

Via Electronic Mail

April 1, 2021

Mayor Bill de Blasio
Deputy Mayor J. Phillip Thompson
City Hall
New York, NY 10007

Margaret Egan
Executive Director
Board of Correction
1 Centre St.
Room 2213
New York, NY 10007

Cynthia Brann
Commissioner
Department of Correction
5-20 Astoria Blvd
East Elmhurst, NY 11370

Board of Elections in the City of New York
Fredric Umane, President
Miguelina Camilo, Secretary
Michael J. Ryan, Executive Director
Dawn Sandow, Deputy Executive Director
32-42 Broadway, 7 Fl
New York, NY 10004

Dear Mayor de Blasio, Deputy Mayor Thompson, Executive Director Margaret Egan, Commissioner Brann, and Commissioners and Executive Directors of the Board of Elections in the City of New York:

As criminal justice advocates working to eliminate barriers to voting and to end the systematic disenfranchisement of people who are incarcerated, we write to express our serious concerns with the existing policies and practices on access to voting in New York City jails as we approach critical elections, including the upcoming primary election on June 22, 2021. New York State's history of enforcing Jim Crow laws to prevent Black citizens from voting remains in effect for people in its jails, the overwhelming majority who are people of color.¹ Providing voting access and education to eligible voters who are in custody is a national priority of President Biden's administration as demonstrated in his recently passed executive order.² New

¹ See Erika Wood, *New York's Jim Crow laws, Back in The Day and What Remains Today*, The Brennan Center (March 1, 2010), <https://www.brennancenter.org/our-work/analysis-opinion/nys-jim-crow-laws-back-day-and-what-remains-today>

² President Biden has cited protecting the right to vote and ensuring that all eligible citizens can participate in voting as a top priority. See, e.g., *Fact Sheet: President Biden to Sign Executive Order to Promote Voting Access*, The

York City must also lead by ensuring that all eligible voters detained in its jails are not stripped of the sacred right to vote.

In order to enfranchise all New Yorkers, we are writing to request that you ensure that eligible voters in New York City jails have prompt and secure ballot access without being hindered, including by taking the following steps: (a) provide a report on what steps have been taken to implement the voting policy in New York City jails that was announced last year at the September Board of Corrections (BOC) meeting³; (b) provide early voting sites capable of offering in-person voting to the people detained at each New York City jail facility; and (c) that the BOC request from both DOC and BOE to report the number of eligible voters in DOC custody, the number of registration forms they received, the number of registration forms they considered to be valid, the number of absentee ballot applications they received and accepted as valid, and the number of absentee ballots received and accepted as valid.

We request that you implement appropriate accommodations for these voters to cast a ballot in a manner befitting the dignity of this fundamental right before the upcoming primary elections on June 22, 2021. More specifically, we request that you set up early voting sites in jail facilities,⁴ work with outside volunteers to provide voter education and information, encourage civic participation and assist people with filling out voting-related forms, and ensure that absentee ballots are delivered to the BOE. We request that you implement this at all NYC jails.

As you are aware, the New York City Charter requires DOC to implement a program to assist individuals with voting. People in NYC jails must rely entirely on DOC staff to exercise their right to vote, and they have generally been limited to voting by absentee ballot. Currently, there is a temporal gap in the scheme of absentee ballot rules that disenfranchises some people in NYC jails. Currently, for the upcoming election, the last day to postmark an application for an absentee ballot is June 15th and the last day to postmark an absentee ballot is June 22nd. This means eligible voters admitted into DOC custody after June 15th and held through June 22nd won't be able to vote, if they have not otherwise cast a ballot.⁵

Last year, the DOC testified at the September BOC meeting that they were moving to a process of utilizing voter packets to meet their obligations under the NYC Charter.⁶ To date, no

White House (March 7, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/07/fact-sheet-president-biden-to-sign-executive-order-to-promote-voting-access/>

³ See Steven Kaiser, DOC Executive Director of Policy and Intergovernmental Affairs, Testimony from the BOC meeting on Sept., 14, 2020, *Public Meeting Minutes*, <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/September/2020-09-14-Board-Meeting-Minutes.pdf>

⁴ Cook County Jail in Chicago was able to provide voters with a polling site by working in collaboration with the Cook County Clerk's Office and the Chicago Board of Elections to facilitate access to voting. See, Shawn Mulcahy, *Voting Behind Bars: Cook County's Huge Jail Becomes A First-time Polling Precinct*, The Washington Post (March 3, 2020), https://www.washingtonpost.com/politics/voting-behind-bars-cook-countys-huge-jail-becomes-a-first-time-polling-precinct/2020/03/05/5bf10fc0-581c-11ea-9000-f3cffee23036_story.html, Kiran Misra, *How Cook County Jail Became the Country's First Jail-Based Polling Place*, Belt Magazine (Oct. 30, 2020), <https://beltmag.com/cook-county-jail-polling-election-2020/>

⁵ The state legislature is advancing legislation to move the absentee ballot application deadline much earlier, i.e., requiring applications to be *received*, at least 15 days before an election, which may significantly exacerbate this disenfranchisement problem in the future. See S. 264, A5783.

⁶ *Supra*, note 3.

information has been provided to the public about how many people were registered to vote, how many voter education presentations were conducted, how many people received an absentee ballot, and whether they were able to cast their votes. In our experience conducting voter registration at Rikers Island,⁷ people were not being provided accurate information about their right to vote, there were no informational posters in common areas with high-traffic, and, more importantly, there was an incredible amount of confusion and misinformation surrounding access to voting that systematically deprived people of their right to vote. As a result, this is not a transparent process, and we request that DOC be held accountable with their obligations to meaningfully assist incarcerated citizens with access to voting.

We recently learned from our incarcerated clients that DOC was not meeting its obligations to facilitate access to voting in NYC jails.⁸ The overwhelming majority of the clients we spoke with had not received voter registration information, they confirmed that there were no posters or signs with voter information, and that they had not received voter registration education. The failure to take these steps only increases the barriers to voting resulting in the systematic disenfranchisement of people in pretrial detention.

We would appreciate the opportunity to discuss how the City can work with key stakeholders to ensure that eligible persons on Rikers Island have full and fair access to the franchise. We would like to have this discussion with you by April 15, 2021. Please contact Anthony Posada at aposada@legal-aid.org and (917) 494-3687. We look forward to working with you to ensure that all voters are given an equal opportunity to cast a ballot.

Sincerely,

The Legal Aid Society

The Policing and Social Justice Project at Brooklyn College

Police Reform Organizing Project

New York County Defender Services

College and Community Fellowship

Black Attorneys of Legal Aid caucus (BALA)

Center for Community Alternatives

⁷ The Legal Aid Society, in collaboration with local civic engagement groups and their volunteers, and the Dept. Correction (DOC), assisted in registering more than 1500 people across NYC jails between 2016-2019. *See* <https://gothamist.com/news/rikers-voter-registration-drive-gains-momentum>

⁸ The Legal Aid Society (LAS) conducted a brief survey of incarcerated clients relating to access to voting. Results on file with LAS.

Brooklyn Voters Alliance
Drum Major Institute
Citizen Action of New York
New Hour for Women and Children
Long Island Social Justice Action Network
LatinoJustice PRLDEF
Citizen Action of New York
GOSO - Getting Out & Staying Out
Let NY Vote
Community Service Society of New York
John Jay College Institute for Justice and Opportunity
Brooklyn Community Bail Fund
Youth Justice Network
The Central Family Life Center
5 Boro Defenders
VOCAL-NY
National Lawyers Guild - New York City Chapter
New York Democratic Lawyers Council
Gangstas Making Astronomical Community Changes Inc
The Bronx Defenders
Color of Change
Freedom Agenda, Urban Justice Center
Henry Street Settlement
Stanley Isaacs Neighborhood Center
Street Corner Resources
The Sentencing Project
Legal Action Center

New York Civil Liberties Union

NYC Jails Action Coalition

Jumaane Williams, NYC Public Advocate

Jessica González-Rojas, New York State Assembly Member, District 34

Catalina Cruz, New York State Assembly Member, District 39

Gustavo Rivera, New York State Senator, District 33

Julia Salazar, New York State Senator, District 18

Dan Quart, Candidate for Manhattan District Attorney

Tahanie Aboushi, Candidate for Manhattan District Attorney

Eliza Orlins, Public Defender and Candidate for Manhattan District Attorney

Alvin Bragg, Candidate for Manhattan District Attorney

Diana Florence, Candidate for Manhattan District Attorney

Tali Farhadian Weinstein, Candidate for Manhattan District Attorney

Shaun Donovan, NYC Mayoral Candidate

Scott Stringer, NYC Mayoral Candidate

Dianne Morales, NYC Mayoral Candidate

Maya Wiley, NYC Mayoral Candidate

Kathryn Garcia, NYC Mayoral Candidate

Tiffany Caban, NYC Council Candidate, District 22

Crystal Hudson, NYC Council Candidate, District 35