

FAMILIES AND FRIENDS OF THE WRONGFULLY CONVICTED

Perlmutter

Center for Legal Justice
at Cardozo Law

SEEKING
JUSTICE FOR THE
UNJUSTLY
INCARCERATED

TESTIMONY OF DERRICK HAMILTON

Co-Founder, Families and Friends of the Wrongfully Convicted

Deputy Director, Perlmutter Center for Legal Justice at Cardozo Law

Submitted to the Senate Standing Committee on Crime Victims, Crime & Correction & the
Assembly Standing Committee on Correction

May 14, 2025

My name is Derrick Hamilton, and I am the Deputy Director of the Perlmutter Center for Legal Justice at Cardozo Law and the co-founder of Families and Friends of the Wrongfully Convicted. I am providing testimony today on the human costs of failing to provide robust, authentic, and independent oversight in New York prisons. This is a systemic problem nationally and this year, the brutal murders of two men by corrections officers on camera spurred national attention about an ongoing crisis in New York Department of Corrections and Community Supervision (DOCCS) that is as pervasive today as it was at the time of the Attica uprising.

I observed continuous assault, abuse and medical neglect by corrections staff during the two decades I spent in New York prisons following a wrongful conviction for which I was later exonerated. The death of Larry Davis, a fellow incarcerated man, is seared into my memory. Mr. Davis was stabbed in the leg at Shawangunk Correctional Facility, in Wallkill, NY, and I watched the guards leave him to effectively bleed out and die in the prison yard, approximately ten steps away from the yard door to the hospital. Many of us at the time knew that officers allowed him to die rather than seek medical attention out of retribution for a previous complaint he made about officer misconduct. When I filed a grievance based on what I witnessed, I was thrown into solitary confinement as a result. It is clear that without intervention, DOCCS cannot provide oversight of itself and incarcerated people like myself remain vulnerable to violence and abuse in the hands of corrections officers.

Larry Davis' experience was not anomalous. Prison guards routinely commit misconduct on a daily basis without facing consequences. While the incarcerated man who stabbed Larry was charged with murder, the corrections officers who stood by while he bled to death experienced no repercussions for their actions. Correctional and medical records are commonly falsified to provide justification for correctional violence, resulting in the creation of a record that defies what witnesses observed with their own eyes. Typically, when officers abuse incarcerated people, they yell, "stop resisting!" despite the absence of resistance to allow them to use force. Medical professionals, who are mandated reporters, will go about their business with blinders on as their patients are actively battered in the infirmary. Subsequent misbehavior reports are

FAMILIES AND FRIENDS OF THE WRONGFULLY CONVICTED

Perlmutter

Center for Legal Justice
at Cardozo Law

SEEKING
JUSTICE FOR THE
UNJUSTLY
INCARCERATED

curiously written up in the same manner, using similar details, describing the same scene despite the various ways these episodes play out.

We have long known that the secretive nature of this pervasive misconduct has restricted authentic accountability. Indeed, you cannot fix what you refuse to count and what is kept from public view. Two bills should be advanced to assist policymakers with beginning to understand the scope of the problem. Specifically, A1010A (Epstein)/S5680 (Salazar), would require notification to families of deaths in correctional custody within 24 hours, which would allow for independent autopsies at the direction of families. It would also help the government determine the scope of deaths in correctional custody, and bring DOCCS into compliance with the federal Death in Custody Reporting Act.

A second bill worthy of passage is A3761 (Weprin)/S651 (Salazar), which would authorize the Correctional Association of New York to visit correctional facilities at any time and without advance notice; and improve access to certain records and information from correctional facilities on a quarterly basis, restoring some of its previously removed powers,

Local counties do not prosecute corrections officers who break the law. They allow persistent abuse that leads to preventable murders. A2677 (Solages) / S 1291 (Cooney) - relating to the appointment of a special independent counsel - would create the type of independent investigations and prosecutions that would enable true accountability and meaningfully deter future misconduct. A2149 (Gonzalez-Rojas)/ S360 (Rivera) also deserves the committee's support as it would expand the health department's review of correctional health services by including a biennial study of health care staffing at facilities operated by the department of corrections and community supervision.

What remains extraordinary is not the unabated abuse inside of New York State prisons, but instead what has largely been a deafening silence in response to DOCCS' routine dehumanization of the people in their custody. Correctional officials persistently argue they are the victims of abuse behind prison walls, however let us be clear: according to data collected by the Correctional Association, there was an increase in the number of deaths in custody in the past year—143 deaths were reported in 2024 compared to 107 reported in 2023. All of those deaths were of incarcerated people and not corrections officers. So who is really unsafe? New York has a unique opportunity to address correctional oversight in earnest but the response must be comprehensive. The government must model the kind of behavior it expects from its citizens. The passage of this collection of bills would provide a robust foundation for transparency and accountability in New York's prisons; a failure to do so would be an insult to those of us who lived through similar horrors.

FAMILIES AND FRIENDS OF THE WRONGFULLY CONVICTED

Perlmutter

Center for Legal Justice
at Cardozo Law

SEEKING
JUSTICE FOR THE
UNJUSTLY
INCARCERATED

Finally, given overwhelming evidence and research that suggests that public safety is diminished by excessive sentences, enabling great harm to the incarcerated, their families and the larger community, the legislature should promote legislation that provides additional avenues and pathways for freedom, including:

- Challenging Wrongful Conviction Act (A7422) (Walker): Makes critical changes to the postconviction framework, including the lifting of a current bar to relief for people who are innocent and plead guilty but do not have DNA evidence in their case.
- Elder Parole (S454/A514) (Hoylman-Sigal/Davila): Provides incarcerated people aged 55 and older who have already served 15 or more years an opportunity for parole release consideration. This includes some of the state's oldest and sickest incarcerated people.
- Fair and Timely Parole (S159/A127) (Salazar/Weprin): Provides a more meaningful parole review process for incarcerated people who are already parole-eligible, and ensures that people are evaluated for release based on who they are today, including their rehabilitation, personal transformation and their current risk of violating the law.
- Both the Second Look Act (S158/A1238) (Salazar/Walker) and the Resentencing by the People proposal (S3286) (Myrie) would provide mechanisms to revisit excessive sentences.

As we consider legislation that would begin to provide oversight of DOCCS, we should also not lose sight of the excessive sentences that have been meted down through the years in the Empire State. Reducing excessive sentences promises to reduce many of the stresses on the correctional system while enabling people who pose no risk to society, and indeed are well-positioned to serve the community, to return home and thrive. We remain committed to supporting authentic oversight of the prisons, but we must also consider the purpose of incarceration and the warehousing of people who would otherwise flourish outside of prison walls. We implore you to hear the voices of those who best understand the injustices of the current system and to partner with us to make these critical changes.