Expert explains increased vulnerability of prisoners and police in a pandemic

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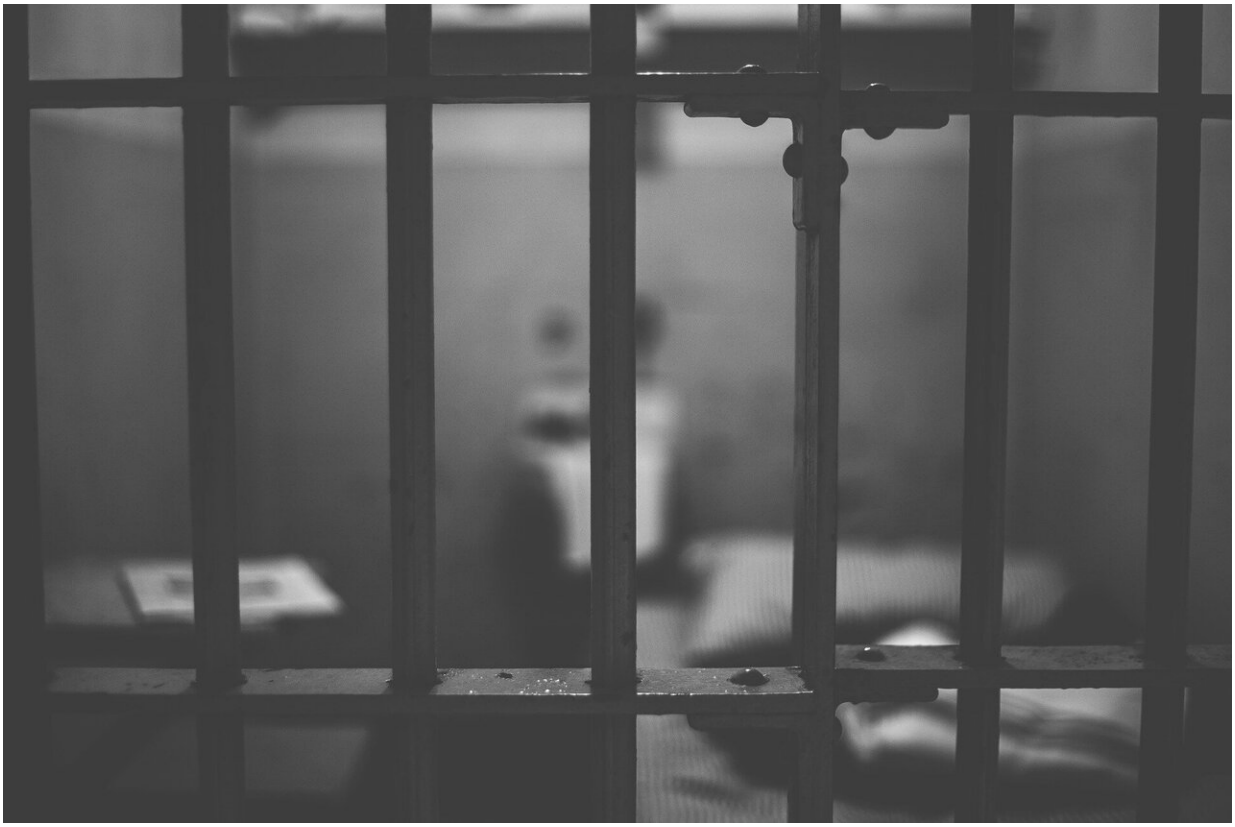

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For a variety of reasons, incarcerated people and correctional officers are at an elevated risk during a pandemic. This is especially the case when that pandemic stems from a highly infectious agent like the novel

coronavirus—because people in prisons and jails live in such close quarters, it is not feasible to enforce the kind of social distancing practices that health officials recommend to limit the spread of the virus.

"When people are incarcerated in dormitory style situations, or in cells with multiple people—and then you add in the logistics of making sure inmates get fed and their other basic needs are met—there's no distancing that can go on for any extended period of time," said Daniel Nagin, award-winning criminologist and professor of statistics and public policy in Carnegie Mellon University's Heinz College of Information Systems and Public Policy.

"Once this virus gets introduced into that kind of environment, it will inevitably spread, and then it can't be controlled. The only way to stop that from happening is for the virus to not be introduced in the first place."

That reality is leading many jurisdictions in the United States to take the unprecedented step of releasing large numbers of inmates to prevent coronavirus outbreaks. Nagin believes the decision to release inmates has merit, but isn't without complications in practice.

Nagin says that in places like New York City where the virus is already prevalent, it's inevitable that it will be introduced into the jails and prisons—he references the large numbers of cases already reported among inmates and guards on Riker's Island, for example. The threat of a humanitarian crisis puts pressure on officials to act fast if they want to take steps to reduce incarcerated populations before they are hit with a wave of disease and a spike in potentially serious medical needs.

"A prison in a pandemic becomes akin to a cruise ship—people are crowded into a shared space that they cannot leave," he said, pointing to recent incidents of cruise ships being incubators for the coronavirus. "At

least on cruise ships you can humanely enforce social distancing—and then [passengers are] quarantined in a cruise cabin, not a jail cell. Managing disease in a jail is much more difficult."

Nagin suggests that in situations where the infection rate is currently low in a jail, then the idea of releasing some number of inmates (and not admitting anyone else) would be sound public policy. However, once the virus is well-established in a correctional facility, it is too late to release inmates responsibly, as sick individuals must be quarantined and given proper medical treatment.

A pandemic creates new challenges for prisons, prosecutors, and police

In recent years, many jurisdictions in the U.S. have been taking steps to reduce mass incarceration. In some cases, that has been due to federal legislation like the 2018 FIRST STEP Act—which, among other reforms, expanded "compassionate release" for inmates with terminal illnesses—while in other cases reductions have been in response to court mandates that address overcrowding, as happened in California following a 2011 Supreme Court decision. Other states have proactively sought to reduce prison populations, using incentives for early release and other strategies.

"But in the past, reductions in incarcerated populations have happened over the course of years, not all at once," said Nagin.

On the question of who should be released during the current crisis, Nagin says he expects that jails may decide to release inmates who are being held awaiting trial and are considered to be a low risk to public safety.

"The courts are closed down right now. You have people who are in jails awaiting trial, but no trials are taking place. Say you release some of them, those cases will still need to be heard once this period has passed," said Nagin.

"The real policy question once we get past this crisis will be choosing which cases to prosecute—those decisions will likely be in the hands of local prosecutors, and I can imagine prosecutors deciding that certain kinds of offenses will not be prosecuted, or changing plea bargaining practices to make deals to reduce sentences."

Nagin notes that just as prisons and courts are facing an unprecedented situation due to the coronavirus, so too are police officers.

"My guess is that certain kinds of crimes are going to go down during this period, like robberies for example. But during social distancing, people [in the same household] are spending more time together and under a lot of stress. So, I think it's likely that domestic disputes—in which the police have to regularly intervene—are going to increase markedly," said Nagin, adding that many domestic disturbances require officers to enter a home and try to mediate the dispute.

"To arrest someone, you need physical contact with them. When the police need to intervene in a situation, the rules of social distancing cannot apply," said Nagin.

He suggests the coronavirus outbreak could prompt police departments to create more non-physical mediation and de-escalation strategies that minimize physical contact and use of force. Such modifications, if shown to be effective, could last beyond the crisis period.

In addition to policing, he believes the impacts of the COVID-19 pandemic could result in various long-term changes to the country's

approach to incarceration, jails in particular.

"Once this emergency passes, we may realize the need and practicality of being more selective in how we use jails, especially for things like pre-trial incarceration and as punishment for minor offenses like unpaid fines and public disorder," said Nagin. He added that policymakers could similarly reconsider how we use imprisonment, and possibly sending fewer people to state prisons for minor offenses.

"Sometimes a shock like this can trigger changes in policy which can have an enduring impact," said Nagin.

Provided by Carnegie Mellon University