

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

March 26, 2020

Dear Governor Cuomo,

As a philanthropic leaders committed to improving social welfare and criminal justice in New York State, we are writing to urge you to use your discretionary powers to release as many people from New York State adult and juvenile correctional facilities as prudently possible, in order to avert a looming epidemic of the COVID-19 virus within prisons and jails.

People in prison are medically vulnerable and forcibly proximate: they cannot meaningfully social distance themselves from others. They suffer from “poverty illnesses” like asthma, heart disease and diabetes more frequently. Health care inside prisons is often substandard. If one were inventing an environment that would deliberately increase contagion, one could hardly do better than congregate facilities like prisons and jails.

Your administration has undertaken many reforms to end mass incarceration in the great state of New York, for which we and our grantees are deeply grateful. But the COVID-19 epidemic now presents a moment of both crisis and opportunity. With dozens of staff and residents already diagnosed with the coronavirus in NYC and NYS facilities, we are mere days away from a runaway epidemic inside prison walls. As we are now seeing with police officers, correctional staff will both get sick and call in sick, creating exposure to family members and others outside the facility, as well as security risks inside it. Because medical care in most facilities is inadequate to meet the threat, ill residents will need to be transferred to outside hospitals, putting a strain on already underequipped facilities in rural communities.

[Public health experts](#) are advising that **the best way to reduce the risk of epidemic within prison walls is to release as many people as possible.**

Your emergency powers here are broad, under **N.Y. Correct. Laws § 141 and 504** which read in relevant part:

“In case any pestilence or contagious disease shall break out ...the commissioner of correction may cause the inmates ... confined in such facility, or any of them, to be removed to some suitable place of security, where such of them as may be sick shall receive all necessary care and medical assistance[.]”

Our grantees who work on youth and adult justice reform in New York State have identified several ways in which you could exercise your discretion to accelerate releases:

1. **Grant compassionate release to elderly inmates and those with underlying health conditions that put them at greater risk.** We would urge you not to restrict such releases only to those convicted of non-violent offenses. [Research](#) by leading criminologists shows that older inmates (many of whom have already served decades in prison) present a very low risk of recidivating, and that those convicted of violent crimes are no more likely to reoffend as those convicted of non-violent charges.

Those considered at medical risk should include people with HIV/AIDS; people with chronic and co-morbid conditions such as COPD, asthma, hepatitis, diabetes mellitus, hypertension and/or cardiac disease and cancer; those with immune deficiencies; people with comorbid medical conditions; and pregnant and transgender people.

2. **Release all people currently incarcerated on technical violations of parole** which do not involve commission of a new crime, as 50 probation and parole executives [recommended](#) last week. Right now, there are currently over 600 people awaiting hearings or serving sentences for technical parole violation at Rikers Island and another 1,000 or so in other jails around the state. Because these people are under state jurisdiction, New York City officials are powerless to release them without a directive from you.

3. **Grant early parole to people within 90-180 days of completing their sentences.** You might also consider releasing those within 3 years of their minimum sentence who have scored as low-risk and incurred no disciplinary infractions for violence within the past year.

4. **Direct prison administrators to exercise their furlough powers** for low-risk inmates under NYS Correction Law § 855, and jail administrators to do the same under NYS § 633. These laws contemplate furloughs of 72 hours, but your office has the power under the existing emergency order to extend such furloughs until the end of the crisis.

Finally, as you know, the 2019 bail reforms in New York have also had the effect of reducing the jail population across the state. Continuing the implementation of that law will be important to stemming the unnecessary flow of people into jails during a dangerous time.

States like [Iowa](#) and [New Jersey](#), where the numbers of infected are not yet as serious as those in New York, have already moved to release many hundreds of incarcerated people. At a moment when swift action means the difference of saving potentially hundreds of lives, we urge you to use your broad powers to do the same.

Yours sincerely,



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