

Canadian prisons in the time of COVID-19: Recommendations for the pandemic and beyond

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The COVID-19 pandemic poses distinctive challenges for individuals working and housed in Canada's prisons. Similar to retirement complexes, nursing homes and long-term care facilities, prisons are enclosed spaces with limited room for physical distancing to contain the spread of COVID-19. As of June 17, 360 prisoners and 98 officers have tested positive for COVID-19 in federal institutions across the country.

In Canada, federal prisons house individuals sentenced to two or more years, while provincial or territorial prisons house individuals sentenced to a maximum of two years less a day or awaiting their trial (i.e., remand prisoners). Remand prisoners, a majority in provincial/territorial custodial populations, are legally presumed innocent and held in custody, rather than in the community.

Individuals who live or work in prisons are vulnerable to the effects of concentrated living, including exposure to potential contagions. Concerns of contagion pose acute challenges and agonizing decisions for correctional administrators tasked with managing the crisis.

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Naturally, COVID-19 does not discriminate between prisoners and essential service providers (i.e., staff). As front line workers, officers and staff face an unprecedented ongoing challenge – mitigating the spread of COVID-19 while keeping healthy enough to maintain the care, custody and control of prisoners, and then returning home without infecting their loved-ones (and not bring COVID-19 into prison upon returning).

While the spread of COVID-19 has mostly been kept at bay in Canadian prisons (with some concerning outbreaks as exceptions), the fear of contagion has not dissipated for staff, prisoners and their loved-ones, and the day-to-day realities in prison have become increasingly difficult. For instance, lockdowns – implemented to combat the spread of COVID-19 – may leave prisoners detained in their cells, sometimes double-bunked, unable to practice physical distancing. Prolonged lockdowns and reduced outdoor time also have implications for prisoners' mental health. Prisoners are only further isolated as all jurisdictions have had little choice but to suspend in-person visitations and programming in an attempt to mitigate opportunities for the virus to enter prisons.

In this context, we urge governments and correctional administrators to continue to undertake structured and informed decarceration efforts (i.e. to reduce the number of people in prisons). While not a simple undertaking, such actions would be in line with recommendations made by the UN and other penological working groups.

What decarceration looks like must be unique to individual circumstances, and both prisoner and community safety. Now more than ever, correctional administrators are confronted with the task of delicately balancing the rights, health and well-being of those in correctional facilities with the goals of public safety.

Decarceration, however, is particularly critical and applicable in the remand system, which holds many individuals believed to have committed a minor non-violent offense (e.g., breached their conditions of release). Do they all have to be there? Regarding sentenced prisoners, we could decarcerate by reconsidering sentence lengths, release possibilities for prisoners nearing their date of parole eligibility (i.e., after serving one third of a federal prison sentence) or, alternatively, the date of eligibility for statutory release (i.e., after serving two thirds of a federal sentence).

Consideration should also be given to the prisoner's behaviour and institutional record (e.g., is the person the same person who committed a crime 10, 15 or even 20 years ago? Could they be safely reintegrated?), the seriousness of the offense and potentiality for recidivism, and security classifications within the system. Equally importantly, before releasing prisoners, a realistic reintegration plan giving consideration to whether the

prisoner has a safe place to go, both in terms of the potential spread of COVID-19 and for their own personal safety and successful community re-entry needs to be crafted. It should not be assumed that all prisoners want to be released during COVID-19. Some may feel safer from contagion inside prison, particularly if they expect to experience health and social vulnerability on the outside.

Apart from decarceration efforts, prison administrations need to inform staff, prisoners and their loved ones of protocols for managing COVID-19. Sharing information is particularly valuable given the current pandemic, coupled with drastic (though necessary) policies and practices inside prisons and around visitations, has resulted in loved-ones experiencing increased anxiety about the well-being of their incarcerated kin. Given the potential of a second wave, we recommend prisoners have more access to time outside of their cells, outdoors, and to video visits, and free phone calls, a practice that should be considered as a general way forward (research has shown regular contact with loved-ones is vital for successful reintegration).

Indeed, many of our suggestions for managing COVID-19 and decarceration are also a way to rethink our approach to incarceration more generally. Are sentences appropriate? Should all persons in prison be there? Can we do more to promote family unification for prisoners including offering free phone calls and the implementation of video calls?