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COUNTY OF ERIE

JEREMY A. COLBY
COUNTY ATTORNEY

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SECOND ASSISTANT COUNTY ATTORNEY

September 16, 2011

Via Hand Delivery

Mark C. Poloncarz
Erie County Comptroller
95 Franklin Street
Buffalo, New York 14202

RE: September 15, 2011 Correspondence

Dear Mr. Poloncarz:

I am in receipt of correspondence dated September 15, 2011 from Michael R. Szukala, Deputy Comptroller – Audit, to Brian McLaughlin, Director of the Department of Probation, demanding a response by today at 3:00 PM. Mr. Szukala's letter was prompted by a purported "anonymous tip" to your Office. As you know, Mr. Szukala's correspondence inquired about a probation violator "roundup" and whether Peter M. Vito, Commissioner of Central Police Services, participated in that "roundup." Mr. Szukala's letter seeks information about Probation Department policies and procedures, specific information about the "roundup," and information about Commissioner Vito's law enforcement qualifications.

Your Office has no authority to make such an inquiry or to demand compliance by today. New York County Law §577, Erie County Charter Article 19, Section 19.02, and Erie County Code Article 12, Section 12.02 set forth your duties and powers. The Erie County Comptroller's Office is responsible for **fiscal and/or accounting functions** related to the County's operation. The Comptroller's Office has no authority to inquire about: (1) specific law-enforcement activities; (2) departmental policies and procedures related to carrying out a law-enforcement activity; or (3) the identity of any individuals who may have participated in law-enforcement activity. Mr. Szukala opines that the alleged conduct would pose "an exceptional liability risk to the County." Evaluating exposure to the County is my responsibility. This inquiry far exceeds your Office's fiscal/accounting duties. Consequently, Mr. McLaughlin will not be responding.

Your inquiry is transparently political in nature. If Mr. Szukala has time to make such an inquiry, then perhaps your Office does not really need the additional funding provided by the Fiscal Stability Authority. I am copying them on this letter to make them aware of how Your Office is using taxpayer dollars (including their funding).

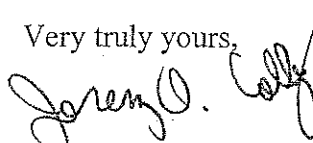
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Here is a non-anonymous tip for you: partisan use of the Fraud, Waste, and Abuse hotline is possibly fraudulent, but certainly wasteful of taxpayers resources, and abusive. For example, your inquiry to Director McLaughlin has nothing to do with fraud, waste, or abuse.

Finally, Mr. Szukala suggests that Commissioner Vito "does not possess any formal police agency experience or training." This is inaccurate. Commissioner Vito served as an Erie County Sheriff's Deputy for 5 years and has taken the basic course for peace officers and has received training in firearms, executing search warrants, surveillance, and numerous other topics.

Thank you for bringing this matter to my attention. In order for me to evaluate the tip further, please provide me an electronic copy or recording of the tip by Monday, September 19, 2011 at 3:00 PM. Please also forward the previous tips concerning Mr. Vito referenced in Mr. Szukala's letter. Do not hesitate to contact me in the future with any other anonymous tips received by your Office related to potential exposure facing the County.

Very truly yours,



JEREMY A. COLBY
Erie County Attorney

cc: Hon. Chris Collins
Erie County Legislature
Erie County Fiscal Stability Authority
Peter M. Vito, Commissioner
Director Brian McLaughlin