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CALIFORNIA VOTERS SUPPORT RELEASING PEOPLE FROM JAILS & PRISONS TO PROTECT COMMUNITIES FROM COVID-19

Now Governor Newsom Must Act

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EXECUTIVE SUMMARY

Across the country and throughout the world, there has been wide recognition that reducing the number of people inside jails and prisons is critical to slowing the spread of the coronavirus—both within these facilities and in the general public. At stake is the health not only of incarcerated people, but of the correctional staff whose job requires interacting with them daily and in unavoidably close quarters. They are part of the critical workforce on the frontlines against COVID-19, putting their safety and the safety of their families on the line every day to do their jobs.

Simply put, this is a matter of our mutual survival. That is why doctors, reform advocates, judges, and law enforcement officials have embraced this decarceration strategy, which both conservative and liberal voters support.

Decarceration is especially urgent in California, where prisons have been overcrowded for decades—in 2009, a three-judge federal court found that overcrowding amounted to a violation of the Eighth Amendment, a decision the U.S. Supreme Court later upheld—and where the number of confirmed COVID-19 infections inside detention facilities is rapidly rising. In just the last two weeks, the number of confirmed cases among prison staff and incarcerated people has jumped from two to 81.

And yet Governor Newsom has failed to act. With the stroke of his pen, tens of thousands of people could be immediately, and safely, released into parole or community supervision. These are people who are elderly and sick, people with preexisting medical conditions that leave them acutely vulnerable to viral infections, people who are low security and who are already set for

release within the next 18 months. Leaving them inside prison, housed in cramped, unhygienic conditions and without adequate medical care, threatens their health, the health of thousands of correctional officers, their families, and by extension, our own.

We asked California voters if they support releasing people from California jails and prisons in response to the coronavirus threat, and found broad bipartisan support:

- ▶ 58 percent of Californians, including a majority of Republicans, support releasing anyone charged with an offense that does not involve a serious physical safety risk to the community.
- ▶ 61 percent, including 55% of Republicans, support releasing elderly incarcerated people.
- ▶ 56 percent support releasing people who have medical conditions that place them at higher risk, including those with asthma, cancer, heart disease, lung disease, and diabetes.
- ▶ A majority (55%) support releasing individuals who have fewer than 12 months remaining on their sentences—a number 22 percentage points higher than those who oppose (33%).
- ▶ And a majority of California voters (51%) support following practices adopted in other countries, and releasing incarcerated people as a precaution against the spread of the coronavirus and to ensure compliance with public health guidance—with +15% somewhat or strongly supporting over those who oppose.

INTRODUCTION

Bruce Wayne Rhoden was already among the most likely to suffer severe illness, or even death, if infected with COVID-19. He is 61 years old and has several pre-existing medical conditions, including diabetes and HIV, that put him at high risk for complications from an infection. “He needs a lot of care,” his wife Alicia told The Guardian. “He takes six insulin shots a day and needs his antivirals.”

But about a month ago, Rhoden incurred another risk factor: He became one of the 120,000 people crammed into California’s overcrowded and unsanitary state prisons, in his case Wasco State Prison, located about 30 miles outside of Bakersfield. “My fear is that he can die in prison because of his medical conditions,” his wife said.

Rhoden isn’t alone. California’s prisons are filled with people for whom a COVID-19 infection is a potential death sentence. There’s Freddie Cole, who just turned 79 and three years ago had a pacemaker installed. And there’s Amir Shabazz, now 70, whose immune system remains compromised after a bout with valley fever that nearly killed him. Overall, one in seven people inside California’s prisons is over the age of 55, and 37% of the prison population has at least one risk factor for severe illness from Covid-19. That’s over 44,000 people.

Keeping these people inside prison does nothing to protect public safety—to the contrary, it poses a direct threat to public safety. As doctors, public health experts, courts, criminal justice reform

advocates, and even some prosecutors have argued, reducing jail and prison populations is critical to preventing COVID-19 outbreaks not only inside these facilities but in the broader community. With thousands of people cycling in and out of California’s detention facilities everyday, the coronavirus cannot be contained by prison walls. Already, of the 81 confirmed COVID-19 infections across California’s prison system, 62 have been staff members, who do their jobs inside and then leave and return home at the end of their shifts.

Governor Newsom has the broad authority to take action—California Government Code section 8550, the Emergency Services Act, gives Newsom the power to immediately release people from prisons—but he has refused to do so, even as local officials around the state, including prosecutors, sheriffs, and judges, work to reduce jail populations in their counties. “I have no interest . . . in releasing violent criminals from our system, and I won’t use a crisis as an excuse to create another crisis,” Newsom said on March 23.

Newsom’s statement tragically misunderstands both the severity of the coronavirus threat and the reality of who we imprison in California. The Governor’s stance not only misconstrues the situation on the ground, it is also out of step with what California voters want.

GOVERNOR NEWSOM MUST RELEASE PEOPLE FROM PRISON: **POLICIES & POLLING**

It should be obvious at this point why jails and prisons are such dangerous vectors for coronavirus transmission. They are crowded and confined. Basic sanitary needs, like access to soap and hot water, often go unmet, and hand sanitizer, a staple of disease prevention on the outside, is generally prohibited because of its alcohol content. With people sleeping in bunk beds and with sometimes just five toilets for 100 people, social distancing is impossible. Following the public health guidance on slowing the spread of infections is physically impossible for prisoners and the guards who work in prisons. They can neither protect themselves nor each other from the spread of this deadly contagion.

This is true of American prisons anywhere, but especially in California, where a prison system designed to hold 85,000 people has been well over capacity for decades. There are at least 37,000 people who work in these prisons, with over 1,000 people working at some individual facilities. That means hundreds of people each day go to work at a California prison and engage with thousands of people in a closed, overcrowded, unsanitary environment, and at the end of their shifts, these hundreds of people exit from the prison and return to their homes, their families, and their communities.

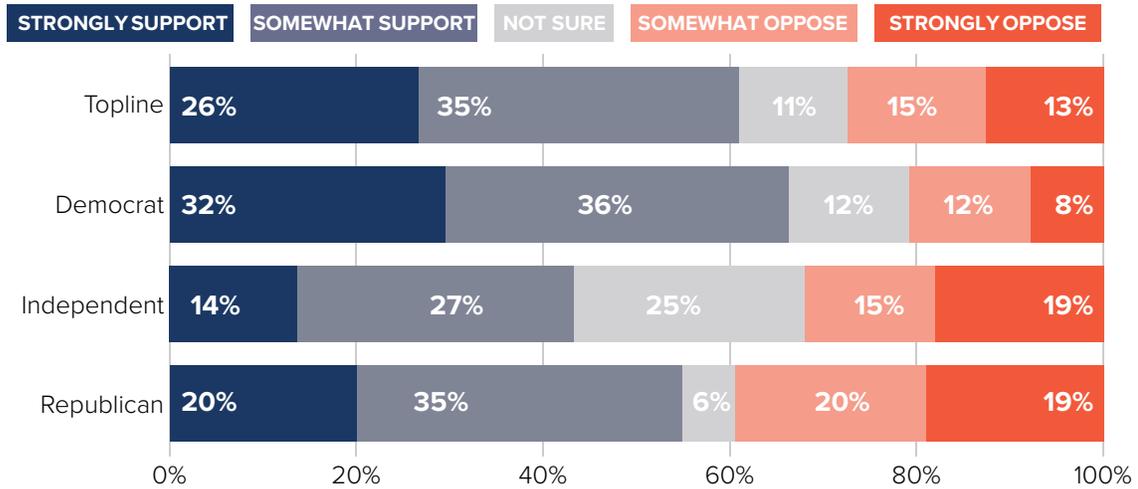
Given these conditions, outbreaks of the flu regularly occur in jails and prisons, and experts have said that inside the coronavirus will spread like “wildfire.” When that happens, there is little hope of treating it, as the scarce medical services inside detention facilities are not designed to quell a large-scale outbreak of infectious disease.

Releasing people and lowering prison populations is the obvious, and necessary, solution. But California and Governor Newsom have fallen dangerously behind. So far, the state has fast tracked the release of about 3,500 people serving sentences for nonviolent offenses who were due to be paroled in the next 60 days, and prisons have suspended intake from county jails. But it would take releasing tens of thousands more just to get under 100% capacity, and still more to ensure the space that public health guidance requires.

Newsom could start by releasing the most vulnerable—the thousands of elderly and infirm incarcerated people who are in their 50s, 60s, 70s, and even 80s. Many are serving lengthy sentences they would never receive today, imposed under old “tough-on-crime” sentencing laws that have since been reformed. They are also among the least likely to commit a future offense. In general, propensity for criminal behavior declines with age. People aged 50 to 64 have a recidivism rate dramatically lower than the national average, and people over 59 account for less than two percent of all arrests.

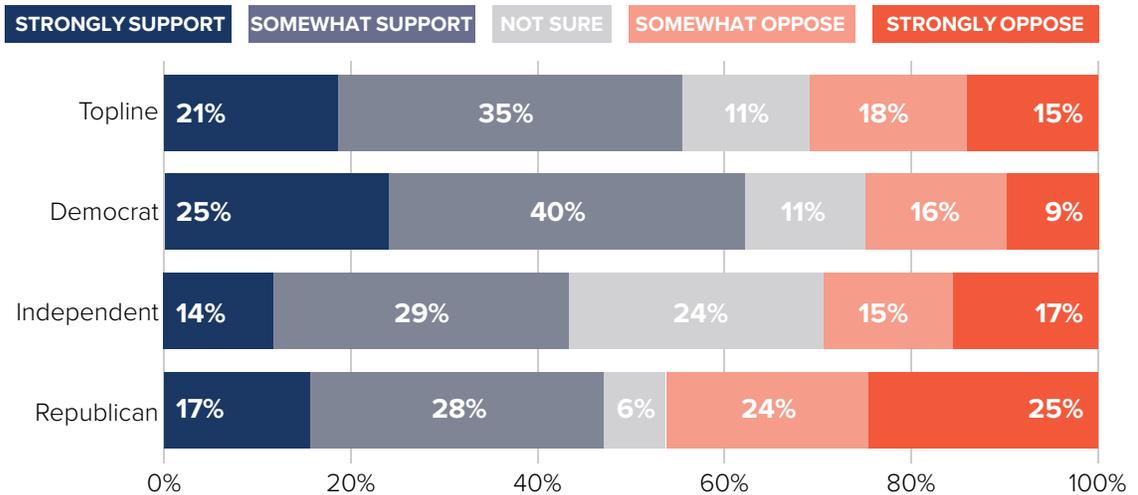
Older people are also the most expensive to incarcerate, and put a strain on limited medical resources that will be required to treat the growing number of people with COVID-19 infections. Releasing this vulnerable group will not pose a risk to public safety, but leaving them confined presents the risk of accelerating the spread of disease.

Do you support or oppose releasing incarcerated people who are elderly and do not pose a serious risk to public safety because the Center for Disease Control estimates that they are more vulnerable and have higher rates of mortality than younger people?



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Do you support or oppose releasing incarcerated people whom the Center for Disease Control has classified as vulnerable populations including those with asthma, cancer, heart disease, lung disease, and diabetes who do not pose a serious risk to public safety?



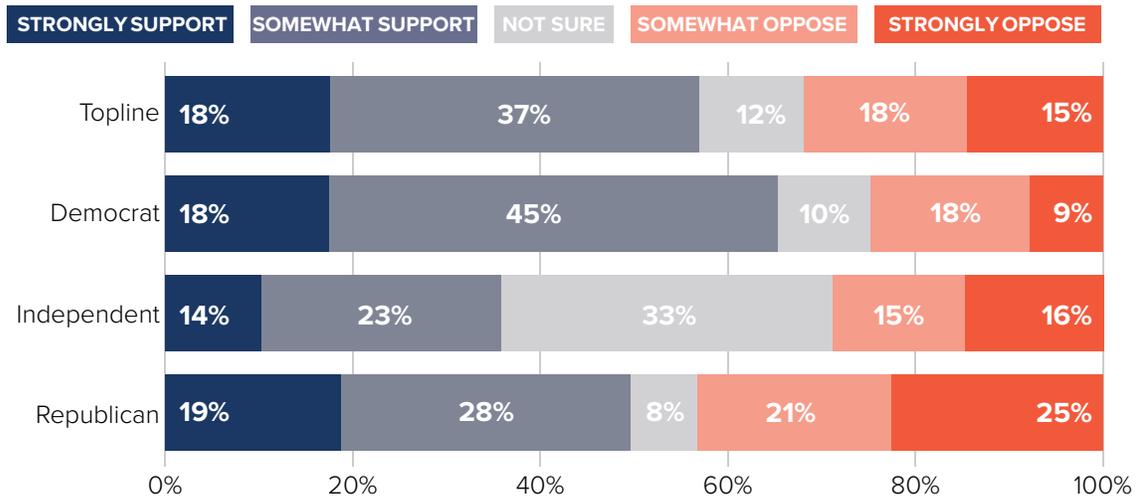
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Newsom should also immediately release all people who have anticipated release dates later in 2020 and 2021. This echoes a demand set forth in a [letter signed by more than two dozen organizations](#), including The Justice Collaborative, and sent to Newsom over two weeks ago. As the letter explains, people set for release within the next 18 months are overwhelmingly held in low-

level security, and releasing them would free up bed space in facilities that will be needed to care for the sick.

Our polling shows significant support for releasing people who are within 12 months of completing their sentence, with 55% of California voters supporting and only 33% who said they “oppose”—a gulf of 22 percentage points.

Do you support or oppose releasing incarcerated people who are within 12 months of completing their sentence in order to reduce the risk of transmitting the coronavirus within jails and prisons?



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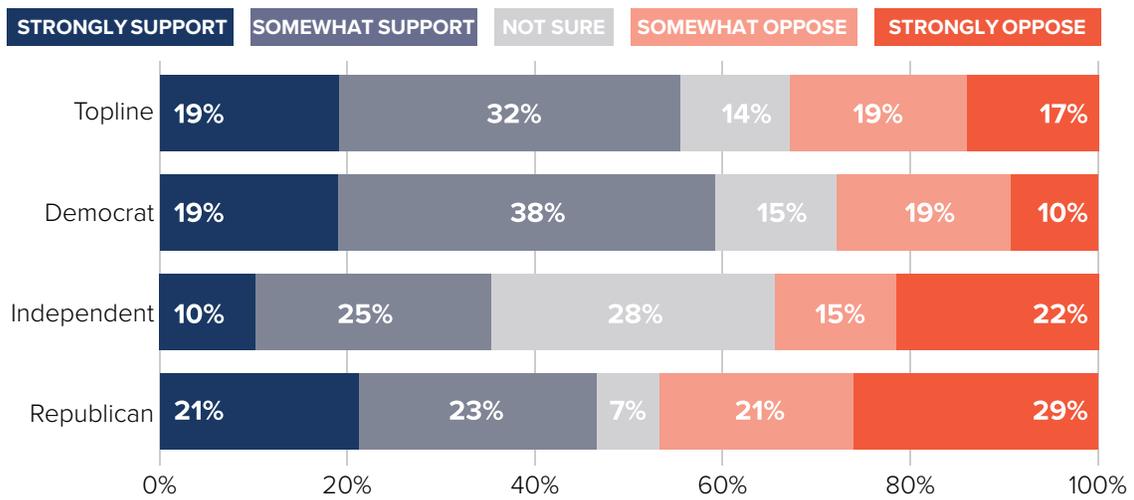
On Saturday, a three-judge federal court denied an emergency motion to release incarcerated people who are sick, over age 50, or otherwise medically vulnerable. The motion was made as part of longstanding litigation over California’s unconstitutionally overcrowded prisons, and the court denied it as “procedurally improper,” citing “significant restrictions on a federal court’s authority to order the release of prisoners as a remedy for a constitutional violation.”

But in doing so the court had strong words for officials who do have the power to act, including Governor Newsom. The court acknowledged that current health risks are “heightened in the

most vulnerable groups among us,” including people who are incarcerated, and that there is an “undisputed risk of further contagion in a carceral environment.” And while the court said it could not order release, it emphasized that Newsom and state officials “have broad authority to voluntarily take steps that may prevent the life-threatening spread of COVID-19 within their prisons.”

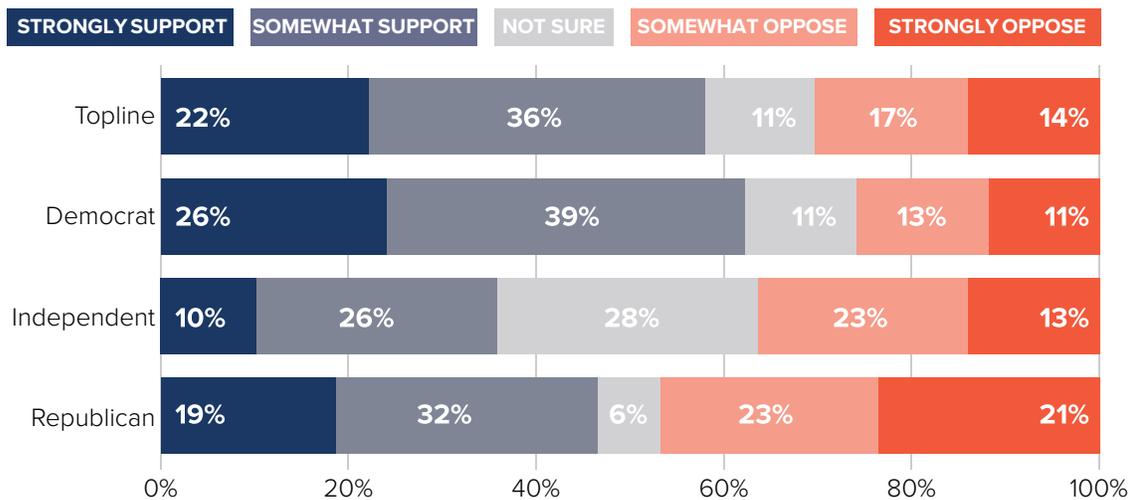
“We urge them to leave no stone unturned” to protect incarcerated people, the court said. “It is likely that only through significant effort will California’s prisons be able to minimize the spread of COVID-19.”

Some countries, in order to prevent . . . spread [of the Coronavirus] from happening, have released thousands of people from jail. Would you support or oppose California taking similar precautions wherever safe and necessary in order to meet Center for Disease Control pandemic recommendations?



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Do you support or oppose releasing anyone charged with an offense that does not involve a serious physical safety risk to the community?



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METHODOLOGY

From April 1 2020 to April 2 2020, Data for Progress conducted a survey of 1511 likely voters in California, using web panel respondents. The sample was weighted to be representative of likely voters by age, gender, education, race, and voting history. The survey was conducted in English. The margin of error is ± 4.1 percent.

COVER PHOTO
Billy Pasco/Unsplash