



209 INVESTIGATION COMMITTEE

Time: 11:00 AM

Location: WebEx and 3019 County Complex Dr., Room 204, Canandaigua, NY 14424

September 23, 2021

MEMBERS PRESENT

In Person: Supervisors Todd Campbell, Peter Ingalsbe, Daniel Marshall, Kristine Singer, and Dominick Vedora.

OTHERS PRESENT

In Person: Chairman Marren, Supervisor David Baker, County Administrator Chris DeBolt, Deputy County Administrator Brian Young, First Assistant County Attorney Lea Nacca, Human Resources Director Michele Smith, Daily Messenger Reporter Mike Murphy

Via WebEx: County Attorney Holly Adams, Outside Counsel Scott Rogoff, Joshua Atkins from Spectrum News, and Clerk to the Board Kristin Mueller.

CALL TO ORDER

The meeting of the 209 Investigation Committee was called to order at 11:00 AM by Chairman Campbell. He noted that all five-committee member were in attendance in room 204. Chairman Campbell also appointed Supervisor Ingalsbe to be the Vice-Chairman of the committee.

ITEM NO. 1

Review Scope and Purpose & Rules of Procedure

First Assistant County Attorney, Lea Nacca, read the scope and purpose & rules of procedure for the 209 investigation committee. Supervisor Marshall asked that language be added that the Vice-Chair have the same permissions if the Chair is unavailable. Chairman Campbell added that under item (E) public comment, that he would like to request that members of the public or press that would like to speak or ask questions please talk with him prior to the meeting. This will allow for him to make sure that all questions or comments are relevant to agenda items and that the committee will have enough time to address them after any executive session. As stated in the item (E) it is acceptable and preferred if questions or comments are provided in writing. This will also allow for them to be enter into the minutes.

*Scope and Purpose & Rules of Procedure are available at the bottom of these minutes.

ITEM NO. 2

Executive Session

At 11:12 PM, Supervisor Marshall made the motion, seconded by Supervisor Vedora, to go into executive session regarding discussion on proposed, pending, or current litigation; motion carried.

At 12:43 PM, Supervisor Marshall made the motion, seconded by Supervisor Vedora, to leave executive session; motion carried.

ITEM NO. 3

Initial Subpoenas

Chairman Campbell listed eight initial subpoenas that will be issued.

1. Any and all documents, notes, reports, or communications, whether in electronic form or hard copy, related to the recent investigation of

- Ontario County Correction Officers and inappropriate grooming and/or sexual contact with persons incarcerated in or formerly incarcerated in the Ontario County Jail (“the Correction Officer Investigation”).
2. Any and all documents, emails, and/or communications to or from the Special Prosecutor who conducted the Correction Officer Investigation, or the Special Prosecutor’s staff, to or from Sheriff Kevin Henderson, David Frasca, any administrative or supervisory staff and/or Investigators in the Ontario County Sheriff’s Office.
 3. Minutes and/or notes related to any Ontario County Sheriff’s Office Administrative meetings in 2020 and 2021, regarding Sheriff’s Office staff interacting or not interacting with staff employed in the Ontario County Human Resources Office, County Attorney’s Office, or County Administrator’s Office.
 4. Any and all reports made by the Ontario County Jail and/or Sheriff’s Office to the New York State Commission on Corrections since January 1, 2019.
 5. Any and all records or documents placed into any shredding bin by the Undersheriff during the time period of August 23, 2021 to September 16, 2021, which records were later recovered by Sheriff’s Office staff and retained.
 6. Any and all documents or communications exchanged between the Ontario County Sheriff or Undersheriff and the “Sexual Harassment Committee” or “designated liaison officer” (as referenced in Section 2-17 of the Ontario County Sheriff’s Office Standard Operating Procedures) from January 1, 2018 to the present.
 7. Any and all personnel records, disciplinary records, and internal and/or inmate complaints maintained by the Ontario County Sheriff’s Office regarding the two Ontario County Correction Officers who were the subject of the Correction Officer Investigation.
 8. Any and all documents relating to, or communications between the Ontario County Sheriff and the Undersheriff relating to, the Undersheriff’s resignation.

ITEM NO. 4

Discussion of frequency of Investigation Committee meetings and future meeting dates

Chairman Campbell asked the committee if they would prefer to meet in two or three weeks or when materials are returned to the committee. The committee agreed to meet in two weeks. The next meeting was set for Thursday, October 7, 2021 at 11:00 am. The location is still to be determined plus there will also be an online option via WebEx.

OUTSIDE COUNSEL

Mr. Scott Rogoff let the committee know that his office has been told on more than one occasion by Sheriff Kevin Henderson’s representative that he will be resigning, but he has yet to receive a resignation letter or a resignation date.

ADJOURNMENT

Motion to adjourn was made at 12:50 PM by Supervisor Ingalsbe, seconded by Supervisor Singer and the motion carried.

**RESPECTFULLY
SUBMITTED**

Kristin A. Mueller, Clerk to the Board

ONTARIO COUNTY §209 COMMITTEE RULES OF PROCEDURE

SCOPE AND PURPOSE

Pursuant to County Law §209, this Committee has been established to investigate the conduct and performance of official duties of an officer or employee paid from County funds. Although the Ontario County Board of Supervisors authorized an independent investigation, which concluded that acts of wrongdoing by the Sheriff and certain members of his administration did occur, the Sheriff refused to participate in the independent investigation, or provide relevant documents to the investigator, which leaves certain important questions unanswered and also prevents the County from fulfilling its legal obligation to fully investigate all of the allegations of workplace misconduct.

This Committee shall therefore investigate persons, activities, and operations within the Ontario County Sheriff's Office that have the potential of exposing Ontario County to liability. This investigation will include, but not be limited to, obtaining documents and testimony related to:

1. Numerous complaints received in late 2020 related to practices in the Sheriff's Office and the conduct of Sheriff Henderson;
2. Matters recently handled by a Special Prosecutor, which resulted in the recommendation that two Correction Officers be terminated;
3. Compliance with the NYS Commission on Correction's reporting requirements related to reportable incidents at the Ontario County Jail;
4. Any practices or personnel within the Ontario County Sheriff's Office contributing to a work environment which discourages the reporting of compliance violations; discourages the submission of workplace complaints to individuals or departments outside of the Sheriff's Office; promotes a culture of silence; or creates fear of retaliation for reporting workplace issues.

PROCEDURES

- A. The Chair of the Committee shall appoint from among the members of the Committee a Vice Chair to serve at his or her pleasure who, in the absence or inability to act of the Chair, shall possess all powers and perform all the duties of the Chair of the Committee.
- B. Notice of the Committee's meetings will be provided to the public and shall include the designated location of the meeting and a WebEx link for remote attendance/participation.
- C. At least three members of the Committee must be present to represent a quorum and take action.
- D. Minutes shall be kept of the public meetings.
- E. Digital recordings of the public meetings will be maintained.
- F. Public comments shall only be accepted at the meetings at the discretion of the Chair and may be limited in time. Requests from members of the public to comment must be directed to the Committee Chair prior to the start of the meeting. Written comments from the public will be accepted through electronic or regular correspondence and will be copied to all committee members and included in the record as part of the minutes to the most recent meeting.
- G. The Chair of the Committee will maintain Order during discussion and may obtain the guidance of outside counsel or staff on any issue of process and/or procedure.
- H. Upon a majority vote of the Committee members present, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, the Committee may conduct an executive session.
- I. The Chair of the Investigation Committee, or in his absence, the Vice Chair, shall have the power to issue subpoenas requiring a person to attend before the committee and be examined in reference to any matter within the scope of the investigation, and in a proper case to produce all books, records, papers and documents material or relevant to the investigation.
- J. Any subpoenas issued hereunder shall be regulated by the Civil Practice Law and Rules, pursuant to County Law §209.
- K. The Chair of the Investigation Committee, or in his absence, the Vice Chair, shall administer the oath to any witness.
- L. The Investigation shall be deemed complete upon the adoption of any findings, conclusions, or recommendations, if any, with respect to the Committee's Scope and Purpose. Any such findings, conclusions or recommendations shall be forwarded to the Ontario County Board of Supervisors for consideration and, if appropriate, final action.

RIGHT TO KNOW

All records considered by the Committee are subject to the New York State Public Officers Law and Freedom of Information Law, and any exemptions to public access set forth therein. Any request for records must be submitted to the Ontario County Records Officer for processing.