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Know Your Rights during COVID-19 (Coronavirus)

This document was last updated on February 26, 2021. All information that has shifted up until that date has been edited.

Who this guide is for and how to use it:

This guide was written and compiled for community members, organizers, and activists to develop a shared understanding of our rights in uncertain times. It is focused on policing, criminalization, militarization, and other forms of state power. As we collectively navigate multiple crises including the COVID19 pandemic, now more than ever there is a deep need for centralized information. In this guide, you'll find information on rights during uprisings, quarantine, stay-at-home orders, and more. We hope this COVID Know Your Rights Guide helps you to better navigate, organize, and protest during these difficult times.

Why we wrote this guide:

While the COVID-19 pandemic necessitates public health measures to reduce the impact of the virus on our communities and health care systems, we must be vigilant to ensure that these measures are not enforced by police or through surveillance, state violence or other punitive strategies.

Historically, states of emergency, mandatory quarantines, and curfews have often been used to expand state control over political and civil freedom. Emergency powers often criminalize movement, freedom of expression, protest, and oppressed communities including: Black, Indigenous, and People of Color, queer and trans people, low- and no-income people, migrants, incarcerated and institutionalized people, disabled people, people in the sex trades, and many other communities.

We believe that we can build safer communities and respond to COVID-19 without expanding the police or medical surveillance. We believe we can ensure community and societal safety in this health emergency without stripping our already limited rights and freedoms or exacerbating societal inequities. We know that we are scared. We know that we are vulnerable. And we also must defend ourselves, our communities, and future generations from increased state surveillance and control. Now is the time to work to create desirable permanent changes to what has been the status quo. We believe that crafting this guide is a step toward this vision.

Please note that the law is rapidly evolving when it comes to public health directives, “stay at home” and mandated “social distancing” and quarantine requirements. Our intention is to update this document at least once monthly, but there will probably be some things that are wrong or out of date. We welcome your help in keeping this document accurate and up to date!

[Here](#) is an ongoing list of stay of home order violation enforcement measures thus far.

If you have corrections, additions, or recommendations for making this document more easily readable please email: COVID19KYR@gmail.com

If you would like to add city-specific information to this document including city-specific updates, law enforcement misconduct, or changes [please click here to access the public shared document](#).

This document is focused on policing, criminalization, militarization, and other forms of state power. It is not focused on the (also vital) topics of economic rights in this time.

Check out these other resources for information on policing and COVID:

- [ACLU COVID Response](#)
- [COVID19 Policing Project](#)
- [Southern Center for Human Rights](#)

Please note this guide is intended as a resource for community members and does not constitute legal advice.

This guide includes:

- [Vaccines](#)
- [Can I get arrested for not “sheltering in place”?](#)
- [What are the rules around wearing masks?](#)
- [What is a quarantine?](#)
- [What are my rights around contact tracing?](#)
- [How can I support someone arrested while I am under quarantine or sheltering in place?](#)
- [What are my rights under travel bans and closed borders?](#)
- [How will immigration detention and ICE raids be affected by COVID19?](#)
- [What has changed around my rights and organizing?](#)
- [What is a state of emergency?](#)
- [What is the role of the national guard in a state of emergency?](#)
- [When can the Department of Homeland Security enforce policing?](#)
- [Can I get arrested for conducting mutual aid?](#)
- [Show me your sources!](#)

Vaccines

It can be hard to decide whether to get the vaccine for COVID-19. If you'd like to learn more about it, you might find these resources helpful:

- [COVID and Vaccine Info Sheet from #Deeper than Water Coalition, Black and Pink Massachusetts, Families for Justice as Healing, and National Council for Incarcerated and Formerly Incarcerated Women and Girls](#)
- [Black to the Future's Action Fund's recorded webinar on COVID19 Vaccine Safety and Black Communities: Covid 19 Vaccines: Separating Fact From Fiction](#)

How can I get access to the vaccine if I want it, especially if I am incarcerated or in a shelter?

States are making their own decisions about who to prioritize for vaccines. Some states have not prioritized vaccine access for people who are incarcerated or staying in shelters, even though they are at high risk. In some states, certain incarcerated people, like nursing home residents, have been offered vaccines, while other incarcerated people, like sentenced prisoners and pre-trial detainees, have not been offered vaccines. Everyone in state custody has a constitutional right to adequate medical care. Incarcerated people who want access to the vaccine may be able to [sue](#) the government. Some people are also organizing political pressure to make the vaccine available to people in prisons and shelters. Otherwise, the best way to get access to the vaccine is to look up [information for your state](#) and sign up to get the vaccine when it becomes available to you.

Can the government force me to get the vaccine against my will?

Yes, but that doesn't necessarily mean that it *will* force you to get it against your will. Normally, we all have a constitutional right to make our own healthcare decisions. We are allowed to refuse healthcare, even if refusing it means we will die. But this constitutional right isn't absolute. If refusing a vaccine could mean that *other* people will die, the government is allowed to override our individual wishes. The Supreme Court made this rule over a hundred years ago when it came to smallpox vaccines. States have laws requiring students to get certain vaccines, and often have laws requiring healthcare workers to get vaccines as well. But while the government has this power, it may not use it. So far, those state governments that have offered the vaccine to people in prison have not made it mandatory.

Can a private employer or school fire or expel me for not getting the vaccine if I don't want it?

Yes, with some exceptions. Your employer or school can force you to get a vaccine **unless**:

- The vaccine is not available. They can't force you to get something that's impossible for you to get.
- The workplace or school is all remote, and planning to stay remote regardless of COVID-19. They can't force you to get a vaccine if it wouldn't protect other people's health at the school or workplace.
- You have a religious objection to getting the vaccine.
- You are pregnant.
- You have an allergy to an ingredient of the vaccine, or you have another medical reason you should not get the vaccine.

If your employer makes you get the vaccine, it has to pay you for the time you spend getting it.

Can I get arrested for not staying at home or following other Shelter in Place rules?

Yes. Most emergency orders that require (instead of recommending) that people do or don't do certain things (like wear a mask in public or stay at home if you have COVID19) have an enforcement mechanism giving police or public health officers the power to ticket or arrest someone for a violation.

What's the difference between a shelter-in-place or stay-at-home order, a curfew, and other restrictions on movement?

A **shelter-in-place** order requires everyone who has a home to stay inside it, with limited exceptions (going to the grocery, pharmacy, to seek medical care, to exercise or walk pets, etc.). Some states have exceptions for unhoused people and domestic violence survivors, although many urge them to take shelter wherever possible. Even when there is no formal order, some government officials have announced **restrictions on movement**. For example, in March, 2020 New York, Governor Cuomo has banned public gatherings of any size, and travel for nonessential activities, except workers providing essential services. As of February, 2021 most states have relaxed shelter in place mandates and are relying on other means of COVID spread prevention like mask mandates, testing, and vaccinations.

A **curfew** forbids people from going or staying outside during certain hours, sometimes with certain exceptions (e.g. essential service workers, people seeking medical treatment). Curfews have been much more common historically, especially when the government has responded to unrest, riots, and uprisings.

You can look up whether or not there's a stay at home, curfew, or other orders in your state [here](#).

**If my state or city has told everyone to stay at home, can I get arrested for not doing that?
If I violate a curfew?**

Yes. Every state and some cities have laws that make it a crime or violation not to obey orders from public health officials related to control of infectious disease in some circumstances. Most states have laws that make it a crime not to obey an order from a governor or mayor in a state of emergency. These laws could be used to criminalize people for not “obeying” these orders, and some states and cities may pass new laws that make these things crimes. Every state has a law that makes it a crime to disobey a lawful police order (such as an order to disperse), to engage in “disorderly conduct” that causes “public alarm,” or to interfere with an official engaged in legitimate duties. In reality, we are seeing it is likely that the usual forms of profiling on the basis of race, class, disability, gender, poverty, language, and [im]migration status will make a huge difference in who gets arrested.

There are some limits to imposing these types of rules on people, though. During uprisings in the 1960s, some cities declared states of emergencies and imposed curfews, as allowed by state law. Some courts found that it was valid to arrest and convict people for violating these curfews, and others didn’t. Total bans on going outside during certain hours were less likely to be seen as valid, compared to bans on lingering outside or bans with exceptions for people going outside for certain important reasons. Courts would also consider the nature of the emergency, and whether there were other ways to achieve the same goal without restricting people’s liberty.

If these new orders are challenged in court, courts will probably look at shelter-in-place orders in the same basic ways. They will consider whether the government body that issued the order had the power to do it. If it did, courts will probably say that these orders are okay if they are based on recommendations of public health officials during a public health crisis, especially if they create exceptions for people who need to leave their homes for important reasons and for people who have no homes. Absolute bans on anyone going outside at all for any purpose, or bans that continue beyond the public health crisis, are less likely to be considered valid.

What about other forms of criminalization for people suspected of ‘spreading’ COVID-19?

The DOJ has claimed it has the power to charge people who deliberately expose others to COVID-19 with “terrorism,” and some local prosecutors have charged people with “terrorism” or “terroristic threats” for actions like deliberately coughing in someone’s direction while claiming to have COVID-19 or licking products in a store. These tactics are disturbingly similar to ones used against people living with HIV. Unfortunately, courts are likely to uphold such charges. Additionally, local prosecutors have also mentioned lesser charges such as “assault” and “battery” for those who are suspected of intentionally spreading COVID-19.

Local prosecutors have made claims that a parent could be charged with child endangerment if the parent does things like break a stay-at-home order by hosting an in-person child's birthday party without social distancing. There have yet to be cases where prosecutors are bringing charges against people for suspected intentional or unintentional spreading COVID-19.

Can I get arrested for traveling within the U.S.?

Air Travel

Yes, if you board a flight feeling sick or knowing that you tested positive for coronavirus and were given specific instructions from health officials not to travel, you could be arrested, fined, or imprisoned. A couple took COVID tests before travelling with their child from Seattle to Kauai, Hawaii and were notified that they tested positive for COVID-19 during their layover in San Francisco. The couple boarded their flight from San Francisco to Kauai despite the notification that their tests results returned positive for coronavirus. [They were arrested](#) by officials in Kauai and Child Protective Services were notified. The CDC recommends, regardless of your COVID-19 status, to not travel during this time because it increases your risk of contracting or spreading COVID-19. If you feel sick, were exposed to COVID-19, or tested positive for the virus you should not travel to keep yourself and others safe.

If you must travel, it is best to get a viral test 1-3 days before travelling by plane. Make sure to give yourself enough time to receive the results from the viral test before you get on a flight because airlines may ask you to provide negative test results before you board your flight proving that you are healthy. If you are traveling to the U.S. from a foreign country, the CDC requires that you have documentation of your [negative COVID test](#). If your tests results come back positive for COVID-19 and you are traveling to the United States from a foreign country or doing interstate travel by airplane, it is recommended that immediately isolate for 14 days¹ and [follow public health recommendations](#). After your isolation period, you must have documentation signed by a licensed health provider or public health official stating that you recovered in order to board a plane.

Ground Travel (Bus, train, car)

There are no confirmed cases of people being arrested for traveling by public transportation or personal vehicle. On public transportation, officials will most likely not ask for documentation of a negative COVID test and it is just required that you wear a mask at all times. However, it is important to be aware of restrictions on interstate travel. In July of 2020, [a woman drove](#) from her apartment in Brooklyn to a family home in Rhode Island and the National Guard dropped by

¹ 10 days if you have a test [COVID-19: When to Quarantine | CDC](#)

her family home because her license plate was from out of state. She was not arrested but the National Guard wrote down the family members' names and dates of arrival and told them to continue isolating. Some states and municipalities are using law enforcement and implementing border checkpoints and screenings. Before traveling by car across state lines, make sure to check the [travel restrictions of the states](#) you plan to visit.

What are the rules about wearing masks and face coverings?

It depends on the jurisdiction. One clear trend is that laws requiring facial masks create confusion and often get used in a discriminatory way. Melissa Gira Grant has a short document on the [criminal history of masking](#) that is helpful. In some jurisdictions, business owners/shopkeepers are enforcing the usage of masks, while in others it is unclear who is responsible for enforcement (e.g. NY).

In the context of COVID-19, most of the pro-mask directions are not clear as to what is and is not a mask and who makes that determination. For example, we can compare New Jersey, California, and New York to see the differences in how these rules were initially issued. In New Jersey the [governor issued an order](#) which directs business owners to require customers & employees of private businesses to wear masks. In California, the Department of Public health lets you "[choose to wear](#)" a mask. In New York, the [governor's order](#) "requires" people over the age of 2 to wear masks, but doesn't identify who is enforcing the requirement. Illinois has an [order](#) effective May 1st, 2020 that requires people who can medically tolerate and is over two to wear a mask, and lists this is enforced by local and state law enforcement. The New York & California orders blur the requirement further by mandating a mask only when social distancing isn't available.

To further blur the landscape, cities like Los Angeles are "[recommending](#)" protective face coverings and allowing businesses to deny service to those without a mask. The Los Angeles model is similar to what cities in the San Francisco Bay Area are doing. These models lend themselves to discrimination by store owners/shopkeepers. As of August, 2020 many stores across states have adopted this policy, denying service to those without a mask. We need your help to monitor and share how this is being enforced so that we can update the information we are sharing.

In February 2021 President Biden issued an [executive order](#) mandating that face coverings be worn inside of all federal buildings and on various modes of public transportation, including trains, airplanes and intercity buses.

Quarantine

What does it mean to be in quarantine or isolation?

Quarantine or isolation means that you are *not allowed* to leave a certain place for a period of time (often determined by the time elapsed from potential exposure) to prevent other people from being exposed to a contagious disease. (Public health officials generally use the word quarantine if they are separating you from others because you *may have been exposed to the illness*, and isolation if they are separating you from others because *you have the illness*. We'll just call them both quarantine here.) If you are quarantined, typically you are not allowed to go outside at all, including to take a walk or run errands, during any time of the day. Typically you are also not allowed to let others into your home unless they are providing you with healthcare or quarantined along with you. That's true even if they are a close family member or someone making a delivery.

Public health officials generally have the power to order someone to be quarantined, and police have the power to enforce a quarantine. Quarantine is generally imposed if you have tested positive for an infectious disease or you have been exposed to someone who has. If it's just a recommendation, it isn't quarantine. If it's something you're imposing on yourself, it isn't quarantine.

Quarantine can look a lot of different ways. Right now, because quarantine is so widespread, most people are ordered to quarantine in their own homes. If they do not have homes, or if they are very ill, people might be quarantined in a hotel or a hospital. The typical quarantine period is around 14 days, although it may be somewhat shorter or longer depending on where you are and what your symptoms are (if any).

In most states, police can arrest you for breaking quarantine. Some private parties, like [schools](#), are also punishing people for breaking quarantine or COVID-19 related rules.

How do I know if I am quarantined?

Before COVID-19, it would generally be pretty obvious if you were quarantined. You might get an official notice. You might be held somewhere outside your home. If you were at home, a police officer might be stationed outside your door. But with COVID-19, large numbers of people are quarantined at the same time under general rules, generally in our own homes. Enforcement is very uneven--even if they wanted to place police officers outside of quarantined peoples' homes, they wouldn't have enough.

The quarantine rules vary widely from state to state, and sometimes even from county to county. In some places, you must quarantine if you have traveled outside of the country or state, if you have come in close contact with someone with COVID-19, if you have been diagnosed with COVID-19, or if you have symptoms of COVID-19. Others have more narrow rules, such as requiring quarantine only for those who have been in close contact with someone with COVID-19. They may also be changing now, as some places may add exceptions to quarantine for those who have had two doses of a COVID-19 vaccine.

The quarantine period is typically for 14 days. That also may be changing, with some places imposing somewhat shorter quarantine periods based on the latest CDC guidance. To find the rules in your area, check government websites, or use [this repository](#) of COVID-19 specific quarantine and other rules.

These general rules are not the only way you could be quarantined, though. If a doctor tells you to stay in your home, it might not be clear to you whether that means you are quarantined. You might want to ask follow-up questions to clarify as much as you can whether that's just a recommendation, or something more official. Here are some examples of questions you could ask:

- “I understand it’s important for me to stay away from others right now as much as I possibly can, and I definitely want to do that. But just so I know, is this an official isolation or quarantine? If I need to leave my home for some reason, could I get in trouble? What about if I open the door after someone knocks on it?”
- “What about if a friend or family member wanted to come over to help care for me while I’m sick? If they came in, would they then have to follow the same restrictions?”
- “What does isolation/quarantine mean? Are there any exceptions? Could you send me something in writing saying what I am and am not allowed to do?”

You can also sometimes check your state or territory’s public health department’s website to see if there are any standing quarantine or isolation orders. Many thousands of people in the U.S. have been quarantined because of COVID-19. Gender, race, class, nationality, disability, poverty, immigration status, and sexuality have played a major role in who has been quarantined for how long and under what conditions.

Are there risks to saying I am under quarantine?

Yes. A lot of people are casually referring to themselves as quarantined or isolated on social media, when what they really mean is that they have to telecommute, bars and restaurants are closed, or they have decided to stay inside to reduce their exposure. But someone may think you mean that you are actually quarantined, and call the police if they see you in a public place. [In](#)

[Illinois](#), reportedly someone stopped in a gas station convenience store to let their young child use the restroom, and one of their facebook friends recognized them and remembered they had said they were in isolation. They called the police, and the police arrested the person for being in the convenience store.

Also, there may be political consequences to using quarantine in this looser, more metaphorical way. People may start thinking that quarantine isn't so bad, and should be used more widely.

I am under quarantine, but I don't think I should be. How can I get out?

Because the quarantine periods are so short (generally around 14 days), there is very little chance that a court would hear your case before your quarantine period was over. So practically speaking, there isn't really much you can do other than wait.

That said, theoretically, you should be able to get a court to let you out of quarantine if you can show that your quarantine isn't necessary for public health, or that there are other less restrictive ways to protect public health. If you want to pursue this option, try to get a disability rights lawyer.

If you violate quarantine, the government is generally allowed to do more to force you to stay put. In most states, you can also face criminal charges if you violate quarantine. To learn more about your state's law on quarantine, check out [this chart](#).

I am under quarantine. Does the government have to get me food, healthcare, and hygiene supplies?

Yes, unless you can meet those needs yourself. Any time the government takes away a person's freedom, the government has an obligation to meet the person's basic needs (if they can't meet those needs themselves). That said, the government doesn't have to provide especially *good* food, healthcare, or hygiene supplies—just the basics. And governments haven't done a good enough job of meeting the needs of people who are quarantined in practice. If authorities aren't meeting their obligation, it can take a fair amount of time and effort to force them to do it.

Can governors quarantine people arriving from other states?

[Many states](#) have travel restrictions, often requiring those who enter the state from certain other places to quarantine for a period of time. Generally states aren't supposed to restrict travel into their states from others, including by quarantine. But given the scale of the crisis, it might be legal for states to quarantine people traveling from places with high COVID-19 rates, if the rules are reasonable and not just about interstate travel. A [court](#) struck down Kentucky's travel restrictions, because they didn't really make sense. People who had much more significant risk

of contracting COVID-19 would not be quarantined, while people with much less risk would be, just because they had crossed state lines. The same may be true for other states, but we won't know until they are tested in court.

Contact tracing?

What is contact tracing?

Some states and the federal government are ramping up efforts around contact tracing. Contact tracing involves keeping track of who tests positive for COVID-19 and everyone that person has been in contact with recently. The people the person was in contact with get quarantined. Some version of contact tracing has been used (and abused) for other illnesses for years.

There are two main ways to do contact tracing. One way is app-based. The apps use location data from people's phones to see who has been physically close to other people, and shares that information with other users or the government. There are a lot of problems with this approach. For one thing, location data on phones just isn't exact enough to be able to tell whether someone is within 6 feet of others, or whether there might be a solid barrier between them. People in apartment buildings could be tracked as being in close contact with those in apartments above, below, and beside them.

The other way to do contact tracing is through hiring people to talk to every person who tests positive, and ask them to list all of the people they have been in contact with over the last two weeks. The contact tracers then contact those people and inform them that they are quarantined. Many states, like New York, have begun hiring, training, and deploying contact tracers. Biden has said he plans to hire contact tracers in [larger numbers](#).

Do I have to share information with contact tracers?

So far, based on what we know, app-based contact tracing for COVID-19 is voluntary. If you don't want to participate, don't download the apps. And if you want to be more sure, put your phone on airplane mode when you go out.

But answering questions from human contact tracers may be required in at least some states. That's because not following an order from a public health official is typically a crime. So if the local public health officials say people need to comply with contact tracers, people could face criminal charges if they refuse. We have not yet heard reports of people getting arrested or fined for not responding to contact tracers.

But be aware that some people are pretending to be contact tracers and contacting people by phone or text. Real contact tracers should never ask you for your social security number,

passwords, or credit card number. They should be able to tell you what agency they are working for.

If I share information with contact tracers, will that information be shared with the police?

Maybe. In at least some places (such as several counties in [Tennessee](#)), contact tracing information has been shared with police. In others, like [New York](#), there are laws preventing the sharing of contact tracing information with police or immigration. The [CDC](#) says that contact tracing information ought to be kept confidential. Private third parties are often involved in managing contact tracing data. Accidental information disclosure problems could come up. If you are worried about sharing information with official contact tracers, you can still share information directly with people who should know if they may have been exposed. Community-based contact tracing, if developed, may better protect people's privacy.

If a contact tracer comes to my home, do I have to let them in?

No, not unless they have a warrant signed by a judge. Also, as of May 22, contact tracers are not going to people's homes. If someone comes to your door and claims to be a contact tracer, it might be a scam. Check if they are wearing protective equipment and can show you ID confirming their job role. And again, real contact tracers should never ask you for your social security number, passwords, or credit card number.

Contact tracers have started going to people's homes in some areas, like D.C. If a contact tracer comes to your home and you decide to talk with them, it is safest to talk to them through a closed door, or to leave your home and talk with them outside. That way, there will be less risk of COVID-19 transmission, and less risk that they will see something inside your home that could get you in trouble. Even though contact tracers are not police, they could easily call the police if they saw something illegal. Contact tracers do not have a legal right to enter your home without your permission unless they have a warrant or court order.

Incarceration

What should I do if someone I know gets arrested?

Normally, one really important thing to do when a loved one gets arrested is to show up in court for them. Right now, that may not be safe, or even possible. But there are still ways to be there for your loved one, even if you can't be there in person.

- **Physical court.** In some places, courts are holding arraignments and other hearings on criminal cases in person. However, they may have special rules, like limiting the number of people who can be in the courtroom and requiring people to wear masks. If you can go to court when your loved one's case is called, it might help, because it will show they have support in the community. It can also encourage your loved one to see a friendly face. If you go, let your loved one's lawyer know you are there, so they can let the judge know. But keep in mind that people accused of crimes don't have any choice about being in court, and many have chronic illnesses that make them especially vulnerable to COVID-19. Consider only going in person if you do not have symptoms of COVID-19 and it is very unlikely that you have recently been exposed to COVID-19.
- **Virtual court.** In other places, these hearings are being held remotely by video or audio conference. Whether you can join as a member of the public varies widely from place to place. In some places, you can call a number to listen to the audio, or physically go to a court building to watch the hearing projected on a screen. In other places, there is no way to join. Even if you can join, it will not necessarily make the same sort of difference, because your loved one and the judge may not be able to tell that you are there. [This site](#) is keeping track of court policies.
- **Call the local public defender's office** (google your city or county with "public defender" for the information), call the numbers you find, and ask who represents your loved one. Introduce yourself, and offer to help however you can. If you know that your loved one falls into a group especially vulnerable to COVID-19 (like if they have diabetes, asthma, COPD, HIV, heart disease, high blood pressure, or cancer), tell the defender that. Also tell them if there is a place they could stay where they would be physically distant from others, like their own room in an apartment. They might be able to use that information to get the person released more quickly.
- **Write a letter explaining your connection to the person, and how they are connected to the community.** Explain what support you could offer them if they were released, and why they would turn up to court. Send one copy to your loved one, and one to their defender. They can show the letter to the prosecutor and the judge if it will help them get released.

- Stay in touch as best as you can. If you can, accept collect calls. If visits aren't allowed, look into phone calls, video calls, emails, and letters. But keep in mind, everything will be listened in on, read, and recorded. Don't talk about what the person was arrested for, and don't mention anything that could get them or you in trouble.
- If bail is set for your loved one and you can't pay it, contact a [bail fund](#) to see if they can help.
- Organize. Talk to others, and think about whether you can drum up public pressure to get your loved one released.

What should I do if I am worried about my loved one being in prison while Coronavirus is spreading?

Many of us are afraid for our loved ones behind bars, and for good reason. Right now, the most important thing is to get as many people out as possible. The second most important thing is making sure that everyone in prison has access to the best possible healthcare, including voluntary access to vaccines, sanitation and hygiene supplies, and nutrition and fluids.

If your loved one gets sick, document everything, and ask them for the contact info of a friend inside. Have that friend update you on their symptoms and what's happening if your loved one becomes unable to. Call the warden or superintendent to insist that they get treatment. Reach out to others to support you and help you organize. [This guide](#) shares more ideas.

You can also take other actions to support your own loved one and others behind bars. For example, you can join any of the many phone [zaps](#), [petitions](#), and [other efforts](#) to get people released, and to get those who remain behind bars access to adequate healthcare, sanitation, and nutrition. You can also donate to funds that pay [bail or bond](#), or [supply incarcerated people with basic needs like soap](#). Whether you can donate or not, you can also connect those funds with your loved one and others who may need help.

Are prisons allowed to cancel all visitation? If there's no visitation, how can I stay in touch with my loved one?

Normally, no. Prisons cannot just cancel all visitation unless the facility is under "lockdown" for a safety reason. You have a right to some contact with your loved ones behind bars, and they have a right to some contact with the outside world. That said, prisons always have a lot of power to "keep order" on the inside, including limiting visits. Given the circumstances, it seems likely that cutting off visitation is allowed. But it should only be allowed if prisons allow contact in other ways, and if visitation is allowed again as soon as the health crisis is over. As of December 2, 2020, twelve states have started allowing prison visits again, with some more restrictions than usual. Some states have made phone and video calls easier while visits are not

allowed. Many people in other states are demanding expanded and free phone and video calls and emails with incarcerated people since visits have been cancelled. [You can send a letter supporting these demands.](#) You can look up the status of visitation within your state [here](#).

Some people are worried about even sending mail to their loved ones because of COVID-19. It [now seems](#) that COVID-19 is not being transmitted through the mail. If you are still worried, you can reduce the risk by washing your hands thoroughly before writing the letter, not touching your face while writing it, coughing away from the paper and into your elbow if needed, and using tap water or a wet sponge instead of saliva to seal it. You can then drop the letter in a mailbox on Saturday evening, which would give the virus extra time to die. Still, if you prefer, you may be able to stay in touch with phone or video calls, or by emails if your loved one is in a system that permits them through Corrlinks, J-Pay, or another program.

Travel Bans and Closed Borders

Does the president have the power to keep people from entering the country for public health reasons?

Yes, if they are not U.S. citizens. The president has massive power to prevent people who are not U.S. citizens from entering the country if he finds their entry “would be detrimental to the interests of the United States.” The Supreme Court found that Trump did not abuse that power even in the case of the 2017 Muslim ban. The president cannot ordinarily bar U.S. citizens from entering the country, though. [As of February 19, 2021, everyone, over the age of two, must present proof of a covid negative test before re-entering the United States.](#)

New law: have to show covid test results to enter US

What does it mean for borders to be “closed”?

Currently the borders of US/China, US/Canada, US/Mexico, US/Brazil, and US/most of Europe are “closed.” This means anyone traveling for “non-essential” purposes will be sent back to their country of origin. As far as we’ve heard, Biden plans on continuing restrictions in travel first put in place by Trump in March 2020. Essential purposes for travel across the Mexico-U.S. border and U.S.- Canada border are currently defined in [this document](#), and include U.S. citizens and permanent residents (green card holders) returning to the U.S., members of the U.S. military, truck drivers transporting cargo across the border, people seeking medical care, and people going to work or school.

What about the ban on immigration to the U.S. in April, 2020?

In January 2021, through an executive order, Biden reversed Trump’s travel ban. Trump’s ban on travel affected countries in northern African and the Middle East: Iran, Iraq, Syria, Libya, Yemen, Somalia, and Sudan.

On April 22 Trump proclaimed an immigration pause effective for at least 60 days. This new order restricts people's access to green cards - which provide legal permanent residence and the ability to “legally” work in the United States. Trump passed this order allegedly for public health purposes - to prevent the spread of covid, but also to “protect American jobs.” The order does not prevent people from getting non-immigrant visas that are granted on a temporary basis and do not confer permanent residency or the promise of citizenship - including necessary agricultural workers, healthcare workers and others. Since all citizenship and immigration field offices are already closed in the US, it seems this order is more of a political strategy to fuel fear mongering and xenophobia among Trump’s base. Those who are restricted from accessing green cards for 60 days are predominantly seeking family or employment sponsorships and have likely been waiting for years already. Earlier drafts of the executive order would have also suspended the issuance of all new visas. But the New York Times reported that Trump ultimately decided against it after pushback from business groups that rely on foreign workers, particularly in the tech sector.

ICE Raids and ICE Detention

Is it legal for ICE to detain people seeking healthcare in hospitals?

Yes, and they have gone into hospitals to arrest people on a number of occasions, but they more commonly wait outside for them to come out. On March 18, 2020 ICE put out a statement claiming they will only target immigrants who pose a public safety risk and who have committed serious crimes for raids and arrests, and they would not carry out enforcement actions at health care facilities during the COVID-19 emergency. Health care facilities are treated as “sensitive locations” by ICE, meaning as a general practice, they do not regularly arrest people at these locations.

Also, while it may be legal for ICE to go into some areas of healthcare facilities to detain people, it is not necessarily legal for hospital staff or local law enforcement to cooperate with them. Hospital staff are bound by rules of confidentiality, and by their oath to cause no harm to their patients. Depending on where you live, there may be local or state law limiting the ways local law enforcement can cooperate with ICE.

Will going to the hospital to get tested or treatment for COVID-19 mean I won’t be able to get immigration status under the “public charge” rule?

Some immigrants are rightfully concerned about the “public charge rule,” which can interfere with eligibility for a green card based on the likelihood that the applicant will need government benefits. But US CIS (Citizenship and Immigration Services) has announced that seeking COVID-19 related “treatment or preventive services will not negatively affect any alien as part of a future Public Charge analysis.” That’s true even if Medicaid or another government program pays for the services.

Can ICE pretend to be doctors to get inside someone’s home to detain them?

Under the law, ICE should get a judicial warrant before forcing entry into anyone’s home. But ICE rarely has such a warrant and (like other law enforcement agencies) is legally permitted to lie. They are trained to lie, and routinely do lie. There are very few limits to what ICE can’t say, but they cannot suggest that the person needs to let them in because they are in immediate danger (for example, pretending there is a gas leak). They are not allowed to use the name of another agency without getting permission from them or informing them beforehand. Learn more about how ICE lies [here](#).

If someone comes to your door claiming to be from the Centers for Disease Control (CDC), they are very likely lying. Ask them to slide their CDC identification under the door; it is very unlikely they will because CDC officials are not currently visiting individuals’ homes.

If someone comes to your door claiming to be a doctor and you weren’t expecting them, they may be lying too. Ask to see ID. Call whatever agency they claim to be from, using a number you find online rather than a number they give you. If you think they’re from ICE, don’t let them in, and don’t tell them anything.

Is it legal for ICE to move immigrants to places where they are more likely to get sick in the middle of a pandemic?

Maybe. ICE has a lot of power to move detained immigrants wherever it wishes. That said, the government is not supposed to deliberately put people at “substantial risk” of “serious harm,” so there are some limits on what it should be able to do. Right now, there are several lawsuits saying that ICE has to release all detainees who have medical conditions that make them particularly vulnerable to COVID-19. The agency said it will only target immigrants at this time who pose a public safety risk and who have committed serious crimes. They have also stated that they would not carry out enforcement at health care facilities during the COVID-19 emergency. But ICE has still recently moved immigrant children into an area with many more COVID-19 cases.

We should maintain public pressure to get ICE to release people, and stop moving detained people into higher-risk areas.

What can I do to help my loved ones in ICE detention?

ICE suspended family visits March 13, 2020 due to coronavirus concerns. Lawyers say legal visitors have been asked to fill out a questionnaire as well as have their temperature taken before visiting facilities.

As with prisons and jails, you can support your loved ones by calling, writing letters, paying bond fees if you can, or researching existing bond funds. There are a lot of petitions circulating to free immigrant detainees: sign them, and share them with folks that you know. Here's an example.

Organizing

Is it legal for the government to shut down protests as a part of shutting down public gatherings?

Many states have either stated publicly or passed Executive Orders declaring that people may not have “non-essential” gatherings, gather in groups, and in most states people must maintain six feet of distance between them. You can look up information on COVID-19 specific Executive Orders here and read summaries here. In these cases, it's most likely legal for the government to shut down protests deeming them “non-essential”, or shut them down if they exceed the amount of people that they've named (more than ten in some states), or if people are not maintaining six feet of distance between them. **Nevertheless, a recent supreme court decision held that State governors could not restrict the number of people attending a religious gathering because it is in violation of the Free Exercise Clause of the 1st Amendment. This decision is clearly favoring certain gatherings over others, and in opposition with prioritizing public health and safety.**

But it is definitely not legal to shut down a protest while allowing other gatherings, or to shut down one protest while letting another one on a different topic happen. So for example, it is against the law to allow white people to protest mask requirements orders while brutally suppressing protests by Black people about police-perpetrated murder. It is also against the law to allow dozens of people to shop in a retail store at one time but prevent the same number of people from picketing outside the store. But that is exactly the type of thing that is happening.

It is also definitely not legal to beat up or kill protesters. Even when it is legal to arrest protesters, police are not allowed to use any more force than “necessary.” But again, we are seeing police use extreme violent tactics toward Black protestors.) It is also definitely not legal to keep

suppressing protest even one minute past when public health officials say it is necessary. But exactly when that time is may not be clear.

In counties and states where there aren't laws limiting or banning gatherings, there are still a variety of ways in which people may be criminalized for protesting, especially in this time of fear and rapidly changing law. Police could use existing laws against endangering people's health, creating a "nuisance," "disorderly conduct," "loitering," "unlawful public gatherings," "obstruction of government administration," "trespassing," etc. That said, some of these risks are always present during protests, and sometimes in-person protests are worth it. Try to read the text of actual executive orders or public health orders to gauge what tactics might be least risky, and stay in touch with other organizers to find out what current conditions are. Can you have a picket where everyone stands at least six feet apart? Can you do a car protest where there is just one person per car? Can you have a vigil broken into several small groups, none of them larger than ten people? And remember that there are many ways to do direct action online or through one-on-one interactions. For a very long time, disabled and chronically ill people have been pointing out the importance of having multiple ways to participate in organizing.

With so much more organizing going digital, what should we do to protect our information from law enforcement?

It's worth thinking about what sort of information needs to be protected from the government. For example, lots of mutual aid projects can be shared on Facebook. But when the projects involve potentially illegal actions, like trading prescription medications, talking about them publicly could put you and others in the project at risk. Exercise caution when doing mutual aid using proprietary tools like Google and Slack both to protect information from law enforcement and from third parties. Private, encrypted communication methods (like Signal) and in-person hyper-local organizing can be used for planning direct actions you think might attract unwanted government attention. Many resources are out there for how to improve digital security.

What should we be demanding from the government right now?

- Any emergency powers must be used only to support public health, and must be given up as soon as the crisis has passed. These powers may be best used to get needed supplies to healthcare facilities; make sure everyone has paid sick and family leave and medical care; release people from incarceration; provide safe, permanent, non-restrictive housing to houseless people; and make sure no working class or poor person loses any income from the crisis.
- Emergency powers must NOT be used to carry out a racist, anti-immigrant agenda. Asylum must not be restricted, and movement of people across borders must be permitted.

- All contact tracing should be voluntary. There are many reasons people may not want to share information about everyone they have been in contact with in the last few weeks. Indirectly, it could disclose information about people's religion, sexual orientation, trans identity, disabilities, chronic illnesses, activism, and politics. It could even implicate people in crimes they did not commit. And people may not want to list all their contacts if they know those contacts will be quarantined and may lose their jobs.
- Information from contact tracing must be kept private and secure, and must never be shared with law enforcement (including immigration). When people are notified that they may have been exposed to COVID-19, they should only receive the information they need, and they should not be told the identity of the person with COVID-19 they may have been in contact with. Manual contact tracing is probably better than digital contact tracing, because the information is more likely to be accurate.
- Quarantines should not be enforced through criminalization. Employers must not be allowed to fire people because they are quarantined, and the government must provide for the healthcare and basic necessities of anyone who is quarantined.
- Vaccines should be offered for free to everyone. Incarcerated people and people in shelters and nursing homes should have early access to vaccines, especially if their age or chronic illnesses put them in higher risk categories. But no one should be forced to get a vaccine against their will.
- No use of police or other forms of law enforcement to enforce public health orders.
- Free Them All! Everyone in any form of detention should be released right now. This intervention alone could save thousands, even millions of lives.
- No new arrests. Freeing people from detention won't help if we keep locking up more people.
- If any facility ends visitation, it must expand capacity for phone and video calls and emails at no cost to incarcerated people. Calls and emails should be free, and people should be allowed to make them at any time. Many families are experiencing financial difficulties because of loss of work and income—they should not also have to give up contact with their loved ones inside, who are also at higher risk of infection because they live in close quarters with many other people.
- Anyone in any institutional setting must be provided with plenty of free hygiene and sanitation supplies and excellent health care. Incarcerated workers should receive at least minimum wage. Support and protective gear should be provided for workers doing cleaning and maintenance, delivery, health care, operations etc. Sanitation protocols should be open to the public upon request.
- Foreign policy that hurts public health for people outside of the U.S. should also be addressed, including an immediate end to sanctions on Iran and Yemen and to blockades in Gaza, so people in Iran, Yemen, and Palestine can access healthcare.

- Transparency. All policies relating to COVID-19, including those affecting incarcerated people, must be shared publicly. Information government officials share with the public should be accurate, clear, and complete. Oversight and checks and balances of funds created to insure no fraud or discrimination and protect against kickbacks.
- Non-discriminatory access to healthcare. So far, both in the U.S. and in other countries, health care systems have chosen to let disabled people die so they could prioritize COVID-19 treatment for abled people. That is genocide. Healthcare must never be rationed in a way that prioritizes treatment for the most privileged.
- Increasing access to COVID19 information to marginalized communities. Our knowledge of COVID-19 is changing rapidly and there must be efforts to make any new information about the pandemic accessible to traditionally marginalized communities (queer communities, non-English speaking communities, low-literacy communities, those without internet access, Deaf and disabled communities, incarcerated communities etc). We should demand that this information is culturally appropriate and community vetted in order to increase access.
- Protections for people losing their jobs if they haven't received the vaccine.

What shouldn't we be demanding from the government right now?

- *Quarantine orders.* While COVID-19 is very serious, quarantine is a dangerous intervention that has often been abused. For example, it has been used in U.S. history to quarantine Chinese people because of ungrounded fears about plague, and to quarantine working-class women with sexually transmitted infections who were seen as promiscuous or sex workers. Also, a very large number of people have or have been exposed to COVID-19, often without even knowing it—quarantining everyone isn't practical, and it's likely that people from marginalized groups will be targeted for the most severe forms of control. A better approach is doing absolutely everything we can to make sure that everyone gets healthcare who needs and wants it, that the most vulnerable have access to the vaccine if they want it, that everyone has the resources to take time off work and stay home, that everyone *has* a safe and stable home, that no one is incarcerated, that everyone has access to the materials they need for their health (i.e. face coverings, masks, and cleaning supplies), and that everyone knows the latest recommendations on limiting transmission (physical distance, hand washing, etc.)
- *Overly restrictive, "stay at home," or curfew policies (or permits, passes, or identity checks to go outside or leave or enter an area).* Stay at home policies must be no more restrictive than necessary, must not extend any longer than necessary, and must not be enforced through criminalization. Exceptions to stay at home orders also should never depend on having a pass, permit, or ID. Immigrants, youth, trans people, houseless people, and survivors of intimate partner violence are some of the people least likely to

be able to get permits or passes, or to show ID. But they have at least as much need to go to the doctor, get food, and care for others as anyone else.

- *Temperature checks to access public spaces.* Any sort of medical tests or illness or disability-related regulation of access to public space set an extremely dangerous precedent. A century ago, many cities had laws prohibiting people with disabilities from going out in public. Many public health screenings were put in place as a part of eugenic programs to wipe out anyone seen as “undesirable.” We should not be trying to bring back or worsen these sorts of policies.
- *Curfew.* Curfews have historically been used to stifle political dissent and target communities of color. They also would not help—they would just cause more crowding in hours outside the curfew.
- *Stamps (physical or virtual) or other markers on people who have COVID-19, who have been vaccinated for COVID-19, or have been exposed to COVID-19.* These measures are stigmatizing and tend to be used to target people for quarantine, violence, criminalization, and other extreme measures.
- *Enforcement of public health recommendations through police or military action.* While limiting our physical contact with others and vaccination may make a ton of sense right now, expanding surveillance, policing, criminalization, incarceration, or militarization would be a terrible mistake, especially for communities of color, people with disabilities, people living with HIV, trans people, low-income people, drug users, sex workers and other people working in informal and criminalized economies, survivors of violence, and immigrants. We can’t trust the police or military to take care of us: we need to take care of each other.
- *Martial law, indefinite detention, or suspension of habeas corpus (a person cannot be detained indefinitely without access to a trial).* These interventions would not address COVID-19 in any way, except maybe to make it worse. They would drastically increase executive and military power, and strip us of crucial rights.

What should we watch out for down the line?

- *Martial law and suspension of civil liberties.* If we see the government moving toward this, we need to organize immediately to stop it.
- *Firing of or criminalization of people who aren’t vaccinated.* It’s possible that as vaccines become more accessible, that government entities or employers will desire to place financial or legal constraints against people who chose to not get vaccinated. We believe in the public health benefits, and access to body autonomy and think that there should be support for people who want to access vaccines but not penalties for people who choose against them.

- *Food, healthcare, and other supply rationing.* Preventing hoarding and price gouging can be important, but we need to be vigilant against unnecessary restrictions. We also need to be vigilant against discriminatory delivery of health care, and resist the ways some lives will be seen as more worthy of saving than others. Already in COVID-19, as in the past, some have decided that disabled people, elderly people, and other marginalized populations are disposable and should be left to die to save resources for abled people, younger people, and other privileged groups. Our primary way of rationing healthcare in the United States is typically based on wealth and class, combined with racism, settler colonialism, xenophobia, ableism, ageism, and sexism. We need to make sure that *everyone* has access to what they need to survive.
- *Mass arrests, or people just being disappeared.* In times of emergency, it is easier for power-hungry people to take advantage of the situation to make those they perceive as undesirable disappear. People are less likely to question or even notice it. That's because we may be scared enough to accept extreme measures, we know many people are hospitalized or have died, and our social networks have changed drastically. We need to do all we can to look out for each other.
- *Normalization of emergency powers.* While not all risks to public health are equal, there are always risks to public health. We must reject a permanent state of emergency. We must keep viewing the extraordinary measures currently being taken as temporary, and insist they end as soon as possible.

State of Emergency

What is a state of emergency?

A state of emergency boosts the government's power and allows the government to carry out activities and implement policies that it would normally not be allowed to do.

Presidential Emergency Powers

What is a national state of emergency?

Presidents can declare a state of emergency in response to economic, national security, natural disaster, or health crises. Depending on the nature of the emergency and any limits set by Congress, a state of emergency may give the President broader powers than usual to address the emergency. We do not automatically lose our rights in a state of emergency. Still, there are very real risks of overreach.

A declared public health emergency gives the Department of Health and Human Services the power to make grants, authorize the use of a treatment that the FDA has not approved, and investigate the cause, treatment, or prevention of the illness causing the emergency. The government also gets the power to override certain laws. For example, they can say that doctors don't have to keep patient information confidential. They can also say that emergency rooms can transfer patients even if they are not in stable condition. Currently, medical providers can disclose someone's diagnosis with COVID19 without their consent to law enforcement and first responders.

States of emergency are not new: everyone who has lived in the U.S. since 1976, when Congress enacted the National Emergencies Act, has experienced at least one state of emergency at any given time (the Brennan Center has compiled [a list](#)). Presidents have declared states of emergency related to terrorism, weapons of mass destruction, international drug trade, and developments in other countries. The U.S. Congress can choose to give or take away the president's emergency powers. Additionally, a President's exercise of emergency powers can be challenged in court, all the way up to the Supreme Court if necessary. If the court sees the use of emergency powers as unrelated to the emergency or unauthorized by a statute, it should say the president can't use them.

When does a federal state of emergency end?

A state of emergency ends whenever Congress passes a joint resolution ending it, or the president declares it is over. It will also end automatically in a year, unless the president declares the emergency is still happening. In practice, emergencies tend to last many years, because presidents say that the emergency is continuing, and Congress does not interfere.

State-Level Emergency Powers

When can a governor declare a state of emergency at the state level?

Although each state differs, a governor may declare an emergency by issuing an executive order or other declaration to that effect. The declaration addresses the effective dates and duration of the emergency, geographic areas of the state covered, conditions giving rise to the emergency, and the agency or agencies leading the response activities. The declaration may also identify state rules and regulations that are waived or suspended during the emergency. [Here](#) is a list of each state with their emergency order status.

What rights are lost or changed in a state of emergency at the state level?

Each state has different powers in a state of emergency, but they generally include the ability to impose curfews, close schools, order people and traffic off the street (generally enforced through policing), mandate quarantines, ration goods, declare price controls, suspend alcohol consumption, and limit public gatherings.

What is the role of the national guard in a state of emergency?

Can the national guard arrest or attack people inside the U.S. in times of emergency?

Yes, it is possible. As of February 2021, about [28,000 National Guard members](#) are aiding in the coronavirus response in all 50 states, as well as in Washington, D.C. and three territories. The state and federal government generally claimed that the role of the national guard was to provide food and medical care and supplies, as well as shut down places of public gathering. However, governors have wide leeway to use their state or territory's guard members as they see fit, and they could be used to assist with policing, enforcing quarantines, or enforcing other emergency mandates, as they were in New Orleans following Hurricane Katrina. As some states move into a second or third wave it is possible that governors will call on the national guard again.

When Can the Department of Homeland Security (DHS) enforce policing?

Whenever the federal government decides it's necessary to protect federal property and arrest criminals who damage federal property or attack federal officers." The Department of Homeland Security is the U.S. federal executive department responsible for "public security." DHS broadly oversees "anti-terrorism, border security, immigration and customs, cyber security and disaster prevention and management." [Article 40](#) of the U.S. Code grants law enforcement authority to the secretary of DHS for the protection of US Property. Since DHS was created in 2003, there is very little precedent for either invoking it domestically or challenging the limits of its agents' federal policing power. As we have been seeing in Portland, Louisville, and other cities, DHS and other federal law enforcement agents have been appearing at protests in unmarked vehicles and "snatching" people off the streets.

Mutual Aid

Can I get arrested for providing mutual aid for others that involves going outside and having direct contact with others, like bringing people groceries?

Possibly, if your state has a stay at home order in place. Each state has exemptions to their stay at home orders for "essential services." Most include caring for one's self and loved ones in this category. Some states specify caring for oneself and "family members." New York State issued its definition of essential [services](#) to include food banks and "human service providers" who are providing state run or funded volunteer services. Additionally businesses and organizations can petition to be an essential service in NY [here](#). Informal mutual aid networks do not automatically qualify.

Activists in Durham N.C. successfully petitioned their mayor to include mutual aid in the list of essential, exempt volunteer activities ([see, c \(6\)](#)) and, here is a [sample petition](#) to get this

enforced in your town. Some cities, like the District of Colombia, are actually referring food inquiries to mutual aid groups.

It is, of course, unclear, how any of this will be enforced. Like all criminalization, violations of these orders (Even while providing care for others) will be disproportionately enforced based on race, class, immigration status, ability, sexuality, gender identity, immigration status, etc. There is also a question of how one will prove they are providing mutual aid. For now, it might be helpful to characterize your mutual aid work as “non-commercial food distribution” and “feeding hungry persons” if you interact with law enforcement.

Can I get arrested for providing mutual aid in other ways?

It depends. Many types of mutual aid are not illegal and do not carry any special risk of arrest. Activities in this category include texting people to check in, sending them money on venmo, or talking them through how to apply for unemployment. Some types of mutual aid are illegal and could result in arrest, although whether you would actually be arrested probably depends partly on who you are, how public you were about what you did, and whether anyone complains about it (and if so, who they are).

- If you accept donations personally, even just to redistribute the money to others, you may have to pay taxes on that money. If you deliberately don't pay taxes on money you receive through a mutual aid fund, it might be a crime.
- If you are not a lawyer, but give someone advice about what they should do in their situation based on the law, you might be practicing law without a license. Practicing law without a license is generally illegal. That can be true even if you say that you are not a lawyer and are not giving legal advice.
- Giving or receiving prescription medications without a prescription is generally illegal. That's true even if no money changes hands and no one gets hurt.

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