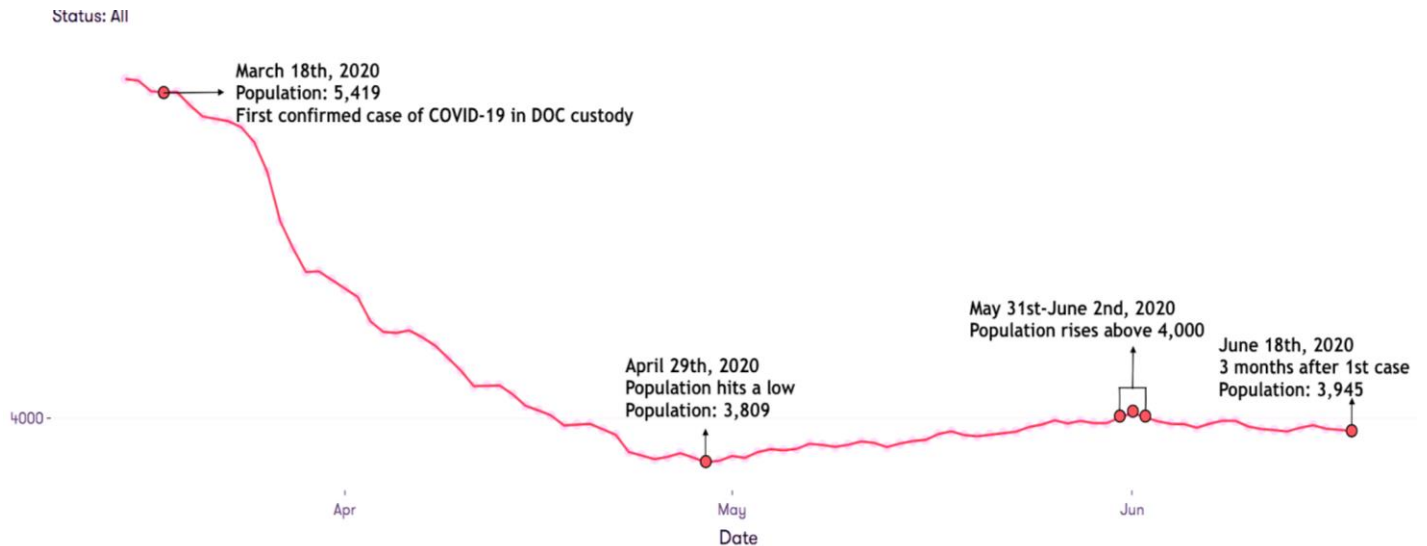


# COVID-19 IN NYC JAILS: #FREETHENOW

## 3 Month Update: March 18th, 2020 - June 18th, 2020

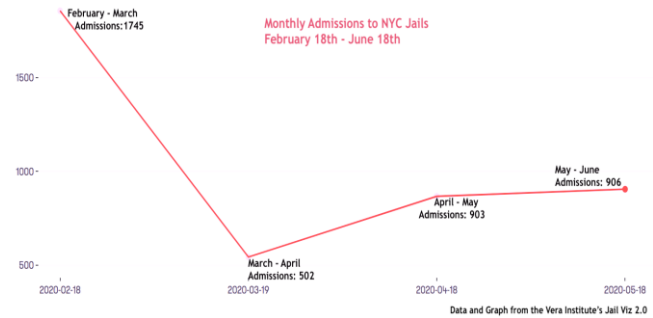
Three months have passed since the first positive case of COVID-19 was confirmed in Department of Corrections (DOC) custody on March 18th, 2020, and since [advocacy groups](#) and the [Board of Corrections](#) called for urgent action to release people from New York City jails. Correctional Health Services (CHS) will not provide the cumulative number of positive COVID-19 cases in DOC custody, but it is clear that it has been rampant, destructive, and deadly in New York City jails. DOC reports that as of June 12th, 343 individuals are currently confirmed with COVID-19, with 54 patients under CHS observation. Since March 18th, 3 individuals have died of COVID-19 in DOC custody.



**From March 18th-June 18th, the total population of people in DOC custody is down 27%, from 5,419 individuals to 3,945 individuals.** This decrease marks the first time that the jail population dropped below 4,000 [since 1946](#), more than 70 years ago. However, people continued to be admitted to the City jails throughout this 3 month timespan. Throughout this period, 3,945 individuals were released and 2,471 people were admitted, yielding a net decrease of 1,474 individuals in DOC custody.

Unfortunately, it is unclear if these trends signify permanent change. Between April 29th and June 1st, the population steadily increased by 5% and jumped back over the highly celebrated mark of 4,000 individuals. Since then, the population has toggled just below 4,000 and remained consistently above the April 29th low of 3,809.

Similar trends have occurred with new admissions. While May-June admissions show a 51% decrease compared to February-March, May-June admissions also show a 39% increase compared to March-April, showing that trends are reverting back to prior arrest tendencies.



## This population decrease is not enough, and it is not as promised. Who are the 3,945 individuals who still remain?

In the 3 months covered by this report, the proportion of people in DOC custody serving a City sentence diminished most significantly, by 83%. The number of individuals detained for an alleged technical parole violation declined by 72%. The number of people being held pre-trial hardly changed, with a net decrease of only 10%. On June 18th there were 585 additional people in DOC custody who are facing both a new charge and an accusation of a parole or probation violation, down 28% from 821 people on March 18th.

Similar discrepancies in release proportions are seen corresponding to racial distinctions. While Black individuals represented 58% of the jail population on March 1st, they only represented 56% of releases. Contrarily, white individuals represented 10% of the jail population on March 1st, and nearly 13% of releases since then.

Among the people still being held, more than 93% are awaiting a trial or a parole hearing. There are still 445 individuals being held over 51 years of age, 92% of whom are awaiting a trial or parole hearing. As of June 18th, 87 individuals, or 2.2% of the population, were serving City Sentences.

**The following sections outline the roadblocks that have prevented further releases.**

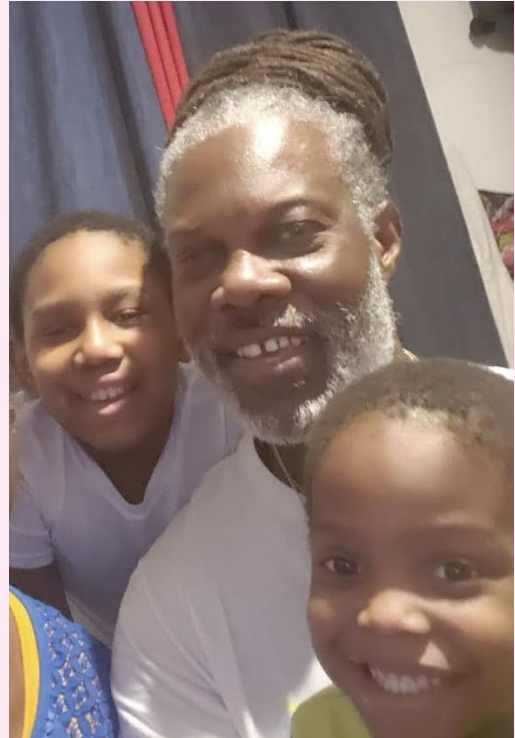
**People accused of parole violations:** On March 27, [Governor Cuomo pledged to release 1,100 people](#) being held for alleged parole violations across the state. But the reality of this pledge has strayed from its intent. [The review criteria](#) were set so narrowly that it left fewer than 800 people eligible for release - 299 in New York City and 492 in the rest of the state.<sup>1</sup> On Rikers, there were still 202 individuals being held solely for alleged technical parole violations on June 18th, and 244 people were admitted to Rikers for an alleged violation of parole in the previous three months. There are likely at least 300 additional people in DOC custody who are accused of a parole violation and also face a new charge, but are held only because of the parole hold issued, and were otherwise released by a judge for the pending charge.<sup>2</sup> Two detained individuals who contracted COVID19 and passed away, Michael Tyson and Raymond Rivera (who was released from custody just before he died), were held for minor parole violations.

<sup>1</sup> DOCCS response to AM Weprin, Sen. Sepulveda, AM Mosley, and Sen. Benjamin, June 11, 2020

<sup>2</sup> Per analysis by the Center for Court Innovation, April 2020

## Junior Wilson

Junior Wilson was released from Rikers Island on Friday, April 17th after being held for an alleged parole violation for 8 months. The parole hold in his case was issued because of “police contact.” Last summer, Junior was traveling home from work and was stopped in the subway by police who said they were searching for a stolen credit card. After he voluntarily submitted to a search, the cops asked him about a pre-paid debit card he had in his wallet, which bore his wife’s name. While the charge brought against him was minor, and is not eligible for detention under new bail reform laws, Junior is on parole after having completed a prison sentence upstate. Any contact with police constitutes a technical violation of his parole, which leads to automatic incarceration pending a parole hearing. Prior to release, 57-year-old Junior was quarantined with possible COVID-19 symptoms. COVID posed elevated risk to him given his age, his pacemaker, and his long term asthma. Speaking from Rikers Island, Junior explained "We have nothing to protect ourselves... Everyone is scared for our lives...we are begging for help in having us released to our families before we contract their disease and pass away behind bars."



**People being detained pre-trial:** District Attorneys and judges have continued to display a punitive approach in the face of this public health crisis. On March 18th, 3,247 people were detained for a new charge. In the 3 months since, only 2,082 were released from pre-trial detention, and another 1,744 were admitted. In a public hearing on May 19th, all six DA’s reported opposing the release of a number of people whom judges ultimately approved for release. The DAs’ support and cooperation in reducing jail populations varied greatly, with DA Gonzalez (Brooklyn) consenting to 260 releases, DA Clark (Bronx) consenting to 90-100 releases, DA Katz (Queens) consenting to 42 releases, DA McMahon (Staten Island) consenting to 7 releases, and DA Brannen consenting to no releases. DA Vance (Manhattan) did not respond to City Council’s request for information about how many releases his office consented to.

While judges ultimately approved releases for more people than DAs consented to, in response to writs filed by public defenders, judges also denied release or failed to conduct a review in many cases, and blindly accepted assertions from DOC that people in custody are being adequately cared for and protected from exposure to coronavirus. Further releases of people being held pre-trial were secured by community bail-out efforts. However, the number of people being held pre-trial has nearly returned to pre-COVID levels, with 2,909 individuals in custody on June 18th, and bail reform rollbacks (set to take effect July 3rd) allow for further increases to pre-trial detention. DA’s and judges must use their discretion to direct people to release on recognizance, supervised release programs and diversion, and alternatives to incarceration programs.

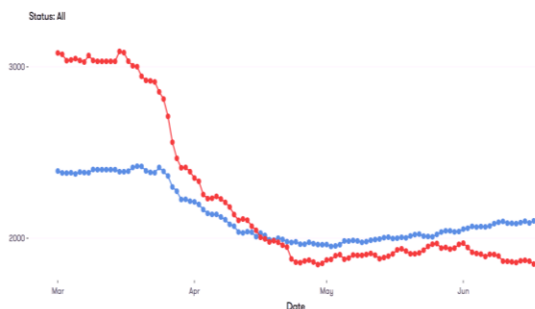
**People serving a City sentence:** On March 18th, there were 522 people in DOC custody serving a City sentence, and that number was reduced to 87 people by June 18th (435 person decrease). 443 individuals serving City sentences were released during this time, and 8 were admitted. The DOC Commissioner has the discretion, under Section 151, 6A of Correctional Law, to release City sentenced individuals to participate in work release or other programming for reasons of “compelling public interest.” While the City has been obligated by law to operate such a release program, they did not establish one until they were forced to respond to COVID19. People released through this program are being required to participate in regular check-ins by phone with a program provider for the duration of their sentence. Approximately 200 people released through this program, as well as some people who were accused of parole violations, have been provided with hotel rooms if they did not have stable housing to return to upon release. The Mayor’s Office of Criminal Justice (MOCJ) has contracted with non-profit organizations to provide services at these hotels. [The Mayor](#) and Commissioner refused to consider releases for people convicted of charges perceived as more serious, even if the individual’s remaining sentence was very short.

**People with mental health needs:** Initially, the [State’s review criteria](#) for lifting parole holds excluded anyone diagnosed with a serious mental illness (SMI). After facing pushback from disability rights advocates, the State agreed to another review, which resulted in the release of only 3 additional people. Similarly, people with a mental health diagnosis (M designation, or Brad H Status) have disproportionately remained in DOC custody. While individuals with an M designation made up 44% of individuals on March 1st, they only made up 26% of releases. People without an M designations made up 56% of the population and 74% of releases.<sup>3</sup> CHS reported on May 5th that approximately 600 people with diagnoses with a serious mental illness remained in DOC custody.

## We continue to hear a discrepancy between what the DOC says is being done and what is being reported.

### Medical Needs

While officials claim that mask covering has been required for all people since April 3rd, evidence suggests this has been far from reality. A June 8th BOC report shows concerning non-compliance with social distancing, mask use, and sanitation practices. Social Distancing was not practiced in 57% of celled areas and 50% of dorm areas housing likely exposed by asymptomatic individuals. Additionally, 5 of these 16 likely exposed but asymptomatic housing areas were



above 50% capacity. Staff mask use was only found to be consistent and compliant in 53% of the 62 housing units. More concerning, only 14% of 440 visible observations showed individuals in custody properly wearing masks.<sup>4</sup>

Individuals have reported months without new masks and expectations to reuse them indefinitely. A mother recently reported that her son and other residents in the George R. Vierno Center (one of nine jails on Rikers) were given only 3 masks each, and told to reuse them for over a month, while another mother reported the same experience conveyed by her son, held in DOC custody at the Vernon C. Bain Correctional

<sup>3</sup> NYC Open Data, June 18, 2020

<sup>4</sup> New York City Board of Correction Monitoring COVID-19 Responses, June 8, 2020

Center in the Bronx (also known as The Boat). Complaints show that the soap distributed had no antibacterial ingredients, and they are often left to use plain water due to shortages. Residents reported that when they did not have any clean dishes, they were directed to wash their dishes in the slop sink used to clean mops.

Medical accessibility is severely lacking. Reports show telehealth lines ringing indefinitely. Individuals have complained that they are cut off from 311 and health calls because it exceeds daily phone minute allotments.

These conditions have posed threats to facility staff as well. As of April 9th, there were reports of multiple staffers who tested positive for COVID and were forced to work. June 4th updates total that 196 CHS staff members and 1,407 DOC staff members have cumulatively been confirmed with COVID-19. The health of the individuals in DOC custody is deeply dependent on the health of the DOC staff.

### **Personal Needs**

Individuals are deprived of essential contact and programming beyond facility walls.

Reports show that GED and educational tutors are barred from entering, tablet programs are faulty, recreational programming is interrupted, and the DOC have essentially provided no alternative options for school. The Department of Education (DOE) reportedly made proposals for remote learning, but all were denied by DOC. For students participating in GED preparation, for example, only paper packets have been offered, and DOE will not collect the packets that were distributed due to hygiene concerns, so credits would likely not be assigned. While tablets are being provided for certain recreational purposes, they do not have Wi-Fi connections and therefore cannot be used for most programming.

This is posing issues to individuals accessing essential contact with family, friends, and attorneys on the outside. On March 18th, the DOC suspended all in-person visiting and has committed to increased phone access and sanitation to sustain contact accessibility. This has been far from the reality. Across 45 instances of phone use, the phone was only cleaned three times, each time with individuals in custody using a cloth or sponge to wipe it down.<sup>5</sup>

### **“They have to suffer in silence”**



A mother of a young man detained at GRVC reports that her son, who is suffering from asthma, is not able to obtain the necessary supplies to remain safe. He has no access to masks, gloves, soap, or other sanitation materials. Along with his entire housing unit, he tested positive for COVID-19 and was never given proper medical treatment.

He reports to his mother that he has consistently been denied food, mail services, haircuts, visitation, recreation time, and programming. The family is unable to be in contact with him as he endures this violent mistreatment. He has been held at Rikers for more than two years while awaiting trial.

<sup>5</sup> New York City Board of Correction Monitoring COVID-19 Responses, June 8, 2020

## What do release and re-entry look like?

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The process of releasing individuals cannot end when people are unloaded out of facilities. There needs to be proper support, and resources allocated for these releases to properly protect the individuals. MOCJ has suggested that this support upon release is in place. This includes hotel sites run by the Department of Homeless Services, phones, food vouchers, wellness checks, support systems, job service providers, and permanent housing resources.

But, these services rely on the cooperation of the DOC to be a reality for the individuals at hand. Exodus Transitional Community, a program provider at the hotel sites, confirms that they are only able to work with people who are brought to them directly through the DOC. The Women's Community Justice Association has similarly expressed issues with transportation for recently released individuals. In response to these complaints, the DOC claimed that they were unaware that it was their responsibility to transport people to their respective housing after release, claiming that this was only required for work-release participants. Once brought to the hotel sites, individuals report that the resources are a great improvement from the past accommodations.

The hotel placements are set to end on July 31st. What will housing support look like after this day?

### Kori Andrews



Kori Andrews was released from Rikers in April after being held for a parole violation. Upon release, Kori first went to a shelter, then was later transferred to a hotel with the help of Exodus. Compared to the shelter, the hotel's accommodations have provided a much more supportive environment. The hotel rooms allow for safety and solace that the shelters do not consistently afford. Although the food is redundant and Kori is still seeking further employment support, the hotels have provided individual living, adequate sanitation and cleaning, and social services to support the individuals there.

Before he was incarcerated this spring, he was living in a shelter on Ward's Island. He had a job in Sheepshead Bay that required him to start work at 7am, but he had trouble getting approval from parole to leave the shelter before 6am due to his curfew. This made it nearly impossible to get to work on time, and he eventually lost that job. Kori expressed fear of what his housing will encompass in the future, and urges the hotel system to continue as long as possible.

## Recommendations

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Before the first case of COVID-19 was diagnosed in DOC custody, New York City jails were already in crisis. For years prior to and throughout this pandemic, formerly incarcerated people, advocates, faith leaders, public defenders, human rights groups and others have been urging the Mayor, the Governor, City and State Legislators, District Attorneys, judges, and the Board of Corrections to drastically limit the use of incarceration, and to ensure the health and safety of incarcerated people.

At a moment when one aspect of New York City's abusive and racist system of law enforcement - the NYPD - is rightly under much scrutiny, and elected officials are responding to public pressure with promises to shrink NYPD and address its worst abuses, will they make the connection that incarcerated people have already made - that DOC must also be defunded, and its employees held accountable?

**Recommendations included below are far from comprehensive** - abuse, bias, and disregard for human life are pervasive through the entire criminal legal system. The actions we call for in response to COVID-19 are in fact actions that should have been taken long ago. Our supposedly progressive state still incarcerates Black people at a rate [8 times higher](#) than white people, and if New York State were a country, it would have the [fifth highest incarceration rate](#) in the world. This is the moment that we must commit to a drastically different path, and the recommendations below provide a starting point.

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**Mayor de Blasio** should use all methods within his power to reduce the jail population, and direct his agencies accordingly, to ensure that the reduction in the jail population that we have seen in response to COVID19 is preserved and furthered. Specifically the Mayor should

- Increase funding for alternatives to incarceration and alternatives to detention, and encourage DAs and judges to utilize them. These programs should be sufficiently funded to provide stable housing for people who need it.
- Continue directing the DOC Commissioner to utilize the 6A program to release people who have been sentenced to City jail time.
- Expand consideration for release under the 6A program to include all people who are medically vulnerable (regardless of charge) as well as all who are within 90 days of completing their sentence, regardless of charge.
- Continue providing housing to support the release of people who lack stable housing.
- Encourage judges to utilize release on recognizance or supervised release in lieu of setting bail or remanding people.
- [Reduce the NYPD budget](#) by at least \$1B this year, and direct them to end low-level enforcement and arrests. While many people are released after low-level arrests, any police contact leads to automatic incarceration for New Yorkers on parole.
- Hold the DOC accountable to carry out adequate safety measures, including access to personal protective equipment and cleaning supplies.
- Direct the DOC to develop plans that allow for education, programming, and access to healthcare, loved ones, legal counsel, and other services to continue even when in-person contact must be limited.
- Hold the DOC accountable to carry out adequate discharge planning for people who are released.
- Direct CHS to track and publish cumulative cases of COVID-19 among people in DOC custody.

- Significantly reduce the DOC budget and invest that money in providing housing and treatment for mental health needs and substance addiction. With a jail population now below 4,000 people, DOC still employs nearly 6,000 excess officers, at an annual cost of over \$1B.<sup>6</sup>
- Move forward urgently with plans to close Rikers, and transform conditions that promote spread of disease in all existing City jails.

**Governor Cuomo** should direct the State Department of Corrections and Community Supervision to immediately lift all parole holds, and should publicly support passage of the [Less is More NY Act](#). The Governor should further use his emergency powers to halt implementation of bail reform rollbacks, slated to take effect July 3rd, and work to eventually cancel the rollbacks. New York State should be reducing, not increasing, pre-trial detention - especially at this moment.

**The New York State Legislature** should reconvene in emergency session to pass the Less Is More NY Act and to cancel bail reform rollbacks, as well as other crucial justice system reforms outlined in the [Justice Roadmap](#).

**District Attorneys** must support the release of all vulnerable people, and use their discretion to end the practice of overcharging, to stop asking for money bail and excessive money bail, to decline to prosecute low-level charges, and to consent to release and use of alternatives to incarceration & detention.

**Judges** must use their power to approve release of all vulnerable people; to dismiss cases in which evidence is lacking or when the prosecution has not met discovery obligations; to utilize the least restrictive means to ensure return to court (as required by law); to deny requests from DAs to set money bail and excessive money bail; and to approve requests to release defendants on recognizance, to supervised release programs and diversion, and to alternatives to incarceration programs.

**Resources for organizers in any state** to push electeds to address the lack of emergency preparedness in the criminal legal system are available at JustLeadershipUSA's #JustUS campaign. Sign on to the campaign and send a letter to legislators at [jlusa.org/justus!](http://jlusa.org/justus!)

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<sup>6</sup> 8,949 uniformed officers are included in the FY 2021 budget, while a ratio of .73 officers per person in custody (recommended by the Lippman Commission) for the current jail population of approximately 4,200 people would require only 2,920 officers. Annual costs of \$239,000 per officer (salary, fringe and pension contribution)



## Acknowledgements

This report was written and researched by Frances Trousdale (intern with the #CLOSErikers campaign). It was edited by Sarita Daftary (Senior Community Organizer with JustLeadershipUSA)

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JustLeadershipUSA is dedicated to cutting the US correctional population in #halfby2030, by empowering the people most affected by incarceration to drive policy reform. The #CLOSErikers campaign fights to secure the permanent closure of all ten Rikers Island jails; shrink the NYC jail system and improve conditions; and #buildCOMMUNITIES through justice reinvestment.

