

States Could Save Lives by Expanding Compassionate Release during COVID-19 and Beyond
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Last month, Michael Cohen, Paul Manafort, and other high profile people were [released](#) from federal prison early because heart and lung conditions put them at high risk of contracting COVID-19. Yet countless others with similar health conditions remain in prison.

Many of the largest COVID-19 [outbreaks](#) in the country are in prisons, where inadequate medical care and [flawed preventative measures](#) have failed to slow the coronavirus's spread. Though prisons have made some attempts to address these shortcomings, many of their efforts—including putting people in [solitary confinement](#) to promote social distancing—have serious [deleterious](#) side effects on the mental health of people in prison. And despite officials' efforts, [the Marshall Project](#) reported increases in confirmed cases and deaths in several state prisons in the past week.

One immediate way to protect people in prison and prevent the spread of the coronavirus is to [substantially reduce](#) (PDF) the prison population. [Some prisons](#) have started doing so, trailing behind efforts by [jails](#), but it is not enough. Further, these releases have increased racial disparities; states such as [Illinois](#) are releasing Black people from prison at lower rates than their white counterparts.

Much of the media's attention has been on the federal government's failed response in federal prisons, but scant attention has been paid to state prisons, which incarcerate [five times](#) more people than federal prisons and jails. States seeking to reduce their prison populations should consider all of the tools at their disposal, including clemency, furlough, and compassionate release—the latter of which directly targets those at highest risk of death from COVID-19.

[Compassionate release](#) (PDF), also called medical or geriatric parole, grants early release for the elderly, those facing imminent death, and those in prison with debilitating medical conditions or serious sicknesses. The federal government, DC, and 49 states have distinct compassionate release programs, each with their own unique application, process, and eligibility requirements.

Expanding compassionate release would not only help prisons reduce deaths from COVID-19 but would also release people who don't pose a threat to public safety, saving taxpayers money. The return on investment for incarcerating people is low; spending time in prison is not effective in deterring future crime, and it can even do more [harm](#). Although it is difficult to assess the exact cost, several studies have theorized it costs [three times](#) (PDF) more to incarcerate people who are 55 years old and older with chronic illnesses. Despite the hefty price tag, the care patients of this age receive in prison is [poor](#) (PDF); [several states](#) (PDF) lack a mechanism to monitor the quality of their health care.

Expanding compassionate release could also reduce racial disparities in prisons. Black people make up a disproportionate share of the [prison population](#) (PDF), the [elderly](#) in prison (PDF), those with [preexisting health conditions](#) in prison, and those with the [longest sentences](#). Both inside [prison](#) and in the [community](#), Black people are dying at disproportionate rates from COVID-19. Compassionate release could help reduce these disparities.

As state policymakers consider the public health, financial, and racial equity benefits of expanding compassionate release, they must also consider whether it is humane to require people to live their last years behind bars or suffer from a chronic illness with little and low-quality treatment.

To expand compassionate release during the pandemic, here are a few things states must consider:

- **Expanding release eligibility for those with a medical condition that makes them susceptible to extreme health complications from COVID-19.** In several states, current medical qualifications are [restrictive](#), and health diagnoses that aren't necessarily considered life-threatening, such as asthma, that now put people at high risk of death from COVID-19 are not included.
- **Including applicants with indeterminate sentencing or convictions for certain offenses.** [Many states](#) (PDF) disqualify people sentenced under certain laws, such as "habitual offender" and "truth-in-sentencing" laws, and those sentenced to life in prison. Black people [disproportionately](#) receive "[habitual offender](#)" designations and [life sentences](#) that make them ineligible for compassionate release. This is partially because seemingly neutral risk assessments used to determine life sentences and parole eligibility are fraught with [institutional biases](#) (PDF).
- **Speeding up the process.** The compassionate release process in many states is [lengthy](#) (PDF) because states have failed to require correctional agencies or courts to respond to requests for release in a timely manner. Several check points throughout the process, such as document gathering, evaluation, and the eventual judgment, could be expedited to respond to the rapid spread of COVID-19 in prisons.

Policymakers can also use this unprecedented time to consider long-term changes to expand compassionate release:

- **Guaranteeing compassionate release for those with terminal illnesses and serious medical conditions.**
- **Establishing consistent definitions across states for medical qualifications to compassionate release.** Individuals must have "debilitating" or "life-threatening" medical conditions to be considered for compassionate release, yet each state has different definitions for this. Sometimes these terms aren't even defined at all, leaving applicants to guess whether they qualify.
- **Reducing the age threshold for eligibility.** [Studies](#) have shown people in prison age faster than their counterparts in the public. Lawmakers looking to expand their compassionate release policies should consider this evidence when defining the geriatric population.
- **Preparing those who are released for reentry.** This means helping them secure proper [health care](#) (PDF) in the community and finding [stable housing](#) (PDF).
- **Collecting data on the number of compassionate releases and publicly releasing rationale for denying or approving relief.** This could help increase accountability and expose inequity in release decisionmaking.
- **Creating a mechanism for seeking release via the courts.** Since the passing of the [First Step Act](#), people in federal prison can [seek relief](#) (PDF) from the court if prison officials take too long to respond to requests for relief. States could consider similar reforms.

Policymakers' responsibility to provide their constituents safety from a public health crisis becomes a [constitutional requirement](#) when it applies to their most vulnerable population: people in prison and jail. COVID-19 is exposing flaws in the criminal justice system, making this a critical time and opportunity for policymakers to act quickly while exploring long-term reforms. Reforms need not be limited to compassionate release, but it's a good start to help those most at risk of complications or death from COVID-19.