

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF EXECUTIVE COMMITTEE  
REMOTE MEETING  
FEBRUARY 9, 2021**

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**Members Participating:** Jonathan B. Behrins, Mark A. Berman, T. Andrew Brown, David Louis Cohen, Norman P. Effman, Donna England, Margaret J. Finerty, Jean Gerbini, Sarah E. Gold, Henry M. Greenberg, Richard M. Gutierrez, Andre R. Jaglom, Scott M. Karson, Sherry Levin Wallach, Richard C. Lewis, Michael Marinaccio, Mark J. Moretti, Domenick Napoletano, Aimee L. Richter, William T. Russell, Jr., Mirna M. Santiago, Robert T. Schofield, IV, Hon. Adam Seiden, Diana S. Sen, Carol A. Sigmond, Tucker C. Stanclift, Jean Marie Westlake.

Guests: Sally F. Curran, Adrienne L. Holder, Prof. Michael L. Fox.

Mr. Karson presided as President of the Association.

1. Request of LGBTQ Law Section. The Executive Committee reviewed a proposal from the section for the establishment of two awards. Because the proposal contained a request for Association funding at the inception of the awards, a motion was adopted to table the proposal and refer it to the Finance Committee.
2. Vaccine Prioritization. On behalf of the Committee on Legal Aid, the Committee on Mandated Representation, and the Criminal Justice Section, Ms. Curran, Ms. Holder and Ms. Levin Wallach reviewed a proposed resolution that would provide COVID-19 vaccine prioritization to certain groups of attorneys. House member Prof. Fox outlined a proposed resolution that called for the prioritization of all attorneys for COVID-19 vaccinations. After discussion, a motion to adopt the resolution offered by Prof. Fox failed. A motion was then adopted to approve the following resolution:

**WHEREAS** As known and widely reported, COVID-19 is a pandemic the likes of which has not been seen in over a century since the influenza pandemic of 1918.

**WHEREAS** On November 7, 2020 The New York State Bar Association passed a resolution regarding the COVID-19 pandemic stating that “Once available, a vaccine should first be equitably allocated and distributed based upon widely accepted ethical principles including maximizing benefit to the society as a whole through reducing transmission and morbidity and mortality; recognizing the equal value, worth and dignity of all human persons and human lives; mitigating suffering, health inequities and disparities; and ensuring fairness and transparency in decision making. Health care workers and other essential workers most endangered by COVID-19 and populations at highest risk must be afforded priority access to a vaccine.”

**WHEREAS** Public defenders, civil legal services attorneys (employed by civil legal services law firms under Judiciary Law Section 495(7)), assigned counsel, attorneys for the children (AFCs), retained criminal defense counsel, and their support staff who see clients in person across the country are arguing that they should be among priority groups to receive the COVID-19 vaccine.

**WHEREAS** These lawyers provide services that are essential to ensuring access to justice for some of the most at-risk members of our communities.

**WHEREAS** Public defenders, civil legal services attorneys (employed by civil legal services law firms under Judiciary Law Section 495(7)), assigned counsel, attorneys for the children (AFCs), and retained criminal defense counsel must often provide space within their offices for clients to appear in virtual court and must appear in person in court with clients because it is often difficult to communicate with their clients virtually and virtual communications can raise privacy concerns.

**WHEREAS** Often the courtrooms do not adequately allow for social distancing between attorneys and their clients when appearing in person in court.

**WHEREAS** Criminal defense attorneys also must represent incarcerated clients accused of the most serious crimes and should be vaccinated in short order so that they can visit clients as there are serious privacy issues with virtual or telephonic communications in these instances.

**WHEREAS** Prosecutors must be available to appear in court on a daily basis and they must meet with witnesses and law enforcement regularly.

**WHEREAS** People who are incarcerated should be afforded the same protections as all other personages in criminal proceedings. These individuals are unable to sufficiently engage in social distancing and other protective techniques available to the public at large and therefore are at a heightened risk of COVID-19 infection.

**WHEREAS** in Family Court, indigent persons and their children have a right to counsel in child neglect proceedings, Article 10 & 6, which are urgent proceedings dealing with the removal of a child from a parent and home. These attorneys must meet with their clients.

**WHEREAS** Civil legal services attorneys and support staff interact with and represent indigent clients in urgent civil proceedings such as domestic violence and housing matters, at times in person.


**WHEREAS** Members of the judiciary are required to be in court in these proceedings and these judges preside over numerous cases in a day and are in contact with all the parties to each action.

**THEREFORE, IT IS RESOLVED THAT:**

For all the reasons stated herein, 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.

3. Adjournment. There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sherry', with a long horizontal flourish extending to the right.

Sherry Levin Wallach  
Secretary