



We must release prisoners to lessen the spread of coronavirus

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Unless government officials act now, the novel coronavirus will spread rapidly in our jails and prisons, endangering not only prisoners and corrections workers but the general public as well. As the country prepares for further spread of the pandemic, authorities should take immediate steps to limit the risk posed by mass confinement, including releasing those detained on bail, along with elderly prisoners who pose little danger to the public.

Early on in this pandemic, we learned that, as with other closed spaces such as cruise ships and nursing homes, the covid-19 coronavirus spread rapidly in Chinese correctional facilities. Now the United States, which leads the world when it comes to incarceration, faces that same challenge.

It is essential to understand that, despite being physically secure, jails and prisons are not isolated from the community. People continuously enter and leave, including multiple shifts of corrections staff; newly arrested, charged and sentenced individuals; attorneys; and visitors. Even if this flow is limited to the extent possible, correctional facilities remain densely populated and poorly designed to prevent the inevitable rapid and widespread dissemination of this virus.

At the same time, jails and prisons house individuals at higher risk than in other settings, such as schools and restaurants, that have been closed to mitigate contamination. Although corrections facilities cannot be closed, they must be included in any plan aimed at slowing the surge in infections and protecting public safety.

Reassessing security and public health risks and acting immediately will save the lives of not only those incarcerated but also correctional staff and their families and the community at large. There are several steps that authorities should implement as quickly as possible.

They must screen incoming individuals to prevent and delay infected individuals from entering facilities. They must rapidly identify cases and isolate exposed groups to limit the spread, as well as quickly transfer seriously ill patients to appropriate facilities.

But that won't be enough. Authorities should release those who do not pose an immediate danger to public safety, while also reducing arrests and delaying sentencings. These moves carry inherent political risks, but they are for the greater good of the public at large. The abrupt onset of severe covid-19 infections among incarcerated individuals will require mass transfers to local hospitals for intensive medical and ventilator care — highly expensive interventions that may soon be in very short supply. Each severely ill patient coming from corrections who occupies an ICU bed will mean others may die for inability to obtain care.

Our ability to release people rapidly will vary by type of facility and jurisdiction. Those being held in jails simply due to their inability to afford bail, or for minor infractions or violations, can generally be released promptly by the judiciary or even the local sheriff. Some jurisdictions are already discussing such mitigation efforts.

Already sentenced individuals pose a greater challenge — one compounded by the punitive policies of the past few decades (mandatory minimum sentences, three strikes and life without parole) that have led to a large, aging incarcerated population especially vulnerable to severe disease. Additionally, half of all incarcerated people suffer from at least one chronic illness, which means even more will be at risk of a poor prognosis if they become infected.

Those eligible for parole can and should be released. Provisions for “compassionate release/parole” exist in every state; however, that process is typically slow, underutilized and very limited. Fortunately, the people at highest risk for severe complications of covid-19 who are incarcerated (the aging and chronically ill), are, on average, the least likely to commit a new crime or need to be re-incarcerated. In some states, governors have the ability to commute sentences or pardon individuals, as does the president in the federal system.

On the federal level as well, there is a parallel public health danger lurking in the immigration detention system, where thousands of people are being held in jail-like conditions that pose similar risks. The Trump administration could, if it wished, institute a simple and even temporary policy change to release those individuals into the community rather than contain them in an environment where rapid spread is likely. As unlikely as this may be given the administration’s approach to immigration detention, this may be the easiest fix, given the broad discretion of the Department of Homeland Security to change policy.

The spread of the coronavirus may only be the tipping point for what can happen when we fail to consider all the costs and consequences of our system of mass incarceration. We justify locking people up to protect public safety. Yet public safety will be at even greater peril if we fail to mitigate risks associated with confining too many people in jails, prisons and detention facilities during a pandemic.

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