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Illinois Sheriffs' Association

Jim Kaitschuk, Executive Director

Phone: 217-753-2372 Email: ilsheriff@ilsheriff.org

SHERIFFS RESPOND TO GOVERNOR'S EO 22-15 REGARDING ONGOING AND INDEFINITE DELAYS BY THE STATE OF ILLINOIS IN THE ADMISSION AND TREATMENT OF MENTALLY-ILL INMATES

In March, 2020, Governor Pritzker issued Executive Order 20-24 which suspended admissions to all Illinois Department of Human Services forensic treatment facilities, with limited exceptions in the sole discretion of the Secretary of Human Services, Grace Hou. EO 20-24 has exacerbated the longstanding history of substantial and indefinite delays in the admission of mentally-ill inmates to whom the courts have ordered DHS to provide desperately needed psychiatric treatment.

The tragic wake of EO 20-24 continues to jeopardize the safety and security of county jails across the State with no end in sight. The State's persistent failure to timely admit seriously ill inmates has resulted in the unnecessary and dangerous decompensation of extremely sick inmates awaiting the State's compliance with court-ordered treatment. In what amounts to yet another unfunded state mandate, the State has refused to compensate county jails for the costs of securing and housing inmates subject to DHS placement and treatment orders. The State's continued failure to take bold action to solve the DHS staffing and capacity crisis is simply wrong. It is not only a continued affront to the fundamental constitutional rights of mentally-ill inmates, but to crime victims and taxpayers of the State of Illinois who expect the actions of their government to comport with the law and basic human decency. The People of the State of Illinois should demand that their government solve problems, not create and sustain conditions which jeopardize the safety of jail staff and vulnerable mentally-ill inmates. That is precisely the case under EO 20-24 as modified on July 6th by EO 22-15.

As a result of years before and during the COVID-19 pandemic without meaningful progress toward solving the ongoing DHS staffing and capacity crisis, Sangamon County Sheriff Jack Campbell filed a lawsuit on June 22, 2022 against Governor Pritzker and DHS Secretary Hou to stand up to the State's continued defiance of court orders for delivery of restorative psychiatric treatment to unfit inmates. On June 29, 2022, the Illinois Department of Human Services and DHS Secretary Grace Hou were held in contempt of court by a Sangamon County Judge for their continued violation of Illinois law requiring the admission and treatment of mentally-ill inmates. Secretary Hou failed to appear for her own contempt hearing where the Court held that she and DHS have "defeated and impaired the rights and interests of the Defendant and further impeded and obstructed the Court in its administration of justice."

On the eve a scheduled hearing on Sheriff Campbell's Motion for Temporary Restraining Order scheduled for **July 7th**, Governor Pritzker's **July 6th Executive Order 22-15** deleted the language challenged in Sheriff Campbell's suit and added language which has nothing to do with COVID-19 mitigation measures. Instead, EO 22-15 merely provides cover for years of the State's failure to allocate sufficient resources and develop proactive strategies to remedy the DHS capacity and staffing crisis. **EO 22-15** expressly suspended the statutory language that required DHS to notify county jails of the placement location of a defendant within 20 days of any placement order by the court requiring DHS to provide restorative psychiatric treatment in an appropriate State facility. **It is noteworthy that EO 22-15 was issued one week after DHS was held in contempt and the day before a scheduled injunction hearing in the case filed by Sheriff Campbell.** Significantly, the exact language of EO 20-24 challenged by Sheriff Campbell was deleted by EO 22-15 and simply replaced with subjective "prioritization

criteria” that leaves county jails and mentally ill inmates in the same untenable position. EO 22-15 is merely a cynical attempt to sustain a longstanding pattern of indefinite DHS admission and treatment delays without any meaningful solutions from the State. Sheriff Jack Campbell stated “These inmates deserve the help the State is required to provide. We cannot provide the level of mental health treatment they need.”

The Illinois Sheriffs’ Association and the Sheriffs across Illinois have repeatedly shared the concerns and needs for those encountering mental health challenges. There is no question that mental health challenges are pervasive and the need for both community and inpatient services are critical. Governor Pritzker’s own law, HB3653, soon to take effect in January calls for requirements of deflection programs to assist citizens and inmates with mental health issues when found in a law enforcement situation.

However, instead of trying to find a way to get individuals that have been court ordered for treatment and evaluation the help they need, the Governor has chosen to issue an executive order to suspend the State law that was established and required DHS to get them the help more expeditiously.

While the rest of the state has all but returned to normal with mask restrictions lifted, gathering size restrictions lifted, most of the state being vaccinated for COVID-19, and where the Federal government has lifted all travel bans and requirements... It seems convenient that now, after the State was found in contempt for disobeying state law, Governor Pritzker finds it imperative to dust off COVID-19 measures with EO 22-15 to circumvent the existing law. <https://www.illinois.gov/government/executive-orders/executive-order.executive-order-number-15.2022.html>

Sheriffs and jails have continued to operate during the pandemic and continue to face daily challenges. The disregard for policy by the State has many jails at capacity, creates additional challenges for staff and our jails are not designed or equipped to handle the needs associated with severe mental illness. The majority of jails in the U.S. have no restrictions in place with regards to inmate movements.

“It’s time for the State of Illinois to get back to doing state business and to stop shirking their duties and dumping the responsibilities onto Sheriff Offices!” – states Jim Kaitschuk. “We can no longer be forced to accept the responsibility of the State.”