

DECARCERATING DURING COVID-19

Highlights for Correctional Leaders

The National Academies of Sciences, Engineering, and Medicine, with support from Arnold Ventures and the Robert Wood Johnson Foundation, was asked to form an ad hoc committee to offer guidance on mitigating the spread of the novel coronavirus in correctional facilities and summarize findings on large-scale release and decarceration efforts. The committee comprised experts in corrections, correctional health, economics, epidemiology, law, medicine, public health, public policy, and criminology and sociology.

In its report *Decarcerating Correctional Facilities during COVID-19: Advancing Health, Equity, and Safety*, the committee concludes that decarceration is an appropriate and necessary mitigation strategy to include in the COVID-19 response. The current crisis necessitates a broader view of public safety, one that encompasses public health decisions.

COVID-19 infection rates in correctional facilities and the resulting morbidity and mortality are disproportionately higher than the general population. By August 2020, COVID-19 cumulative case rates among incarcerated people were nearly five times higher than in the general population and the rates among correctional staff were three times higher. And because correctional facilities are not isolated settings—incarcerated individuals move between facility and community and staff return home—the outbreaks in correctional facilities have been associated with community infection rates.

The committee's review of the evidence indicates that relieving population pressures in jails, prisons, and detention centers greatly facilitates adherence to CDC guidelines, which reduces health risks, particularly for medically vulnerable people. Smaller populations enable room to place individuals in single cells, sufficient resources for testing, and ways to safely quarantine individuals after exposure to an infected person.

Reductions in incarcerated populations that have occurred across the United States since the onset of the pandemic are predominantly the result of declines in new entrants due to decreased arrests and fewer bookings because of lockdowns and the closure of state and local courts. As stay-at-home restrictions have been lifted and as courts have begun to resume normal operations, the number of new entrants into jails has begun to increase despite the continued public health risk.

KNOW YOUR SAFE CAPACITY AND SURROUNDING COMMUNITY COVID-19 RATES

Because forecasting the timeframe in which the current crisis may end is highly speculative, the report offers actions in the short-term for continued decarceration efforts that can help with the management and mitigation of future COVID-19 outbreaks in correctional settings. The necessary extent of depopulation will vary by facility. Decarceration planning will require consideration of factors such as overcrowding, the physical design and conditions of facilities, population turnover, and rates of positive cases among the incarcerated population and surrounding community. Further, principles for maximizing public health benefits, equal regard and fairness, and transparency can help guide decarceration planning.

There are two ways to reduce the population of jails, prisons, and other detention centers: 1) by diverting from custody people who would otherwise be incarcerated and 2) by releasing those already incarcerated. Since the start of the pandemic, public officials across the country have pursued both strategies.

ENCOURAGE DIVERSION

Misdemeanors, technical violations of probation and parole, and nonpayment of bail are all cases appropriate for diversion in a public health emergency. The use of discretion for diversion in this way may be especially relevant to jail incarceration, and in many cases could be implemented immediately without formal changes in policy or new commitments of resources. The report recommends that federal, state, and local officials should exercise their discretion across a variety of domains to divert individuals from incarceration, including:

- law enforcement's issuance of citations in lieu of making arrests;
- judges' and prosecutors' adherence to a strong presumption against pretrial detention, and release on own recognizance as a default option, to be overridden only when strong evidence indicates that release would be at odds with public safety or court appearance;
- legislatures', prosecutors', and courts' elimination of the use of incarceration for failure to pay fines and fees and prioritization of noncustodial penalties for misdemeanors, probation and parole violations, and other non-serious conduct to the extent possible; and
- local officials' elimination or significant reduction in the use of bail.

ACCELERATE RELEASES

Existing legal mechanisms for release are slow (due to requirements to consider individual circumstances on a case-by-case basis) and not well suited in a public health crises, though a number of actors hold the authority to act, including correctional officials, parole boards, and governors, among others. Past research on recidivism indicates that correctional officials have opportunities to decarcerate in a manner that minimizes risk to public safety if given the flexibility to do so. Recidivism risks can be reduced through thorough reentry planning and the provision of supports, notably assistance with healthcare, housing, and income.

The report recommends that correctional officials should identify candidates for release from prison and jail in a fair and equitable manner and engage other officials outside the correctional system to expedite decarceration. Individuals assessed as medically vulnerable, nearing sentence completion, or of low risk to commit serious crime are likely to be suitable candidates for release during a public health crisis.

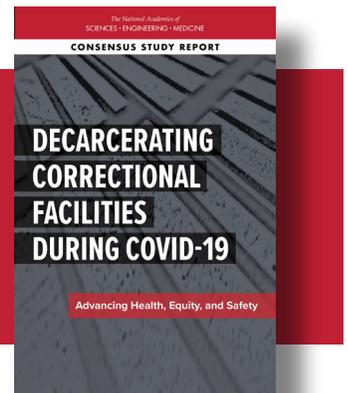
MONITOR THE PROGRESS OF DECARCERATION EFFORTS

Regular assessments of the state of the pandemic and needs of those released as well as those still incarcerated will help jurisdictions make adjustments as necessary. The report recommends that all correctional facilities should report daily standardized, aggregated data on COVID-19 incidence, testing rates, hospitalizations, mortality, and all-cause-mortality among incarcerated people and staff by age, gender, and race/ethnicity to public health officials as directed and via a public-facing website or dashboard. All correctional facilities should also report daily standardized, aggregated data on decarceration efforts (especially releases) by age, gender, and race/ethnicity.

Decarcerating Correctional Facilities during COVID-19: Advancing Health, Equity, and Safety

Available:

<https://www.nap.edu/25945>



The National Academies of
SCIENCES • ENGINEERING • MEDICINE

The nation turns to the National Academies of Sciences, Engineering, and Medicine for independent, objective advice on issues that affect people's lives worldwide.

www.nationalacademies.org