

**RULES, ENACTMENTS & INTERGOVERNMENTAL RELATIONS COMMITTEE
HELD IN ROOM #318
PUTNAM COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512**

Members: Chairwoman Addonizio and Legislators Ellner & Nacerino

Monday

June 24, 2024

(Audit Meeting Immediately Followed)

The meeting was called to order at 6:00pm by Chairwoman Addonizio who requested Legislator Ellner lead in the Pledge of Allegiance. Upon roll call Legislators Ellner and Nacerino and Chairwoman Addonizio were present.

Item #3 – Discussion/ Request from District Attorney to Address Questions & Concerns Raised at May 16th Rules Committee Meeting (Law Department’s Request to PC Clerk for Records)

Chairwoman Addonizio stated District Attorney Tandy requested to address the Rules Committee to talk to questions and concerns that were raised at the May Rules Meeting.

District Attorney Tandy stated he was sorry to have sent his email so late. He explained he was on vacation and planned to send the email first thing in the morning, but the power was out. He requested to be allowed to submit additional documentation.

Chairwoman Addonizio made a motion to waive the rules and accept the additional; Seconded by Legislator Ellner. All in favor.

District Attorney (DA) Tandy stated there was a Rules Meeting of the Legislature held on May 16, 2024, that he was not present and nor was aware of the topics that were going to be discussed. He stated it was brought to his attention that his office was mentioned at said meeting and that he should listen to that meeting, which he did. He stated he was disheartened at what he heard. He believes some of the things said needed to be addressed. He stated he would like to set the record straight as to some legal and non-factual statements that were made. He read from the material he submitted. He explained there were emails between the DA’s Office and the County’s Law Department. He read from an email dated April 29, 2024 at 10:24am from Deputy County Attorney Daniel Ravo, who he believes is the most junior member of the County Law Department, which was sent to Jason Marquard the most junior Assistant District Attorney (ADA). He stated the email from Deputy County Attorney Ravo was a request for a DA Office file, and that Chana Krauss, Chief ADA, informed him that ADA Marquard handled file requests from the DA’s Office. He stated on Monday, April 29, 2024 at 10:37am Chief ADA Krauss responded to the email, stating she had a few questions about the request, and what year was the case from because when she searched the internal system for the file it was not found. He stated on April 29, 2024 at

1:28pm Deputy County Attorney Ravo replied to Chief ADA Krauss offering an apology and a corrected name of the file. (Note: the 4/29/2024 email from Chief ADA Krauss cc'ed ADA Marquard. Beginning with Monday April 29, 2024 at 2:40pm additional members of the DA's Office were included on the "cc" list of the emails.) He continued reading from the emails: Monday, April 29, 2024 at 2:40pm from Chief ADA Krauss to Deputy County Attorney Ravo, she clarified ADA Marquard handles FOIL requests for the DA's Office, and she did not recall telling him that ADA Marquard should be contacted for these types of file requests. He stated in fact Chief ADA Krauss had never met Mr. Ravo or had a discussion with him about this. He stated also in that email she explained some procedures related to this request and that the request for the file be sent to her so she could pass it along to District Attorney Tendy, and they would proceed from there. He stated you can see from the date and time of these emails that there were four (4) correspondences that the DA's staff would do what they can, but they needed the correct name of the file they were looking for. He stated on April 30, 2024 at 11:36am there was an email sent from First Deputy County Attorney John Cherico to Chief ADA Krauss which stated they are requesting the file per a request made by outside counsel in response to an outstanding discovery demand. He stated that email also stated that the County Law Department had a copy of the file previously, so they know it exists. Chief ADA Krauss via email dated April 30, 2024 at 1:11pm requested Jessical McMath request the file from archives and give it to DA Tendy. He stated Chief ADA Krauss on April 30, 2024 at 1:09pm had emailed First Deputy County Attorney John Cherico stating she was out of the office for the next three (3) days, and requested he notify DA Tendy as to why the file was being requested, she stated DA Tendy was cc'd on the email. He stated from the date of that email, April 30, 2024, the District Attorney's Office has heard nothing from the Law Department. He stated his office did not obstruct anyone from getting anything. He stated his office immediately responded with some very simple questions. He stated these are the record of the emails regarding this request. He explained per State Law in regard to these records, which was a topic discussed at the May Rules Meeting, County Law Section 700 is a New York State Law, presumably the County Attorney deals with said Law on a regular basis, as it is a County Law. He stated said County Law makes it clear that the District Attorney is responsible for the care, custody and control of all records, books and papers relating to the functioning of his office or the performance of his duties. He continued to explain what is in the County Law pertaining to the end of the District Attorney's term all of the documents must be turned over to the next succeeding District Attorney, not the County Legislators, not the County Clerk and not the County Attorney's Office, who has nothing to do with criminal cases. He stated the files are the files of the District Attorney's Office. He stated at the May 16, 2024 Rules meeting, a suggestion was made by the County Attorney's Office that the Legislature may wish to amend the County Charter, so they could get access to the District Attorney's Office files without having to request them. He stated it is startling to him that the County Attorney's Office was unaware of the provisions of Section 700 of the New York State County Law. He explained the County cannot amend its charter to override New York State Law. He continued to speak to the said law. He stated that all New York State District Attorney Offices operate like this. He stated the Putnam County District Attorney's Office does not have the physical space to store all the District Attorney files

therefore files are stored in Putnam County's Records Management. He stated County Clerk Bartolotti was completely accurate when he stated at the May 16th meeting that they are not his files. He continued to address statements that were made at the May 16th meeting. He stated these files contain extremely confidential and sensitive information, and it is the duty and legal obligation of his office to protect anyone involved in these investigations and to make sure that no one has access to these files without a specified legal reason. He stated a generic statement to the effect that there was a discovery request by an attorney, is a grossly deficient reason to request the file. He stated the information in many of these files is also protected by New York Civil Rights Law Section 50B. He stated at the May 16, 2024, Rules meeting there were statements made that called into question the ethics and integrity of his office. He stated these were public comments made by the County Law Department, and he feels it is imperative that he address some of them. He continued by explaining it was stated by a recently hired part-time County Attorney that the County Attorney's Office asked the District Attorney's Office for a file and that the response they received was ethically and legally inappropriate. He stated the emails he has referenced this evening have also been submitted as back-up to this agenda item. He stated it is clear there was nothing ethically or legally inappropriate about those responses whatsoever. He continued to address many statements that he stated were implications of unethical conduct made against him and his office at the May 16th Rules Committee meeting. He stated it would take him 3-4 hours to address each one. He has no idea where these statements came from, but these statements are totally and completely false. He continued to recap the efficient timeline of the District Attorney's Office response to the County Attorney's Office. He stated he can assure the Deputy County Attorney that nothing was misplaced, and nothing disappeared, and for her to say this was not only completely false, it was extremely improper. He stated he believes a written apology is in order for the statement that she made. He stated later during the May 16th Rules Committee meeting the County Attorney stated the reason why DA's office wanted to know why "they", the County Attorney's Office, wanted the file was because "It's just human nature" and "everyone involved in this case is very insecure." He stated he can assure the County Attorney and this Legislative Body that his reasons for wanting the County Attorney to explain why he wanted the files was not human nature, nor is it because of insecurity it was based on his legal obligations according to New York State Law. He stated lastly, on April 15, 2024, 2 weeks before this file was requested, he stated he had a copy with him for the members of the Legislature. He stated the memo was from the County Attorney's Office advising his office that because of a conflict of interest issue the County has been assigned independent counsel, and therefore may not speak to the District Attorney's Office about anything regarding this litigation.

Chairwoman Addonizio made a motion to waive the rules and accept the additional;
Seconded by Legislator Nacerino. All in favor.

District Attorney Tandy stated after receiving the April 15th memo, he immediately contacted the County Attorney's Office and expressed surprise at this. He stated the response was that the County has been assigned independent counsel, and as such it would be improper for our offices to participate in a meeting, any issues should be

raised and discussed with counsel. He stated at that point it was quite clear that the County Attorney's Office believed it should not have any discussions with his office regarding litigation and issue. He stated despite sending the April 15, 2024 memo, on April 29, 2024 the County Attorney's Office contacted his office and wanted the file, which they knew, but the District Attorney's Office did not know, involved the litigation in question. He stated in short they informed the District Attorney's Office they could not talk to them about the case, we would need to speak through our respective attorneys and yet two (2) weeks later they went around their own very directive and had a junior Deputy County Attorney contact one of his junior ADAs and request the file, without letting anyone know that the requested file involved the case in litigation the County Attorney's Office should not be contacting the District Attorney's Office about, pursuant to their memo dated April 15, 2024. He provided a recap: 1. His office is responsible for these files, and nobody gets them without providing a specific legal reason as to why they should have them, that is pursuant to New York State Law 2. No one in his office did anything unethical, nor did they obstruct anyone from obtaining any information. 3. When the attorneys representing the District Attorney's Office on this litigation recently found out what the request was about, they notified his Office and he had counsel come and independently review the file, no one in his Office touched the file. He stated they found the document that was requested, it was not missing it was not replaced and they turned it over to the attorneys immediately. He stated a simple explanation to his Office and a very small amount of legal research would have avoided all of this nonsense. He stated he does not appreciate having a Deputy County Attorney address the Legislature and strongly imply that the District Attorney's Office cannot be trusted. He stated he does not appreciate them claiming that documents and files have gone missing, when that is completely false. He stated if one of his District Attorney's had leveled these allegations against the County Attorney, with no basis or fact, he would have ordered him or her to write a letter of apology to the County Attorney and if he or she refused, you know where they would be. He stated unfortunately because of the unusual misstatements of law and the inexplicable allegations of misconduct made by the County Attorney's Office about his office at the May 16, 2024, Rules Committee Meeting, he does not see how his Office can trust the County Attorney's Office to advise them on any issue or discuss any pending or possible litigation. He concluded by thanking the Rules Committee Members and the Legislators for allowing him the time to address these issues.

Legislator Nacerino stated she believes most of the Legislators were taken aback by the conduct of the County Law Department, the eluded allegations that were made, and the integrity of both you and the County Clerk being challenged. She stated the County Clerk, Michael Bartolotti, remained steadfast in his resolve to state he is merely the custodian of the files, and has no authority to release a file(s) without the knowledge and permission of the Department, in this case the District Attorney's Office. She stated things that were discussed in executive session were discussed in an open forum and in her opinion were compromised, in her opinion. She stated the allegations that were made were preposterous, unethical and unprofessional, in her humble opinion.

Legislator Ellner stated his appreciation for the District Attorney being present and setting the record straight. He stated as a laymen, he has a question regarding wording in the April 15, 2024 memo: "With regard to the District Attorney Defendants, NYMIR hereby demands that each and every District Attorney Defendant Submit this matter to the Attorney General for the State of New York for defense and indemnifications pursuant to Public Officials Law to address § 17." He questioned if it is typical that an insurer would have this type of authority.

District Attorney Tenny stated he had never seen anything like it in his professional legal career. He stated the statute does exist. He stated he did contact his Counsel and Counsel who has represented the County before, it was their opinion that letter was in error legally, but cannot comment as to whether that is true. He stated he was advised by the District Attorney's Counsel that he did not have to sign the letter, that was mentioned in the April 15, 2024, memo. He stated there may have been a valid basis in the mind of the sender.

Legislator Ellner stated his appreciation for the response. He stated to him it seemed unusual that an insurer, in this case NYMIR, was making demands on the County.

District Attorney Tenny expressed his agreement.

Item #4 – FYI/ Litigation Report

The Litigation Report was duly noted.

Item #10 - Other Business – None

Item #11 – Adjournment

There being no further business at 6:26pm, Chairwoman Addonizio made a motion to adjourn; Seconded by Legislator Ellner. All in favor.

Respectfully submitted by Deputy Clerk Diane Trubulsky.