

DECARCERATING CORRECTIONAL FACILITIES DURING COVID-19

Advancing Health, Equity, and Safety

Report Release Webinar
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The National Academies of
SCIENCES • ENGINEERING • MEDICINE

Study Sponsors

- Arnold Ventures
- Robert Wood Johnson Foundation

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Statement of Task

The National Academies of Sciences, Engineering, and Medicine will convene an ad hoc committee that will provide advice to policymakers, correctional officials, and public health officials on best practices for mitigating the spread of COVID-19 in correctional facilities through large-scale release and decarceration efforts. The short consensus report will consider the following questions:

- How can correctional facilities apply **evidence-based practices to large-scale release and decarceration**, while paying attention to equity issues?
- What community **supports are needed to ensure successful reentry** for released individuals and the community?

The committee will issue a report with findings and recommendations at the end of the study.

Characteristics of Correctional Facilities

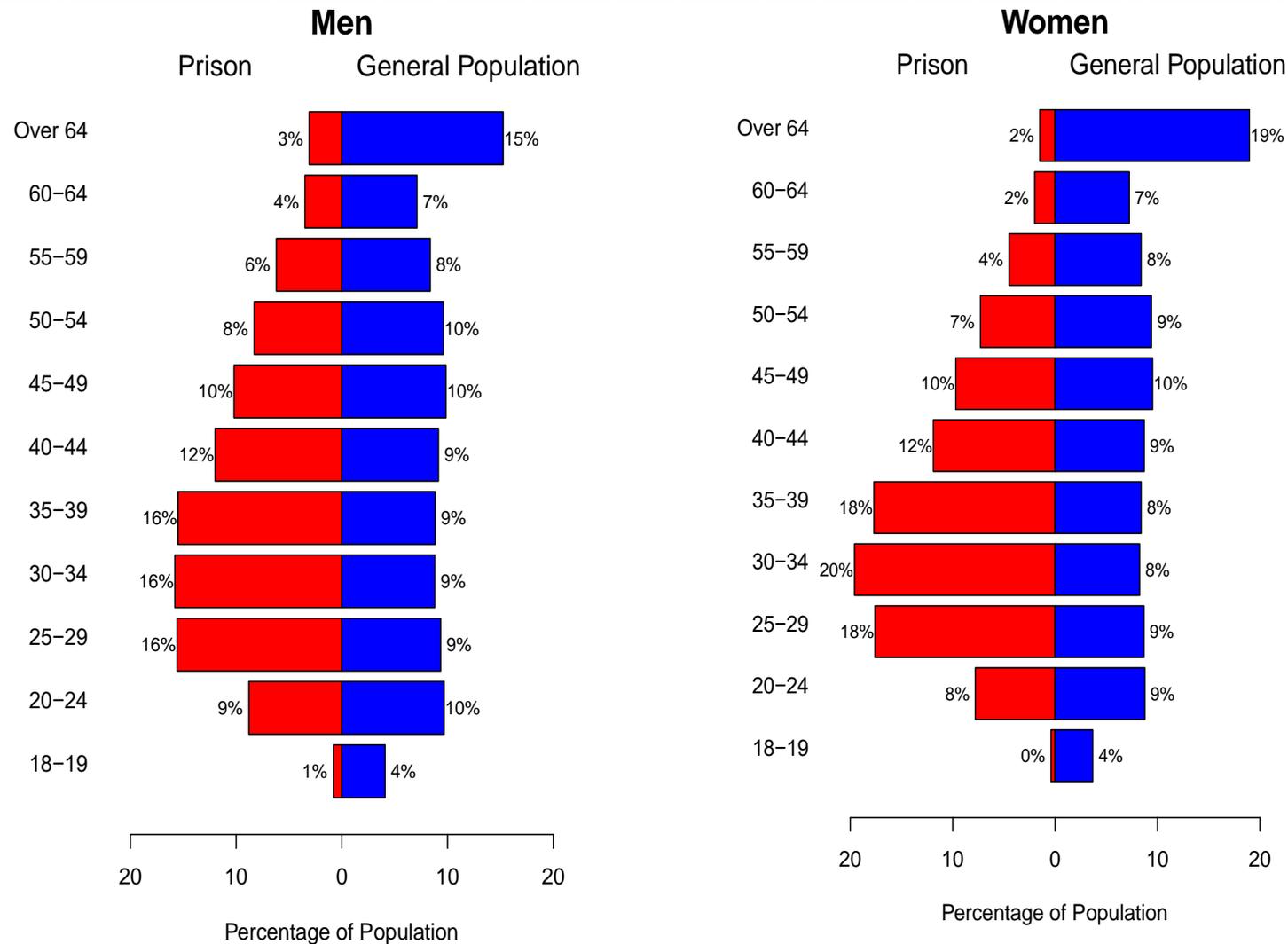
- 1) overcrowding
- 2) population turnover
- 3) spatially concentrated patterns of releases and admissions
- 4) physical design of facilities (e.g., dormitory housing, poor ventilation)
- 5) health care capacity

Health of Incarcerated Individuals

Percentage of People Incarcerated in Prisons and Jails Who Have Ever Had a Chronic Condition, by Chronic Condition, 2011–2012

Chronic Condition	Prison Population (%)	General Population (%) ^a	Jail Population (%)	General Population (%) ^b
Cancer	3.5	-	3.6	-
High Blood Pressure/Hypertension	30.2	18.1	26.3	-
Stroke-related Problems	1.8	0.7	2.3	13.9
Diabetes/High Blood Sugar	9	6.5	7.2	4.5
Heart-related Problems	9.8	2.9	10.4	1.9
Kidney-related Problems	6.1	-	6.7	-
Asthma	14.9	10.2	20.1	11.4

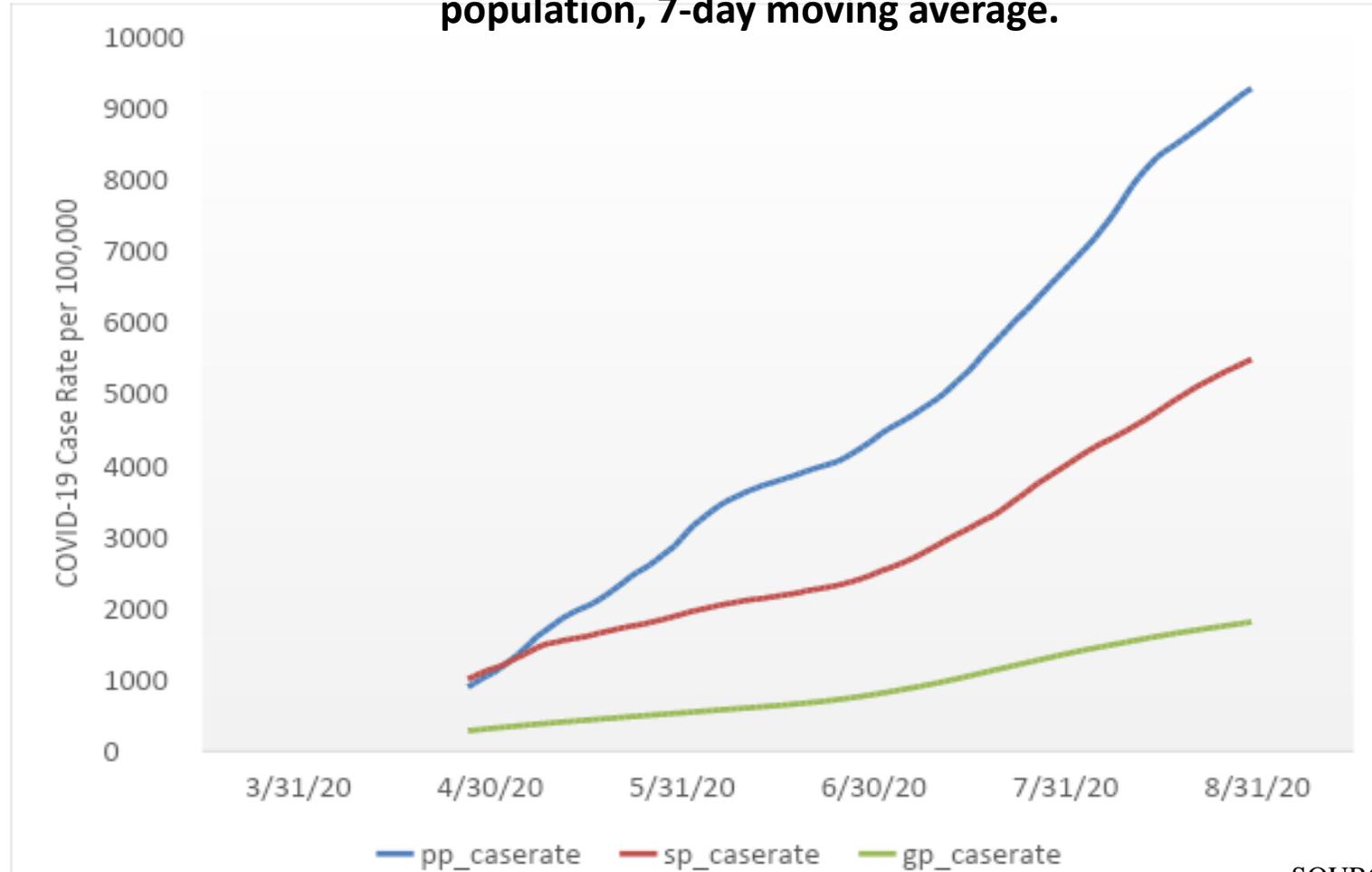
Age of Incarcerated Individuals



Age distribution of males and females held in state prisons in 2018 compared with the U.S. general population

Scope of the Outbreak

Incarcerated populations of state and federal prisons, staff in state and federal prisons, and the general population, 7-day moving average.



SOURCE: COVID Prison Project, 2020

Mitigating Transmission In Correctional Facilities

- Decarceration is an appropriate and necessary mitigation strategy to include in the COVID-19 response in correctional facilities.
- Decarceration will facilitate other mitigation strategies designed to prevent exposure to and transmission of disease among those who remain.
- Research on recidivism and reentry suggests that correctional authorities can decarcerate in a manner that would pose relatively little risk to public safety

Prison & Jail Depopulation in 2020

Reductions in Incarcerated Populations from the Pre-Pandemic Period to mid-2020

Jurisdiction	Period	Pre-Pandemic	In Pandemic	Population Decline	Percent Decline
State Prisons	Dec. 31, 2019-May 1, 2020	1,260,393	1,207,710	52,683	4.2
Federal Prisons	March 5, 2020 - August 13, 2020	175,315	156,968	18,347	10.5
Jails	Dec. 31, 2018-July 22, 2020	738,400	575,952	162,448	22.0
Immigration (ICE)	March 20, 2020-Aug. 8, 2020	37,888	21,118	16,770	44.3
Total		2,211,996	1,961,748	250,248	11.3

SOURCE: Adapted from Franco-Paredes et al., 2020.

Diversion

Recommendation 1: Federal, state, and local officials should exercise their discretion across a variety of domains to **divert individuals from incarceration**, including:

- 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 noncustodial penalties for misdemeanors, probation and parole violations, and other -non-serious conduct to the extent possible.
- Local officials' elimination or significant reduction in the use of bail.

Release

Recommendation 2: Correctional officials in conjunction with public health authorities should take steps to **assess the optimal population level of their facilities to adhere to public health guidelines during the pandemic**, considering factors such as overcrowding, the physical design and conditions of their facilities, population turnover, health care capacity, and the health of the incarcerated population.

Recommendation 3: To the extent that the current population level in a facility is higher than the optimal population level for adhering to public health guidelines, correctional officials should **identify candidates for release from prison and jail in a fair and equitable manner** and engage other officials outside the correctional system as necessary to expedite decarceration to the optimal level. Individuals assessed as medically vulnerable, nearing sentence completion, or of low risk to commit serious crime are likely to be suitable candidates for release during a public health crisis.

Release

Recommendation 4: Given the extreme medical vulnerability of some incarcerated people to COVID-19, federal and state policy makers should **revise compassionate release policies** to account for petitioners' medical condition, age, functional or cognitive impairment, or family circumstances. Because of the severity of the health risks, such applications should be reviewable by the courts or some other decision maker external to the standard parole process, and should allow scope for representation by counsel in the process on behalf of petitioners.

Reentry

Recommendation 5: When releasing individuals from prisons and jails, correctional officials, in collaboration with other public officials and community-based programs, should **develop individualized reentry plans incorporating a bundle of services encompassing health care, housing, and income supports** to address individual and family needs as an important complement to decarceration efforts. Incarcerated individuals should be eligible and approved for such services at least 30 days prior to release when possible.

Reentry: Housing

5a: Federal, state, and local authorities should **identify resources for providing housing** as required by incarcerated individuals for safe discharge including space for quarantining in the community. Local housing authorities should **limit restrictions on housing eligibility** based on criminal history to those required by the U.S. Department of Housing and Urban Development and limit restrictions on tenants adding returning household members.

Federal, state and local authorities should **explore opportunities to offer financial support to families that provide housing to incarcerated individuals upon release.**

Correctional officials should take steps to **facilitate enrollment in appropriate housing programs and services prior to release** where necessary, and a lack of housing in the community should not be grounds for continuing incarceration.

Reentry: Income Supports

5b: State and local officials should:

- **identify barriers to access public benefits** for individuals returning from incarceration;
- **work to maintain continuity of benefits;** and
- **support enrollment in benefits for income and basic needs**, including access to the Supplemental Nutrition Assistance Program, Medicaid, and Medicare, and Supplemental Security Income.

Reentry: Health Care

5c: Community health systems should **facilitate health care access** for people just released from correctional systems by removing requirements for government identification at the first visit, prioritizing the urgency of in-person first appointments immediately prior to release, and easing restrictions on video visits to improve engagement in primary care, substance use, and mental health treatment.

The federal government, through the Centers for Medicare & Medicaid Services, Substance Abuse and Mental Health Services Administration, and the U.S. Drug Enforcement Administration, should **extend and expand upon guidance that has permitted flexibility in the use of telemedicine** for primary care and substance use treatment.

Reentry: Health Care

Recommendation 8: States should remove barriers to eligibility for Medicaid to ensure that incarcerated and previously incarcerated individuals have access to COVID-19 tests and related services and transitional health care needs:

- a) exercise the optional eligibility provided in the Families First Coronavirus Response Act to provide Medicaid coverage for COVID-19 testing and related services to individuals who are uninsured;
- b) allow Medicaid payment for medical services furnished to an incarcerated individual during the 30-day period prior to release;
- c) ...states should opt to suspend, not terminate, Medicaid eligibility when an individual is incarcerated and exercise their authorities to apply for section 1115 and 1135 waivers of the Social Security Act to expand Medicaid coverage or support access to covered services for incarcerated individuals during the COVID-19 crisis...; and
- d) enroll individuals eligible for Medicaid during incarceration, prior to their release.

Supporting Families & Communities

Recommendation 6: Correctional officials, in coordination with local public health authorities should implement measures to avoid creating additional COVID-19-related health risks for families and communities. These measures should include **providing COVID-19 testing prior to release and facilitating quarantining as necessary**. When newly released individuals lack a place to quarantine, local officials should take steps to provide them with a safe place in the community to quarantine for 14 days before returning to their families, as well as publicly support and coordinate with community officials to ensure access to and retention of housing for returning individuals and their families.

Probation and Parole

Recommendation 7: Parole and probation departments should **examine their policies and procedures** and take quick action where needed to reduce the impact of community supervision on the spread of COVID-19. Such action should include administratively eliminating or greatly limiting revocation for technical violations, replacing in-person office visits wherever possible with noncontact means of collecting supervision reports, and removing conditions on parole or probation that require an individual to apply for or obtain work.

Courts and paroling authorities should **limit the application of probation and parole** to those who absolutely need community supervision and **reduce the terms of probation and parole** to only as long as necessary to achieve the goals of supervision.

Preparedness for Future Outbreaks

- Past research on pandemics 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 health plans for safely diverting and releasing people from custody during public health emergencies.

Data & Research Needs

Recommendation 9: All correctional facilities (including jails, state and federal prisons, ICE detention centers, and juvenile facilities) should **report daily standardized, aggregated data on COVID-19** incidence, testing rates, hospitalizations, mortality, and all-cause-mortality among incarcerated people and staff by age, gender, and race/ethnicity to public health officials as directed and via a public-facing website or dashboard. All correctional facilities should also report daily standardized, aggregated data on decarceration efforts (especially releases) by age, gender, and race/ethnicity via a public-facing website or dashboard.

Data & Research Needs

Recommendation 10: State and federal research infrastructures should **invest in the monitoring and evaluation of the changes in operations and targeted COVID-19 release mechanisms** in correctional facilities to document the impact of such efforts on correctional health, public safety, public health, and racial equity... and facilitate transparency...

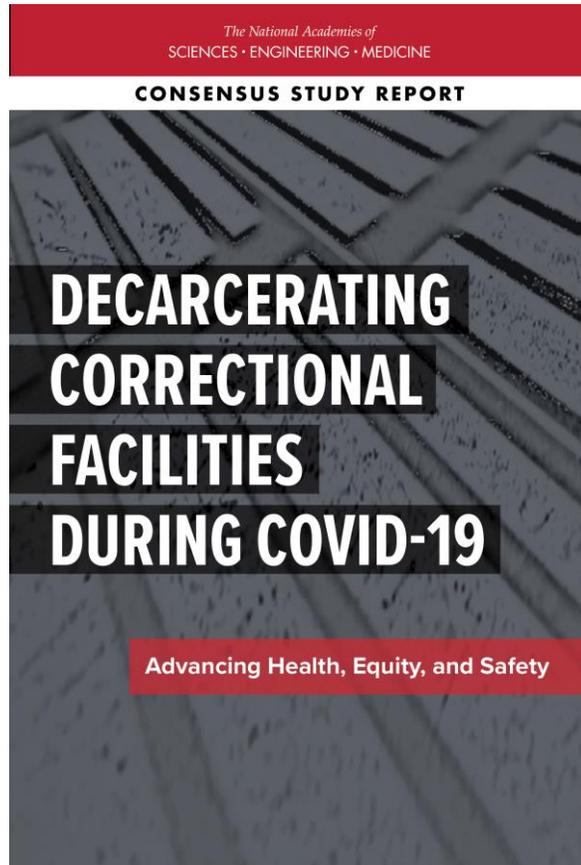
Researchers and funders should support a fully formed research program on the **implications of incarceration for the transmission of infectious disease** that extends beyond the adult criminal justice system to include juvenile incarceration, immigration detention, and other forms of detention.

Research should aim to **examine the mutual influence of community and correctional facility on the transmission of disease**, including the influence of community health conditions on the prevalence of infection and virus transmission inside correctional facilities and the influence of correctional facilities on surrounding communities.

Final Thoughts

- Public safety encompasses good public health. Institutions for incarceration have hosted numerous outbreaks of infection and in this sense have posed a threat to public safety.
- Good health and safety in the pandemic era will require reducing incarceration and supporting the communities whose incarceration rates are highest.
- Decarceration requires urgent and sustained engagement from correctional and health officials at federal, state, and local levels, as well as from those with oversight for community health systems and social services.

Thank You!



To download a free copy of the report, visit: www.nationalacademies.org/decarceration.

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