HHR
Health and Human Rights Journal

DREXEL UNIVERSITY Dornsife School of Public Health

FXB Center for Health & Human Rights at Harvard University

STUDENT ESSAY

Locked Up and Left Behind: Addressing Cruel and Unusual Punishments among Senior Inmates during COVID-19 across US Prisons

SABBA SALEBAIGI

Abstract

The COVID-19 pandemic has shed light on long-standing constitutional violations within the US correctional system, particularly affecting vulnerable populations such as senior inmates. By analyzing the impact of COVID-19 in prisons, the challenges faced in implementing preventive strategies, and the specific vulnerabilities of elderly prisoners, this paper identifies potential constitutional infringements experienced by senior inmates during the pandemic and the physical, mental, and social effects of the pandemic on this population. Specifically, this paper aims to bridge the fields of constitutional law, prison reform, elder law, and the COVID-19 pandemic by examining the impact of the pandemic on the rights of senior inmates under the US Constitution's Eighth Amendment protection against cruel and unusual punishment. The objective is to examine whether potential violations have occurred and propose actions to prevent violations in the future while ensuring accountability and redress if such violations occur. To address such violations, the paper emphasizes the need for increased sanitation measures and decarceration as preventive measures in future public health crises.

Sabba Salebaigi, JD, is an LLM candidate at the University of Connecticut, United States.

Please address correspondence to the author. Email: sabba.salebaigi@gmail.com

Competing interests: None declared.

Introduction

Incarceration is intended to serve as punishment, deterrence, and rehabilitation for criminal acts. However, incarceration should not subject individuals to inhumane or degrading conditions. The US Constitution "does not mandate comfortable prisons, but neither does it permit inhumane ones."[1] Despite such principles, US prisons have long been marked by human rights and constitutional violations, particularly for vulnerable populations such as seniors.[2] The COVID-19 pandemic has amplified these long-standing issues, highlighting the dire need for reform in the correctional system. The challenges of controlling airborne virus transmission within prisons have been demonstrated since the early 20th century, with instances such as tuberculosis outbreaks in New York prisons in 1903 and the Spanish flu outbreak at California's San Quentin State Prison in 1918.[3] Despite this historical precedent, little was done a century later to slow the spread of COVID-19 in correctional facilities.[4] The virus was first reported in Wuhan, China, in December 2019.[5] By mid-March 2020, reports of inmates and staff infections in US prisons emerged.[6] By July 2020, the case rate in prison was 5.5 times higher than in the outside US population.[7] Overcrowding, poor ventilation and hygiene, and inadequate access to medical care make correctional facilities particularly vulnerable to diseases such as COVID-19.[8]

In this paper, I examine how the COVID-19 pandemic has impacted the health and rights of senior inmates in prison and explore what actions can be taken to mitigate such impacts in the future. To do so, I first examine the general impact of COVID-19 in prisons across the United States, the overall impact of the pandemic on inmates, and the various challenges faced by prisons in implementing prevention strategies. Second, I focus on the distinct susceptibilities of elderly prisoners that render them especially vulnerable in a pandemic setting, as well as the mental and physical effects that COVID-19 has had on them. Third, I examine the potential human rights violations of senior inmates during the pandemic through the lens of the right to be free from cruel and unusual punishment under the Eighth Amendment to the US Constitution. Finally, I argue that in addition to addressing the past violations documented in this paper, prisons must take action to mitigate the risks faced by senior inmates during future public health crises. This should involve not only increased prevention measures and decarceration but also the provision of remedies to those who were impacted by past violations.

How did COVID-19 impact prisons?

As of December 2021, the global tally of confirmed COVID-19 cases exceeded 287 million, with a staggering death toll of 5.4 million.[9] While the virus wreaked havoc across the world, its impact on the US prison system was particularly devastating. The COVID-19 pandemic hit prisons in the United States hard, with jails and correctional facilities accounting for a significant number of infections across the country.[10] Many people who are incarcerated have preexisting health conditions, making them more vulnerable to severe illness or death if infected with the virus.[11] As the aftermath of the pandemic continues to impact correctional facilities, it is vital to acknowledge the significant challenges faced by inmates, including limited access to testing and medical care, heightened fear of isolation and punishment, and the inadequacy of facilities. These challenges underscore the urgent need to address the well-being and human rights of incarcerated individuals, ensuring their access to health care, mental health support, and improved living conditions within prisons.

The transmission of COVID-19 within prisons was facilitated by various factors, including the in-

troduction of the disease through newly admitted or transferred inmates, inmates leaving the facility for court appearances or medical appointments, and the frequent rotation of prison staff.[12] The close living quarters in prisons created an environment conducive to the airborne transmission of the virus.[13] Since inmates and staff shared the same air, the virus found an easy pathway to propagate.[14] The Federal Bureau of Prisons implemented a COVID-19 action plan in March 2020, which aimed to restrict access to federal prisons and limit the movement of prisoners between facilities.[15] In spite of various efforts across the country, the virus swiftly and profoundly impacted prison environments. As of April 2020, a staggering 566 federal inmates had already tested positive for COVID-19, resulting in 24 fatalities.[16] The gravity of the situation escalated rapidly, with the tally of incarcerated individuals testing positive exceeding 32,000 by May 2020.[17]

The enormity of the crisis became increasingly evident as these figures consistently climbed. By September 2020, no fewer than 121,217 incarcerated individuals had tested positive for COVID-19.[18] By February 2021, the toll had surged to over 510,000 confirmed cases, with at least 2,200 reported deaths within US prisons.[19] It is important to note that these reported numbers likely underrepresent the actual extent of infections and fatalities, as limited testing and prisoners' reluctance to report symptoms due to fear of isolation contribute to an underestimation.[20] An illustrative example of this issue is the Marion Correction Institution in Ohio, a 2,500-capacity prison that at one point had 2,000 inmates who tested positive for COVID-19 following state-mandated mass testing.[21] These statistics highlight the rapid spread of COVID-19 within correctional facilities. While they do not provide specific information about the outcomes of inmates who contracted the virus, they underscore the pressing need for a comprehensive investigation into the conditions that facilitated such a swift infection rate among inmates.

Numerous correctional facilities across the United States have received considerable criticism due to their inadequate allocation of resources to prevent and manage COVID-19 outbreaks.[22] Prisons, known for their subpar hygiene conditions, often deny inmates sufficient access to essentials like soap and running water, rendering basic infection control practices such as regular hand washing nearly unfeasible.[23] The Centers for Disease Control and Prevention (CDC) has underscored the significance of practicing social distancing and enhancing sanitation to impede the transmission of COVID-19.[24]

Incarcerated individuals share confined spaces, encompassing cells, restrooms, washrooms, and dining halls, where maintaining the recommended physical distance is virtually unattainable.[25] Even single cells with solid doors can mimic shared dormitories if heating, ventilation, and air conditioning systems are not in compliance with standards, thereby exacerbating viral spread.[26] The cramped living quarters for inmates facilitated the spread of the virus, while frequent visits to communal spaces made it extremely challenging to implement quarantine measures such as social distancing.[27] Furthermore, the constant influx of staff in and out of the facility put inmates at a higher risk of exposure.[28] During the pandemic, prisons lacked sufficient alcohol-based sanitizers, which were essential for reducing transmission. The availability of alcohol-based solutions needed close monitoring to prevent potential stockpiling or misuse.[29]

In addition to its general recommendations, the CDC advocated for a multifaceted approach to combat COVID-19 within prison confines.[30] This encompassed the implementation of universal mask-wearing, an augmentation of ventilation systems, and the expansion of COVID-19 testing initiatives.[31] Paramount to this strategy was the introduction of masks for inmates and staff members alike, with heightened attention to ensuring proper fit for inmates.[32] However, there were insufficient

resources to address inmates' needs, and correctional staff were instructed to prioritize inmates at higher risk of contracting the virus when distributing masks.[33] This not only created a risk for inmates who did not receive appropriate personal protective equipment but also placed staff in a position of power in which they dictated who was more deserving of protection. Moreover, the universal adoption of mask-wearing, although ideal, faced pragmatic hurdles. The necessities of eating, bathing, and sleeping meant that prisoners periodically had to remove their masks, rendering a continuous mask-wearing regimen infeasible.[34]

A deficiency in proper ventilation plagues a substantial number of the nation's prisons, impeding the unobstructed circulation of fresh air and cultivating an environment that fosters the accumulation of airborne contaminants.[35] This insufficiency of fresh air results in infected individuals sharing common air space with susceptible inmates.[36] During the pandemic, diagnostic testing of inmates was limited due to the inadequate availability of tests nationwide.[37] Some prisons provided tests only to symptomatic inmates, disregarding the fact that 60% of COVID-19 cases are asymptomatic.[38] Test results were often not communicated to inmates, and inmates were transferred to different cells or prisons without knowledge of their COVID-19 status.[39] Inmates with inconclusive tests were sometimes isolated with those who tested positive, further exposing them to the virus.[40]

Evidence indicates that individuals over the age of 50, who account for over 10% of state prisoners and 12% of federal prisoners, face a significantly increased risk of life-threatening complications from COVID-19.[41] Moreover, accelerated aging in prison contributes to a higher likelihood of chronic illness, compounding the vulnerability of senior inmates.[42] These individuals already bear a heavy burden of chronic diseases such as diabetes and hypertension, rendering them more susceptible to severe COVID-19 infections.[43] Furthermore, the overrepresentation of ethnic and racial minorities in the incarcerated population is a systemic issue within the criminal justice system.[44] This issue is relevant to our discussion of senior inmates because these systemic biases and disparities, along with barriers to quality health care and the confined living conditions in correctional facilities, also affect senior inmates and contribute to their higher prevalence of COVID-19 complications, hospitalizations, and fatalities.[45]

During the pandemic, prisoners faced significant challenges, particularly in accessing medical care. Many inmates delayed reporting symptoms out of fear, as they witnessed others being punished or isolated for seeking medical attention.[46] Solitary confinement was used as a disciplinary measure for noncompliance with COVID-19 protocols, leading to an estimated increase in the number of inmates in solitary confinement from 60,000 to 300,000 in June 2020.[47] The line between medical isolation and solitary confinement was blurred at most prisons, and inmates felt "like [they] were being literally punished for getting sick [with COVID-19]."[48] Moreover, there was a double standard between staff and inmates, with staff enforcing mask compliance and social distancing while not following these measures themselves.[49] Inmates who requested staff compliance were threatened with solitary confinement, causing frustration and fear.[50] Lack of staff compliance jeopardized inmates' health and safety, and staff wearing masks only during officials' visits created a false narrative of good conditions.[51] Staff's lack of cooperation heightened inmates' sense of unjustified restrictions, worsening the tense inmate-staff relationship.[52]

How did COVID-19 impact inmates?

Imprisonment accelerates the aging process, causing incarcerated individuals to physically age faster than their non-incarcerated counterparts and develop health issues typically associated with indi-

viduals older than their actual age.[53] Studies suggest that each year of incarceration shortens a person's future life by two years, emphasizing the profound impact on senior inmates.[54] This phenomenon of accelerated aging is said to be due to a high number of environmental stressors that elderly inmates experience, such as bullying and sleep deprivation, along with insufficient access to proper health care.[55] Exposure to second-hand smoke, poor diet, and lack of exercise can further age an individual and jeopardize their health.[56] The introduction of the COVID-19 virus into prisons was detrimental to an already vulnerable population.

Prisons have long neglected the safety of older inmates and denied necessary accommodations to disabled individuals, including access to medication, prosthetic limbs, and hearing aids.[57] Unfortunately, the pandemic exacerbated these already concerning conditions.[58] The Americans with Disabilities Act, specifically Title II, prohibits discrimination against disabled inmates and mandates that prison officials provide reasonable accommodations for accessing programs and services.[59] The failure to provide detainees with visual or hearing impairments access to audio, large-print, or Braille materials regarding prison rules and policies not only increased survival risk but also led to increased disciplinary sanctions.[60] Furthermore, lockdown measures prevented inmates, particularly older or disabled individuals, from participating in rehabilitation programs, which put them at a disadvantage when it came to demonstrating the required qualities for parole or compassionate release.[61]

COVID-19 severely impacted inmates' mental health due to fear, vulnerability, and unhygienic living conditions in overcrowded prisons.[62] Regular routines, such as the recreational, social, and vocational outlets that helped residents cope while serving time prior to COVID-19, were largely eliminated, leaving inmates with even fewer resources to cope with the psychological effects of the pandemic.[63] The COVID-19 prevention measures that were implemented, including social distancing, cancellation of visitations, and a limit on time spent outside one's cell, resulted in inmates being locked in their cells for extended periods, sometimes up to 23 hours or more each day.[64] This made it incredibly difficult for inmates to maintain a sense of connection with the outside world, particularly with family and friends.[65] The uncertainty surrounding COVID-19, including not knowing when lockdowns would end and when one could communicate with loved ones again, heightened inmates' anxiety and negatively affected their mental well-being.[66]

The exorbitant cost of communication during lockdowns left inmates feeling more isolated.[67] In one study, participants expressed the difficulty of separation and inability to connect with loved ones, with the loss of community connection described as traumatic.[68] Prisons on lockdown were described by residents as crazy, unorganized madhouses, with staff reacting with a panic and fear.[69] Noise levels were said to have increased as a result of prisoners becoming irritated during the 23-hour lock-ups.[70] Inmates shared that the "incessant, inescapable noise" contributed to self-harm and suicide.[71] Inmates received limited information about the severity of COVID-19 within their facilities, and they viewed this lack of information and restriction on communication with the outside world as deliberate manipulation to conceal the situation in their facilities from negative outside attention.[72]

During the pandemic, many prisons repurposed physical spaces, including ones that were previously unoccupied, for containment measures such as isolation and quarantine.[73] These spaces were characterized as unlivable, with buildings being moldy, rodent infested, and dilapidated.[74] Inmates described living conditions of sweltering heat with no air conditioning or drinkable water, no opportunity to shower or do laundry, and clogged sinks and toilets (or no toilets at all).[75] The lack of hot water meant that inmates' clothing and

bedding were not adequately cleaned.[76] Such conditions impacted the health of inmates and created harsh environments that were not conducive to recovery or rehabilitation.[77]

Several residents infected with COVID-19 were isolated and detailed the confiscation of all their property by staff and how they received no medical attention except for temperature checks.[78] The food quality in facilities declined as well.[79] Some inmates reported having only one hot meal each day and having to rely on cold sandwiches for months, while other inmates reported frequent food poisoning from undercooked meals or food covered in "rat urine & poop."[80] Ordinarily, this can be considered a gross violation of one's right to health because it is depriving them of general nutrition and a clean environment.[81] However, the vulnerability of senior inmates becomes more clear when we consider their preexisting physical frailty and the heightened need for improved access to food and medical care to maintain their strength and overall health.[82] In this context, not only is the right to health in jeopardy, but so is the right to be free from cruel and unusual punishment, as inmates depend on prison authorities to address their medical needs.[83]

Was senior inmates' Eighth Amendment right to be free from cruel and unusual punishment violated during the COVID-19 pandemic?

The Eighth Amendment to the US Constitution safeguards incarcerated individuals against cruel and unusual punishment, ensuring that they are not exposed to circumstances that pose a grave threat to their physical health or overall well-being.[84] Proving a breach of the Eighth Amendment requires demonstrating treatment that is so grossly inadequate, incompetent, or excessive that it shocks the conscience or violates fundamental fairness.[85] The Supreme Court's rulings in *Estelle v. Gamble* (1976), *Helling v. McKinney* (1993), and *Farmer v. Brennan* (1994) have established the deliberate indifference standard, protecting inmates from future harm and holding prison officials accountable for disregarding serious risks to inmate health and safety.[86] Deliberate indifference can arise with the "unnecessary and wanton infliction of pain" as per the Eighth Amendment.[87] A two-part test has been established to determine whether an incarcerated individual's right to humane conditions of confinement has been violated under the Eighth Amendment.[88]

In order to raise an Eighth Amendment claim, an inmate must show first that they are or were incarcerated under conditions that pose a substantial risk of serious harm, such as deprivation of basic human needs (including medical care).[89] The high number of COVID-19 cases and deaths among senior inmates in prisons across the United States during the pandemic supports the assertion of a serious risk of harm to the older population, given their underlying health conditions.[90] Once this risk has been established, the inmate must demonstrate that prison officials acted or failed to act with deliberate indifference to the substantial risk of harm, equivalent to recklessly disregarding that risk.[91] An illustrative example of the implementation of this test can be observed in the case of *Banks v. Booths* (2020), where successful litigation regarding COVID-19 conditions in prison demonstrated how these legal standards can lead to immediate improvements in prison conditions.[92]

The protections guaranteed under the Eighth Amendment against cruel and unusual punishment encompass access to dental care, the assurance of adequate meals, and the provision of proper medical and mental health treatment.[93] The US Supreme Court has interpreted this language to mean not that prisons are obligated to meet all of the dental and medical needs of their inmates but rather that they must not be deliberately indifferent to the serious medical needs of prisoners.[94] Applying these rules

to the situation in prisons during the COVID-19 pandemic, it is clear that correctional facilities were obligated to undertake specific actions to safeguard inmates from transmittable viruses.[95] This includes the provision of reasonably adequate ventilation, sanitation, bedding, and hygienic materials.[96] Prisons across the country have justified their failure to implement these measures during the pandemic by pointing to significant constraints, including the rapid spread of the virus, concerns about public safety, and budget limitations.[97] While prisons had many challenges to navigate COVID-19, it is important to note that their actions may have infringed on the Eighth Amendment right to be free from cruel and unusual punishment. This understanding, however, does not diminish the fact that such infringements occurred.

Beyond the safeguards provided by the US Constitution, additional protection for inmates stems from international standards for human rights. The United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules) identify prolonged solitary confinement as a form of cruel, inhumane, and degrading treatment, often amounting to torture.[98] Solitary confinement should be strictly prohibited, especially when prisoners have mental or physical disabilities that would worsen under such conditions.[99] The Mandela Rules further assert that inmates should be entitled to health care standards on par with those available to the general community and must have access to essential services without any form of discrimination.[100] Moreover, health care personnel should not play a role in imposing disciplinary measures or other restrictive actions. Similar to the Mandela Rules, the International Covenant on Economic, Social and Cultural Rights requires that states respect the right to health by "refraining from denying or limiting equal access for all persons, including prisoners."[101] However, it is important to note that as of November 2023, the United States has not ratified either the covenant or the Mandela Rules. Consequently, these rules are considered advisory and function as international guidelines for the treatment of prisoners. Inmates cannot use the lack of compliance with these rules as grounds for litigation in US courts.[102] This situation of reduced legal avenues becomes especially problematic when considering that many senior inmates faced excessive isolation measures during the pandemic. These measures, implemented both as protective and reactive responses, potentially infringe upon their rights against cruel and unusual punishment.

Prolonged isolation can cause severe and lasting psychological and neurological damage, leading to higher suicide and self-harm rates compared to the general prison population.[103] In addition to the psychological harm that came from isolation and administrative segregation, many senior inmates were met with brute force and excessive violence as punishment for not obeying COVID-19 protocols.[104] Such behavior ordinarily cannot be condoned; however, within the context of a global pandemic in which most individuals' bodies and minds were already weak, it is inexcusable. In an effort to mitigate human right violations, Penal Reform International suggests avoiding or minimizing blanket isolation for inmates who test positive, and instead conducting individualized medical assessments.[105]

While some argue that prisons took necessary measures to protect inmates and staff, such as isolation, limited movement, and vaccine distribution, the evidence shows that senior inmates were left vulnerable to the virus due to inadequate health care and a lack of access to vaccines.[106] The pandemic further strained an already overburdened health care system within prisons. Many prisons lack real hospitals and the capacity to provide the same standard of health care that is available in the community.[107] Some prisons even tried to save a few dollars by hiring medical professionals with questionable credentials, to the detriment of inmates.[108] Further, the prioritization of staff over inmates

for vaccination, despite higher case rates among inmates, neglected the vulnerability of senior inmates to severe illness.[109] This decision disregarded the obligation to provide equivalent medical care to prisoners as the general population and, more importantly, to the vulnerable population.[110] Failure to protect the health of senior inmates may constitute a violation of their right to be free from cruel and unusual punishment and cause irreparable constitutional injury to a vulnerable population.[111]

Can US prisons mitigate future cruel and unusual punishments?

The COVID-19 pandemic has highlighted constitutional and human rights violations in US prisons, particularly among vulnerable populations such as senior inmates. These individuals faced a range of challenges during the pandemic, including social distancing and isolation, the suspension of prison visits, and reduced access to mental and physical health services.[112] To address these issues and mitigate their impact in the future, several measures can be implemented. Ensuring the provision of both individual and communal socially distant activities, such as outdoor exercise, virtual educational programs, reading materials, art and creative projects, and video conferencing with loved ones, can help maintain the mental and physical well-being of prisoners.[113] Additionally, clear and accessible communication about public health measures, particularly those related to COVID-19 prevention and safety protocols, should be tailored to the needs of disabled prisoners. This communication is crucial for their understanding of these measures and their compliance with them. Access to telephone and video calls with friends and family is essential for maintaining important relationships.[114] Comprehensive risk assessment, telepsychiatry services, and socially distant in-person mental health appointments can effectively address the mental health impacts of isolation.[115] Moreover, in terms of mitigating the future transmission of viruses within prison facilities, implementing effective ventilation systems is essential.[116] Recommendations in this regard include practices such as opening windows, using portable air-cleaning devices, and ensuring healthy indoor air.[117] These measures collectively contribute to a safer and more humane environment within prisons, especially during times of crisis.

The pandemic highlights another crucial issue that requires urgent attention: the need for prison reform and a reduction in inmate populations. While some may argue for the construction of additional prisons to alleviate overcrowding, it is essential to consider alternative solutions that prioritize rehabilitation, diversion programs, and more humane conditions, which can ultimately lead to a safer and more just society. Conventional aims of criminal justice, such as deterrence, incapacitation, rehabilitation, and retribution, cannot be effectively achieved by incarcerating prisoners in conditions that expose them to severe and potentially deadly illnesses.[118] Efforts such as releasing offenders who would have been held for pretrial detention or issuing short sentences for nonviolent offenses can further help address the problem of overcrowding.[119] Prisons such as Clackamas (Oregon) and Kitsap (Washington) reduced their jail populations by 66% and 58%, respectively, during the pandemic, serving as examples of the feasibility of reducing prison populations during times of crisis.[120] In response to the health crisis in May 2020, the Federal Bureau of Prisons placed 4,700 inmates on home confinement and allowed them to continue their sentences under community supervision. It is unsurprising that it took a global pandemic to show the utility of home confinement and community sentences and the benefits they provide to both inmates and prisons. Creating available space in overcrowded facilities allows for the implementation of social distancing measures, enhanced cleaning protocols, and the adjustment

of other institutional practices.[121] These changes can help reduce the transmission of viruses among both inmates and staff.[122]

It is particularly concerning that it took a deadly pandemic for prisons to recognize the urgency of addressing overcrowding and potential human right violations, considering that these issues could have been mitigated from the outset by reducing the number of individuals admitted. Moreover, courts should recognize the existence of viable alternatives to imprisonment—such as restorative justice programs, community services, and probationary measures—that can better serve offenders while also relieving the population pressures on prisons. Prisons must acknowledge their role in these challenges and understand that decarceration, coupled with the thoughtful consideration of alternative sentencing options, offers the sole sustainable solution to underlying problems such as overcrowding and social distancing. Addressing the systemic issues that underlie these problems is paramount. By reducing the number of incarcerated individuals in the United States, we can protect inmates' constitutional and basic human rights and mitigate the transmission of deadly viruses such as COVID-19. Action is long overdue, and it is imperative that prisons reassess their policies and implement the necessary changes to ensure that justice is genuinely served.

Conclusion

The harm inflicted on senior inmates in the name of criminal justice and public safety has pierced the veil of unconstitutional and life-threating conditions for this population. We cannot continue to justify the unsafe living conditions and inadequate health care that have resulted in a disproportionate number of deaths and illnesses among this vulnerable population. We must urgently address these issues and ensure dignity and respect for senior inmates, despite their incarceration status. For those senior inmates who are fortunate enough to finish their incarceration period, the stigma of incarceration alone is sufficient to hinder their prospects for a future life. Health complications from COVID-19 or other illnesses should not be additional burdens they face. While their likelihood of contracting the virus outside of prison would have still been probable, they were disproportionally exposed to the virus within such closed and cramped conditions. The comorbidities of age and health factors raise compelling substantive claims of cruel and unusual punishment for this population. The available data allow one to assume that prisoners did not receive the same standards of health care available to the community, which is a breach of rule 24 of the Mandela Rules.[123]

Regardless of the available legal protections in place to protect this community, relying solely on litigation is insufficient to address the overall health and human rights issues faced by inmates. While attempts have been made to seek legal remedies by invoking their Eighth Amendment rights in response to COVID-19-related issues in prisons, the judicial process often affords prisons generous opportunities to address inmates' concerns, which may fall short of fully protecting inmates from instances of cruel and unusual punishment.[124] Thus, systematic change is required to address the unlivable conditions that inmates, and particularly senior inmates, are subjected to, and resources and protections for them need to be increased in order to ensure adequate and humane care. Appropriate steps should also be taken toward decarceration and finding alternatives to incarceration for this demographic. This will require a coordinated effort between lawmakers, advocates, and community leaders to promote policies and programs that prioritize the health and well-being of our most vulnerable citizens. The courts have already conceded the challenges that the conditions of confinement have on the safety and health of the inmate population.[125] The chilling aftermath of

the COVID-19 pandemic should serve as a stark reminder of the urgent need to address these issues, recognizing that history is likely to repeat itself during the next airborne virus epidemic. It is our moral duty to learn from this experience and take proactive measures to protect the rights and health of inmates, rather than waiting for the next crisis to force our hand.

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