Recommended Amendments to Discovery Reforms

While there was a need to reform New York’s criminal justice statutes during the 2019 state legislative session, it is widely recognized that several of the changes in the laws pertaining to discovery are broad and vague and are having unintended consequences at the municipal level. The dramatically shortened time period in which prosecutors must disclose evidence to defendants and the significant expansion of the matters to which such discovery mandates apply will have significant cost, tax and justice implications for cities and villages with police departments, local justice courts or code/parking enforcement departments.

The discovery reforms mandate that prosecutors disclose evidence to the defense within 15 days of arraignment for criminal charges (even if the defendant is not in custody) and expand the scope of material that a prosecutor must review and deliver within 15 days. This combination of mandates will hinder the ability of city and village officials and employees to prosecute cases while managing their misdemeanor and felony caseloads, and will make it impossible to prosecute vehicle and traffic and local code infractions and violations in compliance with the new discovery mandates. Also, arraignment must now take place within 20 days of desk appearance ticket issuance, thereby requiring justice courts, many of which convene monthly, to meet more frequently.

To place these additional burdens in context, it is important to note that cities and villages will not reap savings from the reduced burden on county jails resulting from bail reform. Also, municipalities are already fiscally challenged by the now-permanent 2% tax cap, particularly in light of the fact that they have not received an increase in general purpose state aid in 11 years.

The New York State Conference of Mayors, therefore, supports the following set of amendments that are consistent with the intent of the criminal justice reforms but which will allow for more effective and affordable implementation:

- Ensure that cities and villages are provided with additional financial and operational support to offset the cost of these mandated measures;
- Allow 60 days for prosecutors to disclose evidence to the defense for criminal charges, unless the defendant remains incarcerated;
- Exclude from the accelerated discovery requirements any charge not involving a misdemeanor or felony;
- Adjust the 20-day arraignment requirement to accommodate local courts that meet on a monthly basis; and
- Allow prosecutors to withhold sensitive information, such as victim contact information, without having to obtain a court order.