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# POLICIES & POLLING ON THE CORONAVIRUS AND AMERICA'S IMMIGRANT DETENTION CRISIS



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Today, tens of thousands of immigrants, refugees, and asylum seekers are at risk of contracting the coronavirus because of the current punitive immigration enforcement regime in the United States. Amidst the calls for “self-isolation,” thousands of immigrants are herded into detention facilities, which, for all intents and purposes, are prisons, where we know that the risk of infection is great. The solution to this crisis is simple: release people from detention and stop detaining people in the first place. But will the United States government rise to the call?

In a poll of likely voters, we found bipartisan support for this strategy:

- ▶ Fifty-nine percent of voters, including 53% of Republicans, would support an Executive Order instructing immigration enforcement to suspend new detentions of non-citizens;
- ▶ Fifty-one percent of voters support limiting the detention of newly arrived immigrants and refugees who are awaiting a hearing;
- ▶ Fifty-six percent of voters support releasing elderly people from immigration detention;

## INTRODUCTION

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There are currently tens of thousands of people incarcerated in immigrant detention facilities across the United States. The grounds for their detention is not a violation of any criminal law or statute. They are in detention facilities because they may have committed a civil violation of our immigration laws—immigration laws that everyone, on all sides of the immigration debate in the United States, agrees are severely broken and dysfunctional.

Immigrant advocates have long objected to the imprisoning of undocumented immigrants and refugees for suspected civil violations of

our immigration laws. The specter of forced separations of children from their parents into prison-like facilities, together with images of small children asleep in cold cages, have shocked the conscience of many in this nation. But the practice still persists under the orders of the Trump Administration. The Obama administration similarly came under fire for the prolonged detention of immigrant families in 2015 when a federal judge ordered his administration to release thousands of children held in prison-like, unlicensed facilities. The blame for a draconian approach to immigration enforcement goes all around.

The number of immigrant detention facilities in America has proliferated over the last four decades, with a growing number managed by for-profit private prison companies. These facilities are overcrowded, use forced detainee labor, and offer little to no access to medical care. Human rights reports have recently documented outbreaks of the mumps and chickenpox in these detention facilities, attributing the breadth and depth of the outbreaks to chronic unsanitary and overcrowded conditions.

As the coronavirus pandemic roils the United States and the world, continuing to jail immigrants in prison-like facilities is not only unnecessary, but extraordinarily dangerous. Public health officials have issued recommendations that detention facilities simply cannot meet.

Given the nature of detention, immigrant detainees are unable to “self-quarantine” or to practice any kind of the “social distancing” that officials are urging all the rest of us to do. Civilian guards and administrators must come in and out of the buildings to monitor the detainee population, exposing detained people to infection from the outside and vice versa.

Just as we have seen an unprecedented move in the criminal legal system to release people —

removing bail obstacles and granting early and compassionate release, for example — we should likewise demand that the Trump administration immediately release the tens of thousands of immigrants detained in overcrowded immigration detention facilities. Such a move would protect the individual detainees and also protect the broader American public by slowing the spread of this deadly virus.

## OUR IMMIGRATION FRAMEWORK IS A CIVIL SYSTEM

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A violation of U.S. immigration laws is a civil violation. The punishment for this violation is deportation, or removal, from the country, not imprisonment. If people arrive at our borders seeking asylum from persecution in their home countries, for instance, by law they must be granted an interview by immigration authorities to determine if they have a “credible fear” of return.

And the truth is, most asylum seekers are seeking refuge from violence. They come to the United States seeking asylum from persecution in their home countries because they are vulnerable and targeted groups: female victims of domestic violence, members of the LGBTQ community, and religious minorities. They are not, in other words, violent or dangerous individuals. Significantly, since 2016, we have also seen a change in the demographic of immigrants seeking entry to this country. Now, intact families, women and unaccompanied children have replaced men as the typical entrants.

In addition to the flight from fears of violence, the largest contributor to our undocumented population in the United States for the last several years is the category of individuals who overstay

their issued visas. This is a long-recognized problem in immigration enforcement.

The reasons for why individuals seek to enter the United States without proper documentation or to remain after proper documentation has expired are varied. For years, low-wage labor demands in this country have quietly encouraged immigrants who are willing to work under these conditions to seek work here. Since these immigrants can typically make more money here than in their home countries, their primary motivation is to support themselves and to create better opportunities for their families. People who overstay their visas believe that the U.S. promises them a better and more prosperous life.

This undocumented population pays taxes in the U.S., even if they will never be able to claim certain benefits while they reside here or when they retire.

## POLICIES & POLLING: IMMEDIATELY RELEASE PEOPLE IN RESPONSE TO THE CORONAVIRUS AND RETHINK OUR DETENTION OF IMMIGRANTS

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The Immigration & Nationality Act authorizes the president to release detained immigrants when there is a national, or global emergency, such as the coronavirus pandemic.

On March 17, 2020, immigration attorneys in New York filed more than a dozen requests with Immigration and Customs Enforcement (ICE),

demanding the immediate release of elderly and medically compromised immigrants detained at four area county jails where they are being held. Should ICE refuse, lawyers will appeal to the federal courts to release their clients. Every American should realize that the danger is not just to the immigrants detained in these facilities, but to all of us.

These requests mirror growing calls from advocates and physicians to release immigrants from detention. More than 3,000 physicians signed a letter urging ICE to release people immediately, especially adults over 60 and people with serious chronic medical conditions that put them at higher risk.

In addition to releasing people already detained, we found bipartisan support for policies that would restrict or suspend new detentions:

These people should be immediately released. Doing so is essential to both public safety and public health. But we should also see how that's true even without a global pandemic, and that such mass incarceration of immigrant populations for alleged civil violations cannot be justified in the first place.

Some argue the growing use of civil immigration detention is justified as a deterrent to future flows of immigrants to the United States. But there is absolutely no empirical evidence that such a deterrent effect is real. There is also no proof that the forced detention of vast numbers of immigrants is necessary to ensure public safety or discourage more flight from violence.

**Would you support or oppose an Executive Order from President Donald Trump instructing immigration enforcement to suspend new detentions of non-citizens for as long as there remains a state of emergency?**



**Do you support or oppose a policy that would limit or eliminate the detention of newly arrived immigrants and refugees as they await a hearing if they are deemed to not be a threat to public safety while the Covid-19 national emergency is ongoing?**



## Would you support or oppose a plan to release elderly people from immigration detention?



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## CONCLUSION

The World Health Organization officially declared COVID-19 a global pandemic on January 30, 2020. At the time of this writing, Immigration and Customs Enforcement (ICE) has not announced any concrete plans for screening, mitigating or treating the virus in any of its detention facilities. Instead of releasing nonviolent immigrants to their families or friends, ICE has ended all social visits to the facilities and the Trump Administration has made a \$249 million request to Congress as an “emergency coronavirus funding request” in order to convert four of their detention facilities into quarantine centers. No one believes that this will be enough. This is

a cruel and inhumane way to treat people who are awaiting processing of their civil claims in immigration court. Immigrants detained in unsanitary and overcrowded conditions should be released immediately with a summons to report to court in the future.

## METHODOLOGY

From March 27, 2020 to March 28, 2020, Data for Progress conducted a survey of 2022 likely voters nationally using web panel respondents. The sample was weighted to be representative of likely voters by age, gender, education, urbanicity, race, and voting history. The survey was conducted in English. The margin of error is  $\pm 2.1$  percent.

COVER PHOTO  
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