

CORRECTIONAL ASSOCIATION OF NY (CANY)
Testimony for NYS Senate Hearing on COVID-19 in Jails and Prisons
Hearing Held 22 September 2020 | Testimony Submitted 12 October 2020

Seven months after the onset of the COVID-19 pandemic in the U.S., many states have achieved relative stability in infection rates. However, that picture obscures the disproportionate impact that COVID-19 has had on the most marginalized of our society, and how that disproportionality increases with intersecting identities. This compounded social vulnerability rings especially true for incarcerated populations. Prisons and jails have become hotspots of COVID-19 transmission¹, at the same time that rates are falling in the communities around them. Inability to maintain social distance, lack of access to adequate personal protective equipment, and the impact of incarceration on overall health and well-being, among other factors, play a tremendous role in the steadily increasing rates of COVID-19 infection and death in prisons and jails.

COVID-19 is a heightened risk for individuals who are incarcerated—their invisibility puts them at greater risk for disproportionately negative effects. Incarcerated individuals also already contend with greater health issues, both chronic and infectious diseases, and inadequate healthcare, thus already facing poorer health outcomes as a result of their incarceration² --COVID-19 behind bars is a crisis that cannot be ignored.

The Correctional Association of New York (CANY)'s authority under state law to monitor prisons and report findings to the legislature and the broader public has heightened significance and relevance in the time of COVID-19, underscoring the continued need for comprehensive oversight. Incarcerated individuals expressed concerns regarding COVID-19 to CANY back in February of this year, long before the general public was made aware of how the virus is transmitted and those who faced greater risk of infection, such as vulnerable populations (e.g. elderly and those with pre-existing health conditions). CANY's access to incarcerated populations, and commitment to amplify the voices of those most affected by what happens inside prisons generates invaluable information that would not otherwise be produced on this scale.

In a forthcoming report of findings from a monitoring visit to Fishkill Correctional Facility in July 2020, chosen due to the highest number of infections and deaths attributable to COVID-19 at any single prison in New York at the time of the visit, we document how the daily issues that incarcerated individuals confront intersect with the challenge of containing an infectious disease in a dense environment isolated from access by the public.

- 34% of 252 COVID-19 tests administered to incarcerated people had come back positive.
- A majority –71% (n=109) – of incarcerated individuals reported having access to masks or hand sanitizer, though the vast majority of them observed and interviewed were not wearing masks. In fact, many incarcerated individuals reported that prior to a distribution of two surgical masks on the first day of the visit, they had not received new masks since a donation of fabric masks in May.

¹ The Marshall Project. (2020, August 27). *A State-by-State Look at Coronavirus in Prisons*. The Marshall Project.

<https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>

² Massoglia, M., & Remster, B. (2019). Linkages between incarceration and health. *Public Health Reports* (Washington, D.C.: 1974), 134, 8S-14S. doi:10.1177/0033354919826563

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- 50% (n=66) of individuals reported being unable to maintain social distance.
- 10 individuals reported having had symptoms of COVID-19 but were not tested and instead quarantined with the rest of their housing unit.

Additionally:

- At least two individuals reported that they had been sick and tested for COVID-19 but had not received written confirmation of their test results. Both of these individuals reported having filed FOIL requests to do so.
- Several individuals believed they had been infected with COVID-19 but had not sought care because, the prospect of being transferred to a building created for solitary confinement provided a disincentive.
- Many incarcerated individuals did not seem to have access to proper education on the risks of COVID-19 and how best to take care of themselves during the pandemic, including how COVID-19 tests are administered, proper mask usage, and even the signs and symptoms of COVID-19.
- Individuals expressed frustration and fear in response to the scarcity of early release opportunities and lack of consideration for clemency. “Prison does more harm than good,” observed one individual. “It puts excess strain on families, it’s like double sentencing.” “This is warehousing,” said another. “The system makes you lost hope.” One individual described his perception of his vulnerability this way: “We’re like sitting ducks.”

Of all the findings, which are discussed in full in the report, the apparent inaccessibility of otherwise widely available public health information about COVID-19 was most striking. Many of the incarcerated people CANY representatives spoke to seemed unaware of how COVID-19 tests are administered, proper mask usage, and even the signs and symptoms of COVID-19. One of the most powerful tools for preventing the spread of COVID-19 is knowing how to keep oneself safe; without that knowledge, COVID-19 still poses a serious risk to incarcerated people, despite testing, distribution of masks and cleaning supplies, and social distancing guidance. This finding illustrates how incarceration, in its design and function, goes beyond keeping people in, to keeping things *out*—including critical information about a global pandemic. The Department of Corrections and Community Supervision (DOCCS) has made some good progress in keeping people safe, through a variety of policy changes, but overall, incarceration itself undermines those outcomes. In other words, to paraphrase the remarks of one incarcerated person we spoke to, incarceration does more harm than good.

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To achieve the greatest impact, our recommendations – which include essential measures such as increasing testing and public reporting of test results; increasing public education about COVID-19 for incarcerated individuals; expanding creative solutions for delivery of programming; and modifying facility operations to accommodate the need for social distancing – must be grounded in a commitment to decarceration. According to one expert, “Choosing not to decarcerate is a policy decision that actively facilitates high rates of new COVID-19 infections, and ultimately deaths, among an already vulnerable and marginalized population. By choosing confinement, policy makers are exposing incarcerated people to much higher odds of COVID-19 infection.”³ There is no better public health policy solution than decreasing the number of people behind bars. Lives depend on it.

³ Henry, B. F. (2020). Social distancing and incarceration: Policy and management strategies to reduce covid-19 transmission and promote health equity through decarceration. *Health Education & Behavior*, 1090198120927318.