

Guidance for preventive and responsive measures to coronavirus for immigration system actors

March 18, 2020

The coronavirus, or COVID-19, has been declared by the World Health Organization to be a global pandemic.¹ As the number of people infected in the United States grows exponentially, we must focus on prevention and containment in the criminal and immigration legal systems.

Actors in the criminal and immigration legal systems have a unique and critical role to play. The importance of this role is underscored by how vast these systems are—almost 10.5 million arrests a year,² 2.2 million people in jail and prison at any given time,³ 50,000 in immigration detention,⁴ and another 4.5 million under some form of supervision on probation or parole.⁵

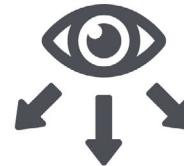
Footprint of U.S. corrections, detention, and supervision systems



10.5 million
people arrested
every year



2.3 million
people behind bars



4.5 million
people under
community supervision

The Vera Institute of Justice (Vera) and Community Oriented Correctional Health Services (COCHS) have created the guidance in this document to protect people who interact with and work in these systems. For other system guidance, see Vera's COVID-19 Response [page](#).

Immigration officials and administrators in charge of detention can:

Prioritize prevention first and foremost. To reduce contact between people, immigration officials and agency heads can:

1. Issue a *temporary order by U.S. Immigration and Customs Enforcement (ICE) halting all immigration enforcement action or raids* to decrease the number of people in detention and limit exposure. Furthermore, the mere rumor of ICE authorities at local institutions like hospitals, clinics, or health care centers may deter immigrants from seeking care.
2. Immediately release everyone from ICE custody, prioritizing anyone with vulnerabilities, including those who are 55 years and older, pregnant, have serious chronic medical conditions, or are housed in units that restrict their access to medical care.
3. Eliminate in-person ICE and immigration monitoring check-ins.
4. Stop all deportations until they can be done safely to receiving countries. Instead, focus on releasing people from detention in the United States.

Contain the possibility of spread. To protect people who are especially vulnerable to infection, immigration officials and agency heads can:

1. Promulgate a policy that instructs local ICE offices to immediately *release or set affordable bond for people coming into custody*.
2. Immediately release everyone in ICE custody, prioritizing people who are at high risk of infection or are housed in units that restrict their access to medical care.
3. Use a CDC-informed *screening tool* to assess everyone in detention to identify people with possible exposure and those at higher risk of infection.
4. Stop all deportations until they can be done safely to receiving countries. Instead, focus on releasing people from detention in the United States.

Respond swiftly to active cases while preserving due process. To help infected people and prevent transmission from or to the local community, immigration officials and agency heads can:

1. Create a *written protocol and train all staff on responding to an active case of coronavirus*. The protocol should include guidance on second-level reviews to determine if the person can be

released from immigration custody by ICE/Office of Refugee Resettlement (ORR) so that they can receive care and treatment in the community. If release is not possible, the protocol should include measures to safely transport the person to a nearby hospital and outline steps staff should take during and after transportation to prevent their own exposure.

2. Designate separate rooms or areas within detention facilities for people in immigration custody exhibiting symptoms of coronavirus. Using cells designated for solitary confinement is not acceptable. Rather, *separate spaces for immigrants with coronavirus should be prepared with access to comfortable furnishings and personal belongings, a telephone, and programming*, even if that programming is done via videoconference or technology. Children in immigration detention require ongoing care and contact visits and should not be separated from their family members. Because isolation is so developmentally harmful, it is important that the release of children and families from ICE detention and ORR custody continue to meet the requirements of the Flores settlement.
3. Ensure that people in detention are able to meaningfully contribute to their legal cases. If not immediately released, people in detention should have access to attorney visits, regular communication with their legal teams, and access to court proceedings. Such legal communications should not be counted against their quota of communication with family/other visitors.
4. Ensure that telephone or videoconferencing is not employed in a way that deprives people of the ability to understand and meaningfully confer with counsel and participate in their hearings.
5. For detention center or court personnel who test positive for coronavirus, develop a comprehensive policy that *provides paid sick leave and a plan for staffing substitutions and redeployment*.
6. Publicly report possible exposures to coronavirus without revealing private individual-level health information and make efforts to inform visitors to detention centers or courts of possible contact with a coronavirus-exposed person.

Additional resources

- [American Immigration Lawyers Association \(AILA\): Resource Center: 2019 Novel Coronavirus \(COVID-19\)](#)
- [ACLU and NWIRP Sue ICE for Release of Immigrants Especially Vulnerable to COVID-19 \(ACLU Washington, March 16, 2020\)](#)
- [National Association of Immigration Judges, American Federation of Government Employees Local 511 & AILA: Immigration Judges, Prosecutors and Attorneys Call for the Nationwide Closure of All Immigration Courts](#)

Endnotes

- 1 World Health Organization, “Rolling Updates on Coronavirus Disease (COVID-19),” updated March 11, 2020, <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>.
- 2 Vera Institute of Justice, “Every Three Seconds: Unlocking Police Data on Arrests,” January 2019 (database), <https://www.vera.org/publications/arrest-trends-every-three-seconds-landing/arrest-trends-every-three-seconds/findings>.
- 3 Wendy Sawyer and Peter Wagner, “Mass Incarceration: The Whole Pie 2019,” Prison Policy Institute, March 19, 2019, <https://www.prisonpolicy.org/reports/pie2019.html>.
- 4 The Marshall Project, “Detained: How the United States Created the Largest Immigration Detention System in the World,” September 24, 2019, <https://www.themarshallproject.org/2019/09/24/detained>.
- 5 Danielle Kaeble, *Probation and Parole in the United States*, 2016, (Washington, DC: Bureau of Justice and Statistics, 2018), <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.

For more information

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The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely on for safety and justice and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America’s increasingly diverse communities. For more information, visit www.vera.org.

Community Oriented Correctional Health Services (COCHS) works to bridge the gap between correctional and community systems. COCHS’ major emphasis has been to reframe jail health care not as a place separate from the rest of the community but as another health care delivery site within the community. COCHS provides [technical assistance](#) to assist communities in finding ways to improve health care in local correctional facilities, as well as providing expertise on [health information technology](#) to create connectivity and data sharing.