



# COUNTY OF ERIE

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**MARK C. POLONCARZ**  
COUNTY EXECUTIVE

March 18, 2013

Erie County Legislature  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

**Re: Jail Management Telephone Revenue**

Dear Honorable Members:

The Division of Budget and Management and the Erie County Sheriff's Office have completed a review of revenue related to the use of telephones by inmates in the Erie County Holding Center and the Correctional Facility. The attached resolution for your approval establishes a policy for the appropriation of said funds.

Should your Honorable Body require further information, please contact the Division of Budget and Management and the Office of the Sheriff. Thank you for your consideration on this matter.

Sincerely,

Mark C. Poloncarz, Esq.  
Erie County Executive

Timothy B. Howard  
Erie County Sheriff

## **MEMORANDUM**

To: Honorable Members of the Erie County Legislature  
From: Office of the County Executive and the Office of the Sheriff  
Re: Jail Management Telephone Revenue  
Date: March 12, 2013

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### **SUMMARY**

The attached resolution establishes a policy for the appropriation of telephone revenue received by the Erie County Sheriff's Division of Jail Management.

### **FISCAL IMPLICATIONS**

This resolution establishes policies and procedures for the proper utilization of telephone revenue in the Sheriff's Division of Jail Management. The resolution does not appropriate funds at this time.

### **REASONS FOR RECOMMENDATION**

The Division of Budget and Management and the Office of the Sheriff have completed a review of the revenue generated through the commissary fund and telephone revenue. The Sheriff will continue to use commissary funds in compliance with New York State Law and New York State Commission of Correction regulations which dedicates that funds be used for prisoner welfare and rehabilitation.

Under the attached resolution, the County will establish a policy which treats telephone revenue as general fund revenue, complying with established County procedures, and dedicates the funds to the general operation of the Erie County Holding Center and Correctional Facility.

### **BACKGROUND INFORMATION**

In 2012 the Office of the Comptroller conducted an audit of the Sheriff's Commissary Fund. One of the issues raised in the audit concerned the use of reimbursement received by the Sheriff's Office from a private vendor under contract to provide telephone services to the prisoners and inmates of the Holding Center and Correctional Facility. The telephone revenue had been managed by the Sheriff's Office in their own account in a manner similar to the Commissary funds.

The County Attorney has opined that in accordance with New York State County Law, the Sheriff does not have sole control of the telephone revenue, as he does with commissary funds, and that the revenue must be remitted to the Erie County Comptroller and appropriated through

established County procedures.

Based on this recommendation, the County Executive instructed the Division of Budget and Management to work with the Sheriff's Office to review the telephone revenue issue and develop recommendations and a cooperative agreement on the proper policies and procedures for the utilization of said funds.

As a result of the review and based upon the County Attorney's opinion, it became clear that all funds should be handled as general fund revenue subject to established County procedures. The Sheriff has already deposited the remaining funds from a "signing bonus" associated with the Sheriff's 2012 award of a telephone contract to a provider with the Comptroller's Office.

Upon review of past practices, it was also determined that the Sheriff's Office had used telephone revenue to fund required jail expenses that should have been appropriated in their general fund budget but had not been due to County budgetary constraints. Examples of such items included computer system maintenance contracts, law library supplies, vacuum cleaners and other items. It appeared essential that the practice of using the telephone revenue to support the general operation of the Jail needed to continue in order to avoid placing a financial burden on other areas of the County budget and to properly maintain facility operations. The Sheriff and County Executive agree that all telephone revenue should be dedicated to the operation of the Jail Management Division.

The Division of Budget and Management and the Division of Jail Management will work to monitor the telephone revenue in order to establish revenue patterns that can be utilized for future appropriations in the Division of Jail Management. In addition, a detailed review of the vendor telephone contract will be undertaken in order to assure understanding of all provisions of the contract and its' impact on revenue earnings.

In summary, the Sheriff and County Executive agree and recommend to the Legislature the following:

- All telephone revenue shall be deposited with the Erie County Comptroller. The Sheriff's Office has already complied with this request for the signing bonus and will comply with monthly telephone commission revenues.
- Telephone revenue shall be dedicated to the general operation of the Holding Center and Correctional facility.
- Telephone revenue shall be held in the County's trust account until appropriated through the Legislative process for the Jail Management Division based upon the recommendations of the Sheriff and County Executive.
- The Sheriff will continue to ensure that Commissary revenue is utilized as required under New York State Law which states that funds be used, "for prisoner welfare and rehabilitation."

## **CONSEQUENCES OF NEGATIVE ACTION**

Failure to approve this resolution will result in improper financial practices.

## **STEPS FOLLOWING APPROVAL**

All telephone revenues will be remitted to the Trust Account as monitored by the Comptroller's Office and any future appropriations will be required to be initiated by the Sheriff and/or County Executive subject to Legislature approval.

**A RESOLUTION SUBMITTED BY  
OFFICE OF THE COUNTY EXECUTIVE AND OFFICE OF SHERIFF**

**RE: Jail Management Telephone Revenue**

WHEREAS, the Sheriff's Jail Management Division receives revenue through the operation of a commissary and also for the use of telephones by inmates in the Holding Center and Correctional Facility; and

WHEREAS, in the past the Office of the Sheriff has managed telephone revenue under the control of the Sheriff in a manner similar to the use of Commissary funds; and

WHEREAS, it has been determined that the phone revenue is not commissary revenue and should therefore be managed as general fund revenue to the County; and

WHEREAS, the County Executive and the Sheriff agree that the telephone revenue should be dedicated to the operation of the Holding Center and Correctional Facility.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that all telephone revenue received by the Office of the Sheriff shall be deposited with the Comptroller's Office to be recorded and held in a trust account until properly appropriated; and be it further

**RESOLVED**, that all appropriations of said funds shall be dedicated to the operation of the Jail Management Division, subject to the approval of the Erie County Legislature and based upon the recommendations of the Sheriff and County Executive; and be it further

**RESOLVED**, that the Erie County Sheriff continue to ensure that all Commissary revenue be utilized in accordance with New York State Law for prisoner welfare and rehabilitation; and be it further

**RESOLVED**, that certified copies of this resolution be transmitted to the Sheriff, County Executive, Division of Budget and Management, and Office of Comptroller.