

Criminal Justice, Mass Incarceration, and COVID-19:

Understanding Prison Health and Prison Health Activism in the
United States

By

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“It has long been said that a society’s worth can be judged by taking stock of its prisons. That is all the truer in this pandemic, where inmates everywhere have been rendered vulnerable and often powerless to protect themselves from harm. May we hope that our country’s facilities serve as models rather than cautionary tales.”

- **The Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States**

Table of Contents

Acknowledgments.....	4
Introduction.....	6
Chapter I: Illness on the Inside Outbreaks in America’s Correctional Facilities.....	20
Chapter II: The Dark Past and Present of Unethical Research Behind Bars	31
Chapter III: From Attica to Coronavirus, The Push for Prison Health Reform.....	42
Conclusion: Incarcerated with COVID-19 Reflections on Disease Spread, Experimentation, and Activism.....	63
Bibliography	71

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Introduction

America's jails and prisons are epicenters of the COVID-19 pandemic, and the devastation of the ongoing public health crisis continues to fall harder on the nation's incarcerated population. As of June 2021, The Marshall Project, a nonprofit news organization dedicated to criminal justice reform in the United States, reported at least 398,627 people behind bars had tested positive for the virus and 2,715 incarcerated individuals had died of coronavirus-related causes.¹ COVID-19 has also infected one in five prisoners in the country, a rate more than four times as high as the general population.² The COVID-19 mortality rate among incarcerated individuals is more than twice that of the death rate for the American public.³ Several of the nation's top hotspots of the novel coronavirus are also connected to jails and prisons. In fact, three correctional facilities in California and one in Texas have experienced more than 3,000 COVID-19 cases each.⁴

Public health experts amid the ongoing pandemic repeatedly emphasize that jails and prisons in the United States struggle with overcrowded environments, sanitation concerns, and limited protective measures.⁵ These conditions make it almost impossible for people behind bars

¹ "A State-by-State Look at Coronavirus in Prisons," The Marshall Project (The Marshall Project, April 20, 2021), <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

² Beth Schwartzapfel, Katie Park, and Andrew Demillo, "1 In 5 Prisoners in the U.S. Has Had COVID-19," The Marshall Project (The Marshall Project, December 18, 2020), <https://www.themarshallproject.org/2020/12/18/1-in-5-prisoners-in-the-u-s-has-had-covid-19>. Criminal justice activists highlight how dehumanizing labels can stereotype and marginalize people behind bars, and they encourage the public to be mindful of how they speak about incarcerated people. For the sake of readability, this thesis will also use terms like "prisoners" and "inmates." For more information about these critical conversations, see: "Words Matter: Using Humanizing Language," The Fortune Society, December 7, 2020, <https://fortunesociety.org/wordsmatter/>

³ "Short Update: COVID-19 Death Rate in Prison Twice That of General Population," Fair Trials (FT Admin, September 10, 2020), <https://www.fairtrials.org/news/short-update-covid-19-death-rate-prison-twice-general-population#:~:text=The%20COVID%2D19%20mortality%20rate,the%20Council%20on%20Criminal%20Justice>.

⁴ Becky Sullivan and Ari Shapiro, "Correctional Facilities Are COVID-19 Hot Spots. Why Don't They Get Vaccine Priority?," NPR (NPR, December 24, 2020), <https://www.npr.org/2020/12/24/948873835/correctional-facilities-are-covid-19-hot-spots-why-dont-they-get-vaccine-priorit>.

⁵ "Advancing Public Health Interventions to Address the Harms of the Carceral System," #endpoliceviolence. (American Public Health Association, October 24, 2020), <https://www.endingpoliceviolence.com/>.

to effectively practice recommended hygiene and social distancing, stimulating disease transmission both inside and outside carceral settings.⁶ At the same time, medical professionals recognize the increased medical vulnerability of incarcerated individuals to the novel coronavirus. For example, they identify higher rates of pre-existing health conditions, such as asthma, diabetes, and high blood pressure, among prisoners compared to the general public and highlight the nation's aging incarcerated population.⁷

These devastating realities have sparked mass legal and advocacy mobilizations across the United States since the onset of the COVID-19 pandemic, including initiatives by community organizations, large-scale nonprofits, and prisoners themselves.⁸ They are working to reduce jail and prison populations, strengthen access to medical resources behind bars, and provide incarcerated individuals with priority access to the COVID-19 vaccine.⁹ Interestingly, current advocates are working to lower possibilities of coronavirus outbreaks in correctional facilities to not only promote the health and human rights of the incarcerated population, but also protect American public health and public safety as COVID-19 transmission behind bars can spread into outside communities too.¹⁰ In order to garner attention to prisoners' health and well-being, they

⁶ Ibid.

⁷ "Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," Centers for Disease Control and Prevention (Centers for Disease Control and Prevention, February 19, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>; Weihua Li and Nicole Lewis, "This Chart Shows Why The Prison Population Is So Vulnerable to COVID-19," The Marshall Project (The Marshall Project, March 19, 2020), <https://www.themarshallproject.org/2020/03/19/this-chart-shows-why-the-prison-population-is-so-vulnerable-to-covid-19>.

⁸ Dan Berger, Ryan Fatica, and Duncan Tarr, "As the Coronavirus Spreads, Prisoners Are Rising Up For Their Health," The Appeal (The Appeal, April 27, 2020), <https://theappeal.org/prisoners-protest-coronavirus-health/>

⁹ Anthony D. Romero, "Incarcerated People Should Get Priority Access to the COVID-19 Vaccine. It's the Smart and Humane Thing to Do.," American Civil Liberties Union (American Civil Liberties Union, December 24, 2020), <https://www.aclu.org/news/prisoners-rights/incarcerated-people-should-get-priority-access-to-the-covid-19-vaccine-its-the-smart-and-human-thing-to-do/>; "Flattening the Curve: Why Reducing Jail Populations Is Key to Beating COVID-19," American Civil Liberties Union (American Civil Liberties Union), accessed April 11, 2021, <https://www.aclu.org/report/flattening-curve-why-reducing-jail-populations-key-beating-covid-19>.

¹⁰ Peter Wagner and Emily Widra, "No Need to Wait for Pandemics: The Public Health Case for Criminal Justice Reform," Prison Policy Initiative (Prison Policy Initiative, June 2020), <https://www.prisonpolicy.org/blog/2020/03/06/pandemic/>; "Proposed Public Health and Public Safety Pathways for Criminal Justice System Responses to COVID-19," May 2020,

are framing their advocacy efforts pertaining to prison reform as a matter of general public concern.

However, amid these developments, key criminal justice-related organizations, including the American Civil Liberties Union and Prison Policy Initiative, have argued that state and federal governments are failing to effectively protect the health and well-being of people behind bars during the pandemic.¹¹ States also vary widely on where incarcerated people fall in the priority list for vaccinations, and comprehensive data about COVID-19 infections and deaths behind bars is not being collected.¹² General public sentiment and media coverage toward prisoners throughout the COVID-19 crisis have also largely ignored and minimized their perspectives, experiences, and struggles.¹³ As a result, incarcerated individuals in the United States have reportedly felt worried, powerless, emotionally abused, and “scared for their lives” during the pandemic.¹⁴

This thesis seeks to examine recent and longer threads of historical context from the twentieth century to the present to better understand and contextualize the disproportionate impact of the COVID-19 pandemic on incarcerated individuals in the United States and the rapid and intense development of prison health activism in response. It challenges dominant narratives

https://escholarship.org/content/qt8231634f/qt8231634f_noSplash_b2cfa853d23772d0dbf89dd1a6834f27.pdf?t=qfs8ym.

¹¹ “Failing Grades: States' Responses to COVID-19 in Jails & Prisons,” American Civil Liberties Union (American Civil Liberties Union), accessed April 13, 2021, <https://www.aclu.org/report/failing-grades-states-responses-covid-19-jails-prisons>; Emily Widra and Dylan Hayre, “Failing Grades: States' Responses to COVID-19 in Jails & Prisons,” | Prison Policy Initiative, June 25, 2020, https://www.prisonpolicy.org/reports/failing_grades.html.

¹² Deborah Becker, “Medical Experts Raise Questions About COVID-19 Data From Mass. Jails And Prisons,” | CommonHealth (WBUR, August 31, 2020), <https://www.wbur.org/commonhealth/2020/08/31/massachusetts-coronavirus-jail-prison-data-discrepancies>; “Incarcerated People and Corrections Staff Should Be Prioritized in COVID-19 Vaccination Plans,” Prison Policy Initiative (Prison Policy Initiative), accessed April 13, 2021, <https://www.prisonpolicy.org/blog/2020/12/08/covid-vaccination-plans/>.

¹³ “America Is Letting the Coronavirus Rage Through Prisons,” *The New York Times* (The Editorial Board, November 21, 2020), <https://www.nytimes.com/2020/11/21/opinion/sunday/coronavirus-prisons-jails.html>.

¹⁴ Krystel Pickens, “Incarcerated People and Their Families Living in Fear During COVID-19 Pandemic,” ACLU of Montana (ACLU of Montana, May 5, 2020), <https://www.aclumontana.org/en/news/incarcerated-people-and-their-families-living-fear-during-covid-19-pandemic>.

of the coronavirus story in America's jails and prisons that focus almost exclusively on poorer health statistics behind bars, correctional facilities as high density COVID-19 transmission hubs, and public health-centered protests by proponents of criminal justice reform.¹⁵ This paper advances the claim that the COVID-19 crisis in correctional facilities and the rampant rise of prison health activism throughout the United States are not new, isolated, and unanticipated phenomena. Rather, they embody a continual train of enduring legacies, and a doomed aftermath of deep-rooted failures, pertaining to prison health and prison health activism across the country. As a result, this paper proposes that a historical analysis of prison health and prison health activism enables a more complete understanding of what has shaped, informed, and accelerated the present-day COVID-19 disaster in America's correctional facilities.

Thus, drawing connections between history and the COVID-19 pandemic, this thesis argues that the disproportionate impact of the ongoing COVID-19 crisis on incarcerated individuals in the United States is a direct result and exacerbation of longstanding conditions and barriers that have continually harmed and marginalized this population. Specifically, threads of context from the twentieth century to the present illustrate how past disease outbreaks in correctional facilities and unethical clinical research practices behind bars help explain and have likely contributed to incarcerated people's increased vulnerability to the novel coronavirus. Additionally, critical analyses of the mid-to-late twentieth century prisoners' rights movement highlight how earlier prisoners' rights work has informed, empowered, and accelerated current criminal justice-related activism amid COVID-19. They not only emphasize the ways in which minimal accountability, oversight, and reform continue to affect the nation's incarcerated

¹⁵ Ahmed M Altibi, "Characteristics and Comparative Clinical Outcomes of Prisoner Versus Non-Prisoner Populations Hospitalized with COVID-19," *Scientific reports*. 11, no. 1 (2021): 1–9.

population, but also showcase how prison health activism in the United States has evolved and adapted during times of crises and social change.

By focusing on and studying histories pertaining to prison health and prison health activism in the United States, this thesis hopes to establish a more holistic understanding of issues at the intersection of health, criminal justice, and mass incarceration and situate the nation's jails, prisons, and incarcerated population within a larger medical, social, and political framework. Gathering inspiration from key methods of public history, this paper strives to translate and communicate discounted knowledge about incarcerated individuals, an underserved and underrepresented group, to scholars and the general public, driving readers to better understand the broader challenges and barriers toward advancing the health and human rights of incarcerated individuals in the United States and fueling calls for change.¹⁶

Lastly, through constructing a deeper overview and analysis of prison health and prison health activism in the nation, it seeks to knit together existing narratives in the literature, establish a more comprehensive account of health and incarceration in the United States, and uniquely inspire reform and knowledge construction from a historical perspective. This thesis encourages scholars and the public to place a greater emphasis on unraveling histories of prison health and prison health activism to better make sense of incarcerated people's disproportionate medical vulnerability and the escalation of prison health activist efforts during the ongoing COVID-19 pandemic in the United States.

While this paper solely focuses on the country's jail and prison populations, it is important to acknowledge the detrimental effects of the COVID-19 pandemic on individuals held

¹⁶ Robert Weible, "Defining Public History: Is It Possible? Is It Necessary?: Perspectives on History: AHA, March 1, 2008, <https://www.historians.org/publications-and-directories/perspectives-on-history/march-2008/defining-public-history-is-it-possible-is-it-necessary>.

in immigration detention centers throughout the United States. In August 2020, data by the U.S. Immigration and Customs Enforcement (ICE) indicated that over 20 percent of immigrant detainees tested positive for COVID-19.¹⁷ As of May 2021, according to ICE, only about 20 percent of immigrant detainees passing through the facilities had received at least one dose of the COVID-19 vaccine while in custody.¹⁸ At the same time, ICE's poor reporting on the COVID-19 crisis in its facilities likely minimizes and simplifies the toll on human lives and leaves unanswered questions about ICE's detention practices amid the pandemic.¹⁹

Ongoing dialogue about mass incarceration and criminal justice reform in the United States has increasingly focused on newer dynamics of imprisonment and the ways in which these phenomena and its effects extend beyond the prison bubble. Moreover, while this paper specifically examines how prison health issues and prison health activism have taken shape for and impacted individuals in America's jails and prisons, it encourages readers to apply these findings to, and think broadly about, who is often left out of common statistics and the nation's "incarcerated" population. As writer and civil rights advocate Michelle Alexander suggests, mass incarceration "refers not only to the criminal justice system but also to the larger web of laws, rules, policies, and customs that control those labeled criminals both in and out of prison."²⁰

¹⁷ "COVID-19 Escalating in ICE Detention Centers as States Hit Highest Daily Records - and ICE Deportation Flights into Northern Triangle Continue," *International Rescue Committee (IRC)*, August 3, 2020, <https://www.rescue.org/press-release/covid-19-escalating-ice-detention-centers-states-hit-highest-daily-records-and-ice>.

¹⁸ Maura Turcotte, "Virus Cases Are Surging at Crowded Immigration Detention Centers in the U.S.," *The New York Times* (The New York Times, July 6, 2021), <https://www.nytimes.com/2021/07/06/us/covid-immigration-detention.html>.

¹⁹ Noelle Smart and Adam Garcia, "Tracking COVID-19 in Immigration Detention," Vera Institute of Justice, November 18, 2020, <https://www.vera.org/tracking-covid-19-in-immigration-detention>.

²⁰ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, 10th anniversary ed. (NY: The New Press, 2020), 15.

Similarly, scholar Marie Gottschalk claims that a “tenacious carceral state has sprouted in the shadows of mass imprisonment and has been extending its reach far beyond the prison gate.”²¹

Current scholarship on prison health in the United States comprises various conversations. While sociologists have studied how incarceration can harm human health behind bars, public health scholars have focused on the ways in which imprisonment poses a serious threat to the health of communities outside of correctional settings and American public health more broadly. For example, sociologists argue that the “stress of incarceration” makes individuals more vulnerable to infectious diseases and poor health outcomes in correctional facilities, “is correlated with lower self-reported health,” and propels individuals to be “less healthy while doing time.”²² However, public health scholars go further and recognize that what happens to people behind bars is “vital to the health of the community” and to the health of “all Americans” as disease and sickness among prisoners can linger into outside settings.²³ Some public health scholars even frame mass incarceration as a modern plague and prison epidemic, classifying the phenomenon as one that afflicts tens of millions of Americans.²⁴

While sociologists and public health scholars seem to agree that incarceration can pose serious threats to human health, whether that is inside or outside carceral settings, this current level of dialogue suggests that the links between incarceration and health remain somewhat disconnected. There is not an existing piece of work that synthesizes these findings and more fully addresses the social, political, and historical factors of incarceration that contribute to poor

²¹ Marie Gottschalk, *Caught*. Princeton University Press, 2016, 1.

²² Michael Massoglia, “Incarceration as Exposure: The Prison, Infectious Disease, and Other Stress-Related Illnesses,” *Journal of Health and Social Behavior* 49, no. 1 (2008): 58; Michael Massoglia, and William Alex Pridemore, “Incarceration and Health,” *Annual Review of Sociology* 41 (2015): 293; Sara Wakefield, and Christopher Uggen, “Incarceration and Stratification,” *Annual Review of Sociology* 36 (2010): 396.

²³ *Public Health Behind Bars: From Prisons to Communities* (New York: Springer, 2007), VI.

²⁴ Ernest Drucker, *A Plague of Prisons: The Epidemiology of Mass Incarceration In America* (New York: New Press, 2011).

health among incarcerated individuals. Through the unique lens of the COVID-19 pandemic, this paper will help begin to fill this gap by creating a more comprehensive, multidimensional historical framework for understanding the negative health impacts and implications of incarceration in the United States.

As this paper explores past epidemics in America's jails and prisons, the use of unethical clinical research practices behind bars, and mid-to-late twentieth century prisoners' rights work, it will enable scholars and the public to more effectively scrutinize why the nation's incarcerated population is disproportionately medically vulnerable to the novel coronavirus in comparison to the general population and how criminal justice advocates have framed their strategies and tactics during the pandemic. Indeed, as it draws connections between the past and the present situation of the COVID-19 pandemic, this thesis will provide a unique perspective on, and novel opportunity to effectively assess, the broader historical and social significance of prison health issues and trends of prison health activism across multiple decades.

Existing literature about prisoners' rights organizing and prison health reform encompasses several themes. One is by historians and legal scholars who are not only arguing for greater recognition of the mid-to-late twentieth century prisoners' rights movement, but also legitimization of prisoners' rights work during the period as a sociopolitical movement. For example, James B. Jacobs establishes that prisoners' rights organizing and prison health activism between the 1960s and 1980s should be interpreted as a broadscale effort like the country's civil rights movement or the women's rights movement.²⁵ Furthermore, he states that scholars should "appreciate fully" the impacts of the mid-to-late twentieth century prisoners' rights movement and not adopt "too narrow a view" of these initiatives.²⁶ Robert T. Chase attests that scholars

²⁵ James B. Jacobs, "The Prisoners' Rights Movement and Its Impacts, 1960-80," *Crime and Justice* 2 (1980): 431.

²⁶ *Ibid*, 429.

have minimally considered the mid-to-late twentieth century prisoners' rights movement, claiming they should examine the "untold story" of the 1970s to 1980s struggle over prisoners' rights.²⁷

This dialogue reveals key trends in the existing scholarship. Historians and legal scholars not only highlight the need for further investigations into prisoners' rights efforts between the 1960s and 1980s, but also connect these demands with a broader claim of using these histories to analyze present-day disfunctions pertaining to criminal justice and mass incarceration. For example, Jacobs questions how the prisoners' rights movement could compare to upcoming criminal justice reform efforts.²⁸ Chase maintains that "excavating multiple histories of prisoner resistance" may help confront the rise of the carceral state in the United States.²⁹

These scholars' approaches emphasize the potential significance of history in prison reform. Interestingly, Jacobs' piece was published in 1980, and Chase's was released in 2015, suggesting a growing narrative throughout the decades about the importance of historical analysis in penal reform. Thus, this thesis will strengthen the literature, linking prisoners' rights organizing and prison health reform from the 1960s to 1980s to criminal justice activist efforts amid the ongoing COVID-19 pandemic. By studying the prisoners' rights movement and prison health activist efforts that grew out of the nation's larger civil rights struggle, this paper will situate these phenomena within the ongoing COVID-19 crisis, arguing for more emphasis on unraveling these histories to understand present-day criminal justice advocacy and activism.

Additionally, other scholars have explored various groups that helped spark the rise, and sustain the momentum, of the mid-to-late twentieth century prisoners' rights movement. For

²⁷ Robert T. Chase, "We Are Not Slaves: Rethinking the Rise of Carceral States through the Lens of the Prisoners' Rights Movement," *The Journal of American History* 102, no. 1 (2015): 75.

²⁸ James B. Jacobs, "The Prisoners' Rights Movement," 465-466.

²⁹ Robert T. Chase, "We Are Not Slaves," 86.

example, Dan Berger highlights the oral and written perspectives of Black prisoners during the time period to underline their contributions to prisoners' rights and the larger fight for racial justice.³⁰ Ellen M. Barry draws upon sources of women activists and academics to argue how the "foregrounding of issues affecting women" behind bars brought "a richness and strength to prison organizing" that benefited all prisoners amid the Civil Rights Era.³¹ Additionally, Lee Bernstein explores educational and artistic works by incarcerated people in the 1970s to illustrate how they conveyed their experiences in prison and shaped political debates about prisoners' rights.³²

These scholars analyze different aspects of the mid-to-late twentieth century prisoners' rights movement, concentrating their arguments on specific groups and case studies to illustrate the rise of prisoners' rights organizing and prison health reform between the 1960s and 1980s. Moreover, existing scholarship about the mid-to-late twentieth century prisoners' rights movement often comprises separate narratives, and various works draw specialized attention to its distinct elements. This thesis begins to knit together these different aspects of the secondary literature, and, in a singular piece of work, provide a more general, comprehensive overview of the history of prison health activism in the United States. It will also connect these histories to the ongoing COVID-19 pandemic, adding new perspectives on how history can enable understanding of present-day problems pertaining to criminal justice and mass incarceration.

More broadly, scholars assert that several components pertaining to prison health and prison health activism have not been thoroughly studied. For example, historian Heather

³⁰ Dan Berger, *Captive Nation: Black Prison Organizing in the Civil Rights Era*, UNC Press Books, 2014.

³¹ Ellen M. Barry, "Women Prisoners on the Cutting Edge: Development of the Activist Women's Prisoners' Rights Movement," *Social Justice* 27, no. 3 (81 (2000): 168-169.

³² Lee Bernstein, *America is the Prison: Arts and Politics in Prison in the 1970s*, Univ of North Carolina Press, 2010.

Thompson expresses that many scholars have “considered the 1960s the heyday of prisoner rights” but ignore the “mass incarceration of the late twentieth century” and its impact on prisoner rights activism.³³ Alluding to greater potential for criminal justice reform, Alan Elsner argues that the current scholarship about epidemics and disease outbreaks behind bars requires “more comprehensive” information in order to push state prison systems to collect and release accurate data on future crises in correctional facilities.³⁴ This paper will not only begin to dive into some of these histories more exhaustively, but also blend these areas together to better understand the disproportionate impact of the ongoing COVID-19 pandemic on the incarcerated population and the steep rise of prison health activism amid the coronavirus crisis in the United States.

Drawing on Elsner’s approach of using scholarly research for the development and advancement of criminal justice reform, this thesis will help illuminate past histories pertaining to prison health and prison health activism in order to reflect on the ways in which current governments, institutions, and the general public may learn from previous events. For example, scholar Diane North writes that “the responses of national, state, and community leaders to the 1918-1920 influenza pandemic can provide useful lessons in 2020.”³⁵ She explains that the conclusions reached by prison doctors in the early twentieth century “are especially important in relation to COVID-19 because the...2020 prison population...is difficult to protect” due to their larger scope and size throughout the country.³⁶ Thus, this paper not only adds to the existing literature by examining recent and longer histories of disease outbreaks, unethical

³³ Heather Ann Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and its Legacy* (Vintage, 2017), 559; Heather Ann Thompson, "Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History," *The Journal of American History* 97, no. 3 (2010): 703-704.

³⁴ Alan Elsner, *Gates of Injustice: The Crisis in America's Prisons* (Upper Saddle River, NJ: Pearson Prentice Hall, 2006), 221.

³⁵ Diane M.T. North, "California and the 1918–1920 Influenza Pandemic," *California History* 97, no. 3 (2020): 3.

³⁶ *Ibid.*, 24.

experimentation, and activism in America's jails and prisons, but also connecting these events and themes to the COVID-19 pandemic in order to inspire social reform, progress, and knowledge for the nation's incarcerated population.

In sum, this thesis adds new perspectives and knowledge to the field by compiling a more in-depth review of histories pertaining to prison health and prison health activism in the United States from the twentieth century to the present. It puts forward a comprehensive piece that allows others to understand the disproportionate impact of the COVID-19 pandemic on incarcerated individuals and the sudden upsurge of criminal justice-related advocacy through a historical perspective. As scholar and historian James Kilgore, a formerly incarcerated individual, explains, "to better understand the situation of those left behind by mass incarceration, we need to trace the historical changes that have taken place" and outline the individuals and institutions "which are essential to the building of" these failures pertaining to health, criminal justice, and mass incarceration.³⁷

Chapter I, titled "Illness on the Inside: Outbreaks in America's Correctional Facilities," recounts crises in America's jails and prisons during the 1918-1919 influenza pandemic and HIV/AIDS outbreaks through the 1980s. It highlights trends and patterns between these public health catastrophes and the COVID-19 pandemic, showcasing the ways in which the nation's incarcerated population has lengthily endured threats to their health and well-being. This chapter sheds some light on what problems have persisted in America's correctional facilities and contributed to prisoners' medical vulnerability overtime and amid the novel coronavirus.

³⁷ James Kilgore, "Mass Incarceration: Examining and Moving Beyond the New Jim Crow," *Critical Sociology* 41, no. 2 (2015): 283; James Kilgore, *Understanding Mass Incarceration: A People's Guide to the Key Civil Rights Struggle of our Time* (New York: The New Press, 2015), 137-138.

Chapter II, titled “The Dark Past and Present of Unethical Research Behind Bars,” suggests how instances of harmful and unethical experimentation behind bars have negatively influenced prisoners’ perceptions of government-related interventions throughout United States’ history. These realities, in turn, have likely facilitated a pervasive, longstanding climate of medical mistrust behind bars and infrastructural, administrative, and operational disfunctions in jails and prisons rooted in wariness and distrust. As a result, these inferences have likely contributed to present-day refusals and hesitancy of COVID-19 vaccines in America’s jails and prisons, accelerating incarcerated people’s susceptibility to contracting and dying from the novel coronavirus.

Chapter III, titled “From Attica to Coronavirus, The Push for Prison Health Reform,” narrates histories pertaining to the mid-to-late twentieth century prisoners’ rights movement and links these events with the current COVID-19 crisis in the United States. Through these connections, it illustrates how earlier prisoners’ rights work has shaped and enlightened current prison health activist efforts amid COVID-19 while also drawing attention to the ways in which prison health activism evolves and adapts during times of crises and social change. At the same time, this chapter emphasizes what has changed as a result of the nation’s prison health activist efforts, what has stayed the same, and, overall, the ways in which minimal progress and reform have occurred for the nation’s incarcerated population.

The conclusion, titled “Incarcerated with COVID-19: Reflections on Disease Spread, Experimentation, and Activism,” links the first three chapters into one thematic narrative, offering some considerations on what connections and takeaways can be drawn when analyzing histories of disease outbreaks, unethical experimentation, and activism together in relation to America’s jails and prisons. Furthermore, the conclusion synthesizes and elevates this thesis’

purpose and contributions to the existing literature by situating it within a broader conversation about connecting scholarship to advocacy and building an “activist academy.” It leaves scholars and the public to reflect on what roles history can play in reform and other implications pertaining to understanding histories of prison health and prison health activism at the intersection of criminal justice, mass incarceration, and COVID-19.

Chapter I: Illness on the Inside | Outbreaks in America's Correctional Facilities

Introduction

In addition to the ongoing COVID-19 pandemic, other disease outbreaks and epidemics have ravaged America's correctional facilities and negatively impacted the health and well-being of incarcerated individuals. Threads of historical context pertaining to these catastrophes in America's jails and prisons can reveal key understandings about the current devastation of the COVID-19 pandemic on the country's incarcerated population and their heightened medical vulnerability.

Furthermore, placing greater attention on unraveling these phenomena can not only enhance current dialogue about why incarcerated people in the United States are disproportionately vulnerable to the COVID-19 crisis, but also provide scholars and the public with critical information about the continuities, linkages, and persisting disfunctions that have shaped the health and experiences of incarcerated individuals and why the country's prisons and jails have long been a breeding ground for infectious disease outbreaks. At the same time, wider knowledge about changes and continuities pertaining to epidemics and disease outbreaks behind bars can potentially generate more effective ways of identifying the harmful causes and mitigating the devastating effects of the novel coronavirus on people behind bars and the possibilities of other public health crises moving forward.

1918-1920 Influenza Pandemic in America's Jails and Prisons

The influenza pandemic of 1918-1920, also known as the Spanish flu or the Great Influenza epidemic, killed 550,000 people in the United States, or 0.5 percent of the nation's

population.³⁸ The flu, caused by the H1N1 influenza A virus, spread in three waves: the first in the spring of 1918, the second from September 1918 to January 1919, and the third from February 1919 through the end of the year.³⁹ The pandemic also put jails and prisons throughout the United States to the test as the most severe influenza outbreak of the 20th century, and one of the most devastating pandemics in human history, ravaged the nation.⁴⁰

The deadly virus swiftly swept through San Quentin State Prison in California and accelerated disease spread among people incarcerated in the facility.⁴¹ During the time period, public health reports by Dr. Leo Stanley, the facility's chief prison doctor for several decades, described how an ill prisoner who was transferred to San Quentin from a previous jail "mingled with the 1,900 men who were congregated in the yard," "ate in the general mess with them," and "at night was locked in the receiving room with about 20 other newcomers."⁴² His interactions spurred "an epidemic of unusual severity," causing one-half of the prison population to be ill and a rare abundance of prisoners calling "each day at the hospital for treatment, consultation, and advice."⁴³ Many were unable to be placed in hospitals "on account of lack of facilities" and "not permitted to go to their cells until evening," since disease spread was more likely to be increased "by confinement in stuffy rooms during the day."⁴⁴ Recreational rooms for movie screenings

³⁸ "Social and Economic Impacts of the 1918 Influenza Epidemic," National Bureau of Economic Research, National Bureau of Economic Research, May 2020, <https://www.nber.org/digest/may20/social-and-economic-impacts-1918-influenza-epidemic>.

³⁹ Ibid.

⁴⁰ Nancy K Bristow, "American Pandemic: Lost Worlds of the 1918 Influenza Pandemic," (2012): 3-4.

⁴¹ Ethan Blue, "The Strange Career of Leo Stanley: Remaking Manhood and Medicine at San Quentin State Penitentiary, 1913—1951," *Pacific Historical Review* 78, no. 2 (2009): 210; L. L. Stanley, "Influenza at San Quentin Prison, California," *Public Health Reports* (1896-1970) 34, no. 19 (1919): 996-1008.

⁴² Ibid., 996.

⁴³ Ibid.

⁴⁴ Ibid.

were “partly underground, poorly ventilated, artificially lighted,” and “tremendously crowded,” encouraging further spread of the virus.⁴⁵

These records of swift disease transmission and negative effects of solitary confinement on the incarcerated population at San Quentin State Prison during the 1918-1920 influenza pandemic also occurred alongside a lack of proper attention and oversight at the facility. Public health reports also mentioned how masks that “were made of washed flour sacking” and “resembled in shape the nose bag used for feeding horses” had been distributed among the incarcerated population at San Quentin.⁴⁶ However, doctors and health professionals shared that these masks were worn in an “inconsistent manner,” inhibiting important chances to curtail the epidemic.⁴⁷ Additionally, many prisoners were “ill” while working in the “jute mill, tailor shop, furniture factory, and foundry,” and it was “almost impossible to keep up operations.”⁴⁸ Although incarcerated individuals were warned against close contact and gathering in “inclosed places,” prisoners would often not wear masks and certain groups would be found together in quarters where spread was rampant.⁴⁹

These public health reports showcase how the 1918-1920 influenza pandemic engulfed and devastated San Quentin State Prison in California. Waves of transmission were often sparked by the transfers of infected inmates and close contact within the facility and during recreational times. Conditions were generally poor as incarcerated people and staff were succumbed to issues of overcrowding, poor sanitation, and inadequate lighting. While policies were implemented to reduce the possibilities of influenza from entering and proliferating through San Quentin, such as

⁴⁵ Ibid, 997.

⁴⁶ Ibid, 999.

⁴⁷ Ibid.

⁴⁸ Ibid, 996.

⁴⁹ Ibid, 1001, 1005.

mask-wearing and social distancing guidelines, oversight and enforcement failures inhibited their efficacy and the poor quality of protective equipment contributed to the disastrous realities behind bars.

HIV/AIDS Outbreaks of the 1980s Behind Bars

In the late 1970s and early 1980s, HIV and the syndrome it causes, AIDS, began to spread throughout the United States and increasingly became a threat to public health by the late 1980s and early 1990s.⁵⁰ Since the 1980s, HIV/AIDS has taken an estimated half-million lives in the United States alone, and rates of infection have disproportionately impacted underserved and underrepresented populations, such as incarcerated individuals.⁵¹ As of the early 1980s, the rate of HIV/AIDS infections among the nation's incarcerated population was 3.5 times that of the general population.⁵² At the same time, this public health crisis paralleled America's "War on Drugs" and rising phenomenon of "mass incarceration" that substantially criminalized drug abuse and increased prison populations throughout the country.⁵³

These realities sparked a unique intersection between HIV/AIDS and incarceration, because the individuals commonly incarcerated for drug crimes were also exhibiting a host of high-risk factors for HIV/AIDS infections.⁵⁴ This resulted in prison populations of the time period having a "significantly increased incidence of HIV/AIDS seropositivity."⁵⁵ As the HIV/AIDS outbreaks of the 1980s in the United States were characterized by intense anxiety, fear, and stigmatization, prisons throughout the country implemented extreme segregation and

⁵⁰ Tasleem J. Padamsee, "Fighting an epidemic in political context: thirty-five years of HIV/AIDS policy making in the United States," *Social History of Medicine* 33, no. 3 (2020): 1004, 1009.

⁵¹ Amber M. Charles, "Indifference, Interruption, and Immunodeficiency: The Impact and Implications of Inadequate HIV/AIDS Care in US Prisons." *BUL Rev.* 92 (2012): 1980.

⁵² *Ibid.*

⁵³ *Ibid.*, 1981-1982.

⁵⁴ *Ibid.*, 1982.

⁵⁵ *Ibid.*

identification policies for incarcerated people infected with HIV/AIDS.⁵⁶ Prisoners with HIV/AIDS were often separated from the rest of the population behind bars and were given wristbands or stickers to identify their medical conditions.⁵⁷ However, these changes were usually executed in the place of adequate and effective treatment plans for people behind bars who were suffering from HIV/AIDS, accelerating occurrences of poor health services, severe ill treatment, disregard, and widespread deaths among the infected population.⁵⁸ During the 1980s and in subsequent decades, a large portion of deaths in America's correctional facilities were reported as a result of HIV/AIDS-related illnesses, and visitors and witnesses would describe the "abhorrent" living conditions that further facilitated the transmission of HIV/AIDS in jails and prisons.⁵⁹ Lack of proper oversight and care also enabled incarcerated individuals who were injecting drugs or tattooing to share needles with one another, further increasing the risk of HIV/AIDS transmission.⁶⁰

Like the 1918-1920 influenza pandemic, similar instances of rapid disease spread, poor conditions, and a lack of critical resources behind bars were prevalent at prison systems in New York, Alabama, and South Carolina during the HIV/AIDS epidemic of the 1980s. Toward the end of the decade, cases of AIDS diagnosed among inmates in New York's correctional facilities represented approximately 1 percent of the cumulative AIDS cases in the United States, 4 percent of those in New York, and 40 percent of those reported in jails and prisons nationwide.⁶¹ Reports by the CDC and U.S. Department of Justice during the time period also documented

⁵⁶ Ibid, 1992.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid, 1992-1993.

⁶⁰ Noirin Hegarty, "Easy fixes for the addicts behind bars," *The Irish Times* (1921-), Jul 28, 1987. <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/easy-fixes-addicts-behind-bars/docview/530769907/se-2?accountid=14707>.

⁶¹ D. L. Morse, et al., "AIDS behind bars. Epidemiology of New York State prison inmate cases, 1980-1988." *New York State journal of medicine* 90, no. 3 (1990): 133.

how “more...[medical and psychosocial] services were needed for prisoners and there were “wide variations in the quantity and quality of” HIV/AIDS education for people behind bars.⁶² Large federal class-action lawsuits even focused on improving “conditions of confinement for inmates with HIV disease in New York state.”⁶³

In Alabama and South Carolina, policies that “residentially and programmatically” segregated prisoners living with HIV/AIDS during the 1980s were rampant.⁶⁴ Incarcerated people infected with HIV/AIDS in Alabama were placed in total isolation and had no access to any programs or activities.⁶⁵ More recent analyses of the HIV/AIDS crisis in South Carolina during the 1980s by opinion writers emphasize how incarcerated individuals faced barriers to “accessing the treatment” they needed for disease management and prevention and experienced “fear, prejudice, and even violence against them.”⁶⁶

COVID-19 Pandemic, Analyses, and Conclusion

Drawing on past histories of the 1918 influenza epidemic and HIV/AIDS outbreaks during the 1980s, the disproportionate impact of the ongoing COVID-19 pandemic on the nation’s incarcerated population can be understood more clearly. As of April 23, 2021, there were at least 49,214 cumulative COVID-19 cases and 222 deaths among prisoners in California.⁶⁷ San Quentin State Prison currently ranks as one of the top coronavirus hotspots

⁶² Theodore M. Hammett, 1992 update: HIV/AIDS in correctional facilities: Issues and options. US Department of Justice, Office of Justice Programs, National Institute of Justice, 1994: iii.

⁶³ *Ibid.*, 83.

⁶⁴ Theodore M. Hammett, Patricia Harmon, and Laura M. Maruschak, "1996-1997 update: HIV/AIDS, STDs, and TB in correctional facilities," (1999).

⁶⁵ Megan McLemore, *Sentenced to Stigma: Segregation of HIV-positive Prisoners in Alabama and South Carolina*, Human Rights Watch, 2010.

⁶⁶ Elton John, “Elton John: HIV-Positive Prisoners in Alabama and South Carolina Face Discriminatory Practices,” *The Washington Post* (WP Company, September 16, 2012), https://www.washingtonpost.com/opinions/elton-john-hiv-positive-prisoners-in-alabama-and-south-carolina-face-discriminatory-practices/2012/09/16/439754bc-feaf-11e1-b153-218509a954e1_story.html.

⁶⁷ Iris Lee and Sean Greene, “Tracking the Coronavirus in California State Prisons,” *Los Angeles Times* (Los Angeles Times, April 23, 2021), <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/state-prisons/>.

within California's prison system,⁶⁸ and incarcerated people in the state and their families have claimed that correctional officials and administrators are failing to take safeguards and acting with "deliberate indifference."⁶⁹ The facility suffered one of the worst COVID-19 outbreaks in California's prison system, with thousands of infections and 28 inmate deaths.⁷⁰ Additionally, in a recent worker survey, 37 percent of respondents indicated that they had seen prison workers or incarcerated individuals at San Quentin State Prison not wearing masks.⁷¹

As of January 2021, of the 52 New York State prisons, 36 dealt with COVID-19 outbreaks and infection rates in at least five of the prisons were well over 20 percent.⁷² As of March 24, 2021, Alabama's prison system had the ninth highest number of coronavirus deaths per 10,000 incarcerated people in the United States.⁷³ Prisoners in South Carolina and their families are calling out correctional facilities for their poor COVID-19 response efforts, citing "troubles with staffing, a backlog of testing, issues with food and cleaning supplies and a chaotic quarantine plan."⁷⁴

These case examples do not suggest that, at specific facilities, the events and effects brought forth by these three different public health disasters are the same in magnitude, extent,

⁶⁸ Ibid.

⁶⁹ "Family of Man Who Died from COVID While Incarcerated Sues California Prison System," The Guardian (Guardian News and Media, March 18, 2021), <https://www.theguardian.com/us-news/2021/mar/18/california-coronavirus-prison-system-lawsuit>.

⁷⁰ Wes Venteicher, "California Prison Staff Showed 'Indifference' to Masks Even After COVID-19 Deaths, Report Says," (The Sacramento Bee, October 26, 2020), <https://www.sacbee.com/news/politics-government/the-state-worker/article246728471.html>.

⁷¹ Ibid.

⁷² Christopher J. Eberhart, "COVID-19 in New York Prisons: 'Positivity Numbers Represent a System on Fire'," The Journal News (Rockland/Westchester Journal News, January 6, 2021), <https://www.lohud.com/story/news/coronavirus/2021/01/06/new-york-prisons-see-spike-in-covid-cases-positivity-rates/4142109001/>.

⁷³ "Denied Vaccines, People Incarcerated in Alabama Prisons Are Dying of Covid," Equal Justice Initiative (Equal Justice Initiative, March 24, 2021), <https://eji.org/news/denied-vaccines-people-in-alabama-prisons-are-dying-of-covid/>.

⁷⁴ Parker E. Quinlan, "South Carolina Inmates, Families Charge They're Not Being Protected From COVID," Juvenile Justice Information Exchange, September 3, 2020, <https://jjie.org/2020/09/03/south-carolina-inmates-families-charge-theyre-not-being-protected-from-covid/>.

and scope. Rather, they highlight similar trends of poor health and public health disasters at a host of facilities that have been greatly impacted by the 1918-1920 influenza pandemic, HIV/AIDS outbreaks toward the end of the twentieth century, and the ongoing COVID-19 pandemic. Analyzing and drawing attention to these case studies can enable insight into how and why the current devastation of the COVID-19 pandemic in America's correctional facilities is a result of longstanding conditions and instances and not a new, isolated, and unanticipated phenomenon. Even more significant, studies of these previous catastrophes can provide important lessons about ongoing and, the possibilities for, future outbreaks in jails and prisons across the country.

For example, although the novel coronavirus and the 1918 influenza virus are different diseases, they both spread similarly through exposure to respiratory droplets from infectious individuals.⁷⁵ They both are also extremely contagious and can be spread quickly in crowded settings.⁷⁶ Thus, as described by public policy researcher Heather Harris, the experiences of “a century ago may help prison officials address today’s outbreak and prevent future outbreaks from taking hold.”⁷⁷ Lessons learned about curbing influenza outbreaks between 1918 to 1920 can apply to the ongoing COVID-19 pandemic, and public health recommendations of today reflect guidance of, and cautions from, the past.⁷⁸

⁷⁵ “Coronavirus Disease (Covid-19): How Is It Transmitted?,” World Health Organization (World Health Organization, December 13, 2020), <https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-how-is-it-transmitted>; “Quarantine Gives Epidemic Control,” *Des Moines Register (1871-2008)*, Oct 12, 1918, <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/october-12-1918-page-6-10/docview/2097714408/se-2?accountid=14707>.

⁷⁶ Ibid.

⁷⁷ Heather Harris, “Addressing the Outbreak in San Quentin: Lessons from 1918,” Public Policy Institute of California (Public Policy Institute of California, October 28, 2021), <https://www.ppic.org/blog/addressing-the-outbreak-in-san-quentin-lessons-from-1918/>.

⁷⁸ Ibid.

Social distancing guidelines and mask trials during the 1918-1920 influenza pandemic, and failures to effectively and appropriately abide by them, suggest that firm adherence to similar policies amid the novel coronavirus are essential to mitigating infections and deaths among inmates. The influenza pandemic of the early twentieth century also illustrated the consequences of poor prison-to-prison transfers and isolation protocols. During the ongoing COVID-19 pandemic, the transfer of incarcerated individuals from facility to facility should be well-prepared and handled carefully. Prison-to-prison transfers that are not necessary or required should be minimized, and, during and after transports, correctional guards and authorities should exercise proper preventative and safety measures for themselves and inhabitants of the facility. Additionally, similar to the influenza virus, the chances of COVID-19 transmission are considered to be much lower outdoors than indoors.⁷⁹ Instead of isolating prisoners in overcrowded and poorly sanitized facilities, states and authorities can create temporary outdoor spaces for quarantine and social distancing protocols in order to lower possibilities of coronavirus outbreaks.

Both the COVID-19 pandemic and HIV/AIDS outbreaks toward the end of the twentieth century emphasize the burden that inequities bare on vulnerable groups who live in conditions where prevention of these diseases is almost impossible.⁸⁰ COVID-19 has entered and ravaged the country's jails and prisons at exceptional rates due to congregate living settings and limited health care access, and those involved in the criminal justice system are at high risk for HIV/AIDS for similar reasons.⁸¹ Many individuals who are incarcerated have also engaged in

⁷⁹ "Coronavirus Disease (Covid-19)"; "Quarantine Gives Epidemic Control."

⁸⁰ Katherine LeMasters et al., "COVID-19 and HIV: Overlapping Pandemics For Criminal Justice-Involved Individuals: Health Affairs Blog," Health Affairs, August 24, 2021, <https://www.healthaffairs.org/doi/10.1377/hblog20210818.753807/full/>.

⁸¹ Ibid.

drug abuse and sexual behaviors that increase their risk for HIV/AIDS.⁸² Thus, as illustrated by histories of HIV/AIDS segregation policies and treatment concerns behind bars, establishing HIV prevention measures and ending HIV-related stigma and discrimination is increasingly critical behind bars today to lessen the impact of these now “overlapping, compounding pandemics” on incarcerated individuals in the United States.⁸³

Past disease outbreaks and epidemics that have surged through jails and prisons across the United States help explain and enable us to better understand and contextualize the disproportionate impact of the COVID-19 pandemic on the nation’s incarcerated population. Specifically, the 1918-1920 influenza pandemic greatly ravaged San Quentin State Prison in California. HIV/AIDS outbreaks during the 1980s significantly impacted the New York State prison system and incarcerated individuals in Alabama and South Carolina. All these histories showcase how prisoners not only feared for their health and well-being behind bars, but also experienced a lack of care and oversight by officials, institutions, and governments. As the United States currently deals with and manages the devastating effects of the COVID-19 pandemic in jails and prisons, these present-day failures, in tandem with past disease outbreaks and epidemics in America’s correctional facilities, confirm a tragic continuity of nationwide problems pertaining to prison health throughout several time periods.

By unraveling a deeper examination of each of these American crises, this analysis allows scholars and the public to realize the many similarities between the historical management of these epidemics in America’s correctional facilities and the nation’s current responses to the novel coronavirus behind bars. It reveals ways in which history has repeated

⁸² Ibid.

⁸³ Ibid.

itself in jails and prisons throughout the United States and what lessons can be learned amid today's coronavirus crisis in terms of disease spread and related deaths.

Furthermore, these connections illustrate in large part how these problems pertaining to prison health and mass incarcerated have persisted over several decades and reminds readers how medically vulnerable institutionalized populations, such as incarcerated individuals, can be to infectious diseases. More broadly, this continuation suggests how little the American public and society at large know and understand about the harmful conditions of, and inadequate level of oversight and care within, prisons and jails and the continued infringement on the health and human rights of incarcerated individuals in the United States.

Chapter II: The Dark Past and Present of Unethical Research Behind Bars

Introduction

The incarcerated population in the United States is burdened with a record of being exploited in and subjected to clinical research and scientific investigations.⁸⁴ A dark past of medical histories and case studies pertaining to unethical experimentation behind bars showcase how incarcerated individuals have consistently been deemed a group for whom informed consent, voluntary decision-making, paid research participation, and other ethics-related concerns and civil liberties issues have been minimized, ignored, and rejected.⁸⁵ Historian David Rothman and legal scholar Keramet Reiter emphasize how medical experimentation and intervention on prisoners has continued to be used throughout the twentieth and twenty-first century regardless of past instances of severe and harmful experiments and strict federal regulations.⁸⁶

These devastating realities have not only shaped prisoners' perceptions of government-related interventions and research overtime, but also contributed to a dark present in America's jails and prisons that is premised on harrowing levels of medical mistrust, vaccination hesitancy, and concerns about the incarcerated population's own safety and access to appropriate and effective medical care and resources while behind bars.⁸⁷

⁸⁴ Barbara E. McDermott, "Coercion in research: are prisoners the only vulnerable population?." (2013): 8-13.

⁸⁵ Ibid; "The Proposed 'Project on Life-Threatening Behavior' at the Neuropsychiatric Institute, U.C.L.A.," Box 2, Folder 22, Paul Lowinger Papers, 1951-1986, Ms. Coll. 635, Kislak Center for Special Collections, Rare Books and Manuscripts, University of Pennsylvania.

⁸⁶ David J Rothman, *The discovery of the asylum: Social order and disorder in the new republic*, Routledge, 2017: 61-62; Keramet Reiter, "Experimentation on Prisoners: Persistent Dilemmas in Rights and Regulations," *California Law Review* 97, no. 2 (2009): 501-502.

⁸⁷ Ibid.

This chapter argues that histories of unethical research behind bars throughout the twentieth century have helped facilitate a pervasive, longstanding climate of governmental and medical mistrust in America's correctional facilities, likely contributing to incarcerated people's present-day medical vulnerability to the novel coronavirus. It does not put forward that incarcerated people are continually and appropriately informed of what has happened in the past or that trends of unethical research and experimentation persist at similar or exorbitant levels today. Rather, this chapter draws attention to specific instances and case studies of unethical research and intervention behind bars and suggests that historical trends and patterns of these phenomena mirror or connect to some of what takes place in the country's jails and prisons today amid the COVID-19 pandemic. This chapter advances the notion that an understanding of a dark past of unethical research behind bars can provide some insight into analyzing and explaining problems pertaining to prisoners' disproportionate medical vulnerability to the novel coronavirus.

Overall, drawing connections between historical threads of experimentation and intervention behind bars and the current COVID-19 crisis in jails and prisons can enable key understandings into the ways in which incarcerated people are disproportionately medically vulnerable to the novel coronavirus. As the COVID-19 pandemic surges throughout the country's jails and prisons, dialogue surrounding incarcerated individuals' proximity and access to coronavirus vaccines and medical services remains at the forefront.⁸⁸ Furthermore, as jails and prisons can rapidly stimulate COVID-19 transmission both inside and outside correctional facilities, advocates and activists are situating prison well-being as matters of general public

⁸⁸ Tiana Herring and Emily Widra, "Just over Half of Incarcerated People Are Vaccinated, despite Being Locked in Covid-19 Epicenters," Prison Policy Initiative, accessed October 14, 2021, <https://www.prisonpolicy.org/blog/2021/05/18/vaccinationrates/>.

concern.⁸⁹ They are urging authorities to increase access to coronavirus vaccines and medical resources for the sake of both protecting the incarcerated population and lowering the possibilities for more COVID-19 outbreaks.⁹⁰

However, vaccination rates remain dangerously low among incarcerated people compared to the general population, and vaccination distribution within correctional facilities is varying greatly between states.⁹¹ At the same time, correctional officers and workers across the nation are also refusing vaccinations themselves due to distrust of prison administrations and their handling of the virus, further accelerating the incarcerated population's susceptibility to the current COVID-19 crisis as large groups of unvaccinated individuals in overcrowded, poorly sanitized environments can promote virus incubators.⁹²

These realities illustrate how vaccine hesitancy and medical mistrust is fueling the COVID-19 pandemic in jails and prisons throughout the United States. Past instances and case studies of unethical research and experimentation behind bars throughout the twentieth century can help situate these phenomena within longer threads of history and contexts. Moreover, they can suggest ways in which trends of medical mistrust have persisted behind bars overtime and, thereby, have likely contributed to incarcerated people's disproportionate medical vulnerability amid the novel coronavirus crisis.

1913 to 1951: Dr. Leo Stanley, San Quentin State Prison in California

⁸⁹ Anthony D. Romero, "Incarcerated People Should Get Priority Access to the COVID-19 Vaccine."

⁹⁰ Ibid.

⁹¹ Ann Hinga Klein and Maura Turcotte, "Vaccinations Are Lagging at Many U.S. Prisons, Where Major Virus Outbreaks Have Been Common," *The New York Times* (The New York Times, May 22, 2021), <https://www.nytimes.com/2021/05/22/us/covid-prison-vaccine.html>; Meghan Peterson, Forrest Behne, Beza Denget, Kathryn Nowotny, Lauren Brinkley-Rubinstein et al., "Uneven Rollout of Covid-19 Vaccinations In United States Prisons," *Health Affairs*, April 15, 2021, <https://www.healthaffairs.org/doi/10.1377/hblog20210413.559579/full/>.

⁹² Erika Tyagi and Joshua Manson, "Prison Staff Are Refusing Vaccines. Incarcerated People Are Paying the Price.," *UCLA Law COVID Behind Bars Data Project*, August 12, 2021, <https://uclacovidbehindbars.org/prison-staff-vaccine-refusals>.

From 1913 to 1951, Dr. Leo Stanley, a chief surgeon at San Quentin State Prison in California, conducted unethical medical experiments on incarcerated individuals.⁹³ He used his subjects, living prisoners, involuntarily to explore research pertaining to sterilization, treatments for the 1918 influenza epidemic or Spanish Flu, testicle transplants, and more.⁹⁴ For example, Buck Kelly, a prisoner at San Quentin, was executed for his crimes and had his testicles surgically removed by Dr. Stanley during his autopsy.⁹⁵ Kelly's parts were transplanted into other prisoners, pushing Kelly's family to file a lawsuit against Stanley and the prison.⁹⁶ The lawsuit was ultimately dropped due to Stanley's "goodwill he'd sewn over the years."⁹⁷

Interestingly, scholars highlight how Dr. Stanley not only hoped to modernize medicine and advance fields such as eugenics, but also strived to "rejuvenate aged men, control crime, and limit the reproduction of the unfit," blurring "the lines between punishment, treatment, and research."⁹⁸ As a result, these experiments at San Quentin not only represented an effort that negatively impacted the health and well-being of incarcerated individuals in the United States, but also furthered stripped prisoners of their basic humanity and dignity as their time behind bars welcomed intrusive research for the sake of overall medical and scientific advancement. As individuals who were incarcerated and seen as "unfit" and purposeless to "control crime," their autonomy and consent were further compromised at the hands of Dr. Stanley and his clinical research practices.⁹⁹

⁹³ Ethan Blue, "The Strange Career," 212.

⁹⁴ Ibid, 212.

⁹⁵ Buck v. Bell, 274 U.S. 200 (1927).

⁹⁶ Ibid.

⁹⁷ Alan Bisbort, "American Frankenstein – San Quentin's Surgeon & His Human Experiments," PleaseKillMe, September 21, 2017, <https://pleasekillme.com/american-frankenstein-san-quentin-surgeon-experiments/>.

⁹⁸ Ethan Blue, "The Strange Career," 210.

⁹⁹ Ibid.

Dr. Stanley's performed over 10,000 testicular implants within the walls of San Quentin State Prison and served as the facility's chief surgeon for nearly four decades.¹⁰⁰ His long and established career at San Quentin not only solidified institutional practices pertaining to the delivery and implementation of medical care behind bars and attitudes surrounding inmates' health, but also regulated medicine in the contexts of authority, control, and punishment.¹⁰¹ Moreover, medicine and research at San Quentin were deemed as components of prisoners' regimen, well-being, and welfare as they became subjects of medical treatments and were believed to be "morally" and "physically" transformed into better people due to exposure to experimentation.¹⁰² Thus, in the years Dr. Stanley oversaw San Quentin State Prison, its prison population, and its medical programs, unethical experimentation and intervention was masked by a goal of aiding prisoners, rejuvenating individuals, and protecting society. These practices were encouraged and, mercilessly, normalized.

To further illustrate these claims, newspaper reports of the time period not only emphasize the vast scope and extent of Dr. Stanley's research behind bars, but also often frame these findings and circumstances in a way that praises his work and underlines the validity of medical research on prisoners. For example, Edward Boyden in the *Los Angeles Times* wrote the following in 1922 about his recent interviews with Dr. Stanley:

"There has been marked improvement in the physical condition of these prisoners, who suffered from a great variety of diseases. More important still, they show a notable lessening of criminal tendencies, particularly those suffering from paranoia, dementia

¹⁰⁰ Ibid.

¹⁰¹ Ibid, 212.

¹⁰² Ibid.

praecox, etc...An extraordinary phase of Dr. Stanley's work has been the transplantation of human glands from the still-warm bodies of executed criminals to other prisoners."¹⁰³

Similarly, international newspapers highlight the significance of Dr. Stanley's research at San Quentin State Prison and the benefits of his research on prisoners or subjects:

"Dr. Leo Stanley...believes this and points with professional pride to ten men who have passed...to find renewed mental and physical vigour, revived interest in life and new-formed conceptions of man's moral obligations to society...The bright eyes, the healthful glow of the cheeks and the alert movements of the men who a few months ago were mentally dull, apathetic, colourless and prematurely aged go far to convince Dr. Stanley that sex gland implantation may prove to be as epochal as medical science..."¹⁰⁴

These interpretations of Dr. Stanley's research at San Quentin State Prison highlight the ways in which unethical research and intervention behind bars was frequently institutionalized and accepted not only behind bars, but also in the public. This reality not only facilitated attitudes of unworthiness and exclusion toward incarcerated individuals, but also encouraged and legitimized certain unethical administrative and infrastructural practices in jails and prisons that, consequently, opened opportunities for a climate of medical mistrust to brew behind bars throughout the years of Dr. Stanley and in the years after.

1950s to 1970s: Dr. Albert Kligman, Holmesburg Prison in Philadelphia

¹⁰³ Edward Boyden, "Thousand Convicts Take Goat-Gland Treatment: Extraordinary Results Secured by San Quentin Prison Doctor in Pioneer Operations," *Los Angeles Times (1886-1922)*, Dec 10, 1922. <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/thousand-convicts-take-goat-gland-treatment/docview/161199691/se-2?accountid=14707>.

¹⁰⁴ "Science Frees New Life Force: Dr. Leo L. Stanley Believes Gland Transference Opens Boundless Fields. Chicago Surgeon Accredited With Discovery Ten Men Undergo the Test," *The Shanghai Times (1914-1921)*, Dec 05, 1919. <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/science-frees-new-life-force/docview/1324931150/se-2?accountid=14707>.

From the 1950s to 1970s, dermatologist Dr. Albert Kligman conducted unethical experiments on prisoners at Holmesburg Prison in Philadelphia to further dermatology research.¹⁰⁵ Using incarcerated individuals who were primarily awaiting trial and could not afford bail, he led several experiments that exposed subjects to infectious diseases, psychoactive drugs, radioactive isotopes, and other dangerous chemicals in doses far beyond scientifically acceptable standards.¹⁰⁶ Lacking ability to exercise full autonomy and informed consent, many of these prisoners were intentionally inoculated with herpes simplex and vaccinia virus, human papillomavirus, and *Candida*, severely threatening their health and well-being while behind bars.¹⁰⁷

Incarcerated individuals at Holmesburg also sought monetary damages in lawsuits against Dr. Kligman and other proponents of his research.¹⁰⁸ One prisoner cited in a suit that he had been hospitalized for a severe drug reaction after swallowing some pills during an experiment.¹⁰⁹ At the same time, unduly influenced by capacities to earn an insignificant amount of money at the expense of their health and autonomy, a group of inmates brought forward a suit because they were not included in Kligman's testing.¹¹⁰

Similar to the work of Dr. Leo Stanley at San Quentin State Prison in California, positive sentiment toward experimentation and intervention was rampant and circulated amid Dr. Albert

¹⁰⁵ Adewole Adamson and Jules Lipoff, "Penn Must Cut Ties with Dr. Albert Kligman, Who Conducted Unethical Human Research on Black Men: Opinion," <https://www.inquirer.com> (The Philadelphia Inquirer, January 6, 2021), <https://www.inquirer.com/opinion/commentary/albert-kligman-holmesburg-prison-black-men-retina-a-medical-experiments-20210104.html>.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ "It happened here: Tracing the CIA-university connection," *Philadelphia Inquirer* (1969-2001), Sep 18, 1977. <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/september-18-1977-page-146-521/docview/1845741139/se-2?accountid=14707>.

¹⁰⁹ Ibid.

¹¹⁰ "Prison Chief Defends Pharmaceutical Tests," *Philadelphia Daily News* (1960-2001) Retrieved from <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/march-9-1973-page-12-88/docview/2068631475/se-2?accountid=14707>.

Kligman's research at Holmesburg Prison. Dr. Kligman himself considered his work to be "scrupulously and meticulously run," any criticism to be "greatly exaggerated," and his contributions to be "an honorable thing to do" for "national defense."¹¹¹ In 1963, a local news article about Dr. Kligman's work at Holmesburg was also written in a "highly complementary tone":

"When American soldiers – and civilians – are better protected from the effects of chemical warfare, it will be thanks to a University of Pennsylvania doctor and several dozen inmate volunteers at Holmesburg Prison."¹¹²

Dr. Albert Kligman's experiments also left inmates with debilitating long-term health conditions. For example, Yusef Anthony, a formerly incarcerated individual at Holmesburg and subject of many of Kligman's experiments, publicly shared in 2020 his cries for institutional and governmental accountability and lasting physical and psychological injuries that continue to impact his day-to-day life.¹¹³ While incarcerated, Anthony was led into a "cellblock-turned-laboratory" as patches of skin were peeled from his back and chemicals were sprayed on his open wounds.¹¹⁴ Today, he reports daily episodes of severe itching, irritation, fatigue, and severe stomach problems.¹¹⁵

COVID-19 Pandemic, Analyses, and Conclusion

While the prioritization of prisoners for COVID-19 vaccinations has stirred controversy and experienced delays in distribution across the United States due to negative public opinion and political backlash, incarcerated people in the country are also questioning the safety and

¹¹¹ "It happened here."

¹¹² Ibid.

¹¹³ Maryam Ibrahim, "Sentenced to Science," *The PROG* (The Princeton Progressive, February 19, 2020), <http://theprincetonprogressive.com/sentenced-to-science/>.

¹¹⁴ Jessica Sidman, "Swollen Feet and a Wanted Apology," *The Daily Pennsylvanian*, November 8, 2007, https://www.thedp.com/article/2007/11/swollen_feet_and_a_wanted_apology.

¹¹⁵ Ibid.

efficacy of the vaccines due to “past unethical government experimentation.”¹¹⁶ For example, research reports indicate that many prisoners “balk at getting the shots” and are “afraid of the side effects.”¹¹⁷ They carry an “inherent distrust of prison health care” and believe that “prisons are not to be trusted with their health.”¹¹⁸

Thus, although a lack of adequate access to the COVID-19 vaccine risks the health and well-being of people behind bars, prisoners’ negative attitudes toward the coronavirus vaccine can also accelerate disease spread in correctional facilities. Incarcerated individuals’ resistance may consequently cause them to not receive the necessary level of protection against COVID-19, thereby contributing to their increased vulnerability to the novel coronavirus.

Correctional officers also continue to decline the COVID-19 vaccine at high rates, leaving wide numbers of incarcerated individuals at unnecessary risk to the novel coronavirus.¹¹⁹ Furthermore, despite early access to COVID-19 vaccines in most states, prison staff vaccination rates remain too low in most states to protect people behind bars.¹²⁰ At the same time, while correctional officials in most states have been prioritized for vaccinations ahead of incarcerated people, administrative and operational problems behind bars continue to prevent large fractions of the prison population from receiving coronavirus vaccines.¹²¹

¹¹⁶ David Montgomery, “Prioritizing Prisoners for Vaccines Stirs Controversy,” The Pew Charitable Trusts, January 5, 2021, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/01/05/prioritizing-prisoners-for-vaccines-stirs-controversy>; “Incarcerated People and Corrections Staff Should Be Prioritized in COVID-19 Vaccination Plans.”

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Wanda Bertram and Wendy Sawyer, “With the Majority of Corrections Officers Declining the COVID-19 Vaccine, Incarcerated People Are Still at Serious Risk,” Prison Policy Initiative, April 22, 2021, <https://www.prisonpolicy.org/blog/2021/04/22/vaccinerefusal/>.

¹²⁰ Ibid.

¹²¹ Ibid.

Debates over prisoners' involvement in COVID-19 vaccine trials have also come to the forefront during the COVID-19 pandemic.¹²² As clinical trials have sought volunteers to receive doses of experimental vaccines, researchers have struggled with how to find and recruit participants ethically and effectively.¹²³ Still, prisoners have often been excluded from these trials due to fear and concerns that they will be coerced into participating or exploited after a "dark" history of research "done without consent, without oversight, and without consequences."¹²⁴ At the same time, incarcerated individuals' exclusion from these trials due to longstanding "ethical risks" and "operational obstacles" may have furthered their vulnerability to COVID-19 as potential trial failures could have similarly accelerated negative sentiments about the safety and efficacy of the vaccine.

More recent studies have evaluated medical mistrust among inmates. Scholars highlight how there are disproportionate numbers of Black, indigenous, and people of color in America's jails and prisons and, in general society, the greater obstacles they face to accessing health care and the worse health outcomes they experience due to structural racism.¹²⁵ However, regardless of race, incarcerated people often report stigma from the criminal justice and prison health care systems, a lack of privacy, and an "inherent dialectic of prisons that restrict freedom."¹²⁶ These current realities can be situated and understood within historical context and previous instances of unethical research and intervention in America's correctional facilities. Furthermore, an investigation into past case studies of unethical research behind bars can better illuminate the

¹²² Eli Cahan, "Ethical or Exploitative-Should Prisoners Participate in COVID-19 Vaccine Trials?," *Science*, September 14, 2020, <https://www.science.org/content/article/ethical-or-exploitative-should-prisoners-participate-covid-19-vaccine-trials>.

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ Lindsey A. Vandergrift, and Paul P. Christopher. "Do prisoners trust the healthcare system?." *Health & Justice* 9, no. 1 (2021): 1.

¹²⁶ *Ibid.*

leverage and pervasiveness of these present-day failures and the ways in which their longstanding presence has exacerbated prisoners' medical vulnerability during the COVID-19 pandemic.

Direct, longstanding barriers and conditions that have resulted from past histories of unethical clinical research practices also continue to harm and marginalize individuals, impacting their health and ability to gain access to resources and care. As shown by the case of Yusef Anthony, a subject of experiments performed by Dr. Albert Kligman, formerly incarcerated individuals who were subjected to experimentation while behind bars during the mid-to-late twentieth century can now face higher risks for a severe infection or death from COVID-19.¹²⁷ These devastating realities showcase levels of infringement on the health and human rights of people behind bars. Further research could identify more linkages between unethical research behind bars and victims in order to better explicate the impact of these phenomena on prisoners' medical vulnerability amid the novel coronavirus.

¹²⁷ Maryam Ibrahim, "Sentenced to Science."

Chapter III: From Attica to Coronavirus, The Push for Prison Health Reform

Introduction

Instances of prison health activism are not just limited to the ongoing COVID-19 pandemic. From the 1960s to 1980s, lawyers, advocates, and incarcerated people newly rallied together to fight against the injustices within the American criminal justice system and the unsanitary, harmful environments inside the nation's jails and prisons. Prior to the Civil Rights era of the 1950s and 1960s, prisoners were considered "slaves of the state" and expected to forfeit their liberty and personal rights if convicted of a crime.¹²⁸ The 1866 court case *Pervear v. Massachusetts* declared that incarcerated individuals have no constitutional rights, and a century-long "hands-off" doctrine meant that the federal government could not interfere with state incarceration practices and policies.¹²⁹ Prison conditions were grim and out of sight, and authorities and the public paid little or no attention to health care in the country's correctional facilities throughout the earlier parts of the twentieth century.¹³⁰

However, changing public sentiment and rising government, political, and legal interventions amid and following America's civil rights movement of the 1950s and 1960s sparked new conversations about rights, laws, and justice for incarcerated individuals and opened opportunities for people behind bars to challenge the brutal conditions of their imprisonment.¹³¹ Drawn out in this chapter, various reports, declarations, events, and initiatives during the time

¹²⁸ Lorena O'Neil, "The Prisoners' Rights Movement of the 1960s," OZY, September 7, 2015, <https://www.ozy.com/true-and-stories/the-prisoners-rights-movement-of-the-1960s/30583/>.

¹²⁹ Ibid.

¹³⁰ Heather Ann Thompson, "What's hidden behind the walls of America's prisons," The Conversation, June 4, 2017, <https://theconversation.com/whats-hidden-behind-the-walls-of-americas-prisons-77282>.

¹³¹ Lorena O'Neil, "The Prisoners' Rights Movement of the 1960s."

period highlight the growing surge of, and dialogue surrounding, prison health activism and prisoners' rights in the United States.

This chapter seeks to examine the prisoners' rights movement and prison health activist efforts from the 1960s to 1980s that grew out of the larger civil rights struggle in the United States to better understand and contextualize the rapid and intense development of prison health activism amid the COVID-19 pandemic. It advances the claim that the rampant rise of prisoners' rights work and prison reform efforts during the ongoing coronavirus crisis is not a new, isolated, and unanticipated phenomenon. Rather, it embodies a continuation, expansion, and exacerbation of historic and longstanding efforts to fight for prisoners' health and their human rights.

Thus, this chapter puts forward the claim that the mid-to-late twentieth century prisoners' rights movement illustrates how earlier prison reform work has informed, empowered, and accelerated current prison health activism amid COVID-19. The linkages between these two time periods not only emphasize the ways in which minimal accountability, oversight, and reform continue to affect the nation's incarcerated population, but also how prison health activism itself has shifted, evolved, and adapted overtime and in times of crises. Scholars and the public can place greater emphasis on unraveling these histories of the prisoners' rights movement during the mid-to-late twentieth century to better make sense of the escalation of prison health activist efforts in the United States during the ongoing COVID-19 pandemic.

1960s to 1980s: Prison Conditions and Health Care Access Behind Bars

In 1967, *The Atlanta Constitution*, a major daily newspaper published in Atlanta, Georgia throughout the mid-to-late twentieth century, reported about the State Department of Health's

recent inspections of state and county prisons.¹³² Asa D. Kelley Jr., Georgia's state corrections director of that year, expressed the following at a press conference about the prison health studies:

“These reports are long overdue and point vividly to the fact that the sanitary conditions in the prison system of the state of Georgia have been far below standards for many, many years.”¹³³

The Civil Rights era of the 1950s and 1960s inspired newfound discussions about recognition and inclusion for incarcerated individuals in the United States. Since the 1960s, as the nation's prison population significantly increased and calls for combatting systemic inequalities in institutions accelerated, there was more countrywide attention on the immense health threats that carceral facilities posed to the increasing numbers of people inside them.¹³⁴ The protests and riots of the United States' civil rights movement linked the larger cry for equality to urgent demands for alleviating prison overcrowding and poor jail conditions, improving inmate health care, and strengthening access to medical resources and services behind bars.¹³⁵ As a result, dialogue about the state of correctional facilities in the United States, such as the reporting of Georgia's local prisons, grew tremendously throughout the mid-to-late twentieth century.

A growing need for equality and freedom that grew out of the country's civil rights movement and fight against racial discrimination, disenfranchisement, and segregation provided

¹³² Remer Tyson, "State and County Prisons Share in Faulty Sanitation," *The Atlanta Constitution (1946-1984)*, Aug 05, 1967, <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/state-county-prisons-share-faulty-sanitation/docview/1554801364/se-2?accountid=14707>.

¹³³ Ibid.

¹³⁴ Jessica L. Adler, "Health-Related Prison Conditions in the Progressive and Civil Rights Eras: Lessons from the Rockefeller Archive Center," (2020): 2-5.

¹³⁵ Robert T. Chase, "We Are Not Slaves," 76; Robynn J.A. Cox, "Where Do We Go from Here? Mass Incarceration and the Struggle for Civil Rights," *Economic Policy Institute*, Accessed December 4, 2021. <https://www.epi.org/publication/where-do-we-go-from-here-mass-incarceration-and-the-struggle-for-civil-rights/>.

critical space for initiating regard and support for underserved and underrepresented groups in the United States, such as the prison population.¹³⁶ The nation experienced a rise in prison health care checks and investigations, reports and publications pertaining to prisoners' health and conditions of confinement, and general discourse about incarcerated individuals' health and their treatment.¹³⁷ Academics, advocates and activists, government officials, health and public safety professionals, and incarcerated people themselves were freshly enabled to further awareness about the injustices and harms that were taking place behind bars.¹³⁸

For example, in 1968, an unprecedented and a record-setting jailbreak at Orleans Parish Prison in New Orleans, Louisiana occurred as 21 long-term convicts executed a first-time, "daring escape" from the "rat-infested, 16th Century asylum."¹³⁹ The prisoner-initiated "calamity" advanced pressures for authorities to issue a "grand jury investigation" and investigate the "overcrowded" and "crumbling" conditions of the facility.¹⁴⁰ Officials not only blamed the jailbreak on the poor circumstances and lack of security within the prison, but also acknowledged that more funds are needed to reform the facility and the grand jury should "render constructive criticism where needed."¹⁴¹ Indeed, these instances were publicly reported in a *Daily World* article alongside other news about president-elect Richard Nixon and his upcoming administration and policies, further illustrating how conversations about prison

¹³⁶ L. A. M. Machelessen, "Black Lives Matter and the Civil Rights Movement: How a New Generation of Social Activists Empower Previously Marginalized Groups," (2019).

¹³⁷ Lorena O'Neil, "The Prisoners' Rights Movement of the 1960s."

¹³⁸ Ibid.

¹³⁹ Eddie Conway, "How Prisoners Expanded the Civil Rights Movement," The Real News Network, May 27, 2021, <https://therealnews.com/how-prisoners-expanded-the-civil-rights-movement.>; "Record N.O. Jailbreak Jells 'Crackerbox' Rap." *Daily World* (1939-2012), Dec 29, 1968.

[https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/december-29-1968-page-28-36/docview/2108935765/se-2?accountid=14707.](https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/december-29-1968-page-28-36/docview/2108935765/se-2?accountid=14707)

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

conditions and prisoners' health and well-being were coming to the forefront at the local, state, and national scale in the 1960s.

Details released about an alleged clubbing death of a young Florida inmate in 1969 also ignited outcries for solutions and investigations into the country's prison conditions and atrocities.¹⁴² Dr. James Bax, the Secretary of Health and Rehabilitation in Florida at the time, demanded more information from government agents about the incident after hearing that state prison authorities said they had "no knowledge of any such death" and were shocked to learn through a news column that Florida officials were looking into the tragedy.¹⁴³ Dr. Bax publicly voiced his desire to thoroughly inspect the Florida prison system and gather the necessary amounts of support and cooperation for these efforts. He expressed his hope that these discussions would not only lead to readable news stories, legislation, and financial support for this "serious national problem," but also encourage federal-level interest in the "problems all states have with prisons."¹⁴⁴

The 1970s similarly witnessed a surge in dialogue about correctional health by city authorities, government officials, and politicians across the United States. For example, in 1971, the New York City's Health Services Administrator Gordon Chase acknowledged that medical care in the city's prisons had been "very, very inadequate" and announced plans to take action and "consolidate responsibility for prison health care in the Health Services Administration."¹⁴⁵ Chase also brought attention to problems surrounding hiring staff and correctional officials,

¹⁴² "Details of Prisoner's Death Sought," Palm Beach Post (1916-1979), Dec 24, 1969.

<https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/december-24-1969-page-13-30/docview/2072699070/se-2?accountid=14707>.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ John Sibley, "Health Care Plan Set For Prisons: City Is Seeking To Improve Inmates' Medical Services," New York Times (1923-), Sep 22, 1971, <https://proxy.library.upenn.edu/login?url=https://www-proquest-com.proxy.library.upenn.edu/historical-newspapers/health-care-plan-set-prisons/docview/119118912/se-2?accountid=14707>.

recognizing that it is “very difficult to get first-rate people out of the private sector to work in the prisons” yet sharing optimistic plans to institute a head of prison psychiatry, consultants on drug addiction behind bars, medical directors, and prison affiliations with teaching hospitals.¹⁴⁶

Through these initiatives, he intended for the city to refine its mental and physical examinations for prisoners and improve its sick-call procedures, observations, and treatments in correctional facilities.¹⁴⁷

In 1975, former Illinois governor Otto Kerner spent eight months at the Federal Correctional Institution in Lexington, Kentucky and charged that health care for prisoners in the nation’s prison system was “totally inadequate.”¹⁴⁸ He called for major changes, such as removing the federal prison system from the jurisdiction of the Justice Department and positioning it within the Department of Health, Education, and Welfare in order to improve care for incarcerated individuals.¹⁴⁹ Kerner’s recommendations were supported by panels of health experts, and he cited the American Medical Association’s (AMA) new survey that revealed the appalling conditions and poor levels of health care in the country’s jails to bolster his claims.¹⁵⁰ Specifically, this monumental and pioneering report by the AMA found that 17 percent of the jails did not have internal facilities for health care, 80 percent had no separate facilities for alcoholism, mental illness, and drug addiction, 32 percent did not have a physician available, 70 percent had no dentist, nurse, social workers, or psychologist, and 50 percent did not have regular sanitary inspections.¹⁵¹ In response to Kerner’s demands about federal prisons,

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ronald Kotulak, "Totally Inadequate": Kerner Rips Prison Health Care," *Chicago Tribune* (1963-1996), Dec 12, 1975, <https://proxy.library.upenn.edu/login?url=https://www-proquest-com.proxy.library.upenn.edu/historical-newspapers/totally-inadequate/docview/171207361/se-2?accountid=14707>.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.; Jaye B. Anno, “The Role of Organized Medicine in Correctional Health Care,” *JAMA* 247, no. 21 (1982): 2923-2925.

representatives of the AMA also suggested that health care in state prison systems should be “turned over to state public health departments or other agencies that could improve treatment.”¹⁵²

Discourse at the intersection of incarceration and health by advocates, activists, academics, and other public health professionals expanded during the 1970s and 1980s. For example, a 1978 jail health conference in San Francisco, California, titled “Jail Health Care: A Symposium,” incorporated the expertise of criminal justice project directors, nurses, physicians, security wards, social workers, and sheriffs.¹⁵³ A collaborative effort to highlight the disfunctions surrounding health care delivery and social services’ policies and programs in United States’ jails, this conference represented an attempt to advance conversations about the state of prisoners’ health and access to resources and care.¹⁵⁴ Even more importantly, the event was primarily funded by a grant from the Department of Health, Education, and Welfare, further showcasing the growth and evolution of interactions between prisoners, advocates, activists, medical leaders, and the government about prison health.¹⁵⁵

In 1980, a study of health care of female inmates in federal prisons and local jails across the country by legal professors and sociologists revealed “a widespread failure to provide for the unique health and hygiene needs for women.”¹⁵⁶ The report highlighted a general lack of gynecologists behind bars, minimal access to contraception and pregnancy tests, and an overall

¹⁵² Ronald Kotulak, “Totally Inadequate.”

¹⁵³ “Jail Health Conference ’78,” *Golden Gateway Holiday Inn*, December 9, 1978, Box 11, Folder 211, Paul Lowinger Papers, 1951-1986, Ms. Coll. 635, Kislak Center for Special Collections, Rare Books and Manuscripts, University of Pennsylvania.

¹⁵⁴ *Ibid.*

¹⁵⁵ *Ibid.*

¹⁵⁶ Janice Mall, “ABOUT WOMEN: Inadequate Prison Health Care Claimed,” *Los Angeles Times (1923-1995)*, Sep 21, 1980, <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/about-women/docview/162921617/se-2?accountid=14707>.

absence of concern and attention for female prisoners in comparison to male prisoners.¹⁵⁷

Furthermore, the authors emphasized the sexism and gender biases within the United States' criminal justice system amid the relatively small percentage of women in the nation's prison and jail population.¹⁵⁸ Interestingly, these claims demonstrate an additional struggle that took place as more recognition was given to prisoners' health and well-being in a general sense. While evolving public sentiment indicated that awareness about prison conditions and health care behind bars should be magnified, conversations about gaining rights and inclusion for incarcerated minorities, such as women and people of color, increasingly emerged in response.¹⁵⁹

From the 1960s to 1980s, a larger cry for equality, freedom, and justice that grew out of the country's civil rights movement enhanced possibilities for revolutionary dialogue about prisoners' health and their access to health care resources and services. The rise of prison health-related checks, investigations, and reports by criminal justice academics and proponents, health professionals, and government officials, in addition to heightened discourse about prisoners' rights and living conditions in jails and prisons in news clippings and by incarcerated people themselves, encouraged and facilitated the development of prison health as a matter of local, state, and national concern. At the same time, these social phenomena promoted critical room for prisoners to radically disrupt and dismantle their circumstances of confinement.¹⁶⁰ They also marked approval for, and expanded the ability of, various groups and individuals to establish

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Allister Sparks, "Judge Issues Order on Police Abuse: White South African Doctor Says Black Prisoners Attacked," *The Washington Post* (1974-), Sep 26, 1985. <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/judge-issues-order-on-police-abuse/docview/138479014/se-2?accountid=14707>; Janice Mall, "ABOUT WOMEN: Inadequate Prison Health Care Claimed."

¹⁶⁰ James B. Jacobs, "The Prisoners' Rights Movement," 433.

significant prison health reform standards and measures through legal and political means.¹⁶¹

1970s to 1980s: Major Prisoner Riots, Legal Actions, and Political Advocacy

In 1971, the bloodiest prison riot in United States' history occurred at Attica Correctional Facility in New York, marking one of the best-known and most noteworthy milestones of the mid-to-late twentieth century prisoners' rights movement.¹⁶² Attica: The Official Report of the New York State Special Commission on Attica, was an in-depth, publicly accessible compilation of on-the-scene photographs and firsthand accounts of the four-day inmate rebellion.¹⁶³ Published in 1972, the 574-page book emphasized its contribution to prison health activism and reform of the time period right from the onset:

“Accordingly, the principal significance of this report may lie in the fact that it documents in considerable detail every aspect of the life and structure of a major prison, based upon more precise information than has ever before been assembled about any single institution... That the explosion occurred first at Attica was probably chance. But the elements for replication are all around us. Attica is every prison; and every prison is Attica.”¹⁶⁴

The deadly uprising and siege at Attica involved about 1,000 of the approximately 2,200 incarcerated individuals in the facility, leaving 43 people dead, including ten correctional officials and civilian employees.¹⁶⁵ Incarcerated people abandoned their cells, “spread throughout the institution with little resistance,” attacked officers, took hostages, and destroyed property while also managing to escape to secure areas.”¹⁶⁶ Prisoners initiated these efforts in

¹⁶¹ Ibid.

¹⁶² Heather Ann Thompson, *Blood in the Water*, xiii-xvii.

¹⁶³ *Attica, the Official Report of the New York State Special Commission On Attica*. New York: Praeger Publishers, 1972.

¹⁶⁴ Ibid, xii.

¹⁶⁵ Ibid, xxviii.

¹⁶⁶ Ibid, 108-109.

hopes of gaining better living conditions behind bars and stronger access to appropriate and effective medical care, and they were determined to get the state and the nation's institutions to "treat them as human beings who were serving their time, not as monsters deserving of abuse and neglect."¹⁶⁷

With amplified dialogue about prisoners' health and prison conditions in the United States, incarcerated people were becoming much more politically aware.¹⁶⁸ They began to develop a "powerful critique" of their circumstances and surroundings and an eagerness to radically reform the nation's correctional facilities and criminal justice system.¹⁶⁹ Knowledge about past incidents, such as small-scale jailbreaks in the 1960s and the senseless killing of Black activist prisoner George Jackson at San Quentin State Prison in California in 1971, spurred an extreme revolt at Attica, and, in turn, enabled the creation of the most extensive review of a United States' prison to date.¹⁷⁰

The 1970s and 1980s especially saw the emergence of legal actions and victories, judicial interference, and correctional health standards in an effort to solidify recognition and inclusion for incarcerated individuals in the United States. A fierce war over prisoners' rights and prison health newly surfaced as people behind bars brought their unjust and harmful experiences to the courtroom, criminal justice-related organizations took action against America's overcrowded, unsanitary, and poorly managed jails and prisons, and medical experts and groups established novel guidelines for prison health and health care delivery and access.¹⁷¹ In sum, increasing

¹⁶⁷ Heather Ann Thompson, *Blood in the Water*, 28.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ *Attica, the Official Report of the New York State Special Commission On Attica*, xii, 107; "36 Indicted in Prison Riot." *The Sun* (1837-), Jul 31, 1966.

<https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/36-indicted-prison-riot/docview/539535600/se-2?accountid=14707>.

¹⁷¹ James B. Jacobs, "The Prisoners' Rights Movement," 440-441, 464-465.

exchanges about incarcerated individuals' health and well-being and attempted overhauls of correctional facilities by prisoners' themselves legitimized endeavors to redefine their status and resolve their grievances.¹⁷²

For example, medical rights for the nation's incarcerated population were defined most clearly in *Estelle v. Gamble*, a 1976 United States' Supreme Court decision which held that "deliberate indifference" by prison officials to the serious medical needs of prisoners constituted cruel and unusual punishment under the Eighth Amendment of the Constitution.¹⁷³ The ruling was the first in which the court had applied the Eighth Amendment to physical conditions in the country's correctional facilities, and it had major implications for numerous states whose prison systems were being challenged in the courts.¹⁷⁴ Moreover, courts and legal actors were freshly empowered to enforce compliance with orders to improve prison environments, and correctional facilities unable to comply could increasingly be subject to fines or even orders to release prisoners on parole.¹⁷⁵ Several civil rights and criminal justice groups, such as the American Civil Liberties Union and the NAACP Legal Defense and Educational Fund, termed the decision in *Estelle v. Gamble* "a signal victory."¹⁷⁶ However, the symbolic importance of this Supreme Court prisoners' rights decision and others were frequently met with insufficient solutions and implementation and negative public opinion.¹⁷⁷

¹⁷² Ibid, 431-432.

¹⁷³ Don Cotton and Norma Wassel, "Jail Social Work Manual," *Prisoners' Health* Project, Box 11, Folder 211, Paul Lowinger Papers, 1951-1986, Ms. Coll. 635, Kislak Center for Special Collections, Rare Books and Manuscripts, University of Pennsylvania: 40.; Thurgood Marshall, and Supreme Court Of The United States, U.S. Reports: *Estelle v. Gamble*, 429 U.S. 97. 1976. Periodical. <https://www.loc.gov/item/usrep429097/>.

¹⁷⁴ Morton Mintz, "High Court Moves Against Inhumane Prison Conditions: High Court Acts on Prison Conditions," *The Washington Post* (1974-2004), June 24, 1978, <https://proxy.library.upenn.edu/login?url=https://www-proquest-com.proxy.library.upenn.edu/historical-newspapers/high-court-moves-against-inhumane-prison/docview/146855791/se-2?accountid=14707>.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ James B. Jacobs, "The Prisoners' Rights Movement," 441-442.

Specifically, subsequent court actions during the time period also targeted prisoners' health, conditions of confinement, and the availability and accessibility of health care resources and services behind bars. In 1972, David Ruiz, an inmate of the Texas Department of Corrections, filed a lawsuit against the prison director, Jim Estelle, and the Department of Corrections.¹⁷⁸ He claimed his constitutional rights had been violated under the "cruel-and-unusual-punishment" clause of the Eighth Amendment, describing overcrowding issues, his lack of access to health care, and abusive security and working practices.¹⁷⁹

An almost decade-long court battle as the case comprised heavy pre-trial activity and evolved into a federal class action suit with seven other prisoners, *Ruiz v. Estelle* marked the most far-reaching and longest-running lawsuit on the conditions of incarceration in American history.¹⁸⁰ In 1980, a Texas U.S. District Court ruled in the inmates' favor and ordered extensive changes to the state's prison system, such as a reversal of the nation's "hands-off doctrine" that prevented federal intervention in state incarceration practices and policies and an increase in oversight of Texas' correctional facilities to ensure state compliance with new orders.¹⁸¹ Even more importantly, David Ruiz's action set in motion an intense transformation of the state's prison system, limiting the inmate population, hiring more guards, improving medical treatment, and releasing prisoners on parole or probation.¹⁸² Still, overtime, state authorities responded by enacting fragile, low-cost solutions and continued to fight the court's ruling through further appeals.¹⁸³ At the same time, prison officials often struggled to sustain the infrastructure and

¹⁷⁸ *Ruiz vs. Estelle*, 1979, Box 15, Folder 281-282, Paul Lowinger Papers, 1951-1986, Ms. Coll. 635, Kislak Center for Special Collections, Rare Books and Manuscripts, University of Pennsylvania.

¹⁷⁹ *Ibid.*

¹⁸⁰ James W. Marquart, and Ben M. Crouch, "Judicial Reform and Prisoner Control: The Impact of *Ruiz v. Estelle* on a Texas Penitentiary," *Law & Society Review*, 19 (1985): 560-561.

¹⁸¹ *Ibid.*, 557.

¹⁸² *Ibid.*, 560-561.

¹⁸³ McKinley C. Martin Jr., "Prison Reform: At What Price--The Current Status of Correctional Reform in Texas Since *Ruiz v. Estelle*," *Thurgood Marshall Law Review* 13, no. Issues 1 & 2 (Fall 1987-Spring 1988): 100-101.

funds necessary to comply with the court's orders, and existing public stigma toward incarcerated people threatened Texas' social order and stability during the time period.¹⁸⁴

In 1981, inmates at Oregon State Penitentiary, the Farm Annex, and Oregon State Correctional Institution filed complaints and requested relief for poor living conditions and treatment in a lawsuit against Oregon governor Victor Atiyeh.¹⁸⁵ The court found that the overcrowded conditions and health-related policies and practices at the three facilities violated the Eighth Amendment to the United States' Constitution, facilitating agreements with Parole Boards to accelerate the release of some prisoners.¹⁸⁶ Although this decision was an explicit victory for Oregon's incarcerated population, the net population reduction at the three facilities was insignificant and subsequent proposals to reduce the inmate count were not immediately adopted.¹⁸⁷

Like the examples analyzed in this chapter, a vast series of court decisions throughout the 1970s and 1980s represented a newfound era of incarcerated individuals in the United States gaining access to rights, institutions, and avenues for justice and equality.¹⁸⁸ These legal actions not only represented substantial strides toward improving prisoners' health and well-being and prison conditions, but also provided incarcerated people and prisoners' rights advocates with a crucial platform to solidify and advance their cause. Although these decisions were frequently met with roadblocks and limitations in their reception and implementation, the courtroom served as a useful social and political tool for legitimizing prisoners' rights work and prison health activism and raising awareness about these problems.¹⁸⁹ Furthermore, legal victories during the

¹⁸⁴ *Ibid*, 91-92.

¹⁸⁵ *Capps v. Atiyeh*, 1980-1982, Box 15, Folder 284, Paul Lowinger Papers, 1951-1986, Ms. Coll. 635, Kislak Center for Special Collections, Rare Books and Manuscripts, University of Pennsylvania.

¹⁸⁶ *Ibid*.

¹⁸⁷ *Ibid*.

¹⁸⁸ James B. Jacobs, "The Prisoners' Rights Movement," 441, 456, 459.

¹⁸⁹ *Ibid*, 442.

time period were symbolically significant and positively contributed to the “strength, self-confidence, and momentum” of the prisoners’ rights movement, further stimulating the agenda and goals of incarcerated people, advocates and activists, and their allies.¹⁹⁰

The work of criminal justice-related organizations and medical experts during the 1970s and 1980s also played an essential role in the progress and growth of the mid-to-late twentieth century prisoners’ rights movement. The American Civil Liberties Union (ACLU) founded its National Prison Project in 1972, marking the first and only organization even today litigating prison conditions of confinement nationwide.¹⁹¹ With primary goals of ensuring constitutional conditions of confinement in America’s correctional facilities, promoting prisoners’ rights through class action litigation and public education, and confronting systemic issues within the criminal justice system, the ACLU worked closely with lawyers and incarcerated individuals in improving prison conditions and prisoners’ health and medical care throughout the 1970s and 1980s.¹⁹² For example, in 1979, its National Prison Project announced a civil lawsuit on behalf of 38 federal prisoners in Pennsylvania due to instances of significant force, abuse, and attacks behind bars.¹⁹³ It delivered a sharply different appraisal of the experiences of the state’s incarcerated population compared to that of the Federal Bureau of Prisons, showcasing criminal justice advocates and activists working to combat a nationwide “pattern of systematic brutality against inmates.”¹⁹⁴

¹⁹⁰ Ibid, 441.

¹⁹¹ “About the ACLU National Prison Project,” American Civil Liberties Union, accessed December 10, 2021, <https://www.aclu.org/other/about-aclu-national-prison-project>.

¹⁹² James B. Jacobs, “The Prisoners’ Rights Movement,” 445, 451.

¹⁹³ Reid, T.R. “Bureau of Prisons, ACLU Differ on Lewisburg Incident.” *The Washington Post* (1974-), Mar 15, 1979. <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/bureau-prisons-aclu-differ-on-lewisburg-incident/docview/147038704/se-2?accountid=14707>.

¹⁹⁴ Ibid.

In 1980, the ACLU's National Prison Project charged Virginia with having one of the "worst prison medical care records in the nation," suing state corrections officials for \$2 million on behalf of a mentally ill inmate who castrated himself in an isolation cell at the state penitentiary.¹⁹⁵ Filed in a U.S. District Court in Virginia, the ACLU's lawsuit hoped to make Virginia "a national example" of how correctional officials "are unwilling to operate the prison system at even a minimum level of humanity or a minimum level of constitutionality."¹⁹⁶ It also established their intention to continue filing suits across the country until Virginia prison officials and others begin to make improvements.¹⁹⁷

Following the release of its nationwide survey in 1972 that revealed inadequate prison conditions and poor access to health care behind bars, the American Medical Association (AMA) initiated a program to improve health care in the country's jails and prisons and develop a set of health-related standards and guidelines for the incarcerated population.¹⁹⁸ The Correctional Health Care Program, a federally funded grant organized during the late 1970s and early 1980s, was created to assist a group of ten states in improving health care services and resources in their prison systems.¹⁹⁹ This project included "the development of standards for health services in prisons," "training programs for administrators," "trainers and providers of health services in participating states," and "on-site technical assistance in the ten states."²⁰⁰

¹⁹⁵ Glenn Frankel, "Va. Prisons Sued for \$2 Million; ACLU Attacks Medical Care: Va. Prison Medical Care Challenged in ACLU Suit," *The Washington Post* (1974-), Apr 24, 1980, <https://proxy.library.upenn.edu/login?url=https://www.proquest.com/historical-newspapers/va-prisons-sued-2-million-aclu-attacks-medical/docview/147223604/se-2?accountid=14707>.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ "Correctional Health Care Program: Resource Manual," *Michigan Department of Corrections, United States Department of Justice*, June 25, 1980.

¹⁹⁹ *Ibid.*

²⁰⁰ "American Medical Association Standards for Health Services in Jails," *American Medical Association, United States Department of Justice*, September 1981.

Furthermore, the AMA recognized how several jails and prisons have been subject to legal actions and court decisions in recent years, emphasizing that these new standards “will reflect the viewpoint of organizing medicine” and be protocols that are “equivalent” to those available in the outside community.²⁰¹ Thus, the AMA’s program was a response to increasing dialogue and activism pertaining to prisoners’ rights and well-being in the United States, representing an effort to officialize adequate medical care and health services in America’s correctional facilities.

Still, these prison health activist efforts by criminal justice-related organizations and medical experts faced implementation and enforcement disfunctions behind bars. While positive steps, these legal and medical changes were often met with administrative ineffectiveness, poor public morale toward incarcerated people, and incomplete bureaucratization, and general institutional resistance.²⁰²

COVID-19 Pandemic, Analyses, and Conclusion

Actions and progress of the mid-to-late twentieth century prisoners’ rights movement have informed, empowered, and accelerated current prison health activism in the United States amid the COVID-19 pandemic. Past court decisions, legal actions, prisoner riots now function as critical talking points and arguments for champions of prison health during the ongoing coronavirus crisis. COVID-19 related lawsuits in correctional facilities cite previous successes of the mid-to-late twentieth century prisoners’ rights movement, and criminal justice-related organizations can situate and reaffirm their advocacy and activism as longstanding and long overdue as a result of these histories. Medical experts also refer to correctional health standards

²⁰¹ Ibid; James B. Jacobs, “The Prisoners’ Rights Movement,” 465.

²⁰² Ibid, 455.

of the 1970s and 1980s to frame today's phenomenon of mass incarceration as a public health disaster.

Specifically, legal scholars claim that "COVID-19 pandemic confinement policies" may violate the Eighth Amendment's prohibition of cruel and unusual punishment, and judges reference *Estelle v. Gamble* and other legal actions from the 1970s and 1980s in deciding coronavirus-related civil rights lawsuits.²⁰³ Advocates and activists also draw on previous prisoner uprisings, such as the Attica Prison Riot in 1971, to emphasize how inmates are once again pressing for public attention to their health and living environments and urge the public to recognize the longstanding disregard for incarcerated people in the United States.²⁰⁴ The ACLU National Prison Project also continues to draw national awareness to "long-standing and systemic" health disparities within the criminal justice system, and the American Public Health Association highlighted "standards for health services within prisons and jails since 1976" to newly consider "preventative measures and alternatives to the health harms of incarceration."²⁰⁵

However, at the same time, criminal justice efforts and prison health activism amid the ongoing coronavirus crisis continue to experience various barriers. For example, while COVID-19-related prison litigation and large class action lawsuits have resulted in some victories for

²⁰³ "Fourteenth Amendment – Due Process – Eleventh Circuit Holds that a Florida Jail Was Not Deliberately Indifferent to the Spread of COVID-19," *Harvard Law Review* 134 (2021): 2626; Heather Chang, "COVID-19 in Prisons: Human Rights Violations and Inmate Exploitation," *Minnesota Journal of Law & Inequality*, February 3, 2021, <https://lawandinequality.org/2021/01/29/covid-19-in-prisons-human-rights-violations-and-inmate-exploitation/>; Williams et. al. v. Federal Bureau of Prisons et. al., Civil No. 1:20-cv-890 (2020).

²⁰⁴ Heather Ann Thompson, "50 Years After Attica, Prisoners Are Still Protesting Brutal Conditions. Will America Finally Listen?," *Time* (Time, September 8, 2021), <https://time.com/6094884/attica-anniversary-prisoners-protest/>; Matt Williams, "On 50th Anniversary of Attica Uprising, 4 Essential Reads on Prisoners' Rights Today," *The Conversation*, September 8, 2021, <https://theconversation.com/on-50th-anniversary-of-attica-uprising-4-essential-reads-on-prisoners-rights-today-167591>.

²⁰⁵ Emily Widra and Dylan Hayre, "Failing Grades: States' Responses to COVID-19 in Jails & Prisons"; "Failing Grades: States' Responses to COVID-19 in Jails & Prisons"; Patrice Sutton and Valerie Pacino, "Advancing Public Health Interventions to Address the Harms of the Carceral System," In *APHA 2021 Annual Meeting and Expo* (Oct. 23-27), APHA, 2021.

prisoners' health and well-being, substantial wins have been limited.²⁰⁶ Incarcerated people also express that their everyday concerns and medical needs are now getting less attention as the novel coronavirus ravages individuals and communities both inside and outside correctional settings.²⁰⁷ Low vaccination rates among prisoners and prison staff are rampant across the country due to a lack of adequate administration, distribution, and education, and recent surges in jail and prison populations have elevated overcrowding and sanitation concerns.²⁰⁸ Negative public opinion toward incarcerated individuals' health and well-being and their access to critical medical resources throughout the pandemic have poorly influenced politicians' attention to these problems.²⁰⁹ Thus, while progress brought by prison health activism during the mid-to-late twentieth century has enlightened and boosted today's reform efforts amid COVID-19, both new and sustained issues have also emerged and similarly reflect instances of the past.

Connections between the mid-to-late twentieth century prisoners' rights movement and prison health activism during the ongoing coronavirus crises demonstrate that incarcerated individuals in the United States have engaged in a longstanding struggle for their health and human rights. The successes of prison health activism and criminal justice advocacy during the mid-to-late twentieth century not only illuminate the work of today and highlight levels of progress, but also underline continuing failures. Moreover, while major advances in court decisions, legal actions, medical expertise behind bars, and prisoner-initiated advocacy

²⁰⁶ "Liman Center Panel Discusses Deaths in Custody," Yale Law School, December 10, 2021, <https://law.yale.edu/yls-today/news/liman-center-panel-discusses-deaths-custody>.

²⁰⁷ Ibid.

²⁰⁸ Kevin Bliss, "COVID-19: The Politics of Prisoner Vaccination," *Prison Legal News*, February 1, 2021, <https://www.prisonlegalnews.org/news/2021/feb/1/covid-19-politics-prisoner-vaccination/>; "Prison Staff Are Refusing Vaccines"; Timothy Gower, "Citing COVID Threat, Researchers Urge Policy Changes to Ease Prison Crowding," *Harvard Gazette* (*Harvard Gazette*, August 10, 2021), <https://news.harvard.edu/gazette/story/2021/08/crowding-in-prisons-increases-inmates-risk-for-covid-19-infections/>.

²⁰⁹ "How Politics Is Disrupting the Vaccine Rollout for Inmates," PBS (Public Broadcasting Service, March 15, 2021), <https://www.pbs.org/newshour/show/how-politics-is-disrupting-the-vaccine-rollout-for-inmates>.

accelerated the prisoners' rights movement during the mid-to-late twentieth century and has elevated prison health activism amid COVID-19, present-day challenges emphasize the work left to do and the waxing and waning of prison health activism's successes and failures in the United States overtime.

Scholars identify how the mid-to-late twentieth century prisoners' rights movement and COVID-19-related prison health work have led to concrete improvements in administrative practices, living conditions, the quality and delivery of medical services and resources, and overcrowding issues behind bars.²¹⁰ Still, data presented in this chapter showcase existing problems that require substantial reform and the critical need to improve levels of oversight, accountability, and transparency in America's jails and prisons. Furthermore, as rising dialogue about prison health, accelerated prison health activist efforts, and heightened results of reform during the mid-to-late twentieth century sparked more conversations about incarcerated minorities, the COVID-19 pandemic's exacerbation of glaring health disparities has similarly boosted discourse about racial and social inequalities behind bars among advocates.²¹¹

The prison health activist efforts of the past and of today do not deny the considerable suffering that is still imposed on incarcerated individuals in the United States. While the prison health activist successes of the past enhance current reform, they also underscore how previous triumphs of criminal justice advocacy and activism can open opportunities to unravel more successes and even more failures in the realm of prisoners' rights and prison health.

²¹⁰ Benjamin A. Barsky, Sunny Y. Kung, and Monik C. Jiménez, "COVID-19, Decarceration, And Bending The Arc Of Justice-The Promise Of Medical-Legal Partnerships," *Health Affairs*, May 28, 2021, <https://www.healthaffairs.org/doi/10.1377/hblog20210521.999861/full/>; James B. Jacobs, "The Prisoners' Rights Movement," 465-466.

²¹¹ Nikki Zinzuwadia, "COVID-19 and Incarcerated LGBTQ People," ACLU of West Virginia, August 6, 2020, <https://www.acluwb.org/en/news/covid-19-and-incarcerated-lgbtq-people>; Nikki Zinzuwadia, "Racial Disparities in Jails and Prisons: Covid-19's Impact on the Black Community," ACLU of West Virginia, June 12, 2020, <https://www.acluwb.org/en/news/racial-disparities-jails-and-prisons-covid-19s-impact-black-community>.

Through examinations of both time periods, it is evident that the American public continues to morally grapple with the position of prisoners and correctional facilities in society. A deprioritization of incarcerated people's health and well-being illustrate a constant neglect for the country's most vulnerable, underserved, and underrepresented communities, and systemic issues across government structures and institutions often inhibit goals of implementation, delivery, and access in jails and prisons.

Drawing linkages between the prisoners' rights movement of the mid-to-late twentieth century and prison health activism amid the COVID-19 pandemic also offer critical insights into how these causes operate during times of crises and social change. While prison health activist efforts during the mid-to-late twentieth century were premised on calls for equality, justice, and freedom rooted in the civil rights movement, the looming threat of the infectious spread of the novel coronavirus has enabled incarcerated individuals and criminal justice-related actors to increasingly frame prisoners' health and prison conditions as matters of general public concern.

These realities may propose the need for future inquiries into how and when prisoners' rights work and prison health activism in the United States are able to advance and strengthen their purpose. Analyses in this chapter suggest that times of crises and social change not only offer unique turning points for criminal justice advocates and activists to further their cause, but also encourage the government and authorities to act in response to public pressure. Still, these findings urge an investigation into how the nation's prison health activist efforts function in other periods and what these gaps in the research and literature may look like.

Overall, the COVID-19 pandemic's devastating impact on incarcerated individuals in the United States, and its deep influence on and advancement of prison health activism, presents opportunities for scholars and the public to track the historical changes that have taken place and

outline the actors and institutions which have been essential to the growth and development of the nation's prison health activist efforts. Examining prisoners' rights work and prison health reform amid the Civil Rights era of the mid-to-late twentieth century and the ongoing COVID-19 crisis allows for an understanding of the country's full history of prison health activism and ability to unravel the interconnected relationships between these different phenomena and time periods.

Findings in this chapter affirm that critical analyses of the mid-to-late twentieth century prisoners' rights movement highlight how earlier prisoners' rights work has informed, empowered, and accelerated current criminal justice-related activism amid COVID-19. Additionally, the linkages between these two time periods not only emphasize the ways in which minimal accountability, oversight, and reform continue to affect the nation's incarcerated population, but also how prison health activism has evolved and adapted during times of crises and social change. Scholars and the public can place greater emphasis on unraveling these histories of the prisoners' rights movement during the mid-to-late twentieth century to better make sense of the escalation of prison health activist efforts in the United States during the COVID-19 pandemic.

Conclusion: Incarcerated with COVID-19 | Reflections on Disease Spread, Experimentation, and Activism

This thesis provides recent and longer threads of historical context from the twentieth century to the present to better understand and contextualize the disproportionate impact of the COVID-19 pandemic on incarcerated individuals in the United States and the rapid and intense development of prison health activism in response. Through studying past histories of epidemics and disease outbreaks in America's correctional facilities, clinical research studies and experiments on prisoners, and prison health activist efforts during the mid-to-late twentieth century, it furthers the case that the COVID-19 crisis in the country's jails and prisons is not a new, isolated, and unanticipated phenomena. Rather, this public health disaster's catastrophic impact on the incarcerated population and acceleration of prison health activism are premised on a continual train of enduring legacies, and a doomed aftermath of deep-rooted failures, pertaining to prison health and prison health activism across the country.

This paper contends that the disproportionate impact of the ongoing COVID-19 crisis on incarcerated individuals in the United State is a direct result and exacerbation of longstanding conditions and barriers that have continually harmed and marginalized this population. Specifically, threads of context from the twentieth century to the present illustrate how past disease outbreaks in correctional facilities and unethical clinical research practices behind bars help explain and have contributed to incarcerated people's increased vulnerability to the novel coronavirus. Additionally, critical analyses of the mid-to-late twentieth century prisoners' rights movement highlight how earlier prisoners' rights work has informed, empowered, and accelerated current criminal justice-related activism amid COVID-19. They not only emphasize the ways in which minimal accountability, oversight, and reform continue to affect the nation's

incarcerated population, but also showcase how prison health activism in the United States has evolved and adapted during times of crises and social change.

Reflecting on past epidemics and disease outbreaks in America's correctional facilities, previous instances of unethical research and experimentation behind bars, and historical threads of prison health activism in the United States, this paper synthesizes three different areas pertaining to health, criminal justice, and incarceration to further insights into the COVID-19 pandemic's devastating impact on the country's incarcerated population. When analyzing these three avenues of prison health and prison health activism together, key takeaways suggest that certain correctional facilities and prison populations in the nation can be valuable areas of inquiry and investigation moving forward.

For example, at various points in United States' history, San Quentin State Prison in California has been a groundbreaking site of an influenza outbreak toward the beginning of the twentieth century, unethical experimentation on people behind bars in later decades, and a major prisoner riot and killings during the mid-to-late twentieth century. Interestingly, this facility has also been a massive COVID-19 hotspot, having one of the deadliest coronavirus outbreaks in the California prison system, facing heavy criticism for its overcrowded, unsanitary conditions, poor isolation guidelines, and inadequate coronavirus-related data reporting practices, and being subject to prisoner-initiated lawsuits and court cases.²¹²

²¹² "Judge Rules CDCR Inflicted Cruel and Unusual Punishment on San Quentin Inmates During Massive COVID Outbreak," CBS San Francisco (CBS San Francisco, November 18, 2021), <https://sanfrancisco.cbslocal.com/2021/11/18/san-quentin-covid-outbreak-cruel-unusual-punishment-cdcr-inmates/>; Richard Halstead, "New COVID-19 Outbreak Reported at San Quentin State Prison," The Mercury News (The Mercury News, August 21, 2021), <https://www.mercurynews.com/2021/08/21/new-covid-19-outbreak-reported-at-san-quentin-state-prison/>; Richard Winton, "San Quentin Prison Is Fined \$421,880 over Deadly COVID-19 Conditions; 28 Inmates and an Officer Died," Los Angeles Times (Los Angeles Times, February 5, 2021), <https://www.latimes.com/california/story/2021-02-05/san-quentin-prison-receives-mega-fine-over-deadly-conditions-from-cal-oshha>.

Perhaps these discoveries suggest that infrastructural, implementation, administrative and other disfunctions are rampant at San Quentin State Prison and past and ongoing reform efforts have failed to adequately address their unique struggles and circumstances. This facility has been ground zero for many of these problems, and it could also be ground zero for future reform and mediation efforts. Moving forward, attention can be focused on facilities such as San Quentin. These sites can be established as potential laboratories for reform and chances to address missed opportunities, calls that have been ignored, and failures of the past leading up to the devastating effects of the COVID-19 pandemic on the nation's incarcerated population.

More broadly, at certain points in United States' history, past epidemics and disease outbreaks, unethical experimentation behind bars, and threads of prison health activism occurred simultaneously or around the same time. For example, Dr. Albert Kligman's research at Holmesburg Prison in Philadelphia from the 1950s to 1970s paralleled the rise of prison health activist efforts amid and following America's civil rights movement. Dr. Leo Stanley's work at San Quentin State Prison in California corresponded with treatments surrounding the 1918 influenza pandemic. Indeed, his research projects on prisoners were masked by his position as a chief physician at the facility and his public, institutionalized reporting of the influenza pandemic behind bars. These overlaps suggest critical areas, populations, and actors for further research, investigation, and analysis in the literature pertaining to prison health and prison health activism in the United States.

This paper proposes that future academic research and scholarship pertaining to prison health and prison health activism in the United States could build upon these historical analyses of past epidemics and disease outbreaks in America's correctional facilities, unethical research behind bars, and prison health activism in the United States. Furthermore, as this thesis identified

independent patterns, trends, and themes in each of these three areas in relation to the ongoing COVID-19 pandemic, subsequent work can merge this research and spotlight certain correctional facilities or prison populations that seem to be outliers or anomalies.

Thus, by doing so, these history-driven connections and relationships could potentially reveal pivotal insights into what disfunctions pertaining to prison health and prison health activism in the United States are most prominent today, what proposals and programs have been the least or most effective in the country's jails and prisons, and what advocacy and activist strategies have been the least or most successful. They can provide critical information about what could or should change moving forward.

For example, identifying the ways in which the monumental 1976 court decision of *Estelle v. Gamble* has interacted with failures surrounding government research, intervention, and disease transmission overtime could reveal what ineffective mechanisms have persisted overtime in relation to its implementation, enforcement, and reception. Likewise, examining the actions of major criminal justice-related actors, such as the ACLU National Prison Project, and their projects throughout history pertaining to unethical research and epidemics behind bars could showcase what aspects of their efforts have been weak or strong. The unprecedented rise of mass incarceration in the 1970s and 1980s occurred alongside HIV/AIDS infections behind bars, Dr. Albert Kligman's research at Holmesburg Prison, and a rapid rise in prison health activist efforts. In what ways can these histories disclose revelations about the origins, drivers, attitudes, and perceptions surrounding mass incarceration and the rise of the carceral state in the United States? Furthermore, how can these histories be used to analyze state and federal incarceration practices and policies and policing issues today?

Overall, this thesis inspires scholars and the public to place a greater emphasis on uncovering histories of prison health and prison health activism to better make sense of incarcerated people's disproportionate medical vulnerability and the escalation of prison health activist efforts during the present-day coronavirus crisis in the United States. More broadly, it seeks to knit together existing narratives in the literature about prison health and prison health activism in the nation, establish a more comprehensive account of health, incarceration, and criminal justice in the United States, and uniquely inspire reform and knowledge construction from a historical perspective. Drawing on key methods of public history, this paper also attempts to translate and communicate discounted knowledge about incarcerated individuals, an underserved and underrepresented group, to scholars and the general public, driving readers to better understand the broader challenges and barriers toward advancing the health and human rights of prisoners in the United States and fueling calls for change.

As this thesis draws upon histories of prison health and prison health activism to better make sense of disfunctions at the intersection of criminal justice, mass incarceration, and COVID-19, it also puts forward arguments and claims that test the role of academic scholarship in advocacy and advocacy in academic scholarship. With the intentional inclusion of the voices, experiences, and perspectives of the country's incarcerated population and other criminal justice-related actors throughout history, this paper is not only a knowledge-building tool for scholars and the public, but also a demonstration of the ways in which history can offer nuanced understandings of the multifaceted connections between academic research, scholarship, advocacy, activism, and reform.

This thesis advances the arguments of political scientist Jessica F. Green, who radically proposes that building an "activist academy" is critical for effectively identifying the roots and

causes of various failures, uncovering hidden and marginalized knowledge, and promoting collective action.²¹³ Do the current COVID-19 crisis in America’s jails and prisons and the rampant rise of prison health activism amid the novel coronavirus demand advocacy and activism in the academy and a commitment to engaged scholarship?²¹⁴

With incarcerated individuals currently being infected by the novel coronavirus at a rate more than five times higher than the nation’s overall rate, and dying from COVID-19 at a rate more than twice that of the mortality rate for the general population, the United States has undoubtedly failed in its constitutional and moral obligation to provide for and protect the health and well-being of incarcerated people during the COVID-19 pandemic.²¹⁵ Today, the inability to practice recommended hygiene and social distancing, along with a shortage of resources to test and treat incarcerated individuals exposed to COVID-19, endangers the lives of many people in correctional facilities.²¹⁶ As the United States has an ever-expanding prison population of people who have not been convicted and cannot afford bail, coronavirus deaths in jails and prisons can undermine a fundamental tenet of American democracy at large: innocent until proven guilty.²¹⁷

Similarly, initiatives by prison health activists and criminal justice advocates amid the coronavirus crisis are currently coming into conflict with negative public sentiment, political backlash, and poor implementation and delivery efforts behind bars.²¹⁸ The failures of “basic

²¹³ Jessica F. Green, “Why We Need a More Activist Academy,” *The Chronicle of Higher Education*, July 23, 2020, <https://www.chronicle.com/article/why-we-need-a-more-activist-academy/>.

²¹⁴ *Ibid.*

²¹⁵ Beth Schwartzapfel, Katie Park, and Andrew Demillo, “1 In 5 Prisoners”; “Short Update: COVID-19 Death Rate.”

²¹⁶ Erin McMillen, “COVID-19 in U.S. Prisons and Jails,” *National Conference of State Legislatures* (National Conference of State Legislatures, August 5, 2020), <https://www.ncsl.org/blog/2020/08/05/covid-19-in-us-prisons-and-jails.aspx>.

²¹⁷ “Presumption of Innocence; Proof Beyond a Reasonable Doubt,” accessed April 16, 2021, <https://www.mad.uscourts.gov/resources/pattern2003/html/patt4cfo.htm>; “Pretrial Detention,” *Prison Policy Initiative* (Prison Policy Initiative), accessed March 20, 2021, https://www.prisonpolicy.org/research/pretrial_detention/.

²¹⁸ *Failing Grades: States' Responses to COVID-19 in Jails & Prisons*; Emily Widra and Dylan Hayre, “Failing Grades: States' Responses to COVID-19 in Jails & Prisons”; Deborah Becker, “Medical Experts Raise Questions

channels of communication and complaint to produce change inside America's jails and prisons," and the reduced and minimized ability of incarcerated people to engage in public discourse about their grievances continue to be paramount.²¹⁹ While the COVID-19 pandemic has sparked a notable resurgence in prison health activism and given momentum to the nation's criminal justice movement and the voices of prisoners, these new waves of reform efforts are frequently being met with various obstacles and challenges.

Thus, this thesis also sheds light on themes of health equity, social justice, civil and human rights advocacy, and inclusion in regard to the nation's incarcerated population. It comprises a more comprehensive overview and analysis of one of the country's most underserved and underrepresented populations and emphasizes the importance of elevating the voices, perspectives, and experiences of marginalized groups. As this paper strives to unravel some of the complex histories pertaining to health, criminal justice, and mass incarceration, it hopes to draw a more in-depth understanding, recognition, and awareness of the current harms and injustices being inflicted on the nation's prisoners, allowing readers to better reflect on American democratic values of justice, fairness, and equality more effectively as they relate to incarcerated individuals in the United States.²²⁰

Histories of prison health and prison health activism have repeated themselves when it comes to the COVID-19 pandemic in the United States. History delineates the dark story of risk, harm, injustice, and inequality in America's jails and prisons. It not only provides the tools to analyze and explain problems of the past, but also situates scholars and the public in a way that

About COVID-19 Data From Mass. Jails And Prisons"; "Incarcerated People and Corrections Staff Should Be Prioritized in COVID-19 Vaccination Plans"; "America Is Letting the Coronavirus Rage Through Prisons."

²¹⁹ Eve M. Hanan, "Incarcerated Activism During COVID-19," *Ohio St. J. Crim. L.* 18 (2020): 477, 513.

²²⁰ "Democratic Values - Liberty, Equality, Justice," [ushistory.org](https://www.ushistory.org) (American Government), accessed April 16, 2021, <https://www.ushistory.org/gov/1d.asp>; "Presumption of Innocence; Proof Beyond a Reasonable Doubt," accessed April 16, 2021, <https://www.mad.uscourts.gov/resources/pattern2003/html/patt4cfo.htm>.

enables them to unravel patterns that might otherwise be invisible today. At the same time, by studying the lives and struggles of others, history can build empathy and recognition of lived experiences that are not often acknowledged. How can history be aligned to the most pressing challenges of today? In what ways can studying and analyzing history contribute to realizing the potential for achieving progressive social change?

Drawing upon the words of the Honorable Sonia Sotomayor, Associate Supreme Court Justice of the United States, can a more complete understanding of the nation's histories of prison health and prison health activism moving forward give crucial background, perspectives, and lessons in order to help shift America's correctional facilities from "cautionary tales" to "models"?²²¹

The people incarcerated in jails and prisons throughout the United States are some of the country's most vulnerable, underserved, and underrepresented citizens. Currently, they face severe risks of serious illness and death from COVID-19. As of June 2021, at least 398,627 incarcerated individuals had tested positive for the virus and 2,715 people behind bars had died of coronavirus-related causes.²²² Importantly, these shocking, and undeniably growing, statistics should not come as an unprecedented surprise. Without firm efforts to make this devastating reality better, further and needless suffering will continue. Change needs to happen now and moving forward in America's correctional facilities - *before it is too late and before more lives behind bars are senselessly and ruthlessly lost in the present-day and in the future.*

²²¹ Valentine v. Collier, 590 U.S. 19A1034 (2020).

²²² "A State-by-State Look at Coronavirus in Prisons."

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