



JOURNALIST STYLE GUIDE

REPORTING AT THE INTERSECTION OF IMMIGRATION, POLICING, AND INCARCERATION

Third Edition • March 2022
Prepared by the Comm/Unity Network



NOTE:

The first edition of this style guide was released a year ago, at a pivotal moment to defend Black lives in the United States. Since then, the U.S. has continued to grapple with issues surrounding systemic racism, including at the intersection of mass incarceration and the immigration system.

INTRODUCTION

Across the U.S., there is unprecedented recognition that policing and incarceration have led to the criminalization of Black people and communities of color. Data has also shown that federal policies which co-mingle policing and incarceration with deportation have deeply hurt immigrants of color, with disproportionate harm to Black immigrants.

Meanwhile, the number of people held in Immigration and Customs Enforcement (ICE) detention has skyrocketed in the first half of 2021. Longstanding issues of medical neglect fueled ICE's highest death rate in detention in fiscal year 2020. About a third of those who lost their lives in ICE custody in FY 2020 had tested positive for COVID-19, indicating that immigrants in detention remain at risk of abuse and neglect on multiple fronts. Often with the leadership of Black immigrants, detained people continue to organize—with a new report showing that ICE subjected detained people on hunger strike to force-feeding.

It remains crucial to portray the full humanity and life experiences of people facing detention and deportation.

FOR EDITORS AND REPORTERS

A growing number of publications and editors are assessing their use of language and the way stories about systemic racism are told. A June 2020 article in the Economist notes, "Seeing the bias in even innocently intended language is a first step towards understanding that there is still work to do."

Last year, the Associated Press adopted the longstanding practice of many news outlets in capitalizing the word Black; a decision we applaud. Earlier this decade, many newsrooms, including AP, decided to stop using the word "illegal" as a noun to describe immigrants without documents.

We hope this guide is a meaningful contribution to conversations in the newsrooms around language and storytelling regarding immigrants who have had contact with the criminal justice system. In this new edition, we have added new recommendations regarding photographs, mugshots, and B-roll, as well as updating key data where relevant and updating our list of sources. Since initial publication, we are glad to see additional style guides emerge relating to people impacted by the criminal-legal system, including The Marshall Project's "Language Project" in April 2021.

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Background

MULTIPLE LAYERS OF INJUSTICE

People facing deportation, including those in detention, come from a variety of backgrounds and experiences. This includes people fleeing dangerous conditions, green card holders, visa holders, and long-term undocumented residents of the U.S. Among them are community members who have had contact with the U.S.' flawed criminal legal system, including arrests by local police and/ or convictions. A growing body of research has demonstrated the criminal legal system suffers from severe obstacles to equal justice which have led to tremendous racial disparities, with particular harm to Black people.

But in direct contradiction to criminal justice reform efforts, Immigration and Customs Enforcement (ICE) funnels people who have already been deemed eligible for release from prisons or jails into its sprawling system of immigration detention and deportation. An increasing number of lawmakers and experts have questioned this extra layer of punishment, which comes after a person has completed their time in the criminal legal system, as unethical and unnecessary. ICE targets green card holders and those without current status alike.

BEYOND THE LABELS

Journalists have documented that ICE routinely uses inflammatory language to dehumanize immigrants, including people with past records.

People with past records include survivors of violence and people who have fled war and genocide. They include people who have been subjected to racial profiling and people who have changed their lives after past mistakes. They include people who were stripped of their green cards under laws members of Congress have denounced as discriminatory, as well as people who currently lack immigration status due to the federal government's inability to create a workable immigration process. They have family or loved ones hurt by their absence who eagerly await and often advocate for their release.

Key Information and Recommendations

In recent years, health professionals and experts have called for “people-centered” language when describing individuals in the criminal justice context. Additionally, over the last decade, many newsrooms have changed their style guides to avoid terms that are pejorative toward immigrants. The following recommendations address the intersection of these two issues.

THE CRIMINAL LEGAL SYSTEM

Brief Background and Recommendations

- As numerous scholars have documented, the roots of systemic racism in policing extend back to the era of slavery.
- The U.S. currently incarcerates more people than any other nation on earth: 2.3 million people as of March 2020. According to The Sentencing Project:
 - “African American adults are 5.9 times as likely to be incarcerated than whites and (Latinxs) are 3.1 times as likely.”
 - “The United States in effect operates two distinct criminal justice systems: one for wealthy people and another for poor people and people of color.”
- 70% of all U.S. adults have committed an offense that could lead to incarceration, according to Politifact, showing the vast reach of criminalization in the United States.
- A nationwide poll published in 2017 found most crime survivors “prefer investments in rehabilitation and treatment over increased incarceration and the deportation of immigrants.” Innovative scholars have long argued that mass incarceration is unnecessary.

PROBLEMATIC TERMS TO RECONSIDER

TERM	CONCERNS	ALTERNATIVES
“Criminal;” “convicted criminal”	Even former prosecutors have noted that “criminal” is a vague term that covers a vast array of conduct.	Person, person with a conviction
“Felon;” “convict;” “ex-con;” “offender”	As health experts have noted, this carries a significant amount of stigma. These terms may paint an overly simplistic picture to readers.	Person with a felony conviction

A discussion of additional terms, based on the perspective of incarcerated people themselves, is available in this article from the Marshall Project.

THE IMMIGRATION SYSTEM

Creating sharp dichotomies between those deemed “criminal” as opposed to those deemed “noncriminal” obscures systematic racial disparities, the complexity of the law at play in both the immigration and criminal legal systems, and individuals’ life circumstances.

“...while Black immigrants make up only 7.2% of the noncitizen population in the U.S., they make up 20.3% of immigrants facing deportation... on criminal grounds...”

A 2016 report by the Black Alliance for Just Immigration found “while Black immigrants make up only 7.2% of the noncitizen population in the U.S., they make up 20.3% of immigrants facing deportation ... on criminal grounds.” Additionally, Black immigrants are 6 times more likely to be locked in solitary confinement while in detention. This reality has all too often been ignored in the discourse around immigration and criminalization, leading to the erasure of Black immigrants.

PROBLEMATIC TERMS TO RECONSIDER

TERM	CONCERNS	ALTERNATIVES
“Illegal immigrant”	This term ignores the complexities of immigration status and has been widely rejected by news organizations over the last several years.	Undocumented immigrant, Immigrant without current status
“Aggravated felon”	“Aggravated felony” is a complicated “term of art” introduced by harsh immigration laws. The term has little connection with its colloquial meaning and includes a vast range of conduct.	Formerly incarcerated immigrant, Person with a criminal record, or, Person convicted/ charged with a crime considered an ‘aggravated felony’ under immigration law
“Deported felon”	“Felon” is a charged term that focuses on one narrow aspect of a person’s identity and tells readers nothing about the circumstances of the individual’s life. It is worth noting that anti-immigrant organizations have for several decades sought to use this term to build a narrative which criminalizes immigrants.	Deported person, Person who was deported after completing a sentence
“Felon committing illegal entry or reentry”	The 1929 law creates a vicious cycle where people are separated from their families, deported, and when they seek to return home, they are convicted of misdemeanors and felonies. Systematically labeling immigrants as “criminals” and “felons,” through language and law, has been a tactic used by white supremacists going back to the one who originally sponsored this law nearly a century ago.	Person seeking to return to the U.S.
“Criminal alien”	“Alien” is an offensive term; and together, these two words risk sensationalizing the issue.	Formerly incarcerated immigrant, Person with a criminal record

BACKGROUND: THE LEGAL ARCHITECTURE OF CRIMINALIZATION

- Harsh laws passed in 1996 vastly expanded the grounds for deportation, while curtailing due process and barring judges from considering the individual circumstances of a person's life in many cases. These laws, which tied the immigration system to the criminal legal system, also automatically strip many green card holders of immigration status. Due to these laws, ICE targets people for deportation after they have completed their sentence or been deemed eligible for release, sometimes decades later. Even conservative republicans came to regret some of the laws' impacts.
- "Unauthorized entry" and "reentry" to the United States were made crimes (under criminal law) due to legislation sponsored by "unrepentant" white supremacist Senator Coleman Blease in 1929, as the Washington Post reported last year.

FURTHER BACKGROUND

U.S. law generally considers most issues related to immigration detention and deportation to be matters under "civil" or administrative law. This has several little-understood implications.

- In civil proceedings, unlike criminal proceedings, legal representation is not guaranteed. People must find or pay for their own attorneys. Legal experts note there is no other area of U.S. law where detained people must advocate for their liberty against trained government lawyers without guaranteed legal representation.
- Yet under immigration law, the Department of Homeland Security (DHS) can nonetheless deprive immigrants of liberty during deportation proceedings, and even deport many people without a hearing.
- The "civil" nature of immigration detention also means that ICE has significant authority to quickly free people from detention. Unfortunately, ICE rarely exercises its discretion in this manner, particularly for people with prior interactions with the criminal legal system.

THE IMMIGRATION SYSTEM

- Portray people in their full humanity. Describe their aspirations and hopes, interests, family and community life, the challenges they've faced in life and how they have changed over the years.
- If a person facing detention or deportation is being interviewed for a short comment or reaction, but they are not the focus of the story, consider whether it is necessary to ask about, and/or mention, whether they have a criminal record. Is it a relevant detail in the context of the overall story, or does it distract from the piece?

- If you mention the conviction, it is important to dedicate sufficient space in the story - possibly a paragraph - to give appropriate context to the person's life circumstances.

Consider these factors:

- How long ago did the conviction occur?
- What were the circumstances in the person's life at the time? Were they experiencing violence or trauma? How has the person's life changed since?
- How would the person's continued detention or deportation affect their family and loved ones, including U.S. citizens?
- The support the person may have from the broader community.
- What resources did the person have - or lack - to contest the criminal charges they faced prior to being turned over to ICE? What was the quality of legal representation they received, and how might this have affected what they pleaded to or were convicted of? How would someone with greater economic resources have fared?

IMMIGRATION STATUS: AN IRRELEVANT FACTOR

Immigration status is an irrelevant factor and drawing attention to it can be interpreted as bigotry.¹ Moreover, determining immigration status is a complex and nuanced process.

The only exception is when individuals, of free will and informed consent, choose to speak about their immigration status or their relationship to the immigration system themselves, particularly when they may be facing deportation or detention.

In a case where a person is accused of committing a crime, the person's possible immigration status is, as noted, an irrelevant factor. It is inaccurate and harmful to single out one unrelated facet of someone's identity as the cause for their actions. News outlets should not investigate or reveal a person's immigration status, as doing so raises profound ethical and bias considerations and can be interpreted as bigotry.

Additionally, scholars have long noted that a racial double-standard clearly exists in news coverage of high-profile shootings, with shooters who are white men often portrayed as "lone wolves" suffering from mental health issues, while coverage of people of color involved in shootings frequently perpetuates harmful stereotypes and demonizes the entire community to which the person belongs.

- University of Pennsylvania Professor Anthea Butler argued in a 2015 Washington Post op-ed, "Shooters of color are called 'terrorists' and 'thugs.' Why are white shooters called 'mentally ill'?" that media narratives falsely portray "violence by (B)lack and Muslim people (as) systemic, demanding response and action from all who share their race or religion" and "motivated purely by evil intent instead of external injustices."

¹ This language is adapted from the Associated Press' existing guidance regarding coverage of race.

- A 2017 report entitled “Latinos in TV network news 2008-2014: Still mostly invisible and problematic” found that: “.... when not completely excluded from American media, Latinos are shown in a very limited array of contexts—most recently related to immigration, crime, and other social problems—and characterized as possessing a recurrent set of undesirable traits, many of them described in demeaning terms.”
- See also: Picturing immigration: how the media criminalizes immigrants.

In this context, singling out immigration status only adds to the existing racial bias documented by these pieces and others.

WHEN ICE SENSATIONALIZES CASES

In fact, scholars have noted that one of Immigration and Customs Enforcement’s key tactics is to publicize sensational information regarding crimes allegedly committed by immigrants. Local police and Sheriffs departments may engage in the same tactics. Again, such an attempt to single out one unrelated aspect of people’s identity as the cause of their actions, and thus scapegoat and demonize immigrants as a whole, has drawn profound concern from historians and civil rights leaders.

It bears noting that ICE has a significant record of misrepresenting the truth. An agency spokesperson resigned in 2018 saying he was asked to “flat-out lie.” Internal ICE emails published by The Intercept in 2017 illustrate the agency’s concerted attempts to exaggerate the severity of cases. The acting Chief of Staff for ICE’s Enforcement and Removal Operations told agents:

“Please put together a white paper covering the three most egregious cases,” adding: “If a location has only one egregious case — then include an extra egregious case from another city.”

ICE appeared to be taking a similar approach during the pandemic, publicizing the charges and convictions of medically vulnerable individuals, despite the fact they have been ordered released from detention by court order.

Again, this style guide notes that immigration status is an irrelevant factor.

Key questions to consider in response to ICE press statements:

- **Is the information accurate?** (At times, new information emerges about a case months or years after the fact.)
- **Is ICE attempting to paint all immigrants with a broad brush**, and/or attempting to paint immigration status as the cause of someone’s actions? What other voices can provide an alternate perspective?
- **What is the political agenda of those advancing the story?**
- Even in highly charged and politicized cases, how can the principles of due process, and the right to a fair trial, be respected?

- **Family members of people who pass away from COVID-19 may be experiencing intense trauma and psychological distress.** It is important to consider how coverage that focuses on an individual's contact with the criminal legal system could further traumatize grieving family members.
 - It is also important to bear in mind that the family members and loved ones of detained people who contract COVID-19 will be experiencing psychological distress.

AVOIDING OVERSIMPLIFICATION

There is a stark ethical question one should ask when seeking to distinguish between data points about detained individuals' past interaction with U.S. legal systems: should a person's safety behind bars rely on whether they have been labeled "criminal"?

Over the course of the last year, ICE and Border Patrol detained hundreds of thousands of people in total. While individuals held in these systems are generally detained under civil immigration laws, most are held in the same jails and prisons that also incarcerate people serving criminal sentences, or have been used for that purpose in the past. Because of this, many people, including journalists, feel compelled to distinguish between immigrants in civil custody and people serving time in criminal custody, and to distinguish between people labeled "non-criminal" vs "criminal" in immigration custody.

However, making these distinctions detracts from the overly punitive, unjust, and inhumane conditions all people caught up in both legal systems are facing. And it obscures the complexities of the criminal legal system, where colloquial connotations do not always align with technical definitions.

CURRENT CONCEPTS	CONCERNS	ALTERNATIVES
"Most detained immigrants are non-criminals and thus should be released"	Individuals in detention who do have contact with the criminal legal system - a system with profound racial disparities - have already completed their sentence or been deemed eligible for release. How long is it reasonable to apply the "criminal" label? In light of the threat posed by the pandemic, should a person's safety behind bars rely on whether they have received the "criminal" label?	Coverage could focus on the medical vulnerability of individuals; the authority ICE has to quickly release individuals; family and community connections. (Note: At the same time, advocates are supporting calls to release all people from jails and prisons. Incarcerated people's lives are equally at risk regardless what agency's custody they are in.)
"Violent offenders"	This simple term masks the complexity of criminal law; with many crimes which may sound 'violent' lacking any element of harm and vice-versa. It is also important to consider how much time has passed since the person received or completed the sentence.	Consider whether it is necessary and relevant to mention the conviction. If you determine it is necessary to cover a person's record, the following may help convey a fuller picture of the person's life: <ul style="list-style-type: none"> • Include not only the conviction, but the life circumstances surrounding it and the time. • Allow space to describe how the individual's life may have since changed.
Sweeping references to "rapists, murderers, and sex offenders"	This language has been used to fuel stereotypes and demonize immigrants and people of color.	Specific descriptions of facts and circumstances.

PERSPECTIVES ON SAFETY AND VIOLENCE PREVENTION

ICE frequently makes claims related to public safety. Yet other crucial sources and perspectives related to public safety are all too often left out of the conversation.

- Violence survivors and violence prevention leaders have increasingly found that alternative solutions which do not involve incarceration are the most effective options for building community safety.
- This is a perspective shared by formerly imprisoned people who have rebuilt their lives.

SOURCES

Members of the media should be aware that certain sources which seek to portray themselves as neutral or more researched-based advocates actually have well-documented ties to nativist, white nationalist organizations. The Southern Poverty Law Center has designated two oft-quoted organizations as hate groups.

- Center for Immigration Studies (CIS) “... has a decades-long history of circulating racist writers, while also associating with white nationalists.”
- Federation for American Immigration Reform (FAIR)’s “leaders have ties to white supremacist groups and eugenicists and have made many racist statements.”¹

¹ Additionally, with the growth in ‘disinformation’ efforts, we recommend journalists follow practices such as those outlined at <https://firstdraftnews.org/long-form-article/first-drafts-essential-guide-to/>

We encourage reporters to elevate the voices of Black immigrants and formerly detained immigrants. The following is an initial, partial and developing list of sources who have offered availability to provide comment and context to reporters on the issues discussed in this guide. We will continue to update this list.

CONTACT	ORGANIZATION	CONTACT INFO (not for public distribution)	ISSUE AREAS
Abraham Paulos, Deputy Director of Policy and Communications	Black Alliance for Just Immigration	abraham@baji.org	African American and Black immigrant communities; AntiBlackness, intersection of incarceration and deportation; Racism in U.S. laws/culture, migration, globalization
Jacinta González, Senior Campaign Organizer	Mijente	jacinta@mijente.net	Intersection of policing and immigration systems, Latinos and: Defund the Police, policing, criminal justice, BLM, COVID impacts; surveillance
Ny Nourn, Community Advocate Anoop Prasad, Staff Attorney	Asian Law Caucus	nyn@advancingjustice-alc.org anoopp@advancingjusticealc.org	People w/ convictions in state prison, including SouthEast Asian Refugees; Pardons; interviews with currently, formerly incarcerated people
Phal Sok, Crimmigration and Technologies Coordinator	Youth Justice Coalition	phal@youthjusticela.org	Immigration, Crimmigration (crime-based deportation), criminal justice, youth justice
Lisa Knox, Legal Director	California Collaborative for Immigrant Justice	lisa@ccijjustice.org	Efforts to free immigrants from ICE detention through representation, advocacy, litigation; challenging medical neglect in detention and access to vaccination; intersection of immigration and racial justice
Ny Nourn, Co-Director	Asian Prisoner Support Committee (APSC)	ny@asianprisonersupport.org	

PHOTOGRAPHS, MUGSHOTS AND B-ROLL

The use of photographs and background images can have a significant influence on how the public perceives issues writ large as well as individual community members' stories.

A consensus among experts and scholars has emerged that mugshots perpetuate racial stereotypes, demean incarcerated people, and also may impede the reintegration of formerly incarcerated people into society. Thus, a growing number of newsrooms are rethinking their use of mugshots, with the Houston Chronicle banning them altogether. The Trump administration's highly politicized use of mugshots on billboards in Fall 2020, criticized as exploitative by leading civil rights groups, casts further doubt on this practice.

In an interview with the [Marshall Project](#), Johnny Perez, a formerly incarcerated New Yorker who is currently director of U.S. prison programs for the National Religious Campaign Against Torture, said regarding mugshots: **"It reaffirms existing biases and creates biases where none exist."**

Perez and other advocates have also noted that publishing mugshots may make it harder for formerly incarcerated people to get jobs.

RECOMMENDATIONS

- Outlets should avoid the use of mugshots and work with community members to find pictures that represent the full context of individuals' lives.
- Editors and journalists should clearly explain the outlet's process for photo licensing to community members.

B-ROLL

Similarly, stock images of faceless immigrants in jumpsuits and chains do not accurately portray the humanity and range of lived experiences among immigrants in ICE detention.

Much B-roll in circulation is provided by government agencies such as <https://www.dvidshub.net/>. By relying excessively on b-roll from government agencies such as ICE and Border Patrol, news outlets may be inadvertently contributing to biased coverage.

ABOUT THE COMM/UNITY NETWORK

Comm/Unity is a network of national communicators who are working to challenge the criminalization of immigrants and ensure fair and accurate coverage. The network includes the following organizations, many of which are available to speak to reporters:

Detention Watch Network, Freedom to Thrive, Grassroots Leadership, Immigrant Defense Project, Immigrant Justice Network, Immigrant Legal Resource Center, Just Futures Law, Latino Justice, National Immigrant Justice Center, National Immigration Law Center, National Day Laborer Organizing Network, National Immigration Project of the National Lawyers Guild, Southeast Asia Resource Action Center, United We Dream. The network is anchored by Immigrant Defense Project.

For more information or if you have any questions, please contact Jon Rodney, jon@immdefense.org.