

COVID-19 in Corrections Data Transparency Act Summary

Background

Our nation's prisons and jails have become hotspots for the rapid spread of COVID-19, placing the 2.3 million people confined in prisons and jails in the United States in immediate danger. At least 78,526 people have contracted COVID-19 in state and federal prisons.¹ Although all of the 10 largest "clusters" in the U.S. are in correctional facilities, there is a troubling lack of comprehensive and publicly-available data from the Federal Bureau of Prisons (BOP), the U.S. Marshals Service (USMS), and state and local governments about the spread and management of COVID-19 in correctional facilities.²

At the federal level, the BOP posts daily COVID-19 updates on its website but excludes important information, such as hospitalization numbers, and does not disaggregate data based on race, sex, sexual orientation and other demographic categories.³ The USMS provides no data on its website⁴ on COVID-19 cases for individuals in its custody, despite an average daily detention population of 61,489 people in 2019.⁵ On the state and local level, many state-run jails are not publicly reporting any information about COVID-19 cases, aside from a small number of large facilities. Even amongst the facilities that are reporting some information, however, the data are not standardized, and no central authority ensuring the data are easily accessible to and digestible by policymakers, public health experts, criminal justice professionals, and the public.

Last November, Congresswoman Ayanna Pressley (MA-07) introduced H.Res. 702, the People's Justice Guarantee—a bold framework to transform the American criminal legal system into one that guarantees justice for all and prioritizes the humanity, safety and dignity of all incarcerated people. Congresswoman Pressley and colleagues have called for the urgent need to decarcerate rapidly as a matter of public health since the onset of the pandemic, urging compassionate release as well as critical health and safety protocols for those behind the wall and those going through re-entry.

The lack of detailed and public data is hindering our response to the pandemic and is contributing to the rampant spread of the virus in detention settings across the country, putting incarcerated individuals, correctional staff, and the public at risk.

The COVID-19 in Corrections Data Transparency Act would provide public health experts, policymakers, and the public with critical information about COVID-19 in correctional facilities and advise decarceral efforts by:

- Requiring BOP, USMS, and state and local correctional facilities to submit the following data to the CDC on a weekly basis, and regularly publish on their websites:

¹ *A State-by-State Look at Coronavirus in Prisons*, MARSHALL PROJECT (July 30, 2020), <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

² *Coronavirus in the U.S.: Latest Map and Case Count*, NY TIMES (Aug. 5, 2020), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html#clusters>.

³ *COVID-19*, FED. BUREAU OF PRISONS (Aug. 5, 2020), <https://www.bop.gov/coronavirus/>.

⁴ *Coronavirus (COVID-19)*, U.S. MARSHALS SERV. (Aug. 5, 2020), <https://www.usmarshals.gov/coronavirus>.

⁵ *Facts and Figures 2020*, U.S. MARSHALS SERV. (Feb. 25, 2020), <https://www.usmarshals.gov/duties/factsheets/facts.pdf>.

- the numbers of incarcerated individuals and correctional staff who have been tested for COVID-19, and the type of tests performed;
 - the results of COVID-19 tests, including the numbers of confirmed negative tests, confirmed active cases, pending tests, and the average time to obtain test results;
 - the outcomes of COVID-19 cases, including the numbers of people who were hospitalized, recovered, placed in quarantine or medical isolation, released from quarantine or medical isolation, or died from COVID-19;
 - the term of imprisonment imposed on incarcerated persons who have COVID-19 and the time served on such term of imprisonment.
- Mandating that all data reported correctional facilities be disaggregated by sex, age, race, ethnicity, disability, and geography;
 - Directing the CDC to compile all data reported by BOP, USMS, and state and local correctional facilities in a monthly report to Congress; and
 - Subjecting states that fail to submit the required data to the CDC to a penalty in the form of a 10% reduction in future Byrne JAG grant funding.

ENDORSEMENTS (11)

Vera Institute, Sentencing Project, NACDL, Americans for Prosperity, National Association of Social Workers, American Public Health Association, Community Oriented Correctional Health Services, Legal Action Center, National HIRE Network, REFORM Alliance, The Justice Collaborative