**New York State Bar Association**

**Committee on Mandated Representation & Criminal Justice Section**

**Resolution[[1]](#footnote-1)**

WHEREAS, New York State’s county jails house thousands of individuals awaiting trial, pending the imposition of sentence, awaiting parole hearings and serving a “local time” sentence; and

WHEREAS, the United States and New York State are currently experiencing an unprecedented public health crisis caused by the rapid spread of the novel coronavirus, a highly contagious virus that causes a disease, COVID-19, which is especially dangerous to individuals who are elderly, have compromised immune systems, or underlying health conditions necessitating local, state, and federal government policies reducing or eliminating reducing close contact between people as much as possible; and

WHEREAS, public health officials and health experts around the world has stated that the only effective method of slowing the spread and eventually containing the novel corona virus is for individuals to practice social distancing, stay away from group gatherings of more than 10 individuals and, in some instances, shelter in place; and

WHEREAS, the New York State Unified Court System has adopted precautionary measures to protect the public, individuals with business before those courts, as well as attorneys, judges, court personnel, and others; and

WHEREAS, the very nature of the layout of jails do not allow for social distancing among the people incarcerated and the corrections officers, with areas of the jails frequently overcrowded and with large numbers of people together in one location leading to the potential of their being exposed to the novel corona virus; and

WHEREAS, many of the jails and prisons around New York State have closed to all civilian visitors and limited attorney visits to non-contact visitation areas with the recommendation that legal visits whenever possible be limited to video; and

WHEREAS, any reduction in the population of people held at the county jails will allow for more space to provide separation between them and reduce the risk of, and improve the ability to contain, an outbreak in the jails; and

WHEREAS, as of February 29, 2020, New York State county jails housed 3,257 people sentenced to county jail time, a sentence of under a year; and

WHEREAS, the people sentenced to county jail sentences are not guilty of violent offenses as defined in the law; and

WHEREAS, many of these incarcerated people will be released into the communities within the next two months regardless of whether they have been exposed to or contracted the corona virus; and

WHEREAS, the pandemic requires immediate action that limits the ability to make individualized determinations; and

WHEREAS, any incarcerated person eligible for release under this resolution who is either exhibiting symptoms or has been exposed to a person who tested positive for the novel corona virus will be quarantined and tested, and not released until said test shows the tested individual is negative for novel corona virus; and

WHEREAS, NYSBA’s Committee on Mandated Representation and Criminal Justice Section believe that the court and criminal justice system’s overarching priority in these uncertain times is to safeguard the health of all those who must interact within the criminal justice system and those people incarcerated in the jails and prisons within our state;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association’s Committee on Mandated Representation and Criminal Justice Section hereby urge the Governor of the State of New York to immediately commute the sentences of all individuals currently confined to a County jail serving a sentence of one year or less to reduce the risk of a further spread of the novel corona virus both in the jails and from the jails to the communities; and it is further

RESOLVED, alternatively if the New York State Governor chooses not to commute the sentences, we urge the State to exercise its power under Penal Law Section 70.40(2) to release sentenced incarcerated people who have already served at least 60 days of their definite local jail sentence to parole supervision.

1. TThe opinions expressed herein are those of the groups listed above and are not those of the New York State Bar Association unless approved by the House of Delegates or Executive Committee. [↑](#footnote-ref-1)