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### Justice Policy Institute; Policy Brief on Decarceration in Maryland

In the last few months, the COVID-19 pandemic had severely impacted the livelihoods of the American people. The state of Maryland alone has 91,854 total cases (CDC, 2020).

Observing the number of growing cases and being mindful of the fact that correctional facilities are incapable of adhering to the social distancing guidelines, Governor Hogan of Maryland issued an executive order to release 2,000 individuals from correctional facilities over four months. In response to Governor Hogan's decision, the Justice Policy Institute (JPI) released a policy brief titled, *COVID-19 Threatens Explosion in Maryland Prisons Without Immediate Intervention*.

#### **The Purpose of JPI's Policy Brief**

JPI's policy brief advocates for the immediate increase in the rate of "decarceration," the process of reducing the number of imprisoned persons (Rose-Stern, 2020). The JPI's policy brief also proposes a set of recommendations that address several shortfalls within Governor Hogan's executive order to improve the policy and lessen the spread of COVID-19. Overall, this policy analysis is written for the correctional departments' staff and Governor Hogan's office.

#### **Type of Analysis and Evaluation Criteria Used by JPI**

JPI's policy analysis opens with several observations from forecasting models. Namely, it refers to the Recidiviz model, which projects the "transmission of the COVID-19 virus using state-specific data on the prison population, age distribution, and steps taken to mitigate the spread of the virus" (JPI, 2020). The policy analysis also includes a brief discussion of

Maryland's past lack of transparency regarding data on testing as well as a criticism of Governor Hogan's executive order. Because of this, JPI's policy brief is both academic and political.

The majority of JPI's policy brief, however, examines the effectiveness of the newly proposed decision to release 2,000 inmates over the next four months from Maryland's correctional facilities. Particularly, Sadie Rose-Stern, Director of Communications and External Affairs at Justice Policy Institute, argues that such a proposed number is "too few, too slow, falling far short of the reductions needed to lessen the spread of COVID-19" (Rose-Stern, 2020). By utilizing this approach, JPI assesses the effectiveness of Governor Hogan's order. It examines how likely the proposed action's goals are going to be achieved and states that the proposal is going to be technically and marginally ineffective. By this, JPI prioritizes the evaluation of policy's effectiveness over efficiency, equity, or ethics (Kraft & Furlong, 2018).

### **JPI's Findings and Recommendations**

Using forecasting models, JPI found that in a span of three weeks, after April 26th of this year, the number of incarcerated individuals infected with COVID-19 would rise from 157 to 6,474. It also found that, at a peak, nearly one in every five hospital beds within Maryland's prisons will be occupied by a person who contracted the virus. Finally, using data from outside sources, JPI also portrayed that in Maryland, about 4 in 10 people in prison suffer from a chronic health issue. Therefore, it is imperative that immediate action be taken to safeguard them. Otherwise, more incarcerated people and correctional staff are going to be getting sick and dying (JPI, 2020).

While the first part of JPI's analysis reflects findings surrounding forecasting models' projections, the second half discusses the observations of Maryland's lack of action in response to the growing number of cases. Notably, the policy brief discusses how Maryland exhibited a

lack of transparency surrounding the number of administered tests. It also criticizes Governor Hogan's decision to release 2,000 individuals from correctional facilities, citing the fact that such an effort would not amount to an effective decrease in the rate of the spread of the virus. In fact, JPI found that it would only result in a few hundred fewer cases of the infection over three weeks (JPI, 2020).

The last section of JPI's policy brief includes a set of recommendations. Such include halting new admissions to correctional units within the state's purview, releasing every incarcerated person who can be safely let back into society, temporarily increasing the capacity of community supervision, adjusting community supervision to CDC guidelines, and improving safety conditions for those who remain incarcerated (JPI, 2020). These recommendations were sent in a letter to Governor Hogan on April 8th of this year.

### **Critiques of JPI's Policy Brief**

While this particular policy analysis seems both analytical and well-structured, it is incredibly one-sided. The policy brief calls for immediate intervention; however, its failure to present an argument against the increase in decarceration implies bias. Specifically, while it discusses the necessity of inmate release to slow down the spread of the virus, citing the impossibility of maintaining social distancing guidelines within correctional facilities, it does not discuss the difficulty in maintaining the public feeling of safety after a release of incarcerated persons into their communities nor the discussion concerning the possibility of the rise in crime rates.

Moreover, JPI's policy brief loses credibility when it presents varying numbers in its analysis and its press release that were released only three days apart. The press release published on April 23rd reports 136 positive cases in the state of Maryland and a three-week

projection of 4,873 positive cases of incarcerated individuals (Rose-Stern, 2020) The policy brief published on April 26th, however, reports 207 positive cases and a projection of 6,474 positive cases of incarcerated individuals (JPI, 2020). To make findings seem more credible, JPI should have included at least a sentence explaining why its findings starkly differ from one another and why there is variability in data surrounding projections on the spread of the virus.

JPI also fails to use several relevant criteria for policy analysis. While it makes an effort to describe the shortfalls in the executive order's effectiveness, it fails to consider potential downfalls in its efficiency, equity, or ethical structure. For example, JPI could have considered the demographics of the racial composition of the released inmates. Are the majority of released inmates white rather than of Hispanic or African American backgrounds? These findings would have substantiated JPI's policy analysis by drawing attention to the potential racial bias within Governor Hogan's executive order's implementation process.

Finally, JPI fails to take public opinion adequately into account. Within the policy analysis, it is vital to consider the constituency's opinion. Because of this, it could be possible that Governor Hogan's decision to release 2,000 inmates, that JPI presumes to be too low, stems from the low public opinion in support of inmate release. Regardless of whether this is the case, JPI's failure to discuss this possibility is a shortfall within its policy analysis.

## **Conclusion**

Despite several shortcomings, JPI's policy analysis is compelling. It conveys the urgency of the situation and presents viable recommendations that would increase the safety of the incarcerated population of Maryland. Maryland should follow in the footsteps of other states and immediately seek to release more prisoners to slow the spread of COVID-19 in prisons.

## References

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