



New York State Defenders Association, Inc.

Public Defense Backup Center

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Sent via email: jill.starishevsky@exec.ny.gov; jeremy.shockett@exec.ny.gov

The Honorable Andrew M. Cuomo
Governor of New York
Executive Chamber
The Capitol
Albany, NY 12224

RE: Public Defense Staff Vaccine Eligibility

Dear Governor Cuomo:

We write to ask you to immediately revise the State's vaccination eligibility category 1(b) to specifically include all attorneys and staff who are obligated to make in-person court appearances, including but not limited to public defenders, legal aid society attorneys, assigned counsel lawyers, and members of the defense team who represent clients in criminal and family court, as well as individuals who are incarcerated in county jails and state prison facilities.

We strongly support the New York State Bar Association's February 9, 2021, [resolution](#) that calls for the following action:

public defenders, assigned counsel attorneys, attorneys for the children (AFCs), client-facing civil legal services attorneys, mandated family court attorneys, retained criminal defense attorneys, prosecutors, incarcerated people including pre-trial detainees, criminal court judges and magistrates, and family court judges and the client-facing staff of these attorneys and judges as well as all lawyers who are by Court order or otherwise obligated to make an in-person appearance, either in a legal proceeding or elsewhere if related to an existing or contemplated court proceeding or process, should be prioritized for the vaccine as essential workers and individuals at high risk and that they immediately be moved into the New York State 1(b) vaccine category.

The need for immediate action is clear. Last week, defenders received notice from Administrative Judges in various judicial districts that many courts would be immediately returning to in-person hearings and that in-person trials will be starting again in mid to late March. This unexpected announcement was met with mixed emotions by many in the public defense community. It sets up a conflict of interest between defense lawyers' need to protect themselves, their families and community, and their duty to be present for and with clients when court proceedings are held. Based on the current vaccination schedule, lawyers are being treated less favorably than Court

officers and law enforcement, who have been eligible for the vaccine for many weeks now. The decision to return to in-person proceedings when the possibility of COVID-19 infections is still high and many defense attorneys do not have access to the vaccine is a recipe for disaster.

It should be noted that while defense attorneys in many areas of the state have not been considered eligible for the COVID-19 vaccine, in other areas, public defenders and district attorneys and their staff have been able to be vaccinated. This inconsistency in implementation of the State's vaccine plan has led to confusion and unfairness. We ask that the State provide a clear statement to the network of vaccine providers declaring that defense attorneys and all defense staff members who are required to return to in-person operations are currently eligible for the vaccine.

We thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at (518) 465-3524 x26 or sbryant@nysda.org.

Sincerely,

A handwritten signature in blue ink that reads "Susan C. Bryant". The signature is fluid and cursive, with the first name "Susan" and last name "Bryant" clearly legible.

Susan C. Bryant
Executive Director

SCB/dld