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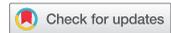
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“We Must Go Hard and We Must Go Early”: How New Zealand Halted Coronavirus in the Community and Corrections

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ABSTRACT

New Zealand’s success at containing the coronavirus, despite a potential reemergence in August, is viewed by the World Health Organization as a model for handling a pandemic. This same success also appears within one of its most vulnerable locales—prisons. While New Zealand’s Department of Corrections has not experienced a single COVID-19 case within prison walls, the efforts to contain the virus have also come at costs to incarcerated individuals’ rights. This article demonstrates the successful efforts to contain the coronavirus pandemic in New Zealand and how these efforts have been met with both praise and criticism. In particular, we will highlight the ways in which prison officials have quickly responded to the pandemic as well as their ongoing efforts to improve the conditions for those incarcerated.

KEYWORDS

Prison experience; prisons; international; public safety; Covid-19; pandemic; alternatives to incarceration; early release mechanisms; prison reform

Introduction

As the rest of the world grapples with the surge of coronavirus, New Zealand has emerged as a success story (O’Grady & Farzan, 2020; World Health Organization, 2020). New Zealand, home to around 5 million residents, holds one of the lowest COVID infection rates at 1,827 cases and 25 deaths¹ (Ministry of Health, 2020). Prime Minister Jacinda Ardern’s decisive response in implementing effective communications, extensive contact tracing, isolation, increased testing, lockdowns, and swift border closures made it one of the first COVID-free countries in the world (Godin, 2020; www.dw.com, D. W., 2020). While geography has been noted as one advantage New Zealand had on controlling virus transmission (Shepherd, 2020), the citizens of New Zealand also collectively abided by the strict guidelines set by the prime minister, with only 8% of the public opposed to the lock-down measures set forth.

On June 8, 2020, New Zealand declared itself a COVID-free and loosened restriction on citizens (Cave & Solomon, 2020). On August 14, 2020, New Zealand broke its 102-day COVID-free status with an outbreak in Auckland. Quick action by Prime Minister Janice Ardern aimed to curtail this outbreak stating, “It’s being dealt with in an urgent but calm and methodical way” (Godin, 2020). When coronavirus first appeared in New Zealand, the government tightened its borders, ordered a lockdown, enforced social distancing, and increased testing to quash the spread of the novel virus. In the face of new cases emerging at the end of the summer, more masks have been provided to the public and a contact tracing app has been implemented to help identify case clusters (Godin, 2020).

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One area that remains less understood is how coronavirus has impacted the correctional system. As the correctional systems in many countries work to reduce the conditions promoting the transmission of the virus, New Zealand's response is reflective of its national approach to the pandemic. This article examines how COVID-19 affects the current incarcerated populations in New Zealand and what is being done to balance public safety and prevent the potential hazards to a vulnerable population.

Consistent with movements in other countries, justice reform advocates are demanding that the prison population to be lowered in order to halt the spread of COVID-19 (Boyle, 2020). Despite the fact that there are no existing cases in New Zealand prisons or jails as of this writing, advocates warn that the likelihood of infection is high in these conditions. Sir Kim Workman, a justice reformist, said prisons are a "breeding ground for infectious disease" highlighting dense quarters and preexisting conditions (Boyle, 2020). Sir Workman stated:

It is a population which is extremely susceptible to infectious disease and would be classified, I think under any criteria, as a vulnerable population. And you have got them all sitting next to one another. The potential for the spread of coronavirus is incredibly high. (Boyle, 2020).

Advocates suggest prioritizing release of the elderly, those with preexisting health conditions, and those waiting in custody pre-trial. However, achieving the early release of selected incarcerated subgroups is easier said than done. According to National Commissioner Rachel Leota, the "corrections' chief executive does not hold the powers to grant early releases, and any decision to change these policy settings would be a matter for the Government to decide" (Boyle, 2020). Because the corrections department does not make release decisions, the courts and parole board do, there is no plan to release prisoners early (Boyle, 2020; Forbes, 2020).

In this article, we outline and discuss the context of the correctional system in New Zealand and highlight the steps toward mitigating COVID-19 outbreaks as well as the remaining challenges in the face of a potential resurgence.

New Zealand corrections

The New Zealand Department of Corrections (Ara Poutama Aotearoa) operates a centralized system of prisons and community supervision. With over 10,000 staff, the prison system operates 18 prisons and 100 community correction offices across the country (Annual Report – Department of Corrections, 2019; Leota, 2020). Despite the increase of private in prisons Oceania (see Byrne et al., 2019), New Zealand hosts only one privately run facility – the Auckland South Correctional Facility, a 960-bed prison, housing minimum to high-security men, and operated by British company Serco (Department of Corrections (DOC), 2020a).

As of June 2020, there were 9,469 individuals in New Zealand prisons (Prison facts and statistics – June 2020, 2020), a rate of 188 incarcerated individuals per 100,000 residents (World Prison Brief, 2020). The majority of this population is male (93.4%), and one-third of those incarcerated are in the 30–39 age group. The most common offense type is violence (40.9%), and 38% of individuals are there on remand (not sentenced) (DOC, 2020b; Prison facts and statistics – June 2020, 2020). Most of the prison population is Minimum (33.3%), Low (22%), or Low Medium (25.4%) security classification.

A larger portion of the convicted population overseen by the Department of Corrections is on community-based supervision. There are approximately 30,000 individuals serving sentences in the community, the majority of whom are male (80%) (Community Statistics, 2020). In 2020, there were 24,878 individuals serving a community sentence, with 6,295 on direct supervision, 4,632 on intensive supervision, 1,263 on community detention, 1,419 on home detention, and 10,639 on a community work supervision² (Department of Corrections, 2020b). Another 2,580 individuals were being supervised on a term of parole (DOC, 2020b).

As in other correctional systems around the world, the indigenous population and people of color are over-represented. In New Zealand, over half of the prison population is Maori (52.3%), while only making up 15% of the general population (Annual Report – Department of Corrections, 2019; Prison facts and statistics – June 2020, 2020). Individuals classified as European make up 31%, with Pacific, Other, and Unknown categories making of the remaining proportion. Nearly 60% of women incarcerated and 70% of young people incarcerated are Maori (Annual Report – Department of Corrections, 2019). Similar statistics are reported for the community supervision population with 32% European, 46% Maori, 10% Pacific, and Other or Not recorded comprising the remaining categories (DOC, 2020b).

Mechanisms of success in fighting COVID-19

There have been no reported cases among the incarcerated population,³ and only two positive cases among staff, which were deemed contracted outside of the prison facility (Block, 2020a). There are no reported data on infections among individuals on community-based forms of supervision or staff. There are several reasons for the success of New Zealand corrections in fighting the coronavirus.

First, the swift response of the government as a whole, including corrections, meant that citizens and incarcerated persons were better equipped to implement mitigation strategies, such as hygiene, social distancing, and interaction procedures. The Office of the Inspectorate, who is responsible for prison oversight, resumed prison inspections after initial strategies have been in place. A primary goal of the Office of the Inspectorate is to ensure that prisons are being operated humanely and in accordance with the Nelson Mandela Rules. At the beginning of the lockdown, the Office of the Inspectorate became available seven days a week and doubled its staff to respond to concerns and complaints from within the prison system (Adair, 2020). In a report from May 2020, Chief Inspector Janis Adair noted that both incarcerated individuals and staff had a “shared understanding of the effects of COVID-19 and the importance of taking health and safety precautions” (Adair, 2020). The report also noted that staff were properly wearing PPE and undergoing temperature checks and health screenings (Boshier, 2020).

New prisoners and those who had been transported outside the facility were isolating for 14 days upon entry into institutions (RNZ, 2020). Any new admits to prison facilities underwent temperature checks and health screenings to determine potential exposure (Boshier, 2020), but no testing protocols have been reported. In contrast to many other prison facilities around the world, New Zealand does not have an overcrowding problem at just 93.8% capacity (World Prison Brief, 2020a), instead of maintaining “a small buffer of vacant capacity at all times” to remain flexible in response to fluctuations in the court system (Annual Report – Department of Corrections, 2019, p. 12). In fact, only 38% of prisoners share a cell, as shown in Figure 1 (DOC, 2020b).

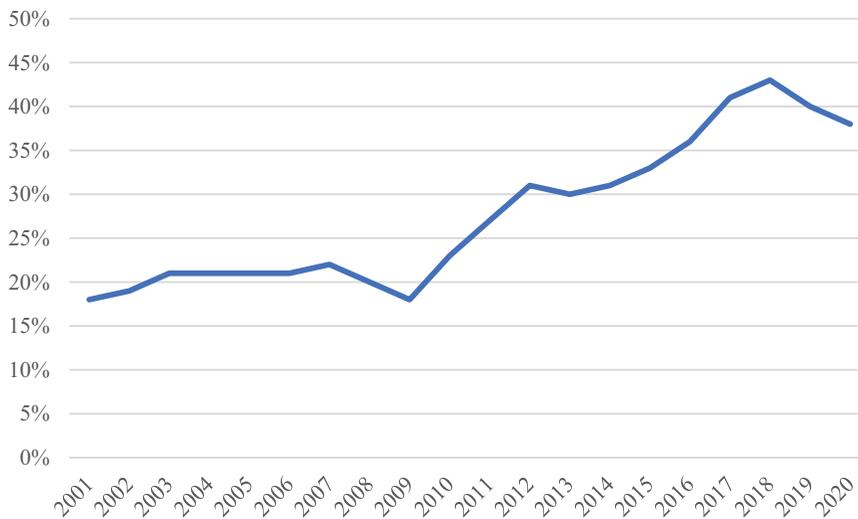


Figure 1. Proportion of New Zealand prisoners cell sharing. *Figure from the New Zealand Department of Corrections, Corrections Volume 2019–2020.*

Nonetheless, at the beginning of the country’s lockdown, many facilities were instituting strict lockdown protocols within institutions where individuals were in cells between 20 and 22 hours a day (RNZ, 2020). Staff had implemented cohort “bubbles” to maintain isolation and increased “unlock” times to allow incarcerated individuals minimum daily access outside their cells and were cleaning and disinfecting common areas between each unlock time (Boshier, 2020). However, in one prison setting, the Inspector found inadequate cleaning supplies to accomplish this task, and in two other prison’s recreational areas there were no handwashing or hygiene accommodations (Boshier, 2020). In response to this critique, officials noted the arduous and complex task of isolating individuals in different security classifications, especially with the nature and variability of prison architecture, with some prisons having more open floor plans, while others being comprised of many smaller wings with tight quarters (Boshier, 2020). Despite these challenges, during the COVID-19 pandemic, correction workers have been praised by community members and the Department of Corrections for the response to the lockdowns and guidelines in order to protect the health of both their families and incarcerated individuals (Block, 2020).

Outside visitors to correction facilities were also suspended, along with the receipt of any outside materials by family members or friends (RNZ, 2020). In lieu of suspended visits, correction officials provided phone cards; however, there were some reports that the lines to use the phones were long and there were not enough to meet demand (RNZ, 2020). When visits resumed on June 6, some facilities continued to adhere to strict social distancing measures, despite being downgraded to Alert Level 1 which eases some restrictions, and the dismay of inmates’ family members⁴ (Witton, 2020). Officials indicated each prison was operating differently based on circumstances.

On August 12, 2020, in response to the new community cases in Auckland, the DOC implemented Alert Level 3 protocol in its Auckland facilities while the rest of the country’s facilities remained at Alert Level 2 (Leota, 2020). Alert Level 3 limits physical interactions, which includes in-person visits, but the DOC is supporting and encouraging increased

communication with family members and friends through telephone and video calls, and letters and e-mails. Approximately 15% of incarcerated New Zealanders are in the Auckland facilities (Prison facts and statistics – June 2020, 2020). All out-of-prison work, such as programming and work activities, are suspended in the Auckland facilities. The DOC is taking a “deliberately cautious approach” and making decisions about restrictions and mitigation strategies on a facility-by-facility basis (Leota, 2020). For example, in Alert Level 2 facilities, regular programming and work will continue but with social distancing protocols in place. As of this writing, Auckland prisons remain at Alert Level 2 while the rest of New Zealand’s prisons are at Alert Level 1 (DOC, 2020). To facilitate the proper screening of visitors, institutions have implemented thermal cameras to capture temperature prior to entering a facility, as well as provision of medical-grade masks (DOC, 2020).

The Ombudsman’s June 2020 report suggests that prisons were providing access to health care at a normal pace and general practitioners continued to visit facilities or provide care via teleconference (Boshier, 2020). Mental health counseling and drug and alcohol treatment continued in virtual or telephonic sessions (Boshier, 2020). A 2012 Ombudsman’s investigation found that prisoner’s access to health care was “equivalent to that of the general public” but highlighted areas for improvement including the process of requesting health care, wait times, medicine waste, and access to medically assisted substance use treatment and mental health services (Wakem & McGee, 2020, p. 3). Access to health care in New Zealand’s prisons has been improving. In 2019, the Department of Corrections received a 128 USD million dollar increase in funding to attend to mental health and substance use concerns (Cheng, 2020).

The DOC began conducting parole hearings by teleconference, totaling nearly 600 during the lockdown and before resuming in person hearings on July 6 (Scoop, 2020b). Another strategy aligned with the larger governmental response of closing borders involved sentence adjustments for foreign detainees (Gay, 2020). In May, eight individuals had their parole revoked, days after it was granted but before they were released from prison, in an effort to avoid deporting potentially exposed people to other countries (Gay, 2020). While a controversial decision, it was in line with the Alert Level 4 guidelines which grounded flights and international travel.

Community corrections are also responding in like fashion. All in-person visits have been suspended and clients are reporting to their officers by phone. Home visits remain authorized, but must be pertinent to the supervision requirements, and staff and clients must engage in proper social distancing and protective measures, such as masks (Leota, 2020). Although the community correction offices are open, they operate with a reduced staff and no clients are able to report in person.

Continuing challenges

As the pandemic continues to surge around the world, New Zealand remains prepared to confront the challenge country-wide, but ongoing problems preceding the pandemic adversely affect the justice-involved population. A primary concern relates to adequate access to health care. While the Ombudsman’s recent report suggests a positive degree of health care provided to incarcerated individuals (Boshier, 2020), other officials have been less optimistic about the Ombudsman’s equivalence of in-custody care to that of the public. For instance, Deputy Health and Disability Commissioner Kevin Allan stated,

A person being held in custody does not have the same choices or ability to access health services as a person living in the community. People in custody do not have direct access to over-the-counter medications or to a GP (General Practitioner), and are entirely reliant on prison staff to assess, evaluate, monitor, and treat them appropriately (Scoop, 2020).

Data on prison health care in the midst of COVID-19 remain relatively sparse. Looking into prior reports on health care practices of the past may present a realistic view of things to come. According to a report on access to health care in Christchurch Men's Prison was extremely limited, with a backlog of medical requests from individuals waiting to be seen for various medical issues (RNZ, 2020). Attending to medical concerns during incarceration is necessary, as individuals will reenter society, bringing with them new threats of diseases, such as coronavirus, and untreated illnesses and endangering the community to which they return. As health inequities persist amongst the incarcerated populations, their safe return to communities is a critical social justice issue (Enggist et al., 2019). As well as considering the vulnerabilities presented by individuals returning to communities, the New Zealand DOC had previously established relationships with Housing New Zealand to advance resettlement centers in an attempt to also curb homelessness amongst the population returning to their communities (Annual Report – Department of Corrections, 2019).

Another challenge is related to the number of individuals incarcerated on remand, or pre-sentence. Approximately nearly 40% of the prison population in New Zealand is incarcerated while awaiting trial, as shown in Figure 2 (Stats New Zealand, 2020; World Prison Brief, 2020a). In an interview with Chief Justice Dame Helen Winkelmann, she stated,

The amount of people in remand in prison is unacceptable. Often, they are not even convicted and are simply awaiting trial, they don't have access to rehabilitation so they can often be sentenced and released immediately. This should be a great concern to all of us as a society (RNZ, 2020a).

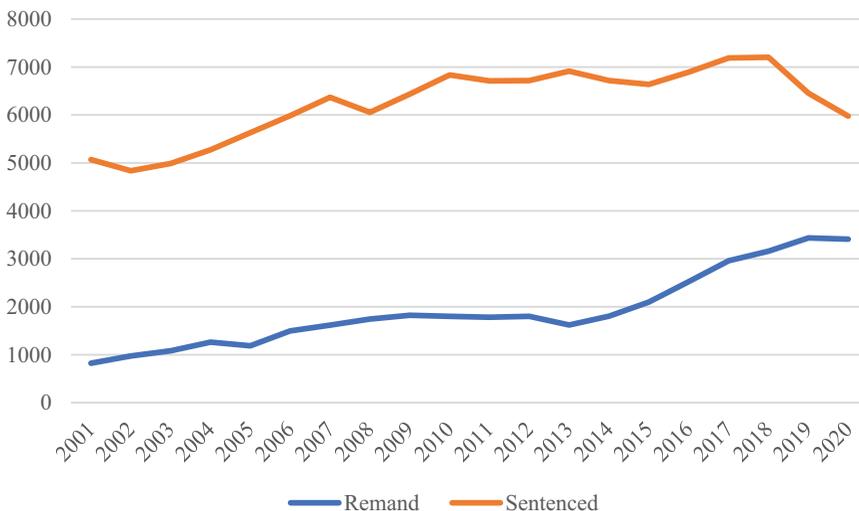


Figure 2. Prisoners in New Zealand: sentenced compared to remand. *Figure from the New Zealand Department of Corrections, Corrections Volume 2019–2020.*

Further, the Chief Justice remarked that one reason for the court backlog is the reliance on “paper trials” and an irrational resistance to digitizing court hearings to establish bail or resolve cases (RNZ, 2020a). And additional category contributing to the incarcerated population are those who are scheduled to be deported. Because the lockdown prohibited entering or exiting the country and the police escort services were postponed, incarcerated individuals scheduled to be deported remain in prison (Wellington District Court Reporter, 2020).

Attending to ethnic disparities among the prison population remains at the forefront who is most susceptible to the coronavirus. Both incarceration and health inequalities are structurally driven challenges exacerbated by a slow response to ameliorate the disparities in sentencing and criminal justice involvement as well as providing adequate access to health care in marginalized communities (Kukutai et al., 2020) Being incarcerated only widens the gap between cultures and leads to further socio-economic disenfranchisement and constrained choice of the returning citizen (Johnsen, 2020; Kukutai et al., 2020).

In particular, the immediate response to limit family visitation in prison facilities serves to avoid possible infection and spread, but is not accompanied by suitable replacement for the family and friend support garnered by visits and other types of contacts. New Zealand prison tensions mount in response to a lack of access to legal advice, rehabilitation, and face to face visits, the prisoners are dependent on the poor and outdated communication infrastructures of the prisons (Block, 2020a). Due to COVID-19 the new restrictions on prison access to outsiders and what appears to be inadequate audio-visual alternatives would disproportionately affect Māori who have less access to modern technology and are adversely affected by economic disparity and poverty (Ministry of Health, 2013). In addition to the lack of outside contact, incarcerated individuals are locked down for as much as 23 hours a day, adding to an already stressed environment (Block, 2020). In an Auckland women’s prison, one report suggests incarcerated individuals are remaining in cells for up to 29 hours at a time (Espiner, 2020a).

This concern also stems from what is perceived to be a lack of transparency among correction officials. In an April 2020 report, Chief Ombudsman Peter Boshier indicated he was discouraged by prison officials from coming to facilities (Espiner, 2020b). Boshier reiterated his chief monitoring role in ensuring policies and procedures are followed inside institutions and suggested that the current lockdowns within facilities amounted to solitary confinement and was not a sustainable solution to prevent the spread of coronavirus (Espiner, 2020b).

Advocates are worried about the suspension of prisoner rights during these mandated lockdowns. One of these ways includes not releasing an inmate due to a positive COVID-19 test. While the rationale is to quarantine a potentially infectious person, this decision is at odds with legal rights to release (Espiner, 2020). Similar situations have occurred in pre-trial situations where individuals who have tested positive for COVID-19 are being denied bail. Defense lawyer Douglas Ewen said refusing bail to people suspected of having COVID-19 was not only unlawful but was unsafe, especially given about a third of the country’s 10,000 prisoners are double-bunked (Espiner, 2020c).

As in other countries, New Zealand’s success in containing the coronavirus is also met with related emerging challenges of being on lockdown. First, economists are preparing New Zealanders for severe economic downturn (Goff, 2020). This form of recession exacerbates economic disparities. For instance, the top 1% of New Zealanders owns 16% of the country’s wealth – with the richest 5% owns 38% – while half the population,

including beneficiaries and pensioners, earn less than 24,000 USD (Fyers, 2017). Since 2014, polls have consistently shown that New Zealanders rate inequality as the single largest issue facing the country (Inequality.org). The effects of the predicted economic downturn due to COVID-19 combined with the moderate wealth inequality the country already suffers from remains to be seen.

Relatedly, although New Zealand experienced a “chilling effect” on reported crime, police are projecting increases in crime and new class of people involved in criminal behavior: middle-class individuals who have not experienced financial strain and those working in the tourist industry (Ensor, 2020; Ensor & Devlin, 2020). Police speculate these New Zealanders, faced with their new economic circumstances due to reduced commerce and a shut-down tourism industry, will turn to crime to make ends meet (Ensor & Devlin, 2020). Similarly, reports of increased substance use in response to the lockdown have impacted the illegal drug market, which faces challenges meeting demand due to closed borders (Ensor, 2020a). As New Zealand eases its coronavirus containment procedures, it will next face the aftermath of the virus on its citizens.

Conclusion

The swift action of the New Zealand government, including the Department of Corrections, has been credited with the successful suppression of the coronavirus spread. The prioritization of implementing WHO guidelines while doing their best to uphold human rights per the Nelson Mandela Rules serves as an example to others as a model way to address a pandemic, or other contagious disease outbreak, in prisons.

The mitigation efforts of prison officials have largely been tied to isolating individuals and practicing social distancing and hygiene guidance. New Zealand has not announced any plans to release individuals, especially those being held pre-trial, despite the high proportion of unsentenced people. Similarly, correction officials have been challenged by parole, where the board is reluctant to grant release decisions or execute them for public safety reasons. The lack of within-facility population reduction is at odds with current trends in other countries to depopulate as a pandemic prevention measure, as well as to uphold prisoner’s rights.

Aside from this critique, New Zealand’s leadership had a clear goal not to just contain Coronavirus but to eradicate it from the country all together. An important factor not to be understated is that the citizens of New Zealand trust their government. According to the latest Colmar Brunton poll, 88% of New Zealanders trust their government to make the right choices when it comes to protecting them from the coronavirus (Shaw, 2020). Prime Minister Ardern has been transparent, concise, and clear to the public urging them to shelter in place, saves lives and be kind, and they listened (Shaw, 2020).

This culture of kindness and concern not only extends to the citizenry but seems to appear in the prison culture as well, as correctional and prison staff interact with New Zealand prisoners on a daily basis as frontline workers (Block, 2020). They face the practical challenges of containing the virus within prison walls, while also embodying the caring and concern for human safety and rights necessary for a properly functioning correctional system. While new challenges emerge in the wake of the unknown duration and effect of COVID-19, New Zealand, and its correctional institutions appear to have risen to the task.

Notes

1. As of September 24, 2020.
2. Home detention refers to the entire supervision period occurring at the individual's residence, Community detention refers to electronic monitoring with curfew, and Community work refers to supervision through community service projects (DOC, 2020b).
3. As of September, 24th, 2020. This is with exception of a woman who was imprisoned for refusing medical treatment for a positive COVID test while in the community (Block, 2020b).
4. Alert Level 1: Prepare, the disease is contained; Alert Level 2: Reduce, the disease is contained, but the risk of community transmission remains; Alert Level 3: Restrict, High risk the disease is not contained; Alert Level 4: Lockdown, the disease is not contained (<https://covid19.govt.nz/assets/resources/tables/COVID-19-alert-levels-summary.pdf>).

Disclosure statement

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