

June 3, 2020

BY ELECTRONIC MAIL: TMoore@cityhall.nyc.gov

NYPD Commissioner Dermot Shea
New York City Police Department
One Police Plaza
New York, NY 10038

New York City Mayor Bill de Blasio
City Hall
New York, NY 10007

Re: Demand for immediate and reliable access to clients in police custody

Mayor de Blasio and Commissioner Shea:

We write to strongly urge you to address emergency conditions created by the decisions to impose an unreasonable curfew and authorize the violent and mass arrests of those exercising their First Amendment right to protest that are interfering with our ability to provide legal representation to people arrested during the protests currently occurring across New York City.

It appears that most arrests stemming from the protests are being processed at the Criminal Justice Bureau Mass Arrest Processing Center (“MAPC”) at One Police Plaza or elsewhere, under the “coordinated arrest processing procedure” in NYPD Patrol Guide (“PG”) §213-06 (“Large Scale Arrest Processing Procedure”). This procedure deprives arrestees of rights normally available to them following arrest, including:

- Their right to make free telephone calls to legal counsel or family, *see, e.g.*, PG § 213-08 ¶ 18;
- The right of family to call, fax, or visit the precinct to ensure the safety and health of loved ones; and
- The right of legal counsel to call, fax, or visit the precinct, so that counsel can invoke our clients’ rights and provide critical early representation to them in custody.

Additionally, many arrestees are being released without their property - including wallets, phones, housekeys - with no means of retrieving it, because the Property Clerk Window at One Police Plaza has been closed to the public.

Over the past week, dozens of lawyers and legal workers staffing emergency legal hotlines have consistently reported frustrating and fruitless efforts to inquire about arrestees or to fax or e-mail letters of representation to One Police Plaza. In most cases, no one answers the only available phone number for the MAPC. In other cases, officers answer the phone and hang up, or simply refuse to give out information, or claim not to have it.

There appears to be no reliable fax number(s) to which lawyers can send notices of representation and invoke rights on behalf of clients. Nearly 24 hours after the first arrests occurred, some attorneys were able to obtain a fax number to which letters of representation could be sent, and others used an NYPD Legal Bureau e-mail address. Dozens of letters of representation and invocation on behalf of hundreds of arrestees have been emailed and faxed but NYPD has not confirmed receipt of any of these letters much less provided the crucial information about arrested clients requested in these letters.

These barriers to meaningful and reliable communication violate due process and our clients' right to counsel. We cannot provide core legal representation work such as:

- Confirming where our clients are;
- Conducting pre-arraignment investigations effectively;
- Learning whether clients are in need of medical attention and, if necessary, advocating for them to receive medication or medical attention;
- Invoking clients' rights to remain silent and to have counsel present at interviews;
- Ensuring that they are released or arraigned promptly; or
- Ensuring that they are able to retrieve their property expeditiously.

These barriers also create enormous emotional strain for family members desperate for information about where their loved ones are.

Importantly, the City has been on notice since at least the 2004 Republican National Convention that its large-scale arrest processing policies and practices, including the operation of the MAPC, causes unnecessary and unreasonable delays in arrest-to-arraignment time, fails to provide arrestees effective communication with counsel; and fails to provide family members or loved ones with any means of communicating with people who are arrested. Around the 2004 RNC, nearly identical policies and practices led to *habeas corpus* writs, contempt proceedings against the City, and, eventually, civil rights litigation that cost the City tens of millions of dollars. The City's reversion to those policies in the face of clear notice of their legal and constitutional infirmities is deeply disappointing.

In order to remedy these serious and ongoing problems, we demand that the NYPD immediately:

1. **Provide officers at MAPC, or any other location where large-scale arrests are processed, with a means of tracking who is being processed where, and who is in transit.**
2. **Set up and staff an adequate number of telephone lines** operating 24 hours a day, 7 days a week at the MAPC and any other location at which large-scale arrests are processed through which lawyers, legal workers, and family and community members can communicate with NYPD officers who have access to current and reliable arrest processing information, as well as access to the clients themselves;

3. **Set up fax and e-mail addresses** through which lawyers, legal workers, and family and community members can send correspondence to the MAPC, or any other location where large-scale arrests are processed, including correspondence invoking legal representation of arrested persons, along with adequate NYPD staff to read, respond to, and act on such correspondence in a timely manner; and
4. **Open the Property Clerk Window to the public** so that people are able to retrieve their property expeditiously upon release and return home safely.

Please take these steps immediately and inform us as soon as possible thereafter by e-mail to JWong@Legal-Aid.org and Gideon@GideonLaw.com, what you have done specifically, and what the new means of communicating will be.

Thank you for your prompt attention to these urgent matters.

Jennvine Wong
Cop Accountability Project
Special Litigation Unit
Legal Aid Society

Gideon Orion Oliver
National Lawyers Guild
New York City Chapter
Mass Defense Committee

Benjamin N. Cardozo School of Law Criminal
Defense Clinic

The Defenders Clinic of CUNY School of Law

The Bronx Defenders

Brooklyn Defender Services

New York County Defender Services

Neighborhood Defender Services of Harlem

Good Call – Arrest Support Hotline

5Boro Defenders

cc: James E. Johnson, Esq.
Corporation Counsel of the City of New York

New York City Public Advocate Jumaane Williams