



Decarceration Decisions for Public Health and Safety During the Covid-19 Pandemic

Preventing incarceration and releasing people from incarceration as soon as possible is critical to stopping the spread of covid-19 in Massachusetts. The issue is urgent: people must be released before cases are reported inside jails and prisons.

Criminal justice system stakeholders share a responsibility to “flatten the curve” by ensuring people are not unnecessarily detained in unsanitary conditions with higher likelihood of infection where they are unable to access quality health care and unable to provide care for their children and family.

The following are decisions agencies can make to **release incarcerated people and prevent incarceration:**

Police

- Suspend pre-textual stops
- Suspend arrests for public space infractions like trespassing; drugs offenses; and sex work
- Cite and release people rather than detain them

Bail Magistrates

- Arrive promptly to police stations to receive bail
- Release all people on personal recognizance
- Schedule arraignments after May 1

District Attorneys

- Review all complaints referred for arraignment between March 18 and May 1 to screen for cases eligible for nolle pros and pre-arraignment diversion
- Nolle pros cases including all motor vehicle infractions, drug possession, trespassing, disorderly conduct
- Nolle pros cases in which discovery has not been produced within
- Recommend release on recognizance in all cases with no additional conditions, absent immediate physical threats to specific individuals
- Strongly consider credit for time served in plea deals
- Moratorium on opposition to all motions which would result in a defendant’s release from custody, including motions to dismiss and suppress



Judges

- Release on recognizance with no conditions
- Allow motions for release from pre-trial detention
- Allow Primary Caretakers motions and impose community-based sentences
- Impose community-based sentences rather than sentences of incarceration; allow revise and revoke motions that would sentence people to time served or community-based alternatives
- For probation violations, reprobate people to the least restrictive conditions of release

Probation

- Suspend all in person appointments and reporting conditions, including urine screens
- Moratorium on requests for holds or incarceration
- Instead of seeing a warrant, issue a notice of a probation violation hearing with a date after May 1

Sheriffs

- Arrange MOUs with community-based organizations to release people
- Allow people on pre-release status to remain in the community

DOC

- Implement long-term furloughs (at least 45 days – would require amending current regulations)

Parole

- Approve all applications for compassionate release
- Institute presumptive parole
- Suspend all in-person parole appointments and reporting requirements
- Moratorium on requests for holds and incarceration

Governor

- Grant mass clemency for people who are aging, sick, survivors of sexual and domestic violence
- Grant clemency for people who have served extensive sentences and are not immediate physical threats to their community

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