



**For Immediate Release – April 15, 2020**

Contact: Eric Friedman  
[efriedman@nycbar.org](mailto:efriedman@nycbar.org)

Eli Cohen  
[ecohen@nycbar.org](mailto:ecohen@nycbar.org)

**City Bar Statement Urging Swifter Action to Reduce Prison and Jail Populations  
in Light of Coronavirus Pandemic**

On March 20, 2020, the City Bar issued a [statement](#) “urging immediate steps to reduce prison and jail populations to prevent spread of the COVID-19 virus.” On March 25, we issued a statement setting forth the [legal authority](#) to do so, consistent with public safety goals. Since that time, some steps have been taken, especially at the local level, to start responsibly releasing incarcerated individuals in order to protect the health and safety of both corrections personnel and incarcerated individuals, and to prevent larger community spread of COVID-19. It is not seriously disputed that prisons and jails are incompatible with even the slightest measures of social distancing and often require detained persons to spend extended hours in individual cells and to lose important visitation time with loved ones. Moreover, the confines of jail and prison facilities and the need to respond quickly to any given situation require corrections personnel to perform their duties in a manner that may be inconsistent with basic COVID-19 protocol.

New York City has taken some steps towards reducing the population at Rikers. Those efforts should be applauded, but we urge policymakers to pursue aggressively the goal of reducing incarceration for all technical parole violators and those serving city sentences, as well as those being held simply because they cannot make bail and those who are most vulnerable to COVID-19. We also call on policymakers, with input from New York City Department of Correction and criminal justice stakeholders, to set a goal of reducing the Rikers population by releasing as many people as possible and practical. Social distancing measures cannot be accomplished without a further significant population reduction. The transparency standard set by the [Mayor’s Office of Criminal Justice](#) is to be commended and should be followed, to the greatest extent possible, by all agencies involved in these decisions.

At the state level, we urge that much more be done - and faster - to follow neighboring states and reduce jail and prison populations. As noted yesterday by [Newsday](#), “Pennsylvania and New Jersey became the latest states to announce they will release prison inmates who have health issues, committed nonviolent crimes and are near their release date anyway, to stop the spread of the virus. In some cases, inmates will be offered a temporary reprieve -- house arrest or parole — with the possibility of returning to prison once a state’s COVID-19 emergency declaration ends.” New York can and should follow suit. The Governor can further reduce populations by granting clemency in appropriate cases, as we urged in this March 25 [letter](#).

On the federal side, far greater urgency is required. Despite repeated calls by the Federal Defenders and the U.S. House of Representatives, testing and releasing incarcerated individuals is lagging well behind the need for quick and decisive action. Federal judges in New York continue to examine cases individually, resulting in the release of only a handful of individuals on bail or by way of compassionate release. The growth rate of the positive COVID-19 tests in federal prisons (even without widescale testing), as reported by the [Federal Defenders](#) based on Bureau of Prisons data, is alarming, yet no alarms seem to be going off in U.S. Attorney's offices. Attorney General Barr has recently expanded early release for incarcerated individuals at federal prisons hit hard by COVID-19, but he needs to make sure the Bureau of Prisons follows through on his directive, and not just in facilities showing the highest number of COVID-19 cases at the moment. Other facilities are not far behind.

There is no question that [legal authority](#) exists to take these steps. They just need to be taken more quickly. As of this writing, there are [hundreds](#) of incarcerated individuals and corrections personnel who have tested positive for COVID-19 in New York, with [BOP](#) reporting 13 deaths, [DOCCS](#) reporting 4 deaths, and two deaths as [Rikers](#). There are few certainties in life, but we can be certain about this: deaths will continue to rise unless policymakers work together and act swiftly and decisively to protect the health and safety of incarcerated individuals and corrections staff.

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*  
[www.nycbar.org](http://www.nycbar.org)