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*****FOR IMMEDIATE RELEASE*****

Legal Aid Condemns Governor Cuomo For Ignoring 100+ Emergency Clemency Applications For Incarcerated New Yorkers Who Have Upcoming Release Dates And/Or Who Are Especially Vulnerable To COVID-19

(NEW YORK, NY) – **The Legal Aid Society** condemned Governor Andrew Cuomo for refusing to act on over 100 emergency clemency applications Legal Aid has submitted on behalf of incarcerated New Yorkers who have upcoming release dates and/or who are especially vulnerable to serious injury or death should they contract COVID-19.

Legal Aid’s recent round of clemency applications - 37 in total in being announced today although submitted in the last several weeks - have thus far elicited no response from the Governor’s Office.

“It’s imperative that Governor Cuomo and DOCCS take decisive action to grant release for those incarcerated New Yorkers who are uniquely vulnerable to COVID-19,” said **David Loftis, Attorney-in-Charge of Post-Conviction Litigation at The Legal Aid Society**. “All of these individuals’ conditions warrant this immediate relief, especially as COVID-19 grows at prisons around New York State infecting our incarcerated clients and correction staff alike.”

Since late March, in a series of requests and legal actions, The Legal Aid Society has asked Governor Cuomo to release incarcerated people who are particularly vulnerable to the virus or nearing release date pursuant to any number of his executive powers—clemency is just one.

Article 4 of the New York State Constitution grants Governor Cuomo wide-ranging clemency power and allows him to issue executive orders commuting sentences or to invoke other emergency powers to facilitate the release of vulnerable individuals incarcerated in New York's crowded prisons. New York Executive Law § 15 lays out Governor Cuomo's authority to commute sentences. New York Executive Law Article 2-B delineates the Governor's authority to suspend the enforcement of state laws in an emergency. California Governor Gavin Newsom has invoked similar provisions to grant clemency to 26 Californians susceptible to COVID-19. In addition, the Governor has the authority to suspend the requirements of these laws under any provision he deems necessary.

The Governor must pursue available avenues such as these to immediately release from custody those who are most vulnerable to the devastating effects of COVID-19 and to reduce the density of New York State prisons so that the remaining individuals in custody can be kept safe. Granting clemency is one powerful tool that the Governor has at his disposal to provide immediate relief.

Client A.A. is almost 60 years old, nearly blind, and has five separate medical conditions that each individually put him at great risk of serious illness or death should he contract COVID-19 and that, collectively, makes such a tragic outcome nearly inevitable. A.A. has diabetes, heart disease, high blood pressure, high cholesterol, asthma, and emphysema. A.A. is a very sick, older man, serving a sentence for nonviolent felonies, and his age and multiple underlying conditions put him at the highest possible risk should he contract the coronavirus in prison. His sentence should be commuted so that he can be immediately released to the safety of parole supervision in the community, where he will reside with family.

Client B.B. is currently incarcerated at Midstate Correctional Facility, a medium-security prison, serving a sentence for criminal possession of a forged instrument in the second degree (a class D non-violent felony).

He pled guilty to the crime after he was arrested with 95 metro cards, 14 of which were bent in such a way that he could obtain free subway rides. Mr. B.B. was sentenced to two to four years imprisonment for possessing the bent metro cards. The cost of a subway ride is \$2.75.

Mr. B.B. has chronic health problems, which he described to his defense counsel in a phone call on May 12, 2020. He has COPD and asthma, two conditions that significantly impair his respiratory health, and increase his susceptibility to secondary respiratory diseases and infections. The Center for Disease Control and Prevention (CDC) warns that older adults with severe underlying medical conditions like B.B. are at an increased risk of deathly complications stemming from infection by the coronavirus.

Client C.C. is 58 years-old and suffers from serious asthma, arthritis, and uses a cane to walk due to a 2016 on-the-job accident that resulted in his having two shattered heels, a fractured ankle, and two fractured ribs. He has a Merit Release appearance in September 2020. He is currently incarcerated for

a non-violent Class D offense and has received zero disciplinary tickets during the year he has served of his current sentence. He also has a home to go to upon his release: he will live with his wife in their apartment in the Bronx.

Batch of clemency applications being announced today:

- https://legalaidnyc.org/wp-content/uploads/2020/05/Group-Clemency-Petitions-Group-8-4-29-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/05/Group-Clemency-Letter-9-5-1-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/05/Group-Clemency-Letter-10-5-6-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/05/Emergency-Clemency-Packet-11-5-8-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/05/Emergency-Clemency-Packet-12-5-13-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/05/LAS-Emergency-Clemency-Packet-13-5-15-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/05/LAS-Emergency-Clemency-Packet-14-5-20-2020_Redacted.pdf
- https://legalaidnyc.org/wp-content/uploads/2020/06/LAS-Emergency-Clemency-Packet-15-5-27-2020_Redacted.pdf

More information on other clemency applications recently submitted by Legal Aid:

First batch of clemency applications:

- <https://legalaidnyc.org/wp-content/uploads/2020/04/04-15-20-Files-Clemency-Applications-on-Behalf-of-20-Incarcerated-New-Yorkers-Many-of-Whom-Have-Upcoming-Release-Dates-or-are-Especially-Vulnerable-to-COVID-19.pdf>

Second batch of clemency applications:

- <https://legalaidnyc.org/wp-content/uploads/2020/04/04-27-20-LAS-Files-Clemency-Applications-on-Behalf-of-40-Incarcerated-New-Yorkers.pdf>

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities.

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