

Since the beginning of the pandemic many organizations, individuals who love people in prison, and people in prisons have been asking Governor Whitmer and her appointed Michigan Department of Corrections Director, Heidi Washington, to handle the crises arising in Michigan's prisons within a public health and human rights framework.^{1 2 3 4 5 6}

COVID is running rampant in many MDOC facilities. Overall, using state data, the confirmed infection rate is 26% -- about 10 times Michigan's non-prison infection rate. And this is not merely a matter of more frequent testing: the state reports 76 [now 77] deaths, a death rate 2.5 times higher than outside of prison.⁷

We acknowledge that the MDOC has taken steps to provide mass testing and initiated an initial increase in positive parole grants.

COVID continues to rise dramatically in Michigan's prisons. Every prison in the state now has positive cases. In this second wave (or third depending on what source one is reading), staff have been deeply impacted and infected. The prison communities where staff live are also impacted by the wide spread in prisons. We question the handling of the virus by the MDOC and the lack of transparency to the public about the pandemic response plans that might be being utilized around the state.

This virus is not going away and for imprisoned populations and the people who work in prisons, things have been grim and daunting for nearly 9 months. As of Wednesday, November 18 over 10,000 people in prison have tested positive for the virus throughout the pandemic and 76 people have died.

During this surge of the virus, we—various grassroots organizations, grassroots organizations, formerly incarcerated people, loved ones of people in prison, and faith leaders decided to come together and try our best to develop common messaging and asks to bring to the highest public servant in the state—Governor Whitmer. We want to be heard. We want to have a sit down with the governor for 30 to 45 minutes, and we ask that the head of her corrections legal team and her corrections policy advisor be at the table.

At this point we have immediate asks and longer term asks. We want to be clear that all of our efforts at the beginning of this pandemic were aimed at decarceration, decarceration, decarceration. We know that prison is no place for a pandemic. The best public health strategy

¹ [Letter from various advocacy organizations regarding decarceration and better treatment inside—Sent April 6, 2020](#)

² [SADO Survey of people in MDOC, May 2020](#)

³ [Family Advisory Board Q & A with MDOC](#)

⁴ [ACLU letter urging releases, April 16, 2020](#)

⁵ [Nation Outside Letter](#)

⁶ [Michigan Liberation's petition and demands](#)

⁷ Drawn from MDOC's own data and concluded by Professor Schlanger

for addressing the pandemic in prisons was and is releasing as many people as possible into the safety of their own homes and communities. We still believe the most humane and moral response to COVID-19 in prisons in Michigan is implementation of robust release of as many people in prison as possible.

We believe Governor Whitmer and her appointed administrators of State Departments, including the Michigan Department of Corrections, should be focused on saving lives. The policies and practices enacted by the State should reflect centering the lives of all Michiganders including people who are imprisoned and the people who work in prisons.

Further, we are asking for the Department of Health and Human Services to audit the MDOC's response to the virus and for top state officials to suit up in hazmat suits and talk to people in prison and staff about the experience of living through COVID inside.

In addition to asking for a sit down with the governor and her advisors, we are lifting up the following longer term and immediate asks.

COVID-19 plainly presents an "imminent danger to the health or lives" of all individuals incarcerated by MDOC. In these circumstances, state law is clear: MCL 333.2251(1) states that the Director of the Michigan Department of Health and Human Services "shall . . . issue an order [to] . . . person[s] authorized to avoid, correct, or remove the imminent danger . . . [to] "require immediate action necessary to avoid, correct, or remove the imminent danger." Government entities are "persons" under the statute who can be ordered to take such necessary actions. See MCL 333.2251(5)(c). Thus, the Director can and must order the Parole Board and MDOC to exercise the fullest possible range of their discretionary powers to reduce the dangerously overcrowded population at MDOC facilities and make the facilities safe and more humane for those who remain. Pursuant to this power, the Director should order the following steps be taken immediately:

IMMEDIATE ASKS:

1. Review any person who is past their earliest release date (ERD)⁸; this includes:
 - Waiving requirements for programming that is required for parole.
 - Allow folks to complete programming upon release if it is deemed absolutely necessary for the safety of the community.
 - Use community based programs provided by organizations that have worked with people in prison or by people who have been incarcerated.
 - This also includes the MDOC director working directly with the MDOC parole board chair to process and release as many people past their ERDs as possible. This can happen through using the presumption of parole retroactively. For those for those who are not average or high probability of parole the MDOC should report out data on the following: security level, race, age, mental health

⁸ We realize this may seem extreme. However, the objective parole bill signed into law in 2019, while not retroactive as passed, should be followed as the standard while reviewing people past their ERDs and people should be released who are high and average probability of parole on their parole guideline scoresheet.

status, years past ERD, and data regarding violation status (back on PV or new conviction).

2. This review and release of all people past their ERDs includes review and release of all people serving on parolable life sentences who have 15 or more years served in prison. The presumption of parole at ERD should apply to this category of people.
3. More transparency from the MDOC on their internal response to COVID-19 in prisons. We are asking for weekly briefings to the public from the top administrators in the MDOC.
4. Provide free phone calls for people in prison and their communities. The state should cover the costs associated with the GTL contract. The state should immediately end the special equipment fund and bring calls down to 3.4 cents per minute. The state should then cover this GTL rate.
5. Suspension of current video visitation policy and creation of a video visitation policy that is developed in deep consultation with impacted people.
6. Provision of vitamins and over the counter medications for all people in prison, not just COVID positive people, throughout the pandemic at no cost to the prison population.
7. Care and compassion for people who are stricken with COVID-19 inside our prisons and implementation of outside medical oversight of current treatment protocols.⁹

LONGER TERM Path to Decarceration:

8. Creation and implementation of a meaningful commutation process which includes an expansion of the parole board with expertise in and focus on long serving people. We need a deep commitment from the governor to set the precedent towards a cap on life and long sentences. There is no penological purpose to keep people in prison for more than 20 years. Governor Whitmer could change the tenor of punishment towards redemption and transformation and help lay the foundation towards needed shifts in policy. By granting more commutations, the governor can lead the way to truly tackling mass incarceration.
9. Adoption, through ballot initiative and/or legislation, of day for day earned credits. This would include eradicating current truth in sentencing laws.

MORE RESOURCES: [Decarceration during Covid-19 Messaging Toolkit](#) from Human Impact Partners

Myriad resources specific to MI: [Michigan Justice Response](#)

⁹ The current MOU with Wayne State in the provision of CMO services for MDOC demonstrates that local university and MDOC partnerships are possible. This could be expanded with an emergency oversight mechanism with another academic institution or another department at Wayne State.

[I don't want to die in prison: Prison conditions, decarceration, and mutual aid in the age of COVID-19](#) AFSC and Carceral State Project report on the pandemic in Michigan's prisons
[Understanding Violent Crime Recidivism](#) J.J. Prescott, Benjamin Pyle & Sonja B. Starr
National Academies of Sciences, Engineering, and Medicine
Full book: <https://www.nap.edu/download/25945>