



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

April 21, 2020

The Honorable Bill de Blasio
City Hall
New York, New York 10007

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

Re: Protecting DOC Staff and People in Custody from COVID-19

Dear Mayor de Blasio and Commissioner Brann:

As we approach one month since the first case of the novel coronavirus (COVID-19) was reported among a person in the custody of the Department of Correction (DOC), I am writing to convey directly to you, as I have publicly, my grave concern for the health and safety of all those who remain in our City's correctional facilities as well as the staff who continue to report to work there. According to the latest daily report from the Board of Correction, over 1,100 people—more than 350 currently incarcerated individuals and nearly 800 DOC staff—have tested positive for this deadly virus.¹ While these figures and, tragically, the rising number of deaths make clear that Rikers Island should be at the center of the city's battle against COVID-19, I fear the City's response to date is nowhere near proportional to the scale of the crisis.

I appreciate that releasing individuals in custody is a group effort, requiring the collaboration of the State, courts, and district attorneys' offices, and I commend your work in particular to secure the release of individuals who are at risk of serious illness and serving City sentences. However, thousands of people in custody and staff remain at risk in our city jails – crowded, congregate facilities that are simply not equipped to protect people during a pandemic. As Dr. Ross MacDonald, Chief Medical Officer for Correctional Health Services (CHS), put it while imploring judges to let out as many people as possible: “[W]e cannot change the fundamental nature of jail.”² Yet as the weeks have gone by, the urgency with which medical professionals on

¹ https://www1.nyc.gov/assets/boc/downloads/pdf/News/covid-19/Public_Reports/Board%20of%20Correction%20Daily%20Public%20Report_4_20_2020.pdf

² <https://twitter.com/RossMacDonaldMD/status/1240455801397018624?s=20>

Rikers Island have described the threat COVID-19 poses to their patients has not been reflected in your public statements.

At the same time, DOC's COVID-19 Preparation & Action Plan leaves many questions about the agency's response to COVID-19 unanswered.³ There remain conflicting reports of the conditions on the island, including who exactly is getting access to needed protective equipment. And current practices in the facilities and what deviations to minimum standards are being made remain unclear, as COVID-19 has interrupted and required adjustments to normal methods of oversight. Without a complete and regular accounting of what is happening, we not only do a disservice to the family members of those who are detained and who work in DOC facilities but also risk projecting a false sense of safety to the courts.

As you know, thousands of people move in and out of City correctional facilities every day, as individuals are admitted and released and staff commute to and from their homes. New York City's ability to stop the spread of COVID-19 is therefore inextricably linked to the care we show and provide to New Yorkers who are incarcerated. Given this and the concerns I have outlined, I urge you to take the following steps to prioritize the safety of people in custody and staff:

1. **Work with the State and courts to release more people.** Given the infection rate on Rikers Island and that we are still in the early stages of understanding the epidemiology of COVID-19, we must take a more expansive view of who should be considered for release, including but not only those who are more at risk of serious illness. The State Department of Corrections and Community Supervision needs to quickly grant release to those alleged to have committed a technical parole violation, and I join the call made by over 20 children's and criminal justice organizations for the City and State to release as many young adults as possible, prioritizing those who are immunocompromised.⁴ It is critical that the City maintain pressure on the State, as well as the courts, in all cases and make clear that the recommendations of CHS should weigh heavily on these decisions.
2. **Provide daily updates on the spread of COVID-19 in City jails, including the number of people tested and hospitalized, and how many have been assessed for release.** In the absence of other public data, the Board of Correction has been releasing useful data each day on the number of confirmed cases and exposed individuals based on information provided by DOC and CHS. However, key data points critical to understanding the full scope of the crisis, including the number of people tested, the results of those tests, and the number of people hospitalized, are missing. The City is already providing this information for the general population, and many other jurisdictions, including Cook County in Illinois, King County in Washington, and California, are reporting how many people in correctional facilities have been tested.⁵ In addition to this data, I believe the City should also publicly track the total number of individuals in custody who have been assessed for release, the

³ <https://www1.nyc.gov/site/doc/media/coronavirus-news.page>

⁴ <https://raisetheagency.org/wp-content/uploads/2020/04/State-COVID19-Youth-Policing-SignOn-Ltrs.pdf>

⁵ <https://www.cookcountysheriff.org/covid-19-cases-at-ccdocr/>; <https://kingcounty.gov/depts/jails/covid-updates.aspx>; <https://www.cdcr.ca.gov/covid19/population-status-tracking/>

outcome of that assessment, and how many have not yet been considered.

3. **Evaluate enforcement of offenses to reduce jail admissions and the risk of spread.** At a time when we are seeking to decrease the number of people who could potentially be exposed to COVID-19 in our correctional facilities, we must also take a serious look at how the City is enforcing laws that lead to incarceration. In order to prevent unnecessary crowding of booking rooms and prolonged interactions with police officers and others, the City should expand the use of summonses for offenses that pose no immediate threat to community safety.
4. **Expand testing for COVID-19.** As the City's capacity to test grows, we should also expand and prioritize testing in our correctional facilities. While individuals are screened for symptoms of the virus at pre-arraignment and intake, it is my understanding that they and any asymptomatic individuals in custody are not necessarily being tested. More universal testing is critical to prevent and manage transmission and make responsible decisions about individuals' housing and movement throughout the facilities. I urge you to develop a plan to test everyone in custody.
5. **Distribute masks to everyone, including asymptomatic individuals.** The New York City Department of Health and Mental Hygiene is now advising all New Yorkers to wear a face covering outside their home to help stop the spread of COVID-19.⁶ City jails should be no different. While DOC's COVID-19 Preparation & Action Plan states that all people in custody are provided and instructed to wear masks, there are reports that not everyone is being given one and that they are not being replaced. DOC should provide and replenish masks or an equivalent covering to everyone detained and working in the facilities and ensure that there is a mechanism for individuals to report shortages.
6. **Provide commissary soap at no cost and remove mark-ups on other commissary items.** Given the financial hardship that so many New Yorkers are experiencing now, including the family members of people who are incarcerated, I reiterate my earlier call to remove mark-ups on commissary items.⁷ Additionally, commissary soap should be provided for free for the duration of the emergency. DOC acknowledges that most detainees purchase soap from the commissary and is already providing free stamps and envelopes.⁸
7. **Increase safety of individual housing areas.** Additional actions should be taken to mitigate transmission, including establishing regular temperature checks of DOC staff and people in custody. Efforts should also be made to ensure that symptomatic and exposed individuals who have not yet tested positive for COVID-19 are not housed in dorm settings that could expose them to the virus. Finally, it is critical that people in custody have access to cleaning and sanitation supplies. DOC's Action Plan states

⁶ <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/covid-19-face-covering-faq.pdf>

⁷ <https://twitter.com/NYCComptroller/status/1243271431179427842?s=20>

⁸ <https://www1.nyc.gov/site/doc/media/coronavirus-news.page>

that individuals will have access to such supplies, including disinfectant and general cleaner, free of charge and will regularly inspect the availability in housing areas.⁹ However, I continue to hear that people in custody are not receiving adequate supplies for personal use. The City must remedy this.

8. **Ensure individuals in custody have 24/7 access to physicians.** At the March 10 Board of Correction meeting, CHS announced that they had worked with DOC to establish confidential phone lines in each housing unit and would be launching a new service, “sick call triage,” to enable people in custody to contact CHS nurses directly and report any medical needs.¹⁰ My office has heard that individuals are making sick calls but are not able to connect with anyone, instead having to leave a voicemail and await follow-up. While I commend CHS for their heroic efforts over the last several weeks, and I understand COVID-19 has overwhelmed the system, we cannot afford any delays in identifying and caring for individuals who are sick – whether with this virus or not.
9. **Continue programming, consistent with public health guidance.** The City must make every effort to adapt and maintain access to programming, including mental health treatment, during this crisis, especially for those who are quarantined. If, in managing the spread, DOC seeks to deviate from the Board of Correction’s minimum standards, those decisions must be guided by the recommendations of CHS and immediately presented to the Board.
10. **Maintain lines of communication for people in custody.** People in custody must continue to have regular access to phone calls, to communicate with loved ones and attorneys. While DOC’s initial Action Plan indicated that phones are to be cleaned every two hours, I urge the department to clean the devices after each use. My office has heard that phone calls are being limited and that among those who do get access, some are reportedly using their socks to wipe down the phones. In addition, while DOC’s new televisiting initiative holds potential for connecting people on and off the island, I believe regular updates on the rollout, including the number of monitors per housing area, number of requests for use, and number of completed visits, should be provided.
11. **Commit to providing access to hospitals.** The City must publicly commit to ensuring individuals in custody can receive care in a hospital setting if the hospital prison wards at Bellevue and Elmhurst reach capacity and provide a contingency plan for how these transfers will be handled if the need arises. Hospital prison wards should also have equal access to the supplies and equipment needed to combat COVID-19.
12. **Improve discharge planning.** People should have access to public health guidance on COVID-19 when discharged, as well as the latest protocols and directives related to social distancing and government assistance available during this emergency.


⁹ <https://www1.nyc.gov/site/doc/media/coronavirus-news.page>

¹⁰ https://www1.nyc.gov/assets/boc/downloads/pdf/chs_boc_presentation_final.pdf

Additionally, temporary phones should be provided to those who do not have access to one, so individuals can reach their attorneys, parole officers, and other support as needed. This was reportedly happening earlier this year but not since the pandemic began. Finally, those who are unable to safely quarantine or socially distance at home should be included among the populations the City is referring to hotels to self-isolate.

I respectfully request responses to the recommendations made here, including what additional resources, if any, are needed to realize them, by May 1, 2020. Thank you for your attention to this urgent matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott M. Stringer". The signature is fluid and cursive, with the first name "Scott" and last name "Stringer" clearly distinguishable.

Scott M. Stringer
New York City Comptroller

Cc: Margaret Egan, Executive Director, Board of Correction
Dr. Patricia Yang, Senior Vice President for Correctional Health Services, New York City Health + Hospitals
Elizabeth Glazer, Director, Mayor's Office of Criminal Justice
Dermot F. Shea, Commissioner, New York Police Department
Anthony J. Annucci, Acting Commissioner, New York State Department of Corrections and Community Supervision
Janet DiFiore, Chief Judge of the Court of Appeals and the State of New York