

## Minutes

### Erie County Charter Revision Commission

#### Public Safety Standing Committee

January 5, 2006

The Public Safety Standing Committee met at its regularly scheduled time and place. The meeting was brought to order by Chairman Flaherty and the roll was called.

Present at the meeting by invitation was Erie County District Attorney Frank Clark; however, there were no members of the public in the audience.

District Attorney Clark began his remarks by noting that under New York Law and its Constitution, no one, other than the electorate, has the authority to dictate how he does his job. Nevertheless, under the current procedure, the Erie County Executive exercises control over the DA's budget and that too often the administrative employees in the budget office do not understand the nature of the DA's office or the operation of a large law firm. Although Mr. Clark never liked the process, until the events of the last sixteen months, he had no incentive to take an active role.

New York County Law, Mr. Clark observed, places the authority of setting the number of assistant district attorneys and their salaries exclusively in the Legislature. Specifically, County Law mandates that the Legislature shall provide the DA with the means sufficient for him to do his job. In other words, the Legislature has the ability to set the number of staff and the salary structure allotted to the DA to accomplish his mandated tasks of investigating and prosecuting criminal activity. Mr. Clark believes it would be more appropriate for him (and his successors) to submit his budget request directly to the legislature, rather than through the office of the budget director or the County Executive, and he recommends the County Charter reflect the County Law.

Mr. Clark emphasized the importance of independence necessary for him to properly perform his job and he observed that twice during the last few years his office investigated and prosecuted members of the County Executive's staff. In his words, the fact that a target of an investigation can control the budget of the investigator is not a good thing. While Mr. Clark quickly noted that the reduction the DA budget following the indictment of members of the County Executive's inner circle was not, in his opinion, connected, the appearance may be of concern to the public.

The largest expense for the DA's budget is personnel. Most of those funds are allocated for the salaries of the Assistant District Attorneys, who are appointed by, and serve at the pleasure of, the DA, while most of the remainder of the staff comprises civil service employees. The budget provides for both the number of personnel and the pay grade of each position. Mr. Clark observed that at many large prosecutors' offices (the Erie County DA would rank among the top five largest law firms in Buffalo) the DA receives

a lump sum to use as he sees fit. DA Clark would like to have that same flexibility. In the current process, the budget allows for a fixed number of employees at different County pay grades (e.g., twenty ADAs at a pay grade of 13; seventeen ADAs at a pay grade of 14, and so forth) and Mr. Clark has the discretion to place any ADA in any pay grade, so long as there is a line in the budget for an ADA at that particular pay grade. DA Clark emphasized that freeing him from the constraints currently placed on him, would allow him to use the same amount of funding, but distribute it in such a way to better match need, performance and value. In other words, he, rather than outsiders, would decide whether the DA's office needs the services of a paralegal or investigator and how much each should be paid. (His proposal would not affect the salaries for the union staff members.) He also noted that outside grants pay for the salaries of at least twenty-five percent of his staff, but that every grant position must be used as the grantor directs and that he lacked the discretion to use funds outside of the guidelines of the grant.

At 10:25 AM, Chairman Arthur appeared and actively participated in the discussion.

To summarize, with regard to the budget process, the District Attorney requests: the ability to submit his requests directly to the legislature; receipt of a lump-sum for personnel; the authority to independently hire every type of employee; and, the ability to spend his budget as he sees most effective.

Commissioner David Kelly inquired whether the DA knew of any restriction of his ability to submit his budget directly to the legislature. Mr. Clark was not aware of any legal encumbrance and speculated that "that's the way it's always been done."

A member of the committee asked Mr. Clark for his opinion on the consolidation of police services. He observed that the merger of police departments from across the County into one large metro police force was unlikely due to the inevitable political opposition from those interested in the status quo. He did express hope that some specialized investigative services could be provided on a County basis through the establishment of task forces. For example, certain types of crime require expertise, training and experience to combat and there is no reason that joint task forces, comprising members from different police departments, could not form to investigate crimes such as arson, murder and computer-assisted larceny. He pointed out that while the Buffalo Police Department has several detectives with intense experience investigating murders, the Buffalo Homicide Bureau lacks the man-power to thoroughly investigate every one of its cases to the point of exhaustion. Meanwhile, some suburban departments have funding for training and personnel, but have little experience in actual investigation. Thus, when confronted with the rare murder, they often seek the assistance of a veteran detective from Buffalo or the New York State Police. Through the use of multi-jurisdictional task forces, the individual municipal police departments would improve their ability to cases which might otherwise cause them difficulty.

While it appears beyond the call of the Commission, Mr. Clark also opined that Erie County might benefit from a District Court system, similar to that in operation in suburban Long Island. Currently, his office must appear in over thirty different City,

Town and Village Courts. Not all of the justices in those courts are attorneys, and many of the positions are part-time. A District Court system would reduce the number of courts, require full-time justices, and save the taxpayers (e.g. transportation of prisoners alone would cost less).

District Attorney Clark promised to attend our meeting scheduled for January 19<sup>th</sup>.

There being no further business, the meeting was adjourned on motion of Mr. Kelly.

All Commissioners were present except Mr. Newman.