

Provision of health care for prisoners during the COVID-19 pandemic: an ethical analysis of challenges and summary of select best practices

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Abstract

Motivation: There is growing awareness about the potential for structural inequities to impact the distribution of care in the COVID-19 pandemic which is particularly evident with the provision of care within prisons.

Purpose: We analyze the COVID-19 pandemic response in prisons, focusing on the United States which imprisons a higher percentage of its population than any other country in the world.

Design / methodology / approach: We evaluate the current pandemic response in prisons based on legal and ethical imperatives for providing healthcare to prisoners.

Findings: Themes of best practices identified include increasing rapid detection of new cases, reducing transmission, and advocating for both short- and long-term ethical healthcare policies. Halting progress now could risk dire consequences and is unacceptable on legal, ethical, and public health grounds.

Originality / value: Outbreaks that occur within prisons are likely to spread to the community and vice versa. Analyses based on ethics, law, and public health point to the same conclusion: preventing significant outbreaks within prisons will benefit not only prisoners but also the general public. Furthermore, even though scientific understanding of the pandemic may change with future research, the ethical and legal principles highlighted in this paper will continue to be foundational when considering just care for prisoners.

Research limitations: This paper does not involve primary research with prisoners; rather it focuses on reviewing the pandemic response in prisons. Although it may be possible to translate findings in this article to similar environments (e.g., jails, detention centers), there are unique characteristics pertaining to each that deserve separate, focused analyses. Additionally, this work was do

Providing health care to prisoners: an ethical mandate and legal obligation

Key ethical principles common to international and multiple OECD countries' guidelines for provision of health care to prisoners include:

EQUIVALENCE OF CARE
JUSTICE
RESPECT FOR AUTONOMY
RESPECT FOR HUMAN DIGNITY

The eighth amendment prohibits cruel and unusual punishment. Several US Supreme Court cases have helped clarify this expectation of this care for prisoners including:

Farmer v. Brennan (1994)
Helling v. McKinney (1993)

COVID-19 and Related Challenges in Prisons

overcrowding



susceptibility to
poor outcomes



psych implications
of infection control

Current Strategies



Select Best Practices

Encourage measures to increase rapid detection of new cases.

- Adopt widespread viral testing strategies in all prisons.
- Limit medical co-pays during the pandemic in all prisons.

Support ethical measures to reduce transmission.

- Promote equitable access to PPE for both prison staff and prisoners
- Temper the burden of cell confinement for public health measures.
- Continue 'compassionate release' of prisoners to reduce inhumane overcrowding.
- Reduce barriers to a safe disposition 'home'.

Advocate for both short & long-term ethical healthcare policies.

- Include vulnerable populations in prioritization scheme for scarce allocation of resources
- Partner with global experts in healthcare and the criminal-legal system to inform healthcare and prison reform
- Stay current.

Conclusions

Globally, there are strong ethical and legal foundations for providing basic healthcare to prisoners. The COVID-19 pandemic has presented challenges in providing this basic healthcare. Creative strategies to overcome these challenges have started to emerge in the US prison system, and we argue that slowing down the pace of refining these strategies would risk dire negative consequences. As information about COVID-19 becomes available, **adjusting approaches in light of science and medical information will help defuse assertions of deliberate indifference.** We encourage global leaders to continue to share best practices so those involved in prison healthcare can continue to optimize ethical, evidence-based provision of healthcare to prisoners even after this pandemic ends.

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