



# VIEWS AND REVIEWS

## Covid-19 and decarceration

Healthcare needs to lead the charge

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The US currently carries the ignoble distinction of being the world leader in both incarceration and prevalence of covid-19. Worse still, around 12% of the 2.3 million people currently in state and federal prisons are over 55 years old, three times more than in 1999.<sup>1</sup> This makes the US especially prone to a large scale outbreak of covid-19 among vulnerable prisoners. This could quickly overwhelm our already strained medical infrastructure. To protect the health of patients and the public, healthcare professionals are already leading the efforts to manage covid-19. But there are other ways in which we can help. We must urgently organise to advocate for safe decarceration and collaborate broadly with other advocates and professionals to advance that cause.

The US has less than 5% of the world population, yet it accounts for more than 20% of the world's prisoners. The causes include a combination of misguided drug laws, harsh sentencing requirements, psychiatric deinstitutionalisation, centuries of structural racism, and an increasingly for-profit prison and bail industry. The resulting human and economic cost of mass incarceration has especially devastated black communities and people with mental illness. And now the pandemic will disproportionately impact these same communities and further widen inequalities.<sup>2</sup>

The covid-19 crisis highlights the deep interconnections between public health and social justice. Overcrowding, poor ventilation, smoking, physical and sexual violence, psychological isolation, poor sanitary conditions, and other social determinants of health make prisoners especially susceptible to catching and spreading covid-19. Despite the clear health risks, healthcare organisations have not broadly organised to advance decarceration as a public safety measure in the same way that they have advocated for people in skilled nursing facilities.

A recent *New Yorker* article, entitled *Why Doctors Should Organise*, highlights how healthcare organisations have avoided taking social and political positions, fearing a loss of objectivity and scientific credibility.<sup>3</sup> The end result is that instead of mobilising around sensible public health strategies, like decarceration, to prevent the spread of covid-19, we remain preoccupied with treating patients after they are already sick.

Keeping people in prison for low level offences, in overcrowded conditions lacking access to soap and hand sanitiser, will inevitably harm prisoners, correctional officers, their families,

and the surrounding community. Seriously ill prisoners will need to be transferred to hospitals, since prison health systems generally lack intensive care. This will further strain health systems, which are already facing severe shortages of critical equipment.

To limit the spread of infection in prisons through physical distancing, some governors have released prisoners without the need for judicial intervention. For example, the governor of Kentucky commuted the sentences of more than 900 prisoners previously imprisoned for non-violent, non-sexual crimes.<sup>4</sup> In states throughout the country, attorneys have brought lawsuits asking courts to order a process to effectuate a meaningful number of releases. For example, the American Civil Liberties Union of Massachusetts, the Committee for Public Counsel Services, and the Massachusetts Association for Criminal Defence Lawyers filed a petition asking the highest court to take immediate action through decarceration to limit the spread of covid-19.<sup>5</sup> That court's decision ultimately afforded some relief for pre-trial detainees, and required the state Department of Correction and each sheriff to provide daily reports on the number of tests and positive results for all people in their custody, as well as for correctional officers and other staff.<sup>5</sup>

Healthcare professionals can play a vital role in these executive and judicial actions by explaining the science behind this pandemic to reporters, attorneys, lobbyists, politicians, and judges alike. They can publish editorials to educate the public about why decarceration will make them safer; send letters to their legislators and governors describing specific actions they can take to promote medically safe release; and provide expert declarations or "friend of the court" briefs in covid-19 decarceration litigation describing the public health rationale behind the requested relief.

In the Massachusetts action, 14 public health professionals filed an amicus brief in support of the petition, and four more provided declarations describing the scientific and medical basis for the requested relief. Healthcare organisations should add their voice by endorsing such efforts to influence public opinion and encourage government action.

Clinicians and healthcare organisations can also work as expert consultants to oversee release efforts, which is the most critical intervention in stopping the spread of covid-19 in jails and prisons. And they can help make decarceration as safe and

effective as possible. Prison systems would benefit from education about best practice to implement at release—including the use of personal protective equipment, appropriate self-quarantine measures at home, the cleaning and sanitisation of cells, and strategies for prioritising prisoners for release based on risk factors such as age, chronic illness, and immune system functioning—to ensure that the process of decarceration is as safe as possible. Healthcare institutions might share supplies like prevention kits with masks, soap, hand sanitiser, and disinfectant wipes, for dissemination at the time of release. They can also support screening for social determinants of health and partner with government and community agencies to tackle basic needs—such as housing to aid social distancing (in the short term) and successful reintegration into the community (in the long term)—on release. They can proactively connect people to virtual ambulatory services to reduce emergency visits and hospitalisations. Special attention should be given to connecting people with mental health and substance misuse treatment and helping them get access to the devices and broadband internet required for virtual care.

Covid-19 is a call to healthcare workers and organisations to help tackle the deeper sociopolitical root causes of disease, and to intervene before the harm is done. That call is nowhere clearer than in our broken criminal justice system. It's time to pick up our loudspeakers and insist on caring for all.

Competing interests: None declared

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- 5 Committee for Public Counsel Services and Massachusetts Association of Criminal Defense Lawyers. v Chief Justice of the Trial Court. 24 March 2020. [www.aclum.org/sites/default/files/field\\_documents/cpcs\\_macdl\\_v\\_chief\\_justice\\_of\\_the\\_trial\\_court\\_-\\_211\\_3\\_petition.pdf](http://www.aclum.org/sites/default/files/field_documents/cpcs_macdl_v_chief_justice_of_the_trial_court_-_211_3_petition.pdf).

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