



New York Civil Liberties Union  
125 Broad Street, 19th Floor  
New York, NY 10004  
(212) 607-3300  
[www.nyclu.org](http://www.nyclu.org)

March 13, 2020

**VIA Email**

Honorable Janet DiFiore  
Chief Judge of the Court of Appeals and of the State of New York  
Honorable Lawrence K. Marks  
Chief Administrative Judge  
Office of Court Administration  
25 Beaver Street - Rm. 852  
New York, N.Y. 10004

Re: Preventive Measures Against COVID-19

Dear Chief Judge DiFiore and Chief Administrative Judge Marks:

We are writing to ask you to advise courts around the state to do their part to prevent and mitigate the spread of COVID-19 in jails and prisons. Given the grave threat that COVID-19 poses to incarcerated people and corrections staff, you should immediately advise courts to limit the influx of new people into jails and prisons.

As you know, people in prisons and jails are highly vulnerable to outbreaks of contagious illnesses. They have little ability to inform themselves about preventive measures, or to take such measures if they do manage to learn of them. They are housed in close quarters, have little control over their daily interaction with others, and are often in poor health. Coronavirus inevitably will reach the incarcerated population, and given the inherent space and resource constraints in correctional settings, prisons and jails will be overburdened in trying to treat the disease and trying to prevent its spread to all those inside. As former New York City Department of Correction Commissioner Martin Horn warned: “contagious disease [is] a most dangerous foe and the least amenable to structured control in a setting where social isolation is difficult due to open dormitory housing, court pens that are incubators and accelerators of contagion, and staff coming to work not aware that their child is a carrier.” *See* NYC BOC meeting May 2009, in regard to H1N1 swine flu.

With health officials designating COVID-19 a pandemic, courts must play a critical role in preventing the spread of coronavirus in correctional settings. This can be done by—at minimum—prioritizing the use of diversion programs, sentencing criminal defendants to alternatives to incarceration, issuing fewer bench warrants, and restricting overall orders for new admissions to jail and prison to only extraordinary circumstances necessary for public safety. To ease the burden on correctional institutions and greatly aid in containing this health crisis, courts

have a responsibility to limit the introduction of more people from the community into jails and prisons, which could serve as hotbeds for disease.

We urge you to advise judges to strongly consider giving a heightened preference to keeping people in the community during this critical time. This is an urgent matter that can only become worse if these precautions are not taken. Taking proactive steps and precautions may save lives.

Please let us know if you have any questions. You can reach out to us at 202-607-3360.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Desgranges". The signature is fluid and cursive, with the first name "Philip" and last name "Desgranges" clearly distinguishable.

Philip Desgranges  
Senior Staff Attorney

Nicole Triplett  
Policy Counsel

Grace Li  
Legal Fellow