



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

At this crisis point, decarcerating jails and prisons is a legal, moral, and humanitarian imperative. We recommend that government officials immediately take the following actions. See [this list](#) for decarceral actions that officials nationwide have already taken.

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

- 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, including any offenses related to nonpayment, as categorically ineligible for arrest, prosecution, and detention.
- 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.
- When developing the broad categories for immediate release, ensure that these categories include *at a minimum* the following:
  - 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;
  - Anyone within 18 months of his/her release date; and
  - 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.

### **End jail admissions to the maximum extent possible.**

- Use [cite-and-release](#) for all individuals who are eligible for cite-and-release.
- Do not set bond or impose pretrial detention in any cases.
- Do not impose post-conviction detention in any cases.
- If the court is nonetheless considering pretrial or post-conviction detention in some cases, ensure that (1) such detention is unavailable for most people, by making many groups categorically ineligible, and (2) all individuals who are not categorically ineligible have a hearing that addresses the public health-related exceptional circumstances.
- If the court is nonetheless considering custodial detention in some cases, advocate that all new incarcerations be house arrests.
- If the court imposes custodial detention in any context, ask the court for a written explanation regarding why the government interest in custodial detention outweighs the extreme mortality and infection risk of spreading COVID-19 within correctional facilities.

### **Decarcerate the local jail(s).**

- Institute a release protocol for all people who are detained pretrial and post-conviction. Ensure that such protocol includes (1) immediate, categorical release for as many people as possible and (2) all

individuals who are not categorically ineligible have a hearing that addresses the public health-related exceptional circumstances.

- When developing the broad categories for immediate release, ensure that these categories include *at minimum* the following:
  - 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;
  - All individuals being held pretrial;
  - All people serving misdemeanors and a set list of felony offenses, which list includes the vast majority of felonies;
  - All individuals within six months of their release date;
  - All primary caregivers;
  - All people held on a probation or parole-related detainer; and
  - All individuals being held for other agencies, including ICE.
- If custodial detention is nonetheless maintained, require a written explanation regarding why the government interest in custodial detention outweighs the *extreme mortality and infection risk of spreading COVID-19 within correctional facilities.*