Recommendations for Rapid Release and Reentry During the COVID-19 Pandemic

People who live and work in jails, prisons, and detention facilities are at elevated risk for SARS-CoV-2 infection, due to close living environments and the high prevalence of pre-existing health conditions. Agencies will be forced, through executive direction, litigation, or necessity (due to rising infections, lack of staff, or medical capacity) to release people in their custody early and to fast-track their usual reentry processes and services. Jails and prisons are beginning to release people. They will need to release many thousands more, or many may die.

The Litmus program at the NYU Marron Institute was working on early release from prison prior to COVID-19. In December 2019, the team completed a three-year pilot project (called Graduated Reintegration) that entailed releasing prisoners six months prior to their earned-release date, paired with substantial community supports, in collaboration with the Illinois Department of Corrections. A great deal was learned about *early* release from prison from this work, including the mechanisms that can allow early release and the challenges reentrants face. Many states will need to consider early release to reduce the density of their prison populations to lower the risk of COVID-19 spread, which makes the NYU Marron team's experience of doing this in practice highly relevant.

Since early March 2020, Litmus has been working with justice agencies nationwide to learn how corrections (jails and prisons) and community corrections (probation and parole) are responding to COVID-19. Over a four-week period, the team hosted five protocol-sharing sessions (including over 100 criminal justice system practitioners, from over twenty states). These sessions have yielded early insights into what agencies are doing (and not doing!) to curb the spread among these vulnerable groups—justice-involved people *and* public-safety officers, court officers, and mental health/drug treatment providers.

Prisoners who are released will face unprecedented challenges presented by COVID-19, including obtaining necessities such as food and shelter, accessing healthcare and behavioral healthcare, and entering a job market with historically high unemployment. Scattershot approaches to releasing prisoners, without substantial accompanying supports, will diminish prospects for succeeding in the community and may undermine future criminal justice reform efforts.

The assumptions and recommendations outlined below draw on the lessons we learned from our early-release pilot in Illinois and from practitioners who have attended our protocol-sharing sessions. They provide guidance to agencies supporting rapid release from incarceration and community reentry in response to COVID-19 and, in the foreseeable future, facing budget shortfalls.

Assumptions

Little is routine in corrections operations since the onset of the COVID-19 pandemic. The assumptions below reflect the consensus concerns of corrections professionals and advocates across the United States.

Correctional Systems

- Business as usual is not an option.
- Keeping people in jail or prison puts them at higher risk of infection.
- Releases will be sudden and abrupt with limited time for planning and likely to accelerate as the virus spreads.
- All reentry processes and protocols need to be routinized for efficiency.
- It is unknown how long adjustments to normal practice will be necessary.
- Contact must be reduced to control the spread of the virus between people (office, field, housing units, transport, residential treatment).
- There will be staff shortages due to mandatory or self-imposed quarantine, childcare/eldercare needs, or illness.
- Active community supervision is limited to those at the highest risk to violently reoffend.

Services

- Housing options outside of releasees' families and friends will be scarce. Shelters are downsizing population, moving residents to other facilities; communal housing sites and residential programs are not accepting new residents.
- Access to non-critical healthcare may be delayed.
- Access to substance use and mental health treatment may change. Residential facilities may face outbreaks and have to limit or stop admissions.
- Critical services and supports are largely online or over the phone.

Releasees

- Access to basic needs, already a struggle for this population, will be further complicated.
- Releasees and their families are under additional stress.
- Financial impacts to releasees and their families may be extreme.
- Access to technology for releasees is necessary to connect with services and benefits; releasees will need coaching and support in how to access technology.

With these non-routine operating assumptions, it is important to set clear objectives to guide agency actions. We assume corrections agencies will be oriented to the public health of their

staff, of the corrections population for which they are responsible, and of their neighboring communities, with the following objectives:

Objectives

1. Reduce and slow COVID-19 transmission in jails and prisons by reducing density in confined populations.
   a. Reduce incarcerated-population COVID-19 cases.
   b. Reduce staff COVID-19 cases.
   c. Ensure facility medical infrastructure can meet need.
   d. Ensure community hospitals are not overtaxed.
2. Ensure that people releasing from prisons and jails, both regularly scheduled and early releases, have their needs met in the community.
3. Reduce potential for negative public safety or public health impacts.

To meet these objectives, we recommend policies and practices, for pre-release preparation and post-release supervision and support. Not all apply in equal measure to every jurisdiction or releasee.

Recommendations for Rapid Release and Reentry

Many prisoners will be released to difficult circumstances. Historically, reentry assistance has been meager. A 2019 review of release policies in all 50 states found that 45 provided financial assistance, commonly referred to as "gate money."[1] California and Colorado were the most generous, providing reentrants with $200 and $100, respectively, at the time of release, while reentrants in Alabama and Louisiana would customarily release with as little as $10 or $20—and New Hampshire, perhaps no money at all. Agencies will need to rethink assistance to releasees as they transition to the community during the pandemic, both pre- and post-release.

A. Pre-Release Preparation

(1) Preparing for Early Release

When preparing for scheduled and early releases, agencies should analyze the options available to them to better support release and be prepared for staff shortages due to increased requests for sick leave, reinforcing the need for contingency planning to identify qualified staff to step in to provide essential services and release programming. Careful development of criteria, policy, and processes to select eligible participants for early release is essential to ensuring that eligibility criteria are transparent and fair and to managing public perception and safety concerns

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[1] Mia Armstrong and Nicole Lewis, "What gate money can (and cannot) buy," *The Marshall Project*, Sep. 10, 2019. themarshallproject.org/2019/09/10/what-gate-money-can-and-cannot-buy

in an early-release program. In a time of heightened anxiety for incarcerated populations and their families, a clear communication plan keeps all stakeholders informed.

Early Release Planning	• Identify legal mechanisms for early release (furlough, medical, work release, commutation, etc.). • Establish static-factor criteria based on statute and other policy concerns. • Identify additional screening (victim issues, recent major infractions, etc.). • Set a population reduction goal and analyze data to ensure that criteria (days to release, percent of sentence served, additional screens, etc.) are not overly limiting. • Identify conditions of release that may require executive or court order to waive (notification, electronic monitoring, etc.). • Develop clear policy, with processes to select eligible participants, to be *transparent and fair* and to manage community expectations and health and safety concerns. • Institute a strategy to follow outcomes. • Create a communication plan for key stakeholders to include the incarcerated population and their families. Clarify if there will be ongoing assessment for additional releases.

(2) Housing

Access to stable housing is among the most challenging problems facing reentrants. Reentry administrators should explore a variety of housing options for releasees and develop criteria to assess which best fit their individual strengths and needs. Many households are facing additional financial pressure because of the pandemic; taking on an additional household member would add to this burden. Agencies should consider living stipends to incentivize family or friends to house early releasees. For releasees with substance use or mental health disorders, their treatment and recovery activities should be a key consideration when developing a housing plan.

Agencies and partnering community-based organizations should explore means to lessen isolation and mitigate anxiety immediately after release. This could include providing remote support from trained peer mentors, telecounseling and support groups, or other structured activities.

Basic life-skills programming and ongoing coaching, to include financial-literacy programming, are highly recommended. These duties could be fulfilled by case managers, trained mentors, navigators, or life coaches.

Pre-Release Housing Planning	• Purchase/access unused hotel/motel rooms to house releasees with no other housing options or who are assessed as needing to quarantine before joining family. • Incentivize family or friends willing to house releasees with stipends or other incentives. • Expand use of existing housing support (e.g., housing vouchers).

(3) Rapidly Expanding Access to Technology

Supervision agencies and social-service providers are relying more on distance communications, increasing the need for access to technology among releasees. People releasing after long periods of incarceration will need to be familiarized with smartphone and tablet use and how to access online resources.

Pre-release Access to Technology & Training	• Provide phone at release, preferably smartphone or tablet with Wi-Fi/3G capability, loaded with essential contacts and websites. • Educate releasees on use of tablet or phone and how to access Wi-Fi/3G. • Provide brief primers along with written instructions on use of technology, including where to access Wi-Fi in the community or obtain free/discounted Wi-Fi service.

(4) Health

Correctional populations face disproportionately high risk of infection due to higher prevalence of pre-existing health conditions compared with the general population, increasing the need for continuity of care with community-based healthcare providers so that pre-existing health conditions can be appropriately managed. The incidence of mental health and substance use disorders is also higher among correctional populations. Releasees will be entering society at a time when healthcare providers are strained, making pre-release healthcare planning, including physical health, mental health, and substance use treatment services even more essential.

Physical Health	• Ensure those needing medication receive at least a 30-day supply of medication and a prescription. • Where eligible, enroll releasees in Medicaid. • Educate releasees on how to stop spread of COVID-19. • Support releasees in identifying primary-care provider.
Mental Health	• Ensure those needing medication receive at least a 30-day supply of medication and a prescription. • Schedule appointments with community-based providers, preferably via telehealth.
Substance Use	• Distribute naloxone overdose-reversal kits to persons with a history of substance use disorder at release or to anyone who requests one. • Provide list of online recovery support and apps, tailored to release area if possible. • Induct those needing MAT prior to release and ensure they have an appointment with a medical provider post-release. • Ensure those needing substance use treatment post-release are scheduled for an appointment with a community-based provider, preferably via telehealth.

(5) Other Pre-Release Considerations

In addition to pre-release planning for housing and healthcare needs there are several other areas where agencies will need to prepare releasees. Community food banks in many parts of

the country are reporting long lines and shortages of volunteers and food. To assist releasees with access to food, those who are eligible should be enrolled in SNAP and any other benefits to which they are entitled, prior to release. To ensure that releasees have immediate access to food, facilities should provide them with nonperishable food to meet their needs for a week or longer. To facilitate access to services and potential employment, whenever feasible, facilities should ensure that releasees have access to a state identification card and a Social Security card. Releases should be provided with written materials on how they can access online support and mentors. Community supervision practices are also rapidly changing. Correctional facilities will need to stay up to date on these evolving practices and expectations so that releasees are briefed on their supervision requirements prior to release.

Other Considerations	• Enroll releasees in all eligible benefits prior to release: SNAP, disability benefits, and utility assistance; and work with state to remove any barriers to persons applying for these benefits pre-release.
	• Ensure releasees have immediate access to food; otherwise provide several weeks of nonperishable food at release.
	• Ensure releasees have a state identification card and Social Security card.
	• Match releasees to essential-service employers, whenever possible, prior to release.
	• Create and review reentry plan with releasees tailored to current conditions. Include review of supervision requirements and instructions for maintaining compliance.
	• Share online support resources, coaches, and mentors.

(1) Electronic Monitoring

Conventional electronic monitoring (EM) of releasees requires physical contact to install the monitoring device, is resource intensive, and may unduly burden supervision agencies with low-importance alerts. EM should be restricted to only those releasees at highest risk of violent reoffending. Supervision agencies should use other means of monitoring releasees, such as smartphone check-ins.

Electronic Monitoring	• Use electronic monitoring only with highest-risk releasees. • Establish alternative mechanisms to monitor (e.g., smartphone).

(2) Community Supervision

Community-supervision agencies have been adapting their policies and practices considering social-distancing requirements and other exigencies of the pandemic. Additional emergency releasees will compel broader policy and practice revisions, for legacy supervisees and new releasees alike. These revisions should respond to supervisees' risk levels.

For all supervisees, agencies should forgo sanctioning for low-level technical violations, so that supervising officers can focus on high-level violations and on case management and client support. Similarly, technical violators currently serving confinement sanctions should be prioritized for early release. Legal financial obligations should be forborne, with no sanctioning for non-payment. And supervision officers should be provided with PPE and trained in disease-prevention protocols for any transport of supervisees.

For low/moderate, non-violent risk supervisees, agencies should suspend in-person reporting and field contacting; check-ins should be conducted by phone or video. Supervision agencies (or bodies that set supervision terms) can provide incentives for compliance, without threat of sanctions, by offering reductions in supervision time.

For moderate/high violent risk supervisees, agencies should restrict in-person reporting and field contacts to seriously noncompliant supervisees and employ virtual visits whenever possible. Office visits and field contacts should employ disease-prevention precautions, including PPE for supervision officers.

Community Supervision	*All* • Forgo sanctioning for technical violations. • Shift officer responsibilities to increase case management and client outreach and support. • Review all violators currently serving confinement sanctions for release. • Forbear legal financial obligations. • No transporting without disease-prevention protocols in place, to include appropriate PPE. *Low/Moderate Non-Violent Risk* • No in-person reporting. Check-ins by phone or video only. • Incentivize compliance by reducing supervision time. • Lift existing warrants for technical violations. *Moderate/High Violent Risk* • Maximize the use of virtual visits for those in compliance with supervision conditions. • In-person office or field contacts with disease-prevention precautions and restricted to the highest risk or for more serious violations (e.g., violation of a no-contact order).

(3) Employment

Employment is a stabilizing factor for justice-involved persons, and the pandemic has greatly increased unemployment. Agencies should suspend employment requirements for releasees for the time being. To keep releasees engaged and to improve their employment prospects when opportunities return, agencies should link them to online training or education sites.

Employment	• Exempt releasees from employment requirements until economy stabilizes. • Link releasees to online training or education sites to increase future employability.

C. Remaining Engaged

Understanding that agencies must act quickly to respond to this crisis, we offer this initial guidance in support of these efforts. It is increasingly apparent that changes in practice will continue to be necessary and will evolve for months rather than weeks and that resource availability will likely be affected for even longer. With this in mind, we continue to engage with our partner agencies and will offer additional recommendations as new practices and resources emerge.

If you would like to be added to our partner network to receive future communications from Litmus or to engage with us directly to share lessons learned from your agency, please email jprueter@nyu.edu.

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Resources

Many organizations are compiling data, policies, and guidelines on release and reentry during the pandemic. Here are a few of the most useful, regularly updated resources.

Early Release

NYU School of Law is compiling information on reprieve and commutation powers to support early release. law.nyu.edu/centers/adminofcriminallaw/clemency-reform

The Brennan Center for Justice provides information on corrections responses, including reducing jail and prison populations during the pandemic. brennancenter.org/our-work/research-reports/reducing-jail-and-prison-populations-during-covid-19-pandemic

UCLA School of Law is maintaining a repository of correctional policies and responses, including tracking data on inmate releases. tinyurl.com/UCLA-Law-release

Communication

The Prison Policy Initiative is maintaining a repository that tracks how departments of corrections are communicating with the public about their pandemic-response plans. prisonpolicy.org/blog/2020/04/08/virus-statements

Community Supervision

The American Probation and Parole Association has posted a repository to share the latest pandemic-related guidance from CDC and WHO, relevant to supervision agencies, and other resources for community-supervision agencies. connect.appa-net.org/resources/covid-19

Reentry

The Council of State Governments Justice Center has compiled information on factors to consider in facilitating reentry. csgjusticecenter.org/seven-questions-about-reentry-amid-covid-confusion

The American Bar Association conducted a webinar on reentry planning for COVID-19 releases. americanbar.org/groups/crsj/events_cle/program-archive/reentry-planning-for-covid-19-releases

Housing

The Center for Evidence-based Solutions to Homelessness prepared a report (pre-pandemic) on criminal justice reentry and homelessness. evidenceonhomelessness.com/wp-content/uploads/2020/04/Reentry-and-Homelessness_Synthesis-of-the-Evidence.pdf

Release and Reentry

The Vera Institute of Justice conducted a webinar on decarceration, reentry, and corrections operations during the pandemic. vera.org/research/covid-19-and-prisons

The Urban Institute has compiled a detailed guide to resources for correctional institutions during the pandemic. tinyurl.com/Urban-Inst-COVID