

Survey to Chief APOs

Issue: Protocol for probation assisting police

Question (from Susquehanna County):

Interested to know if other probation department would mind sharing protocol relating to probation assisting police under Act 215-2002. what other counties are doing with local police, if anything. Relating to active shooter scenarios and the like....

Act 215 of 2002 amended the following:

42§ 8332.8. Immunity of county probation officers. (a) Assistance of law enforcement personnel.--In addition to the provisions of section 1 of the act of August 6, 1963 (P.L.521, No.277), entitled "An act providing that probation officers shall have the power of peace officers in the performance of their duties," or any other law, any probation officer appointed by any court of record of this Commonwealth who, after obtaining permission in advance from a person authorized by the appointing court, assists Federal, State or local law enforcement officers or agents, State parole agents or county probation officers in the lawful performance of their duties shall be considered to be acting within the scope of his official duty for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of that county.

Westmoreland County

In Westmoreland County, President Judge McCormick presented information to staff as to what involvement Probation Officers were permitted to have with law enforcement. The summary report is attached (see below).

Judge McCormick met with some staff members on Monday, January 11, 2016, to discuss Officers' involvement with law enforcement. The following is a list of questions presented to Judge McCormick and his responses. Please be aware that Judge McCormick has reviewed this document.

- 1) Are Probation Officers permitted to assist law enforcement personnel in making an arrest on an offender who has new charges? (The arrest would be for the new charges not a violation of Probation/Parole/IP supervision.)

Officers should not be involved in arrests relative to warrants for new charges. The responsibility is with the law enforcement agency who issued the warrant.

As for warrants issued by a Judge of the Court of Commons Pleas or a Magisterial District Judge (i.e., for failure to appear for a hearing or for Domestic warrants), Officers are not permitted to arrest an offender who is on active supervision for those types of warrants.

- 2) Are Probation Officers allowed to conduct an arrest themselves or assist law enforcement personnel in making an arrest on an offender who has a warrant for Probation/Parole/IP violations?

Officers do have the authority to arrest an offender who has an active warrant for violations of Probation, Parole or Intermediate Punishment. Officers should not be searching for those persons or going to their residence, rather, the arrest should occur if they happen across the offender and it appears that the arrest can be performed in a safe manner.

While in the field, Officers are permitted to take a person into custody on a 72-hour detainer when there is an immediate violation and with Supervisor approval.

For safety purposes, offenders who are taken into custody at a Sub-Office should be placed in the holding cell and monitored as per policy.

- 3) Are Probation Officers permitted to ride along with the police, agents from the Attorney General's Office or others to identify offenders on supervision?

Officers are not permitted to ride along with any law enforcement personnel.

- 4) Are Probation Officers permitted to ride along with Sheriff's deputies to assist in serving warrants for those offenders on supervision?

Officers are not permitted to ride along with Sheriff's deputies.

- 5) Can Probation Officers assist law enforcement personnel when conducting drug roundups and bar sweeps? Would Probation Officers be permitted to be involved in making arrests or just be available for identification of persons on supervision?

Officers can be involved to the extent of information sharing. Officers are not permitted to be on the front lines. More specifically, if our office is contacted to provide Officers for a "roundup or a sweep," Officers may be available during specified hours to provide information as to persons on supervision. Any Officer contacted to participate in a roundup or sweep should discuss all information with his/her Supervisor and the Deputy Director and/or Director.

- 6) Can Probation Officers search an offender's residence based on information presented by law enforcement personnel?

Officers are not permitted to search in this situation. Officers cannot act as an agent for law enforcement authorities.

- 7) What are your thoughts as to a specialized search team?

A specialized search team is not necessary. All Officers should be trained to conduct searches.

- 8) If involvement with law enforcement personnel is permitted, what are your thoughts as to having a team of experienced, trained officers responsible for assisting on those occasions?

Not applicable because front line involvement with law enforcement is not permitted.

- 9) Are Probation Officers permitted to make vehicle stops?

Vehicle stops are not permitted under any circumstances.

The following issues were also discussed at the meeting on January 11, 2016.

Foot pursuits are not permitted.

The focus should always be safety first. Any Officer who comes upon a situation that appears unsafe, he/she should remove him/herself from the area, contact his/her Supervisor and discuss the next course of action.

There are other issues that arise that can be discussed on a case by case basis. For example, there could be an occasion when a Probation Officer from another county asks for a Probation Officer from Westmoreland County to accompany him/her on a home visit at a Westmoreland County location for an offender under supervision in that other county. Officers must discuss the situation with their Supervisor who will then give approval if appropriate.

Officers should contact their Supervisor to discuss all situations. If a situation occurs in the field and the Officer is unable to contact the Supervisor prior to taking action, he/she should contact his/her Supervisor as soon as time permits.

Immediate incarceration for offenders who test positive for heroin is not always appropriate. Officers should consider all factors of an offender's case, prior violations, treatment involvement and the severity of the heroin addiction.