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N.J. should now release state prison inmates as coronavirus spreads, public defender says

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New Jersey's top public defender complained to the chief justice of the state Supreme Court this week that officials in Gov. Phil Murphy's administration were handling the spread of the coronavirus behind bars with "a complete lack of urgency," according to documents obtained by NJ Advance Media.

Now authorities at the highest level of state government are locked in a dispute over which inmates, if any, should be set free as prison systems around the country weigh public safety against a looming public health crisis.

In an April 7 letter, Public Defender Joseph Krakora asked the state's highest court to intervene after the state Parole Board rebuffed his requests to fast-track the release of elderly, sick and other inmates from state prisons.

New Jersey has released about 700 people serving sentences in county jails for low-level crimes, but none from state prisons.

The public defender, along with the American Civil Liberties Union of New Jersey, requested an emergency order from Chief Justice Stuart Rabner that is similar to one last month that led to the county jail releases.

"My office is increasingly receiving calls and emails from the families of inmates who are in facilities already infected by the virus," Krakora wrote.

The public defender and the ACLU-NJ have called for the release of older prisoners and those with underlying health problems, as well as any who are currently or could soon be up for parole, or those recently denied parole based on a technicality.

In an April 1 letter obtained by NJ Advance Media, Parole Board Chairman Samuel J. Plumeri, Jr. denied the public defender's claim that the pandemic was reason enough "to reconsider a decision to deny parole" for some prisoners, saying the board was bound by state statute.

The letter did note that the board is reviewing some cases. A spokesman declined to comment on "ongoing proceedings."

In an April 8 response, the chief justice instead recommended everyone involved — including the public defender's office, the ACLU, parole board, the state attorney general, county prosecutors and the corrections department — negotiate with a state-appointed mediator Monday.

It's unclear whether all the parties will come to the table. Spokespeople for the governor have repeatedly declined to comment on what action, if any, the governor would take to ease prison populations, and the state attorney general's office did not immediately say if they would participate.

Defense attorneys say releasing prisoners amid the pandemic is the only way to "flatten the curve" behind bars. Prosecutors warn that the release of inmates could lead to dangerous situations at a time police are focused on stemming the spread of the virus among the public.

Meanwhile, some advocates worry conditions in state prisons are worse than publicly acknowledged.

According to state data, at least 18 prison inmates and 110 corrections officers have confirmed cases of COVID-19. Nearly a thousand of the state's 18,000 prison inmates are over the age of 60, a group considered heavily at risk of contracting the virus.

Robert Novy, 68, a South Woods State Prison inmate convicted of money laundering in 2018, is one example. A heart attack left him with multiple stents in his chest, according to his wife Catherine, making him especially susceptible to the virus.

"If he gets it, he will die," she told NJ Advance Media.

While Murphy's administration has enacted stricter social distancing and sanitizing policies in prisons, dozens of prisoners and their relatives have reached out to NJ Advance Media to say those policies aren't always being followed.

Corrections officials say symptomatic inmates are being referred for testing in line with health department guidelines, but prison reform advocates and families say prisoners with telltale signs of COVID-19, such as high fevers, are being quarantined but never tested.

Corrections unions, too, say officers aren't being given enough protective equipment and are calling for a statewide lockdown, raising concerns that transporting inmates from northern prisons, where the illness is currently concentrated, to southern facilities will only exacerbate the spread.

Prosecutors have raised concerns over whether some inmates might commit new crimes if released, or fail to return to finish their sentences once the public health crisis is over. One county jail inmate overdosed the night he was released, and he was sent back.

When reached for comment, Monmouth County Prosecutor Chris Gramiccioni said New Jersey's county prosecutors have "a moral and constitutional obligation to protect society from dangerous criminals.

“There is growing concern by many prosecutors across the state that defense attorneys and prison reformers are trying to use the COVID-19 pandemic as a ‘get-out-of-jail free’ card, using the release of lower-level offenders as a foothold on the way to seeking release of more dangerous inmates,” he said.

Some advocates for former prisoners, including former Gov. Jim McGreevey who runs a reentry services organization, have also raised concerns about hasty releases while so many government services are closed or backlogged.

Some former inmates have wound up homeless, McGreevey said in an interview last week, and shelters have been turning away people who are symptomatic.

“Without food, without shelter and without healthcare, they’re being placed in a very precarious position,” McGreevey said of his clients.

Staff reporter Alex Napoliello contributed to this story.