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Mayor Bill de Blasio
City Hall
New York, NY 10007

Commissioner Cynthia Brann
New York City Department of Correction
75-20 Astoria Blvd.
East Elmhurst, NY 11370

Dear Mayor de Blasio and Commissioner Brann:

For several weeks, our offices have been participating in a collaborative effort with the courts, the Mayor's Office of Criminal Justice, defense providers and other criminal justice stakeholders to help our city's criminal justice system respond to the COVID-19 outbreak. In particular, we have reviewed numerous requests for the release of individuals in New York City jails, with the goal of reducing health risks in a manner consistent with public safety. We are writing now to provide our perspective on this process, and to ask that you immediately reassure the public and the courts that the city's jail system is capable of appropriately managing the health needs of the remaining inmates, in a manner consistent with recent guidance from the Centers for Disease Control for managing COVID-19 in correctional and detention facilities (see attached).

To be clear, we fully appreciate the unique risks that the COVID-19 virus poses in our jails, and we agree that the number of those incarcerated must decrease to limit the spread of the virus on Rikers Island and in other facilities. Our review of the lists provided to date has led us to consent to the release of many hundreds of individuals due to their age and/or health condition; the nature of their charged crime; or the length of their remaining sentence.

At the same time, we want to make clear that the categories of those proposed for release have, in some instances, included individuals who pose a high risk to public safety. In such instances, we have communicated our concerns, but these concerns have not always been heeded. As an example, when we learned last week that the Commissioner of Corrections was about to use her authority to order an across-the-board release of hundreds of inmates serving city sentences, we were assured that the release would not include those serving time for domestic violence or sex offenses, given the risks to victims. Unfortunately, we later learned that such individuals were indeed included in the ranks of those to be released.

Similarly, we are concerned that the evaluation of eligibility for release appears to give little consideration to the housing, supervision and support-service needs of the individuals who are being

returned to their communities: needs that, if not addressed, will only compound the possible health, safety and other risks, both to the communities and to the individuals at issue.

At this point, the seemingly haphazard process by which at-risk inmates are identified, and the reports that those released may include violent offenders, are creating a public perception that our city's jails may be incapable of providing sufficient health care for the remaining population of inmates. We believe this perception is wrong, especially given the recent reduction in the city jail population, and the increased housing options in city jail facilities that should be available as a result. Even at this difficult time, our society must have the ability to safeguard those who are incarcerated, to avoid violating their rights or endangering the community. In short, we should not have to make release decisions that we know will put communities at risk.

Given these concerns, we believe now is the time to provide reassurance to the public and the courts. Your offices should make clear that:

- The city is capable of creating a secure model of inmate care that other municipalities will follow;
- Those who must be detained will receive the resources necessary to live in sanitary conditions with quality medical care;
- The dramatic reduction of the city's jail population, including through the recent release decisions, will provide the additional space necessary to meet these goals, when coupled with new resources as needed from the city;
- For any inmate who contracts the virus, there will be a specific plan for treatment and oversight, including infirmary or hospital care as needed;
- While the review of candidates for release will go forward, that review will continue to include an evaluation of public safety;
- For those individuals who are released, additional resources will be allocated to provide adequate supervision and address other critical post-release needs (including testing for COVID-19 prior to release);
- Additional resources will be allocated to protect victims and survivors who may be even more vulnerable given the unexpected return of individuals to the communities.

We look forward to our continued collaboration with your offices and others on this complicated topic during this difficult time. We all share the common goal of keeping our communities both healthy and safe.

Sincerely,

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Special Narcotics Prosecutor

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For Immediate Release
March 30, 2020

**STATEMENT OF BRONX DISTRICT ATTORNEY DARCEL D. CLARK ON
LETTER TO MAYOR AND DOC COMMISSIONER**

I have joined my fellow District Attorneys in Brooklyn, Manhattan, Queens and Staten Island, as well as the City's Special Narcotics Prosecutor, in a letter to Mayor DeBlasio and Department of Correction Commissioner Cynthia Brann to voice our concerns over how to responsibly release defendants from city jails to stop the spread of COVID-19.

I believe incarcerated persons should be treated humanely and should receive the resources necessary so that they can live in sanitary conditions and receive quality medical care, but there must be a specific plan in place for treatment, oversight or supervision upon release. To this point, we have consented to the release of a number of inmates and detainees and are still evaluating defendants. However, we cannot ignore in our assessment the seriousness of the crime for which an inmate is incarcerated, as well the impact that their release might have on public safety. Those who currently remain incarcerated are accused of the most serious violent offenses including murder, and their release will affect public safety.

My duty is to protect the public, and the victims and survivors who remain vulnerable knowing that many of the individuals who were incarcerated are returning to the community. The people of the Bronx deserve a thoughtful, targeted, and strategic response to this unprecedented crisis which affects the health, safety and welfare of our community.

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