



Demanding Action Now: COVID-19 and Michigan Prisons

As an advocacy organization led by formerly incarcerated people, we at Nation Outside are alarmed by the growing number of COVID-19 infections in Michigan prisons – and outraged that at least nine cases have tragically resulted in needless death. Since day one, advocates have been calling for drastic measures to be taken to protect incarcerated Michiganders, with little to no progress to show on the part of people in power. Although we appreciate the inherent difficulties of a speedy process within a large bureaucracy, legal hurdles, and recent attempts to ease jail populations – this is a matter of life and death, and actions to date have not gone far or quickly enough to protect this vulnerable population. Governor Whitmer must do much more.

As people who have survived this system, we can testify to the fact that a prison is no place to heal or to be protected from the dangers of a quickly spreading deadly virus with no treatment or vaccine. Not to mention the inadequate healthcare services, and no practical means for social distancing (importantly, Dr. Anthony Fauci explained that social distancing means physical distancing). Regardless of the reason for anyone’s incarceration – whether it be for minor technical violations or serious harm done to the community – none of us should be judged in whole by our worst mistakes and no one deserves to die for their actions. In a state that was the earliest adopter of eliminating the death penalty, we should not be allowing it to be carried out injudiciously by a virus.

Unfortunately, the vast majority of people incarcerated in Michigan’s prison system are subject to the deceptively-titled “Truth in Sentencing” law (TIS) – a relic of the “tough on crime” era of the 1990’s that turned out to be a driver of mass incarceration and a colossal waste of money. TIS took away the ability for the Michigan Department of Corrections (MDOC) to offer “good time” credit that incentivizes good behavior and transformative programming that helps people turn their lives around. TIS likely hinders the ability of the MDOC and Governor Whitmer to consider releasing any of as many as three quarters of more than 38,000 currently incarcerated individuals because they have not yet reached their earliest release date (ERD).

However, that leaves thousands warehoused in the MDOC who could be considered for release despite TIS, including people who are sick, frail, and elderly, many who have served decades of their prison sentences and are past their ERD.

Additionally, TIS shouldn't prevent Governor Whitmer from executing her powers to release people by:

- 1) establishing an emergency or special commutation process;
- 2) waiving the two-year requirement in-between commutation filings;
- 3) reevaluating those not subject to TIS for potentially lost "good-time" credits; and
- 4) ordering the MDOC to expedite the parole process to get more of those who are eligible for release out the door faster.

Furthermore, keeping in mind the fact that, regardless of any special releases, there are almost 10,000 people released from the MDOC every year – equating to as many as 800 per month – there need to be adequate reentry services in place for people returning home from prison. At one time Michigan was a national leader in this regard, having created the Michigan Prisoner Reentry Initiative (MPRI) program. Despite its nationally recognized success of drastically reducing recidivism rates, over the course of the previous administration the program was defunded so drastically that it almost ceased to exist. What is left of the program was offensively renamed to "Offender Success," but unfortunately no longer funds a critical component – what once was a robust community-led reentry services network.

Although reinstating MPRI could be the boost needed under normal circumstances, these are extraordinary times. People returning home from prison now aren't going to be faced with a booming economy. They are going to be faced with unemployment numbers we haven't seen since the Great Recession or worse, coupled with restrictions on movement, shortages of food and supplies, an overburdened healthcare system, dysfunctional federal leadership, and closed doors at service centers, parole offices, courthouses, and more. Desperate times call for drastic measures.

That is why Governor Whitmer should tap into the "rainy day funds" to ensure that:

- 1) every person who leaves MDOC's custody over the coming months has access to food, clothing, shelter, and healthcare, including COVID-19 testing to reduce transmissions to the community;
- 2) each person is provided direct cash payments for a minimum of six months or the duration of the emergency declaration, whichever is longer; and
- 3) furthermore, urge the courts to waive fines and fees until this pandemic is over.

Unfortunately, not everyone will get out. Those left behind should be guaranteed:

- 1) free access to protective equipment and health supplies, proper medical care, adequate ventilation, and opportunities for social distancing;
- 2) free access to email, telephone, and video communication;
- 3) free access to proper cleaning supplies and hygiene products;
- 4) free access to educational, legal, and library services electronically or otherwise; and
- 5) have violations for minor behavioral infractions eliminated.

Our prisons are about to be utterly transformed by tragedy on a grand scale. It is very likely that inside every Michigan prison, there is already a contagious carrier of the SARS-COV-2 virus, who is either asymptomatic or presymptomatic. As the disease spreads, the MDOC will face an unprecedented human rights and administrative crisis. The nature of exponential viral transmission is such that, every day that we delay action, exponentially more people will be infected inside. We urge Governor Whitmer, the Michigan Department of Corrections, and the entire judicial system to move with unprecedented speed to release as many people as possible, and to do so in the manner we suggest.