



FREE THEM ALL

The double crisis of human caging and COVID-19
in New Jersey and how to end it

SEPTEMBER 2022



**American
Friends
Service
Committee**

DISCLAIMER

This report includes detailed accounts of state violence in the form of cruel and abusive treatment under conditions of confinement, including death as a result of those conditions. While difficult to engage, we hope that these accounts will further catalyze organizing and advocacy to eradicate the many forms of state violence that people continue to endure in New Jersey and across the nation and beyond.

ABOUT

AMERICAN FRIENDS SERVICE COMMITTEE (AFSC)

The American Friends Service Committee (AFSC) promotes a world free of violence, inequality, and oppression. Guided by the Quaker belief in the divine light within each person, we nurture the seeds of change and the respect for human life to fundamentally transform our societies and institutions. We work with people and partners worldwide, of all faiths and backgrounds, to meet urgent community needs, challenge injustice, and build peace.

AFSC'S IMMIGRANT RIGHTS PROGRAM IN NEW JERSEY

At the Immigrant Rights Program (IRP) in Newark, NJ, our goal is to achieve policies that respect the rights and dignity of all immigrants, including a fair and humane national immigration policy. The Immigrant Rights Program's successful integration of legal services, advocacy and organizing has made a dramatic difference in the lives of immigrants in New Jersey and beyond by ensuring that immigrant voices are heard in policy debates, by assisting immigrants with challenging immigration cases, and by changing the narrative about immigration issues to influence policy. We offer legal services to immigrants who are in detention, facing deportation, seeking to reunite with families, or in need of protection. Our staff organizes in immigrant communities, training emerging leaders and ensuring that those people most affected by immigration policy are advocates for change. The complicated political reality in Washington has expanded a system of detention and deportation that shatters families. In the face of proliferating myths and anger against immigrants, the Immigrant Rights Program responds through presentations and media work.

AFSC'S PRISON WATCH PROGRAM IN NEW JERSEY

The Prison Watch Program empowers individuals harmed by criminal justice policies and violence to heal and transform the conditions under which they live. We recognize and advance the worth and dignity of all people in and around the criminal justice system. Program staff disseminate public information on human rights abuses and healing opportunities; respond to needs of incarcerated people and those harmed by criminal acts; influence NJDOC administrators and policy makers; and provide expertise to coalitions, advocacy groups, community organizations, students, writers, and the media. Our Prison Watch Program monitors human rights abuses in U.S. federal and state prisons. In particular, the program promotes national and international attention to the practices of isolation and torture.

CREDITS

This report was produced by the **American Friends Service Committee, New Jersey Immigrant Rights Program** and **New Jersey Prison Watch Program**.

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INTRODUCTION

The United States of America is a carceral society: it currently imprisons, jails, and detains nearly 2 million people, far more than any other nation on the planet, and spends billions of dollars every year to do it—all in the name of “public safety.”¹ “If incarceration worked to secure safety,” author and restorative justice practitioner Danielle Sered writes, “we would be the safest nation in all of human history.”² And yet, we are far from it. The reason is simple: incarceration and policing have never been about ensuring safety for all.

Contrary to popular presumptions, incarceration and policing have very little bearing on public safety and very little relationship to crime rates.³ When it comes to immigration detention, proponents argue that detention is necessary to ensure that immigrants show up for their hearings, even though research shows that most people in immigration proceedings do show up for court, especially when adequate legal representation is provided.⁴ Rather than create safety, carceral institutions proliferate harm. Prisons, jails, and detention centers bring about harm both directly and indirectly: through the actual infliction of direct and indirect violence against people under their custody, as well as by needlessly dismantling livelihoods, families, and communities with little if any bearing on public safety.

Carceral institutions also spread harm by hoarding billions of public dollars that could and should be invested in resources that actually create safe and thriving communities. From its historical origins to the present, the overarching purpose of institutions that capture and lock marginalized people in cages is social control that ensures security for a few at the expense of many. Incarceration is a means of social and physical death. Or, as historian Kelly Lytle Hernández puts it: “Mass incarceration is mass elimination.”⁵

Social movements shaped by the experiences of criminalized peoples, and a growing canon of scholarship informed by those movements and experiences, help us understand that the predominant narrative that prisons and police exist to keep us safe is a myth, albeit a powerful one. What this widely-held and deeply revered myth conceals is that a society that criminalizes and cages people and calls it “public safety” is in fact a deeply unsafe society, particularly for those caught in its carceral grip.

Before the emergence of the COVID-19 pandemic, prisons, jails, and detention centers were already sites of social and physical death, which is to say sites of perpetual crisis. Even when they don’t literally take life, carceral institutions take years off the lives of people trapped inside them.⁶ With the emergence of COVID-19, the inherent danger of prisons, jails, and detention centers reached new and terrifying proportions.

“Before the emergence of the COVID-19 pandemic, prisons, jails, and detention centers were already sites of social and physical death.... With the emergence of COVID-19, the inherent danger of prisons, jails, and detention centers reached new and terrifying proportions.”

As sociologist Brittany Friedman writes, “The pandemic has made the public very much aware of the reality that prison has always been a death sentence. Prior to COVID-19, much of the public just was not paying attention.”⁷

The purpose of this report is to invite more of the public, particularly in New Jersey, to pay attention. Deadly carceral conditions combined with a deadly pandemic presents a double crisis that the broader public still has not fully reckoned with, largely because to reckon with this double crisis would jeopardize the legitimacy of—and thereby begin to dismantle—the carceral institutions that made it possible in the first place.⁸ The testimonies of people who were incarcerated in New Jersey state prisons and immigration detention centers during the pandemic that shape this report help us understand the nature and scope of the double crisis of human caging and COVID-19, and enable us to chart the course we must take together to end it.

FINDINGS

Derived from semi-structured interviews with detained and formerly detained immigrants, their family members, and the mother of a young man who died of COVID-19 at a New Jersey halfway house, as well as from dozens of detailed letters from people living in state prisons across New Jersey, this report contains three interrelated findings.

FINDING 1

Prisons, jails, and immigration detention centers in New Jersey are structurally incapable of providing for the wellbeing of imprisoned people generally, and especially during a deadly pandemic during which officials have been largely unwilling to take any reasonable or humane measures to mitigate the risk of widespread infection within their facilities.

FINDING 2

Officials, officers, and medical staff at prisons, jails, and immigration detention centers in New Jersey engage in widespread and systematic medical neglect that results in suffering and death.

FINDING 3

Prisons, jails, and immigration detention centers in New Jersey have used the pandemic as a basis for expanding punitive isolation and deprivation against people in their custody.

RECOMMENDATIONS

What these findings make abundantly clear is that the only remedy for the deadly double crisis of human caging and COVID-19 is **mass decarceration**, and ultimately, the **abolition** of prisons, jails, and immigration detention centers. Failing to “free them all” in pursuit of public health and public safety guarantees suffering and death. It does not have to be this way.

Testimonials from people in prisons and immigration detention centers in New Jersey resound with the call to free them all, and, until that happens, to create humane conditions worthy of human life until everyone is freed. Derived and distilled from AFSC’s decades of work in prisons and detention centers as well as the demands of people who have been caged inside them since the beginning of the pandemic, the recommendations we put forward are urgent and, despite what detractors might say, realistic and attainable.

To end the double crisis of human caging and COVID-19 in New Jersey (and beyond), we must:

FOR IMMIGRATION DETENTION

- Release all people currently incarcerated in immigration detention centers—not transfer or deport, but release.
- Defund and ultimately abolish Immigration and Customs Enforcement (ICE).
- Repeal the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA).
- Create a clear and accessible pathway to citizenship for all those seeking it.
- Provide resources for those seeking refuge, asylum, and citizenship in the U.S.

Until ICE is disbanded, all detention facilities are emptied and closed, and a clear and accessible pathway to citizenship is established for all who seek it, we must also:

- Make release the norm not the exception and ensure timely review of release requests.
- Provide legal representation for all people detained in immigration detention centers.
- Overhaul COVID-19 protocols and improve infirmaries and medical care inside detention centers and eliminate quarantine in conditions of severe isolation and deprivation.
- Improve food, increase programming opportunities, and expand accessible means of communication with attorneys and loved ones for all people in detention.
- Humanize and institute oversight for all detention operations.

FOR STATE PRISONS AND COUNTY JAILS

- Release all people currently incarcerated in state prisons and county jails, ultimately abolishing prisons and jails altogether.
- Make New Jersey’s public health emergency legislation invulnerable to reversal by state officials.
- Pass legislation that institutes mass decarceration as a matter of public safety that can be used beyond public health emergencies.
- Ensure that fewer people enter jails and prisons in the first place by decriminalizing offenses and by defunding and ultimately abolishing police, as well as courts, jails, and prisons, and by increasing investments in public goods and alternative responses to harm that actually create safe and thriving communities.

Until mass decarceration on the road to abolition becomes reality, we must also:

- Overhaul and humanize COVID-19 protocols by eliminating quarantine in conditions of severe isolation and deprivation in prisons and jails.
- Overhaul and improve medical care inside prisons and jails.
- Reinstitute resources, services, and programming that improve the lives of people in prisons and jails.
- Conduct new research on the positive impacts of mass decarceration efforts.

METHODOLOGY

As noted above, this report’s findings derive from analysis of testimonies from more than 30 currently and formerly incarcerated and detained people in the state. The qualitative data relating to immigration detention in New Jersey comes predominantly from semi-structured interviews with 14 people who experienced or were impacted by immigration detention in the state at some point between March 2020 and December 2021. Of the 14 people we interviewed, 13 had been incarcerated in immigration detention, and one was the mother of a man who was detained and deported and the spouse of a man who was detained and deported. Eleven interviewees were detained at Essex County Correctional Facility in Newark, NJ, before it stopped holding immigration detainees in August 2021, six were detained at Elizabeth Detention Center in Elizabeth, NJ, which is operated by private corrections company CoreCivic, and two were detained at Bergen County Jail in Hackensack, NJ, before it stopped holding immigration detainees in November 2021. While we did not interview anyone who was housed at Hudson County Jail, which stopped holding immigrants in November 2021, public reporting shows similar trends there as at the state’s other current and former immigration detention facilities. Additional qualitative data comes from declarations that were submitted as part of litigation filed by AFSC and other organizations regarding conditions at the Elizabeth Detention Center.

The qualitative data relating to prisons in New Jersey comes predominantly from letters sent to directly to AFSC staff, dozens of letters from people imprisoned across the state, shared, with permission, by All of Us or None, Northern New Jersey, and from an interview we conducted with Bernice Ferguson, the mother of 39-year-old Rory Price, Jr., who died after contracting COVID-19 at a halfway house operated by Kintock Group in Bridgeton, NJ, in May 2020, just weeks before he was set to be released. The letters received come from a total of 23 people incarcerated at state prisons across New Jersey at some point between March 2020 and January 2022. Among those people:

Eleven were incarcerated at New Jersey State Prison (NJSP) in Trenton, NJ.

Four were incarcerated at Edna Mahan Correctional Facility (EMCF), a women's prison in Clinton, NJ.

Four were incarcerated at East Jersey State Prison (EJSP) in Rahway, NJ.

Two were incarcerated at South Woods State Prison (SWSP) in Bridgeton, NJ.

One was incarcerated at Mid-State Correctional Facility (MSCF) in Fort Dix, NJ.

One was incarcerated at Northern State Prison (NSP) in Newark, NJ.

The only county jails that this report engages at length are Essex County and Bergen County, and in those cases only insofar as officials in those counties contracted with ICE to house immigrant detainees. The absence of analysis in this report of the crises of human caging and COVID-19 in other county jails does not imply that jails have been any less dangerous for people imprisoned in them, both before and during the pandemic. Since most people spend shorter amounts of time in jail, and because jail populations change on a more regular basis than prison populations, and because there are so many jails in the state, each doing their own self-reporting on COVID-19 data independently from other facilities, deeper engagement with COVID's impact on people in jail was not feasible for this project. Nevertheless, we express our solidarity with all people—and their loved ones—who have been impacted by dangerous conditions inside New Jersey's jails over the last two years. Based on analysis of conditions at Essex County and Bergen County jails, it is reasonable to conclude that many of the problems that plagued immigration detention in those facilities and in prisons across the state are also very likely replicated in the rest of the state's jails.

Most of the written or spoken words quoted in the report are attributed pseudonymously in order to protect people's identity and privacy. Pseudonymous names appear in quotation marks the first time they are used. All subsequent attributions for those already quoted appear named, pseudonymously, without quotation marks. Full names that do not appear in quotation marks at all are the real names of those quoted, by request.

Quantitative data regarding prison and detention populations and COVID-19 infections come from data published by the New Jersey Department of Corrections (NJDOC), Immigration and Customs Enforcement (ICE), the COVID Prison Project, and Prison Policy Initiative. The sources of qualitative or quantitative data that does not come from interviews, letters, or the above-named sources are cited using endnotes.

THE CRISIS OF HUMAN CAGING IN NEW JERSEY

From its settler colonial and white supremacist beginnings to the present, the United States of America has used the state violence of borders and carceral captivity to forcibly establish who belongs and who doesn't, disposing of those deemed out of place. As such, the everyday cruelty of carceral institutions—before, during and after any pandemic—is not evidence that these institutions are “broken,” but that they are working exactly as designed.

The first “penitentiaries”—themselves a reform of previous, more publicly gruesome penal practices in the American colonies and in Europe—were built in the U.S. in the late eighteenth and early nineteenth centuries, starting with Walnut Street Jail in Philadelphia. Despite the intentions of some reformers, including Quakers, to build institutions that would facilitate a kind of individual transformation, penitentiaries quickly became and remained places that subjected people to a kind of living death, understood as the prerequisite of moral reformation.⁹

Moreover, the punitive moral reformation that penitentiaries and other carceral institutions aimed to facilitate was overwhelmingly directed at people widely presumed to be inherently disorderly and criminal, namely, people forced into conditions of poverty as well as Black people, Indigenous people, other people of color, and people who disrupted patriarchal norms of gender and sexuality. The same disparities remain in rates of arrest and imprisonment today.

Centuries later, institutions that originated as sites of living death have continued to be described as such by people caged within them. In 1970, nearly two centuries after the birth of the penitentiary in the U.S., imprisoned Black Panther George Jackson wrote that “Capture, imprisonment, is the closest to being dead that one is likely to experience in this life.”¹⁰ Fifty years later, in 2020, a person detained in immigration detention in New Jersey echoed Jackson’s words almost exactly: “Detention is the closest to death you can get.” As this report shows at length, amid a deadly pandemic, these sites of living death have become even more deadly.

“The everyday cruelty of carceral institutions—before, during and after any pandemic—is not evidence that these institutions are ‘broken,’ but that they are working exactly as designed.”



Figure 1: Artwork by Ojore Nuru Lutalo

Insofar as any federal, state, or county officials do genuinely intend human caging to be an effective means of creating safety or facilitating transformation or accountability, it has proven itself to be a resounding failure. Human caging does not create safe or thriving communities, does not facilitate effective accountability processes for those caged as punishment for crime, and does not facilitate significant healing or repair for most people impacted by crime. Perpetual cycles of piecemeal reform fail to make sites of captivity any more humane or to improve the lives of people impacted by crime. The only long-term solution to the cruelty and ineffectiveness of these institutions is their complete abolition, replaced by processes and institutions that restore and facilitate repair in the wake of harm and, in the case of immigration detention centers, that facilitate pathways to citizenship and belonging for those seeking to support themselves and their families in the U.S.

Human caging as a means of social control in New Jersey is almost as old as the state itself. Built in 1798, only 11 years after New Jersey became a state, the original site of what is now New Jersey State Prison in Trenton was the third state prison to open in the nation, making NJSP the oldest continuously operating prison in the U.S., currently holding up to 1,800 people at any given time.

The New Jersey Department of Corrections currently imprisons approximately 13,000 people across 11 total prisons, 11 residential community halfway houses, and other facilities.¹¹ As of April 2020, there were nearly 9,000 people incarcerated in 21 county jails across New Jersey.¹² ICE officials do not currently publish total numbers of detainees at Elizabeth Detention Center, but we know that the facility is equipped to hold a total of 300 people. We can estimate, therefore, that a total of as many as 22,300 people are currently incarcerated or detained in prisons, jails, and immigration detention centers across New Jersey.

STATE PRISONS

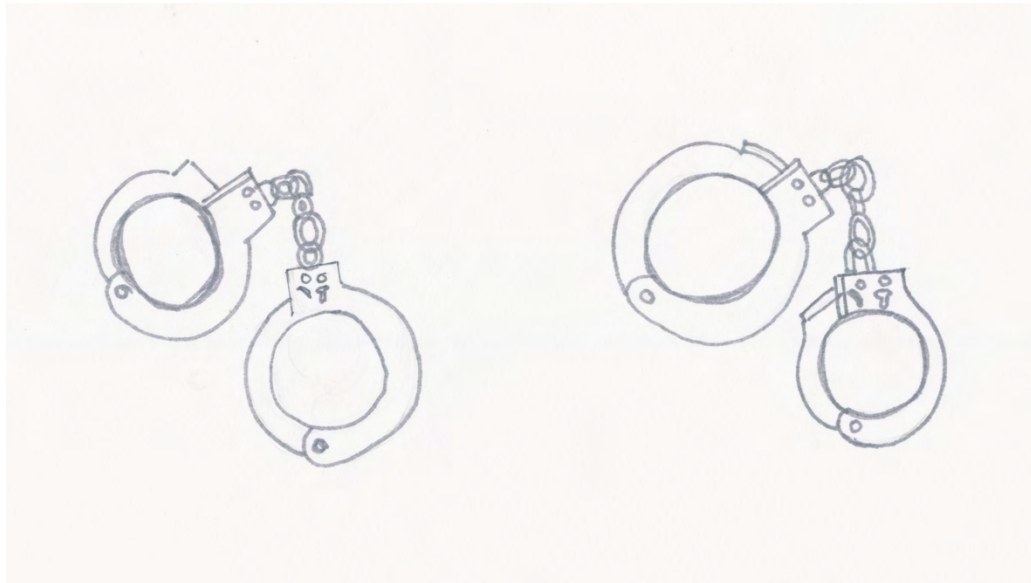


Figure 2: Artwork by Juan L., 2020

Bonnie Kerness and Lydia Thornton write that “[p]risons are the land of the forgotten” in New Jersey, and in the nation.¹³ Testimonies from imprisoned people in the state, many of them published by AFSC’s Prison Watch Program as *From the Inside-Out* newsletters and reports, detail the many ways that imprisoned people are routinely victimized at the hands of their captors and through the dangerous and inhumane conditions in which they are incarcerated.¹⁴ A lawsuit filed against officials at New Jersey State Prison includes accounts of asbestos, leaking ceilings, faulty plumbing, inadequate cell ventilation, excessive heat, rodents, and water contaminated with bacteria, among many other things. In 2021, people incarcerated at Eastern Jersey State Prison and Northern State Prison contracted Legionnaire’s Disease, a kind of pneumonia, from the drinking water at those facilities. One prisoner spent a month in a coma and another died.¹⁵

These are neither new features of New Jersey’s state prisons, nor simply a matter of aging facilities. Seventy years ago, people imprisoned at what are now known as New Jersey State Prison and East Jersey State Prison—formerly Trenton State Prison and Rahway State Prison, respectively—organized protests that turned into uprisings over inhumane conditions and cruel treatment. Nearly 20 years later, in 1971, the same year as the famous Attica Rebellion in upstate New York, people imprisoned at Rahway, now East Jersey, engaged in mass protest again over many of the same issues that had gone unaddressed in 1952, and were still unaddressed after 1971.¹⁶ Indeed, rather than heed prisoners’ calls to drastically change conditions and protocol, the state, and the nation, veered toward the policy changes that would enact what is today called “mass incarceration,” creating the largest system of human caging the world has ever seen.

Violence Against Women and LGBTQIA+ People in Prison

Scores of leading Black feminist and abolitionist thinkers, including Angela Davis and Andrea Ritchie, among many others, have shown how the patriarchal and sexual

violence that many women and queer, trans, and gender nonconforming people experience in American society is routinely perpetuated through police and prisons that supposedly exist to create public safety by protecting vulnerable people.

A 2020 report conducted by the Justice Department substantiated what people incarcerated at Edna Mahan Correctional Facility for Women have been saying for years, namely, that the facility is beset by a cultural of sexual violence against people

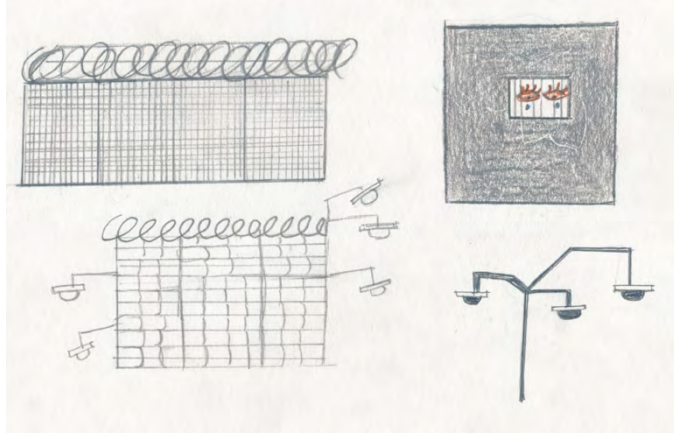


Figure 3: Artwork by Suyapa Gomez, 2021

incarcerated there.¹⁷ After failing to make any of the recommended reforms, in early 2021, news broke of a violent assault by multiple corrections officers against multiple women imprisoned at EMCF. Lawsuits have since been introduced and settled, and multiple officers have been formally charged with assault. Another lawsuit, filed in 2019, sued the NJDOC for not affirming the gender identity of transgender, intersex, and non-binary people in the

state's prisons, forcing people to be imprisoned in institutions that did not match their gender. As a result of the suit, the NJDOC agreed to reverse course and refrain from forcing people to live in facilities that do not correspond to their gender identity.¹⁸

Elders in Prison

After decades of draconian sentencing laws, there is a rapidly growing population of elders in prisons across the country, including in New Jersey. The number of incarcerated people aged 55 or older in the U.S. has grown from 8,853 in 1981 to approximately 265,000 today and is expected to top 400,000 in the next eight years. In 2015, nearly 10% of New Jersey's prison population was 55 or older.¹⁹ Prison already shortens life expectancy and increases health problems, making incarcerated elders even more vulnerable to serious illness or death—including from COVID-19—than they would be outside the walls.²⁰ One elder charged in New Jersey and imprisoned for more than 48 years is 85-year-old Sundiata Acoli, a former member of the Black Panther Party. Sundiata was denied parole repeatedly for the last 30 years, all based on being a supposed risk to public safety, despite his exceedingly positive record and poor health. After he contracted COVID-19 in 2020, advocates and organizers started a campaign calling for his release, and the release of other elders in prison across the country.²¹ Sundiata was finally released in May 2022.

Impacts on Families and Loved Ones

In addition to the detrimental physical and mental health effects that incarceration has on incarcerated people, it has also been shown to impact the families, loved ones, and communities of those incarcerated in multiple ways. By robbing people of their time, freedom, and capacity to emotionally and financially support their families and, by extension, their communities, incarceration creates economic precarity and social instability well beyond the razor wire walls.²² In addition to the financial and social

instabilities that incarcerated people's loved ones and communities are forced to navigate, public health research has shown again and again that incarceration creates adverse physical and mental health conditions for the children and adults from whom they have been stolen.²³

Bernice Ferguson's 39-year-old son, Rory Price, Jr., died in May 2020 after contracting COVID-19 at Kintock Group halfway house in Bridgeton, NJ, just weeks before he was scheduled to return home. More than two years later, she still has not received a single call from any state official, nor any information about how or why her firstborn son died. "I have gotten nothing," she said. "No letter in the mail. No phone call. I have a son that's not here anymore. My firstborn son is gone." It did not take long for her emotional pain to turn into literal physical pain.

"When I tell you that this has taken a toll on my health," Ms. Ferguson said, "it really has." From high blood pressure, to diabetes, to aches and pains derived from stress, Ms. Ferguson continues to wait on the state to explain to her why she had to plan a funeral instead of a welcome home party for her son. "There's not a day that goes by that this does not affect me," she said. Despite her pain, she continues to fight for her son and to honor his memory day in and day out.



Figure 4: Bernice Ferguson and Rory Price, Jr.

IMMIGRATION DETENTION



Figure 5: Essex County Jail. Collage by Cinthya Santos Briones, 2020.

The story of immigration detention begins with the story of borders. Written in letters of concrete and barbed wire, the story of borders spans a long and violent history of white supremacist settler colonialism, imperialism, and slavery. In the United States, the machinery of borders give way to the machinery of walls, fences, and barbed wire that hold millions of people captive in prisons, jails, and detention centers across the country. Prisons function as a kind of border, and borders function as a kind of prison.²⁴ Indeed, since at least the beginning of the twentieth century, U.S. immigration policy has viewed non-European peoples seeking entry into the country in terms of a projected criminality that threatens the basis of U.S. social order and has deployed various carceral interventions to deal with it. As immigrant rights lawyer, activist, and professor Alina Das summarizes: “America criminalizes immigrants. People become suspects before they even set foot on this soil. And the moment they falter, the law sweeps in to do its worst.”²⁵

It is also important to understand that, in many cases, the conditions that compel people to attempt to cross U.S. borders in the first place can be traced back to U.S. imperialist military intervention and economic exploitation across the globe that have caused decades of instability, dispossession, and displacement. Nevertheless, the dispossession that the U.S. instigates both at home and abroad with one hand it punishes with the other, as the mechanisms of state power surrounding the border continue to separate families, destabilize communities, maim bodies, and take lives every day—all in the name of public safety and national security.

So how exactly did we get here?

The Road to Immigration Detention

Throughout the twentieth century, lawmakers in the U.S. passed measures narrowing eligibility for U.S. citizenship, policing who would be allowed entry into the country and who would not, and criminalizing so-called unlawful entry. In the early twentieth century in New Jersey, state officials and business leaders stoked widespread fears about the supposed criminality of Black, Puerto Rican, and other nonwhite people migrating to the state, often as farmworkers—a fear they subsequently used to form the New Jersey State Police.²⁶ Throughout the twentieth century, the state police and other police powers in New Jersey targeted Black and immigrant residents who a predominantly white populace viewed as dangerous outsiders, despite the fact that it was their labor that helped sustain New Jersey's economy. For the better part of the last century, and up to the present moment, the same dynamic has characterized racialized anti-immigrant rhetoric that masks the reality that the U.S. economy has always run on the exploited or stolen labor of nonwhite and non-propertied people, first of enslaved Africans and their descendants, and later of immigrants displaced from countries impacted by U.S. imperialism.

By the 1980s, the massively expanding U.S. prison system spawned immigration detention centers to detain and deport people seeking refuge or asylum in the United States. In the late 1980s, the U.S. passed mandatory detention laws that required the detention of immigrants who had been convicted of certain crimes, creating a process that completely bypassed due process as a means of expediting mass deportations. With the passage of the Illegal Immigration Reform and Immigrant Responsibility Act in 1996, under the Clinton Administration, the federal government expanded who fell under mandatory detention laws, making even legal permanent residents vulnerable to detention and deportation.

ICE and CBP

After September 11, 2001, the federal government created the Department of Homeland Security to take over the immigration system, which included two newly formed police agencies that carried on long traditions of anti-Black, anti-Indigenous, and anti-immigrant policing: Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). Under this shift, immigration became, even more explicitly than before, a matter of “public safety” and “national security,” with armies of armed agents of the state to enforce it.

Today, CBP agents operate the border and violently disrupt people's attempts to seek refuge in the U.S., while ICE agents conduct terrorizing raids, often without warrants, on “lawful permanent residents, refugees, and undocumented immigrants alike,” sometimes swarming upon entire workplaces staffed by hundreds of workers at a time.²⁷ In 1994, approximately 6,800 immigrants were held in state custody on any given day. Today, ICE detains about 20,000 people on a daily basis, and nearly 200,000 people



Figure 6: Elizabeth Detention Center. Collage by Cinthya Santos Briones, 2020.

annually, housing them in one of nearly 200 detention facilities across the country where they wait in cages for courts to decide their immigration status or potential deportation—sometimes for days, sometimes for weeks or months, and sometimes for years.²⁸

The massive rise in the number of immigrants placed in detention in the U.S. over the last 30 years cannot be explained by a rise in criminal behavior on the part of people who have immigrated to the U.S. As Alina Das writes, “Immigrants didn’t suddenly decide to start breaking the law, leading America to adopt deportation policies to deal with the threat. Rather, America chose to criminalize immigrants—and their acts—to justify more deportation.”²⁹ Despite being technically civil and not criminal in nature, detention centers nevertheless function as penal institutions, and treat those in their custody as such. And yet, while functioning in inherently punitive ways, the U.S. immigration detention system departs from basic criminal justice protocol by confining people without the opportunity for bond and without due process for up to years at a time, all for having insufficient citizenship documentation.

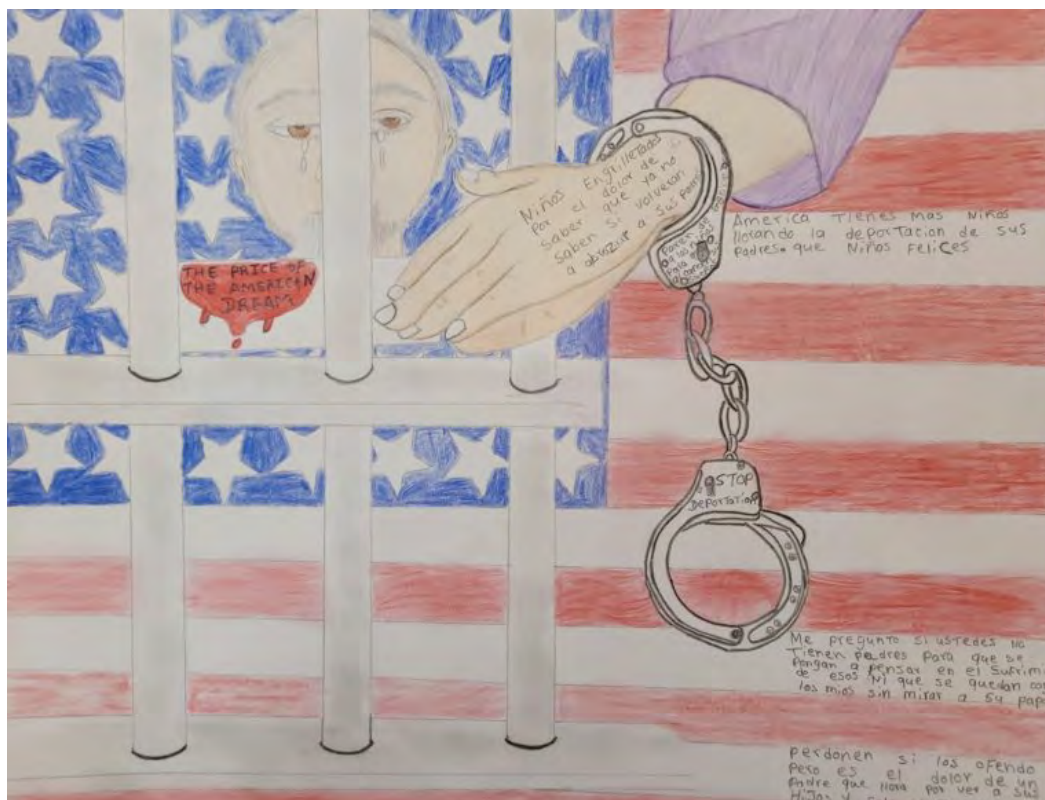


Figure 7: Artwork by Marcia Morales Garcia

”Miguel,” an asylum seeker from Colombia, speaks about how, for him, the “American dream became the American nightmare” when he was criminalized and detained simply for trying to improve his family’s life. “What I want is a better future for my family, a better place for my family,” he said. “And I found myself with this.” To be a migrant—more specifically a non-European migrant—in the U.S. is to be rendered a criminal, “illegal.” As Miguel summed it up on a phone call from EDC: “We are being detained because we are migrants,” which is to say people who have moved from one place to another.

On their most practical level, detention centers exist to funnel people out of the country through deportation. That anyone in detention is released back to their

families or communities in the United States is due largely to the fact that organizers and legal advocates, including at AFSC, work tirelessly around the clock to apply pressure and secure releases. Many others are not so fortunate. More than 200 people have died in detention since ICE’s founding in 2003.

ICE sets up some detention facilities through an intergovernmental service agreement (IGSA) with county jails, which hold detainees on ICE’s behalf in exchange for a fee. In recent years, ICE has paid some jails as much as \$124 per detainee per night, which can accumulate tens of millions of dollars for counties per year.³⁰ Other detention centers function as standalone immigration facilities, often run by private prison companies like GEO Group and CoreCivic, formerly known as Corrections Corporation of America (CCA), which has been the subject of multiple lawsuits for their inhumane treatment of those under their custody, both in immigration detention centers and prisons.

At least 65 percent of all immigration detention centers in the U.S. are operated by private prison companies, and four out of every five immigrant detainees is housed in a privately-run facility.³¹ The two largest private prison companies in the U.S.—GEO Group and CoreCivic— together earned more than \$1 billion from ICE detention contracts in 2020.³² Likewise, as noted above, the county run jails that ICE contracts with to house immigrant detainees also earn up to millions of dollars a year in exchange for caging

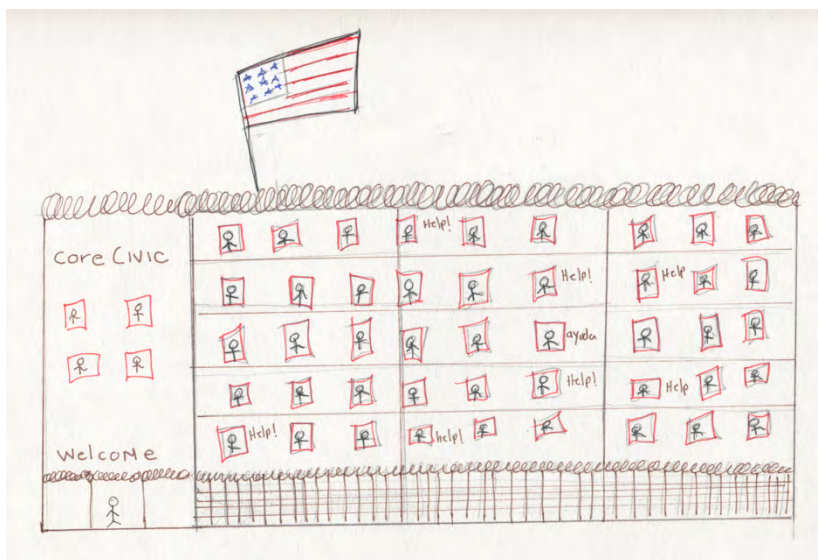


Figure 8: Elizabeth Detention Center. Artwork by Jose Rivas.

immigrants waiting for their cases to move through immigration court or for their deportation. Meanwhile, ICE has dubiously claimed in recent years that its costs are rising, which they use to justify larger and larger annual budgets.³³ As “Jose,” an asylum seeker from Guatemala who was detained for six months at the Elizabeth Detention Center, put it, “to them the only thing they want is to get paid. The government pays them to keep you locked up. The more time they have you locked up the more money they will get paid.”

Thanks to the work of immigrant rights advocates and organizers across the state, in late 2021, three different county jails that had been detaining immigrants for ICE since the 1990s—Essex County, Bergen County, and Hudson County—ended their contracts with the agency. In addition to these closures, AFSC and other organizations successfully advocated for the passage of a new that bars any future or renewed contracts with ICE.³⁴ The only remaining immigration detention center in New Jersey is the Elizabeth Detention Center, located in Elizabeth and run by CoreCivic. When all four facilities were in operation at the same time, they held a combined total of approximately 2,000 immigrants at any given time.

Bergen County Correctional Facility



Conditions at current and former ICE facilities in New Jersey have been so inhumane that dozens of detainees in New Jersey have resorted to hunger strikes during the last few years as a tactic for demanding their release.³⁵ Multiple detainees led hunger strikes multiple times at Bergen County Correctional Facility in the final weeks of 2020, reporting a lack of potable water, having to drink from toilets, rat infestations, moldy walls, a lack of heat during winter months, and ongoing medical neglect of detainees' serious health issues.

Jean-Ismael Bien-Amie-Nicolas, a Black immigrant from France who had lived in New Jersey with his family for years before being detained, reports that he and other transfers from Essex County were housed for nearly three weeks in an unused unit at Bergen County where they were subjected to “nightmare” conditions that included fly infestations, leaking and moldy ceilings, broken railings and stairs, a broken pipe, yellow drinking water, cold food served mixed together on one big tray, and a horrible stench that filled the air all day and night. Jean-Ismael also reports that formal complaints were never processed, and that one detainee was so distraught by his situation and the conditions that he attempted suicide. In response to Jean-Ismael and others complaining about conditions and going on hunger strike, officials not only refused to address their concerns, but retaliated, including by transferring or deporting those involved.

In addition to wretched and inhumane conditions at Bergen, Jean-Ismael reported a humiliating full strip search conducted in front of other detainees and staff, as well as a verbally abusive staff, including one sergeant who, when a non-English speaking detainee was out of place during processing reportedly said, “We got a runaway slave over here.” Another former Bergen County detainee, Adel Sultan Mohammad Ghanem, a refugee who survived torture in his home country of Yemen, reports that a Bergen County staff member working in the intake office asked him point blank, “Are you a terrorist?”

Essex County Correctional Facility



At Essex County Correctional Facility, federal reports from as recent as 2019 found leaking ceilings, broken beds, spoiled and foul-smelling meat, and molded bread, among other things.³⁶ Former detainees report substandard conditions and especially dehumanizing treatment from facility staff. “Luciano,” a Cuban immigrant who was detained at Essex County for four months before being released with an ankle monitor, said that the staff at Essex treated him and others “like a piece of garbage,” saying that, at Essex, staff commits human rights violations “all day every day. That’s all they do in them places. They put us over there just to mistreat us and send us back to our country.”

“Adam,” an asylum seeker fleeing violence in Haiti, was one of many detainees who went on hunger strike while at Essex County. The conditions, the treatment, and the danger he faced if deported back to Haiti led him to put his body on the line to give officials a kind of ultimatum: “either release me or I’m going to die.” Another former Essex County detainee, a Guatemalan asylum seeker named “Esteban,” reported that corrections staff were directly complicit in subjecting him to sexual violence at the hands of another person jailed at Essex, leading him to escape the facility rather than continue to endure such abuse.

Hudson County Correctional Facility



Figure 9: Hudson County Jail. Collage by Cinthya Santos Briones, 2020.

Immigrant detainees at Hudson County likewise reported inhumane conditions, dehumanizing treatment, and systematic medical neglect. As a result of such conditions and treatment, multiple detainees died in the years before it closed, including three from suicide. In the years before it closed, Hudson County was billing ICE between \$110-120 a day per detainee, for a total of more than \$25 million per year, a source of income cited at one time by county freeholders as enough reason to maintain the contract, despite the many problems at the facility.³⁷ This dynamic undergirds operations at practically all ICE facilities. While the above three county jails have ceased their contracts with ICE, the accounts of abysmal conditions and treatment in them continue to serve as evidence of ICE's ongoing disregard for the wellbeing of those it unnecessarily detains.

Elizabeth Detention Center



Converted from a former industrial warehouse, the Elizabeth Detention Center (EDC)—the oldest and only remaining detention center in New Jersey today—was established in 1994 during a time when many asylum seekers were entering the United States through JFK Airport in Queens, NY, and Newark Liberty International Airport in Newark, NJ. Located immediately next to Newark Airport, shortly after its establishment as a detention facility, the federal government turned operations over to private prison company Corrections Corporation of America (CCA), today known as CoreCivic. CoreCivic’s contract with ICE at Elizabeth is slated to end in 2023.

The Elizabeth Detention Center, is, in Alina Das’ words, a “cruel and unlivable place.”³⁸ After decades of reports of substandard conditions at the facility, reports from detainees over the last two years of pandemic have reported the same, and worse. In addition to officials’ mishandling of COVID-19, which we outline below, one of the primary complaints from detainees is a severe lack of natural sunlight or access to natural air. Miguel, said that he did not see or feel grass for nearly a year and a half. “For 16 months,” he said, “I was not able to see more than a wall.” As a result, Miguel suffered multiple mental health breakdowns during his time at EDC.

Originating as an industrial warehouse, multiple detainees reported ongoing infrastructural issues at the facility, including a lack of adequate heat in wintertime and lack of cool air in summer months. Miguel reported observing auditors missing significant problems at the facility that they either did not know about or chose to overlook, such as significant damage in facility bathrooms.

Additionally, detainees report cramped and unsanitary living conditions, systematic medical neglect (detailed in the next section of the report), and verbally abusive treatment at the hands of corrections officers and other staff.³⁹ “Javier,” a 19-year-old immigrant from Honduras, echoed multiple other detainees when he reported that guards at Elizabeth would regularly say racist things to him and other detainees, such as “you’re a criminal that shouldn’t even be here.”

In May 2020, the American Friends Service Committee, along with the Immigrant Defense Project and the Immigrant Rights Clinic of Washington Square Legal Services, Inc., at NYU Law School, filed a class-action lawsuit on behalf of four

plaintiffs who had been detained at EDC. From a complete failure to mitigate against COVID-19, to cruel medical neglect, to unsanitary conditions and abusive behavior from guards, the lawsuit, still pending as of August 2022, paints a clear picture of the systemic problems that have characterized life at EDC for decades, which have become even worse with the arrival of COVID-19.⁴⁰

An additional lawsuit against EDC has been filed by its landlord, which claims that the facility has failed to implement appropriate measures to mitigate the impacts of the pandemic on detainees, thereby breaching its contract and lease agreement.⁴¹

New Jersey is “Home”

Multiple immigrant detainees that we interviewed who had spent years, and in some cases entire lifetimes, living in New Jersey spoke to the absurdity of the fact that, despite calling New Jersey “home” for years and years, the government treats them as if they should not be here at all. “Mike” immigrated from the Dominican Republic to New Jersey with his family nearly 20 years ago. When he was arrested and detained in early 2020, ICE officials took his ID and never returned it, and subjected him to horrific conditions for eight long months. “[New Jersey] is the only place I have lived my whole life,” he said. Now he is fighting to be permitted to continue living in the only place he calls home.

Many people who have lived in New Jersey for a shorter amount of time also regard it as home, especially when returning to the place they came from is not an option. “Jorge,” who immigrated to the US five years ago, has a two-year-old daughter who was born in New Jersey and who struggles with significant health problems. “New Jersey for me feels like my home,” he said. “This is where I have my family. This is where my daughter has her doctors.” Leaving does not feel like an option or make any sense. Now, like Mike and so many others, he is fighting to be allowed to stay.

From Torture to Torture



Figure 10: Adel Sultan Mohammad Ghanem

Many of those fleeing violent situations who seek asylum in the United States often come with the impression that the U.S. is a place of freedom where people are welcome to come to start a new life. The brutal reality, even for people fleeing torture, is far different. “In my imagination, you know, you’ve read about America, and you say, OK, I’m going to a safe place,” “Curtis,” an asylum seeker who fled torture in Africa said. “Then before you know it, you’re chained up.” At the airport, Curtis’s wrists, arms, and

legs were put in chains and he was taken straight to detention. “After being tortured, I’m running away,” he said. “Then I reach here, and I’m almost going through the same. I was chained and everything. It was traumatizing.”

Adel, who survived and escaped torture in Yemen, spent a total of five years in three different detention centers in New Jersey—in his words, “for nothing.” Adel’s torture experience was life-altering, and it’s a miracle he escaped and survived. But horrific as it was, he said, at least they let him leave. “But you [ICE] kept me here for a long period of time for doing nothing,” he said. “You’re doing the same thing [as the torturers]. You’re a legal kidnapper. You kidnapped me from my family, you kidnapped me from my loved ones.” Adel also recalled a sign on the wall that he saw every day during his detention that asked people to report any known information about human trafficking operations. He found the request ironic: “That’s what you’re doing!” he said. “You’re human traffickers with a legal [justification].”

The trauma of the physical and mental torture that Adel experienced in Yemen remained with him. And just when he was finally finding some stability, ICE picked him up and he began what became five years of detention. During that time, his flashbacks and anxiety that began after being tortured returned with force, making his Post-Traumatic Stress Disorder even worse than it was before he was detained. While the trauma didn’t start in detention, it reopened the wound, deepening his pain and suffering in ways he didn’t anticipate having to endure. “They didn’t torture me physically,” he said. “They tortured me mentally.” After half a decade, Adel has finally been released, but the impacts of the torture he experienced both in Yemen and in New Jersey detention centers remain with him every day.

“You’re doing the same thing [as the torturers]. You’re a legal kidnapper. You kidnapped me from my family, you kidnapped me from my loved ones.”

– Adel Sultan Mohammad Ghanem

Impacts on Families and Loved Ones

The impacts of immigration detention on those detained—both before and during a global pandemic—are unmistakable, but, much as for the families of those incarcerated in state prisons and county jails, the impacts also reach beyond detained and formerly detained individuals themselves. The harms of immigration detention decimate people’s lives on emotional, relational, and financial levels, creating a ripple effect of destabilization that impacts entire families and communities.⁴²

Multiple formerly detained people that we interviewed spoke about the debilitating financial strain detention puts on both the detained and their loved ones. As “Juan,” an immigrant from Mexico, put it, “Those places are made to make you spend money. Everything is ridiculously expensive. You want to use the phone, they charge you. You want to use the tablet, they charge you for internet. You want good food, they charge you. Everything is to make money.” In most cases, people being detained previously supported their families or relatives, thereby putting a strain on those left behind to make enough to survive, and to attempt to support their loved one while in detention. Miguel said that while he was in detention at EDC, his wife had to use their savings to pay rent, and that they had to borrow money to afford a lawyer. To this day, he and his wife are still financially indebted to those who lent them money years ago.

Noemi Peña, whose husband Antonio and son Marvin were both detained and deported, lives with the devastating impacts of her loved ones’ detention and deportation daily. Without the income that previously helped to pay the rent, Noemi

must work more hours every week cleaning houses. Much of her income is to pay for childcare for the child she has been left to raise without her husband. Beyond the financial strain, Noemi described the emotional impact that her son's former detention had on her. From his accounts of inedible food, to having to drink water from toilets, to living with rats, to being dehumanized daily, she said, "I know [Marvin] has lived a terrible nightmare, and so have I as his mother. Because obviously when he talks to me about it, it is something that hurts me and makes me suffer thinking about everything he is living through."

The inhumanity and systems of abuse built into New Jersey's state prisons, jails, and immigration detention centers are not anomalies; they are expressions of the founding purpose of institutions that quite literally cage human beings in the name of "public safety" and "national security."



Figure 11: Antonio and child

THE CRISIS OF COVID-19 IN IMMIGRATION DETENTION CENTERS AND STATE PRISONS IN NEW JERSEY

The SARS CoV-2 virus spreads primarily through aerosols emitted when people infected with the virus talk, breathe, cough, or sneeze in relative proximity to others. In addition to vaccinations and booster shots, since the early phases of the pandemic, the Centers for Disease Control and other public health institutions have recommended “social distancing” of at least six feet, avoiding crowded indoor and outdoor spaces, universal masking, and regular testing as the best defenses against the virus.⁴³

On nearly all fronts, prisons, jails, and immigration detention centers in New Jersey, as in most places, failed to institute necessary COVID-19 safety protocols, including mass releases, thereby endangering the lives of those in their custody. Before the COVID-19 pandemic emerged in early 2020, prisons, jails, and immigration detention centers in the U.S. already treated those in their custody as inherently disposable, deserving of suffering and, if it comes to it, death. Carceral institutions are deliberately dehumanizing and overcrowded, and thus conducive to the rapid transmission of many kinds of viruses, bacteria, and diseases.⁴⁴

In their very conception and design, prisons, jails, and immigration detention centers are inherently incapable of protecting imprisoned people from a rapidly transmissible virus like COVID-19. As a result, when COVID-19 appeared in the U.S. and in New Jersey, prisons, jails, and detention centers became some of the most dangerous and deadly places on the planet. Conditions were so dire inside prisons, jails, and detention centers across North America that within just the first 90 days of the pandemic, incarcerated and detained people across the U.S. and Canada engaged in more than 100 acts of resistance or rebellion in pursuit of freedom and protection from the virus that threatened their lives in an already dangerous environment.⁴⁵

In addition to endangering the lives of people under their custody, public health researchers have documented how prisons, jails, and immigration detention centers have acted as “infectious disease incubators” that contributed significantly to the spread of COVID-19 not only inside carceral facilities, but within the larger communities surrounding them.⁴⁶ Prisons, jails, and detention centers have contributed to viral transmission through corrections officers—many of whom have

“In their very conception and design, prisons, jails, and immigration detention centers are inherently incapable of protecting imprisoned people from a rapidly transmissible virus like COVID-19.”

refused vaccination and worn masks improperly, if at all—coming and going every day, as well as through people entering and being released from custody on a regular basis, most rapidly in county jails. Prisons, jails, and detention centers may be “out of sight, out of mind” for most people, but the impacts of such disregard have led to suffering and death for people on both sides of the razor wire fence.

PUBLIC HEALTH EMERGENCY LEGISLATION

The inherent danger of carceral institutions, and the drastically increased danger of carceral institutions during a pandemic, led advocates and organizers to push for the only effective way of preventing death sentences by infection: the mass release of incarcerated people. After organized pressure from advocates across New Jersey, the state assembly passed emergency public health legislation that Governor Phil Murphy signed on October 19, 2020, enabling some people in prison who were within a year of the completion of their sentence to go home up to eight months early. A total of more than 5,000 adults and 100 juveniles were released from the state’s corrections facilities. Another 200 people were released in February 2022, bringing the state’s total reduction to 33% since 2019, the second largest in the United States during the pandemic.⁴⁷ An additional 852 people were released on March 13, 2022, and more than 800 more imprisoned people are set to be released in the coming months, after which, more than 8,000 people will have been released as a result of the law.⁴⁸

This legislation, made possible by the tireless work of advocates and organizers across the state, protected many people from illness and death and should be held up as a flagship model for decarceration efforts in the future. Although the program was generally deemed a success, a reported 88 people who were released early under this legislation were quickly arrested by ICE and taken to immigration detention,

demonstrating ICE’s clear disregard for safety during the pandemic, evidenced by the fact that many of the few releases they permitted were only the result of court orders that they continue to fight.⁴⁹ While this legislation benefited thousands of people in New Jersey corrections facilities, it left more than 10,000 people in prisons, jails, and detention centers vulnerable to infection and early death.

The relative ease with which the governor took this legislative action makes abundantly clear that the state has the power to release people from carceral captivity whenever it chooses to do so, with little to no detriment to public safety and with lower-than-normal recidivism rates.⁵⁰ It can and should do so on a much larger scale. It just chooses, by and large, not to.

In addition to advocates’ calls to release as many people as possible from state prisons and jails, advocates have organized and

“Mass decarceration is the only effective solution to the inherent deadliness of prisons, jails, and immigration detention centers. As such, mass decarceration should become the norm as the pandemic continues and should continue if or when the pandemic comes to an end.”

litigated for the same regarding immigrants detained in New Jersey. After early reports of ICE's refusal to create conditions of safety and protection for immigrants detained at the Elizabeth Detention Center, the American Friends Service Committee, along with the Immigrant Defense Project and the NYU School of Law Immigrant Rights Clinic, filed a class-action lawsuit on May 15, 2020, the ultimate purpose of which was to secure the release of everyone detained at EDC.⁵¹

Mass decarceration is the only effective solution to the inherent deadliness of prisons, jails, and immigration detention centers. As such, mass decarceration should become the norm as the pandemic continues and should continue if or when the pandemic comes to an end. The alternative—keeping as many people locked up as possible for as long as possible—will only bring about more needless suffering and death. As physician and human rights attorney Theresa Cheng writes, “If detention centers and other such carceral facilities don’t decarcerate, they will continue to serve as kindling to public health wildfires like COVID.”⁵²

A DEADLY FAILURE TO ACT

While it is important to celebrate the releases made possible by the work of advocates and the subsequent legislative action of the state of New Jersey, it is also critically important to reckon with the suffering and death that took (and takes) place inside the state’s corrections facilities and immigration detention centers before, during, and after these mass releases. Since the beginning of the pandemic, in most of its public communications, including in its official policy published on its website, the NJDOC has claimed to be fully prepared and able to keep people in its custody safe from the virus. But less than two months into the pandemic, people imprisoned in New Jersey state prisons were dying at a higher rate than imprisoned people in any other state in the country.⁵³ The findings that follow make clear that from March 2020 to March 2022, the NJDOC did not do nearly enough to slow the spread of the pandemic inside the walls of their facilities.

ICE and the officials running the facilities that detain immigrants have likewise claimed to be doing all that is necessary to keep them safe. The reality has been that there has never been any clear or consistently implemented policy or guideline mandating social distancing, testing, vaccination, or any other mitigating protocols inside New Jersey’s immigration detention centers. On all fronts, the results have been devastating, and have impacted communities beyond the walls of these institutions.⁵⁴

RAMPANT INFECTIONS

As a result of state and federal officials’ refusal to initiate mass releases across the board as a way of stopping the spread of the virus, as well as the refusal of prison and detention officials to implement basic safety measures to ensure the protection of people who remained in their custody, more than 12,000 people under state corrections and ICE custody have tested positive for COVID-19 since the start of the pandemic in early 2020.⁵⁵ This figure does not include infection numbers for county jails across the state, which are more difficult to obtain. Given widespread reports from incarcerated and detained people across the state that facilities refused to test people with symptoms for months at the beginning of the pandemic, and that a significant number of people may have hidden their symptoms or refused tests out of fear of having to quarantine in solitary confinement, the actual number of infections is without a doubt much higher than 12,000.⁵⁶ According to a report by Detention Watch Network, “ICE’s failure to release people from detention during the pandemic added over 245,000 cases to the total U.S. caseload.”⁵⁷

DEATHS

What prisons and detention centers do or fail to do regarding the pandemic is a matter of life and death. The data and the narratives that comprise this report tell us that carceral institutions continue to be deadly by design. Public health researchers estimate that people living in prisons and immigration detention centers in the United States are two to three times more likely than people in the general population to die of COVID-19.⁵⁸

As of August 2022, a reported 60 people have died of COVID-19 in New Jersey prisons. Immigration and Customs Enforcement reports zero detainee deaths in New Jersey immigration detention centers, an absence that is likely due not only to ICE's lack of transparency but also to the fact that officials transferred or deported detainees who tested positive for COVID-19 on multiple occasions. Some corrections officers and medical staff did die as a result of COVID-19 in both New Jersey state prisons and detention centers. While reports of people becoming seriously ill and, in some cases, dying in state corrections facilities emerged early and rapidly, imprisoned people, along with their loved ones and advocates, were largely left in the dark as to what was being done to keep them safe, creating a terrifying situation for tens of thousands of people—both incarcerated people and their families—across the state.

“What prisons and detention centers do or fail to do regarding the pandemic is a matter of life and death. The data and the narratives that comprise this report tell us that carceral institutions continue to be deadly by design.”

VACCINES

The rollout of vaccines in New Jersey prisons, jails, and detention centers was marked by some success as well as some failure. As of August 2022, the NJDOC reported that 63 percent of people imprisoned in state prisons were fully vaccinated.⁵⁹ Meanwhile, it was reported in February 2022 that only 43 percent of staff at state corrections facilities had been fully vaccinated, despite the state's vaccine mandate for people working in corrections facilities.⁶⁰ After increased pressure from the state, as of August 2022, the NJDOC says that 73 percent of its staff has received at least one shot of a two-shot vaccine or has received a single-shot vaccine.⁶¹ While the rate of vaccinations for people incarcerated in New Jersey state prisons was relatively successful, multiple people imprisoned across the state reported inadequate education from prison and medical staff about the vaccines, which likely contributed to hesitancy in an environment already marked by warranted and long-standing mistrust of authorities.

Immigrants detained at the Elizabeth Detention Center, Essex County Correctional Facility, and Bergen County Jail reported problems with the rollout of vaccines in those facilities. One medical professional reported that, while New Jersey authorized vaccine distribution in carceral facilities in December 2020, immigrants detained at the Elizabeth Detention Center were not offered vaccines until May 2021.⁶² Multiple reports from people in detention facilities, and those working with them, also indicate that officials failed to give adequate information about the vaccine they were offering, leading many to refuse it until they received more information. A NJ-based

paralegal who works with people detained at Elizabeth reported that officials and staff had no consistent plan for properly translating information about the vaccine to detainees who did not speak English, which led to haphazard efforts including in one case having medical staff translate from English to Spanish and then having another detainee translate from Spanish to Portuguese. In another example, a detainee reported that one officer typed into a translation tool on his phone which then read the information in Portuguese.⁶³

Another immigrant with multiple underlying medical conditions detained at Elizabeth reported that detention officials packed detainees in extreme proximity in a vehicle for transport to a vaccination site, further risking infection. When this detainee requested to be transported with fewer people due to his medical conditions, officials refused.⁶⁴ In another case, “Javier,” a formerly detained immigrant housed at Essex County, reported that staff asked him repeatedly if he wanted the vaccine, that he responded “yes” every time, and still did not receive it for months, all while others continued to test positive around him.

FINDINGS

While the particularities of each carceral institution, and each kind of carceral institution (prison, jail, immigration detention center), diverge in multiple ways, the overall story is largely the same across all institutions in the state. While there is certainly much more that could be said about the mishandling of the COVID-19 pandemic in New Jersey prisons and detention centers, we categorize the double crisis of human caging and COVID-19 in New Jersey into three interrelated findings, outlined and explored in what follows.

- 1. Prisons, jails, and immigration detention centers in New Jersey are structurally incapable of providing for the wellbeing of imprisoned people generally, and especially during a deadly pandemic during which officials have been largely unwilling to take any reasonable or humane measures to mitigate the risk of widespread infection within their facilities.**

By refusing to release people from environments already highly conducive to viral transmission while also refusing to implement basic COVID-19 safety protocols, officials and staff at prisons, jails, and detention centers across New Jersey have contributed to mass infections, suffering, and even death.

IMMIGRATION DETENTION

Immigrants detained at the Elizabeth Detention Center, Essex County Correctional Facility, and Bergen County Jail between March 2020 and December 2021 report that these facilities, as designed and operated, are fundamentally incapable of keeping people safe from COVID-19 infection. As Miguel, an immigrant from Colombia who was detained for 16 months during the pandemic at the Elizabeth Detention Center, put it: “The proper treatment for COVID-19 was not given at all because the facility is not prepared for this type of thing.” Avoiding any significant public transparency throughout the pandemic, ICE and detention center staff also kept insiders in the dark as to what was happening with the pandemic, and how the facilities were going to deal with it. Multiple immigrants detained at Essex County at the beginning of the pandemic reported that guards turned off the television when it started talking about the pandemic, calling it “fake news.”⁶⁵ Jose, who was detained at Elizabeth, reported that when the television in the medical office began showing coverage of the class-action lawsuit against the facility, the nurses quickly turned it off.

Social Distancing and Testing

Before it stopped holding immigrants for ICE in August 2021, Essex County Correctional Facility housed many immigrant detainees on a single floor in one of multiple open dormitories with as many as 50-60 people at one time, while others were housed in one- or two-person cells. “How you gonna social distance? It’s impossible, we’re in dormitories!” Luciano said. “Everybody’s stuffed together on top of one another. It’s crazy!”

Patrick McIlheney, another former detainee incarcerated at Essex in March and April 2020, wrote that “everybody told [the guards] that they were sick, and they did nothing about it. And now everybody’s getting more sick and it’s spreading like wildfire across the whole jail.”⁶⁶ Another detainee held at Essex at the same time said the same thing: “In that place, everyone had COVID.” County officials even shared that 80 officers at the jail had tested positive for COVID-19 within the first two months of the pandemic.⁶⁷

In contrast to such testimonies from detainees, on April 30, 2020, an Essex County official told a group of community stakeholders that Essex County was “more than able” to handle the COVID-19 pandemic and was prepared to do so better than most other correctional facilities.⁶⁸ Testimonies from people detained at Essex in those early months of the pandemic prove otherwise.

At the Elizabeth Detention Center, operated by private prison company CoreCivic, most detainees are housed in one of the facility’s nine large open dormitories, some of which have at times housed the maximum 44 people. From the start of the pandemic, detention center officials and staff failed to implement social distancing. Additionally, for the first few months of the pandemic, officials and staff largely refused to test detainees who reported or exhibited COVID-19

*“How you gonna social distance? It’s impossible, we’re in dormitories!” Luciano said.
“Everybody’s stuffed together on top of one another. It’s crazy!”*

symptoms. One former Elizabeth detainee had a fever for three nights in a row but was never able to find out if it was COVID, because he was denied a test. For the first months of the pandemic, when staff at Elizabeth did conduct tests, it was often only after someone showed serious symptoms of infection. Only at that point would they conduct a test, remove that person to a quarantine cell, and then lock down the dormitory that the infected detainee had been pulled from, without testing anyone else or implementing any other safety measures.

When Curtis, a refugee fleeing torture in Africa, arrived at John F. Kennedy Airport seeking asylum, ICE officers placed him in chains and transported him to Elizabeth Detention Center. Shortly after arriving at Elizabeth, Curtis started showing signs of COVID-19 and coughed all day and night for days on end. Other detainees asked the guards why they wouldn't help him. "When I asked for help over the weekend," he said, "no one was willing to give me the help." Curtis suffers from asthma, so was especially vulnerable if infected. When he asked for a nebulizer or a warm bath to counteract the negative impacts of the facility's cold temperatures on his asthma, he was "ignored." When they finally agreed to test him days later, they transported him to a hospital with his arms and legs once again in chains. He remained in chains while he was tested. After testing positive, he was released without any resources or support, and his attorneys scrambled to find him a place to quarantine and recover before he could reunite with family in another state.

Juan, who was detained at Elizabeth, reported that in October 2020, doctors came to conduct COVID tests at the facility. Seven detainees tested positive, but instead of placing them in quarantine, detention center staff simply released them back into the same dormitory with people who had not tested positive, placing them all on lockdown together. "The only precaution that [the guards] gave us was

'don't get close to them,'" he remembers. "How are we going to not get close to them? This is viral. It's through the air. We're going to get contaminated. They handled this pandemic very badly."

On multiple occasions, ICE transferred dozens of people from the U.S.-Mexico border to Elizabeth, including people who had tested positive for COVID-19, and integrated them at the facility without adequately thorough quarantine protocols, resulting in people with medical vulnerabilities becoming infected. For some former detainees, this haphazard handling of the situation was so reckless that it seemed

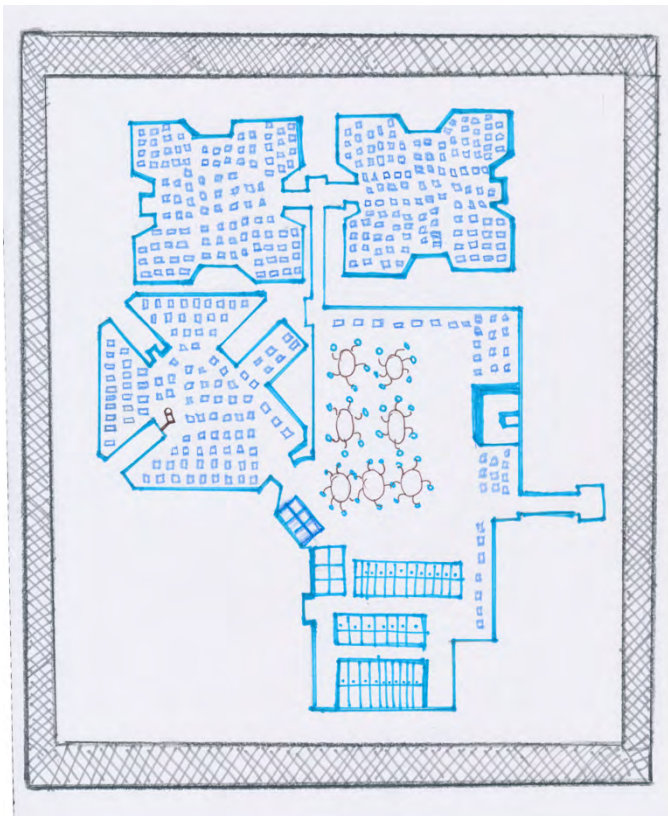


Figure 12: Artwork by Adalberto Sanchez, 2021.

almost intentional. “They’re trying to contaminate us,” Jose, who was detained at Elizabeth, said. “If [they’re] bringing in more people [with COVID] in the middle of a pandemic...they’re purposefully trying to infect us.” At Essex, former detainees reported that corrections officers enlisted people who had tested positive and were in quarantine to pass out food to cells and dormitories, knowingly risking the further spread of the virus.

Masks

When detention centers did quarantine people who tested positive or exhibited COVID-19 symptoms, they did so in ways that nullified the potential benefits of quarantine by allowing guards to pass back and forth between quarantine and non-quarantine units without properly worn masks.

In addition to a near complete lack of social distancing or proper and humane quarantine measures, masks, one of the most important tools for protecting people from and slowing the spread of COVID-19, were nearly nonexistent in immigration detention centers for the first few months of the pandemic.

Multiple former and current detainees that we interviewed made it clear that the primary source of COVID-19 outbreaks in immigration detention were corrections officers, many of whom either did not wear masks, wore them under their chin, or only wore them in the presence of detention officials. The most common response in our interviews to the question of officers wearing masks was that “some wore them, and some didn’t.” As “Shalom,” who immigrated to the U.S.

“the primary source of COVID-19 outbreaks in immigration detention were corrections officers, many of whom either did not wear masks, wore them under their chin, or only wore them in the presence of detention officials.”

from the Dominican Republic in 2006, put it, officers “wear masks when they want to.”

Multiple former detainees at Elizabeth, Essex, and Bergen report that officers regularly coughed and sneezed without masks in the presence of those under their custody, leading one former Essex detainee to conclude that officers simply “did not care about the pandemic.” Given that at least 80 officers tested positive in the first months of the pandemic at Essex County, it is easy to conclude, as public health research confirms, that the spread of COVID-19 inside detention centers can be traced to significant numbers of officers shirking recommended (and required) mask-wearing

protocol.⁶⁹ Adel, who escaped torture in his home country of Yemen only to be held in tortuous conditions in the U.S., articulated what public health researchers have found to be largely true: “It’s only from officers. Nobody’s gonna get sick if they don’t bring it from outside.” Especially if they’re not wearing masks.⁷⁰

For the first months of the pandemic, while many guards wore their masks haphazardly, if at all, detainees at the Elizabeth Detention Center were given no masks whatsoever. Juan, an immigrant from Mexico who spent six months at

Elizabeth, reported that he arrived at the facility in June 2020 and was not given a mask until December 2020. Other detainees at Elizabeth reported that masks were not distributed until January or February 2021. The mask that officials gave Juan and other detainees was the common blue disposable medical mask intended for single use. Elizabeth officials gave Juan and his fellow detainees only one single-use disposable mask per month, leaving them no choice but to wash and reuse it well past its period of efficacy. Former detainees at Essex reported the same practice there. As detainee Patrick McIlheney reported from Essex in the first months of the pandemic, “There’s a few other guys in my dorm wearing masks they made themselves. One used a t-shirt, another a towel. One ripped off the sleeve from a hoodie and sewed on an elastic band from his underwear.”⁷¹

Jorge, a Guatemalan immigrant who arrived in New Jersey half a decade ago and who was incarcerated at Essex for four months at the start of the pandemic, captured the administrative disregard for detainees’ safety: “We would ask for masks or disinfectant, things to take care of ourselves, and they would refuse to give it to us.” The pandemic has been a major disruption to people’s lives around the world, but most people do not consider its impact behind bars. Juan remembers sitting in his dormitory at Elizabeth early in the pandemic, watching experts on the news talk about the importance of masking, testing, staying home, and taking precautions to keep oneself safe during the pandemic. But “there in the detention centers,” he said, “it’s another world. They didn’t follow a single rule.”

“There’s a few other guys in my dorm wearing masks they made themselves. One used a t-shirt, another a towel. One ripped off the sleeve from a hoodie and sewed on an elastic band from his underwear.”

– Patrick McIlheney

STATE PRISONS

Though they serve slightly different purposes within the larger criminal legal system, prisons and immigration detention centers are built on the same fundamentally dehumanizing foundations of social control of people deemed disposable by the social order. Indeed, much of what we have heard from detained and formerly detained immigrants about their experiences during the pandemic at the Elizabeth Detention Center, Essex County Correctional Facility, and Bergen County Jail we have also heard from people in state prisons across New Jersey.

Despite early attempts at reassurance from the state and NJDOC about the capacity of prisons to keep those in their custody safe, state prisons’ handling of COVID-19 in the early months of the pandemic was disastrous: nearly 3,000 people in prison were infected and at least 51 lost their lives before the end of July 2020.⁷² Voices from within the walls capture the extent of the mismanagement and the suffering it induced.

Social Distancing and Testing

Just as in immigration detention centers and county jails, social distancing during the pandemic has been nearly nonexistent in New Jersey’s state prisons. Like in immigration detention and jails, there has been no social distancing in prisons because prisons, as designed and operated, are inherently incapable of instituting

such measures. Social distancing in prisons is, as longtime AFSC advocate Bonnie Kerness puts it, “impossible.”

Throughout March and April 2020, people imprisoned in state prisons were writing to people on the outside with urgency about the state’s failure to keep imprisoned people safe. In early April 2020, “Jamie,” who is imprisoned at Edna Mahan Correctional Facility reported that carelessness was leading to rapid contagion, and that attempts at containing it were too little too late. “Listen, this virus has already spread in this prison,” she wrote. “There is no measures being taken or given to prevent the spread. In other words, it’s too late for EMCF.” Jamie continued: “Right now they are talking about locking us down for protection. Well, it’s too late. First of all, they have refused to give us paper towels anymore. If we want any we have to pay them. No hand sanitizers, no mask, no nothing. Then you have all these positive tested officers who already infected the prison.”

In a letter warning the governor about the impending danger of the pandemic, Jamie wrote that “if [the governor] didn’t do anything soon about getting prisoners out of prison, his Garden State will be nothing more [than] a garden of cadavers.” Around the same time, “Leon,” imprisoned at New Jersey State Prison, foretold

“Leon,” imprisoned at New Jersey State Prison, foretold what would soon become true at the prison: “I’m afraid if something isn’t done soon there is going to be a lot of casualties here.” In the months following his letter, at least 7 people died from COVID-19 after becoming infected at NJSP.

what would soon become true at the prison: “I’m afraid if something isn’t done soon there is going to be a lot of casualties here.” In the months following his letter, at least 7 people died from COVID-19 after becoming infected at NJSP. In another letter sent around the same time, Leon captured the sense of death’s proximity that characterized life in that time and place: “Hope all is well on your end. Us? Trying to stay alive in here.”

Multiple people imprisoned at NJSP and other institutions in the state reported a climate of chaos around the pandemic, especially in its early months: fellow prisoners were being rushed to the hospital, prisoners were prohibited from wearing masks, older prisoners with medical vulnerabilities were being ignored, and no one would give them any official word about what was going on. In the early months of the pandemic especially, people imprisoned in institutions across the state were urging people on the outside to try to obtain, and relay to them, any information about what was going on.

There was urgency on the outside, too, among advocates and loved ones eager to figure out if people on the inside were receiving proper care as the pandemic began to spread. In April 2020, “Tina,” imprisoned at Edna Mahan Correctional Facility, reported frustration at watching the governor on television report low numbers of infections inside prisons. If the numbers appeared low early on, Tina

and many insiders reported, it's because the prisons were refusing to test people displaying clear COVID-like symptoms.

"Julio," imprisoned at New Jersey State Prison, wrote in April 2020 that "everyone knows that the coronavirus is in this building, but they won't test anyone in here in order to avoid a panic and have to acknowledge that it's in here." According to multiple sources inside prisons across the state, the reason that officials refused to test so many people showing symptoms was that their fevers were not high enough to warrant a test. This widely reported information comes despite NJDOC's official "universal testing" policy.⁷³

One March 2020 letter from "Timothy," imprisoned at NJSP, reported that "there is an inmate here who has been showing signs of having COVID-19, but the staff refuses to test him. Instead, prison officials decided to keep him housed in the prison's infirmary." A few weeks later, Timothy wrote again: "There is a guy on my unit who went to the doctor because he had a hard time breathing. The doctors here did not test him. Instead, they sent him back to his cell with a face mask."

When people imprisoned in New Jersey state prisons were being tested, and were testing positive, the process for quarantine was haphazard at best, leading to the otherwise preventable spread of the virus, and exacerbating the strain prisoners were already experiencing in such a dangerous and chaotic environment.

Richie Farr, who was formerly imprisoned at Mid-State Correctional Facility reported that "the handling of the COVID-19 pandemic at Mid-State Correctional Facility was the most absolute worst thing ever." After being quarantined with others in a "positive" unit for 10 days, the prison put three more people who had just tested positive on the unit, thereby jeopardizing the quarantine process as people were trying to recover. He reported that this happened on three separate occasions. "People are up here coughing, not social distancing, and gathered in 3-5 groups in a space no bigger than 4 feet," he wrote. "Yet and still, I'm supposed to think and/or believe my life is not at risk in this type of setting. What am I to do in this type of situation?"

Thirty-six-year-old Ricky James, also imprisoned at Mid-State Correctional Facility, died of COVID-19 on April 3, 2020. A few days before his death, he called his mother complaining of flu-like symptoms. "They don't care if we die," he told her. A few days later, he was gone. The prison never called his mother to tell her that her son had died. She only found out because other people imprisoned with her son called her shortly after he passed. When she called the prison to get more information, she was put on hold for 30 minutes, and was never given any further details other than the fact that he had died.⁷⁴

Bernice Ferguson's firstborn son, 39-year-old Rory Price, Jr., died on May 1, 2020, after contracting COVID-19 at Kintock Group halfway house in Bridgeton,

Thirty-six-year-old Ricky James, also imprisoned at Mid-State Correctional Facility, died of COVID-19 on April 3, 2020. A few days before his death, he called his mother complaining of flu-like symptoms. "They don't care if we die," he told her. A few days later, he was gone. The prison never called his mother to tell her that her son had died.

NJ. The last time she spoke to him—on his birthday on March 21, 2020—they spoke with excitement about the party she and the family were going to throw him upon his return home in May. “Instead of me planning on a party for him to come home,” she said, “I had to plan a funeral.” When Ms. Ferguson spoke with her son for the last time, he told her that “there’s a lot of people sick in here.” She begged him to be careful and keep himself safe. A few weeks later, he was rushed to the hospital where he died. To this day, no one from the New Jersey Department of Corrections has ever called, offered any consolation, or explained to Ms. Ferguson the circumstances that led to her son’s death. “Absolutely nothing,” she says. As of May 2021, when the state stopped updating data through the public dashboard for COVID-19 in state corrections facilities, the NJDOC still listed zero deaths from COVID-19 at Kintock halfway house, a full year after Mr. Price’s death. Had the public health emergency legislation been signed earlier, Ms. Ferguson’s son might still be alive today. “Instead of saving his life,” she said. “I feel like they gave him a death sentence.”

The patterns of mismanagement at state corrections facilities that started at the beginning of the pandemic continued through the various infection peaks and valleys of 2021, up through the Omicron variant wave of early 2022. While it is difficult to gauge the current rate of infections at each facility since the NJDOC stopped publishing daily testing and infection totals of prisoners and employees at each individual facility on May 26, 2021, ongoing testimony from people imprisoned across the state gives us insight into the fact that many of the same problems persist.

“None of the CDC guidance are really being followed at this spot!” “Anthony” wrote from Northern State Prison in October 2021. “Many inmates are testing positive for COVID and nothing is really being done to aid the sick due to the lack of medical staff.” Anthony also relates that imprisoned people with underlying conditions who “are most vulnerable to getting sick with COVID-19 are being placed in unsafe situations.” One example he shares is that people on his unit who tested positive, and their roommates, were moved to quarantine in a different unit, while the rest of the unit they were leaving behind was declared a quarantine unit. And yet, “guys were still leaving and coming back on the tier,” risking further spread of the virus. He also reports that he was given a new cellmate, that neither were tested before they bunked up, and that both have underlying conditions. Similarly, in March 2022, people incarcerated at New Jersey State Prison report that the prison continues to create conditions in which those who have tested positive

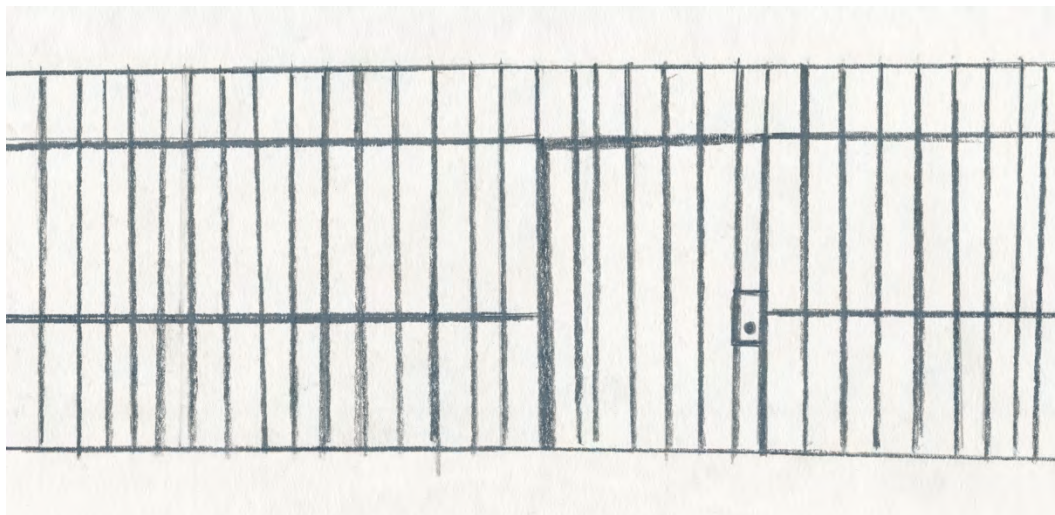


Figure 13: Artwork by Lucy Flores, 2020.

and those who have not continue to interact in proximity to one another, including through food distribution.⁷⁵

“The treatment here is very inhumane with regards to COVID,” “Antoine,” imprisoned at Eastern Jersey State Prison, wrote in January 2022. “The lack of social distance and proper sanitation has caused over half the prison to [become] sick in some shape, form, [or] fashion.” Others imprisoned at NJSP reported in January 2022 that infections were “rampant,” that people testing positive for COVID-19 were being told to quarantine in their own cell rather than in another unit, that different prisoners are being quarantined for different lengths of time, and that prison runners are using the same gloves to touch the bowls, plates, and cups of both infected and non-infected people throughout the prison. As “Hakeem,” imprisoned at NJSP put it, he and more than 40 others were quarantined “due to the deliberate indifference to our medical needs!”

Richie Farr, currently imprisoned at South Woods, points out the absurdity of the two-year trajectory of testing in state prisons. Whereas early in the pandemic, testing for people with symptoms was rarely offered, as of early 2022, those imprisoned at South Woods were subjected to weekly “mandatory or go to lockup” COVID tests. Richie also reports other haphazard testing measures at the facility that create scenarios where people who may be infected can potentially go untested for weeks at a time, without being quarantined. In one situation, Richie reports, one person in a two-person cell tested positive while the other didn’t. Prison staff moved the person who tested positive to quarantine and simply moved his cellmate who tested negative to another cell with another cellmate. According to Richie, five days later, nine more people had tested positive.

Much as immigrant detainees in the state have stated, prison officials’ and staff’s handling of the pandemic, from March 2020 to March 2022, has been so deeply chaotic and dangerous that it gives the impression that, in the words of “Juan,” who is imprisoned at Eastern Jersey State Prison, “the administration here has purposely gotten inmates sick due to their lack of order. Nobody has an idea of what to do.”

Masks

Much as in immigration detention centers in the state, people imprisoned across the state report that many corrections officers refuse to wear masks properly, or in some cases at all. While the NJDOC central office has mandated masks throughout the majority of the pandemic, they seemingly lack the power to enforce that rule, and corrections unions seem to lack the political will to encourage it. Facing a new state-mandated vaccination deadline of May 11, as of August 9, 2022, 73 percent of corrections employees have received at least their first COVID-19 vaccination shot, still far below the 92 percent of New Jersey residents who have received at least one shot, and the 77 percent who have been fully vaccinated.⁷⁶ As of August 9, 2022, approximately 63 percent of people incarcerated in New Jersey state prisons have been vaccinated.⁷⁷

“Sharon,” who is imprisoned at Edna Mahan, wrote in August 2021 that “COs gave multiple inmates COVID-19 because of not wearing masks or any protective equipment. They did not follow COVID-19 protocol and most officers are not vaccinated.” As for those “who actually did wear masks,” she wrote, many “sexually/physically assaulted inmates, but inmates couldn’t ID the officers so investigations couldn’t/wouldn’t fully happen.” By rejecting masks for purposes of public health but wearing them to hide their identity while committing sexual assault, corrections officers at Edna Mahan perpetuated a longstanding culture of physical and sexual abuse at Edna Mahan that came to broader public light in 2021.

As a result, multiple corrections officers have been criminally charged with assault, and multiple people formerly imprisoned at the facility have filed lawsuits.⁷⁸

Richie Farr, who was previously incarcerated at Mid-State Correctional Facility, reported that throughout 2020 and 2021, many correctional officers were “walking around without masks,” even though mask-wearing was mandatory for all guards. “During this pandemic,” he writes, “the COs treated it as a cold. They ignored all the mask warnings. I remember [one officer] saying, ‘Fuck Murphy, he didn’t mandate it yet, so I ain’t wearing one.’” Less than two weeks after Ricky James died of COVID-19 at the prison, 62-year-old Frank Silvera died, potentially after becoming infected by corrections officers. According to Richie, Mr. Silvera was a third shift shoe shiner for COs, and was regularly around COs who did not wear their masks. At least 76 NJDOC staff at Mid-State tested positive for COVID-19 during the first few months of the pandemic, along with at least 76 (but likely many more) prisoners.

Richie Farr also reported multiple examples of instances of deliberate disregard for COVID-19 safety protocol on the part of corrections officers. “The COs would call down 6 units at a time and force 40 inmates to sit next to each other, with no masks on, then would get within 8 inches of our face with a flashlight while they aren’t wearing a mask and forced us a lot of the time to stick our fingers in our mouths and to pull our lips and cheeks out to make sure we actually took our meds, but if we refused, we would either be threatened with lock-up or would get locked up.” On other occasions, he wrote, “the COs would be by a bunch of older inmates and would just cough or sneeze on purpose to watch them run and would laugh at it like it was a joke.” Eighty percent of COs, he wrote, “didn’t follow protocol. They all refused to take the vaccine because they always downplayed the virus as a harsh cold.”

Early in the pandemic, people imprisoned at New Jersey State Prison reported guards without masks who were clearly displaying COVID-19 symptoms while at work. While guards were required but refused to wear masks, prisoners’ requests for masks and cleaning supplies were denied for months on end, and prisoners who made their own masks were penalized. As Leon, incarcerated at NJSP, wrote in April 2020, despite CDC recommendations regarding masking and avoiding multiple people congregating within six feet of each other, he and his fellow mask-less prisoners were “forced BY THE HUNDREDS to go to the mess hall to eat.” At least 151 people tested positive for COVID-19 and six people died during the first months of the pandemic at NJSP. At South Woods State Prison, a facility with a high population of medically vulnerable people, and the site of what was by far the largest outbreak of COVID-19 among New Jersey state prisons with more than 1,100 recorded positive cases and seven recorded COVID-related deaths between April 2020 and May 2021, prisoners who made their own masks out of recycled materials were written up with charges.

Little changed between March 2020 and early 2022. Reports from imprisoned people regarding guards’ deliberate refusal to wear masks, let alone be vaccinated, continue to pour in to advocates across the state. As recently as February 2022, people imprisoned at NJSP and South Woods State Prison

“While guards were required but refused to wear masks, prisoners’ requests for masks and cleaning supplies were denied for months on end, and prisoners who made their own masks were penalized.”

reported that “most” guards still did not keep masks on, or wore them “carelessly,” including on their chin, making them a likely source of the further transmission of the virus in an environment already highly conducive to the spread of disease.

2. Officials, officers, and medical staff at prisons, jails, and immigration detention centers in New Jersey engage in widespread and systematic medical neglect that results in suffering and death.

In addition to the suffering and death brought about by the refusal to institute mass releases and indifference to CDC and public health expert recommended COVID-19 safety protocols, the medical “care” provided at state prisons and immigration detention centers by people who have taken an oath to “do no harm” often does as much if not more harm than it does good. In the 1976 case *Estelle v. Gamble*, the Supreme Court decided that “deliberate indifference to serious medical needs of prisoners” constitutes cruel and unusual punishment, proscribed by the Eighth Amendment.⁷⁹ Amnesty International includes “medical neglect” in its list of common methods of “torture,” and scores of presently incarcerated and formerly incarcerated people have filed lawsuits alleging torture and cruel and unusual punishment through the denial of medical care at the facilities where they are imprisoned or detained.⁸⁰ And yet, prison and immigration detention officials and employees, including both officers and medical staff, continue to routinely deny necessary medical care across the state and the country, in so doing taking years off people’s lives in a very literal sense.⁸¹

IMMIGRATION DETENTION

Before the COVID-19 pandemic ever emerged, medical services in immigration detention centers across the country, including in New Jersey, were widely criticized for offering extremely poor and dehumanizing health care to immigrants held in their custody.⁸² With the arrival of the pandemic, what was already bad about medical services in detention grew even worse.

Jean-Ismael Bien-Amie-Nicolas, who was detained at Essex and Bergen before being transferred out of state and eventually deported back to his home country of France, reported that he had a concerning cyst that was bothering him for months. Medical staff at Bergen looked at it but said that surgery was not an option, because, in his words, “ICE won’t pay for it.” More than a year later, after having been deported back to France, he is still dealing with it. Mr. Nicolas also described a medical facility at Bergen in which detainees had no choice but to explain their health problems and be physically examined in front of one another, without any privacy, and endure humiliation from a highly “disrespectful” doctor.



Figure 14: Jean-Ismael Bien-Amie Nicolas

Other immigrant detainees also reported verbally abusive, xenophobic, and racist medical personnel at Bergen County Jail, as well as complete disregard for the serious health issues that detainees faced, including prostate cancer, heart problems, severe back pain, high blood pressure, diabetes, HPV, and painful dental problems. One detainee, “Romeo,” who has diabetes and HPV, reported his experience of medical neglect to the Freedom for Immigrants Hotline in April 2021, saying, “whenever I go and see the doctor, the doctor refuses to treat me.

The doctor once told me that ‘If you don’t like the way that I’m talking to you, go back to your country.’ The doctor is also verbally abusive. Every time I go in for a health issue, he says that I am making things up. I am afraid to lose my life because this doctor won’t treat me.”⁸³

For many detainees who were relatively healthy prior to their detention, being locked up brings on new health problems that they did not suffer before. For those who entered detention with preexisting conditions, severe medical neglect from medical staff often compounds their health problems, causing more suffering and putting detainees at risk of early death.⁸⁴

Former detainees at the Elizabeth Detention Center also report the routine denial of medical care. One former detainee there, “Raul,” shared that “medical is bad even for people who don’t have COVID-19,” explaining that another detainee who had been at EDC for two years needed heart surgery but never received it. Raul also said that he suffered from an ongoing toothache and asked to see a dentist. “They told me the dentist they work with doesn’t fill cavities; they only extract teeth,” he said. “I didn’t want that, so I suffer the pain.”⁸⁵ Miguel echoed the same about the medical staff at EDC, claiming that they regularly withhold information from detainees about their health conditions, and that they often fail to follow up with proper treatment for people’s conditions.

Curtis, the torture survivor and refugee from Africa, reported that the medical staff at the Elizabeth Detention Center were unresponsive to a health crisis he experienced while in detention. As an asthmatic, contracting COVID-19 posed serious risks to his overall health, and when he began coughing uncontrollably on a Friday, he went to see the medical staff to ask for a nebulizer or inhaler. In Curtis’s words, medical staff completely “ignored” his request. Nurses claimed that their

“whenever I go and see the doctor, the doctor refuses to treat me. The doctor once told me that ‘If you don’t like the way that I’m talking to you, go back to your country.’ The doctor is also verbally abusive. Every time I go in for a health issue, he says that I am making things up. I am afraid to lose my life because this doctor won’t treat me.”

- “Romeo”

hands were tied, because the doctor wouldn't be in until Monday. Other detainees complained to guards on Curtis's behalf, trying to get him help, but to no avail. "When I asked for help over the weekend, no one was willing to give me the help," he said. On Monday, he was placed in full body chains and transported to the hospital where he tested positive for COVID-19. If he had not been granted release a few days later, he says, he may have died.

Miguel, an immigrant from Colombia who spent 16 months at Elizabeth, experienced not only a denial of critical medical care from medical staff, but a cruel dismissal of his claims that he was even ill at all. He reported that he and other detainees experienced telling medical staff that they had a headache or some other discomfort, only to be told in response, "you have nothing," or that it was "an invention" just to annoy staff or to try to justify being released. Miguel also fell and injured his head on a toilet during his time at Elizabeth. He experienced headaches

for months after an initial doctor visit. When he visited with medical staff again, they continued to tell him it was nothing and that he should not worry about it.

Juan, an immigrant from Mexico who was picked up by ICE and taken to the Elizabeth Detention Center after serving 17 months in a county jail on a criminal charge, also experienced medical staff completely ignoring his requests for medical support, being told he was making it all up, and being accused of acting out of line for standing up for himself to medical staff denying him care. As Juan recounts, he told a nurse about his flu-like symptoms, and that he felt he likely had

Juan told a nurse about his flu-like symptoms, and that he felt he likely had COVID-19. "She touched her hand to my forehead and said, 'No, you don't have anything,' and I told her 'I have temperature, I have a high fever, I'm really hot, here, touch my forehead,' and she told me, 'No, you don't have anything.'" The nurse gave Juan "two Tylenols...and that was it."

COVID-19. "She touched her hand to my forehead and said, 'No, you don't have anything,' and I told her 'I have temperature, I have a high fever, I'm really hot, here, touch my forehead,' and she told me, 'No, you don't have anything.'" The nurse gave Juan "two Tylenols...and that was it."

After three more days of worsening symptoms, Juan "couldn't stand it anymore," so he went back to see the doctor, and the same nurse was there. "You again?" the nurse said when she saw him. "You gave me two Tylenol two days ago, and it did nothing for me," he said. "Look, I'm cold, I'm shivering, help me." "How annoying you all are," she responded. When the nurse gave him two more Tylenol, he threw them in the trash, saying they did nothing for him, and that he needed to see a doctor. When she retrieved the doctor, the doctor said, "What is your problem? Why are you fighting?" He responded: "Doctor, I'm not fighting. I only

want you to check me.” The doctor responded: “No, you don’t have COVID.” And that was it.

Jose, a 20-year-old immigrant from Guatemala who was detained for six months at Elizabeth Detention Center during 2020 and 2021, said that “the medical unit is horrible.” Javier injured his back after falling off a roof doing construction work. When he told medical staff about his pain, Javier says that nurses responded by saying, “No, you do not have anything. You are 19 years old. Why would you have back pain?” When he insisted that he needed something for his excruciating pain, Javier says that one nurse told him to “suck it up, because you will not die from that pain.” Javier summarized the severity of the problems with the medical staff at Elizabeth: “They do not know how to treat us, they treat us bad, they talk bad, they scream, they make us feel bad. For any pain...they give you Tylenol. They don’t check you out, they don’t ask what’s wrong. They have people complaining about their appendix, who need surgery, and they don’t do it. A man had a hernia. They told him, ‘Okay, we will just deport you because we cannot operate on you here.’ What type of infirmary is that?”

Reports from Essex County entail much of the same. Adel, the torture-survivor from Yemen, fell ill while housed at Essex. When he complained of not feeling well, medical staff took his temperature and placed Adel in quarantine in an individual cell for 23 and a half hours a day, for 23 days. During their half hour out of confinement, Adel and others in quarantine had the option of either making a phone call or taking a shower. When Adel complained of severe pain in his chest, medical staff gave him Benadryl. Adel suffered from PTSD and debilitating anxiety so bad he could not stand. When he asked COs to open the small tray window on the door for some relief, they said no. “I was so scared,” he said. “I cried, I was thinking, I’m gonna die, I think about my kids, I never see my kids—all this come to your mind. That’s torture.”

At one point during his solitary quarantine, medical staff came to check his blood pressure, but the machine was broken. “Oh, you will be fine,” Adel reports the medical staff saying to him, before leaving him again. The next morning, a mental health staff member came and encouraged Adel to close his eyes and imagine himself at a beautiful beach to try and relieve his anxiety. “Do you think that I can forget about this situation that I’m living here?” he responded. “I am in a disaster here. I can’t breathe, I can’t smell nothing, can’t taste nothing.”

During his 23 days in solitary quarantine, his and other cells at Essex flooded after a heavy rainstorm. People had to sleep with wet blankets and did not receive a mop or bucket until 48 hours later. “If you have a dog in the house in a room and it flooded inside his room where he cannot sleep or put anything on the floor,” he said, “you would rescue that dog. We were not rescued from flooding [at Essex].” After 23 days in confinement, medical staff came and told Adel that he no longer had any symptoms. He told them he couldn’t breathe or walk. They responded: “No, you have nothing.”

At one point, a doctor gave Adel an EKG, which showed nothing, and told him that his chest pain was due to his stress and anxiety, derived from his PTSD from surviving torture in Yemen. Medical staff never directly confirmed to Adel that he had COVID-19. It was not until a social worker with the American Friends Service

“After 23 days in confinement, medical staff came and told Adel that he no longer had any symptoms. He told them he couldn’t breathe or walk. They responded: ‘No, you have nothing.’”

Committee requested his medical records that Adel found out that he did in fact have COVID-19, and that x-rays showed a severely swollen left lung. More than a year later, Adel's left lung is still swollen, requiring a daily regimen of medications.

"If they took everything seriously and they take care of us like people with COVID in a hospital, we would be feeling better," Adel said. "It was crazy. It was ruthless. People there are ruthless."

Another Essex County detainee, Wilson Pena-Lojo, described quarantine at Essex to his attorney at the American Friends Service Committee: "All night, people are just banging on the doors, crying, begging to use the phone. Begging to get medication, begging for help. People are coughing all through the night and vomiting in their cells."⁸⁶

Miguel, from Colombia, describes the so-called mental health treatment at the Elizabeth Detention Center as "empty consolations so that one continues enduring. What they want is simply for you to be calm, that you don't say anything, don't reproach, don't yell, be calm as much as possible, and well, they handle the pills very well for this case—to tranquilize people." Jose, who was also detained at Elizabeth, reports that the psychologist who visited him when he was dealing with anxiety tried to convince him to sign deportation papers, suggesting that his health might improve if he just went back to Guatemala.

Katie Meola, a social worker with American Friends Service Committee, observed that during times of lower COVID-19 infection rates in the country and in detention facilities, "a non-routine COVID-19 test is often a sign to folks that they might be deported or transferred soon. Some folks refused to take COVID-19 tests as a strategy to try to delay these things if they suspected that was the motivation behind the test." Such testimonies clarify that even medical "care" inside detention centers often appears to serve the overall goal of deporting as many detainees as possible.

The unjust cruelty of immigration detention does not end when people are finally released or deported. Indeed, the severe detrimental impact that medical neglect and inhumane conditions have on people in immigration detention often worsens existing medical issues or creates new ones that former detainees continue to endure long after they are released.⁸⁷ In this way, the medical neglect and dehumanization that people suffer in detention creates broader adverse health conditions, which inevitably contributes to other forms of suffering, including economic precarity, job loss, and even early death.

STATE PRISONS

As with the refusal to adopt recommended safety protocol in both state prisons and immigration detention centers, the patterns of medical neglect reported in immigration detention also appears in testimonies from people incarcerated in New Jersey state prisons.

According to "Horace," who is imprisoned at New Jersey State Prison, even before the pandemic, the medical care at NJSP was "the worst. They don't care, and sometimes they give us the wrong medication." With the arrival of the pandemic, what according to insiders was already bad became even worse. After another prisoner died from a heart attack at New Jersey State Prison in April 2020, officials discovered after he died that he also had COVID-19. "They still aren't testing anyone in here until near death and have to be hospitalized, or after death," Julio, imprisoned at NJSP, wrote in April 2020.

“At this point I feel like I’m just waiting to die in here.”

- Julio

Julio contracted COVID himself. “I am just one of I don’t know how many prisoners housed in the New Jersey State Prison experiencing symptoms of the coronavirus,” he wrote in April 2020. After having flu-like symptoms, he began experiencing shortness of breath and a persistent dry cough that would not go away. After struggling to breathe well enough to fall asleep, he would wake up in a panic attack after having nightmares in which he was suffocating. Just waking up, he wrote, feels like a “near death” experience. The medicine he was given provided no relief at all. “I don’t want to die in here,” he wrote, “but it’s so bad to the point now where I’m afraid to go to sleep.” Stuck in quarantine, a small window across from his cell,

he said, was the only thing “keeping me alive.” The fearful uncertainty of that time informed a deep desperation that comes through in his and others’ letters. “At this point I feel like I’m just waiting to die in here,” he said. “I just want to go to court so I can go home.” More than eight months later, in January 2021, he reported that he continued to deal with breathing problems as a result of his COVID-19 infection.

Ms. Ferguson, whose son died in May 2020 after contracting COVID-19 at Kintock halfway house in Bridgeton, NJ, made plain her feeling that facility officials and medical staff let her son die. “They neglected him,” she said. “They let him lay there and die until it was the last moment, until they didn’t have no choice but to send him to the hospital, but by then it was too late. And now you can’t answer to their parent. Why’d you let it go that long?” When Ms. Ferguson learned her son was rushed to the hospital, she called asking to speak to him, but was denied, because “he was an inmate.” After she learned that her son died, she called authorities trying to get information. Two years later, she knows nothing more than she did the day her son died.

As early as April 2020 and as recently as January 2022, people imprisoned at facilities across the state who were infected with COVID-19 reported that staff regularly ignored pleas for Tylenol or cough drops to relieve their symptoms. Others report that medical staff are using the pandemic as an excuse to not give critically needed treatments. Multiple imprisoned people also reported that medical staff did not respond to people complaining of COVID-19 symptoms until their cellmates loudly pleaded on their behalf. Leon, imprisoned at NJSP, wrote in April 2020: “Yesterday TWO inmates were rushed to Saint Francis Hospital suspected to have the virus. Again, these people are turning their heads and a blind eye to the facts. One of the guys was sick for 13 days and up until yesterday when I demanded that a medical team be call for him did anyone do anything for him.” In January 2022, “Reggie,” who is imprisoned at Eastern Jersey State Prison wrote that another prisoner had recently begged officers to come to the aid

“In January 2022, ‘Reggie,’ who is imprisoned at Eastern Jersey State Prison wrote that another prisoner had recently begged officers to come to the aid of his cellmate who was experiencing severe COVID-19 symptoms. After ignoring his pleas, his cellmate died.”

of his cellmate who was experiencing severe COVID-19 symptoms. After ignoring his pleas, his cellmate died.

The pandemic exacerbated longstanding cultures of medical neglect in New Jersey state prisons. For years, advocates including AFSC's Bonnie Kerness have heard direct reports from people imprisoned across the state detailing the refusal to treat or manage people's medical concerns. As recently as March 2022, imprisoned people called AFSC's Prison Watch Program to report a range of untreated conditions, including dermatitis, fibromyalgia, and end stage multiple sclerosis with body sores. Imprisoned people and advocates must fight to obtain even the most decent measures such as soft shackles for people undergoing surgery. Medical treatment continues to be so bad that multiple people have died recently in New Jersey state prisons, and their families continue to wait for any information from the state about how or why their loved one died.⁸⁸



Figure 15: Artwork by Ojore Nuru Lutalo

With the arrival of the pandemic, the longstanding culture of medical neglect in New Jersey prisons has made people with already untreated or undertreated medical conditions even more vulnerable to serious illness. Reports from people imprisoned across the state indicate that with staffing shortages among medical staff—staff already disinclined or ill-equipped to offer quality medical care—corrections officers are often left to manage the medical needs of people in their custody. As a result, the patterns of medical neglect that already plagued prisons across the state have worsened significantly.

3. Prisons, jails, and immigration detention centers in New Jersey have used the pandemic as a basis for expanding punitive isolation and deprivation against people in their custody.

Officials and staff of ICE, immigration detention centers, CoreCivic, NJ state prisons, county jails, and the NJDOC have drastically increased detainee and prisoner isolation, including solitary confinement, and have drastically reduced crucial programming, recreation, and family and legal visits, all on the alleged basis of a pandemic that they have otherwise failed to take seriously.

IMMIGRATION DETENTION

Even as COVID-19 tests became more widely available beyond the walls of prisons and detention centers, instead of setting up regular testing or seriously pursuing any other mitigating measures, detention centers in the state relied instead on quarantine as their primary tool for managing infections. As one former detainee said, “they kept coming up with a bunch of excuses not to [conduct regular tests],” saying things like, “we could test you today, but you could get it tomorrow,” implying that it wasn’t worth it. As has already become clear through the testimonies above, “quarantine” in immigration detention, as well as in state prisons, was essentially solitary confinement.

Despite being done in the name of safety, placing people suffering from serious illness in a small windowless cell for 23 and a half hours a day, and refusing to provide almost anything to relieve them of their pain, is nothing if not cruel and torturous. While people outside the walls of prisons and detention centers were being told to “shelter at home,” thousands of people in detention centers and prisons were being forced to shelter in an 8x10 windowless cell. What many people in the free world awkwardly called “lockdown” simply did not compare to the real “lockdown” endured by people in prison and detention.

Miguel described the conditions and rationale behind quarantine at the Elizabeth Detention Center, arguing that shutting down most recreational activities was the easy way out for the facility. “For them, it was very easy to just keep us in quarantine, isolate [us] frequently, and not give us the opportunity to go out.” Rather than be able to go out on a patio, to the library, work in the kitchen, or entertain themselves, detainees on quarantine—who were there in the first place because of officials’ haphazard handling of the pandemic—were forced to spend sometimes weeks in near complete isolation from any meaningful human interaction.

“quarantine” in immigration detention, as well as in state prisons, was essentially solitary confinement.

In Miguel's words, isolation for quarantine purposes was "deplorable because it is a room without windows, there is no type of natural light. It is what would be called a dungeon—a small room with a bathroom, a sink, a bed, and that's it. Over there, food was passed through the door, and it is very cruel to think that one is sick with a fever, with the discomfort of COVID-19, and to be locked up in these conditions. That is quite cruel." Unable to communicate or receive visitors of any kind, Miguel said, "the isolation was absolute."



Figure 16: Mixtec Indigenous immigrant in confinement at Essex County Jail. Collage by Cinthya Santos Briones, 2020.

Raul, who also tested positive for COVID-19 at Elizabeth in November 2020, spoke about the cruelty of placing people already struggling with COVID-19 symptoms in extreme, punitive isolation. Already in shock from testing positive, and from learning he would not be leaving the facility yet due to his testing positive, Raul was placed in the Special Housing Unit (SHU), a euphemism for solitary confinement, or "the hole." "One of the staff told me the SHU is used to punish people for doing bad things in the jail," he said, "but now people who test positive for COVID-19 go there while they figure out what to do with them. So basically I was getting punished for having COVID-19."⁸⁹

As noted in the testimonies quoted in previous sections, a measure allegedly carried out in the name of public health was often yet another means of abandoning people to suffer alone, often leading to debilitating anxiety. According to Katie Meola of AFSC, facilities used COVID-19 "as an excuse to cut off services, communication, and access to other rights." Even as "the rest of the world has tried to figure out how to keep things running (with modifications)" during the pandemic, "time and time again the detention centers used COVID-19 as an excuse to keep people locked in, missing court, and isolated."

STATE PRISONS

From the beginning of the pandemic to at least early 2022, people incarcerated in New Jersey's state prisons have reported widespread elimination of the few resources, programming opportunities, and forms of human contact with outsiders that made life a little more bearable behind bars, all in the name of safety in the face of a pandemic prison officials have otherwise failed to take seriously.

People imprisoned at NJSP throughout March and April 2020 reported that the facility took away recreation, yard, gym, religious programs, and visits, and prohibited all movement across the prison, except for shower and kiosk. Almost two years later, in January 2022, after various peaks and valleys in the pandemic, and as the Omicron variant passed through the facility, "Calvin," incarcerated NJSP, wrote that not much had changed: "we are still on quarantine restriction, [including] all of our privileges, such as law library, religious services, recreation, visits, and other important rights of inmates has been taken."

Though some programming and privileges were reintroduced as infection rates lowered in the middle of 2021, when rates increased again, rather than issue more releases or institute more testing, programming and privileges were revoked again, with little communication as to when things might change again. In July 2021, as some restrictive visits were reintroduced, one person imprisoned at NJSP reported that the facility took away the previous resource of free e-stamps and postage stamps, and reduced 15 free minutes of phone time down to five.

Richie Farr, formerly incarcerated at Mid-State, conveyed the double standard of the facility when he reported that even after isolating him and other imprisoned people for more than 50 days, officials were still publicly denying that people became infected at the prison. "We were deprived of everything," he wrote, "and were never given an answer that COVID-19 was in the building." In early April, even after multiple people imprisoned at Mid-State had died, officials were still claiming that there were no infections at the prison.⁹⁰ Meanwhile, Richie, who is asthmatic, reported that medical staff used the requirement of isolation for positive tests as a basis for claiming that they could do nothing to address his incessant cough. Beyond the physical impacts, the mental impacts of such intense isolation with such excruciating health conditions negatively affected many imprisoned people's mental health as well. As Richie reports, due to both his health and his isolation from his family, which was itself being impacted by multiple loved ones' deaths from COVID-19, his "mental health dwindled," leading him to contemplate suicide.

In January 2022, "Colin," imprisoned at EJSP, reported that the prison's system of testing and quarantining was completely disjointed. He reported that prisoners who were repeatedly testing negative were still being placed in quarantine for as many as 30 days at a time. Likewise, they reported, if a person on one tier tested positive, officials were quarantining people in other adjacent tiers as well, without clear reason. Since December 15, 2021, he wrote, "we all have been deprived of our basic human rights such as all appointments, medical, mental health, law library, religious activities, educational programs, social service." In addition to this, EJSP was beset by "delayed meals, commissary issues, food items out of stock, [and] visit

"many imprisoned people remain apprehensive about COVID tests because the 14 days of 23-hours-a-day isolation that positive tests require 'is literal torture.'"

restrictions,” all without any direct communication from the administration about the reason for or planned duration of those highly restrictive policies. “James,” who is incarcerated at NJSP, estimates that most units at NJSP have been on lockdown for most of the pandemic. Other prisons indicate similar patterns. Given this fact, some people imprisoned across the state have wondered what the future holds for them if COVID-19 is here to stay and state and prison officials continue to refuse to change course in any significant way. If nothing changes, some worry, the future may entail all but indefinite solitary confinement for more than 10,000 people imprisoned across the state. As Richie Farr writes, many imprisoned people remain apprehensive about COVID tests because the 14 days of 23-hours-a-day isolation that positive tests require “is literal torture.”

The torturous and dehumanizing conditions of isolation in prisons across the state have led some imprisoned people to organize hunger strikes. A public statement released by the New Jersey Parent Caucus Youth Justice Initiative on March 1, 2022, detailed conditions of isolation at New Jersey State Prison that continued to risk the further spread of the COVID-19 virus. As one person named

“We are being punished for something that we have no control of! How can we get COVID when we don't have contact visits? The only contact we have with the outside world is through staff and COs but we are the ones being punished.”

- James

James incarcerated at NJSP said, “As a result of all that is going on, we are on a hunger strike as a result of being in lockdown with COVID, forcing guys to double lock who has been tested positive with COVID.”

Conveying the irony of the fact that it is imprisoned people who must suffer isolation when it is prison staff, many of whom are unvaccinated and unmasked, who are responsible for bringing the virus into the prison again and again, James writes: “We are being punished for something that we have no control of! How can we get COVID when we don't have contact visits? The only contact we have with the outside world is through staff and COs but we are the ones being punished.”⁹¹

Richie Farr reports that people who try to organize and bring

their complaints about brutal and still unsafe conditions to South Woods administration are “locked up, beat up by COs, and lose all of our property.”

In April 2022, people imprisoned across the state continued to report that, in addition to a failure to institute proper safety protocols and the routine denial of medical care, corrections officials continue to lead facilities into dangerous states of disarray, isolation, and deprivation, the widespread impacts of which, beyond infections themselves, have yet to be fully grasped.

HOW TO END THE DOUBLE CRISIS OF HUMAN CAGING AND COVID- 19 IN NEW JERSEY

The remedy to the human rights violations that thousands of people imprisoned and detained in New Jersey have experienced over the last two years, not to mention for decades prior, is simple: **FREE THEM ALL**. Anything less than mass decarceration quite literally makes suffering and death inevitable, all in the name of an illusory “public safety” that actually endangers us all.



Well before the pandemic, centuries-long movements for the abolition of carceral institutions and the creation of economic, racial, and healing justice have shown that another world is possible when we dare to imagine and struggle together to realize it. When the pandemic emerged, the longstanding call to abolish prisons, jails, and detention centers took on new urgency as the already deadly crisis of these institutions grew deeper, rendering them even more deadly than they had been before. Prisons, jails, and immigration detention centers—institutions that claim but utterly fail to enable public safety and wellbeing—were a threat to our collective wellbeing before the pandemic. They are a threat to our wellbeing during the pandemic. And they will continue to threaten our wellbeing long after the pandemic, for as long as such institutions exist.

Guided by the Quaker belief in the divine light within each person, the American Friends Service Committee, including its New Jersey Immigrant Rights Program and its New Jersey Prison Watch Program, has helped carry this lifegiving work alongside many others for decades, and will continue to do so for as long as carceral institutions continue to dehumanize and harm our communities. The double crisis of human caging and COVID-19 in New Jersey and beyond has not always been with us, and therefore need not be forever. Another way is possible, and we will continue to strive to make it real.

Testimonials from people in prisons and immigration detention centers in New Jersey help clarify the urgency of the call to free them all, and, in the meantime, to create humane conditions worthy of human life until the very last person walks free. Derived and distilled from AFSC's decades of work in prisons and detention centers as well as the demands of people who have been caged inside them since the beginning of the pandemic, the following summarizes what it will take to end the double crisis of cages and COVID-19 once and for all.

IMMIGRATION DETENTION

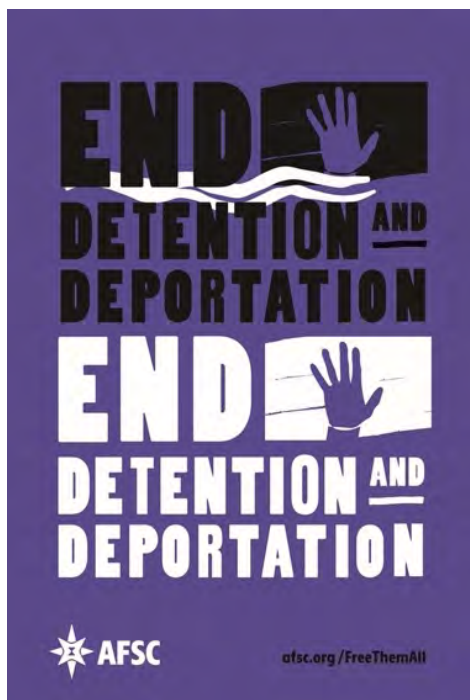
1. FREE THEM ALL AND ABOLISH ICE

The most effective way to protect people in immigration detention from COVID-19, and from the horrors of detention itself, is to free all people currently detained in immigration detention – not transferring or deporting but freeing. In addition to litigation that aims to release people from detention, the most immediate way to enact such a measure would be through public health emergency legislation or executive action at the federal level. Long-term, the way to end the crisis of detention and public health crises like COVID-19 that render detention centers even more deadly than they already were, is to abolish Immigration and Customs Enforcement (ICE), the inherently violent and community-disrupting policing arm of the U.S. immigration system. Abolishing ICE would also mean ceasing all immigration detention center operations entirely, which would entail releasing *all* detainees—both those with and those without any prior interaction with the criminal legal system—back to their families and communities in the United States.⁹²

“We need to close detentions. Not only in New Jersey. We need to close them all over,” says Adel, who was detained at Elizabeth, Essex County, and Bergen County Jail from 2017 to 2021. “Stop doing business with our lives.” When asked if facilities like Essex County and Elizabeth should exist, Luciano responded: “Of course not. ICE should be disintegrated. They’re doing nothing, just violating human rights all the time, and treating people bad. They’re the worst.”

Noemi, whose husband and son were both detained and deported, asserted that ICE is “racist” and its criminalization and separation of immigrants from their families is cruel, both for those who have committed crimes and those who have not. When Jorge heard that Essex County would stop holding immigrants, he said he was “ecstatic”: “when I heard about that it just made me really happy to know that there weren’t going to be people anymore that had to suffer what I suffered in that place.”

Many people presume that immigration enforcement and detention has always existed, and therefore should always exist. But immigration detention has not always existed, which means it is entirely possible to build a future without it. Indeed, ICE was only created in 2003, making it younger than most people currently in detention. In addition to direct executive action, another means of abolishing ICE over time is defunding them through organized campaigns to create a federal budget that reduces the tens of billions of dollars they get every year down to nothing.⁹³ Jean-Ismael, Luciano, and others interviewed for this project said that spending billions on detaining nearly 20,000 immigrants across the U.S. is a waste of taxpayer money—money that could be spent on poverty reduction, addiction treatment, and creating programs that give opportunities to people eager to create a stable life for themselves and their families.



Another common sentiment among those interviewed for this report was that it is unjust and “cruel” to criminalize and cage people doing little more than seeking stability with their families—both those who recently arrived in New Jersey, and those who have been here for much longer. As Jorge, an immigrant from Guatemala, said, “these laws [criminalizing immigrants] should not exist. None of this is good because it is about separating families, and all of that is very ugly, as I have lived it. I do not wish that upon anyone.” “Just because they don’t have their status straight,” “Mike” said, “I don’t think anybody should end up in that place [detention].” As “Esteban” put it, “Just because we’re Hispanic or don’t have documentation” doesn’t mean we’re less worthy than people who were born in the U.S. “We’re all human, we’re all flesh and bone, and we all have value.”

AFSC agrees with Jorge and others we interviewed who said that laws criminalizing immigrants simply should not exist. The Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), both passed by the Clinton Administration in 1996, expanded immigration detention exponentially, helping to create the cruel and unjust system that we have today. AFSC joins other organizations in calling for the repeal of these laws as one way to drastically reduce the number of people in detention in the U.S.⁹⁴

Additionally, while New Jersey has an Immigrant Trust Directive that prohibits ICE and law enforcement from formally collaborating in New Jersey in many instances, law enforcement in the state is permitted to notify ICE of people in their custody with certain pending charges, convictions, or a final removal order.⁹⁵ New Jersey is currently considering a bill that would strengthen prohibitions on law enforcement cooperation with ICE, which would help ensure that police play no role in funneling people into the cruel deportation machine.⁹⁶ Immigration status must be completely decoupled from the criminal legal system. In instances of harm, communities and municipalities should invest in non-carceral means of accountability. Using the immigration system as a tool for punishment is unjust and inhumane and must be stopped.

2. A PATHWAY TO CITIZENSHIP

In light of the family-separating, community-destabilizing cruelty of ICE and its detention centers, multiple interviewees articulated the dire necessity of a clear and accessible pathway to citizenship in the United States for people seeking it. A first step in making that happen, Jean-Ismael said, is granting complete amnesty to all undocumented immigrants currently in the country: “give them papers.” As “Adam” told us, people who want to become citizens want nothing more than to help their families, and to help the country as well. A clear and accessible pathway to citizenship is the only humane response to people migrating to the United States. In addition to access to citizenship, many interviewees named the importance of increased funding for resources that people need to get on their feet when they start a new life in a new place.



Until ICE is disbanded, all detention facilities are emptied and closed, and a clear and accessible pathway to citizenship is established for all who seek it, a number of other immediate changes must take place—changes that do not replace the demand of abolition, but that supplement it, allowing people to live with greater dignity in the meantime. They are as follows:

3. UNIVERSAL REPRESENTATION

On a practical level, a first step in initiating more releases from detention is instituting policies that grant release as the norm rather than the exception, as well as policies at a federal level that require thorough and timely review of all release requests. Another important step in ensuring dignity—and due process—until detention centers are closed is guaranteeing legal representation for all detained immigrants. People who

find themselves in detention often lack resources and connections to obtain legal support, leaving them in limbo, sometimes for months or years on end. AFSC and other organizations offer legal support to detainees, but many remain without representation. Guaranteed representation, untethered from ICE funding, and in connection with organizing and advocacy for systemic change, gives people in detention a greater chance of returning home, and until detention centers are closed, no one should go without it.

4. OVERHAUL COVID-19 PROTOCOLS

Most our interviewees also recommended that ICE and elected officials learn from research like that detailed in this report and, until detention is abolished, shift course completely in regards both to COVID-19 protocol and general operations. Short of mass releases, universal masking, vaccines offered with thorough information and translation as needed, and humane quarantine measures are necessary. Without these measures, more people will become sick, with potentially long-term impacts, or will die.

5. OVERHAUL MEDICAL

Many interviewees also recommended a complete overhaul of medical care and infirmaries, particularly in Elizabeth Detention Center, the only currently operating immigration detention center in New Jersey. As reported in Finding 2 above, a significant number of medical staff members at all facilities, including Elizabeth, are hardly fulfilling their duties as medical professionals, often denying examinations, telling people there is nothing wrong with them despite their real health issues, giving only Tylenol in response to almost every medical issue, refusing to set up further treatment or needed surgeries, and treating detainees with disrespect and indifference to their suffering. Kurt and his loved one recommended that medication and doctors should be available at all times, including nights and weekends, rather than making people suffering desperate medical conditions wait three days to receive critical lifesaving care.

6. FOOD, PROGRAMMING, AND COMMUNICATION

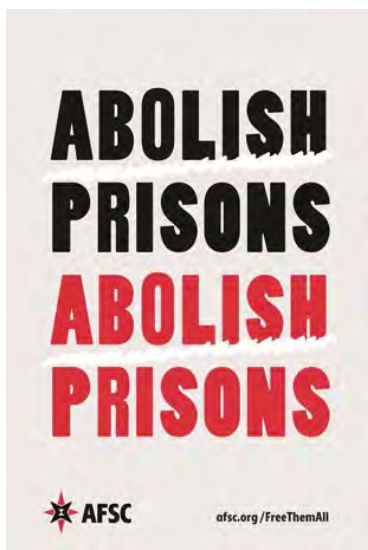
Another of the most prominent complaints about immigration detention centers in New Jersey was the complete lack of quality food. As Jose put it, the food is so terrible it “doesn’t even feel humane.” Former detainees recommend increased food options, including a menu. As detailed in Finding 3, ICE and detention center officials have all but completely eliminated the various forms of programming that make life bearable while in a completely unnecessary and cruel environment, instead utilizing inhumane isolation methods, all in the name of supposed safety during a pandemic they have otherwise done very little to mitigate. Detainees named things like access to a gym, basketball, soccer, computers, music, internet, and English and other classes as forms of programming that would preserve and improve their lives while in detention. Finally, people who experienced detention in New Jersey during the pandemic spoke about the importance of maintaining clear and accessible means of communication with their attorneys and loved ones. Until detention is abolished altogether, ensuring access to free and easy communication is essential to people who should not be detained in the first place.

7. HUMANIZATION AND ACCOUNTABILITY

Finally, when former detainees were asked what should change about these systems, many responded that people in power need to have “a heart.” “There needs to be somebody with a heart, man,” Shalom said. “What’s happening in there—there’s no heart. They don’t care.” As Luciano put it, “the first thing they need to change is their attitude and the way they treat people.” Juan said that if they’re not going to close these institutions—and they should—they should at least be “more humane,” offer more privacy, “more dignified treatment” fit for “actual human beings,” not “animals.” Jose reported that the racist dehumanization he experienced at the hands of officers, medical staff, and other officials was so intense that he considered suicide. “That should never be the case,” he said. “We should never be dehumanized, made to feel that we’re worthless, and that our existence is meaningless.” To that end, advocates at AFSC recommend that, until detention is eliminated entirely, there is an immediate and urgent need for full accountability, transparency, and oversight of ICE’s activity at Elizabeth Detention Center, the last remaining detention facility in the state. Without these things, people will continue to be dehumanized and harmed at the hands of the state.

STATE PRISONS AND COUNTY JAILS

1. FREE THEM ALL ON THE ROAD TO ABOLITION



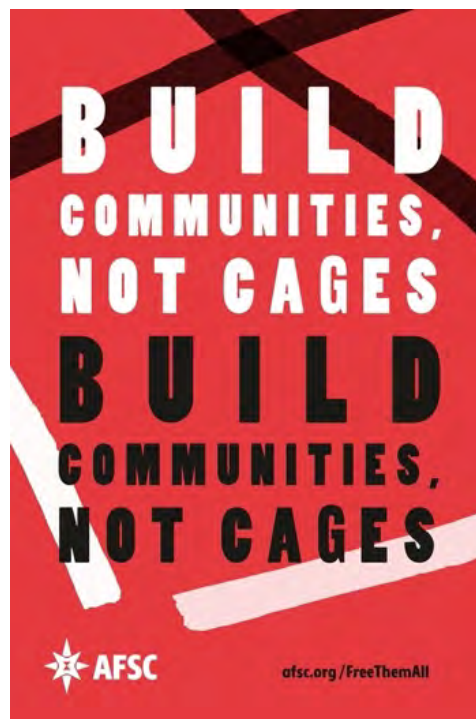
As this report has shown, many of the deadly problems that characterize immigration detention also characterize prisons and jails across New Jersey, and beyond. As such, the demand for immigration detention is the same demand for prisons and jails: mass decarceration on the road to abolition. “Jennifer,” who is imprisoned at Edna Mahan Correctional Facility, wrote at the start of the pandemic about the urgency of mass decarceration: “to be honest they should release ALL the inmates here. These people have no training whatsoever on such emergencies, none! and I speak of the medical department and custody. All they know to do is isolate you in a cell in south hall and forget about you.” As she wrote, quoted above, failing to do so would turn the Garden State into “a garden of cadavers.”

2. PUBLIC HEALTH EMERGENCY LEGISLATION

New Jersey’s Public Health Emergency Credit Law, which is projected to reach more than 8,000 total early releases by the summer of 2022, is one of the most successful decarceration tools anywhere in the U.S. In order to ensure that it can continue to be used in the future, AFSC recommends that advocates and elected officials do whatever it takes to make it invulnerable to reversal by future governors or other elected officials.

While this legislative action saved lives, the first phase of its rollout was unfortunately marked by reports of people simply being dropped off without the promised identification and resources required to survive after time spent behind bars.⁹⁷ Moreover, due to the ongoing haphazard and inhumane response to the pandemic inside the state’s prisons and jails, the lives of the thousands who remain behind are at peril. The legislation must be expanded to include people with longer sentences. Richie Farr, who was incarcerated at Mid-State at the beginning of the pandemic, and is now incarcerated at South Woods State Prison, argues that besides being “held accountable for their handling of this pandemic,” NJDOC needs to expand who qualifies for early release. Everyone else “who went thru this pandemic with more than a year left were/are left out to dry with nothing. They need to give all inmates who had to go thru this in prison, no matter how much time they have left, the eight months they gave to thousands. Eight months will help thousands more who truly deserve it.”

The downside of tethering decarceration efforts to COVID-19-related public health measures alone, however, is that it risks reinforcing the idea that, during non-pandemic times, caging human beings in prisons and jails is reasonable, safe, and necessary for public safety. We join others across the country in strongly asserting that carceral institutions were inhumane, deadly, and detrimental to authentic public safety before the pandemic, and will remain so long after the pandemic. As such, any decarceration efforts from this point forward must be premised on the need for mass release as a public health *and* public safety measure both during and beyond the pandemic. It is also important that, if the state pursues expanded decarceral efforts, they don’t also expand e-carceration mechanisms such as electronic monitoring, which is not decarceration but simply the expansion of incarceration by other means.⁹⁸



3. DECRIMINALIZE AND DEFUND

Along the same lines, while letting people out the back door of the prison through mass releases is critical, it is just as critical that the state not be empowered to continue to funnel masses of people in the front door through arrest, jailing, trial, and prison sentences. Researchers with the Prison Policy Initiative have shown that prison populations in the U.S. dipped slightly over the course of the pandemic not because of mass releases, but because of slowdowns in the criminal legal system.⁹⁹ As states and municipalities continue to try to get back to “normal,” there is little stopping police, prosecutors, and other legal powers from returning to pre-pandemic rates of arrest and incarceration.

One of the best ways to slow the stream of people into carceral containment is to continue to drastically reduce the size, scope, and budgets of police, prosecutors, courts, and jails. This also means shifting public understandings of what creates public safety by showing that the best path to improving public safety for all is reducing our dependence upon punitive responses to the social problems created by racial and economic injustice, and by funding resources that create racial and economic justice and alternative responses to harm. This ultimately means abolishing the police, as well

as jails, courts, and prisons, and replacing them with fully-funded and community-controlled public goods and resources that create safe and thriving communities, as well as new forms of what AFSC calls “healing justice”: non-carceral, restorative, and transformative responses to harm. Building, funding, and sustaining such experiments are a necessary component in the work of making carceral systems obsolete. In the meantime, another means of cutting off the flow of people into the system on the front end is the decriminalization of an array of offenses as well as sentencing reform that drastically reduces sentence lengths.

If we only release people from prisons and jails during the pandemic without stopping the mass criminalization that funnels people into these institutions in the first place, then the deadly crisis of mass incarceration—during or after a pandemic—will continue unabated.

Until mass decarceration on the road to abolition becomes reality, we must also:

4. OVERHAUL AND HUMANIZE COVID-19 PROTOCOLS

Until mass releases and the reduction of all facets of criminalization on the road to abolition become realities, people in prison deserve major improvements in the conditions in which they are held. This includes, firstly, a complete change of course regarding COVID-19 protocols. Just as in immigration detention centers, protocols around universal masking—one of the best tools for mitigating the spread of the virus—especially in such confined environments, needs to be implemented and enforced across the board, for both staff and prisoners. Additionally, offering vaccines

and boosters with thorough education is critical to slowing the severity of infection everywhere, and especially in carceral settings. Nevertheless, until more corrections officers are vaccinated and boosted and masked, it will be hard to slow the spread.

More than two years into the pandemic, evidence suggests prison officials have not learned from the tragedies their haphazard response made possible these last two years. As “John,” incarcerated at New Jersey State Prison, wrote in January 2022, “I feels like the prison officials and medical professionals are doing the same thing with the pandemic crisis as they did with sexual

“Until mass releases and the reduction of all facets of criminalization on the road to abolition become realities, people in prison deserve major improvements in the conditions in which they are held.”

assault of female prisoners [at Edna Mahan], i.e., learned nothing from the first mistakes/incidents and/or officials choose not to change the cultural practices and the customs!” Or as Richie Farr at South Woods put it, “The NJDOC needs to take this COVID-19 pandemic as a lesson learned and keep it on the record books and do the exact opposite that they did this time if it ever happens again.”

Another dimension of improving COVID-19 protocol in prisons and jails is shifting away from the inhumane practice of forcing people who have tested positive to quarantine in conditions of solitary confinement. Becoming sick with a dangerous virus should not be what currently amounts to a punishable offense. Reports from

imprisoned people and advocates detail people testing positive, being told to quickly gather what they can and then being sent to solitary confinement, the rest of their property being discarded entirely. Likewise, as reported in Finding 3 above, by not issuing mass releases or taking other mitigating measures and resorting instead to inhumane conditions of solitary confinement as their primary mitigating measure, prison officials have eliminated or reduced many of the small privileges and life-sustaining resources that make life more livable for incarcerated people, including free phone and visitation time, better commissary options and operations, and access to quality medical care, including surgical procedures as needed. If corrections facilities would seriously implement other mitigating protocols, such inhumane measures of deprivation and isolation would not be necessary.

Bernice Ferguson, whose son Rory died in May 2020 after contracting COVID-19 at Kintock halfway house, said that she understands that employees of the state and of the hospital where her son died are supposed to follow the rules that their job requires. But when following those rules means acting in utterly dehumanizing and cruel ways—letting a young man die, prohibiting his mother from speaking to him in his final moments, and leaving her in the dark for years following his death—something must change. “I understand you need to follow the rules,” she said. “But sometimes the rules need to change. Those rules have taken a lot of lives.” Unless the rules change, and indeed until inherently deadly institutions cease to exist, many more will suffer and die at the hands of the state.

Despite what the loudest voices may say, human caging, and the suffering and death that they make inevitable, will never keep us safe.

“Despite what the loudest voices may say, human caging, and the suffering and death that they make inevitable, will never keep us safe.”

5. CONDUCT MORE RESEARCH ON MASS DECARCERATION

Finally, we urge more social scientists and community activists to engage in qualitative and quantitative research that investigates the positive impacts of mass decarceration for those released, their families and communities, and society at large. Researching what else needs to be done to execute mass releases well is also critical. New Jersey, which has released nearly 8,000 people before the conclusion of their sentences, is the ideal place to conduct such research. Having such evidence-based research can only help bolster future efforts to release as many people as possible from carceral institutions.

CONCLUSION

At the end of the day, prisons, jails, and immigration detention centers are structurally incapable of protecting the people in their custody during a pandemic, let alone at any time, which is why the only way to truly end the death-making double crisis of human caging and COVID-19 is to free them all. We have made early strides in New Jersey, but far more is needed. The unwarranted death and suffering that thousands of people and their loved ones have experienced in New Jersey state prisons, jails, and immigration detention centers was not inevitable. It does not have to be this way. We can create another New Jersey. We can create another world. Join us.



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