



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.