



NEW YORK STATE SHERIFFS' ASSOCIATION

27 ELK STREET

ALBANY, N.Y. 12207

TELEPHONE (518) 434-9091

FAX (518) 434-9093

2020 Senate Hearing on the Impact of Covid-19 on Prisons and Jails

September 22, 2020

*Written testimony submitted on behalf of the New York State Sheriffs' Association
by Association President, Washington County Sheriff Jeffrey Murphy*

Esteemed Members of the Legislature,

Thank you for asking for the input of the New York State Sheriffs' Association regarding the impact that Covid-19 has had on local county jails. In the majority of counties in New York State, the Sheriff is tasked by statute with operating the county jail. People committed to the Sheriff's custody are either serving a determinate sentence of 1 year or less of incarceration, or have been remanded pre-trial by the magistrate handling their case. The pandemic has presented Sheriffs and Jail Administrators with unique, unprecedented challenges over the past months and our experiences have been disparate, as no two counties are exactly the same. But, as I hope to illustrate, all New Yorkers should be proud of the job that Sheriffs have done in caring for the people in their custody.

As alluded to above, by any measure Sheriffs have done an excellent job preventing the spread of Covid-19 in jails. To our knowledge, there has not been a single inmate or correction officer death resulting from Covid-19 in any local jail outside of New York City. This is commendable, and is a reflection of the professionalism and expertise of Sheriffs and their personnel. This not to say that there have been no cases among inmates or staff; but through diligence and swift action Sheriffs have been able to mitigate the negative effects of Covid-19 in their facilities.

But this has not come without cost, both financial and emotional. From a logistical standpoint, the pandemic has been taxing on jail staff. In the early days of the outbreak, precautionary quarantines of correction officers (CO) due to potential exposure put increased pressure on those

remaining COs to cover more shifts. This was not only exhausting for those officers, but it was also expensive as it required copious amounts of overtime.

Additionally, the pandemic stressed our manpower by requiring strict separation of Covid-19 positive inmates from the rest of the jail population. This necessary separation, overlaid on top of our existing classification system for inmates, required additional posting of COs. For instance, a female Covid-19 positive inmate would have to be not only be kept separate from male inmates, but also other uninfected female inmates as well. And if the Covid-19 positive inmate in question had a history of violence or a gang affiliation, then that inmate could potentially not be held with other Covid-19 positive inmates in the same classification. These types of permutations were and continue to be numerous, and put stress upon our facilities to find creative ways to ensure that we have proper staffing, and that the inmates are safeguarded against both the virus and each other.

The pandemic has also been very difficult on the inmates in our care as well. And perhaps the primary reason why we have been so successful in preventing the spread of Covid-19 in jails is the reason why it has been so tough on them—that reason being the suspension of in-person visitation. Very early in the pandemic, with the permission of the State Commission of Correction (SCOC), jails halted all in-person visitation. Inmates were still able to receive mail and communicate with loved ones and legal counsel via telephone and video conferencing, but this was the extent of the contact that was allowed. Additionally, many jails suspended educational and recreational programs that required non-Sheriff's office personnel from coming into the facility. These were difficult decisions, but it appears now that this was the correct course of action.

As access to testing has proliferated, and as our collective knowledge about the virus has grown, jails have been able to slowly bring back visitation and extra-curricular programing. While we're not aware of any jail that has resumed contact visitation, many jails have begun to allow visitation with strict disinfection and separation procedures (appropriate personal protective equipment (PPE), plexiglass, etc.). I'd note that, anecdotally, one positive outcome of suspending visitation has been the decline of contraband in jails. For years, Sheriffs have had to abide by an SCOC rule interpretation which allows for contact visits between inmates and family. The extent of contact allowed for, according to the SCOC's interpretation, goes so far as to permit open-mouthed kissing between inmates and visitors. We have long suspected that this was a common method of passing drug contraband to inmates, but because of the difficulty in detecting such subterfuge, we have been hard-pressed to make our case that SCOC's interpretation should be reconsidered. In the coming months, we will be gathering data from our members that will hopefully clearly show the correlation between contact visitation and contraband.

Another impact of Covid-19 has been the dramatic decrease in jail populations across the state. Though jails had been seeing a steady population decline in recent years due to a variety of policy initiatives (Raise the Age, bail reform, etc), the population decrease due to Covid-19 was

much more precipitous. We can only speculate as to the cause, but I imagine that a confluence of factors is responsible: closed courts, greater inclination of judges to release individuals currently held on bail or remand, fewer interactions between individuals that could result in criminal behavior, etc. I bring this up not as a positive or negative impact of Covid-19, simply that this pandemic has affected the criminal justice system and jails in a myriad of ways. That said, as courts have reopened and social distancing rules have loosened, we have begun to see our average daily populations rise.

Now, in hindsight, I'd offer these thoughts about what would have helped Sheriffs provide even better service during the pandemic. The prioritization of testing and PPE for first responders and inmates should be paramount in future pandemics. Early on, there was some difficulty in locating sufficient PPE for jail staff and incarcerated individuals. This, combined with the relative scarcity of testing in the early days led to many of the logistical and manpower issues detailed above. This is not to cast aspersions at any other agency or office. This is a *novel* coronavirus and we all had to do the best we could in the face of the unknown.

It would have also been of great assistance to have a central repository of information regarding the precise status of courts and legal proceedings affected by the state of emergency. Between the multitude of Executive Orders issued by the Governor and the orders issued by the Office of Court Administration, it has been difficult to keep track of what courts are open in what jurisdictions and for what business. This necessarily impacts jails, as critical court proceedings require the participation of defendant inmates and therefore require transportation and extra precaution for the inmate against exposure to the virus outside the jail facility.

I thank you again for your interest on the perspective of Sheriffs on this important issue. Should you have any questions, I would be happy to work with you through the Sheriffs' Association to get you the information you need.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jeffrey Murphy". The signature is written in black ink and is positioned above a horizontal line.

Washington County Sheriff Jeffrey Murphy
President, New York State Sheriffs' Association