



Public Health Advisory Group

No Time to Wait:

Decarceration, COVID

and Public Health

Mass incarceration, begun in the early 1970s as a politically chosen “law and order” response to social and economic injustice, was due to racially marked punitive drug laws, heightened urban policing, and longer and compulsory sentencing guidelines. Communities of color have been most affected. The rate of incarceration in the United States is now the highest in the world, having risen 500% in the last forty years.

Characterized by large scale rapid growth and self-sustaining properties, mass incarceration can be identified by public health criteria as an epidemic because of its explosive growth and wide- reaching health consequences for communities inside and outside of prisons.

Nearly 8 million people are under the control of the US criminal justice system, in prisons and jails or on parole and probation. Sentencing inequities, unnecessary bail amounts, criminalization of minor offenses, and release programs that maintain permanent supervision, all contribute to these enormous numbers.

The collateral damage of mass incarceration extends to more than 30 million people – the children, spouses, parents, and siblings of those imprisoned. Children who have experienced parental incarceration have a lower life expectancy and a greater risk themselves of incarceration. Formerly incarcerated people are socially marginalized for life - unable to get decent work, housing, or participate in civic activities. Communities also are affected because of the loss of wage earners and the participation of elders, and the loss of their stabilizing influences.

There are roughly 35,000 people in New York State prisons, of these, 9,000 are people older than 50. Since the year 2000 the percent of people in prison who are 50+ has risen from 11% to the current 25%. In the last 25 years, the number of older people in New York prisons increased four-fold even as the total prison population has decreased by 30%. The vast majority of the 50+ imprisoned persons are Black and Latinx people.

People who have served decades in prison and/or are older adults, pose the least risk to public safety once released - of note many of the older people serving long sentences had been convicted of violent crimes, yet once released similarly represent this low risk. Many currently and formerly incarcerated people convicted of violent crimes have created and facilitate violence interruption, restorative justice, and victim awareness programs within prisons and communities.

Even though older people, especially those convicted of the most serious crimes, pose minimal risk to public safety, they are denied parole at the same or higher rates than younger imprisoned people. While the overall recidivism rate in NYS is 43%, people aged 50-64 have a new commitment rate of just 6 %, and a mere 1% for those aged 65 or older. Older people have more chronic illness than younger people. Prisons are poorly suited to provide medical care for any incarcerated person and are particularly poorly positioned to provide such care for older persons with chronic illnesses.

Covid-19 and Public Health

The COVID-19 pandemic is an on-going life-threatening crisis in New York prisons and jails, even as at this moment the disease currently is slowly abating outside these institutions and vaccinations are increasing. The aging of the incarcerated population further increases the risk of COVID-19 morbidity and mortality. This risk continues: in the first two weeks of 2021, 2000 people tested positive, and 10 prisoners have died. The numbers are increasing daily. The guards who go back and forth to carceral institutions every day also expose their families and others in their communities.

Congregate facilities- whether they be nursing homes, group homes or prisons and jails-- have challenges in implementing the basic public health interventions that can reduce COVID-19 transmission. This is particularly the case for prisons and jails.

Decarceration as a Necessary Public Health Strategy

Epidemiological and public health arguments suggest that decarceration can be an effective strategy for mitigating transmission inside correctional facilities. Decarceration can reduce the impact of overcrowding, facilitate other mitigation strategies (e.g., physical distancing, and isolation and quarantine for those infected or exposed), and reduce demands on limited health care resources. Decarceration also reduces the number of people at risk of COVID-19 acquisition, as well as other transmissible diseases by reducing the overall incarcerated population.

A fundamental human rights and social justice premise is that people should live in the least restrictive setting that meets their needs and ensures the safety of the entire population. The dramatic growth in the number of incarcerated people has not been demonstrated to add to public safety and crowding due to mass incarceration is a threat to the health of those who are incarcerated. The spread of HIV, tuberculosis and now coronavirus within these institutions and from institution to community highlight the public health threat.

In the face of COVID-19 and other easily transmissible diseases, continued incarceration might be justified only if it clearly benefits public safety. However, there is strong evidence that a significant proportion of incarcerated people could be released without a substantial risk. During a public health crisis, it is the role of health practitioners, epidemiologists, and supporters of a social justice agenda to insist that meaningful decarceration is viewed as a public health imperative.

New York State Should Take These Steps Toward Decarceration

Three initiatives, including two bills currently moving through the NYS legislature, hold promise for achieving decarceration as demanded to protect and improve public health:

- The Elder Parole Bill (S.15/A.3475) will provide incarcerated people aged 55 and older who have served 15 or more consecutive years a chance to present their case before the NYS Board of Parole for consideration of release. This bill will affect every incarcerated person without regard for original sentence; it does not offer automatic release. Elder Parole provides New York an avenue out of the harm caused by life-without-parole and virtual life sentences (such as 50 or 75 years to life).
- The Fair and Timely Parole Bill (S.1415/A.4231) shifts the weight of parole release decisions from focusing solely on the crime (often committed decades ago) to the present risk an applicant poses. The bill provides that an applicant shall be released unless there is evidence of current dangerousness. Fair and Timely Parole establishes a standard whereby individuals are judged by who they are now, not who they were many decades ago. It roots the parole process in concepts of rehabilitation rather than solely in continual punishment.
- Fill all 19 seats on the Parole Board with commissioners who can adequately evaluate rehabilitation and who have experience in social work, healthcare, reentry services, and mental health, all fields that are critical when evaluating a person's readiness for release. The board now has only 16 commissioners, many of whom consistently violate these principles.

These three initiatives are mechanisms for decarceration, recognizing the humanity of all New Yorkers and values of redemption, mercy and justice. It is in the interest of public health that they be passed now. The People's Campaign for Parole Justice, a grassroots coalition of 17 NYS organizations with the endorsement of an additional 300 groups, is leading the effort to pass these bills and transform the release process.

For more information: RAPPCampaign.com