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COVID-19 and mass incarceration: a call for urgent action



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As of September 23, 2020, the USA had both the highest number of COVID-19 cases and the largest incarcerated population in the world. Approximately 2.3 million people are currently incarcerated in prisons and jails in the USA. More than 6.5 million individuals are under daily correctional supervision, which includes probation and parole, representing 2.6% of the entire US adult population.

Due to systemic racism, Black people have been disproportionately affected by mass incarceration and COVID-19. Nearly one-third of Black men will face imprisonment during their lifetime,¹ and Black communities have a markedly higher burden of COVID-19 cases and mortality than White populations.² Considering the inextricable link between the health of Black communities and the US criminal legal system, jails and prisons are uniquely positioned to advance health equity and community health, particularly during the ongoing response to the COVID-19 pandemic.

Concurrently, the discrimination and criminalisation of additional stigmatised groups—including people who are poor, who use drugs, and those who have mental health disorders—have deepened and reinforced health disparities.

Calls for deliberate anti-racist action have been made across the nation following the murders of George Floyd, Breonna Taylor, Jacob Blake, and countless others at the hands of police. Police brutality is culturally salient and demands our attention, however, it only represents a small proportion of the damage inflicted by the criminal legal system on Black communities. Stark racial differences in the relative number of police stops, arrests, plea deals, guilty verdicts, and time served are among the most obvious and profound examples of systemic racism in the USA today. Correspondingly, social justice movements to abolish these inequities will be ineffectual without close attention to the racial politics of imprisonment.

Jails and prisons have been severely affected by the COVID-19 pandemic. In the USA, more than 40 of the 50 largest clustered outbreaks in the country have occurred in jails and prisons.³ Compared with the general population, the number of COVID-19 cases is 5.5 times higher among people who are incarcerated.⁴ However, racial disparities in testing and case rates remain

unknown because only four state prison systems report data by race.⁵

Underlying medical conditions place incarcerated populations at an elevated risk for COVID-19 related morbidity and mortality. Transmission risks in prisons and jails are further exacerbated by confined conditions, overcrowding, high occupant turnover, and a scarcity of resources for infection control. In April, 2020, nearly 16% of all COVID-19 cases in the state of Illinois were linked to a single facility: Cook County Jail.⁶ Research done in the Texas prison system found that COVID-19 cases and deaths are minimised by housing individuals at 85% of capacity or less;⁷ however, the average prison system occupancy level is 103% of capacity.⁸

Expanding testing, enhancing cleaning protocols, and guaranteeing access to personal protective equipment might help to mitigate outbreaks, but these strategies alone will not contain the virus. One approach, however, can markedly reduce the risk of COVID-19 transmission in correctional facilities and surrounding communities, relieve the dual stresses of overcrowding and underfunding, and critically, begin to remedy a component of the larger legacy of structural racism: decarceration.

Decarceration (ie, reducing the number of people who are incarcerated) can help flatten the curve of COVID-19. The state of Massachusetts has reduced its incarcerated population by 15% since April, 2020.⁹ Several smaller jails have decreased their population by half or more, often through issuing citations in lieu of arrest. Some larger municipalities, including Baltimore (MD), Philadelphia (PA), and Los Angeles (CA), have reduced jail admissions by making fewer arrests for petty crime or by vacating warrants for unpaid court fines, according to the Prison Policy Initiative. However, many of these measures have been only temporary, and the effect of these policies will be finite in scope.

These small decreases in prison and jail populations underscore the need for more action to be taken. Most state prisons have reported only modest declines in prison populations. Considering that Black and poor individuals have been unjustly and disproportionately incarcerated in US jails and prisons, our response to the COVID-19 pandemic in the wake of heightened civil unrest must begin to reverse the role of incarceration

For more on the **Prison Policy Initiative** see <https://www.prisonpolicy.org>

as one of the greatest structural drivers of health disparities.

Correctional facilities should substantially decrease the size of their populations to quell growing cases and deaths. Specific populations within prisons and jails could also be prioritised. Older individuals (aged >55 years) are at low risk of reincarceration and are at high risk of severe complications and mortality due to COVID-19.¹⁰ People who are immunocompromised, those who are incarcerated for non-violent offenses, those who are eligible for parole, those who have served the majority of their sentence, and those only held due to failure to place bail should also be prioritised for release. Importantly, decarceration has not been associated with increases in crime.¹¹

Mass incarceration is a manifestation of structural racism that perpetuates countless injustices, including vast disparities in health. Although the COVID-19 pandemic has highlighted important health disparities, and recent incidents of police brutality have underscored the need for structural change, these issues—and the root problems that underpin them—are not new. Approaches that place restorative justice and public health at the forefront are urgently needed to protect human lives. Incarceration during a pandemic should never be a death sentence.

The outsized effect of the COVID-19 pandemic on people who are incarcerated and Black communities elucidates the inextricable links between health, race, and incarceration. Through decarceration, the largest COVID-19 outbreaks can be mitigated, hazardous conditions of confinement can be alleviated, and racial disparities in health can be reduced. Decarceration is urgently needed, particularly during a persisting and prejudicial pandemic.

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**Alexandria Macmadu, Justin Berk, Eliana Kaplowitz, Marquisele Mercedes, Josiah D Rich, Lauren Brinkley-Rubinstein*
alexandria_macmadu@brown.edu

Department of Epidemiology (AM, JDR), Department of Behavioral and Social Sciences (MM), School of Public Health, and Warren Alpert Medical School (JB, JDR), Brown University, Providence, RI 02912, USA; The Center for Health and Justice Transformation, The Miriam Hospital, Providence, RI, USA (AM, EK, JDR); and Department of Social Medicine and Center for Health Equity Research, University of North Carolina at Chapel Hill, Chapel Hill, NC, USA (LB-R)

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