Actions to Prevent the Spread of COVID-19 in the Criminal-Legal System:
State Governor Recommendations & Resources

The spread of COVID-19 is a public health emergency that is especially urgent for the 2.3 million human beings caged in U.S. jails and prisons. These institutions are already dangerous and unhealthy places, even outside of a global pandemic, with overcrowding, deplorable conditions, and inadequate healthcare access making them a hotbed for infectious diseases. Based on everything we know, these conditions will cause COVID-19 to continue spreading like wildfire—and the consequences will be devastating.

At this crisis point, decarcerating jails and prisons is a legal, moral, and humanitarian imperative. We recommend that all governors immediately take the following actions.

Using all available powers, including the powers of clemency, furlough, parole, and compassionate release, dramatically reduce the prison population.

• Institute a release protocol for all people who are detained in prison. Ensure that such protocol includes (1) categorical release for as many people as possible and (2) a public health-conscious process that facilitates the release of individuals who are not within these broad categories.
• Stop all new detentions of individuals, except where law enforcement can justify in writing that the government interest in criminal prosecution outweighs the extreme mortality and infection risk of spreading COVID-19 within correctional facilities. Designate many offenses as categorically ineligible for detention.
• When developing the broad categories for immediate release, ensure that these categories include at minimum the following:
  o The elderly and medically vulnerable, including individuals who are pregnant or who have asthma, chronic illness, diabetes, lung disease, heart disease, or any condition that suppresses the immune system;
  o Anyone within 18 months of his/her release date; and
  o All people held on a probation or parole-related detainer, including anyone incarcerated for a technical violation.
• Ask parole boards to release all individuals who are currently on parole and develop an emergency process that can expedite parole hearings.

Modify supervision practices for state parole and probation.

• Eliminate intake and active supervision to only those who absolutely require supervision.
• Eliminate the need for in-person meetings, check-ins, or other in-person requirements.
• Cease collecting legal financial obligations (fines, fees, and restitution) from those on community supervision, as well as any fees associated with supervision conditions.

EXAMPLES:

• In Illinois, the governor signed an executive order that eases the restrictions on early prison releases for "good behavior" by waiving the required 14-day notification to the State Attorney's office. The executive order explicitly states that this is an effort to reduce the prison population, which is particularly vulnerable to the COVID-19 outbreak.