

NO EXCUSES: GOVERNORS MUST PURSUE DECARCERATION ALONG WITH INVESTMENTS IN REENTRY SERVICES

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EXECUTIVE SUMMARY

On March 27, we warned about the urgent need for decarceration of jails and prisons to prevent large-scale outbreaks of COVID-19 that would lead to severe illness and death, both within facilities and beyond their walls. Since then, our fears have been realized. On April 5, Michael Tyson, age 53, was the first person on Rikers Island to die from the virus. That same month, COVID-19 ran rampant through jails in Ohio, Chicago, and Houston. By the end of April, eight of the ten largest COVID-19 outbreaks were in jails and prisons and hundreds of people living or working in our nation's correctional facilities had become seriously ill and died. Now, even with suspected undercounting, the number of infections is well into the thousands and, still, relatively few states have engaged in large-scale prison population reduction through release, allowing COVID-19 to continue its devastating spread through the remaining population and staff and also endangering the communities that surround these facilities.

One common roadblock to release has been the assertion by some policy makers and government officials that decarceration is inappropriate because of a lack of reentry services. They express concerns that, because the economy is flagging and many social services are overwhelmed, people being released from jails and prisons will struggle to find housing and support and are therefore better off incarcerated. Yes, social services and housing are key to successful reentry for many people. But this position undermines the need for a rational public health response to the current crisis, is not solutions-based, and ignores the critical mandate we have as a society to immediately invest in life-saving reentry resources to ensure an appropriate public health

response to COVID-19. In short, the pandemic makes it even more important that we engage in the urgent work of decarceration that has been needed for decades and that the current moment demands.

Jails and prisons present a unique public health threat during the COVID-19 pandemic

Generations of overreliance on incarceration have led to an explosion of our nation's jail and prison populations. Almost as soon as the pandemic began, health experts identified jails and prisons as particularly fertile ground for the spread of coronavirus: most correctional facilities are fully enclosed with poor ventilation; the flow of people in and out makes it hard to keep these facilities sufficiently sanitized and disease-free; physical distancing is virtually impossible in dormitory living and on crowded housing units, contributing to difficulty controlling disease transmission once it enters a facility; and rates of chronic health conditions are particularly high among the incarcerated population, putting them at particularly heightened risk of poor outcomes (including death) if they become infected with COVID-19.

For these reasons, there is near-universal agreement among public health professionals that the only way to save lives is to reduce the number of people incarcerated. In addition, prosecutors, law enforcement, health experts, correctional leaders, legal scholars, correctional officer unions, families of the incarcerated, and community advocates have called for large scale depopulation of jails and prisons in order to allow for the

physical distancing measures needed to reduce outbreaks and enable the creation of quarantine and medical isolation wings when needed.

Such a response requires reducing both the number of people admitted to jails and prisons as well as the release of as many people as practicable. Early in the outbreak, one doctor practicing on Rikers Island said, “Depopulating in this case is not letting a dozen guys out or two dozen guys out. It means pushing as hard as possible for hundreds of people to get out.” This is the best possible way to save lives. But still, after months of public health warnings and legal testimony, federal, local and state governments have not taken sufficient action, often rationalizing inaction by citing insufficient resources needed for successful reentry to the community, particularly housing. This is unacceptable.

Meaningful reentry services are available and can be expanded by building upon a large network of existing programs

Reentry support—the process of guiding the recently incarcerated through the process of acclimating to free society—is extremely important for the success of people returning to the community. The concern about sufficient reentry resources is based in reality and is not new. By one estimate, about 700,000 Americans are released from prison and 9 million are released from county jails every year, pre-pandemic. So, while some jails and prisons have accelerated decarceration during the pandemic, there has always been a profound need for reentry services.

Housing may be the most commonly referenced reentry obstacle and is often one of the most immediate areas of need for people released into

the community, but it simply cannot be used as an excuse to not decarcerate. First, not everyone who is released from incarceration requires housing assistance and those who have provided guidance on decarceration to limit the spread of coronavirus have been unequivocal in stating that those eligible for release with housing options should be released immediately. Their continued detention, including any quarantine in prison, creates too much of a public health risk by contributing to a full-blown prison outbreak as, even when they are isolated, people in prison will interact with correctional and medical staff who can spread the virus to others. While statistics on how many individuals leaving prison require housing support are limited and vary by state, the California prison system recently expedited the release of 3,500 inmates, placing 1,200 on parole, about a third of whom needed assistance with housing and were offered places in reentry facilities. Even under the current circumstances, therefore, two thirds of that population was able to secure housing upon release without assistance. The remainder received assistance and appear to have been placed in transitional housing.

Still, assistance securing either temporary or permanent housing is urgently needed for many people released from jails or prisons, which is why immediate investment in reentry services is critical. State and local programs, many operating as nonprofits or small faith-based services, employ discharge specialists who regularly assist people in finding transitional housing, connecting with community-based organizations, and/or securing funds for housing. It is true that new public health limits on the number of people who can be in group living and halfway houses, for example, affect the availability of options for post-release housing during the pandemic, but those challenges require additional emergency funding for reentry support organizations and social services, not an abdication of the responsibility of shrinking jail and prison populations to safeguard public

health. Existing programs are already experts on the needs of returning community members and in leveraging existing connections to help address those needs and will play key roles in helping facilitate necessary jail and prison depopulation. These organizations were already underfunded before COVID-19, now is the perfect time to funnel additional support into expanding their critical services. The public health imperative of depopulation during the COVID-19 pandemic reinforces the needs for greater societal investment in resources that give people the best chance for successful reintegration. Public health-focused decarceration and meaningful reentry services: the two must go together.

We Need Creative Solutions to Expanding and Funding Reentry Services During COVID-19

Best practices for reentry during the coronavirus pandemic have not yet been developed but experts who have considered reentry options amidst the COVID-19 pandemic recommend that housing options for people released from jails and prisons be consistent with physical distancing, quarantine, and/or shelter-in-place suggestions. Jurisdictions across the country are working to meet this challenge. California and New York City, for example, have leased hotel rooms for people released from jails and prisons. Connecticut has moved to decrease shelter populations and use “rapid re-housing” funds to provide housing vouchers, and the Federal Bureau of Prisons is temporarily waiving many fees associated with halfway house or transitional placement.

Resources vary from jurisdiction to jurisdiction, but local organizations and agencies familiar with available reentry options are working diligently to identify viable placements amid the changing landscape. A group of public interest organizations and experts in California drafted a

letter to the state’s Deputy Cabinet Secretary and Deputy Legal Affairs Secretary with a detailed plan for how to decarcerate in California while establishing safe standards and increasing available housing options.

Continued mass incarceration of people puts everyone’s lives at risk from the spread of COVID-19. No matter what specific choices individual jurisdictions make, it’s clear that the solution for meaningfully depopulating our jails and prisons to slow the spread of COVID-19 is expanding available options for reentry. One option is to use CARES Act funding to shore up reentry services, as the Act gives local governments wide latitude to use the money however they wish. Some of this funding can go to support existing reentry services or to create new community support, like housing, that can be for everyone in the community, including those reentering from jail and prison. Inaction is not an option.

Investing in reentry services is key to success; Inaction is a death sentence

The COVID-19 pandemic has laid bare the public health crisis of mass incarceration by revealing it to be the public health hazard it is. There is no longer a question about whether jails and prisons are prone to outbreaks. They are, and there is no justification for failing to decarcerate during this global public health crisis.

At the same time, decarceration must be paired with a substantial investment in reentry services. Reentry, while not a new problem, is of heightened concern in a time where everyone must drastically alter the way they live to abide by physical distancing regulations and local public health mandates. Ultimately, reentry services are crucial for the success of people re-integrating

into society, but the solution to poorly funded reentry programs is not to keep people in jails and prisons where they are much more likely to become infected and seriously ill, or die. We must think bigger, we must demand more. It is past time for all levels of leadership to immediately increase investment into much-needed reentry services while enacting emergency decarceration measures. This is how we protect the lives of people residing and working in correctional facilities and the people living in the communities that surround them.

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