



FLATTEN THE CURVE

Protecting Public Health Requires that

Jails Stop Transferring People to ICE

California Version

THOUSANDS OF TRANSFERS FROM JAILS TO ICE ARE WORSENING THE COVID-19 CRISIS

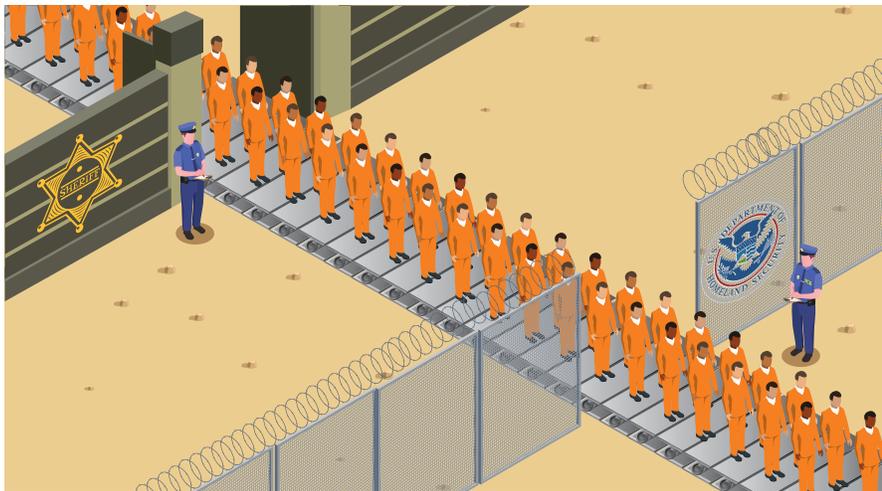
To slow the spread of the COVID-19 pandemic, some jails and prisons are reducing their populations. But for immigrants in custody, this often means transfer to ICE detention, rather than being released. Transfers not only affect individuals and their families, but contribute to the spread of COVID-19. Jails and prisons function as a major pipeline into immigration detention centers in California. ICE's abject failure to protect lives is inviting a calamity, which will not only impact detained people and guards, but the communities and health care systems surrounding these facilities. Thousands of medical professionals have already called for the release of people in ICE detention facilities.¹ California can address this crisis by temporarily suspending all transfers during the state of emergency, to ensure that we are not delivering people into dangerous conditions by populating detention centers.

Before COVID19, transfers to ICE in California were widespread and during the pandemic, rates have not abated; During peak COVID19 infections when the state was sheltering in place, jails and prisons remained the main source of replenishing detention centers. In Adelanto, for example, nearly half of the people came from jails/prisons; Additionally, about 78 people that were ordered released to shelter at home by the Governor from state prisons, were simply funneled back into ICE detention.

CALIFORNIA'S ROLE IN REPOPULATING DETENTION CENTERS

WHAT IS A TRANSFER?

A transfer is **voluntary cooperation** provided by local or state law enforcement to ICE, in order to help ICE arrest someone who is being released from local/state custody. The ICE arrest often happens while the person is being processed out, but while the person is still in a nonpublic area of the jail/prison. ICE typically requests these transfers on a form called a [detainer or ICE hold](#).



PERSONAL STORY: Mr. Choung Won Ahn, a 74-year-old immigrant with severe health problems, was transferred from a California prison (after completing his sentence) to ICE and eventually died by suicide on May 17, 2020 at the Mesa Verde Detention Facility. Advocates made urgent pleas to release Mr. Ahn and others because of the high probability they could contract COVID-19 in detention. But instead of responding to these pleas, Mr. Ahn, who had a history of mental health illness, was placed in isolation and needlessly lost his life. Suicides in ICE detention have [increased to disturbing highs under this administration](#) — and that was before COVID-19. No one should be transferred to detention during a pandemic.

WHO CAN BE TRANSFERRED?

People who would otherwise be released and allowed to go home. People who are transferred are those who are being released from state/local custody – including people whose charges have been dropped, people released on their own recognizance, people released on bail, people who have served their sentence, and people released under COVID-19 jail depopulation efforts. Instead of going home to safely shelter in place, they are taken to the COVID-19 tinderbox that is ICE detention. There is no social distancing in ICE detention, where hundreds of people may be in bunk beds only two feet apart.

Local and state actors are making a choice to spread the virus by transferring people to ICE rather than allowing them to go home and shelter in place.

ARE LOCALITIES LEGALLY OR OTHERWISE REQUIRED TO COMPLY WITH TRANSFERS?

NO. Transfers to ICE are entirely discretionary. Local and state actors choose whether to work with ICE and transfer people. Policies which restrict transfers to ICE exist and have been successfully defended in the courts.² In fact, this issue has been successfully defended by the State of California through the Ninth Circuit Court of Appeals.³ The state has the authority to halt all transfers now.

WHICH JAILS/PRISONS USUALLY TRANSFER PEOPLE TO ICE?

NEARLY ALL OF THEM. About four of California's 58 counties - Santa Clara, Contra Costa, Humboldt, and San Francisco - prohibit all transfers to ICE. The remaining counties and all of CDCR, voluntarily transfer people to ICE to some degree. This means that these facilities regularly hand people over to ICE, when these individuals would otherwise be going home to shelter in place.

JAIL TRANSFERS ARE A PRIMARY DRIVER OF ICE DETENTION

Nationally, about 70% of people arrested by ICE are transferred directly from the criminal legal system. Even at the height of the pandemic, local jails and ICE have continued transferring people, in spite of decarceration efforts and widespread awareness that detained populations are particularly vulnerable to COVID-19. In California, despite recent state and local measures to reduce the number of people who are incarcerated, the state's prison system and local sheriffs continue to willingly transfer people to ICE detention. **IN RECENT WEEKS, LAWYERS REPORT THAT A MAJOR SOURCE OF NEW ARRIVALS IN ICE DETENTION HAVE COME FROM LOCAL JAILS.**

IMMIGRATION DETENTION CONDITIONS

In the midst of the COVID-19 global pandemic, sending our community members to ICE detention can be a death sentence.

WHAT IS ICE DOING?

ICE has done only limited testing of detainees in their custody, but has [reported a 60% rate of infection among those tested](#). At least two people detained by ICE have died of COVID-19, with 943 people testing positive out of 1788 tested as of May 13. ICE has released only a few people from custody, and those have largely been achieved by hard fought court orders. Moreover, ICE has continued to transfer people in its custody across the country between different detention facilities. [Epidemiological models](#) estimate that at least 70% of people detained by ICE could contract the virus; [another model](#) warns that overall, mass incarceration could lead to an additional 100,000 COVID-19 deaths in the U.S.

WHAT IS IMMIGRATION DETENTION?⁴

- ICE systematically deprives tens of thousands of people of liberty each day, creating the *world's largest* system of immigration detention. Yet just four decades ago, this system did not exist.
- People facing deportation are often detained during their proceedings, which may last months or even years.
- Although ICE detention is supposedly non-punitive, it is in fact incarceration in jail and private prisons, many of which have abysmal medical attention care and extremely poor conditions.
- There is no right to a public defender in immigration court - around 86% of detained people nationwide must fight their cases themselves, even children.

WHO IS IN IMMIGRATION DETENTION?

- Green card holders
- Asylum-seekers
- Essential workers
- Families detained with children
- People with expired visas
- Parents of US citizen children
- Undocumented workers
- U.S. citizens have been falsely held in some cases

WHAT CONDITIONS DO PEOPLE FACE WHEN TRANSFERRED TO IMMIGRATION DETENTION UNDER COVID19?

- ICE flouts public health guidelines and common sense by further [transporting people around the country](#) by bus and plane, as well as continuing to [deport people in large group flights](#) with infected passengers.
- ICE detention facilities are infamous for poor conditions and medical neglect, sometimes resulting in deaths. Under COVID19, these conditions are exacerbated, and current detainees are in fear for their lives.
 - Crowded dorms and eating areas – most areas are communal – there is no such thing as 6 ft “social distancing” in detention
 - People are constantly cycling in and out; staff do not have protective gear
 - No access to soap and other essential hygiene needs like gloves, sanitizer, or masks
 - In one CA facility, people were denied masks unless they signed a waiver of liability
 - Documented medical neglect; medical requests ignored even for chronic illness; testing has been extremely rare
 - In December 2019, ICE refused to give flu vaccines to thousands of individuals detained in immigration centers despite calls by doctors concerned for their health

WHO IS AFFECTED BY THESE TRANSFERS?

- **All Californians are impacted.** When we unnecessarily funnel people into immigration detention – where social distancing is impossible – we needlessly expose more people to COVID19. If people get sick, local medical systems closest to the detention centers suffer.
- People transferred include those with **deep ties to their communities, including parents, grandparents, children, and extended families, people who have lived in the United States for years or decades**, who own property and business, pay rent, and people who may be categorized as essential workers.

1. [J. Edward Moreno, Over 3,000 medical professionals urge ICE to release detainees amid coronavirus pandemic, The Hill \(March 19, 2020\) \(Letter from over 3,000 medical professionals urging ICE to release individuals detained by ICE due to danger under COVID19\).](#)
2. *U.S. v. CA, 921 F.3d 865, 887 (9th Cir. 2019) (“neither an administrative warrant issued by federal authorities nor any other provision of law identified by the United States compels any action by a state or local official”) (emphasis added).*
3. *Id.*
4. Alternatives to detention do exist and have been shown to be highly effective and more cost effective. Now, more than ever, when alternatives exist, no one should be subjected to the unnecessary practice of detention.



AMERICAN CIVIL LIBERTIES UNION OF CALIFORNIA

39 Drumm Street, San Francisco, CA 94111
Phone: (415) 621-2493

1313 W. 8th St, Suite 200,
Los Angeles, CA 90017

2760 Fifth Ave, Suite 300,
San Diego, CA 92103



IMMIGRANT LEGAL RESOURCE CENTER

ILRC Main Office
1458 Howard Street
San Francisco, CA 94103
Main: (415) 255-9499
Fax: (415) 255-9792

DC Office
1015 15th Street NW, Suite 600
Washington, DC 20005



IMMIGRANT DEFENSE PROJECT

40 W 39th Street, Fifth Floor
New York, NY 10018
Phone: (212) 725-6422

San Antonio Office
500 6th Street, Suite 204
San Antonio, TX 78215

Austin Office
6633 East Hwy 290, Suite 102
Austin, TX 78723