

Congress of the United States
Washington, DC

May 22, 2020

The Honorable Andrew M. Cuomo
Governor of New York State
New York State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

We write as the New York State Congressional delegation to urge you to take immediate action to prevent the spread of COVID-19 in New York State correctional facilities. Infectious disease experts have articulated an urgent public health imperative to release as many people from jails and prisons as possible, to provide widespread COVID-19 testing, sanitation and health supplies, including PPE, and social distancing for all people in jails and prisons and correctional staff.

In late March, you issued a directive to the New York State Department of Corrections and Community Supervision (DOCCS) to release up to 1,100 people who were incarcerated on technical parole violation holds in New York State jails. While an important step, this policy directive left too many people, including hundreds of people accused of parole violations, in local jails and did not touch the state prison population. This directive was followed by announcements that people aged 55 and over with 90 days or less on their sentence and whose underlying crime was not a sex offense or a violent felony and pregnant women who had not been convicted of violent crimes and were within six months of release would also be released, though in both cases a majority of vulnerable people were excluded from consideration based on their convictions. More recently, the release criteria for the category of people aged 55 or over was expanded to remove the age requirement. Again, while we applaud these efforts and your acknowledgment of the need to reduce the size of the prison population, the current release criteria will result in a relatively small number of individuals being released. More aggressive release policies must be initiated immediately to mitigate the spread of the virus and prevent countless deaths of incarcerated individuals, correctional staff and their family members and individuals in the surrounding communities.

As you consider this request, and rightly worry about the disproportionate impact of the COVID-19 pandemic on Black and Latinx New Yorkers, it is important to acknowledge that New York's prison population is 72% Black and Latinx. Your policies regarding the protection of incarcerated people will either increase the harms to communities of color or make a major contribution to reduce the disparities – and flatten the curve.

Tragically, our state is the epicenter of the coronavirus outbreak in the United States and prisons are undeniably among the locations at greatest risk for COVID-19 outbreaks. The reality at several prisons across the state, including Fishkill, Sing Sing, Wende, Great Meadow, Otisville, and Bedford Hills have demonstrated how quickly an outbreak can escalate in a correctional

facility, and how many lives can be lost as a result. DOCCS' data on confirmed COVID-19 cases among those working and living in our prisons reveal the exponential spread of this virus. On April 13th, DOCCS reported 581 staff and 139 incarcerated people had tested positive for COVID-19. Of those people, one staff member and three incarcerated people had died. Today, just one month later, 1,177 correctional staff and 434 incarcerated people have tested positive for COVID-19. Sadly, an additional 3 correctional staff members and 15 incarcerated people have died. These numbers are likely the tip of the iceberg since less than 2% of the New York State prison population has been tested. A federal prison in Ohio conducted widespread testing and found 80% of incarcerated people had the virus, in line with the fears expressed by public health experts about prisons and jails when this crisis began.

There are over 40,000 men and women incarcerated in New York State's 52 prisons. Twenty-two percent of people incarcerated in state prison in New York - 9,550 people - are 50 and older. Many more have serious chronic medical issues. There are 4,788 people incarcerated in New York prisons who are scheduled for mandatory release within a year. There are another 3,809 people who are eligible for parole, meaning they have already served the minimum sentence set by the court. Another 3,735 people will become eligible for parole within a year. There are more than 5,000 people in prison for technical parole violations. Many others are immunocompromised or are seriously ill and have sought medical parole, including 72-year-old Benjamin Smalls who died just last week and 61-year-old Darlene "Lulu" Benson-Seay, the first incarcerated woman to die of COVID-19 complications.

The only way to save lives and prevent infection and stem the spread of COVID-19 behind bars and throughout New York's local communities is to create space for social distancing by releasing vulnerable people and reducing the overall prison population. There are significant numbers of incarcerated people that can be released today in order to safely achieve this.

Further, we urge you to follow CDC recommended public health practices, and provide widespread testing, access to healthcare, PPE, and social distancing for all people in prison and staff in state prisons and county jails. DOCCS must also ensure that staff have adequate health care support, including full pay for staff if they become sick with the virus. Correctional staff should be treated as essential employees and provided with the same protections first responders on the frontlines of this pandemic receive.

We deeply appreciate your leadership – in New York and nationwide – in confronting so many aspects of this horrifying pandemic. We urge you now to exercise leadership and compassion to protect people living and working in jails and prisons. Releasing a significant number of incarcerated people and ensuring compliance with public health standards will surely save lives, both of those who are incarcerated and of others living in the community. As Governor of the state with the most reported cases of COVID-19 and as Vice Chair of the National Governors Association, you have the power not only to lead the Empire State in releasing substantial numbers of people from prison, but to show other governors that this laudable goal can be achieved. We urge you to take quick and decisive action on a much larger scale. Ignoring this looming crisis promises to harm or kill so many more.

We look forward to collaborating with you to protect all New Yorkers from the further spread of this devastating virus and thank you for your consideration of this request.

Sincerely,



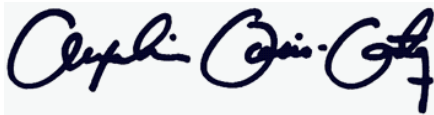
Jerrold Nadler
Member of Congress



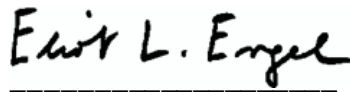
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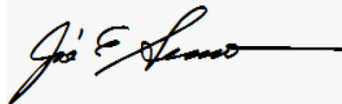
Yvette D. Clarke
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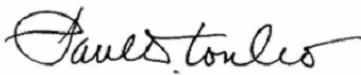
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