



The Urgency of Reducing the Jail Population During the COVID-19 Crisis

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The Bazelon Center urges all jurisdictions to:

- Immediately release a majority of the individuals with mental illness held in jails, and
- Take immediate steps to divert from jail the majority of individuals with mental illness who are arrested.

Some emergency funding is available to support these efforts. In addition, Medicaid funding is available for services, especially in Medicaid expansion states.

The U.S. incarcerates more people per capita than any other nation, and these individuals are disproportionately people of color. The current health crisis makes it necessary – for the health of inmates, staff, and the community - to drastically reduce the number of people incarcerated.

Hundreds of thousands of individuals are in jail on any given day. Approximately 100,000 of them have a serious mental illness. Many more experience mental illness while in jail.

The great majority of individuals with mental illness in jail are awaiting trial. Many if not most of them are in jail because they cannot afford bail. The great majority of those awaiting trial, and of the individuals with mental illness serving sentences, are in jail for low-level offenses – non-violent drug offenses, public order offenses, misdemeanors, technical violations of probation or parole, and the like.

Jails will become deadly incubators for the virus, and may be already. The consequences will be dire for those both inside and outside the jail. Correctional staff will become infected and bring the virus home to their families. Also, as happened in Italy, mounting tensions will create security risks, compounded by short staffing as officers become sick.

Unfortunately many individuals with mental illness released from jail will not receive the services they need, and some will be homeless. However, that is not reason to deny or delay their release. Even in the best of times, the services offered by jails make them the wrong

setting for people with mental illness. Jails are not good at providing health or mental health services. For this and other reasons, suicide is currently the leading cause of death in jails.

Localities should release as many people as possible from jail and, to the extent possible, connect them with the medical and other help they will need in the community. Localities should also divert as many as possible from going to jail, and connect these individuals as well with available medical and services.

Many localities are moving in the right direction. Jails, district attorneys, courts, and police have been working together to release individuals and reduce jail bookings. It is not yet enough.

The health crisis is about to peak. More de-carceration needs to occur. People with mental illness should benefit equally from the release and diversion efforts that are underway. We have heard reports of reluctance to release individuals with mental illness, due to risk of homelessness. Such reluctance is misguided and likely unlawful. It may also be a death sentence.

Service providers are overtaxed and facing extreme challenges. They must receive additional funding, technology, and protective gear to support their vital work during the health crisis. We are working to support such funding. But the lack of an adequately-resourced service system should not be used as reason to keep people in jail.

Sources and relevant materials

<https://www.samhsa.gov/grants/grant-announcements/fq-20-006> (U.S. Dept. of Health and Human services, SAMHSA emergency grants to address mental and substance use disorders during COVID-19)

https://bja.ojp.gov/funding/opportunities/bja-2020-18553?utm_campaign=solicitations_2020&utm_content=funding_3.31.2020&utm_medium=email&utm_source=newsfrombjia (U.S. Dept. of Justice, Bureau of Justice Assistance FY 2020 coronavirus emergency supplemental funding program)

<https://www.nytimes.com/2020/03/30/opinion/nyc-prison-release-covid.html> (op-ed urging release from prisons and jails)

<https://www.prisonpolicy.org/reports/pie2020.html> (Prison Policy Initiative, Mass Incarceration: The Whole Pie 2020)

https://amend.us/wp-content/uploads/2020/03/Amend-3.30.20-Population-Reduction-Guidance-for-DOCs_COVID-19.pdf (Univ. of California at San Francisco, Amend, COVID-19 in Correctional Settings: Immediate Population Reduction Recommendations)

<https://www.nejm.org/doi/full/10.1056/NEJMp2005687> (New England Journal of Medicine, Flattening the Curve for Incarcerated Populations – COVID19 in Jails and Prisons)

http://www.bazelon.org/wp-content/uploads/2020/04/4-3-20-Guidance-to-States-Hospitals_FINAL.pdf (Bazelon Center *et al.*, HHS'S proscription against disability discrimination in COVID-19 responses)

http://www.bazelon.org/wp-content/uploads/2019/09/Bazelon-Diversion-to-What-Essential-Services-Publication_September-2019.pdf (Bazelon Center, Diversion to What? Evidence-Based Mental Health Services that Prevent Incarceration)

<http://www.bazelon.org/wp-content/uploads/2017/01/Recovery-in-the-Community.pdf> (Bazelon Center, Medicaid funding for community mental health services)

<https://www.rand.org/news/press/2020/01/07.html> (Rand Corporation, study finds over half of inmates in Los Angeles County jails' mental health units could be diverted)

<http://www.imijustice.org/covid-19/> (Justice Management Institute, Response to COVID-19 by Criminal Justice Systems)

https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fhomeless-shelters%2Funsheltered-homelessness.html (CDC COVID-19 guidance concerning people experiencing unsheltered homelessness)

https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Protocols-Homeless-Pop.pdf?utm_source=HUD+Exchange+Mailing+List&utm_campaign=97ce7a022c-SNAPS-COVID-19-Digest-03-29-20&utm_medium=email&utm_term=0_f32b935a5f-97ce7a022c-19573401 (State of California guidance for COVID-19 response to people experiencing homelessness)