

CRIMINAL JUSTICE COMMITTEE MEETING  
DISTRICT ATTORNEY AGENDA  
January 19, 2021

COMMITTEE MEMBERS: Supervisors Shepler, Diamond, Strough, Driscoll, and Leggett

- I. Committee meeting called to order by Chair
- II. Approval of minutes of prior Committee Meeting
- III. Action Agenda/New Business Items:
  1. Request: Aid to Prosecution Grant extension  
Rationale: Extend existing Aid to Prosecution Grant, Resolution 375 of 2019
- IV. Discussion Items:
  1. Criminal Justice Update
- V. Referrals/Pending Items: None.
- VI. Privilege of the floor and public comment (please allow for 15 second delay on live stream meetings)
- VII. Motion to adjourn

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Attachments:

1. Resolution Request Form No. 6, Request to Amend or Extend Existing Grant
2. Letter from Division of Criminal Justice Services extending our existing Aid to Prosecution Grant contract.
3. Resolution No. 375 of 2019
4. Updated Operating Protocols Effective December 9, 2020 Fourth Judicial District
5. Exhibit A
6. Updated Operating Protocols Town and Village Courts Effective December 9, 2020 Fourth Judicial District

## ***RESOLUTION REQUEST FORM NO. 6***

### ***Request to Amend or Extend Existing Grant***

**DEPARTMENT NAME:** District Attorney

**DATE:**

- (a) Purpose of Grant Amendment: **To extend existing Aid to Prosecution contract**
- (b) Resolution No. which Authorized Original Application and Grant: **375 of 2019**
- (c) Name of Grantor: **New York State Division of Criminal Justice Services**
- (d) Address of Grantor: **80 South Swan Street, Albany NY 12210**
- (e) Grantor's Contact Person and Telephone Number: **Katelyn Mallick, Ph. (518) 457-3776**
- (f) Has or Will the Grant Amendment or Grant Extension be provided, if so, Please Attach? **Yes, the letter from the Division of Criminal Justice Services is attached.**
- (g) Effective Date of Amendment or Extension: **December 4, 2020**
- (h) Termination Date of Amendment or Extension: **March 31, 2021**
- (i) Total Dollar Amount Involved (not to exceed): **\$57,258.00**
- (j) Is a Budget amendment required? **No** If yes, please complete and submit Form No. 7.
- (k) Are the funds to go into a Capital Project or Capital Reserve Project? **No**  
If yes, also complete and submit Form No. 8 or Form No. 9, as applicable.
- (l) Is a Local Share Required? **No** If Yes, Where are the Funds? List Budget Code, Object Code, Full Title\* and Amount **OR** Capital Project **OR** Capital Reserve Project Number and Title and Amount:

**Sample: A.1010 470 Legislative Board – Contract \$xx.xx**

**Capital Project No. H289.9550 480 – Old Jail Renovations \$xx.xx**

\*as listed in budget and LOGOS



**Division of Criminal  
Justice Services**

**ANDREW M. CUOMO**  
Governor

**MICHAEL C. GREEN**  
Executive Deputy Commissioner

**JEFFREY P. BENDER**  
Deputy Commissioner

December 4, 2020

The Honorable Jason Carusone  
Warren County District Attorney  
1340 U.S. 9  
Lake George, NY 12845

Dear District Attorney Carusone:

Thank you for your continued partnership with the NYS Division of Criminal Justice Services (DCJS) in administering the Aid to Prosecution Program. Please be advised that the enacted state budget for State Fiscal Year (SFY) 2020-21 included an appropriation for the Aid to Prosecution program for \$12,549,000.

In order to allow you flexibility to accommodate changes in spending due to the COVID-19 pandemic and in planning for future contracts, we will be extending your existing Aid to Prosecution contract period by six months, meaning it will now have a contract end date of March 31, 2021, and increasing the award amount from the newly appropriated SFY 2020-21 funds. Therefore, your total award amount will be increased to \$57,258, to cover the new 18-month contract period of October 1, 2019 – March 31, 2021. Annual contracts are expected to resume for the period April 1, 2021 through March 31, 2022, with the contract period corresponding with the state fiscal year. We hope you agree that this will benefit the management of future contracts, as awards will no longer be split funded between two fiscal years, and the entire award amount will be known at the time of award.

Please be advised that your award amount of \$57,258 is contingent upon the availability of appropriations, which may be reduced during the contract period pursuant to language included in the SFY 2020-21 enacted state budget, as well as approval and execution of the grant contract by the Attorney General and the Office of the State Comptroller.

We recognize that the unprecedented events of this past year have been challenging. It is our hope that the contract term changes described above will assist with administering the contract going forward. Please contact Katelyn Mallick, Public Safety Grants Representative at (518) 457-3776 or by email at [Katelyn.Mallick@dcjs.ny.gov](mailto:Katelyn.Mallick@dcjs.ny.gov) if you have any questions. Thank you for all the work you do. We look forward to working with you in our continued efforts to safeguard the health and safety of all New York residents and visitors.

Sincerely,

Jeffrey P. Bender  
Deputy Commissioner

# Warren County Board of Supervisors

## RESOLUTION NO. 375 OF 2019

RESOLUTION INTRODUCED BY SUPERVISORS LEGGETT, GERAGHTY, SIMPSON, WILD, MAGOWAN, SOKOL, HOGAN, BRAYMER, DRISCOLL, MERLINO AND VACANT

### AUTHORIZING SUBMISSION OF AN APPLICATION TO THE NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES FOR A STATE AID TO PROSECUTION GRANT FOR THE DISTRICT ATTORNEY'S OFFICE

RESOLVED, that the Chairman of the Board of Supervisors be, and hereby is, authorized to execute a grant application to the New York State Division of Criminal Justice Services, 80 South Swan Street, Albany, New York 12210, for a State Aid to Prosecution Grant, in an amount to be determined, for a term commencing October 1, 2019 and terminating September 30, 2020, and be it further

RESOLVED, that upon receipt of grant funds, the Chairman of the Board of Supervisors be, and hereby is, authorized to execute any and all grant documents necessary in regard to the aforementioned State Aid to Prosecution Grant.

# Updated Operating Protocols

## Effective December 9, 2020

### Fourth Judicial District

For the past many months, the Unified Court System has permitted in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses has been gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. Recently, the metrics have indicated the need to once again reduce foot traffic in the courthouses to protect the health and safety of litigants, lawyers, court staff and judges. **It is critical that the Courts immediately decrease in-person proceedings in order to protect the health and safety of all court users, court staff and judges and to further reduce the community spread of the Coronavirus.** These protocols are intended to create an environment where the "normal" is a virtual appearance and in-person appearances are rare. Should circumstances deteriorate further, the Administrative Judge may enact more restrictive operational protocols as deemed appropriate.

This should be considered an update to the Return to In-Person Operations Plan effective October 19, 2020, Judge Marks' Memorandum "Revised Pandemic Procedures in the Trial Courts" dated November 13, 2020, and the Updated Operating Protocols effective November 23, 2020.

Commencing December 9, 2020, all court operations in the Fourth Judicial District of the State of New York shall be conducted pursuant to the following protocols:

#### I. Courthouse Operations

##### A. Scheduling

1. Each Judge may hold in-person proceedings only one day per week unless an exception is requested and granted by the Administrative Judge. The scheduling shall be coordinated in each courthouse to assure appropriate limiting of foot traffic.
2. **In each courtroom, there shall be a maximum of 5 cases/proceedings scheduled in-person per hour.**

B. Occupancy of all courtrooms shall be limited to the lesser of 10 people or  $\frac{1}{2}$  the posted room occupancy per code. An exception shall be granted for grand juries (in those instances, occupancy shall be limited to the lesser of 30 people or  $\frac{1}{2}$  the posted room occupancy per code). Any exceptions that were previously granted to the occupancy limits are rescinded until further notice.

C. The number of non-judicial staff reporting to the courthouse shall be reduced in the discretion of the Administrative Judge to the minimum number necessary to ensure safe operation. In-person staffing at these reduced levels should be scheduled in a manner that limits the likelihood and adverse consequence of a positive COVID transmission in the workplace. All staff not reporting to the courthouse shall work remotely. The number of non-judicial staff reporting to the courthouse shall be between 25% to 40% of normal pre-COVID staffing.

D. All current safety measures and protocols will continue. Court managers and PPE Compliance Coordinators shall take steps to enhance monitoring and compliance with all safety measures including social distancing at all times.

#### II. Court Proceedings

- A. No new prospective trial jurors (criminal or civil) will be summoned for jury service until further notice. Pending criminal and civil jury trials will continue to conclusion.
- B. No new prospective grand jurors will be summoned *to report* for grand jury service unless authorized by appropriate administrative order. Existing grand juries, pursuant to Section 190.15 of the Criminal

Procedure Law, may continue as a matter of law, or upon application by the appropriate District Attorney to the Administrative Judge.

- C. Except for the proceedings identified in II(D) [below], no adult who is in custody, post-arraignment, in the Fourth Judicial District shall be produced to any Court (Supreme, County, Family or City), unless the Administrative Judge grants permission for such in-person appearance. Where an in-person proceeding involves an adult housed at a facility outside the Fourth Judicial District, that individual shall appear virtually utilizing electronic means unless the presiding judge orders otherwise after appropriate application is made.
- D. The following matters **may** be heard in-person (or a hybrid of in-person and virtual) **PROVIDED THE PRESIDING JUDGE FIRST FINDS THAT:**
  - (a) IT IS UNLAWFUL TO CONDUCT THE PROCEEDING VIRTUALLY, OR
  - (b) IT IS IMPRACTICAL TO CONDUCT THE PROCEEDING VIRTUALLY AND IT IS CRITICAL THAT THE MATTER PROCEED IMMEDIATELY
    - 1. Matters as designated in Exhibit A
    - 2. Family Court Act Article 10 evidentiary hearings
    - 3. Permanency Hearings
    - 4. Criminal Preliminary Hearings
    - 5. Pleas and Sentences
    - 6. Arraignments of in-custody defendants
    - 7. Arraignments on desk appearance tickets where the Court is notified of a request for an arraignment by either the prosecution or the defense (e.g., requests for Temporary Orders of Protection or suspension of drivers' licenses)
    - 8. Surrogate's Court Citation Returns
    - 9. Treatment Court and Judicial Diversion appearances where the presiding judge determines that an appearance in an acute case is necessary to protect the health and safety of a defendant
    - 10. Any proceeding involving a self-represented litigant(s) where the presiding judge determines that holding the proceeding virtually utilizing electronic means denies the self-represented litigant(s) meaningful access to the proceeding and where the presiding judge determines that the matter can be heard in-person consistent with all OCA safety protocols
- E. ALL other matters **MUST** be heard virtually, utilizing electronic means, or by telephone, including but not limited to:
  - 1. Bench Trials in Civil and Criminal cases. (For compelling reasons, the presiding judge may forward a request for permission to conduct a bench trial in-person to the Administrative Judge. If deemed appropriate, the Administrative Judge will forward the request to the Deputy Chief Administrative Judge, whose permission is required if the matter is to be held in-person.)
  - 2. Evidentiary Hearings in Civil and Criminal Cases. (For compelling reasons, the presiding judge may forward a request for permission to conduct a hearing in-person to the Administrative Judge. If deemed appropriate, the Administrative Judge will forward the request to the Deputy Chief Administrative Judge, whose permission is required if the matter is to be held in-person.)
  - 3. Motion arguments
  - 4. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
  - 5. ADR where both parties are represented by counsel and counsel will be present
  - 6. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program
  - 7. Small Claims Assessment Review Proceedings
  - 8. Other routine court matters not expressly included in Paragraph II(D)

## Exhibit A

- A. Criminal matters
  - 1. arraignments
  - 2. bail applications, reviews and writs
  - 3. temporary orders of protection
  - 4. resentencing of retained and incarcerated defendants
  - 5. essential sex offender registration act (SORA) matters
  
- B. Family Court
  - 1. child protection intake cases involving removal applications
  - 2. juvenile delinquency cases involving remand placement applications, or modification thereof
  - 3. emergency family offense petitions/temporary orders of protection
  - 4. orders to show cause
  
- C. Supreme Court
  - 1. MHL applications for an assisted outpatient treatment (AOT) plan
  - 2. emergency applications in guardianship matters
  - 3. temporary orders of protection (including but not limited to matters involving domestic violence)
  - 4. emergency applications related to the coronavirus
  - 5. emergency Election Law applications
  - 6. extreme risk protection orders (ERPO)
  
- D. Civil/Housing matters
  - 1. applications addressing landlord lockouts (including reductions in essential services)
  - 2. applications addressing serious code violations
  - 3. applications addressing serious repair orders
  - 4. applications for post-eviction relief
  
- E. Surrogate's Court - Any matter involving an individual who passed away due to COVID-related causes.

Updated Operating Protocols  
Town and Village Courts  
Effective December 9, 2020  
Fourth Judicial District

For the past many months, the Unified Court System has permitted in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses has been gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. Recently, the metrics have indicated the need to once again reduce foot traffic in the courthouses to protect the health and safety of litigants, lawyers, court staff and judges. Chief Administrative Judge Lawrence Marks' Memorandum dated November 13, 2020 is incorporated herein and this document is intended to provide enhanced guidance thereto.

Commencing December 9, 2020 all Town and Village Court operations in the Fourth Judicial District of the State of New York shall be conducted pursuant to this Plan. **If a matter is not specifically mentioned below, the Court MAY NOT hear the matter in person.**

I. Courthouse Operations

- A. There shall be a maximum of 10 court users in the courtroom at any one time. This includes lawyers/litigants/spectators but does not include any court personnel or security.
- B. All current safety measures and protocols will continue.

II. Court Proceedings

- A. No new prospective trial jurors (criminal or civil) will be summoned for jury service until further notice. Commenced criminal and civil jury trials will continue to conclusion.
- B. No new in-person bench trials and hearings in civil and criminal cases will be conducted. Requests for in-person bench trials and hearings in exigent circumstances may only be conducted after a request is made to and approved by the Administrative Judge and Deputy Chief Administrative Judge. Exception: Preliminary Hearings in Criminal Court may be heard in-person pursuant to the Updated Operating Protocols Effective November 23, 2020
- C. Judges may conduct in-person custodial arraignments in their own courts. Central Arraignment Parts (CAPs) and Virtual Arraignments Parts (VAPs) shall continue for off-hours purposes.
- D. Judges may conduct arraignments on Desk Appearance Tickets where the Court is notified of a request for an arraignment by either the prosecution or the defense. (E.g., Temp Orders of Protection and suspension of drivers' licenses)
- E. Criminal Matters: Judges are encouraged to conference Criminal Matters virtually/telephonically and if an acceptable disposition is reached, plea affidavits are required. Please work with your ADA and defense counsel on procedure. These matters may not be heard in person.
- F. Vehicle & Traffic Matters: Judges are encouraged to use a mail-in plea bargaining disposition process that would allow a defendant charged with a VTL infraction to proceed without a personal appearance. Please work with your ADA and defense counsel on procedure. These matters may not be heard in person.
- G. Judges are encouraged to utilize their judicial discretion when considering the suspension of a motorist's license for failure to appear or failure to pay.