



PRESIDENTIAL  
ELECTION 2020:  
DOMESTIC THEMATIC  
ISSUE BRIEFS



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# ASYLUM, THE U.S. BORDER & COVID-19

## THE ISSUE:

Seeking asylum is a human right. But in recent years, people in search of safety at the Mexico/U.S. border, including families and children, have been punished for seeking protection. These include people fleeing levels of violence comparable to war zones in El Salvador, Honduras, and Guatemala and widespread political repression in Venezuela, Nicaragua, and Cuba – as well as a growing number of people forcibly displaced from extra-continental countries due to persecution and violence. Most recently, the Trump administration has weaponized a pandemic to bar access to asylum altogether for people seeking safety at the border.

Instead of offering refuge to people who need it, the United States has devised a series of policies to offshore them, criminalize them, and deny them protection. It has done this claiming it doesn't have adequate resources to respond, all while spending billions of dollars on border militarization.

In March 2020, under the guise of public health concerns presented by the COVID-19 pandemic, the Trump administration issued a new policy via the Centers for Disease Control and Prevention (CDC), which provides for automatic expulsions of asylum-seekers and unaccompanied children, in violation of the nation's obligations not to return people seeking safety to places they may face grave harm.

This is just the latest assault on asylum-seekers. Previously, under a regime known as “metering,” asylum-seekers forced to place their names on illegal waiting lists to apply for asylum at ports of entry. Under “Remain in Mexico,” the United States has forcibly returned close to 60,000 people to Mexico while they undergo U.S. asylum proceedings, where they are left to the mercy of cartels and criminal elements, which regularly extort, kidnap, and assault them. In 2019, the United States also strong-armed the governments of Guatemala, El Salvador, and Honduras into signing a series of unsafe third country agreements, which offload U.S. obligations to process asylum claims to third countries whose conditions are anything but safe for asylum-seekers. In July, it announced a blanket interim final rule that would wrongfully deny asylum to any national of any country who passed through a third country on the way to the United States – ignoring the grave dangers many asylum-seekers face in common countries of transit.

The U.S. has also sought to criminalize the act of seeking safety. In 2018, thousands of parents seeking asylum were criminally charged under a “zero tolerance” policy that led to the forcible separation and irreversible traumatization of families. Thousands more families were separated by US authorities both before and after that policy. In addition, thousands of asylum-seekers, including families and unaccompanied children, have been locked up in detention facilities, including growing numbers of for-profit facilities. Policies of forcible separation and detention in jail-like conditions punish people for seeking safety in the United States. Even humanitarian aid workers and lawyers working with asylum-seekers have been criminalized, targeted, surveilled, and harassed for their lifesaving work.

Finally, the administration has also sought to deny refuge to people who need it, including by radically rewriting asylum laws to prevent survivors of gender- and gang-based violence from accessing the protection they deserve and by banning people from seeking asylum based on how they entered the country.

## TALKING POINTS:

- Seeking asylum is a human right, and the protection of asylum-seekers is a U.S. value exemplified by the Statue of Liberty. By reestablishing a fair and just asylum system, the United States can reassert its leadership and restore its standing in the world.

## RECOMMENDATIONS:

- To address these challenges, the White House should:
  - ◊ Rescind disastrous policies restricting access to asylum at the border, including the CDC order curbing access to asylum, metering, Remain in Mexico, unsafe third country agreements, and bans on asylum based on manner of entry or previous transit through other countries.
  - ◊ Reform the reception and adjudication process for asylum-seekers, including by adequately training and staffing the asylum officer and immigration judge corps, eliminating the use of expedited removal and extended detention in border detention facilities, and promoting access to government-appointed legal counsel for asylum-seekers.

## ADDITIONAL RESOURCES:

- “Saving Lives is Not a Crime” (July 2019), about the targeting of lawyers and advocates at the Mexico/U.S. border ([available here](#))
- “No Home for Children” (June 2019), about unaccompanied children detained at the largest and only for-profit child detention facility in the country ([available here](#))
- “You Don’t Have Any Rights Here” (October 2018), about attacks on asylum at the Mexico/U.S. border ([available here](#))

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# CONSUMER PRIVACY

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## THE ISSUE:

Two companies control the primary channels that Americans rely on to engage with the internet. Over two-thirds of the American population now uses Facebook and Google each month.

Facebook is the United States' dominant social media company, used by 220.5M Americans each month. Facebook's influence extends beyond the Facebook platform itself, and also includes Facebook-owned entities such as WhatsApp, Messenger and Instagram. Google occupies an even larger share of the American market – 246M Americans use Google each month. Search engines are a crucial source of information; Google accounts for around 88% of US search engine use. 73% of adults in the US use YouTube, Google's video platform.

But despite the real value of the services they provide, Google and Facebook's platforms come at a systemic cost. The companies' surveillance-based business model forces people to submit to an unprecedented assault on our right to privacy in order to access these services. The companies have conditioned access to their services on "consenting" to processing and sharing of personal data for marketing and advertising, directly countering the right to decide when and how our personal data can be shared with others. In other words, we pay for the services with our intimate personal data.

These two companies collect extensive data on what we search; where we go; who we talk to; what we say; what we read; and, through the analysis made possible by computing advances, have the power to infer what our moods, ethnicities, sexual orientation, political opinions, and vulnerabilities may be. These algorithmic systems have also been shown to pose other potential threats to people's rights, including the right to freedom of expression, and the risk of algorithms exacerbating discrimination against minority populations.

## RECOMMENDATIONS:

The President should work with Congress to pass strong data protection laws with human rights at the front and center. These laws should restrict the amount and scope of personal data that can be collected, strictly limit the purpose for which companies process that data, and ensure inferences about individuals drawn from the collection and processing of personal data are protected. Companies must also be prevented from making access to their service conditional on individuals "consenting" to the collection, processing or sharing of their personal data for marketing or advertising.

## TALKING POINTS:

Over two-thirds of the American population now uses Facebook and Google each month. They have created a new public square, setting the rules of digital interaction for the vast majority of Americans, based on an invisible web of pervasive tracking and profiling.

The companies' surveillance-based business model forces people to submit to an unprecedented assault on our right to privacy. The companies require that we give them access to our personal data in order to use these services.

The scale of the data collected by Facebook and Google means that they are amassing more information on people and what we do than previously imaginable. The aggregation of so much data, combined with the use of sophisticated data analysis tools, can reveal very intimate and detailed information; in effect, the companies can know virtually everything about an individual.

But for the past two decades, technology companies have been largely left to self-regulate. There are currently almost no limitations on what kind of data these companies can collect, nor any limitations on what they can do with this data. They can even sell it to other companies.

We need strong privacy protections based on fundamental human rights, including the right to privacy.

We don't let oil companies drill for oil in the middle of national parks. We don't let car companies put cars on the road without basic safety features. We don't let pharmaceutical companies release drugs without rigorous testing. Why should tech companies get a free pass on their harmful behavior?

## ADDITIONAL RESOURCES:

- Amnesty International. 2019. Surveillance Giants: How the business model of Google and Facebook threatens human rights. <https://www.amnesty.org/en/documents/pol30/1404/2019/en/>

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# CORPORATE RESPONSIBILITY FOR HUMAN RIGHTS

## THE ISSUE:

While companies can be a force for good, many are implicated in human rights abuses around the world. Attacks on human rights defenders confronting corporate human rights abuses are on the rise: this includes activists challenging corporate practices overseas and within the United States. Activists have been killed, jailed and harassed, including through Strategic Litigation Against Public Participation (SLAPPs). The U.S. government has inadequate, inconsistent and unenforced human rights standards for corporations, including their own government contractors, from the arms industry to the private immigration detention industry, to companies that supply goods to the government. Corporate complicity in abuses also includes environmental violations such as contributing to climate change and violation of Indigenous rights such as the failure to secure free, prior, and informed consent from Indigenous communities when business projects are proposed for Indigenous lands.

According to the UN Guiding Principles on Business and Human Rights, all companies must ensure that their business activities do not harm human rights. They must undertake a due diligence process to assess and address their actual and potential human rights impacts and communicate the measures they have taken. Furthermore, governments must ensure that companies fulfill their human rights responsibilities and hold them to account when they are complicit in human rights abuses. Binding human rights standards, including mandatory human rights due diligence, should be incorporated at all levels of government policy, including those related to procurement, trade, development and international financial institutions.

Companies must also be held accountable for their failure to identify and address negative human rights impacts associated with the different aspects of their business operations, including supply chains, investments and financing. Corporations can never be above or beyond the law. Where they have violated the law, they should face civil and criminal responsibility for their actions.

## RECOMMENDATIONS:

The White House should convene an interdepartmental committee to develop a plan to implement mandatory human rights due diligence standards for business operations, investments, business relations and global supply chains at the national level. Among the issues the committee should address include:

- Introducing a corporate duty of care towards individuals and communities affected by companies' global operations;
- Tackling obstacles to access to remedy for victims of business-related human rights harm;
- Holding US institutions to account when they fail to implement their human rights responsibilities under the UN Guiding Principles on Business and Human Rights and other relevant international standards for responsible



corporate conduct;

- Ensuring that trade policies and agreements are not harmful to the enjoyment of human rights within and outside of the US;
- Ensuring the protection of human rights defenders and fostering an enabling environment for their efforts;
- Enabling a positive engagement with the process towards the establishment of a legally binding instrument on business and human rights at the United Nations.

The Executive should publicly release an annual report for public accountability on progress towards the implementation of mandatory due diligence standards.

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# DEATH PENALTY

## THE ISSUE:

The death penalty is flawed beyond repair. It violates the human right to life, fails to serve as a deterrent to crime and does not keep us safer. It is applied disproportionately to people of color and poor people, and the risk of executing an innocent person can never be eliminated.

The U.S. ratified the International Covenant on Civil and Political Rights in 1992, which recognizes that no one shall be subject to cruel, inhuman or degrading treatment or punishment, and that imprisonment's essential aim is reformation and social rehabilitation. Thus, when the state ends a life through the death penalty it deprives a person of these human rights. Amnesty International opposes the death penalty in all cases, regardless of innocence or guilt.

In 2019, 2,581 people were under sentence of death in the United States, and in the modern era of the death penalty over 1,500 people have been executed by U.S. states and the federal government. While there was an over 50% decline in the number of death sentences issued in the 2010s from the previous decade and executions remain at historically low levels, in July 2019, the DOJ announced plans to resume federal executions after a 16-year hiatus, issuing a new lethal injection protocol and five execution dates. Before the scheduled execution dates were reached, a district court issued a preliminary injunction halting the executions.

## RECOMMENDATIONS:

- The president should reinstate the moratorium on federal executions and work with the Attorney General to rescind the lethal injection protocol issued by Attorney General Barr on July 25, 2019.
- The president's FY 21 budget request should include an increase in funding for the Kirk Bloodsworth Post-Conviction Testing Program, under the Department of Justice's Office of Justice Programs budget.
- The president should appoint federal judges that respect the United States' obligation to uphold international law and standards.

## TALKING POINTS:

The U.S. is the only country left in the Americas that maintains an active death penalty. Two-thirds of US states have either abolished the death penalty outright or not carried out an execution in at least ten years.

## ADDITIONAL RESOURCES:

- Death Sentences and Executions Report (2019), available at: <https://www.amnestyusa.org/wp-content/uploads/2019/04/Death-Penalty-and-execution-2018.pdf>
- Darkness Visible in the Sunshine State: The Death Penalty in Florida (2018), available at <https://www.amnestyusa.org/wp-content/uploads/2018/08/Florida-Darkness-Visible.pdf>

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# GUN VIOLENCE

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## THE ISSUE:

The U.S. has both the highest absolute and highest per capita rates of gun ownership in the world, and guns are easily accessible by those likely to misuse them. Yet the U.S. has failed to implement even a basic system for the regulation of firearms – with no requirements for universal background checks, licensing, and training for gun purchasers or for registration of guns. Killing an average of 109 people each day, gun violence is the second leading cause of death among children and disproportionately affects communities of color. African Americans are ten times more likely to be the victims of gun homicides than white Americans, and gun violence is the leading cause of death among black men ages 15–34. Persistent firearm violence, high rates of gun ownership, and ease of access to firearms by individuals likely to misuse them demonstrate how the U.S. government is failing to meet its obligation to respect, protect and fulfill human rights pursuant to international law. Persistent gun violence in the U.S. is denying people their civil and political rights including the right to life, the right to security of person and the right to be free from discrimination.

The U.S. crisis of gun violence impacts a broad range of people domestically, including women, children, communities of color, and students. It also impacts foreign countries as the Trump administration relaxes arms export oversight to boost U.S. arms sales, making it easier for dangerous actors to access military-style weapons which are often used to commit human rights atrocities abroad.

## THE HUMAN COST:

Hadiya Pendleton was an honors student and drum majorette who had just performed at President Obama's inauguration. In January 2013, gun violence claimed her life. Two members of a gang, driving past Harsh Park, Chicago, saw a group of teenagers gathered under a canopy, sheltering from the rain, and opened fire, mistaking the teenagers for rival gang members. Hadiya was just 15 years old when she was killed.

## TALKING POINTS:

It is time for a change: the crisis of gun violence in the U.S. and failure of the U.S. government to take effective action has resulted in the death of thousands and injuries to even more. The U.S. has an obligation under international law to ensure the rights and individual safety of people living in the country.

## RECOMMENDATIONS:

- Create an Executive Task Force on Ending Gun Violence that includes representatives from impacted communities, direct service providers, health care professionals, law enforcement agencies, and researchers to investigate evidence-based gun violence prevention policies that holistically address gun violence, including school safety, gun violence in communities of color, access to mental and physical health care for gun violence survivors, requirements for universal background checks, licensing, and training for gun purchasers/registration of firearms, etc. Within its first 100 days, the Task Force should draft a report on effective policies that could be implemented to reduce gun violence.
- Issue directives to the Department of Justice, Attorney General, and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), requiring:
  - ◊ Enforcement of existing gun violence prevention measures that fall within their jurisdictions, including interstate gun trafficking
  - ◊ Adoption of policies banning 3-D printed guns, ghost guns, and other dangerous accessories that increase firearm lethality.
- Mandate that the State Department and Department of Commerce reverse Trump administration policies transferring oversight of exports of semi-automatic weapons and ammunition and adopt policies preventing the import of foreign assault weapons into the U.S.

## ADDITIONAL RESOURCES:

- In the Line of Fire: Human Rights and the U.S. Gun Violence Crisis (2018): [https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full\\_16.pdf](https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full_16.pdf)
- Scars of Survival: Gun Violence and Barriers to Reparation in the U.S. (2019): <https://www.amnestyusa.org/wp-content/uploads/2019/07/Scars-of-survival.pdf>
- Fragmented and Unequal: A Justice System that Fails Survivors of Intimate Partner Violence in Louisiana (2019): <https://www.amnestyusa.org/wp-content/uploads/2019/10/AMR5111602019ENGLISH.pdf>

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# GUN VIOLENCE & COVID-19

## THE ISSUE:

The COVID-19 pandemic is exacerbating the gun violence crisis. Persistent gun violence in the U.S. is denying people their civil and political rights including their right to be free from discrimination. The U.S. has a duty to take action to address this public and human rights crisis.

The shortcomings of a patchwork of state gun regulations are clear in this time as communities feeling the impact of gun violence are being hit the hardest by the unintended consequences of measures to halt the pandemic. The federal government must act to secure nationwide protections for everyone.

### Decreased Protections

Without adequate regulation, more guns in our communities, especially among first-time buyers, will increase the gun violence crisis. Government programs are currently closed or operating at reduced capacity and requirements for training prior to permit issuance are being waived. This results in deadly weapons in people's possession without proper training. Further, online retailers of guns and ammunition have seen a significant increase in sales. In many states, people at risk of misusing firearms can buy guns online without going through a background check.

While some states have extreme risk protection orders (ERPO) so courts can temporarily remove a weapon from someone proven to be at risk, most U.S. states have no ERPO law. Thus, concerned family members have no recourse to temporarily remove firearms from someone proven to be a risk, demonstrating the need for a national standard. In some states where courts have closed, there may be limited access to protection orders meaning emergency mechanisms aren't available. Victims of gun violence who are shot during this pandemic will require emergency care, putting additional strain on hospitals and health care providers already struggling to cope.

### Effect on Vulnerable Groups

In this time, we are seeing children, domestic violence (DV) survivors, and other groups have increased risks. With over 4.5 million U.S. children living in homes with a loaded, unlocked gun, the risk of accidental shootings has increased. Varying levels of stay-at-home guidance is resulting in individuals at risk of domestic violence being confined with their abusers. The presence of guns in the home amplifies this danger as DV is significantly more likely to result in murder than in a home with no gun. Social isolation, economic uncertainty, and generally heightened anxiety during this time, combined with easy access to guns, may also increase the already rising rate of suicides by firearm.

While hate crimes in the U.S. were already on the rise before COVID-19, xenophobic attacks have also increased in the past few months. This wave of bigotry—especially combined with the rush to purchase guns—may increase hate violence and must be closely monitored.

Disproportionately Impacted Communities: Gun homicides in the U.S. disproportionately impact communities of color, with African Americans being ten times more likely to be the victims of gun homicides than white Americans. The causes of gun violence in communities of color are multi-faceted with entrenched issues around poverty, discrimination, and economic, social and

cultural rights only amplified in this time. As firearms flood the market, many individuals for whom home is not safe are concerned about their safety, limited access to information, lack of access to personal protective equipment and physical and mental health care. These issues are also amplified amongst the undocumented community and their families who may be struggling with food insecurity, little or no access to health care, fear of ICE raids, and limited or no employment benefits.

## RECOMMENDATIONS:

- The White House should:
  - ◇ Create a national task force to recommend evidence-based gun violence prevention policies that address school safety, gun violence in communities of color, mental and health care for gun violence survivors, universal background checks, licensing, and training for purchasers and registration of firearms.
  - ◇ Require background checks for the purchase of every gun, set national standards for safe gun storage, and incentivize states to create safe gun storage and ERPO policies that give communities the tools needed to prevent gun violence.
  - ◇ Increase funding support for sexual and gender-based violence prevention programs and close the “boyfriend loophole” for abusers with guns.
  - ◇ Prohibit the possession, shipment, or transport of a firearm by an individual who has been convicted of a misdemeanor hate crime.
  - ◇ Fund critical, evidence-driven programs led by community members that are proven to be effective at preventing gun violence.

## ADDITIONAL RESOURCES:

- “In the Line of Fire: Human Rights and the US Gun Violence Crisis” (September 2018), about how all aspects of American life have been compromised in some way by the unfettered access to guns. ([available here](#))

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# IMMIGRATION DETENTION & COVID-19

## THE ISSUE:

The Trump administration is failing to adequately protect tens of thousands of asylum-seekers and immigrants detained by Immigration and Customs Enforcement (ICE), who are held in over 200 detention centers across the United States.

In recent years, the use of immigration detention has ballooned. Today, tens of thousands of immigrants, including thousands of asylum-seekers and families with children, are held in Department of Homeland Security (DHS) facilities throughout the country while they fight for their right to stay in the United States. Though immigration detention is civil, not criminal, and is meant primarily to ensure that people show up at their hearings, in practice, detention facilities look and feel like prisons and punish people for seeking protection here. Even though the government could use alternatives to detention – which better respect the right to liberty and cost pennies on the dollar compared to immigration detention – it continues to fail to do so.

COVID-19 presents a looming disaster in immigration detention facilities. Public health experts recently concluded that, unless ICE takes drastic measures to reduce the detention population, anywhere between 72 percent to nearly 100 percent of detainees could contract the virus, overwhelming local hospital capacity and endangering both detainees and the larger community.

Amnesty International has received credible, consistent, and disturbing accounts by detainees of dangerous conditions in ICE's immigration detention facilities, which needlessly put all those detained there at a higher risk of contracting COVID-19. For detainees who are older or have underlying medical conditions, such exposure is more likely to be fatal.

Detainees and their lawyers have shared harrowing details of ICE's reckless endangerment of people in its custody, in violation of Centers for Disease Control and Prevention (CDC) standards on the prevention of COVID-19 in places of detention. ICE and its detention facilities have failed to provide detainees with sufficient soap and sanitizer, or facilitate their "social distancing" to prevent the spread of COVID-19 within its crowded detention facilities. Additionally, ICE has not abided by CDC standards for quarantining and medical isolation. Nor has it halted the

## THE HUMAN COST:

Paola\* and Jose\* are fleeing horrific abuse at the hands of Paola's kidnapper and domestic abuser in Guatemala. While detained by Customs and Border Protection (CBP) at the Donna tent facility in Texas, she and her infant son were subject to a rapid deportation program, and were never provided the opportunity to seek legal assistance. When Paola asked, CBP told her "the lawyers aren't working right now because of coronavirus." With air conditioning blasting in the tent, they slept on the floor with a mat and aluminum blanket. Jose, who has respiratory issues, quickly became very ill and tested positive for the flu. After he developed breathing problems in medical isolation in another CBP facility, he was sent to a hospital for five days and put on a machine to help him breathe. Jose spent his first birthday hospitalized under CBP custody. Now detained by ICE in the Dilley family detention facility, Jose has deteriorated again, suffering a cough and restricted breathing.

\*Pseudonyms

unnecessary transfers of detainees between ICE facilities, or sufficiently provided detainees with lifesaving information on COVID-19 and necessary precautions to prevent contracting the virus.

As COVID-19 cases increase exponentially across the United States, detainees have launched hunger strikes in multiple ICE immigration detention facilities, demanding to be released. U.S. authorities are fully responsible for all individuals in the custody of ICE, and therefore may be liable for any preventable deaths under their watch.

ICE has the authority and obligation to grant humanitarian parole to immigration detainees, before any more people in its custody contract COVID-19 and suffer irreparable harm. ICE's unnecessary and punitive detention of immigrants and asylum-seekers, based solely on their immigration status, constitutes ill-treatment and discriminatory denial of the right to health, particularly for older people and other individuals at higher risk of serious harm or death if they contract the virus. The arbitrary detention of immigrants and asylum-seekers only pushes them deeper into harm's way, in unhygienic and unsafe environments, contrary to international human rights and public health guidelines.

This public health crisis presents an opportunity for the United States to reform its practice of needless, costly, and punitive immigration detention, which has caused tremendous human suffering and now poses a potential human rights crisis.

## RECOMMENDATIONS:

- The White House should:
  - ◊ The U.S. government must release all immigrants and asylum-seekers who are detained solely because of their immigration status. All families should be released together. Authorities must provide full healthcare and protection against COVID-19 for those who remain in detention. Those who are released from detention in light of the COVID-19 crisis must not automatically be re-detained once the crisis lifts.
  - ◊ Going forward, ensure that immigration detention is used in only limited, exceptional circumstances meeting human rights standards, and not as the default. Robustly expand use of community-based alternatives to detention, including the Family Case Management Program, and issue guidance clarifying that custody alternatives meet the definition of "custody" under the mandatory detention statute (INA § 236(c)).
  - ◊ Eliminate the use of for-profit immigration detention.

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# 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.

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# POLICE USE OF EXCESSIVE FORCE

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## THE ISSUE:

When police interact with the public, they have human rights protections to take into account, particularly the right to live, the right to be safe, the right to freedom from discrimination, and the right to equal protection of the law. Nearly 1,000 people are killed by police each year, according to the [Washington Post's Fatal Force database](#). In 2014, Congress passed the Death In Custody Reporting Act (DICRA) into law. The law requires that states receiving funds for local law enforcement under the Omnibus Crime Control and Safe Streets Act of 1968 as well as the heads of federal law enforcement agencies report deaths that occur in their custody to the Attorney General. In order to receive these Department of Justice (DOJ) funds, states and federal law enforcement agency heads must complete reporting on a quarterly basis. To date, the DOJ has yet to fully implement DICRA, thus some of the best data available detailing people killed by police each year comes from sources like the Washington Post.

Like other areas of the criminal justice system, people of color are overrepresented among those killed by police. While we entrust police with the authority to use serious and even lethal force to preserve life, [Amnesty International's 2015 Deadly Force](#) report surveyed police use of force laws in every state and found that all states fail to comply with international laws and standards on the use of lethal force by law enforcement. The federal standard fails to comply as well. U.S. domestic laws authorizing police use of force do not adequately reflect core principles that seek to preserve life, such as necessity, proportionality and accountability. These principles are required to meet international standards for use of force, helping to prevent excessive force that too often results in unnecessary killings at the hands of police.

## TALKING POINTS:

- Nobody really knows how many people are shot and killed by police officers because the federal government does not currently collect nor report this data. Fully implementing the Death in Custody Reporting Act would result in the annual publication of this information and give the public and lawmakers a more accurate understanding of the gravity of this devastating issue.
- African Americans are disproportionately impacted by police killings. While black people make up approximately 13% of the US population, the Washington Post's Fatal Force data found that 22% of people killed by police in 2019 were black.
- Limiting police use of force in law helps restore public trust in police particularly from communities of color overrepresented in these kinds of killings. It would provide avenues for accountability when force is found to be have been used unlawfully.
- Studies show more restrictive use of force policies reduce police killings and don't risk police officers' safety.
- In the past couple years Washington State and California have both passed laws to restrict police use of force. It's

time we address this life or death issue at all levels of government. When law enforcement is authorized to kill, your right to live shouldn't be determined by your zip code.

- All 50 states and Washington DC fail to comply with international law and standards on the use of lethal force by law enforcement officers. Of the 41 states that have laws on police use of deadly force, laws range widely in their permissiveness, from nine states that authorize police use of deadly force to suppress a riot to a mere eight that require law enforcement to give warning “when feasible” before lethal force is used.

## RECOMMENDATIONS:

- The Department of Justice should ensure the collection and publication of nationwide statistics on police shootings in accordance with the Violent Crime and Enforcement Act (1994) and fully implement the Death in Custody Reporting Act (2014). The Data collected should be disaggregated on the basis of race, gender, age, nationality, sexual orientation, gender identity, and Indigenous status. Further, the White House should call on the FBI to change reporting to their National Use of Force (by law enforcement) data collection, which is currently collected voluntarily, to make it mandatory, and ensure the FBI publishes this information at least annually.
- The Department of Justice should ensure that all federal law enforcement agencies' policies on use of force comply with international law and standards for the use of force by law enforcement, that is that law enforcement should reserve deadly force as a last resort, in order to prevent death or serious bodily injury to the officer or another person.
- The President should reinstate the Obama era executive order banning the transfer of 1033 program, or surplus military equipment, to local law enforcement.

## ADDITIONAL RESOURCES:

- Deadly Force: Police Use of Lethal Force in the United States <https://www.amnestyusa.org/reports/deadly-force-police-use-of-lethal-force-in-the-united-states/>
- Use of Force: Guidelines for Implementation of the UN Basic Principles on The Use of Force and Firearms by Law Enforcement Officials <https://www.amnestyusa.org/reports/use-of-force-guidelines-for-implementation-of-the-un-basic-principles-on-the-use-of-force-and-firearms-by-law-enforcement-officials/>

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# RAPE COMMITTED AGAINST INDIGENOUS WOMEN

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## THE ISSUE:

Rape and violence are committed against Indigenous women with almost total impunity in the United States.

Indigenous women are 2.5 times more likely to be raped than non-Indigenous women in the United States: 1 in 3 Native women will be raped during her lifetime. At least 86% of perpetrators of these crimes are non-Native men. Native women face significant barriers to securing justice following rape or sexual violence, including inadequate police response, inadequate health and forensic services, and a lack of prosecutions.

Many survivors struggle to get even the most basic post-rape care, including lacking access to a rape kit, which can provide crucial evidence for a successful prosecution if they are collected and stored properly. The quality of provision of such services to Native American and Alaska Native women varies considerably from place to place. Indian Health Center facilities are severely underfunded and lack resources and trained staff, including sexual assault nurse examiners or even rape kits themselves. Survivors may have to travel over 150 miles to reach a facility where a forensic examination can be performed. Without a rape kit, there is almost no chance a trial will move forward, meaning perpetrators enjoy total impunity and Native women receive no justice.

Indigenous women and girls are disappeared or murdered each year at alarming rates. The Center for Disease Control and Prevention has reported that murder is the third-leading cause of death among Native American and Alaska Native women. Rates of violence on reservations can be up to ten times higher than the national average. No government research has been done on the rates of violence against Indigenous women living in urban areas-despite the fact that approximately 71% of Native American and Alaska Native women lives in urban areas. According to a 2018 report by the Urban Indian Health Institute, there were 506 current cases of missing and murdered American Indian and Alaska Native women across 71 cities, though this is likely an undercount due to the lack of data collection by cities, states, and the federal government.

The U.S. federal government has failed to keep data rates of violence and disappearances of Native American and Alaska Native women and girls. States and U.S. cities are also not adequately tracking this data, sometimes lacking basic classification options in their databases for Native American and Alaska Native women. The lack of data on this issue impedes the ability of communities, tribal nations, and policy makers to make informed decisions on how best to address this violence.



## TALKING POINTS:

- Rape and violence against Native American and Alaska Native women is an epidemic in our country.
- Native American and Alaska Native women are 2.5 times more likely to be raped than non-Native women in the United States
- Every rape survivor has the right to basic post-rape care, including a rape kit. Indian Health Service should be providing that.
- Native American and Alaska Native women and girls are disappeared or murdered each year at alarming rates.
- The lack of data and resources for missing and murdered Indigenous women and girls in America is deadly. We need accurate data and more resources to address this crisis.

## RECOMMENDATIONS:

- Develop a comprehensive, cross-agency plan of action to stop violence against Indigenous women in consultation with Tribal nations and Indigenous women in particular
- Require Indian Health Service to fully implement its sexual assault protocols, provide survivors access to adequate and timely sexual assault forensic exams (rape kits), and track services provided.
- Create standardized guidelines for responding to cases of missing and murdered Native Americans and Alaska Natives, in consultations with Tribal governments, which will include guidance on inter-jurisdictional cooperation among tribes and federal, state, and local law enforcement.

## ADDITIONAL RESOURCES:

- Maze of Injustice AIUSA Report: <https://www.amnestyusa.org/reports/maze-of-injustice>
- AIUSA end rape of Native women flyer [https://www.amnestyusa.org/wp-content/uploads/2019/10/EndRape\\_JointFlyer\\_2019\\_Final.pdf](https://www.amnestyusa.org/wp-content/uploads/2019/10/EndRape_JointFlyer_2019_Final.pdf)

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# SURVEILLANCE

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## THE ISSUE:

Governments worldwide are using new technologies to suppress dissent and silence human rights defenders (HRDs). Repressive governments are purchasing cutting-edge digital surveillance tools from private companies on the open market, giving them an unprecedented ability to monitor and track HRDs at home and abroad.

Targeted digital surveillance is the practice of monitoring or spying on specific persons and/or organizations through digital technology. Targeted digital surveillance may involve compromising devices by installing malware or spyware (i.e. malicious software designed to be secretly installed on a victim's computer or phone to steal information and / or monitor communications) or compromising digital communications through other tactics, including phishing campaigns (in which attackers impersonate legitimate services in order to steal usernames and passwords).

Governments contract the services of the private digital surveillance industry. Both the governments and the companies selling it to them claim that the technology is only used for lawful purposes, such as watching and tracking terrorists and criminals. However, mounting evidence of their misuse tells a different story. Civil society organizations, including Amnesty International, have uncovered targeted campaigns against those who defend human rights with technology that is marketed by many of these surveillance companies.

The targeting of human rights defenders because of their work using digital surveillance technology is unlawful under principles laid out in international human rights law. Unlawful surveillance violates the right to privacy and impinges on the rights to freedom of expression and opinion, of association and peaceful assembly.

While little is known about the true extent of the international surveillance industry, certain companies have come to the surface due to their involvement with unlawful surveillance. NSO Group is one of these companies.

## THE HUMAN COST:

Amnesty is supporting a legal action to take the Israeli Ministry of Defence (MoD) to court, to demand that it revokes the export license of NSO Group, an Israeli company whose spyware products have been used in chilling attacks on human rights defenders around the world.

## TALKING POINTS

- Governments worldwide are increasingly using new technologies to suppress dissent and silence human rights defenders.
- The United States should become a global leader for human rights, including by setting an example for the rest of the world to follow.

## RECOMMENDATIONS

- The President elect should order the Department of State (responsible for regulating the sale of spyware to foreign governments) to institute an immediate moratorium on the sale and transfer of targeted surveillance tools until rigorous human rights safeguards are put in place to regulate such practices and guarantee that governments and non-state actors use the tools in legitimate ways. This includes both the import or targeted surveillance tools for domestic use, and also their export for use in other countries.
- Work with Congress to reform surveillance by the US government in line with human rights standards.

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# SURVEILLANCE & COVID-19

## THE ISSUE:

In the terrifying, uncertain days following 9/11, Congress authorized measures empowering the most sweeping surveillance the country had ever seen. These measures, the public was assured, were temporary and extraordinary, justified by an emergency that had engulfed the nation.

Nineteen years later, most of those measures are still firmly in place.

Earlier this month, the Department of Health and Human Services (HHS) awarded a contract for a massive new coronavirus-tracking surveillance platform to Palantir – the secretive data mining firm best known for its work with intelligence agencies and law enforcement. The Orwellian-sounding “Protect Now” platform will aggregate data from at least 187 different sources, drawing from the federal government, state and local governments, hospitals and the private sector.

This development should worry all of us. Our existing privacy laws are woefully inadequate to protect the sensitive and personal information that Palantir will analyze. Without adequate privacy protections in place, we run the risk of massive, ongoing government surveillance of all Americans in the name of public health. Without time limitations, that surveillance could become the norm, and the data collected could be used for purposes far beyond the protection of our public health.

First, consider the sheer volume of data that could end up in such a platform. Experts suggest that anywhere from [750,000 tests per week](#) to [millions of tests per day](#) may be necessary before the country can be reopened. We don’t yet know what information the Palantir platform is tracking, and whether this includes personal testing data – including health data – of any kind. Nor do we know what safeguards, if any, HHS has put place to protect our privacy. Neither HHS nor Palantir has divulged what data goes into the system, how it’s used, or with whom it can be shared. These are critical questions the public must have answered.

Second, Palantir’s involvement in the tracking and collection data is cause for grave concern: its platforms have previously facilitated grave human rights abuses. The Department of Homeland Security [used Palantir technology](#) to arrest over 400 parents, guardians, and other potential caretakers of unaccompanied children in just a month and a half, in a move to deter children from seeking safety by targeting their family members. Another Palantir technology powered the [largest immigration raid in a decade](#), in Mississippi, which led to the arrest of nearly 700 undocumented workers in a poultry plant and [tore parents from their children](#).

Third, there is every reason to suspect that sensitive data collected by Health and Human Services in this context could be coopted by law enforcement. In 2018, the Trump administration inked an [information-sharing agreement](#) between Immigration and Customs Enforcement (ICE) and an HHS sub-agency whose mandate is the protection and care of unaccompanied children. The information-sharing agreement permitted ICE to access sensitive information about potential sponsors HHS collected in the family reunification process.

Given this worrisome precedent and the entrenchment of Palantir surveillance technology in federal law enforcement efforts, it is easy to imagine how information collected by this vast new database can potentially be used for ends far beyond its purported objectives.

Widespread testing is, of course, critical: it is essential to the rights to life, health, and even the rights to livelihood and education. Yet while a coordinated, data-driven response to the coronavirus pandemic is critical, neither the government nor private companies like Palantir have carte blanche for unlawful, unnecessary or disproportionate surveillance or data collection, nor should that data be used to achieve ends that do not further public health. Any surveillance related to the pandemic must be justified by legitimate public health needs and limited to only that information necessary to respond to the pandemic. Further, such data collection must be completely transparent and should only last as long as necessary to respond to the pandemic.

## TALKING POINTS:

- The Department of Health and Human Services (HHS)'s decision to award a contract for a massive new coronavirus-tracking surveillance platform to Palantir should worry all of us. Our existing privacy laws are woefully inadequate to protect the sensitive and personal information that Palantir will analyze.
- Without adequate privacy protections in place, we run the risk of massive, ongoing government surveillance of all Americans in the name of public health. Without time limitations, that surveillance could become the norm, and the data collected could be used for purposes far beyond the protection of our public health.
- While a coordinated, data-driven response to the coronavirus pandemic is critical, neither the government nor private companies like Palantir have carte blanche for unlawful, unnecessary or disproportionate surveillance or data collection, nor should that data be used to achieve ends that do not further public health.

## RECOMMENDATIONS:

- To address these challenges, the White House should:
  - ◊ Be transparent and proactively disclose what information is collected through the Protect Now platform, how this information is used, and who has access to this information
  - ◊ Guarantee that data collected as part of the public health response associated with COVID-19 will only be used for public health purposes, and will not be shared with law enforcement, and in particular ICE
  - ◊ Protect the privacy rights of all Americans by collecting anonymized, aggregated data whenever possible. There should be a legitimate public health justification for any collection of personal health information through the Protect Now platform, and such information should be held only as long as absolutely necessary from a public health perspective.

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