CANY's Annual Report July 2020 – June 2021

"MY GREATEST FEAR IS TO BE A LAB RAT FOR THE STATE":

COVID-19 AND VACCINE HESITANCY IN NEW YORK STATE PRISONS

Correctional Association of New York

Table of Contents

Executive Summary

For more than 177 years, CANY has been the only independent organization in New York with authority under the law to monitor state prisons and report our findings to the legislature and the broader public. The past two years have demonstrated how critical that work is, as jails, prisons, and detention centers became and persist as hotspots for transmission of the COVID-19 virus. Since the outset of the COVID-19 pandemic in March 2020, CANY has been conducting monitoring work on the impact of the virus on people in prison. This work has continued since the development of effective vaccines against COVID-19, which prompted CANY to assess incarcerated people's access to and attitudes toward vaccination in prison. What follows is one of only a handful of reports seeking to understand vaccine hesitancy from incarcerated people's perspectives.

CANY conducted monitoring visits to eight prisons between July 2020 and June 2021 (i.e., CANY's fiscal year): Fishkill Correctional Facility in July 2020, Sing Sing Correctional Facility in September 2020, Bedford Hills Correctional Facility in October 2020, Green Haven Correctional Facility in December 2020, Sullivan Correctional Facility in March 2021, Greene Correctional Facility in April 2021, Taconic Correctional Facility in June 2021, and Great Meadow in June 2021. CANY also distributed by mail a survey on vaccine hesitancy, presenting questions on sentiments about healthcare providers within and outside of prison; quality and accessibility of healthcare within the prison; sources of information, knowledge about, and experience with vaccines in custody and in the community; factors that have impacted or would influence vaccine uptake; and basic demographic information. CANY supplemented the vaccine hesitancy survey with independent questions on vaccine hesitancy during in-person monitoring visits to Sullivan, Greene, Taconic, and Great Meadow Correctional Facilities, during the first few months of vaccine distribution in the prisons.

The findings from CANY's monitoring work focused on COVID-19 last fiscal year (i.e., CANY's eight monitoring visits, the vaccine hesitancy survey, and supplemental vaccine questions) frame this report, uncovering key concerns about conditions of confinement in New York state prisons through the lens of vaccine hesitancy. Overall, CANY finds that vaccine hesitancy is rooted in incarcerated people's prior negative experiences with the prison healthcare system. A systemic lack of trust in DOCCS administration and healthcare staff drives the hesitancy toward COVID-19 vaccination among incarcerated people in New York. Multiple factors contribute to this lack of trust: insufficient accessibility of healthcare in prison; poor quality of care; and lack of access to information about COVID-19 and the COVID-19 vaccine. Our findings highlight that this lack of trust contributes more broadly to a perceived lack of legitimacy on the part of the prison healthcare system. Survey respondents' perception that prison healthcare staff do not prioritize their patients' interests over those of the prison contributes to their hesitancy to get vaccinated. Additionally, findings reveal the effects of traumatic experiences on vaccine hesitancy in prison, specifically in how the difficulties of enduring the COVID-19 pandemic may affect the willingness of incarcerated people to accept the vaccine.

Based on these findings, CANY makes eight key recommendations to DOCCS and other key governmental stakeholders: (1) 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; (2) DOCCS adopt patient-centered response(s) to COVID-19 and infectious disease prevention and mitigation in prisons; (3) DOCCS continue to provide adequate information to incarcerated people about the COVID-19 vaccine, prioritizing patients' concerns and overall well-being in their decision to accept the shot; (4) DOCCS alleviate gaps in the quality of medical services by improving preventative care through routine screenings, education, and outreach; (5) DOCCS expedite the procurement and implementation of an electronic medical record (EMR) and improve the way that requests for care (i.e., sick call) and the response are documented; (6) The Legislature conduct a comprehensive assessment of the quality and accessibility of healthcare provided in the prisons and identify reforms that would improve the quality of prison-based healthcare; (7) The Legislature pass a bill to ensure that health facilities and services within DOCCS and local correctional facilities are overseen by the New York State Department of Health; and (8) The Legislature pass a bill to designate an independent correctional ombuds to investigate and resolve complaints related to incarcerated persons' health, safety, welfare, and rights.

This report makes clear that vaccine hesitancy among incarcerated individuals is influenced by negative experiences with prison-based healthcare, and with the organizational culture within prison more broadly. Life-saving interventions like vaccines, when delivered by the prison itself, thus come to be seen by many incarcerated individuals as a vehicle for further harm. In other words, the prison environment—characterized by deprivation, punishment, and maltreatment – influences the decision-making of incarcerated people and exposes individuals to worse health outcomes. Addressing the underlying culture within prisons is essential in order to promote better health for incarcerated people, for people who work in prisons, and for New York State as a whole.

Introduction

The novel coronavirus, COVID-19, continues to have a disproportionate impact on one of the most marginalized segments of our society, our incarcerated populations. Prisons, jails, and other carceral facilities remain hotspots for transmission of the virus. The Marshall Project estimates that the official tally of 398,627 individual positive cases of COVID-19 amongst incarcerated people from the start of the pandemic through June 2021 is a "significant undercount."[1] People in prison across the U.S. remain vulnerable to the spread of the virus due to the inconsistency of testing, inability to maintain social distance, lack of access to adequate personal protective equipment, isolation, an aging population, race, ethnicity, social factors pre-incarceration, and poor health worsened by incarceration, among other factors. The COVID-19 pandemic continues to exact a social, physical, and mental toll on incarcerated people. The pandemic has brought to light key lessons about the quality and accessibility of healthcare in our prisons and jails—and the concerning lack of trust that shapes incarcerated people's attitudes about the legitimacy of the prison healthcare system generally.

The impact of the pandemic also highlights the experience of incarceration more broadly. 2021 marks the 50th anniversary of the Attica uprisings; many of the conditions detailed in the Manifesto of Demands[2] fifty years ago, like that of unsanitary conditions, lack of adequate and nutritious food, archaic build of the prison, cruel and unusual punishment toward incarcerated people, including physical brutality by officers, poor healthcare, and more, continue to exist in jails and prisons across the United States today. Such conditions perpetuate and aggravate the spread of COVID-19, but ultimately, subject incarcerated individuals to conditions that compound the punishment of incarceration — in other words, poor living conditions dole out a punishment above and beyond the sentence of incarceration.

The work of the Correctional Association of New York (CANY) continues to be instrumental in uncovering the conditions which doubly punish those who are incarcerated. For more than 177 years, CANY has been the only independent organization in New York with authority under the law to monitor state prisons and report our findings to the legislature and the broader public. In 2020, the legislature passed A10194/S8076, a bill which would have radically expanded the authority of the state's historic and unique independent prison monitoring organization. The bill was chaptered and, though some of the more powerful provisions were removed, it marks a significant milestone for efforts to bring more transparency and accountability to corrections. In the midst of the COVID-19 pandemic, CANY's mandate could not be more vital.

1 The Marshall Project, "A State-by-State Look at 15 Months of Coronavirus in Prisons," The Marshall Project (The Marshall Project, June 24, 2021), https://www.themarshallproject.org/2020/05/01/a-state- by-state-look-at-coronavirus-in-prisons.

2 "The Attica Liberation Faction Manifesto of Demands." 2011. Race and Class 53 (2): 28–35.

The following report uncovers the conditions of confinement in NYS through the lens of vaccine hesitancy, finding systemic disregard for the health and safety of the incarcerated population even in the context of lower overall mortality than in other state systems; lack of trust in the prison-based healthcare system which undermines the legitimacy of the carceral system overall; and the lack of capacity on the part of prison system to provide adequate services and respond to crises. The report draws on our monitoring work during the past year and a half, beginning with the first monitoring visit conducted during the pandemic to Fishkill Correctional Facility in July 2020, and concluding with our monitoring visit to Great Meadow Correctional Facility in June 2021. It also incorporates our work in the areas of COVID-19 more broadly and relies on information gathered through surveys and administrative data. In light of these findings, CANY continues to name decarceration and culture reform as two of the most important strategies to improve conditions behind bars and achieve the greatest impact for all other recommendations.

Methodology

The following report makes use of two primary data sources: data collected during in- person monitoring visits and survey(s) data.

IN-PERSON MONITORING VISITS

This report includes findings from monitoring visits to eight prisons: Fishkill Correctional Facility in July 2020, Sing Sing Correctional Facility in September 2020, Bedford Hills Correctional Facility in October 2020, Green Haven Correctional Facility in December 2020, Sullivan Correctional Facility in March 2021, Greene Correctional Facility in April 2021, Taconic Correctional Facility in June 2021, and Great Meadow in June 2021.

During an in-person monitoring visit, the CANY delegation is typically comprised of 6-12 representatives who meet with each prison's executive staff, incarcerated individuals who serve as representatives from the Inmate Liaison Committee (ILC) and the Inmate Grievance Review Committee (IGRC), employee union representatives, medical staff, staff from the state Office of Mental Health, and academic and vocational staff. During these meetings, CANY staff and volunteers ask targeted questions and take notes to document experiences and issues identified at each prison. Visual observation by CANY representatives, in addition to information provided by the Department of Corrections and Community Supervision (DOCCS) staff, are used to corroborate reports made by incarcerated people, with the aim of ensuring that findings presented in CANY reports are sufficiently triangulated.

When not meeting in the groups described above, CANY representatives walk throughout each prison and speak with incarcerated people who are either in housing units (i.e., cellblocks or dorms) or in program areas. During interviews with incarcerated people, CANY representatives utilize an intake form for each person interviewed, which captures basic identifying information as well as issues any incarcerated person reports. At the conclusion of each monitoring visit, CANY representatives compile data, review notes made during the monitoring visit, and compare them

to relevant historical data. The information is then synthesized to develop high level, preliminary findings and recommendations. The Appendix details all background and demographic information for respondents included in the report.

SURVEY(S) DATA

Vaccine Hesitancy Survey

From January 2021 to June 2021, CANY distributed surveys about vaccine hesitancy to 1,078 incarcerated people across 44 New York State prisons. CANY mailed incarcerated people surveys, blank answer sheets, and a post-marked return envelope to send their answer sheets back. CANY received a total of 198 responses to the vaccine hesitancy survey.

The survey consisted of 41 items and presented questions on sentiments about healthcare providers within and outside of prison, quality and accessibility of healthcare within prison, sources of information, knowledge about, and experience with vaccines within and outside of custody, factors that have or would impact vaccine uptake, and basic demographic information. Of the 41 items on the survey, 31 items were multiple choice response questions while the remaining 10 questions were open-ended response questions. Many of the items in this survey were developed using input provided by partner organizations and healthcare advocacy organizations who use standardized tools to measure vaccine hesitancy.

Supplemental Vaccine Hesitancy Questions

CANY also supplemented the vaccine hesitancy survey with independent questions on vaccine hesitancy used during in-person monitoring visits to Sullivan, Greene, Taconic, and Great Meadow Correctional Facilities. These questions were either adapted from the original instrument or newly crafted based on preliminary results from the formal vaccine hesitancy survey. CANY representatives asked four questions during the monitoring visits that covered whether someone had received the vaccine, and if not, whether they planned to take it, and the factors associated with their willingness to take it. The total number of respondents for these supplemental questions was 404. Additionally, CANY makes references to previous published and unpublished monitoring data to contextualize the findings from the formal survey and supplemental questions.

Methodological Considerations

The vaccine hesitancy survey was initially developed before vaccines were first available (in February 2021). By the time vaccine surveys were distributed, vaccines were beginning to be available to sub-groups of the incarcerated population, and that became increasingly true with each monitoring visit CANY conducted. Expanded availability was made possible by a March 2021 New York State Supreme Court ruling, after which DOCCS began rollout of vaccines to individuals below the age of 65 years and individuals with comorbidities. DOCCS has since expanded vaccine rollout to the entire population. As of September 7, 2021, 48.3% of the incarcerated population had received a COVID vaccination, with 14,854 fully vaccinated and an additional 608 partially

vaccinated. With expanded access to the vaccine, individuals began to hear of and/or know people who had taken the shot, thereby developing first-hand accounts of reactions to vaccination.

Furthermore, DOCCS and external organizations developed fact sheets, informational briefs, memos, and digital media on vaccines and distributed them to the incarcerated population.[3] On June 21, 2021, DOCCS announced incentive programs to encourage vaccinations, including a lottery through which five fully vaccinated incarcerated individuals at each facility would be selected to receive care packages valued at no more than $75, as well as a plan to reward the incarcerated populations at the six correctional facilities with the highest vaccination rate with a facility-wide barbecue at the end of the campaign.[4,5] DOCCS also reported having developed a video featuring Tyler Perry and incarcerated people attesting to the benefits of the vaccine. These efforts were taken in conjunction with efforts taken and reported by DOCCS to canvass individuals across the system multiple times about their willingness to take the vaccine.[6]

External organizations, including Prisoners' Legal Services and some of the college in prison programs, have made important contributions to vaccine education through distribution of materials. Working with DOCCS, CANY undertook a statewide vaccine education campaign using materials from AMEND.US, a public health non-profit associated with the University of San Francisco Medical School.[7] At the time of this effort, only approximately 38% of the incarcerated population had received a vaccine. CANY produced a total of 19,680 pamphlets and determined amounts to be sent to each prison based on their proportion of the total NYS incarcerated population.[8] The packets were printed in both Spanish and English on June 16th, 2021 and mailed to 50 prisons across the state. DOCCS staff determined the individual distribution to incarcerated individuals based on vaccination status, and the pamphlet was generally posted in housing areas and law libraries and emailed to the superintendent of each prison by DOCCS Central Office.

Background

As of April 1, 2021, DOCCS held 31,161 people in 50 prisons across New York State. And as of August 23, 2021, DOCCS has reported a total of 6,635 confirmed cases of COVID-19 among the incarcerated population, as well as 35 deaths directly linked to complications from the virus.[9,10] The

3 CANY participates in a monthly call hosted by the Department of Correction and Community Supervision (DOCCS) and obtained this information there.

4 Natasha Vaughn, "Inmate Vaccination Incentive Program Assailed," HudsonValley360, July 13, 2021, https://www.hudsonvalley360.com/news/nystate/inmate-vaccination-incentive-program- assailed/article_1e3def6d-dfd3-5b7c-af07-3c8461dddc10.html.

5 *Supra*

6 *Ibid*

7 Amend, "Covid-19 In Correctional Facility: Answers, Advice And Actions," August 19, 2021, https://amend.us/covid/

8 On May 22, 2021, the vaccination rate among incarcerated people was approximately 38%. To determine the number of pamphlets to send, CANY used the under custody count from April 1, 2021, which was 31,161.

9 New York Department of Corrections and Community Supervision, "DOCCS COVID-19 Report." May 19, 2021. https://doccs.ny.gov/doccs-covid-19-report.

10 These reports initially reflected the cumulative number of people who have tested positive for, recovered from, or died as a result of COVID-19 at any of New York State's prisons. Later, DOCCS changed their reporting to use a total test methodology instead of a per-individual methodology, making month-by-month, individual calculations of positivity difficult. To overcome these challenges, CANY used imputation to provide estimates for both daily total tests and daily positivity, finding that positivity rates far exceeded the standard of the State's micro-cluster designation.

COVID Behind Bars Data Project at the University of California, Los Angeles (UCLA) School of Law reports similar case numbers for NYS, but warns that actual case counts are likely to be significantly higher than reported.[11] The UCLA project assessed DOCCS a grade of 'F' on the measure of the comprehensiveness and clarity of the State's prison COVID-19 data.[12]

When the rollout of COVID-19 vaccinations began in February 2021, CANY conducted a vaccine hesitancy survey to gauge incarcerated people's attitudes toward the prison healthcare system, specifically as it related to their potential COVID-19 vaccination by DOCCS medical staff. Though DOCCS began offering vaccines to individuals age 65 years and older on February 5, 2021, eligibility remained limited until March 29, 2021, when DOCCS was ordered by the New York State Supreme Court to offer the COVID-19 vaccine to all incarcerated people in the state.[13] The court's ruling noted that incarcerated people had been arbitrarily and unfairly excluded from the State's vaccine rollout. The court deemed that State officials "irrationally distinguished between incarcerated people and people living in every other type of adult congregate facility, at great risk to incarcerated people's lives during this pandemic".[14] The court thus forced the State to fulfill its constitutional obligation to provide for the health and well-being of those under its supervision.[15]

Given the systemic problems with prison healthcare in New York[16,17,18], and incarcerated people's documented lack of confidence in DOCCS' pandemic response,[19] CANY saw fit to evaluate the extent and causes of vaccine hesitancy for individuals in prison in New York. Vaccine hesitancy refers to "concerns about vaccine safety and necessity"[20] and "the decision to vaccinate oneself."[21] It can cause people to delay or outright refuse vaccination. From a public health standpoint, COVID-19 vaccine hesitancy is likely to increase mortality rates and delay the removal of social distancing restrictions.[22] The decision to vaccinate oneself is therefore crucial to controlling the

11 University of California, Los Angeles School of Law, "COVID Behind Bars Data Project: New York." June 22, 2021. https://uclacovidbehindbars.org/states/new-york/.

12 University of California, Los Angeles School of Law, "COVID Behind Bars Data Project: New York." June 22, 2021. https://uclacovidbehindbars.org/blog/scorecard

13 Troy Closson, "New York Must Offer Vaccine to All Prisoners Immediately, Judge Rules," New York Times. March 29, 2021. https://www.nytimes.com/2021/03/29/nyregion/covid-vaccine-new-york- prisons.html

14 *Ibid*

15 *Ibid*

16 Correctional Association of New York, "Health Care In New York State Prisons: A Report of Findings and Recommendations By The Prison Visiting Committee of The Correctional Association of New York," Correctional Association Of New York, February 2000, https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c4f6ea8b8a045a252250094/154 8709546612/2000+Health-care+in+New+Yorks+Prisons.pdf.

17 Laura M. Maruschak, Marcus Berzofsky, and Jennifer Unangst, "Medical Problems of State and Federal Prisoners and Jail ...," U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics (U.S. Department of Justice, October 4, 2016), https://bjs.ojp.gov/content/pub/pdf/mpsfpji1112.pdf.

18 I A Binswanger, P M Krueger, and J F Steiner, "Prevalence of Chronic Medical Conditions AMONG Jail and Prison Inmates in the USA Compared with the General Population," Journal of Epidemiology & Community Health (BMJ Publishing Group Ltd, November 1, 2009), https://jech.bmj.com/content/63/11/912.short.

19 Correctional Association of New York, "More Harm Than Good: Monitoring Visit To Fishkill Correctional Facility," Correctional Association of New York, September 2020, https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5f9735fcca-70f05a7e005051/16037 45296024/CANY_FishkillReportDesign-F.pdf.

20 Robert M. Jacobson, Jennifer L. St. Sauver, and Lila J. Finney Rutten, "Vaccine Hesitancy." Mayo Clinic Proceedings 90, no. 11. November 1, 2015. 1562–68. https://doi.org/10.1016/j.mayocp.2015.09.006.

21 Daniel A. Salmon, Matthew Z. Dudley, Jason M. Glanz, and Saad B. Omer, "Vaccine Hesitancy; Causes, Consequences, and a Call to Action." Vaccine 33. September 9, 2015. 66. https://doi.org/10.1016/j.vaccine.2015.09.035.

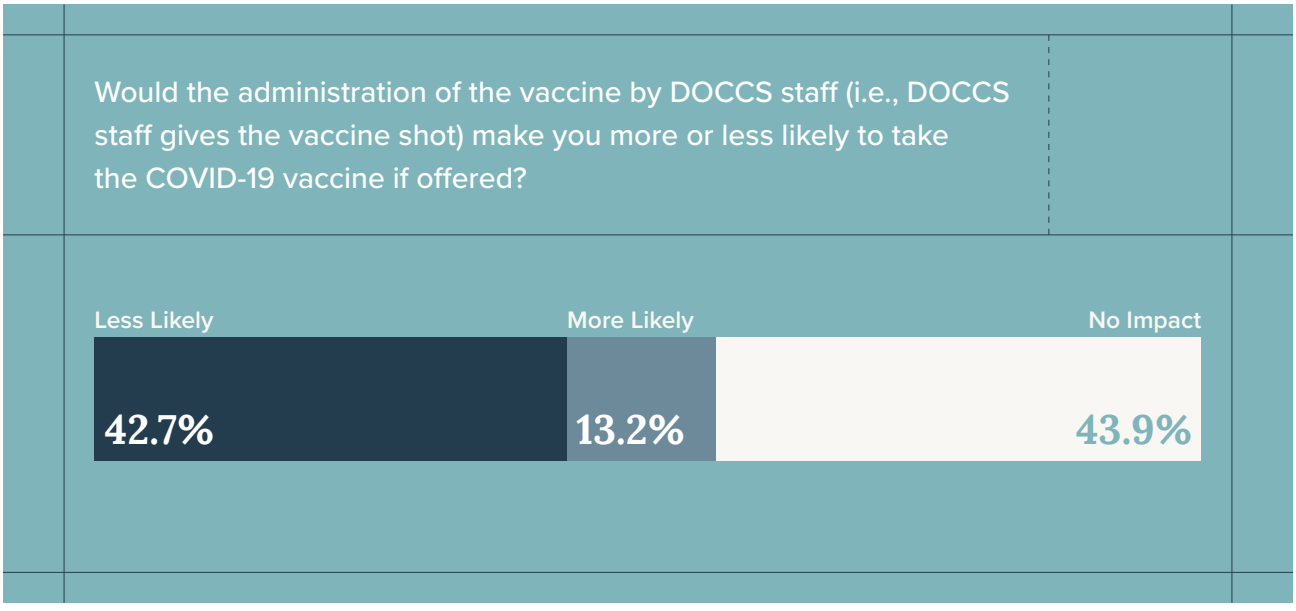
22 Organisation for Economic Co-operation and Development (OCED), "Enhancing Public Trust IN COVID-19 Vaccination: The Role of Governments," OECD (Organisation for Economic Co-operation and Development (OCED), May 10, 2021), https://www.oecd.org/coronavirus/policy-responses/enhancing- public-trust-in-covid-19-vaccination-the-role-of-governments-eae0ec5a/.

pandemic. Indeed, in its 2019 report published well before the COVID-19 outbreak, the World Health Organization (WHO) considered vaccine hesitancy to be one of the ten greatest risks to global health.[23] Independent oversight of institutions involved in vaccine distribution is important to ensuring accountability and equitable treatment in all segments of society.

Several key findings emerge from CANY's vaccine hesitancy survey, and they corroborate those from our monitoring visits over the past year and a half. Overall, CANY finds that vaccine hesitancy is rooted in incarcerated people's prior negative experiences with the prison healthcare system. Systemic lack of trust in DOCCS administration and healthcare staff drives the hesitancy toward COVID-19 vaccination among incarcerated people in New York. Multiple factors contribute to this lack of trust: insufficient accessibility of healthcare in prison; poor quality of care; and lack of access to information about COVID- 19 and the COVID-19 vaccine. Our findings highlight that this lack of trust contributes to a broader lack of legitimacy on the part of the prison healthcare system. Survey respondents' perception that prison healthcare staff often does not prioritize their patients' interests over those of the prison contributes to their hesitancy to get vaccinated. Additionally, findings reveal effects of traumatic experiences on vaccine hesitancy behind bars, specifically in how the difficulties of enduring the COVID-19 pandemic may affect the willingness of incarcerated people to accept the vaccine.

COVID-19 and Vaccine Hesitancy in NYS Prisons

In the formal survey, CANY asked incarcerated people if the administration of the vaccine by DOCCS medical staff would affect their likelihood of taking the COVID-19 vaccine if offered. Of 166 respondents, 42.7% said that DOCCS administering the vaccine would make them less likely to accept the vaccine (n=71).



23 World Health Organization, "Ten threats to global health in 2019." https://www.who.int/news- room/spotlight/ten-threats-to-global-health-in-2019.

By the numbers alone, it is of great concern that interactions with prison medical staff made almost half of respondents less likely to accept potentially life-saving vaccination. These results show a clear link between COVID-19 vaccine hesitancy and incarcerated people's severe lack of trust in the prison healthcare system. They also suggest a severe lack of legitimacy in the prison healthcare system.

LACK OF TRUST

Equivalence of Care

As previous research has shown, people in prison have historically had poor access to health care even before incarceration, putting them at a critical need for medical services while incarcerated.[24] In a May 2020 survey of friends and family members of people behind bars conducted by CANY, 64.8% of respondents reported that their incarcerated loved one had a medical condition placing them at higher risk from COVID-19.[25]

Incarcerated people in New York are significantly likelier than the general public to have a chronic respiratory or cardiovascular disease, and are on average sicker when entering prison than those in the general population.[26,27]

According to the principle of equivalence of care, "persons detained must have the benefit of care equivalent to that dispensed to the general public in the same country."[28] In other words, incarceration cannot be a reason to deny people healthcare of quality comparable to that which they would receive in the general public. Yet CANY finds a significant disparity in survey respondents' attitudes toward medical care on the outside and in prison. When asked, 48.4% of respondents to the vaccine hesitancy survey said that they trust doctors or healthcare providers in general to make medically correct judgments. This statistic itself is concerning, and it could reflect the systemic disparities in healthcare for low-income people and communities of color in New York. It is more alarming, however, that only 8.8% of all respondents said that they trust doctors or healthcare providers in prison to make medically correct judgments, illustrating disparities in these levels of trust in health services beyond and behind bars.

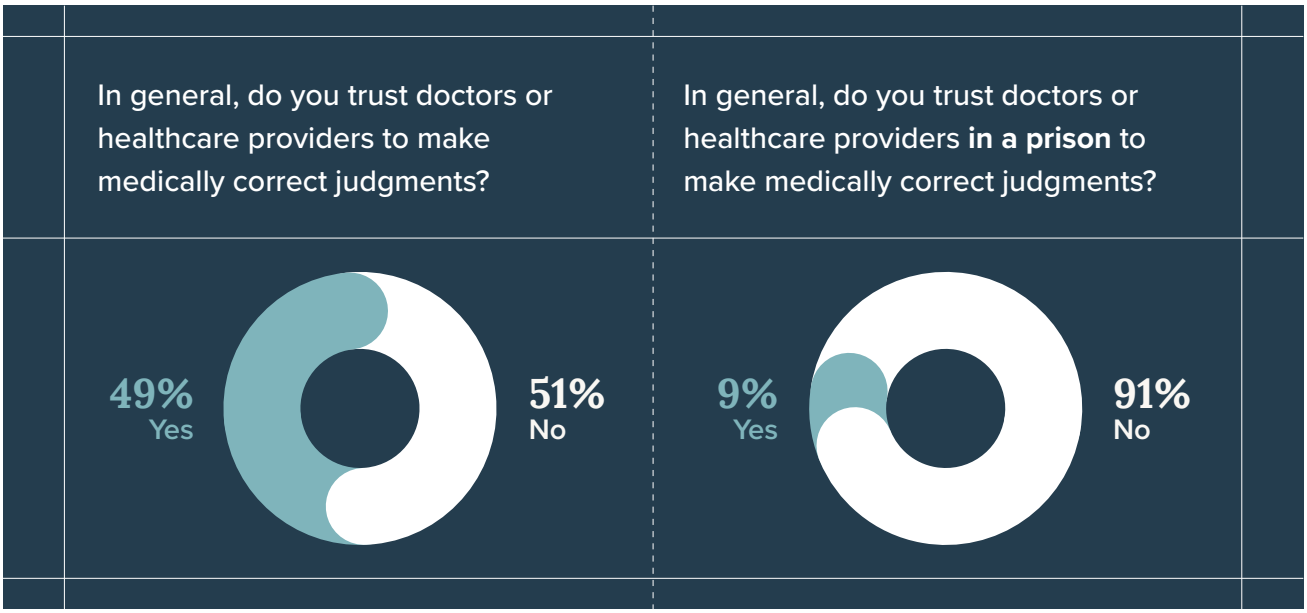
24 Natasha H. Williams, "Prison Health and the Health of the Public: Ties That Bind," Journal of Correctional Health Care (Mary Ann Liebert, Inc., April 1, 2007), https://www.liebertpub.com/doi/abs/10.1177/1078345807301143?casa_token=2hCU5vUAFX8AAAAA%3AzuUESn5NjS_aMBQXwQclZPmaQN4XwbKygCfji3GPm36LHTEWht4bcfKXLObRmWv- QKVkNtU2fTWNRg.

25 Correctional Association of New York, "He Has a Home to Go To: Family and Friends of People in Prison in New York Respond to CANY's COVID-19 Survey, May 2020." https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5ed155b-10d56e8675537fc7f/15907 77273449/CANY%2BCOVID-19%2BReport%2BMay%2B2020.pdf.

26 *Supra*

27 Alan Berkman , "Prison Health: The Breaking Point ," American Journal of Public Health, December 1995, https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.85.12.1616.

28 *Supra*



Quality and Accessibility of Care

This lack of trust can be understood through several factors, each based on data previously collected by CANY. One is accessibility of care in prison. According to DOCCS, incarcerated persons "have access to medical services on a daily basis through each facility's sick call procedure,"[29] but people in prison reported difficulty accessing care for various issues. Findings from the eight monitoring visits conducted across 2020 and 2021 reveal that 41% of incarcerated individuals reported that they were unable to access medical care, 27% reported that they were unable to access mental health care, and 48% reported that they were unable to access dental care, since the beginning of the pandemic. These findings were borne out in the qualitative data as well. A major theme was the existing and exacerbated strains on services, including healthcare: One woman at Bedford Hills reported that "i shouldn't have to scream, cry, yell, threaten to kill myself to get something that i'm entitled to. Being in here is inhumane." Several respondents from Green Haven reported that there no were changes to services during the pandemic because "there has never been adequate care" and "...never used medical services anyways since they were poorly run." One respondent from Fishkill reported that "Said access is possible, but once you are seen, no guarantee you actually get proper treatment."

These figures and reflections generally mirror those collected by CANY in its 2020 report on conditions at four different state prisons during monitoring visits of the last quarter of 2019[30]—prior to the COVID-19 outbreak—indicating that the problem of accessibility of care across the prison system precedes the latest stresses caused by the pandemic. And compared to 2019, in the area of mental health, accessibility problems seem to have worsened. The rate of incarcerated people who reported being unable to see a mental health professional when needed has more than

29 New York Department of Corrections and Community Supervision, "Medical / Dental / Mental Health Services." June 23, 2021. https://doccs.ny.gov/medical-services.

30 Correctional Association of New York, "Connection with the Outside World: Prison Monitoring Findings and Recommendations, July-September 2019." https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5e65f211fdb580682491e7be/1583739413118/Summary_Connection-to-the-Outside-World_CANYReport-03092020.pdf

doubled, from 30.1% to 66.5% of respondents to each survey.[31] In the context of mental health care specifically, incarcerated people reported "If you're not harming yourself or threatening to, OMH won't come." Others mentioned that it was unjust that people were taken out of mental health care services if they refused to take medication three times.

When incarcerated people finally are able to access healthcare services, they routinely reported poor quality of care. Findings from the 2020 report revealed that just 52.2% of respondents said that they were satisfied with the quality of dental care they received, while only 32.2% were satisfied with their medical care. What is more, 55.3% of respondents reported leaving their medical appointments with concerns left untreated. A majority of respondents (54%) reported dissatisfaction with the quality of mental healthcare in the prisons.[32] These factors contribute to a systemic lack of trust in the prison healthcare system, which drives the concerning vaccine hesitancy statistics cited above. Formal vaccine survey respondents also discussed negative experiences with care. When asked to rate the quality of medical care they received in prison, over 79% of respondents rated the quality as negative (n=144). When asked to rate the ease of seeing a medical professional for general care, more than 84% reported the ease as negative (n=154). When asked to rate the ease of seeing a medical professional for urgent care, 84.3% rated the ease as negative (n=151).

With regard to vaccines specifically, 20.1% of respondents to the formal survey reported that they have had a reaction to a vaccine during prison (n=30). Of respondents who reported a reaction to a vaccine in prison, 30.6% said that their reaction was serious. While reactions to vaccines can happen to anyone, what is concerning is the reported response of DOCCS medical staff. Respondents to the formal survey reported that overall DOCCS medical staff neglected to assist them during their reaction. One individual reported that "[medical staff] took my vital signs and said it wasn't serious; another reported that "Staff did not respond until CO yelled at them to help". Still another individual reported that "Fill[ed] out a sick call slip…medical kept [me] locked in my cell with no answers for 3 days and [then] just let [me] out".

This lack of trust, be it rooted in the general state of prison healthcare or experience with prison vaccination in particular, stems from the DOCCS' perceived failure to provide equivalence of care to patients behind bars. This lack of trust, moreover, puts incarcerated people in the position of having to think twice about the safety of the vaccine.

Access to Information

An important aspect of equivalence of care is ensuring that incarcerated people have access to information about their healthcare. Yet CANY reporting on the pandemic has revealed that many people behind bars, particularly in the early months of the pandemic, have not always had "access to proper education on the risks of COVID-19 and how best to take care of themselves."[33] Furthermore, 58% of respondents from monitoring visits in 2020 and 2021 reported not feeling that DOCCS provided them with enough information about COVID-19 in order to protect themselves,[34] which suggests that incarcerated individuals know that it is the prison's duty to keep them informed,

31 *Supra*

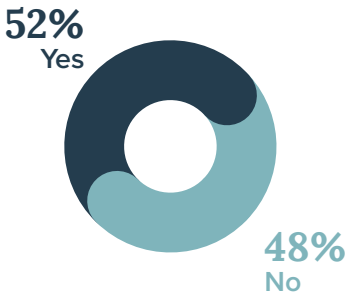
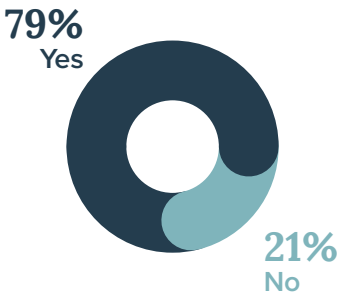
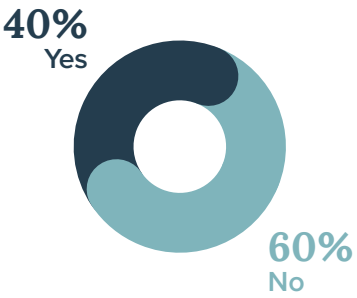
32 *Supra*

33 *Supra*

34 *Supra*

and that the prison has not sufficiently done so.

Incarcerated people have also reported a lack of information about the vaccine, which heightens their distrust of it in this context. Numerous respondents to both the formal survey and supplemental questions cited fears about the vaccine's side effects and other potential long-term complications, rushed product design, or the possibility that it will be ineffective. One person wrote of fears of "getting blood clots and rashes and dying," and another of the "long term effects which may not be known because of the quick approval process because of the pandemic."

In general do you trust vaccines?	Have you ever heard or received negative information about vaccination?	Did you still get vaccinated after you heard the negative information?
		

These findings, however, are not to suggest a pre-conceived hostility or lack of understanding of vaccines among people in prison. In fact, 52.6% of respondents to the formal survey said that, in general, they trust vaccines. This response rate comes in light of the fact that 79.9% of those surveyed reported having received negative information about the vaccination at one point or another. What is more, 39.6% of those respondents who received negative information still reported having accepted the vaccine, indicating resiliency in the face of adverse conditions among many of those behind bars.

And the response of incarcerated people to CANY's vaccine survey questions demonstrate a strong understanding of how vaccines work. "A vaccine is the way in which a possible cure is deliver[ed] into the body. The vaccine is given by way of injection, directly into the blood stream. It works by training the immune system to recognized the virus, and help the body's immune system to fight off the disease," one person wrote. Another gave an equally informed description of how vaccines work, followed by the reminder: "(I did NOT learn that in prison!)."

Fear of side effects and potential complications is but one factor incarcerated people gave for their vaccine hesitancy. But these factors exist alongside the varied negative experiences incarcerated individuals have with healthcare in prison, which taken together, worsens the pre-existing lack of trust in the system.

Comparisons to General Society

Concerning vaccine hesitancy numbers are not unique to the prisons. It is likely that they reflect broader social anxieties in the context of a deeply politicized pandemic response from local and federal government. One analysis of social media posts about COVID-19 vaccine hesitancy showed that people's most common fears are of ulterior motives (on the part of states or other institutions) behind vaccination programs, unsafe development speed, and general safety.[35] These fears in general society closely mirror those of incarcerated people. Another study of adults in three major U.S. cities (including New York City) demonstrated a link between dissatisfaction with one's health and healthcare and COVID-19 vaccine hesitancy. Of the study participants, 13% reported that they were unwilling to be vaccinated, with vaccine avoiders more likely to be Black or African American and at lower income levels.[36] Hesitancy may also exist among correctional officers in NYS prisons, evidenced by vaccination rates at less than 30%,[37] and anecdotes of refusals.[38]

Disproportionately low-income and from communities of color, incarcerated people know that their home neighborhoods face similar factors leading to vaccine hesitancy that they do behind bars. Vaccine hesitancy is not unique to the prisons or inherent to incarcerated populations. It may unfold in the prisons in particular ways, but more generally, it is fostered in social environments grappling with inequitable provision of social services, racial discrimination, and systemic mistrust of authorities. "Minorities are discriminated against in getting the vaccine," one vaccine survey respondent wrote. "Poor communities say it's harder for them to get," another observed.

> **AGAIN YOUR ZIP CODE DETERMINES WHAT WILL BE DUMPED INTO YOUR COMMUNITY.**

These general conditions can lead to pessimism about vaccine availability and safety in incarcerated people's home communities and certainly in the prisons, with incarcerated people well aware of the link. As one person wrote:

35 Mike Thelwall, Kayvan Kousha, and Saheeda Thelwall, "Covid-19 vaccine hesitancy on English- language Twitter," (Profesional de la información 30, no. 2, 2021): 1-13. https://revista.profesionaldelainformacion.com/index.php/EPI/article/view/86322/62939.

36 Sarah Bauerle Bass, et al., "SARS-CoV-2 Vaccine Hesitancy in a Sample of US Adults: Role or Perceived Satisfaction With Health, Access to Healthcare, and Attention to COVID-19 News," (Frontiers in Public Health 9, 2021). https://www.frontiersin.org/articles/10.3389/fpubh.2021.665724/full.

37 Mirela Iverac, "Less than a Third of NY Prison STAFF Vaccinated AGAINST COVID," Gothamist, June 8, 2021, https://gothamist.com/news/less-third-ny-prison-staff-vaccinated-against-covid.

38 John J. Lennon, "How Vaccine Hesitancy Spread in My Prison," The New York Times (The New York Times, May 24, 2021), https://www.nytimes.com/2021/05/24/opinion/covid-vaccine-hesitancy- prison.html.

PEOPLE OF COLOR TREATED BADLY, AND THE ONES IN PRISON EVEN WORS[E].

Beyond Equivalence of Care

Because incarcerated people lack freedom of choice in their healthcare, some scholars have argued that the principle of equivalence of care does not go far enough. By imprisoning individuals, the state accepts the responsibility of providing for the well- being of those under its supervision—people deprived of the ability to do so themselves. This lack of autonomy among incarcerated people necessitates that DOCCS not only meet community standards in healthcare but exceed them, and "never to fall short of them."[39] Yet CANY's findings on the quality and accessibility of prison healthcare services, as depicted below by various examples from our 2020 monitoring visits and vaccine survey, suggest that New York's prisons are falling short of even the lower of these two benchmarks.

"...the healthcare in this prison cant be trusted and I will not trust them to give me anything

"...there has never been adequate care"

"They do not provide the healthcare that is necessary"

"Need more and better health care staffing"

"The healthcare is negligent, irresponsible and uncaring"

"I was scared for my life. Medical ain't shit, they don't take care of you"

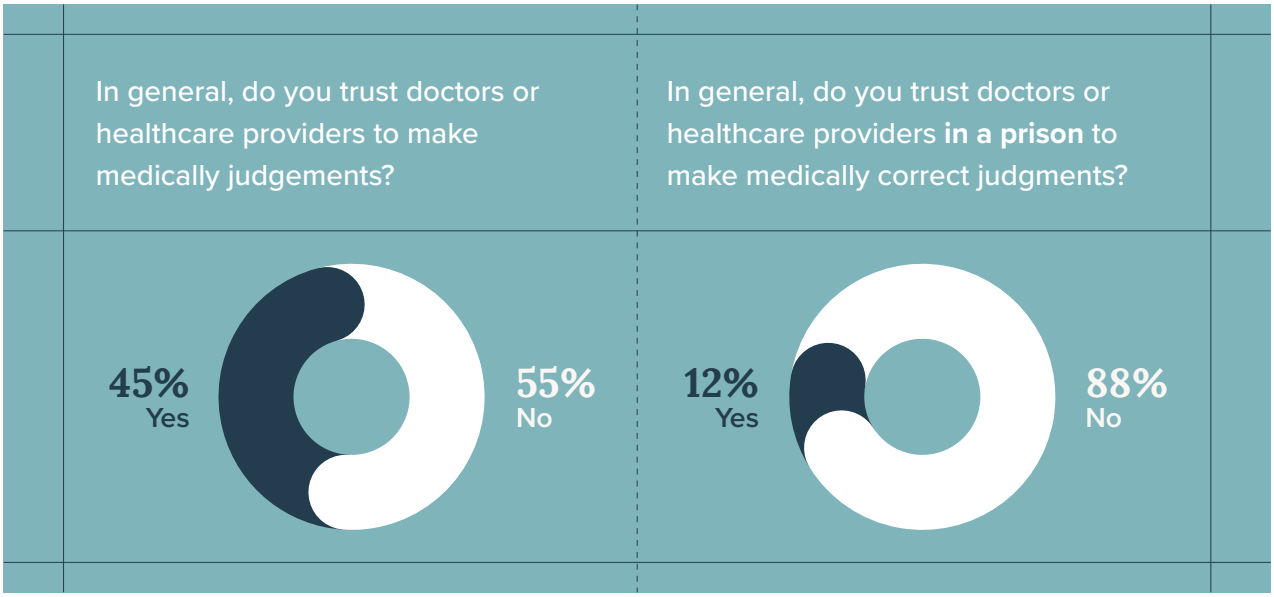
39 *Supra*

LACK OF LEGITIMACY

Dual Loyalty

Incarcerated people's lack of trust in the prison healthcare system points to a deeper problem: a lack of legitimacy in the system itself. The core of the problem stems from the perception among people in prison of dual loyalties on the part of their healthcare professionals. Dual loyalty is the "clinical role conflict between professional duties to a patient and obligations, expressed or implied, to the interests of a third party…in prison." It refers to the tension that prison healthcare professionals must face in meeting their duty to their patients whilst remaining compliant with the directives of the prison administration, by whom they are often employed.[40] Importantly, dual loyalty has been shown to contribute to lower-quality and inadequate care in prisons.[41,42]

Evidence of these instances of dual loyalty in New York prison healthcare is widespread. In response to CANY's vaccine survey, only 11.2% of incarcerated respondents said that they trust healthcare providers in prison to do what is in the best interests of their patients. This compares to 44.8% of respondents' perception that in general, they trust healthcare providers to work in their patients' best interest.

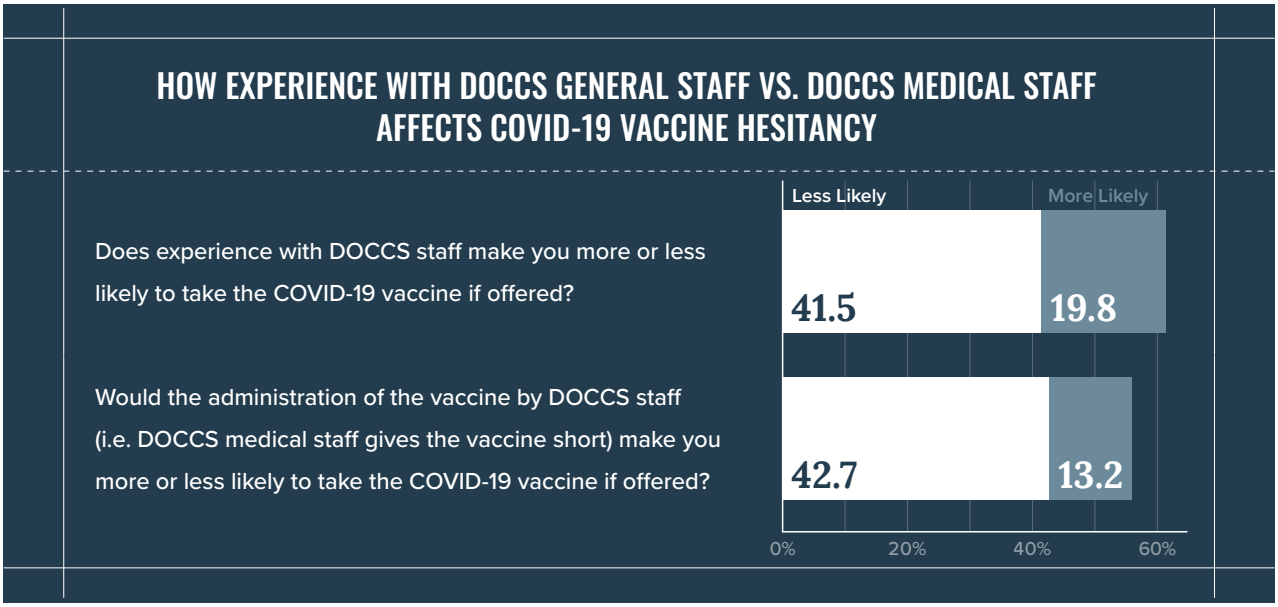


40 J. Pont, H. Stöver, and H. Wolff. 2012. "Dual Loyalty in Prison Health Care." (American Journal of Public Health 102, no.3, 2012): 475–80. https://doi.org/10.2105/AJPH.2011.300374.

41 Homer Venters, "A Three-Dimensional Action Plan to Raise the Quality of Care of US Correctional Health and Promote Alternatives to Incarceration," American Public Health Association (APHA) (American Journal of Public Health, March 9, 2016), https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2016.303076.

42 Ross MacDonald, Amanda Parsons, and Homer D. Venters, "The Triple Aims of Correctional Health: Patient Safety, Population Health, and Human Rights," Journal of Health Care for the Poor and Underserved (Johns Hopkins University Press, August 24, 2013), https://muse.jhu.edu/article/519274.

Thus, incarcerated people perceive that the loyalties of their healthcare providers lie elsewhere. People in prison made little distinction between DOCCS general staff and DOCCS medical staff. With regard to COVID-19 vaccination, interactions with DOCCS general staff (41.5% less likely, n=69) and the administration of the vaccine by DOCCS medical staff (42.7% less likely, n=71) showed virtually identical potential to discourage incarcerated people from accepting the shot.



Incarcerated people also fear that prison healthcare staff discloses their medical information. Of respondents, only 15% trusted healthcare providers in prison to maintain patient confidentiality. Incarcerated patients may fear that DOCCS medical staff would disclose their medical information to the prison administration, making them even more vulnerable to abuse or neglect. This lack of faith in prison healthcare staff to prioritize their needs as opposed to those of the administration makes incarcerated people less likely to accept care, including vaccination.

Trauma and Hesitancy

Incarcerated people's vaccine hesitancy also may be heightened by the trauma of enduring the pandemic behind bars, which would deepen the fear involved in allowing a mistrusted prison staff to inject a foreign substance into one's body. Data collected throughout the pandemic points to incarcerated people's widespread lack of confidence in the prisons' pandemic response. Only 27% of people surveyed during prison monitoring visits said they were satisfied with DOCCS' handling of the pandemic. Qualitative data consistently revealed that incarcerated people felt that DOCCS' response to the pandemic felt inadequate and/or manipulative: "DOCCS is being negligent about protecting prisoners. They run out of supplies, food items."; "COVID wasn't handled well. DOCCS is reactionary. Why can't family members send in better masks?"; "The prison cannot take care of [incarcerated people]"; "it's a wonder that we are still alive"; and "...using COVID as an excuse." At Green Haven, there were many reports around vague and poorly communicated rules. Individuals reported that they felt that correctional staff had "too much discretion" for decision making, making the system vulnerable to errant behavior from specific guards.

Are you satisfied with DOCCS' response to COVID-19?

Have you been quarantined or isolated at any point since March?

Behind this figure stand many troubling indicators. Across the prison system, 31% of respondents from monitoring visits reported being subject to quarantine or isolation since March 2020. The use of confined isolation ostensibly as a COVID-19 precaution serves to negatively impact incarcerated people's mental and physical health,[43] as well as discourage them from coming forward to medical staff about potential symptoms.

Significant failures were identified in the ability to distinguish medical quarantine from isolation. Some people explained that they were in quarantine for fourteen days, during which they could not take a shower or be provided with any of their personal property or change of clothes. In the December 2020 visit to Green Haven Correctional Facility, the percentage of incarcerated people reporting isolation since March was as high as 64%. Also at Green Haven, 61% of people surveyed reported that DOCCS staff failed to wear masks properly, and 65% said that they had not been able to social distance, indicators of the prison system's poor pandemic management measures. During the monitoring visit at Green Haven, two people imprisoned at Green Haven spoke of DOCCS' COVID-19 response:

> **"THEY TREATED IT LIKE A JOKE. NO ATTEMPT TO FOLLOW CDC GUIDELINES."**

43 Thomas Hewson et al., "Effects of the COVID-19 Pandemic on the Mental Health of Prisoners," The Lancet Psychiatry (National Center for Biotechnology Information, U.S. National Library of Medicine, July 2020), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7302764/.

"IT WAS HORRIBLE. EVERYTHING CHANGED. IT WAS FUCKED UP BEFORE AND NOW IT'S WORSE."

The overall findings from the eight monitoring visits revealed widespread perceptions of mismanagement of the pandemic and dissatisfaction with DOCCS' response, a further damaging and traumatic aspect of the experience of incarceration. Of respondents, 74% reported that they had not received any information from DOCCS on how to properly care for, use, or clean masks. Many incarcerated people were in possession of old, dirty, and unhygienic masks. In fact, many individuals reported only receiving masks in advance of CANY's monitoring visits: at Bedford Hills, 82% of respondents reported receiving masks in the same month of the visit; over 20% reported receiving them the day before CANY's monitoring visit. Incarcerated individuals also reported the disparate approach to discipline regarding mask-wearing: 47% of respondents reported that DOCCS staff failed to consistently wear masks and 48% reported that DOCCS staff do not wear masks to cover both their nose and mouth. CANY representatives routinely observed staff pull their masks over their faces as supervisors or administrators approached. Yet, line staff were responsible for disciplining incarcerated people for not wearing masks. At Bedford Hills one person reported: "after we complained that the guards were not consistently wearing masks in the 13 lobby area, they imposed a rule of ticketing us for not wearing masks outside of our cells." At Fishkill, an incarcerated individual reported that when he asked a correctional officer why he wasn't wearing a mask, the officer retaliated by giving him a ticket. Anecdotally, many incarcerated people across all visits identified how perverse and hypocritical this dynamic was.

Although incarcerated people accused of low-level offenses and parole violations were eligible to be released beginning in April 2020, it took significant time for the policy to be implemented. As of July 2020, 1,404 people had been released, most of whom were a few months from their release date and were incarcerated for low-level offenses.[44] As of November 22, 2020, 3,147 people had been released early due to COVID-19, including 791 whose low-level parole violations were canceled. Between January 2020 and June 2021, the total population decreased from 43,233 to 31,962 (26.1%). However, this decrease was not sufficient to allow social distancing, leaving those groups with higher risks of mortality unprotected. At the height of the pandemic, in April 2020, CANY made a series of recommendations directly addressing then-Governor Andrew 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."[45] There was no response to this recommendation from DOCCS or the Governor's office. In that

44 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

45 "CANY's Recommendations" April 23, 2020, https://www.canyxcovid19.org/monitoring

context, while 64% of incarcerated individuals across monitoring visits reported that phones and other high touch areas like gates and bars were consistently wiped down and clean, only 38% reported being able to social distance during mess hall runs, callouts for programs, and yard runs.

CANY's pre-pandemic era monitoring at Bedford Hills Correctional Facility further supports a connection between incarcerated people's past and present traumas and their hesitancy toward medical care in prison. Many of the women incarcerated at Bedford Hills have endured or witnessed some form of violence before prison, only to have this trauma persist during their incarceration. Of the women surveyed, 74% reported that they had witnessed physical, sexual, or verbal violence or abuse by prison staff, and 53% reported experiencing this abuse by staff themselves. What is more, 78.6% of respondents from Bedford Hills cited their past traumatic experiences as a "most important" issue during their time of incarceration, signaling that future stimuli such as vaccination would be approached with past experiences of violence and abuse burdening them.[46] These trends surfaced in the October 2020 monitoring visit to Bedford Hills as well. Incarcerated women reported increases in both verbal and physical abuse by correctional staff, and an overall more "aggressive environment" due to COVID-19. One woman reported that there was "more violence than ever". Another reported that there was "More tension. More vulnerability. More escalation. The treatment women are experiencing is worse than before and it is sickening and appalling", highlighting the environment in which individuals experienced the pandemic, and soon would also receive vaccinations.

It is in this context that 71% of the incarcerated women surveyed reported that they have avoided seeking medical attention to avoid being treated in an inappropriate manner— thereby demonstrating how the lack of professionalism among medical staff can have adverse health outcomes for incarcerated people. The abuse that women endure in prison is a significant factor in discouraging them from seeking medical care from staff they perceive as hostile. These findings were replicated across other prisons: at Greene, there were numerous reports of an institutional culture of verbal abuse in which incarcerated people were treated with a lack of respect. Others alleged sporadic examples of racist abuse and mocking of non-English speaking people. We can infer from these findings why incarcerated people would hesitate to accept vaccination from prison medical staff, and how the traumas inflicted by the deficient pandemic response compound this hesitancy.

Enduring the pandemic in prison has forced many incarcerated people to confront their mortality in ways that they perceive as unfair: "I wasn't sentenced to death". Accounting for the effect that witnessing widespread sickness and death due to COVID-19 has on incarcerated individuals is crucial to understanding vaccine hesitancy. We can begin to understand this impact by drawing upon the literature that links experiences of prison violence to the harms to the physical and mental health of incarcerated people. For example, Andrea Armstrong has shown that "even when an incarcerated person does not directly experience violence, that person will be indirectly affected by witnessing the violence," and that "repeated exposure to deaths and violence can leave a lasting

46 Correctional Association of New York, "It Reminds Us How We Got Here: (Re)producing Abuse, Neglect, and Trauma in New York's Prisons for Women." (2020). https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5f99be40b24f796db9b31c-fa/1603 911242679/CANY_WomensReport-Full_F.pdf.

physical and mental impact."[47] Another study by Meghan Novisky and Robert Peralta argues that witnessing violence in prison can cause a number of post-traumatic stress issues, such as anxiety, depression, avoidance, hypersensitivity, and more.[48]

Enduring the pandemic has had the potential to produce these very same symptoms of trauma in incarcerated people. Of course, the sickness and death from COVID-19 directly experienced as well as witnessed by people behind bars cannot be categorized as violence in and of itself. Rather, these experiences are reflections of perceived institutional apathy compounded by the prison administration's alleged mismanagement and hostility toward those under their care. But the trauma produced by these acts of witnessing, and the contexts of anxiety, isolation, and helplessness surrounding them, must nevertheless be taken seriously:

> "A few people died in this facility. Nothing is normal anymore."
>
> "It's horrible. People are getting sick and dying and it feels like no one cares."
>
> "I don't want to die in here."

"THESE SHOULD NOT ALL BE DEATH SENTENCES."

Death in prison due to physical violence and death from COVID-19 due to deficient medical care both result in the same outcomes: loss of life, and trauma for those who witnessed it. Adequate medical and mental health care for those incarcerated is a constitutional right, as is protection from physical and sexual violence. On the similarity of these institutional failures, Armstrong writes: "It would be barbaric for a judge to order a person to be sexually violated as a consequence of a crime. Is it any less barbaric if it happens incidental to lawful imprisonment? The same could be said for people denied medical and mental health care. Serving a certain amount of time in jail or prison is the intended punishment, not death or injury by neglect."[49] Yet the New York prison system's observed difficulties in ensuring that healthcare is not part of the punishment detracts from its legitimacy, creating the environment in which vaccine hesitancy can flourish.[50]

47 Andrea Armstrong, "The Missing Link: Jail and Prison Conditions in Criminal Justice Reform," (Louisiana Law Review 80, no. 1, 2019): 18. See also, Shelley Johnson Listwan et al., "The Prison Experience and Re-entry: Examining the Impact of Victimization on Coming Home," Final Report Submitted to the National Institute of Justice (2012). https://www.ojp.gov/pdffiles1/nij/grants/238083.pdf.

48 Emily Widra, "No escape: The trauma of witnessing violence in prison." (Prison Policy Initiative, December 2, 2020). https://www.prisonpolicy.org/blog/2020/12/02/witnessing-prison-violence/. For the report cited in this article, see Meghan A. Novisky and Robert L. Peralta, "Gladiator School: Returning Citizens' Experiences with Secondary Violence Exposure in Prison," Victims & Offenders 15, no. 5 (2020): 594-618. https://www.tandfonline.com/doi/abs/10.1080/15564886.2020.1721387?journalCode=uvao20

49 *Supra*

50 *Supra*

"Who Wants to Die?": Vaccine Hesitancy in Their Own Words

Respondents' written testimonials to CANY conveyed widespread anxiety that the vaccine is yet another opportunity for prison officials to abuse, experiment on, and harm them. One person voiced his hesitancy to be vaccinated:

> **AS AN INCARCERATED INDIVIDUAL MY GREATEST FEAR IS TO BE A LAB RAT FOR THE STATE**

One mentioned the Tuskegee syphilis experiment and the water crisis in Flint, Michigan as prior examples affecting his willingness to trust state public health initiatives. And another explicitly highlighted the role of racism:

> **"Communities of color have always been experimented on; why are state officials going to stop now?"**

One explained that his fear was not exclusive to COVID-19 vaccination:

> **"I DON'T EVEN TAKE THE FLU SHOT. THE PEOPLE IN DOCS[S] MED DEPARTMENT ARE UNTRUSTWORTHY. THEY HAVE NO PROBLEM LETTING YOU KNOW THEY HATE CONVICTED CRIMINALS."**

Abuse and neglect deter incarcerated people from seeking the care they deserve: "I do my very best not to take any medicine in Prison unless it is absolutely needed because the healthcare is very poor." Another compared vaccination to accepting execution:

> **WHO WANTS TO DIE? FROM LETHAL INJECTION.**

The COVID-19 vaccine is necessary to save lives, especially of those most vulnerable. Yet the reports of poor quality and accessibility within the prison healthcare system, and the overall experience of incarceration leads many of those behind bars to doubt—or even refuse—the vaccine for fear that it is just another vehicle for harm. Incarcerated patients perceive that their healthcare providers are not their advocates and protectors, but agents of the prison. This lack of faith leads some respondents as far as to claim that they would take their chances with COVID-19 infection rather than accept the vaccine. As one person wrote: "I'd rather fight it off naturally since it's not life threatening." That some people in prison prefer to risk contracting the virus itself rather than accept vaccination from DOCCS makes clear that vaccine hesitancy, much like other issues incarcerated individuals contend with, are influenced by the environments to which they are subjected. That is, it is the culture of incarceration itself that proves to be one of the strongest shapers of the experience of incarcerated individuals. Thus, achieving the greatest impact requires reform of this culture, coupled with wider strategies of decarceration.

Conclusion

CANY's COVID-19 monitoring work from 2020 and 2021, the vaccine hesitancy survey, supplemental vaccine questions, and findings from monitoring visits produced data suggesting that vaccine hesitancy among incarcerated people in New York stems from:

- A lack of trust in the prison healthcare system. The poor quality and accessibility of healthcare as well as of public health educational information indicates that New York's prisons are often failing to uphold the principle of equivalence of care with general society. The deficient state of prison healthcare raises some incarcerated people's concerns about the safety and usefulness of the vaccine. These concerns are not unique to people in prisons but linked to and partly derivative of broader discrimination against low-income communities and communities of color in public health services.
- A lack of legitimacy in the prison healthcare system. Incarcerated people are more likely not to trust that prison healthcare staff prioritize duty to their patients over their deferral to the prison administration's interests. This lack of trust indicates that incarcerated people have a strong perception of the dual loyalties of the prison healthcare staff. Many incarcerated people seem to fear those interactions with DOCCS healthcare personnel—including and especially for COVID-19 vaccination—will lead to the disclosure of their confidential information, being used for experimentation, and becoming vulnerable to even more abuse and neglect. Moreover, incarcerated people's traumatic experiences with health crises before and during prison—especially during the pandemic—may contribute to vaccine hesitancy.

These factors contribute to the figures on vaccine hesitancy highlighted in this report. Based on these findings, CANY recommends that:

1. 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;
2. DOCCS adopt patient-centered response(s) to COVID-19 and infectious disease prevention and mitigation in prisons;
3. DOCCS continue to provide adequate information to incarcerated people about the COVID-19 vaccine, prioritizing patients' concerns and overall well-being in their decision to accept the shot;
4. DOCCS alleviate gaps in the quality of medical services by improving preventative care through routine screenings, education, and outreach;
5. DOCCS expedite the procurement and implementation of an electronic medical record (EMR) and improve the way that requests for care (i.e., sick call) and the response are documented;

6. The Legislature conduct a comprehensive assessment of the quality and accessibility of healthcare provided in the prisons and identify reforms that would improve the quality of prison-based healthcare;
7. The Legislature pass a bill to ensure that health facilities and services within DOCCS and local correctional facilities are overseen by the New York State Department of Health; and
8. The Legislature pass a bill to designate an independent correctional ombuds to investigate and resolve complaints related to incarcerated persons' health, safety, welfare, and rights.

Appendix

VACCINE HESITANCY SURVEY DATA

Yes/No Questions from Formal Vaccine Hesitancy Survey

Question	Yes (%)	No (%)	Yes (#)	No (#)	Total N
In general, do you trust doctors or healthcare providers to make medically correct judgements?	48.4	51.6	88	94	182
In general, do you trust doctors or healthcare providers to do what is in the best interests of their patients?	44.8	55.2	81	100	181
In general, do you trust doctors or healthcare providers to maintain patient confidentiality?	47.8	52.2	87	95	182
In general, do you trust doctors or healthcare providers in a prison to make medically correct judgements?	8.8	91.2	16	166	172
In general, do you trust doctors or healthcare providers in a prison to do what is in the best interests of their patients?	11.2	88.8	20	159	179
In general, do you trust doctors or healthcare providers in a prison to maintain patient confidentiality?	15	85	27	153	180
In general, do you trust vaccines?	52.6	47.4	91	82	173
Have you ever heard or received negative information about vaccination?	79.9	20.1	143	36	179
Did you still get vaccinated after you heard the negative information?	39.6	60.4	65	99	164
Would you ever participate in Vaccine trials?	30.3	69.7	53	122	175
Do leaders (religious, political, teachers,health care workers, etc.) in your home community support vaccines?	73	27	84	31	115
Do you remember receiving vaccinations as a child?	79.4	20.6	135	35	170
If so, are you aware of having any reactions to those vaccines:	13.2	86.8	21	138	159

Question	Yes (%)	No (%)	Yes (#)	No (#)	Total N
Before you took the vaccine(s), did anyone(outside prison) tell that you might have a serious reaction or side effects (pain at injection site, fever, chills)?	50.7	49.3	75	73	148
Have you ever had a reaction to a vaccine(outside of your incarceration)?	13.8	86.2	23	144	167
Before you took the vaccine(s), did anyone (in prison) tell that you might have a serious reaction or side effects (pain at injection site, fever, chills)?	48.6	51.4	70	74	144
Have you ever had a reaction to a vaccine you've taken during your incarceration?	20.1	79.9	30	119	149
Are you Hispanic/Latino?	33.9	66.1	57	111	168

Multiple Choice/Likely Scale/Write-In Questions from Formal Hesitancy Survey

What gender do you identify with?

Male	131
Female	34
Other	2
Prefer Not to Answer	4
Transgender	3
Gender Non-Confirming (Non-Binary)	1
Total Number of Responses	**175**

What is your age?

Average	56.9
Total Number of Responses	**166**

What is your race?

Black	70
White	34
Other	29
Multi-Racial	8
Prefer Not to Answer	6
Native American/Indigenous	5
Asian	2
Total Number of Responses	**154**

Overall, on a scale of 1 to 6, rate the quality of medical care you have received in prison.

1 - Very Negative	62
2 - Negative	51
3 - Slightly Negative	31
4 - Slightly Positive	19
5 - Positive	11
6 - Very Positive	7
Total Number of Responses	**181**

Overall, on a scale of 1 to 6, rate the ease of seeing a medical professional for general care in prison.

1 - Very Negative	74
2 - Negative	51
3 - Slightly Negative	29
4 - Slightly Positive	15
5 - Positive	8
6 - Very Positive	5
Total Number of Responses	**182**

Overall, on a scale of 1 to 6, rate the ease of seeing a medical professional for urgent care in prison.

1 - Very Negative	66
2 - Negative	52
3 - Slightly Negative	33
4 - Slightly Positive	14
5 - Positive	7
6 - Very Positive	8
Total Number of Responses	**179**

Does your experience with DOCCS staff make you more or less likely to take the COVID-19 vaccine if offered?

Does Not Affect	64
Less Likely	69
More Likely	33
Total Number of Responses	**166**

Would the administration of the vaccine by DOCCS staff (i.e. DOCCS medical staff gives the vaccine shot) make you more or less likely to take the COVID-19 vaccine if offered?

Does Not Affect	73
Less Likely	71
More Likely	22
Total Number of Responses	**166**

Does the need to take multiple doses of the vaccine (e.g. two shots) make you more or less likely to take the COVID-19 vaccine if offered?

Does Not Affect	82
Less Likely	62
More Likely	22
Total Number of Responses	**166**

OUTSIDE OF INCARCERATION:

Who did you receive this information from?

FOLLOW-UP TO: Before you took the vaccine(s), did anyone tell you that you might have a serious reaction or side effects (pain at injection site, fever, chills)?

Multiple Sources	1
Community Leader	1
Doctor or Other Healthcare Professional	53
Family Member or Friend	15
Other	34
Public Source	25
Total Number of Responses	**129**

If so, how serious was it?

FOLLOW UP TO: Have you ever had a reaction to a vaccine (outside of your incarceration)?

Not Serious	24
Somewhat Serious	12
Very Serious	10
Total Number of Responses	**46**

DURING INCARCERATION:

Who did you receive this information from?

FOLLOW-UP TO: Before you took the vaccine(s), did anyone tell you that you might have a serious reaction or side effects (pain at injection site, fever, chills)?

Multiple Sources	3
Community Leader	2
Doctor or Other Healthcare Professional	52
Family Member or Friend	16
No One	1
Other	25
Public Source	15
Total Number of Responses	**114**

If so, how serious was it?

FOLLOW UP TO: Have you ever had a reaction to a vaccine you've taken during your incarceration?

Not Serious	28
Somewhat Serious	7
Very Serious	15
Total Number of Responses	**49**

Supplemental Vaccine Questions from Monitoring Visits

Facility	Question	Yes (%)	No (%)	Yes (#)	No (#)	Total N
Greene	Have you received the COVID-19 vaccine?	40.9	59.1	47	68	115
Greene	If not, will you take the vaccine when offered?	7.9	92.1	5	58	63
Sullivan	If you are eligible, have you received the COVID-19 vaccine?	29.6	70.4	16	38	54
Taconic	Have you received the COVID-19 vaccine?	68.6	31.4	24	11	35
Taconic	Will you take the vaccine when offered?	10	90	1	9	10
Great Meadow	Have you received a COVID 19 vaccination?	17.2	82.8	61	49	110

Qualitative Data: Vaccine Hesitancy Survey (Sample)

Theme	Quote
Informed Decision-Making	"A weakened virus that is introduced to the body in order to create resistance. If and when attacked by this virus- the body is prepared" "Pfizer and Moderna COVID vaccines are mRNA. They introduce virus DNA into body to trigger body to produce proteins that help create antibodies that bind to invading virus" "A vaccine is a tool for fighting a disease, Herd immunity is the goal with contagious diseases." "Pfizer and Moderna are 90% effective in containing the COVID-19 and only very few get an allergic reaction to it"
Fear of Experimentation	"As an Incarcerated Individual my greatest fear is to be a lab rat for the state." "I don't know what they are injecting into my body, healthcare providers can inject the wrong medicine into the body." "[I fear] that I will be used as [guinea] pigs in trials of vaccine" "Prisoners have been historically used to test new drugs without consent"

Lack of Trust	"Convicts do not trust those that are supposed to give the vaccinations within the staff/medical providers" "We've heard that the government officials, the rich, and the richest people gets the real vaccines and all that's left goes to the 1stresponders and after that the middle class, then the elderly, then the homeless, and the bootleg and fake vaccine and experimental drug go to inmates. " "My concern they are trying to kill me because I make complaints about abuse, torture, beating,stealing, destroying mail and over all criminal conduct by all staff in DOCCS" "Medical staff fabricates information, make it as there is no problem, will force inmate to keep medication that's harmful" "Inmates are not a priority to society just series of numbers with extensive rap sheets " "It's not what they say it is and the healthcare in this prison cant be trusted and I will not trust them to give me anything."
Social Inequity and Disparities	"Not as available to minority (Black and Latino) communities as they are to non- minority areas" "Communities of color have always been experimented on; why are state officials going to stop now?" "The lower class (poor) have trouble getting the vaccine in our community." "Rich and white come before poor and black"
Fear of Side Effects/Risks From Vaccines	"Vaccines normally take up to 18 months to create, COVID-19 vaccine was developed quickly and is still in the "testing stages", making it unsafe. People have had negative reactions to it, some were fatal." "It will work now, but what about the other side effects couple of years from now." "Not enough information, and how do I know what I'm actually being given. If I have bad reaction, I won't receive proper medical attention." "That it can cause serious side effects and its not 100% safe against the virus"

General Skepticism Towards/ Distrust of Vaccines	"They are not safe, it can help you combat one thing while making you susceptible to something worse" "Was hesitant to receive the Flu shot only because in 34 years of life have never had the Flu and did not see point of risking it" "I refused to take TB test only by blood test. I refused for them to inject anything in me." "Does not trust vaccines, too many strains"
Personal Experience	"As a child I still got the measles even after being vaccinated and almost died" "I have [been reluctant to get a vaccine], the length of the needle scares me" "Usually gets sick after receiving Flu vaccine. Does not want to get sick afterwards to prevent future illness" "Body is capable of fighting illnesses without a vaccine"

MONITORING VISIT DATA[51]

Prison	Month/Year Monitoring Visit Conducted	# of Incarcerated Individuals Interviewed	# of Incarcerated Individuals with Unique DIN	# of Incarcerated Individuals with Unique DIN Matched	# of Incarcerated Individuals with Unique DIN Unknown	Total Unique DIN Matched (%)
Fishkill	July 2020	162	160	160	0	98.8
Bedford Hills	September 2020	153	153	151	0	98.7
Sing Sing	October 2020	181	173	173	6	95.6
Green Haven	December 2020	135	133	131	1	97
Sullivan	March 2021	101	99	95	2	94.1
Greene	April 2021	141	141	140	0	99.3
Taconic	June 2021	36	35	33	1	91.7
Great Meadow	June 2021	173	173	169	0	97.7
Sum	—	**1082**	**1067**	**1052**	**10**	**97.2**

Table 1. Monitoring Visits Conducted in 2020 and 2021

51 CANY estimates the demographics of individuals interviewed during monitoring visits by cross-referencing the individual's DIN with the race/ethnicity, age, and gender data NY DOCCS uses. One major limitation of this estimate is that how DOCCS classifies people in its custody may be less nuanced then how people self-identify. For each visit, the number of interviews is tallied, and then we check how many people refused, did not provide or were not asked for their DIN. We then check to make sure each DIN is unique. Finally, the sets of unique DINs are merged. We then match the DINs with DOCCS' "Under Custody" file or the "Inmate Lookup" tool on the DOCCS website to retrieve demographic data.

Race/Ethnicity	%	#
Non-Hispanic Black	50.4	529
Hispanic	25.2	265
Non-Hispanic White	20.4	214
Other	4	42
Sum	**100**	**1050**

Sex/Gender	%	#
M	82.5	865
F	17.5	183
Sum	**100**	**1048**

Age	%	#
18-24	5.7	59
25-34	27.6	284
35-49	40.1	413
50-64	23.3	240
65+	3.3	34
Sum	**100**	**1030**

NEW YORK STATE | Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

In Response to CANY'S ANNUAL REPORT: JULY 2020 – JUNE 2021

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 a sample of the population in every facility on a daily basis. This program began December 2020 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

The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050 | (518) 457-8126 | www.doccs.ny.gov

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 and incarcerated individuals vaccinated as quickly as possible.

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% having received 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.

To celebrate the success in the communities and the efforts within our facilities, effective July 3, 2021, DOCCS again allowed for a brief embrace at the beginning and end of each visit. By the same token, with this change we needed to continue to strive for more people to be vaccinated within our facilities to dramatically reduce the chances of any further COVID-19 cases. To encourage the population to do their part in this fight, the Department implemented an incentive program. For those individuals who have been fully vaccinated on or before a certain date, including those already vaccinated, Central Office randomly selected five incarcerated individuals from each facility to receive a care package. The care package consisted of the most popular food items sold at the assigned facility's commissary, not to exceed a $75 value. In addition, at the conclusion of this vaccination campaign, Central Office awarded a facility barbeque to all vaccinated individuals at six facilities, made up of two facilities from each of three noted population capacity categories, for the highest percentage of incarcerated individuals vaccinated per category. This vaccine incentive resulted in 1,000 incarcerated individuals receiving the vaccine.

As we entered the colder months and faced heightened risks from COVID-19, to further encourage more acceptance of the vaccine, the Department offered another incentive program for all those presently unvaccinated individuals, who would get partially or fully vaccinated by December 8, 2021. The incentive program included a community menu, such as pizza or McDonalds, from a local vendor in the facility area, but would also include a non-pork item. In addition, as part of the vaccination campaign, for those facilities that increased their vaccine acceptance percentage by 10% between October 20, 2021 and December 8, 2021, the Department will provide a special roast beef Christmas meal. The Department continues to run vaccine clinics to those interested.

Our educational outreach to the incarcerated population began in March of 2020, with the sharing of educational materials from CDC and DOH. Our Health Services Division also developed an educational video, "Putting Your Hands Together" on reducing the spread of communicable diseases. This video was shared with the facility Incarcerated Liaison Committee (ILC) and ran on a continuous loop in each

The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050 | (518) 457-8126 | www.doccs.ny.gov

facility's medical waiting area. Also, facilities were encouraged to use this video during facility orientation and in program areas.

On March 19, 2020, both DOCCS and Office of Mental Health (OMH), collaborated on a memo to the incarcerated population on "Feeling Stressed About COVID-19? Managing the Anxiety in an Anxiety - Provoking Situation." This memo provided guidance on reducing their anxiety, managing the information from multiple resources, monitoring anxiety levels, practicing self-care, reaching out for help, finding meaningful tasks/roles, savoring positive moments, and learning what resources are available to assist individuals and what they as parents can do.

From May to July of 2021, the Infection Control Unit reached out to facilities with large numbers of unvaccinated incarcerated individuals to arrange for cell side education, encouragement and on demand COVID-19 vaccine administration. We started with facilities that had 300 or more unvaccinated in their population. Teams of Infection Control Nurses and Nurse Educators were deployed to the facility and escorted to housing units where they provided each individual with education about the COVID vaccine, answered questions and if willing to accept they administered the vaccine at that time. The individuals who volunteered felt strongly about the value of vaccination and the sincerity and convictions came through in the face-to-face conversations with patients. This strategy resulted in an average of 10% of the unvaccinated population receiving a vaccine at each facility that we visited.

We continued to provide this service to facilities until most facilities with more than 100 unvaccinated individuals had been visited. Our Supervisor of Infection Control participated in facility education and our team and information was well received by the incarcerated population. They obviously enjoyed the conversations and spontaneous questions in the dorm settings and felt this was a successful endeavor.

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 and 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.

The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050 | (518) 457-8126 | www.doccs.ny.gov

- 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 46th out of 50 state correctional institutions, as well as the federal prison system, in the number of cases per 10,000 prisoners, and 47th 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.

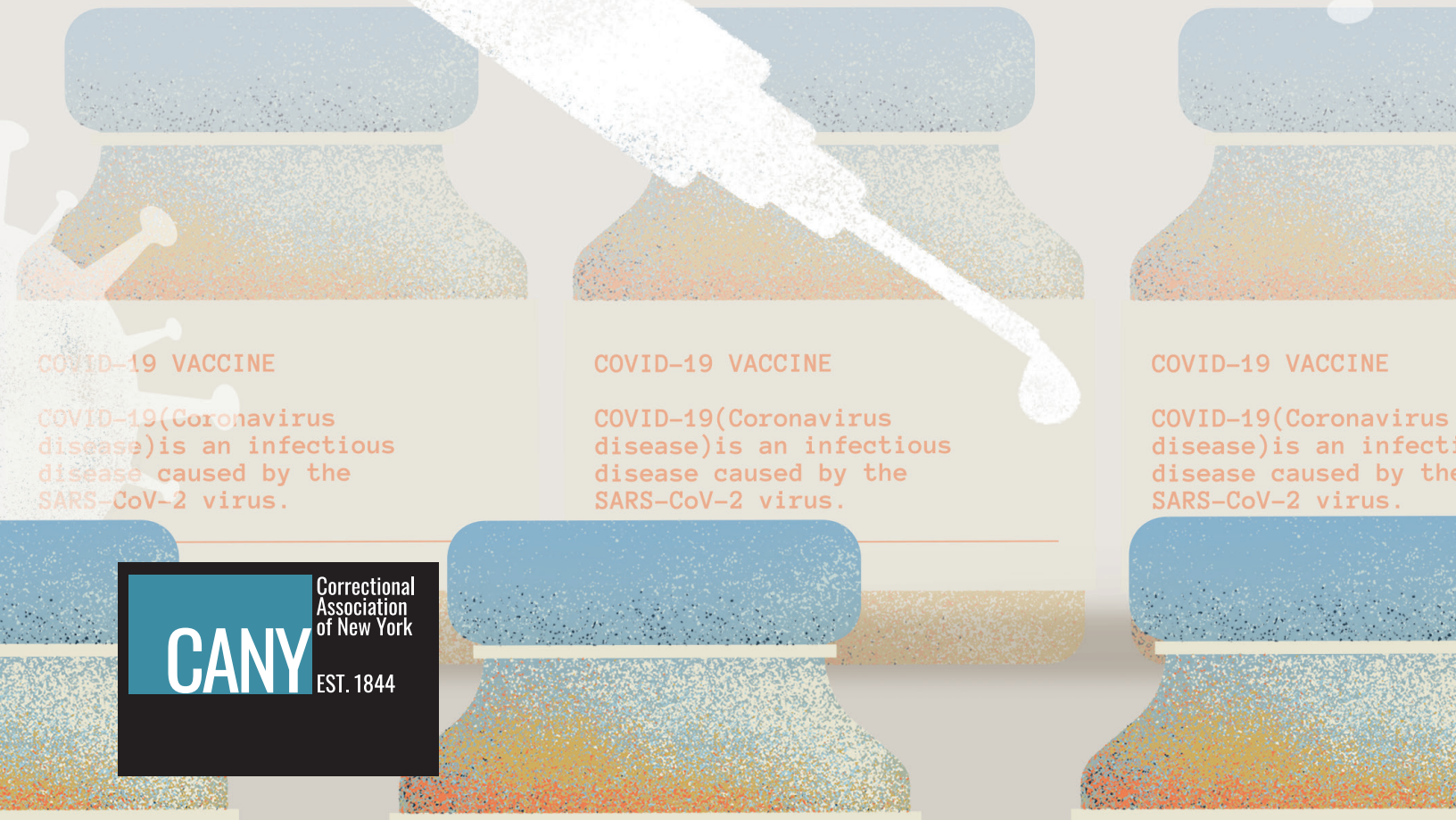
The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050 | (518) 457-8126 | www.doccs.ny.gov

CANY's Annual Report July 2020 – June 2021

"MY GREATEST FEAR IS TO BE A LAB RAT FOR THE STATE":

COVID-19 AND VACCINE HESITANCY IN NEW YORK STATE PRISONS

Correctional Association of New York
Post Office Box 793
Brooklyn, NY 11207
212-254-5700 (We accept collect calls)
info@correctionalassociation.org
www.correctionalassociation.org



CANY Correctional Association of New York EST. 1844