



New York Can—and Must—Lead to Protect People in Prison

April 2020

New York is the epicenter of the novel coronavirus outbreak in the United States. With infection rates climbing daily, a public health disaster looms particularly large for one group of New Yorkers with no ability to protect themselves: the 43,000 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. Conditions inside—including many people sleeping 40 or 50 to a room, with limited or no access to soap and no ability to create social distance—make it impossible for people to protect themselves.

Rikers Island, the infamous jail complex in New York City, has demonstrated how quickly an outbreak can take hold in correctional facilities.¹ Rikers went from having one case of confirmed COVID-19 among people incarcerated to more than 300 within a matter of weeks. Two people have already died. In New York State prisons, as of April 13, there were three confirmed deaths, with an additional 581 staff and 139 incarcerated people testing positive.² Without a doubt, those numbers will jump with each day that passes.

The only way to prevent infection and stem the spread of COVID-19 behind bars is to create space for social distancing and thin the overall prison population. Time is of the essence to get people out.

Already, these efforts are underway at the local level. New York City has seen its jail population decline by almost 25 percent since the beginning of March 2020 as a result of fewer arrests and coordinated efforts by defender agencies, the mayor’s office, district attorneys, and other actors to release people.³ On March 27, Governor Andrew Cuomo issued a directive to New York State Department of Corrections and Community Supervision (DOCCS) to identify and release up to 1,100 people incarcerated in local jails across the state on technical parole violation holds.⁴ The directive is an important start, but only impacts local jail populations.

Releasing people from prison not only protects the New Yorkers incarcerated there, but local communities as well. The state has suspended in-person visits in an attempt to slow the spread of COVID-19 within facilities, but corrections officers, medical personnel, and other prison staff go into and out of prisons every day, potentially bringing the virus in and taking it home. Medical providers inside prisons are ill-equipped to address an illness that the top hospitals in the country have not been able to bring to heel. When there is an outbreak in a prison facility, people will necessarily be transported to local hospitals, and community hospitals—especially those in rural parts of New York—will collapse under the strain.

There are thousands of people nearing the ends of their sentences that state and local leaders can and should release to protect public health, and with it the safety of communities across New York State. For example, 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, as well as 3,735 people who will become eligible for parole within a year. There are more than 5,000 people in prison for technical parole violations. In these extraordinary times, the state should take all necessary steps to protect people from dangerous conditions and reduce the number of people in prisons.

How can the state release people who are incarcerated?

Governor Cuomo has the power to release people quickly and safely. Doing so will surely save lives, both of those who are incarcerated and of others living in the community. There are a number of steps he can and should take.

Governor Cuomo should prioritize the release of people who are most vulnerable to COVID-19, including those who are 50 or older or immunocompromised. As he did with the directive ordering DOCCS to review and release people from jail on low-level technical parole violations, Governor Cuomo could and should issue similar directives ordering the review and release of people in those high-risk categories. Michigan Governor Gretchen Whitmer has issued an executive order to that effect to release people incarcerated in jails.⁵ Governor Cuomo could lead the nation by writing such an order for people in prisons. Additionally, the governor can and should lower hurdles to release for seriously ill people who have applied or are applying for medical parole, who by definition are vulnerable to COVID-19.

To reduce overcrowding further and save lives, Governor Cuomo should also prioritize releasing people held in prisons after a finding of a technical parole violation, as well as people nearing the ends of their sentences. As Colorado Governor Jared Polis has done, Governor Cuomo could issue an executive order suspending the caps and criteria for good time credit, which would allow DOCCS to release people who have almost completed their sentences.⁶ And Governor Cuomo could and should grant clemency to meritorious applicants who have demonstrated their good conduct and redemption over the years they have spent behind bars.

By many accounts, Governor Cuomo has led the nation in his response to COVID-19. He has the opportunity—and the moral obligation—to lead in protecting New Yorkers in prisons as well.

The following table shows the number of people held in each prison facility, the number of people who are particularly vulnerable to COVID-19 because of their age, and the number of people nearing the ends of their prison terms.⁷

PRISON	TOTAL POPULATION	AGE 50+	HELD ON TECHNICAL PAROLE VIOLATION	PAST CONDITIONAL OR MAXIMUM RELEASE DATE	CONDITIONAL OR MAXIMUM RELEASE DATE WITHIN ONE YEAR	ELIGIBLE FOR PAROLE	ELIGIBLE FOR PAROLE WITHIN ONE YEAR
ADIRONDACK	9	0	0	0	1	0	0
ALBION	814	131	108	18	142	83	160
ALTONA	391	59	47	7	76	34	78
ATTICA	1820	398	178	3	40	73	53
AUBURN	1171	246	91	4	38	68	39
BARE HILL	1120	202	120	21	155	113	120
BEDFORD HILLS	645	117	88	6	27	26	37
CAPE VINCENT	769	104	75	18	148	100	93
CAYUGA	845	209	80	17	137	95	95
CLINTON	2188	505	169	8	81	93	67
COLLINS	1002	169	177	16	150	135	95
COXSACKIE	765	160	23	6	38	44	32
DOWNSSTATE	938	146	233	6	44	22	81
EASTERN	940	303	25	0	19	30	18
EDGECOMBE	108	17	66	7	8	12	12
ELMIRA	1491	320	247	7	64	85	84
FISHKILL	1611	510	247	34	189	226	162
FIVE POINTS	1072	224	117	7	77	82	43
FRANKLIN	1220	200	130	26	164	124	129
GOUVERNEUR	864	161	82	24	142	104	98
GOWANDA	1235	236	137	23	192	202	213
GREAT MEADOW	1415	297	177	5	57	92	61
GREEN HAVEN	1818	630	145	9	31	72	52
GREENE	1383	231	106	23	292	133	134
GROVELAND	870	212	175	15	126	104	139
HALE CREEK	452	58	36	1	147	1	40
HUDSON	92	16	1	3	35	7	15
LAKEVIEW	613	6	24	0	50	16	96
MARCY	1047	244	146	23	194	127	127
MIDSTATE	1406	301	226	22	218	190	172
MOHAWK	1290	319	141	25	199	163	137
MORIAH	180	0	4	0	26	1	59
OGDENSBURG	357	46	20	6	85	23	61
ORLEANS	789	138	180	15	114	85	55
OTISVILLE	600	248	16	16	75	145	59
QUEENSBORO	358	78	69	63	106	48	47
RIVERVIEW	698	107	76	16	147	70	71
ROCHESTER	47	6	2	4	28	5	6
SHAWANGUNK	473	175	18	0	12	31	9

SING SING	1384	392	98	18	46	61	38
SOUTHPORT	397	34	21	7	31	37	15
SULLIVAN	463	163	68	3	18	35	11
TACONIC	282	70	38	6	62	30	38
ULSTER	435	122	58	4	28	42	58
UPSTATE	596	57	18	3	64	43	31
WALLKILL	595	150	15	15	136	56	85
WASHINGTON	727	122	71	16	119	82	90
WATERTOWN	400	69	27	6	92	42	61
WENDE	733	220	91	10	30	57	21
WILLARD	656	86	462	1	19	8	34
WOODBOURNE	781	311	34	17	74	153	81
WYOMING	1191	223	173	17	195	98	123

For more information

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¹ Jan Ransom and Alan Feuer, "We're Left for Dead': Fears of Virus Catastrophe at Rikers Jail," *New York Times*, March 30, 2020, <https://www.nytimes.com/2020/03/30/nyregion/coronavirus-rikers-nyc-jail.html>.

² Emily Russell, "NYS Prisons: 105 Employees and 14 Inmates Test Positive for COVID-19," *NPR*, March 31, 2020, <https://news.wbfo.org/post/nys-prisons-105-employees-and-14-inmates-test-positive-covid-19>.

³ Vera Institute of Justice, Jail Viz 2.0 (database), <http://52.71.132.68/nycjail/>.

⁴ Sarah Taddeo, "NY to Release Up to 1,100 Low-Level Parole Violators from Jails to Stop Coronavirus Spread," *Democrat and Chronicle*, March 28, 2020, <https://www.democratandchronicle.com/story/news/2020/03/28/new-york-release-up-1-100-low-level-parole-violators-jails/2933262001/>.

⁵ Michigan Executive Order 2020-19 (COVID-19), https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-523422--,00.html.

⁶ Colorado Executive Order 2020 016 Temporarily Suspending Certain Regulatory Statutes Concerning Criminal Justice, <https://drive.google.com/file/d/18o0yWHzZleHJ87hmgLuBmXwpM8R74Q5x/view>.

⁷ Prison numbers are from DOCCS data scraped on February 14, 2020.