmental Center, 12<sup>th</sup> Floor  
301 N. Olive Avenue  
West Palm Beach, FL 33401

May 21, 2015, 12:30 p.m.

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**MINUTES**

Members Present

Leonard Hanser, Chairman  
Rosalyn Baker  
Steven Cohen  
John Rivera  
Louis Tomeo

County Criminal Court  
Florida Department of Corrections  
Private Defense Attorney  
Public Defender's Office  
Clerk and Comptroller's Office

Guests Present

Glenny Cueto  
James Eisenberg  
Federico Forero  
Thomas Gano  
Neil Schiller  
Michelle Spangenberg  
Thomas York

Professional Probation Services  
Private Defense Attorney  
Professional Probation Services  
Private Defense Attorney  
PPS, and Becker & Poliakoff  
Court Administration  
Professional Probation Services

CJC Staff Present

Michael Rodriguez  
Jacquelyn Esposito  
Damir Kukec  
Allison Orr  
Candee Villapando

Executive Director  
Criminal Justice Analyst  
Research & Planning Manager  
Administrative Assistant  
Criminal Justice Analyst

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**I. Welcome/Opening Comments**

Judge Leonard Hanser, Chair, welcomed special guests, Tom Gano and Jim Eisenberg, who he invited to participate in the subcommittee.

**II. Roll Call and/or Introduction of Members & Guests**

Damir Kukec did the roll call, and Chair Hanser asked members and guests to introduce themselves. A quorum was present.

### **III. Approval and/or Amendments to the Agenda**

The agenda was approved without amendments.

### **IV. Approval and/or Amendments to the April 21, 2015 meeting minutes**

The minutes from the April 21, 2015 meeting was approved with one amendment. Mr. Louis Tomeo corrected the last sentence on page 2 where he talked about the results of an analysis of defendants for calendar year 2013-2014 placed on payment plans versus those that were not placed on payment plans; the analysis did not consider probation specifically, as was stated, but cases overall.

### **V. Updates/Old Business**

#### **A. Payment Plans Sub-Committee**

Mr. Kukec explained the issue was brought forth primarily to avoid violations of probation in trying to increase the rate of payments so that the defendant is not required to pay the large sum of fines and court costs at the end of probation. He said the Clerk's Office has a system in place that can facilitate this. He proposed establishing a subcommittee that will prepare a similar AO available to felony probationers, previously provided by Ms. Rosalyn Baker.

Judge Hanser noted that he had started requiring all defendants to enter into payment plans when they enter into plea agreements. He asked Mr. Tomeo if there are still county court judges that still do not require payment plans. Mr. Tomeo replied that all the judges are now requiring payment plans. Judge Hanser remarked that as a result, he anticipates revenue to go up and driver's license suspension due to failure to pay to go down. He said that a report from the Clerk's Office will be very useful. Mr. Tomeo further explained the Clerk's Office payment plan process in responding to questions and/or concerns that were brought up, and the group discussed its implications.

When Judge Hanser asked where to go from here, as Mr. Kukec had proposed earlier, Mr. Tomeo suggested creating a workgroup that will address everyone's concerns and write up a procedure that may be turned into an AO. Judge Hanser recommended that the subcommittee include addressing the payment plan issue, along with the notice to appear for VOPs and the technical violations/alternative sanctions; and to reach out to the State Attorney's Office to be part of the subcommittee.

#### **B. Technical Violations / Alternative Sanctions**

Judge Hanser discussed technical violations/alternative sanctions (item V.B.) and notice to appear for violations of probation (item V.C.), in conjunction with one another; addressing the latter first. He would like to have for misdemeanor courts a pre-formulated response to technical violations similar to felony courts. He referred to the AO and the form used in felony courts provided by Ms. Baker. Judge Hanser notes that one of the reasons for alternative sanctions is to take out hearings that need not be on the judges' docket.

### **C. Notice to Appear for Violation of Probation**

Judge Hanser, likewise, wanted to see misdemeanor of violation of probation handled in a parallel way with the felony violations. He explained that in misdemeanor, in the VOP affidavits, the judge can enter a warrant. But he suggested another way which would be cost-effective and save other resources, if instead a notice to appear is issued, as is indicated by statute, similar to felony courts.

### **D. Establish Subcommittee Membership and Propose Dates for Next Meeting**

Judge Hanser mentioned that he had contacted Scott Berry, President of Palm Beach County Association of Criminal Defense Lawyers for a name of a defense lawyer who may be interested in serving in this subcommittee. In response, Mr. Berry recommended Mr. Eisenberg and Mr. Gano.

Judge Hanser asked the group for further discussion/suggestion regarding the membership. Mr. Mike Rodriguez will reach out to the State Attorney's Office for a representative. Ms. Baker, Mr. Rivera, and Ms. Spangenberg also expressed interest. Mr. Rivera asked regarding the legality of the subcommittee meetings; Mr. Rodriguez said the CJC notices the public of all its meetings, so he did not see any issues. The date for the next meeting was to be determined.

## **VI. New Business**

### **A. Monitoring and Performance Review**

Mr. Kukec presented an updated version of the draft that was distributed last week. The section on the mailing out of restitution was revised; the analysis that looked at the collection rate of restitution and cost of supervision was removed, to be computed in the near future after further consultation with PPS. Mr. Kukec touched briefly upon the transition of services from Pride Integrated Services which was a long time provider, to PPS, the current provider. PPS's contract started on September 4, 2012 and is set to expire on September 3rd this year; Mr. Kukec will discuss the options and staff recommendations in the next section.

PAB monitors the misdemeanor probation contract on an ongoing basis, and prepares a formal report which looks at the accuracy, timeliness, and degree to which the provider delivers the services. One of the best features of this service contract is that it does not cost the tax payers ad valorem money, as the clients pay for the services. The review focused primarily on two aspects, i.e., to what degree is PPS in compliance with the service contract; and 2) what are the outcomes, i.e., how does probation work in the county overall (success rate, violation of probation, recidivism, etc.)

The study looked at individual cases supervised by PPS between October 1, 2012 and September 30, 2014. The study analyzed approximately 9,000 cases and randomly selected 604 cases and reviewed physical files, with the results tabulated into a database. Also reviewed case notes, personnel files, and financial records. Majority of the cases were supervised at the West Palm Beach office, some in Delray, and a small number in Belle Glade. A list of 20 items that measure

degree of contract compliance indicated that PPS was 92% in compliance base on these measures.

vised were on the mailing out of restitution payments; . He noted that the review is in progress, and staff has been working closely with PPS staff who have been very responsive. Staff will have the report ready and sent to the members in advance of the meeting.

## **B. Staff Recommendations**

### **VII. Member and Guest Comments**

Mr. Rodriguez summarized the actions decided at the meeting: 1) Staff will draft the AO with appropriate parties to establish a structured payment plan; 2) Subcommittee will be formed to address the technical violations/alternative sanctions; 3) Staff will move forward with appropriate parties regarding notice to appear for violations of probation.

### **VIII. Next Meeting** (*Discussed out of order, before New Business*)

Judge Hanser recommended setting the date for the next meeting when the committee will have to discuss PPS's current contract, and review and approve the monitoring report on PPS compliance to the contract and scope of work. Mr. Kukec had suggested on the agenda a date of May 19<sup>th</sup>, Tuesday. However, Mr. Tomeo will not be able to attend and Judge Hanser also indicated that he is likely to be on trials on Tuesdays and Wednesdays. Judge Hanser suggested May 21<sup>st</sup>, Thursday on which the committee agreed.

### **IX. Adjournment**