



THE GENERAL COURT OF MASSACHUSETTS
STATE HOUSE, BOSTON 02133-1053

Governor Charles D. Baker
Office of the Governor
Massachusetts State House
24 Beacon Street, Room 280
Boston, MA 02133

April 2, 2020

Secretary Thomas A. Turco
Executive Office of Public Safety and Security
1 Ashburton Place
Suite 2133
Boston, MA 02108

Secretary Marylou Sudders
Executive Office of Health and Human Services
1 Ashburton Place
11th Floor
Boston, MA 02108

Dear Governor Baker, Secretary Turco, and Secretary Sudders:

As individual members of the Massachusetts General Court, we are writing to ask you to support decarceration measures within the Commonwealth's prisons and jails during the COVID-19 public health emergency. The undersigned members are committed to upholding the health, safety, and human rights of people incarcerated within Massachusetts correctional facilities, many of whom are constituents from our districts.

According to The Department of Correction (DOC) and media reporting, as of April 1st, 2020, there are **20 incarcerated persons with confirmed positive tests for COVID-19** at the Massachusetts Treatment Center (MTC) in Bridgewater and **1 at MCI Shirley Medium**. There are **8 DOC staff members** that have confirmed positive tests for COVID-19 (3 at MTC, 1 at MCI-Shirley, 1 in Souza-Baranowski Correctional Center, 2 at Central Headquarters, 1 at MCI-Framingham). This is also **1 staff at MCI-Framingham** and **1 medical staff at MTC** that tested positive for COVID-19. There are also confirmed reports of positive cases in county jails, including Middlesex, Plymouth, and Norfolk. The number of positive cases will undoubtedly increase exponentially in the coming days and weeks. Protection is now needed for the roughly **16,500 vulnerable people incarcerated in Massachusetts**.

The high transmissibility of Coronavirus puts detainees and others held in concentrated groups at higher risk of COVID-19 disease. The virus is spreading exponentially across the country and across this Commonwealth. There is no vaccine, and no uninfected person is immune. Unless immediate decarceration measures are taken, the outbreak will continue to spread in correctional facilities and into civilian communities, further exacerbating the public health crisis. Massachusetts must act now, following in the footsteps of other states across the country, that have already begun decarceration processes. We offer the following recommendations to address this urgent issue.

A. Offer Early Release to Qualifying Categories

The following categories of incarcerated individuals should be released into the community:

I. Pre-Trial Individuals

Individuals who are able to post bail prior to their trial are released into the community to await their trial date. However, individuals awaiting trial who could not post bail should be released into the community. Roughly 40-50% of county jail populations are individuals who could not meet the bail requirements. Those who can safely return to the community should be released to await their trial date.

II. Geriatric Prisoners

Geriatric prisoners are defined by prison health experts as individuals over the age of 50. Studies of geriatric prison populations have found higher rates of pre-existing conditions in younger individuals compared to their counterparts in the general population. The higher rates of pre-existing conditions in this population lead to worsened health outcomes when comorbid with COVID-19. To protect this population from viral spread, geriatric prisoners who are at risk should be released.

In Massachusetts, **28% of the prison population is over the age of 50** leaving Massachusetts prisoners at increased risk for COVID-19 mortality (Massachusetts Department of Corrections, Prison Population Trends 2018). By releasing individuals from this cohort who pose a low risk to public safety, the concentration of individuals in the prison system will decrease, while protecting those most vulnerable to succumb to COVID-19.

In addition to being high risk for severe COVID-19 complications, prisoners over the age of 50 are at low risk to be re-arrested upon re-entry into the community. Research is clear that people age out of crime,^[2] meaning that our elders are the least likely among us to pose a realistic threat to public safety that would outweigh the severity of the public health crisis at stake.

III. Individuals Eligible for Medical Parole

Prisoners with high risk medical conditions, including permanently physically or cognitively impaired individuals, individuals with terminal illnesses with an 18 month prognosis or less, and those qualifying for medical parole, should be released. Vulnerable

groups are at increased risk of viral infection in the concentrated population of prisons and subsequently should be released into the community.

IV. Individuals within 6 months of release

A number of other states have released people with a year or less left of their sentence. We don't know how long we are going to be living under the threat of COVID-19. It is rational to allow those who would soon be released anyway to be discharged earlier for public health reasons to reduce the spread of infection among those held in custody.

V. Individuals Eligible for Parole

A presumption in favor of release and re-consideration of those previously denied is a reasonable step given the extreme public health circumstances we are currently facing and the significant threat to public health that continued incarceration will pose. The parole system in Massachusetts has been severely underutilized for many years. If they do not pose any immediate physical threat to the community, they should be released.

B. Limit new admissions

We should be limiting, to all extents possible, the number of new individuals coming into our prisons and county jails. We should cease pulling people back into the system for technical parole and probation violations and refrain from adding pre-trial people to the incarcerated population.

C. Compliance with Governor's Emergency Orders and DPH & CDC Guidelines

Further improvements should be made to prison and jail accommodations so that they comply with Governor Baker's Emergency orders and guidelines issued by DPH and CDC. Many current prison and jail practices increase the risk of spread of COVID-19. The areas must be addressed:

- Housing large groups of prisoners in dormitory settings
- Double and triple bunking prisoners despite the availability of single cells, particularly at MCI-Framingham and at Souza-Baranowski
- Continuing with congregate eating in chow hall (between 90-300 people at a time)
- Having large numbers of prisoners stand close together for med-line
- Housing the sickest and most elderly prisoners in dormitory settings with beds inches apart

A suggestion is to utilize all available single cell units. To properly stem the rapid spread of COVID-19, prisons and jails must change their practices to protect the incarcerated population.

D. Increase mitigating measures to improve the culture and climate within correctional facilities

We have seen riots and other demonstrations of frustration and tension from prison

populations throughout the country and world. We must do all we can to avoid such situations here. Although the Department has made some efforts in this area, such as allowing for 1 free email a day and 2 free phone calls per week, much more should be done. Phone calls and emails should simply be free during this time and video calls should be allowed since visitation has been and will continue to be suspended.

Further, there should be a directive to all counties to do the same and each appears to have its own set of practices. The lack of uniformity will create a sense of unfairness and arbitrariness that should be avoided. Another reason emails should be free is that attorneys are currently unable to visit clients and communication by phone and mail is increasingly complicated with people being forced to work remotely resulting in long delays in mail delivery.

E. Finding housing for people who are unhoused

Although many incarcerated people have homes to go to and families who are concerned and begging for their release, some do not have community resources to rely on. This does not mean that people should remain in prison. We know that prisons are not equipped to provide treatment and prevention necessary to help the Commonwealth flatten the curve and prevent needless death amongst our most vulnerable populations. Instead of continuing to overfund a prison system which, even under the best possible conditions, will not be able to appropriately manage this emergency, the Commonwealth must redirect those resources towards community systems of care, housing, and support for people who are unhoused.

We suggest consideration of the recommendations being made by the Material Aid and Advocacy Program (MAAP), whose mission is to support and empower community members experiencing homelessness or living in poverty, through material aid, access to resources, and advocacy opportunities.

We ask again that you support swift decarceration measures within the Commonwealth's prisons and jails during the COVID-19 public health emergency, to mitigate the mortal harm that the pandemic will inflict upon incarcerated people, corrections staff, and all of our communities.

Respectfully,

State Senator Harriette Chandler, First Worcester District

State Senator Sonia Chang-Díaz, Second Suffolk District

State Senator James Eldridge, Middlesex and Worcester District

State Senator Patricia Jehlen, Second Middlesex District

State Senator Rebecca Rausch, Norfolk, Bristol, and Middlesex District

State Representative Ruth Balser, 12th Middlesex District

State Representative Christine Barber, 34th Middlesex District

State Representative Michelle Ciccolo, 15th Middlesex District

State Representative Mike Connolly, 26th Middlesex District

State Representative Mindy Domb, 3rd Hampshire District

State Representative Carmine Gentile, 13th Middlesex

State Representative Nika Elugardo, 15th Suffolk District

State Representative Tami Gouveia, 14th Middlesex District

State Representative Jon Hecht, 29th Middlesex

State Representative Natalie Higgins, 4th Worcester District

State Representative Mary Keefe, 15th Worcester District

State Representative David LeBoeuf, 17th Worcester District

State Representative Jack Lewis, 7th Middlesex District

State Representative Kate Lipper-Garabedian, 32nd Middlesex District

State Representative Jay D. Livingstone, 8th Suffolk

State Representative Adrian Madaro, 1st Suffolk District

State Representative Liz Miranda, 5th Suffolk District

State Representative Tram Nguyen, 18th Essex District

State Representative Denise Provost, 27th Middlesex District

State Representative Maria Robinson, 6th Middlesex District

State Representative Lindsay Sabadosa, 1st Hampshire District

State Representative Chynah Tyler, 7th Suffolk District

State Representative Tommy Vitolo, 15th Norfolk District

Cc:

Lieutenant Governor Karyn Polito

Senate President Karen E. Spilka

Speaker of the House Robert A. DeLeo

EOPSS Undersecretary for Criminal Justice Andrew Peck

Department of Corrections Commissioner Carol Mici

Massachusetts Sheriffs' Association President Peter J. Koutoujian