

**Amendment to
COMM. 12E-4 (2016)
July 14, 2016**

Amend Comm. 12E-4 (2016) to include the following RESOLVED clause:

RESOLVED, that all new positions, including the four requested in this document, will be included in the 2017 budget be designated as “new”; and, be it further



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OFFICE OF THE ERIE COUNTY DISTRICT ATTORNEY

MICHAEL J. FLAHERTY, JR.
ACTING DISTRICT ATTORNEY

June 20, 2016

The Erie County Legislature
92 Franklin Street
Buffalo, NY 14202

Re: District Attorney's Office
Justice Court Notifications
Immediate Consideration Requested

Honorable Members:

Enclosed please find a proposed resolution and accompanying memorandum requesting authorization to create additional positions within the District Attorney's Office in order to meet the additional duties now being imposed on this office as a result of Opinion 15-197(B) issued by the Advisory Committee on Judicial Ethics.

Thank you for your immediate consideration of this matter. If your Honorable Body requires any further information, kindly contact the Office of the District Attorney and we will be happy to accommodate your request.

Very truly yours,


MICHAEL J. FLAHERTY, JR.
ACTING DISTRICT ATTORNEY

MJF/ah
Enclosure

Cc: Mark C. Poloncarz, County Executive
Robert Keating, Director of Budget & Management

Comm. 12E-4

ACCOMPANYING MEMORANDUM

To: Erie County Legislature
From: Michael J. Flaherty, Jr., Acting District Attorney
Date: June 20, 2016
Re: District Attorney's Office
Justice Court Notifications
Immediate Consideration Requested

I. Summary of Recommended Action

The proposed resolution and accompanying memorandum request authorization to create four support staff positions within the District Attorney's Office: one Legal Data Systems Coordinator, JG7 and three Data Entry Operators, JG4.

II. Fiscal Implications of Proposal

The additional costs to this office for 2016 upon hiring in August will be salary and related fringe costs of approximately \$74,500. The funds required for these new positions will come from savings generated from the 2016 fringe benefit line of the District Attorney's appropriations. Our office has the necessary office space; and any additional computer equipment required would be purchased through asset forfeiture funds.

III. Reasons for Recommendation and Background of Proposal

The Justice Courts Bureau prosecutes cases 38 local (city, town and village) courts located throughout Erie County, with approximately 65 judges and 7 acting judges in those courts. Previously, each judge had his/her court clerk notify victims, witnesses and law enforcement of all future court dates. These court dates include, felony hearings, pre-trial conferences, pleas, trials, sentencing and adjournments. On May 5, 2016, the Erie County District Attorney's Office was provided Opinion 15-197(B) from the Advisory Committee on Judicial Ethics. The opinion states in part "A town or village justice may not assist the District Attorney by contacting each prosecution witness, complainant and police officer concerning upcoming court appearances. (2) Opinion 09-173 is hereby amended so that justice courts should not notify witnesses for the District Attorney, even if the court is willing to do the same for defendants and defense attorneys on request."

Each of these judges must comply with this opinion and has made the District Attorney's Office aware that notifying witnesses should be our responsibility. Approximately 14,000 or more arraignment notifications are generated annually, but there are other notices required during a criminal case. The estimation is closer to over 80,000 notifications after the initial arraignment. These 38 courts have different schedules and conducts arraignments as arrests are processed. Accordingly, our office will be inundated with next court date information from each of these courts at any given time. The Erie County District Attorney's Office now has the duty of notifying all victims, witnesses and law enforcement officials for court appearances so that cases are prosecuted and justice is served. If we do not notify these individuals for court, the County runs the risk that defendants will be released from jail, and cases will be dismissed for failure to prosecute.

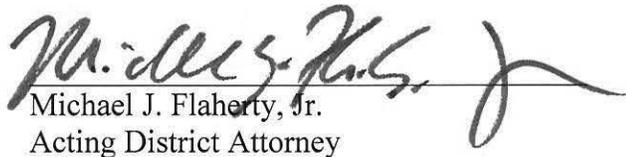
Currently our office simply does not have the manpower necessary to take on such a voluminous task. Having never taken on this responsibility, at this point we believe that four additional support staff positions are necessary to perform all necessary tasks involved. We believe it is necessary to create a one Legal Data Systems Coordinator (JG-7) and three Data Entry Operators (JG-4) to assist in the undertaking.

IV. Consequences of Negative Action

Failure to approve this request would result in the inability to successfully prosecute our Justice Court cases efficiently and expeditiously as required under the parameters of the law.

V. Steps Following Approval of Measure

The District Attorney's Office will work with the Personnel Department and the Division of Budget and Management to implement this proposal.


Michael J. Flaherty, Jr.
Acting District Attorney

PROPOSED RESOLUTION

Re: District Attorney's Office
Justice Court Notifications
Immediate Consideration Requested

WHEREAS, the District Attorney's Office is now responsible for additional duties in order to efficiently prosecute cases within our 38 town & village courts; and

WHEREAS, the manpower to perform those additional duties currently does not exist with the current office structure; and

WHEREAS, the funds necessary to effectuate the above changes are available within the District Attorney's adopted appropriations for 2016.

NOW, THEREFORE, BE IT

RESOLVED, effective July 1, 2016 that the Erie County Legislature does hereby authorize the creation of four positions in the District Attorney's Office, in fund center 11400, cost center 1140020: one Legal Data Systems Coordinator (JG7) (B100 #8712), and three Data Entry Operators (JG4) (B100 #8722); and be it further

RESOLVED, that the costs for the full time positions for the remaining pay periods of 2016 will be \$49,725 and fringe of \$24,862 is available within the fringe benefit line of the District Attorney's 2016 budget, and be it further

RESOLVED, that the Director of Budget, the Commissioner of Personnel and the District Attorney are authorized to make the necessary adjustments to effectuate the implementation of this resolution; and be it further

RESOLVED, certified copies of this resolution be forwarded to the Erie County District Attorney, the Erie County Executive, the Commissioner of Personnel and the Director of Budget and Management.