

MORE HARM THAN GOOD

**MONITORING VISIT TO FISHKILL
CORRECTIONAL FACILITY**

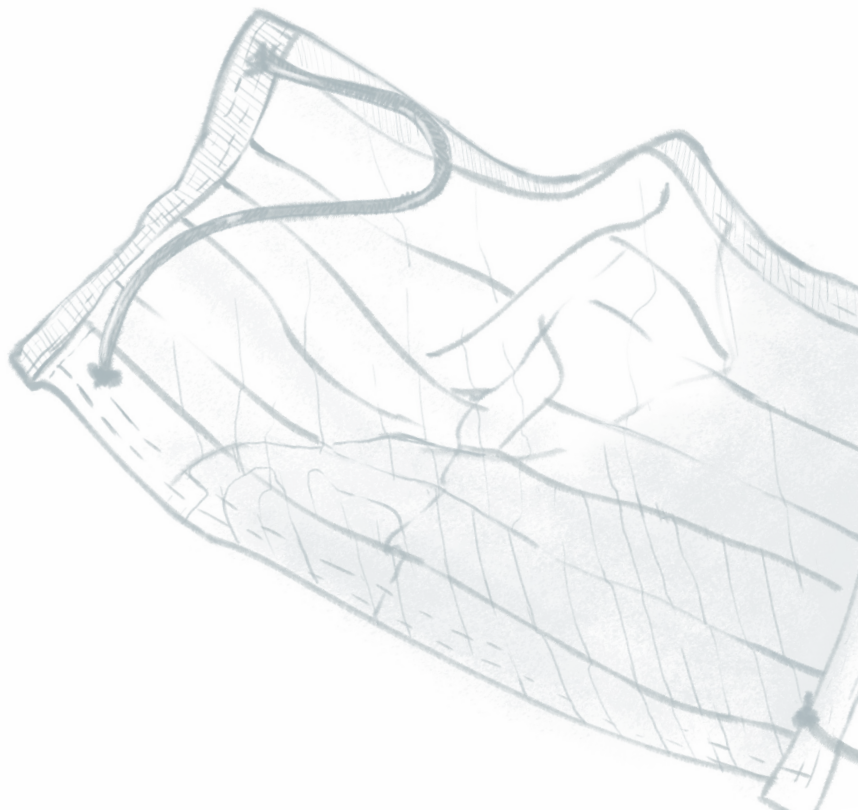
July 8-9, 2020

Correctional Association of New York



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EXECUTIVE SUMMARY

Seven months after the onset of the novel coronavirus, or COVID-19 pandemic in the U.S., many states have achieved relative stability in infection rates. However, that picture obscures the disproportionate impact that COVID-19 has had on the most marginalized of our society, and how that disproportionality increases with intersecting identities. This compounded social vulnerability rings especially true for incarcerated populations. Prisons and jails have become hotspots of COVID-19 transmission¹, with over 144,000 reported cases, at the same time that rates are once again increasing in the communities around them; this is a crucial point because it illuminates that incarcerated people are embedded within their local communities and are immediately affected by the incessant spread of COVID-19. Further, inability to maintain social distance, lack of access to adequate personal protective equipment, and the impact of incarceration on overall health and well-being, among other factors, play a tremendous role in the steadily increasing rates of COVID-19 infection and death in prisons and jails. COVID-19, compounded with incarceration, is a crisis that cannot be ignored.

In this report of findings from a monitoring visit to Fishkill Correctional Facility in July 2020 by the Correctional Association of New York (CANY), we document how the daily issues that incarcerated individuals confront intersect with the challenge of containing an infectious disease in a dense environment isolated from access by the public. Yet, this report only scratches the surface of the true impacts of COVID-19 behind bars. As COVID-19 continues to be a global pandemic, and as we prepare for possible future waves, CANY's authority under state law to monitor prisons and report findings to the legislature and the broader public has heightened significance and relevance. Documenting the compounded vulnerability of incarcerated people will only continue to be crucial, especially if COVID-19 grips the country as it did during its onset once again. Importantly, it underscores the continued need for comprehensive oversight, especially oversight that continues without interruption.

CANY chose to conduct a two-day monitoring visit to Fishkill Correctional Facility due to the relatively high number of infections and deaths—the highest number attributable to COVID-19 at any single prison in New York at the time of the visit.² CANY representatives conducted interviews with over 160 incarcerated people throughout the prison in general population housing units, the Special Housing Unit (SHU), the residential mental health unit, and the Unit for the Cognitively Impaired (UCI). CANY also held meetings with DOCCS Central Office staff and Fishkill executive staff, the Inmate Liaison Committee (ILC), and the Inmate Grievance Resolution Committee (IGRC).³

1 The Marshall Project. (2020, August 27). A State-by-State Look at Coronavirus in Prisons. The Marshall Project. <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>

2 The number of positive cases (n=86) and the number of deaths (n=5) in July 2020. The number of positive cases has since increased.

NY State Department of Corrections and Community Supervision. (2020a). Confirmed cases by facility. New York State. Albany, NY. Retrieved from <https://doccs.ny.gov/system/files/documents/2020/09/doccs-covid-19-confirmed-by-facility-9.6.2020.pdf>

3 Members of the ILC and IGRC are incarcerated individuals who represent concerns of the incarcerated population at a given prison.

Of all the findings, which are discussed in full in the following report, the apparent inaccessibility of otherwise widely available public health information about COVID-19 was most striking. Many of the incarcerated people CANY representatives spoke to seemed unaware of how COVID-19 tests are administered, proper mask usage, and even the signs and symptoms of COVID-19. One of the most powerful tools for preventing the spread of COVID-19 is knowing how to keep oneself safe; without that knowledge, COVID-19 still poses a serious risk to incarcerated people, despite testing, distribution of masks and cleaning supplies, and social distancing guidance. This finding illustrates how incarceration, in its design and function, goes beyond keeping people in, to keeping information out—including critical information about a global pandemic. The Department of Corrections and Community Supervision (DOCCS) has made some good progress in keeping people safe, through a variety of policy changes, but overall, incarceration itself undermines those outcomes. In other words, to paraphrase the remarks of one incarcerated person we spoke to, incarceration does more harm than good.

To achieve the greatest impact, our recommendations – which include essential measures such as increasing testing and public reporting of test results; increasing public education about COVID-19 for incarcerated individuals; expanding creative solutions for delivery of programming; and modifying facility operations to accommodate the need for social distancing – must be grounded in a commitment to decarceration. According to one expert, “Choosing not to decarcerate is a policy decision that actively facilitates high rates of new COVID-19 infections, and ultimately deaths, among an already vulnerable and marginalized population. By choosing confinement, policy makers are exposing incarcerated people to much higher odds of COVID-19 infection.”⁴ There is no better public health policy solution than decreasing the number of people behind bars. Lives depend on it.

INTRODUCTION

COVID-19 has highlighted the vital importance of independent oversight of prisons even as it has limited outsiders' access to these environments. People in prison are among the most vulnerable and marginalized members of our society and prisons are, by design, closed institutions that have total control over the human beings in their custody. In such environments, the risk of abuse and neglect is high. Apart from the risks and challenges presented by COVID-19, prisons are replete with problems that incarcerated people confront daily, including inadequate access to medical or mental health care, poor living conditions, and even abusive practices by staff. Those issues are exacerbated by the pandemic: medical services, already limited in quality and availability, are prioritized for the very sickest patients, mental health counseling services are suspended to contain the spread of the virus, and so on. The COVID-19 pandemic has demonstrated just how vulnerable people in prison are and underscores the need for effective oversight at all times.

To improve independent oversight of prisons in New York, the New York State Senate and the New York State Assembly passed a bill (S8046/A10194) that would expand and codify the access granted to the Correctional Association of New York (CANY) in 1846. If signed into law, CANY would have the authority to conduct monitoring visits without advance notice; to freely access data and information from the Department of Corrections and Community Supervision (DOCCS); and to conduct confidential interviews with incarcerated people and staff, among other important powers. This access would further empower CANY to inform policymakers and the public about what happens inside prisons so that they may take action.

OVERVIEW OF JULY 2020 MONITORING VISIT FISHKILL

CANY conducted a two-day monitoring visit to Fishkill Correctional Facility on July 8 and 9, 2020. CANY identified Fishkill as an important site for monitoring because to date five incarcerated people there died of COVID-19—the highest number of deaths attributable to COVID-19 at any single prison in New York at the time of publication.

Six CANY representatives conducted brief one-on-one interviews with 162 incarcerated people throughout the prison in general population housing units, the Special Housing Unit (SHU), and the residential mental health unit. In addition, CANY walked through the Unit for the Cognitively Impaired (UCI), where 22 elderly individuals who developed dementia during their incarceration are housed. CANY also held meetings with DOCCS Central Office staff and Fishkill executive staff, the Inmate Liaison Committee (ILC), and the Inmate Grievance Resolution Committee (IGRC).¹

CANY representatives entered the prison wearing masks and were supplied hand sanitizer by DOCCS. Representatives asked interviewees a standardized set of seven questions related to their experience in the prison during the height of the pandemic.

¹ Members of the ILC and IGRC are incarcerated individuals who represent concerns of the incarcerated population at a given prison.

LIMITATIONS

One limitation of our findings is the possibility of variation in question comprehension. For example, some interviewees did not know that having a temperature reading to screen for COVID-19 was not the same as being tested for COVID-19. Purely quantitative data (i.e., responses coded as Yes/No answers) may not fully account for this variation. In addition, a few interviewees noted hesitancy to speak completely candidly about their experiences due to fear of reprisals from DOCCS staff. Finally, CANY did not speak to a randomized, representative sample of incarcerated individuals at Fishkill; rather, we spoke to individuals we encountered as we were guided through the prison by DOCCS staff.

OVERVIEW OF FISHKILL CORRECTIONAL FACILITY

Fishkill is a large medium security prison that used to be a state hospital for the “criminally insane.” Today, Fishkill is operated by DOCCS and is an Office of Mental Health-designated Level 1 facility, which means that the state operates a variety of enhanced mental health programs, such as a Residential Mental Health Unit and a Residential Crisis Treatment Program. Roughly 40% of the incarcerated people at Fishkill receive mental health services. Fishkill also operates a Regional Medical Unit and a unit for the cognitively impaired, which houses individuals who have developed dementia during their incarceration. Fishkill also operates several programs provided by external organizations, including two college programs (Bard and Nyack), Puppies Behind Bars, Rehabilitation through the Arts, and the Osborne Association.

As of July 8, 2020, there were 1,431 people incarcerated at Fishkill, which marked a 4.4% decline from the 1,497 people held there on April 1, 2020. About 30% of those incarcerated at Fishkill Correctional Facility were over the age of 50.

Figure 1. Age distribution of incarcerated individuals in custody at Fishkill Correctional Facility. As of April 1, 2020².

AGE	PERCENT	COUNT
18-21	0%	0
21-25	2.5%	37
25-35	29.3%	439
35-50	38.5%	576
50+	29.7%	445
TOTAL	100.0%	1,497

More than 25% of people at Fishkill have spent at least 20 years in prison, a figure which highlights the prevalence of long-term incarceration among people in prison in New York.

**OVERVIEW OF FISHKILL
CORRECTIONAL
FACILITY**

Figure 2. Distribution of time served by incarcerated individuals on their current sentence.
As of April 1, 2020³.

TIME SERVED ON CURRENT COMMITMENT

YEARS	PERCENT	COUNT
0-5	35.4%	530
5-10	19.8%	297
10-20	18.2%	272
20-30	24.2%	362
30+	2.4%	36
TOTAL	100.0%	1,497

Figure 3. Distribution of time remaining on current sentence until earliest possible release date.
As of April 1, 2020⁴.

TIME UNTIL EARLIEST RELEASE DATE

YEARS	PERCENT	COUNT
PAST RELEASE DATE	2.3%	34
0-5	94.7%	1,418
5-10	2.6%	39
10+	0.4%	6
TOTAL	100.0%	1,497

People convicted in counties in New York City are overrepresented at Fishkill relative to New York City’s share of the state population. More than half (53.2%) of people in Fishkill are from New York City (NYC), while NYC accounts for 42.9% of New York State’s population (Figure 5). More than three quarters of individuals incarcerated at Fishkill are from either New York City or downstate counties.

3 Ibid.

4 Ibid.

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CORRECTIONAL
FACILITY**

Figure 4. Distribution of the region in which individuals were convicted and committed to serve time in a state correctional facility.

REGION OF COMMITMENT ⁵		NEW YORK STATE GENERAL POPULATION ⁶		
REGION	PERCENT	COUNT	NY STATE PERCENT	NY STATE COUNT
NEW YORK CITY	53.2%	797	42.9%	8,336,817
UPSTATE	23.8%	356	30.6%	5,941,441
DOWNSTATE*	23.0%	344	26.5%	5,157,303
TOTAL	100.0%	1407	100%	19,435,561

Individuals classified by DOCCS as Black or Hispanic are over-represented in Fishkill, while those classified as white are under-represented, compared to the demographics of New York State as a whole. The proportions of people classified as Black or Hispanic at Fishkill are 3.4 and 1.4 times, respectively, their proportions in New York State. In contrast, the proportion of those classified as white is 0.4 times their respective proportion in New York State. However, this demographic composition is consistent with the New York State incarcerated population as a whole, which is 53.9% Black (both Hispanic and non-Hispanic) and 23.8% non-Hispanic White.⁷

Figure 5. Distribution of race and ethnicity at Fishkill Correctional Facility. As of April 1, 2020⁸.

RACE AND ETHNICITY AT FISHKILL*			
RACE	HISPANIC PERCENT	NON-HISPANIC PERCENT	TOTAL PERCENT
ASIAN	0.0% 0	0.4% 6	0.4% 6
BLACK	5.1% 76	48.6% 722	53.7% 798
NATIVE AMERICAN	0.1% 2	0.7% 10	0.8% 12
WHITE	6.8% 101	21.3% 317	28.1% 418
OTHER	15.1% 225	1.9% 28	17.0% 253
TOTAL	27.1% 404	72.9% 1,083	100.0% 1,487

5 Ibid.

6 US Census. (2019). Quick facts New York. US Department of Commerce. Washington, D.C. Retrieved from <https://www.census.gov/quickfacts/fact/table/NY/PST045219>

7 NY State Department of Corrections and Community Supervision. (2020). Under custody. New York State. Albany, NY.

8 NY State Department of Corrections and Community Supervision. (2020). Under custody. New York State. Albany, NY.

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Figure 6. The racial and ethnic breakdown of New York State’s general population.

RACE	HISPANIC PERCENT	NON-HISPANIC PERCENT	TOTAL PERCENT
ASIAN	0.1% 19,454	8.5% 1,653,553	8.6% 1,673,007
BLACK	1.4% 272,350	14.3% 2,781,859	15.7% 3,054,209
NATIVE AMERICAN	0.2% 38,907	0.2% 138,907	0.4% 77,814
WHITE	8.1% 1,575,738	55.2% 10,738,366	63.3% 12,314,104
OTHER	9.4% 1,828,635	2.6% 505,793	12.0% 2,334,428
TOTAL	19.2% 3,735,084	80.8% 15,718,478	100.0% 19,453,562

As of July 9, 2020, Fishkill had reported the highest number of positive cases for COVID-19, at 86, out of all prisons in New York. By that date, New York State had tested about one in four residents total; DOCCS had tested about one out of every ten incarcerated people; and Fishkill had tested less than one out of every six incarcerated people.

Figure 7. Comparison of COVID-19 prevalence rates between New York State’s general population, the population confined in prison, and Fishkill Correctional Facility.

AGE	NYS GENERAL POPULATION ⁹	DOCCS ¹⁰	FISHKILL CORRECTIONAL FACILITY ¹¹
NUMBER OF POSITIVE CASES	403,175	545	86
NUMBER OF TESTS	4,784,929	4,055	252
DEATHS	32,092	16	5
% CUMULATIVE POSITIVE TESTS	8.43%	13.44%	34.13%
% OF TOTAL POPULATION TESTED	24.59%	10.46%	17.56%
% DEATHS OUT OF POSITIVE CASES	8.00%	2.94%	5.81%

9 NY State Department of Health. (2020). NY State DOH COVID-19 Tracker. NY State. Albany, NY. Retrieved from: <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Map?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n%7D>

10 NY State Department of Health. (2020). NY State DOH COVID-19 Tracker. NY State. Albany, NY. Retrieved from: <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Map?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n%7D>

11 Ibid.

COVID-19 RELATED DEATHS AT FISHKILL

According to DOCCS, five people had died of COVID-19 at Fishkill at the time of publication. During CANY’s monitoring visit, multiple incarcerated individuals shared what they described as a widely circulated and expanded list of eight people who were believed by incarcerated people to have died from COVID-19.

According to information obtained from the State Commission on Correction, the following individuals died at Fishkill during the month of April 2020 alone:

NAME	DIN	DATE OF DEATH
JAMES WILLIAMS	12A4200	04/09/2020
LOUIS LEATH	97A5249	04/22/2020
STAN LI	15A0224	04/26/2020
WILLARD HUGHES	81A4065	04/26/2020
LARRY CAMPBELL	79C0029	04/28/2020

TESTING AT FISHKILL

DOCCS had administered 252 COVID-19 tests at Fishkill as of July 9, 2020. Assuming that each test represents one person tested, DOCCS had tested 17% of the total number of people (n=1,431 on July 8, 2020) incarcerated at Fishkill. These test numbers represent cumulative totals since the beginning of the pandemic. DOCCS does not report dates of tests, instead presenting point in time snapshots of positive, pending, and negative tests by facility.

As of July 9, 2020,¹² 86 of 252 or 34% of COVID-19 tests administered to incarcerated people at Fishkill had come back positive. According to the World Health Organization, governments should maintain rates of positivity in testing at 5% or lower for 14 days in order to consider reopening. On July 17, 2020, the positivity rate for New York State as a whole was 1.16%.¹³ According to DOCCS, the agency began expanding testing to asymptomatic incarcerated individuals 55 and older, along with those who are displaying symptoms, those who are quarantined, pregnant, in medical units, and living in “senior dorms.” This policy of newly expanded testing represents a significant step toward managing the spread of the disease and should be accelerated and sustained.

Of the 162 people CANY interviewed, 30 (18.5%) responded that they had been tested, which appears to be in line with the reported testing rate. However, several individuals we spoke to seemed to believe that they had been tested when, our interviews revealed, they

12 NY State Department of Corrections and Community Supervision. (2020a). Confirmed cases by facility. New York State. Albany, NY. Retrieved from <https://doccs.ny.gov/system/files/documents/2020/07/doccs-covid-19-confirmed-by-facility-7.10.2020.pdf>

13 Which U.S. States Meet WHO Recommended Testing Criteria? (n.d.). Retrieved from <https://coronavirus.jhu.edu/testing/testing-positivity>

TESTING AT FISHKILL

had instead been screened using a non-contact temperature screening device. Due to variations in interview methods and question comprehension, it is likely that fewer than 30 of the people we interviewed had actually received a nasal swab test for COVID-19.

CANY representatives spoke with at least two individuals who said they had been sick and had been tested for COVID-19, but had not received written confirmation of their test results. Both of these individuals reported having filed FOIL requests to receive copies of test results.

DOCCS reports testing anyone who displays flu-like or COVID-related symptoms. Those individuals are isolated and monitored in a medical unit. However, some individuals (n=10) we spoke to reported having had symptoms of COVID-19 but said they were not tested and instead quarantined with the rest of their housing unit. Others that we spoke with (n=3) reported that they had asked to be tested for COVID-19 and were subsequently denied this request.

Recommendations Related to Testing:

- CANY recommends that DOCCS implement and sustain a practice of comprehensive testing in order to develop an accurate baseline understanding of rates of positivity in New York prisons.
- CANY further recommends that DOCCS provide additional detail about test results on the COVID-19 section of its website, including differentiating between number of tests administered and number of individuals tested, listing test results by date, including cumulative and point in time measures, listing demographic data for incarcerated individuals infected with COVID-19, and breaking out employee infection data by facility.
- Finally, CANY recommends that DOCCS provide incarcerated people written confirmation of their COVID-19 test results.

QUARANTINE AND MEDICAL ISOLATION

At the time of CANY's monitoring visit, DOCCS was using half of the "S-Block" – a 200-cell unit typically used for people serving solitary confinement or SHU terms – for quarantine and contact tracing. On July 8, there were 23 people quarantined in S-Block and six were quarantined in two other areas of the prison. Several individuals mentioned that they believed they had been infected with COVID-19 but had not sought care. When asked why they had not sought medical attention, some reported that the prospect of being transferred to the S-Block provided a disincentive, because it is typically where individuals are sent for punishment. Unlike individuals serving a SHU term, individuals housed in the S-Block for quarantine retain their personal property and their phone privileges.

DOCCS describes the process of identifying cases of COVID-19 as follows: "Our process identifies patients who are ill and require special monitoring and care and isolates those who create the greatest risk of transmission to others. Asymptomatic patients who wear

QUARANTINE AND MEDICAL ISOLATION

a mask and follow social distancing and hand hygiene guidelines have minimal risk to others. A nurse will swab the individual and that swab is then sent to an authorized lab. As we await the results, the individual is isolated. If an individual's test result is positive that person is maintained in isolation for a minimum of 14 days."¹⁴

CANY representatives spoke to individuals who described a variety of processes that both mirror and depart from the guidelines cited above. Many of these first-hand accounts referred to much earlier stages of the pandemic, particularly during the months of March and April. Some individuals described being housed on entire units that were quarantined or locked down; others described being housed on a unit in which one person was taken to be quarantined elsewhere and the unit itself was not quarantined. Others reported having self-quarantined in their housing area when they experienced symptoms.

Recommendations Related to Quarantine and Medical Isolation:

- CANY recommends that DOCCS eliminate disincentives to seeking medical attention for symptoms related to COVID-19 through public education and improving living conditions in the S-Block.
- CANY recommends that DOCCS develop and maintain clear protocols for quarantine and medical isolation to share with incarcerated populations.

FACE MASKS, HAND SANITIZER, AND CLEANING SUPPLIES

A majority – 109 or 71%¹⁵ – of individuals CANY interviewed reported having access to masks or hand sanitizer, though the vast majority of incarcerated individuals CANY representatives observed and interviewed were not wearing masks. According to DOCCS, incarcerated individuals are not required to wear a mask unless their work/program assignment requires it (e.g., handling food in the mess hall or working in medical areas of the prison). Individuals housed in SHU are only given a mask if they are brought out of the cell.

On July 8, the first day of CANY's monitoring visit, DOCCS staff distributed two new surgical masks to many of the incarcerated people we interviewed. Some of these individuals stated that prior to this distribution of surgical masks, they had not received new masks since the distribution of fabric masks donated by the New York Coalition of Higher Education in Prison (NYCHEP) in May.

DOCCS requires staff to wear face masks while on duty. Ninety-seven incarcerated individuals (64.2% of those interviewed) reported that DOCCS staff routinely wear a mask. CANY representatives observed that most staff did wear masks, though there were a few exceptions, particularly among staff who were working or walking outside. Some staff wore masks below the nose and chin and adjusted the mask when we approached. A few

¹⁴ NY State Department of Corrections and Community Supervision. (2020c). DOCCS Covid Report. NY State Albany, NY. Retrieved from <https://doccs.ny.gov/doccs-covid-19-report>.

¹⁵ NY State Department of Corrections and Community Supervision. (2020c). DOCCS Covid Report. NY State Albany, NY. Retrieved from <https://doccs.ny.gov/doccs-covid-19-report>.

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incarcerated individuals noted that, similar to the broader society, mask wearing among staff seems to be a matter of politics.

Many incarcerated individuals did not seem to have access to proper education on the risks of COVID-19 and how best to take care of themselves during the pandemic. Some individuals noted the lack of proper educational materials, including signs, demonstrations, and tutorials, and in turn, seemed unaware of the signs and symptoms of COVID-19, how to properly wear a surgical mask, the difference between testing and temperature screening, and the difference between disposable and reusable masks.

Individuals stated that during the first five weeks of the pandemic, hand sanitizer was not available to the prison. The availability of hand sanitizer appeared to vary depending on area of the prison and interpersonal dynamics between incarcerated individuals and staff. CANY representatives heard reports that hand sanitizer is not available in SHU, on certain recreation yards, or unless moving between areas of the prison. Some individuals reported that hand sanitizer remains available only upon request and at the discretion of a corrections officer.

Several incarcerated individuals expressed concerns that the supply of Germicidal Cleaner 128¹⁶ had been replaced with a bleach-based solution. These individuals explained that while bleach is a disinfectant, it does not contain soap, making it an insufficient cleaning agent in a congregate environment.

Recommendations Related to Face Masks, Hand Sanitizer, and Cleaning Supplies:

- CANY recommends that DOCCS supply new disposable/surgical masks to incarcerated individuals in all areas of the prison at least once per week and additionally upon request.
- CANY further recommends that DOCCS provide updated and ongoing education about public health measures that should be taken to prevent the spread of COVID-19.
- CANY recommends that DOCCS increase access to hand sanitizer and cleaning agents throughout the prison.

SERVICES AND PROGRAMMING

Nearly all (97%) of the incarcerated individuals interviewed reported receiving three free phone calls per week, and many individuals cited satisfaction with the use of tablets for secure messaging and accessing other content, both free and paid. DOCCS had previously reported that the free phone calls were 30 minutes in duration, but the individuals we interviewed reported that the calls are limited to 15 minutes, which is corroborated by information on the DOCCS website.

DOCCS reported, at that time, having resumed most in-person programming. Substance use treatment (ASAT), cognitive behavioral treatment (aggression replacement therapy or

SERVICES AND PROGRAMMING

ART), and sex offender treatment (SOP) programming has resumed. Programs offered by the Office of Mental Health have also resumed. Educational and vocational programs were closed for the summer break.

DOCCS reported having held a successful Puppies Behind Bars team training with law enforcement via teleconference and also reported working with other service providers, including Rehabilitation through the Arts and the Osborne Association, to deliver program content remotely. DOCCS is exploring resuming college programming in the fall via teleconference or WebEx.

Recommendations Related to Programming:

- CANY recommends that DOCCS continue to explore creative solutions for maintaining programming throughout the pandemic, including remote college programs.
- CANY further recommends that DOCCS negotiate additional free services and content through its contract with JPay/Securus.

SOCIAL DISTANCING AND THE URGENT NEED FOR DECARCERATION

Social distancing is a key strategy for limiting community spread of COVID-19. When asked, 66 (50%) incarcerated people reported being unable to maintain social distance at Fishkill. This perception is corroborated by medical experts who describe prisons as “epicentres for infectious diseases because of the higher background prevalence of infection, the higher levels of risk factors for infection, the unavoidable close contact in often overcrowded, poorly ventilated, and unsanitary facilities, and the poor access to healthcare services relative to that in community settings.”¹⁷

Individuals CANY representatives spoke to cited the mess hall in particular as a venue that precludes appropriate social distancing, even with staggered seating and wall markings that suggest maintaining six feet of distance. Indoor dining in restaurants was prohibited in New York City for related reasons. Most interviewees also acknowledged that social distancing had largely relaxed in the prior month.

A number of individuals CANY representatives spoke to expressed frustration and fear in response to the scarcity of early release opportunities and lack of consideration for clemency. “Prison does more harm than good,” observed one individual. “It puts excess strain on families, it’s like double sentencing.” “This is warehousing,” said another. “The system makes you lost hope.” One individual described his perception of his vulnerability this way: “We’re like sitting ducks.”

SOCIAL DISTANCING AND THE URGENT NEED FOR DECARCERATION

CANY representatives interviewed a number of individuals (n=21, or 13% of interview sample) who had been incarcerated for more than 20 years, including one individual who has been in prison since 1972. As one scholar puts it, “Choosing not to decarcerate is a policy decision that actively facilitates high rates of new COVID-19 infections, and ultimately deaths, among an already vulnerable and marginalized population. By choosing confinement, policy makers are exposing incarcerated people to much higher odds of COVID-19 infection.”¹⁸

Recommendations Related to Social Distancing and Decarceration:

- CANY recommends that DOCCS continue to modify facility operations to accommodate the need for social distancing in mess halls, housing areas, program spaces, and recreation yards.
- CANY further recommends that all avenues for decarceration – pretrial release, alternative sentencing, early release, medical parole, parole board release, commutation – be fully explored and acted upon by the Governor, the Legislature, the Judiciary, the Board of Parole, and DOCCS. The only way to ensure social distancing in prison is to reduce the number of people incarcerated.

CONCLUSION

DOCCS has made some good progress in keeping people safe, through a variety of policy changes, but overall, incarceration itself undermines those outcomes. In other words, incarceration does more harm than good. To achieve the greatest impact, our recommendations must be grounded in a commitment to decarceration. There is no better public health policy solution than decreasing the number of people behind bars. Lives depend on it.

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JULY 8-9, 2020

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