



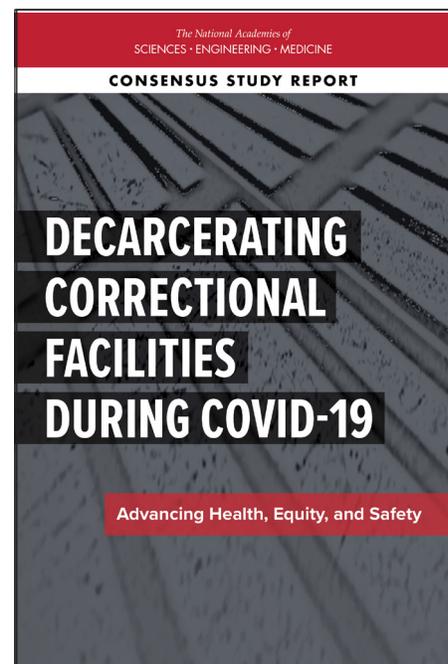
Decarcerating Correctional Facilities during COVID-19: Advancing Health, Equity, and Safety

With cumulative coronavirus case rates among incarcerated people nearly five times higher than in the general population in the United States, and prison and jail staff experiencing substantially higher rates of infection, correctional facilities have become hotspots for infection during the COVID-19 health crisis. Increased virus transmission is due to a combination of the characteristics of correctional facilities—overcrowding, population turnover, spatially concentrated patterns of releases and admissions, the physical design of facilities (e.g., dormitory-style housing and poor ventilation), health care capacity—and the vulnerability of incarcerated individuals due to their age and the presence of chronic health conditions.

Arnold Ventures and the Robert Wood Johnson Foundation asked the National Academies of Sciences, Engineering, and Medicine to form an ad hoc committee to offer guidance on mitigating the virus spread through large-scale release and decarceration efforts. The committee—comprising experts in corrections, correctional health, economics, epidemiology, law, medicine, public health, public policy, and criminology and sociology—examined best practices for decarceration and the conditions that support safe and successful reentry of those released.

Decarceration—the practice of diverting people from incarceration and releasing them from prisons and jails—facilitates physical distancing and other mitigation strategies, reducing the risks of transmission of the virus within correctional facilities. Further, research on recidivism and reentry suggests that correctional authorities can decarcerate in a manner that would minimize risks to public safety. Appropriate planning for reentry—including consideration of families and community supports for housing, health care, and income—are important complements to decarceration efforts.

Some jurisdictions have taken steps to reduce incarcerated populations in jails, prisons, and other detention facilities since the onset of the pandemic. But the reductions in incarceration that have



occurred appear to have resulted mainly from declines in arrests, jail bookings, and prisons admissions, not proactive efforts to decarcerate. The report concludes that decarceration is an appropriate and necessary mitigation strategy and would reduce risks of exposure to and transmission of the disease within correctional facilities. The report offers recommendations that call for immediate actions to facilitate decarceration efforts, improve preparedness for future COVID-19 outbreaks and the next public health crisis, as well as to collect data necessary to promote transparency and foster research and evaluation of efforts.

TAKING ACTION

RECOMMENDATION 1: Where reductions in incarcerated populations are needed to adhere to health guidelines, federal, state, and local criminal justice actors should **exercise their discretion to divert individuals from incarceration**, such as by:

- Law enforcement's issuance of citations in lieu of making arrests.
- Judges' and prosecutors' adherence to a strong presumption against pretrial detention, and release on own recognizance as a default option, to be overridden only when strong evidence indicates that release would be at odds with public safety or court appearance.
- Legislatures', prosecutors', and courts' elimination of the use of incarceration for failure to pay fines and fees and prioritization of noncarceral penalties for misdemeanors, probation violations, and other low-level offenses to the extent possible.
- Local officials' elimination of or significant reduction in the use of bail.

RECOMMENDATION 2: Correctional officials with public health authorities should **assess the optimal population level of their facilities to adhere to public health guidelines**, considering overcrowding, the physical design and conditions of facilities, population turnover, health care capacity, and the health of the incarcerated population.

RECOMMENDATION 3: To the extent that current population is higher than optimal population level for adherence to public health guidelines, correctional officials should **identify candidates for release**. Individuals assessed as medically vulnerable, nearing sentence completion, or of low risk to commit serious crime are likely candidates.

RECOMMENDATION 4: Federal and state policymakers should **revise compassionate release policies** to account for medical condition, age, functional or cognitive impairment, or family circumstances. Such applications should be reviewable by court and should allow scope for representation by counsel.

RECOMMENDATION 5: Reentry plans should be developed to cover health care, housing, and income supports to address individual and family needs. Individuals should be eligible and approved for such services at least 30 days prior to release when possible.

- Identify **resources to provide housing** to incarcerated individuals who require it for safe discharge. Housing authorities should limit restrictions based on criminal history for housing eligibility and for tenants to add returning household members. Federal, state and local authorities should explore opportunities to financially support families who provide housing to incarcerated individuals upon release.
- Identify and **remove barriers to access and continuity of public benefits** necessary to support income and basic needs, including access to the Supplemental Nutrition Assistance Program.
- Work with community health systems to facilitate **health care access** and remove requirements for government identification at the first visit, ease restrictions on video visits, prioritize first appointments immediately prior to release, with special attention to primary care, substance use disorders, and mental health treatment.

RECOMMENDATION 6: Correctional officials should **avoid creating additional COVID-19-related health risks to families and communities** by implementing COVID-19 testing upon release and, when necessary, facilitating safe quarantines in the community for 14 days prior to returning to their families or congregate housing.

RECOMMENDATION 7: Parole and probation policies and procedures should be examined to eliminate or greatly limit revocation for technical violations, reduce use and terms of probation and parole, replace in-person office visits with non-contact ways of supervision, and remove conditions that require an individual to apply for or obtain work.

RECOMMENDATION 8: States should **remove barriers to eligibility for Medicaid** to ensure access to health insurance and health care. Many states are able to exercise optional eligibility for the Families First Coronavirus Response Act and choose to suspend, not terminate, an individual's eligibility when incarcerated; and exercise authorities to apply for section 1115 and 1135 waivers of the Social Security Act.

IMPROVING PREPAREDNESS, DATA, AND RESEARCH

Past research on pandemic management in correctional facilities suggests that preparedness planning is critical to management of future COVID-19 outbreaks and other public health emergencies. Preparedness planning involves public health experts and correctional officials and the creation of plans for safely diverting and releasing people from custody during public health crisis.

RECOMMENDATION 9: All correctional facilities should **report daily standardized data on COVID-19 incidence, testing rates, hospitalizations, and mortality** among incarcerated people and staff by the following demographic groups: age, gender, race/ethnicity to public health officials as directed and in a public-facing website or dashboard.

RECOMMENDATION 10: State and Federal research infrastructures should **invest in research** on the i) mutual influence of community and correctional facility transmission of disease; ii) evaluation of operation changes and decarceration efforts in response to COVID-19 and impacts on health and safety; and iii) broader transmission of disease to include consideration of juvenile, immigration, and other forms of detention with jails and prisons.

COMMITTEE ON BEST PRACTICES FOR IMPLEMENTING DECARCERATION AS A STRATEGY TO MITIGATE THE SPREAD OF COVID-19 IN CORRECTIONAL FACILITIES

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For More Information . . . This Consensus Study Report Highlights was prepared by the Committee on Law and Justice based on the Consensus Study Report, *Decarcerating Correctional Facilities During COVID-19: Advancing Health, Equity, and Safety* (2020). The study was sponsored by Arnold Ventures and the Robert Wood Johnson Foundation, and is affiliated with the Societal Experts Action Network (SEAN). Any opinions, findings, conclusions, or recommendations expressed in this publication do not necessarily reflect the views of any organization or agency that provided support for the project. Copies of the Consensus Study Report are available from the National Academies Press, (800) 624-6242; <https://nationalacademies.org/decarceration>.

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