



COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

May 15, 2025

The Honorable Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

**Re: Resolution Re: Calling for Transparency, Tangible Progress, and Efficiency
in External Audit of Erie County Clerk's Office**

Dear Honorable Members:

The attached proposed Resolution seeks approval for the Erie County Clerk's Office to facilitate the forensic audit by Weaver, which is currently being facilitated by the County Attorney, so that it is completed in a timely fashion. The proposed Resolution also seeks answers on the need for Weaver to be reviewing 52,000 emails which likely contain data that is contractually and statutorily protected. Finally, a conference with the Erie County Sheriff, District Attorney, County Attorney, and County Clerk is sought to determine if a second law enforcement investigation is necessary in light of one of the audit goals being "to discover any further criminal conduct by any county employee".

Thank you for your consideration of this matter. If your Honorable Body requires further information, kindly contact the Erie County Clerk's Office.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michael P. Kearns".

MICHAEL P. KEARNS
Erie County Clerk

MPK/wal

Encl.

**STATE OF NEW YORK
LEGISLATURE OF ERIE COUNTY
BUFFALO, NEW YORK**

**A Resolution Submitted by the Erie County Clerk
Re: Calling for Transparency, Tangible Progress, and Efficiency in External Audit of Erie
County Clerk's Office**

WHEREAS, this Honorable Body approved INTRO. 5-4 (2024) on March 7, 2024, requesting the County Clerk issue a request for proposals ("RFP") for an external forensic audit of the County Clerk's Office; and

WHEREAS, the former Finance Deputy County Clerk was arrested on March 15, 2024 with a Class C felony charge of Grand Larceny in the Second Degree; and

WHEREAS, at the March 15, 2024 press conference announcing the arrest of the former Finance Deputy County Clerk, both the District Attorney and the Erie County Sheriff made public statements exonerating the remainder of the Clerk's Office staff; and

WHEREAS, District Attorney John Flynn specifically stated that "[T]here is no indication that anyone else in the Clerk's Office is involved in this at all or has anything to do with the thefts"; and

WHEREAS, Sheriff John C. Garcia specifically stated that "And one bad apple has been removed, and the public is, can rest assure, that there is no other person involved"; and

WHEREAS, this Honorable Body approved INTRO. 9-6 (2024) on May 23, 2024, directing the Erie County Department of Law to enter into contract with an outside auditing firm for the purpose of conducting an external forensic audit of the Erie County Clerk's Office; and

WHEREAS, INTRO. 9-6 (2024) states that "to date, there has been no subsequent action on the RFP process from the Erie County Clerk's Office" as a reason for directing the Erie County Department of Law to now handle the external audit; and

WHEREAS, on September 24, 2024, this Honorable Body adopted INTRO. 16-1 (2024), rescinding the request of the County Clerk in INTRO. 5-4 (2024) and again authorizing the County Attorney to "perform an audit", with one objective being "to discover any further criminal conduct by any county employee"; and

WHEREAS, INTRO. 16-1 (2024) resolved that the Erie County Clerk and Erie County Comptroller be consulted during the audit; and

WHEREAS, an engagement letter with Weaver was signed by the County Attorney on October 10, 2024; and

WHEREAS, Weaver sent its First Documentation Request to the Clerk's Office on December 3, 2024; and

WHEREAS, the Clerk's Office responded to Weaver's First Documentation Request on January 24, 2025; and

WHEREAS, there have been no other documentation requests, or any other questions pertaining to the external audit, from Weaver to the Erie County Clerk's Office to date; and

WHEREAS, on December 16, 2024, the Clerk's Office staff was notified by the Law Department Liaison for the external audit that the Law Department was getting ready to turn over all of the former Finance Deputy's emails; and

WHEREAS, the Clerk's Office alerted both the Law Department and Weaver to issues of confidentiality and statutory concerns with the email disclosure, specifically at a joint meeting on February 13, 2025; and

WHEREAS, the Law Department promised at the February 13, 2025 meeting to provide a legal opinion as to the disclosure of such records to a professional services contractor; and

WHEREAS, no such opinion was ever provided by the Law Department; and

WHEREAS, on May 8, 2025, the County Attorney sent an email, which Clerk's Office staff was copied on, indicating that the Division of Information and Support Services ("DISS") had disseminated all of the emails to the County Attorney so that the emails could in turn be disseminated to Weaver; and

WHEREAS, from February 2025 to early May 2025, the County Clerk's Office was virtually ignored by the County Attorney and Weaver despite requests for an update on the external audit and the email disclosure issue; and

WHEREAS, the County Clerk's Office sent letters to both the Law Department and DISS on May 8, 2025, again noting the legal issues with the record disclosure; and

WHEREAS, the County Clerk filed a letter with this Honorable Body on May 12, 2025 alerting it to the situation with the records; and

WHEREAS, the County Clerk has consulted with both the Sheriff and the District Attorney on the issues with the scope of the external audit, specifically the goal of discovering "any further criminal conduct by any county employee"; and

WHEREAS, the County Attorney sent a letter in reply to the County Clerk on May 14, 2025, describing a complex method of ensuring confidentiality in the disclosure of approximately 52,000 emails to Weaver, which will only further delay and add more costs to the external audit; and

WHEREAS, to date, Weaver has not asked any follow-up questions concerning the response to its First Documentation Request, and appears to only be fixated on reviewing emails from the former Finance Deputy at this point; and

WHEREAS, to date, Weaver has been paid close to \$40,000 since the contract was signed in October 2024; and

WHEREAS, to date, neither Weaver nor the Law Department has provided any justification for the need to disseminate and review 52,000 email communications from the former Finance Deputy, who already pled guilty and is currently in prison; and

WHEREAS, to date, neither Weaver, nor the Law Department, nor anyone else has provided any justification for an objective of this external audit being to discover “any further criminal conduct by any county employee”; and

WHEREAS, if this Honorable Body truly has a concern over additional criminal conduct concerning the Concentration Account of the Clerk’s Office, a second law enforcement investigation should be conducted by the Sheriff and the District Attorney, not an outside forensic auditor; and

WHEREAS, the County Attorney stated in his May 14, 2025 letter that he was “reluctant” to be in charge of this external audit, and that if the Legislature determined it was “no longer necessary for the County Attorney’s Office to facilitate this audit, they can rescind the resolution directing same”; and

WHEREAS, the County Clerk hired a new Finance Deputy County Clerk in November 2023, who has over 40 years of forensic auditing experience, who would be the ideal candidate to oversee a forensic audit of the Clerk’s Office at this point.

NOW, THEREFORE, BE IT

RESOLVED, that this Honorable Body directs that an immediate pause be placed on the dissemination of the emails from the former Finance Deputy County Clerk by the Law Department to Weaver until all legal issues are addressed; and be it further

RESOLVED, that Weaver continue moving forward with the external forensic audit so that it is completed in a timely fashion, even without the emails; and be it further

RESOLVED, that this Honorable Body rescinds the authority given to the County Attorney in INTRO. 16-1 to facilitate the external audit; and be it further

RESOLVED, that the current Deputy County Clerk – Finance be given the authority to facilitate the external audit of the County Clerk’s Office; and be it further

RESOLVED, that Weaver provide justification to this Honorable Body for the review of 52,000 emails to conduct an external forensic audit, or abandon its request; and

RESOLVED, that Weaver provide this Honorable Body with an immediate update on the external audit and a timeline for completion; and be it further

RESOLVED, that the Erie County Sheriff, District Attorney, Comptroller, County Attorney, and County Clerk meet to determine if a second law enforcement investigation is needed over the theft of funds from the Clerk's Office and, if no investigation is needed, that the goal of discovering "any further criminal conduct by any county employee" be stricken from the external audit; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the Erie County Executive; the Erie County Attorney; the Erie County District Attorney; the Erie County Sheriff; the Erie County Comptroller; and the Erie County Clerk.