



Testimony of Khalil A. Cumberbatch

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New York Legislature Hearing on Disparate Impact of COVID-19 on Minority Communities

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I want to thank Speaker Heastie, Leader Stewart-Cousins, Committee Chairs and the members of the New York Legislature for inviting me to testify at today's hearing. My name is Khalil Cumberbatch, I am the Chief Strategist of New Yorkers United for Justice (NYUJ) – a coalition of 15 leading criminal justice reform organizations dedicated to advancing criminal justice policies that make New York a safer and fairer place to live.

We cannot have a conversation on the impact of this deadly virus on New York's minority communities without discussing New York's criminal justice system in general and prisons in particular. Despite making up approximately [37 percent of the state's population](#), black and latinx New Yorkers make up [72 percent of our state prison population](#). In New York City, black and latinx New Yorkers make up [over 87 percent of the city's jail population](#). It is so critical that we discuss these populations because, as a formerly incarcerated advocate, I know too well the inadequacies of our criminal justice system to properly deal with public health crises.

As has been documented many times over, healthcare delivery and quality is subpar, at best, in our jails and prisons. From my personal experience, the facility in which a person resides largely dictates the quality, or lack thereof, of healthcare a person receives. Add to that a global pandemic, the medical response is far from adequate. Also, as we all know, social distancing is impossible in correctional settings. Double, triple, and even quadruple bunking, and dormitory settings, create prime conditions for the spread of the virus. Adding the fact that facilities are not equipped to properly sanitize common areas and provide face masks for all incarcerated individuals, only exacerbates the problem.

However, despite the current global pandemic, and the response Governor Cuomo has deployed to protect New Yorkers thus far, it would seem that little has changed in the Department of Corrections and Community Supervision (DOCCS) since my incarceration. NYUJ, as well as other advocacy groups, have been closely monitoring DOCCS's response to COVID-19 and to date, the Department has been underwhelming

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in its approach. [The World Health Organization \(WHO\) states that a population positive rate over 10 percent indicates a severe lack of testing.](#) The positive rate of individuals incarcerated in New York state prisons is 66 percent, ***over six times higher*** than WHO's threshold. Despite this, DOCCS continues to lag on testing. As of May 15th, only [1.6 percent](#)ⁱ of the population has been tested. While New York leads the country in testing per capita, we lag in prison testing. States such as [Texas](#), [Michigan](#), [Tennessee](#), [Florida](#), [Ohio](#), and [Arkansas](#) have conducted mass testing and have unveiled significant outbreaks as a result.

This lack of testing is disproportionately impacting the health and safety of New Yorkers of color. A [recent article](#) from the Daily News revealed that the recent spike in deaths of incarcerated individuals as a result of the COVID-19 pandemic is disparately impacting people of color. The article reported that of the 27 tragic deaths of incarcerated individuals since March 30th, the date of the first known COVID-19 death in a DOCCS facility, [over 80 percent of the deaths have been black](#). Mass testing in our prison facilities is absolutely critical to ensuring the health and safety of not only our incarcerated population, but also communities where correctional staff reside. Outside of the prison context, [COVID-19 has had a terrible toll on our communities of color](#), as has been reported in numerous media outlets and acknowledged by the CDC. If we do not have a clear picture of the spread of COVID-19 in our prisons, where social distancing and proper hygiene are near impossibilities, this disparate impact on New Yorkers of color will only worsen.

New York has made significant strides in improving our criminal justice system, but the COVID-19 pandemic has shown we still have a long way to go. Thank you again for allowing me to testify at today's hearing. I appreciate your time and look forward to continuing to partner with members of this esteemed body to create a criminal justice system that is fair, just, and keeps all New Yorkers safe.

ⁱ Number based on DOCCS total population as reported in the April 2020 DOCCS fact sheet https://doccs.ny.gov/system/files/documents/2020/04/doccs-fact-sheet-april-2020_0.pdf