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Pauline K. Brennan

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# Responses Taken to Mitigate COVID-19 in Prisons in England and Wales

Pauline K. Brennan

School of Criminology & Justice Studies, University of Massachusetts Lowell, Lowell, Massachusetts, USA

## ABSTRACT

The purpose of this paper is to discuss and evaluate how prison administrators in England and Wales responded to the coronavirus disease (COVID-19). The first case of COVID-19 was confirmed in the United Kingdom (UK) in late January 2020. In the days that followed, the number of positive cases grew exponentially; by the end of March thousands of new cases were detected daily and several hundred people had died of COVID-19. In response to the pandemic crisis, Prime Minister Boris Johnson mandated a national lockdown on March 23 and prison administrators were told to immediately begin implementing Exceptional Regime Management Plans. These Plans included (1) strategies to minimize the risk of transmission of the virus within prisons, (2) measures to reduce the potential for the virus to enter prisons, and (3) methods to manage prison populations in order to contain the virus. Overall, 6 months into the coronavirus crisis, the adopted measures appear to have helped curtail the spread of the virus within prisons, but at a great cost to the inmates and their families.

## KEYWORDS

COVID-19; prisons; mitigation of COVID-19 in prisons; prison lockdown; infectious diseases in prisons; prison management; pandemic; alternatives to incarceration; early release mechanisms; prison reform

## Introduction

The first confirmed case of COVID-19 in the United Kingdom (UK) was on January 29, 2020 (Kay, 2020, p. 2). By the beginning of March, there were 36 confirmed cases and health experts warned widespread transmission of the virus was “highly likely” (BBC News, March 2, 2020). Fourteen days later, more than 1,000 people in the UK had tested positive for the virus and 21 had died of COVID-19 (Van Wagtendonk, 2020). About a week later, on March 23, the number of positive cases had increased to 6,650 and 335 had died, which lead Prime Minister Boris Johnson to order a police-enforced lockdown across the country (Rawlinson, 2020). Citizens were told to stay home, but were given permission to leave for essential items, exercise alone outdoors, and go to work if necessary (Stewart et al., 2020).

Experts feared what could happen in prisons. The first case of COVID-19 in an English prison was reported on March 18, 2020 (Jarvis, 2020). Soon after (on March 21), epidemiologists warned that more than 800 inmates could die if appropriate measures were not taken by prison administrators (Townsend et al., 2020). The COVID-19 pandemic hit England and Wales in the midst of a period of mass incarceration, overcrowding, underfunding, and growing concerns over substandard conditions within prisons. Overall, prisons provide hotbeds for outbreaks of infectious diseases such as COVID-19; cramped

**CONTACT** Pauline K. Brennan  [Pauline\\_Brennan@uml.edu](mailto:Pauline_Brennan@uml.edu)  School of Criminology & Justice Studies, University of Massachusetts Lowell, Lowell, MA, 01854, USA.

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environments, in particular, make mitigation strategies (such as social distancing and hygienic protocols) challenging for both inmates and staff to follow.

In this paper, I discuss and evaluate how prison administrators in England and Wales<sup>1</sup> responded to the pandemic, with focus placed on the following three questions: (1) What were the conditions within prisons before COVID-19?; (2) How did prison administrators manage the pandemic inside prisons? and (3) What were the immediate effects of the responses taken? To address these questions, I relied on multiple sources of information, including available databases, reports from NGOs, governments, and international organizations, newspaper articles, and other publically available documents. Combined, these documents provided information on the types of responses taken in prisons in England and Wales to mitigate transmission of COVID-19 and their effects. My review and analysis of the measures employed is preliminary and should be cautiously taken, as the pandemic is ongoing and a viable vaccine has not yet been identified.

## **Pre-COVID realities in prisons in England and Wales**

COVID-19 hit prisons in England and Wales in the midst of decades-long challenges to the correctional system: crowded conditions, budget cuts, staff shortages, poor infrastructure, and inmate unrest. The system, in other words, was “struggling to cope” before the pandemic (Corker, 2020, p. 27). The myriad of pre-COVID struggles added to the difficulty administrators faced in trying to mitigate the spread of the coronavirus within their institutions.

### ***Overcrowding***

England and Wales incarcerate more people and at a higher rate than other western European nations (Abei & Tiago, 2020). As of August 28, 2020, there were 79,443 prisoners housed within 118 facilities across England and Wales (World Prison Brief, 2020). About 14% were pretrial detainees (World Prison Brief, 2020). In addition, English and Welsh prisons were operating above their rated capacities during the pandemic (World Prison Brief, 2020), which meant they were overcrowded.

Prisons in England and Wales have been overcrowded for years. As a solution, the Government planned to “build 10,000 new prison beds by 2020, but due to financial pressures only delivered 206” (Davies et al., 2020, p. 60). In the months before the coronavirus pandemic began, 60% of prisons in England and Wales were overcrowded (Davies et al., 2020), and at least 10 were operating at over 140% of their rated capacity (Howard League for Penal Reform, 2020). In overcrowded facilities prisoners share cells designed for fewer people. Within these crammed spaces, incarcerated individuals sleep, eat, and go to the toilet. Before COVID-19, members of the House of Commons’ Health and Social Care Committee provided the following description of one of the prisons they visited:

We were shown a three-bed cell, consisting of a bunk bed on the left-hand side and another bed up against the opposite wall. The gap between the two beds appeared to be about a metre wide. Room to move around the cell was limited; if all three men were standing there was not enough space for them to pass each other without touching. To the right-hand side of the entrance there was a sink, a plastic bin and a tiny mirror, about the size of a small paperback book. There was a toilet in the right-hand corner of the room. The toilet had a small door or screen with

a small gap below and above. However, not all cells have a screen or door. The main door to the room was not barred, but the wall on the other side had a fairly large window, providing some natural light in the cell. There were two cupboards either side of the window, both broken. (House of Commons' Health and Social Care Committee, 2018, para. 35)

Independent inspectors have made similar observations, and have pointed out that some of the cells at Her Majesty's Prison (HMP) Pentonville and HMP Nottingham violated international standards because they were too small (Corker, 2020, p. 29). Prior to the pandemic, most inmates regularly left their cells to shower, attend educational classes, work, and freely interact with others in housing wings and exercise yards. But, after lockdown measures were employed on March 24, 2020, inmates spent very little time out of their cells.

### ***Budget cuts, staffing shortages, underinvestment in infrastructure***

As noted, budget cuts have affected available prison space. Indeed, prison spending was 10% lower in 2018/19 than in 2009/10 (Davies et al., 2020, p. 54). Due to spending cuts, there are 11% fewer prison officers today than a decade ago, and the ratio of prisoners to staff is among the highest in the European Union (Davies et al., 2020, p. 55; see also Atkins et al., 2019). In addition, prison officers “are now on average substantially less experienced than they were 10 years ago” (Davies et al., 2020, p. 57, see also Atkins et al., 2019). In June 2019, prison inspectors acknowledged that staffing shortages across prisons in England and Wales resulted in difficulties to “deliver acceptable and consistent regimes” and prisons were struggling to assure safe environments due to a “high proportion of inexperienced young staff” (Independent Monitoring Boards, 2019, p. 4).

Budget cuts have also meant that prisons have been in a chronic state of disrepair. A recent report from the National Audit Office revealed that numerous prisons had leaking roofs, pest control problems, failed heating and plumbing systems, outdated electrical wiring, and broken cell windows (Comptroller and Auditor General, 2020). A quarter of the prisons in England and Wales were built before 1900 (Corker, 2020, p. 27), and the vast majority of all the prisons there entered the pandemic with “severe maintenance backlogs” that would cost £916 million to address (Comptroller and Auditor General, 2020, p. 7). Moreover, in 2019, 41% of the prisons were deemed to require “major repair or replacement in the next three years” and 2% were at risk of “imminent breakdown” (Comptroller and Auditor General, 2020, p. 7). Longstanding maintenance issues compromised the health and safety of both inmates and prison staff before the pandemic hit and presented considerable challenges when all prisons were locked down.

In addition, telephone and video-conferencing capabilities were limited across prisons in England and Wales before COVID-19. While an estimated 60% of prisons there have in-cell telephones that allow outgoing calls at certain times of the day (Davies et al., 2020), inmates in many prisons must share phones located within communal areas in their housing blocks; some of these phones may be broken (Clarke, May 5, 2020). As for video-conferencing, the government planned to introduce such technology into 22 prisons several years ago, in order to reduce the cost and time involved in having staff transport prisoners to court. But, by November 2019 the equipment had been installed in only 7 prisons, due to budget cuts to the program in 2016 (Comptroller and Auditor General, 2020, p. 31).

### ***Inmate unrest***

Staffing shortages and unfavorable living conditions contributed to inmate unrest before the coronavirus crisis. Since 2012, notable increases in the extent of violence and self-harm among inmates have been reported (Davies et al., 2020). The number of self-harm incidents reached a “record high” in 2019, and were “up 14% from the figure for the previous 12 months” (House of Commons’ Justice Committee, July 27, 2020, para. 17). Overall, even during the pre-COVID period, the prison environment was not ideal.

### ***Pandemic plans***

Given that violence is a reality within prisons, all the prisons in England and Wales had lockdown procedures in place before COVID-19. They also had pandemic plans in place, because “prisons regularly experience regular outbreaks of flu, norovirus and other conditions among prisoners, [which means that management plans must] include precise details of how to deploy staff to cope with staff shortages and infections among inmates” (Davies et al., 2020, p. 49).

On March 12, 2020, the Minister of State issued a statement about how prepared prisons were to deal with the pandemic. Within that statement, she indicated

Prisons have existing, well-developed policies and procedures in place to manage outbreaks of infectious diseases. This means prisons are well prepared to take immediate action whenever cases or suspected cases are identified, including isolating individuals where necessary. (Frazer, March 12, 2020, para. 3)

She added that informational posters promoting basic hygiene had been placed in all prisons and that prisoners had access to handwashing facilities “not just in cells but other shared areas such as education blocks and kitchens” (Frazer, March 12, 2020, para. 4). Also, the Minister of State indicated that staff and visitors were able to wash their hands, and there were adequate supplies of soap and cleaning materials. Her statement further stipulated that prisons would operate normal regimes for as long as possible, which meant that visits to prisoners would continue as long as friends and family members did not have coronavirus symptoms (Frazer, March 12, 2020). But, existing plans could not sufficiently address how prisons would operate once the coronavirus crisis actually hit prisons.

### **COVID-19 in prisons in England and Wales**

The first case of the coronavirus within a prison in England was reported at HMP Manchester on March 18, 2020 (Jarvis, 2020), which was about 2 months after the first case was reported in the community (Kay, 2020). By March 30, 65 prisoners across 23 prisons and 14 prison staff across 8 prisons had tested positive for the virus (Corker, 2020, p. 14). By April 15, the number of confirmed cases more than doubled, and the virus was known to be in more than half of all prisons in England and Wales (Howard League for Penal Reform, April 17, 2020, para. 4). About a month later, by May 12, 404 inmates were infected with the coronavirus, and 21 inmates and 7 staff had died (Beard, 2020, p. 2). These figures serve to demonstrate how quickly the virus spread amongst prisoners and staff.

Epidemiologists from the University College London predicted that viral infection could lead to 800 deaths among prison inmates if sufficient protocols were not enacted (Townsend et al., 2020). On March 23, the day Prime Minister Boris Johnson imposed a lockdown of the country, prisons went into “command mode” (Her Majesty’s Prison and Probation Service – HMPPS, April 3, 2020). The next day, prison administrators moved to “an exceptional model of delivery,” which meant that prisons were locked down; prisoners were allowed very little time outside their cells, visits were suspended, non-essential employment ceased, and educational programming was severely reduced (House of Commons’ Justice Committee, July 27, 2020, p. 2). On March 27, 2020, administrators were tasked with implementing Exceptional Regime Management Plans (Davies et al., 2020, pp. 49, 51). These Plans included (1) strategies to minimize the risk of transmission of the virus within prisons, (2) measures to reduce the potential for the virus to enter prisons, and (3) methods to manage prison populations in order to contain the virus. In the sections below, I discuss each of these strategies and provide an assessment of their immediate effects and the issues raised.

### ***Strategies used to minimize the risk of transmission within prisons: effects and issues***

The primary strategies used to reduce the risk of transmission within prisons included the distribution of personal protective equipment (PPE) to staff, routine testing of prison officers, isolated confinement of inmates for social distancing purposes, and added handwashing facilities. Limited PPE was provided to staff on March 24, prompting the Justice Secretary to make an urgent request for more supplies (Davies et al., 2020). By mid-May, prison staff were well-equipped with PPE (Davies et al., 2020).

The testing of prison staff was prioritized on April 27th and those who tested positive were instructed to quarantine (Beard, 2020). At that time, the Justice Secretary hoped routine testing would be extended to prisoners (Beard, 2020). However, as of September 28, 2020, prisoners have not yet been routinely tested. Limited testing capability makes it difficult for prison administrators to estimate the true magnitude of the pandemic outbreak within their facilities.

Beyond distribution of PPE and testing, stringent social distancing protocols were implemented across prisons in England in Wales on March 24 when prisons went into complete lockdown. In oral testimony to the House of Commons’ Justice Committee, the head of the Prison and Probation Service noted the following:

From today [24 March], [the inmates] will spend more time in their cells, but we will be making sure that people come out for meals, to make phone calls to family or other people that they need to phone, and to have their health attended to and to take showers. We will also be making arrangements for people to exercise in the open air with proper social distancing. (House of Commons’ Justice Committee, March 24, 2020)

By July 27, the prisons had been in lockdown for 15 weeks and prisoners had spent most of their time in their cells (House of Commons’ Justice Committee, July 27, 2020, p. 2; see also Beard, 2020). Furthermore, inspections of prisons by government officials revealed:

The vast majority were locked up for nearly the whole day with usually no more than half an hour out of their cells. We found some examples of even greater restrictions. In one prison, a small number of symptomatic prisoners had been isolated in their cells without any opportunity to come out for a shower or exercise for up to 14 days. (Clarke, April 28, 2020, p. 7)

Moreover, independent inspectors reported that the amount of allotted time outside of cells varied considerably across prisons, with some only allowing “as little as 30 minutes a day out of a cell, or exercise only every other day” (Owers, 2020, p. 2).

Concerns were also raised about the level of sanitation within prisons. Although the Minister of State acknowledged on March 12 that basic hygiene was necessary to combat the virus and that handwashing facilities were made available to inmates and staff, questioning of witnesses by members of the House of Commons’ Justice Committee on March 24 indicated that “buckets of warm or hot water and liquid soap ha[d] been placed outside prisons at the gates – one in particular – and staff [were] told to wash their hands in a bucket on their way into work” (House of Commons’ Justice Committee, March 24, 2020). When asked to comment, the Head of the Prison and Probation Service stated:

I have not heard that, and I would be very shocked if it [were] true. If it is true, however, it would be good to know that example because we would want to put a stop to that. We have been providing hand sanitation for staff coming into prisons and facilities for both staff and prisoners to have adequate access to handwashing facilities and soap, but I certainly would not be expecting people to use a bucket outside a prison gate. (House of Commons’ Justice Committee, March 24, 2020, Response to Question 48)

And, on April 28th, the Chief Inspector of Prisons issued a report detailing the conditions within local prisons. In his account of a facility where inmates did not have sinks or toilets in their cells, he wrote:

The result was that prisoners, faced with long waits to use the communal facilities, resorted to using buckets in their cells. . . . prisoners faced waits of up to two hours during the night. In addition, communal toilets and showers were not cleaned often or thoroughly enough. The situation at Coldingley was likely to improve with the imminent addition of 48 temporary single cells within a week or two, but the difficulties faced by prisoners living in cells without sanitation raised the question of whether these cells should be currently occupied. The situation was exacerbated by the fact that prisoners had to eat their meals in these same cells, and that by the time of this visit hand sanitiser had not been provided. (Clarke, April 28, 2020, p. 7)

In response to these concerns, the Ministry of Justice and Her Majesty’s Prison and Probation Service (hereafter, HMPPS) stated that “the unique nature of the prison environment will not always allow for [hand-washing] to be practical, and prison levels plans must identify where exceptions will be made, justify why the exception is proportionate and the additional mitigations that will be put in place to manage this” (Ministry of Justice and HMPPS, June 2, 2020, p. 3).

By the end of April, officials from Public Health England cautiously announced that the outbreak of the coronavirus appeared to have been contained within prisons (O’Moore, 2020) and the Justice Secretary said that the numbers of prison cases and deaths were lower than “originally predicted” (Beard, 2020, p. 1). Despite the optimism from the Government, Crook and Dawson (2020) warned the extreme measures taken within prisons to prevent transmission would take a toll on inmates. In their joint letter to the Justice Secretary, on behalf of the Howard League for Penal Reform and the Prison Reform Trust, they warned of

the heightened risk of self-harm and suicide among prisoners who were “effectively in solitary confinement” and who were living in horrific conditions for prolonged periods of time (Crook & Dawson, 2020). Similar concerns had been raised by the INQUEST charity on March 23, when the prisons began to go into lockdown; the charity cautioned that levels of anxiety and uncertainty would increase during periods of prolonged isolation (INQUEST, 2020, p. 6). Sadly, at the end of May, Grierson (2020) reported there had been 16 self-inflicted deaths in prisons in England and Wales after lockdown restrictions were imposed, and five of the deaths occurred over a six-day period. A few days later, the Chairwoman of the Independent Monitoring Boards provided an update to the House of Commons’ Justice Select Committee on findings from recent inspections (Owers, 2020). Within that update she noted that while prisons overall remain “stable and reasonably calm, [...] a number of prisons are now starting to report an increase in self-harm and self-inflicted deaths, and there are also some spikes in violence” (Owers, 2020, pp. 1, 2). By late July, members of the House of Commons’ Justice Committee indicated:

we share concerns about the potential long-term impact current restrictions will have on the health and wellbeing of prisoners themselves. We are unclear what additional support is being provided to those struggling with their mental health. Before the Covid-19 pandemic, prisons already faced alarmingly increased levels of self-harm and the current situation in prisons may serve to make that situation worse. (House of Commons’ Justice Committee, July 27, 2020, para. 22)

A month later, Davies et al. (2020) argued that current conditions were not sustainable, and that prison administrators may be “left with a difficult choice between stricter lockdown with greater risk of violence and self-harm, or easing restrictions but risking increased infections” (p. 61).

### ***Measures taken to reduce the potential for the virus to enter prisons: effects and issues***

In accordance with the Exceptional Regime Management Plans, which necessitated the lockdown of prisons, prison administrators took immediate action to minimize the potential for the virus to be introduced into their facilities by restricting contact between incarcerated people and the outside world. Administrators moved to immediately “temporarily” eliminate in-person visits and suspended educational programs and non-essential work. By comparison, before the first case of COVID-19 was confirmed in a prison, prisoners regularly moved between cell blocks to work, go to the gym, engage in educational programming, meet with counselors, visit with their families, and so on. Prisoner movement into and between prisons was also common for a variety of other reasons. For example, charged individuals who were remanded into custody from court often left prisons for required in-person court hearings and returned later. In addition, prisoners could be moved to higher or lower security prisons, if warranted, or from one prison to the next to manage prison capacity. And, those nearing their automatic release dates could be moved to facilities with reintegration supports (Kay, 2020).

All inter-prison transfers (IPT) ended on March 31, 2020, and a directive from Her Majesty’s Prison and Probation Service stated the policy would remain in effect for the duration of the COVID-19 crisis (HMPPS, March 2020). The policy was imposed to help “reduce opportunities



for transmission of COVID-19 between prisons, prevent the introduction of infection into prisons where there is no outbreak and reduce the chance of new prisoners becoming infected” (HMPPS, March 2020, p. 2). Only under exceptional circumstances, such as the need to move an inmate for unusual legal reasons, security necessity (e.g., transfer of a high escape risk to a more secure facility), emergency contingency (e.g., during a fire or after a natural disaster), mental health treatment outside the prison (followed by subsequent return), and/or immigration removal would inmates be allowed to move into and out of prisons (HMPPS, March 2020). Notably, transfer from one prison to another was not permitted for the purpose of helping prison governors alleviate crowding in prisons that were operating over capacity (House of Commons’ Justice Committee, April 7, 2020).

Movement from prisons to courts (and vice versa) effectively stopped on March 23, when all jury trials in England and Wales were suspended; no new trials were allowed to begin and ongoing trials paused pending the implementation of safety measures (Giodarno, 2020). This policy had immediate effects for remanded defendants facing serious charges. For defendants charged with less serious offenses, where imprisonment is an unlikely outcome, court hearings were allowed to continue remotely by video and by phone (Giodarno, 2020). But, the more serious pretrial defendants waited in prison. By early May, case backlogs were mounting and outcry was increasing. For example, a barrister from Wales expressed his alarm over the stalled legal process:

We’re nearly up to 300,000 people just waiting to find out what’s going on with the cases they are involved in, this is the equivalent to a city the size of Swansea. That’s quite a frightening prospect. (BBC News, May 3, 2020)

By September 6, 2020, there were more than 500,000 cases awaiting court hearings in England and Wales, and the British Parliament had introduced a statute that would allow people to be held in prison for 8 months while awaiting their adjudication (Somerville, 2020). Therefore, the policy to halt jury trials has had serious legal consequences for pretrial detainees. There have also been legal consequences for prisoners serving time for convictions. Specifically, in-person parole hearings were suspended on March 23 (Corker, 2020, p. 31), which effectively resulted in the denial for consideration of early release for some prisoners.

Other cautionary measures taken have likely added to levels of frustration among both pretrial and sentenced prisoners. Since lockdown began on March 24, prisoners have been given few, if any, opportunities to work or learn because many staff members and volunteers were deemed non-essential and, consequently, were prohibited from entering prisons. In regard to schooling, the

[e]ducation provision in the prison setting [has been] minimal, consisting primarily of in-cell work packs. Many education departments have closed, and education providers have withdrawn from prisons. Peter Clarke, Chief Inspector of Prisons, in all of his recent reports on short scrutiny visits has found that education provision across the prisons inspected was variable, and that face-to-face education had been largely suspended in most prisons. (House of Commons’ Justice Committee, July 27, 2020, para. 12)

In the few instances where educational programming continued, delivery left much to be desired. For example, at one prison for women – HMP Bronzefield – restricted face-to-face education was provided at cell doors (Clarke, May 19, 2020) and at one institution for younger offenders – HMP Parc – limited face-to-face education with social distancing took place (Clarke, April 19, 2020).

Prisoners were also prevented from having in-person visits with their families and friends beginning on March 24 (Ministry of Justice, March 24, 2020). To supplement the loss of in-person visits, the Government

announced that 55 prisons were to receive 900 secure phone handsets to help maintain family contact during the COVID-19 outbreak and the Prison Service was also exploring the use of video calls at six pilot sites, to allow prisoners to be called by their families in a secure environment with strict safeguards. (Corker, 2020, p. 31; see also Ministry of Justice, March 24, 2020)

In addition, as was the case during the pre-COVID-19 period, friends and family members could contact prisoners through the “Prison Voicemail Service, the email a prisoner service, and by writing letters” (Beard, 2020, p. 3). And, in mid-May, the Government announced prisoners would be given extra phone credit (Beard, 2020) and secure video-calling technology would be introduced in 10 prisons, with more to follow (Ministry of Justice & HMPPS, May 15, 2020). By the end of May, video calls were available in 26 prisons (Prison Reform Trust & Prison Policy Network, 2020).

As of September 28, 2020, many prisoners have gone without visitation for months, although prison visits were allowed to resume with Government approval in July, 2020 when the Ministry of Justice reduced the national alert level (Inside Time Newspaper, 2020). The prisons approved for reopening were required to make “major changes” to their operations, which resulted in more restrictive visitation (e.g., shorter sessions, face coverings, separation screens between prisoners and visitors) (Inside Time Newspaper, 2020). But, “some families found the new rules so distressing, especially for children unable to hug a jailed parent,” that they have decided to refrain from visiting inmates (Inside Time Newspaper, 2020, para. 7). And, some of the prisons that reopened have recently shut down due to surging cases of COVID-19 in their surrounding communities (Inside Time Newspaper, 2020). “From the evidence, this extensive period of separation, which initially induced feelings of frustration, is now causing extreme distress and desperation” (Prison Reform Trust & Prison Policy Network, 2020, p. 7). Moreover, outcry has been raised over the inadequacy of the compensatory measures taken to address the lack of in-person visitation. According to critics, what the Government did

amounted to in-cell telephones in fewer than half the prisons; 900 mobile phones distributed across the remainder; and video calls, initially at six prisons, rising to 26 by the end of May. . . . the inadequacy of compensation is obvious. With up to 40,000 prisoners given very little time out of cell, the demand for 900 mobile phones spread over 55 prisons was certain to overwhelm the supply. The additional phone time these provided could never offset the profound impact of cutting off family contact. (The Prison Reform Trust & The Prison Policy Network, 2020, p. 6)

In addition, prisons have been using antiquated technology that is struggling to catch up. A report released in February, 2020 by the National Audit Office highlighted just how far behind the prisons were in updating communications equipment. In the month before prisons went into lockdown, the Government’s

Reconfiguration Project [was] more than two years behind schedule and not expected to be completed before February 2023. As at November 2019, Her Majesty’s Prison and Probation Service had changed the function of two prisons with a combined operational capacity of 2,208 (6% of its 37,000 target). In addition, it installed video conference centres (VCCs) in seven of its

17 priority prisons but had originally identified 22 prisons that needed this technology. It scaled back plans when the programme board reduced the project's budget by 20% in 2016 (from £79 million to £59 million) to bring the overall programme costs within budget. (Comptroller and Auditor General, 2020, p. 31)

Years of underfunding, therefore, made it difficult to get communication options up and running once the pandemic hit.

On June 30, months into lockdown, the Government acknowledged that network and connectivity issues have been in problem in some prisons (Prison Reform Trust & Prisoner Policy Network, 2020, p. 14). Moreover, the rollout of the technology across prisons was slow and uneven, which resulted in added frustration for inmates and their families. As one person put it:

I haven't seen my partner's face in over 12 weeks ... 11 weeks ago they said they were piloting video visits. 20 prisons have the service out of 117. Some that have received video visits also have in cell phones! How is that fair? We have no clear plan on exit strategy. The framework just like the phones, video visits is a lip service document to keep us quiet and give us false hope. (as reported by the Prison Advice and Care Trust to The Prison Reform Trust & The Prisoner Policy Network, 2020, p. 15)

Concerns were also raised about the amount of time prisoners were given to make calls, due to limited out-of-cell time. In particular,

Where prisons do not have phones in cells, they largely rely instead on communal wing phones. This makes it 'difficult for prisoners to speak to family or friends at length given the brief' time they have out of their cells during the lockdown – time that might otherwise be used for showering, exercise or other activities. (Davies et al., 2020, p. 59)

Overall, prisoners and their families have been left feeling “forgotten and disregarded” by the Government, and their ill-feelings toward the prison service have been heightened by broken promises that have caused “anxiety, hopelessness, and anger” (The Prison Reform Trust & The Prisoner Policy Network, 2020, p. 16).

### ***Methods employed to manage prison populations: effects and issues***

On March 24, 2020, the Ministry of Justice and HMPPS announced measures that would help prison administrators and staff manage existing prison populations. These measures included the early release of some prisoners, the addition of temporary accommodations across prisons, and the implementation of a “cohorting” strategy (House of Commons' Justice Committee, July 27, 2020). Efforts were also made to increase prison officer availability through the introduction of “the COVID19 Special Payment Schemes” on March 23 (Davies et al., 2020, p. 56). Once activated, prison staff were able to earn up to “an additional £4,126 over a 12-week period, or £1,292 over four weeks, for working nine hours of weekly overtime” (Ridler, 2020, para. 3).

By the time the lockdown went into effect, 3,500 prison staff (10% in total) were out sick or in self-isolation (House of Commons' Justice Committee, March 24, 2020) and the Head of the Prison Governors Association “warned that a combination of prison overcrowding, prisoner lockdown and staff shortage ... meant that the system was facing unprecedented pressure” (Pegg & Allison, 2020, para. 4). But, overtime incentives and stringent regimes imposed on prisoners have allowed prisons to operate successfully, according to Davies

et al. (2020, p. 56). Nonetheless, low staffing numbers will make it difficult for activities to resume while social distancing measures are in place and staff–prisoner relations will be tested once restrictions are eased (Davies et al., 2020, p. 57).

Other than attempts to assure sufficient prison staff coverage through overtime incentives, the Government announced that the prospect of temporary release was being given careful consideration (House of Commons’ Justice Committee, July 27, 2020, p. 2). Such a possibility was welcomed and encouraged by the Prison Reform Trust and the Howard League for Penal Reform (Beard, 2020). On March 31, the Government issued a press release stating that, pending risk assessments, pregnant women in custody and prisoners in Mother and Baby Units would be allowed temporary release from prison (Ministry of Justice, HMPPS, & Buckland, March 31, 2020). On April 4, the opportunity for release was extended to other low-risk inmates who were within 2 months of their release dates (Ministry of Justice, April 4, 2020). However, the Ministry of Justice also acknowledged that many prisoners would not be eligible. Specifically,

No high-risk offenders, including those convicted of violent or sexual offences, anyone of national security concern or a danger to children, will be considered for release, nor any prisoners who have not served at least half their custodial term. Additionally, no offender convicted of COVID-19 related offences, including coughing at emergency workers or stealing personal protective equipment, will be eligible. No prisoner would be released if they have symptoms of coronavirus or without housing and health support being in place. (Ministry of Justice, April 4, 2020, paras. 4, 5)

Even with these exclusions, Government officials estimated that up to 4,000 prisoners would qualify for temporary release (Beard, 2020). The Prison Governors’ Association (PGA, 2020), however, disagreed. Instead, its members believed that no more than 2,000 prisoners would be able to meet the Government’s strict criteria for release, and urged officials to reconsider stipulated requirements (PGA, 2020). The PGA (2020) also said that 15,000 inmates – well over the Government’s projected figure – would need to be released in order to free up enough prison space to protect inmates and staff.

By mid-April, when only 18 male and female prisoners had been allowed release, it became apparent that few prisoners would benefit from the temporary release policy (Howard League for Penal Reform, April 17, 2020). This became all the clearer on April 18 when the policy was put on hold, after errors were discovered in the release of six prisoners (BBC News, April 18, 2020). On April 24, the Ministry of Justice revamped eligibility criteria and provided clearer guidance for the process by which prisoners could be released (Beard, 2020, p. 5). But, on May 10 the Government announced the temporary release policy was no longer necessary “as the coronavirus outbreak has eased pressure on the prison system with fewer cases going to the courts” (BBC News, May 10, 2020, para. 2). When all was said and done, only 55 prisoners had left prisons on temporary release, including 21 pregnant women (Beard, 2020, p. 6).

On April 7, the head of HMPPS testified before members of the House of Commons that the temporary release of prisoners was not the only strategy that had been considered to manage the prison population (House of Commons’ Justice Committee, April 7, 2020). She went on to say that there are different ways to protect inmates and that temporary prison accommodations would be installed across prisons (House of Commons’ Justice Committee, April 7, 2020). On April 9, a press release from the Government indicated

“work to expand the prison estate by installing the first 500 temporary single-occupancy cells [had begun]” (Ministry of Justice & HMPPS, April 9, 2020, para. 1). By April 29 temporary cells had been installed at three prisons and efforts were underway to further expand single-cell capacity by reopening two former prisons – Medway Secure Training Center and HMP Rochester (Ministry of Justice and HMPPS, April 29, 2020). More substantial progress had been made by the end of May, when the Minister of State reported to the House of Commons that nearly 600 temporary cells had been delivered to 17 prisons, 48 were already in use, and the remainder were expected to be occupied in the coming weeks pending final inspections (Frazer, May 22, 2020). She added that there were plans to install a total of 2,000 temporary cells, exceeding previous goals (Frazer, May 22, 2020).

While the Government argued that the installment of temporary accommodations was necessary to allow for single-cell occupancy to reduce the potential for the coronavirus to spread, critics argued the Government used the pandemic as a vehicle to expand prison capacity and feared the so-called “temporary accommodations” would remain long after the crisis was over (Garside, 2020; Kay, 2020). Critics also pointed out that the added “accommodations” amounted to nothing more than adopted shipping containers, which did not qualify for suitable housing (Kay, 2020). By the end of July, members of the House of Commons’ Justice Committee requested information from the Minister of State in regard to how the Government planned to “re-deploy these cells in the long-term” (House of Commons’ Justice Committee, July 27, 2020). In addition, because the planned installation of 2,000 temporary cells had not yet occurred, the Justice Committee asked for a more definitive timeline (House of Commons’ Justice Committee, July 27, 2020).

Faced with overcrowded facilities where single-cell occupancy was not a given, prison administrators announced on March 24 that efforts were being made to “cohort” prisoners, an idea adopted from a policy used to manage an outbreak of influenza within prisons in 2010 (Kay, 2020, p. 7). At the end of March, HMPPS implored prison governors to take “proactive local steps to reduce the risk of COVID-19 spreading through their establishments by re-engineering the way prisoner locations are determined” (HMPPS, March 2020, p. 3). In so doing, HMPPS published a guidance document specifying how areas or units within the prison could be used to protect specific groups within the prison population and/or delay the spread of the virus (HMPPS, March 2020). Identified areas of separation were referred to as “cohort units” and the process by which inmates would be grouped together was called “cohorting” (HMPPS, March 2020, p. 3). In short, three distinct types of cohort units were noted: (1) a 7-day Protective Isolation Unit for prisoners with symptoms of the virus who could not be isolated in their cells, (2) a 14-day Isolation Unit (also referred to as a Reverse Cohort Unit) for asymptomatic prisoners who may have been exposed to the virus and those new to the prison, and (3) a Shielding Unit for high-risk individuals who could die if infected (HMPPS, March 2020; PGA, 2020). In essence, the cohorting strategy aimed to assure that new prisoners were not mixed with the existing population and that the risk of infection among vulnerable individuals would be minimized.

In early April the Justice Secretary reported that efforts were underway within prisons to create different cohorts of prisoners (House of Commons’ Justice Committee, April 7, 2020). But, the Prisoner Governors’ Association voiced “significant concerns in the ability to achieve this [objective] if prisons are full and cells remain doubled,” and added it would be necessary to reduce the prison population by 15,000 inmates in order to assure the safety of inmates and staff (PGA, 2020, para. 4). By April 21, about a month after prisons were

locked down, only 25% of prisons were able to fully implement the Government's "cohorting" policy (O'Moore, 2020, p. 4). Several months later, by the end of July, 98% of all prisons had "cohorting" in place (House of Commons' Justice Committee, July 27, 2020).

While the strategy of separation seemed logical, infectious disease experts and others were skeptical about whether the effort would make a difference in mitigating the spread of COVID-19 (Kay, 2020; O'Moore, 2020). The incubation period for the coronavirus varies from individual to individual, and it may take between two and 14 days for symptoms to appear. Moreover, some people who are contagious may fail to display symptoms (Kay, 2020). In the absence of testing, it would be difficult (if not impossible) for prison officers to determine exactly who should be isolated for 7 or 14 days. Also, the types of symptoms for COVID-infected people can vary widely, which would make it difficult to determine, without testing, whether someone has COVID-19 or some other illness. "As such, utilizing cohorting measures solely on the basis of prisoners presenting with symptoms is insufficient" (Kay, 2020, p. 8). Nonetheless, in late April, the Government issued a press release stating that the collective actions taken across prisons, including "isolating those with symptoms and quarantining new arrivals" have "successfully limit[ed] the transmission of the virus" (Ministry of Justice & HMPPS, April 29, 2020, para. 2).

## Discussion and concluding comments

Prisons provide hotbeds for outbreaks of infectious diseases such as COVID-19 because social distancing and handwashing protocols are not easily implemented in cramped environments where sanitation is questionable. In the pre-COVID period, prisons in England and Wales were overcrowded (Howard League of Penal Reform, 2020) and suffered from "severe maintenance backlogs" (Comptroller & Auditor General, 2020). Consequently, well before the coronavirus, prisoners shared single-occupancy cells that were in a state of disrepair with others. Years of funding cuts, moreover, limited the Government's ability to expand prison capacity, hire necessary staff, and update antiquated communications technology across prisons. In addition, due to staffing shortages and unfavorable living conditions, incidents of inmate self-harm and violence were on the rise. Overall, less than ideal prison conditions in England and Wales in the pre-COVID period made it challenging for prison administrators to respond once the pandemic hit.

On March 23, prisons went into "command mode" (HMPPS, April 3, 2020) and were locked down as prison administrators moved to "an exceptional model of delivery" (House of Commons' Justice Committee, July 27, 2020, p. 2). On March 27, 2020, administrators began implementing Exceptional Regime Management Plans (Davies et al., 2020, pp. 49, 51) that included (1) strategies to mitigate the risk of transmission of the virus within prisons, (2) measures to reduce the potential for the virus to enter prisons, and (3) methods to manage prison populations in order to contain the virus.

With regard to steps taken to reduce viral transmission within prisons, PPE was successfully distributed to prison staff, prison officers were routinely tested, handwashing facilities were added, and inmates were locked in their cells. Testing of staff was prioritized on April 27, but (as of September 28) prisoners have not yet been routinely tested, which makes it difficult for Government officials to estimate the true magnitude of ongoing pandemic. Concerns have also been raised about the level of sanitation within prisons, as testimony before the House of Commons' Justice Committee and inspector reports have

indicated inadequate access to soap and water for both inmates and staff (House of Commons' Justice Committee, March 24, 2020; Clarke, April 28, 2020). Moreover, prisoners in some facilities are living in dirty cells where they eat their meals next to the buckets they use for toilets (Clarke, April 28, 2020). These realities are made even worse when one considers that by July 27 prisons had been in lockdown for 15 weeks and the vast majority of inmates spent 23 hours a day in their cells (Clarke, April 28, 2020).

The prisoners have been given few, if any, opportunities to work, learn, or visit with their families or friends. As of September 28, 2020, many prisoners have gone without visitation for months, and the compensatory measures taken to address the lack of in-person visitation has left much to be desired as prisons with antiquated technology are struggling to provide inmates with modern phone and video-calling equipment (The Prison Reform Trust & The Prison Policy Network, 2020). Combined, these realities have caused "extreme distress and desperation" for both inmates and their families and have left them feeling "forgotten and disregarded" (Prison Reform Trust & Prison Policy Network, 2020, pp. 7, 16). Crook and Dawson (2020), on behalf of the Howard League for Penal Reform and the Prison Reform Trust, warned that extreme periods of isolated confinement would put inmates at a heightened risk of self-harm and suicide. Unfortunately, by the end of May, a couple of months after stringent lockdown measures were imposed, 16 inmates in England and Wales had killed themselves (Grierson, 2020). By the end of July, members of the House of Commons' Justice Committee wondered what mental health supports had been provided to inmates, while voicing their concerns over the potential long-term impact of prolonged isolation (House of Commons' Justice Committee, July 27, 2020).

Concerns have also been raised about the growing backlog in court cases and the related serious legal consequences for pretrial detainees. All jury trials in England and Wales were effectively stopped on March 23 because social distancing protocols could not be realistically put in place within courtrooms. Therefore, many defendants charged with serious offenses have spent their time awaiting court hearings while detained in prison for months. This state of pretrial legal limbo may be allowed to continue for some time. And, some sentenced prisoners have had to put their hope of early release on hold due to the suspension of in-person parole hearings. For both categories of inmates, one could reasonably argue that justice has not been forthcoming.

Opportunities for temporary release, however, were briefly considered for certain categories of low-risk prisoners who were within months of their release dates. But, when all was said and done, only 55 inmates were granted temporary release before the Government declared the policy no longer necessary (BBC News, May 10, 2020; Beard, 2020), which was probably because other measures taken – including added temporary cells and "cohorting" of inmates – helped prison administrators to manage existing prison populations. By mid-May, the Government announced plans to install 2,000 temporary cells in prisons across England and Wales in order to add single-cell capacity where needed (Frazer, May 22, 2020). But, by the end of July, members of the House of Commons' Justice Committee questioned the timeline for final installation and wondered what the plans were to "re-deploy these cells in the long-term" (House of Commons' Justice Committee, July 27, 2020). Related to this, critics argued the Government used the pandemic as a mechanism to expand prison capacity with "accommodations" that amounted to nothing more than adopted shipping containers ill-suited for housing (Garside, 2020; Kay, 2020). These critics fear the so-called temporary cells will remain long after the crisis is over.

As for the “cohorting” strategy, in early May, efforts were underway to separate prisoners into distinct cohort units based on whether they had symptoms of the virus, had possibly been exposed to the virus or were new to prison, or were at a high risk of death if infected. While implementation of the strategy was not immediate, 98% of all prisons in England and Wales had “cohorting” in place by late July (House of Commons’ Justice Committee, July 27, 2020). Critics questioned whether the strategy would prove useful without the routine testing of inmates, but Government officials believed it would successfully limit the transmission of the virus within the prison population (Ministry of Justice & HMPPS, April 29, 2020).

Did the strategies taken by the Government reduce the spread of COVID-19 within prisons? The most recent available figures indicate that 16 prison officers and 23 inmates died of COVID-19 since the pandemic began (Ministry of Justice, August 20, 2020), which is well below the number predicted by epidemiologists in early 2020. Since the start of the pandemic, a total of 560 prisoners across 87 facilities were confirmed to have the coronavirus (Ministry of Justice, September 11, 2020). Recent figures indicate that infections continue, but the pace of transmission seems to have slowed among inmates and staff. In fact, there have only been 20 newly confirmed cases among inmates from July to September 2020 (Ministry of Justice, September 11, 2020). The relatively low number of cases may lead some to believe that the virus has, for the most part, been successfully managed across prisons in England and Wales.

Some may say that sufficient numbers of prisoners were released to allow for effective social distancing within facilities. There were 4,058 fewer prisoners in facilities across England and Wales at the end of July than when lockdown measures were first implemented in March (House of Commons’ Justice Committee, July 27, 2020). However, the temporary release scheme put in place by the Government had little effect on these numbers because only 55 prisoners were granted the opportunity for temporary release before the policy was abandoned. Instead, “reduced court activity, meaning fewer new prisoners, and the scheduled release of prisoners at the end of their sentences has driven the reduction in the overall prison population” (House of Commons’ Justice Committee, July 27, 2020, p. 2). In other words, when court activity resumes, prison populations will increase once again, which will make it more difficult for prison officers to “separate and cohort prisoners in the way that is presently being done” (House of Commons’ Justice Committee, July 27, 2020, p. 2).

Others may point out that the addition of temporary accommodations has made a difference. But, by the end of July, it was not clear exactly how many of the so-called temporary cells were actually occupied by inmates or whether the added capacity would remain once the pandemic ended (House of Commons’ Justice Committee, July 27, 2020). Arguably, the stringent restrictions that went along with the lockdown of all prisons on March 24 probably had the greatest impact on containing the coronavirus, but these restrictions have come at a great price for inmates and their families. As months went by in 2020, the number of inmate suicides, self-harm incidents, and acts of violence increased. Moreover, justice has been denied to many because of case stagnation and inability to meet face-to-face with parole boards. Moreover, the families of inmates have suffered collateral damage due to the difficulty that COVID-19 has presented for visitation and other forms of contact. Overall, the pandemic aggravated many problems that existed for years in prisons in England and Wales and exposed the poor living conditions of those profoundly isolated behind prison walls.



Many hoped the worst days were over when restrictions slowly began to ease in late summer 2020. Unfortunately, daily rates of infection began to again rise sharply in mid-September, which suggested the UK entered the second wave of COVID-19 (BBC News, September 18, 2020). After having eased restrictions in the community over the summer, Prime Minister Boris Johnson peddled back on September 22, 2020 when he indicated that “working from home when possible, a 10 p.m. closing time for pubs and restaurants and increased fines for breaking laws on gatherings and mask use” could be in effect for the next 6 months (Smith-Schoenwalder, 2020, para. 2). As of September 28, 2020, a full return to lockdown had not occurred. However, the Prime Minister left the option on the table. A full lockdown during the second wave of COVID-19 may be even more difficult for inmates and prison officers to bear, because frustrations will certainly grow when signs of a return to normal seem too distant. Prison administrators, therefore, may be “left with a difficult choice between stricter lockdown with greater risk of violence and self-harm, or easing restrictions but risking increased infections” (Davies et al., 2020, p. 61).

## Note

1. Prisons in England and Wales are administered at the national level by Her Majesty’s Prison and Probation Service (HMPPS); one entity provides oversight of prisons in both countries. As such, Government mandates apply to prisons in both England and Wales and data for both countries are aggregated in documents, press releases, and websites.

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