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Ato Williams

Prof. Steven Zeidman

March 22, 2020

SENDING BY EMAIL AND REGULAR MAIL

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Anthony J. Annucci Acting Commissioner
New York State Department of Corrections and Community Supervision
1220 Washington Avenue, Building Two
Albany, New York 12226-2050

Honorable Tina Stanford
Chair NYS Board of Parole
97 Central Avenue
Albany, New York 12206

Re: Establishment of a Coronavirus Emergency Release Commission

Dear Governor Cuomo, Commissioner Annucci, and Chairperson Stanford:

We write with respect to the effects on our state's incarcerated population of the coronavirus pandemic.

As you are well aware, the rapid increase in the incidence of the COVID-19 virus has plunged the State into a public health crisis, unprecedented since influenza in 1918. Our lens focuses on the more than 43,000 potential victims of the pandemic currently being held in DOCCS custody and on the people charged with their supervision and care.

We write to urge you to authorize the immediate release of incarcerated individuals whose presence in their communities will not adversely affect public safety. The release of these people will eliminate one source of the accelerating contagion. It will save lives and reduce the size of the prison population to a more manageable level for custody staff and correctional medical care staff and lower the risk of infection among all personnel. Failure to take immediate action to release incarcerated individuals is likely to lead to a catastrophic number of deaths in custody as staff, reduced by illness, will be unable to provide even basic services and medical treatment as the number of infected individuals grows.

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Plattsburgh, NY 12901
518-561-3088

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14 Lafayette Square, Ste.510
Buffalo, NY 14203
716-854-1007

Newburgh
10 Little Britain Rd., Ste. 201
Newburgh, NY 12550

Prisons are incubators of disease transmitted through the air, such as COVID-19. It is the nature of prisons to house people in confined spaces for prolonged periods of time—just the formula for transmission, and just the formula for staff to get infected and carry the infection home at shift change.

We don't know the mortality rate of this infection, but we have every reason to believe that the rates are high among older people and those with chronic illness. A high proportion of incarcerated individuals fall into the latter category. Their severe illness will be costly in human terms and costly to taxpayers for their hospital care.

Senator Sepulveda and Assemblyman Weprin have proposed a wise and responsible plan for releasing people now in State custody. We attach their letter and ask that you immediately convene an Emergency Coronavirus Release Commission to work cooperatively toward the release of the greatest number of incarcerated individuals possible, within the bounds of public safety.

Senator Sepulveda and Assemblyman Weprin, joined by Senator Rivera and Assemblyman Gottfried, sent a similar letter to Parole Chair Stafford urging her to use her “discretionary authority to conduct a rescue mission” by expediting the parole release of individuals who come before the board. We attach their letter and again urge that, in this crisis of epic proportions, you exercise your authority to direct Parole to release people from custody, “especially older, unhealthy or less healthy adults.”

We bring this request and information to you in the spirit of full cooperation as, together, we stand at a crossroads for New York State: we can act now and be remembered as the state which, by releasing individuals whose presence in their communities would not present a risk to public safety, intelligently and compassionately flattened the curve of transmission of the virus and prevented many in-custody deaths; alternatively, we can be remembered as the state that kept more than 43,000 New Yorkers locked in their cells, as potential “sitting ducks,” waiting to see what happens.

The latter option is not consistent with the laudatory, deliberate, carefully-planned management decisions you've made to date – decisions from which we, as fellow New Yorkers, are benefiting and for which we are eternally grateful.

We stand ready to work with you on a course that saves lives and reflects the humane principles on which the State of New York prides itself.

The undersigned are the former Deputy Commissioner/Chief Medical Officer of the New York State Department of Correctional Services (as it was then known) from 1989 to 1995 and a senior partner at the law firm Debevoise & Plimpton, LLP, who has served as its Ethics chair, co-chair of its litigation department and immediate past president of the NYC Bar Association. Both also serve, respectively, as a Board Member and Board Chair of Prisoners' Legal Services of New York, a state funded legal services organization that for the past 44 years, following the Attica uprising, has provided civil legal services to incarcerated individuals in the custody of the Department of Correctional Services and Community Supervision (DOCCS).

Governor Cuomo, Acting Commissioner Annucci and Chair Stanford
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Respectfully yours,

Robert B. Greifinger

Robert B. Greifinger, MD

John S. Kiernan

John S. Kiernan, Senior Partner
Debevoise & Plimpton, LLP

Encls: March 19, 2020 Letter to Governor
March 20, 2020 Letter to Parole