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**Thomas A. Mitchell, Esq., Counsel**

February 13, 2025

Dear Legislators,

On behalf of the New York State Sheriffs' Association, I am writing to comment on several of the initiatives in Governor Hochul's executive budget proposal. I hope these comments will aid you in your deliberations as this session progresses and provide you with some valuable perspective on the state of criminal justice in New York, as seen by my fellow Sheriffs and me.

Perhaps the most significant criminal justice policy proposal in the executive budget is the legislation relating to discovery reform (S3005/A3005, Part B). As you are all aware, prosecutors are currently subject to stringent time requirements for automatic discovery of "all items and information that relate to the subject matter of the case and are in the possession, custody or control of the prosecution or persons under the prosecution's direction or control." CPL § 245.20(1). The law as it stands now is expansive regarding the scope of what must be disclosed and unyielding as to when.

So, my fellow Sheriffs and I are pleased to see some of the changes to Article 245 of the Criminal Procedure Law contemplated in the Governor's budget. Though our colleagues in public safety, the District Attorneys of New York, are the individuals most directly impacted by the existing discovery obligations, much of the information and material they provide to their counterparts in court comes from arresting agencies, like Sheriffs' Offices.

I want to highlight three of the proposed changes that I think are noteworthy. First, the legislation would change the basic standard for what would be considered discoverable from information and material "relate[d]" to the subject matter of the case to "relevant to the subject matter of the charge." This may seem innocuous, but it will appropriately narrow the scope of discovery—and therefore the grounds on which to dismiss a deserving prosecution for failure to comply therewith—to those things that are truly germane to the criminal proceeding in question. Second, the legislation would allow for greater safeguarding of the personal information of potential witnesses. The statute would be amended to allow the redaction of a witness's physical address and personally identifying details, so long as the people furnish one adequate means of contact information for the witness to the defense. This would be able to be accomplished without the need to apply for a formal protective order. Finally, the legislation would provide some flexibility to courts to appropriately tailor remedies for non-disclosure of relevant material, such that otherwise meritorious cases are not dismissed out of hand. The critical language reads: "If the party entitled to the belated or missing disclosures shows that they have been prejudiced by the belated or non-disclosure, the court shall grant an appropriate and proportionate remedy pursuant to section 245.80 of this article."

Taken altogether, Sheriffs think this is a reasonable and common-sense proposal and would encourage the legislature to include it in the final enacted budget.

Also included in the Governor's public protection budget are several amendments to the Civil Service Law aimed at improving law enforcement recruitment (S3005/A3005, Part C). One of these proposals would apply to Sheriffs and is something that we support: the removal of the age cap of 35 for eligibility for permanent appointment as a police officer. The policing profession in New York has seen a severe depletion of its ranks over the past several years. This can be attributed to a confluence of factors that have combined to create extreme staffing shortages for many police agencies, Sheriffs' Offices included. By removing the age cap, older, yet still qualified individuals would have the opportunity to protect and serve their communities. Importantly, this legislation would not dilute the training or fitness requirements in any way. Older recruits would bring greater life experience and the lessons that time provides to their new careers, which is something any employer would want. Growing the pool of potential applicants in this way won't solve all of the recruiting issues facing law enforcement, but it will certainly help.

I would take this opportunity to encourage the Legislature to include in its own budget proposal a piece of legislation that is absent from the Governor's budget that would similarly assist law enforcement agencies in bolstering their ranks with experienced recruits. I'm referring to an amendment to § 212 of the Retirement and Social Security law to allow retired governmental employees to re-enter state service and earn up to \$50,000 annually without any reduction of their retirement benefits. The current earnings cap of \$35,000 has been in place since 2019 without any adjustment for inflation or recognition of the dire straits of public sector workforce staffing writ large. Such an increase would aid in enticing retirees to rejoin police service and backfill vacant positions until a new generation of police officers arrives. It is the uniform experience of Sheriffs that the current earnings limit of \$35,000 dissuades many individuals from continuing to serve after retirement. Sheriffs would particularly benefit from this proposal with regard to their School Resource Officer Programs (SRO). The deputies that fill these positions are often retirees appointed pursuant to General Municipal Law section 209-v. Raising the earnings cap would make it easier to keep SROs in schools across the state. Sheriffs will continue to work with the Executive Chamber to see this accomplished.

Though not contained in the public protection budget, Sheriffs are supportive of the Governor's proposal regarding drugged driving reform (Transportation and Economic Development, S3008/A3008). Now, several years in the wake of cannabis legalization, it is clear that law enforcement must adapt to the increased prevalence of intoxicated drivers where the intoxicant is something other than alcohol. This legislation would provide new tools for police and prosecutors to keep our thoroughfares safe. Chief among them would be the authority to require that a motorist submit to an "oral/bodily fluid test" upon reasonable suspicion of intoxication or impairment. Advances in testing technology should be taken advantage of to support successful prosecutions for drugged driving. The legislation would also add new definitions of "impairment" and "intoxication" that reflect the new frontiers of dangerous driving we are now confronted with.

Finally, I would draw your attention to the critical need for increased State funding in this year's budget to sustain Jail-Based Substance Use Disorder (SUD) and Medication Assisted Treatment (MAT) programs in counties across our State. While we commend the Executive's commitment of \$9.1 million for jail-based SUD and MAT programs in this year's Aid to Localities budget proposal, it is evident to Sheriffs that this funding falls well short of what is necessary to help us implement this program as the legislature intended. Despite the increased demand and rising costs, the proposed \$9.1 million budget allocation reflects only a 3.11% increase since the program's implementation in 2022.

Our obligations under Mental Hygiene Law § 19.18-c extend well beyond simply providing opioid agonist and antagonist medication to incarcerated individuals experiencing substance abuse issues. The law also requires our Offices to provide a suite of tangential therapies and counseling, as well as individually tailored discharge planning and community care coordination. The cost to provide these services far exceeds the allocated State funding. Most counties receive only approximately \$160,000 per year in State Aid for these programs, leading many counties to rely on piecemeal grants from opioid settlement dollars to maintain compliance with the law.

Additionally, while we applaud the Executive's recognition of the increased demand for MAT in correctional settings and their commitment to a nearly fourfold increase in funding for the Department of Corrections' MAT program in this year's budget proposal, we respectfully urge that this investment also be extended to county-level jail-based MAT programs. Sheriffs responsible for implementing these programs have consistently noted the rise in demand at the county level and continue to advocate for additional resources to meet their obligations and expand services effectively.

Therefore, I kindly urge you to support our request for an additional \$11 million in State Aid funding, bringing the total to approximately \$20 million in the final enacted budget. This funding is pivotal to ensuring that the services we are mandated to provide achieve their purpose: managing the symptoms of substance abuse and withdrawal and hopefully reducing recidivism.

Thank you for your time and consideration of this important criminal justice issue. I am available to discuss with you further at your convenience. Please contact Alex Wilson at the New York State Sheriffs' Association ([awilson@nysheriffs.org](mailto:awilson@nysheriffs.org), C: 518-419-1793) to facilitate.

Sincerely,



Chautauqua County Sheriff James Quattrone  
President, New York State Sheriffs' Association