

COUNTY OF ERIE

LOCAL LAW INTRO. NO. 1-1 -2020

LOCAL LAW NO. _____-2020

THE JAIL MANAGEMENT TRANSPARENCY AND ACCOUNTABILITY ACT

Be it enacted by the Legislature of the County of Erie as follows:

Section 1. Legislative Findings and Intent.

Since 1998, 45 prisoners/detainees, including both men and women, incarcerated or detained in the Erie County Holding Center and Correctional Facility or discharged from custody or receiving treatment in a hospital setting due to their incarceration have died. 30 of these deaths have occurred since June 20, 2005 alone.

Many of these deaths have been due to suicide, while others have been due to improper medical care or malpractice by medical staff, improper actions by Sheriff Office deputies/correctional officers and a few due to natural causes or accidents. In most instances, this Honorable Body and the public do not know the circumstances, details or cause of death of deceased prisoners.

Over the past decade, the New York State Commission of Correction, which has authority under New York State Correction Law for regulating and overseeing local jails and holding centers, has issued a series of critical reports over the Erie County Holding Center and Correctional Facility due to inmate escapes from custody, facility conditions, assaults on prisoners, mental health and healthcare deficiencies, and the deaths of prisoners or detainees in the custody of the Erie County Division of Jail Management. This includes a February 2018 report entitled *The Worst Offenders Report: The Most Problematic Local Correctional Facilities of New York State* that characterized the Holding Center and Correctional Facility as two of the “worst offenders for being in violation of state law.”

Under New York State law and Commission of Correction regulations, when a prisoner/detainee in a local jail or holding center dies or is injured while in custody, the local county sheriff office/police agency is required to submit a report(s) and documentation to the Commission for review and investigation by the State.

However, the sheriff office is not required to, and does not notify or provide any reporting whatsoever to the local legislative body which has oversight responsibility for the actions of the county government and its officers, including the sheriff.

In Erie County, efforts by this legislative body to receive a copy of the report(s) submitted by the Erie County Sheriff to the Commission of Correction – either by requesting the Sheriff to provide it to the Erie County Legislature, or asking the Commission of Correction to provide such reports and/or their own reports, have been unsuccessful. This has been due to the refusal of the Erie County Sheriff and the

Commission of Correction to provide the reports to this body and/or to testify in public at Legislature committees concerning these issues. In fact, the Sheriff Office does not even notify the Legislature when a death or serious medical situation involving a prisoner has occurred, let alone provide details or data.

This has led to a situation in which Erie County legislators have had to rely on media accounts to find out about the deaths of, or serious medical issues involving prisoners and has made it very difficult to find out details about what happened and what actions were being taken to ensure such events did not reoccur with prisoners.

This is indefensible and unacceptable. Legislators and the public demand and deserve transparency, accountability and integrity from the Sheriff's Jail Management Division and the activities therein when persons' lives are at stake and taxpayer funds are involved.

Section 2. Definitions.

The Erie County Division of Jail Management refers to the Erie County Sheriff Office's division which controls and administers the Erie County Holding Center and Correctional Facility.

The Erie County Division of Correctional Health refers to the Erie County Sheriff Office's division which controls and administers healthcare for prisoners/detainees in the Erie County Holding Center and Correctional Facility.

Section 3. Policy.

1. Whenever a prisoner/detainee in the custody of the Erie County Sheriff **dies** in the Erie County Holding Center or Correctional Facility, or dies subsequently at a hospital or healthcare/nursing facility or elsewhere demonstrably due or related to their incarceration in the Erie County Holding Center or Correctional Facility (whether in the "custody" of the Sheriff Office at that time or not), the Erie County Sheriff shall issue a formal written report to the Erie County Legislature regarding the death.

That report shall contain all the of the same information/facts/data required to be submitted by the Sheriff Office to the New York State Commission of Correction and may, if the Sheriff so choses, come in the form of sending the same report/data as submitted to the Commission in its SCOC M-187 form process.

2. Whenever a prisoner/detainee in the custody of the Erie County Sheriff is **seriously injured** in the Erie County Holding Center or Correctional Facility, and subsequently receives medical care at a hospital or healthcare facility demonstrably due or related to their incarceration in the Erie County Holding Center or Correctional Facility (whether in the "custody" of the Sheriff Office at that time or not), the Erie County Sheriff shall issue a formal written report to the Erie County Legislature regarding the injuries and hospitalization/medical care and the reasons for the injury and medical treatment – whether due to an accident,

prisoner self-injury, prisoner-on-prisoner violence, or the actions of an employee of the Sheriff Office.

That report shall contain all the of the same information/facts/data required to be submitted by the Sheriff Office to the New York State Commission of Correction and may, if the Sheriff so choses, come in the form of sending the same report/data as submitted to the Commission. The definition of serious injury shall follow the guidelines established by the Commission in its "General Incident Category: Physical Injury/Hospitalization" definition in its *Reportable Incident Manual for County Jails and The New York City Department of Correction* policy document.

3. These reports shall be submitted to the Chair of the Erie County Legislature and clocked-in with the Clerk of the Legislature within 48 hours (business days) of the death or injury and/or hospitalization or discharge from Sheriff custody.

Section 4. Violations and Penalties.

In any case where the Sheriff or a person in charge or control of the Holding Center or Correctional Facility or an officer or employee thereof shall fail to comply with this law and fail to submit the required reports/documentation to the Clerk of the Legislature within 48 hours (business days), the Erie County Legislature may apply to the New York State Supreme Court for an order directed to such person requiring compliance therewith. Upon such application the court may issue such order as may be just and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

Section 5: Effective Date

This Local Law shall take effect upon filing with the New York State Secretary of State.

Section 6: Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its specific application.

Sponsors:

Timothy J. Meyers
Jeanne Vinal
April N.M. Baskin
Howard Johnson
Lisa Chimera
Kevin Hardwick