



Testimony

Joint Legislative Hearing on Public Protection in the 2021-22 Executive
Budget Proposal

Yonah Zeitz, Policy Coordinator
Katal Center for Equity, Health, and Justice
yzeitz@katalcenter.org

for

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Assembly Committee on Ways and Means

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Thank you Senator Liz Krueger and Assemblymember Helene E. Weinstein for inviting our testimony at this vital public hearing regarding Public Protection and the 2021 Executive Budget Proposal. I am the Policy Coordinator with the Katal Center for Equity, Health, and Justice. We submit this testimony to bring your attention to an enormous, costly problem that is causing great harm to people and communities in New York: sending people on parole back to prison or jails for non-criminal technical violations of parole. Our members across New York are impacted by this issue, and include people who are on parole and family members of people incarcerated or on parole. And our campaign partners at Unchained and A Little Piece of Light, and the tens of thousands of New Yorkers represented by groups in our coalition, are also impacted by this issue, so we thank you for the opportunity to testify today.

By definition, a technical violation of parole, such as missing an appointment with a parole officer, being late for curfew, or testing positive for alcohol or other drugs, is not a criminal offense. And yet, New York reincarcerates more people for non-criminal technical violations of parole than any other state in the country.ⁱ Currently, there are more than 5,000 people incarcerated statewide for technical violations of parole. This is more than 10% of the entire state prison population. Approximately 1/3 of the new admissions to New York state prisons in 2018 were due to people re-incarcerated for parole violations.ⁱⁱ

With approximately 35,000 people under active parole supervision in New York State, they are daily subject to a process by which at almost any time can see their efforts to successfully reenter their communities upended by being reincarcerated for a technical violation.ⁱⁱⁱ Because of these practices, today, the parole system in New York, which was initially intended to help people, has instead become a major contributor to mass incarceration in our state.

This public policy comes at an immense human and fiscal cost, deepening racial inequities in our criminal legal system and actively contributing to destabilizing individuals, families and communities. The racial disparities are stark: in state prisons, Black and Latino people are incarcerated at far higher rates for technical violations of parole than white people. For instance, Black people are incarcerated at Rikers Island for technical violations of parole at 12 times the rate of white people.^{iv} This is outrageous.

Incarcerating individuals for technical violations of parole imposes massive financial costs on New York State and local governments. Analyses from the nonpartisan Council on State Governments, the New York State Association of Counties and the New York City Comptroller indicate that incarcerating people for technical violations of parole **costs New York taxpayers well over \$600 million each year at the state and county level.**^v

On the State level, over 4000 individuals are incarcerated in state prisons for technical violations of parole on any given day, and nearly 1/3 of new admissions to state prisons are for technical violations. The Council on State governments estimates that incarceration in state prisons as a result of technical violations of parole costs **\$369 million annually.**^{vi}

At the local level, counties are responsible for the full cost of incarcerating people who are automatically sent to jail when accused by DOCCS of non-criminal technical parole violations.^{vii}

The New York City Comptroller calculated that the City spends \$302,000 per year to incarcerate an individual, indicating that in recent years the City has spent more than \$300 million annually jailing people accused only of technical violations.^{viii} This staggering figure does not include the cost on the 47 counties outside of New York City, which incarcerate more than 1,000 people accused only of parole violations on an average day.^{ix} Monroe County (Rochester), which has the highest number of people incarcerated for technical violations outside of New York City, spent more than \$5.5 million jailing people the state accused of non-criminal allegations. In Onondaga County (Syracuse), the cost was nearly \$3 million.

It is important to underscore just how much of an outlier New York is in this practice. New York reincarcerates more people on parole for technical violations than any other state in the country. A recent U.S. Bureau of Justice Statistics report showed that New York reincarcerates more people on parole for so-called “drug treatment” than all other states *combined*. Meanwhile, a growing national coalition of current and former executives of community corrections, including many from New York, are calling for parole and probation to be “smaller, less punitive, and more equitable, restorative, and hopeful.”

The #LessIsMoreNY Act would fix this problem. The #LessIsMoreNY Act (Less Is More: Community Supervision Revocation Reform Act (S.1144 - Benjamin), was developed by people on parole, people currently incarcerated, family members, and groups across New York. The bill has four main components:

- **Restricting the use of incarceration for technical violations.** Incarceration would be eliminated as a sanction for most technical violations. Certain technical violations could still result in jail time, but it would be capped at a maximum of 30 days.
- **Bolstering due process.** Rather than being automatically detained in local jails, people accused of a technical violation of parole would be issued a written notice of violation with a date to appear in court and would remain at liberty for any hearings. People on parole accused of a new criminal offense would be afforded a recognizance hearing in a local criminal court before they are detained, and the standards of the bail reform statute will apply.
- **Providing speedy hearings.** Persons under community supervision shall be afforded a speedy adjudicatory hearing upon an alleged violation of their conditions of release.
- **Providing earned time credits.** People under community supervision would be eligible to earn a 30-day “earned time credits” reduction in their community supervision period for every 30-day period in which they do not violate a condition of supervision.

Many other states have already implemented reforms similar to those proposed here, reducing community supervision populations and curbing violations (Arkansas, Arizona, Georgia, Idaho, Kentucky, Louisiana, Mississippi, South Carolina and Utah). After South Carolina adopted graduated sanctions, compliance revocations decreased 46 percent, and recidivism rates for people under supervision dropped by a third.^x Meanwhile, crime rates dropped by over 20 percent.^{xi}

Nearly 230 community, advocacy, and faith groups support #LessIsMoreNY. So do a wide array of public safety leaders, including the elected district attorneys from the Bronx, Brooklyn, Manhattan, Albany, Westchester, Tompkins, and Ulster Counties. And the elected sheriff's from Albany and Erie Counties support #LessIsMoreNY. Former parole and probation officials from across the state support #LessIsMoreNY.

And Governor Cuomo has already taken administrative actions to acknowledge that people detained for noncriminal technical violations of parole should be released. Prisons and jails are notorious incubators of contagions due to close quarters and unsanitary conditions, making the spread devastating and puts incarcerated individuals, correctional officers, and the larger community at risk. Last March, as the COVID-19 crisis in jails and prisons intensified, community groups pressured Governor Cuomo to release people from incarceration in the face of the crisis. The governor announced the state would release up to 1,100 individuals held in local jails for technical violations of parole.^{xiii}

The limited policy was not enough and did not get implemented as quickly as the crisis warranted. The first two individuals detained at Rikers Island who passed away from COVID-19 were both held solely on technical violations of parole. Today, as you know, COVID-19 is ravaging jails and prisons across New York. The fact that the Administration has not done more to save the lives of incarcerated people is shameful. Public health evidence makes clear that decarceration is a necessary tool to reduce spread of COVID-19 in prisons and jails. It bears repeating that more than 10% of the entire prison population in New York are people detained on technical violations of parole.

The current system of re-incarceration for technical violations of parole not only harms individual lives and families without commensurate public safety gains, but also drives up the population in the state prisons and local jails, wasting taxpayer money. Restricting the use of incarceration for technical violations of parole will support people in reentering their community after incarceration; responsibly reduce jail and prison populations; promote safety and justice for families and communities; and save taxpayers money. #LessIsMoreNY will lead to massive cost savings for the state and counties -- and those funds should be invested in the communities targeted and harmed by mass incarceration, which is a form of systemic racism. We urge you to take immediate action by passing the #LessIsMoreNY Act.

Thank you Sen. Krueger, Assemblymember Weinstein, and all the members of both committees for inviting our testimony today.

ⁱ United States Department of Justice, Bureau of Justice Statistics, Probation and Parole in the United States, 2017-2018 (Aug. 2020), available at https://www.bjs.gov/content/pub/pdf/ppus1718.pdf?utm_content=ppus1718&utm_medium=email&utm_source=govdelivery

ⁱⁱ Ibid

ⁱⁱⁱ NYS Department of Corrections and Community Supervision, Community Supervision Staffing Legislative Report, available at www.doccs.ny.gov/Research/Reports/2018/Community-Supervision-Staffing-Report-2018.pdf.

^{iv} Vincent Schiraldi and Kendra Bradner, Racial Inequities in New York Parole Supervision (March 2020), available at <https://justicelab.columbia.edu/news/racial-inequitiesnew-york-parole-supervision>

^vThe Lippman Commission, Stop Parole's Revolving Door (June 2019), available at <https://www.morejustnyc.org/reports>

^{vi} The Council of State Governments. Confined and Costly: How Probation & Parole Violations Fill Prisons and Drive Costs. New York: The Council of State Governments Justice Center (2019), Available: <https://csgjusticecenter.org/confinedandcostly/>

^{vii} Ibid

^{viii} Ibid

^{ix} Ibid

^x Elizabeth Pelletier, Bryce Peterson, and Ryan King, Assessing the Impact of South Carolina's Parole and Probation Reforms. Washington, DC: The Urban Institute (2017), available: www.urban.org/sites/default/files/publication/89871/south_carolina_jri_policy_assessment_final_1.pdf

^{xi} Probation and Parole Systems Marked by High Stakes, Missed Opportunities. Washington, DC: The Pew Charitable Trusts (2017), available: www.pewtrusts.org/-/media/assets/2018/09/probation_and_parole_systems_marked_by_high_stakes_missed_opportunities_pew.pdf

^{xii} Brendan Lyons, NY to release 1,100 parole violators as coronavirus spreads, Times Union (March 2020), available at: <https://www.timesunion.com/news/article/Deaths-surge-again-in-New-York-from-coronavirus-15160973.php>