

APPENDIX



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**TESTIMONY ON NEW JERSEY CORRECTIONAL FACILITIES
RESPONSE TO COVID-19**

**TO THE
ASSEMBLY JUDICIARY COMMITTEE
AND THE
ASSEMBLY LAW & PUBLIC SAFETY COMMITTEE**

**SUBMITTED BY
JEANNE LOCICERO, LEGAL DIRECTOR
AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY
JUNE 10, 2020**

Thank you, Chairman Mukherji and Chairman Taliaferro, and committee members for the invitation to speak about the calamitous conditions in New Jersey's prisons and jails, which have been exacerbated by the public health crisis of COVID-19. My name is Jeanne LoCicero and I am the Legal Director of the ACLU of New Jersey. We are grateful for your interest in this issue and hopeful that you will work to urgently pass legislation to alleviate the suffering and risks of people currently incarcerated and look to longer term solutions to prevent the future spread of infectious disease in state prisons.

For decades, the ACLU of New Jersey has advocated for the rights of incarcerated people, and sometimes have sued on their behalf. I have been on staff for fifteen years, and in that time have advocated on behalf of many people incarcerated in prisons and jails. I have sued jails and the DOC for failing the people in their custody, and have been on court-ordered nonpublic tours of facilities, including New Jersey State Prison.

My office regularly receive reports from people incarcerated in New Jersey and their loved ones about the unhealthy, unsanitary, and dangerous conditions of confinement, and I have seen them myself. In the best of times, it can be difficult for people in custody to receive adequate health care, and this is especially true for people with chronic or complicated conditions. In the early days of the pandemic, we quickly realized that people in prison were going to be particularly vulnerable to the disease. In addition visits were being canceled and they were losing contact with their family members and other people in their lives as the prisons eliminated visits, classes, and all other kinds of programming. ACLU-NJ staff made efforts to reach out to incarcerated people we knew, and we created an email address so we could hear directly from family members about their concerns for their loved ones. Through calls, emails, letters, and JPay, we have been contacted by or on behalf of hundreds of people in prisons, jails, and detention centers throughout the state.

During the pandemic, these conditions have resulted in a crisis of epic proportions. New Jersey prisons continue to have the highest rate of death in the country as a result of COVID-19, with 46 people in custody whose have died from the virus.¹ This death rate cannot simply be attributed to New Jersey's location as an epicenter of the outbreak. New Jersey's death rate per 10,000 prisoners is 25.² By contrast, New York's is 4, Connecticut's is 6 and Pennsylvania's is 2; those three states combined only have 31 deaths.³

A couple of important notes about the people in New Jersey's prisons. First, people of color make up a disproportionate share of the population of New Jersey's prisons. In fact, New Jersey has the worst racial disparities in the country with Black people being incarcerated at a rate 12 times higher than white people.⁴ Second, people in prison are usually sicker than the general population, and more likely to have pre-existing and chronic health conditions, including those that make them vulnerable to serious risk of harm or death if they are infected with COVID-19.

With no cure, vaccine, or even treatment for COVID-19, the only way to mitigate the spread of the infection, as we have all learned, is through social distancing and hand washing. Public health officials have called for extraordinary measures to combat the spread of COVID-19, including the stay-at-home order lifted just yesterday, and as evidenced by the fact that today's hearing is online. And while the state may be loosening restrictions, public health experts are indicating that these past few months may have just been the beginning of the pandemic and that we may likely see additional, life-threatening waves of infections.⁵

As our state has learned the hard way, prisons are particularly vulnerable to the spread of infectious diseases. This is because of their design: people live in close quarters, the facilities are densely populated, they share toilets, showers, and eating environments, and there is insufficient ventilation. People in prison come into contact for group movements, like getting their medication, commissary, laundry, and food. It is physically impossible for them to socially distance.

Because of these grave risks, the ACLU-NJ has been advocating since the beginning of the pandemic for the release of people who are at high risk of serious illness or death, or whose sentences are ending soon, by balancing the public health and public safety concerns. Those who can safely be released, should be. As you may know, we were at the New Jersey Supreme Court last month, and obtained a ruling requiring due process for those people eligible for release under

¹ In New Jersey prisons there have been 46 deaths (Confirmed COVID Cases at the NJDOC, New Jersey Department of Corrections (June 9, 2020), available at <https://www.state.nj.us/corrections/pages/COVID19Updates.shtml>) among the 18,477 incarcerated people (New Jersey Department of Corrections, Total Inmates in New Jersey State Correctional Institutions and Satellite Units, Jan. 1, 2020, available at https://njdoc.gov/pdf/offender_statistics/2020/2020_Total.pdf).

² *The Marshall Project*, A State-by-State Look at Coronavirus in Prisons (Updated June 4, 2020), available at <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

³ *Id.*

⁴ Ashley Nellis, The Sentencing Project, The Color of Justice: Racial and Ethnic Disparity in State Prisons, Table 3, June 14, 2016, available at <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>

⁵ Denise Grady, *Fauci Warns That the Coronavirus Pandemic Is Far From Over*, N.Y. Times, June 9, 2020, available at <https://www.nytimes.com/2020/06/09/health/fauci-vaccines-coronavirus.html>

the Governor's Executive Order 124. Releasing people not only reduces the risks for those individuals, but also for those still living and working in prisons, and it reduces the strain on an already taxed prison and health systems. We contended that the implementation of the Executive Order was not sufficiently time sensitive, and that the Order failed to provide adequate due process rights to those people eligible for release. Last week, the Court agreed with our concerns about the need for due process protections for those eligible for release. The Court noted that this body "retains the authority to enact policy changes in response to the spread of COVID-19 in state prisons and juvenile facilities."

While we have been advocating for the release of some people in custody, we also know that many will remain in the prison system and so have also been paying close attention to conditions inside. We first reached out to every jail and prison on March 16, asking officials to follow the guidance of public health experts, and be proactive in taking steps to prevent the spread of the virus. We gave them a menu of recommendations, including on sanitation, healthcare and testing.

We quickly learned that NJDOC was slow to roll out sanitation supplies or protocols, and protective equipment for people in custody. After a month, we were still getting reports that people inside didn't have access to sufficient soap or regular hand washing opportunities. They had not been supplied sufficient masks, and were subject to discipline if they made their own. DOC was not regularly disinfecting common spaces or common use items like telephones. They didn't have bleach or appropriate cleaning supplies to keep their cells sanitized. And NJDOC would not make hand sanitizer available.

On April 22, as the death rates climbed, we again wrote to NJDOC and identified these significant problems that were putting people's health at risk. Shortly after, we did get reports that supplies were more available, including hand sanitizer. But, every week we receive reports of shocking practices that are putting people at risk for the spread of the virus.

For example, late last month, we continued to hear reports that health care providers may not have, or are not using, adequate protective equipment. For example, we heard a report about medication being dispensed to people on line without changing gloves between each patient. Likewise, we have heard repeated reports about forehead thermometers being used without being sanitized between each person.

A related, and longstanding issue, is the insufficient and sometimes negligent medical care provided in prisons. For years, the ACLU-NJ has received reports of untreated conditions, failures to diagnose conditions, inadequate care, and interference by corrections staff in access to care. In addition to the inadequate medical care infrastructure in the state's prisons, there is little oversight over the quality and provision of care to people in prison. Prison health care is an area ripe for reform, and the ACLU-NJ is eager to partner in efforts to address this critical need. When the pandemic hit, all of these weaknesses were amplified. People with obvious COVID-19 symptoms were ignored, or just given Tylenol; people with chronic conditions weren't being seen by healthcare providers; people with mental health diagnoses weren't getting treated; people were having a hard time getting access to kiosks to put in a request for medical care.

As for testing, early on, the DOC's testing protocols seemed nonexistent. We received reports from across the prison system about people with fevers, coughing, and other typical symptoms who were not being given a test. As testing centers were being rolled out in Essex County, I remember thinking about the people at Northern State Prison, how the conditions were so dire, and the testing so close just a couple of miles away, and yet unavailable to those behind bars. We later came to learn that Northern State would have one of the worst outbreaks in the system, with 175 cases and 9 deaths as of yesterday.

We have also heard reports that one way that NJDOC has managed people exposed to COVID or who have contracted it is through lockdowns. Essentially, people are only allowed out of their cells for a half hour a day to shower, call their loved ones or an attorney, request medical help, and take care of other needs. This mirrors the punitive isolation of solitary confinement, the harms of which this legislature grappled with last year when it passed Isolated Confinement Restriction Act. These kinds of measures actually increase the risk in the facility because people will be more reluctant to report their symptoms out of fear that they will end up isolated in extremely difficult, onerous conditions.

As you are likely aware, it is notoriously difficult to hold the NJDOC accountable when it harms people in custody, individually or on a systemic basis. What we have learned so far about how NJDOC has been confronting the threat of COVID-19 is likely just the tip of the iceberg. There is much more to investigate so that we can fully understand the failures of the past few months, and prevent future harm and loss of lives. In the short term, the ACLU-NJ has two recommendations:

1. Continue to investigate the NJDOC's management of the COVID-19 crisis and work with formerly incarcerated people, advocates and families to hold the agency accountable for its failures.
2. Support A4235, a bill that prioritizes public health and racial justice by creating public health emergency credits to allow for the expedited release of people whose sentences will be completed soon. Please have it posted for a hearing and work for its prompt passage.

As this pandemic has highlighted, there is a significant connection between prisons and the broader community. Staff members come to work every day and return home. People in custody are transferred around the state. Any of these people can transmit the virus and it will result in more people being sick in our prisons, and more people being sick in our communities.

Health access and inequities have been laid bare in the face of this pandemic, and the failed response in New Jersey's prison system has had disastrous consequences. We need to continue to think seriously about the purposes of our prisons and how they need to be operated for the sake of everyone's wellbeing: as goes the health of those in our prisons, so goes the health of our entire society.

Thank you again for beginning this conversation and the ACLU-NJ looks forward to working with you to address these critical issues.



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Assembly Law and Public Safety Committee
COVID-19 related deaths in State and County Correctional Facilities
June 10, 2020

Good Afternoon, and thank you for this opportunity to discuss the COVID- 19 situation pandemic within New Jersey State Prisons. As the President of PBA Local 105 representing the 5,492 Correctional Police Officers, we feel it is imperative to discuss these issues in earnest in an effort to ensure that we are all better prepared and equipped to handle a similar situation in the future should we be faced with the same.

As you may know, we have lost two Officers as a result of COVID-19. Nelson Perdomo and Maria Gibbs unfortunately lost their battle with this virus. To date, we have over 600 officers that have tested positive officers for COVID-19 and over 1000 officers have that have had to been quarantined in an effort to stop the spread of the virus. This pandemic has hit our Correctional Police Officers extremely hard, and while we believe that the mass testing program initiated by the Department will help rid the correctional facilities of COVID-19, we are a long way away from being in a position to operate in a manner as we did prior to the pandemic.

Being on the front lines as the Union President, I am in a unique position to observe operations and make note of what I see as problem areas in how this was handled. Like many agencies throughout the State of New Jersey and the country at large, we did not have a proper stockpile of necessary PPE to protect our officers. Once this problem was recognized, the Department was able to acquire PPE early on and at a rapid pace. However, having an adequate stockpile of PPE from the beginning

would have helped safeguard the health and safety of our officers tremendously, Having adequate supplies can provide a certain level of "peace of mind" that is so very important when working in the dangerous conditions that we do.

Secondly, since Governor Murphy declared the State of Emergency, the Union has brought made many requests for health and safety issues to the attention of the Administration with very specific requests for action to remedy what we believed to be unsafe conditions. For example, in March requests were made as to suspend in-person visits; eliminate inmate shuttling and prison movements within the correctional facilities; stop any and all transfers of inmates between facilities; suspend the outside work programs that are run by the half way houses; eliminate mass inmate mess movements; and feed the inmates in their cells rather than in a congregate setting.

We witnessed each one of these our requests circulate through different departments and often not get answered or addressed in a prompt manner. It appeared from my eyes that the NJDOC was deterred from making any independent decisions until they were reviewed and vetted by any parties. They did not get the opportunity to employ a rapid response approach as corrections professionals. This situation frequently caused unnecessary delays in policies being implemented and put into place that would have a positive effect in slowing the spread of COVID-19.

However, putting all of this aside, the number one problem we have witnessed and continue to witness is the failure of Rutgers Health, who is the contracted health medical provider for the inmate population. Many among our ranks have observed that they seemed to be underqualified in addressing contagious disease and treatment within a prison environment.

The Union has also had issues with the Health Service Unit. Dr. Ellen Shelly, the doctor in charge of the unit, told the Union to "Stay in our Lane" when we presented questions about the way in which Correctional Police Officers were being quarantined. The methodology they used to identify Correctional Police Officers who were compromised and must be separated and segregated, was flawed. It only relied on a COVID positive officer's recollection of what persons they had contact with. When the Union came forward identifying other individuals and officers that needed to be quarantined as a result of sustained positive contact, we were met with resistance from the health services unit.

Additionally, the Union often questioned why some inmates were being transferred from one facility to another facility and how those decisions had been made. We also questioned aspects of the inmate release process and why inmates who had been positive were brought back into the prisons. In each instance, our questions were met with resistance and answers were not immediately available.

Rutgers Health was also responsible for selecting the type of housing and medical care needed for symptomatic inmates. In carrying out this responsibility, they failed miserably. The contracted health care providers who should have been relied on to take more aggressive steps to provide safety for the inmates and staff failed in their mission. We believe the NJDOC should consider going back to having its own health care workers that understand prison conditions, culture and society.

The conditions of the correctional facilities themselves have also played a part in the spread of COVID-19. We understand that many older facilities have doors on cells with open bars and many. In addition, a lot of facilities have dorm living settings. As a result of these conditions, many inmates had to be moved to Southern based correctional facilities which had solid cell doors to help mitigate the spread of the virus. In the future, New Jersey's State prisons need to be retrofitted with solid doors and have designated areas set up at each facility to be used solely to quarantine inmates. In a prison setting it is almost impossible to social distance, and any steps that can be taken to separate inmates must be taken.

In closing, yes, the NJDOC, and Governor's office could have done some things differently. But in hindsight, many did the best they could when confronted with such a new type of public emergency.

From the onset of the pandemic, the failing of our correctional facilities became quite evident. To repeat, we need to retrofit the facilities with solid doors, relax the oversight from other agencies and, let the NJDOC run the facilities appropriately. We also need to properly stockpile PPE.

The greatest failing was Rutgers Health not providing proper guidance and care for the inmate population. NJDOC must identify a health care provider who can meet the needs of the correctional facilities and its inmates and staff. An alternative would be to allow the DOC to hire staff and create its own health care system. A system operated by corrections professionals would be well suited to manage the health challenges presented by COVID-19.

Finally, we need to establish sound policies and procedures, as well as yearly training for our correctional police officers, to properly handle a future pandemic or health crisis. We must use this experience to plan and prepare for the future.

Thank you for your time and consideration of this important topic. I am available to answer any questions the Committee may have.

"Social justice should be the underlying goal of all humanity."
-Alan V. Lowenstein, Institute Founder



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June 10, 2020

The Honorable Raj Mukherji
Chair, Assembly Judiciary Committee
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**TESTIMONY OF ASHANTI JONES, NEW JERSEY INSTITUTE FOR SOCIAL
JUSTICE IN SUPPORT OF A4235, AND THE SYSTEMATIC RELEASE OF
INCARCERATED YOUTH DURING THE COVID 19 HEALTH CRISIS,
BEFORE THE ASSEMBLY JUDICIARY COMMITTEE AND ASSEMBLY LAW AND
PUBLIC SAFETY COMMITTEE**

Dear Chairman Raj Mukherji and Members of the Assembly Judiciary
Committee:

My name is Ashanti Jones, and I am the Community Engagement
Manager at the New Jersey Institute for Social Justice (the "Institute").
Established twenty years ago by Alan V. and Amy Lowenstein,
the Institute is a legal advocacy organization that seeks to ensure that
urban residents live in a society that respects their humanity, provides
equality of economic opportunity, empowers them to use their voice in
the political process, and protects equal justice. Thank you for the
opportunity to submit this testimony today on behalf of my
organization.

States across the country, including New Jersey, have taken steps to stop
the spread of the COVID-19 virus – closing schools and businesses,
canceling events, and shifting to supporting children in their homes and
communities. However, no such actions have been taken to protect

9x

incarcerated youth. As of June 9, 2020, 28 youth and 36 staff have tested positive for COVID-19 in New Jersey's youth facilities, according to the most recent numbers. The state must take immediate action to protect these kids.

The crowded conditions in many of these facilities make them breeding grounds for disease, and the youth who are confined in them may be more vulnerable to poor outcomes from COVID-19 due to higher rates of pre-existing health issues, such as diabetes and asthma.¹ Incarcerated youth in New Jersey are also unable to access their support networks, as youth prisons and residential community homes have canceled all visitation for youth.

In addition, New Jersey's youth justice system disproportionately incarcerates Black and Latina/Latino youth, meaning that outbreaks of COVID-19 in youth prisons and residential community homes disproportionately harm these youth. Based on available Department of Justice data, New Jersey has the worst Black to white youth incarceration racial disparity rate in the nation, with a Black child being 21 times more likely to be detained or committed to a youth facility than a white child.² New Jersey also has the fourth worse Latino to white youth incarceration racial disparity rate nationwide, with a Latino child being four times more likely to be detained or committed than a white child.³

Many of these Black and Brown youth are also likely being psychologically harmed as they anxiously watch some of their friends placed in medical isolation, and others quarantined off. Such harm only exacerbates the mental trauma that youth face while confined. Indeed, as the American Academy of Pediatrics recently stated in a policy statement, "unmet physical and mental health needs continue to interfere with the optimal health and development of youth involved with the justice system."⁴

Assembly bill A4235, introduced by Assemblyman Raj Mukherji, is a good first step in protecting incarcerated youth during this crisis. The bill creates a public health emergency credit that expedites the release of youth and adults who are due to complete their sentences within a year. The credits will reduce sentences, including minimum sentences, by six months for each month of the declared state of emergency, with a maximum

¹ TYLER M.A. WINKELMAN, FRANK J.W. PODE, INGRID A. BINSWANGER, DEBRA A. PINALS, ACADEMIC PEDIATRICS, HEALTH CONDITIONS AND RACIAL DIFFERENCES AMONG JUSTICE INVOLVED ADOLESCENTS 729 (2017), <https://www.ncbi.nlm.nih.gov/pubmed/28300655>.

² OJJDP, EASY ACCESS TO THE CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT: 1997-2017, RACE/ETHNICITY BY STATE 2017 (RATE PER 100,000 JUVENILES), https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/State_Race.asp?state=59&topic=State_Race&year=2017&percent=rate.

³ *Id.*

⁴ American Academy of Pediatrics Policy Statement, Advocacy and Collaborative Health Care for Justice-Involved Youth, 2020, <https://pediatrics.aappublications.org/content/early/2020/05/04/peds.2020-1755>.

sentence reduction of one year. If this bill passes without any additional carve outs, a few dozen incarcerated youth will be released, which is wonderful. However, with over 250 youth in state custody, so much more needs to be done. This is why the Institute, along with our partners at Salvation and Social Justice, and the NAACP New Jersey State Conference, are urging the state to take the following actions to prevent the spread of COVID-19:

- Immediately *halt all admissions* to youth prisons and residential community homes.
- Release *all youth* who test positive for COVID-19 and provide them with proper medical care.
- Rapidly *release all youth who can safely return home* from youth prisons and residential community homes.
- Offer community-based *services and supports* to youth released or diverted from youth prisons and residential community homes.

New Jersey's youth in custody cannot be left behind during this pandemic. We urge the state to act immediately to protect these youth.

Lastly, the Institute would be remiss if we did not speak on the needs of immigrant detainees during this public health crisis. Many detainees are dealing with the same fear, uncertainty, and isolation that incarcerated youth are dealing with. Therefore, we urge the state to work with immigrant rights advocates to develop policies and laws that will protect the health and safety of New Jersey's immigrant community at this time.

It is paramount that the Garden State act with compassion towards everyone who is incarcerated during this pandemic, especially those who are the most vulnerable – incarcerated youth.

Sincerely,
Ashanti Jones



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Education and Health Centers of America • New Jersey Association on Correction • CURA, Inc

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June 10, 2020

The Reentry Coalition of New Jersey's Statement on the Impact of Covid-19

To: Assembly Judiciary & Assembly Law and Public Safety Joint Committee
Chairman Raj Mukherji & Chairman Adam Taliaferro

My name is Kevin McHugh and I am the Executive Director of the Reentry Coalition of New Jersey. The Reentry Coalition of New Jersey is a 29-year-old organization comprised of non-profit agencies that operate community-based correctional programs throughout the state under contracts with the NJ State Parole Board and the NJ Department of Corrections. Currently, there are 3,476 community residential (halfway house) beds and 570 treatment slots for inmates and parolees in 40 facilities located throughout the state. Each year, 10,000 offenders or more participate in community-based reentry programs. Since 1999, it is estimated that more than 200,000 offenders have been released to the community through these transitional programs. Our programs have helped New Jersey become a national leader in prison reform and we have pioneered re-entry efforts that other states are now copying.

In response to the COVID-19 pandemic, New Jersey's Residential Community Release Programs (RCRPs or Halfway Houses) followed the directives and guidance issued by the Department of Corrections to protect the health and safety of both residents and staff. On March 30, the NJDOC suspended all new inmate placements to the RCRPs due to the COVID 19 emergency. The RCRPs instituted enhanced sanitization practices throughout their facilities. The facilities increased access to hand sanitizer and hand soap for all staff and residents while also educating residents on CDC guidance on mitigating the spread of germs. Health screenings have been conducted for all those entering the halfway houses that include temperature scans twice daily. All of the residents undergo temperature scans twice daily. All persons entering the facilities are required to wear surgical masks. Large group events have been suspended and smaller group activities must be aligned with social distancing guidelines. Work programs, furloughs and visitation have been suspended while other forms of communication such as telephone calls and access to U.S. mail postage, free of charge, are offered to maintain ties to loved ones. All of

these precautions, while necessary, have increased the operational expenses of our residential programs due to PPE purchases, holding quarantine beds, increased food and supply costs, increased sanitation requirements, and staffing costs.

The Department of Corrections launched a COVID-19 universal testing initiative for both inmates and staff utilizing the Rutgers University saliva test. At this time only 5% of RCRP residents tested positive for the virus compared to 11% for institutional inmates.

Over the past two decades, community corrections programs have played a vital role in reducing the prison population and the costs of incarceration in New Jersey. At the same time, they have contributed to a marked improvement in public safety as evidenced by significant reductions in offender recidivism rates and dramatically lower crime rates.

- ❖ Since 1999, the prison population in New Jersey has shrunk approximately **38%** due to the successful community corrections strategies.
- ❖ New Jersey has experienced a **42%** decrease in re-incarceration rates of released offenders since 1994
- ❖ Between 1999 and 2013, when New Jersey dramatically reduced its prison population, crime in New Jersey **dropped 66%** while the national crime rate was cut in half. New Jersey's crime rate is about **22 percent lower** than the national average
- ❖ Technical parole violations went from 4,049 in 2000 to 1,726 in 2013, a **decrease of 57%**. During the same time period, New Jersey's parole population increased from 12,673 (2000) to 15,364 (2013).

Our members include; Education and Health Centers of America, Inc., The Kintock Group, New Jersey Association on Correction, Volunteers of America Delaware Valley and CURA, Inc.

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**Samuel J. Plumeri, Jr., Chairman
New Jersey State Parole Board
Assembly Judiciary and Assembly / Law and Public Safety Committee Testimony**

June 10, 2020

Thank you, Chairmen Mukherji and Taliaferro, Vice Chairs Murphy and Chaparro, and members of both committees for offering me the chance to discuss the New Jersey State Parole Board's new augmented implementations, improvements, and our critical response to the COVID-19 pandemic.

The world as we have known it has drastically changed, and it continues to change. The COVID-19 pandemic has had an extraordinary impact on lives across the globe, within the United States, and right here in New Jersey. Of course, the biggest influence has been the astounding and sorrowing loss of life due to the virus. The coronavirus has altered our lives and its effects will continue to be far-reaching and provide more challenges and change. All of us will need to continue to remain resilient.

I find it very fitting that I acknowledge Governor Murphy for his strong, principled, and intuitive leadership in addressing this pandemic crisis head-on on behalf of the nearly nine million residents of this state. I also have to thank the attorneys in the Division of Law for providing clear and concise advice within the confines of New Jersey law.

Back on March 9, 2020, Governor Murphy first declared a New Jersey medical emergency as COVID-19 began rapidly spreading throughout our towns and cities. At that moment, the Governor recognized what was happening, where it was happening, and what could horrifically happen if nothing were done to try and contain the virus and flatten its curve.

Since the public health emergency declaration, the State Parole Board has taken swift action to mitigate and prevent the spread of the virus. Efforts include outside enhanced cleaning and health screening procedures for our residential community programs, depopulating residential programs where possible, and expediting parole review and hearing processes for people in state prisons.

Since March 9th, there have been a total of 644 offenders released to parole supervision. While the pandemic has highlighted the time-sensitive nature of the State Parole Board's decisions, the Board remains obligated to follow the provisions of the Parole Act of 1979 and Administrative Code provisions. We continue to work expeditiously and expediently while making informed decisions.

To accomplish the remarkable amount that has been achieved since early March, State Parole Board employees have worked tirelessly, showing tremendous professionalism, commitment, and courage in the face of an enormously tenuous global situation. These employees contributed at our agency's central office, worked out of the district offices across the state, and traveled to prisons and residential facilities all while dealing with the stress that this pandemic has caused in their professional and personal lives alike. I am truly proud of every one of them for their steadfast dedication and hard work.

The State Parole Board has learned to adapt quickly. Parole release decisions had to be made regardless of what was transpiring in the workplace and how its landscape changed. Our Division of Release has maintained all functions in support of the State Parole Board's mission within the Department of Corrections facilities, through both in-person staff coverage and remote technology.

The Division of Parole has continued the supervision and monitoring of the more than 15,000 people within our communities while also supporting the Department of Corrections' implementation of Executive Order #124 through the facilitation of GPS units for these potentially impacted inmates and performing the GPS installations within state prisons for those furloughed. Additionally, our field offices have assumed supervision of more than 300 additional cases, due to early discharges from our residential programs affected by COVID-19. Additionally, we have provided training to Department of Corrections staff for electronic monitoring and GPS usage and supervision.

In our continued efforts to reduce the prison population, the Division of Parole has expanded the use of community revocation proceedings and electronic monitoring equipment in lieu of custody. This measure has reduced the number of custody revocation hearings conducted during the first three months of the COVID-19 pandemic (March 9, 2020 – May 27, 2020) to 298, compared to the three previous months (November 25, 2019 – March 1, 2020) at 510.

The State Parole Board is utilizing telephonic communication wherever and whenever possible to avoid the risk of person-to-person contact. The agency has also temporarily suspended all out-of-state and out-of-country travel over 24 hours as well as incoming state transfers in compliance with Governor Murphy's emergency and Interstate Compact for Adult Offender Supervision regulations.

Our Division of Community Programs proactively de-populated its residential programs, reducing the total population since the inception of the COVID-19 pandemic from 409 to 120 parolees—a reduction of 71%—to mitigate the introduction and spread of COVID-19 and ensure the safety of program residents, State Parole Board employees, and contracted staff. The health and safety of all participants are paramount. To that end, we have maintained a keen eye on ever-evolving situations, adapting where we have needed to, and we continue to be watchful of anything that may impact our operations.

To ensure the health and safety of all residents, State Parole Board, and contracted staff all residential programs have been subject to several additional requirements. These have included increased cleaning and sanitizing of all areas of each facility with an emphasis on frequently contacted areas, temperature checks of all individuals entering the facility with denial of entry for individuals possessing a temperature reading of 100.4 degrees or higher, daily requirement that all residents complete a medical questionnaire to indicate whether they are experiencing any signs or symptoms of COVID-19 and if so, immediately refer them to medical staff or, if necessary, a medical facility for further evaluation, the suspension of visitation and work release activities, and the issuance of masks to all staff and residents.

Residential programs at Delaney Hall and Bo Robinson have reopened after undergoing a complete coronavirus disinfection process from an outside vendor following the safe program de-population due to viral exposure. Both programs are being slowly re-populated and COVID-19 testing for all new admissions is taking place.

Throughout the COVID-19 pandemic, Governor Murphy meted out several executive orders designed to protect New Jersey's citizens. On April 10th, he issued Executive Order #124 mandating the consideration of release from incarceration pursuant to the issuance of a medical furlough, early parole release or accelerated release for those inmates who appear on any of four lists, including those inmates who are over 60 years old and/or possess underlying medical conditions that increase the risk of death or serious injury from COVID-19, and those who are within 90 days of their maximum custodial sentence. In addition to its responsibilities in conducting timely parole release hearings for these groups, the State Parole Board was charged with the task of expediting consideration for parole-eligible individuals who were denied parole within the past year.

The Emergency Medical Review Committee, which was established to implement Executive Order #124 and comprised of Department of Corrections and State Parole Board staff, immediately began work on compiling the lists of incarcerated individuals potentially eligible for release on furlough, under the conditions of parole, or at maximum sentence expiration. To effectuate the directives of the executive order, a great deal would need to be done—well above 2,000 residential investigations for inmate furlough considerations have been conducted, Board Panel reviews of previously denied inmates occurred on an ongoing basis, parole plans were developed and implemented, on-site housing reviews had to be conducted, supervision conditions and guidelines have had to be developed, which include Global Positioning System (GPS) and electronic monitoring supervision, and the furlough and parole release decisions themselves have had to be rendered.

Executive Order #124 imposes an ongoing responsibility to review and release inmates as they become eligible, and the State Parole Board remains committed to carrying out the directives in the Order in order to protect the health and safety of those in State custody and the general public.

We have been a national leader in decreasing the overall prison population while reducing recidivism—which stands as one of the lowest rates in the nation at 31 percent. We will continue to abide by New Jersey law and directives from Governor Murphy while achieving the most critical mission—helping to ensure public safety and working to create meaningful reentry opportunities for offenders returning to our communities.

Thank you.

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April 3, 2020

VIA ELECTRONIC & U.S. MAIL

Governor Philip Murphy
Office of the Governor
125 West State Street
P.O. Box 001
Trenton, New Jersey 08625

**Re: Policemen's Benevolent Association Local #105
HEALTH AND SAFETY DEMANDS**

Dear Governor Murphy:

Please allow this letter to inform you that this office represents Policemen's Benevolent Association Local #105, (hereinafter referred to as "PBA Local #105" or the "Local"), the sole and exclusive representative of those rank-and-file Correctional Police Officers employed by the Department of Corrections (hereinafter referred to as "the Department") and the Juvenile Justice Commission (hereinafter referred to as "the Commission") for purposes of collective negotiations concerning salaries, wages, hours of work, and other terms and conditions of employment. Over the last several days, our office has sent correspondence to the attention of the Commissioner for the Department and the Acting Director for the Commission in regard to operations and the health and safety of personnel in light of the COVID-19 pandemic.

Specifically, requests were made by our office for the authorization and implementation of Hazard Pay, for the establishment of a dedicated COVID-19 testing facility, for restrictions to be placed on inmates confined to New Jersey's Residential Community Release Program and most recently, for a Departmental quarantine of inmates housed in main correctional facilities. All of the issues that

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have been advanced by the Local are to advocate for the health and protection of the uniformed custody staff, the civilian staff that works behind the prison walls and the inmates themselves.

In regard to the request for Hazard Pay and the dedicated testing facility, it is my understanding that these two issues were referred to your office for review on March 25, 2020 and March 27, 2020 respectively. Neither issue has been addressed as of today's date despite the fact that these issues are of great importance to the thousands of Correctional Police Officers that are employed by the Department and the Commission.

In addition to the foregoing, we have not received a response regarding our demand that restrictions be placed on inmates confined to New Jersey's Residential Community Release Programs (RCRP). Presently, inmates confined to RCRPs are leaving each facility to work in the community on a daily basis. Each time one of these inmates leaves a facility, they risk being exposed to COVID-19, contracting COVID-19 and then exposing and infecting countless inmates, civilian staff and custody staff to the deadly virus. Current policy dictates that should one of the RCRP inmates become exposed or infected, they are thereafter transferred to one of the Department's main correctional facilities in order to be quarantined and treated. Transfers such as these not only expose and potentially effect the inmates and staff at the RCRP where the inmate was originally assigned, but also the inmates, civilian and custody staff at the main correctional facilities. This risk of infection must be mitigated.

Like our demand regarding the RCRPs, our request that a Departmental quarantine of inmates housed in main correctional facilities be put in place has also gone unanswered. As I am sure you are aware, the Federal Bureau of Prisons adopted Modified Operational Guidelines to restrict inmate movement within each of their correctional facilities. The State of Pennsylvania has also adopted such measures in an effort to save lives and "flatten the curve". Common sense dictates that exercising correct social distancing to slow the spread of the virus is extremely difficult to achieve within a correctional facility. However, if movement of inmates is restricted for a finite period of time, the professionals that work inside the correctional facilities believe that such measures will have a positive effect on thwarting the spread of the virus. While we recognize that placing inmates in a "state of quarantine" for fifteen (15) days may not be a popular decision, many of the social restrictions that you have imposed on our State's citizens have also been unpopular. Keeping this in mind, the vast majority of the general public recognizes that these un-pleasantries are a temporary necessity to defeating the virus just as this "inmate quarantine" is also necessary to save the lives of our members.

Each of the letters that were sent specified the justification behind the request. While we recognize that your Administration is being pulled in many directions by the pandemic, the safety and health of the State's employees that work behind the walls of the correctional facilities must be prioritized. Furthermore, your inaction in responding to the requests of our State's uniformed employees leaves us with the inescapable conclusion that we are being ignored and that the health and safety of our members' is inconsequential. This lack of action and unresponsiveness is unacceptable and will no longer be tolerated.

Finally, the sworn law enforcement officers that make up this Local are working with inadequate Personal Protection Equipment (PPE). Despite the fact that our members have made numerous internal requests for additional PPE, no action has been taken. In addition to the PPE being inadequate, our officers have not even been properly supplied with the requisite personal hygiene cleaning agents that are needed to protect them from the virus. The lack of State supplied hygienic cleaning agents has caused our Local to expend thousands of dollars to source hand sanitizer for our officers. The fact that our Local has had to undertake these actions and expenditures is inexplicable, totally unacceptable and leads members to believe, true or not, that our State's Governor does not care about their well-being or the well-being of their families.

Based on the foregoing, PBA Local #105 hereby demands the following:

- That the restrictions on the RCRP inmates detailed in our firm's letter of March 30, 2020 be immediately implemented;
- That inmate movement within the main correctional facilities be restricted in accordance with the guidelines adopted by the Federal Bureau of Prisons and detailed in our firm's letter of April 1, 2020;
- That all sworn uniformed personnel that work for the Department and the Commission receive Hazard Pay as detailed in our letter of March 25, 2020.
- That the Department, the Commission and representatives from your office immediately meet with the Leadership of the Local to discuss the inadequate supply of PPE and establish and implement a plan that is agreeable to the Local to remedy this problem.

The conditions inside the correctional facilities and the health of our work force is moving toward an ominous state of affairs. While the Department issues daily reports on positive employee test results, our Local believes that the released numbers are artificially low as their count differs greatly than the count being kept by our Local.

I thank you for your anticipated cooperation and we look forward to hearing from your office shortly.

Sincerely,

CRIVELLI & BARBATI, L.L.C.

By: Frank M. Crivelli, Esq.
FRANK M. CRIVELLI, ESQ.

FMC/fc

cc: William Sullivan
President, P.B.A. #105

Senator Stephen M. Sweeney
935 Kings Highway, Suite 400
West Deptford, New Jersey 08086

Assemblyman Craig Coughlin
569 Rahway Avenue
Woodbridge, New Jersey 07095

Marcus Hicks, Esq.
Commissioner, New Jersey Department of Corrections

Jennifer LeBaron
Acting Director, New Jersey Juvenile Justice Commission



State of New Jersey

DEPARTMENT OF CORRECTIONS

WHITTLESEY ROAD
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TRENTON NJ 08625-0863

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

MARCUS O. HICKS, ESQ.
Commissioner

June 9, 2020

(Via electronic mail)

The Honorable Raj Mukherji, Chair
Assembly Judiciary Committee

The Honorable Adam J. Taliaferro, Chair
Assembly Law & Public Safety Committee

RE: Statement of the NJ Department of Corrections – Joint Committee Hearings on the spread of COVID 19 within State and county correctional facilities – June 10, 2020

Dear Chairman Mukherji, Chairman Taliaferro, and Members of the Joint Committee:

Thank you for your invitation to address the Joint Committee with respect to the management of COVID-19 within State correctional facilities. On behalf of the New Jersey Department of Corrections (NJDOC), I offer the following testimony regarding what the Department is doing to ensure the safety of those in our custody and staff during the pandemic.

The Department joined the rest of the world in having to address a global pandemic. Unlike the rest of the world, the Department took on this unprecedented challenge while being in the proverbial eye of the storm. As such, the NJDOC takes the threat of the virus seriously and, in consultation with the Department of Health, has taken proactive measures to help mitigate its spread. Those action steps can be found below:

1. COVID-19 Management

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Prior to the State of Emergency, the Department implemented operational modifications to help address the looming pandemic, including advance preparation for asymptomatic and symptomatic individuals. Operational decisions were guided by the Center for Disease Control and Prevention (CDC) recommendations in consultation with the New Jersey Department of Health (DOH) and our medical providers trained in infectious disease control, Rutgers University Correctional Healthcare. As the CDC guidance evolved, so did our operations.

When the guidance called for increased hand washing and germ management, the Department made available sanitizer and increased supplies of soap while providing education on CDC best practices. The Department also increased its sanitization efforts, conducted temperature checks on all entering its facilities, distributed surgical masks and other forms of PPE for staff managing the infirm as medically prescribed, including Tyvek suits, goggles, and N95 masks. Additional supplemental reusable cloth masks were provided to the inmate population.

The NJDOC made significant reductions to foot traffic into its facilities to curb the potential introduction of the virus, including suspending visitation and modifications to work schedules where practical to reduce on-site staff, ensuring that essential operations can continue.

In a continued effort to mitigate the spread of the disease, we suspended the transfer of inmates from county jails, held new inmates for 15-days at the Central Reception and Assignment facility before transferring individuals to their assigned institutions, and temporarily suspended all inter-institutional transfers based on an inmate's request for visit hardship across NJDOC facilities.

In addition, we have also temporarily suspended the inter-institutional transfers of inmates released from a Restrictive Housing Unit to a General Population Unit, suspended all non-critical out-patient appointments or clinics at regional locations, reduced the number of inmates on each bus or van and assessed all transports on a case-by-case basis from an operational security and medical perspective.

As it pertains to the incarcerated, group gatherings are modified to minimize potential exposure and encourage social distancing. For example, individuals are provided access to religious materials and for the time being are encouraged to practice their faith in their living quarters. Also, educational programs have been adapted in support of independent study with weekly instructional packets.

Understanding the impactful critical support that families offer and to provide some form of continuity, the Department increased access to other forms of communication such as telephone calls, JPay kiosk usage and access to U.S. mail postage to maintain ties to loved ones, including the recent addition of video grams, wherein family members and friends may send 30 second videos to their incarcerated loved ones.

2. Universal Testing and Medical Management

The New Jersey Department of Corrections was among the first correctional agency in the nation to implement a universal testing initiative for staff and inmates. The state's largest testing initiative provides approximately 25,000 tests to all inmates and staff, even individuals who previously tested positive. To expedite testing, the Department's Special Operations Group assisted Rutgers University Correctional Healthcare, in administering the non-invasive Rutgers Saliva Test. Information obtained from testing provides data-driven insights to inform the management of those who are positive.

Preliminary findings show 777 positive cases among staff with 6,539 tested and a 11.8 percent positivity rate. Of those 777 staff members, more than 500 have since been cleared to return to work. The inmate population has experienced 2,435 positive cases with 19,894 total results and a positivity rate of 12.2 percent. By contrast, the State's COVID-19 website indicates an overall statewide positivity rate of 16.6 percent (as of June 9, the website reported 164,796 positive cases out of 989,497 total tests reported).

The Department is now entering into Phase 2 of the universal testing program and is implementing routine and ongoing universal COVID-19 testing for staff and the inmate population to monitor for any future outbreaks of the virus.

The Universal Testing Initiative provides additional insights to assist with the housing placement of those who test positive. Individuals who test positive are placed in medical isolation under the control of the medical team and are retested following 14 days of no COVID related symptoms.

Should an employee test positive, that individual will be instructed to self-quarantine or self-isolate at home. NJDOC will notify all individuals who have been in contact with the individual so that they can self-quarantine, as directed by the Department of Health.

As a complement to the universal testing initiative, the Department launched a non-congregate housing program, providing alternative housing arrangements for employees who require quarantine or medical isolation, so as not to spread the virus to their loved ones.

3. Implementation of Executive Order No. 124

On April 10, 2020, Governor Murphy signed Executive Order No. 124. Under Executive Order No. 124, the NJDOC is granting temporary emergency medical home confinement (EMHC) during the public health emergency to certain at-risk inmates who have not committed a serious offense. Eligible populations include individuals aged 60 years older; individuals with high-risk medical conditions, as identified by CDC COVID-19 guidance; individuals who will complete their sentences within the next three months; and individuals who were denied parole within the last year.

Implementation of EO124 required building a time-bound system from the ground up, ensuring a delicate balance between public health and public safety. The iterative process established in partnership with the State Parole Board includes notifying prosecutors and victims, reviewing medical files and institutional records, and a mechanism for informing inmates of their approval or denial status. NJDOC will receive written statements from each eligible inmate, many of whom are working with the Office of Public Defender, regarding their possible placement onto EMHC. We will be taking their feedback into account before finalizing any decisions on EMHC placement. Throughout this ongoing process, it has been, and will continue to be, essential to ensure that individuals have a safe residence to be released to, that placing this individual on EMHC will be safe for others who reside in the dwelling and for members of the public, and that the individual on EMHC will have continuity of support services.

Each case is assessed by an Emergency Medical Review Committee, utilizing prison records. The Review Committee looks at the totality of each case and makes an individualized recommendation of whether home confinement would better serve an eligible inmate for consideration to the Commissioner, who makes the final determination to approve or deny the individual for EMHC.

To date, 240 individuals have been placed on EMHC following a negative COVID-19 test, with an additional 26 approved for EMHC.

NJDOC remains committed to protect the health and safety of those in the Department's care and the general public and will continue to review and release inmates as they become eligible for relief under EO124.

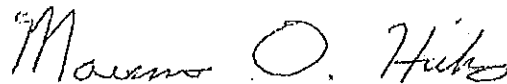
4. Transparency

In the spirit of transparency, the Department stood up a comprehensive COVID-19 page on its website, www.NJDOC.gov that includes detailed information on all positive cases by facility since the onset of the pandemic. The page is updated nightly, Monday-Friday, and it includes a comprehensive FAQ noting all our virus management efforts to date.

* * *

As the state executes its roadmap to reopening, the Department will continue to take all necessary measures guided by public health experts to ensure the safety of those entrusted to its custody and its staff.

Very truly yours,



Marcus O. Hicks, Esq.
Commissioner

From: jean public <jeanpublic1@gmail.com>

Sent: Monday, June 8, 2020 3:01 PM

To: OLSaideSJU

Subject: public comment on friday meeting of assy judiciary committee swednesday

re hearing on fake hoax corona virus and prisoner

prisoners can stay in their cells. all who were let out should be put back into prison to serve their time.

if we can have thousands all consorting in protests all over nj 1 ft from each other certainly the prisons can be locked up, same as the poor citizens of nj are locked up in their homes for the past 3 months and they didn't do anything wrong at all except that they believed their lying govt with the fake hoax pandemic.

it was a fake from the get go when the computer model said 2 million americans would be killed in this pandemic. what a fakery this has been. nj and america ruined for fake political hoax

put the prisoners where they belong - in prison.

jeanpublic1@gmail.com

Reply all | Delete Junk |

Assembly Bill #4285



steveles70p@gmail.com

Yesterday, 4:13 PM

OLSaideALP

Reply all |

I just sent a copy of this message to Rep. Taliaferro, but I hope to bring this to your (and his) attention directly:

Like many other citizens in NJ and elsewhere, I have been extremely concerned by the ways in which inequalities in access to economic opportunity, to good education, to health care, or to fair treatment by the policing and justice systems in the U.S. have disproportionately harmed-and most recently, in incidents in Minnesota, Georgia, and Kentucky, actually killed-members of the Black community.

New Jersey is fortunate that leaders like Governor Murphy, and public officials like NJ Supreme Court (led by Chief Justice Stuart Rabner) have taken active steps to approve early release of low-level offenders from NJ county jails due to the enhanced danger of Covid-19 spreading in such facilities.

However, prisoner advocates (such as the NJ ACLU and Salvation and Social Justice) have rightly drawn attention to the fact that NJ, among all 50 states, until very recently still had the highest death rate (proportional to its prison population) from the Covid-19 virus! (It now appears to have the second highest, behind only Tennessee. See the data on the Marshall Project website.) They have also criticized the slowness, lack of transparency or public accountability in the otherwise careful, cautious procedures set up by Governor Murphy's "Executive Order No. 124" (of April 10, 2020). The NJ Supreme Court's June 2nd decision to grant prisoners the right of appeal, when denied a medical furlough or parole in the midst of this threatening pandemic, is a humane and sensible first step. It will save lives, not only of the inmates, but of the correctional officers and professionals who interact with the prisoners.

I am writing, however, to urge you to do more. Assembly Representatives Raj Mukerji and Shavonda Sumter have introduced A4235 (and Senator N. Pou has introduced its counterpart, S2519), which would "award inmates public health emergency credits" at the rate of six months for each month, or portion of a month, served during this declared Covid-19 emergency. And those credits toward their sentence is sensibly capped at 12 months of remission.

Representative Taliaferro: I URGE YOU TO BRING THIS BILL UP FOR CONSIDERATION AND A VOTE IN YOUR ASSEMBLY LAW & PUBLIC SAFETY COMMITTEE AS SOON AS POSSIBLE. IT WILL BE VITAL TO SEE IT BROUGHT UP FOR A VOTE AT ONE OF THE ASSEMBLY'S VOTING SESSIONS THIS JUNE!! BLOCKING THE SPREAD OF THE COVID-19 VIRUS IN CORRECTIONAL FACILITIES IS A KEY TO KEEPING IT FROM SPREADING FURTHER WITHIN THE NJ CITIZENRY AS A WHOLE!