

# The Dallas Morning News

## Immigration detention centers are emptying out as the U.S. cites coronavirus for removals

*The plunge raises questions over how necessary prison-like detention is for immigrants.*

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The Pakistani immigrant was desperate. COVID-19 was spreading through the Prairieland compound, an isolated immigrant detention center about an hour southwest of Dallas.

The diabetic man's time in the facility became too much. He made a tough decision: Rather than suffer longer in detention as his attorney fought his case, he boarded a flight for Pakistan.

"Whether he was in the U.S. or Pakistan, he just wanted to be out of Prairieland," said attorney Vinesh Patel. "He was scared everyday of being in the facility."

Whether accepting deportation as was the Pakistani's case, or as is more common, because of a judge's deportation order, there are far fewer immigrants in ICE detention centers. Coronavirus is driving the decline. Far fewer people are also being sent to centers from the border, and that has detention facilities running below capacity.

The average U.S. immigrant detainee population last year was 50,000, but has since plunged to about 19,800, according to the U.S. Immigration and Customs Enforcement, or ICE.

Prairieland, which can hold more than 700 detainees, is now less than half-full at about 310 people, according to court documents. There have been **93 confirmed cases** of COVID-19 there. Across the nation's far-flung system of immigration detention centers, there have been nearly 6,300 cases, according to the federal government.

The steep decline raises questions over how necessary prison-like detention is for immigrants who go through a civil law system to determine their fate. The plunge comes as many, from Dallas, to Los Angeles, to Chicago and New York, call for reforms of the U.S. justice system, including how the government locks up immigrants. Why were so many people locked up in the first place?

"Detention in the vast majority of cases is not needed," said Fatma Marouf, a law professor at the Texas A & M University School of Law in Fort Worth.

ICE'S says its mission is to protect the country from illegal immigration that threatens "national security and public safety." Now, "the unprecedented pandemic" is triggering its move to "temporarily reduce the population of all detention facilities to 75 percent capacity or less," said

Leticia Zamarripa, an ICE spokesperson. “This measure is being taken to avoid any potential overcrowding and ensure that social distancing can be maintained.”

### **“Not compassion”**

Immigration attorneys and advocates agree the pandemic has had a major impact on ICE detention. But Dallas attorney Sehla Ashai and others warn “what is driving reduction is not compassion.”

At play during the pandemic is the emergency use of a public health law at the border dating back to 1944 that the federal government refers to as Title 42. In late March, the Trump administration began citing it for fast expulsions at the border by its U.S. Customs and Border Protection agency, which is separate from ICE but also housed within the U.S. Department of Homeland Security.

The administration, which has worked for years to institute across-the-board anti-immigrant policies, argues that the new emergency measures were needed to prevent the “**serious danger** of further introduction of COVID-19 into the U.S.”

Government data shows that through August, about 148,000 immigrants were classified as “Title 42 expulsions.” Normally, many of these people would make their way into the detention system as they attempted to argue why they had a right to stay in the U.S.

“The difference between being detained and deported is that you are in some kind of system,” said Ali Noorani, the executive director of the National Immigration Forum. “Individuals are not put in any system under Title 42. They are just being summarily expelled.”

In 2016, ICE planned for 34,000 detention beds for locked up immigrants. ICE budgeted for 54,000 detention beds in the fiscal year that just ended on Sept. 30 at a cost of **\$2.7 billion**.

Dan Gividen, former deputy chief counsel for the Dallas office of ICE until last year, said, “We absolutely do not need it at the capacity ICE had” in recent years. “They went on a detaining-everyone kick.”

Now that the coronavirus pandemic has provided a convenient avenue for the removal of many thousands of immigrants under Title 42, many of those beds are not needed.

People are detained in the centers based on their immigration history, criminal record, ties to the community, flight risk and whether the immigrant poses a threat to public safety, according to ICE.

### **Public Safety?**

But most immigrants aren’t a threat to public safety, studies have shown. One of the most prominent studies, by the libertarian Cato Institute in 2018, found unauthorized immigrants and legal immigrants in Texas commit fewer crimes than the native-born population.

“The evidence across the border is that illegal immigrants are about half as likely as native born Americans to commit a crime,” said Alex Nowrasteh, Cato’s director of immigration studies. “And that holds in Texas, where we have very detailed data on immigrants convicted of crime.

Nowrasteh argues that now is a good time to reduce reliance on the entire detention system.

“The government spends way too much money on nonviolent people,” Nowrasteh said. “This is a great opportunity to scale it down.”

It costs about \$7 to install an ankle monitor on an immigrant who awaits the outcome of their case while fighting their case and living in the U.S., but it costs about \$130 a day to house someone in one of the **detention centers**.

Prairieland is operated by LaSalle Corrections of Ruston, La. There are several other facilities that have larger outbreaks, including Bluebonnet detention center near Abilene, where there have been **300 cases**, according to ICE.

Marouf believes that detention is even wrong for those immigrants who have been convicted of crimes because they typically served their time in jails or prisons before they end up in immigrant detention centers.

“We release citizens after they have served their time. We don’t continue to think they are dangerous,” she said.

Gividen, the former ICE trial attorney and former prosecutor for the U.S. Attorney General, has experience with the serpentine systems of both criminal law and civil immigration law. Some immigrants merit detention, but not all, he said.

His client Salvador Montoya-Salazar, a 47-year-old Amarillo restaurant owner with two U.S. citizen-daughters, stands out as an example of someone who should be freed, said Gividen.

Montoya-Salazar was picked up by ICE when ICE was tipped off to the fact that the Mexico-born immigrant was back in the U.S., after having been deported before, Gividen said.

Gividen persuaded a federal magistrate judge in Amarillo to order Montoya-Salazar’s release on a \$20,000 bond in mid-August. The judge said in her order that Montoya-Salazar wasn’t a flight risk or a danger to any person or the community. Montoya faces a federal criminal charge of illegal re-entry into the U.S.

But once the U.S. Marshall released Montoya-Salazar from jail, ICE agents took him into custody for detention at Prairieland. Gividen has been fighting ever since to get ICE to acknowledge the federal court order and release his client.

At Prairieland, Montoya-Salazar fears that he’ll catch the coronavirus because detainees, even those in separate areas, share electronic tablets and phones in a common area and they aren’t properly wiped down, the attorney said.

ICE said it follows the Centers for Disease Control's recommendations for cleaning and disinfection. "This may include cleaning and disinfecting surfaces, objects and shared equipment that are frequently touched," said the ICE spokeswoman Zamarripa.

Of the 93 who have had COVID-19 at Prairieland, 11 are now being isolated and monitored for the virus, ICE said.

But MacKenzie Gregory, a 36-year-old British immigrant married to a U.S. citizen, worries that not enough is being done to assure the safety of people in the facility.

Gregory came into the U.S. legally under a visa waiver program for a handful of nations, including the United Kingdom. Then, the waivers became more restrictive. Though married to a U.S. citizen, Gregory hadn't applied for a change in immigration classification.

That resulted in a 10-month stay in Prairieland. Gregory grew desperate to be released from Prairieland as the pandemic grew.

"I was very vocal and I always defended people," said Gregory, who speaks Spanish.

"Obviously, I am from a country that doesn't tend to infringe on human rights."

She said she was placed in segregation as a retaliatory move.

Since Gregory's release, the transgender immigrant has changed her name from Gavin to MacKenzie Gregory. The day she was released in May, she says she saw workers in hazardous materials suits checking detainees for COVID-19 in a scene that reminded her of "Outbreak," the 1995 movie whose plot deals with a rapidly spreading lethal virus.

"If I had gotten sick, I would have sued the crap out of them," said Gregory, a tattoo artist who is living northeast of Dallas while her case continues. "You have to come at them the same way they come after you, or they will trample you."