



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

At this crisis point, decarcerating jails is a legal and moral imperative. We recommend that all prosecutors take the following actions and, as needed, see [this list of decarceral actions](#) that prosecutors have taken.

Effectively end new jail admissions.

- Stop all new prosecutions, except where the prosecutor 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 prosecution*.
- Do not request bond or pretrial detention in any cases.
- Do not request 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, request 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 local jails.

- 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) a swift, 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 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*.