



**Experience to Action:
Reshaping Criminal Justice
After COVID-19**

December 2020

About the Council

The Council on Criminal Justice (the “Council”) works to advance understanding of the criminal justice policy choices facing the nation and build consensus for solutions that enhance safety and justice for all. Independent and nonpartisan, the Council is an invitational membership organization and think tank, serving as a center of gravity and incubator of policy and leadership for the criminal justice field. Harnessing the experience and vision of the nation’s top experts, innovators, and influencers, the Council serves as a catalyst for progress based on facts, evidence, and fundamental principles of justice. Above all, the Council is founded on the belief that a fair and effective criminal justice system is essential to democracy and a core measure of our nation’s well-being.

About the Commission

The National Commission on COVID-19 and Criminal Justice (“the Commission”) was established by the Council to assess the impact of the coronavirus pandemic on the justice system, offer strategies to limit outbreaks, and produce a priority agenda of systemic changes to better balance public health and public safety.

Council Commissions and Task Forces are independent of the Council and solely responsible for the content of their reports. Topics are selected by Council leadership and meetings are facilitated by Council staff and consultants, but neither the Board of Directors nor the Board of Trustees approves or disapproves the findings and recommendations.

Diverse in background and perspective, Commission members strive to reach consensus on findings and policy proposals through private, nonpartisan discussions. Members are asked to reach a consensus endorsing the general policy thrust and judgments reached by the group, though not necessarily every finding and recommendation. Members participate in the Commission in their individual, not their institutional, capacities, and professional affiliations included in Commission reports do not imply institutional endorsement.

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From the Chairs

In late July, the Commission set out to assess the impact of COVID-19 on the criminal justice system.

Our goals were to identify the most effective measures to contain the coronavirus and produce an agenda of long-term policy changes to better balance public health and public safety. Since then, COVID-19 has continued its deadly advance. As we release this report, tens of thousands of new cases are surfacing daily nationwide.

Despite the formidable challenge posed by this viral foe, we believe that lessons learned during the pandemic can help Americans reshape our criminal justice system into one that is both fairer and more effective. It is our collective responsibility to not just tame COVID-19, but to use knowledge acquired through this arduous journey to remedy problems that have long plagued the administration of justice in this country.

The recommendations outlined here reflect that imperative. Approved unanimously by Commissioners, they rest upon a foundation of facts, data, and the experience of individuals battling the coronavirus in law enforcement, the courts, correctional facilities, and community-based organizations. Through oral and written testimony, these individuals provided the Commission with vital input that vividly illuminated the havoc wrought by COVID-19, including the dreadful toll in human lives.

We believe these recommendations are not just achievable, but also capable of producing transformative change. And while we are realistic about the challenges ahead, we are also cautiously optimistic. That optimism is fueled in part by the inspiring commitment demonstrated by our fellow Commissioners, whose expertise and wisdom were not just critical to this effort, but also will continue to shape policy and practice for the better going forward.

As the Commission concludes its work, several vaccines are on the horizon and our world has reason to hope the worst of this pandemic will soon be behind us. COVID-19 has tested all of us in unprecedented ways, and has left a painful imprint in all corners of the criminal justice landscape. In honor of its victims, let us take full advantage of this moment to ensure our post-pandemic system is better able to balance health, safety, and justice for the benefit of all.

Hon. Alberto Gonzales

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Former U.S. Attorney General
Dean, Belmont University College of Law

Hon. Loretta Lynch

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Former U.S. Attorney General
Partner, Paul, Weiss, Rifkind, Wharton & Garrison, LLP

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Executive Summary

This report, [Experience to Action: Reshaping Criminal Justice After COVID-19](#), provides criminal justice policymakers and practitioners with a priority agenda to prepare the nation's criminal justice system for future public health crises.

Through its recommendations, the Commission seeks to better balance the roles and responsibilities of the public health and public safety fields. Launched at the end of July, the Commission received [multiple reports](#) and extensive testimony from leading national and local experts. Key findings include:

- + **Crime:** Property crime and drug offense rates fell from 2019 to 2020, but violent crime increased significantly. In particular, homicide rates increased by 42% during the summer months (June to August) in a sample of more than 20 medium to large cities, and by 34% in the fall (September to October).¹
- + **Prisons:** Prison populations have been reduced by about 5% nationally. On average, the COVID-19 mortality rate within prisons (61.8 deaths per 100,000 people in prison) was double the mortality rate for the general population, after adjusting for the gender, age, and race/ethnicity of those incarcerated. There are also substantial differences among states in the rate of prison infections and deaths.²
- + **Jails:** Jail populations fell by 31% in the early weeks of the pandemic but have been slowly climbing toward prior levels since May.³ During the pandemic, the rates at which people have been rebooked on new charges 30, 60, and 180 days after release remain below pre-pandemic rates. Unfortunately, data regarding COVID-related infections and deaths in jails is scarce.
- + **Racial and Ethnic Disparities:** The COVID-19 pandemic may have exacerbated some racial and ethnic disparities in the criminal justice system. As jail populations began to fall in March at the onset of the pandemic, there were increases in the proportion of people who were Black, who were booked on felony charges, who were male, and who were 25 or younger. These changes in the population composition persisted even as jail populations began to rise again in early May.⁴
- + **Substance Use and Mental Health Disorders:** More than 40 states have reported increases in opioid-related fatalities since the onset of the pandemic. Mandatory lockdowns, restrictions on movement, social distancing guidelines, orders limiting access to facilities for nonessential workers, and the absence of in-person treatment have created gaps in the system's ability to identify and monitor the needs and legal

requirements of people with substance abuse and mental health disorders, and to intervene when they are in distress.⁵

- + **Budgets:** State and local governments face daunting budget deficits that will worsen as the pandemic wears on, and unemployment levels remain high. Because criminal justice operations (law enforcement, courts, and corrections) are funded more heavily by state and local governments than most other government functions, revenue shortfalls will disproportionately damage the criminal justice system without effective policy interventions.⁶

GUIDING PRINCIPLES

The Commission's final report begins with a set of principles to guide criminal justice leaders as they plan for rebuilding and recovery, even as they continue to combat the coronavirus pandemic. These principles urge leaders to:

1. Be **bold**, embracing new opportunities for meaningful and lasting reform.
2. Recognize the **humanity** of individuals impacted by and working in the system.
3. Embrace **innovation** as a means of overcoming challenges.
4. Build **equity**, trust, and confidence.

FINDINGS AND RECOMMENDATIONS

The report's findings and recommendations identify weaknesses in the nation's criminal justice response to the pandemic and provide concrete suggestions for how to build a stronger, fairer, and more resilient system.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings	Recommendations
<p>1. Criminal justice agencies were not sufficiently prepared for a large-scale public health crisis like the coronavirus pandemic.</p>	<p>1. Build preparedness by engaging all sectors of the system, as well as public health authorities and community-based organizations, by developing integrated crisis response plans for public health emergencies.</p>
<p>2. The size, scale, and scope of the criminal justice system, along with the absence of effective public health coordination, posed a significant obstacle to COVID-19 prevention and control.</p>	<p>2. Rebalance criminal justice and public health responses in order to limit contact, maximize distance, and reduce density across the criminal justice system.</p>
<p>3. Inconsistency and wide variation among criminal justice agencies impeded responses to the pandemic.</p>	<p>3. Identify, disseminate, and encourage the adoption of shared standards and best practices in preparing for and responding to public health emergencies like the coronavirus pandemic.</p>
<p>4. Criminal justice agency responses were slowed by a lack of relevant, trustworthy, and comparable data. Responses to future pandemics should be informed by both reliable data and rigorous research.</p>	<p>4. Collect and transparently report standardized, aggregated public health data concerning justice-involved populations and staff, as well as increase research.</p>
<p>5. A lack of communication and transparency hampered criminal justice responses to the coronavirus pandemic.</p>	<p>5. Improve communication and increase transparency concerning public health emergencies by developing and investing in clear, reliable channels of communication.</p>

Introduction

In the United States and across the globe, the coronavirus pandemic has damaged and destroyed millions of lives. It has devastated economies and disrupted daily patterns. At the time of this report's release, more than 14 million Americans were infected with the COVID-19 virus, resulting in over 282,000 deaths.⁷ More than 22 million jobs had been lost, and only slightly more than half had been recovered.⁸ Even with the impending arrival of effective vaccines, infections and deaths across the country continued their ominous rise.

The nation's criminal justice system has not been spared. Since the pandemic began, nearly 220,000 incarcerated individuals and more than 48,000 correctional employees have tested positive for the coronavirus, and more than 1,500 of those individuals and more than 90 staff have died.⁹ Hundreds of thousands of others who police the nation's neighborhoods, operate its courthouses, and serve justice-involved people in the community have also contracted the virus, leading to hundreds of lives lost.

Many difficult lessons can be drawn from the pandemic. The virus highlighted existing challenges in the criminal justice system while exposing new weaknesses. To build a stronger, fairer, more resilient system, public safety leaders must respond by examining, and addressing, each failure. They must prepare for the next public health crisis, even as they recover from the current one.

“THE PANDEMIC HAS BEEN A MAGNIFYING GLASS. WE ALWAYS KNEW THESE ISSUES WERE THERE, BUT NOW WE CAN SEE THEM UP CLOSE.”

JUSTICE TINA NADEAU

The National Commission on COVID-19 and Criminal Justice was established by the Council on Criminal Justice to support policymakers and practitioners in this endeavor. Since July 2020, the Commissioners have undertaken their mission to:

- + Evaluate the pandemic's impact on the four major sectors of the justice system (law enforcement, courts, corrections, and community programs);
- + Identify the most effective ways to minimize the spread of COVID-19 and the impact of future pandemics on the proper functioning of the justice system, and on the people who work in and are served by it; and

- + Establish a priority agenda of policies and practices that should change, or remain changed, based on what the pandemic and response have revealed about the system's fairness and effectiveness, particularly for communities of color.

The rapid spread of the coronavirus and the pace of evolving knowledge demanded that Commissioners work quickly. To provide ongoing guidance to criminal justice leaders, the Commission published a stream of reports and updates on the pandemic's impacts on the system and on trends in crime rates. Those reports can be found [here](#).

On Oct. 1, the Commission released its interim report, *Recommendations for Response and Future Readiness*. This report, based on the best data, research, and expertise available at the time, offered concrete recommendations to immediately control the spread of the virus in the criminal justice system. The recommendations were cross-cutting as well as sector-specific, addressing the four key components of the system: policing, courts, corrections, and community-based organizations.¹⁰ These recommendations can be found [here](#).

This report fulfills the third and final charge of the Commission: to establish a priority agenda for a post-pandemic criminal justice system, based on lessons learned since the emergence of COVID-19. The report begins with principles for policymakers to guide future action: acting boldly, recognizing the humanity of those living and working in the system, embracing innovation, and building equity, trust, and confidence. These principles inform findings and recommendations concerning planning and preparedness, better balancing of public safety and public health, establishing shared standards and best practices, improving the quantity and quality of data and research, and establishing clear channels of communication.

“THOSE WHO FAIL TO LEARN FROM HISTORY ARE DOOMED TO REPEAT IT. IF COVID-19 HAS TAUGHT US ANYTHING, IT HAS TAUGHT US THE IMPORTANCE OF PREPAREDNESS.”

MAYOR ERIC JOHNSON

GUIDING PRINCIPLES

America's criminal justice leaders spent 2020 confronting a formidable challenge: how does our nation balance health, safety, and justice in the midst of a global pandemic?

This question foiled easy answers. The coronavirus pandemic is not the first public health crisis to impact the criminal justice system. Substance use and mental health disorders, along with communicable diseases like HIV, tuberculosis, and hepatitis, continue to challenge the system. That said, none of these can match the massive and immediate impact of COVID-19 on the criminal justice system and Americans more generally.

While exposing and exacerbating longstanding challenges, the spread of COVID-19 also created new ones. As the Commission has documented, infection and mortality rates continue to rise among those held by and working in our prisons and jails,¹¹ access to mental health and substance use treatment has been sharply curtailed,¹² and racial and ethnic disparities persist.¹³ Thousands of police officers have been infected with the virus, leading to more than 150 deaths.¹⁴

The pandemic has also created opportunities for the nation to do better – to use the lessons learned from this unprecedented experience to improve outcomes in law enforcement, courts, prisons, and community-based organizations well after COVID-19 has subsided.

With this in mind, the Commission urges criminal justice leaders to adhere to the following guiding principles as they continue to combat COVID-19 and plan for recovery and rebuilding:

- + **Be bold, embracing new opportunities for significant and lasting reform.** The pandemic and protests against police violence have elevated the criminal justice system’s shortcomings to the top of the public’s consciousness. Policymakers have an obligation to respond to this widespread desire for change by driving innovation and reevaluating policies that, just a year ago, seemed set in stone. The health and safety of the nation’s communities, as well as the legitimacy of our justice system, depend upon it.

“WHEN WE LOOK AT PEOPLE IN PRISON, WE SHOULD ASK OURSELVES, ‘WHAT IF IT WAS YOUR SON, YOUR WIFE, YOUR FAVORITE UNCLE, WHO WAS INCARCERATED?’ WE HAVE TO TREAT INDIVIDUALS IN THE SYSTEM WITH HUMANITY.”

DESMOND MEADE

- + **Recognize the humanity of individuals impacted by and working in the system.** People incarcerated in jails and prisons are particularly vulnerable to public health threats like the coronavirus pandemic, with little ability to make decisions about their healthcare, safety, and wellbeing. Leaders should renew their commitment to safeguarding the welfare and respecting the dignity of justice-impacted individuals and their families, protecting, informing, and caring for them similar to other high-risk populations.

Likewise, the pandemic exacerbated the risks for police, correctional officers, and others working in the criminal justice system, many of whom occupy roles that place them in harm’s way to protect the public. Leaders should prioritize and protect the physical and mental health of the justice system workforce, treating them like other essential frontline professionals.

“REGARDLESS OF WHERE WE ARE IN LIFE, WE ALL NEED TO BE TREATED WITH DIGNITY. THAT INCLUDES POLICE OFFICERS, COURT PERSONNEL, CORRECTIONS OFFICIALS, AND HEALTHCARE WORKERS. EVERYONE SHOULD BE SEEN AS HUMAN BEINGS WITH VALUE.”

CHARLIE BECK

- + **Embrace innovation as a means of overcoming challenges.** New technologies such as videoconferencing have played an important role in reducing the spread of COVID-19 by allowing the continuation of critical criminal justice operations and at least partial access to much-needed services and support. Adoption of such technologies and their associated practices has occurred at an unprecedented rate, creating opportunities to maintain health, increase access, and improve efficiency throughout the system. Criminal justice leaders should continue to maximize the benefits of such innovations while being mindful of their potential risks. More research is needed to fully understand the impact of these rapid changes, and leaders should ensure that new technologies expand access to justice and services, protect individual rights, and reduce racial and ethnic disparities.
- + **Build equity, trust, and confidence.** There is an ongoing crisis of confidence in the nation’s criminal justice institutions that has been exacerbated by the coronavirus pandemic. While racial, ethnic, and economic disparities in the justice system are well documented, the pandemic revealed additional layers of stress and inequality. Many states have made progress in reducing prison populations and developing alternatives to incarceration, but the overall level of imprisonment remains high and troubling disparities in arrests, sentencing, and imprisonment endure. To rebuild trust and restore confidence, policymakers should proactively seek equity and place the voices of impacted communities front and center.

Finally, leaders should be mindful of a key lesson taught by the pandemic: that we are all connected, and that the health of others affects our own. In a time of division and mistrust, a shared sense of humanity and empathy across all those impacted by and working in the criminal justice system can help us bridge our differences and draw closer together.

“IT HAS BECOME INCREASINGLY CLEAR THAT WE ARE ALL IN THIS TOGETHER, THAT WHAT IMPACTS OTHERS, INCARCERATED OR NOT, IMPACTS US ALL.”

JO-ANN WALLACE

Recommendation 1: Build Preparedness with Integrated Planning

FINDINGS

Criminal justice agencies were not sufficiently prepared for a large-scale public health crisis like the coronavirus pandemic.

Preparation for public health emergencies requires ongoing cycles of planning, training, and evaluation. There are no shortcuts.

Before the pandemic began, most criminal justice agencies participated in various forms of emergency planning, but few, if any, were prepared to respond to outbreaks of highly contagious, airborne pathogens like COVID-19. Typical preparedness and planning exercises were conceived in anticipation of potential terrorist attacks, natural disasters, and environmental catastrophes, among others. In addition, most planning was conducted by individual sectors or agencies with little coordination across the criminal justice system or with actors beyond the public safety field. Most notably, the pandemic response revealed a dangerous and damaging lack of communication between criminal justice and public health officials at the federal, state, and local levels.

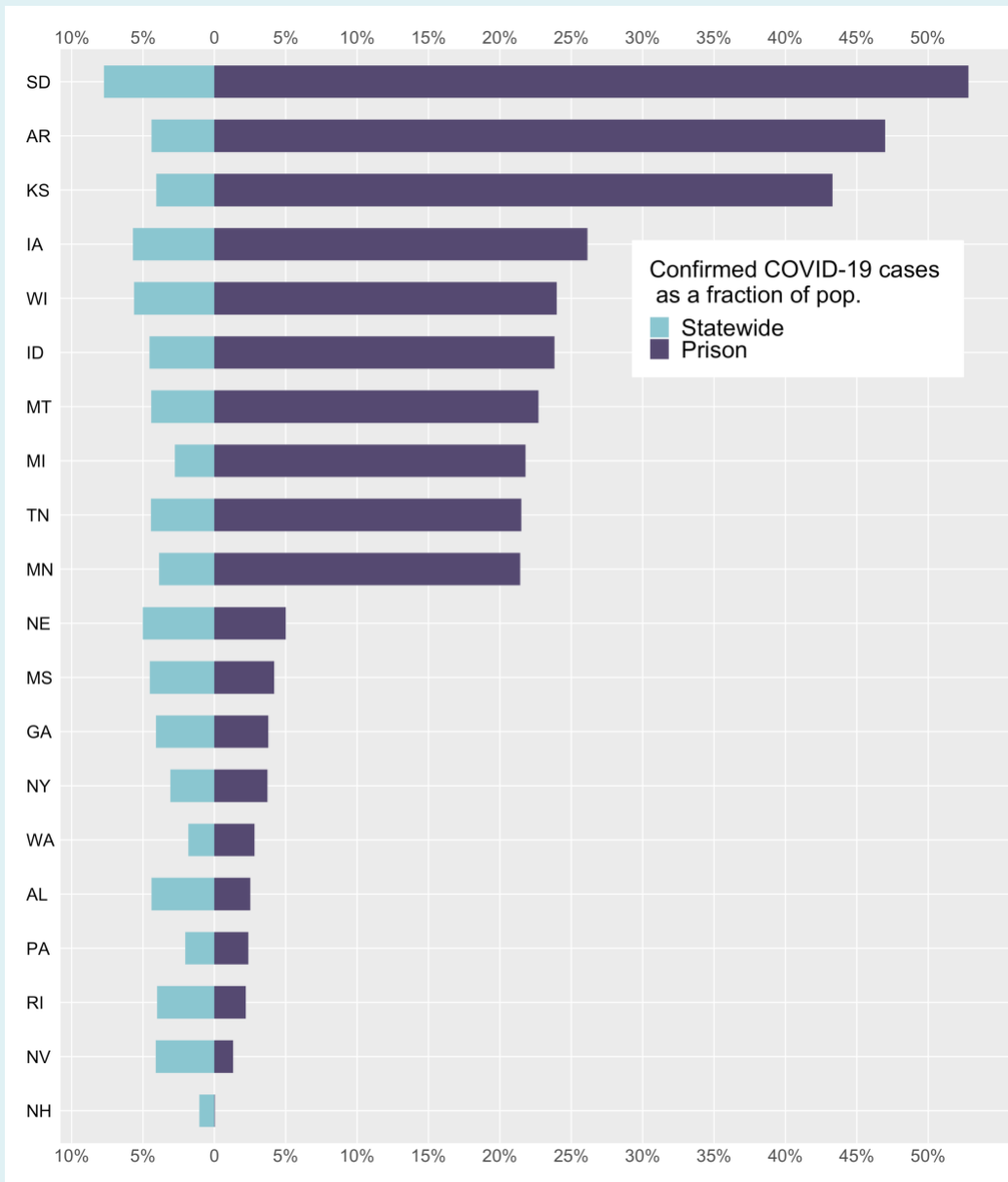
“THE PANDEMIC IS AN UNQUESTIONABLY HUGE, HORRIFIC CHALLENGE. HAVING SAID THAT, THE SYSTEM WAS KNOCKED OFF ITS PINS IN A WAY THAT REALLY SHOULD NOT HAVE HAPPENED”

LORETTA LYNCH

The absence of coordinated planning contributed to the lack of preparedness agencies experienced in confronting the sudden emergence and exponential spread of the virus. Across policing, courts, and corrections, leaders struggled to secure adequate personal protective gear. Responses concerning hygiene, masking, distancing, testing, contact tracing, and treatment varied greatly within and across jurisdictions. Some agencies responded proactively, relying on the latest scientific guidance to contain the spread of the virus as quickly as possible. Others did not. Resulting outbreaks have infected thousands and killed hundreds. Overall, research produced for the Commission found that the death rate in state

and federal prisons through mid-November was twice the rate of the general population, after adjusting for the age, sex, and race/ethnicity of incarcerated individuals.¹⁵ Five states reported prison death rates more than seven times higher than rates for their general state population, while 14 states had rates below those for the non-incarcerated.¹⁶

FIGURE 1



Note: This shows the fraction of the population with a confirmed COVID-19 case statewide and in prisons as of Nov. 13, 2020. The chart shows the 10 states with the highest percentage of confirmed COVID-19 cases in prisons and the 10 states with the lowest percentage of confirmed COVID-19 cases in prisons. Source: COVID-19 in State and Federal Prisons, Kevin Schnepel, December 2020.

RECOMMENDATIONS

At each level of government, criminal justice systems should build preparedness by actively engaging all sectors of the system, as well as public health authorities and community-based organizations, by developing integrated crisis response plans for public health emergencies.

- + Prioritize those incarcerated by and working within the criminal justice system for pandemic response, including providing early access to vaccines and personal protective equipment.**

The Advisory Committee on Immunization Practices (ACIP) for the Centers for Disease Control (CDC) has identified four goals to guide the prioritized allocation of vaccines: decreasing death and serious disease as much as possible; preserving the functioning of society; reducing the burden the disease places on individuals already facing disparities; and increasing overall health and well-being. The ACIP identified four ethical principles to guide their decision-making: maximizing benefits and minimizing harms; mitigating health inequities; promoting justice; and promoting transparency.¹⁷

The ACIP has already recommended health care providers and residents and employees of long-term-care facilities for inclusion in “Phase 1a” of vaccine distribution. Police and corrections officers, among others, will be included in “Phase 1b” distribution.

The Commission joins other organizations, such as the American Medical Association, in recommending that people incarcerated in the nation’s prisons and jails receive priority consideration for vaccines and other essential resources for stopping the spread of the virus.¹⁸ Specifically, the Commission recommends including such individuals in “Phase 1b,” along with other essential workers in the criminal justice system, including but not limited to court and community corrections officials in frequent contact with the public.

As detailed in the Commission’s [interim report](#) and elsewhere, COVID-19 and other infectious diseases pose outsized risks to those confined by the criminal justice system. Many of the largest reported clusters of COVID-19 infections are in correctional facilities, and the disparities between correctional and community COVID-19 rates are increasing.¹⁹ To maintain public health as well as public safety, frontline staff and incarcerated individuals should be among those who are given priority access to vaccines, personal protective equipment, and other public health resources as they become available.

+ At all levels of government, establish standing coordinating panels for public health emergency preparedness.

At each level, these panels should coordinate their planning across policing, courts, corrections, community-based organizations, and the public health system.²⁰

“I CANNOT STRESS ENOUGH HOW IMPORTANT IT IS TO
PREPARE, PREPARE, PREPARE FOR THE WORST AND BE
READY FOR WHAT COMES.”

COLETTE PETERS

To increase public health preparedness, it is critical to coordinate the activities of the public safety and health fields, meaning that principals from key agencies in both professions, as well as their staffs, should be fully engaged. Channels for both routine and emergency communication must be established. Special outreach efforts should be made to identify, engage, and empower community-based organizations and their leaders to participate meaningfully in these processes, identifying concrete roles and resources accordingly. Emergency management leaders and their organizations should also participate in these preparedness activities.

These activities should include active simulations, drills, and exercises to develop plans, practice responses, and identify gaps in realistic public health emergency scenarios. Processes should be integrated across sectors and levels of government to reflect the interconnected nature of public health emergencies (e.g., that infectious individuals often pass through multiple sectors and systems, necessitating an integrated response).

In addition, criminal justice systems, given their size and complexity, should be connected more directly to broader public health preparedness efforts at the national, state, and local levels.

CASCADIA EARTHQUAKE PREPAREDNESS

Oregon Department of Corrections Cascadia Response Plan

Background: Because of accumulating pressure within a 600-mile fault known as the Cascadia Subduction Zone, Oregon officials believe there is potential for a 9.0 magnitude earthquake and resulting tsunami of up to 100 feet in height, events that could cause a loss of services for at least two weeks.¹ In 2016, at the urging of the Governor, the Oregon Department of Corrections (ODOC) developed a Continuity of Operations Plan (COOP) to address the possibility of a major earthquake. This plan identified and addressed response gaps, long-term needs, essential workers, and equipment, and also prioritized needs within each division. Although it was originally developed to address the possibility of a major earthquake in the region, the plan has served as a vital resource for responding to COVID-19.

Relevance to the COVID-19 Pandemic: Most emergency plans are designed to address short-lived emergencies, such as a limited weather event or power outage. However, ODOC officials recognized that a Cascadia-related earthquake would have long-lasting effects and, as a result, initiated the development of a COOP to address the longer-term loss of all services, including a significant reduction in staffing. In 2020, the plan's strategies have been a critical tool in ODOC's ongoing response to COVID-19. One key strategy has been the use of division-by-division planning, with 16 separate plans taking into account the unique functions, needs, and resources of each division during and after an emergency. Also critical were drills, workshops, and simulations enabling officials to practice responses to real-world scenarios. Although the COOP was viewed as extremely helpful in responding to COVID-19, circumstances unique to a pandemic presented challenges and the need for adaptation.

Key Recommendations for Planning: One important lesson learned through the COOP is that officials must be prepared to carry out essential functions with various levels of reduced staffing. Planning that ensures the ability to provide essential services at different levels of staff reduction (30%, 40%, 50%, etc.) over a sustained period is vital, and plans should ensure that order be maintained to the greatest possible extent. Agencies also should plan more for specific needs (e.g., a reduced staffing plan and medical isolation and quarantine) than for specific events (e.g., flu plan, strike plan, COVID-19 plan), and planning should contemplate multiple scenarios. Leaders also should develop relationships with state and local health authorities, including them in the planning process and communicating frequently with them.

+ Support state and local emergency planning through federal training, technical assistance, and funding.

Clear and consistent federal leadership is essential both in response to and in preparation for a public health emergency. Such leadership should originate in the White House, potentially with the reestablishment of the Directorate of Global Health Security and Biodefense inside the National Security Council. At minimum, the Departments of Justice, Health and Human Services (including the CDC), and Homeland Security must participate in these planning processes.

+ Build community-based capacity to provide services to justice-involved populations during public health emergencies.

In its interim report, the Commission recognized community-based organizations as co-equals alongside the traditional criminal justice sectors of policing, courts, and corrections. Nongovernmental organizations are a vital component of the criminal justice system and should be treated accordingly.

In the context of the coronavirus pandemic and other public health emergencies, organizations that provide reentry, rehabilitation, victim services, and other support can provide much needed flexible capacity. Fully engaging such organizations will allow the traditional system of correctional control and supervision to more quickly and efficiently limit contact, maximize distance, and reduce population density inside facilities, while also ensuring continued services for and supervision of those serving sentences. For instance, READI Chicago, which provides cognitive behavioral therapy and subsidized employment to individuals at the highest risk for gun violence, has deployed staff and participants to provide culturally competent community education about COVID-19 and how to stay safe.²¹ This is only one example of the myriad ways that nongovernmental organizations filled gaps in vital services to their communities during the pandemic.

As was documented in a [recent report](#) to the Commission, poor people of color are disproportionately victimized by crime, burdened by the criminal justice system, and impacted by the coronavirus pandemic. Community-based organizations can add critical capacity for addressing all three challenges.

To maximize the effectiveness of community-based organizations in a crisis, criminal justice leaders should proactively engage them in planning and capacity building. Emergency plans should provide contract flexibility to allow for new activities and support in the case of a public health emergency, as well as providing those organizations with ongoing sources of funding.

A stable, robust ecosystem of community-based organizations will be well-positioned to contribute during a public health crisis. Using set-asides and other budget tools, funds should be dedicated not just to program activities, but also to general operating support. Whenever possible, those working at community-based organizations should be provided more favorable wages, benefits, and pathways for advancement than what exists today.

“WE NEED TO ACKNOWLEDGE THOSE WORKING IN BLACK AND BROWN COMMUNITIES ACROSS THE COUNTRY, THOSE WHO ARE PROVIDING POWERFUL SUPPORTS TO MAINTAIN PUBLIC SAFETY. WE CANNOT LET THEM BE ERASED.”

PASTOR MICHAEL MCBRIDE

+ Upgrade the technological infrastructure of the criminal justice system.

The pandemic highlighted stark digital deficiencies within the criminal justice system. Outdated record-keeping systems and other technologies limited states' and localities' abilities to quickly track and respond to outbreaks.

Policymakers should invest in digital and other modernization efforts to build preparedness, as well as improve regular system functioning and efficiency. Recommended actions including the following:

- Digitize all remaining hard copy records in order to facilitate COVID-19 testing and contact tracing of those who come into contact with the criminal justice system.
- Expand access to videoconferencing technology to increase access to court proceedings and, for those under criminal justice supervision, to treatment, support, and contact with family and counsel. Whenever possible, these services should complement, not serve as a substitute for, important in-person interactions.
- Evaluate emerging technologies to ensure their effectiveness on key metrics, including expanded access to justice and services, protection of individual rights, and reduced racial and ethnic disparities.

Recommendation 2: Rebalance Public Health and Public Safety

FINDINGS

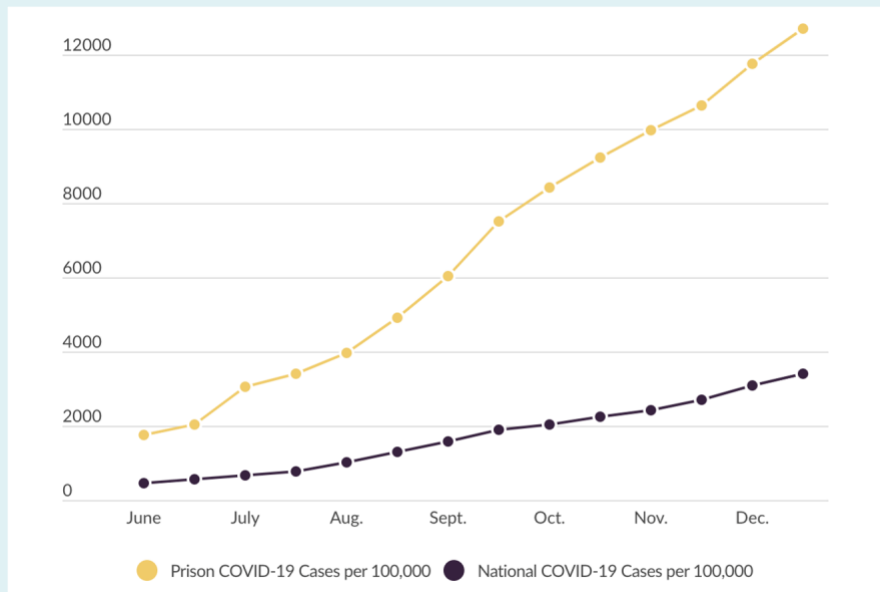
The size, scale, and scope of the criminal justice system, along with the absence of effective public health coordination, posed a significant obstacle to COVID-19 prevention and control.

For more than a decade, the criminal justice system has been contracting modestly and incrementally. In the mid-1990s, law enforcement officials made more than 15 million arrests per year. By 2019, that had fallen to about 10 million—still more than 27,000 each day and representing only a fraction of the daily contacts between individuals and police.²² The number of men and women held in state and federal prisons, along with local jails, stood at 2.3 million at its peak in 2008; it was about 2.1 million before the onset of the pandemic, distributed across more than 5,000 facilities, staffed by almost 700,000 individuals.²³ Twenty-one state prison systems, plus the federal system, were operating at or above capacity; approximately 20% of jails did the same.²⁴

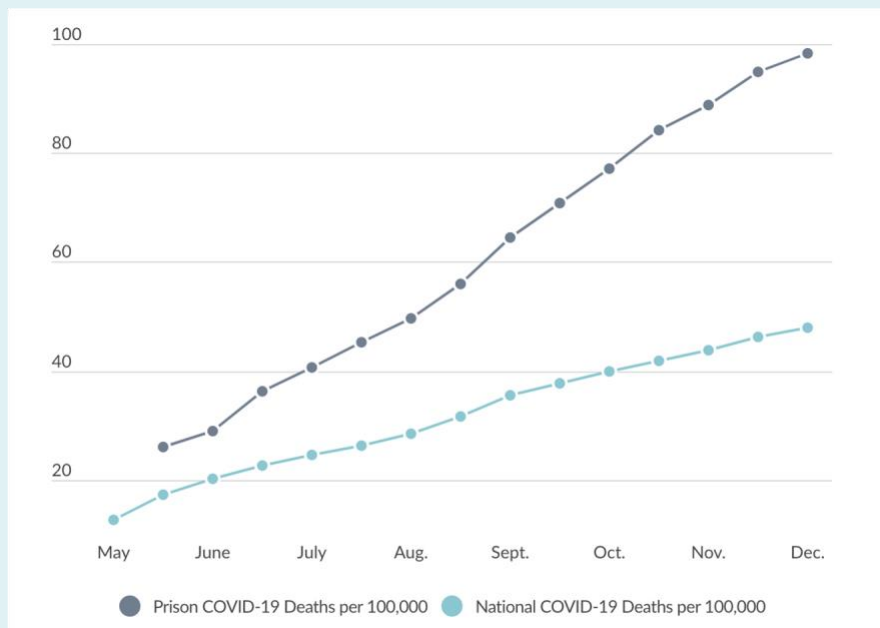
Despite these reductions in people coming into and moving through the justice system, the coronavirus pandemic has made clear that the system remains densely populated enough to be endangered by airborne contagions. According to a report produced for the Commission, COVID-19 case rates in prisons were 3.7 times national rates and death rates were double what was expected for non-incarcerated individuals of similar age, gender, and race/ethnicity.²⁵ Unfortunately, information concerning COVID-19 case and mortality rates is not available for the vast majority of jails.

FIGURE 2

Cumulative COVID-19 case and death rates in state and federal prisons, compared with national rates



Source: COVID-19 in State and Federal Prisons, Kevin Schnepel, December 2020.



Note: National COVID-19 Deaths per 100,000 are adjusted for age, gender, and race of the prison population.

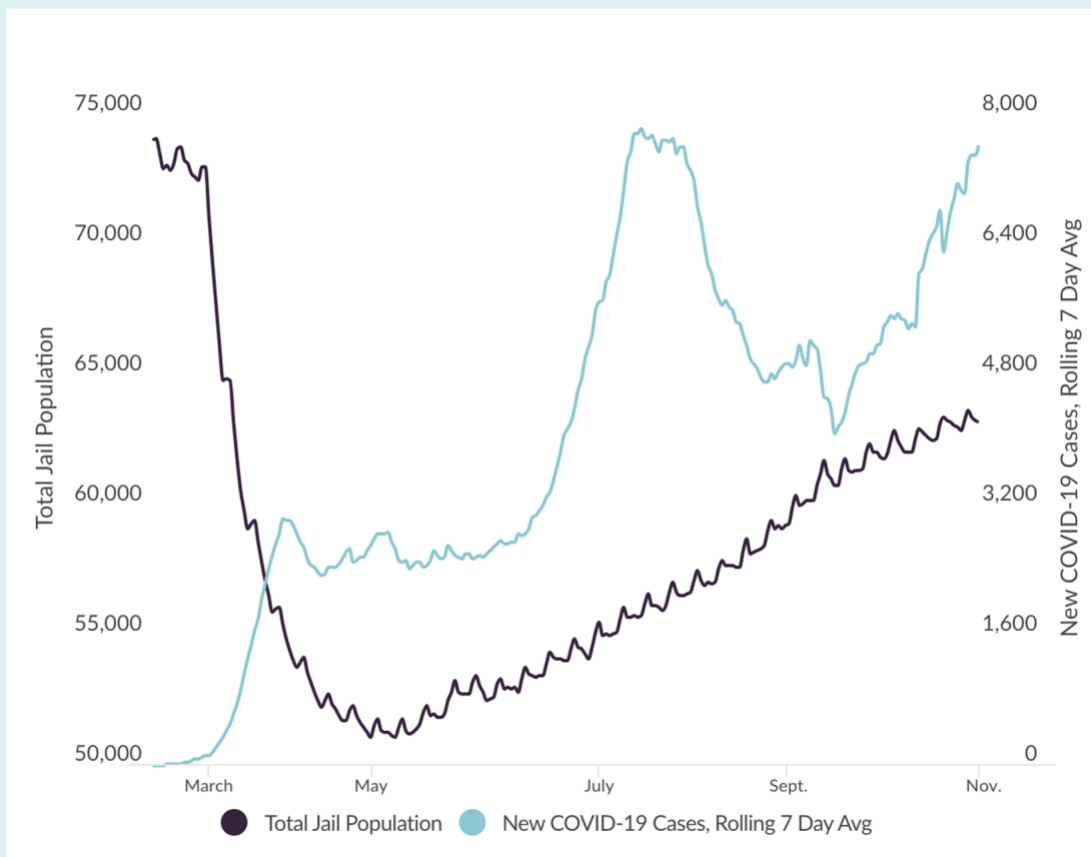
Source: COVID-19 in State and Federal Prisons, Kevin Schenpel, December 2020.

Early in the pandemic, reducing prison and jail populations was a frequently suggested strategy for increasing physical distancing within correctional facilities. But efforts to substantially thin such populations were hampered by ad hoc state and local release policies and limited reentry opportunities. State prison populations have declined marginally since the pandemic began – a recent study estimates the drop is less than 5%. The number of people held in federal prisons has fallen by double that rate, over 10%.²⁶

Jail populations fell more significantly, but are steadily returning to pre-pandemic levels. A recent report produced for the Commission found that jail populations in sampled jurisdictions decreased by an average of 31% after the issuance of the White House Coronavirus Guidelines on March 16, but had rebounded by late October, erasing half of that decline.²⁷

FIGURE 3

Jail populations and local COVID-19 case counts in 319 counties



Source: COVID-19, Jails, and Public Safety, Anna Harvey, Orion Taylor, and Andrea Wang, December 2020.

The large number of individuals coming into contact with the criminal justice system and being placed into custody poses a significant obstacle to COVID-19 mitigation strategies in correctional facilities. While prison and jail populations declined during the pandemic, more can and should be done to better limit contact, maximize distance, and reduce density. With fewer people incarcerated, correctional officials will find it easier to place individuals in single cells, maintain sufficient resources for testing, and safely quarantine people after exposure to the virus.

A committee convened by the National Academies of Sciences, Engineering, and Medicine (NASEM) recently reinforced the importance of decarceration – including both diversion and accelerated release practices – as a COVID-19 mitigation strategy in correctional facilities.²⁸ As the report notes, evidence gathered prior to the pandemic clearly demonstrated that it is possible to reduce incarceration without increasing crime.²⁹

During the pandemic, those released from jail had been detained on more serious charges yet were rebooked (arrested and incarcerated) less frequently than those who were released before the pandemic began.³⁰ While the unique circumstances of the pandemic may suppress some forms of crime and arrest activity by law enforcement, preliminary data suggests that those who have been released since the emergence of COVID-19 posed no greater public safety risk than those who were released prior to it.³¹

“WE HAVE TO BECOME AS TARGETED AND SURGICAL AS WE CAN WHEN MAKING DECISIONS ABOUT WHERE TO ALLOCATE OUR LAW ENFORCEMENT RESOURCES.”

MELISSA NELSON

By employing public health strategies and scaling up necessary resources to address behavioral health issues, criminal justice leaders can reduce law enforcement contact and correctional populations while maintaining public safety. For instance, an estimated 7% of police contacts in jurisdictions with 100,000 or more people involve the mentally ill.³² Thirty-seven percent of those incarcerated in prison and 44% of those in jail have been diagnosed with a mental illness.³³ By emphasizing and scaling public health approaches to behavioral health issues like mental illness, scarce law enforcement resources can be devoted to prevention and detection of incidents that pose the largest threat to community safety.

Finally, two NASEM reports have reviewed the effectiveness of long sentences and found it to be limited. “The incremental deterrent effect of increases in lengthy prison sentences is modest at best. Because recidivism rates decline markedly with age, lengthy prison sentences, unless they specifically target very high-rate or extremely dangerous offenders, are an inefficient approach to preventing crime by incapacitation.”³⁴ It may be time to reconsider whether these sentences serve the public interest in safety, health, and justice.

RECOMMENDATIONS

Rebalance criminal justice and public health responses in order to limit contact, maximize distance, and reduce density across the criminal justice system.

+ **Expand emergency release mechanisms (or “safety valves”) that permit medically vulnerable people in prison to petition for their release.**

Despite their wide availability, compassionate or medical release laws and policies are rarely used.³⁵ Obstacles include “strict or vague eligibility requirements; categorical exclusions; missing or contrary guidance; complex and time-consuming review processes; and unrealistic time frames.”³⁶ When they are granted, such releases typically relate to cases in which the applicant seeking release faces a dire medical prognosis.

Our current public health pandemic – which disproportionately impacts individuals with poor health conditions and histories of chronic disease confined in close quarters – would appear to fit this criteria, but few people have been granted medical release in the past year. Given the significant medical vulnerability of some incarcerated individuals, compassionate release policies should be revised and expanded. In particular, public health criteria such as an applicant's potential vulnerability to COVID-19 or other infectious diseases should be considered.

In addition, states, localities, and the federal government should consider adopting special protocols that would permit incarcerated people to petition for their release during public health emergencies that involve communicable illnesses, when facility crowding reaches certain levels, and during other circumstances that might pose serious threats to safety and health. An expedited case-review process should examine the potential risks to an individual petitioner’s life and health and other factors such as protection of the public and the individual’s behavior while incarcerated. This public-health safety valve mechanism should extend to all those not serving sentences of natural life or death. Decision-making authority should rest within the executive branch, which can consider the interests of victims and survivors, as appropriate.

+ **Invest in evidence-based public health alternatives to traditional law enforcement and sentencing, particularly for behavioral health issues.**

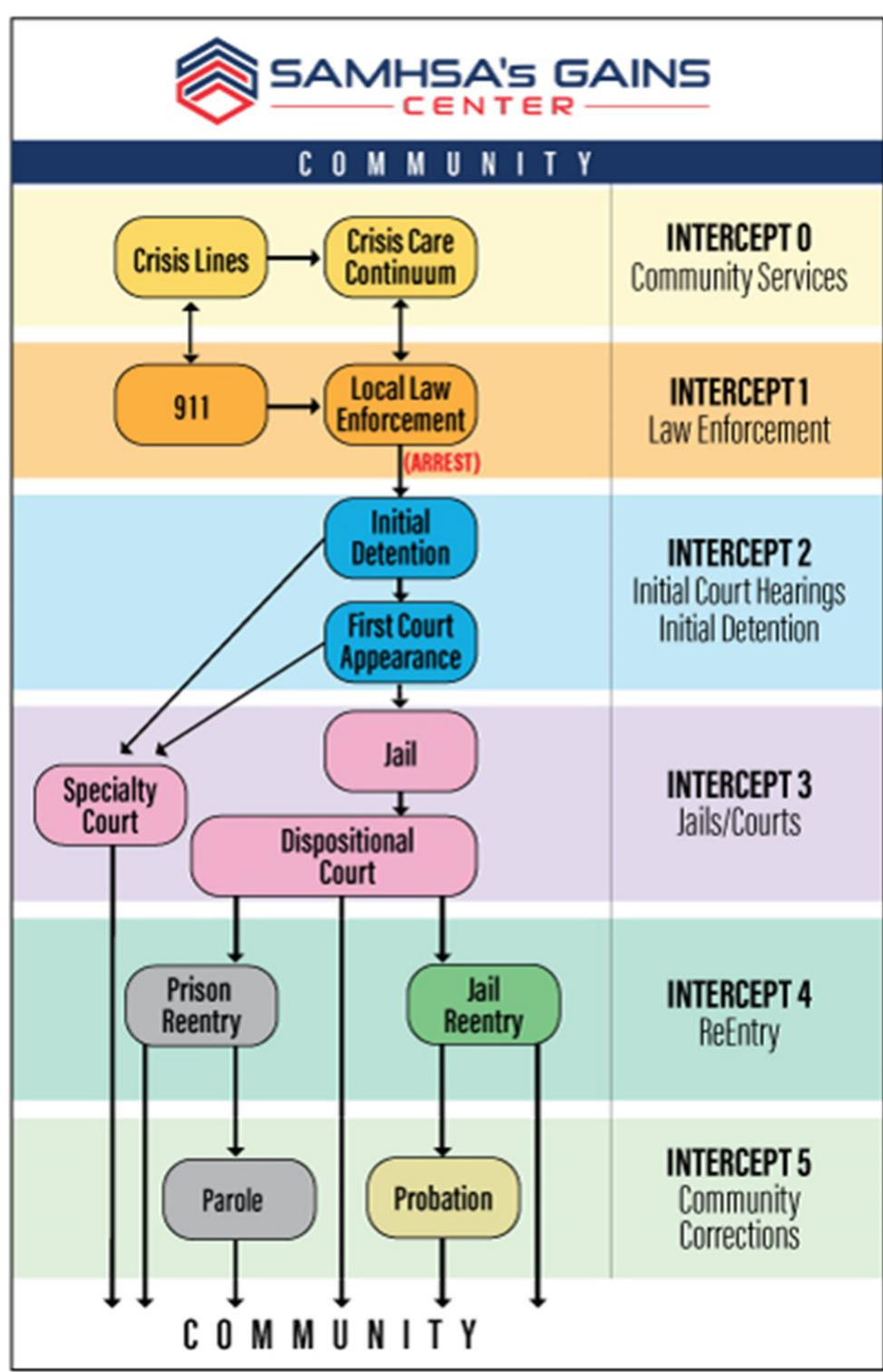
Research has demonstrated the effectiveness of alternatives to law enforcement responses for individuals with behavioral health issues. For example, the Sequential Intercept Model supported by the U.S. Substance Abuse and Mental Health Administration provides a strategic framework to help identify strategies to divert people with mental and substance use disorders away from the criminal justice system in appropriate cases.³⁷

- + At each stage of the criminal justice system, there are “intercept” points where diversion is possible. With regard to mental health specifically, prior to making an arrest police can be provided with community-based alternatives for people with a mental illness. For instance, Miami-Dade County’s Criminal Mental Health Project trains police officers to better help people facing a mental health crisis. In 2013, Miami police arrested only nine of more than 10,000 people in response to mental health calls, bringing the vast majority of them to crisis stabilization centers. The reduction in arrests allowed the county to close one of its five jails. The project also offers treatment programs for those who are arrested for non-serious crimes and who have a mental illness. Participants in these programs are 58% less likely to be arrested than those who did not participate.³⁸

After arrest, mental health courts offer specialized expertise and services for defendants who have a known mental illness. More than 150 of these courts exist today. Their objective is to administer justice and improve health and safety outcomes by linking defendants to housing, treatment, and support services while providing continued judicial supervision. Research findings are mixed, but many mental health courts have positive impacts on participants. For instance, mental health court participants from San Francisco County, Santa Clara County (CA), Hennepin County (MN), and Marion County (IN) were significantly less likely to be rearrested and experienced significantly fewer incarceration days in comparison to a group who received treatment as usual.³⁹

Reentry programs can ease the transition back to the community for mentally ill individuals at the time of their release. The Mentally Ill Offender Community Transition Program in Washington state provides coordinated pre-release planning, intensive post-release case management services, structured programming, daily contact, bimonthly home visits, individual crisis response planning, and close coordination with community corrections officers. An evaluation found that participants in the program were significantly less likely to be convicted of a new crime compared to a matched non-participant group (39% versus 61%).⁴⁰

FIGURE 4



Source: Substance Abuse and Mental Health Services Administration, Sequential Intercept Model.

While there are demonstrated successes, it should be noted that many mental health interventions provide mixed or limited results. For instance, two systematic reviews of police-led crisis intervention teams found either no positive effects or mixed effects on arrests and officer safety, despite the immense popularity of the strategy.⁴¹ This is an indication that more investment, and in particular more rigorous research, is needed to identify which program elements are more and less effective.

The Sequential Intercept Model has also been used to address other conditions that implicate both public safety and health, such as substance use disorders, and could be extended to other chronic conditions such as homelessness.

“IN MANY WAYS THE CRIMINAL JUSTICE SYSTEM HAS HAD TO CONFRONT THE SHORTCOMINGS OF THE PUBLIC HEALTH SYSTEM, PARTICULARLY WITH REGARD TO MENTAL HEALTH AND SUBSTANCE ABUSE.”

DR. TOM INGLESBY

+ Ensure access to behavioral health treatment, adequate medical care, and stable housing for those returning from incarceration.

In order to facilitate the reentry process, federal, state, and local officials should identify and remove barriers to individuals seeking to access and maintain public benefits, including Medicaid, Medicare, the Supplemental Nutrition Assistance Program, and Supplemental Security Income.⁴² Effective reentry planning should facilitate access to health care for recently released individuals by prioritizing the urgency of first appointments immediately after release and easing restrictions on telemedicine to improve engagement in primary care, substance use, and mental health treatment.⁴³ In addition, every individual who is a citizen should be provided with an official government-issued identification card.

+ Reconsider the longest sentences.

Numerous studies have established the limited public safety utility of the longest criminal sentences.⁴⁴ Many people serving long sentences were convicted of serious, violent offenses. Others have long records of criminal activity, some of which were sentenced under mandatory minimum or repeat offender laws that are now considered by many to have been draconian.

State and federal lawmakers should reexamine the benefits of very lengthy sentences in comparison with their costs. A [task force](#) convened by the Council on Criminal Justice [recently recommended](#) federal legislation, based on the revised Model Penal Code of the American Law Institute, to provide opportunities for people serving federal criminal sentences to petition the sentencing court for modification of such sentences after 15 years. Similar “second look” legislation at the state level should be considered as well.

NEW JERSEY CREATES PUBLIC HEALTH EMERGENCY CREDITS

Since the start of the pandemic in March, states have faced persistent calls to contain the spread of the coronavirus by reducing prison populations. Some have responded by halting admissions from county jails, increasing commutations, placing medically frail people on home detention, or releasing people within weeks or months of the end of their sentence. New Jersey took a different approach, enacting a first-in-the-nation law that creates a systematic approach to reducing population density during emergencies.¹

Under the bill signed by Gov. Phil Murphy, adults and juveniles within one year of their release date can be awarded four months off their sentence for every month served during a public health emergency arising because of an infectious or communicable disease. A maximum of eight months of credits can be awarded, and individuals convicted of murder or aggravated sexual assault are excluded.

About 2,000 people were released on a single day in early November, and another 1,000 were scheduled to be released by January, actions expected to reduce the state’s prison population by nearly 20%. About 1,200 people were freed earlier in the year under an executive order signed by the governor.

Recommendation 3: Adopt Shared Standards and Best Practices for Public Health Emergencies

FINDINGS

Inconsistency and wide variation among criminal justice agencies impeded response to the pandemic.

As the Commission observed in its [interim report](#), “[C]riminal justice policymakers and practitioners instituted a patchwork of policies nationwide [in response to COVID-19] ... This lack of consistency created confusion and inequities in responding to a pandemic that spans organizational and jurisdictional boundaries.” Inconsistent policies produced inconsistent outcomes, with several state correctional systems experiencing rates of infection and mortality many times higher than their state average.⁴⁵

Some diversity in response strategies across states and jurisdictions was inevitable given the decentralized nature of the U.S. criminal justice system. But while variation often provides valuable opportunities for policy experimentation, innovation, and adaptation, effective control of a public health crisis on the scale of COVID-19 depends upon consistent adherence to evidence-based disease-control strategies.

“FEDERAL AGENCIES HAVE A ROLE TO PLAY IN STATE AND LOCAL CRIMINAL JUSTICE. THEY CAN OFFER INFORMATION, TRAINING, SUPPORT, AND MORE. PERHAPS MOST IMPORTANTLY, THEY CAN BRING PEOPLE TOGETHER ACROSS JURISDICTIONS AND BOUNDARIES.”

SHERIFF ED GONZALEZ

Research on the novel coronavirus and COVID-19 treatment is still evolving, but valuable guidance exists for criminal justice leaders. The CDC has issued important public health guidance and, at the request of the Commission, the centers for Health Security and Public Health and Human Rights at the Johns Hopkins Bloomberg School of Public Health recently issued a report entitled “COVID-19 and the US Criminal Justice System: Evidence for Public Health Measures to Reduce Risk.” The Commission has produced or released additional [reports with strategic advice](#), including its recent [interim recommendations](#). A recent systematic review identifies nine major themes for managing previous infection disease

outbreaks in correctional settings: multi-agency collaboration, health communication, screening for contagious diseases, isolation and quarantine, contact tracing, immunization programs, surveillance, prison-specific guidelines, and population restriction.⁴⁶

RECOMMENDATIONS

The federal government should identify, disseminate, and incentivize the adoption of shared standards and best practices for state and local criminal justice agencies and community-based organizations in preparing for and responding to public health emergencies.

+ Establish shared minimum standards of care and service for criminal justice agencies and community-based organizations responding to public health emergencies, including but not limited to the following actions:

- Issuing citations in lieu of arrests in cases where public safety would not be jeopardized.
- Articulating that arrests should be used to enforce public health mandates only as a last resort.
- Identifying which court proceedings are appropriate for videoconference, consistent with constitutional rights.
- Providing for early access to defense counsel.
- Communicating between counsel, jails, and courts to identify defendants suitable for pre-trial release.
- Refraining from pre- or post-trial detention in cases where public safety would not be jeopardized.
- Establishing a continuum of health care for incarcerated individuals suffering from communicable diseases.
- Suspending fees incarcerated people are charged to email and videoconference with family members and co-payments assessed for medical services.
- Differentiating medical quarantine from solitary confinement, ensuring that isolation serves a medical and not a punitive purpose.
- Adopting plans to quickly expand community-based capacity to support individuals newly released from custody and to engage difficult to reach populations concerning public health guidelines.

Once these shared standards are established, the relevant federal departments,

including Justice, Health and Human Services, Labor, and Education, should assist state and local jurisdictions in adopting them through information-sharing, training, technical assistance, and direct funding.

- + **Identify best practices for criminal justice agencies and community-based organizations to more broadly improve public health outcomes for justice-involved populations.**

Best practices should be identified for diversion, risk and needs assessment, treatment, rehabilitation, and reentry, among others. Once identified, federal funding should be dedicated to promulgating these practices via information-sharing, training, technical assistance, and direct funding.

- + **With respect to corrections specifically, the Commission adopts the recommendations for the standardization of care in correctional facilities contained in the recent report prepared for the Commission by the centers for Health Security and Public Health and Human Rights at the Johns Hopkins Bloomberg School of Public Health.**

Specifically, the recommendations call for: (1) mandating a national set of basic standards of care for COVID-19 for healthcare operations and developing strategies to ensure compliance, and (2) establishing independent oversight boards to examine the implementation of standards of care for carceral settings. The membership of such boards should be broad and inclusive, including public health officials and representatives of directly impacted populations. The Hopkins oversight recommendation aligns with a proposal by the Council on Criminal Justice's Task Force on Federal Priorities to establish an independent performance, oversight, and accountability board to oversee and advise the federal Bureau of Prisons.⁴⁷

Recommendation 4: Develop Better Data and Support Additional Research in Response to Public Health Emergencies

FINDINGS

Criminal justice agency responses to the coronavirus pandemic were impeded by a lack of relevant, trustworthy, and comparable data. Responses to future pandemics should be informed by both reliable data and rigorous research.

Answering the most critical questions about the coronavirus pandemic requires relevant, reliable, and comparable data, as well as sound research. Unfortunately, a critical lack of data has hampered research and analysis, leaving many of these questions unanswered or unclear.

Collection and reporting of COVID-19-related data has been inconsistent across the criminal justice system. Some agencies regularly report on COVID-19 infection, morbidity, and mortality rates among their staffs and people in custody, but many do not. Few agencies include in their data basic demographic characteristics, such as age, gender, and race or ethnicity, that could reveal unjust disparities. Data that is collected is not standardized to facilitate efficient comparison and analysis.

Data collection is not merely an academic exercise. Inadequate information hampered the speed and efficacy of the system's response, almost certainly resulting in greater levels of sickness and death. Poor data impedes effective and decisive action within agencies and hampers essential cross-agency collaboration. Law enforcement, courts, and correctional agencies often lack comparable information, including unique identifiers to track individuals flowing through and across systems. In addition, the lack of relevant, reliable, and comparable data has hindered communication with the public, undermining confidence, creating confusion and uncertainty, and allowing for the spread of misinformation.

Moving forward, agencies should use consistent, standardized, and transparent approaches to data collection and reporting during public health crises like the coronavirus pandemic. Testing, infection, hospitalization, and death rates should all be tracked, along with basic demographic information that will identify disparities, especially with regard to racial and ethnic minorities and other potentially disadvantaged groups.

As the late U.S. Supreme Court Justice Louis Brandeis famously stated in 1913, “Sunlight is said to be the best of disinfectants.” Publicly reporting key health data will encourage better performance among criminal justice officials and lawmakers. For instance, such data can be used to construct public indices comparing the performance of jurisdictions. Evidence suggests that these indices are influential and can favorably impact governmental decision making.^{48, 49}

Effective analysis of the pandemic depends not only on robust data, but also on diligent documentation of changes to policy and practice, such as changes to arrest policies made by law enforcement agencies; delaying, cancelling, or videoconferencing court appearances; and limiting admissions to or expediting releases from correctional institutions.

Despite these challenges, state and local responses to the coronavirus pandemic have provided valuable opportunities for learning. A national COVID-19 research agenda for criminal justice agencies is needed not only for leaders to understand and continue to combat the current pandemic, but also to enable them to prepare for possible emergencies in the future.⁵⁰ In addition, research on the coronavirus pandemic could prove critical to understanding and improving criminal justice operations and approaches in normal times. For example, research examining early release policies may yield results that prompt reconsideration of incarceration policies more generally. As noted previously, a report produced for the Commission found that people released from jail during the pandemic had lower rebooking rates than those who were released prior to the pandemic, despite facing more serious charges.⁵¹

RECOMMENDATIONS

At each level of government, criminal justice agencies should systematically collect and transparently report standardized, aggregated public health data concerning justice-involved populations and staff, as well as increase research.

- + In relation to the coronavirus pandemic specifically, criminal justice agencies should immediately begin to report standardized, aggregated data on COVID-19 cases, testing rates, positivity rates, hospitalizations, and mortality among justice-involved populations and staff by age, gender, race, and ethnicity.**

This information should be regularly released via websites and/or dashboards viewable by the general public.

- + **Criminal justice agencies should document changes in practice in response to public health emergencies and report on how such emergencies have impacted their activities, operations, and policies.**

This information should be regularly released via websites and/or dashboards viewable by the general public.

“WITHOUT SYSTEMATICALLY COLLECTED DATA AND SOUND RESEARCH, IMPORTANT POLICY QUESTIONS WILL REMAIN UNANSWERED. WE NEED TO TURN ON THE LIGHTS INSIDE THE CRIMINAL JUSTICE SYSTEM.”

STEVEN RAPHAEL

- + **Federal research agencies, in consultation with state and local stakeholders, should develop a new data architecture for reporting public health information in criminal justice agencies.**

Funding should be made available to encourage states and localities to adopt such architecture, while accounting for relevant privacy concerns. With training, technical assistance, and funding, government authorities should help community-based organizations build capacity for data reporting and analysis.

- + **Federal research agencies, in consultation with state and local stakeholders, should develop and fund a national research agenda concerning COVID-19 and criminal justice.**

Particular attention should be paid to the systematic evaluation of federal, state, and local decarceration efforts in response to the coronavirus pandemic to inform responses to future public health emergencies.

Recommendation 5: Establish Clear, Reliable Channels of Communications

FINDINGS

A lack of communication and transparency hampered criminal justice responses to the coronavirus pandemic.

Difficulty obtaining clear information and reliable guidance concerning COVID-19 was among the challenges raised most frequently by people testifying to the Commission – and by the Commissioners themselves. Recently incarcerated individuals, family members, and correctional employees described long delays in receiving critical information about the spread of COVID-19 and the medical status of particular people. Criminal justice leaders detailed difficulties they faced in identifying, translating, and disseminating critical guidance related to the pandemic.

Even under normal circumstances, policymakers face a challenging communications environment. According to the Lancet, “The ease through which inaccuracies and conspiracies can be repeated and perpetuated via social media and conventional outlets puts public health at a constant disadvantage. It is the rapid dissemination of trustworthy information—transparent identification of cases, data sharing, unhampered communication, and peer-reviewed research—which is needed most during this period of uncertainty.”⁵² Political polarization has further complicated clear and reliable communication concerning the pandemic.

“STRONG CHANNELS OF COMMUNICATION ARE CRITICAL, AND THEY NEED TO BE SET UP IN ADVANCE, BEFORE A CRISIS HITS. WE HAVE TO WORK AT THIS EVERY DAY.”

CHIEF ADRIAN DIAZ

Leaders inside and outside of criminal justice have a responsibility to navigate these difficulties and communicate transparently with relevant stakeholders and the public at large. Thankfully, research on effective health communications has shown that accurate information, combined with clear communication, can reduce uncertainty and fear, promote adherence to necessary behavior change, and build trust and hope in the face of crisis.⁵³ When communicating, it is critical that justice system leaders employ these tactics,

communicating what is known, admitting what is not known, and acknowledging the evolving nature of the unfolding crisis. Despite the divisions and polarization, leaders should appeal to the public spirit, emphasizing that collective action is required to overcome the nation's health and economic hurdles.⁵⁴

As ongoing demonstrations across the country display, in many communities there is mistrust of law enforcement and criminal justice agencies. While confidence in criminal justice and public health officials can be difficult to maintain, it is essential that agencies not only carry out policies and practices to effectively manage a crisis, but also strategically communicate their actions and build trust with communities where it is lacking.

RECOMMENDATIONS

Improve communication and increase transparency concerning public health emergencies by developing and investing in clear, reliable channels of communication.

+ Establish liaisons in criminal justice agencies to facilitate the flow of public health information from leadership, staff, other agencies, and the public at large.

For example, many police agencies established “medical liaisons,” often licensed doctors or nurses, to answer questions and provide information concerning COVID-19. Positions like these should be created throughout the system, and a network to link them should be established.

+ Train criminal justice leaders and managers in effective crisis communications skills in order to facilitate improved communication with staffs and the public during a public health emergency.

+ Create additional channels of communication between correctional facilities, people in custody, their families, and counsel in order to share critical medical information.

For example, in Middlesex County (MA), the Sheriff's Office recently began a Family Services program in which staff respond to inquiries, requests, concerns, and/or complaints raised by family members of incarcerated individuals.⁵⁵ Staff also engage families through outreach and education, providing information, assistance, referrals, and support during the incarceration period.

+ Partner with – and equip – community-based organizations to engage vulnerable populations.

These organizations often have stronger credibility in the communities they serve than do government agencies. They can be trained, equipped, and funded to provide critical public health information.

The Path Ahead

Every day, there are more than 140,000 contacts between police and community members, including over 27,000 arrests.⁵⁶ Jails and prisons confine more than 2.1 million people, while another 4.4 million individuals are under correctional supervision in the community, on probation or parole.⁵⁷ More than one million people are employed by the justice system, as law enforcement and corrections officers, judges, prosecutors, and defenders, and many more work in private organizations that serve justice-involved people in the community.

Though these figures have begun to recede from historical highs, the coronavirus pandemic added a new, deadly dimension to the intersection between the public and the criminal justice system, especially for incarcerated individuals and the staff who oversee them.

Since the onset of the pandemic, the operations of criminal justice agencies have shifted dramatically to help contain the virus and protect safety and health. Leaders have been forced to adapt and improvise, often without clear guidance or reliable data, to keep the wheels of justice turning. Even now, nearly ten months into the pandemic, many criminal justice agencies continue to grapple with spikes in infection and death rates in law enforcement and behind bars.

The promise of a vaccine may soon bring a measure of relief. But the work of reshaping a stronger, healthier, and more equitable criminal justice system must continue. Given the grim and tragic toll of the pandemic, the Commission urges lawmakers and criminal justice leaders to view its recommendations as a call to action, a plea to embrace this unprecedented crisis as a chance to push forward with profound and lasting reform.

To do any less, to ignore the lessons learned and return to business as usual, would dishonor the risk, suffering, and trauma experienced by so many over these past months.

“THIS IS THE TIME TO BE BOLD. IT’S BEEN MY EXPERIENCE THAT FUNDAMENTAL CHANGES OFTEN FOLLOW A CRISIS. LET’S TAKE THIS MOMENT TO MAKE SUBSTANTIVE CHANGES FOR THE BETTER.”

JUDGE ALBERTO GONZALES

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- + Anna Harvey, Orion Taylor, and Andrea Wang at the **New York University Public Safety Lab** provided two [studies](#) of COVID-19's impact on jail populations.
- + Richard Rosenfeld and Ernesto Lopez from the **University of Missouri-St. Louis** prepared [studies of crime trends](#) during COVID-19.
- + Dr. Tom Inglesby, Dr. Chris Behrer, Dr. Crystal Watson, and others at **Johns Hopkins University** prepared a [report](#) summarizing the science of COVID-19.
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ABOUT THE COVER

The cover design was created by an adult in custody designer in the Oregon Corrections Enterprises (OCE) Graphic Design program. The mission of OCE, in partnership with the Oregon Department of Corrections, is to promote public safety by providing adults in custody with work and training opportunities in a self-sustaining organization.

Artist's statement: "The realities of life in prison create the worst possible scenarios for managing COVID-19. Close confines make social distancing a near impossibility. We are forced to handle and share items like telephones, brooms, and saltshakers in the dining hall. Most officers initially refused to wear a mask while around prisoners, until a lawsuit was filed. Many of my friends in prison have contracted COVID-19 and some ended up in the hospital.

Difficult lessons have had to be learned about how to operate prisons in a way that is safe and respectful of the lives at stake. In this piece I wanted to convey both the pitfalls of poor decision making and the hope that real solutions exist for making it through this challenge."

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