



September 29, 2020

Senator Gustavo Rivera  
Chair, Senate Standing Committee on Health

Senate Standing Committee on Crime Victims, Crime and Corrections  
Chair, Senator Luis Sepulveda

**RE: NYS Joint Legislative Hearing to Discuss the Impact of COVID-19 on Prisons and Jails**

Dear Committee Chairs and Members,

The Center for HIV Law and Policy (CHLP) respectfully submits the following testimony regarding the importance of taking a public health rather than criminal law enforcement approach to COVID-19; and the need to address failures in the state's response to COVID-19 in prisons, jails, psychiatric hospitals, and other settings of confinement. Thank you for the opportunity to testify.

CHLP is a New York-based non-profit organization that challenges barriers to the rights and health of people affected by HIV through legal advocacy, high-impact policy initiatives, and creation of cross-issue partnerships, networks, and resources. We support movement building that amplifies the power of individuals and communities to mobilize for change that is rooted in racial, gender and economic justice. CHLP coordinates the Positive Justice Project, the first national network to challenge criminalization of HIV and other diseases.

**Take a Public Health Rather than a Criminalization Approach to the COVID-19 Response**

In May of this year, a group of national organizations led by the Association of Prosecuting Attorneys and CHLP released a document with a set of recommendations on how criminal justice professionals can incorporate public health principles into their response to COVID-19 and maintain these approaches going forward to improve community health and safety. We have attached this document, called the Public Health and Public Safety [Pathways](#) for Criminal Justice System Responses to COVID-19, to our testimony for your review.<sup>1</sup> Specifically, we recommend:

1. Releasing incarcerated people based on clear public health recommendations and set release criteria. People with disabilities, especially those with chronic health problems that make them vulnerable to COVID-19, must be a key part of any release plan.
2. Limiting arrests that result in new admissions.
3. Addressing violations of COVID-19-related directives and orders through public health departments rather than the criminal legal system.
4. Developing alternatives to incarceration or re-entry that integrate public health priorities.

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<sup>1</sup> *Available online at:* <https://www.hivlawandpolicy.org/resources/proposed-public-health-and-public-safety-pathways-criminal-justice-system-responses-covid>.

5. Building and maintaining connections among public health organizations, researchers, and criminal justice stakeholders.

We emphasize that violations of COVID-19–related directives and orders should be addressed with a public health approach, rather than with criminalization and law enforcement surveillance. It makes absolutely no sense, when there is a directive that people should stay at home, maintain social distance, or wear masks to protect themselves and other members of the community, for police to approach them and arrest them and put them in a situation where they and others are placed at the same risks that these directives are intended to prevent.

Beyond the obvious illogic of these kinds of enforcement actions, however, is the risk, and reality, of racist application of COVID-19 laws. News reports from earlier this year showed that social distancing enforcement actions in New York were taken mostly against Black and Hispanic people.<sup>2</sup> This will not be a surprise to anyone paying attention to the disproportionate policing and criminalization of minorities in this country. Tools of social control are used against marginalized groups again and again and we can and should do better.

There are better ways to address COVID-19 concerns than relying on the criminal legal system for enforcement. The Pathways proposal shows that partnerships between law enforcement and health policy professionals, regardless of political perspective, not only are possible; they are essential to a more evidence-based and effective management of legitimate public health and safety priorities.

### **Urgently Address Conditions of Confinement in Prisons, Jails, and Psychiatric Hospitals**

New York had a criminal justice crisis long before COVID-19, but the current pandemic has shone a spotlight on its many fundamental problems: overcrowding, poor quality or no medical care, malnutrition, solitary confinement, abuse by officers, harsh sentences, and lack of transparency and information sharing, to name but a few. In addition to the over policing and over incarceration of racial and ethnic minorities, people with disabilities are also incarcerated at disproportionate rates. People with disabilities, specifically people with chronic health conditions, such as diabetes, COPD, asthma, kidney disease, HIV, and others, are at high risk for serious complications from COVID-19.

Jails, prisons, and psychiatric hospitals are particularly vulnerable to the spread of COVID-19 for a number of obvious reasons. Decades of the war on drugs, relying on incarceration rather than public health as a solution to most of our problems have produced decades of overcrowding in these facilities, where prisons and jails house more inmates than they were built to hold.

The tools for managing the spread of COVID-19 – social distancing measures and aggressive cleaning protocols<sup>3</sup> – are all but impossible in the correctional facilities as they currently exist, where people are crowded together, sharing bathroom products, and where sanitizing products are

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<sup>2</sup> See, e.g., Scrutiny of Social-Distance Policing as 35 of 40 Arrested Are Black, NY Times, May 7, 2020, at <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>; Communities speak out about racial bias in social distancing arrests, Pix11, May 7, 2020, at <https://www.pix11.com/news/coronavirus/communities-speak-out-about-racial-bias-in-social-distancing-arrests>.

<sup>3</sup> See generally CDC, How to Protect Yourself & Others, at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

rarely used and highly regulated. People are captive in an environment where they have no reasonable way to distance themselves from other people in the facilities. The healthcare provided in prisons and jails is minimal at the best of times, ventilation is poor, and facilities are easily overwhelmed by an epidemic.

The CDC has posted guidance to government and correctional officials on how to manage coronavirus but reports from incarcerated individuals and correction employees make it clear that these standards were not, and are not, being fully met.<sup>4</sup>

We particularly want to highlight concerns over conditions at New York's OMH Psychiatric Centers, particularly Central New York Psychiatric Center in Marcy, New York ("Marcy"). Psychiatric Centers house highly stigmatized and politically unpopular populations such as: felony defendants found incompetent to stand trial;<sup>5</sup> defendants found not responsible for criminal conduct due to mental disease or defect;<sup>6</sup> and individuals committed to Sex Offender Treatment Programs (SOTPs).<sup>7</sup> Psychiatric Centers have gone almost entirely unmentioned in the daily briefings held by Governor Cuomo and Mayor de Blasio, and have received less support than any other carceral settings. But patients at psychiatric centers are human beings with human rights.

Residents and staff at Marcy have told us about a widespread lack of personal protective equipment (PPE) and that even when PPE is available it is not being worn properly. Family members are not even allowed to send PPE to people in confinement to make up for what the facilities themselves are not providing. It is unconscionable that we can have inmates making hand sanitizer and PPE but then not even provide it to them. Marcy patients and staff report that there is minimal social distancing and no enhanced cleaning protocols. Yet many patients there have chronic health conditions or other medical issues that make them highly vulnerable to COVID-19. Compounding these failures is the lack of information provided to staff, patients, or family members about what is going on, current COVID rates, testing, or plans. Residents are – rightly – stressed and afraid for their lives. In April there were more than 25 patients diagnosed with the virus in the facility, and at least 20 infected staff members. We worry that sentences of confinement will quickly become death sentences, as it did for at least one if not more patients at Marcy.<sup>8</sup>

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<sup>4</sup> CDC, Correctional and Detention Facilities: Plan, Prepare, and Respond, *available at*: <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/index.html>; see generally Coronavirus Cases Rise Sharply in Prisons Even as They Plateau Nationwide, NY Times, June 16, 2020, at <https://www.nytimes.com/2020/06/16/us/coronavirus-inmates-prisons-jails.html>; Dozens of Prisons Now Face COVID-19-Related Civil Rights Lawsuits, Expert Institute, June 25, 2020, at <https://www.expertinstitute.com/resources/insights/dozens-of-prisons-now-face-covid-19-related-civil-rights-lawsuits/>.

<sup>5</sup> Pursuant to Criminal Procedure Law (CPL) § 730.

<sup>6</sup> Pursuant to CPL § 330.20.

<sup>7</sup> Pursuant to New York Mental Hygiene Law (MHL) Art. 10. See generally [https://omh.ny.gov/omhweb/forensic/populations\\_served.htm#CL402](https://omh.ny.gov/omhweb/forensic/populations_served.htm#CL402).

<sup>8</sup> CNY Psychiatric Center Patient Dies of Coronavirus, WKTU, April 27, 2020 at <https://www.wktv.com/content/news/CNY-Psychiatric-Center-patient-dies-of-coronavirus-569988641.html>; 23 Cases of Coronavirus Reported at CNY Psychiatric Center, WKTU, April 22, 2020, at <https://www.wktv.com/content/news/23-cases-of-coronavirus-reported-at-CNY-Psychiatric-Center-569861171.html>; 10 Dead, Hundreds Infected as State Psychiatric Facilities Become Another Crisis Point in Coronavirus Outbreak, Gotham Gazette, April 17, 2020, at <https://www.gothamgazette.com/state/9321-ten-dead-hundreds-infected-new-york-state-psychiatric-facilities-crisis-coronavirus-outbreak>.

The Department of Health AIDS Institute has oversight to monitor conditions and programming regarding HIV/AIDS, sexually transmitted diseases (STDs) and Hepatitis C in prisons and jails. There is no equivalent oversight at OMH Psychiatric Centers like Marcy. As a result, there is no ongoing infectious diseases monitoring there. Moreover, OMH has been particularly unresponsive to concerns about the provision of care at their facilities. It is beyond time for the State legislature to explicitly extend the authority of the Health Department to the provision of health care in jails and Psychiatric Centers. There also needs to be a more effective complaint mechanism for inmates, patients, and staff to report concerns over health care and conditions without fear of reprisal.

As a final note, COVID in prisons, jails, and psychiatric hospitals does not stay within their walls. People who work at these facilities can easily bring COVID home to their families and communities. Many of these facilities are in small upstate communities who have limited resources to fight and treat COVID. A public health response to COVID that considers carceral facilities part of the community and part of the necessary response benefits the broader community.

We recommend that the legislature:

1. Ensure that the Office of Mental Health (OMH) supplies enough PPE to facilities under their purview, including hand sanitizer, soap, face masks, and other essential personal hygiene and public health products to incarcerated people.
2. Ensure that OMH is carrying out regular testing. They must ensure that every incarcerated person has meaningful access to COVID tests, including first tests, subsequent tests following a positive test, and testing before release or transfer.
3. Ensure that the State Department of Health takes an active role in monitoring and protecting the health of people who are in all types of settings of confinement, including OMH Psychiatric Centers, regarding serious infectious diseases.

The right time to ensure protections for vulnerable incarcerated New Yorkers during an emergency is before that emergency arises, to ensure that the resulting policy is comprehensive and includes input from all stakeholders. The fact that New York's COVID-19 rates are currently stabilized at a low level is no reason to not act with urgency to fix this now. Indeed, it is likely that we will again confront either a COVID-19 resurgence or another lethal virus in the near future.

The State has an opportunity in the upcoming legislative session to use the opening created by COVID-19 pandemic to right past wrongs, address racism and disability discrimination that has been built into the system, and build a safer and healthier community.

Thank you for your consideration of our testimony and your work to protect the rights and lives of people who are currently incarcerated or are at risk of future incarceration in New York State.

Respectfully submitted,



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Attachment:

- 1) Proposed Public Health and Public Safety Pathways for Criminal Justice System Responses to COVID-19, Center for HIV Law and Policy, et al. (May 27, 2020).



# PROPOSED PUBLIC HEALTH AND PUBLIC SAFETY PATHWAYS FOR CRIMINAL JUSTICE SYSTEM RESPONSES TO COVID-19

May 2020

A wide array of criminal justice stakeholders<sup>1</sup> have come together to call for a public health-oriented approach to the COVID-19 crisis. The key recommendations are as follows:

1. Release of people who are incarcerated, based on clear public health recommendations and release criteria, is a critical intervention to limit the spread of disease.
2. Limiting new admissions to closed correctional settings is an equally critical component of reducing disease transmission for the protection of our communities.
3. Violations of COVID-19-related directives and orders should be addressed with a public health approach, rather than with criminalization and law enforcement surveillance.
4. Innovations that promote integration of public health priorities into the justice system already exist and may help local jurisdictions in their responses, including specialty courts, evidence-based models of correctional health care, and dedicated re-entry services.
5. Connections among public health organizations, researchers, and criminal justice stakeholders are necessary to manage health crises in custodial settings and should endure beyond the COVID-19 pandemic.

<sup>1</sup> Authoring organizations are the Association of Prosecuting Attorneys, The Center for HIV Law and Policy, Community Oriented Correctional Health Services, National Association of Criminal Defense Lawyers, The Williams Institute at UCLA School of Law, UCLA School of Law's Criminal Justice Program.

## INTRODUCTION

Incarceration carries inherent, increased risks to the health of people who are incarcerated and corrections staff that can frustrate management of the COVID-19 pandemic. COVID-19 is having a significant impact on every aspect of the criminal justice system, and it is impossible to overstate the level of fear that people in custody and their families feel in view of their isolation and sense of invisibility and the unprecedented risk to their health. In response, corrections officials across the U.S. are releasing people based on a variety of criteria. From the perspective of law enforcement and criminal justice, correctional health, public health, and infectious disease professionals and advocates, it is important to consider lessons learned from these recent efforts as well as past measures to manage dangerous conditions within correctional facilities. The principles below represent pathways for institutionalizing approaches that maintain high levels of health and safety during this unprecedented public health crisis and beyond.

***Release of people who are incarcerated, based on clear public health recommendations and release criteria, is a critical intervention to limit the spread of disease.***

As of May 2020, jail and prison systems across the country are releasing people in response to COVID-19. Tens of thousands of individuals have been released from jails, with justice stakeholders working towards jail population reduction goals from 7 to 30 percent and more.<sup>2</sup> Releases from state prisons have been slower but started to increase in April, including in Oklahoma, Colorado, and Ohio.<sup>3</sup>

Even in the best of circumstances, national guidelines and public health research demonstrate that overcrowding undermines the health of staff and people who are incarcerated.<sup>4</sup> Because social distancing is the most effective way to prevent the rapid spread of the virus in any setting, this must remain the focus of custodial facilities. This requires significant reductions in the numbers of people incarcerated, both pre- and post-conviction. While there will be broader public safety concerns with regards to the release of people from custody, it is important to note that past court-ordered and executive-ordered staged releases of people who are incarcerated to reduce dangerous overcrowding have been accomplished without increased crime rates or risks to public safety.<sup>5</sup> The considerations here must be guided by the epidemiological projections that look grim for people who are incarcerated, staff at these facilities, and the larger community if jails and prisons remain at their current populations.<sup>6</sup>

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<sup>2</sup> COVID-19: Criminal Justice Responses to the Coronavirus Pandemic, <https://www.vera.org/projects/covid-19-criminal-justice-responses/covid-19-data>

<sup>3</sup> See, e.g., <https://www.prisonpolicy.org/virus/virusresponse.html>

<sup>4</sup> Dora M. Dumont et al., *Public Health and the Epidemic of Incarceration*, 33 Ann Rev. Pub. Health 325, 329 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3329888/>

<sup>5</sup> See, e.g., Mauer M. and Ghandnoosh N., *Fewer Prisoners, Less Crime: A Tale of Three States*, <https://sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf>; Schrantz D. et al., *Decarceration Strategies: How 5 States Achieved Substantial Prison Population Reductions* (2018), <https://www.sentencingproject.org/wp-content/uploads/2018/08/Decarceration-Strategies.pdf?eType=EmailBlastContent&eld=a761a9fc-178d-4700-8421-c1e0b3047a5>

<sup>6</sup> COVID-19 Model Finds Nearly 100,000 More Deaths Than Current Estimates, Due to Failures to Reduce Jails, [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_covid19-jail-report\\_2020-8\\_1.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_covid19-jail-report_2020-8_1.pdf)

While recognizing that public health goals in combating the spread of COVID-19 are best achieved through swift action, the implications of re-entry on the health of people who are released, and public health more generally must be considered. When individuals are released from confinement, all recommended public health precautions should be in place, e.g., ensuring individuals have a place to quarantine for 14 days if they have been exposed to COVID-19 and ensuring access to necessary medical care. In evaluating the impact of release programs, public health and public safety outcomes should be assessed in the aggregate, rather than based on anxieties over a potential bad outcome in an individual case. Public health officials routinely make policy decisions based on epidemiologic risk, understanding that elimination of all risk is impossible. Similarly, justice system professionals who consider the high risk to the health and safety of those incarcerated when making release decisions deserve assurances that the success of their decisions do not hinge on a small number of potential negative outcomes.

This is a moment to create and expand connections among jurisdictions' justice system stakeholders, local public health experts, and community-based supports to ensure that people being released are aware of and can access available services. For example, in Los Angeles County, in order to effectively transition youth out of custodial facilities, community members collaborated with the Department of Health Services' Youth Development and Diversion Program on a survey of youth-serving organizations that were ready and willing to provide services and placements for youth upon release. They then made sure that criminal defense attorneys were aware of these resources for their clients.

***Limiting new admissions to closed correctional settings is an equally critical component of reducing disease transmission for the protection of our communities.***

Protecting communities in the time of an infectious disease epidemic requires both a limit on new admissions and release of those already in custody. Jails are unequipped to set up the type of quarantining required for new admissions. The high rates of "jail churn," people cycling in and out of the jails, will undoubtedly heighten the risk of COVID-19 entering these facilities. Respected law enforcement officials have offered examples of offenses that can be managed effectively without incarceration.<sup>7</sup> Many agencies have begun to issue civil citations for a large swath of offenses.<sup>8</sup> Law enforcement should use their discretion to "refrain from custodial arrests for misdemeanor and low-level felony offenses that do not involve the infliction or threat of infliction of serious bodily injury, sexual assault or a known likelihood of physical harm, issuing citations instead."<sup>9</sup> During this time, law enforcement should also refrain from arresting people on outstanding warrants or for technical violations of probation or parole.

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<sup>7</sup> See joint letter from NYC top prosecutors to Mayor De Blasio and Commissioner Brann, <http://www.ny1.com/content/dam/News/static/nyc/pdfs/6%20DA%20Letter.pdf>. See also <https://nacdl.org/getattachment/668c045f-3a9e-44e7-b8c4-920641ef528c/nacdl-covid-19-statement-march192020.pdf>

<sup>8</sup> Miami-Dade Police Department is using promises to appear or civil citations for all misdemeanors, <https://theappeal.org/miami-covid-19-arrests/>; Law Enforcement Action Partnership recommends the maximization of cite and release, <https://docs.google.com/document/d/1ZIKPUpunr3-cMYrVpFACCHO-Wxl7E4Q-BqvalW7vILM/edit#>

<sup>9</sup> Averting an Imminent Catastrophe: Recommendations to US Local, State and Federal Officials on Covid-19 in Jails and Prisons, [https://www.hrw.org/news/2020/04/29/averting-imminent-catastrophe-recommendations-us-local-state-and-federal-officials#\\_Toc38913289](https://www.hrw.org/news/2020/04/29/averting-imminent-catastrophe-recommendations-us-local-state-and-federal-officials#_Toc38913289)

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***Violations of COVID-19-related laws and ordinances should be addressed with a public health approach, rather than with criminalization and law enforcement surveillance.***

The first response to violations of public health orders related to COVID-19 should remain within the enforcement mechanisms of public health departments. Arresting individuals for failing to observe the rapidly-changing directives from federal, state, and local officials on the use of protective gear or social distancing puts one part of the criminal justice system at direct odds with corrections officials struggling to reduce jail populations. History has taught us that criminalization of infectious diseases does not reduce transmission or increase disclosure, and in fact can discourage people from getting tested or seeking appropriate medical care. Accordingly, over the past several years, law enforcement, public health, medical, and legal organizations have called for an end to the use of the criminal law as a response to infectious disease exposure, particularly HIV.<sup>10</sup>

For many years, members of a vast array of criminal justice system stakeholders have called for a reconsideration of the extent to which society relies on criminal justice solutions to complex social issues. That reconsideration is imperative to effectively reduce exposure, sickness, long-term loss of health, or even death as a result of COVID-19.

***Innovations that promote integration of public health priorities into the justice system already exist and may help local jurisdictions in their responses, including specialty courts, evidence-based models of correctional health care, and dedicated re-entry services.***

Multiple jurisdictions have incorporated a public health perspective to inform alternatives to incarceration or re-entry. These programs have begun to serve critical roles in promoting a public health response to COVID-19 for people with justice involvement. One of the most complicated features of the COVID-19 response in city and county governance has been the need to expand access to safe housing models that slow the spread of COVID-19, including for people recently released from incarceration. Some of the programs that have applied an existing public health approach to the COVID-19 response for people with justice involvement include:

- **Seattle's LEAD Program:** Law Enforcement Assisted Diversion (LEAD) is a pre-booking diversion program that diverts people who have committed low-level, nonviolent offenses to services as an alternative to incarceration. Police officers exercise discretionary authority at the point of contact to divert individuals to a harm-reduction intervention that addresses unmet behavioral health needs. Many of the target individuals for this program have a substance use disorder, mental illness, or both; are housing insecure; or are struggling with other social stressors. LEAD provides housing placement, mental health care, and substance

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<sup>10</sup> <https://www.hivlawandpolicy.org/resources/collection-statements-leading-organizations-urging-end-Criminalization-hiv-and-other>. See, e.g., National Association of County & City Health Officials (NACCHO), [Statement of Policy: Opposing Stigma and Discrimination Against Persons with Communicable Diseases](#) (2013); U.S. Conference of Mayors, [Resolution on HIV Discrimination and Criminalization](#) (2013); U.S. Department of Justice, [Best Practices Guide to Reform HIV-Specific Criminal Laws to Align with Scientifically-Supported Factors](#) (2014); National Association of Criminal Defense Lawyers (NACDL), [Resolution of the Board of Directors of the NACDL Concerning HIV Criminalization](#) (2016); American Medical Association (AMA), [Modernization of HIV Specific Criminal Laws](#) (2014); The Association of Nurses in AIDS Care (ANAC), [HIV Criminalization Laws and Policies Promote Discrimination and Must Be Reformed](#) (2014); Infectious Diseases of America (IDSA) and HIV Medicine Association (HIVMA), [Position on the Criminalization of HIV, Sexually Transmitted Infections and Other Communicable Diseases](#) (2015); American Academy of HIV Medicine (AAHIVM), [Policy Position Statement on HIV Criminalization](#) (2015); National Alliance of State and Territorial AIDS Directors (NASTAD), [National HIV/AIDS Strategy Imperative: Fighting Stigma and Discrimination by Repealing HIV-Specific Criminal Statutes](#) (2011).

use disorder treatment to help these individuals stabilize and flourish.<sup>11</sup> In response to the coronavirus outbreak, LEAD has partnered with local motels to find additional bed space for 200 individuals as an alternative to incarceration.

- **Pennington County, SD Care Campus:** Pennington County has built an all-in-one social services complex with a single point of entry that houses the detox treatment, Safe Solutions program, Crisis Care Center, Quality of Life Unit, and Pennington County Health and Human Services under one roof. This complex houses residential alcohol and drug treatment services as well. This centralized, co-located campus streamlines services and allows individuals to immediately get the help they need. Also, individuals facing a crisis can walk in and do not need to wait for police to intervene. A recent study showed that 64 percent of admitted individuals were self-referred.<sup>12</sup> This facility reduces the burden on the justice system and does not saddle people who need help with a criminal record.
- **Deschutes County, OR Clean Slate Program:** If an individual is arrested or cited with possession of a controlled substance, they can enter the Clean Slate pre-charge diversion program, which will give them the opportunity to remove the arrest from their record and receive access to a variety of community resources including medical care and drug treatment. Participants also have the opportunity to meet with defense counsel privately to discuss their case and determine if they want to participate. The goal of this program is to identify the best intervention for each individual and shift the response strategy, providing a direct connection to health care and substance abuse treatment that could generate better sobriety and health outcomes.<sup>13</sup>

***Connections among public health organizations, researchers, and criminal justice stakeholders are necessary to manage health crises in custodial settings and should endure beyond the COVID-19 pandemic.***

Public health experts are best suited to lead responses to public health issues regardless of where they arise. At the same time, public health responses to crises in correctional systems must recognize larger public safety issues on which criminal justice professionals have experience and expertise. Health care providers, legal professionals, researchers, formerly-incarcerated people and community service organizations with direct, broad understanding of the way in which individuals experience public health and criminal law interventions can inform and help calibrate systems that respect individual rights and therefore are effective, long-term interventions.<sup>14</sup> What is needed, now and going forward, are productive, lasting connections between health and justice systems that recognize the real experiences of those under criminal justice system supervision and control as well as the

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<sup>11</sup> LEAD National Support Bureau; Crime and Delinquency, *Seattle's Law Enforcement Assisted Diversion (LEAD) Program: Within-Subjects Changes on Housing, Employment, and Income/ Benefits Outcomes and Associations With Recidivism* (2017); <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=477>

<sup>12</sup> Pennington County, South Dakota Behavioral Health Continuum of Care <https://sdlegislature.gov/docs/interim/2019/documents/DTF210212019-A.pdf>

<sup>13</sup> Lessons on Front-End Diversion from Deschutes County, Oregon, and Summit County, Ohio [https://www.urban.org/sites/default/files/publication/99172/lessons\\_on\\_front-end\\_diversion\\_0.pdf](https://www.urban.org/sites/default/files/publication/99172/lessons_on_front-end_diversion_0.pdf)

<sup>14</sup> E.g., One such example of a successful collaboration is the fact sheet, *Spit Does Not Transmit: A Fact Sheet for Law Enforcement Personnel*, <https://www.hivlawandpolicy.org/resources/spit-does-not-transmit-a-fact-sheet-law-enforcement-personnel-center-hiv-law-and-policy>; See also, *Los Angeles County's Alternatives to Incarceration Workgroup*, which brought together a broad range of community, law enforcement, and health stakeholders (to name a few) to create a comprehensive proposal for diversion and alternatives to incarceration. Their report can be found here: <https://lacialternatives.org/reports/>

challenges facing those charged with management of these systems.

There are several barriers — and concomitant opportunities — to incorporating public health organizations and agencies more fully into criminal justice pathways, each of which also presents an opportunity to make long-lasting policy improvements in this realm. Correctional healthcare infrastructure operates largely independently from community health care systems and health department oversight. As a result, the level and quality of data required to make evidence-based decisions about public health and alternatives to incarceration is often lacking. The COVID-19 pandemic presents an opportunity for public health organizations to address that disconnect and to offer counsel to correctional health entities on their tracking and management of COVID-19. A critical step in this direction would be to leverage public health resources and staff currently dedicated to COVID-19 responses in justice settings for more routine engagement in correctional health coordination. State Departments of Health can and should ensure that community standards for patient care and privacy extend to jail and prison systems.

Another way to develop long-term partnerships between public health and justice systems is to routinize communication between justice system stakeholders and public health experts. In order to support decision makers in the justice realm, public health experts should provide evidence-based or designed public health tools that law enforcement professionals can rely on. For example, when a judge is provided with a plan that includes an alternative to incarceration for a health-related reason, it would be helpful to present data on the improved health outcomes associated with the plan for prior and similar cases, rather than rely on the relative strengths of a single set of arguments. This approach is especially meaningful during COVID-19 responses as judges and prosecutors seek to understand how release can affect the risks to individual petitioners, staff, and detained people inside correctional settings, as well as their local communities.