



# People Who Are Incarcerated

December 17, 2020

Welcome



**Michelle Woods**  
Program Director  
Homeland Security



**Jeff Locke**  
Program Director  
Public Safety & Legal Counsel

Moderator



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**David Engleman**  
Policy Analyst  
National Governors Association

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# Housekeeping

- If you experience technical difficulties, please contact **Carl Amritt** via the chat or at [CAmritt@NGA.org](mailto:CAmritt@NGA.org).

Send a private chat to NGA staff, panelists, group members or the entire audience.



# Agenda



## **I. Welcome and Introductions**

## **II. National Commission on Correctional Health Care**

- I. Dr. Brent Gibson, Managing Director, National Commission on Correctional Health Care
- II. James Martin, Vice President, Program Development, National Commission on Correctional Health Care

## **III. National Academies of Sciences, Engineering, and Medicine**

- I. Emily Wang, Associate Professor of Medicine, Yale School of Medicine
- II. Dr. Bruce Western, Professor of Sociology and Social Justice, Co-Director of the Justice Lab at Columbia University

## **IV. Council on Criminal Justice**

- I. Thomas Abt, Director, National Commission on COVID-19 and Criminal Justice

## **V. Question & Answer**

Speaker



**Brent R. Gibson, MD, MPH, FACPM, CCHP-P**  
Managing Director  
National Commission on Correctional Health Care

Speaker



**Jim Martin**, MPSA, CCHP  
Vice President, Program Development  
National Commission on Correctional Health Care



# COVID-19 in Corrections: Lessons We've Learned in our Detention Facilities

**Brent Gibson, MD, MPH, CAE, FACPM, CCHP-P**

Chief Health Officer

National Commission on Correctional Health Care

**Jim Martin, MPSA, CCHP**

VP, Program Development

National Commission on Correctional Health Care



# Steps to an Effective Response



Limit visitors to the facility



Post visual alerts (signs, posters) at entrances and in strategic places providing instruction on hand hygiene, respiratory hygiene, and cough etiquette



Ensure supplies are available (tissues, waste receptacles, alcohol-based hand sanitizer)



Take steps to prevent known or suspected infected patients from exposing other patients



Limit the movement of infected patients (e.g., have them remain in their cell)



Identify dedicated staff to care for infected patients.



Observe newly arriving arrestees for development of respiratory symptoms.



# Actions to Take for Preparation of Future Outbreaks



Designate a time to meet with your staff to educate them on the pandemic and what they may need to do to prepare.



Explore alternatives to face-to-face triage and visits.



Plan to optimize your facility's supply of personal protective equipment in the event of shortages.



Prepare your facility to safely triage and manage patients with respiratory illness. Become familiar with infection prevention and control guidance for managing exposed patients.



# Key Considerations for Correctional Health Care Facilities

- In each correctional healthcare facility, the primary goals included:
  - Provision of the appropriate level of medical care
  - Protecting healthcare personnel and non-infected patients accessing healthcare from infection
  - Preparing for a potential surge in patients with respiratory infection
  - Preparing for potential personal protective equipment supply and staff shortages



# Relevant NCCHS Standards

- **A-03 Medical Autonomy**
- **B-02 Infection Disease Prevention and Control**
- B-07 Communication of Patients' Health Needs
- C-08 Health Care Liaison
- **D-07 Emergency Services and Response Plan**
- **E-09 Continuity, Coordination and Quality of Care During Incarceration**
- **E-10 Discharge Planning**
- F-01 Patients with Chronic Disease and Other Special Needs



# Things Prisoners need to know at release...

- May need to understand how to report to probation/parole, if required and how to access video conferencing or other telecommunications
- May need to explain local directives including stay-at-home orders
- May need to inform people about closures of public offices and businesses
- May need to know state executive orders for available emergency supports (housing, etc.)
- Provide local contacts for public health, emergency shelter, and medical care



# Reentry from Jails and Prisons during COVID-19

- The task of re-entry preparation includes precautions and restrictions to reduce the spread of COVID-19
- Programs can integrate a component to educate participants about basics of preventing transmission of COVID-19 while in custody and upon release
  - Explain the how, when and why for handwashing. The action of scrubbing, as well as soap and water is important
  - Explain specifics of social distancing, covering coughs or sneezes, and define terms such as self quarantine



# Reentry from Jails and Prisons during COVID-19

Many individuals in custody have one or more chronic health conditions in addition to mental health and substance use disorders

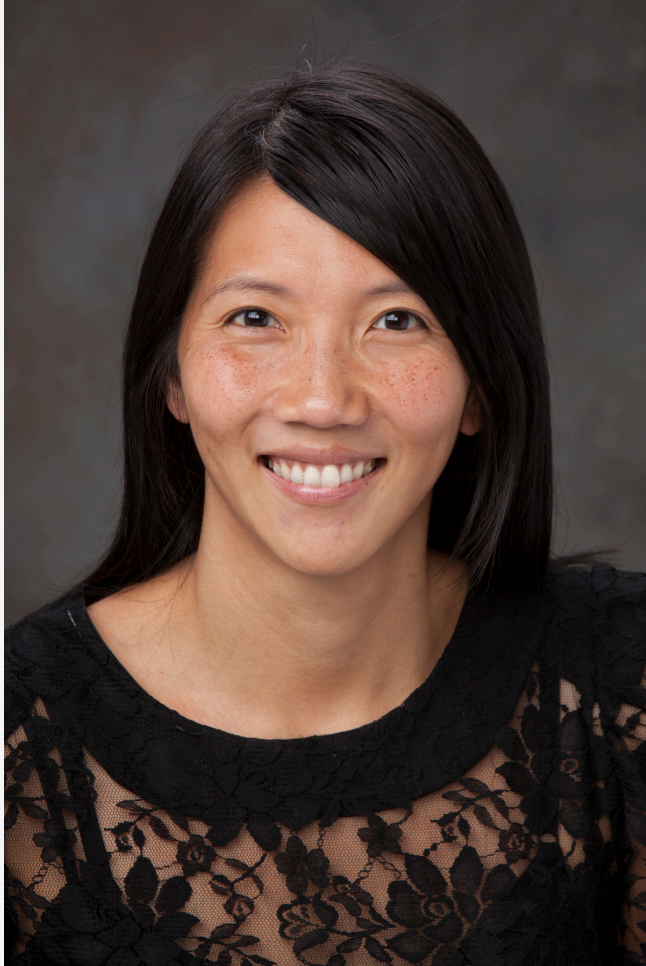
They will need to know if they have risk factors that make them more susceptible to the virus, or to becoming seriously ill and more likely to die as a result

## At Risk Inmate Population

- 55 and over are at higher risk
- Chronic health conditions:
  - Chronic lung disease or moderate to severe asthma
  - Heart disease with complications
  - Diabetes, renal failure, or liver disease, particularly if not well controlled
  - People who are immunocompromised including those undergoing cancer treatment
  - People of any age with severe obesity



Speaker



Yale SCHOOL OF MEDICINE



**Emily Wang**

Associate Professor of Medicine  
Yale School of Medicine



Speaker



COLUMBIA UNIVERSITY  
IN THE CITY OF NEW YORK



**Bruce Western**

Professor of Sociology and Social Justice  
Co-Director of the Justice Lab at Columbia University

# DECARCERATING CORRECTIONAL FACILITIES DURING COVID-19

Advancing Health, Equity, and Safety

National Governors Association

December 17, 2020

*The National Academies of*  
SCIENCES • ENGINEERING • MEDICINE

# Study Sponsors

- Arnold Ventures
- Robert Wood Johnson Foundation

# Committee Members

**Emily Wang (Co-chair)**, Associate Professor of Medicine, Yale School of Medicine

**Bruce Western (Co-chair)**, Bryce Professor of Sociology and Social Justice, Columbia University

**Donald M. Berwick**, President Emeritus and Senior Fellow, Institute for Healthcare Improvement

**Sharon Dolovich**, Professor of Law, UCLA School of Law

**DeAnna R. Hoskins**, President/CEO, JustLeadershipUSA

**Margot Kushel**, Professor of Medicine and Division Chief, Center for Vulnerable Populations, University of California, San Francisco

**Hedwig Lee**, Professor of Sociology, Washington University, St. Louis

**Steven Raphael**, Professor of Public Policy, University of California, Berkeley

**Josiah Rich**, Professor of Medicine and Epidemiology, Brown University

**John Wetzel**, Secretary of Corrections, Pennsylvania Department of Corrections

*Staff: Emily Backes (Study Director), Julie Schuck, Dara Shefska, and Stacey Smit*

# Statement of Task

The National Academies of Sciences, Engineering, and Medicine will convene an ad hoc committee that will provide advice to policymakers, correctional officials, and public health officials on best practices for mitigating the spread of COVID-19 in correctional facilities through large-scale release and decarceration efforts. The short consensus report will consider the following questions:

- How can correctional facilities apply **evidence-based practices to large-scale release and decarceration**, while paying attention to equity issues?
- What community **supports are needed to ensure successful reentry** for released individuals and the community?

The committee will issue a report with findings and recommendations at the end of the study.

# Recommendations

## Immediate and Medium-Term Actions:

- Diversion and Release
- Reentry Planning – housing, income supports, and health care
- Support for testing and quarantine

## Preparedness for Future Outbreaks:

- Coordination between correctional and public health officials

## Data and Research Recommendations:

- Standardized data collection on COVID-19 incidence, testing rates, hospitalizations, and mortality



# Release

Recommendation 4: Given the extreme medical vulnerability of some incarcerated people to COVID-19, federal and state policy makers should **revise compassionate release policies** to account for petitioners' medical condition, age, functional or cognitive impairment, or family circumstances.

# Reentry

Recommendation 5: When releasing individuals from prisons and jails, correctional officials...should **develop individualized reentry plans incorporating a bundle of services encompassing health care, housing, and income supports** to address individual and family needs as an important complement to decarceration efforts.



# Supporting Families & Communities

Recommendation 6: Correctional officials, in coordination with local public health authorities should implement measures to avoid creating additional COVID-19-related health risks for families and communities. These measures should include **providing COVID-19 testing prior to release and facilitating quarantining as necessary.**

# Reentry: Health Care

Recommendation 8: States should remove barriers to eligibility for Medicaid to ensure that incarcerated and previously incarcerated individuals have access to COVID-19 tests and related services and transitional health care needs:

- a) exercise the optional eligibility provided in the Families First Coronavirus Response Act to provide Medicaid coverage for COVID-19 testing and related services to individuals who are uninsured;
- b) allow Medicaid payment for medical services furnished to an incarcerated individual during the 30-day period prior to release;

# Reentry: Health Care (Cont'd)

- a) ...states should opt to suspend, not terminate, Medicaid eligibility when an individual is incarcerated and exercise their authorities to apply for section 1115 and 1135 waivers of the Social Security Act to expand Medicaid coverage or support access to covered services for incarcerated individuals during the COVID-19 crisis...; and
- b) enroll individuals eligible for Medicaid during incarceration, prior to their release.

# Data & Research Needs

Recommendation 9: All correctional facilities (including jails, state and federal prisons, ICE detention centers, and juvenile facilities) should **report daily standardized, aggregated data on COVID-19** incidence, testing rates, hospitalizations, mortality, and all-cause-mortality among incarcerated people and staff by age, gender, and race/ethnicity to public health officials as directed and via a public-facing website or dashboard.

# Preparedness for Future Outbreaks

- Past research on pandemics management in correctional facilities suggests that preparedness planning is critical to management of future COVID-19 outbreaks and other public health emergencies.
- Preparedness planning involves public health experts and correctional officials and the creation of health plans for safely diverting and releasing people from custody during public health emergencies.



# Prioritization of Covid-19 Vaccines for Incarcerated People

## Interim Plans for Vaccine Distribution



**PHASE 1:** Highest Priority Population

**PHASE 2:** Medium Priority Population

**PHASE 3:** Lowest Priority Population

**NO PHASE:** Not Included in Plans

**UNAVAILABLE:** No Plan Currently Available

Source: COVID Prison Project (2020). <https://covidprisonproject.com/>

Source: Michaud, J., Kates, J., Dolan, R., & Tolbert, J. (2020). States are getting ready to distribute COVID-19 vaccines. What do their plans tell us so far? - State plans. Retrieved from <https://www.kff.org/report-section/states-are-getting-ready-to-distribute-covid-19-vaccines-what-do-their-plans-tell-us-so-far-state-plans/>

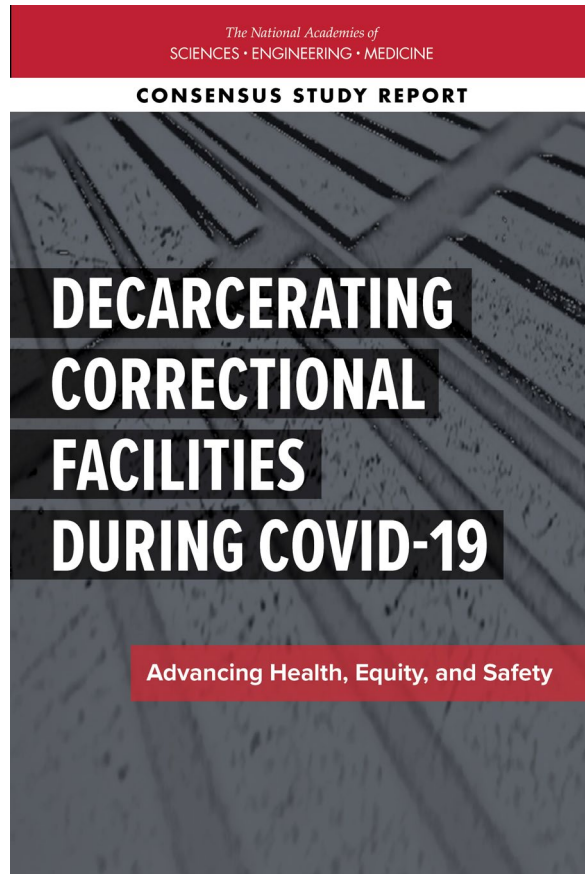
Created with mapbox.com



# Final Thoughts

- Public safety encompasses good public health. Institutions for incarceration have hosted numerous outbreaks of infection and in this sense have posed a threat to public safety.
- Good health and safety in the pandemic era will require reducing incarceration and supporting the communities whose incarceration rates are highest.
- Decarceration requires urgent and sustained engagement from correctional and health officials at federal, state, and local levels, as well as from those with oversight for community health systems and social services.

# Thank You!



To download a free copy of the report, visit: [www.nationalacademies.org/decarceration](http://www.nationalacademies.org/decarceration).

For more information, please contact:  
Emily Backes, Study Director, [ebackes@nas.edu](mailto:ebackes@nas.edu)



# Appendix

# Diversion

Recommendation 1: Federal, state, and local officials should exercise their discretion across a variety of domains to **divert individuals from incarceration**, including:

- Law enforcement's issuance of citations in lieu of making arrests.
- Judges' and prosecutors' adherence to a strong presumption against pretrial detention, and release on own recognizance as a default option, to be overridden only when strong evidence indicates that release would be at odds with public safety or court appearance.
- Legislatures', prosecutors', and courts' elimination of the use of incarceration for failure to pay fines and fees and prioritization of noncustodial penalties for misdemeanors, probation and parole violations, and other -non-serious conduct to the extent possible.
- Local officials' elimination or significant reduction in the use of bail.

# Release

Recommendation 2: Correctional officials in conjunction with public health authorities should take steps to **assess the optimal population level of their facilities to adhere to public health guidelines during the pandemic**, considering factors such as overcrowding, the physical design and conditions of their facilities, population turnover, health care capacity, and the health of the incarcerated population.

Recommendation 3: To the extent that the current population level in a facility is higher than the optimal population level for adhering to public health guidelines, correctional officials should **identify candidates for release from prison and jail in a fair and equitable manner** and engage other officials outside the correctional system as necessary to expedite decarceration to the optimal level. Individuals assessed as medically vulnerable, nearing sentence completion, or of low risk to commit serious crime are likely to be suitable candidates for release during a public health crisis.

# Reentry: Housing

5a: Federal, state, and local authorities should **identify resources for providing housing** as required by incarcerated individuals for safe discharge including space for quarantining in the community. Local housing authorities should **limit restrictions on housing eligibility** based on criminal history to those required by the U.S. Department of Housing and Urban Development and limit restrictions on tenants adding returning household members.

Federal, state and local authorities should **explore opportunities to offer financial support to families that provide housing to incarcerated individuals upon release.**

Correctional officials should take steps to **facilitate enrollment in appropriate housing programs and services prior to release** where necessary, and a lack of housing in the community should not be grounds for continuing incarceration.

# Reentry: Income Supports

5b: State and local officials should:

- **identify barriers to access public benefits** for individuals returning from incarceration;
- **work to maintain continuity of benefits;** and
- **support enrollment in benefits for income and basic needs**, including access to the Supplemental Nutrition Assistance Program, Medicaid, and Medicare, and Supplemental Security Income.

# Reentry: Health Care

5c: Community health systems should **facilitate health care access** for people just released from correctional systems by removing requirements for government identification at the first visit, prioritizing the urgency of in-person first appointments immediately prior to release, and easing restrictions on video visits to improve engagement in primary care, substance use, and mental health treatment.

The federal government, through the Centers for Medicare & Medicaid Services, Substance Abuse and Mental Health Services Administration, and the U.S. Drug Enforcement Administration, should **extend and expand upon guidance that has permitted flexibility in the use of telemedicine** for primary care and substance use treatment.



# Reentry: Health Care

Recommendation 8: States should remove barriers to eligibility for Medicaid to ensure that incarcerated and previously incarcerated individuals have access to COVID-19 tests and related services and transitional health care needs:

- a) exercise the optional eligibility provided in the Families First Coronavirus Response Act to provide Medicaid coverage for COVID-19 testing and related services to individuals who are uninsured;
- b) allow Medicaid payment for medical services furnished to an incarcerated individual during the 30-day period prior to release;
- c) ...states should opt to suspend, not terminate, Medicaid eligibility when an individual is incarcerated and exercise their authorities to apply for section 1115 and 1135 waivers of the Social Security Act to expand Medicaid coverage or support access to covered services for incarcerated individuals during the COVID-19 crisis...; and
- d) enroll individuals eligible for Medicaid during incarceration, prior to their release.

# Probation and Parole

Recommendation 7: Parole and probation departments should **examine their policies and procedures** and take quick action where needed to reduce the impact of community supervision on the spread of COVID-19. Such action should include administratively eliminating or greatly limiting revocation for technical violations, replacing in-person office visits wherever possible with noncontact means of collecting supervision reports, and removing conditions on parole or probation that require an individual to apply for or obtain work.

Courts and paroling authorities should **limit the application of probation and parole** to those who absolutely need community supervision and **reduce the terms of probation and parole** to only as long as necessary to achieve the goals of supervision.



# Data & Research Needs

Recommendation 10: State and federal research infrastructures should **invest in the monitoring and evaluation of the changes in operations and targeted COVID-19 release mechanisms** in correctional facilities to document the impact of such efforts on correctional health, public safety, public health, and racial equity... and facilitate transparency...

Researchers and funders should support a fully formed research program on the **implications of incarceration for the transmission of infectious disease** that extends beyond the adult criminal justice system to include juvenile incarceration, immigration detention, and other forms of detention.

Research should aim to **examine the mutual influence of community and correctional facility on the transmission of disease**, including the influence of community health conditions on the prevalence of infection and virus transmission inside correctional facilities and the influence of correctional facilities on surrounding communities.

Speaker



**Thomas Abt**

Director

National Commission on COVID-19  
and Criminal Justice





**CCJ**

National Commission  
on COVID-19 and  
Criminal Justice

[covid19.counciloncj.org](https://covid19.counciloncj.org)

# THE COUNCIL ON CRIMINAL JUSTICE

- Launched in July 2019
- Invitational membership organization and think tank, serving as a center of gravity for policy and leadership in the criminal justice field
- Advances understanding of the criminal justice policy choices facing the nation through nonpartisan research and consensus-based task forces

# THE COMMISSION ON COVID-19 AND CRIMINAL JUSTICE

- Launched in July 2020 and will conclude its work by the end of the year
- Led by former Attorneys General Loretta Lynch and Alberto Gonzales, along with a diverse set of leaders from policing, courts, corrections, community-based organizations, academia and public health

# COMMISSION MEMBERS



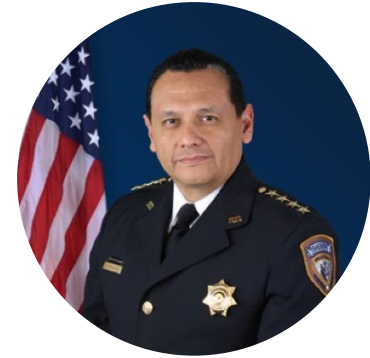
**Charlie Beck**  
Former Chief, LAPD



**Chief Adrian Diaz**  
Seattle Police Department



**Hon. Alberto Gonzales**  
Dean, Belmont University  
College of Law



**Sheriff Ed Gonzalez**  
Harris County, Texas (Houston)



**Mayor Eric Johnson**  
Dallas, Texas



**Tom Inglesby**  
Johns Hopkins University



**Hon. Loretta Lynch**  
Paul, Weiss, Rifkind, Wharton  
and Garrison



# COMMISSION MEMBERS



**Desmond Meade**  
Executive Director, Florida Rights  
Restoration Coalition



**Hon. Tina Nadeau**  
New Hampshire Superior  
Court



**Melissa Nelson**  
State Attorney  
Florida's 4<sup>th</sup> Judicial Circuit



**Colette Peters**  
Director  
Oregon Department of Corrections



**Pastor Michael McBride**  
Director, LIVE FREE



**Steven Raphael**  
Economist and Professor  
UC Berkeley



**Jo-Ann Wallace**  
National Legal Aid and  
Defender Association

# The Charge

## National Commission on COVID-19 and Criminal Justice

1

Assess the impact of COVID-19 in the criminal justice system

2

Develop priority prevention strategies to minimize the impact of a resurgence or future pandemics

3

Establish a priority agenda for policy, practice, and research based on the Commission's work



# OUR WORK

## Impact Reports

- Crime
- Jail Case Rates and Deaths
- Prison Case Rates and Deaths
- Domestic Violence
- Substance use Disorders
- Racial Disparities
- Public Health and Prisons

## Interim Recommendations

- Released October 1
- 33 action steps to stop the spread of COVID-19

## Final Recommendations

- Released December 14
- 5 recommendations for a post-pandemic criminal justice system



# INTERIM REPORT: KEY RECOMMENDATIONS

1. Stop exponential growth by exceeding official guidance in order to contain the spread of COVID-19
2. Adopt universal masking requirements for all staff and justice-involved populations when indoors and in close contact with others
3. Widely and frequently test staff and justice-involved populations for COVID-19 using the most reliable methods available

# INTERIM REPORT: KEY RECOMMENDATIONS

## 4. Limit contact, maximize distance, and reduce density

- Make arrests only when necessary to protect public safety
- Reduce in-person court appearances to those necessary to protect rights
- Reduce admissions, increase releases to reduce density in jails, prisons
- Engage community-based organizations to maintain public safety

## 5. Actively engage and consider impacted communities in all decision-making

# FINAL REPORT:

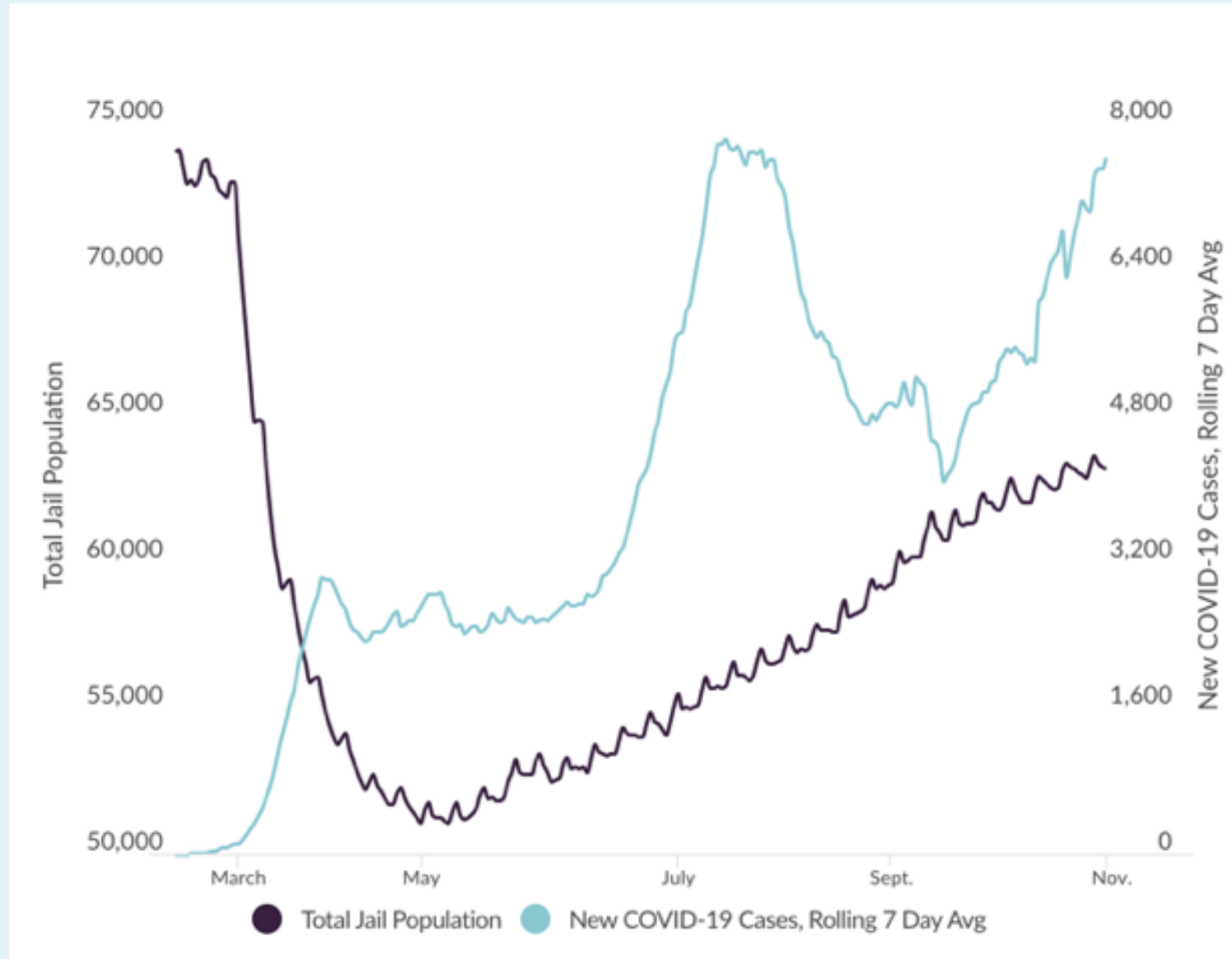
## KEY FINDINGS & RECOMMENDATIONS

Finding 1: Criminal justice agencies were not sufficiently prepared for a large-scale public health crisis like the coronavirus pandemic

Recommendation 1: Engage all sectors of the system, public health authorities, and community-based organizations in integrated crisis response plans

- Prioritize those incarcerated and working within system for early access to vaccines and PPE
- Establish standing coordinating panels for public health emergency preparedness
- Build community-based capacity to support justice-involved populations during public health emergencies.

## 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.

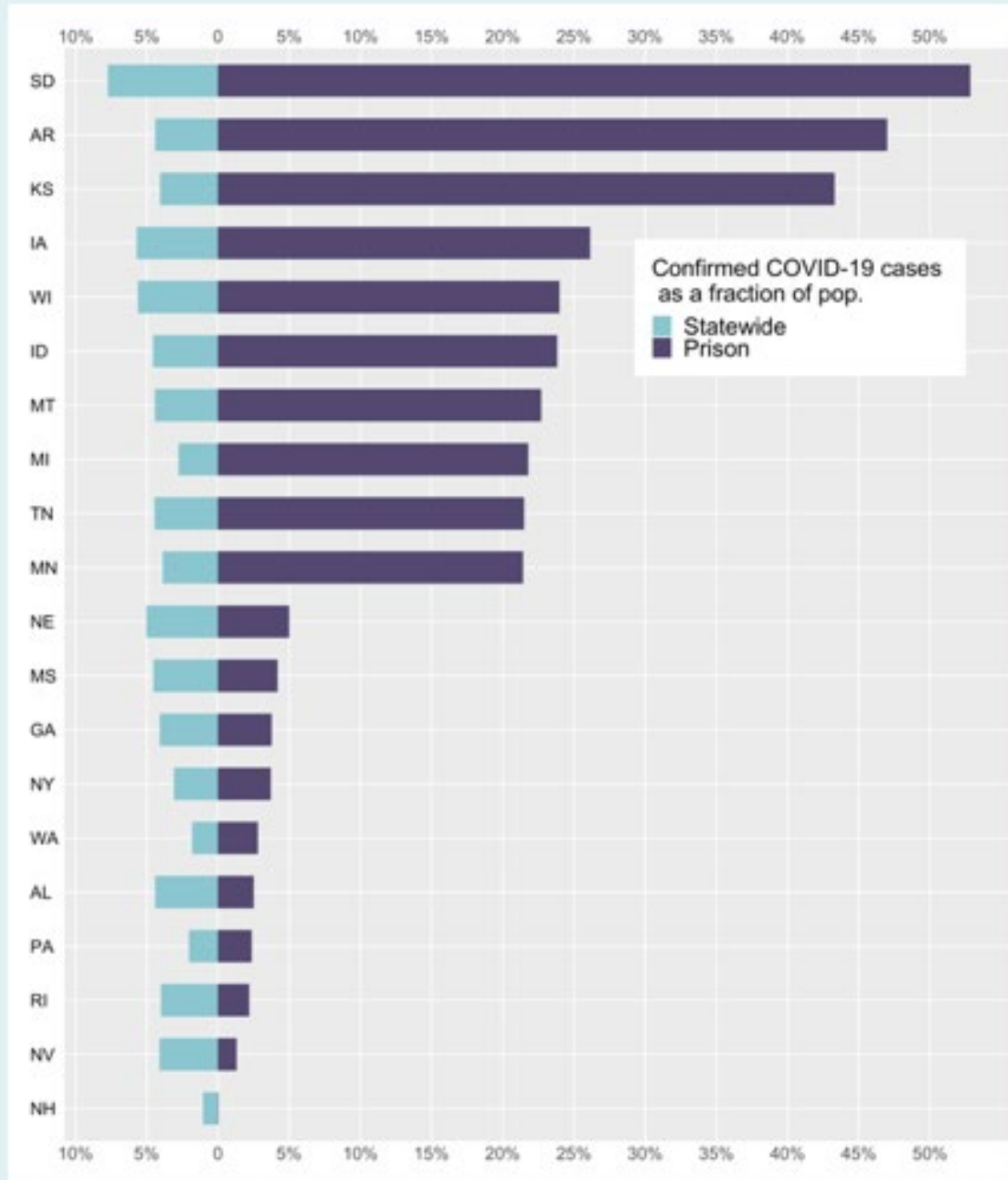
# FINAL REPORT:

## KEY FINDINGS & RECOMMENDATIONS

Finding 2: The scale and scope of the criminal justice system, along with the absence of public health coordination, posed an obstacle to COVID-19 control

Recommendation 2: Rebalance criminal justice and public health responses in order to limit contact, maximize distance, and reduce density

- Expand emergency release mechanisms to permit the medically vulnerable to petition for release
- Invest in evidence-based public health alternatives to traditional law enforcement, particularly for behavioral health issues
- Ensure adequate access to behavioral health treatment, adequate medical care, and stable housing for those returning from incarceration



Note: This shows the fraction of the population with a confirmed COVID-19 case statewide and in prisons.

# FINAL REPORT:

## KEY FINDINGS & RECOMMENDATIONS

Finding 3: Inconsistency and wide variation among criminal justice agencies impeded responses to the pandemic

Recommendation 3: Encourage the adoption of shared standards and best practices for responding to public health emergencies like the coronavirus pandemic, including but not limited to:

- Issuing citations in lieu of arrests where public safety is not jeopardized
- Identifying which court proceedings are appropriate for videoconference, consistent with constitutional rights
- Mandating national basic standards of care for correctional healthcare operations and developing strategies to ensure compliance



# FINAL REPORT:

## KEY FINDINGS & RECOMMENDATIONS

Finding 4: Criminal justice agency responses were slowed by a lack of relevant, trustworthy, and comparable data

Recommendation 4: Collect and transparently report standardized, aggregated public health data concerning justice-involved populations and staff

- Agencies should report on COVID-19 case, testing, positivity, hospitalization, and mortality rates by age, gender, race, and ethnicity
- Agencies should document changes in practice and report on how public health emergencies have impacted their activities and operations
- Federal research agencies should develop a new data architecture for public health information and fund a national research agenda

# FINAL REPORT:

## KEY FINDINGS & RECOMMENDATIONS

Finding 5: A lack of communication and transparency hampered criminal justice responses to the coronavirus pandemic

Recommendation 5: Improve communication and increase transparency concerning public health by developing reliable channels of communication

- Establish liaisons in criminal justice agencies to facilitate the flow of public health information from leadership to staff and the public at large
- Create additional channels of communication between correctional facilities, people in custody, their families, and counsel
- Partner with – and equip – community-based organizations to engage vulnerable populations

# Questions?