



INCARCERATION IN THE U.S. & COVID-19

THE ISSUE:

the U.S. is the world's leading incarcerator with [2.3 million people living behind bars](#) in local jails, state and federal prisons, immigration detention facilities, Indian country jails and military prisons. Of that number about 226,000 people are in federal prisons and jails. Close living conditions and an inability to effectively quarantine or avoid people who have potentially contracted COVID-19, coupled with people with pre-existing conditions identified by the World Health Organization as more susceptible to the virus, make incarcerated people particularly at risk.

States have an obligation to guarantee the right to health of all people deprived of their liberty, and to ensure that they have access to the same standards of health care as those available in wider society. The federal government of the United States must take all appropriate measures to prevent the spread of COVID-19 within prisons and jails, and in the event of its spread, ensure that people deprived of their liberty can access specialized medical care without complications. In addition, it should allocate specific funds and resources exclusively to guarantee the implementation of health and hygiene measures within detention centers.

To date, Attorney General Barr has issued two memoranda to the Bureau of Prisons (BOP) with criteria for inmate eligibility for release to serve their sentence in home confinement in light of COVID-19. The [March 26](#) and [April 3](#) memorandums suggest that the BOP should seek to prioritize release of inmates based on age and vulnerability, the security level of the institution, an inmate's conduct, [PATTERN](#) risk assessment tool score, an inmate's crime of conviction. The Prisoner Assessment Tool Targeting Estimated Risk and Needs, or simply "PATTERN" was developed in the implementation of the First Step Act signed into law in 2018. According to a [National Institute of Justice \(NIJ\) analysis of PATTERN](#), just 7 percent of Black men, in comparison to 30 percent of White men, would be classified at the minimum risk level that BOP is using to identify who is eligible for home confinement in the wake of COVID-19. With 70 percent of the BOP population [Black](#) and [Latinx](#), we are concerned that people of color will bear the brunt of COVID-19 outbreaks in federal facilities. The outbreak of COVID-19 in the U.S. has further exposed the existing health disparities in communities of color. Of states that are collecting racial demographics information in those who have tested positive for COVID-19, recovered or died, [Black people are overrepresented in those who have died of the virus](#).

TALKING POINTS:

- The right to health includes the prevention, treatment and control of epidemic, endemic, occupational and other diseases, these rights are not negated by a person's incarceration.

RECOMMENDATIONS:

- To address these challenges, the White House should:
 - ◇ Work with the Department of Justice to prevent people who are not charged with a serious crime and pose a low flight risk from custodial detention awaiting trial.
 - ◇ Work with the Federal Bureau of Prisons (BOP) to ensure that demographic data is collected and publicized in its daily reporting of COVID-19 cases within federal facilities. Specifically, the BOP should include the age, race, ethnicity, gender, gender identity, sexual orientation, and disability for incarcerated persons and staff who have contracted, recovered, and died from COVID-19. Additionally, this demographic data should also be reported for those released to home confinement or compassionate release.
 - ◇ Work with the Bureau of Prisons to expedite the release of people in federal prisons and jails at risk in the event of contagion, including older people and those suffering from underlying medical conditions or with weak immune systems.
 - ◇ Ensure federal institutions give access to basic hygienic tools of prevention and healthcare to inmates that are not able to be released.

FOR MORE INFORMATION, PLEASE CONTACT:

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