Call to end shackling of hospitalised palliative prisoner patients

In the face of an ageing prison population, there is growing pressure for correctional health staff to provide end-of-life care for the incarcerated.[1] This article evaluates the literature and examines the practices surrounding the use of shackles and restraints in palliative prisoner patients cared for in the hospital setting. Although we recognise that the use of restraints is a reasonable strategy in certain circumstances to maintain community safety, it is not clear that age, illness or immobility are always factored into these decisions.

International standards set out in the United Nations Mandela Rules clearly dictate that prisoners should be entitled to the same level of health care as the wider community.[2] These standards stipulate that physical restraints should only be used when no other less restrictive method is available, and that, if used, the restraints should be used for the minimum possible time.[2] In 2017, Australia ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), an international treaty designed to protect the rights of individuals in detention.[3] OPCAT facilitates independent international bodies to assess conditions and practices in detention centres. The oversight aims to prevent inhumane or degrading treatment, including the unnecessary use of restraints.[3] In Victoria, the Correctional Management Standards for Men's Prisons in Victoria state restraints should not be in place "beyond a cumulative period of 36 hours in any 96 hour period without the specific approval of the Commissioner".[4] The Australian Medical Association's position statement on medical ethics in custodial settings states that "medical personnel should never proceed with medical acts on restrained people, except for those with potential for immediate and serious risk for themselves and others".[5] Although standards exist to limit the use of restraints, across Australia and internationally, reports of prisoner patients dying while shackled to their beds still materialise.[6-14]

In 2011, following the escape of three prisoners under hospital escort in South Australia, the practice of cuffing prisoners' legs together and to their beds was implemented in settings deemed non-secure, such as hospitals.[10] Subsequently, the independent Ombudsman received multiple complaints, including cases of prisoners being restrained for excessive periods of time. There followed an Ombudsman review, with a report published and available in the public domain.[10] The report highlights, among others, a case involving two hospital admissions of a patient who was fully dependent on others with limited and decreasing mobility as a result of motor neurone disease. After an appeal from the palliative care consultant to the prison's general manager during the patient's second hospital admission, approval was given to remove this patient's restraints; however, the Ombudsman found the patient's escort officer delayed acting on the removal.[10] The Ombudsman noted this patient was wrongly restrained for an accumulative period of 16 days during his hospital admissions, with a clear breach of the *Correctional Services Act 1982*.[10] Another case detailed a patient who developed a pulmonary embolus and skin tears as a result of being shackled to the bed.

Similarly, in Western Australia, an inspector's report detailed the case of a terminally ill minimum-security prison patient with severe arthritis.[12] While in intensive care, he was restrained until the treating doctor formally requested in writing the removal of the restraints. He died eight days later. In total, he was restrained for about 19 hours, despite his deteriorating health and very minimal security risk. This report also describes a visibly frail patient, who was transferred from a low security prison to a high security prison as a result of his increasing health needs. At the low security facility, he was not restrained during medical appointments; however, after the transfer, he was routinely subjected to two-point restraints. This typically involves using handcuffs to connect the patient's wrists, along with either a chain link connecting their wrist to an officer's wrist or securing their ankles together. This highlights the inconsistencies in restraint use across different correctional facilities and suggests a lack of individualised risk assessments.

Comparably, a United Kingdom Ombudsman report, which reviewed the end-of-life care of 214 prisoners who died of incurable or terminal diseases, described how in 16 cases restraints were not removed until less than one day before death.[10] This included the case of a prisoner restrained while in a coma and of another prisoner dying while handcuffed to an officer.[15]

It is not clear how frequently shackles are used on hospitalised palliative prisoner patients. However, based on journal articles, ombudsman reports, media reporting, and anecdotal evidence, it is evident this practice continues to exist. A consecutive sample of male prisoner patients who died in an Australian metropolitan hospital between 2009 and 2019 revealed that shackles were commonly used for patients who were transferred from the secure hospital-based prison ward to the palliative care unit.[14] Here, the palliative care teams expressed concerns about patients being shackled during their final weeks and days of life and that the shackles caused pain and distress to the patients. In this cohort, medical staff report that requests for removal of the shackles were not infrequently declined due to concerns about the patient's security rating and the belief that the shackles did not interfere with medical treatment.

The goal of palliative care is to optimise symptom management and also address the spiritual and psychological needs of people with advanced

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illness, including at the end of life.[16] The systems of incarceration may hinder this provision of care for dying patients.[17,18] Prolonged handcuffing is known to cause bruising and discomfort, and hospital staff have repeatedly highlighted concerns regarding pressure injuries caused by restraints.[12,19] A 2018 study reported on the experiences of a palliative care team caring for prisoners and described how the use of restraints had a negative impact on the relationship between the patient and health care provider.[20] The presence of shackles impedes the establishment of the therapeutic relationships that underpin the provision of high quality palliative care.[21-23] Routine shackling in end-of-life patients is not only distressing for the patient but also for their families. A Coroner's report from New South Wales highlights the case of a hospitalised prisoner patient who continued to be restrained even after he had been sedated, the family found this deeply upsetting and considered it to be "disrespectful, degrading and unnecessary".[13]

In a survey, older maximum security prisoners in the United States said their main fears were being handcuffed to their beds and dying alone without family.[24] Similarly, anecdotal reports from health care professionals who work with the incarcerated population report that many prisoners' greatest wish is to die free of shackles. Our previous work also highlights that clinicians are themselves distressed by witnessing shackled patients.[17,18] Although the views of the general public are unknown, the media coverage of incidents such as the 2018 inquest of a 53-year-old man who was shackled to his hospital bed in Adelaide until an hour before his death, might indicate, at a minimum, public surprise at this practice.[11]

Why does the practice of shackling prisoner patients at the end of life continue? One significant factor lies at the intersection of the justice and health systems, especially when a prisoner dies in a hospital or palliative care unit. In this setting, the policies, and requirements of one system can directly challenge that of the other. Moreover, the processes for re-evaluating a policy position are often time-consuming and deliberative — time that a dying person may not have. Health care professionals involved in caring for hospitalised prisoner patients described a "seemingly opaque system" around the protocols and points of contact for removing shackles.[18] Within some jurisdictions, pathways may exist for health care staff to request a review of a patient's risk assessment by the respective corrections services.[18]

It is beyond time that we abandon the practice of restraining dying prisoner patients. In 2021, Tyler Lescure, a US physician, neatly summarised the moral quandary health professionals currently confront when administering palliative care to incarcerated patients: "The current practice of hospitals is to defer entirely to prison policy when interacting with incarcerated patients. This is not acceptable. We can no longer be bystanders in the mistreatment of people who arrive at our doors to receive care and neglect their right to be free of inhumane punishment".[25]

We contend it is essential that the practice of restraining dying prisoner patients is reviewed and overhauled so that prisoners can be granted the fundamental human right of a dignified death.

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