

John K. Carroll  
*President*

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Chief Executive Officer*

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**Via Electronic Mail**

April 28, 2020

Acting Commissioner Anthony J. Annucci  
NYS Department of Corrections and Community Supervision  
1220 Washington Avenue, Building 2  
Albany, NY 12226-2050

Kumiki Gibson  
General Counsel  
Office of Governor Andrew M. Cuomo  
New York State Capitol Building  
Albany, New York 12224

Re: **Immediate Release of Incarcerated Pregnant Individuals at Bedford Hills**

Dear Acting Commissioner Annucci and General Counsel Gibson:

We write to demand that New York State immediately release ten pregnant women currently incarcerated at Bedford Hills Correctional Facility ("Bedford Hills") due to their unique vulnerability, and the vulnerability of their unborn children, to serious complications from COVID-19 infection. Pregnancy is a serious risk factor for severe complications, including death, from COVID-19, that threaten both mother and child.

There is no justification for the continued detention of these expectant mothers under such dire conditions. All of these women are serving sentences for non-violent crimes, and some are held as a result of technical parole violations. Some are due to be released just in a few weeks, and all have release dates within a year. The women's due dates are fast approaching, with many due within the next two months and two women due to give birth *in less than three weeks*.

Given the exponential spread of the virus within carceral settings and the extraordinary vulnerabilities to the contagion that these women face, even a few weeks longer in custody could mean the difference between life and death.

**We have identified the following ten women who the Department should release immediately:**

1. [REDACTED]: Ms. [REDACTED] is due in just three weeks, on May 16, 2020. Ms. [REDACTED] has a merit release date of October 10, 2020. Given Ms. [REDACTED] imminent delivery date and her and her unborn child's vulnerability to serious complications from COVID-19 infection, time is critical.

April 28, 2020

2. [REDACTED]: Ms. [REDACTED] is serving a sentence for a non-violent conviction (identify theft) and is scheduled for a parole hearing next month. Given the non-violent nature of her offence and her upcoming release date, there is no justification for continued incarceration.
3. [REDACTED]: Ms. [REDACTED] is currently incarcerated as a result of a technical parole violation. Her maximum expiration date is January 20, 2021. Ms. [REDACTED] is in the third-trimester of her pregnancy, which has been classified as high risk, and is due to deliver on July 21, 2020. Remaining in DOCCS custody during this time only compounds the health risks Ms. [REDACTED] already faces due to her high-risk pregnancy.
4. [REDACTED]: Ms. [REDACTED] has a release date of May 18, 2020, just ten days after she is due to give birth to her daughter. A non-violent felony offender, Ms. [REDACTED] was sentenced to the 90-day treatment program at Willard Drug Treatment Campus, but has been moved to Bedford Hills to complete an alternative program in light of the pandemic and her pregnancy. She has already been approved to return to her home of Lewis County upon her release.
5. [REDACTED]: Ms. [REDACTED] is currently incarcerated due to a non-violent parole violation. She is up for release in just six weeks, on June 9, 2020. It makes little sense for the Department to put Ms. [REDACTED] health and the health of her unborn child at serious risk simply to hold her an additional few weeks.
6. [REDACTED]: Ms. [REDACTED] is incarcerated due to a parole violation. Her underlying conviction was one of drug possession. Ms. [REDACTED] suffers from asthma, which renders her susceptible to COVID-19 transmission and serious consequences if she contracts the virus. These risks compound the risks that she, as a pregnant woman, and her unborn child already face as a result of the pandemic. Her maximum expiration date is July 26, 2020.
7. [REDACTED]: Ms. [REDACTED] was sentenced to participate in Willard Drug Treatment Campus's 90-day treatment program, but because of her pregnancy and the COVID-19 pandemic is completing an alternative program at Bedford Hills. Her due date is June 27, 2020 and she is set to complete her alternative program the following week. Ms. [REDACTED] has gestational diabetes as well as high blood pressure. These conditions mean her pregnancy is considered high risk, and also render her vulnerable to serious consequences, including death, if she contracts COVID-19. Indeed, preliminary research shows that among those who have died from COVID-19 in the United States, diabetes was the most frequently found underlying health condition.<sup>1</sup>

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<sup>1</sup> See Preliminary Estimates of the Prevalence of Selected Underlying Health Conditions Among Patients with Coronavirus Disease 2019 — United States, February 12–March 28, 2020, MORBIDITY AND MORTALITY WEEKLY REPORT, Apr. 3, 2020, available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6913e2.htm>.

April 28, 2020

8. [REDACTED]: Ms. [REDACTED] is due in less than three weeks, on May 13, 2020. She is serving a sentence for a non-violent offence and is scheduled for a parole hearing in July of this year.
9. [REDACTED]: Ms. [REDACTED] is pregnant and is being held as a result of technical parole violations. Ms. [REDACTED] is approaching 47 years old. As a result of her age, she and her unborn child are considered high risk even under the best of circumstances, and the added risk of COVID-19 renders her pregnancy even more precarious.
10. [REDACTED]: As a result of her age and medical conditions, Ms. [REDACTED] has what is considered as a high-risk pregnancy and indeed is housed in a long term medical unit, apart from the other pregnant women at Bedford Hills, because medical staff have determined she needs a higher level of care due to her insulin-dependent type-1 diabetes. Ms. [REDACTED] also suffers from hypertension, long standing asthma and cardiac issues that require treatment and monitoring. She was hospitalized in both February and March 2020 because of these conditions. Ms. [REDACTED] expects to be released from custody on June 16, 2020 after completing the 90-day Willard alternative program, only a matter of weeks before her due date. Through no fault of her own, Ms. [REDACTED] commencement of the 90-day program was delayed by several weeks; had this delay not occurred, she would have already completed the program. Because she is housed in a medical unit, she is housed with women who have been exposed to COVID-19 and are awaiting test results. She is therefore at particular risk of contracting the virus and, given her serious medical conditions, of experiencing severe medical complications that would threaten her health and that of her unborn baby.

These expectant mothers and their unborn children face serious risks of health complications should they remain incarcerated. By their design and operation, New York state prisons make it impossible for individuals incarcerated within these facilities to engage in the hygiene, cleaning and social distancing measures necessary to mitigate the risk of COVID-19 transmission. All of these women will better protect themselves, their unborn children, the healthcare workers who will deliver their children and provide pre- and post-natal care, and the community from COVID-19 by isolating at home.

The devastating spread of COVID-19 cases throughout DOCCS facilities over the past weeks starkly proves the risk of continued incarceration: on March 24, 2020 there were only three confirmed cases of COVID-19 among people incarcerated in New York States prisons. Just one month later, even with limited testing, the number has jumped to 310. Over *one thousand* DOCCS staff members have now been confirmed as infected.

Bedford Hills has been particularly hard hit by the virus. As of April 26, 2020 Bedford Hills reports 30 confirmed cases of COVID-19, with two tests pending. This means that while Bedford Hills

**Justice in Every Borough.**

April 28, 2020

accounts for less than two percent of New York State's incarcerated population, it accounts for nearly ten percent of confirmed cases.<sup>2</sup>

While scientists are only beginning to understand the exact extent to which pregnancy puts women at risk for serious complications from COVID-19, it is already well known from previous coronavirus infections that pregnancy heightens the risk of the respiratory infection of which COVID-19 is the most recent and novel iteration. Emerging evidence suggests that women with pregnancies classified as high-risk face more severe COVID-19 infections. Moreover, a growing body of research shows that the social and environmental stressors can harm the health of mother and baby. Finally, while there is much still unknown about viral transmission in utero, there is already clear evidence that when pregnant mothers contract COVID-19 it can have an adverse effect on the health of their newborns, regardless of whether the child is infected.<sup>3</sup> While we hope that science finds answers, these ten mothers and children do not have time to wait and see.

Recognizing these risks, measures have been taken by officials in California, Colorado, North Carolina, and Ohio, among other jurisdictions, to release pregnant women from custody.<sup>4</sup> It would be appalling for New York to lag behind, and force New Yorkers to carry and deliver children under such extraordinary and unnecessary risk.

We again demand that the Department take immediate action to protect the health of these ten pregnant women incarcerated at Bedford Hills, as well as their unborn children, by releasing them from custody.

Thank you for your urgent attention to the safety and wellbeing of these women and children during this unprecedented public health emergency.

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<sup>2</sup> Westchester County, where Bedford Hills is located, is one the counties hardest hit by the Coronavirus in New York.

<sup>3</sup> See Li Y, et al., Lack of vertical transmission of severe acute respiratory syndrome coronavirus 2, China, EMERG INFECT DIS., 26(6), available at <https://doi.org/10.3201/eid2606.200287>. These adverse affects include respiratory distress, thrombocytopenia (a low blood platelet count), and abnormal liver function.

<sup>4</sup> See Maura Donlan, et al., "California releases more jail inmates amid coronavirus crisis," LOS ANGELES TIMES, Mar. 20, 2020, available at <https://www.latimes.com/california/story/2020-03-20/california-releases-more-jail-inmates-amid-coronavirus-crisis> (California); David Sachs, "Denver's jail population is drastically shrinking, but that alone can't stop deputies and inmates from getting coronavirus," DENVERITE, Apr. 20, 2020, available at <https://denverite.com/2020/04/20/denvers-jail-population-is-dramatically-shrinking-but-inmates-and-deputies-are-far-from-immune-to-coronavirus/> (Colorado); Ames Alexander, "Ramping up fight against COVID-19, NC begins releasing some inmates early," THE CHARLOTTE OBSERVER, Apr. 13, 2020, available at <https://www.charlotteobserver.com/news/coronavirus/article241977711.html> (North Carolina); Max Filby, "Coronavirus: Ohio Gov. Mike DeWine seeks release of 167 prisoners to slow outbreak," THE COLOMBUS DISPATCH, Apr. 7, 2020, available at <https://www.dispatch.com/news/20200407/coronavirus-ohio-gov-mike-dewine-seeks-release-of-167-prisoners-to-slow-outbreak> (Ohio).

April 28, 2020

Sincerely,

/s/ Dori Lewis

Dori Lewis  
*Supervising Attorney*

/s/ Sophia Gebreselassie

Sophia Gebreselassie  
*Staff Attorney*

cc: Adam Silverman, Esq. DOCCS General Counsel  
Cal Whiting, Assistant Secretary for Public Safety