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Berkshire County Sheriff Thomas Bowler, who recently recovered from COVID-19, says efforts to thin out the jails to prevent the spread of the virus are misguided and possibly dangerous.

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Berkshire Sheriff, DA differ on inmate release policy amid pandemic

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By Heather Bellow, The Berkshire Eagle

PITTSFIELD — The coronavirus pandemic has put the Berkshires chief prosecutor at odds with the county sheriff.

At issue is a basic but complicated decision: Will releasing some nonviolent offenders into the community help prevent the spread of COVID-19 behind bars? Or is the risk greater that they will reoffend or even endanger themselves?

A total of 22 people were released this month from the Berkshire County Jail and House of Correction amid COVID-19 contagion fears. Since then, two have overdosed and another two were arrested on new charges.

Berkshire County Sheriff Thomas Bowler said this was a predictable outcome, given the strain of release, even on a good day. Add pandemic lockdown stressors and the lack of support services right now, and those freed from jail can hit rock bottom fast. While four staff members tested positive for the virus, including Bowler, the five inmates who were tested had negative results, and no other inmates have had symptoms.

It's the same at nine out of the state's 14 jails, according to Bowler, who says continued calls to further thin out the jails are misguided and possibly dangerous.

But the other side of the story is how fast disease can rip through places like jails and prisons. Some states have seen staggering numbers of virus-positive prisoners, and some have had deadly outbreaks. In the U.S., 100 prisoners have died of the disease, including seven in Massachusetts, according to the UCLA Law Covid-19 Behind Bars Data Project. (https://docs.google.com/spreadsheets/d/1X6uJkXXS-O6eePLxw2e4JeRtM41uPZ2eRcOA_HkPVTk/edit?pli=1#gid=1197647409)

In Massachusetts, three prisons and two jails were hit hard with outbreaks.

It was this potential for an explosion in disease that led the Supreme Judicial Court of Massachusetts on April 3 to sanction the release (<https://www.berkshireeagle.com/stories/to-help-keep-virus-at-bay-supreme-judicial-court-oks-release-of-some-inmates,601662>) of inmates charged with or serving time for nonviolent, low-level crimes. Since then, more than 600 inmates statewide and 22 in Berkshire County have been freed.

Some say it's not enough to halt the spread of disease, and that the release of more offenders will help.

And some district attorneys, including Berkshire DA Andrea Harrington, support this.

Grounds for release

Out of 45 motions for release made by Berkshire County defendants, 22 were approved by the court, 15 were denied, and eight are being considered, according to the DA's Office.

Harrington said that of those released, none was considered a violent offender or was being held without bail after being found dangerous.

Eight qualified for what the Supreme Judicial Court considered "presumptive release," which included people being held on cash bail and who weren't charged with serious crimes.

The SJC listed charges that would exclude someone from consideration for release, including allegations of domestic violence, for instance.

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"The individuals released [in Berkshire County] were being held on bail established by a judge or clerk magistrate or were already released on bail and had it revoked for a technical violation. None of the individuals being held pretrial were deemed dangerous by the court," Harrington said in a statement.

Public defenders statewide are pushing for more releases.

In its motion to the SJC, the Committee for Public Counsel Services, which provides legal representation for people who can't afford it, said rising numbers of inmates could escalate the spread of disease everywhere.

And the group filed a complaint with the American Civil Liberties Union of Massachusetts, saying testing data required by the court ruling has been provided, and that too few inmates have been tested.

Frustrated

Bowler said the jail is still following the Centers for Disease Control and Prevention guidelines about whom to test — only those who show symptoms.

He said he is frustrated about the idea that it is safer to quickly spring someone from what he says is a safe, controlled environment with good medical care, into a pandemic-sphere lacking all the usual support services the jail prepares for each inmate before they leave.

"You're releasing inmates into the community without any services whatsoever or a follow-up plan," he said. "Network services are already closed down and outpatient counseling is limited because of the pandemic."

And at his jail, there isn't overcrowding; it now runs at 28 percent of capacity, making one premise of release unjustified, he added. The inmate count fell from 192 to 147 between March 21 and April 21.

Bowler said detainees and inmates are vulnerable to slipping back into crime and addiction in the best of times.

"It's frustrating for us because we do this day in and day out; we know these individuals," he said. "We live with them every single day. It's our job to set up future plans for them and their families."

The pandemic is creating hard choices, but perhaps not for jails like Bowler's that are under capacity.

In its motion to the SJC, the Committee for Public Counsel Services said that without more releases, the virus could make a break from the jail.

"The number of infections continues to rise every day," it said, "and incarcerated individuals, correctional staff and the general public are not safe."

Bob Dunn contributed to this report.

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