



NEW JERSEY LAW REVISION COMMISSION

Draft Final Report Regarding the Use of the Term “Inmate” in the New Jersey Statutes

June 06, 2022

The work of the New Jersey Law Revision Commission is only a recommendation until enacted.

Please consult the New Jersey statutes in order to determine the law of the State.

Please send comments concerning this Report or direct any related inquiries, to:

Samuel M. Silver, Deputy Director
New Jersey Law Revision Commission
153 Halsey Street, 7th Fl., Box 47016
Newark, New Jersey 07102
973-648-4575
(Fax) 973-648-3123
Email: sms@njlrc.org
Web site: <http://www.njlrc.org>

“[M]any folks who are incarcerated aren’t guilty, aren’t criminals. I don’t like the label [“inmate”] because they are more than that, they are people, someone’s people, my people.”
- Chantá Parker, Public Defender¹

Project Summary

On August 02, 2021, the State of New York enacted comprehensive legislation to replace the word “inmate” with “incarcerated individual” in its body of statutory law.² The elimination of this term from a neighboring state’s statutes served as the impetus for an examination of whether and how the term “inmate” is used in New Jersey’s statutes.

In New Jersey, there is no uniform definition for the term inmate. A person who has been sentenced to imprisonment or ordered into pretrial or investigative detention in a State prison or county correctional facility is an “inmate.”³ A person confined in a correctional facility is an inmate.⁴ Any person who has been sentenced as an adult to a term of incarceration is an inmate.⁵

A shift to person-first language has begun in the field of criminal justice, with advocates recommending a change from terms characterized as “dehumanizing” and “stigmatizing” to those that focus on an individual’s identify and their capacity for growth.⁶ In New Jersey, the use of person-first language to refer to persons who are incarcerated can be found in the statutes, but its use in this context has not been uniform.

In light of the increased focus in recent years on descriptive terms contained in statutes, the presence of the term “inmate” in more than 250 individual statutes may support consideration of its elimination from the statutes.

Historical Background

The term *inmate* dates back to the 1589.⁷ The term is a combination of two terms, “in” and “mate.”⁸ The word “in” is defined as “to or toward the internal especially of a house or building”⁹

¹ Blair Hickman. *Inmate. Prisoner. Other. Discussed. What to Call Incarcerated People: Your feedback.* (Apr. 03, 2015), <https://www.themarshallproject.org/2015/04/03/inmate-prisoner-other-discussed>.

² S.B. 3332, 2021-22 Leg. Sess. (N.Y. 2021). Robert Harding. *New York to Replace ‘Inmate’ with Incarcerated Individual.* (Aug. 04, 2021), <https://www.governing.com/community/new-york-to-replace-inmate-with-incarcerated-individual>.

³ N.J. STAT. ANN. §§ 30:4-16.5 and 30:7E-1 (West 2022).

⁴ N.J. STAT. ANN. § 30:4-82.7 (West 2022).

⁵ N.J. STAT. ANN. 30:4-123.45b.(1) (West 2022); N.J. STAT. ANN. § 30:7C-3 (West 2022).

⁶ The Fortune Society, *Words Matter: Using Humanizing Language.* <https://fortunesociety.org/wordsmatter/> (last visited Jan. 18, 2022); Akiba Solomon. *What Words We Use – and Avoid – When Covering People and Incarceration.* (Apr. 12, 2021), <https://www.themarshallproject.org/2021/04/12/what-words-we-use-and-avoid-when-covering-people-and-incarceration>

⁷ *Inmate*, MERRIAM-WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1990) (defining inmate as “one of a group occupying a single place or residence; *esp* : a person confined (as in a prison or hospital). *See also* Jeffrey Keller, M.D., *Inmate or Convict? What’s in a Name?* (Apr. 19, 2013) <https://www.jailmedicine.com/inmate-or-convict-whats-in-a-name/#:~:text=It%20turns%20out%20that%20the,people%20in%20a%20single%20dwelling>.

⁸ *Inmate*, Online Etymology Dictionary (linking “in,” and “mate” to “inmate”).

⁹ *In*, MERRIAM-WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1990); *Inmate*, Online Etymology Dictionary (linking “in,” meaning “that is within, internal” to “inmate”).

The word “mate” commonly refers to an associate or companion.¹⁰ Together these terms were combined to describe “one of a group occupying a single place of residence.”¹¹

By the early twentieth century, New Jersey’s common law used the term “inmate” to refer to incarcerated individuals.¹² In *State v. Jones*, the Court of Errors and Appeals of New Jersey noted that the homicide for which the defendant was charged “took place at the New Jersey State Prison... [where] the deceased and the defendant were inmates at the time....”¹³ This is one of the earliest judicial uses of the word “inmate” to refer to an individual in a custodial setting.

Definitions of “Inmate”

The word “inmate” is now used 1,310 times, in 252 New Jersey statutes that span sixteen titles. The term is only defined in Title 30, however, which encompasses “institutions and agencies.”¹⁴ Within that Title, a definition of “inmate” is found in five statutes, which define the term in four different ways.¹⁵

In 1973, the New Jersey Legislature enacted the Interstate Corrections Compact.¹⁶ The purpose of this Compact was to “fully utilize and improve... institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders....”¹⁷ The compact defined the term “inmate” as “a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.”¹⁸ The use of the term was eventually expanded to include other incarcerated persons.

The Parole Act of 1979 also contains a definition of the word “inmate.”¹⁹ The Act includes a gender-neutral reference to incarcerated individuals and recognized that juveniles as well as adults may be lodged in correctional facilities.²⁰ Under this Act, an adult inmate, means “any person sentenced as an adult to a term of incarceration.”²¹ By contrast, a juvenile inmate is defined as “any person under commitment as a juvenile delinquent pursuant to ... [N.J.S.] 2A:4A-44.”²²

¹⁰ *Mate*, MERRIAM-WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1990).

¹¹ *Inmate*, MERRIAM-WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1990).

¹² *State v. Jones*, 71 N.J.L. 543 (1905).

¹³ *Id.*

¹⁴ See *supra* notes 3-6. Compare N.J. STAT. ANN. § 30:4-91.9 (West 2022) (defining the term “eligible inmate” in the context of certain private correctional facilities).

¹⁵ N.J. STAT. ANN. §§ 30:4-16.5 and 30:7E-1 (West 2022) (defining “inmate” as a person sentenced to imprisonment, or ordered to pretrial or investigative detention, in a State prison or county jail); N.J. STAT. ANN. § 30:4-82.7 (West 2022) (defining “inmate” as a person confined in a correctional facility); N.J. STAT. ANN. 30:4-123.45 (West 2022) (defining “adult inmate” as any person sentenced as an adult to a term of incarceration); and N.J. STAT. ANN. § 30:7C-3 (West 2022) (defining “inmate” as a male or female offender who is committed, under sentence to or confined in a penal or correctional institution).

¹⁶ N.J. STAT. ANN. §§ 30:7C-1 to -12 (West 2022).

¹⁷ N.J. STAT. ANN. § 30:7C-2 (West 2022).

¹⁸ N.J. STAT. ANN. § 30:7C-3d. (West 2022).

¹⁹ N.J. STAT. ANN. § 30:4-123.45a. (West 2022).

²⁰ N.J. STAT. ANN. § 30:4-123.45b.(1)-(2) (West 2022).

²¹ N.J. STAT. ANN. § 30:4-123.45b.(1) (West 2022).

²² N.J. STAT. ANN. § 30:4-123.45b.(2) (West 2022).

Regardless of age, to be considered an inmate under this Act, the individual must be sentenced by a court to a term of incarceration.

Not every individual who is incarcerated has been adjudicated and sentenced to a term of imprisonment. Some individuals are lodged in county correctional facilities while they await a pre-trial release determination or the adjudication of their case.²³ For purposes of receiving medical treatment, N.J.S. 30:7E-1 defines inmate as “a person sentenced to imprisonment.”²⁴ This definition also expands the meaning of the term inmate to include persons who are “ordered to pretrial or investigative detention, in a State or correctional facility or county jail.”²⁵

The management, control, and operation of institutions, including correctional facilities, is addressed in Title 30, Subtitle 1, Chapter 4. Beginning in June of 1996, the definition of “inmate” was incorporated into the statutes governing civil actions by persons lodged in correctional facilities.²⁶ At that time, the Legislature made clear that the definition of “inmate” means “any person sentenced to imprisonment, or ordered to pretrial or investigative detention, in a State prison or county jail.”²⁷

In 2019, the New Jersey Legislature enacted the Isolated Confinement Restriction Act.²⁸ These statutes were enacted to be “consistent with the New Jersey Constitution, the laws and public policies of this state, the mission of the correctional system, evolving medical knowledge, and human rights standards of decency.”²⁹ This Act defined the term inmate as “a person confined in a correctional facility.”³⁰

Although the term “inmate” is used in more than 250 statutes, each definition of the term is limited to the act in which it is defined.

Incarcerated Person or Individual

Research revealed that the word “inmate” is not the only term in the New Jersey statutes to describe a person in a custodial setting. Twelve statutes, in seven titles, use either “incarcerated person” or “incarcerated individual” when referring to current or former residents of a correctional facility.³¹

²³ See New Jersey Rules of Court, R. 3:4-1 (providing that if a Complaint-Warrant has been prepared and no later than twelve hours after arrest, the matter must be presented to a judge to determine whether a warrant or summons or summons will issue. If a warrant is issued, the person who has been arrested is then remanded to the county correctional facility pending a determination of conditions of pretrial release).

²⁴ N.J. STAT. ANN. § 30:7E-1f. (West 2022).

²⁵ *Id.*

²⁶ N.J. STAT. ANN. § 30:4-16.5 (West 2022). Compare N.J. STAT. ANN. § 30:7E-1 (West 2022).

²⁷ *Id.*

²⁸ N.J. STAT. ANN. § 30:4-82.6 (West 2022).

²⁹ *Id.*

³⁰ N.J. STAT. ANN. § 30:4-82.7 (West 2022).

³¹ N.J. STAT. ANN. § 2A:12-13 (West 2022) (requiring the judiciary to develop guidelines to ensure appropriate arrangements are made for care of incarcerated person’s child by a responsible adult); N.J. STAT. ANN. § 2A:156A-35 (West 2022) (defining law enforcement activity to include the transportation of incarcerated persons); N.J. STAT. ANN. § 5:12-89.1 (West 2022) (requiring the Casino Commission to coordinate with non-profit prisoner reentry

The New Jersey Department of Corrections was created in 1976.³² The legislative findings and declarations for the Act creating the Department provide that “the environment for incarcerated persons should encourage the possibilities of rehabilitation and reintegration into the community.”³³ The term “incarcerated person,” however, was not defined as part of this Act. A definition was provided in 1996 when the Legislature defined it in the statute that provides medications to those in custody of the Department of Corrections with preexisting chronic conditions.³⁴ That definition of “incarcerated person” is limited to N.J.S. 30:4-16.6.

Proposed Modifications

In the New Jersey statutes, the term “inmate” is used in both the criminal and non-criminal context. In the criminal context, the term is used to describe a person who is incarcerated in county correctional facility – either pre-trial or having been sentenced – or a person in a State correctional facility who is serving a sentence.³⁵ Consistent with the intent of the Legislature to provide an environment that encourages the possibility of rehabilitation and ultimately the reintegration of persons who are incarcerated into society, the New Jersey Law Revision Commission recommends the removal of the term “inmate” from the New Jersey statutes.³⁶ In the Appendix, the term “inmate” has been replaced in almost every instance with the person-first terms “person” or “person who is incarcerated,” where appropriate.³⁷

In the New Jersey statutes, the term “inmate” is not used exclusively in the criminal justice context to refer to persons who are incarcerated. In several statutes, the term “inmate” denotes a

organizations to provide formerly incarcerated individuals with information about casino key employee license eligibility); N.J. STAT. ANN. § 9:6-8.10c (West 2022) (requiring the Division of Child Protective Services to evaluate whether or not an incarcerated person’s minor child may be at risk for abuse or neglect during the period of incarceration); N.J. STAT. ANN. § 30:1B-3b. (West 2022) (declaring that the environment for incarcerated persons should encourage the possibilities of rehabilitation and reintegration into the community); N.J. STAT. ANN. § 30:1B-10.1 (West 2022) (requiring the Commissioner of Corrections to provide or arrange for mental health services to State-sentenced incarcerated persons who suffer from mental illness); N.J. STAT. ANN. § 30:4-16.6 (West 2022) (defining incarcerated person as a person in the custody of the Department of Corrections); N.J. STAT. ANN. § 30:8-16.13 (West 2022) (providing for the provision of medications to incarcerated persons with preexisting chronic conditions); N.J. STAT. ANN. § 46:8-59 (West 2022) (encouraging landlords to provide housing opportunities to formerly **incarcerated individuals**); N.J. STAT. ANN. § 52:4-1.2 (West 2022) (enumerating **incarcerated individuals** as residents of correctional facilities for purposes of the decennial census); N.J. STAT. ANN. § 52:4-1.4 (West 2022) (enumerating incarcerated persons as residents of the geographic units in which the correctional facilities are located); N.J. STAT. ANN. § 52:27EE-28.6 (West 2022) (requiring that a family member of an inmate or a formerly incarcerated person hold a position on the advisory board to the Office of the Corrections Ombudsperson).

³² N.J. STAT. ANN. § 30:1B-2 (West 2022). State of New Jersey, Department of Corrections, *History*, <https://www.nj.gov/deptcor/about/history/> (last visited Feb. 01, 2022)

³³ N.J. STAT. ANN. § 30:1B-3b. (West 2022).

³⁴ N.J. STAT. ANN. § 30:4-16.6a. (West 2022).

³⁵ See discussion *supra*.

³⁶ See discussion of the term “incarcerated person” *supra* at 4-5; and n. 32.

³⁷ Compare N.J. STAT. ANN. § 30:4-91.9 (West 2022) (defining the term “eligible inmate”); N.J. STAT. ANN. § 30:4-91.10 (West 2022) (authorizing the confinement of “eligible inmates” in private facilities); N.J. STAT. ANN. § 30:4-91.11 (West 2022); (requiring the Commissioner of Corrections to prepare and transmit a summary of the “eligible inmate’s” criminal history and background to the private facility to which the “eligible inmate” transferred). The term “eligible inmate” is a term of art. The modification of this term of art risks impairing the readability of this statute. The term has therefore been left in its original form.

group of persons occupying a single place of residence. For example, in N.J.S. 2C:34-1 subsection a.(4)(b) the definition of “promoting prostitution” includes “procuring an **inmate** for a house of prostitution or place in a house of prostitution for one who would be an **inmate**.”³⁸ In these cases, the Commission recommends that the term “inmate” be replaced with language that reflects the nature of the persons described in the statute to avoid any confusion that may result from the differing uses of this term.

Outreach

In connection with this Report, Staff sought comments from knowledgeable individuals and organizations including: the American Civil Liberties Union – New Jersey; the New Jersey Association of Criminal Defense Lawyers; the County Prosecutors Association of New Jersey; each County Prosecutor’s Office; each County Counsel’s office; the Department of Human Services; the Department of Community Affairs; the Office of the Attorney General; the Office of the Attorney General - Corrections and State Police Section of the Division of Law; the Office of the Attorney General - Division of Criminal Justice; the Department of Corrections; the Juvenile Justice Commission; private practitioners; the Constitutional Officer’s Association of New Jersey; the National Partnership for Juvenile Services; the New Jersey Administrative Office of the Court; the New Jersey Association of Counties; the New Jersey County Warden’s Association; New Jersey Legal Services; the New Jersey Police Traffic Officer’s Association; the New Jersey State Association of Chiefs of Police; the New Jersey Juvenile Detention Association; the New Jersey League of Municipalities; the New Jersey State Municipal Prosecutor’s Association; the New Jersey Sheriff’s Association; the Office of the Public Defender; each County Correctional Facility; the New Jersey State Bar Association; the New Jersey State Bar Association - LGBTQ Rights Section; the National Commission on Correctional Health Care; the State Parole Board; the New Jersey Association of Correction; New Jersey Prison Watch, American Friends Service Committee; and Prison Fellowship.

• *No Position*

Several commenters took no position on the Commission’s proposed modifications to the use of the term “inmate.” The New Jersey Judiciary advised the Commission that “[t]he Judiciary is neutral on the proposal.”³⁹ The Office of the Essex County Prosecutor stated that their office “[has] no problem with the word ‘inmate’” and they “also have no problem with the term

³⁸ N.J. STAT. ANN. § 2C:34-1(a)(4)(b) (West 2022) (emphasis added). *See also*, N.J. STAT. ANN. § 4:3.11(c) (West 2022) (defining “institutional customer” in the context agricultural and poultry regulation to mean any “restaurant, hotel, boarding house, or any other business, facility or place in which eggs are prepared or offered as food for the use by its patrons, residents, inmates or patients”; N.J. STAT. ANN. § 19:32-5 (West 2022) (conferring upon the superintendent of elections the “authority to visit and inspect any house, dwelling, building, inn, lodging, house or hotel and interrogate any inmate, house-dweller, keeper, caretaker owner, proprietor or landlord thereof or therein;” N.J. STAT. ANN. § 44:1-29 (West 2022) (conferring upon the superintendent of welfare the “general superintendence and management of the welfare-house, the grounds, the buildings and the inmates thereof.).

³⁹ E-mail from Andrea N. Johnson, Esq., Legis. Liaison, N.J. Judiciary to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (May 12, 2022, 3:33 PM EST) (on file with the NJLRC).

‘incarcerated person.’”⁴⁰ The Department of Human Services advised the Commission that they “[did] not have any changes” to the Commission’s proposed modifications.⁴¹

- *Alternative Language*

A number of commenters offered a number of alternatives to the person-first language proposed by the Commission. The proposed alternatives include correctional rehabilitation participant;⁴² incarcerated person;⁴³ person (when the context of the statute is clear as to the reference);⁴⁴ internee;⁴⁵ person who is incarcerated;⁴⁶ former inmates;⁴⁷ guest or guest of the state;⁴⁸ and person serving, or person served.⁴⁹

- *Opposition*

Opposition to the elimination of the term inmate was also received by the Commission. One commenter suggested that the proposed modifications indicated a lack of empathy toward the victims of crime.⁵⁰ Another commenter suggested that the State’s tax dollars should not be spent to “humanize” persons they characterized as “actual criminals” while noting that “of course if it’s a situation where it’s ill defined, then [the Commission should] better define it.”⁵¹ Finally, a defense attorney expressed his disagreement with the proposed revisions because “the single word ‘inmate’ succinctly describes the person’s situations, and that adopting a multi-word phrase does nothing to lessen stigmatization.”⁵²

⁴⁰ *Id.*

⁴¹ E-mail from Andrea Katz, Esq., Chief of Staff, N.J. Dept. of Human Services to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (May 10, 2022, 5:47 PM EST) (on file with the NJLRC).

⁴² E-mail from David M. Wolfsgruber, Exec. Dir., N.J. State Parole Bd. to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 26, 2022, 4:09 PM EST) (proffering three suggestions from State Parole Management) (on file with the NJLRC).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ E-mail from Brian I. Gross to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 24, 2022, 11:24 PM EST) (on file with the NJLRC).

⁴⁶ E-mail from Warren Singer to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 24, 2022, 11:24 PM EST) (expressing doubt that “a name change will make much of a difference to the majority of people presently incarcerated in penal institutions throughout the US.”) (on file with the NJLRC).

⁴⁷ E-mail from Allan Marain, Esq. to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Mar. 31, 2022, 03:48 PM EST) (noting that “[p]ersons no longer in custody... would not be inmates... [rather] would be *former* inmates.”) (emphasis original) (on file with the NJLRC).

⁴⁸ E-mail from Mona Albert to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 24, 2022, 7:54 PM EST) (on file with the NJLRC).

⁴⁹ E-mail from Jackie Conover to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 26, 2022, 2:15 PM EST) (on file with the NJLRC).

⁵⁰ E-mail from Sue Grzybowski to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 24, 2022, 7:10 PM EST) (on file with the NJLRC).

⁵¹ E-mail from Pete Stoermer to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 24, 2022, 9:09 PM EST) (on file with the NJLRC). *See also* E-mail from JJ McKenna to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 25, 2022, 1:53 PM EST) (suggesting that the term inmate be changed to “criminal”) (on file with the NJLRC).

⁵² E-mail from Allan Marain, Esq. to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Mar. 31, 2022, 3:30 PM EST) (on file with the NJLRC). *See also* n. 47 *supra*.

- *In Support*

- *The Department of Community Affairs*

The Department of Community Affairs supports the Commission’s work in this area.⁵³ The Department notes that the term “inmate” would be replaced “with a uniform, person-first reference for those persons in correctional facilities...”⁵⁴ In addition, in “other statutes, language that reflects the nature of the persons described would be utilized.”⁵⁵ For those reasons outlined in the Report, “[t]he Department supports this tentative recommendation”⁵⁶

- *The Juvenile Justice Commission*

The Office of the Attorney General, Department of Law and Public Safety, Juvenile Justice Commission (JJC) agrees that “terms that can be characterized as ‘dehumanizing’ and ‘stigmatizing’ should be changed, especially when referencing young people.”⁵⁷ To address this problem, “[t]he JJC purposefully refrains from using the term “inmate” in writing or in conversation to describe the young people in its care and those in other out of home placements.”⁵⁸ The JJC expressed appreciation for the work of the Commission to “ensure that the language used in New Jersey’s statutes is not only uniform, but that it corresponds with the current policies and practices of state government.”⁵⁹ Further, it the JJC agrees “that it would be appropriate to update the status set forth. . . in the Appendix...”⁶⁰ Finally, the JJC “applauds this effort to ensure that New Jersey Law incorporates language that recognizes an individual’s identity and their capacity for growth.”⁶¹

- *The National Commission on Correctional Health Care*

Additional support for the Commission’s work “to adopt humanizing language [when] referring to people involved in the criminal justice system” was provided by the National Commission on Correctional Health Care (NCCHC).⁶² The NCCHC’s position statement provides that the “[l]anguage used to describe individuals who experience incarceration should identify them as people first, rather than through a term that categorizes them solely according to their incarceration status...”⁶³ The NCCHC “supports the use of humanizing and respectful language

⁵³ Letter from Sheila Y. Oliver, Lieutenant Governor, Comm’r of the Dept. of Cmty. Affairs, to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (May 16, 2022) (on file with the NJLRC).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Letter from Jennifer LeBaron, Ph.D., Acting Dir., Juv. Just. Comm’n, to Samuel M. Silver, Dep. Dir., N.J. Law Revision Comm’n (May 10, 2022) (on file with the NJLRC).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² E-mail from Claire Wolfe, Bus. Support Specialist, Nat’l Comm’n on Corr. Health, to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Apr. 27, 2022, 12:37 PM EST) (on file with the NJLRC).

⁶³ *Id.*

to describe people who experience incarceration.”⁶⁴ The NCCHC supports the “use of person-centered language in written and oral communication” and “avoid[ing] labels such as inmate...”⁶⁵

- *The Morris County Sheriff’s Office – Bureau of Corrections*

The Commission also received support from a Sheriff’s Department.⁶⁶ The Morris County Sheriff’s Office, Bureau of Corrections, stated that the project “most likely would be beneficial[] to those individuals who are trying to turn their life around and begin a new start.”⁶⁷ The Commission’s proposed modifications, according to the commenter, have been drafted with the “hope that individuals will not be prejudged. If this simple change in the English language gives an individual hope, I personally see no harm.”⁶⁸

- *The American Civil Liberties Union of New Jersey*

The American Civil Liberties Union of New Jersey (ACLU-NJ) commended the Commission’s work to use person-first language in a correctional context.⁶⁹ A staff attorney with the ACLU-NJ stated that “[a]s a general matter, it’s important to use people-first language, because we want to acknowledge that the person is more than the adjective associated with them.”⁷⁰ The representative of the ACLU-NJ added “[a]n ‘inmate’ is first and foremost a person, and when we call them people instead of ‘inmates,’ we’re acknowledging the humanity that they still retain.”⁷¹ Finally, the ACLU-NJ noted that “[a] small but significant step in the direction of reform is to call them people, because that’s who they are.”⁷²

- *Legal Services of New Jersey*

Legal Services of New Jersey (LSNJ), “[o]n behalf of the statewide system of Legal Services... supports the removal of ‘inmate’ from the New Jersey statutes.”⁷³ Support from the LSNJ is predicated upon the belief that “[b]asic human decency requires those who have been

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ E-mail from Andrew Bileci, Admin. Lieutenant, Morris Cnty. Sheriff’s Off., Bureau of Corr. to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (May 11, 2022, 1:38 PM EST) (on file with the NJLRC).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Dana DiFilippo, *In Rejecting “Inmate” N.J. Looks to Dump a Dehumanizing Label from State Statutes*. THE NEW JERSEY MONITOR, Mar. 18, 2022, <https://newjerseymonitor.com/2022/03/18/in-rejecting-inmate-n-j-looks-to-dump-a-dehumanizing-label/> (last visited May 13, 2022). See also Erin Vogt, *Too Offensive for Convicts and Suspects? NJ Might Replace the Word ‘Inmate.’* NEW JERSEY 101.5, Mar. 21, 2022, <https://nj1015.com/too-offensive-for-convicts-and-suspects-nj-might-replace-the-word-inmate/> (last visited May 12, 2022). But compare Matt Rooney, *N.J. Wants to Drop the Term ‘Inmate,’ Include ‘Gender Neutral Language.’* SAVE JERSEY, Apr. 03, 2022, <https://savejersey.com/2022/04/n-j-wants-to-drop-the-term-inmate-include-gender-neutral-language/> (last visited May 13, 2022); Insider NJ, *Van Drew Upbraids Murphy, Tells Him to ‘Get His Priorities Straight.’* INSIDER NJ, Mar. 23, 2022, <https://www.insidernj.com/van-drew-upbraids-murphy-tells-him-get-priorities-straight/> (last visited May 13, 2022).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ Letter from Akil Roper, Senior Vice President, Chief Counsel, Reentry, to Samuel M. Silver, Dep. Dir., N.J. Law Revision Comm’n (May 16, 2022) (on file with the NJLRC).

subject to justice involvement or have been confined in institutions, should be treated with respect – as people or individuals – and should not be further defined by labels such as ‘felon’, ‘ex-con’, ‘offender’ or ‘inmate.’”⁷⁴ The LSNJ cautions that “care must be taken in the way we use language so as not to further disassociate groups of people or perpetuate stereotypes in a way that can cause harm and prejudice.”⁷⁵ The Commission has specifically received LSNJ’s support for the removal of the term “inmate from the New Jersey statutes and the replacement of this term with the term “person” or “person who is incarcerated” as appropriate.⁷⁶

- *The New Jersey Institute for Social Justice*

The New Jersey Institute for Social Justice (the “Institute”) and the Reformed Alliance for Civic Engagement Council (RACE or the “Council”) provided the Commission with supportive comments.⁷⁷ The RACE Council provided the Commission with six reasons that it supported the elimination of the word “inmate” from the New Jersey statutes. A summary of these reasons follows.

First, “[t]he use of dehumanizing language, codified and sanctioned through legislation, negatively colors the perception of a group of people and can cause discriminatory practices toward that group...” and “person-first language may alter societal perception and advance social acceptance of second chances for people with criminal convictions.”⁷⁸ Second, the Council notes that “being an inmate is a condition of incarceration, not an identifying trait of personhood. Third, the use of “dehumanizing language rather than person-first language focuses on one point of a person’s life rather than recognizing the whole of their life or their potential.”⁷⁹ The Council notes that as a result, “[a]ny future acts of changed behavior are negated because that label takes lifelong precedence over anything else a person does.”⁸⁰ Fourth, the use of the term “inmate” fails to recognize the actions that lead to a person’s incarceration and “disincentiviz[es] us from addressing the systemic issues that lead many to be incarcerated.”⁸¹ Fifth, the Council suggests that “people who live with labels sometimes accept this negative connotation about themselves” thereby preventing them from “envisioning a different future for themselves.”⁸² Finally, the Council points out that the proposed modification “is not a burdensome or expensive change” and “[p]erson first language can be effortlessly woven into existing law and narratives.”⁸³

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Letter from Ronald Pierce, Policy Analyst, N.J. Institute for Social Justice and Leader of the Reformed Alliance for Civic Engagement, to Samuel M. Silver, Dep. Dir., N.J. Law Revision Comm’n (May 16, 2022) (on file with the NJLRC). The RACE Council was established in early 2020 with the support of the Institution and is composed of formerly incarcerated men and women to register persons who were formerly incarcerated and to advance the rights of those impacted by the criminal justice system.

⁷⁸ *Id.* at *1.

⁷⁹ *Id.* at *2.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

- *The Seton Hall University School of Law Center for Social Justice*

The Seton Hall University School of Law Center for Social Justice, Equal Justice Clinic (CSJ) “enthusiastically endorse the [Commission’s] proposed change....”⁸⁴ The Center for Social Justice notes that “using language like ‘inmate’ during the period people are incarcerated...undermines the goal of treating people who have interacted with the criminal legal system as more than their mistakes and as people capable of change.”⁸⁵ In addition, the Center for Social Justice believes that “[e]liminating dehumanizing language in our laws is an important first step in changing the messages sent by our legal systems and by the professionals who work within that system.”⁸⁶

The Center for Social Justice submitted testimonials to provide the Commission with insight into how people impacted by the criminal justice system experience such language.

“The word [inmate] is an insult, it rubs the wound... It’s such a small thing, changing a word, but it makes us feel more human.”⁸⁷

“Prison staff use the term to demean. It keeps reminding you that you are just an inmate and you’ll never get out from under that word. [Using the word] puts a wall between prisons staff and incarcerated people. [Referring to incarcerated people by their names] establishes more respect, builds morale, and makes prison more peaceful. When my name is used, I feel like a human being.”⁸⁸

Finally, the CSJ conveyed that they are “glad to see the Commission’s changes that respond to these crucial concerns.”⁸⁹

- *A Member of the Public*

Finally, the Commission received support for a person who is incarcerated.⁹⁰ Mr. Liepe informed the Commission that he has “been a so called ‘inmate’ for seven years....”⁹¹ He further stated that was “quite pleased that this ‘huge’ problem is now being addressed.”⁹² Mr. Liepe pointed

⁸⁴ Letter from Briana McKenna and Giancarlo Piccinini, Student Attorneys, Jennifer B. Condon, Prof. at Law, Dir. Equal Just. Clinic, Seton Hall Univ. Sch. of Law, to Samuel M. Silver, Dep. Dir., N.J. Law Revision Comm’n (May 16, 2022) (on file with the NJLRC).

⁸⁵ *Id.* at *2.

⁸⁶ *Id.*

⁸⁷ *Id.* at *3 (quoting a client of the Center for Social Justice who had been incarcerated for twenty-two years in a New Jersey Prison and paroled in 2011).

⁸⁸ *Id.* at *3 (quoting a client of the Center for Social Justice who had been incarcerated for nearly thirty years).

⁸⁹ *Id.* at *3-4 (suggesting that “the include person first language in all parts of the Parole Act and eliminate the word ‘parolee’... with ‘person on parole...’”).

⁹⁰ Letter from William Liepe, South Woods State Prison, to Samuel M. Silver, Dep. Dir., N.J. Law Revision Comm’n (Apr. 02, 2022) (on file with the NJLRC).

⁹¹ *Id.*

⁹² *Id.*

out that “people incarcerated are NOT ALL criminals. . . .”⁹³ Finally, he asserted that “[r]emoving stigmas. . . is a good place to begin making the needed changes, for the benefit of ALL.”⁹⁴

Pending Legislation

In the 2022-2023 legislative session, newly introduced S1111 requires the establishment of processes to identify Medicaid eligible incarcerated individuals who are awaiting pre-trial release determinations, are being released following a period of incarceration, or are undergoing inpatient hospital treatment.⁹⁵

There is currently no legislation that would modify the use of the term “inmate” in the New Jersey statutes.

Conclusion

The Commission recommends the removal the term “inmate” from the New Jersey statutes and its replacement with a uniform, person-first reference to those lodged in correctional facilities, as appropriate.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ S.B. 1111, 220th Leg., 2022 Sess. (N.J. 2022).