CIVIL RIGHTS CORPS

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

At this crisis point, decarcerating correctional facilities is a legal, moral, and humanitarian imperative. We recommend that all judicial officers immediately take the following actions and see this letter to the Central District of California and this list of existing actions for additional ideas.

Decarcerate local jails.

- Do not impose bond or 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
- Implement 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 hearing 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 the court imposes or maintains custodial detention in any context, provide 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.*
- Limit the number of criminal cases that judges can hear.
- Default to noncustodial sentences. Wherever confinement is considered necessary, transition all new incarcerations to house arrests.

Mitigate the harms of court involvement.

- Reduce number of required in-person court appearances. Fully eliminate in-person court appearances for non-essential issues and low-level cases, wherever requested by defense counsel.
- Do not issue "failure to appear" warrants or "bench warrants."
- Cancel all court-ordered classes, in-person drug testing, and collection of court debts, and modify all reporting conditions to phone-reporting.
- Cancel supervised release revocation hearings based on non-violent conduct, wherever requested by defense counsel. Release those held in custody pending hearings using signature bonds.
- Stop enforcing any laws that penalize nonpayment, including eviction cases.