

STATEMENT OF SENATOR PATRICK LEAHY (D-VT.)
SENATE JUDICIARY COMMITTEE HEARING
EXAMINING BEST PRACTICES FOR INCARCERATION AND DETENTION DURING COVID-19
JUNE 2, 2020

I am glad to see the Senate Judiciary Committee finally holding an oversight hearing related to the pandemic engulfing our nation and the world. For weeks, this Committee squandered precious time on unrelated subjects and hearings – including one for a judicial seat that isn’t even vacant until September. In those weeks, thousands of Americans died. Today this Committee is fulfilling its duty to conduct oversight of the Trump administration’s handling of the COVID-19 pandemic as it impacts immigrant detainees and federal inmates.

Immigrant detainees and incarcerated individuals are among the most vulnerable populations during this pandemic. They live in cramped quarters with often unsanitary conditions, and have little access to quality medical care and even basic hygienic products. They are not free to distance themselves meaningfully from those who might be infected. For months, public health experts have been warning that detention facilities and prisons would quickly become hotspots for the virus given these conditions.

And their warnings were prescient. Of the Immigration and Customs Enforcement (ICE) detainees tested for COVID-19, over 50 percent were found to be infected by the virus. In Bureau of Prisons (BOP) facilities, over 1,600 inmates have tested positive for COVID-19; in one particular BOP facility over 75 percent of the inmates were infected. And these numbers don’t include the hundreds of ICE and BOP employees who have tested positive for COVID-19 and could be transmitting the virus to the communities in which they live.

Given the urgency of preventing the further spread of this pandemic, it is essential for Congress to understand what ICE and BOP are doing in response. There is no question that both ICE and BOP already have an incredibly difficult job to contain this virus. But answering Congress’s questions is part of their job, especially when the lives and safety of thousands in the custody of the federal government are at stake.

Both agencies have important questions to answer today. ICE will have to explain why only roughly 10 percent of its detainee population has been tested for COVID-19, and why it has to date released barely three percent of its population when its own stated goal is to rapidly reduce the detention population by 30 percent to mitigate COVID-19 risks. ICE will have to explain why it keeps regularly transferring immigrants between detention facilities without appropriately screening for infection first, effectively hastening the spread of the virus. And ICE will have to answer to its refusal to share numbers of positive COVID-19 among its private contractors – who operate the vast majority of ICE detention facilities – effectively keeping the public in the dark about the true infection rate of COVID-19.

BOP will have to explain why it has released barely two percent of its prison population to home confinement, when there is a much larger percentage of inmates who appear eligible for release.

BOP will have to answer to the unfairness and injustice of releasing former Trump campaign chairman Paul Manafort – who was held at a facility with zero confirmed cases and who didn't meet key criteria for release – while delaying or preventing the release of many other vulnerable, low-risk inmates at highly infected prisons. That includes Andrea Circle Bear of the Cheyenne River Sioux, who was eight and a half months pregnant when she was sent to a federal prison for a non-violent offense, contracted COVID-19, and died three weeks after having an emergency C-section while on a ventilator. And BOP will have to explain why there are multiple discrepancies between the COVID-19 data on its website and other reliable reporting.

This not about finger-pointing or political gamesmanship. This is about serious oversight of agencies responsible for the safety and health of thousands of human beings in the midst of a deadly pandemic. The branches of our government must work together to address this crisis, and that cooperation is built upon trust. The fastest way to build trust is with the truth – which is what I hope we hear from ICE and BOP today.

I thank Chairman Graham for holding this hearing today, however belated it may be. The Senate Judiciary Committee should builds on its efforts today with future oversight hearings inquiring into our government's handling of the COVID-19 crisis. It does not bode well that later this week this Committee is poised to launch a sprawling, partisan investigation into the Russia investigation at the behest of President Trump. This matter has been thoroughly investigated by the Justice Department's Inspector General, and the Senate Judiciary Committee should never function as an arm of this or any other President's re-election campaign.

The American people have come to expect the Senate Judiciary Committee to be at the center of our nation's most important and pressing issues. It is about time we live up to that reputation.

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