March 18, 2020

Mayor Bill de Blasio
City Hall
New York, New York 10007

Hon. Eric Gonzalez
Brooklyn District Attorney
350 Jay Street
Brooklyn, New York 11201

Chief Judge Janet DiFiore
Office of Court Administration
25 Beaver Street
New York, New York 10004

Hon. Melinda Katz
Queens District Attorney
125-01 Queens Boulevard
Kew Gardens, New York 11415

Elizabeth Glazer
Director, Mayor's Office of Criminal Justice
One Centre Street, 10th Floor
New York, New York 10007

Hon. Michael McMahon
Richmond County District Attorney
130 Stuyvesant Place, 7th Floor
Staten Island, New York 10301

Hon. Darcel D. Clark
Bronx District Attorney
198 East 161st Street
Bronx, New York 10451

Hon. Cyrus Vance, Jr.
Manhattan District Attorney
One Hogan Place
New York, New York 10013

Dear Mayor de Blasio, Chief Judge DiFiore, Director Glazer, and District Attorneys Clark, Gonzalez, Katz, McMahon, and Vance:

Our Criminal Justice system is struggling to adjust to the challenges presented by COVID-19 and the many city, state, and national efforts to respond to the crisis.

In an effort to maintain public safety and order, we must ensure that the police, the courts, and the criminal justice system as a whole are able to function efficiently and safely. To do so, we must take steps to keep as many people as possible out of the criminal justice system, and in particular out of custody in jails like those on Rikers Island. However, jails are not the only problematic environment; the cells in which individuals are detained during the 24 hours after an arrest but before arraignment similarly present opportunities for the virus to take hold and spread. By making the changes below, the City will be able to focus its resources on those cases that most require them, and to ensure that only those individuals whose incarceration is truly necessary for theirs or the community's safety be held in custody.

Specifically, we urge the following immediate actions:

1. The NYPD should stop burdening the courts and district attorneys with low-level arrests. The police should cease arrests, and district attorneys should decline to prosecute, victimless offenses, including (1) low-level marijuana offenses; (2) public transportation fare evasion; (3) soliciting prostitution, including unlicensed massage; (4) unlicensed driving where the defendant's license was suspended because of their failure to pay fines or fees to the DMV; (5) minor drug possession

for personal use; and (6) trespass against homeless people seeking shelter. And nobody should be jailed, or continue to be held, for a technical parole violation.

2. District attorneys should seek, and judges should set, bail or remand only when absolutely necessary, particularly since the City's supervised release program will no longer be in the courtrooms, and bail bond companies are not going to courts. People detained at arraignments will in many cases be held in custody for the foreseeable future. That should happen infrequently.

3. There needs to be a due process mechanism for defendants charged with a felony for whom bail has been set or who have been remanded to have a timely indictment as required by law, whether through C.P.L. § 180.80, or if that is suspended, through probable cause hearings pursuant to C.P.L. § 180.60 (with longer time limits), both with appropriate safeguards for all involved, including comprehensive video-conferencing. Interminable detention is not an acceptable solution.

4. MOCJ should convene a working group of district attorneys, judges, public defenders, corrections officials, and public health officials to determine which at-risk individuals currently held at New York City jails should be immediately released in order to reduce the threat of infection for incarcerated individuals and staff.

5. District attorneys, public defenders and the courts should swiftly identify their additional resource needs, including the added technological resources necessary to facilitate work-from-home mandates, and video and telephonic conferencing, and those needs must be promptly met.

Respectfully,

Speaker Corey Johnson   Councilmember Rory I. Lancman

Councilmember Donovan Richards