Open Letter for COVID-19 Vaccine Access in Prisons and Jails

February 24, 2021

Governor Andrew Cuomo
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo,

We, public health professionals, members of the COVID-19 New York Working Group,[1] community advocates, and concerned New Yorkers, urge you to immediately provide the COVID-19 vaccine to *all* incarcerated individuals. In doing so, we echo the call of incarcerated individuals and their families[2]; New York legal aid organizations[3]; the American Medical Association[4]; the New York City Bar Association[5]; faith leaders[6]; and many others.[7]

While we appreciate your recent decision to vaccinate adults over age 65 in state custody, it is insufficient to address the public health crisis in New York's jails and prisons. In addition, the distribution and administration of the vaccine to people who are incarcerated must include vaccine education and require the informed consent of recipients.

The public health basis for prioritizing vaccine access in prisons and jails is clear.[8] By their very nature as congregate facilities, they are hotbeds for the spread of disease. The most basic precautions to prevent the spread of COVID-19 - social distancing, personal protective equipment (PPE), regular handwashing and disinfection cleaning - are not available to people in correctional facilities. Instead, crowding, lack of access to personal protective equipment, and inadequate medical care are the norm. Researchers have called jails and prisons "epicenters of COVID-19 transmission" that "present an ideal setting for infections to spread."[9] This is even more true as more contagious COVID-19 variants develop and spread. Carceral facilities have been the source of deadly variants of other illnesses, such as strains of multi-drug-resistant tuberculosis, and there is no reason to think the same will not be true for COVID-19.[10]

This same study noted that "community rates of infection will not decrease if jails are not a central focus of public health strategies to mitigate the spread of the epidemic."[11] And indeed, what happens in jails and prisons affects what happens in the community. Guards, lawyers, workers, and people entering and leaving custody move between the facilities and the community regularly. They can and do bring the virus into the facility and home to their families. An analysis of data from the Cook County Jail in Chicago, for example, found that almost 16% of confirmed coronavirus cases in the state at the time of the study were linked to people coming in and out of the jail.[12] Last fall, Greene County experienced a community outbreak leading to school and business closures traced to failure to control the spread of COVID-19 in the Greene Correctional Facility in Coxsackie.[13]

Research by the Prison Policy Initiative shows that the number of new COVID-19 infections over the summer of 2020 was greater in counties and multicounty areas with larger and more concentrated incarcerated populations. In total, they estimate that mass incarceration led to 560,000 additional COVID-19 cases nationwide in just three months.[14]

In addition, prisons, jails, and detention centers do not have the medical facilities necessary to treat severe COVID-19 cases. These individuals must be brought to nearby hospitals, but many facilities are located in rural areas where there are fewer healthcare resources overall.[15]

Incarcerated individuals are also more likely to have chronic illnesses such as heart disease, diabetes, or asthma, that makes them vulnerable to worse COVID-19 outcomes, including severe illness, long-term disabilities, and death.[16] According to the Department of Justice, an estimated 40% of incarcerated people have a chronic medical condition.[17] Moreover, the physical stress and strain from imprisonment itself also leads to worse health outcomes. One public health study, for example, argued that incarcerated individuals should be treated as though they are 10 to 15 years older than their biological age, due to the effects of incarceration.[18]

Yet in the face of science, the State and the Department of Corrections and Community Supervision (DOCCS) were slow to implement regular testing and provide PPE and have not taken meaningful efforts to reduce the prison population. The results of this inaction are clear: continued fear, suffering, and death. According to DOCCS data, 5758 incarcerated people have tested positive for COVID, and 466 have active cases now.[19] There have been 32 confirmed deaths.[20] In early January, there were outbreaks at about a third of the state's 52 correctional facilities, and nine incarcerated people died in a three-week span.[21] Data showed that 24.5 percent of the incarcerated population at Woodburne Correctional Facility tested positive for COVID-19.[22]There is an ongoing outbreak at Franklin Correctional Facility, where Michael Watson recently died just days before he was supposed to be released.[23]

Other states, including neighboring states, have followed the science and prioritized vaccines in prisons and jails. Connecticut and Pennsylvania, for example, have designated incarcerated people as top-priority "Phase One" recipients for vaccines. New Jersey began vaccinating incarcerated individuals in December.[24] Massachusetts has provided 1442 first doses as of January 31st.[25] California has provided 18,959 first doses as of February 2nd.[26]Likewise, the Federal Bureau of Prisons (BOP) expects that all staff and incarcerated individuals in their facilities will receive their first dose by mid-February. The BOP called this a "top priority."[27]

Beyond access to the vaccines, however, New York's vaccination plan must be based on meaningful education and informed consent about the vaccine. The State must be cognizant of the effects of the history of medical experimentation on incarcerated people and people of color in the United States, the hierarchical constraints inherent in carceral settings, and the deep distrust many incarcerated people and their families feel towards correctional authorities, including health authorities. We recommend that DOCCS, via trusted peer educators, provide regular, clear, culturally appropriate information about COVID-19 and the vaccine's safety and efficacy to incarcerated individuals. In addition to written information, there should be the chance for discussion and answering questions. Thoughtful messaging from someone trained in public health, that takes into account cultural and personal circumstances, is far more likely to yield a fully informed decision than a message from correctional officers. The Prisoners AIDS Counseling and Education (PACE) peer advocacy program is a good model for this kind of peer-led education.

Our recommendations:

- Immediately provide vaccine access to *all* incarcerated individuals in New York's prisons and jails.
- Support the HALT Solitary Confinement Act, Elder Parole bill, and Fair and Timely Parole bill. The most effective and just solution to limiting the spread of COVID-19 in prisons and jails is decarceration. Elderly and seriously ill incarcerated people should be released to the community. The government has failed to use the tools at their disposal – medical parole, clemency, early release – in any meaningful way. This makes immunization even more critical.

- Provide regular, clear, culturally appropriate information about COVID-19 and the vaccine's safety and efficacy to incarcerated individuals. Through this education, ensure that incarcerated individuals can give voluntary informed consent prior to vaccination.
- Vaccines should be administered by outside health personnel rather than DOCCS medical personnel, who are often distrusted by incarcerated individuals.
- Individuals who receive the vaccine should have access to over-the-counter pain relievers to manage common side effects such as muscle soreness. There should also be monitoring in place for any rare serious side effects.

New York State's decision to provide vaccines to people in congregate settings like shelters and nursing homes but not jails or prisons, and to correctional staff but not incarcerated individuals, is simply not good public health policy. It is one of many failures we have seen in the State's response to COVID-19 in prisons and jails. It is too late to save the lives of Michael Watson or the other 30 people who have died in custody, but it is not too late to provide vaccines that can save the lives of many others. We urge you to immediately authorize vaccinations for incarcerated individuals and implement meaningful decarceration across the system.

Thank you for your time and attention to this matter.

Respectfully,

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Center for HIV Law and Policy
Coalition on Positive Health Empowerment
Columbia University White Coats for Black Lives
Columbia-Harlem Homeless Medical Partnership
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Housing Works
Justice 4 Women TaskForce
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National Black Leadership Commission on Health
National Viral Hepatitis Roundtable
New York #insulin4all
New York City DSA Healthcare Working Group
New York Civil Liberties Union
New York Doctors Coalition
North Country Access to Health Care Committee
Nurses for Social Justice
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Prison Library Support Network
Racial Literacy Groups

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