

# Three State Prison Oversight During the COVID-19 Pandemic

The case for increased transparency, accountability and monitoring based on experiences from Illinois, New York and Pennsylvania



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# List of Abbreviations

Abbreviation	Meaning
JHA	John Howard Association of Illinois
CANY	Correctional Association of New York
The Society	Pennsylvania Prison Society
IDOC	Illinois Department of Corrections
NYDOCCS	New York Department of Corrections
PADOC	Pennsylvania Department of Corrections
DOCs	Departments of Corrections

# Executive Summary

This report documents the impact of the COVID-19 pandemic and the response in prisons in Illinois, New York and Pennsylvania – the only three states in the country with non-governmental oversight bodies. It is based on publicly available information as well as information collected directly by these oversight agencies: The John Howard Association of Illinois (JHA, founded in 1901), The Pennsylvania Prison Society (The Society, founded in 1787) and The Correctional Association of New York (CANY, founded in 1844). It provides data unavailable in states lacking similar independent oversight, and it tells a story of very different responses to comparable challenges, and a lack of transparency on the details of the crisis and policies developed in response.

## Demographics, COVID-19 Risk and Social Impact

Crowded congregate settings, like prisons, serve as viral accelerators.<sup>1,2</sup> An outbreak in a prison quickly results in an outbreak in the surrounding community.<sup>3</sup> With many incarcerated people medically compromised due to age or chronic lack of access to healthcare, an outbreak in a prison can be particularly deadly. Incarcerated people die from COVID-19 two to three times as often as infected people in the community.<sup>4,5</sup>

### POPULATION REDUCTION

## Three States Target Politically Safe Cases, Ignore Medical Frailty

It was clear at the start of the pandemic that population reduction would be the single most effective step in alleviating the COVID-19 crisis in prisons. All three oversight agencies called for the release of medically vulnerable incarcerated people.

- Instead, all three states offered release to a designated group of politically safe cases, prioritizing sentence type rather than mortality risk. These reductions did not reduce the population to a degree that would allow social distancing. They also left thousands of elderly and immunocompromised to spend the pandemic behind bars.
- While none of the three states had sufficient reductions, Pennsylvania lagged the other two. Illinois and New York had their populations reduced by around 11,000 (28.4% and 26.1%.) In Pennsylvania this was only 8,000 (17.9%.) Reductions were largely due to fewer admissions rather than releases.

### HEALTHCARE

## Illinois Only State to Test for Confinement, Pennsylvania Vaccination Rate Outpaces Others

COVID-19 is a health crisis overlaid on top of an already overtaxed prison health care system. All three organizations have documented the deterioration of prison healthcare during COVID-19, as

1 "Incarcerated and Infected: How the Virus Tore Through the US Prison System", New York Times, April 10, 2021 <https://www.nytimes.com/interactive/2021/04/10/us/covid-prison-outbreak.html>

2 C Heard "Locked In and Locked Down – Prison Life in a Pandemic, Evidence from Ten Countries", Institute for Crime and Justice Policy Research, London, May 2021

3 G Hooks and W Sawyer, "Mass Incarceration, COVID-19, and Community Spread", Prison Policy Initiative, December 2020, <https://www.prisonpolicy.org/reports/covidspread.html>

4 Parish, Saloner, Ward, et al, "COVID-19 Cases and Deaths in Federal and State Prisons," Jul 2020, JAMA <https://jamanetwork.com/journals/jama/article-abstract/2768249>

5 CCJ, Schnepel "COVID-19 in US State and Federal Prison," September 2020 [https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid\\_commission/FINAL\\_Schnepel\\_Design.pdf](https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid_commission/FINAL_Schnepel_Design.pdf)

well as significant failings of prison healthcare systems to respond to COVID-19. That said, Illinois and Pennsylvania each put significant efforts into testing and vaccinations respectively, showing that with will and resources community standard healthcare can be delivered behind bars.

- Across all three states the quality and availability of general healthcare, which was already inadequate pre-pandemic, has deteriorated further, with numerous complaints of severe delays for urgent care and essential treatment for chronic conditions.
- Testing of incarcerated people and staff in Illinois far outpaces that of the two other states. In June 2021, 634k tests were carried out in Illinois compared to 99k in New York and 148k in Pennsylvania. Illinois was only state with a clear policy of testing all staff and incarcerated people every three days during an outbreak until no new cases are identified. This policy allowed for containment of viral spread.
- Pennsylvania's \$25 commissary credit has had a significant impact on vaccine uptake. As of September 2021, 87% of people in Pennsylvania custody were fully vaccinated, compared to 69% in Illinois, and 46% in New York, the state slowest to offer the vaccine in prison.

## SAFETY, WELLBEING, AND ORDER

### Illinois Distributes KN95 Masks, All States Struggle

The non-clinical aspect of the response has been crucial. All three DOCs have struggled to respond to rapidly evolving public health guidelines with isolated examples of replicable good practice.

- The insufficient distinction between medical quarantine and disciplinary isolation has led people to conceal symptoms of COVID-19 in all three states.
- Social distancing has not been achieved in any of the three states due to insufficient population reduction measures, and the lack of resources and will required to stagger out-of-cell activities.
- Masks and other PPE provided varied greatly in quality and quantity. The weekly provision on KN95 masks in Illinois stands in sharp contrast to prison-manufactured cloth masks provided by similarly resourced DOCs in New York and Pennsylvania.
- The frequency and universality of complaints that staff fail to wear masks are indicative of hostile and unaccountable institutional cultures.

### Basic Transparency and Communication Lacking in All Three States

Understanding the prevalence of COVID-19 in prison and attempts being taken to mitigate it are critical to public health in the prison and in the surrounding communities. Lack of information given to the general public, incarcerated people, and their families is an ongoing problem in all three states.

- Communication with the public through dashboards has been inconsistent and inadequate. All three DOCs developed public dashboards, which have been graded poorly by the UCLA COVID-19 Behind Bars Project.<sup>6</sup> In Illinois, after repeated requests by JHA, information on cases, deaths, tests and vaccination rates are updated daily, in addition to memos sent to incarcerated people. In New York, far more limited data has been included with a monthly report on cases and deaths, and a list of actions taken by the department. In Pennsylvania, flawed information was posted on the public dashboard for several months. Only after external pressure did the state correct the data problems.
- Failures in communication with incarcerated people have had a direct impact on a climate of fear demonstrating the depth of mistrust that incarcerated people feel towards correctional agencies. In Illinois, people said that they were being “kept in the dark” about the response as the course of the pandemic rapidly evolved. In New York in July 2020, it was found that widely available public health information was not known among the population. In a Pennsylvania Fall 2020 survey a direct relationship was shown between incarcerated people who felt they were received inadequate information and those who felt unsafe.
- None of the three states regularly communicated individual test results to the people in custody who had been tested. In addition, none of the states clearly communicated the overall policy behind testing to the incarcerated population. As a result, people in custody report a pervasive sense of fear, anxiety and confusion.
- All three states made some attempt to quell the concerns of panicked family members. All three increased access to free phone calls. However, in each state, limited time out of cell to use a phone, a limited number of phones, a proliferation of broken phones, and other technical difficulties meant that incarcerated people rarely had the phone access they were promised.

## Oversight Matters

These findings show an overall uneven and ineffective response to COVID in prison.

Nevertheless, a handful of promising and replicable practices came to light.

The findings also demonstrate the importance of independent oversight. This critical information is only available because of the determined work of these three non-governmental oversight organizations. The ability to compare this information and identify trends as well as best practices is thanks to the newly formed collaboration of which this report is the first output.

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<sup>6</sup> L DeWol et al, “Missing The Mark: Data Reporting & Quality Scorecard” UCLA LAW, COVID Behind Bars Project, <https://ucla-covidbehindbars.org/blog/scorecard>

## INTRODUCTION

# Prison Oversight Across Three States During the COVID-19 Pandemic

This report is the first output stemming from a cooperation between the John Howard Association of Illinois (JHA, founded 1901), the Correctional Association of New York (CANY, founded 1844) and the Pennsylvania Prison Society (The Society, founded 1787). It is based on the data collected and lessons learned across the three organizations while carrying out oversight of correctional facilities in their respective states during the COVID-19 pandemic.



The devastating impact of COVID-19 behind bars worldwide has been extensively documented.<sup>7</sup> In July 2020, the UCLA COVID-19 Behind Bars data-project estimated the COVID-19 mortality rate to be 3 times higher in prisons than among the general US population.<sup>8</sup> In September 2020, the Council on Criminal Justice estimated the mortality rate in prison to be twice that of the general population after adjusting for the sex, age and race/ethnicity of those incarcerated.<sup>9</sup> An assessment of excess deaths during the pandemic in Florida, calculated the life expectancy of incarcerated people declined by 4 years as a result of the pandemic.<sup>10</sup> While the mortality rate is also driven by other factors, the rate of COVID-19 cases reported by state and federal prisons in the U.S. is more than four times the rate of confirmed cases among the U.S population.<sup>11</sup> As of April 2021, there had been 2,990 deaths in prisons from COVID and over 661,000 had been infected.<sup>12</sup> However, studies from July 2021 suggest that the death toll may have been higher still.<sup>13</sup>

The tragically high number of deaths among incarcerated people only conveys part of the picture. The three independent correctional oversight organizations have borne witness to the many ways that the crisis has impacted incarcerated people across Illinois, New York, and Pennsylvania. This report aims to leverage the unique perspective that the three organizations' oversight has provided to demonstrate how the pandemic has been experienced by incarcerated people in these three states, and how each state's Department of Corrections (DOC) has responded in similar and divergent ways.

### ◆ Cooperation and Learning Among Oversight Bodies

While there are multiple governmental oversight bodies operating in the US, the organizations are the only "three non-governmental organizations with longstanding statutory authority or informal arrangements that allow...physical access to the prisons in order to monitor conditions in the USA."<sup>14</sup> They all have extensive histories, with JHA, founded in 1901, representing the newest of the three. Through a range of approaches, the three organizations oversee prison systems that, shortly before the pandemic reached the USA in figures published in December

7 C Heard "Locked In and Locked Down – Prison Life in a Pandemic, Evidence from Ten Countries," Institute for Crime and Justice Policy Research, London, May 2021 [https://www.prisonstudies.org/sites/default/files/resources/downloads/locked\\_in\\_and\\_locked\\_down.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/locked_in_and_locked_down.pdf)

8 Parish, Saloner, Ward, et al, "COVID-19 Cases and Deaths in Federal and State Prisons," Jul 2020, JAMA <https://jamanetwork.com/journals/jama/article-abstract/2768249>

9 CCJ, Schnepel "COVID-19 in US State and Federal Prison," September 2020 [https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid\\_commission/FINAL\\_Schnepel\\_Design.pdf](https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid_commission/FINAL_Schnepel_Design.pdf)

10 N Marquez, A Littman et al "Assessing the Mortality Impact of the COVID-19 Pandemic in Florida State Prison", MedRxiv., April 2021, <https://www.medrxiv.org/content/10.1101/2021.04.14.21255512v2.full-text>

11 E Schnepel, "COVID-19 in US State and Federal Prison" September 2020 . p.3 [https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid\\_commission/FINAL\\_Schnepel\\_Design.pdf](https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid_commission/FINAL_Schnepel_Design.pdf)

12 "Incarcerated and Infected: How the Virus Tore Through the US Prison System", New York Times, April 10, 2021 <https://www.nytimes.com/interactive/2021/04/10/us/covid-prison-outbreak.html>

13 M. Turcotte, R. Sherman et al, "The Real Toll From Prison Covid Cases May Be Higher Than Reported," New York Times, July 7, 2021 <https://www.nytimes.com/2021/07/07/us/inmates-incarcerated-covid-deaths.html>

14 M Deitch "But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States," American Journal of Criminology, May 2021, Vol. 47:2 , page 258

2019, incarcerated around 133,000 people; 40,000 in Illinois,<sup>15</sup> 47,000 in New York,<sup>16</sup> and 46,000 in Pennsylvania.<sup>17,18</sup>

Over many years of active monitoring, each organization has developed its own distinct oversight methodologies. In 2019, before the COVID-19 pandemic, the organizations began working on common approaches based on shared experiences and internationally recognized good practice in detention monitoring to realize a shared vision of quality, proactive prison oversight in the USA. As the COVID-19 pandemic took hold and defined the experience of detention in the USA and internationally over the past 18 months, the consequences of the pandemic and the response by each respective DOCs are a logical focus for this first step.

Oversight has been more important than ever during the pandemic, yet more challenging to implement. The pre-existing challenges of impediments to access for external visitors, a cultural lack of transparency from government officials, and an inherent the lack of visibility into prison conditions, have all been exacerbated by COVID-19 restrictions.<sup>19</sup>

Since COVID-19 began to impact the USA in early 2020, the three organizations have sought to understand and bring to light how the pandemic has affected the experience of incarceration through different methods and mandates. This report capitalizes on the differences in approach to present a holistic understanding of the way that COVID-19 has been experienced in prison, and highlights the challenges the incarcerated population, oversight agencies, and the general public have faced in receiving information through communication with the respective DOCs.

As of July 2021, around 18-months into the pandemic, there is a large amount of statistical data in the public domain. However, the efforts of the three organizations throughout COVID-19 have allowed a focus on the experiences as described by incarcerated populations in their own words. This report combines quantitative data from surveys and dashboards on key issues, with direct testimony from incarcerated people that underscores how the most significant impacts on people's experience are often intangible and sensory.<sup>20</sup> In addition to publicly issued data from DOCs, the primary sources of information used in this report of July 2021 are as follows: for JHA in Illinois a system-wide survey in April 2020, which received responses from more than 16,000 people in custody as well as 261 staff, communications bulletins issued during the pandemic, and a report on JHA's first post-pandemic



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**June 2021**

<sup>15</sup> "Incarceration Trends in Illinois," Vera Institute of Justice, December 2019 <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-illinois.pdf>

<sup>16</sup> "Incarceration Trends in New York," Vera Institute of Justice, December 2019 <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-new-york.pdf>

<sup>17</sup> The Pennsylvania Prison Society also conducts ombuds work and prison walkthroughs in county jails across Pennsylvania which have total population of around 36,000 incarcerated people.

<sup>18</sup> "Incarceration Trends in Pennsylvania," Vera Institute of Justice, December 2019 <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-pennsylvania.pdf>

<sup>19</sup> K Blakinger, "As COVID-19 Measures Grow, Prison Oversight Falls", The Marshall Project, March 17, 2020, <https://www.themarshallproject.org/2020/03/17/as-covid-19-measures-grow-prison-oversight-falls>

<sup>20</sup> K Herry, B Schmidt, and J Warr, Sensory Penalties: Exploring the Senses in Spaces of Punishment and Social Control, Emerald, February 2021, p.xxiii

monitoring visits to Lincoln and Graham prisons in March 2021; in New York visits undertaken by CANY to correctional facilities at Fishkill in July 2020, Sing Sing in September 2020, Bedford Hills in October 2020, Green Haven in December 2020, Sullivan in March 2021, Greene in April 2021 and Clinton in July 2021; and in Pennsylvania two remote surveys conducted by The Prison Society in Fall 2020 and Winter 2021, surveys undertaken at Phoenix SCI in July 2021, in addition to a huge amount of qualitative data that have come through from over 1100 requests for official visits received between March 2020-August 2021 informing a wealth of institutional knowledge on key issues.

After introducing the intersection of prison demographics, COVID-19 risk and social impact of the pandemic, this report breaks down different components of the pandemic and the response into three sections. First, the clinical aspect of healthcare across issues such as the continuation of general healthcare, vaccination, and testing are addressed. Second, the report explores how health-related issues impact the safety of the population through management issues such as isolation, distancing, PPE and hygiene. In the third and final section, evidence and commentary is provided on the quality of communication between each DOC and the incarcerated population, their families, the general public, and oversight bodies.

Where possible, comparisons are made between elements of the responses of the respective DOCs and use positive examples as the basis of recommendations to facilitate good practice during the remainder of the COVID-19 pandemic and comparable events in the future. To explore the key theme of the impact of transparency on prison operations, treatment and conditions which runs through the report, three “Transparency Case Studies” are explored documenting how information is presented by the respective DOCS on health characteristics of the incarcerated population, age and race data and the level of details included in budgets. How and if the information is shared sheds light on the inconsistent availability of data and need for ongoing, regular public access to it in order to better understand what is happening inside prisons.

Additionally, this report documents the experience of carrying out oversight during this unprecedented period and highlights three case studies of methodologies used effectively by the different organizations in their respective states. This will contribute to the ongoing effort to drive to best practice standards for oversight in the USA. It is the hope that this, and subsequent reporting across the three states on longstanding systemic issues, will be of use not only to policy makers and the public, but also to other actors working in correctional oversight in other parts of the USA and abroad.



# **Demographics, COVID-19 Risk and Social Impact**

## Characteristics of Prison Population and COVID-19

### ◆ Health Status

There are numerous inter-related characteristics of the prison population that make people who are incarcerated more vulnerable to COVID-19.<sup>21,22</sup> Incarcerated people in the US are more likely to have lived in poverty, which has well-documented consequences for health status.<sup>23</sup> Significantly, people in prison are much less likely to have had health coverage prior to incarceration. For example, a survey of San Francisco jails found around 90% of people of color entering jails had no health insurance.<sup>24</sup>

The relatively poor quality of available medical care both before and during incarceration is a significant factor in increasing the risk posed by COVID-19. The correctional co-pay system, by which incarcerated people in some states pay for some of their healthcare while in detention, creates long-term issues in accessing adequate care for incarcerated people without the means to pay.<sup>25</sup> Even where co-pays were removed at the outset of COVID-19, common un or under-treated chronic conditions of people in custody developed prior to COVID-19 exacerbated risk.

### Transparency Case Study 1

## Underlying Health Conditions Among the Incarcerated Population

The health concerns of the incarcerated population, including the underlying health risks, are a matter of public interest. However, none of the three DOCs has publicly available data on the number of people with chronic conditions or specific public information of pre-existing healthcare conditions faced by the incarcerated population.

In Illinois, public information from IDOC operations reports includes details of sick calls and death, admissions to infirmary, and the mental health caseload by prison, in addition to COVID-19 case information, but current public reporting contains nothing on general health and prevalence of chronic conditions.<sup>26</sup> While some additional

21 A Gates, S Artiga, R Rudowitz, "Health Coverage and Care for the Adult Criminal Justice-Involved Population," Kaiser Family Foundation, September 2014, [https://www.kff.org/report-section/health-coverage-and-care-for-the-adult-criminal-justice-involved-population-issue-brief/#endnote\\_link\\_123913-13](https://www.kff.org/report-section/health-coverage-and-care-for-the-adult-criminal-justice-involved-population-issue-brief/#endnote_link_123913-13)

22 D Cloud, J Parsons, A Delany-Brumsey. "Addressing mass incarceration: a clarion call for public health." *American Journal of Public Health*, March 2014;104(3):389-391.

23 "Connections among poverty, incarceration and inequality", Institute for Research on Poverty, University of Wisconsin, Policy Brief No. 48-2020, May 2020 <https://www.irp.wisc.edu/resource/connections-among-poverty-incarceration-and-inequality>

24 EA Wang, MC White et al. "Discharge planning and continuity of health care: findings from the San Francisco County Jail". *American Journal of Public Health*. 2008;98(12):2182-4. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2636533/>

25 W Sawyer, "The steep cost of medical co-pays in prison puts health at risk," *Prison Policy Initiative*, April 19 2017, <https://www.prisonpolicy.org/blog/2017/04/19/copays/>

26 Illinois Department of Corrections, "Operations and Management Report, Fiscal Year 2021," <https://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY21%20JHA%20OMR.pdf>

information is available from reports in various Illinois healthcare litigation,<sup>27</sup> or has been provided to legislators, it is not generally accessible or proactively provided to the public.

In New York public healthcare data is limited to COVID-19 cases and deaths by facility and only sporadically updated.<sup>28</sup>

In Pennsylvania the PADOC has made information on the health costs of an elderly population publicly available through budget testimony for the financial year 2021-22; “As of December 31, 2020, there were 10,077 inmates over the age of 50, 25.5% of the total inmate population. That percentage has steadily increased since 2000. Nearly all of those inmates are on medication that costs the DCJ \$34M annually.” This information is useful but not prominent and only forms part of an aside to the overall narrative.<sup>29</sup>

To meet basic standards of transparency, it is essential that the DOCs in all three states should provide clear and comprehensive information on the number of chronically ill incarcerated people to allow the general public an understanding of the level of risk faced by those incarcerated.

## ◆ Age

Age is also a critical factor in determining vulnerability to COVID-19. It is well documented that the mortality rates from COVID-19 for older people are significantly higher than the general population with almost 80% of deaths in the US occurring in the population aged over 65 years.<sup>30,31</sup>

While there is a widely held view that the population encountering the criminal justice system is young, the number of older prisoners has increased rapidly in recent years. According to the Bureau of Justice Statistics, at the end of 2019 just over 180,000 sentenced incarcerated people were age 55 or older, around 13.1%.<sup>32</sup> Federal data shows that this represents an increase of 250 percent in the number of state and federal prisoners age 55 or older from 1999 to 2014.<sup>33</sup>

The aging of the incarcerated population can be tied to the legacy of harsh sentencing policies over the preceding few decades. The National Research Council revealed long sentences enacted between 1980 and 2010, that led to a 222% increase in the rate of incarceration in state prisons was a function of changes in policy, not changes in crime rates,<sup>34</sup> and there is abundant evidence that

27 <https://loevy-content-uploads.s3.amazonaws.com/uploads/2020/05/William-Richard-et-al-v.-J.B.-Pritzker-et-al.pdf>

28 New York Department of Corrections and Community Supervision, “DOCCS COVID-19 Report” <https://doccs.ny.gov/doccs-covid-19-report>

29 Pennsylvania Department of Criminal Justice, “FY 21-22 Budget Testimony” <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Budget%20Documents/Budget%20Testimony%202021-22.pdf>

30 “Hospitalization and Death by Age: Rate ratios compared to 18- to 29- year-olds”, Centers for Disease Control and Prevention, July 2021, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html>

31 “COVID-19 Mortality Overview” Centers for Disease Control and Prevention, National Center for Health Statistics, <https://www.cdc.gov/nchs/COVID-19/mortality-overview.htm>

32 E. Ann Carlson “Prisoners in 2019” P.15, Bureau of Justice Statistics, October 2020, NCJ 255115 <https://bjs.ojp.gov/content/pub/pdf/p19.pdf>

33 M McKillip and Frances McGaffey, “Number of Older Prisoners Grows Rapidly, Threatening to Drive Up Prison Health Costs”, The Pew Charitable Trusts, October 2015, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/10/07/number-of-older-prisoners-grows-rapidly-threatening-to-drive-up-prison-health-costs>

34 National Research Council, The Growth of Incarceration in the United States: Exploring Causes and Consequences p33 (JTravis et al eds 2014)

the long-sentences that are consequences of “tough on crime” policies of the past few decades have had a limited impact on public safety due to limited risk of recidivism from older people.<sup>35</sup>

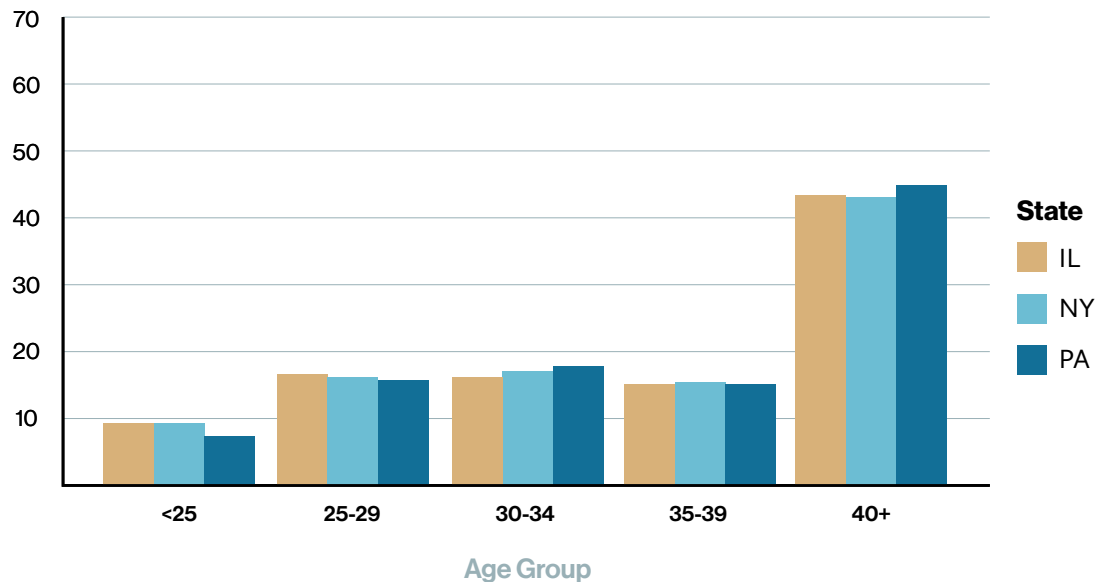


Figure 1: Age distribution in state facilities across three states in January 2020<sup>36</sup>

## Transparency Case Study 2—

### Information on Age and Race

Key information on the make-up of age and race is made available in very different ways in the three states. To the general public key data is most accessible through information from external organizations such as the Vera Institute,<sup>37</sup> Prison Policy Initiative,<sup>38</sup> and Bureau of Justice Statistics,<sup>39</sup> which provide well-presented snapshots using data from multiple state and federal sources while sometimes using outdated information.

Of the three states in which the organizations work, the most accessible example of a DOCs presenting data independently was in Illinois. IDOC’s website includes quarterly reports, with bimonthly population updates, in addition

35 M Mauer, “Long-term Sentences: Time to reconsider the scale of punishment” UMKC Law review, 87(1): 113-131 [https://www.researchgate.net/publication/336742044\\_LONGTERM\\_SENTENCES\\_TIME\\_TO\\_RECONSIDER\\_THE\\_SCALE\\_OF\\_PUNISHMENT](https://www.researchgate.net/publication/336742044_LONGTERM_SENTENCES_TIME_TO_RECONSIDER_THE_SCALE_OF_PUNISHMENT)

36 Data for Illinois was obtained from IDOC data sets: <https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx>

Data for New York was obtained through a Freedom of Information Act request (FOIL) in January 2020.

Data for Pennsylvania was obtained from PADOC dashboard <https://dashboard.cor.pa.gov/us-pa/narratives/prison/3>

37 “Incarceration in Local Jails and State Prisons” The Vera Institute, <https://www.vera.org/publications/state-incarceration-trends>

38 “50 State Incarceration Profiles”, Prison Policy Initiative, <https://www.prisonpolicy.org/profiles/>

39 “Prisoners in 2019” Bureau of Justice Statistics, October 2020, <https://bjs.ojp.gov/library/publications/prisoners-2019>

to machine readable population data sets, which can be used by external actors.<sup>40</sup> JHA uses these to develop more accessible population profiles.<sup>41</sup>

This contrasts sharply with New York where, as of August 2021, the last “Under Custody” report was published in June 2020 but has statistics from January 2019.<sup>42</sup> NYDOCCS also issues a monthly fact sheet, linked to on its homepage which has total population data but does not include age.<sup>43</sup> It has only been possible to get detailed population data in New York through multiple freedom of information requests. This is a lengthy process that can take up to 6 months and, while it is technically possible to be carried out by members of the public, is clearly exclusionary.

In Pennsylvania, until recently the latest statistics breakdown from PADOCC was the Annual Statistical Report from 2019<sup>44</sup> and some additional information included in the Budget Narrative in Dec 2020.<sup>45</sup> However, a much improved version of the PADOCC dashboard was posted in August 2021, which includes information on populations, reasons for incarceration and racial disparities.<sup>46</sup> This change took place after a series of issues around the data used for the COVID-19 specific dashboard which are discussed in depth later in this report.

The differences demonstrate how it should be easy for all states to copy the example of Illinois, and latterly Pennsylvania in presenting information clearly. There is no valid reason not to make this consistent and a genuinely transparent system would take these steps without issue.

## ◆ Race and Ethnicity

The racial and ethnic profile of people in prison also elevates the collective risk to the incarcerated population as in the general population the mortality rate from COVID-19 among racial and ethnic minority groups has been significantly elevated,<sup>47</sup> and the prison population is disproportionately made up of people from racial and ethnic minority groups across the USA and in the three states.<sup>48</sup> In data published in December 2019 it was revealed that in Illinois, non-white people

40 “Prison Population Data Sets”, Illinois Department of Corrections, <https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx>

41 “Prison Population Profiles” John Howard Association of Illinois <https://www.thejha.org/prison-pop-profile>

42 “Under Custody Report: Profile of Under Custody Population As of January 1, 2019” New York Department of Corrections of Community Supervision, <https://doccs.ny.gov/system/files/documents/2021/05/under-custody-report-2019.pdf>

43 “New York Department of Corrections and Community Supervision” <https://doccs.ny.gov>

44 “Annual Statistical Report 2019” Pennsylvania Department of Corrections <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Reports/2019%20Annual%20Statistical%20Report.pdf>

45 Pennsylvania Department of Criminal Justice, “FY 21-22 Budget Testimony” <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Budget%20Documents/Budget%20Testimony%202021-22.pdf>

46 “Prisons” Pennsylvania Department of Corrections, <https://dashboard.cor.pa.gov/us-pa/narratives/prison/4>

47 Milet G, Jones A, et al, “Assessing differential impacts of COVID-19 on black communities” *Annals of Epidemiology*, Volume 47, July 2020, Pages 37-44, <https://www.sciencedirect.com/science/article/pii/S1047279720301769?via%3Dihub>

48 E. Ann Carlson “Prisoners in 2019” Bureau of Justice Statistics, October 2020, NCJ 255115, p.9 <https://bjs.ojp.gov/content/pub/pdf/p19.pdf>



constituted 27% of state residents, but 70% of people in prison,<sup>49</sup> in New York, non-white people constituted 46% of state residents, but 76% of people in prison,<sup>50</sup> and in Pennsylvania, non-white people constituted 22% of state residents, but 55% of people in prison.<sup>51</sup>

Among the general population the disparity in mortality rates may be partly explained by the fact that a higher number of front-line workers are from racial and ethnic minorities. However, it is also the result of a higher number of comorbidities for people of these racial and ethnic groups that significantly increase the COVID-19 mortality rate. This is represented in higher rates of diabetes,<sup>52</sup> higher rates of asthma,<sup>53</sup> and higher rates of obesity<sup>54</sup> among the racial and ethnic minority groups than the general population. As discussed above, there is evidence of significantly higher numbers of chronic illnesses in correctional facilities that is likely partly explained by this demographic breakdown.<sup>55</sup>

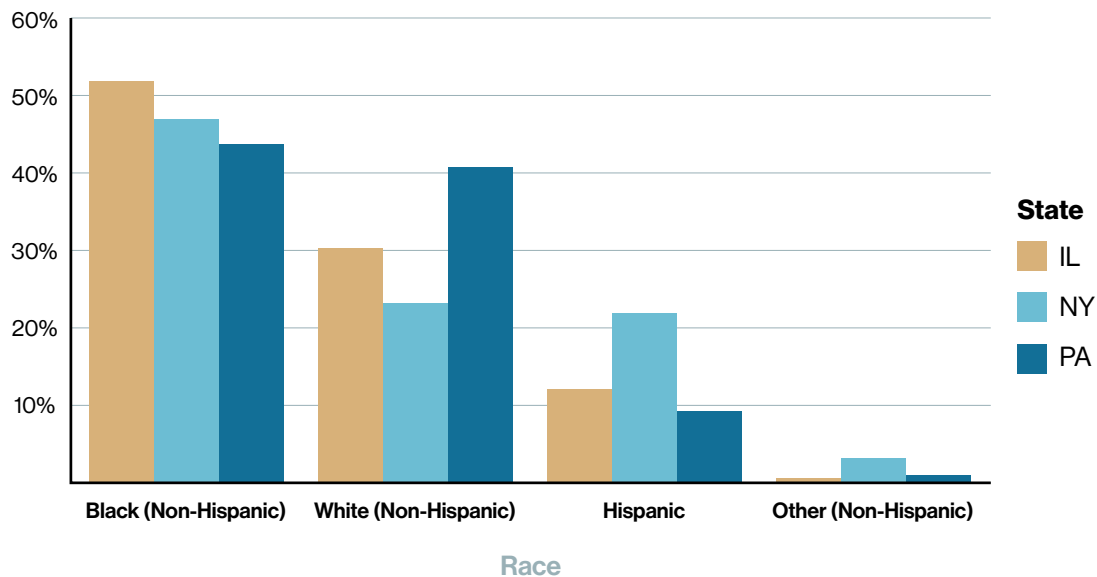


Figure 2: Race distribution across 3-States in January 2020<sup>56</sup>

49 "Incarceration Trends in Illinois," Vera Institute of Justice, December 2019 <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-illinois.pdf>

50 "Incarceration Trends in New York," Vera Institute of Justice, December 2019 <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-new-york.pdf>

51 "Incarceration Trends in Pennsylvania," Vera Institute of Justice, December 2019 <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-pennsylvania.pdf>

52 T Hicklin, "Factors contributing to higher incidence of diabetes for black Americans" National Institutes of Health, January 2018, <https://www.nih.gov/news-events/nih-research-matters/factors-contributing-higher-incidence-diabetes-black-americans>

53 "Current Asthma Demographics," American Lung Association, July 2020, <https://www.lung.org/research/trends-in-lung-disease/asthma-trends-brief/current-demographics>

54 Lincoln K, Abdou C, Lloyd D, "Race and Socioeconomic Differences in Obesity and Depression among Black and Non-Hispanic White Americans", Journal of Health Care for the Poor and Underserved, Volume 25, February 2014, pp 257-275, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4830390/>

55 A Wilper, W Woolhandler et al, "The Health and Health Care of US Prisoners: Results of Nationwide Survey" American Journal of Public Health, April 2009, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661478/>

56 Data for Illinois was obtained from IDOC data sets: <https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx>

## ◆ Socio-Economic Status

An important consideration that underlies the vulnerability of the incarcerated population beyond the immediate implications to health, is the level of economic disadvantage that the majority of people face before and after incarceration. Aside from the interrelation of poverty with key COVID-19 vulnerabilities on health and race, poor economic status has consequences for how incarceration is experienced in general, and specifically during COVID-19. This is seen for example when people are confronted with telephone call costs and, in some states, with paying for a portion of their healthcare costs on medical co-pay systems.

A 2018 Brookings Institution study concluded that incarcerated people are “much more likely to have grown up in poverty, in single parent families, and in neighborhoods of concentrated economic distress and with large minority populations.”<sup>57</sup> The unemployment rate of formerly incarcerated people in 2008 (the most recent year for which data are available) was 27.3% (compared to 5.8% in the general public).<sup>58</sup> In data from people entering state and federal prisons in 1997 (again the most recent year for which national data are available), 41% had not completed high school, compared to 18% of the general public.<sup>59</sup> By every possible indicator the populations were disproportionately disadvantaged before encountering criminal justice systems that imposed long sentences. They then subsequently face additional challenges after serving long sentences.

## Social Impact

The vulnerabilities of the incarcerated population outlined above are important to the public because the nature of care for the most vulnerable is a key indicator of societal values. However, the COVID-19 crisis in prisons also directly impacts the health of the wider public as prisons are deeply rooted in their surrounding communities and impact home communities to which people return on release. Prisons in the three states are typically located in disadvantaged rural areas and provide a key source of employment. Any issues affecting prisons affects these communities.<sup>60</sup>

The COVID-19 pandemic has demonstrated this link, and the need for a cohesive public health response to the pandemic. There is clear evidence that COVID-19 caseloads grew more quickly in areas close to prisons. A Prison Policy Initiative (PPI) report showed findings that “underscore the connection between mass incarceration and public health.”<sup>61</sup> PPI found that “at both the local (county)

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Data for New York was obtained through a Freedom of Information Act request (FOIL) in January 2020.

Data for Pennsylvania was obtained from PADOCC dashboard <https://dashboard.cor.pa.gov/us-pa/narratives/racial-disparities/>

57 Looney A, Turner N, “Work and opportunity before and after incarceration” The Brookings Institution, March 2018, [https://www.brookings.edu/wp-content/uploads/2018/03/es\\_20180314\\_looneyincarceration\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf)

58 L Couloute and D Kopf, Out of Prison & Out of Work: Unemployment among formerly incarcerated people, July 2018, <https://www.prisonpolicy.org/reports/outofwork.html>

59 C Wolf Harlow, “Education and Correctional Populations”, Bureau of Justice Statistics 2003, <https://bjs.ojp.gov/content/pub/pdf/ecp.pdf>

60 K Adams and S Oh, “Fighting Coronavirus in Rural Communities by Protecting Incarcerated People,” Brennan Center for Justice, May 2020, <https://www.brennancenter.org/our-work/analysis-opinion/fighting-coronavirus-rural-communities-protecting-incarcerated-people>

61 G Hooks and W Sawyer, “Mass Incarceration, COVID-19, and Community Spread”, Prison Policy Initiative, December 2020,

and broader community (areas that share a local economy) levels, larger incarcerated populations were associated with earlier reported cases of COVID-19 in the spring of 2020 and with a spike in confirmed cases over the summer of 2020.” The report argues that “the boundaries between life “inside” and surrounding communities are actually quite porous, with staff, vendors, volunteers, and visitors constantly flowing in and out of correctional facilities.”<sup>62</sup> The crisis of COVID-19 in prisons posed direct risk to essential staff and unquestionably had an impact on the general public.

Another significant public consequence of the pandemic is an increase to the already enormous financial cost of incarceration. In the US, roughly 10% of the \$77 billion annual cost of incarceration is for healthcare.<sup>63</sup> Through a series of reports The Pew Charitable Trust explored the costs of healthcare in detail, showing that \$8.1 billion was spent on prison healthcare in the USA in 2015 with a growing focus on chronic conditions. Other key findings are that “with few exceptions, state data systems preclude detailed, actionable analysis,” and that there is massive variation in costs per inmate and levels of staffing that make comparisons of performance and value difficult.<sup>64</sup> These findings reinforce the importance of transparency in the ways healthcare is administered in detention.

While as yet there is incomplete data on the added costs that will occur as a result of COVID-19, these will be considerable given the enormous clinical and management implications of the pandemic and its response. The COVID-19 Correctional Facility Emergency Response act, which was incorporated into The Heroes Act that passed in the House in May 2020 but not the Senate, allocated \$600 million in funding to address the COVID-19 crisis in state and local prisons and jails, including \$500 million to states and local governments that operate correctional facilities to provide testing and treatment of COVID-19 for incarcerated individuals.<sup>65</sup> It is not immediately clear how much of this \$600 million went into the amended bill but the final degree of federal support will be far greater.

One example where there is partial data is in Pennsylvania where the budget narrative for FY21-22 states that the Department of Justice has been allocated \$1.2B in Coronavirus Relief Fund dollars to cover additional salaries and \$167M on specific COVID-19 costs in detention. Later in this budget report the DOC indicates that operating expenses for COVID-19 are expected to be \$31.5 Million. It is not clear from the report if this \$31.5 million is included in the \$167 in the original budget<sup>66</sup> but it is certain that if these kinds of figures are replicated across other states the added costs of COVID-19 in prisons will run into many billions of dollars.

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<https://www.prisonpolicy.org/reports/covidspread.html>

62 Ibid

63 M. McLaughlin, C Pettus-Davis et al, “The Economic Burden of Incarceration in the United States,” Institute for Justice Research and Development, Working paper #IJRD-072016, October 2016, [https://ijrd.csw.fsu.edu/sites/g/files/upcbnu1766/files/media/images/publication\\_pdfs/Economic\\_Burden\\_of\\_Incarceration\\_IJRD072016\\_0\\_0.pdf](https://ijrd.csw.fsu.edu/sites/g/files/upcbnu1766/files/media/images/publication_pdfs/Economic_Burden_of_Incarceration_IJRD072016_0_0.pdf)

64 “Prison Health Care Costs and Quality” Pew Charitable Trusts, October 2017 <https://www.pewtrusts.org/en/research-and-analysis/reports/2017/10/prison-health-care-costs-and-quality>

65 House Committee of the Judiciary, May 2020 <https://judiciary.house.gov/issues/issue/?IssueID=14922>

66 Pennsylvania Department of Criminal Justice, “FY 21-22 Budget Testimony” <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Budget%20Documents/Budget%20Testimony%202021-22.pdf>

### Transparency Case Study 3—

## The Financial Costs of Incarceration

The presentation of information on the financial costs of incarceration is an important component of a transparent system. An adequate quantity and accessibility of financial information allow public and policy makers to understand the cost of different aspects of incarceration, allowing for a more informed debate. In all three states the budget is posted on the state government website. This is accompanied, in varying degrees of details, with further explanations on the DOCCS websites. However, the total resources allocated to state prisons is nonetheless not always clear.

In Illinois budget items on state websites can be seen in some detail for the agency by 'Program Name' and 'Appropriation Name' (budget line).<sup>67</sup> However, many labor costs are outside the budget and things are often handled outside this as “emergency purchases.” Additionally, pension costs are not reflected in the agency’s budget, meaning that actual personnel costs are higher. On the IDOC website, mirroring the state government there are brief financial impact statements, quarterly reports with limited information, as well as an annual report which, as of August 2021 was most recently from 2019.<sup>68</sup>

In New York, there is very little breakdown of the budget lines and very general categories , for “health services,” “program services” and “supervision of inmates” are used.<sup>69</sup> Unlike the DOCS in the other two states there is no budgetary information available on the NYDOCCS website.

On the Pennsylvania state government website the governor’s report into the executive budget includes both quantitative and qualitative data from the previous three years along with expenditures by institution and appropriations by program.<sup>70</sup> An annual budget testimony on the PADOC website that explains the information on the budget. It outlines the rationale for the allocations made. This includes specific narrative on COVID-19. While the information available from Pennsylvania is not perfectly presented, the addition on the budget narrative to the information on the state government website is a positive step.

A further source of information is National Association of State Budget Officers (NASBO) State Expenditure Report. This annual report examines spending in the functional areas of state budgets: elementary and secondary education, higher education, public assistance, Medicaid, corrections, transportation, and all other. It also includes

<sup>67</sup> State of Illinois, Office of Management and Budget, 2021(For IDOC search for agency 426) <https://www2.illinois.gov/sites/budget/Pages/InteractiveBudget.aspx>

<sup>68</sup> Illinois Department of Corrections, “Fiscal Year 2019 Annual Report”, <https://www2.illinois.gov/idoc/reportsandstatistics/Documents/IDOC%20FY19%20Annual%20report.pdf>

<sup>69</sup> NY Division of the Budget, Department of Corrections and Community Supervision, <https://www.budget.ny.gov/pubs/archive/fy22/ex/agencies/appropdata/CorrectionsandCommunitySupervisionDepartmentof.html>

<sup>70</sup> Governor Tom Wolf, Executive Budget, 2021-2022, Commonwealth of Pennsylvania <https://www.budget.pa.gov/Publication-sAndReports/CommonwealthBudget/Documents/2021-2022%20Executive%20Budget%20Book.Web%20Version.UPDATED.030421.pdf>

data on capital spending by program area, as well as information on general fund and transportation fund revenue collections.<sup>71</sup>

It is not easy for the general public to identify how the different reports fit together. A positive step would be for all three DOCs to replicate the example set by PADOE in providing a clear breakdown on a public platform such as the dashboard. Ultimately, to allow for an effective comparison of performance between states key indicators of costs should be made accessible and measurements developed to be applied consistently across states.

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71 <https://www.nasbo.org/reports-data/state-expenditure-report>



# Measures Taken to Reduce the Incarcerated Population

While the majority of this report will focus on the measures taken within correctional systems, it is important to acknowledge the measures taken to reduce populations at the outset of the pandemic, which differed widely from state to state. Early in 2020 it was widely recognized by many public health actors that the most effective way to counter the inherent risk and reduce COVID-19 deaths in prisons would be to implement decarceration rapidly.<sup>72</sup> As many have argued, “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.”<sup>73</sup>

### ◆ Population Reduction in Illinois

In Illinois, JHA was a leading voice in calling for population reduction. In recommendations made on April 8, 2020, JHA recommended that IDOC “Devote every available resource to placing people who can go home”<sup>74</sup> and later that month issued a joint statement with the Cook County Public Defender that jail populations be reduced immediately.<sup>75</sup>

Around the same time in March and April 2020 significant measures were taken to reduce populations in state facilities. “1,056 people exited prison facilities as a result of the Illinois Department of Corrections optional use of medical and family furloughs, electronic detention, and a law that gives the department power to award up to six months of earned sentencing credit to lessen a prisoner’s time in custody.”<sup>76</sup> However, these releases did not target elderly populations and only 49 incarcerated people over 60 were released as a result of these measures. In an apparent effort to demonstrate diligence and transparency IDOC published a response to House Republicans on its website, which outlines the process and addresses “public safety concerns” around these releases.<sup>77</sup> In addition to population reductions that occurred through releases, a major factor was that the Governor signed an Executive Order pausing intakes from March 2020 until July 27, 2020 when intakes were resumed subject to public safety protocols.

### ◆ Population Reduction in New York

In New York incarcerated people accused of low-level offences and parole violations began to be

72 E. Wang, B Western (Eds) *Decarcerating Correctional Facilities during COVID-19*, Advancing Health, Equity and Safety, 2020, The National Academies Press, Washington DC, <https://www.nap.edu/catalog/25945/decarcerating-correctional-facilities-during-covid-19-advancing-health-equity>

73 B Henry, “Social distancing and incarceration: Policy and management strategies to reduce covid-19 transmission and promote health equity through decarceration”, *Health Education & Behavior*, 2020 1090198120927318.

74 “John Howard Association COVID-19 Recommendations April 8, 2020” <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9615cfc23f2f7a4c567333/1586894287207/JHA+COVID-19+Recommendations+4.8.20.pdf>

75 “Joint Statement by the Cook County Public Defender and the John Howard Association Prison and Jail Populations Must Be Reduced Immediately: Base Decisions on Research and Data, Not Politics and Emotion, April 17, 2020” <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9a254d056db926f325d8c1/1587160397636/JHA+and+Cook+County+Public+Defender+-Statement+4.17.20.pdf>

76 E Hoerner “Hundreds of Illinois prisoners released as COVID-19 spreads, but few elderly see reprieve” *Injustice Watch*, May 6 2020 <https://www.injusticewatch.org/news/prisons-and-jails/2020/hundreds-of-illinois-prisoners-released-as-covid-19-spreads-but-few-elderly-see-reprieve/>

77 “IDOC’s Response to House Republicans” <https://www2.illinois.gov/idoc/facilities/Documents/COVID-19/News/Response%20to%20House%20Republicans.pdf>

released, but it took a significant time for the policy to be enacted. As of July 2020, 1,404 people had been released, most of whom were a few months from their release and were incarcerated for low-level offenses.<sup>78</sup> As of Nov 22, 2020, 3,147 people had been released early due to COVID-19, including 791 whose low-level parole violations were cancelled. Another 2,344 people let go had been imprisoned on non-violent, non-sex offenses and were within 90 days of their approved release date. A dozen women who were pregnant or postpartum with similar low-level offenses and within 180 days of their approved release date were also freed.<sup>79</sup> However, many people eligible for release had their releases delayed under the policy were not released due to extensive reviews by NYDOCCS officials.<sup>80</sup>

The NYCDOCCS dashboard frames the release policy as follows:

NYDOCCS was directed to release low-level technical parole violators from local jails. The Department immediately identified individuals under parole supervision who were detained in a local jail pursuant to a warrant resulting from an alleged technical violation, including absconders.

Following an individualized review, the Department began cancelling parole warrants where the individual has identified adequate housing is available and the release of the individual does not present an undue risk to public safety. Based on initial estimates, this action could impact up to 1,100 people, including 400 people in New York City and 700 people throughout the rest of the state.<sup>81</sup>

In April 2020 CANY made a series of recommendations directly addressing Governor Cuomo, including to “Use clemency power to commute the sentences of anyone who has a heightened vulnerability to COVID-19, including the elderly (50+), pregnant women, people with serious illnesses, and people with otherwise compromised immune systems, including people who have applied for medical parole, regardless of whether their convictions are for violent felony offenses.”<sup>82</sup> There was no response to this recommendation for NYDOCCS or the governor’s office.

The scarcity of early release opportunities, and lack of consideration for clemency in New York, were themes further exposed during CANY’s visit to Fishkill in July 2020. CANY recommended 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.”<sup>83</sup> There was no response to this recommendation.

### ◆ Population Reduction in Pennsylvania

In April 2020 The Society were plaintiffs in petition to the Pennsylvania Supreme Court requesting

78 N Haverty, “Why NYS is releasing so few inmates during the pandemic” WBFO NPR July 27 2020, <https://www.wbfo.org/crime/2020-07-27/why-nys-is-releasing-so-few-inmates-during-the-pandemic>

79 R Blau “Hundreds’ of Prisoners Approved for Early Release Stuck Behind Bars as COVID Spikes” The City, Nov 24 2020, <https://www.thecity.nyc/2020/11/24/21717723/prisoners-approved-for-early-release-stuck-behind-bars- covid>

80 Ibid

81 “DOCCS COVID-19 Report” New York Department of Corrections and Community Supervision, <https://doccs.ny.gov/doccs-covid-19-report>

82 “CANY’s Recommendations” April 23, 2020, <https://www.canyxcovid19.org/monitoring>

83 “More Harm Than Good: Monitoring Visit to Fishkill Correctional Facility, July 8-9 2020” CANY, July 2020, P15



an emergency release of at-risk groups from county facilities. The court instructed the counties to review cases and release as many as safely possible in its ruling resulting in a 20% decrease in population by June.<sup>84</sup> This will have had an impact on the subsequent transfers to state facilities. Following up on this ruling, each week since The Society’s newsletter which is sent to around four thousand subscribers including policy makers and journalists calls for a reduction in the population.

As local media reported “Both Gov. Tom Wolf and Corrections Secretary John Wetzel have argued that reducing the size of the prison population...is one of the elements of the Department of Corrections’ response to the virus.”<sup>85</sup> The office of the governor explained that “to better manage COVID-19 when it enters the DOC, officials have begun reducing the population where they can. Steps taken include; working with the parole board to maximize parole releases, reviewing parole detainers for individuals in county jails and state prisons, expediting the release process for anyone with a pending home plan, and reviewing inmates within the state prison system who are beyond their minimum sentences.”<sup>86</sup>

The PADOC website states that on “April 10 2020, Governor Wolf established a program making some people in custody eligible for temporary reprieves, under which 123 have been released.”<sup>87</sup> This is a tiny number out of a total population of around 40,000 and “the governor has backed away from using the only tool in his disposal to create more space for social distancing inside of prisons: reprieve”<sup>88</sup> In total since the start of the pandemic, the state prison population has declined by 14%. However, as the executive director of the Pennsylvania Prison Society stated to media “much of that decline can be linked to fewer admissions, as the pandemic forced courts to shut down.”<sup>89</sup>

The table below demonstrates that the reduction in population in state facilities in Pennsylvania at 17.9% is significantly lower than the 28.4% in Illinois and 26.1% in New York.

	Illinois	New York	Pennsylvania
<b>Population Jan 2020</b>	38,139	43,233	45,252
<b>Population Jun 2021</b>	27,305	31,962	37,149
<b>% Decrease</b>	28.4%	26.1%	17.9%

**Table 1: Percentage decrease in total population between January 2020 and June 2021<sup>90</sup>**

84 “2020 Pennsylvania Prison Society Annual Report” [https://issuu.com/prisonsociety3/docs/prisonsociety20\\_ar\\_web](https://issuu.com/prisonsociety3/docs/prisonsociety20_ar_web)

85 Philadelphia Enquirer Editorial Board, “Coronavirus death counts exceed one per day in Pa. prisons. Gov. Wolf needs to use all the tools he has | Editorial” January 22 2021, Philadelphia Enquirer, <https://www.inquirer.com/opinion/editorials/coronavirus-pennsylvania-prison-deaths-20210122.html>

86 Ibid

87 “Gov. Wolf: Department of Corrections to Establish Temporary Program to Reprive Sentences of Incarceration” April 10, 2020, <https://www.governor.pa.gov/newsroom/gov-wolf-department-of-corrections-to-establish-temporary-program-to-reprive-sentences-of-incarceration/>

88 Philadelphia Enquirer Editorial Board, “Coronavirus death counts exceed one per day in Pa. prisons. Gov. Wolf needs to use all the tools he has | Editorial” January 22 2021, Philadelphia Enquirer, <https://www.inquirer.com/opinion/editorials/coronavirus-pennsylvania-prison-deaths-20210122.html>

89 Ibid

90 Data for Illinois was obtained from IDOC data sets: <https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx>  
Data for New York was obtained through a Freedom of Information Act request (FOIL) in January 2020.

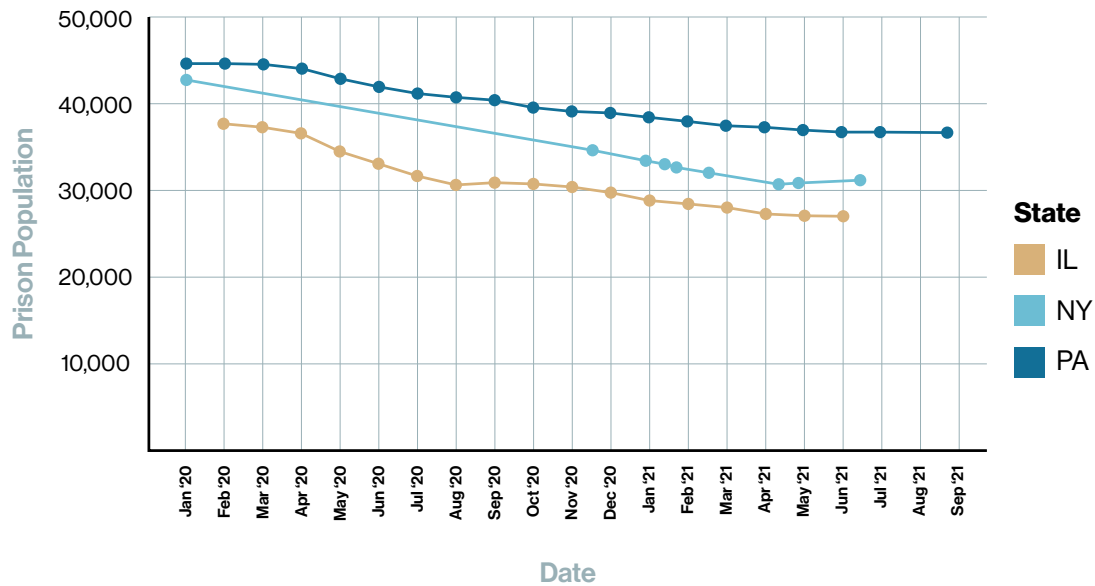


Figure 3: Total population in state facilities across 3-states from January 2020<sup>91</sup>

## Key Findings on Measures Taken to Reduce the Population

All three states followed a broadly similar pattern of reduction in numbers that were restricted to the most politically safe options. The main consideration has seemingly been the level of offence and number of days to release. Despite the very low rates of recidivism among incarcerated people who are released when they are older,<sup>92</sup> and the increased vulnerability of the elderly to COVID-19, it does not appear that older people were prioritized for release in any of the three states.

While the public safety and political considerations around early release are understandable, it does not appear that the decision not to grant early release en masse was driven by data around the risk that elderly people would cause to the general population. A clearly defined explanation of the considerations for releases in each state, the rationale behind them, and measures that each DOC is taking to avoid risk to the public from releases would have helped inform that discourse.

Data for Pennsylvania was obtained from PADOCC dashboard <https://dashboard.cor.pa.gov/us-pa/narratives/prison/3>

<sup>91</sup> Data for Illinois was obtained from IDOC data sets: <https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx>

Data for New York was obtained through a Freedom of Information Act request (FOIL) in January 2020.

Data for Pennsylvania was obtained from PADOCC dashboard <https://dashboard.cor.pa.gov/us-pa/narratives/prison/3>

<sup>92</sup> Prescott, J.J. and Pyle, Benjamin and Starr, Sonja B., Understanding Violent-Crime Recidivism (May 2020). Notre Dame Law Review, Vol. 95, No. 4, pp.1643-98 (May 2020), U of Michigan Public Law Research Paper No. 676, U of Michigan Law & Econ Research Paper No. 20-012, <https://ssrn.com/abstract=3571912>

◆ **Recommendations on Measures taken to reduce the population**

1. It is essential that in comparable future health related population reduction measures that vulnerability through age or health status be included into criteria for early release.
2. To avoid mistrust, rationale for releases of specific cohorts of the population should be clearly communicated to the incarcerated population and the public.
3. 3. In Illinois there are statutory limitations on the eligibility of individuals convicted of certain that create barriers to utilizing some of the sentencing reduction mechanisms mentioned. These limitations need to be addressed legislatively in order to increase utilization of early release options.



Healthcare

# Healthcare

## Impact of COVID-19 on General Healthcare

It was clear to epidemiologists from the outset of the COVID-19 pandemic that health systems in correctional facilities would face exceptional challenges in coping.<sup>93,94</sup>

Assessing the impact on the direct health of the incarcerated population, and the measures taken in response, has been fundamental to oversight throughout the pandemic.

To understand the context of the response to COVID-19, it is essential to consider the numerous issues of healthcare in prison in general. All three organizations have extensively documented inaccessible and inadequate general, medical and dental care in prisons in their respective states before the start of the pandemic. Historically, this has been manifested in extended wait times to see general, dental and mental health staff, continued reports of over or inappropriate prescription of Tylenol or Ibuprofen for multiple issues, and restrictive criteria placed on requests for specialist care or transfer to hospitals.

Many of these issues have been exacerbated by COVID-19. At the beginning of the pandemic, in early 2020, the incarcerated population were obviously subject to the same issues in accessing healthcare experienced across the general population. However, across the three states it is clear that, while a level of normalcy may have been reached in providing care to the general population in prisons the standard of care has not even reached the inadequate pre-pandemic levels.

### ◆ General Healthcare in Illinois

In Illinois the inadequate level of care pre-pandemic was clearly revealed in survey answers of the 12,780 people who responded to prior JHA surveys at 21 facilities between April 2018 and May 2019, 65% expressed dissatisfaction with medical care in IDOC.<sup>95</sup> This is also evidenced by ongoing litigation regarding prison healthcare being unconstitutionally inadequate.<sup>96</sup> Around the start of the pandemic in March 2020 JHA contextualized the challenges posed by COVID-19 against the background of “the many inhumane and constitutionally violative practices around the medical care provided inside Illinois prisons.”<sup>97</sup>

This well-established dissatisfaction with the standard of care has had significant consequences in the way that people incarcerated in IDOC respond to COVID-19. In response to the question “Would you tell IDOC staff (medical or security) if you were sick because of COVID-19?” 8.5% of 15,893 respondents said that they would not, a rate which would have critical consequences for the spread of COVID-19. Regarding the failures of the healthcare system to adapt to treat COVID-19 13%, around

93 B Williams, C Ahalt et al, “Correction Facilities In the Shadow of COVID-19: Unique Challenges and Proposed Solutions, Health Affairs, March 2020, <https://www.healthaffairs.org/doi/10.1377/hblog20200324.784502/full/>

94 T Burki, “Prisons are “In no way equipped” to deal with COVID-19”, May 2020, The Lancet, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30984-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30984-3/fulltext)

95 John Howard Association Survey Data Dashboard (Search by survey question: “I am satisfied with medical services”) <https://www.thejha.org/dashboard>

96 “Lippert vs Jeffreys”, Uptown People’s Law Center, <https://www.uplcchicago.org/what-we-do/prison/lippert.html>

97 “Covid-19 Concerns And Recommendations For The Safety Of Illinois Prisoners And Prisons From JHA” March 10, 2020, <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e67bdbb7325ed-3b08103ad3/1583857083998/JHA+Coronavirus+Statement.3.10.2020.pdf>

2,000 people, said they did so without a response, compared to 3% (436) who said that they did.<sup>98</sup>

In survey comments numerous concerns were expressed that general healthcare needs were neglected as IDOC directed resources to the COVID-19 response. Many people reported not getting seen for sick call requests, and that non-COVID-19 medical issues were not being addressed, including chronic issues. “Some people reported being told that healthcare was not seeing anyone. Others felt staff were dismissive of their health concerns.”<sup>99</sup> As a consequence JHA encouraged IDOC “to clarify what medical care is currently available and can be expected to be available during the various quarantine statuses within IDOC and make this information public.”<sup>100</sup> This request did not receive a response.

### ◆ General Healthcare in New York

During visits to Green Haven and Sullivan correctional facilities, CANY collected information on the incarcerated population’s perception of healthcare revealing a deep lack of trust in the healthcare system, as demonstrated in the yet unpublished data below.

While 48.9% of 178 incarcerated respondents said that they trust doctors or healthcare providers to make medically correct judgements, 45.5% trusted doctors to do what is in the best interests of their patients, and 48% trusted doctors to maintain patient confidentiality across the profession as a whole, this number drops dramatically when asked about doctors and healthcare providers in prison. Only 9.7% said that they trusted prison-based doctors or healthcare providers to make medically correct decisions, 12.1% to act in the best interest of their patients, and 15.5% to maintain patient confidentiality. When asked if they had negative experiences with prison medical services for general care 84.5% said yes with 8.4% saying no.

In accompanying comments, a woman said that incarcerated people had to act as if they were suicidal in order to receive mental health services at Bedford Hills. At Green Haven people said that routine medical trips to hospital were frequently cancelled. A huge number of complaints were about dental care in all the facilities, with interviewed people at Sing Sing saying that it was almost impossible to see the dentist.

On the quality of healthcare provided during the pandemic, CANY collected yet unpublished quantitative data on healthcare from visits to Sullivan in March 2021 and Taconic Women’s Prison on June 2021. At Sullivan 68% of 82 people interviewed said that there had been an impact on the quality of medical and dental services since the beginning of the pandemic. 48% of 81 said that the accessibility of mental health services had been impacted. At Taconic 48% of 21 said that they were able to receive medical or mental health services when they needed it. 54% said that they had been able to receive routine women’s health services since March 2020.

<sup>98</sup> “COVID-19 Survey: Report on Initial Results of Surveys Collected from People Incarcerated in IDOC Prisons” JHA, June 2020, p.5 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fdbdac67dc1bd3bdfa57ce/1608243915190/Final+IDOC+Results+Updated+July+2020.pdf>

<sup>99</sup> “Perceptions and Experiences from People inside Prison during the Pandemic, Section: Medical” P.22, John Howard Association, October 2020 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2ea399e841c09b01c4493/1604512314331/JHA+COVID-19+Prison+Survey+Comment+Report+Medical.pdf>

<sup>100</sup> Ibid P.23

In visits to Sing Sing in September 2020, Bedford Hills in October 2020, Sullivan in March 2021, Taconic in June 2021, only 51% of 542 people replied yes to the question “Have you been able to access medical and dental services since March 2020?” This is an astonishingly low number given that the question refers to any kind of medical care in that time.

The lack of access to care was articulated by people in unpublished quotes across multiple visits. In Sullivan, CANY’s monitors heard that one person who was vomiting blood and still received no response from sick call slips and was subsequently hospitalized. During a visit to Great Meadows in June 2021 there were numerous comments on the delayed response time from medical staff to sick call slips and call out requests and the issue was raised with the executive team of the facility. Due to the repeated issues the CANY collected yet unpublished quantitative data during the visits to Clinton in July 2021 and found that 30.1% of 93 people who had requested medical care in the past 12 months reported waiting over 1 month for a response to a request for care and 19.4% reported receiving no response at all.

### ◆ General Healthcare in Pennsylvania

The findings from the Pennsylvania Prison Society’s Fall 2020 survey closely mirror those in Illinois and New York. One in six respondents said they could not access medical care due to a policy of restriction on non-emergency care. Comments indicate that prisons have restricted non-emergency medical visits, resulting in delays accessing services and, in some cases, people going without needed medical treatment altogether.<sup>101</sup> Data from the second Pennsylvania Prison Society survey in Winter 2021 indicated that access to medical care was more problematic still. A majority of respondents (58%) report being dissatisfied with their ability to access medical care, while only 16% report being satisfied.<sup>102</sup>

The co-pay system in prisons, whereby incarcerated people pay for a portion of health coverage, existed in many US states, but was suspended almost everywhere when the pandemic hit.<sup>103</sup> In Pennsylvania, the Department of Corrections initially suspended the co-pay requirement for people experiencing “flu like symptoms.” The Prison Society’s surveys, however, found that there was confusion about what constituted a “flu like symptom” and in some prisons staff were



If you report these problems and test negative or they find out some other way that you have not contracted the virus, then inmates end up paying the co-pay and more. This makes inmates uneasy about reporting symptoms and causes them to ‘hide’ when sick.

**SCI MERCER, PA**  
November 2020

<sup>101</sup> Prison Conditions During the COVID-19 Pandemic: Preliminary Findings from a Survey of People in Pennsylvania State Custody” Pennsylvania Prison Society, p.2, September 2020 [https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport\\_jc\\_9.23\\_\\_](https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport_jc_9.23__)

<sup>102</sup> “Prison Conditions During the COVID-19 Pandemic: A Follow-Up Survey of People in Pennsylvania State Custody” p.2, February 2021, [https://issuu.com/prisonsociety3/DOCs/pps\\_scisurveyrprt\\_final\\_](https://issuu.com/prisonsociety3/DOCs/pps_scisurveyrprt_final_)

<sup>103</sup> W Bertram “Momentum is building to end medical co-pays in prisons and jails” August 2019, Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2019/08/08/copays-update/>

mandating co-pays even when the incarcerated person indicated “flu like symptoms.”<sup>104,105</sup>

The PADOE took note. In its February 2021 report on the winter survey the Society noted “upon learning of these issues surrounding co-pays, the DOC adopted a new policy on February 4th of this year [2021], temporarily suspending co-pays for all medical care, noting that Corrections Secretary John Wetzel “felt strongly that there should be absolutely no barriers to seeking treatment.” These words from the secretary are encouraging, and we call on the DOC to eliminate medical co-pays permanently.”<sup>106</sup> However legislation to enact this has still not been passed.<sup>107</sup>

## Testing

The importance of COVID-19 testing has been widely promoted by the CDC as the most effective way to track and isolate cases in contained communities.<sup>108</sup> The need for immediate identification and isolation is greater in prison than in almost any other context. Testing is also a key indicator of the severity of outbreaks in prisons and should inform the protection of the incarcerated population, the public, and the decision-making of policy makers. Incarcerated people have told the organizations that testing of both incarcerated people and staff made them feel safer.<sup>109</sup>

### ◆ Testing in Illinois

Several people responding to the JHA April 2020 COVID-19 surveys commented that their facility was not testing any prisoners or staff despite people within the facility being visibly sick. Others believed testing was unavailable to them. People were particularly anxious at facilities with known cases of staff testing positive for COVID-19 where others were not able to be tested. Additionally, people reported not being tested even when they had been celled with or housed close to someone who tested positive. “People felt that without testing, nothing was being done to protect them”.<sup>110</sup>

Among responses to JHA’s COVID-19 staff survey in May 2020, the overwhelming majority of the 261 respondents (98.1%) indicated they were not tested for COVID-19 during the previous week. Of the relatively few people who indicated they were tested, most (80%) stated that IDOC did not provide the test. Additionally, most survey respondents (88.8%) indicated they had not been tested

104 J Jaafari, “Pa. Corrections Dept. takes steps to stop spread of coronavirus at prisons”, WITF, March 2020 <https://www.witf.org/2020/03/12/pa-corrections-dept-takes-steps-to-stop-spread-of-coronavirus-at-prisons/>

105 “The most significant criminal justice policy changes from the COVID-19 pandemic”, Prison Policy Initiative, May 2021, <https://www.prisonpolicy.org/virus/virusresponse.html>

106 “Prison Conditions During the COVID-19 Pandemic: A Follow-Up Survey of People in Pennsylvania State Custody” p.7, February 2021, [https://issuu.com/prisonsociety3/DOCs/pps\\_scisurveyrprt\\_final\\_](https://issuu.com/prisonsociety3/DOCs/pps_scisurveyrprt_final_)

107 “Prison Society Supporter Newsletter” <https://us16.campaign-archive.com/?u=9396e72ff480a7806907da957&id=d-b30665e12>

108 “Principle of Contact Tracing”, Centers for Disease Control and Prevention, December 2020 <https://www.cdc.gov/coronavirus/2019-ncov/php/principles-contact-tracing.html>

109 Perceptions and Experiences from People inside Prison during the Pandemic Section: Medical”, John Howard Association, October 2020, p11 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2ea399e841c09b01c4493/1604512314331/JHA+COVID-19+Prison+Survey+Comment+Report+Medical.pdf>

110 Ibid



for COVID-19 at any time prior to May 2020, at which time there was also limited testing available for the general population.<sup>111</sup>

As JHA reported in March 2021 “IDOC significantly increased COVID-19 testing in late 2020, and by the beginning of January 2021 approximately 30,700 staff and 74,900 prisoner tests had been conducted. By the end of January over 66,400 staff and 203,700 prisoner tests had been conducted. JHA has urged increased testing and believes this effort has been critically important to mitigation efforts.”<sup>112</sup> After repeated requests from JHA, the IDOC COVID-19 dashboard clearly presents data on the number of tests of staff and incarcerated people, along with case numbers.

The IDOC COVID-19 page states that, “since December 6 2020, the office of health services will test all staff. When the Office of Health Services identifies an outbreak at a facility, all staff and individuals in custody at that facility will be tested approximately every three days until no new cases are identified for 14 days.”<sup>113</sup> This policy has the benefit of being clearly defined and could be replicated in other states. It has also resulted in a far higher rate of tests carried out as a percentage of the population in comparison to the other two states as shown in the graph below.

### ◆ Testing in New York

In January 2021 CANY reported that testing at NY state facilities was inconsistent and reactive to outbreaks and it was therefore not possible to use testing as a reliable indicator of prevalence across DOCCS facilities.<sup>114</sup>

In yet unpublished data collected from visits to Sing Sing in September 2020, Bedford Hills in October 2020, Green Haven in December 2020, and Sullivan in March 2021, 75% of 613 people replied yes to the question “Have you been tested for COVID-19 with a nose swab since March”. Of the 481 that said they had been tested, around 51% said they received their results. It is clear that there have been resources to test in New York but the overall strategy behind testing is not clear.

Multiple issues around testing were discovered during the visit to Fishkill Correctional Facility in July



I think we all had COVID-19 here but no testing has been done. Everyone is scared to report illness. Everyone was sick but nobody told staff.

**CENTRALIA CORRECTIONAL CENTER, IL**

**May 2020**

111 “COVID-19 Survey: Report on Initial Results of Surveys Collected from People Who Work for IDOC,” John Howard Association, July 2020 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5efd4b2221b737104bb52991/1593658150454/IDOC+Staff.pdf>

112 “Perceptions and Experiences from People inside Prison during the Pandemic Section: Communications”, John Howard Association, October 2020, p.4 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/603e6a6faeac837778065d91/1614703216298/JHA+Prison+Communications+Briefing+March+2021.pdf>

113 “COVID-19 Response”, IDOC, <https://www2.illinois.gov/idoc/facilities/Pages/COVID-19Response.aspx>

114 “Spread of Covid-19 in New York State Prisons: Month-to-Date Infections, Active cases, and Rates of positivity”, P.8, Correctional Association of New York, January 2021 [https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/600722ef5e-bea0c8bf1227d/1611080431569/CANY\\_SpreadofCOVID-19NYStatePrison\\_2021.pdf](https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/600722ef5e-bea0c8bf1227d/1611080431569/CANY_SpreadofCOVID-19NYStatePrison_2021.pdf)

2020. CANY heard from multiple people that a temperature gauge was used instead of the nasal swab and that this was being considered as “tested.” CANY representatives also spoke with at least two incarcerated people 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.

The weaknesses of the systemic failures in testing were conveyed by people in yet unpublished comments made at Green Haven in December 2020. Multiple people said that after people tested positive and were sent into 16-day quarantine in the infirmary there were not subsequently tested before they returned to the general population.

According to NYDOCCS, 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.” According to statements to media, DOCCS began this process around July 2020.<sup>115</sup> NYDOCCS now also issues a monthly update on the number of cases, deaths and tests on its website, which has made it far easier to follow.<sup>116</sup>

### ◆ Testing in Pennsylvania

The Society’s report in Fall 2020 stated that “since March, the Department of Corrections has taken steps to prevent and mitigate the spread of COVID-19 in its prisons by testing and quarantining new admissions.”<sup>117</sup> However, survey data also showed that at that time staff were not systematically tested each week.

In the second survey in Winter 2021, The Society recommended that PADOC “Implement weekly, rapid testing of all staff that come into contact with people in custody until they are vaccinated. When prisons are in lockdown, corrections staff are the only people coming and going from the facility who could potentially introduce the virus. While the Department screens staff for symptoms before entering, that is not sufficient to stop a virus known for asymptomatic spread. We call on the department once again to adopt the mandatory staff testing protocols currently required for all nursing homes. These protocols require monthly, weekly, or bi-weekly rapid testing of all staff in contact with residents, based on the level of community spread.”<sup>118</sup> The PADOC COVID-19 dashboard includes tests by facility and positivity rate statistics<sup>119</sup> and shows that 136,999 tests have been conducted as of July 2021.

<sup>115</sup> R Harding “Why COVID-19 testing increased at Auburn, Cayuga state prisons” Auburn Pub, July 10, 2020, [https://auburnpub.com/news/local/govt-and-politics/why-covid-19-testing-increased-at-auburn-cayuga-state-prisons/article\\_df3d77dd-0130-55a2-826d-6c69f4f06416.html](https://auburnpub.com/news/local/govt-and-politics/why-covid-19-testing-increased-at-auburn-cayuga-state-prisons/article_df3d77dd-0130-55a2-826d-6c69f4f06416.html)

<sup>116</sup> “NYS DOCCS Incarcerated Individuals Covid-19 Tests by Reported Facility as of June 7, 2021”, NYDOCCS, [https://doocs.ny.gov/system/files/documents/2021/06/copy-of-inmatedailycovid\\_table\\_forpio-2021.06.07.pdf](https://doocs.ny.gov/system/files/documents/2021/06/copy-of-inmatedailycovid_table_forpio-2021.06.07.pdf)

<sup>117</sup> Prison Conditions During the COVID-19 Pandemic: Preliminary Findings from a Survey of People in Pennsylvania State Custody” Pennsylvania Prison Society, September 2020 [https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport\\_jc\\_9.23\\_\\_](https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport_jc_9.23__)

<sup>118</sup> “Prison Conditions During the COVID-19 Pandemic: A Follow-Up Survey of People in Pennsylvania State Custody”, February 2021 [https://issuu.com/prisonsociety3/DOCs/pps\\_scisurveyrpt\\_final\\_](https://issuu.com/prisonsociety3/DOCs/pps_scisurveyrpt_final_)

<sup>119</sup> “Pennsylvania Department of Corrections COVID-19 Dashboard” <https://app.powerbigov.us/view?r=eyJrIjoiaMTcyY2I2M-jMtZjJjNC00NjNjLWJjNWYtNTZlZWEtYmRkYWYwIiwidCI6IjQxODQxLTAxMjgtNGRkNS05YjZlLTQ3ZmM1YTlhMWJkZSJSJ9>

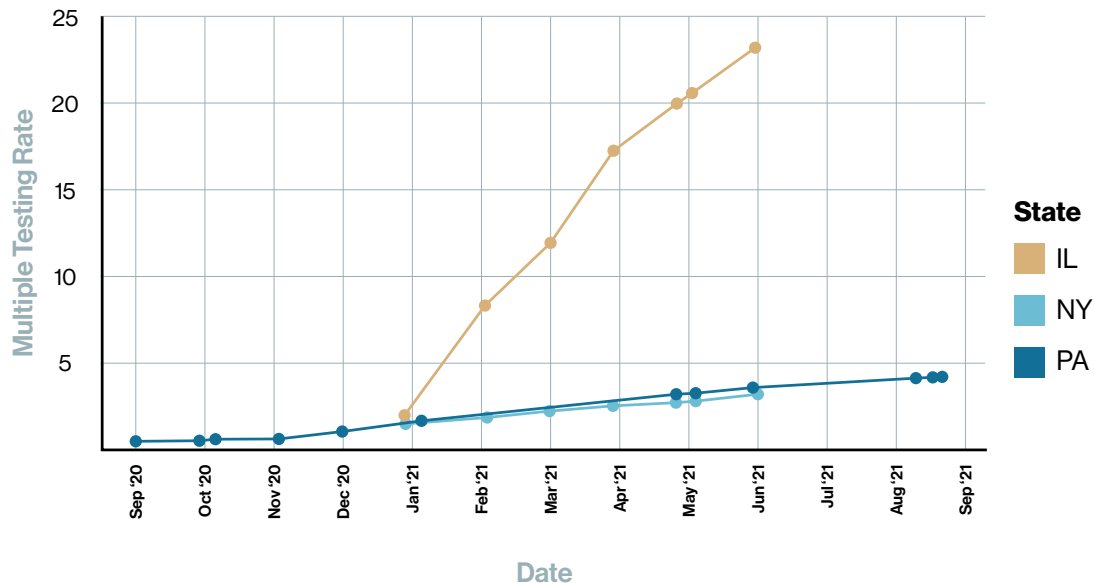


Figure 4: Cumulative testing rates of Incarcerated Population and Staff in state facilities<sup>120</sup>

Separate to PCR and rapid testing, PADOCC has been carrying out wastewater testing for RNA that indicates the presence of COVID-19 as a public health tool.<sup>121,122</sup> As it explains “The DOC is also now testing wastewater at all state prisons to monitor for an influx in the COVID-19 viral load. This report can help DOC officials find a spike in the virus and test accordingly”. The COVID-19 dash also links to COVID wastewater results by facility, which is updated daily. The reliance on wastewater for testing may provide an explanation for the low rate of individual testing in comparison to Illinois.

## Vaccinations

There is national evidence that, although the COVID-19 vaccines have widely been considered the way out of the crisis in prisons, the incarcerated population has not been prioritized for vaccines in most states.<sup>123</sup> This reflects a mixed picture across the US on vaccination rates in prisons.<sup>124</sup>

The CDC recommends that incarcerated people be included in the first phase of vaccinations.<sup>125</sup>

120 Data on testing rates is gathered from The Marshall Project and Associated Press “The Marshall Project: COVID Cases in Prisons.” And collected weekly by reporters who contact DOCs directly. <https://data.world/associatedpress/marshall-project-covid-cases-in-prisons>  
 As of June/1/2021, IDOC had carried out 633,996 total tests.  
 As of August/11/2021, PADOCC had carried out 148,826 total tests.  
 As of June/02/2021, NYSDOCCS had carried out 99,966 total tests.

121 <https://www.wesa.fm/show/the-confluence/2021-05-27/in-person-visits-resumed-this-week-at-five-state-prison-facilities>

122 [https://www.cdc.gov/healthywater/surveillance/wastewater-surveillance/wastewater-surveillance.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcases-updates%2Fwastewater-surveillance.html](https://www.cdc.gov/healthywater/surveillance/wastewater-surveillance/wastewater-surveillance.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcases-updates%2Fwastewater-surveillance.html)

123 T Herring and E Widra, “Just over half of incarcerated people are vaccinated, despite being locked in COVID-19 epicenters,” Prison Policy Initiative, May 2021, <https://www.prisonpolicy.org/blog/2021/05/18/vaccinationrates/>

124 M Maner “An Analysis of Interim COVID-19 Vaccination Plans”, The Covid Prison Project, July 2021 <https://covidprisonproject.com/blog/data-analysis/an-analysis-of-interim-covid-19-vaccination-plans/>

125 K Dooling et al, “The Advisory Committee on Immunization Practices’ Updated Interim Recommendation for Allocation of COVID-19 Vaccine — United States, December 2020” [https://www.cdc.gov/mmwr/volumes/69/wr/mm695152e2.htm?s\\_cid=m-](https://www.cdc.gov/mmwr/volumes/69/wr/mm695152e2.htm?s_cid=m-)

According to a Prison Policy Initiative study this categorization was partly fulfilled in Illinois and Pennsylvania, where incarcerated people were allocated in phase 1B, but not in New York where it was implied, but not stated, that incarcerated people would be eligible during phase 2 of the rollout.<sup>126</sup>

There is significant global evidence of a low rate of uptake among incarcerated people, which is potentially driven by historical medical ill-treatment of the incarcerated population.<sup>127</sup> Furthermore, in addition to the low rate of uptake by incarcerated people, fewer than 50% of prison staff have been vaccinated due to high rate of refusal.<sup>128</sup> All of these universal themes are consistent with findings across the three states.

### ◆ Vaccinations in Illinois

In Illinois incarcerated people and staff were prioritized and allocated the status of 1B in the state's vaccination plan.<sup>129</sup> This is followed by extensive efforts that have been made to educate that appear to have had an impact. The first vaccines were administered in Illinois on February 1, 2021. During the introduction of vaccines there was an awareness raising campaign by IDOC, which was supported by JHA who encouraged people to take steps to protect themselves when given the opportunity in a newsletter of March 2021.<sup>130</sup> An IDOC June 2021 newsletter stated that "As the result of a robust education and communication plan, 41% of IDOC staff and 69% of the incarcerated population are fully vaccinated against COVID-19."<sup>131</sup> This amounts to "4,300 inoculated staff members and 18,900 detainees spread across the state's 35 prison facilities."<sup>132,133</sup> While the uptake rate from staff appears much lower than the rate of for incarcerated people, this does not reflect that they may have been able to obtain vaccinations within their communities.

During JHA's visits to Lincoln and Graham Correctional Centers JHA heard positive responses to the use of peer educators as "vaccine ambassadors" to try to best inform the population and JHA concluded that this approach was a positive model of communication practice<sup>134</sup> and also observed a "well-thought out and coordinated effort" by the National

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126 K Quandt, "Incarcerated people and corrections staff should be prioritized in COVID-19 vaccination plans" Prison Policy Initiative, December 8 2020, <https://www.prisonpolicy.org/blog/2020/12/08/covid-vaccination-plans/>

127 "Willingness to Receive a COVID-19 Vaccination Among Incarcerated or Detained Persons in Correctional and Detention Facilities - Four States, September – December 2020" Centers for Disease Control and Prevention, April 2021, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7013a3.htm>

128 "With the majority of corrections officers declining the COVID-19 vaccine, incarcerated people are still at serious risk" Prison Policy Initiative, April 2021, <https://www.prisonpolicy.org/blog/2021/04/22/vaccinerefusal/>

129 "SARS-CoV-2/COVID-19 Mass Vaccination Planning Guide," Illinois Department of Public Health, <https://www.dph.illinois.gov/covid19/vaccination-plan>

130 "John Howard Association Statement Marking One Year of COVID-19 Prison Lockdowns" JHA, March 14, 2021, <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/604e37fae89f7c51416b40ee/1615738874382/JHA+Statement+3.14.21+FINAL.pdf>

131 "Corrections Connection, Illinois Department of Corrections, June 2021, <https://www2.illinois.gov/idoc/news/IDOCNewsletter/Documents/June%20Newsletter%20-%20FINAL.pdf>

132 S Holland, <https://www.shawlocal.com/northwest-herald/opinion/column/2021/06/30/eye-on-illinois-county-jail-system-still-dealing-with-idocs-backlog/>

133 "Illinois Department of Public Health May 17, 2021, meeting minutes" <https://documentingCOVID-19.io/embed.php?id=312>

134 JHA, "Visits to Lincoln & Graham Correctional Centers. March 2021, JHA's first COVID-19 prison monitoring visits" P.24, <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/6081902c871dae0c23140a0d/1619103788830/JHA+Report+Lincol->

Guard in administering the vaccination program.<sup>135</sup>

There is information on vaccinations on the IDOC webpage and a link to the state's vaccination plan with details on the phasing with timetables outlining responsibilities for administering the vaccine and storage, as well as information on programs to educate those in custody so they can make an informed decision.<sup>136</sup> However, data regarding vaccination rates systemwide or by facility is not reported on the webpage or in the dashboard as of the time of this report. The external presentation of resources to publicly promote vaccines is a positive feature of the approach in Illinois, and should be replicated elsewhere. IDOC also conducted multiple Webex educational sessions with their health authority permitting people in custody to ask questions, which is another commendable practice.

For those who are incarcerated and now seek to be vaccinated, wait times and vaccine availability at this time are unclear. IDOC is sharing information with JHA on this but is having issues tracking the numbers and notes the inconsistent practices across facilities to get prisoners vaccinated, along with the complexities posed by having to coordinate this ongoing effort with local health authorities. Anecdotally, JHA continues to hear from a small number of people in Illinois' prisons who would like to be vaccinated and claim it is taking at least several weeks to a few months for this to happen. Intervention on an individual level seems to be effective but is not a sustainable or desirable system approach to ensuring vaccination for those who were hesitant.

On August 26th 2021 Governor Pritzker issued an executive order mandating vaccinations for state employees including staff, contractors and vendors working for IDOC.<sup>137</sup> There has been resistance from the state union representing correctional workers to the vaccine mandate. The move represents a significant step in ensuring system-wide vaccine-based protection.

### ◆ Vaccinations in New York

As mentioned above, incarcerated people were not prioritized in the first round of vaccines in New York state despite the enormous evidence of their increased vulnerability and CDC guidelines. COVID-19 vaccines were offered to incarcerated people age 65 and older on February 5, 2021.

“

There is so many staff that doesn't believe how powerful COVID really is, and criticize inmates because we are worried inside of these prisons because we don't get adequate medical attention.

**GRAHAM CORRECTIONAL  
CENTER, IL**

**March 2021**

n+%26+Graham+March+2021+FINAL.pdf

135 Ibid, p.26

136 "COVID-19 Response", IDOC, <https://www2.illinois.gov/idoc/facilities/Pages/COVID-19Response.aspx>

137 B Mead et al, "Mask Up, Vax Up: Illinois Governor Issues Immediate Face Covering Mandate for All, COVID-19 Vaccine Mandate for Healthcare, School and State Workers and Students" JD Supra, August 21 2021,

This was reinforced when NYSDOCCS was court ordered to provide vaccines for people below the age of 65 on March 29, 2021.<sup>138,139</sup>

From January 2021 to June 2021, CANY distributed surveys about vaccine hesitancy to 1,078 incarcerated people across 44 New York State prisons. All 1,078 incarcerated people who received a survey were selected because CANY had either recently completed a prison monitoring visit at their location or they were a part of random sampling of the prison population. There were a total of 198 responses to the survey. 78.9% of 179 respondents said that they had heard negative information about vaccinations. Just 40.1% of 164 said that they would take the vaccination after hearing negative reports. This figure aligns with the uptake rate across the NYDOCCS state facilities, which stands at around 40% as expressed anecdotally by NYDOCCS staff in June 2021. A DOCCS monthly advocate call reconfirmed a total of 15,331 vaccinated incarcerated individuals, which amounted 46.6% of people under custody who were vaccinated. This is a far lower rate than that of Illinois or Pennsylvania.

In open-ended responses to questioning, themes emerged around a fear of experimentation with incarcerated people, with repeated citations of the historical use of prison populations to test new drugs. Others cited how communities of color have repeatedly been experimented upon. Additionally, incarcerated people went into details on the lack of trust in NYDOCCS to administer the vaccine properly.

In unpublished comments collected at Sullivan March 2021, several people complained about the perceived unfairness of staff receiving vaccines before the incarcerated population. Some also said that there was very little to no information about the vaccine provided. One person, reflecting the mistrust behind much of the vaccine hesitancy said “let’s say you’re a nurse and you come with an attitude, I’m not going to trust you with anything.” During a visit to Greene in April 2021 people also explained that there was not enough education about the vaccine, and was limited to what was shown in 30 second videos.

However, during a visit to Clinton in July 2021 CANY noted that the executive teams had made a substantial effort in administering COVID-19 vaccines to incarcerated individuals at the facility, including by scheduling multiple opportunities for people to receive a vaccine and passing information about the vaccines, that was provided by CANY, to incarcerated individuals.

CANY also asked about vaccination uptake. The executive team stated that around 75% of the population had been vaccinated, and 64% of the incarcerated people interviewed said they had received the vaccine. Of those who had not received the vaccine, 15.7% indicated they would only take the Moderna vaccine and had only been offered the Johnson and Johnson vaccine. 19.7%



As an incarcerated individual my greatest fear is to be a lab rat for the state.

**SING SING CORRECTIONAL FACILITY, NY**

**February 2021**

<sup>138</sup> New York Supreme Court, County Of Bronx Part Ia-5 <https://www.courthousenews.com/wp-content/uploads/2021/03/Cuo-mo-prisonvaxorder.pdf>

<sup>139</sup> N Pullano, “Bronx Court Orders NY State to Vaccinate Prisoners” Courthouse News Service, March 29 2021, <https://www.courthousenews.com/bronx-court-orders-ny-state-to-vaccinate-prisoners/>

reported not taking a vaccine due to a lack of trust in NYDOCCS, with 10.9% reporting not taking a vaccine due to having contracted the illness before.

The NYDOCCS COVID-19 webpage does not have data on vaccines on its site as of August 2021, but states that vaccines have been offered to staff and individuals 65 years and older in relation to resumption of visiting rights in later April or early May 2021. Evidence from CANY's visits in May through August suggests that all incarcerated people have been offered the vaccine across facilities and it is clear that there needs to be an approach to update webpage information more frequently.<sup>140</sup>

It has not been possible to get clear data on the rate of staff vaccinations in New York. On July 27 Former Governor Cuomo issued a mandate for all state employees, including NYDOCCS employees to be vaccinated or be subject to weekly testing, with the order coming into effect on September 6.<sup>141</sup>

According to media reports from August 2021 the union representing correction officers, The New York State Correctional Officers and Police Benevolent Associations (NYSCOPA), is planning legal action against the state to contest the COVID-19 mandate.<sup>142</sup>

### Methodology Case Study 1—

## Thematic Analysis of Open-Ended Questions in New York

An example of an innovative and replicable approach to oversight is CANY's analysis of qualitative data from state facilities across New York. During monitoring visits and follow up surveys CANY asks a mixture of closed-ended questions to generate quantitative data and open-ended questions to elicit narrative information and a systematic review of field notes from CANY representatives, and open-ended responses from questionnaires/ interviews.

CANY staff and interns code data, using emergent inductive and open coding approaches, by salient themes and re-code those findings across all of data (within a project) to ensure appropriate reliability, validity, and triangulation, developing both initial and more focused, complex coding. All coding is done by hand. Inter-rater reliability was measured at around 85%.

The approach has the advantage of generating rich data that is not traditionally collected and used, and centers incarcerated people's own words. As an example, themes that emerged from the vaccine hesitancy survey included the following: unformed decision making, fear of experimentation, lack of trust, social inequality and disparities, fear of side effects/risks from vaccines, and general skepticism toward vaccines.

140 "DOCCS COVID-19 Report," NYDOCCS, <https://doccs.ny.gov/doccs-covid-19-report>

141 M Villeneuve, "NY to require state employees to get vaccines, or get tested" AP News, July 29, 2021

142 M McKay "NYSCOPBA to take legal action over COVID-19 vaccine mandate" NY Spectrum News, August 27, 2021

Adopting the approach has not required significant additional resources as it relies on using data which CANY was already collecting during monitoring visits. The use of language as it is expressed by incarcerated people gives the information greater authenticity and transparency as themes are generated directly from them.

The overall output is a final document of coded data from the project (e.g., monitoring visit or survey), use in digital communications on social media pages, and within written communication such as reports or fact sheets.

### ◆ Vaccinations in Pennsylvania

In Pennsylvania incarcerated people were included in phase 1B of the vaccination plan meaning that they were able to receive vaccines as early as February 2021.<sup>143</sup> There has been a concerted effort to address expected rates of vaccine hesitancy. At the start of the flu season PADOCC used the administering of the annual flu shot as a way of piloting a program whereby incarcerated people were given a \$5 credit for taking the vaccine. The lessons allowed a similar process to be applied when the COVID-19 vaccine began to be administered to incarcerated people who received a \$25 credit for clothing, food and other items in March 2021.<sup>144</sup>

As of August 2021, PADOCC reports that 87.7% (n 32,452) of the incarcerated population of 36,999 were fully vaccinated.<sup>145</sup> This incredibly high rate, which comfortably outstrips those of Illinois and New York as likely heavily impacted by the \$25 credit offer. PADOCC has a clear and accessible FAQ on vaccines that demonstrates an understanding of their role of reassuring the public that the vaccine is being rolled out in a logical way and that there is a need for it, thereby covering both points of priority on communication on the vaccine.<sup>146</sup>

However, in with the high rate of uptake in Pennsylvania mistrust was articulated. In yet unpublished data The Society received 260 responses to questions around vaccine hesitancy between June 2021 and September 2021. Of the 41 respondents who had not received the vaccine 31 said that they had not done so out of fear of possible side effects 8 saying that they did not trust PADOCC.

143 "Some prison inmates are receiving the COVID-19 vaccine" Fox 43 News, February 26 2021, <https://www.fox43.com/article/news/health/coronavirus/prison-inmates-phase-1b-covid19-vaccine/521-f42b7de3-c30e-45bb-a980-3fc11d516ff0>

144 J Jaafari and J Martines, "Two Pa. prisons have vaccinated more than 70% of inmates, a \$25 incentive program may be making a difference," Williamsport Sun-Gazette, March 17, 2021, <https://www.sungazette.com/news/2021/03/two-pa-prisons-have-vaccinated-more-than-70-of-inmates-a-25-incentive-program-may-be-making-a-difference/>

145 "Pennsylvania Department of Corrections, COVID-19 Dashboard," <https://app.powerbigov.us/view?r=eyJrIjoIMTcyY2I2M-jMtZjJjNC00NjNjLWJjNWYtNTZlZWE1YmRkYWYwIiwidCI6IjQxOGUyODQxLTAxMjgtNGRkNS05YjZlLTQ3ZmM1YTlhMWJkZS9J>

146 "COVID-19 Vaccine Information", PADOCC, <https://www.cor.pa.gov/Pages/COVID-19-Vaccine-Information.aspx>



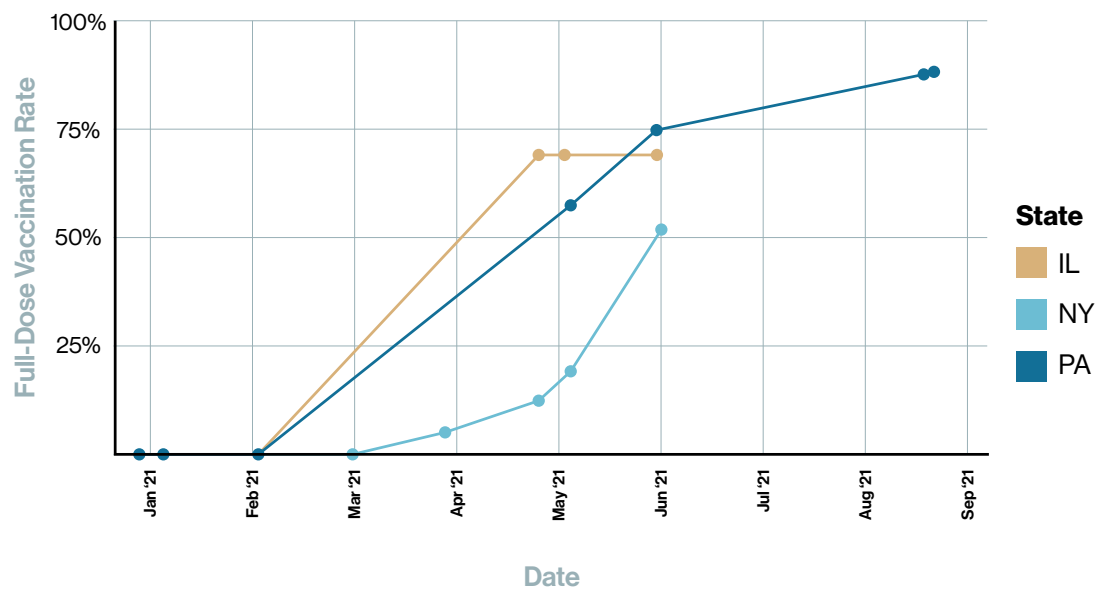


Figure 5: Cumulative vaccinations rates of Incarcerated Population and Staff in state facilities<sup>147</sup>

Concerning staff vaccinations, research carried out in Pennsylvania during early 2021 before the vaccine was available, indicated that 63.4% would take a vaccine if it were offered by PADOE at no cost<sup>148</sup>. After the Pennsylvania Prison Society repeatedly requested a change, an order came into effect in August 2021 which required staff to be either vaccinated or subject to weekly testing. This was an extremely important step, as while staff are one of the only sources of transmission for people confined to prisons, only about 23% staff report being vaccinated for COVID-19. The actual number is likely to be higher as, until August 2021, PADOE staff were not required to report their vaccination status.

## Key Findings and Recommendations on Healthcare

General healthcare was inadequate before the pandemic, which created an even greater need to treat chronic diseases as they placed patients at a greater risk if they contracted COVID-19. More resources should have been directed to general healthcare to allow it to operate as normal at a minimum during the time of crisis. The lack of trust in the capacity and motivation of staff is demonstrated in the responses from all three states and is deeply engrained. Long term improvements in communication on service provision are key to overcoming these issues.

Testing in each of the three states took time to implement systematically but has since become a key component of the response. All three states now clearly communicate and regularly update numbers of tests. There is a massive difference in the testing rate in Illinois compared to the other two states, which appears to be the result of the policy of surveillance testing and of the testing every 3 days of

<sup>147</sup> Data on vaccinations is collected by The Marshall Project and Associated Press and has limited data points. It is unclear why the data in the charts does not correspond with figures obtained directly from the DOCs. <https://data.world/associatedpress/marshall-project-covid-cases-in-prisons>

<sup>148</sup> J Hyatt, V Bacak, E Kerrinson, "COVID-19 Vaccine Hesitancy and Related Factors: Preliminary Findings from a System-Wide Survey of Correctional Staff", Federal Sentencing Reporter, Vol 33, No.4, April 2021.

the entire population when there is an outbreak. Both of these policies appear to have been implemented far more stringently in Illinois than elsewhere. However, it is not clear from the data given if these figures refer to PCR or rapid tests. Many of the issues discussed could be resolved by following the CDC guidelines for testing in correctional facilities, that likely were not developed at the beginning of the pandemic.<sup>149</sup>

In addition to Illinois' proactive use of surveillance testing, the use of wastewater testing as a public health tool in Pennsylvania is a clear example of good practice, which should be replicated elsewhere.

On vaccinations a massive disparity is seen in the uptake figures between New York and the other two states. This may be partly explained by the absence of initiatives such as the provision of a \$25 credit for vaccinations in Pennsylvania, or the "peer educators" initiative in Illinois. While the failure to include incarcerated people in New York during phase of the vaccination program clearly impacted their safety, it does not seem to account for the ongoing low rates of uptake, as all incarcerated people have now been offered the vaccine.

The level of distrust among the incarcerated population clearly plays a serious role in the rate of vaccine hesitancy. For this reason, it is absolutely essential that communication around vaccinations continues to be prioritized and that consistent and specifically targeted methods are applied. Additionally, while it may be the case that people refuse the vaccine when offered the first time, it is important to continually canvas the populations. Anecdotally, many incarcerated people cited the temporary withdrawal of the Johnson and Johnson vaccine as reason for their initial refusal but have since had their concerns assuaged. For this reason, the vaccine must be continually and patiently promoted.

## ◆ Recommendations on Healthcare

1. To improve the standard of general health all DOCs should take steps to:
  - Improve the base level of care to match standards delivered to general community by integrating healthcare in correctional facilities. The same metrics for success as other care settings should be applied to allow for measurement.
  - In situations of crisis ensure that there is no decrease in the quality of care by ensuring minimum resource allocation to/standard for general health services.
  - Abolish co-pay requirements for all conditions.
  - Effectively communicate changes in service provision through multiple channels to ensure incarcerated people can make informed decisions regarding healthcare. To allow for adequate transparency these changes should also be communicated on public dashboards.
2. Testing procedures in the future should follow the CDC guidelines on testing in correctional facilities.<sup>150</sup>
3. To counter the high rate of vaccine hesitancy, the DOCs across different states should share experiences on vaccine promotion and develop models based on communication efforts that have resulted in tangible increase in uptake, such as the approach taken in Pennsylvania.

<sup>149</sup> "Testing in Correctional & Detention Facilities," Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html#Overview-testing-scenarios>

<sup>150</sup> Overview of Testing Scenarios" Centers for Disease Control, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html#Overview-testing-scenarios>



Safety, Well-Being and Order

# Safety, Well-Being and Order

## Distancing

The impossibility of maintaining social distancing is a key driver of the severity of the COVID-19 crisis in prisons. The viral load is greater if COVID-19 is contracted through long-term exposure in a confined space, and the consequences of this have been witnessed across all three states. Medical experts have also described 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.”<sup>151</sup>

### ◆ Distancing in Illinois

In the JHA systemwide survey 59.5% of 15,467 respondents replied “No” to the question “Did the inmates around you follow good health practices in the last week by staying at least 6 feet away from other people when possible?”<sup>152</sup> Survey comments elicited numerous responses from incarcerated people on the difficulties of social distancing and about “their inability to control who was around them and fears about asymptomatic carriers.”<sup>153</sup> Many were highly aware of the vulnerability posed by dorm housing where social distancing is not possible<sup>154</sup> and wondered why empty housing areas were not made available. Respondents also complained about crowding in numerous areas such as the yard, healthcare facilities and dining areas.

There were also numerous complaints that cohorting was not carried out with the adequate level of discipline<sup>155</sup> with mixing of staff and other cohorts for some activities. There is also public reporting from IDOC showing some interfacility transfers continued to occur during the pandemic.<sup>156</sup> On April 8, 2020 recommendations JHA reiterated that IDOC should explain to staff and people incarcerated how social distancing can be expected to work in their particular prison environment, as well as explaining this to their outside supports.<sup>157</sup> In August 2020, when transfers from county jails into IDOC prisons resumed after being mostly paused since March, JHA made a statement requesting reduction of transfers between county and state correctional facilities to ensure best practices for COVID safety.<sup>158</sup>

151 S Kinner, A Young, et al “Prisons and custodial settings are part of a comprehensive response to covid-19. The Lancet Public Health” 2020 5 (4), e188#e189

152 “COVID-19 Survey: Report on Initial Results of Surveys Collected from People Incarcerated in IDOC Prisons” P.6 John Howard Association, July 2021 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fdbdac67dc1bd3bfd-fa57ce/1608243915190/Final+IDOC+Results+Updated+July+2020.pdf>

153 “Perceptions and Experiences from People inside Prison during the Pandemic, Section: Social Distancing”, John Howard Association, July 2021 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5f9b3eb2a222ec-5344974c0d/1604009651037/JHA+COVID-19+Prison+Survey+Comment+Report+Social+Distancing+Section.pdf>

154 Ibid p.3

155 Ibid P.8

156 “Illinois Department of Corrections, Quarterly Report” July 1, 2020, [https://www2.illinois.gov/idoc/reportsandstatistics/Documents/IDOC%20Quarterly%20Report\\_July%202020.pdf](https://www2.illinois.gov/idoc/reportsandstatistics/Documents/IDOC%20Quarterly%20Report_July%202020.pdf)

157 “John Howard Association COVID-19 Recommendations April 8, 2020” <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9615cfc23f2f7a4c567333/1586894287207/JHA+-COVID-19+Recommendations+4.8.20.pdf>

158 Statement of the John Howard Association Minimize COVID-19 Transmission Risks between County and State Correctional Facilities August 5, 2020

### ◆ Distancing in New York

In visits to Sing Sing in September 2020, Bedford Hills in October 2020 and Green Haven in December 2020, 59% of 519 people replied “no” to the question “Have you been able to social distance during mess hall runs, callouts for programs, and yard runs?” The responses convey how difficult it has been to achieve distancing successfully as further outlined in comments received at Fishkill in July 2020 where the mess hall in particular was cited as a place preventing social distancing even with staggered seating and wall markings that suggest maintaining six feet of distance. CANY recommended that NYDOCCS continue to modify facility operations to accommodate the need for social distancing in mess halls, housing areas, program spaces, and recreation yards with increased marking. There was not a response to this recommendation.

In surveys during visits and mailed correspondence with incarcerated people across facilities, CANY observed numerous complaints on the impossibility of social distancing. At Bedford Hills in October 2020 people complained about how long it had taken to install social distancing markers. Another person at Bedford Hills complained about how standing in lines for medicine made social distancing impossible.

At Sing Sing in September 2020 one person complained that social distancing goes out the window when working at the laundry. At Green Haven in December 2020 someone explained that contact happens constantly and that social distancing isn’t happening in reality. Another called efforts at social distancing a ‘joke’ as they were still herded together during movements. Another suggested that they should stagger scheduling of services to reduce crowded spaces.



It’s a joke. They still herd us all together, the way we move, sit together. ‘Social distancing’ is a myth.

**GREEN HAVEN CORRECTIONAL FACILITY, NY**  
December 2020

### ◆ Distancing in Pennsylvania

Attempts to implement social distancing in Pennsylvania have faced similar challenges. In May 2020 PADOCC issued a press release outlining a “demobilization plan” that identified 5 levels of restriction on movement, that stipulated issues such as ‘cohort size’, locations for medical treatment of educational activities and in-cell meal delivery, and specified visiting procedures.<sup>159</sup> Each facility was to have its level of restriction determined independently. The Pennsylvania Prison Society asked repeatedly for information on the criteria that would be used to determine the categorization of restriction without response.

The system was applied during the summer of 2020. but then apparently discontinued during the fall of 2020. Mention of the initiative was then removed from the PADOCC website. This represents an example of frequently observed gaps between stated policy and practice. After the initial “demobilization plan” was abandoned, in June 2021 PADOCC held a press event to demonstrate how

<https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5f2b1a87836a700b94e3286d/1596660359889/JHA+Statement+Minimize+COVID-19+Transmission+Risks+8.5.2020.pdf>

<sup>159</sup> Pennsylvania State Government, Press Room “Department Of Corrections Announces Demobilization Plans” May 22 2020, [https://www.media.pa.gov/pages/corrections\\_details.aspx?newsid=463](https://www.media.pa.gov/pages/corrections_details.aspx?newsid=463)

they would be cohorting groups of people in order to stem viral transmission. An article from the press event describes how different zones are established within prisons in Pennsylvania. It describes how people are being served food in their cells rather than dining halls.<sup>160</sup>

Even with this press event, it remained unclear how different facilities were loosening or tightening activity after high vaccination update among the incarcerated population. As the Society said in in June 2021 in commentary to media “The best that we understand is that the department is giving a lot of discretion to each facility.” “We get calls on a daily basis from loved ones that are concerned about access to programming, access to visit, phone calls, shower time,” said the Society’s Social Services Director Kirstin Cornell, “but it’s really hard to give a clear, consistent answer about what’s happening.” Despite a good job generally, Cornell noted that at this late stage of the pandemic “these lockdown procedures are causing more harm than they are good...There’s real concerns about mental health. And I don’t think we’ll really understand the toll of this last year for a long time.”<sup>161</sup>

Concerning family visits, Pennsylvania was the last of the three states to begin, in June 2021. This was several months after Illinois and New York when they began in April 2021.

## Isolation and Quarantine

Isolation is especially difficult in prison because in the context of incarceration it is synonymous with punishment, and frequently the cells used for medical isolation have been the same as those used for punishment. Isolation cells in prisons are also frequently poorly ventilated.

### ◆ Isolation and Quarantine in Illinois

In Illinois there were serious concerns raised about isolation and quarantine. Many people detailed the negative outcomes they felt would result if they reported symptoms. For example, in comments in responses to JHA’s April 2020 COVID-19 survey at Danville prison people explained that if you are sick and quarantined the removal of personal property seems like a punishment.<sup>162</sup> “People did not have a good understanding

<sup>160</sup> L Wimbley, “Changes prompted by COVID-19 are ‘new normal’ at Somerset prison” Pittsburgh Post-Gazette, June 2021, <https://www.post-gazette.com/news/crime-courts/2021/06/02/Changes-prompted-by-COVID-19-are-new-normal-at-Somerset-prison/stories/202106020160>

<sup>161</sup> K Meyer “More harm than good: Most Pa. prisoners are vaxxed, but isolating COVID rules remain” WHYY, PBS <https://whyy.org/articles/more-harm-than-good-most-pa-prisoners-are-vaxxed-but-isolating-covid-rules-remain/>

<sup>162</sup> Perceptions and Experiences from People inside Prison during the Pandemic, Section: Medical”, John Howard Association, July 2021, p.7 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2ea399e841c09b01c4493/1604512314331/JHA+COVID-19+Prison+Survey+Comment+Report+Medical.pdf>

“

I had no problem with being quarantined. My problem is with how we were treated during the quarantine.

No one let us know why we were quarantined, we were given no opportunity to contact our loved ones, we were not given a shower until 8 days into the quarantine, we were given no cleaning supplies, and we were not allowed to wash our clothes.

**LAWRENCE CORRECTIONAL  
CENTER, IL**  
**April 2020**

of their status as being in “administrative quarantine,” “medical quarantine,” or “medical isolation” and IDOC did not articulate standards or privileges to maintain for each status.”<sup>163</sup>

In reference to the issue in April 2020 JHA urged IDOC to “communicate plans for how people who are symptomatic and sick will be cared for to people in facilities and the public”<sup>164</sup> And in conclusion to survey comments published in July 2020 they reiterated “It is critical that people do not perceive medical quarantine and medical isolation as punishment. Privileges should be continued to the extent possible and communications should not be restricted.”<sup>165</sup>

### ◆ Isolation and Quarantine in New York

Across visits to Sing Sing in September 2020, Bedford Hills in October 2020, Green Haven in December 2020, Sullivan in March 2021 and Greene in April 2021, 71% of 483 people replied “no” when asked “Have you been in quarantined or isolated at any point since March 2020.”

In a visit to Fishkill in New York the same issue of isolation being perceived as punishment emerged. “At the time of CANY’s monitoring visit, DOCCS was using half of the “S-Block” – a 200-cell unit typically used for , those interviewed said that they would hide illness not to go to S-Block because it is a place for punishment.”<sup>166</sup> In Bedford Hills in October 2020 one person a mentioned the same issue, stating that “if people seek care for a cold, they are immediately quarantined, which discourages people from going to the doctor.” After the visit to Fishkill in July 2020, CANY recommended that NYDOCCs eliminate disincentives to seeking medical attention for symptoms related to COVID-19 through public education and improving living conditions in the S-Block.

NYDOCCS 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...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.”<sup>167</sup>

### ◆ Isolation and Quarantine in Pennsylvania

During the Pennsylvania Prison Society’s work as ombuds the Society’s volunteer ombuds have heard numerous anecdotal complaints from isolation people regarding the difficulties of isolation, which people struggle to differentiate from medical quarantine. Incarcerated people have informed the Society that they need to quarantine returning from court and complained that there was little logic behind this, when staff have no quarantine restrictions imposed on their daily coming and going from facilities.

<sup>163</sup> Ibid, p.13

<sup>164</sup> “John Howard Association COVID-19 Recommendations, April 8, 2020”, JHA, <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9615cfc23f2f7a4c567333/1586894287207/JHA+COVID-19+Recommendations+4.8.20.pdf>

<sup>165</sup> Medical Survey comments, p.17 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2ea399e841c09b01c4493/1604512314331/JHA+COVID-19+Prison+Survey+Comment+Report+Medical.pdf>

<sup>166</sup> “More Harm Than Good: Monitoring Visit to Fishkill Correctional Facility, July 8-9 2020” CANY, July 2020, P.12

<sup>167</sup> NY State Department of Corrections and Community Supervision. (2020c). DOCCS Covid Report. NY State Albany, NY. <https://doccs.ny.gov/doccs-covid-19-report>.

The PADOC website states that “every SCI [State Correctional Institution] continues to utilize their quarantine plans for if an inmate tests positive for COVID-19.”<sup>168</sup> However this does not stipulate what these plans include.

## Mask Wearing and Other PPE

In early April 2020 the CDC began to recommend face masks for the general public having previously limited this guidance for confirmed cases and healthcare workers.<sup>169</sup> The CDC now recognizes face masks as an essential component of control, and the most crucial component of PPE.<sup>170</sup> The degree to which masks have been worn subsequent to this change is an important benchmark of how seriously the response is taken by staff, and correspondingly the system and culture in which they work.

### ◆ Mask Wearing in Illinois

The JHA system-wide survey in April 2020 did not ask specifically about mask wearing as the Illinois Department of Health recommendation did not recommend masks until March 31, 2020, after the survey questions were finalized, but did register that only 27.2% of respondents said yes to the question on whether “inmates around you follow good health practices in the last week by covering their mouth with the inside of their arm when coughing/sneezing?”<sup>171</sup> The same month JHA recommended that IDOC educate people on proper use of PPE, monitor use, reinforce training, and re-educate people who use it improperly.<sup>172</sup>

On May 2 IDOC began to provide a KN95 mask for each incarcerated person on a weekly basis and JHA received fewer complaints about availability of masks subsequently.<sup>173,174</sup> However, there were many issues with staff compliance with mask wearing. The narrative reporting from JHA on PPE provides a complete picture with multiple quotations from incarcerated people reporting that many staff were not wearing masks or other PPE properly. IDOC stated that from April 2, 2020 all staff agencywide were directed to wear masks. However, in survey comments and correspondence JHA received reports that staff were not wearing masks later than these dates and continues to get reports of improper PPE usage.<sup>175</sup>

168 “COVID-19 and the DOC”, PADOC <https://www.cor.pa.gov/Pages/COVID-19.aspx>

169 C Megerian, R Lin II et al “CDC recommends wearing face masks during coronavirus pandemic” Los Angeles Times, April 3 2020, <https://www.latimes.com/science/story/2020-04-03/cdc-recommends-wearing-face-masks-during-coronavirus-pandemic>

170 “Guidance for Wearing Masks” Centers for Disease Control and Prevention, April 2021, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>

171 “COVID-19 Survey: Report on Initial Results of Surveys Collected from People Incarcerated in IDOC Prisons” JHA, June 2020, p.6 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fbdac67dc1bd3bfdfa57ce/1608243915190/Final+DOC+Results+Updated+July+2020.pdf>

172 Ibid p.7

173 “Perceptions and Experiences from People inside Prison during the Pandemic. Section: Use of Personal Protective Equipment” p.8 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2c717971c8d61bde24c5f/1604503319760/JHA+-COVID-19+Prison+Survey+Comment+Report+PPE+Section.pdf>

174 “IDOC Memo – Subject: Surgical Masks”, July 2020, [https://www2.illinois.gov/idoc/facilities/Documents/COVID-19/CommunicationCustody/COVID\\_19%20Surgical%20Mask%20Memo%20to%20all%20Men%20and%20Women%20in%20Custody.pdf](https://www2.illinois.gov/idoc/facilities/Documents/COVID-19/CommunicationCustody/COVID_19%20Surgical%20Mask%20Memo%20to%20all%20Men%20and%20Women%20in%20Custody.pdf)

175 “Perceptions and Experiences from People inside Prison during the Pandemic Section: Personal Protective Equipment” p.3 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2c717971c8d61bde24c5f/1604503319760/JHA+-COVID-19+Prison+Survey+Comment+Report+PPE+Section.pdf> p.3



As a result, “many people commented about tensions and confrontations with staff about improper PPE usage. People felt that improper PPE usage evidenced that staff was uncaring about their well-being.” Several people stated that staff responded poorly and with hostility when asked why they were not properly wearing PPE or not wearing their PPE at all, e.g., threatening retaliation, or retaliating. For instance, someone at Vandalia reported losing his job because of asking staff to wear their masks, and people at Pontiac MSU likewise reported not being let out of cells after filing PPE- related staff grievances.”<sup>176</sup>

“Several people wrote about filing grievances regarding staff improper PPE usage; however, no one reported this was effective....People felt that the ongoing misuse of PPE by staff stemmed from lack of accountability, noting that cameras could easily be used to review staff PPE usage. JHA agrees, although we also believe that the range of camera coverage within IDOC should be improved.”<sup>177</sup>

### ◆ Mask Wearing in New York

During CANY’s visit to Fishkill in July 2020, 71% of people interviewed reported having access to masks or hand sanitizer, though most incarcerated individuals CANY representatives observed and interviewed were not wearing masks. At that time incarcerated people were not required to wear a mask unless their work/program assignment required it. In May 2020 NYDOCCS began issuing cloth masks stitched at Clinton and Coxsackie Correctional Facilities.<sup>178</sup>

Subsequently across visits to Sing-Sing in September 2020, Bedford Hills in October 2020, Green Haven in December 2020, Sullivan in March 2021, and Greene in April 2021, the level of compliance with NYDOCCS directive for staff to wear masks was further examined. 60% of 779 people replied “no” to the question “does DOCCS staff consistently wear masks and wear them appropriately (e.g., covering nose and mouth)?”

At Fishkill in July 2020 monitors from CANY observed that most staff did wear masks. “Some staff wore masks below the nose and chin and adjusted the mask when we approached.”<sup>179</sup> At Bedford Hills in unpublished data, 82% of respondents said they received masks in the same month of the visit in October 2020; over 20% received them the day before CANY’s monitoring visit. One incarcerated person commented that mess hall workers never wore masks despite the directive. At Sing Sing, incarcerated people complained that officers were not required to wear masks until May 1, 2020. Two or three weeks later, incarcerated people were issued a disposable mask and instructed to wash it and were issued a second disposable mask several weeks later. People said that they



You fumbled the ball.  
You waited too long to  
pass out PPE

**MESSAGE TO GOVERNOR CUOMO  
GREEN HAVEN CORRECTIONAL  
FACILITY, NY  
December 2020**

176 Ibid, p.6

177 Ibid, p.6

178 D. Brand “New York state will give all inmates face masks as COVID-19 death toll rises” Queens Eagle, May 7 2020 <https://queenseagle.com/all/new-york-state-will-give-all-inmates-face-masks-as-covid-19-death-toll-rises>

179 “More Harm Than Good: Monitoring Visit to Fishkill Correctional Facility, July 8-9 2020” CANY, July 2020, P.12

were not allowed to wear their own makeshift masks until May 10th, after cases had already arrived at the facility.

At Green Haven, some incarcerated people made the same complaint that they were only given one disposable mask that they were expected to use for long periods and said there were not enough masks to go around. Multiple people complained that staff would demand that incarcerated people wear masks, while not wearing one themselves. One person, in a message to Governor Cuomo, said “You fumbled the ball. You waited too long to pass out PPE”.

The NYDOCCS COVID-19 page outlines that measures have been taken “mandating all staff to wear face masks while on duty, supplying all incarcerated individuals with surgical-type masks, supplying incarcerated individuals subject to isolation and quarantine with surgical-type masks.”<sup>180</sup> This directive was first issued on April 15 2020.<sup>181</sup> Around this time in April 2020 CANY submitted recommendations to NYDOCCS to “Pass out facemasks to all incarcerated people.”<sup>182</sup>

“  
Staff should keep their masks on while walking around in our population. ‘Cause they are the only possibility that the prison could get infected.

**INCARCERATED PERSON, PA**

**December 2020**

180 “DOCCS COVID-19 Report” New York Department of Corrections and Community Supervision, <https://doccs.ny.gov/doccs-covid-19-report>

181 D. Brand “New York state will give all inmates face masks as COVID-19 death toll rises” Queens Eagle, May 7 2020 <https://queenseagle.com/all/new-york-state-will-give-all-inmates-face-masks-as-covid-19-death-toll-rises>

182 “CANY’s Recommendations” April 23, 2020, <https://www.canyxcovid19.org/monitoring>

183 “Prison Conditions During the COVID-19 Pandemic: Preliminary Findings from a Survey of People in Pennsylvania State Custody” Pennsylvania Prison Society, p.7, September 2020

184 “Prison Conditions During the COVID-19 Pandemic: A Follow-Up Survey of People in Pennsylvania State Custody” February 2021,



The administration is not enforcing masks when I come in contact with people from other housing blocks, which is frightening because I’m 62 and diabetic.

**GREEN HAVEN CORRECTIONAL FACILITY, NY**  
**December 2020**

◆ **Mask Wearing in Pennsylvania**

The PA Prison Society’s survey of fall 2020 did not ask specifically about masks. However, 121 respondents of 345 left comments about the issue. Of these comments, about 45% stated that staff members wear masks rarely or only some of the time with some saying that “staff doesn’t wear their masks unless [a supervisor] comes onto the housing unit.”<sup>183</sup> In the second survey conducted by The Society in the winter 2021 questions were asked about masks. “Nearly 40% [120 of 309] respondents said staff wore masks only “sometimes,” while 12% said they were worn “rarely” or “never.” In response to this finding, the Department of Corrections said it was “continuing to send the message” to its prisons that corrections officers must wear masks and can expect disciplinary action for failing to do so.”<sup>184</sup>

The PADOCS COVID-19 dashboard states that “Masks are required for all staff, and institutions have provided each staff member with a cloth mask for use. Employees are permitted to provide their own mask.” They additionally state that “Personal Protection Equipment is provided to all staff. All CDC and DOH protocols are being followed in reference to masking.”<sup>185</sup>

## Hygiene and Cleaning

While the importance of surface cleaning has lessened since the early days of the pandemic, when the CDC believed surfaces were a major vector for COVID-19 as opposed to airborne transmission, the ways in which the different DOCs have approached hygiene is a key indicator of how seriously each DOC has taken the pandemic response.

### ◆ Hygiene and Cleaning in Illinois

The system-wide survey carried out in April 2020 in Illinois went into the question of hygiene in depth, as at that time IDOC had made representations regarding enhanced procedures. In response to questions on this topic, 34.8% of 16,351 respondents said that they had soap to regularly wash their hands in the last week, 48.3% said that they received no cleaning chemicals from IDOC in the last week, 47.1% said that they did not get enough cleaning chemicals to thoroughly clean their cells during the last week, and 22.8% said that the common areas were not cleaned at least two times a day in the last week. Guidance and representations regarding use of hand sanitizer in prisons was not issued until after the survey was finalized.

In survey comments people said that soap distribution had not started until mid-to late April.<sup>186</sup> IDOC distributed information/education materials to incarcerated people with instructions on washing hands. Regarding hand sanitizer “many prisoners commented about the lack of hand sanitizer, as did some staff in staff surveys. People again noted they had seen a bulletin that suggested hand sanitizer would be provided when it was not, which was confusing to them.”<sup>187</sup> In the response to JHA’s published survey, IDOC provided additional information on what was provided.

“Offenders are provided with one - 3 oz. bar of soap or two 1.5 oz bars on a weekly basis. Facilities have established tracking systems to ensure soap is delivered to each offender who accepts it.”<sup>188</sup> IDOC attached a snapshot of soap delivery to each facility and an example of facility logs for distribution. IDOC also provided sample cleaning inventories and information on roles and

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[https://issuu.com/prisonsociety3/DOCs/pps\\_scisurveyrprt\\_final](https://issuu.com/prisonsociety3/DOCs/pps_scisurveyrprt_final)

185 “COVID-19 and The DOC,” PADOCS, <https://www.cor.pa.gov/Pages/COVID-19.aspx>

186 “Perceptions and Experiences from People inside Prison during the Pandemic, Section: Hygiene” P.3” JHA <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa0389745dba37b2e239e81/1604335768108/JHA+COVID-19+Prison+Survey+Comment+Report+Hygiene+Section.pdf>

187 Ibid P.5

188 “COVID-19 JHA Survey 2020 Response,” Illinois Department of Corrections, July 2020 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5ee8ed76626a7f2c7562e805/1592323446959/IDOC+Response+June+2020+to+JHA+COVID-19+Survey.pdf>

responsibilities. As JHA argued “presenting a point-in-time inventory or distribution list of soap is not equal to showing how people were and are being supplied with soap across a massive prison system over time.”<sup>189</sup> However, it is clear that IDOC has taken steps to increase and ensure hygiene supply.

## Methodology Case Study 2—

### Systemwide Survey in Illinois

In April 2020 the John Howard Association launched a special system-wide COVID-19 survey to hear directly from those who are in prisons about what is being done, how they are being treated, if announced plans and protocols are being implemented, and what their actual lived experiences have been. As far as JHA is aware this is the first system-wide survey conducted by an oversight body in the USA. JHA also launched an online survey for people who work in prisons to gather their perspectives. Taken together with information from people who are administrators at prisons, this totality of information conveyed the views of the people who are most directly impacted and provided a basis for JHA to recommend improved practices and response to the pandemic by the Illinois Department of Corrections (IDOC), in order to improve and possibly save lives.

The survey data shed light on how the COVID-19 pandemic is actually being handled inside prisons and impacting people who are incarcerated and to understand what IDOC has done to minimize exposure, reduce contagion and isolate and treat those who have been infected. This information has been critical in holding IDOC accountable for specific policies and allowed analysis of issues occurring system-wide and how policy may differ across facilities.

JHA’s survey results not only provide a unique understanding about the impact of the current pandemic within IDOC, but also provide information useful for the better management of this and future health crises that carceral settings will inevitably face. Of the utmost importance, the information from JHA’s surveys will bring the actual experiences of people who live and work in prisons into the conversation to be used to improve and advocate for the health and safety of all impacted people.

The initial report of data from surveys received from people who are incarcerated is the first product of this initiative. 16,236 surveys were completed by incarcerated individuals between April 24th and May 20th 2020. A COVID-19 Survey, informed consent notice/instruction sheet, and a business reply envelope addressed to JHA and marked privileged was provided to everyone imprisoned at each of the twenty-eight IDOC prisons. The privileged business reply envelope addressed to JHA allowed people the opportunity to participate in the COVID-19 survey anonymously, confidentially and free of charge.

189 “Perceptions and Experiences from People inside Prison during the Pandemic, Section: Hygiene” P.4” JHA <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa0389745dba37b2e239e81/1604335768108/JHA+COVID-19+Prison+Survey+Comment+Report+Hygiene+Section.pdf>

Based on a 49% response rate and over 6,000 additional pages of comments provided by respondents, JHA's system wide survey was successful in gathering a large cross section of information from people in prisons about the experience of COVID19 in IDOC facilities. The survey results and findings increased transparency on what has happening inside the prisons as well as influenced changes to correctional policy and practice. JHA plans to further refine the methodology and conduct future system wide surveys.

### ◆ Hygiene and Cleaning in New York

There have been clear efforts in New York to improve hygiene. In visits to Sing Sing in September in 2020, Bedford Hills in October 2020, Green Haven in December 2020 and Sullivan in March 2021, 71% of 503 people answered yes to the question “are the phones and high touch areas such as gates and bars consistently wiped down and cleaned?.” However, in the report from the July 2020 visit to Fishkill, CANY heard that during the first five weeks of the pandemic hand sanitizer was not available at the prison and availability varied depending on the area of the prison and interpersonal dynamics between incarcerated people and staff. Some incarcerated people reported that hand sanitizer remained available only upon request and at the discretion of a corrections officer. Within the same report, several people expressed concerns that the supply of germicidal cleaner had been replaced with a bleach-based solution and explained that while bleach is a disinfectant, it does not contain soap, making it an insufficient cleaning agent in a congregate environment. In the recommendations to the July 2020 report, CANY recommended increased access to hygiene materials and hand sanitizer.<sup>190</sup>

In unpublished comments during a visit to Sing Sing, some incarcerated people complained about watered down bleach. At Green Haven multiple people made complaints about the lack of cleaning supplies with some citing rats and cockroaches as evidence of the inadequacy of materials.

There was no acknowledgement of CANY's July 2020 report but the NYCDOCCS COVID-19 page identified the following actions for hygienic materials “Issuing enhanced cleaning/ sanitizing measures and disinfecting procedures for office surfaces and devices consistent with the Centers for Disease Control and Prevention and New York State Department of Health guidelines, including working with landlords to ensure cleaning protocols are followed under the appropriate guidelines with increased frequency throughout offices, especially high-risk areas and issuing appropriate protocols on how to clean vehicles.”<sup>191</sup>

### ◆ Hygiene and Cleaning in Pennsylvania

In Pennsylvania, the Society coordinated with JHA to ask the same questions as the JHA system-wide survey. The majority of people interviewed reported that prisons were following basic hygiene

<sup>190</sup> Ibid, P:13

<sup>191</sup> “DOCCS COVID-19 Report” New York Department of Corrections and Community Supervision, <https://doccs.ny.gov/doccs-covid-19-report>

practices for stopping the spread of COVID-19. In The Prisons Society's Fall 2020 survey, 91% of 345 respondents reported they could wash their hands regularly in the last week and 78% said that prison staff are disinfecting communal areas regularly. Only about half (55%), however, reported being able to clean their cells regularly. Many of the people who said they could disinfect their cells regularly explained that "regularly" meant only once or twice a week.<sup>192</sup> This falls short of the statement on the Department's "COVID-19 and the DOC" webpage, which states that "Inmates are being provided materials to clean their cell daily," and "materials will be provided to them on a daily basis."<sup>193</sup>

However, in the second survey in Winter 2021 there was an increase from the 55% seen in the Fall. "That figure increased to 75% in the current survey indicating that the Department has made a concerted effort to improve based on the Prison Society's initial report recommendations."<sup>194</sup>

“

I think we should be able to have our cells cleaned — as in swept, mopped, and toilets cleaned — at least once a week. They only spray a washcloth with cleaner and that's it once a week.

**INCARCERATED PERSON, PA  
SEPTEMBER 2020**

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192 "Prison Conditions During the COVID-19 Pandemic: Preliminary Findings from a Survey of People in Pennsylvania State Custody" Pennsylvania Prison Society, p.5, September 2020 [https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport\\_jc\\_9.23\\_\\_](https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport_jc_9.23__)

193 "COVID-19 and the DOC", PADOc <https://www.cor.pa.gov/Pages/COVID-19.aspx>

194 "Prison Conditions During the COVID-19 Pandemic: A Follow-Up Survey of People in Pennsylvania State Custody" p.2, February 2021, [https://issuu.com/prisonsociety3/DOCs/pps\\_scisurveyrprt\\_final\\_](https://issuu.com/prisonsociety3/DOCs/pps_scisurveyrprt_final_)

## Key Findings and Recommendations on Safety, Well-Being and Order

Social distancing is tremendously challenging in prison settings. The generally half-hearted and inconsistent approaches to attempts to maintain differences reflect how difficult it is in practice without enormous reductions to the population. The inability to stagger services is indicative of a lack of resources and imagination

In all three states, the concept of isolation is so heavily linked to the idea of punishment amongst the prison population that medical quarantine has become synonymous with discipline. A concerted effort to communicate the difference and to make medical quarantine as unlike a disciplinary action as possible may have eased this problem. The efforts to separate the two concepts in the perceptions of the incarcerated population have been inadequate.

Across the three states, masks and other PPE were widely distributed to the population in the spring of 2020, in line with their use becoming widespread among the general population. However, there are many reports of inconsistent mask wearing by staff, demonstrating another issue common across the different departments.

Incarcerated people in Illinois suggested that it would have been possible to use cameras to review compliance, which is an approach that could also be used in the Pennsylvania and New York, if there was an adequate will. Whatever the approach used, there is a fundamental need for a culture of compliance with system-wide directives that ensure that safety of incarcerated people. Of the different approaches, the distribution of KN95 masks in Illinois stands out as a concrete example of good practice when compared with the cloth mask distribution in the other two states.

Mirroring other problems, an overview of the issues affecting hygiene and cleaning shows that many complaints derived from poor communication on policies and their purpose. The best example of good practice between the three states comes from Illinois and IDOC's approach to making public information on hygiene and cleaning supply provision/ expectations and in a direct engagement with these issues raised by JHA.

### ◆ Recommendations on Safety, Well-Being and Order

1. In the remaining period of the pandemic, and in comparable crises, DOCs should take steps to communicate to incarcerated people the difference between quarantine and punishment and ensure that the two processes are substantively different in practice.
2. The DOCs must consistently monitor compliance with directives such as mask-wearing and other PPE. The directives themselves should be made publicly available on dashboards in addition to guidelines for disciplinary measures given for failure to comply.
3. To ensure that the rationale and processes for services such as delivery of hygienic materials is sufficiently transparent, information on quantity and frequency of distribution of materials should be made publicly available. Complaints should be tracked with public reporting and response.

# Communication

Incarcerated people have universally expressed how fear and uncertainty caused them to feel unsafe during the pandemic, especially during the spring and summer of 2020 when less was known about the virus' transmission and mortality rate. The underlying and historical mistrust of the incarcerated population to detaining authorities is well documented. In the medical context, this is in part rooted in experimentation on incarcerated people,<sup>195</sup> and high rate of mistrust of vaccines among the incarcerated population,<sup>196</sup> as well as the generally inadequacy of healthcare in prisons described above. This makes direct and active communication measures with incarcerated people, their families, and other actors working within state facilities around COVID an essential component of the response.

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195 L. Appleman, "The Captive Lab Rat: Human Medical Experimentation in the Carceral State" Jan 2020, Boston College Law Review, Vol 61 Issue 1, <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3813&context=bclr>

196 N. Lewis "We Asked People Behind Bars How They Feel About Getting Vaccinated" March 1, 2021, The Marshall Project, <https://www.themarshallproject.org/2021/03/01/we-asked-people-behind-bars-how-they-feel-about-getting-vaccinated>



## Communication with Incarcerated People

### ◆ Communication with Incarcerated People in Illinois

In the April 2020 system-wide survey carried out by JHA, respondents were asked the multiple-choice question, allowing more than one answer, “how did you get information from IDOC about COVID-19 Prevention?”. 35.9% of the 16,351 respondents said they got the information from the paper bulletin in the unit, 30% said from the information channel on the TV, 10.1% from verbal communication by staff, and 5.5% said that they did not get information. The responses show that some increased communication measures taken by IDOC were received by incarcerated people.

In the comments during the JHA survey, many people mentioned learning about COVID-19 from family members. Family communications are essential. Incarcerated people are more likely to trust information from families and without such communications are more likely to feel unsafe, not just because of the risks to themselves, but also risks to their families.

In JHA’s April 8, 2020 recommendations, JHA advised that IDOC should allow everyone access to communications while conforming with official COVID-19 prevention guidelines (e.g. pertaining to social distancing and cleaning). In addition, JHA recommended that IDOC should devote staff to ensuring prompt review and approval of messaging and video visitors, email and mail, and phone list approval and purging to improve communications during this time when in-person visitation is not allowed.<sup>197</sup>

Additionally, JHA believes there were communication failures and that inadequate information was provided to people regarding “free” communications offered by both IDOC and GTL [the private company providing communication services in IDOC’s facilities]. “Many people commented on their inability to benefit from these and their related frustration.” A theme to emerge during the survey comments from both staff and prisoners was of information being treated like it was a “secret.” People felt “kept in the dark.”<sup>198</sup> The IDOC COVID-19 web page has a section titled “Department Communication with Men and Woman in Custody” which has a list on topics such as advice in limiting exposure, GTL services, and handwashing ordered chronologically as issued to the population.<sup>199</sup> While there is no clear order to the way these are presented, there is clear value in making public the methods used to communicate with the incarcerated population, and this should be replicated in other states.

### ◆ Communication with Incarcerated People in New York

The report on CANY’s visit to Fishkill Correctional Facility in June 2020 identifies “the apparent inaccessibility of otherwise widely available public health information about COVID-19” as the most striking finding for the visit. However, the same report cites that “according

197 “John Howard Association COVID-19 Recommendations April 8, 2020” <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9615cfc23f2f7a4c567333/1586894287207/JHA+COVID-19+Recommendations+4.8.20.pdf>

198 “Perceptions and Experiences from People inside Prison during the Pandemic Section: Access to Information”, John Howard Association, October 2020, p.13 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5f9b3da6df5e4138dd790f11/1604009382752/JHA+-COVID-19+Prison+Survey+Comment+Report+Access+to+Information+Section.pdf>

199 “COVID-19 Response” <https://www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx>

to staff, DOCCS regularly shows a video to the incarcerated population and staff at the facilities on proper handwashing.”<sup>200</sup> Based on the findings during that visit, at that time there appeared an insufficient active communication on other key aspects of the response.

This was further shown in later visits. At Sing Sing in September 2020, Bedford Hills in October 2020, Green Haven in December 2020 and Sullivan in March 2021, 61% of 510 people replied “No” to the question “Do you feel DOCCS has provided you with enough information about COVID-19 in order to protect yourself?” At the same four facilities 80% of 515 people said no to the questions: Have you received any information from DOCCS on how to properly care for, use, or clean masks?”

At Sing Sing, in unpublished comments, one person said they get most of their information from The Marshall Project’s newsletter, another said they mostly rely on the TV for information.

The NYDOCCS COVID page lists measures taken by the department in the COVID response, including communication with incarcerated people, and identifies the videos on handwashing and on “displaying posters with information on COVID-19 and safety tips throughout DOCCS facilities and offices state-wide.”<sup>201</sup> During a visit to Great Meadow in July 2021, a week after CANY provided information on vaccines to counter hesitancy, it was discovered that the administration had made serious efforts to ensure that these were distributed in the library, as well as in pdfs on the inmate TV channel. This indicates some improvement after an initial lack of communication with incarcerated people in New York.

### ◆ Communication with Incarcerated People in Pennsylvania

The two surveys conducted by the Society in Pennsylvania showed once more that the quality of the communication from prison staff to people in custody factored into whether they felt safe in prison.

In the fall 2020 survey the Society observed:

Even in facilities with large outbreaks of the virus, residents tended to feel safe if they perceived that guards and administrators were communicating with them about changing circumstances and working to keep them safe. Twenty-eight percent of respondents (65 total) wrote comments about the job the Department was doing to keep them informed. Most of the 48 who complained prison staff were not keeping them informed reported feeling unsafe. One person wrote: “I do not feel safe because it feels like I am on a rudderless ship. It feels like there is no reasoning behind the decisions being made. Overall, everyone feels tense, on edge.”

Similarly, the majority of the 17 people who reported being given sufficient information said they felt safe. This group included people living in facilities that have experienced large outbreaks of the coronavirus.<sup>202</sup>

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200 “More Harm Than Good: Monitoring Visit to Fishkill Correctional Facility, July 8-9 2020” CANY, July 2020, P:13

201 “DOCCS COVID-19 Report” New York Department of Corrections and Community Supervision, <https://doccs.ny.gov/doccs-covid-19-report>

202 “Prison Conditions During the COVID-19 Pandemic: Preliminary Findings from a Survey of People in Pennsylvania State Custody” Pennsylvania Prison Society, p.5, September 2020

The Society's Winter '21 report further showed the importance of communication, with only 12% of those saying they were 'very dissatisfied' saying that they felt safe.

Together, the findings about prison communication suggest that when prisons use more channels of communication, people in custody are more satisfied with efforts to keep them informed, which in turn fosters a greater sense of safety in the prison.

In response to these survey findings, the DOC said: "It is very important to us that individuals in our custody feel safe. If they feel safe, then the system is much better off from a mental health and a physical safety perspective [ . . . ] We talk about communication every single week with all institutions. We see its value and importance and your report reflects that"<sup>203</sup>

The PADOCCOVID-19 page outline does not list all communications, but under 'Mental Health' identifies COVID-19 specific information shared on the inmate channel.<sup>204</sup>

### Methodology Case Study 3—

## Distribution of Surveys Through Newsletter in Pennsylvania

The Pennsylvania Prison Society offered to conduct a system-wide survey modelled on JHA's survey at IDOC facilities. Unlike the Illinois Department, the Pennsylvania Department of Corrections declined to have a system-wide survey conducted, citing the Department's lack of capacity to assist with survey distribution and collection.

This forced the Society to apply an innovative method to survey the population. The Society turned to Graterfriends newsletter for and by incarcerated people, which the Society released every two months to approximately 1,000 subscribers in Pennsylvania State Correctional Institutions.

The first survey was completed by 345 people between April 15 and September 8, 2020. The second was completed by 309 people between September 9 and December 31, 2020. Respondents filled an update version of the form that was modified to address concerns expressed in written correspondence to the Society. While the number for each survey only represent only one percent of the total incarcerated population in Pennsylvania, it allowed for clear identification of how the system was performing.

Aside from the cost effectiveness of this method, the survey had an advantage in that its inclusion into the newsletter ensured that the identity and motivations of the surveyor were clear to people filling it out.

203 "Prison Conditions During the COVID-19 Pandemic: A Follow-Up Survey of People in Pennsylvania State Custody" p.2, February 2021, [https://issuu.com/prisonsociety3/DOCs/pps\\_scisurveyrprt\\_final\\_](https://issuu.com/prisonsociety3/DOCs/pps_scisurveyrprt_final_)

204 "COVID-19 and the DOC", PADOCC <https://www.cor.pa.gov/Pages/COVID-19.aspx>

The obvious limitation was that it was only seen by people who read the magazine. The affected response rate and may have had some impact on the sample, as it would have likely attracted people who were actively engaged in prison issues. It could not be filled in by people who were not literate.

The outcome was the identification of clear trends in clearly accessible reports and with clear recommendations. As documented above, the Society was able to observe a more frequent distribution of hygiene materials during the second survey, which was apparently a consequence of recommendations made in the first survey, potentially demonstrating a clear uptake.

## Communication with the Public

The importance of communication to the public, has been widely identified as a key factor in the nature of the response.

All three DOCs have developed COVID-specific pages on their websites that, to some degree document their COVID responses and outcomes. The scope and presentation of the information, however, differs widely. The COVID-19 Behind Bars Project at UCLA has explored how data has been presented across the 53 major state and federal agencies. The frequently updated dashboard gives Illinois and New York State an “F” and Pennsylvania a “C” for data reporting in August 2021 based on a range of criteria including: cases, deaths, tests, population and vaccines for incarcerated people and staff as well the quality of the data by issues such as machine readability, update frequency and clarity.<sup>205,206,207</sup> In addition, at various stages in the pandemic all three DOCs have issued statements on the extent of the crisis, and their responses. Again, there is significant variation in frequency and detail across the three states.

Even before the pandemic, the three departments varied widely in how they communicated information to the public. General DOCs directives are public in New York and Pennsylvania but not in Illinois.<sup>208</sup>

It is important for the general public and oversight bodies to be aware of directives firstly because they demonstrate how good practice is perceived by DOC management, and secondly because it allows bodies to draw attention to disparities between the directives and practice. This has never been more important than during COVID-19, when the need for clear directives based on the latest context and understanding of the virus is so great.

### ◆ Communication with the Public in Illinois

In Illinois, IDOC’s COVID-19 dashboard provides statistics that are updated daily.<sup>209</sup> This dashboard, first appeared in spring 2020 and has been enhanced over time. In a policy

205 “Illinois” UCLA Law COVID Behind Bars Project <https://uclacovidbehindbars.org/states/illinois/#scorecard>

206 “New York” UCLA Law COVID Behind Bars Project, <https://uclacovidbehindbars.org/states/new-york/#scorecard>

207 “Pennsylvania” UCLA Law COVID Behind Bars Project, <https://uclacovidbehindbars.org/states/pennsylvania/#scorecard>

208 “Laws, Rules & Directives Listing” New York Department of Corrections and Community Supervision, <https://doccs.ny.gov/laws-rules-directives-listing>

209 “COVID-19 Response” IDOC <https://www2.illinois.gov/idoc/facilities/Pages/COVID-19Response.aspx>

statement early in the pandemic in March 2020, JHA requested that information on missing categories be included<sup>210,211</sup> and in statements requested that IDOC provide clear information on key aspects of the pandemic and IDOC's response.<sup>212,213</sup>

However, at that time certain information requested had not been made public, including on which areas are under quarantine, levels of staffing, hospitalizations, deaths, and release figures.<sup>214</sup> As described above, there is also a list of memos that have been shared with incarcerated people. However, the text and details of COVID-specific protocols, or general policy directives, is not made public by IDOC.

The site also includes general information about the vaccination and testing and details on transfers, as well as links to a list of executive orders, FAQs and contact details. The section also links to select media stories depicting the IDOC response; it should be noted that the articles included are those that exclusively articulate positive views of the Department's response.

IDOC has made efforts to ensure that the webpage is used as an effective medium of communication with families of incarcerated people, such as providing the details of new policies on the resumption of family visits in April 2021 after such visits were suspended in March 2020.<sup>215</sup>

### ◆ Communication with the Public in New York

In the early months of the pandemic, little information was provided by NYDOCCS on their website. In April 2021 CANY recommended that NYDOCCS “update the DOCCS website to include the number of incarcerated people who have tested positive for COVID-19 by facility” and “publish basic information about conditions, treatment, and operations.”<sup>216</sup>

While it is not clear if CANY's recommendation was the impetus, in May 2020 NYDOCCS published a “COVID-19 report” on its website which included some of this information.<sup>217</sup>

In August 2021, the NYDOCCS COVID-19 page has a regular update on issues such as

210 “COVID-19 concerns and recommendations for the safety of Illinois prisoners and prisons from JHA”, March 2020, <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e67bdbb7325ed3b08103ad3/1583857083998/JHA+Coronavirus+-Statement.3.10.2020.pdf>

211 “Statement of the John Howard Association Minimize COVID-19 Transmission Risks between County and State Correctional Facilities,” August 2020 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5f2b1a87836a700b94e3286d/1596660359889/JHA+Statement+Minimize+COVID-19+Transmission+Risks+8.5.2020.pdf>

212 John Howard Association COVID-19 Recommendations April 8, 2020 <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9615cfc23f2f7a4c567333/1586894287207/JHA+-COVID-19+Recommendations+4.8.20.pdf>

213 “Prison watchdog urges Illinois Department of Corrections to make plans for COVID-19 Public,” The Center Square, March 10 2020. [https://www.thecentersquare.com/illinois/prison-watchdog-urges-illinois-department-of-corrections-to-make-covid/article\\_93ee72ba-6306-11ea-97ca-67024f84b03.html](https://www.thecentersquare.com/illinois/prison-watchdog-urges-illinois-department-of-corrections-to-make-covid/article_93ee72ba-6306-11ea-97ca-67024f84b03.html)

214 “John Howard Association COVID-19 Recommendations April 8, 2020” <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5e9615cfc23f2f7a4c567333/1586894287207/JHA+-COVID-19+Recommendations+4.8.20.pdf>

215 “IDOC Resumes In-Person Visitation for Incarcerated People and their Loved Ones” IDOC Press Release, April 12 2021 <https://www2.illinois.gov/idoc/facilities/Documents/COVID-19/News/IDOC%20Resumes%20Visits%20Press%20Release.pdf>

216 “CANY's Recommendations” April 23, 2020, <https://www.canyxcovid19.org/monitoring>

217 “He has a home to go to: Family and Friends of People in Prison in New York respond to CANY's COVID-19 Survey”, CANY, May 2020, p.5 <https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5ed155b10d56e8675537fc7f/1590777273449/CANY%2BCOVID-19%2BReport%2BMay%2B2020.pdf>

vaccination programs or changes in family visits. There is a tally of COVID-19 cases and deaths updated monthly, an outline of the steps being taken and there is a list of 'new protocols' on masks, releases, additional phone and tablet services and legal visits. There are links to other COVID-19 resources specific to New York state. However, the protocols themselves are not included and neither is the text of communications with incarcerated people.

### ◆ Communication with the Public in Pennsylvania

The PADO website has a similar COVID-19 focused page that outlines policies deemed "Mitigation Measures" including specific dates when specific policies went into effect.

It also includes a dashboard on infections, deaths, vaccination and testing. The dashboard was taken offline for several months after large fluctuations in the number of tests administered and unexplained changes to the death count were reported in media and confirmed by UCLA.<sup>218</sup>

An improved dashboard was launched in the summer of 2021.<sup>219</sup> The PADO COVID-19 dashboard provides daily updated information on deaths, cases and vaccination rates, including the kind of demographic information that is useful in understanding trends over time within the system. It has historical data and is user friendly. While there are descriptions of directives issued in Pennsylvania, unlike the IDOC, PADO does not include text of the directives themselves.<sup>220</sup>

## Communication with the Families of Incarcerated People

While families of incarcerated people are likely the biggest audience of public communications, this section assesses how the DOC in each state has responded to the unique challenges posed by COVID-19 to ensure that communication between incarcerated people and their families continued during the pandemic. As described above, the value of communication between families is not just that incarcerated people will learn about COVID-19 from people they are likely to trust, it is also that their own feelings of safety are closely tied to family members. This is especially important as family visits in all three states were stopped in Spring of 2020 and only resumed around April-July 2021. There is extensive evidence of the benefits to both families and incarcerated people of maintaining strong ties during imprisonment, including in reducing recidivism and substance use.<sup>221</sup>

218 J Jaafari "Confronted with significant flaws in coronavirus data, Pa. corrections officials concede 'it's unacceptable'" Pittsburgh Gazette, Feb 1 2021, <https://www.post-gazette.com/news/crime-courts/2021/02/01/pennsylvania-corrections-prisons-significant-flaws-coronavirus-data-health-prisoners-tests/stories/202102010067>

219 R Swift Fighting "COVID-19 called top Pa. prisons priority, Feb 17 2021" <https://www.post-gazette.com/news/crime-courts/2021/02/17/Pennsylvania-Department-of-Corrections-state-prisons-COVID-19-inmates/stories/202102170145>

220 "COVID-19 and the DOC" Pennsylvania Department of Corrections, <https://www.cor.pa.gov/Pages/COVID-19.aspx>

221 Social and Economic Implications of Family Connections to Prisoners." Journal of Criminal Justice, vol. 34, no. 4, July 2006, pp. 443-452. EBSCOhost, doi:10.1016/j.jcrimjus.2006.05.010

Additionally, the cancellation of family visits led to the intensification of a nationwide debate around the reduction of the cost of phone calls, which became the only method of communication.<sup>222</sup>

### ◆ Communication with Families in Illinois

In Illinois, some free communications services were provided either by the vendor companies or IDOC. Reportedly, GTL provided a service of one free video visit of 15 minutes a week, and two free e-message vouchers. Some free phone time was also provided through vendor Securus and restrictions on phone use were eased.<sup>223</sup> JHA April 2020 survey results showed people initially had difficulty receiving these free services.<sup>224</sup>

Additionally, in March 2020 in a direct communication with incarcerated people, IDOC drew attention to a direct service for families of incarcerated people to learn about COVID-19 through a direct COVID-19 hotline and email.<sup>225</sup> However, as JHA reported “this was eliminated in July for unknown reasons. JHA requested that IDOC track and publicly share information about concerns received and responses updating their FAQs; but this has not yet occurred.”<sup>226</sup>

A further important aspect of communication is mail. In the JHA system-wide survey, many people commented about not only about issues with delays, but also about not knowing what would be disallowed in photos and mail. JHA recommended that IDOC make clearer rules about mail available to the public and reiterated this request again in March 2021.<sup>227</sup> This is an issue that still needs to be resolved.

### ◆ Communication with Families in New York

To address the issues with communication in New York, three free 15-minute calls per week were permitted, as well as two free stamps, and a free pre-paid reply to messages from family members. This was corroborated by incarcerated people during a visit to Fishkill in July 2020. “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.”<sup>228</sup>

In April 2020, in an effort to understand the extent of this disconnect in New York’s prisons,

222 <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/08/04/covid-froze-prison-visits-spotlighting-high-cost-of-phone-calls>

223 “Perceptions and Experiences from People inside Prison during the Pandemic, Section: Communications”<https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/5fa2e94eed545352fde460c9/1604512079375/JHA+COVID-19+Prison+Survey+Comment+Report+Communications+Section.pdf>

224 Ibid

225 “COVID-19 Response Subject: COVID-19 Communication Efforts” IDOC Memo <https://www2.illinois.gov/idoc/facilities/Documents/COVID-19/CommunicationCustody/Communication%20Efforts.pdf>

226 “Perceptions and Experiences from People inside Prison during the Pandemic, Section: Communications” P.3

227 “John Howard Association COVID-19 Recommendations April 8, 2020” <https://static1.squarespace.com/static/5beab48285ede1f7e8102102/t/603e6a6faeac837778065d91/1614703216298/JHA+Prison+Communications+Briefing+March+2021.pdf>

228 “More Harm Than Good: Monitoring Visit to Fishkill Correctional Facility, July 8-9 2020” CANY, July 2020, P.13

CANY launched a survey for family and friends of people in prison in New York, on physical and mental health concerns; communication by phone, mail, and secure email messages; and perceptions of the state's response to the health crisis. 91 responses were received from friends and family members of people incarcerated at 27 different state prisons. The survey found deep concern among family members and friends about infection which was exacerbated by the lack of confidence in DOCCS's response to the pandemic within its prisons. Respondents also feared for the mental and emotional health of their relatives.

The perception of a poor response by DOCCS also created a climate of fear and anxiety among many incarcerated individuals, as well as their families and friends. Crucially, the survey found that communication between incarcerated people and those who care about them has been significantly disrupted and, in some cases, nonexistent. This lack of communication served to heighten the fear that incarcerated people and their families were experiencing.

A further issue in New York is that, in addition to the cost of phone calls, there are frequently not enough telephones available for everyone to use. This issue has been raised repeatedly by people across multiple visits.

### ◆ Communication with Families in Pennsylvania

To overcome the difficulties caused by the cessation of families visits In March 2020, PADOC issued a directive providing five free 15-minute phone calls a week. However, the same issue arose as documented in New York in that there were not enough phones for people to use their free calls. In response to this problem, PADOC reduced the amount of phone time to one free 15-minute call a week.

As an additional response, PADOC revamped its video call program. On Aug. 19, 2020, a new, permanent program was unveiled to make scheduling video calls easier using Polycom. However, there were multiple problems reported with the quality of video calls after the switch from Zoom to Polycom. In a Prisons Society Newsletter of January 2021, people reported that they would often get 15 minutes of a supposed 45-minute session and abrupt cancellations. "63 percent of people in custody who had a recent video visit reported either trouble accessing the service or technical issues during the call."<sup>229</sup>

## Communication with Oversight Agencies

The crucial work of oversight agencies has never been more pressing or difficult than during the pandemic. These closed systems became more closed. At the same time, information about what was happening in these prisons became even more critical. From the outset of the pandemic, all three organizations have been inundated with correspondence from incarcerated people desperate for support. Simultaneously, more members of the public have been concerned about what is happening in prison as viral outbreaks in prison continue to be a major accelerator of community spread.

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229 "Pennsylvania Prison Society Update" January 21 2021 <https://us16.campaign-archive.com/?u=9396e72f-f480a7806907da957&id=ea5e9beda3>



### ◆ Communication Between IDOC and JHA in Illinois

That JHA was able to undertake the first ever system-wide survey during the height of the pandemic in April 2020 speaks volumes for the efforts of JHA and the willingness of IDOC to engage seriously with oversight during the pandemic. The remote survey methodology employed had the benefit of reducing exposure to the virus. In a positive sign, IDOC responded to the survey in detail, demonstrating a genuine engagement with the oversight process.<sup>230</sup>

JHA suspended in person prison monitoring in March 2020 but was able to resume prison visits after vaccine availability in March 2021, and has visited 10 IDOC prisons as of August 2021 post-pandemic (Lincoln, Graham, Stateville, Stateville Northern Reception and Classification Center, Decatur, Sheridan, North Lawndale Adult Transition Center, Pontiac, Pinckneyville, and Logan). However, despite having ongoing communications with IDOC administrators, JHA has struggled to obtain adequate responses to some critical requests for information, including detailed COVID protocols.

### ◆ Communication Between NYDOCCS and CANY in New York

CANY was able to undertake four monitoring visits in 2020 to Fishkill correctional facility in July 2020, Sing Sing in September 2020, Bedford Hills in October 2020 and Green Haven in December 2020. In 2021, CANY continued their monitoring visits and completed visits at Sullivan in March 2021, Greene in May 2021, Taconic in June 2021 and Great Meadow in July 2021. CANY has been able to do this due to its mandate from the New York state legislature under which NYDOCCS are required to facilitate monitoring visits along specifically determined lines.

In April 2020, CANY issued a list of recommendation to NYDOCCS, some of which were partially implemented by NYDOCCS. However, it was not made clear whether these recommendations were implemented as a result of CANY's input and there was no acknowledgment from NYDOCCS of these recommendations.<sup>231</sup>

It has not been possible for CANY to enter into a productive dialogue with NYDOCCS at a central level on the key issues related to COVID-19, despite visits being permitted. The report from CANY's visit to Fishkill in July 2020 contains multiple specific recommendations, none of which have been acknowledged by NYDOCCS. In order to obtain information on statistics and policy in New York, CANY is required to use the Freedom of Information Act to FOIL NYDOCCS for relevant information.

CANY is one of a number of independent organizations that DOCCS has invited to receive a monthly briefing. This has allowed useful information to be passed on issues such as vaccination rates and measures taken but has not resulted in a substantive dialogue.

230 "COVID-19 JHA Survey 2020 Response" IDOC, June 2020 <https://static1.squarespace.com/static/5beab48285e-def17e8102102/t/5ee8ed76626a7f2c7562e805/1592323446959/IDOC+Response+June+2020+to+JHA+COVID-19+Survey.pdf>

231 "He has a home to go to: Family and Friends of People in Prison in New York respond to CANY's COVID-19 Survey", CANY, May 2020 <https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5ed155b10d56e8675537fc7f/1590777273449/CANY%2BCOVID-19%2BReport%2BMay%2B2020.pdf>

### ◆ Communication between PADO and the PA Prison Society in Pennsylvania

The Prison Society's strong statutory authority has meant that its work has gone uninterrupted and has even expanded during the pandemic. That said, while the PADO and the Society have historically enjoyed excellent two-way communication, the PADO has significantly walked back its openness to dialogue with the Society during the pandemic.

The Pennsylvania Prison Society continued its primary work as ombuds during all phases of the pandemic without a break. At every stage the Society's volunteer prison monitors have been able to carry out their work in both state facilities and jails through video calls, phone calls, written correspondence, and in person meetings. In 2020 the Society received 571 requests for official visitors, 182 of which were COVID-19 specific.

As noted above, the Society repeatedly requested to conduct a system-wide survey modeled on the work of JHA, but the PADO declined. Consequently, the Society has carried out surveys through the Graterfriends newsletter, the first of their kind in Pennsylvania. PADO's responses to the surveys have been mixed. The Department declined to respond to the first report but did respond to the second and acknowledged that the Department had taken action based on Society recommendations. The PADO has gone on to cite Prison Society survey findings in public testimony.

In March of 2021, vaccinated Society staff and volunteers commenced walkthroughs of correctional facilities. These walkthroughs, which include structured interviews with multiple people in custody, are modeled off the work of CANY and JHA. The walkthroughs allow the Society to address systemic issues through facility specific reports which include specific recommendations. Between March and September, the Society conducted 29 walkthroughs including 4 at state facilities.

While the Society has strengthened its monitoring work during the pandemic, communication with the PADO has become less frequent and less productive. Prior to the pandemic the Society had regular, quarterly meetings with the Secretary of Corrections and senior staff. The PADO stopped these meetings in spring 2020 at the start of the pandemic. Despite repeated requests to resume quarterly meetings over video, the Department has declined to schedule any. They have done this without explanation. These meetings were an essential avenue for dialogue on systemic issues.

## Key Findings and Recommendations on Communication

Consistent across all three states in the early stages of the pandemic were failures in communication with incarcerated people leading to confusion and a sense that there was something deliberate in the lack of information. This finding indicates a significant absence of trust. There has been improvement in all three states regarding the extent and breadth of communication as the pandemic evolved. Where there have been proactive communications, this has increased the level of knowledge and subsequently reduced the level of fear among populations.

All three DOCs have made significant efforts in communication with the public by putting key COVID-19 data on their websites and dashboards, with varying degrees of success. However, few specific details or copies of directives have been shared, which would help in conveying a sense that the communication from the DOC is reflective of the actions being taken on the ground.

To alleviate the pressure caused by the essential cessation of family visits during the height of the pandemic, the three DOCs have taken steps to facilitate communication with families. This is commended despite the varying degrees in implementation.

While the pandemic has not prevented oversight agencies from effectively understanding issues, communication between DOCs and agencies has occasionally been challenging and reflective of defensive institutional cultures. Frequently, oversight agencies have only received partial information supplied from DOCs that would be able to perform better through transparent information sharing.

### ◆ Recommendations on Communication

1. Each DOC should effectively communicate policies and policy changes amongst staff and monitor implementation to ensure uptake. Staff directives should also be made available to the general public on each DOC's website.
2. The development of COVID-19 dashboards in all three states is a positive and necessary step. These dashboards should include specifics on how actions are implemented, not just general explanations.
3. A hotline, based on the COVID-19 model developed in Illinois, should be facilitated for families of incarcerated people in all three states. This could apply lessons from the Society's work as a hotline in Pennsylvania. DOCs should also publish data regarding calls fielded and responses where appropriate. DOCs should hold weekly open calls for families during which questions can be asked and the agencies' responses can be heard in public.
4. If DOCS allow free phone calls these should be accompanied by a system and adequate number of phones to allow it to work.
5. To improve the value of oversight, the DOCs in each state should ensure that responses are consistently given to key findings and the recommendations made to address them by oversight agencies.



Conclusion

# Conclusion

## An Unprecedented Challenge in Prison Oversight

The many different forms of information used in this report are testimony to the breadth of work carried out by and the level of institutional knowledge within the three organizations. Despite the enormous challenges posed by the virus and the obstacles in gaining access, there has been a relentless determination across the three organizations to understand, analyse and draw attention to critical challenges and to make concrete recommendations to address them.

As this report has been based on information collected in different ways, it does not always make like-for-like comparisons across each of the issues. This has not prevented identification of demonstrable links between the different policies and results. For example, it has been shown that Pennsylvania's \$25 vaccination incentive for people in custody led to massive rate of vaccine uptake of 87% compared to a rate of 46% in New York, where no such policy existed. Similarly, despite roughly equivalent challenges and budgets the rate of testing in Illinois far outstripped the other two states. Finally, it has been shown how it was possible for IDOC to distribute KN95 masks to each incarcerated person on weekly basis compared to irregular distribution of Department-manufactured the cloth masks in other states. In summary there are clearly demonstrable differences in policy and possibilities that only come to light when making comparisons. For this process to happen, adequate levels of transparency are fundamental.

This three-state comparison has yielded multiple examples of practice that could be copied between the states. If it is possible to do this in comparing three states one can only imagine how many replicable examples of good practice there are across all 50 state corrections agencies and across the world that could be brought to attention rapidly and practically by oversight bodies. Again, this value lies in transparency linked to robust oversight mechanisms of which there are desperately few in the USA.

Rather than prevent meaningful comparisons, the use of different approaches has provided value. There is no question that the key findings of the state-wide survey eliciting over 16,000 responses brings weight to findings, the analysis of reason for vaccine hesitancy in New York will resonate in other states, and the insight given by the long presence as ombuds that the Prison Society enjoys in Pennsylvania puts it in a unique position to provide commentary. Together the mix of these approaches has allowed a more complete picture to emerge that would not have been possible if relying on a single source and modality of work.

While the development of the course of the pandemic is such that some of the issues are no longer directly relevant, the recommendations that have been included here to speak to the need for a broader cultural change to address key issues in the future.

## Evidence of the Fundamental Importance of Transparency

Transparency has been overriding theme of this report. This has been explored in the “transparency case studies” and in the section on communication, but it is notable that the concept of transparency was also

at the heart of every issue and has been ingrained in the responses of incarcerated people when they have been asked about issues.

Across every issue from vaccinations to social distancing to family visit cessation, incarcerated people have expressed concerns with a lack of clear, reliable information. As one incarcerated person said in Pennsylvania, “I do not feel safe because it feels like I am on a rudderless ship. It feels like there is no reasoning behind the decisions being made.”<sup>232</sup> As so much of the nature of the virus was and remains unknown, and rapid developments in general understanding have such direct implications for policy and routines in detention, the reasoning behind decisions, and the expected results are essential. This has borne out in the consistency with which incarcerated people independently raised this issue.

Where examples of good practice have been seen they have frequently been rooted in transparency. The importance of communication has been reinforced in examples of good practice. Using “peer ambassadors” in Illinois to promote the vaccine demonstrated how and why messages from incarcerated people to one another might be received better than promotion from IDOC. Also in Illinois, the approach of sending out direct memos to the incarcerated population, and then releasing them to the public, created a genuine sense of transparency.

Finally, transparency is obviously key to ensuring that oversight bodies, and correspondingly the general public, have a complete picture. DOCs can demonstrate appreciation of the accountability they have by engaging transparently and honestly with oversight agencies with the aim of providing objective feedback. Never has this been truer than in the time of COVID-19.

## Field Building and Collaboration

This report represents a first step in a long collaboration, with the logical endpoint being the expansion and cohesion of oversight at an interstate and federal level. The COVID-19 pandemic, a rapidly evolving crisis requiring complex responses, has crystallised the need for oversight that can shed light on what works better in some states than others as part of a cohesive approach.

On a national level it is disastrous for the incarcerated population and the American public that state-wide independent oversight only functions in three states when there is clear necessity for every jurisdiction to have oversight combined with more publicly available information. Along with departments of corrections, oversight agencies perform a crucial role to better coordinate and leverage work in other places to fuel change and increase transparency.

The USA has not ratified the Optional Protocol to the UN Convention Against Torture (OPCAT) that would necessitate the establishment of a National Preventive Mechanism (NPM) and would solidify the means by which different oversight branches make actionable comparisons.<sup>233</sup> There are currently 90 states that

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232 “Prison Conditions During the COVID-19 Pandemic: Preliminary Findings from a Survey of People in Pennsylvania State Custody” Pennsylvania Prison Society, p.2, September 2020 [https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport\\_jc\\_9.23\\_](https://issuu.com/prisonsociety3/DOCs/covid-19surveyreport_jc_9.23_)

233 “Optional Protocol To The Convention Against Torture (Opcat) Subcommittee On Prevention Of Torture, National Preventive Mechanisms, United Nations Office of the High Commissioner for Human Rights, <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx>

have ratified the convention including almost all European countries.<sup>234</sup> States that have ratified OPCAT have demonstrated understanding of the fundamental obligation to provide accountability to the public for those in their prisons. The USA, which incarcerates its population at a higher rate than any other country, and at an astronomically high rate in comparison to other Western democracies, has conveyed through its decision that it holds no such value.<sup>235</sup>

Until there is momentum on greater accountability of the prison system throughout the USA, it is essential for the oversight bodies in the only three states in which they are present to continue to show the value in a cohesive approach to oversight across different states. This should provide a blueprint that demonstrates value through the solidification of this collaboration and encourages ratification of the OPCAT and the establishment of NPM.

Having taken this first step with the focus on COVID-19, the three organizations aim to move forward the collaboration with a report focusing on in-depth study of comparable facilities using the Measuring Quality of Prison Life analysis method developed at Cambridge University<sup>236</sup> in the winter of 2021, and then will identify how key findings are replicated across all facilities through a system-wide survey in the spring of 2022. By designing a survey and making exact comparisons it is expected that substantive links between policies and outcomes can be shown and that systems that are failing in specific areas can identify solutions by looking across state boundaries towards a greater model of collaboration in the future.

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234 "9. b Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" United Nations Treaty Collection, New York, 18 December 2002, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9-b&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&clang=_en)

235 "Highest to Lowest" World Prison Briefing

236 "MQPL +": Analyses of quality, culture, and values in individual prisons" University of Cambridge, Prison Research Centre, <https://www.prc.crim.cam.ac.uk/directory/research-themes/mqpl>



# Annex

## **NOTE ON ANNEXES**

Prior to publication an embargoed copy of this report was sent to IDOC in Illinois, NYDOCCCS in New York, and PADOA in Pennsylvania.

IDOC acknowledged receipt of report, engaged in review of report by phone with JHA on 12/13/21. Minor edits were made based on information shared by IDOC during this call.

The responses received from NYDOCCS are PADOA are included in full in Annexes A and B below.





KATHY HOCHUL

Governor

ANTHONY J. ANNUCCI

Acting Commissioner

## **In Response to “THREE STATE PRISON OVERSIGHT DURING THE COVID-19 PANDEMIC”**

### ***New York State Department of Corrections and Community Supervision, Ranked Among the Lowest COVID-19 Case and Death Rates per 10,000 Incarcerated Individuals in the Country, Responds to Report Challenging Agency’s Pandemic Practices***

Every facet of the state’s response to the COVID-19 outbreak has been guided by facts, scientific data, and the guidance of public health experts at the NYS Department of Health (DOH) and the CDC. The work of the NYS Department of Corrections and Community Supervision (DOCCS) to protect the safety of New York’s incarcerated population is no different. The Department strives to do everything reasonably within its power to protect all human life and halt in its tracks the spread of this insidious disease.

Throughout the COVID-19 pandemic, DOCCS benefitted from its practice of retaining supplies, equipment and other resources that have been made available, as needed, for impacted correctional facilities during the spread of this highly contagious and infectious disease. As with the occurrence of any widespread public health threat, the Department is involved in ongoing discussions and preparations, including protocol review and emergency supply inventory to ensure that the Department’s policies and procedures are as up to date as possible.

In the early weeks of the health crisis, and in response to the growing number of COVID-19 cases in local jails at that time, DOCCS released hundreds of low-level technical parole violators and absconders from local jails. Also, thousands of individuals who were committed on non-violent, non-sex offenses and were within 90 days of their approved release date from a DOCCS facility were released on an on-going basis throughout the pandemic. This number included pregnant and postpartum women.

To be proactive, DOCCS, in consultation with DOH, developed a statewide asymptomatic surveillance program to randomly test the population in every facility on a daily basis. This program began last December and continues today.

In addition to our asymptomatic surveillance program, the testing process is currently the same for those in prison as it is for those in the community. Our physicians, nurse practitioners and physician assistants, working with our nurses, are following the guidance of the DOH, and incarcerated individuals are tested when exhibiting symptoms and after a medical evaluation is conducted. Our process identifies those patients who are ill, requiring special monitoring and care, and isolates those who exhibit any symptoms or have a positive test. Additionally, anyone exposed to a patient who has a positive test or symptoms and has the greatest risk of transmission to others is placed into quarantine. Asymptomatic patients who wear 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.

If an incarcerated individual is quarantined (mandatory or precautionary), regardless of symptoms, they are isolated and tested. If an individual's test result is positive, or they are quarantined, that person is maintained in isolation for a minimum of 14 days. For individuals who need enhanced levels of care, we access our network of outside hospitals to ensure the population receives the necessary treatment and services.

Since a vaccine became available, our singular goal is, and has been, to get as many staff vaccinated as quickly as possible. DOCCS has been working with DOH to do the same with the incarcerated population.

In consultation with DOH, DOCCS has been vaccinating those staff and incarcerated individuals who wish to be vaccinated, since February 5, 2021. As vaccination efforts continue, the Department is also focused on ensuring staff complete the mandatory reporting of their vaccination status and, for those who remain unvaccinated, the mandatory reporting of their weekly testing results.

To date, the entire incarcerated population in DOCCS correctional facilities has been offered a vaccine; with slightly in excess of 52% choosing, thus far, to receive the vaccine. DOCCS has completed clinics at all facilities. It is anticipated that this percentage will increase with the additional food-related incentives that were recently announced for the population. We are also in the process of providing the booster to those incarcerated individuals who express interest.

Educational videos regarding the importance of receiving the COVID vaccine are being displayed statewide and DOCCS continues to re-poll all facilities for interest in receiving the vaccine, and has additional clinics scheduled.

In addition, a COVID-19 Task Force was created and continues to meet to monitor and assess all actions and potential actions in response to this public health crisis. The Department's executive team has been in regular communication with all Facility Supervising Superintendents, Superintendents, as well as Community Supervision Regional Directors and Assistant Regional Directors, as a means of monitoring in real time, all COVID-19 related issues that arise within the system. Executive team members also held regularly scheduled telephone calls with advocates, including CANY, during which they were able to ask any questions that they may have had.

Starting in April 2020, the Department began providing daily updates of COVID cases within DOCCS facilities on its website, which also details all of DOCCS' actions and responses to limit the spread. The report, which was at one time updated seven days a week, is now updated every business day.

In addition to the above, below are further measures the Department initiated to ensure the safety and well-being of staff, incarcerated individuals, and parolees:

- Mandating all staff to wear face masks while on duty.
- Regularly re-supplying all incarcerated individuals with cloth and surgical-type masks.
- Mandating social distancing on transportation vehicles, with both staff and the incarcerated population required to wear masks.

- Working with phone and tablet vendors to ensure incarcerated individuals had continued access to a number of free weekly calls and secure messages via the tablet program that provides each incarcerated individual with a tablet free of charge.
- Expanding offerings to the incarcerated population through the general population tablet program.
- Allowing legal visits to be conducted as non-contact visits, as requests are submitted.
- Implementing health screening for staff entering facilities and community supervision offices.
- Displaying posters with information on COVID-19 and safety tips throughout DOCCS facilities and offices statewide.
- Regularly showing a video to the incarcerated population and staff at the facilities on the benefits of being vaccinated.
- Enlisting Corcraft, an entity of DOCCS, to develop and bottle a 75% Isopropyl alcohol-based formula as recommended by the World Health Organization (WHO) at three facilities.
- Issuing hand sanitizer to all facilities for staff and the incarcerated population to use, as well as community supervision offices.
- Having OSI conduct regular facility and area office audits of COVID-19 protocol compliance during site visits.

Each action we take in response to the spread of COVID-19 is done in the best interest of those who work within, or are incarcerated in our facilities, or are supervised by staff in the community. We will continue to evaluate all options as this situation unfolds.

According to [data compiled](#) by The Marshall Project and The Associated Press—two third-party, independent organizations—through June 25, 2021, New York ranked 46<sup>th</sup> out of 50 state correctional institutions, as well as the federal prison system, in the number of cases per 10,000 prisoners, and 47<sup>th</sup> out of the same group of 51 systems in the number of deaths per 10,000 prisoners.

Lastly, it must be noted that while any COVID-related death of an incarcerated individual is a terrible tragedy, the results of the Department's life-saving efforts to date, must be juxtaposed against the state-wide fatalities for all New Yorkers. As of November 22, 2021, the total number of COVID deaths for all New Yorkers reported to and compiled by the CDC, was 58,907. The total number of COVID deaths of incarcerated individuals as of that same date was 35.

**THREE STATE PRISON OVERSIGHT DURING THE COVID-19 PANDEMIC**  
*The case for increased transparency, accountability and monitoring*  
**PA DOC Input**

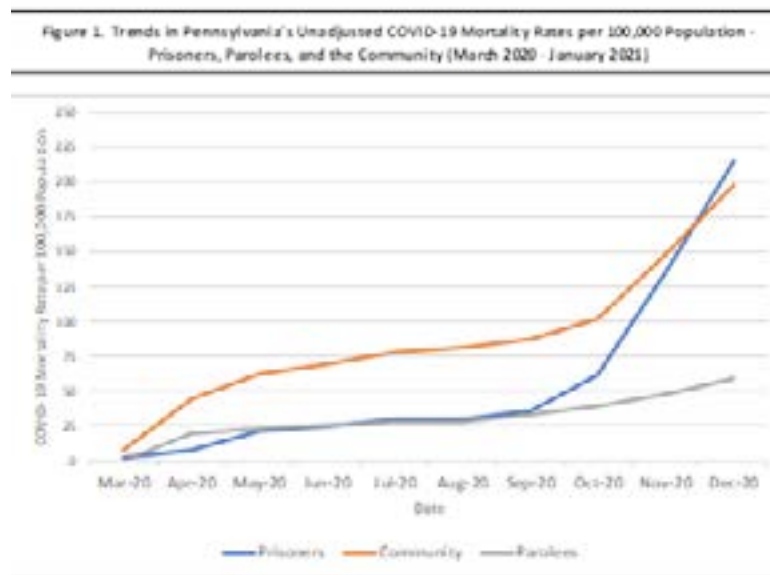
Comments are provided by page number for ease of access and review:

**1. Pages 4, 18, 19: Population Reduction**

On p. 4, p. 18 and p. 19, all three states were criticized for failing to release medically vulnerable incarcerated people; however, nowhere does it consider the legal authority each state had to do so. PA DOC has no legal authority to release incarcerated people who are not otherwise eligible for parole. We did work extensively with the Parole Board to consider releases for parole violators, as well as others who were legally eligible for parole consideration. We also met with Leadership in the General Assembly to request legislation that would have granted that authority; however, no legislation was passed. Although the Governor did sign an Executive Order to consider reprieves, this process was not ideal because it was just a temporary release requiring the return of individuals to the PA DOC to complete their sentence. As a result, many individuals chose not to be reprieved. The roughly 8,000 inmate reduction, as a result of reduced DOC admissions during COVID, is only about half of the overall prison population reduction experienced by PA DOC over the past decade. In addition to the roughly 8,000 inmate reduction during COVID, the PA DOC has reduced its population by an additional 6,400 since mid-2012. This additional reduction was a result of prison reform efforts such as the Justice Reinvestment Initiative (JRI) and also due to increased efficiency in parole release processing.

**2. Pages 4 and 7: COVID Death Rates**

On p. 4 and p. 7, the report talks about higher COVID death rates in prison than in the community. This data should be more thoroughly explained. For instance, the below graph shows that it wasn't until Dec. 2020 (roughly 9 months into the pandemic) that the COVID death rate among PA DOC inmates was higher than the community. Even then, the death rates need to be adjusted for demographics in order to have an apples-to-apples comparison to the community. Previous studies (which are referenced in this report) only looked at age, race/ethnicity, and gender, which is inadequate. Geographic location and pre-existing health conditions for example are also important factors related to COVID death risk that have to be adjusted for when comparing the community to prison. Additionally, since April 15, 2021 (which is right after we started vaccinating inmates), our COVID-related death rate among our inmates is one-third (33%) lower than in the community during the same time.



Also, individual-level risk comparisons are preferable, whereas the previously referenced studies used aggregate adjustments. When we performed an individual-level comparison of inmates to parolees in PA, considering several

more important demographic factors, the risk of COVID deaths was not statistically any higher for inmates than it was for parolees.

Further, when we just looked at the COVID death risk among elderly inmates with pre-existing conditions who would likely be difficult to manage in the community and thus be candidates for community nursing home placement, and we compared them to the COVID death risk in nursing homes, the COVID death rate in prison was between 1.5 and 4.5 times lower than in community Long Term Care Facilities (nursing homes). Just the actual unadjusted COVID death rate in PA prisons has been significantly lower than the community in the past 4 to 6 months, which is likely in large part a result of the higher vaccination rates in PA prisons. All this to say that if this various evidence holds up, it may actually be safer (i.e., a lower risk) from COVID death in prison than elsewhere.

### **3. Pages 5, 6 and 49: Internal Communication and Cohorts for Mitigation**

On p. 5, p. 6 and p. 49, lack of communication is claimed with the inmate population. Our communication (fireside chats, bulletins and meaningful communicative rounds) has had a direct bearing on the numbers of vaccines and boosters accepted. We have moved to vaccinated vs. unvaccinated housing units to safely address some out of cell issues, etc. We use the data in the EIR (estimated immunity rate) (waste water, community spread/SCI spread rates, physical plants considerations, etc.) to inform cohort size decisions on unvaccinated units.

### **4. Pages 25, 35, and 36: Health Care**

On p. 25 and p. 35, Health Care is discussed indicating that access to critical care for chronic illnesses was limited due to COVID. All inmates have the ability to submit a sick call slip to request emergency and non-emergent care which results in RN triaging and/or provider appointments as warranted. While co-pays were suspended for all inmates as the things progressed, it is dictated by statute and regulations, specifically, Title 61 Section 3303 and 37 PA Code 93.12(e).

A review of the grievances filed indicates that the number of COVID Health Care related grievances from 3/1/2020 to the present is 658 system wide. The number of Health Care related grievances from 3/1/2019 – 3/1/2020 is 7,771 which covers a myriad of areas for an average of over 40,000 people during that time with multiple submissions by one individual for clarity.

### **5. Pages 26-28: Staff Testing Protocols**

The report indicates “We call on the department once again to adopt the mandatory staff testing protocols currently required for all nursing homes. These protocols require monthly, weekly, or bi-weekly rapid testing of all staff in contact with residents, based on the level of community spread.” We currently have 7,733 staff vaccinated and those who are not vaccinated are to be tested weekly.

### **6. Page 29: Waste Water Testing**

On p. 29, waste water testing is raised as a reason for reduced testing, which is inaccurate and not part of the protocol testing decision. Bi-weekly wastewater testing of every facility occurs for advanced detection monitoring on COVID levels within each facility. We are the only state DOC in the country who did routine wastewater testing for COVID of all facilities and with an evaluation by waste water by Yale and Stanford. This speaks to density of population in correlation with vaccination rates, mitigation efforts and spread.

### **7. Page 34: Inmate Vaccination Rate**

On p. 34, the inmate vaccination rate in PA is now up to 90.1% and the staff vaccination rate in PA is up to 47.8%, according to the PA DOC COVID dashboard as of Dec. 2, 2021. These increases should be noted.

### **8. Pages 49-50: Survey Methodology**

On p. 49-50, the survey methodology is discussed. The results of this survey effort are not validly representative of the entire PA DOC inmate population. First, the survey is not representative of the entire inmate population, the survey draws from only subscribers to the Graterfriends newsletter. In other words, it is not a random sampling of the PA DOC inmate population. Second, the response rate to this survey appears to only be about 34%. This is a fairly

low survey response rate, and raises questions again about the generalizability of the results. It should be made clear in the report that this survey is not representative of the entire PA DOC inmate population.

**9. Page 52: Dashboard**

On p. 52, the report notes that an improved PA dashboard was rolled out in the late summer of 2021 but claims that the UCLA Behind Bars report gave PA's dashboard a rating of C. The C rating appears to be based on the old dashboard, and the UCLA Behind Bars cite now rates the PA dashboard as a B, which likely reflects the new dashboard that was rolled out. This should be made clear.

**10. Page 54: Transparency**

On p. 54, to be consistent and more transparent, change the quote that says "63% of people in custody who had a recent video visit reported either trouble accessing the service or technical issues during the call" to reflect respondent numbers as the 2020 survey was completed by 335 inmates out of over 38,000 if this is the origination of the information and please confirm sourcing of this data. Recommend numbers percentages for transparency.

**11. Page 56: Communication between DOC and PPS**

On p. 56, it states that PPS work has gone "interrupted"; was "uninterrupted" meant to be written? We take exception to the comment that PADOC "has significantly walked back its openness to dialogue with the Society during the pandemic.". While it's true that the quarterly meetings didn't take place, we have designated staff who serve as liaisons to the Society and addressed questions continuously through phone calls and emails. Quarterly meetings did resume in November, 2021.

**12. Additional Section Suggestion: Internal Statistical Efforts**

Recommend an additional section which discusses internal statistical efforts that each of the three states took to monitor and share publicly and thus better respond to the management of COVID in the facilities. For example, in PA we shared the following information on our dashboard:

- A Daily Facility Report showing data on staff and inmate infection rates, testing rates, death numbers, staff call-offs, vaccination rates, and trends over time, by facility.
- A daily population report to monitor population changes by facility.

# Three State Prison Oversight During the COVID-19 Pandemic

The case for increased transparency, accountability and monitoring based on experiences from Illinois, New York and Pennsylvania



PENNSYLVANIA  
**PRISON SOCIETY**  
— SINCE 1787 —

