

Re-considering the immediate release of prisoners during COVID-19 community restrictions

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Introline: The potential costs of releasing vulnerable prisoners into the community during COVID-19 restrictions warrant scrutiny.

Abstract: Custodial environments are susceptible to COVID-19 outbreaks given the confined conditions, potential for over-crowding and poor health profiles of the prison population. This had led to calls to immediately release vulnerable prisoners from custody in Australia. While intuitively reasonable, these proposals must balance the relative safety risks of remaining in custody - in Victorian prisons there are no confirmed cases of COVID-19 - with early release to a general community enduring stage three shutdown restrictions and compromised support services. The current reduced capacity of post-release services may compound offender vulnerabilities, increasing their risk of harm to themselves and others.

The COVID-19 pandemic has affected many countries internationally and has been implicated in more than 200,000 deaths worldwide (1). The speed at which this infectious disease is transmitted has led to calls to immediately release prisoners from custody in some countries (including Australia) and has already led to the release of some prisoners in others. The reasons for these calls to action are intuitively rational. Custodial environments are susceptible to a COVID-19 outbreak given the confined conditions and potential for over-crowding (2). Moreover, prison populations are often vulnerable, possessing poorer physical and mental health and other social challenges (i.e., substance misuse, homelessness) compared to the general population (3).

As of writing, Australian governments have yet to immediately release select prisoners into the community as part of efforts to mitigate the spread of COVID-19, despite recent advocacy to do so. Experts across a number of sectors have recommended the early release of prisoners from vulnerable groups where possible, including Indigenous Australians, Women, Children, the Elderly, victims of domestic violence, and those with chronic health issues (4). However the proposed decarceration strategy (which the authors are sympathetic to) requires a nuanced assessment of its potential societal consequences, and most importantly, its immediate impact on the health and wellbeing of candidate prisoners for release. The state of Victoria, Australia's second most populous state, provides a useful case-in-point.

As April draws to a close, stage three restrictions (home confinement except for restricted essential activities)(5) have now been in effect state-wide for one month. Victorian prisons have yet to record a single case of COVID-19. A number of safety mechanisms were introduced by correctional facilities to help contain potential transmission of the virus (6). These include, but are not limited to: the infra-red temperature testing of all staff before entry to the facility; sending staff home who present with high temperatures and requiring them to undertake a COVID-19 test before returning; isolating all new prison admissions for up to 14 days; closing group programs to abide with

physical distancing; allowing prisoners to connect with family members via video calls on tablet devices as an alternative to in-prison visitation. Moreover, conventional health and (cultural) support systems continue to be available to prisoners. With no confirmed cases and ongoing efforts to restrict the materialization of COVID-19 in Victorian custodial settings, the potential costs of releasing vulnerable prisoners into the community necessitates further scrutiny.

Any prisoners released under anti-COVID measures will return to a general community enduring stage three shutdown restrictions and a societal-wide economic downfall. Support services that are ordinarily available to released offenders are currently compromised or are experiencing significant delays. Moreover, government social security services (i.e., Centrelink) which are heavily relied upon by individuals post-release, are currently overwhelmed as they service thousands of newly unemployed clients. Mental health services are also strained as they adjust to remote service delivery and contend with a sharp spike in community-wide help-seeking. The reduced capacity for intensive case management, monitoring and re-entry assistance for released prisoners is a serious concern given their higher levels of mental health, chronic health and substance use concerns and histories of unemployment and homelessness. Australian research points to high rates of mortality and self-harm shortly after release from custody (7). Key predictors of post-release mortality include mental disorder, suicide and substance abuse – concerns which transitional support programs and other re-entry interventions will be unable to fully support during shutdown. This scenario could pose an elevated health risk for released prisoners, compounding their vulnerability and increasing the likelihood of problem behaviour. Without readily available coping strategies, released prisoners with histories of violence, aggression, impulsivity and serious mental illness, may put themselves and others (particularly co-habitants) at risk. Calls to release prisoners who are survivors of domestic violence must also consider the heightened risk of re-victimization post-release. Moreover, physical distancing may not be adhered to for those whose behavioural and psychological needs are untreated.

Proposals to immediately release vulnerable prisoners are a laudable objective. However it is important to balance the relative safety risks of remaining in custody - wherein Victorian prisons there are no confirmed cases of COVID-19 - with early release into a social resource-depleted community in the midst of a 'state of emergency' shutdown. The potential for a COVID-19 outbreak in custody is a genuine concern, notwithstanding proactive measures employed in Victorian prisons. However the real prospect of deleterious outcomes for immediately released vulnerable prisoners must also be weighed heavily during this challenging period.

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