

March 2, 2011

PUBLIC SAFETY COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR KOZUB.  
CHAIR MILLER-WILLIAMS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
  - a. INTRO 4-2 (2011)  
**WHYTE:** "Resolution Concerning EC Community Corrections Advisory Board"  
(5-0)
  - b. INTRO 4-5 (2011)  
**WHYTE:** "Adding Two Voting Members to the EC Community Corrections Advisory Board"  
(5-0)
  - c. COMM. 4M-14 (2011)  
**CITY OF BUFFALO COMMON COUNCIL MEMBER RIVERA:** "Letter to Legislature Concerning EC Community Corrections Advisory Board"  
(5-0)
  - d. COMM. 4M-15 (2011)  
**HISPANICS UNITED OF BUFFALO EXECUTIVE DIRECTOR:** "Letter to Legislature Concerning EC Community Corrections Advisory Board"  
(5-0)
2. INTRO 4-3 (2011)  
**WALTER, BOVE, WHALEN, AS AMENDED  
DIXON & MILLS**  
WHEREAS, New York State Penal Law §125.27 outlines the crimes which are eligible for prosecution of a charge of murder in the first degree; and

WHEREAS, the statute outlines thirteen separate categories of murder which would qualify for a such a prosecution; and

WHEREAS, the statute does not include a commission of murder in which the murderer acted in a cold blooded and premeditated manner, with excessive barbarism; and

WHEREAS, recently, the conviction of Muzzammil Hassan of second degree murder reveals a glaring flaw in the current penal law; and

WHEREAS, a first degree murder conviction was not possible and not pursued, because the crime did not fit into any of the thirteen categories of first degree murder; and

WHEREAS, the facts of the present case demonstrate the need to include such a cold blooded, pre-meditated murder into the definition of murder in the first degree; and

WHEREAS, while murder in the first degree and murder in the second degree are both class A-1 felonies, the minimum sentence for conviction of each crime is different; and

WHEREAS, a first degree murder conviction brings a minimum sentence of twenty-five years in prison, pursuant to New York State Penal Law §70.00 and a maximum of life without parole; and

WHEREAS, a second degree murder conviction brings a minimum sentence of only fifteen years and a maximum of 25 years to life; and

WHEREAS, as such, creating a category of murder in the first degree to include cold blooded, pre-meditated murders with aggravating factors, such as excessive barbarism, would have the immediate effect of increasing the minimum sentence for such a murderer.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature requests the New York State Legislature to amend New York State Penal Law §125.27, murder in the first degree, to include a category for cold blooded, pre-meditated murder accompanied by aggravating factors, such as excessive barbarism; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, Senate Majority Leader Dean Skelos and the local delegation to the New York State Legislature.  
(5-0)

3. INTRO 4-4 (2011)  
**BOVE, MILLER-WILLIAMS & WHALEN**

WHEREAS, the Erie County Community Correctional Advisory Board was established by the Erie County Legislature Intro 16-4 (2010) for the express purpose of discussing correctional facilities programs and services to offer suggestions and advice for the improvement of such programs at the Erie County Correctional Facility and the Erie County Holding Center; and

WHEREAS, the Erie County Community Corrections Advisory Board indicated at their initial meeting held on February 15, 2011 that the Advisory Board's membership should be expanded to include two additional representatives; and

WHEREAS, the Erie County Community Corrections Advisory Board has indicated that one of the additional members be recommended to the Erie County Legislature by the Hispanic community of Erie County; and

WHEREAS, the Erie County Legislature believes that the other additional member of the Erie County Community Corrections Advisory Board should be selected from among interested residents of Erie County after an open and transparent review process is conducted involving all interested parties by the Erie County Legislature's Public Safety Committee.

NOW, THEREFORE, BE IT

RESOLVED, that the two additional voting members are added to the Erie County Community Corrections Advisory Board and that one additional member be recommended by the Hispanic community of Erie County and one additional member be recommended by the Erie County Legislature's Public Safety Committee for appointment by the Erie County Legislature; and be it further

RESOLVED, that copies of this resolution be sent to the Erie County Community Corrections Advisory Board and all organizations representing the Hispanic community of Erie County.  
(5-0)

4. COMM. 4E-6 (2011)  
**DISTRICT ATTORNEY**

WHEREAS, funds for the investigation and prosecution of crimes under Penal Law Article 265 have been made available to the District Attorney's Office from the New York County District Attorney's Office in the amount of \$14,438; and

WHEREAS, these funds will be utilized in the rewarding of current staff by providing for performance based bonuses to Assistant District Attorneys to be given at the discretion of the District Attorney in accordance with the uses specified by the receipt of these monies.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby provide authorization to reallocate funds within the 2011 General Fund of the District Attorney, Fund 110, Fund Center 11400 as follows:

	<u>INCREASE</u>
Revenues	
466130 Other Unclassified Revenue	<u>\$ 14,438</u>
<u>Appropriations</u>	
500000 Full time salaries	<u>\$ 12,414</u>
502000 Fringe Benefits	<u>2,023</u>
	<u>\$ 14,438</u>

and be it further

RESOLVED, the Department of Personnel is authorized to pay bonuses as per the discretion of the District Attorney; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Erie County District Attorney, the Erie County Executive, Erie County Personnel and the Director of Budget, Management and Finance.  
(5-0)

5. COMM. 4E-18 (2011)

**COUNTY EXECUTIVE**

**AS AMENDED**

WHEREAS, the Department of Emergency Services has been awarded homeland security grants from the U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA); and

WHEREAS, the said funds will enable the Department of Emergency Services to hire a Part Time Interoperable Communications Consultant to assist with interoperable communications projects; and

WHEREAS, this position will be allowed to continue through future homeland security grant funding.

NOW, THEREFORE, BE IT

RESOLVED, that a portion of the homeland security funding will be used to create a Part Time Interoperable Emergency Communications Consultant, job group 14 (B-100 6111) in the amount of \$29,203.00; and be it further

RESOLVED, that authorization is hereby provided to add one position of Part Time Interoperable Emergency Communications Consultant, job group 14, in the budget of the 2009-2012 State Homeland Security Program, HS167SHSP0912; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to transfer available funds in Homeland Security Grant HS167SHSP0912, from account 516020 Professional Services, to account 500010 Part Time salaries in the amount of \$29,203, to fund this request; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive's Office, the Division of Budget and Management, the Department of Personnel, the Department of Emergency Services c/o Melissa Calhoun, the Department of Central Police Services, the County Comptroller, and the County Attorney.

(5-0)

**CHRISTINA W. BOVE**  
**CHAIR**