

Los Angeles must make bold, decisive changes in its justice system to respond to COVID-19

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With each day, the number of people infected with COVID-19 in Los Angeles increases. There are more than 2,000 confirmed cases within the county already and at least 37 deaths. The numbers are expected to surge in the coming days and weeks. To curb the spread of the virus, public officials in Los Angeles have ordered Angelenos to stay home, avoid gatherings of 50 or more within a confined space, and limit contact with others generally.

But social distancing—or any other practices known to prevent and contain COVID-19—simply cannot happen in the local criminal justice system. During arrest, people are handcuffed and held in close quarters with others, unable to cover their faces if they sneeze or cough. The same happens in courts daily, exponentially increasing the likelihood of spread. The jails are veritable petri dishes for COVID-19, with thousands of people incarcerated in proximity to each other and hundreds of officers and staff coming and going from the facilities daily. Finally, community-based reentry service providers lack personal protective equipment and resources to help people transition safely back to the community.

Already, Los Angeles has taken some critical steps to limit arrests and shrink the jail population. However, officials and system actors must do much more and do it quickly. Moving too slowly could create a catastrophe for public health, as Los Angeles County has the biggest jail in the country, and half of those booked into the jail return to the community within 10 days.

Los Angeles needs to coordinate bold, decisive action in three areas:

- 1. Do more to drastically reduce the number of people arrested and booked to limit the flow of people into police cars, local lock-ups, and Los Angeles County jails. Make directives to officers clear, expansive, and public.**

Each arrest creates an enhanced risk of transmission of COVID-19 because of the close and prolonged physical contact during handcuffing and transport. Booking exacerbates the likelihood of exposure among officers and detained people. Law enforcement should minimize interactions with people and reserve resources for the most serious cases. The Los Angeles Police Department (LAPD),

Los Angeles County Sheriff's Department (LASD), and Los Angeles County Department of Probation should implement the following policies *immediately*:

- > Place a **moratorium on arrests for offenses that do not involve physical harm or direct threats to a person**. In Los Angeles, there is a constant stream of people booked into jail for low-level charges like driving on a suspended/revoked license or possession of a controlled substance. Suspending enforcement of low-risk incidents (e.g., traffic stops, quality-of-life complaints, and failure to appear) helps police maintain capacity to respond to critical incidents and community health needs. Instead, officers can give warnings, referrals to services, or citations for all offenses eligible under CA Penal Code § 853.6. The use of citations for misdemeanors alone could cut arrests in half and decrease bookings.¹
- > **For all other offenses, create a policy of presumptive release as early as possible, unless the person poses an immediate and identifiable risk to the physical safety of another.** If applying the exception, there should be an individualized assessment of safe conditions for release, including consideration of health risks.
- > Los Angeles County Department of Probation should place a **moratorium on arrests and incarceration for supervision violations, especially technical violations**. If someone under supervision has a new arrest, the framework above should be used to determine release.
- > **All non-essential hearings** should be suspended for at least six months for any pending cases in which a person is released pretrial or pending adjudication, and people should be notified of postponement. The courts should provide **videoconference or remote appearances** for people who need speedy resolution of a case, for example for employment or immigration purposes; for essential court appearances for those who remain incarcerated; or for emergency proceedings, such as people seeking orders of protection.

Between 2010 and 2016, 13 percent of all single-charge bookings into the Los Angeles County Jail were for supervision violations. People spent an average of 32 days and a median of 19 days in custody for those charges alone. LASD books around 9,000 people into jail each month. If similar supervision violation rates apply now, a moratorium would prevent the booking of nearly 300 people each week.

LASD and LAPD have already taken some steps to decrease arrest rates in response to coronavirus. Both departments are encouraging increased use of cite and release, and LASD has reported reducing the jail population by 1,700 people. However, **clear diversion directives are key** to precipitously decreasing the volume of arrests and bookings. This will ultimately promote public health and avoid the dangerous practice of officers working with symptoms of illness, engaging in long shifts interacting with the community, and adding to the risks of exposure.

2. Urgently identify groups of people in jail who can be released as soon as possible, especially the medically vulnerable.

Jails and courts are fertile ground for the spread of COVID-19. However, prosecutors, defenders, and judges hold tremendous power to decrease the jail population, prioritize cases to place on court calendars, and ultimately protect people in the community and courts from unnecessary exposure to coronavirus. Given the urgency of this crisis, it is incumbent on each entity to create broad directives with minimal exceptions to support release and limit case-by-case decision making to only the most serious cases involving immediate and identifiable risks of physical harm to another person.

All system actors should work together to identify groups of people for release and coordinate safe transitions. Los Angeles system actors should consider starting with the following:

- › Department of Health Services—Correctional Health Services and defenders should identify the **medically vulnerable** so that they can be released immediately.
- › Prosecutors, defenders, and judges should work together immediately to release as many as possible of the **4,500+ people who are stuck in jail simply because they cannot afford bail.**² Los Angeles County District Attorney Jackie Lacey is starting to review 2,000 pretrial cases, and she hopes that the courts can conduct 300 bail hearings each day. At that rate, it will take three weeks of concerted effort to review the custody status of all eligible people currently in jail. **Prosecutors and defenders are creating lists of people they agree should be released pretrial. To expedite the process and clear the calendar for individualized bail hearings, the courts should maximize the use of orders to release people on these agreed-upon lists.**
- › **System actors should collaborate on a plan to release as many women as possible as soon as possible**, especially those with preexisting medical conditions, women over the age of 55, pregnant women, and primary caretakers of children or loved ones.

Each day, Los Angeles County incarcerates more than 2,000 women. Half leave jail within six days. Nearly 80 percent of women in jails are parents and primary caretakers for young children. Many are medically vulnerable and hundreds in Los Angeles County Jail are over the age of 50. System actors, including law enforcement, should create a presumption of release for all women, with individualized assessments only in cases where there is an identifiable risk of physical harm to another person.

- › Empty at least one of the two lesbian, gay, bisexual, and transgender (LGBT) units in the Los Angeles County Jail by creating **a presumption of release for all LGBT people who meet the criteria to be held there**. On average, Los Angeles detains 478 people across the two LGBT units daily. These units exist because LGBT people are uniquely vulnerable to harm in jail,

including in Los Angeles County where transgender women are held alongside men. Most people in the LGBT units are likely incarcerated for charges related to substance use and trauma and can be released safely with planning. This would create empty physical space for transitional housing for those about to be released or in need of quarantine.

- › Identify mechanisms to **systematically release people serving county sentences and anyone within six months of completion of a sentence**. This can include using legal resentencing mechanisms to request sentences to time served or expanding current policies to release people in jail who are within 30 days of completing their sentences.

Prosecutors, defenders, and courts should announce this policy coordination in broader institutional directives to increase the safe release of people from jail. As system actors contemplate release for groups, they should notify release planners immediately to begin the process for obtaining medical clearance and arranging any necessary reentry supports.

3. Create and publicize a protocol to support release from jail in a way that promotes public health. Boost community-based systems of care through increased funding and provision of protective gear.

As system actors assess how to safely release larger numbers of people from jail, Los Angeles needs a protocol that will promote public health in the face of coronavirus. **People reentering the community from jail should have adequate information** about government restrictions on public life and how to protect themselves and others from coronavirus. It is also important for system actors and the community—including loved ones cohabitating with people released from jail, service providers, and the public at large—to feel confident that people released from jail are not immediately spreading coronavirus. To accomplish this, Los Angeles should do the following:

- › Immediately institute a **medical process to support release** that begins 15 days prior to the anticipated release date, especially if the incarcerated person is expected to enter a treatment program or shared housing. This can include implementing daily temperature checks, asking a set of short questions to ascertain whether the person had or has any symptoms consistent with COVID-19, and requiring written documentation of this process to be given to the person on final review at release. This protocol should be made public to assure the community that people released are being screened for COVID-19.
- › Create a **release plan protocol** that includes information on coronavirus and social distancing orders from government officials; guidance on medical insurance; details on how to access emergency care and hospitals, including for people without valid immigration status; and a plan for transportation—ideally in a cab—and housing, etc. **Test everyone at release** by asking about symptoms and taking temperatures. Provide a **mask, hand sanitizer, and educational material** about coronavirus to every person.

- > Safe release includes keeping people **out of immigration detention**. LASD should immediately stop the transfers of people—who have already completed their sentences and who were scheduled to go home to their families—into the custody of federal immigration authorities and the Adelanto Detention Center. Moreover, LASD should require judicial probable cause before allowing federal immigration authorities to access jail facilities. Finally, Los Angeles City and Los Angeles County should use every opportunity to call for all immigration enforcement action to be halted and for everyone in ICE custody to be released, immediately prioritizing those who are particularly vulnerable.
- > Approximately 28 percent (4,877) of the Los Angeles County Jail population **identifies as homeless**. As the county implements emergency measures to create thousands of temporary shelter beds, some should be reserved specifically for people released from jail in line with the plan system actors develop for broader releases. If a person released has no home or family to return to, or needs to be quarantined on release, the county should set aside funds for motels or other housing for three days and engage a case manager to develop a longer-term plan.
- > Set up **relationships with hospitals** in case someone is in urgent need of medical attention on release.
- > Develop **protocols with community-based residential service providers** to ensure timely and safe placement for people leaving jail. Los Angeles County should devote resources to ensure community-based service providers have resources and equipment.

A critical component of promoting public health in this moment is to shore up community-based systems of care, including for housing, medical care, and behavioral health treatment. These services should also be available to people being released from federal immigration detention. As the state and philanthropic organizations pitch in millions of dollars to increase housing and support community-based groups, the Los Angeles County Board of Supervisors needs to do its part by:

- > Allocating \$6 million immediately to support people leaving jail (for example, for coronavirus screening and documentation, a guarantee of transitional housing for 72 hours in hotels/ motels before adequate recreational center shelters are up and running, transportation via cab, emergency case management for high-need cases, etc.), as well as for grants and personal protective equipment for community-based service providers to continue critical care for system-involved people.
- > Convening the Alternatives to Incarceration (ATI) Work Group and existing Advisory Collaborative of Impacted People to create immediate implementation plans for foundational recommendations from the Work Group's road map for diversion to help the county provide responsive community-based care in this moment.

- › Los Angeles needs a coordinated, urgent response to coronavirus for people with system involvement. Without it, people in jails and the courts, including staff, are likely to experience an escalating crisis. With it, Los Angeles can slow the spread of COVID-19 and promote public health through sound measures.

Endnotes

- 1 At least half of people arrested in Los Angeles are detained for misdemeanors. In early 2019, [LASD](#) arrested more than 16,600 people (62 percent) for misdemeanors and 9,500 (35 percent) for felonies each month. Of those arrested, around 9,000 (34 percent) were booked into the Los Angeles County Jail monthly. Last month, [LAPD](#) arrested 6,572 people; 5,664 of those were for offenses not considered violent. Around [3,000](#) were for misdemeanors.
- 2 According to the latest [LASD Year-End Review \(2018\)](#), more than 7,000 people at any given time are held as part of the pretrial population in the Los Angeles County Jail. Of this population, an average of 2,720 are held without bail. Thus, daily, more than 4,500 people are eligible for release and have not been convicted of any offense charged. Many remain in jail because they or their loved ones cannot afford bail.

For more information

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