



STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER

December 1, 2020

Hon. April N.M. Baskin
Chairwoman, Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Chairwoman Baskin:

First and foremost, thank you for your correspondence of November 24th, 2020 expressing concern about 27 prisoners testing positive for COVID-19 at the Erie County Correctional Facility. I appreciate that you share my concern about the spread of COVID-19 at Erie County facilities, as well as the sharp rise in cases in Erie County in general. It is encouraging that another fellow public servant expresses concerns about this profoundly serious issue, while others have ignored it.

Thank you also for acknowledging my extensive advocacy on behalf of Erie County employees and taxpayers seeking transparency regarding COVID-19 outbreaks. Your kind words are greatly appreciated. As you know, the lack of transparency can cause fear and impaired decision making when cases arise. Unfortunately, our requests for transparency have often been met with silence from the Poloncarz Administration, exasperating the fear and concern among the individuals concerned.

I appreciate and share your concern that some inmates and numerous Erie County employees have tested positive for COVID-19, including two Commissioners and the relative of a high-ranking Erie County official. Outbreaks such as this are especially concerning, because of the limited ability of inmates to take measures to protect themselves from the virus. Yesterday, I read a media account that a local nursing home had a 70% COVID-19 positivity rate. COVID-19 in maintained closed spaces is a dangerous situation, especially for individuals with COVID-19 comorbidities, such as advanced age or certain other health problems.

On June 1, 2020, I corresponded with United States Secretary of Health and Human Services Alex Azar to investigate the alarming COVID-19 nursing home deaths in Erie County and New York State. As such, given our shared concern about the spread of COVID-19 among confined populations, I am copying Secretary Azar on this correspondence. I reiterate my request that a thorough investigation be conducted regarding this profoundly serious concern.

Similar to nursing homes, prisons involve a confined population with limited ability for individuals to take action to protect themselves from COVID-19 as they see fit. As such, such as we did regarding nursing home issues, I am copying the New York State Commission of Correction to request that they investigate Erie County jail facilities to ensure that proper steps are being taken to protect this confined population.

Of course, the bulk of the concerns raised to my office about COVID-19 cases in Erie County facilities involve the lack of transparency regarding positive cases, contact tracing, increased sanitizing, availability of PPE, and other issues.

Those concerns are so serious that the Erie County Executive and the Health Commissioner both publicly apologized for, what they call in their own words, "unacceptable delays in COVID-19 test result notification." Mark Poloncarz even had

to go so far as to express an apology for misleading the public when falsely stating there were no instances of delays in notifying individuals that tested positive for COVID-19 but were never notified by the County of Erie.

"Last week, I said, 'Of course not. There's no cases like that.' Well, I was wrong. There were mistakes that were made."

Source: Erie County Executive Mark C. Poloncarz, www.buffalonews.com, "Erie County Changes Covid-19 Test Notification Process After 'Unacceptable' Delays," 11/24/20

"We are aware of unacceptable delays in our process to contact individuals who sought testing at county-run drive-thru clinics. That breakdown has caused unnecessary confusion and uncertainty at a time when the public needs to have complete confidence in our public health response."

Source: Dr. Gale Burstein, www.erie.gov, Erie County Department of Health Acknowledges Unacceptable Delays in COVID-19 Test Result Notification," 11/23/20

Given the questions regarding COVID-19 response that remain unanswered, I am going to request information from all independently elected offices, including follow up requests for information from the Executive Branch of Erie County government. This will be included in my report to your Honorable Body. We will have auditors continue to request information from the Poloncarz Administration including, but not limited to:

- Why isn't the Administration notifying the public, bargaining units or the public about positive COVID cases amongst Erie County employees, especially the positive case of a parks worker that is the relative of a high-ranking Erie County Official?
- Why aren't temperature checks being taken for any person entering the Rath Building?
- Why isn't there a system or policy in place to notify county workers when county employees test positive for COVID-19?
- How many confirmed COVID-19 tests have there been among the county workforce?
- How many positive COVID cases have there been of employees working in the Rath Building?
- Why did the Administration refuse to notify the Legislature when a Commissioner tested positive for COVID-19?
- Why is the County of Erie paying Managerial Confidential employees overtime and holiday pay, when counterparts across New York State, including New York City, are not?

I have directed my Audit Division to prepare a questionnaire to independently elected officials regarding their COVID-19 response. I will direct a letter to you to respond on behalf of your fellow legislators. I hope that responses from all elected officials will give employees and taxpayers alike peace of mind as to Erie County's efforts to prevent COVID-19 at its own facilities. It may also serve as a way to adopt successful adaptations in various departments, as well as workplaces across the county. As I did with the survey regarding overtime in counties across New York State, I will share the results with you when finished.

Thank you for your correspondence. I share your concerns and look forward to working with you to get the answers that we want, and taxpayers deserve.

Sincerely,



Stefan I. Mychajliw, Jr.
Erie County Comptroller

cc: United States Secretary of Health and Human Services Alex Azar
New York State Commission of Correction