

Reconsidering the immediate release of prisoners during COVID-19 community restrictions

The current reduced capacity of post-release services may compound offender vulnerabilities, increasing their risk of harm to themselves and others

The coronavirus disease 2019 (COVID-19) pandemic has affected many countries internationally and has been implicated in more than 445 000 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 overcrowding.² Moreover, prison populations are often vulnerable, having poorer physical and mental health and other social challenges (eg, substance misuse, homelessness) compared with the general population.³

At the time 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 if possible, including Indigenous Australians, women, children, older prisoners, victims of domestic violence, and those with chronic health issues.⁴ However, the proposed early release strategy 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. Victoria and New South Wales — Australia's most populous states — provide a useful case in point.

Stage 3 restrictions — home confinement except for restricted essential activities⁵ — have been in effect for approximately 2 months. Some restrictions were eased in late May, although limits on public and private gatherings remain in place. Prisons in both Victoria and NSW have yet to record a single case of COVID-19 within the inmate population. In Victoria, a number of safety mechanisms have been introduced by correctional centres to help manage the potential transmission of the virus.⁶ These include:

- temperature testing of all staff before entry to the facility;
- sending staff home who present with high temperatures and other flu-like symptoms, and requiring them to undertake a COVID-19 test before returning;
- isolating all new prison admissions for up to 14 days;
- isolating prisoners who display cold or flu-like symptoms;



- adjusting programs to abide by physical distancing; and
- enabling prisoners to connect with family members via video calls on tablet devices (“video visits”) as an alternative to in-prison visitation.

Moreover, conventional medical, psychological and cultural support services continue to be available to prisoners. Similar precautions have been implemented in NSW correctional centres,⁷ which hold the largest proportion of prisoners in Australia. With no confirmed cases in both Victorian and NSW correctional centres and ongoing efforts to restrict the materialisation of COVID-19 in custodial settings, the potential costs of releasing vulnerable prisoners into the community necessitates scrutiny.

Any prisoners released under anti-COVID-19 preventive measures will return to a general community enduring social restrictions and society-wide economic contraction. The post-release community support services ordinarily available to released offenders are currently compromised or are experiencing significant delays.^{8–11} Moreover, government social security services (ie, Centrelink), which are heavily relied upon by individuals after release, are currently overwhelmed as they service thousands of newly unemployed clients.¹² Mental health and crisis support services are also strained as they adjust to remote service delivery and contend with an elevated spike in community-wide help seeking.¹³ The reduced capacity for intensive case management, monitoring and re-entry assistance for released prisoners is a serious concern given their higher levels of complex mental and physical health needs, as well as histories of unemployment, addiction, social disadvantage and homelessness.³ Australian research points to high rates of mortality

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and self-harm shortly after release from custody.¹⁴ Key predictors of post-release mortality include mental disorder, suicide and substance misuse — concerns that transitional support programs and other post-release interventions will be unable to optimally manage during the national lockdown. This scenario poses an increased health risk for released prisoners, compounding their vulnerability and increasing the likelihood of problem behaviour and recidivism. Without readily available coping strategies and assistance with pro-social functioning, released prisoners with histories of violence, aggression, impulsivity and serious mental illness may put themselves and others (particularly cohabitants) at risk. Calls to release prisoners who are survivors of domestic violence must also consider the heightened risk of revictimisation after release. The social isolation, economic stress and reduced options for support during stage 3 restrictions may exacerbate unhealthy relationship dynamics, especially among those with complex needs. Moreover, physical distancing may not be adhered to by those whose behavioural and psychological needs are untreated.

Proposals to immediately release vulnerable prisoners to avert the ostensible threat of COVID-19 in Australian

custodial environments warrant consideration. The potential for a COVID-19 outbreak in custody is a genuine concern, notwithstanding proactive measures employed in Victorian and NSW correctional centres. However, this advocacy must consider the broader social context. A focus on early release cannot be uncoupled from the current compromised community environment prisoners will face after detainment. Community support services are increasingly strained at a time when released prisoners will have a greater need for them. As such, it is important to balance the relative health and safety trade-offs of remaining in custody — in Victorian and NSW prisons, there are no confirmed cases of COVID-19 and health supports remain available — with early release into a resource-depleted community. The real prospect of harmful outcomes for immediately released vulnerable prisoners must be weighed heavily during this challenging period.

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