



January 28, 2021

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*****FOR IMMEDIATE RELEASE*****

Defenders to Gov. Cuomo: Stop Blocking COVID-19 Vaccinations for Our Incarcerated Clients

(NEW YORK, NY) – The Legal Aid Society, Brooklyn Defender Services, New York County Defender Services, Neighborhood Defender Service of Harlem, The Bronx Defenders, Legal Aid Society of Suffolk County, Legal Aid Society of Nassau County, Center for Appellate Litigation, Appellate Advocates, and the Office of the Appellate Defender, [in a recently issued demand letter](#), called on Governor Andrew Cuomo to authorize distribution of the COVID-19 vaccine to New Yorkers incarcerated in state prisons and local jails or face a legal challenge. The letter highlights New York State’s irrational exclusion of incarcerated people from the list of people living in congregate settings who have been prioritized for vaccinations, contrary to public health guidance.

This demand comes as almost 5,000 New Yorkers in the custody of the New York State Department of Corrections and Community Supervision (DOCCS) [have tested positive for COVID-19](#). Another 30 New Yorkers in prisons alone have [succumbed](#) to the virus since last March.

[According to the Prison Policy Initiative](#), New York is one of only a handful of states that lacks any vaccine distribution plan for its incarcerated population. At least 27 states, including neighboring states like Massachusetts and New Jersey, have plans already in place to vaccinate incarcerated people.

Earlier this month, a New York State Supreme Court Judge [ordered](#) the State to offer the vaccine to a Legal Aid client incarcerated at Adirondack Correctional Facility holding that vaccination is part of the State’s “nondiscretionary duty to treat [the] medical needs” of incarcerated people.

The letter states:

New York State's cruel policy of providing vaccines to people held in group settings like shelters and nursing homes but not jails or prisons, and to correctional staff but not incarcerated individuals, is inhumane. It is also a public policy failure, as here we are with vaccines, but complete silence from the State about the plan for providing the vaccine to one of the most at risk populations. Your plan is costing lives as people are dying in New York State prisons from preventable COVID-19 illnesses.

We demand that you change this policy effective immediately and authorize vaccinations for people held in jail and prison custody. If you do not change your policy, we will have no choice but to seek legal remedies for our clients. We further request that you meet with us immediately to detail your plans for vaccination pursuant to this policy.

“As thousands of people continue to be infected in prisons and jails across the state and the preventable death toll mounts, the Governor’s decision to exclude incarcerated people from vaccine access - despite acknowledging urgency of vaccinating other people in congregate settings - is inexplicable and inexcusable,” said **Tina Luongo, Attorney-in-Charge of the Criminal Defense Practice at The Legal Aid Society**. “Almost 30 states have concrete plans announcing when incarcerated people can expect shots in the arm. This is a colossal failure of public policy and our clients deserve action now.”

“We urge the Governor and DOCCs to act quickly to vaccinate all people living in high risk congregate settings, including incarcerated individuals -- an approach currently being taken in other states. It is essential that science, rather than prejudice or moral judgments, guide New York’s vaccination program to protect the most vulnerable,” said **Claudia Trupp, Senior Supervising Attorney, Center for Appellate Litigation**.

“As COVID-19 surges in prisons and jails across New York State, Governor Cuomo has ignored incarcerated people from his vaccine authorization plans,” said **Lisa Schreibersdorf, Executive Director of Brooklyn Defender Services**. “Though his plan acknowledges the need to vaccinate people who work in correctional settings, his plan does nothing to protect the lives of incarcerated people despite the obvious dangers they face in the same prisons and jails. Before another life is lost, Cuomo must act immediately and authorize vaccines for people held in prisons and jails.”

“Prisons are congregate settings and, as such, they amplify the virus – one CO can bring the virus into a prison, sparking a 100-person outbreak, and now there are 100 people in an enclosed area who can transmit the virus to COs and civilian staff who have yet be exposed, thus what started with one infected person can end up with scores more infected people going back out into the community,” said **Paul Skip Laisure, Attorney-in-Charge, Appellate Advocates**. “The vaccination of incarcerated people is a humanitarian duty that derives from the State having taken physical control of them. Not only are those incarcerated relatively helpless at protecting themselves from infection, they are at a higher risk than the general public of deadly complications due to their higher-than-average burden of underlying health issues. Also, the State's obligations with respect to vaccinations do not end with those incarcerated but extend to the people the State

of New York has hired to work in its prisons and to the communities surrounding those prisons, all of whom are at great risk from prison outbreaks.”

“The CDC guidance is clear: incarcerated people need to be vaccinated at the same time as staff in order to stop the spread of COVID-19 in jails and prisons,” said **Stan Germán, Executive Director of New York County Defender Services**. “When disease is allowed to fester in congregate settings, it spreads back into the surrounding community. We have seen this time and time again throughout this pandemic. Incarcerated people cannot practice social distancing or other precautionary measures. We need to vaccinate them because it is the right thing to do but also to make all New Yorkers safer.”

“Every day that passes without New York state offering vaccines to those held in jails and prisons risks the lives of our clients, endangers their families and threatens public health,” said **Alice Fontier, Managing Director of Neighborhood Defender Service of Harlem**. “The Governor’s vaccination plan prioritizes jail and prison staff – but not the people who are held in those same facilities. Refusing our clients access to vaccines, while prioritizing others in congregate settings, sends the message that our clients’ lives are worth less than other New Yorkers’. That’s simply not true. We refuse to allow their humanity to be trampled and demand that Governor Cuomo act swiftly in fulfilling the state’s obligation to provide vaccines to those held in jails and prisons.”

“Incarcerated individuals have virtually zero control over their daily living conditions: no ability to properly socially distance; no ability to ensure that cleaning protocols and other safety protocols are followed; no ability to ensure that PPE is made available to, let alone properly used by, all. The state has failed to adequately protect them,” said **Ann Mathews, director of the Criminal Defense Practice at The Bronx Defenders**. “As a result, we are about to pass the grim milestone of 5,000 people in state custody being infected by COVID-19. Inaction is deadly, and the Governor has a responsibility to make the vaccine available to any incarcerated person who wants it before it's too late.”

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org