

Criminal Justice Committee  
District Attorney Office  
AGENDA  
September 24, 2019

Committee Members: LEGGETT, Geraghty, Simpson, Wild, Magowan, Sokol, Hogan, Braymer, Driscoll, Merlino, Vacant

I. Committee meeting called to order by Chairman

II. Motion to approve minutes of prior Committee meeting

III. Action Agenda/New Business

1. 2020 District Attorney's Office Budget Review: A.1165 District Attorney  
A.1168 Crime Victims-Assist.-DA  
A.4220 Narcotics Control-DA

IV. Referral/Pending Items

V. Information for Discussion/Review

(List here budget reports, annual reports, project reports, business activity, updates, photos of projects, etc. - whatever you normally report on to Committee)

VI. Privilege of the Floor to discuss any additional items to come before the Committee

VI. Motion to adjourn

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Attachments

1. A.1165 District Attorney Budget
2. A.1168 Crime Victims-Assist.-DA Budget
3. A.4220 Narcotics Control-DA Budget

PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY ALL DETAILED BUDGET SHEETS

**WARREN COUNTY BUDGET SUMMARY SHEET**

PRIOR YEAR EXPENDITURES AND REQUEST FOR 2020 APPROPRIATIONS

REQUEST SUBMISSION TO THE CLERK OF THE BOARD OF SUPERVISORS

NAME OF DEPARTMENT: District Attorney  
BUDGET ACCOUNT CODE: A.1165

OBJECT CODES	2018 EXPENDITURES	2019 ADOPTED	2019 AMENDED	2020 DEPARTMENT REQUESTS
100's PERSONAL SERVICES	\$920,301.50	\$935,525.00	\$935,525.00	\$1,003,254.00
200's EQUIPMENT	\$14,622.01	\$9,000.00	\$9,619.94	\$3,000.00
400's CONTRACTUAL	\$77,174.50	\$101,329.00	\$100,709.06	\$116,329.00
800's EMPLOYEE BENEFITS	\$305,421.69	\$331,153.00	\$331,153.00	\$369,794.00
<b>TOTALS</b>	<b>\$1,317,519.70</b>	<b>\$1,377,007.00</b>	<b>\$1,377,007.00</b>	<b>\$1,492,377.00</b>

2018 REVENUES	2019 ADOPTED REVENUES	2019 AMENDED REVENUES	2020 DEPARTMENT REQUESTS
\$192,229.16	\$193,419.00	\$193,419.00	\$183,419.00

SIGNED:   
DEPARTMENT HEAD  
TITLE: DISTRICT ATTORNEY  
DATE: 9/13/19

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
Fund A - General						
	REVENUE					
	Department 1165 - District Attorney					
	State Aid					
3030	State Rev D.A. Salary	72,189.00	72,189.00	72,189.00	.00	72,189.00
3031	D.A. Prosecution	28,628.65	38,172.00	38,172.00	27,319.26	38,172.00
3042	Leandras Law	3,248.25	3,183.00	3,183.00	2,387.25	3,183.00
3043	Crimes Against Prosecution	41,841.76	41,000.00	41,000.00	6,294.24	41,000.00
3046	Legislative Initiative Grant	14,532.83	10,000.00	10,000.00	104.99	.00
	<i>State Aid Totals</i>	<u>\$160,440.49</u>	<u>\$164,544.00</u>	<u>\$164,544.00</u>	<u>\$36,105.74</u>	<u>\$154,544.00</u>
	<i>Fines &amp; Forfeitures</i>					
2611	Stop DWI Fines - DA	28,875.00	28,875.00	28,875.00	.00	28,875.00
	<i>Fines &amp; Forfeitures Totals</i>	<u>\$28,875.00</u>	<u>\$28,875.00</u>	<u>\$28,875.00</u>	<u>\$0.00</u>	<u>\$28,875.00</u>
	<i>Sale of Property And Compensation for Loss</i>					
2680	Insurance Recoveries	2,913.67	.00	.00	.00	.00
	<i>Sale of Property And Compensation for Loss Totals</i>	<u>\$2,913.67</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
	Department 1165 - District Attorney Totals	<u>\$192,229.16</u>	<u>\$193,419.00</u>	<u>\$193,419.00</u>	<u>\$36,105.74</u>	<u>\$183,419.00</u>
	REVENUE TOTALS	<u>\$192,229.16</u>	<u>\$193,419.00</u>	<u>\$193,419.00</u>	<u>\$36,105.74</u>	<u>\$183,419.00</u>

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
<b>Fund A - General</b>						
<b>EXPENSE</b>						
Department 1165 - District Attorney						
<i>Personal Services</i>						
110-	Salaries - Regular	920,156.05	935,525.00	935,525.00	606,722.76	1,003,254.00
120	Salaries - Overtime	145.45	.00	.00	.00	.00
<i>Personal Services Totals</i>		<u>\$920,301.50</u>	<u>\$935,525.00</u>	<u>\$935,525.00</u>	<u>\$606,722.76</u>	<u>\$1,003,254.00</u>
<i>Equipment</i>						
210	Furniture/Furnishings	.00	.00	251.00	251.00	.00
250	Technical Equipment	14,622.01	9,000.00	9,132.82	2,397.71	3,000.00
260	Other Equipment	.00	.00	236.12	236.12	.00
<i>Equipment Totals</i>		<u>\$14,622.01</u>	<u>\$9,000.00</u>	<u>\$9,619.94</u>	<u>\$2,884.83</u>	<u>\$3,000.00</u>
Comments						
Account	Level	<i>Comment</i>				
250	Departmental Request	Scanners, signature pads, and related equipment for digital filing.				
<i>Contractual Expense</i>						
410	Supplies	12,765.70	13,500.00	12,880.06	6,763.35	13,500.00
423	Telephone	3,130.33	4,100.00	4,100.00	1,704.83	4,100.00
424	Postage	1,855.72	2,500.00	2,500.00	950.00	2,500.00
426	Subscriptions	3,868.99	6,850.00	6,850.00	2,209.78	6,850.00
427	Memberships & Dues	120.00	800.00	740.00	.00	800.00
428	Data Processing & Internet Fees	1,642.13	2,000.00	2,000.00	1,468.07	2,000.00
439	Misc Fees & Expenses	.00	.00	408.00	87.00	.00
440	Legal/Transcript Fees	39,496.90	55,000.00	53,652.00	21,196.40	61,700.00
444	Travel/Education/Conference	13,743.20	13,979.00	14,979.00	13,340.16	18,979.00
445	Foods	551.53	900.00	900.00	437.95	900.00
470	Contract	.00	1,700.00	1,700.00	.00	5,000.00
<i>Contractual Expense Totals</i>		<u>\$77,174.50</u>	<u>\$101,329.00</u>	<u>\$100,709.06</u>	<u>\$48,157.54</u>	<u>\$116,329.00</u>
Comments						
Account	Level	<i>Comment</i>				
470	Departmental Request	NYPTI, \$5,000.00				
<i>Employee Benefits</i>						
810	Retirement	110,836.33	122,795.00	122,795.00	79,302.90	133,100.00
830	Social Security	50,671.64	53,711.00	53,711.00	35,875.14	58,015.00

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
<b>Fund A - General</b>						
<b>EXPENSE</b>						
Department 1165 - District Attorney						
Employee Benefits						
831	Medicare Contribution	12,819.01	13,565.00	13,565.00	8,390.16	14,547.00
860	Hospitalization	111,504.36	123,521.00	123,521.00	85,376.52	146,349.00
865	Dental Insurance	1,987.70	1,992.00	1,992.00	1,322.56	2,280.00
	<i>Employee Benefits Totals</i>	<u>\$287,819.04</u>	<u>\$315,584.00</u>	<u>\$315,584.00</u>	<u>\$210,267.28</u>	<u>\$354,291.00</u>
Other Benefits						
840	Workmen's Compensation	5,886.81	5,836.00	5,836.00	5,835.56	5,618.00
861	Retirees Hospitalization	11,715.84	9,733.00	9,733.00	5,625.34	9,885.00
	<i>Other Benefits Totals</i>	<u>\$17,602.65</u>	<u>\$15,569.00</u>	<u>\$15,569.00</u>	<u>\$11,460.90</u>	<u>\$15,503.00</u>
	Department 1165 - District Attorney Totals	<u>\$1,317,519.70</u>	<u>\$1,377,007.00</u>	<u>\$1,377,007.00</u>	<u>\$879,493.31</u>	<u>\$1,492,377.00</u>
	EXPENSE TOTALS	<u>\$1,317,519.70</u>	<u>\$1,377,007.00</u>	<u>\$1,377,007.00</u>	<u>\$879,493.31</u>	<u>\$1,492,377.00</u>
	Fund A - General Totals					
	REVENUE TOTALS	\$192,229.16	\$193,419.00	\$193,419.00	\$36,105.74	\$183,419.00
	EXPENSE TOTALS	\$1,317,519.70	\$1,377,007.00	\$1,377,007.00	\$879,493.31	\$1,492,377.00
	Fund A - General Totals	<u>(\$1,125,290.54)</u>	<u>(\$1,183,588.00)</u>	<u>(\$1,183,588.00)</u>	<u>(\$843,387.57)</u>	<u>(\$1,308,958.00)</u>
	Net Grand Totals					
	REVENUE GRAND TOTALS	\$192,229.16	\$193,419.00	\$193,419.00	\$36,105.74	\$183,419.00
	EXPENSE GRAND TOTALS	\$1,317,519.70	\$1,377,007.00	\$1,377,007.00	\$879,493.31	\$1,492,377.00
	Net Grand Totals	<u>(\$1,125,290.54)</u>	<u>(\$1,183,588.00)</u>	<u>(\$1,183,588.00)</u>	<u>(\$843,387.57)</u>	<u>(\$1,308,958.00)</u>

2020 Salary Schedule (Position Budgeting)  
District Attorney.District Attorney

Empl. #	Name	Position	Annual Earnings	Empl. Type	Benefit Group	Hire Date
	Jan1 Grade & Rate	Ann. Grade & Rate				
12193	Brown, Travis	3rd Assistant DA	\$84,975.00	Full Time	Appointed F/T	7/30/2012
	N/A / \$46.69	N/A / \$46.69				
10929	Burin, Matthew	1st Assistant DA	\$101,995.00	Full Time	Appointed F/T	6/6/2005
	N/A / \$56.04	N/A / \$56.04				
9824	Carusone, Jason	District Attorney	\$200,400.00	Full Time	Elected/FT	6/7/1999
	N/A / \$110.11	N/A / \$110.11				
9263	Derbyshire, Yvette	Legal Clerk #3	\$39,037.00	Full Time	CSEA/FT	5/27/2003
	05-16 / \$18.77	05-17 / \$18.77				
13122	Fox, Megan	Legal Clerk #1	\$31,759.00	Full Time	CSEA/FT	10/2/2017
	05-02 / \$15.21	05-03 / \$15.47				
13328	Gebru, Lily	7th Assistant DA	\$65,258.00	Full Time	Appointed F/T	5/13/2019
	N/A / \$35.86	N/A / \$35.86				
13139	Goldstein, Avi	6th Assistant DA	\$67,258.00	Full Time	Appointed F/T	1/2/2018
	N/A / \$36.95	N/A / \$36.95				
12996	McCarty, Robert	5th Assistant DA	\$69,275.00	Full Time	Appointed F/T	1/1/2017
	N/A / \$38.06	N/A / \$38.06				
10233	McDonald, Paulette	Secretary to DA	\$51,732.00	Full Time	Out of UnitFT	5/3/2001
	N/A / \$24.87	N/A / \$24.87				
10641	Nealon, Rebecca	2nd Assistant DA	\$82,078.00	Full Time	Appointed F/T	7/31/2017
	N/A / \$45.10	N/A / \$45.10				
10531	Ovitt, Nancy	Office Specialist	\$42,536.00	Full Time	CSEA/FT	1/2/2003
	07-16 / \$20.45	07-17 / \$20.45				
12695	Smith, Benjamin	4th Assistant DA	\$75,200.00	Full Time	Appointed F/T	11/17/2014
	N/A / \$41.32	N/A / \$41.32				
12870	Troelstra, Laura	Legal Clerk #4	\$32,731.00	Full Time	CSEA/FT	1/5/2016
	05-03 / \$15.47	05-04 / \$15.74				

		Clerk	\$0.00		
N/A / \$0.00		N/A / \$0.00			
		DA On Call Pay	\$28,500.00		
N/A / \$0.00		N/A / \$0.00			
		Keyboard Specialist	\$0.00		
N/A / \$0.00		N/A / \$0.00			
		Legal Clerk #2	\$30,520.00		
05-00 / \$14.67		N/A / \$14.67			
		Word Processing Operator	\$0.00		
N/A / \$0.00		N/A / \$0.00			
				<b>18</b>	<b>\$1,003,254.00</b>

## NON BARGAINING ATTORNEY LIST

Below is a list of your employees whose salaries are set according to the matrix on the accompanying "Pay Scale" tab. Please note that these salaries may be subject to an upward 2020 cost of living adjustment at the discretion of the Board of Supervisors.

Alongside each employee's name are the Merit Increments for which he/she qualifies based upon duration of County service. 2019 salary is listed in bold font. Please mark the salary you wish to recommend to the 2020 budget team for each of your employees. These recommendations should be grounded in the scores you have awarded the employee on the Non-Bargaining Employee Evaluation Form. An employee whose Comprehensive Score is below 3 should not be recommended for an increased Merit Increment.

Please sign this form and return it, along with the accompanying Evaluation Forms, as part of your 2020 budget submission.

First	Last	Title	Hire Date	Grade	Years (2020)	entry	1st	2nd	3rd	4th	5th	10th	15th
Matthew	Burin	1st Assistant DA	6/6/2005	5	15	\$ 81,572	\$ 83,572	\$ 86,079	\$ 87,801	\$ 89,118	\$ 97,138	\$ 101,995	\$ 107,095
Rebecca	Nealon	2nd Assistant DA	7/31/2017	4	3	\$ 77,688	\$ 79,688	\$ 82,078	\$ 83,720	\$ -	\$ -	\$ -	\$ -
Travis	Brown	3rd Assistant DA	7/30/2012	4	8	\$ 77,688	\$ 79,688	\$ 82,078	\$ 83,720	\$ 84,978	\$ 92,623	\$ -	\$ -
Benjamin	Smith	4th Assistant DA	11/17/2014	3	5	\$ 68,520	\$ 70,520	\$ 72,636	\$ 74,089	\$ 75,200	\$ 81,968	\$ -	\$ -
Robert	McCarty	5th Assistant DA	1/1/2017	2	3	\$ 65,258	\$ 67,258	\$ 69,275	\$ 70,661	\$ -	\$ -	\$ -	\$ -
Avi	Goldstein	6th Assistant DA	1/2/2018	2	2	\$ 65,258	\$ 67,258	\$ 69,275	\$ -	\$ -	\$ -	\$ -	\$ -
Lily	Gebru	7th Assistant DA	5/13/2019	2	1	\$ 65,258	\$ 67,258	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Recommended by:

  
signed

JASON M CARUSONE  
printed

9/03/2019  
date

ATTACHMENT B

Non-Bargaining Employee Evaluation Form

Employee Name: Matthew D. Burin

Title: 1st Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

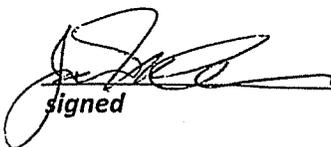
**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<p><b><u>Job Knowledge</u></b> Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.</p>	4	Matt always performs at a high level and he has the ability to take on any task that he is asked to tackle. Matt has experience in all areas of criminal prosecution with a particular ability to handle serious criminal matters including all types of felony prosecutions.
<p><b><u>Organization &amp; Effectiveness</u></b> Ability to analyze work, set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.</p>	4	Matt has consistently shown the ability to make good, timely decisions. He is very organized and extremely efficient, which allows him to perform a lot of work during his time at the office.
<p><b><u>Contribution to Morale</u></b> Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.</p>	4	Matt has transitioned into a leadership position in the office. He leads by example and helps in the training and supervision of others while assisting with felony prosecution. He is an excellent first assistant district attorney.

<p><b><u>Initiative &amp; Creativity</u></b> Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>4</p>	<p>Matt is self-motivated and takes pride in his work. In addition to the personal pride he also takes pride in the work of the office as a whole. I rely on Matt to assist me in the development of the office and as a sounding board on serious decisions.</p>
<p><b><u>Judgment</u></b> Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>4</p>	<p>Matt makes sound, objective decisions by applying the law to the facts in each case. When I am not available, attorneys and staff will go to Matt for assistance. He is a vital part of the office and he consistently performs at a high level.</p>
<p><b><u>Quality of Work</u></b> Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>5</p>	<p>Matt has developed into an exceptional prosecutor. His knowledge, attitude, demeanor and professional interactions are all outstanding.</p>
<p><b><u>Reliability</u></b> Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>5</p>	<p>Matt is very reliable and willing to put the needs of the office first. He routinely steps up to assist with difficult situations and he is always exceptionally prepared. Like many of the attorneys in the office, Matt brings work home, calls from vacation, and can be called upon at any time day or night. He is the definition of reliable.</p>

**COMPREHENSIVE SCORE:**      4.29      (calculate by averaging the scores above)

Evaluated by:

  
signed

JASON M CARUSONE  
printed

9/03/2019  
date

ATTACHMENT B

Non-Bargaining Employee Evaluation Form

Employee Name: Rebecca Nealon  
 Title: 2<sup>nd</sup> Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<p><b><u>Job Knowledge</u></b>                      Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.</p>	4	Rebecca has taken on numerous tasks for the office. She has developed strong skills in appellate writing and is relied upon to handle nearly all of the appeals. She frequently works with others to hone her skills in appellate writing. Rebecca takes pride in her work and has proven to be a real asset to the office.
<p><b><u>Organization &amp; Effectiveness</u></b>                      Ability to analyze work, set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.</p>	4	Rebecca is an exceptionally hard worker who has an outstanding work ethic. She analyzes complex appeals, SORAs, 440 motions, and other writing assignments while also covering local courts.
<p><b><u>Contribution to Morale</u></b>                      Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.</p>	4	Rebecca works well with others, laughs easily, and helps her coworkers whenever needed. She is steady, reliable, and an excellent team member.

<p><b><u>Initiative &amp; Creativity</u></b>                  Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>3</p>	<p>Rebecca is self-directed in her appellate work and she always gets the job done. She has a heavy case load and has found a way to stay on task to complete big projects.</p>
<p><b><u>Judgment</u></b>                  Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>4</p>	<p>Rebecca is not driven by emotion and bases all of her decisions on the facts and the law.</p>
<p><b><u>Quality of Work</u></b>                  Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>4</p>	<p>Rebecca consistently delivers at a high level. The briefs that she submits to the State Appellate Courts are thoroughly proofread and prepared before they are submitted. She shows great attention to detail and I am proud of the work product that she submits to our higher courts.</p>
<p><b><u>Reliability</u></b>                  Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>5</p>	<p>Rebecca is one of the hardest workers that I have ever met and I work with many hard workers. She deserves the highest mark available in this category. If I had any constructive criticism for Rebecca it is that she puts in too many hours. She comes in early, leaves late, works on the weekends, and pitches in on arraignments. She is a remarkable asset to the office.</p>

**COMPREHENSIVE SCORE:**      4      (calculate by averaging the scores above)

Evaluated by:

  
 signed

JASON M CARUSONE  
 printed

9/03/19  
 date

ATTACHMENT B

Non-Bargaining Employee Evaluation Form

Employee Name: Travis A. Brown  
 Title: 3rd Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

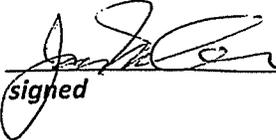
**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<p><b><u>Job Knowledge</u></b>                      Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.</p>	4	Travis has developed a talent for felony trial work. He is one of the more experienced attorneys in the office and takes a methodical, detailed approach to case preparation.
<p><b><u>Organization &amp; Effectiveness</u></b>                      Ability to analyze work, set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.</p>	4	Travis is an extremely organized prosecutor who is always prepared. He consistently performs at a high level.
<p><b><u>Contribution to Morale</u></b>                      Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.</p>	3	Travis gets along well within the office and has always been a good team member. I consider him to be one of the senior attorneys within the office who will continue to hone his trial skills. While he has not been called upon to do much training I expect that he will handle that responsibility as needed.

<p><b><u>Initiative &amp; Creativity</u></b>        Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>3</p>	<p>Travis is self-motivated and can be relied upon to handle his files successfully. He has recently begun to make suggestions for new methods and procedures.</p>
<p><b><u>Judgment</u></b>        Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>4</p>	<p>Travis has a good understanding of the criminal justice system and he consistently demonstrates excellent judgment.</p>
<p><b><u>Quality of Work</u></b>        Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>4</p>	<p>Travis prides himself on being accurate, timely, and effective. He is self-motivated and able to handle serious felony level cases without much input. He sets a good example by his organizational skills and attention to detail.</p>
<p><b><u>Reliability</u></b>        Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>5</p>	<p>Travis is very reliable. He has often times been called upon to work long hours to complete his assignments. While this is part of being a salaried employee, Travis frequently comes in early to make sure the work is done. When the members of the office are working on a deadline, Travis will volunteer to stay to make sure the work is complete.</p>

**COMPREHENSIVE SCORE:**      3.86      (calculate by averaging the scores above)

Evaluated by:

  
signed

JASON M CARUSONE  
printed

9/03/19  
date

ATTACHMENT B

Non-Bargaining Employee Evaluation Form

Employee Name: Benjamin R. Smith

Title: 4<sup>th</sup> Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<p><b><u>Job Knowledge</u></b> Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.</p>	4	Ben has demonstrated an ability to handle a multitude of tasks including writing appeals, arguing appeals, handling local courts, and felony trial work. Ben has shown an aptitude for legal research and has a good legal mind.
<p><b><u>Organization &amp; Effectiveness</u></b> Ability to analyze work; set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.</p>	3	Ben is an effective attorney who meets all of his job requirements. He continues to develop an ability to handle a multitude of tasks.
<p><b><u>Contribution to Morale</u></b> Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.</p>	4	Ben works well within the office and is an excellent part of the team. Many attorneys rely on Ben for technical assistance on felony cases and he assists in the preparation of digital evidence for grand jury and trials. Ben's willingness to take on any task sets a good example and contributes to team morale.

<p><b><u>Initiative &amp; Creativity</u></b>                  Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>4</p>	<p>Ben has an aptitude for technology and has provided substantial assistance in the use of technology in the court room. He proposes new ideas and suggestions, which have been used during felony trials.</p>
<p><b><u>Judgment</u></b>                  Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>4</p>	<p>Ben has been working on many of the sex crimes cases that are very challenging. Ben has shown an excellent ability to make sound decisions on these cases that, by their very nature, would naturally evoke an emotional response.</p>
<p><b><u>Quality of Work</u></b>                  Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>3</p>	<p>Ben has shown the ability to do high quality work and demonstrates a positive attitude in the face of challenging cases.</p>
<p><b><u>Reliability</u></b>                  Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>5</p>	<p>Ben is a consistently reliable worker who can be depended upon whenever needed. He recognizes and contributes to the team concept and will make personal sacrifices to make sure a task is completed.</p>

**COMPREHENSIVE SCORE:**      **3.86**      **(calculate by averaging the scores above)**

Evaluated by:

  
 signed

JASON M CARUSONE  
 printed

9/03/19  
 date

## ATTACHMENT B

Non-Bargaining Employee Evaluation FormEmployee Name: Robert P. McCartyTitle: 5<sup>th</sup> Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<u><b>Job Knowledge</b></u> Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.	3	Bob has been handling the busiest local court in Warren County. While managing a heavy case load he has also managed to handle a great deal of writing assignments. He is beginning to develop the ability to assist with appeals. Recently Bob has provided help in building forms inside our new digital filing system.
<u><b>Organization &amp; Effectiveness</b></u> Ability to analyze work, set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.	3	Bob is an effective worker who continues to develop organizational skills. Part of his challenge comes from the amount and variety of tasks that he is asked to perform. He has done well adjusting to his varied responsibilities.
<u><b>Contribution to Morale</b></u> Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.	4	Bob is an asset to the office who works well with others. He is well liked and he steps up to assist his coworkers when needed. He recently took on a digital document project which will pay dividends to the attorneys and staff.

<p><b><u>Initiative &amp; Creativity</u></b>                  Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>4</p>	<p>Bob takes self-directed action and is responsive to requests for assistance.                  Bob is developing forms for PMCS and DEMS, which has been a great asset to the office. He has learned and developed an aptitude in the system that he is sharing with the team.</p>
<p><b><u>Judgment</u></b>                  Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>3</p>	<p>Bob has sound judgment and is developing an understanding on how to handle more serious criminal matters.</p>
<p><b><u>Quality of Work</u></b>                  Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>4</p>	<p>Bob is a quality writer and always demonstrates a positive attitude toward his co-workers.</p>
<p><b><u>Reliability</u></b>                  Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>5</p>	<p>Bob is extremely reliable and has stepped in to assist his coworkers when they need coverage. Bob covers unplanned arraignments, weekend arraignments and is consistently available.</p>

**COMPREHENSIVE SCORE:**      3.71      (calculate by averaging the scores above)

Evaluated by:

  
 signed

JASON M CAPUSOVE  
 printed

9/03/17  
 date

## ATTACHMENT B

Non-Bargaining Employee Evaluation Form

Employee Name: Avi K. Goldstein  
 Title: 6<sup>th</sup> Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<u><b>Job Knowledge</b></u> Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.	4	After losing an assistant district attorney to begin 2019, Avi stepped up and helped pitch in. He has demonstrated a strong interest in learning new skills and has been a real asset toward the transition to digital filing. Avi has begun handling more serious matters including hearings and trials.
<u><b>Organization &amp; Effectiveness</b></u> Ability to analyze work, set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.	3	Avi is very capable and a quick learner. He continues to progress in his organization and effectiveness.
<u><b>Contribution to Morale</b></u> Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.	4	Avi has helped training the staff in new systems. He works very well with everyone in the office and is always a team player. He's doing a great job.

<p><b><u>Initiative &amp; Creativity</u></b>                  Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>4</p>	<p>Avi has been a real asset to the transition to digital case files. He proposes new ideas and has taken a real interest in leading the way to more efficient processes within the office.</p>
<p><b><u>Judgment</u></b>                  Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>3</p>	<p>Avi has shown good judgment and continues to show growth as an assistant district attorney.</p>
<p><b><u>Quality of Work</u></b>                  Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>3</p>	<p>Avi produces quality work and has been a help to others in the office with writing edits. He has consistently demonstrated a positive attitude. He is a real asset to the office.</p>
<p><b><u>Reliability</u></b>                  Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>5</p>	<p>Avi has been extremely reliable and has been a true team player. Avi has helped cover courts for other assistants when needed, pitched in on weekend arraignments, and helped with daily arraignments that take him away from his normal responsibilities. He is extremely reliable and trustworthy.</p>

**COMPREHENSIVE SCORE:**      3.71      (calculate by averaging the scores above)

Evaluated by:

  
 signed

JASON M CARUSONE  
 printed

9/03/19  
 date

ATTACHMENT B

Non-Bargaining Employee Evaluation Form

Employee Name: Lily Gebru  
 Title: 7<sup>th</sup> Assistant District Attorney

**Distinguished (5)** Outstanding performance that results in extraordinary and exceptional accomplishments with significant contributions to objectives of the department.

**Commendable (4)** Consistently generates results above those expected of the position.

**Fully Satisfactory (3)** Good performance, with all position requirements fulfilled.

**Needs Improvement (2)** Performance leaves room for improvement, which may be attributable to being new on the job, not responding favorably to instruction, or other factors.

**Marginal (1)** Performance is clearly less than acceptable and well below minimum requirements.

CATEGORY	RATING (1-5)	COMMENTS (OPTIONAL)
<p><u>Job Knowledge</u>                      Displays the technical knowledge necessary to successfully perform the functions of the position; demonstrates interest in learning new or additional skills and techniques; maintains sufficient knowledge of services.</p>	3	Lily has been fully satisfactory in her performance and she demonstrates a strong interest in learning new skills. As a new hire, Lily is attempting to learn a great deal of information as quickly as she can. Her job knowledge will continue to grow with experience.
<p><u>Organization &amp; Effectiveness</u>                      Ability to analyze work, set realistic goals, develop plans of action and utilize time; ability to make good decisions in a timely manner.</p>	4	I commend Lily for her organizational skills and the ability to utilize her time.
<p><u>Contribution to Morale</u>                      Ability to work harmoniously with other staff, train and develop staff if applicable, effectively supervise and discipline if applicable, motivate others, and respond positively to instructions and corrective actions.</p>	3	Lily works very well with others and is a team player. I expect her to progress quickly as she gains experience.

<p><b><u>Initiative &amp; Creativity</u></b>                  Ability to take self-directed action; proactively requests opportunities for self-development; proposes new methods, procedures, efficiencies.</p>	<p>4</p>	<p>Lily is an eager worker who is always looking to do more. She has taken a real interest in working with technology and has gone above and beyond expectations for a new hire.</p>
<p><b><u>Judgment</u></b>                  Able to arrive at sound decisions after receiving information and weighing facts objectively and without emotion.</p>	<p>3</p>	<p>Lily is in the process of learning the ins and outs of criminal prosecution. She has good judgment and is learning how to apply that to her caseload.</p>
<p><b><u>Quality of Work</u></b>                  Produces accurate work product free from errors; completes tasks in a thorough and timely manner; demonstrates a positive attitude toward tasks; professional interactions with superiors, subordinates, colleagues and members of the public.</p>	<p>3</p>	<p>Lily always demonstrates a positive attitude toward tasks and has proven to be a reliable professional.</p>
<p><b><u>Reliability</u></b>                  Extent to which the employee can be depended upon to be available for work, do it properly, and complete it on time; the degree to which the employee is trustworthy and persistent.</p>	<p>4</p>	<p>Lily is extremely reliable and trustworthy.</p>

**COMPREHENSIVE SCORE:**      3.42      (calculate by averaging the scores above)

Evaluated by:

  
 signed

JASON MCARUSOWE  
 printed

9/03/19  
 date

August 27, 2019

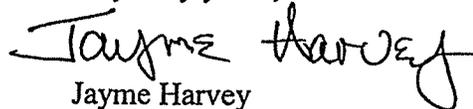
Warren County District Attorney's Office  
1340 State Route 9  
Lake George NY 12845

Dear DA Carusone:

Pursuant to your request, I have arrived at an approximate percentage increase in transcription work if all Grand Jury cases that are transcribed within fifteen days. By reviewing work in previous years, I estimate a 25 percent increase in transcript costs if I prepare a transcript in all Grand Jury cases. The fifteen-day timeline could present some challenges as well but I feel I can meet those deadlines at this time.

Thank you for your attention

Very truly yours,

A handwritten signature in cursive script that reads "Jayme Harvey". The signature is written in black ink and is positioned above the printed name.

Jayme Harvey

## McDonald, Paulette

---

**From:** Carusone, Jason  
**Sent:** Monday, August 12, 2019 9:42 AM  
**To:** McDonald, Paulette  
**Subject:** FW: NYPTI's DEMS Estimated Costs  
**Attachments:** Alternative Solution Costs.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

For our 2020 budget process

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**From:** Sean Smith [<mailto:sean.smith@nypti.org>]  
**Sent:** Saturday, August 10, 2019 1:06 PM  
**To:** Carusone, Jason  
**Subject:** NYPTI's DEMS Estimated Costs

District Attorney:

We have done our best to estimate Warren County's costs for using NYPTI's Digital Evidence Management System (DEMS) to comply with the requirements of CPL Article 245. Based on your current usage of about 640 gigs during the last year, (NYPTI had limited funds to cover beta county testers during development) I'd estimate that you will be at about Two Terabytes next year.

NYPTI created DEMS to help all PCMS counties to meet the new CPL 245 requirements in the most cost effective and secure manner possible. Nothing like DEMS currently exists – that's why we were able to get grant funding to build it. In addition, the grantors appreciated what we built because existing commercial products are extremely expensive. To help with comparisons, I've attached a PDF containing three slides I recently prepared for a lecture at NYPTI's 21<sup>st</sup> Annual Summer College showing costs and quotes from other counties for just one system (i.e. case tracking, document management, video processing). PCMS & DEMS are unique because it combines multiple tools into one.

Based on the size of your county / case load we estimate that the costs should be less than \$5,000 and would anticipate the first year would be approximately \$1,320 - \$2,640. It's nearly impossible to predict because you could have multiple homicides caught on video with a ton of evidence/long interrogations that could cause a spike in storage requirements and costs. But we're certainly not hoping for that.

We recently sent Memorandums of Understanding (MOUs) to all 53 PCMS counties, and have already received many back. The MOU details costs for storage/processing at \$110 a month per Terabyte of data.

Finally, we have designed DEMS to help prevent costs from doubling each year. Instead of just adding to storage it will have a feature that will move digital files to much lower cost storage after a case is closed in PCMS. We don't have exact numbers on the cost of cold storage yet, but anticipate it will be well under \$500 per year per Terabyte.

If you have additional questions please let me know. My phone number is 518-432-1100, ext. 207.

Sean Smith

Deputy Director  
New York Prosecutors Training Institute  
107 Columbia Street  
Albany, NY 12210  
Phone: 518-432-1100, ext. 207  
[Sean.Smith@NYPTI.org](mailto:Sean.Smith@NYPTI.org)  
[www.NYPTI.org](http://www.NYPTI.org)

## REQUEST FOR ADDITIONAL POSITIONS

### A.1165 DISTRICT ATTORNEY

Request to create two new positions and intent to fill those positions

Reason for request:

This request is being made in an effort to have sufficient resources to comply with New York State criminal justice reforms.

In the spring of 2019 the New York State legislature passed sweeping bail and discovery reforms which overhaul large aspects of the current criminal justice system. These new laws take effect on January 01, 2020 and significantly change the responsibilities of many stakeholders in the criminal justice system, including District Attorneys.

Criminal Procedure Law §245, which takes effect on January 1, 2020, creates many new requirements and deadlines for District Attorneys across the state.

As a part of our effort to comply with the new rules we are transitioning to digital case files. Through the use of the Prosecutors Case Management System (PCMS) and Digital Evidence Management System (DEMS) we can more efficiently receive and transmit information. However, although we are now able to more efficiently receive and transmit information our PCMS and DEMS will not reduce our case loads.

Under the current law, Warren County assistant district attorneys already carry one of the busiest caseloads in New York State. Recent statistics provided to our office show that the average Warren County assistant district attorney handles 256 criminal cases each year compared to a state average of 178.1 criminal cases per year. Among New York's 62 counties, the Warren County District Attorney's Office has the 7<sup>th</sup> largest average caseload per attorney.

In order to meet the strict and significant demands of Criminal Procedure Law §245 (disclosure, certificates of compliance, witness lists, etc.) combined with the already heavy case load, we are seeking an additional assistant district attorney and an additional legal clerk.

Below is a brief outline of the Discovery reform. The complete statute is attached

#### CPL §245.10 Timing of Discovery

- 15 day time limit for disclosure from arraignment unless exceptionally voluminous
- Continuing duty to disclose as soon as practicable
- 48 hour disclosure required on statement of defendant on felony pending Grand Jury

#### CPL §245.20 Automatic Discovery

- Disclosure encompasses all items and information that relate to the subject matter of the case. Including but not limited to:
  - Initial Discovery

- All written or recorded statements including any oral statements made to a public servant engaged in law enforcement activity.
- All transcripts of persons who have testified before a grand jury. If not complete within the 15 days then must be completed within a 30 day extension.
- Names and contact information for all persons other than law enforcement who has relevant information about the case. A list of potential witnesses the prosecution intends to call.
- Names and departments of all law enforcement personnel who may have evidence relevant to the case. A list of potential law enforcement witnesses the prosecution intends to call. Some redaction permitted for undercover officers.
- All statements related to the case including police reports, narratives, and written notes.
- Expert witness information including: name, business address, CV, list of publications, all proficiency tests and results within the last 10 years, all reports prepared, if no report then a written summary for the grounds for each opinion. ETC.
- All electronic recordings including 911 calls. Exceptions exist for materials in excess of 10 hours in length.
- All photographs related to the prosecution.
- All photographs related to property being released prior to disposition.
- All reports, documents, records, data, calculations or writings, including but not limited to preliminary tests and screening results and bench notes and analyses performed or stored electronically ...
- All Brady and Giglio evidence.
- All consideration given to a witness or requested by a witness who may be called in the prosecution.
- A list of all tangible objects possessed by the defendant or co-defendant with a designation by the prosecution how the items were possessed. A designation of where they were recovered, and what, if any statutory presumptions are being applied.
- Supply all information regarding search warrant applications with transcripts of all testimony offered in support of the warrant application.
- All tangible property that relates to the subject matter of the case along with a designation of which items the prosecution intends to introduce in its case-in-chief at trial or a hearing.
- A complete record of judgments of conviction for all defendants and all persons designated as potential witnesses other than law enforcement and expert witnesses.
- The existence of any pending criminal action against a witness.
- Date, time, and place of the offense and the defendant's seizure and arrest.
- For any V&T violation down to simplified information – all records of calibration, certification, inspection, repair, and maintenance of any machines or instruments used to conduct scientific tests ... for 6 months prior and 6 months after such test.

- Date time and place of any unlawful use of a computer.
- Provide a copy of any electronically stored information. This would apply to cell phones that were searched, computers that were searched, etc. This is a thumbnail description of the rules.
- Duties of Prosecution
  - Prosecutor must make a diligent, good faith effort to ascertain the existence of material or information that is discoverable and to make it available.
- Supplemental Discovery for the defendant
  - Prosecution shall list the misconduct or prior bad acts of the defendant that were not charged. The People must indicate if that is to be used as substantive proof or for impeachment.

CPL §245.25 Disclosure prior to certain guilty pleas

- Guilty pleas and disclosures are now connected
  - Pre-indictment guilty pleas to crimes on felonies require full discovery disclosure. Disclosure must be made within 3 days of any offer expiring. Failure to do so can re-open felony convictions and lead to preclusion of evidence that was not disclosed. A plea offer cannot be conditioned on non-disclosure of discovery.
  - Other guilty pleas to crimes require full discovery disclosure, which must be made within 7 days of any offer expiring. Failure to do so can re-open felony convictions and lead to preclusion of evidence that was not disclosed. A plea offer cannot be conditioned on non-disclosure of discovery.

CPL §245.30 Court orders for preservation, access or discovery

- Parties may move for an order to preserve evidence
- The defendant may move for access to a crime scene. The Court would have to examine the request and the People's position to make a determination on the extent of access, if any.
- Discretionary discovery. The defense can make a motion for additional discovery.

CPL §240.35 Court ordered procedures to facilitate compliance

- Requires the defense and prosecution to confer regarding Discovery before court intervention.
- Requires a discovery compliance conference before trial.
- Requires the prosecution to file an additional certificate of compliance that states that the prosecutor or their agent has made reasonable inquiries of all police officers and other persons investigating to find any evidence favorable to the defendant, including things that might not have been written or recorded.

CPL §245.40 Non-testimonial evidence from the defendant.

CPL §245.45 DNA comparison Order

CPL §245.50 Certificates of compliance readiness for trial.

- In every criminal prosecution the People must file a certificate of compliance that indicates the prosecutor has disclosed all discoverable material.
- Trial readiness. The People cannot be ready for trial pursuant to CPL 30.30 until a certificate of compliance has been properly filed.

CPL §245.55 Flow of Information

- Sufficient communication for compliance. The DA and ADAs must endeavor to assure a proper flow of information with law enforcement
- Law enforcement shall make available to the prosecution a complete copy of its complete records and file.
- 911, police radio transmissions, police body cameras and other police recordings must be preserved. Failure to do so can result in Court sanctions.

CPL §245.60 Continuing duty to disclose

CPL §245.65 Work Product

CPL §245.70 Protective Orders

CPL §245.75 Waiver of discovery by defendant

CPL §245.80 Remedies or sanctions for non-compliance.

CPL §245.85 Admissibility of Discovery

1. 8<sup>th</sup> Assistant District Attorney      Entry level salary \$65,258.00, fringe + family plan insurance/dental \$30,585. = \$95,843.00
  
2. Legal Clerk # 5      Entry level salary \$30,520.00, fringe + family plan insurance/dental \$24,732.00 = \$55,252.00

NY CLS CPL § 245.10

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.10. Timing of discovery. [Effective January 1, 2020]

---

1.

(a) The prosecution shall perform its initial discovery obligations under subdivision one of section 245.20 of this article as soon as practicable but not later than fifteen calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint. Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. When the discoverable materials are exceptionally voluminous or, despite diligent, good faith efforts, are otherwise not in the actual possession of the prosecution, the time period in this paragraph may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article.

(b) The prosecution shall perform its supplemental discovery obligations under subdivision three of section 245.20 of this article as soon as practicable but not later than fifteen calendar days prior to the first scheduled trial date.

(c) The prosecution shall disclose statements of the defendant as described in paragraph (a) of subdivision one of section 245.20 of this article to any defendant who has been arraigned in a local criminal court upon a currently undisposed of felony complaint charging an offense which is a subject of a prospective or pending grand jury proceeding, no later than forty-eight hours before the time scheduled for the defendant to testify at a grand jury proceeding pursuant to subdivision five of section 190.50 of this part.

2. Defendant's performance of obligations. The defendant shall perform his or her discovery obligations under subdivision four of section 245.20 of this article not later than thirty calendar days after being served with the prosecution's certificate of compliance pursuant to subdivision one of section 245.50 of this article, except that portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the prosecution must be notified in writing that information has not been disclosed under a particular section.

**History**

*L. 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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End of Document

NY CLS CPL § 245.20

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.20. Automatic discovery. [Effective January 1, 2020]

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1. Initial discovery for the defendant. The prosecution shall disclose to the defendant, and permit the defendant to discover, inspect, copy, photograph and test, all items and information that relate to the subject matter of the case and are in the possession, custody or control of the prosecution or persons under the prosecution's direction or control, including but not limited to:

- (a) All written or recorded statements, and the substance of all oral statements, made by the defendant or a co-defendant to a public servant engaged in law enforcement activity or to a person then acting under his or her direction or in cooperation with him or her.
- (b) All transcripts of the testimony of a person who has testified before a grand jury, including but not limited to the defendant or a co-defendant. If in the exercise of reasonable diligence, and due to the limited availability of transcription resources, a transcript is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, such time period may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article; except that such disclosure shall be made as soon as practicable and not later than thirty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the court is required to review grand jury transcripts, the prosecution shall disclose such transcripts to the court expeditiously upon receipt by the prosecutor, notwithstanding the otherwise-applicable time periods for disclosure in this article.
- (c) The names and adequate contact information for all persons other than law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Nothing in this paragraph shall require the disclosure of physical addresses; provided, however, upon a motion and good cause shown the court may direct the disclosure of a physical address. Information under this subdivision relating to a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.
- (d) The name and work affiliation of all law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense

thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to undercover personnel may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

(e) All statements, written or recorded or summarized in any writing or recording, made by persons who have evidence or information relevant to any offense charged or to any potential defense thereto, including all police reports, notes of police and other investigators, and law enforcement agency reports. This provision also includes statements, written or recorded or summarized in any writing or recording, by persons to be called as witnesses at pre-trial hearings.

(f) Expert opinion evidence, including the name, business address, current curriculum vitae, a list of publications, and all proficiency tests and results administered or taken within the past ten years of each expert witness whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, and all reports prepared by the expert that pertain to the case, or if no report is prepared, a written statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This paragraph does not alter or in any way affect the procedures, obligations or rights set forth in section 250.10 of this title. If in the exercise of reasonable diligence this information is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than sixty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the prosecution's expert witness is being called in response to disclosure of an expert witness by the defendant, the court shall alter a scheduled trial date, if necessary, to allow the prosecution thirty calendar days to make the disclosure and the defendant thirty calendar days to prepare and respond to the new materials.

(g) All tapes or other electronic recordings, including all electronic recordings of 911 telephone calls made or received in connection with the alleged criminal incident, and a designation by the prosecutor as to which of the recordings under this paragraph the prosecution intends to introduce at trial or a pre-trial hearing. If the discoverable materials under this paragraph exceed ten hours in total length, the prosecution may disclose only the recordings that it intends to introduce at trial or a pre-trial hearing, along with a list of the source and approximate quantity of other recordings and their general subject matter if known, and the defendant shall have the right upon request to obtain recordings not previously disclosed. The prosecution shall disclose the requested materials as soon as practicable and not less than fifteen calendar days after the defendant's request, unless an order is obtained pursuant to section 245.70 of this article.

(h) All photographs and drawings made or completed by a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which relate to the subject matter of the case.

(i) All photographs, photocopies and reproductions made by or at the direction of law enforcement personnel of any property prior to its release pursuant to *section 450.10 of the penal law*.

- (j) All reports, documents, records, data, calculations or writings, including but not limited to preliminary tests and screening results and bench notes and analyses performed or stored electronically, concerning physical or mental examinations, or scientific tests or experiments or comparisons, relating to the criminal action or proceeding which were made by or at the request or direction of a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing. Information under this paragraph also includes, but is not limited to, laboratory information management system records relating to such materials, any preliminary or final findings of nonconformance with accreditation, industry or governmental standards or laboratory protocols, and any conflicting analyses or results by laboratory personnel regardless of the laboratory's final analysis or results. If the prosecution submitted one or more items for testing to, or received results from, a forensic science laboratory or similar entity not under the prosecution's direction or control, the court on motion of a party shall issue subpoenas or orders to such laboratory or entity to cause materials under this paragraph to be made available for disclosure.
- (k) All evidence and information, including that which is known to police or other law enforcement agencies acting on the government's behalf in the case, that tends to: (i) negate the defendant's guilt as to a charged offense; (ii) reduce the degree of or mitigate the defendant's culpability as to a charged offense; (iii) support a potential defense to a charged offense; (iv) impeach the credibility of a testifying prosecution witness; (v) undermine evidence of the defendant's identity as a perpetrator of a charged offense; (vi) provide a basis for a motion to suppress evidence; or (vii) mitigate punishment. Information under this subdivision shall be disclosed whether or not such information is recorded in tangible form and irrespective of whether the prosecutor credits the information. The prosecutor shall disclose the information expeditiously upon its receipt and shall not delay disclosure if it is obtained earlier than the time period for disclosure in subdivision one of section 245.10 of this article.
- (l) A summary of all promises, rewards and inducements made to, or in favor of, persons who may be called as witnesses, as well as requests for consideration by persons who may be called as witnesses and copies of all documents relevant to a promise, reward or inducement.
- (m) A list of all tangible objects obtained from, or allegedly possessed by, the defendant or a co-defendant. The list shall include a designation by the prosecutor as to which objects were physically or constructively possessed by the defendant and were recovered during a search or seizure by a public servant or an agent thereof, and which tangible objects were recovered by a public servant or an agent thereof after allegedly being abandoned by the defendant. If the prosecution intends to prove the defendant's possession of any tangible objects by means of a statutory presumption of possession, it shall designate such intention as to each such object. If reasonably practicable, the prosecution shall also designate the location from which each tangible object was recovered. There is also a right to inspect, copy, photograph and test the listed tangible objects.
- (n) Whether a search warrant has been executed and all documents relating thereto, including but not limited to the warrant, the warrant application, supporting affidavits, a police inventory of all property seized under the warrant, and a transcript of all testimony or other oral communications offered in support of the warrant application.

- (o) All tangible property that relates to the subject matter of the case, along with a designation of which items the prosecution intends to introduce in its case-in-chief at trial or a pre-trial hearing. If in the exercise of reasonable diligence the prosecutor has not formed an intention within the time period specified in subdivision one of section 245.10 of this article that an item under this subdivision will be introduced at trial or a pre-trial hearing, the prosecution shall notify the defendant in writing, and the time period in which to designate items as exhibits shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.
- (p) A complete record of judgments of conviction for all defendants and all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision, other than those witnesses who are experts.
- (q) When it is known to the prosecution, the existence of any pending criminal action against all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision.
- (r) The approximate date, time and place of the offense or offenses charged and of the defendant's seizure and arrest.
- (s) In any prosecution alleging a violation of the vehicle and traffic law, where the defendant is charged by indictment, superior court information, prosecutor's information, information, or simplified information, all records of calibration, certification, inspection, repair or maintenance of machines and instruments utilized to perform any scientific tests and experiments, including but not limited to any test of a person's breath, blood, urine or saliva, for the period of six months prior and six months after such test was conducted, including the records of gas chromatography related to the certification of all reference standards and the certification certificate, if any, held by the operator of the machine or instrument. The time period required by subdivision one of section 245.10 of this article shall not apply to the disclosure of records created six months after a test was conducted, but such disclosure shall be made as soon as practicable and in any event, the earlier of fifteen days following receipt, or fifteen days before the first scheduled trial date.
- (t) In any prosecution alleging a violation of section 156.05 or 156.10 of the penal law, the time, place and manner such violation occurred.
- (u)
- (i) A copy of all electronically created or stored information seized or obtained by or on behalf of law enforcement from: (A) the defendant as described in subparagraph (ii) of this paragraph; or (B) a source other than the defendant which relates to the subject matter of the case.
- (ii) If the electronically created or stored information originates from a device, account, or other electronically stored source that the prosecution believes the defendant owned, maintained, or had lawful access to and is within the possession, custody or control of the prosecution or persons under the prosecution's direction or control, the prosecution shall provide a complete copy of the electronically created or stored information from the device or account or other source.

(iii) If possession of such electronically created or stored information would be a crime under New York state or federal law, the prosecution shall make those portions of the electronically created or stored information that are not criminal to possess available as specified under this paragraph and shall afford counsel for the defendant access to inspect contraband portions at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, or court.

(iv) This paragraph shall not be construed to alter or in any way affect the right to be free from unreasonable searches and seizures or such other rights a suspect or defendant may derive from the state constitution or the United States constitution. If in the exercise of reasonable diligence the information under this paragraph is not available for disclosure within the time period required by subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article, except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than forty-five calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article.

2. Duties of the prosecution. The prosecutor shall make a diligent, good faith effort to ascertain the existence of material or information discoverable under subdivision one of this section and to cause such material or information to be made available for discovery where it exists but is not within the prosecutor's possession, custody or control; provided that the prosecutor shall not be required to obtain by subpoena duces tecum material or information which the defendant may thereby obtain. For purposes of subdivision one of this section, all items and information related to the prosecution of a charge in the possession of any New York state or local police or law enforcement agency shall be deemed to be in the possession of the prosecution. The prosecution shall also identify any laboratory having contact with evidence related to the prosecution of a charge. This subdivision shall not require the prosecutor to ascertain the existence of witnesses not known to the police or another law enforcement agency, or the written or recorded statements thereof, under paragraph (c) or (e) of subdivision one of this section.

3. Supplemental discovery for the defendant. The prosecution shall disclose to the defendant a list of all misconduct and criminal acts of the defendant not charged in the indictment, superior court information, prosecutor's information, information, or simplified information, which the prosecution intends to use at trial for purposes of (a) impeaching the credibility of the defendant, or (b) as substantive proof of any material issue in the case. In addition the prosecution shall designate whether it intends to use each listed act for impeachment and/or as substantive proof.

4. Reciprocal discovery for the prosecution. (a) The defendant shall, subject to constitutional limitations, disclose to the prosecution, and permit the prosecution to discover, inspect, copy or photograph, any material and relevant evidence within the defendant's or counsel for the defendant's possession or control that is discoverable under paragraphs (f), (g), (h), (i), (l) and (o) of subdivision one of this section, which the defendant intends to introduce at trial or a pre-trial hearing, and the names, addresses, birth dates, and all statements, written or recorded or summarized in any writing or recording, of those persons other than the defendant whom the defendant intends to call as witnesses at trial or a pre-trial hearing.

(b) Disclosure of the name, address, birth date, and all statements, written or recorded or summarized in any writing or recording, of a person whom the defendant intends to call as a

witness for the sole purpose of impeaching a prosecution witness is not required until after the prosecution witness has testified at trial.

(c) If in the exercise of reasonable diligence the reciprocally discoverable information under paragraph (f) or (o) of subdivision one of this section is unavailable for disclosure within the time period specified in subdivision two of section 245.10 of this article, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.

5. Stay of automatic discovery; remedies and sanctions. Section 245.10 and subdivisions one, two, three and four of this section shall have the force and effect of a court order, and failure to provide discovery pursuant to such section or subdivision may result in application of any remedies or sanctions permitted for non-compliance with a court order under section 245.80 of this article. However, if in the judgment of either party good cause exists for declining to make any of the disclosures set forth above, such party may move for a protective order pursuant to section 245.70 of this article and production of the item shall be stayed pending a ruling by the court. The opposing party shall be notified in writing that information has not been disclosed under a particular section. When some parts of material or information are discoverable but in the judgment of a party good cause exists for declining to disclose other parts, the discoverable parts shall be disclosed and the disclosing party shall give notice in writing that non-discoverable parts have been withheld.

6. Redactions permitted. Either party may redact social security numbers and tax numbers from disclosures under this article.

7. Presumption of openness. There shall be a presumption in favor of disclosure when interpreting sections 245.10 and 245.25, and subdivision one of section 245.20, of this article.

## History

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.25

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§ 245.25. Disclosure prior to certain guilty pleas. [Effective January 1, 2020]

1. Pre-indictment guilty pleas. Upon a felony complaint, where the prosecution has made a pre-indictment guilty plea offer requiring a plea to a crime, the prosecutor must disclose to the defense, and permit the defense to discover, inspect, copy, photograph and test, all items and information that would be discoverable prior to trial under subdivision one of section 245.20 of this article and are in the possession, custody or control of the prosecution. The prosecution shall disclose the discoverable items and information not less than three calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of the guilty plea offer. If the prosecution does not comply with the requirements of this subdivision, then, on a defendant's motion alleging a violation of this subdivision, the court must consider the impact of any violation on the defendant's decision to accept or reject a plea offer. If the court finds that such violation materially affected the defendant's decision, and if the prosecution declines to reinstate the lapsed or withdrawn plea offer, the court - as a presumptive minimum sanction - must preclude the admission at trial of any evidence not disclosed as required under this subdivision. The court may take other appropriate action as necessary to address the non-compliance. The rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. A defendant may waive his or her rights under this subdivision; but a guilty plea offer may not be conditioned on such waiver.

2. Other guilty pleas. Upon an indictment, superior court information, prosecutor's information, information, simplified information, or misdemeanor complaint, where the prosecution has made a guilty plea offer requiring a plea to a crime, the prosecutor must disclose to the defense, and permit the defense to discover, inspect, copy, photograph and test, all items and information that would be discoverable prior to trial under subdivision one of section 245.20 of this article and are within the possession, custody or control of the prosecution. The prosecution shall disclose the discoverable items and information not less than seven calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of the guilty plea offer. If the prosecution does not comply with the requirements of this subdivision, then, on a defendant's motion alleging a violation of this subdivision, the court must consider the impact of any violation on the defendant's decision to accept or reject a plea offer. If the court finds that such violation materially affected the defendant's decision, and if the prosecution declines to reinstate the lapsed or withdrawn plea offer, the court - as a presumptive minimum sanction - must preclude the admission at trial of any evidence not disclosed as required under this subdivision. The court may take other appropriate

action as necessary to address the non-compliance. The rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. A defendant may waive his or her rights under this subdivision; but a guilty plea offer may not be conditioned on such waiver.

## History

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*L. 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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§ 245.30. Court orders for preservation, access or discovery. [Effective January 1, 2020]

1. Order to preserve evidence. At any time, a party may move for a court order to any individual, agency or other entity in possession, custody or control of items which relate to the subject matter of the case or are otherwise relevant, requiring that such items be preserved for a specified period of time. The court shall hear and rule upon such motions expeditiously. The court may modify or vacate such an order upon a showing that preservation of particular evidence will create significant hardship to such individual, agency or entity, on condition that the probative value of that evidence is preserved by a specified alternative means.
2. Order to grant access to premises. Without prejudice to its ability to issue a subpoena pursuant to this chapter and after an accusatory instrument has been filed, the defendant may move, upon notice to the prosecution and any impacted individual, agency, or entity, for a court order to access a crime scene or other premises relevant to the subject matter of the case, requiring that counsel for the defendant be granted reasonable access to inspect, photograph, or measure such crime scene or premises, and that the condition of the crime scene or premises remain unchanged in the interim. The court shall consider defendant's expressed need for access to the premises including the risk that defendant will be deprived of evidence or information relevant to the case, the position of any individual or entity with possessory or ownership rights to the premises, the nature of the privacy interest and any perceived or actual hardship of the individual or entity with possessory or ownership rights, and the position of the prosecution with respect to any application for access to the premises. The court may deny access to the premises when the probative value of access to such location has been or will be preserved by specified alternative means. If the court grants access to the premises, the individual or entity with ownership or possessory rights to the premises may request law enforcement presence at the premises while defense counsel or a representative thereof is present.
3. Discretionary discovery by order of the court. The court in its discretion may, upon a showing by the defendant that the request is reasonable and that the defendant is unable without undue hardship to obtain the substantial equivalent by other means, order the prosecution, or any individual, agency or other entity subject to the jurisdiction of the court, to make available for disclosure to the defendant any material or information which relates to the subject matter of the case and is reasonably likely to be material. A motion under this subdivision must be on notice to any person or entity affected by the order. The court may, on its own, upon request of any person or entity affected by the order, modify or vacate the order if compliance would be unreasonable or will create significant hardship. For good cause shown, the court may permit a party seeking or opposing a discretionary

order of discovery under this subdivision, or another affected person or entity, to submit papers or testify on the record ex parte or in camera. For good cause shown, any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal.

## History

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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§ 245.35. Court ordered procedures to facilitate compliance. [Effective January 1, 2020]

To facilitate compliance with this article, and to reduce or streamline litigation of any disputes about discovery, the court in its discretion may issue an order:

1. Requiring that the prosecutor and counsel for the defendant diligently confer to attempt to reach an accommodation as to any dispute concerning discovery prior to seeking a ruling from the court;
2. Requiring a discovery compliance conference at a specified time prior to trial between the prosecutor, counsel for all defendants, and the court or its staff;
3. Requiring the prosecution to file an additional certificate of compliance that states that the prosecutor and/or an appropriate named agent has made reasonable inquiries of all police officers and other persons who have participated in investigating or evaluating the case about the existence of any favorable evidence or information within paragraph (k) of subdivision one of section 245.20 of this article, including such evidence or information that was not reduced to writing or otherwise memorialized or preserved as evidence, and has disclosed any such information to the defendant; and/or
4. Requiring other measures or proceedings designed to carry into effect the goals of this article.

**History**

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*L. 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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§ 245.40. Non-testimonial evidence from the defendant. [Effective January 1, 2020]

1. Availability. After the filing of an accusatory instrument, and subject to constitutional limitations, the court may, upon motion of the prosecution showing probable cause to believe the defendant has committed the crime, a clear indication that relevant material evidence will be found, and that the method used to secure such evidence is safe and reliable, require a defendant to provide non-testimonial evidence, including to:

- (a) Appear in a lineup;
- (b) Speak for identification by a witness or potential witness;
- (c) Be fingerprinted;
- (d) Pose for photographs not involving reenactment of an event;
- (e) Permit the taking of samples of the defendant's blood, hair, and other materials of the defendant's body that involves no unreasonable intrusion thereof;
- (f) Provide specimens of the defendant's handwriting; and
- (g) Submit to a reasonable physical or medical inspection of the defendant's body.

2. Limitations. This section shall not be construed to alter or in any way affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument, consistent with such rights as the defendant may derive from the state constitution or the United States constitution. This section shall not be construed to alter or in any way affect the administration of a chemical test where otherwise authorized. An order pursuant to this section may be denied, limited or conditioned as provided in section 245.70 of this article.

History

*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.45

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§ 245.45. DNA comparison order. [Effective January 1, 2020]

Where property in the prosecution's possession, custody, or control consists of a deoxyribonucleic acid ("DNA") profile obtained from probative biological material gathered in connection with the investigation of the crime, or the defendant, or the prosecution of the defendant, and the defendant establishes (a) that such profile complies with federal bureau of investigation or state requirements, whichever are applicable and as such requirements are applied to law enforcement agencies seeking a keyboard search or similar comparison, and (b) that the data meets state DNA index system or national DNA index system criteria as such criteria are applied to law enforcement agencies seeking such a keyboard search or similar comparison, the court may, upon motion of a defendant against whom an indictment, superior court information, prosecutor's information, information, or simplified information is pending, order an entity that has access to the combined DNA index system or its successor system to compare such DNA profile against DNA databanks by keyboard searches, or a similar method that does not involve uploading, upon notice to both parties and the entity required to perform the search, upon a showing by the defendant that such a comparison is material to the presentation of his or her defense and that the request is reasonable. For purposes of this section, a "keyboard search" shall mean a search of a DNA profile against the databank in which the profile that is searched is not uploaded to or maintained in the databank.

History

*L. 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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§ 245.50. Certificates of compliance; readiness for trial. [Effective January 1, 2020]

1. By the prosecution. When the prosecution has provided the discovery required by subdivision one of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, it shall serve upon the defendant and file with the court a certificate of compliance. The certificate of compliance shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, the prosecutor has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the defendant and filed with the court identifying the additional material and information provided. No adverse consequence to the prosecution or the prosecutor shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.
2. By the defendant. When the defendant has provided all discovery required by subdivision four of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, counsel for the defendant shall serve upon the prosecution and file with the court a certificate of compliance. The certificate shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, counsel for the defendant has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the prosecution and filed with the court identifying the additional material and information provided. No adverse consequence to the defendant or counsel for the defendant shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.
3. Trial readiness. Notwithstanding the provisions of any other law, absent an individualized finding of exceptional circumstances by the court before which the charge is pending, the prosecution shall not be deemed ready for trial for purposes of section 30.30 of this chapter until it has filed a proper certificate pursuant to subdivision one of this section.

History

*L. 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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§ 245.55. Flow of information. [Effective January 1, 2020]

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1. Sufficient communication for compliance. The district attorney and the assistant responsible for the case, or, if the matter is not being prosecuted by the district attorney, the prosecuting agency and its assigned representative, shall endeavor to ensure that a flow of information is maintained between the police and other investigative personnel and his or her office sufficient to place within his or her possession or control all material and information pertinent to the defendant and the offense or offenses charged, including, but not limited to, any evidence or information discoverable under paragraph (k) of subdivision one of section 245.20 of this article.
2. Provision of law enforcement agency files. Absent a court order or a requirement that defense counsel obtain a security clearance mandated by law or authorized government regulation, upon request by the prosecution, each New York state and local law enforcement agency shall make available to the prosecution a complete copy of its complete records and files related to the investigation of the case or the prosecution of the defendant for compliance with this article.
3. 911 telephone call and police radio transmission electronic recordings, police worn body camera recordings and other police recordings. (a) Whenever an electronic recording of a 911 telephone call or a police radio transmission or video or audio footage from a police body-worn camera or other police recording was made or received in connection with the investigation of an apparent criminal incident, the arresting officer or lead detective shall expeditiously notify the prosecution in writing upon the filing of an accusatory instrument of the existence of all such known recordings. The prosecution shall expeditiously take whatever reasonable steps are necessary to ensure that all known electronic recordings of 911 telephone calls, police radio transmissions and video and audio footage and other police recordings made or available in connection with the case are preserved. Upon the defendant's timely request and designation of a specific electronic recording of a 911 telephone call, the prosecution shall also expeditiously take whatever reasonable steps are necessary to ensure that it is preserved.
  - (b) If the prosecution fails to disclose such an electronic recording to the defendant pursuant to paragraph (e), (g) or (k) of subdivision one of section 245.20 of this article due to a failure to comply with this obligation by police officers or other law enforcement or prosecution personnel, the court upon motion of the defendant shall impose an appropriate remedy or sanction pursuant to section 245.80 of this article.

History

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.60

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.60. Continuing duty to disclose. [Effective January 1, 2020]

If either the prosecution or the defendant subsequently learns of additional material or information which it would have been under a duty to disclose pursuant to any provisions of this article had it known of it at the time of a previous discovery obligation or discovery order, it shall expeditiously notify the other party and disclose the additional material and information as required for initial discovery under this article. This section also requires expeditious disclosure by the prosecution of material or information that became relevant to the case or discoverable based on reciprocal discovery received from the defendant pursuant to subdivision four of section 245.20 of this article.

History

*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.65

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.65. Work product. [Effective January 1, 2020]

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This article does not authorize discovery by a party of those portions of records, reports, correspondence, memoranda, or internal documents of the adverse party which are only the legal research, opinions, theories or conclusions of the adverse party or its attorney or the attorney's agents, or of statements of a defendant, written or recorded or summarized in any writing or recording, made to the attorney for the defendant or the attorney's agents.

History

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.70

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.70. Protective orders. [Effective January 1, 2020]

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1. Any discovery subject to protective order. Upon a showing of good cause by either party, the court may at any time order that discovery or inspection of any kind of material or information under this article be denied, restricted, conditioned or deferred, or make such other order as is appropriate. The court may impose as a condition on discovery to a defendant that the material or information to be discovered be available only to counsel for the defendant; or, alternatively, that counsel for the defendant, and persons employed by the attorney or appointed by the court to assist in the preparation of a defendant's case, may not disclose physical copies of the discoverable documents to a defendant or to anyone else, provided that the prosecution affords the defendant access to inspect redacted copies of the discoverable documents at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, facility of detention, or court. Should the court impose as a condition that some material or information be available only to counsel for the defendant, the court shall inform the defendant on the record that his or her attorney is not permitted by law to disclose such material or information to the defendant. The court may permit a party seeking or opposing a protective order under this section, or another affected person, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal. This section does not alter the allocation of the burden of proof with regard to matters at issue, including privilege.
2. Modification of time periods for discovery. Upon motion of a party in an individual case, the court may alter the time periods for discovery imposed by this article upon a showing of good cause.
3. Prompt hearing. Upon request for a protective order, unless the defendant voluntarily consents to the people's request for a protective order, the court shall conduct an appropriate hearing within three business days to determine whether good cause has been shown and when practicable shall render a decision expeditiously. Any materials submitted and a transcript of the proceeding may be sealed and shall constitute a part of the record on appeal.
4. Showing of good cause. In determining good cause under this section the court may consider: constitutional rights or limitations; danger to the integrity of physical evidence or the safety of a witness; risk of intimidation, economic reprisal, bribery, harassment or unjustified annoyance or embarrassment to any person, and the nature, severity and likelihood of that risk; a risk of an adverse effect upon the legitimate needs of law enforcement, including the protection of the confidentiality of informants, and the nature, severity and likelihood of that risk; the nature and circumstances of the factual allegations in the case; whether the defendant has a history of witness intimidation or

tampering and the nature of that history; the nature of the stated reasons in support of a protective order; the nature of the witness identifying information that is sought to be addressed by a protective order, including the option of employing adequate alternative contact information; danger to any person stemming from factors such as a defendant's substantiated affiliation with a criminal enterprise as defined in subdivision three of *section 460.10 of the penal law*; and other similar factors found to outweigh the usefulness of the discovery.

5. Successor counsel or pro se defendant. In cases in which the attorney-client relationship is terminated prior to trial for any reason, any material or information disclosed subject to a condition that it be available only to counsel for the defendant, or limited in dissemination by protective order or otherwise, shall be provided only to successor counsel for the defendant under the same condition or conditions or be returned to the prosecution, unless the court rules otherwise for good cause shown or the prosecutor gives written consent. Any work product derived from such material or information shall not be provided to the defendant, unless the court rules otherwise or the prosecutor gives written consent. If the defendant is acting as his or her own attorney, the court may regulate the time, place and manner of access to any discoverable material or information; and it may as appropriate appoint persons to assist the defendant in the investigation or preparation of the case. Upon motion or application of a defendant acting as his or her own attorney, the court may at any time modify or vacate any condition or restriction relating to access to discoverable material or information, for good cause shown.

6. Expedited review of adverse ruling. (a) A party that has unsuccessfully sought, or unsuccessfully opposed the granting of, a protective order under this section relating to the name, address, contact information or statements of a person may obtain expedited review of that ruling by an individual justice of the intermediate appellate court to which an appeal from a judgment of conviction in the case would be taken.

(b) Such review shall be sought within two business days of the adverse or partially adverse ruling, by order to show cause filed with the intermediate appellate court. The order to show cause shall in addition be timely served on the lower court and on the opposing party, and shall be accompanied by a sworn affirmation stating in good faith (i) that the ruling affects substantial interests, and (ii) that diligent efforts to reach an accommodation of the underlying discovery dispute with opposing counsel failed or that no accommodation was feasible; except that service on the opposing party, and a statement regarding efforts to reach an accommodation, are unnecessary where the opposing party was not made aware of the application for a protective order and good cause is shown for omitting service of the order to show cause on the opposing party. The lower court's order subject to review shall be stayed until the appellate justice renders a determination.

(c) The assignment of the individual appellate justice, and the mode of and procedure for the review, shall be determined by rules of the individual appellate courts. The appellate justice may consider any relevant and reliable information bearing on the issue, and may dispense with written briefs other than supporting and opposing materials previously submitted to the lower court. The appellate justice may dispense with the issuance of a written opinion in rendering his or her decision, and when practicable shall render decision and order expeditiously. Such review, decision and order shall not affect the right of a defendant, in a subsequent appeal from a judgment of conviction, to claim as error the ruling reviewed.

7. Compliance with protective order. Any protective order issued under this article is a mandate of the court for purposes of the offense of criminal contempt in subdivision three of section 215.50 of the penal law.

## History

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.75

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*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.75. Waiver of discovery by defendant. [Effective January 1, 2020]

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A defendant who does not seek discovery from the prosecution under this article shall so notify the prosecution and the court at the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information, or expeditiously thereafter but before receiving discovery from the prosecution pursuant to subdivision one of section 245.20 of this article, and the defendant need not provide discovery to the prosecution pursuant to subdivision four of section 245.20 and section 245.60 of this article. A waiver shall be in writing, signed for the individual case by counsel for the defendant and filed with the court. Such a waiver does not alter or in any way affect the procedures, obligations or rights set forth in sections 250.10, 250.20 and 250.30 of this title, or otherwise established or required by law. The prosecution may not condition a guilty plea offer on the defense's execution of a waiver under this section.

History

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.80

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.80. Remedies or sanctions for non-compliance. [Effective January 1, 2020]

1. Need for remedy or sanction. (a) When material or information is discoverable under this article but is disclosed belatedly, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that it was prejudiced. Regardless of a showing of prejudice the party entitled to disclosure shall be given reasonable time to prepare and respond to the new material.

(b) When material or information is discoverable under this article but cannot be disclosed because it has been lost or destroyed, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that the lost or destroyed material may have contained some information relevant to a contested issue. The appropriate remedy or sanction is that which is proportionate to the potential ways in which the lost or destroyed material reasonably could have been helpful to the party entitled to disclosure.

2. Available remedies or sanctions. For failure to comply with any discovery order imposed or issued pursuant to this article, the court may make a further order for discovery, grant a continuance, order that a hearing be reopened, order that a witness be called or recalled, instruct the jury that it may draw an adverse inference regarding the non-compliance, preclude or strike a witness's testimony or a portion of a witness's testimony, admit or exclude evidence, order a mistrial, order the dismissal of all or some of the charges, or make such other order as it deems just under the circumstances; except that any sanction against the defendant shall comport with the defendant's constitutional right to present a defense, and precluding a defense witness from testifying shall be permissible only upon a finding that the defendant's failure to comply with the discovery obligation or order was willful and motivated by a desire to obtain a tactical advantage.

3. Consequences of non-disclosure of statement of testifying prosecution witness. The failure of the prosecutor or any agent of the prosecutor to disclose any written or recorded statement made by a prosecution witness which relates to the subject matter of the witness's testimony shall not constitute grounds for any court to order a new pre-trial hearing or set aside a conviction, or reverse, modify or vacate a judgment of conviction, in the absence of a showing by the defendant that there is a reasonable possibility that the non-disclosure materially contributed to the result of the trial or other proceeding; provided, however, that nothing in this section shall affect or limit any right the defendant may have to a reopened pre-trial hearing when such statements were disclosed before the close of evidence at trial.

History

*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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NY CLS CPL § 245.85

Current through 2019 released Chapters 1-177, except for 96 and 106

*New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title J Prosecution of Indictments in Superior Courts—Plea to Sentence (Arts. 220 — 330) > ARTICLE 245 Discovery [Effective January 1, 2020] (§§ 245.10 — 245.85)*

§ 245.85. Admissibility of discovery. [Effective January 1, 2020]

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The fact that a party has indicated during the discovery process an intention to offer specified evidence or to call a specified witness is not admissible in evidence or grounds for adverse comment at a hearing or a trial.

**History**

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*L 2019, ch 59, § 2 (Part LLL), eff Jan 1, 2020.*

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PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY ALL DETAILED BUDGET SHEETS

**WARREN COUNTY BUDGET SUMMARY SHEET**

PRIOR YEAR EXPENDITURES AND REQUEST FOR 2020 APPROPRIATIONS

REQUEST SUBMISSION TO THE CLERK OF THE BOARD OF SUPERVISORS

NAME OF DEPARTMENT: Crime Victims-Assist.DA

BUDGET ACCOUNT CODE: A.1168

OBJECT CODES	2018 EXPENDITURES	2019 ADOPTED	2019 AMENDED	2020 DEPARTMENT REQUESTS
100's PERSONAL SERVICES	\$133,269.82	\$145,946.00	\$145,946.00	\$145,868.00
200's EQUIPMENT	\$4,528.66	\$500.00	\$500.00	\$250.00
400's CONTRACTUAL	\$13,312.61	\$21,847.00	\$21,847.00	\$9,725.00
800's EMPLOYEE BENEFITS	\$40,543.06	\$47,368.00	\$47,368.00	\$45,660.00
<b>TOTALS</b>	<b>\$191,654.15</b>	<b>\$215,661.00</b>	<b>\$215,661.00</b>	<b>\$201,503.00</b>

2018 REVENUES	2019 ADOPTED REVENUES	2019 AMENDED REVENUES	2020 DEPARTMENT REQUESTS
\$190,550.26	\$211,473.00	\$211,473.00	\$146,162.00

SIGNED:

  
DEPARTMENT HEAD

TITLE:

DISTRICT ATTORNEY

DATE:

9/13/19

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
<b>Fund A - General</b>						
REVENUE						
Department 1168 - Crime Victims-Assist.DA						
State Aid						
3032	Crime Victims Advocate -DA	190,550.26	211,473.00	211,473.00	95,352.47	146,162.00
	<i>State Aid Totals</i>	<b>\$190,550.26</b>	<b>\$211,473.00</b>	<b>\$211,473.00</b>	<b>\$95,352.47</b>	<b>\$146,162.00</b>
	Department 1168 - Crime Victims-Assist.DA Totals	<b>\$190,550.26</b>	<b>\$211,473.00</b>	<b>\$211,473.00</b>	<b>\$95,352.47</b>	<b>\$146,162.00</b>
	REVENUE TOTALS	<b>\$190,550.26</b>	<b>\$211,473.00</b>	<b>\$211,473.00</b>	<b>\$95,352.47</b>	<b>\$146,162.00</b>

# Budget Worksheet Report

Budget Year 2020

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
<b>Fund A - General</b>						
<b>EXPENSE</b>						
Department <b>1168 - Crime Victims-Assist.DA</b>						
<i>Personal Services</i>						
110	Salaries - Regular	114,625.07	117,013.00	117,013.00	74,502.48	117,013.00
130	Salaries - Part Time	18,637.40	28,933.00	28,933.00	18,180.58	28,855.00
<i>Personal Services Totals</i>		<b>\$133,262.47</b>	<b>\$145,946.00</b>	<b>\$145,946.00</b>	<b>\$92,683.06</b>	<b>\$145,868.00</b>
<i>Equipment</i>						
220	Office Equipment	4,528.66	500.00	500.00	.00	250.00
<i>Equipment Totals</i>		<b>\$4,528.66</b>	<b>\$500.00</b>	<b>\$500.00</b>	<b>\$0.00</b>	<b>\$250.00</b>
<i>Comments</i>						
<i>Account</i>	<i>Level</i>					
220	Departmental Request	Comment to replace staff keyboards and mouse				
<i>Contractual Expense</i>						
410	Supplies	8,737.52	6,000.00	6,000.00	1,768.16	3,000.00
423	Telephone	1,515.72	3,000.00	3,000.00	760.95	2,000.00
424	Postage	478.88	500.00	500.00	138.70	500.00
427	Memberships & Dues	25.00	100.00	100.00	25.00	50.00
428	Data Processing & Internet Fees	132.00	300.00	300.00	198.00	175.00
444	Travel/Education/Conference	2,423.49	11,947.00	11,947.00	2,023.00	4,000.00
<i>Contractual Expense Totals</i>		<b>\$13,312.61</b>	<b>\$21,847.00</b>	<b>\$21,847.00</b>	<b>\$4,913.81</b>	<b>\$9,725.00</b>
<i>Employee Benefits</i>						
810	Retirement	16,833.30	21,033.00	21,033.00	13,639.63	18,956.00
830	Social Security	8,064.27	9,049.00	9,049.00	5,602.90	9,044.00
831	Medicare Contribution	1,886.02	2,117.00	2,117.00	1,310.35	2,115.00
860	Hospitalization	13,639.77	15,049.00	15,049.00	9,839.43	15,425.00
865	Dental Insurance	119.70	120.00	120.00	78.54	120.00
<i>Employee Benefits Totals</i>		<b>\$40,543.06</b>	<b>\$47,368.00</b>	<b>\$47,368.00</b>	<b>\$30,470.85</b>	<b>\$45,660.00</b>
Department <b>1168 - Crime Victims-Assist.DA Totals</b>		<b>\$191,646.80</b>	<b>\$215,661.00</b>	<b>\$215,661.00</b>	<b>\$128,067.72</b>	<b>\$201,503.00</b>
<b>EXPENSE TOTALS</b>		<b>\$191,646.80</b>	<b>\$215,661.00</b>	<b>\$215,661.00</b>	<b>\$128,067.72</b>	<b>\$201,503.00</b>
<b>Fund A - General Totals</b>						
<b>REVENUE TOTALS</b>		<b>\$190,550.26</b>	<b>\$211,473.00</b>	<b>\$211,473.00</b>	<b>\$95,352.47</b>	<b>\$146,162.00</b>
<b>EXPENSE TOTALS</b>		<b>\$191,646.80</b>	<b>\$215,661.00</b>	<b>\$215,661.00</b>	<b>\$128,067.72</b>	<b>\$201,503.00</b>

# Budget Worksheet Report

Budget Year 2020

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
	Fund A - General Totals	(\$1,096.54)	(\$4,188.00)	(\$4,188.00)	(\$32,715.25)	(\$55,341.00)
	Net Grand Totals					
	REVENUE GRAND TOTALS	\$190,550.26	\$211,473.00	\$211,473.00	\$95,352.47	\$146,162.00
	EXPENSE GRAND TOTALS	\$191,646.80	\$215,661.00	\$215,661.00	\$128,067.72	\$201,503.00
	Net Grand Totals	(\$1,096.54)	(\$4,188.00)	(\$4,188.00)	(\$32,715.25)	(\$55,341.00)

2020 Salary Schedule (Position Budgeting)  
 District Attorney.Crime Victims Assistance Unit

Empl. #	Name	Position	Annual Earnings	Empl. Type	Benefit Group	Hire Date
	Jan1 Grade & Rate	Ann. Grade & Rate				
11177	Affinito, Manon 21-13 / \$29.58	Victim Assist Program Director 21-14 / \$29.58	\$61,519.00	Full Time	CSEA/FT	9/1/2006
13347	Choppa, Michaela 14-00 / \$19.69	Crime Victim Specialist - PT 14-01 / \$19.97	\$28,855.00	Part Time	CSEA/PT	7/8/2019
11293	Johr, Joy 17-12 / \$26.68	Senior Crime Victim Specialist 17-13 / \$26.68	\$55,494.00	Full Time	CSEA/FT	5/14/2007
		<b>3</b>	<b>\$145,868.00</b>			



Office of  
Victim Services

ANDREW M. CUOMO  
Governor

ELIZABETH CRONIN  
Director

June 28, 2019

Warren County of (District Attorney's Office)  
1340 STATE RTE 9  
LAKE GEORGE, NY 12845

**RE:** VOCA Grant Program Application Number OVS01-VOCA-2019-00033

**Funding Source:** Federal VOCA Victim and Witness Assistance Grant Program

Dear Applicant:

It is my pleasure to inform you that the New York State Office of Victim Services (OVS) has awarded your Victim Assistance Program funding for the period October 1, 2019 through September 30, 2022 under the Victim and Witness Assistance Grant Program. Your tentative award amounts are:

2019-2020	\$146,162.20
2020-2021	\$150,150.46
2021-2022	\$155,606.40

All award amounts are tentative pending successful contract negotiations and are dependent on the availability of funds. Funding is not guaranteed.

The response to this RFA was overwhelming, with requests for funding far exceeding the amount specified as available. Given this significant demand, OVS identified additional funding. Even with that increase, however, the agency could not bridge the gap between the funding available and funding requested by victim assistance programs. To address this, OVS reduced all awards to ensure sufficient funding for the contract period and access to victim services throughout the state.

Also, please note:

*OVS has the funding to meet the three-year commitments outlined in this letter. However, we think it prudent to mention that the level of funding of federal Victim of Crime Act (VOCA) funds in the future is unclear. There are currently no large deposits for the fund on the horizon and we anticipate that future federal VOCA awards may not be at the extraordinarily high levels OVS has received since 2015. As the federal funding picture becomes more certain, we will continue to keep OVS grant recipients informed about anticipated future funding levels. However, grant recipients should be mindful that should federal funding levels be reduced, OVS may have to opt not to extend these three-year contracts for the two-year renewal option. If federal awards in the future are significantly lower, we would likely have to issue a new RFA for a significantly reduced amount compared to amounts awarded under this procurement. Grant recipients will be given ample warning of future funding levels, but we wanted to ensure that you knew the potential exists that funding levels for victim assistance programs may be very different by October 1, 2022.*

Included with this letter is a contract checklist to assist you with finalizing your grant. Additional OVS documents required to execute your agency's grant contract can be found on the OVS website [OVS.ny.gov](http://OVS.ny.gov). Completed documents should be uploaded into the Grants Gateway in either the Pre-Submission Uploads or Grantee Document folders. Feel free to contact your OVS Contract Management Specialist Jennifer Ramos at [Jennifer.Ramos@ovs.ny.gov](mailto:Jennifer.Ramos@ovs.ny.gov) or 518-474-4187 should you need assistance.

Please submit all the required documents and make all budget adjustments by the close of business on July 12, 2019. Your agency's submission will be considered complete when it contains all the items on the attached checklist.

On behalf of the Office of Victim Services and the Grants Unit, we look forward to continuing our shared efforts to serve innocent victims of crime in New York State.

Sincerely,



Elizabeth Cronin, Esq.  
Director

PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY ALL DETAILED BUDGET SHEETS

**WARREN COUNTY BUDGET SUMMARY SHEET**

PRIOR YEAR EXPENDITURES AND REQUEST FOR 2020 APPROPRIATIONS

REQUEST SUBMISSION TO THE CLERK OF THE BOARD OF SUPERVISORS

NAME OF DEPARTMENT: Narcotics Control-DA

BUDGET ACCOUNT CODE: A.4220

OBJECT CODES	2018 EXPENDITURES	2019 ADOPTED	2019 AMENDED	2020 DEPARTMENT REQUESTS
100's PERSONAL SERVICES	\$54,536.38	\$58,545.00	\$58,545.00	\$58,545.00
200's EQUIPMENT				\$0.00
400's CONTRACTUAL	\$12,689.76	\$6,406.00	\$6,906.00	\$6,192.00
800's EMPLOYEE BENEFITS	\$4,172.02	\$4,480.00	\$4,480.00	\$4,480.00
<b>TOTALS</b>	<b>\$71,398.16</b>	<b>\$69,431.00</b>	<b>\$69,931.00</b>	<b>\$69,217.00</b>

2018 REVENUES	2019 ADOPTED REVENUES	2019 AMENDED REVENUES	2020 DEPARTMENT REQUESTS
\$5,719.94	\$0.00	\$500.00	\$0.00

SIGNED:

  
DEPARTMENT HEAD

TITLE:

DISTRICT ATTORNEY

DATE:

9/13/19

# Budget Worksheet Report

Budget Year 2020

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
<b>Fund A - General</b>						
REVENUE						
Department 4220 - Narcotics Control-DA						
Sale of Property And Compensation for Loss						
2680	Insurance Recoveries	5,719.94	.00	500.00	500.00	.00
	<i>Sale of Property And Compensation for Loss Totals</i>	<u>\$5,719.94</u>	<u>\$0.00</u>	<u>\$500.00</u>	<u>\$500.00</u>	<u>\$0.00</u>
	Department 4220 - Narcotics Control-DA Totals	<u>\$5,719.94</u>	<u>\$0.00</u>	<u>\$500.00</u>	<u>\$500.00</u>	<u>\$0.00</u>
	REVENUE TOTALS	<u>\$5,719.94</u>	<u>\$0.00</u>	<u>\$500.00</u>	<u>\$500.00</u>	<u>\$0.00</u>

# Budget Worksheet Report

Budget Year 2020

Account	Account Description	2018 Actual Amount	2019 Adopted Budget	2019 Amended Budget	2019 Actual Amount	2020 Departmental Request
<b>Fund A - General</b>						
<b>EXPENSE</b>						
Department 4220 - Narcotics Control-DA						
<i>Personal Services</i>						
130	Salaries - Part Time	54,536.38	58,545.00	58,545.00	36,273.31	58,545.00
<i>Personal Services Totals</i>		<b>\$54,536.38</b>	<b>\$58,545.00</b>	<b>\$58,545.00</b>	<b>\$36,273.31</b>	<b>\$58,545.00</b>
<i>Contractual Expense</i>						
418	Ins-General Liability	386.42	406.00	406.00	182.75	192.00
423	Telephone	947.67	1,000.00	1,000.00	509.40	1,000.00
441	Auto-Supplies & Repair	9,626.37	2,500.00	3,000.00	600.48	2,500.00
442	Automotive - Gas & Oil	1,729.30	2,500.00	2,500.00	943.49	2,500.00
<i>Contractual Expense Totals</i>		<b>\$12,689.76</b>	<b>\$6,406.00</b>	<b>\$6,906.00</b>	<b>\$2,236.12</b>	<b>\$6,192.00</b>
<i>Employee Benefits</i>						
830	Social Security	3,381.26	3,630.00	3,630.00	2,248.94	3,630.00
831	Medicare Contribution	790.76	850.00	850.00	525.97	850.00
<i>Employee Benefits Totals</i>		<b>\$4,172.02</b>	<b>\$4,480.00</b>	<b>\$4,480.00</b>	<b>\$2,774.91</b>	<b>\$4,480.00</b>
Department 4220 - Narcotics Control-DA Totals		<b>\$71,398.16</b>	<b>\$69,431.00</b>	<b>\$69,931.00</b>	<b>\$41,284.34</b>	<b>\$69,217.00</b>
EXPENSE TOTALS		<b>\$71,398.16</b>	<b>\$69,431.00</b>	<b>\$69,931.00</b>	<b>\$41,284.34</b>	<b>\$69,217.00</b>
<b>Fund A - General Totals</b>						
REVENUE TOTALS		\$5,719.94	\$0.00	\$500.00	\$500.00	\$0.00
EXPENSE TOTALS		\$71,398.16	\$69,431.00	\$69,931.00	\$41,284.34	\$69,217.00
Fund A - General Totals		(\$65,678.22)	(\$69,431.00)	(\$69,431.00)	(\$40,784.34)	(\$69,217.00)
<b>Net Grand Totals</b>						
REVENUE GRAND TOTALS		\$5,719.94	\$0.00	\$500.00	\$500.00	\$0.00
EXPENSE GRAND TOTALS		\$71,398.16	\$69,431.00	\$69,931.00	\$41,284.34	\$69,217.00
Net Grand Totals		(\$65,678.22)	(\$69,431.00)	(\$69,431.00)	(\$40,784.34)	(\$69,217.00)

2020 Salary Schedule (Position Budgeting)  
District Attorney.Narcotics Control

Empl. #	Name	Position	Annual Earnings	Empl. Type	Benefit Group	Hire Date
	Jan1 Grade & Rate	Ann. Grade & Rate				
8474	Breen, Robert	PT Investigator #4	\$23,418.00	Part Time	Less P/T12/21/12	10/20/2014
	N/A / \$28.15	N/A / \$28.15				
10493	Huskie, Michael	Investigator #2	\$11,709.00	Part Time	Less than P/T	10/1/2002
	N/A / \$28.15	N/A / \$28.15				
12825	Lail, Russell	Investigator #3 - PT	\$23,418.00	Less than Half	Less P/T12/21/12	9/1/2015
	N/A / \$28.15	N/A / \$28.15				
		<b>3</b>	<b>\$58,545.00</b>			