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March 1, 2022

Anthony J. Annucci, Esq,
Acting Commissioner
NYS Department of Corrections and Community Supervision
1220 Washington Ave., Bldg. #2
Albany NY, 12226

Tina M. Stanford, Esq.
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New York State Board of Parole
1220 Washington Avenue
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Anthony Perri, Esq.
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25 Beaver St,
New York, NY 10004-2310.

RE: **Court Production for Pending Parole Violation Matters**

Dear Chairwoman Stanford, Acting Commissioner Annucci, and Deputy Counsel Perri,

The Legal Aid Society's Parole Revocation Defense Unit (PRDU) has participated in several telephone calls with OCA, DOCCS' counsel and NYS Parole Board counsel subsequent to our February 15, 2022 letter to DOCCS requesting information on how the mandated changes to the parole violation process will be implemented today, March 1, 2022. In these meetings, it was disclosed that OCA offered DOCCS designated court space for New York City parole violation proceedings; the courtrooms are the Manhattan and Brooklyn criminal court buildings. DOCCS, however, has indicated that while it recognizes that all parole violation proceedings must be held in community court spaces when such space is "reasonably available," it does not plan to hold preliminary or final hearings in these borough courthouses for any pre-March 1, 2022 parole violation detainees held on Rikers' Island. They suggest, without basis, that NYC DOC will refuse to transport those entitled to hearings without a securing order from a criminal court judge. Nothing in law, or the day-to-day

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operations of our courts, support this. As there is courthouse space, such hearings should proceed today. Yet, the courtrooms remain empty, unscheduled.

We write to demand that DOCCS, the Parole Board Adjudication Bureau and OCA work together to transport our clients to court for parole violation hearings in accord with the Less Is More legislation. Notably, NYC DOC, as a law enforcement agency, has always honored agency-generated orders for production to parole violation hearings both outside of Rikers Island Correctional Facility and within the island's facilities designated for that purpose. In fact, during the 1980's and 1990's, parole violation clients remanded on Rikers Island were, upon DOCCS agency request, transported to the hearing center located in the NYS courthouse at 2510 Ct. Square W in Long Island City without a need for judicial securing orders. In addition, for decades now, DOCCS' Form 9015 has been used to provide NYC DOC notice to produce and transport our clients to their parole violation hearings from their housing facilities to the parole violation hearing center.

Furthermore, even if NYC DOC fails to honor DOCCS' request for transport under the current Form 9015, there are readily available, alternative solutions. The first is to have the Administrative Law Judges submit their own agency "Order to Produce" to NYC DOC (consistent with past practice). It would be an odd reading of the statute to allow revocation hearings in courtrooms, yet not to permit Administrative Law Judges to secure the appearance of individuals subject to such proceedings. Notably, DOCCS' reading does not suggest otherwise. They affirm that after the initial criminal court proceedings, Administrative Law Judges can order NYC DOC to produce detainees to revocation hearings in courtrooms. That authority does not exist simply because a criminal court judge too can order production. Rather, it exists because Administrative Law Judges can do so independently – that is without subsequent consent or approval of criminal court judges. It is under that authority that we demand our clients be taken to court.

If DOCCS insists on criminal court judges securing orders (for whatever reason), there remains second solution. DOCCS can consent to recognizance hearings before in criminal court for all pre-March 1 parole detainees. Such hearings would be heard by criminal court judges. At the hearing release may be granted. Or, conversely, remand may be continued after the recognizance hearing, and the criminal court judge could issue a securing order for production for subsequent revocation proceedings. Finally, should these reasonable resolutions be rejected, we request that OCA facilitate production to parole violation hearings in Manhattan and Brooklyn by designating a miscellaneous part to issue court "Orders to Produce."

We do not believe that any of these protocols should, however, be necessary given NYC DOC's historical compliance and cooperation with DOCCS in facilitating production of their detainees to parole violation hearings.

Attached is an up-to-date list of all PRDU clients who are in detention and still awaiting preliminary or final hearings as of today, March 1, 2022. We send this list to assist DOCCS, the NYS Parole Board and OCA in identifying people currently detained on parole violations at Rikers Island who are entitled under Less Is More to have their cases heard in a community courthouse for their scheduled parole violation hearings.

In light of the fact that today is the effective date of the Less Is More legislation, we also ask DOCCS, the NYS Parole Board and OCA to also disclose the Brooklyn and Manhattan courthouse addresses and room numbers that have been designated for the holding of their parole violation hearings.

As always, we are available to meet and discuss this issue and other implementation issues at your request.

Thank you,

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Attachment: PRDU List of All Pre-3/1/22 Lodge Clients Arranged by Upcoming Parole Court Dates

Enclosure

CC:

Patricia O'Malley, *Chief, NYS Parole Board Adjudication Bureau*

Timothy O'Brien, *Director of Operations, Community Supervision, NYS Department of Corrections and Community Supervision*

Leleith Shaw, *Bureau Chief, Parole Violation Unit, NYS Department of Corrections and Community Supervision*

Jill Starishevsky, *Assistant Counsel to the Governor Office of Governor Kathy Hochul*

Marcus Soler, *Deputy Secretary for Public Safety, Office of the Governor*

Amit Bagga, *Deputy Secretary to the Governor, Intergovernmental Affairs*

Joshua Norkin, *Assistant Counsel to the Governor's Office, Housing and Civil Rights*

Cathy Y. Sheehan, *Deputy Commissioner and Counsel, New York State Department Corrections and Community Supervision*

Tasha Lloyd, *Supervisory Attorney for Operations, Assigned Counsel Plan, Mayor's Office of Criminal Justice*

Michael Alperstein, *Administrator, Assigned Counsel Plan, First Department*

Deanna Logan, *Director of Crime Strategies and Acting General Counsel, MOCJ*

Shiri Wolf, *Senior Counsel, Crime Strategies Unit, Mayor's Office of Criminal Justice*

Antonio Diaz, *Acting Chief Clerk, Criminal Court of the City of New York*