



CHIEF DEFENDERS ASSOCIATION OF NEW YORK

March 3, 2021

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The Honorable Andrew M. Cuomo
Governor of New York State
NYS Capitol Building
Albany, New York 12224

Howard A. Zucker, M.D., J.D.
Commissioner
New York State Department of Health
Corning Tower
Empire State Plaza
Albany, New York 12237

RE: Vaccine Priority

Dear Governor Cuomo and Commissioner Zucker:

As President of the Chief Defenders Association of New York (CDANY), I write on behalf of the thousands of public defenders, assigned counsel attorneys, attorneys for the children, and mandated family court attorneys in New York State, to request an expansion of Covid-19 vaccination eligibility in Phase 1B to include these public-facing employees who are now being called upon to return to in-person court operations unvaccinated and vulnerable to the risk of occupational exposure. The critical infrastructure of New York State's court system calls and relies upon these public servants daily to provide the State's mandate of indigent defense. We support the goal of the Office of Court Administration and the Honorable Chief Judge Janet DiFiore to return to in-person court operations, but such action must be premised upon a reprioritization and allocation of vaccinations to protect New York's public defense lawyers and their families.

From the early days of the pandemic, public defenders were deemed essential workers and continued indefatigable in their efforts to assure that the due process rights of the accused were upheld and protected. This was despite many challenges of executive orders that stalled speedy trial and other valuable rights. With virtual court replacing the hallowed halls of our court system, our attorneys and support staff made valiant efforts to assure that the constitutional mantle continued, even while the Empire state endured three resurgences of this insidious disease.

As the rate of infection has now dropped and the metrics have improved, our Chiefs have received notices from their respective District Administrative Judges that in-person hearings are resuming immediately and in-person trials will resume as of March 22nd. That means we are asking our attorneys to return to a "frontline" job without the

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benefit of protections that the State has the authority to provide. What's more, New York's court system is bracing for the onslaught of case backlog that has accumulated throughout this public health crisis. Our attorneys and staff face long hours and overwhelming calendars to assure that the many litigants coming back into the courthouse are represented. As attorneys yourselves, you both understand the integral role of the defender and the crucial need to build trust between attorney and client. Once back in the courtroom, we will arguably be the most vulnerable present, unprotected by plexiglass, distance or vaccination in order to adequately perform our jobs.

We would likewise advocate for our incarcerated clients who now reside in the various correctional facilities across the State to have vaccine priority. These are individuals who are most at risk, living in congregate setting populations, where sleeping, bathing and eating facilities are shared and PPE is sometimes scarce. It defies common sense to vaccinate corrections officers and jail medical personnel but not the incarcerated who have no other means to protect themselves. Moreover, to properly prepare for return to in-person hearings and trials, it is incumbent on defense attorneys to visit and meet with their clients in jail, an added risk that defense attorneys must now face.

The Centers for Disease Control's Advisory Committee on Immunization Practices (ACIP) has provided recommendations for Covid-19 vaccinations in Phase 1B to include essential workers who "perform duties across critical infrastructure sectors and maintain the services and functions that U.S. residents depend on daily." It is without a doubt that public defenders play a crucial role in the infrastructure of our court system upon which the public relies for its safety and for the functioning of our criminal and family justice system. "Public defenders provide services that are essential to ensuring access to justice for some of the most at-risk members of our communities." (NYSBA Resolution for the Immediate Vaccination of Criminal Defense Attorneys, Civil Legal Services Attorneys, Mandated Family Court Attorneys, Attorneys for the Children (AFC), Prosecutors and Family and Criminal Court Judiciary, February 9, 2021)

The ACIP has further endorsed vaccine priority for "essential workers likely at highest risk for work-related exposure to SARS-CoV-2, the virus that causes COVID-19, because their work-related duties must be performed on-site and involve being in close proximity (< 6 ft) to the public or its co-workers." As courts now return to in-person operations and defenders return to the courtroom, we will do our part to benefit society and minimize further societal disruption.

The members of CDANY applaud your endeavors to keep the public safe throughout this public health crisis. We respectfully request your assistance to expand vaccine priority and provide the proper protection for all indigent defenders and their staff to perform their mandated function, on-site and in-person, which is indeed integral to the operation of the courts.

Sincerely yours,

A handwritten signature in cursive script that reads "Laurette D. Mulry". The signature is written in black ink and is positioned above the typed name and title.

Laurette Mulry, Esq.
CDANY President

cc: Honorable Lawrence Marks