Grappling with the Ethics of Social Distancing: A Framework for Evaluating Social Distancing Policies and Reopening Plans
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Public health experts and government officials have called on all of us to practice aggressive social distancing in order to "flatten the curve" and reduce the spread of COVID-19 to levels that our health system has a better chance of handling. Many local and state governments have implemented a suite of measures to promote social distancing—shuttering restaurants and bars, closing schools, closing "non-essential businesses," and shelter-in-place orders. Such policies have serious costs, both immediate and long-term. It has seemed obvious to some that these costs are justified, because we should do whatever it takes to reduce COVID-19 deaths and prevent the healthcare system from being overwhelmed. Others reject this "whatever it costs" mindset, pointing out that social distancing, at some point, could do more harm than good. Recently, however, the discussion has shifted, as policy experts, academics, and government officials have put forward plans for "reopening" society by relaxing, replacing, or eliminating at least some social distancing policies. These new plans raise new and difficult questions:

 When, and how, should social distancing measures should be lifted, and what sorts of policies should replace them?

These are ethical questions. Answering these questions requires taking into account the potential benefits of social distancing but also the costs, recognizing that there are brutal trade-offs involved, and making these trade-offs thoughtfully in light of our underlying values and moral commitments. The goal of this document is precisely to help the reader make this sort of assessment. Plans for how and when to lift social distancing measures have already been put forward, and more will be in the coming days, weeks and months. Our aim in this document is to provide the resources to ethically assess such proposals, which we do over the course of three sections.

In the first section, we suggest some reasons why the assessment of social distancing policies and reopening plans is so difficult. This step is a humility check, as there seems to be a tendency in the discussion of social distancing to believe the solution is obvious, despite the fact of deep disagreement. From there, we move to a more traditional structure for policy assessment, drawing on existing public health ethics frameworks that are designed to help decision-makers think through these kinds of hard choices.[1] This framework involves identifying the risks and potential benefits of policies under consideration and articulating the competing values at stake (Section II). And finally, in Section III, we guide the user through making an all-things-considered judgment about which set of policies are most justifiable and whether there are any available ways to mitigate or remedy the costs of these policies going forward.

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[1] See, e.g., Childress, James, Ruth R. Faden, Ruth D. Gaare, Larry O. Gostin, Jeffrey Kahn, Richard J. Bonnie, et al. (2002) "Public Health Ethics: Mapping the Terrain." *Journal of Law, Medicine, and Ethics*, 30: 170–8; Kass, Nancy. (2001). "An Ethics Framework for Public Health," *American Journal of Public Health*, 91 (11): 1776-1782; Mepham, Ben 2000. "A Framework for the Ethical Analysis of Novel Foods: The Ethical Matrix," *Journal of Agricultural and Environmental Ethics* vol. 12: 165-176.

Section I: Why is this such a hard problem?

Ethically assessing public health policies is never simple. But ethically assessing proposed policy responses to COVID-19 is especially complex. In addition to the enormous magnitude of the costs and benefits at stake, policymakers are faced with a high degree of empirical uncertainty and the presence of deep moral and political disagreement. Before proposing a framework for evaluating social distancing and alternative policy proposals, we will briefly highlight a number of specific factors that make this problem so difficult.

- **There is uncertainty about how many lives will be saved by social distancing policies, and about the risks posed by reopening plans.** Social distancing policies will reduce mortality from COVID-19. But there is significant uncertainty about how many lives will be saved by different sets and patterns of social distancing policies. Estimates about how many lives could be saved by such policies over the next eighteen months have ranged from 200,000 to 2 million. Computer simulations have been built and are constantly being updated in an attempt to answer this question. But, "these models are not crystal balls," to quote Neil Ferguson, an epidemiologist who worked on the influential Imperial College of London model. There is wide variation among predictions, and this variation reflects differing assumptions of the modelers.[2]

  A similar point holds for adopting alternatives to social distancing. Such alternatives include some combination of testing up to 35 million individuals daily, utilizing mobile phone apps to conduct instantaneous contact tracing, using surveillance data to better enforce self-isolation orders for newly infected patients, issuing better guidelines on the use of homemade masks, 'drafting' individuals with immunity to perform various essential tasks, and maintaining some restrictions (especially on travel or large gatherings) while easing others. Given limited evidence, it is unclear how effective these measures (taken in isolation or in combination) will be at accomplishing different goals—saving lives in the shorter-term, saving lives in the longer-term, "flattening the curve," etc.

- **There is uncertainty about the negative effects of social distancing and reopening plans**. The costs of social distancing are manifold and significant, including negative effects on public health and vast economic harm. Some of these negative effects are already emerging, though we don't yet know how significant they will be nor whether they can be reversed. Given the uncertainty about both the benefits and costs of social distancing policies, as well as reopening plans, it is difficult to assess what kinds of trade-offs social distancing policies impose.

- Given that many policy choices have already been made, **there is a lack of consensus regarding who bears the "burden of proof" for showing that a policy is justifiable.** Typically, those advocating for a public health policy should explain why the policy is needed, why it's likely to be effective, and why it's worth its costs. Thus, those who advocate continuing social distancing policies, despite their severe economic and other costs, owe the public a justification as to why those severe costs are necessary and justified. At the same

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[2] https://www.nature.com/articles/d41586-020-01003-6

time, those advocating the lifting of social distancing policies owe the public an explanation of why this is the right course of action, given the high stakes.

- **There is deep moral and political disagreement about the trade-offs that must be made.** In addition to uncertainty about the effects of policy options, policymakers and citizens have different moral beliefs and moral assumptions that shape their understanding of these difficult decisions. And we have seen some of these beliefs or assumptions in statements by prominent figures.

For instance, some statements seem to rest on the view that *we have a moral duty to save as many people as possible during this pandemic, and that promoting or preserving economic prosperity is far less important than fulfilling this duty*:

> "We're not going to accept the premise that human life is disposable, and we're not going to put a dollar figure on human life. The first order of business is to save lives, period. Whatever it costs."—New York Governor, Andrew Cuomo

> "It's very tough to say to people, 'Hey, keep going to restaurants, go buy new houses, ignore that pile of bodies over in the corner. We want you to keep spending because there's maybe a politician who thinks [gross domestic product] GDP growth is what really counts..."—Bill Gates

Other remarks seem to reflect the view that *having patients die because we run out of hospital bed or ventilators is a morally horrifying scenario, and we should do whatever we can to avoid this scenario*, by "flattening the curve" as much as possible:

> "...I must admit that I have no moral judgment to make about the extraordinary document [detailing how to distribute potentially life-saving health resources] published by those brave Italian doctors. I have not the first clue whether they are recommending the right or the wrong thing. But if Italy is in an impossible position, the obligation facing the United States is very clear: To arrest the crisis before the impossible becomes necessary...That means that our political leaders, the heads of business and private associations, and every one of us need to work together to accomplish two things: Radically expand the capacity of the country's intensive-care units. And start to engage in extreme forms of social distancing. Cancel everything. Now."
> —Yascha Mounk

Some comments reflect the view that *we should adopt policies that promote overall well-being and allow our society to flourish – and that social distancing policies may not promote overall well-being because they have such devastating effects on our economy:*

> "We cannot let the cure be worse than the problem itself"
> —United States President Donald Trump

> "We need to think about this in the context of the well-being of the community as a whole…we are currently impoverishing the economy, which means we are reducing our capacity in the long term to provide exactly those things that people are talking about that

3

we need — better health care services, better social-security arrangements to make sure that people aren't in poverty. There are victims in the future, after the pandemic, who will bear these costs. The economic costs we incur now will spill over, in terms of loss of lives, loss of quality of life, and loss of well-being."
—Peter Singer

Another moral idea we've seen in popular discussion is that *we have a duty to protect opportunity for the younger generations, and because social distancing policies have severe, long-term costs on our children or grandchildren, the policies are unacceptable*:

 "No one reached out to me and said, 'As a senior citizen, are you willing to take a chance on your survival in exchange for keeping the America that America loves for its children and grandchildren?' And if that is the exchange, I'm all in," Texas Lt. Governor Dan Patrick.

The language used to present these ethical assumptions is quite strong and, arguably, reflects our highly polarized political climate. Nonetheless, each of the underlying relevant assumptions is reasonable—and it is also reasonable to object to each of these claims. What's tragic about our situation is that we cannot fulfill all our moral obligations: we cannot protect everyone we feel a moral duty to protect and we have to make hard choices. Although people on all sides of the issue sometimes speak or write as if their view is obviously correct, the subject of how to move forward is one on which reasonable people will disagree, and recognizing this fact is the first step in having this difficult public conversation.

- **The COVID-19 crisis (and our responses to it) has the potential to profoundly affect our shared way of life going forward.** Amidst this uncertainty and moral disagreement, some worry that social distancing or various alternatives could be so harmful as to undermine the flourishing of society. In this way, our ethical reactions to social distancing and reopening policies may draw on conceptions of what it means for American society to flourish, and conceptions of our common good. The magnitude of the current crisis may thus force us to reexamine many of our closely held assumptions about what constitutes a thriving and prosperous society and may require us eventually to reach a new consensus about what a good society entails.

  Among other things, **our response to the crisis may shape what we expect of and tolerate from our government.** The social distancing measures being enacted are such a significant exercise of government authority that they might have long-lasting effects on our norms and expectations of government and thus long-lasting effects on our political system. A similar point applies to alternatives—such as requiring citizens to use mobile phone apps that will track their movement and identify if they've been close to someone with COVID-19. One proposal requires that individuals who have gained immunity perform essential jobs, such as food delivery. Each of these proposals involves a dramatic departure from pre-pandemic norms; it's natural to wonder how far the government will go to beat COVID-19. Thus, when we ethically assess social distancing and reopening policies, we should keep those potential downstream effects in mind.

Section II: An Ethics Framework for Assessing and Comparing Social Distancing Policies and Reopening Plans

The framework in this paper is designed to help the user ethically evaluate reopening plans as well as the option of maintaining various social distancing policies. These plans tend to come in 'policy packages,' and include plans about which social distancing policies will stay and which will be lifted, and when, and proposals for new measures that will be introduced. Several policy packages have already been introduced; some key differences between some of the proposals (and the default of extending aggressive social distancing) are laid out in Table 1 in the Appendix.

What follows is an ethics framework for assessing and comparing these options for going forward, as well as any additional options put forward in the future. This framework helps you identify the major benefits, costs, and ethical issues with each option, so that you can compare the options and consider which is the most justifiable.

This framework has the same basic form as prior ethics frameworks for public health policies. It poses a series of questions about the public health policies under consideration to help you: identify the public health aim of the policy and its likely effects; identify burdens or costs of the policy; consider whether the burdens of the policies could be mitigated; consider whether the benefits and burdens of the policies are fairly distributed across groups of people; and finally assess which policy (or set of policies) is most justifiable, in light of all the potential benefits and burdens.

As you proceed through the framework, you should answer each question for each plan under consideration. It may be helpful to record your answers in Table 2, located in the appendix.

The first four questions of the ethics framework ask you to identify the potential benefits and the risks of each plan under consideration, as well as what competing values are at stake. This will be helpful in coming to an all-things-considered judgment in Section III.

1. **For each set of policies under consideration, what are their likely effects on the course of the COVID-19 pandemic? How much uncertainty is there about these effects?**

Describe the plan and how it aims to reduce or control COVID-19 infection
In this first step, you should identify the sets of policies under consideration (including the proposed duration and sequencing of different measures) and how they aim to reduce or control COVID-19 infection.

In the social distancing phase of the COVID-19 response, such policies include, but are not limited to, shelter-in-place orders; school closures; travel restrictions; and shuttering non-essential businesses. The aims of these policies are to reduce and slow the spread of COVID-19 ("flattening the curve") so as not to overwhelm the health system, so that the highest quality care can be provided to as many patients as possible. This will reduce COVID-19 mortality and will also protect the health system, including and especially healthcare practitioners who are placed at high risk of contracting COVID-19 and who must face the moral distress of triage decisions should they occur.

Several plans for easing up on social distancing during the coming months have been proposed by expert groups. The details of these plans differ. For instance, the American Enterprise Institute has proposed a plan according to which social distancing policies should end 14 days after benchmarks are met.[3] Others have suggested that they will need to be used for much longer; for instance, the Center for American Progress suggests social distancing should end 45 days from early April.[4] While not an endorsement, an influential report from the Imperial College of London claims that to effectively mitigate COVID-19, social distancing measures may need to be employed intermittently until we develop a vaccine, possibly for 12-18 months.[5]

Consider the feasibility of each set of policies
A next question is how feasible each set of policies is. To give just one example, the economist Eric Romer's plan requires dramatically increasing testing capacity to test up to 35 million tests per day. Given current testing capacity, some have questioned the feasibility of this proposal—regardless of whether it would be efficacious.[6]

Consider the likelihood that each set of policies will accomplish its aims
Anticipating how well a policy will achieve its aims can be difficult in general. This difficulty is much more significant when assessing social distancing measures because of the high degree of uncertainty.

Experts have been assessing the potential effects of social distancing and the need for social distancing by using models. These models rely on existing data to arrive at estimates about how deadly COVID-19 is, how infectious it is, how long the disease takes to incubate in an infected person, how many people have already been infected, and how infectious individuals are at different lengths of time after being infected.[7] Other assumptions are more speculative—for instance, some modelers assumed no individuals are naturally immune to the disease.[8] Yet these estimates and assumptions have been challenged by researchers.[9]

Thus, even while there's agreement that social distancing is slowing and reducing the spread of COVID-19, and lifting social distancing policies will lead to an increase in cases, there is uncertainty about the exact effects and how this will translate into deaths from COVID-19.

2. **What are the negative effects of each set of policies? How does each set of policies affect the well-being of individuals and groups?**

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[3]https://www.aei.org/research-products/report/national-coronavirus-response-a-road-map-to-reopening/
[4] https://www.americanprogress.org/issues/healthcare/news/2020/04/03/482613/national-state-plan-end-coronavirus-crisis/
[5] https://www.imperial.ac.uk/media/imperial-college/medicine/sph/ide/gida-fellowships/Imperial-College-COVID19-NPI-modelling-16-03-2020.pdf
[6] https://www.vox.com/2020/4/10/21215494/coronavirus-plans-social-distancing-economy-recession-depression-unemployment
[7] https://www.nature.com/articles/d41586-020-01003-6
[8] *ibid.*
[9]https://www.newstatesman.com/politics/economy/2020/03/climate-coronavirus-science-experts-data-sceptics;
https://www.statnews.com/2020/03/17/a-fiasco-in-the-making-as-the-coronavirus-pandemic-takes-hold-we-are-making-decisions-without-reliable-data/

The next step in the framework involves trying to get a handle on the other effects of social distancing and reopening policies, besides their effects on the spread of COVID-19. These include both negative and positive effects, in the short- and long-term. They include effects on public health, economic effects, and more.

Economic costs and benefits

Social distancing policies have severe economic costs. In the short term, unemployment claims have spiked. For workers already struggling to live paycheck to paycheck, the sudden loss of income means they struggle to pay their rent and feed their families. In terms of longer-term costs, the economic slowdown will (or already has) triggered a recession, with comparisons to 2008, or even to 1929, already being taken seriously.[10]

Proponents of various reopening measures, such as loosening some social distancing restrictions (especially unshuttering businesses) while also maintaining others, claim that their policies yield significant economic benefits over the current suite of social distancing policies in place.[11] These policies also have economic costs, for example the cost of widespread testing, which must also be considered.

There are also economic costs associated with lifting social distancing policies and having a resurgence of COVID-19 infections. A key question is whether lifting social distancing policies "too soon" will cause more economic harm than good.[12] One historical analysis suggests that, during the pandemic flu of 1918, areas of the country that enacted more aggressive social distancing policies actually recovered more quickly economically than areas that did not.[13] But, as the authors of that study have acknowledged, there are important differences between the 1918 economy and our economy, and the new coronavirus has different characteristics, too.[14]

Effects on children's well-being and development.[15]

School closures impose significant costs on families and communities, especially those that depend on schools for essential services such as free meals or childcare. Inadequate access to these essential services can not only exacerbate economic costs for parents, but also has negative effects on the well-being of children. School closures may also negatively affect the long-term development of many children; we need more work to determine the nature and extent of these effects. For instance, one study found that students lacking 'steady instruction' during school shutdowns might retain as little as 70% of their annual reading gains compared to a normal year.[16] Reopening schools, holding summer school, and allowing summer camps to be held would offer obvious benefits to children—and some policymakers have endorsed such proposals.[17]

[10] https://www.cnbc.com/2020/03/20/analyst-anticipates-worst-crisis-since-1929-amid-recession-fears.html; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3557504

[11] E.g., https://ethics.harvard.edu/files/center-for-ethics/files/white_paper_3_mobilizing_the_political_economy_for_covid-19_3.26.20.pdf

[12] http://www.igmchicago.org/surveys/policy-for-the-covid-19-crisis/

[13] https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=3561560

[14] https://www.wbur.org/bostonomix/2020/04/01/social-distancing-economic-impact-covid-19-coronavirus-spanish-flu

[15] https://www.nytimes.com/2020/04/16/opinion/coronavirus-schools-closed.html?referringSource=articleShare

[16] https://www.nwea.org/content/uploads/2020/04/Collaborative-Brief_Covid19-Slide-APR20.pdf

[17] https://www.nytimes.com/2020/04/10/magazine/coronavirus-economy-debate.html

Negative public health effects.

Social distancing will have a range of negative effects on public health. For example, in the short-term, there have been dramatic increases in demand at food banks and worries that more families are experiencing food insecurity.[18] To give another example, there is significant concern that aggressive social distancing will exacerbate the already-catastrophic drug overdose epidemic, due to lack of connection that is typically taken to be crucial components of treatment. Although the DEA has relaxed strict requirements for in-person treatment[19] and support groups have moved online, there is no question that imposed social distance is the sort of disruption that can prevent or overturn the often-delicate nature of recovery.[20] Additionally, the incidence of domestic violence has increased significantly since the implementation of various social distancing policies.[21]

Beyond short-term public health costs like these, there are longer-term effects; unemployment, poverty, inadequate education, and lack of access to healthy foods all cause disease, including diseases that cause death.[22] As a result, there's a real worry that social distancing may further increase the rate of what Anne Case and Angus Deaton call "deaths of despair,"—those from drugs, alcohol, and suicide.[23] Other potential health costs may arise more directly from the lack of contact—social isolation can increase the risk of various diseases and death generally, and so it is worth considering whether it does so in the current context.[24]

The broader point is this: an ethical assessment of social distancing and reopening policies needs to consider the fact that while efforts to slow the epidemic will save lives in the short-term, these efforts will have varying public health costs, including deaths, over the long term. Such costs are difficult to project, but they are very real, nonetheless.

Other personal, social, cultural effects.

Finally, social distancing has personal, social and cultural costs. For example, religious communities are unable to gather for worship, and families are unable to gather to celebrate holidays or to mourn their loved ones. These costs may be harder to quantify than some of the others that have been mentioned but are important, nonetheless. Most reopening plans intend to continue to restrict such large gatherings well after unshuttering businesses and lifting shelter-in-place orders. Nonetheless, as social distancing measures are eased up, these costs will diminish, assuming that people are willing to gather together in groups when they are able to do so.

During this second step of the framework, it's also important to consider whether the negative effects of each set of policies can be mitigated by complementing them with other policies. For example, school closures can be paired with efforts to protect the food security of children who are no longer getting meals at school by delivering meals to these children or providing their families

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[18] https://hungerandhealth.feedingamerica.org/2020/03/impact-coronavirus-food-insecurity/;
https://pamplinmedia.com/lor/48-news/457466-372682-food-insecurity-in-the-time-of-social-distancing-pwoff
[19] https://www.deadiversion.usdoj.gov/coronavirus.html
[20] https://www.politico.com/news/2020/04/10/trump-officials-health-experts-worry-coronavirus-will-set-back-opioid-fight-179257
[21] https://www.theguardian.com/commentisfree/2020/mar/21/coronavirus-domestic-violence-week-in-patriarchy
[22] https://www.reuters.com/investigates/special-report/health-coronavirus-usa-cost/
[23] https://www.nytimes.com/2020/04/10/magazine/coronavirus-economy-debate.html
[24] https://www.sciencemag.org/news/2020/03/we-are-social-species-how-will-social-distancing-affect-us;
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2910600/

with food assistance. If there are additional policies that can mitigate harms in this way, and these additional policies will be implemented, then the full set of policies (social distancing or reopening policies and mitigating policies) should be assessed together.

3. **How are the effects of social distancing and reopening policies distributed across groups? Is this distribution fair?**

The next step is to consider how the benefits and burdens of policies are distributed across groups of people (including income, race/ethnicity, gender, age), and to consider whether this distribution is fair. We here identify just a few examples of how benefits and burdens may fall unevenly across groups.

Social distancing policies are causing high rates of unemployment, furlough and reduced wages. This is a greater hardship on lower-income families with less wealth and without a financial cushion. Also, lower-income families may be more vulnerable to COVID-19 infection, even under conditions of social distancing, for a variety of reasons:[25] they're less likely to have jobs that can be performed remotely, less likely to have paid sick leave, and have a greater financial need to work, all of which increases exposure to COVID-19 in the workplace; and they may have more exposure in their daily lives, such as on public transportation. Lower-income people also have higher rates of the chronic health conditions associated with higher risk of severe illness from COVID-19.[26]

In the United States, African-Americans are more likely to be hospitalized and die from COVID-19 so far, likely a result of multiple factors including higher rates of exposure, higher rates of comorbidities, and worse health care access and quality because of bias and other factors.[27] At the same time, black and Latinx communities have been hit especially hard by the economic costs of social distancing, given significant inequalities in wealth and income.[28] Thus, lower-income people, African-Americans and Latinx communities appear to be disproportionately harmed both by the disease and by our aggressive social distancing policies intended to combat it.

The benefits and burdens of social distancing also fall unequally across age groups. Current evidence suggests that severe COVID-19 illness is rare in healthy children, and the risk of severe illness and death for adults stratifies progressively by age, with significant risk of morbidity and mortality for adults over 70.[29] Thus, the benefits of social distancing fall disproportionately to older adults whose very high risk is being mitigated by society-wide action.

The burdens of social distancing, however, accrue significantly on the young. As noted above, school closures are a significant cost for children, disrupting their education and depriving them of the social interaction that schools provide. These costs of school closures are higher for children

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[25] https://www.brookings.edu/blog/up-front/2020/04/06/we-dont-need-a-map-to-tell-us-who-covid-19-hits-the-hardest-in-st-louis/
[26] https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html
https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2009.166082
[27] https://www.sciencenews.org/article/coronavirus-why-african-americans-vulnerable-covid-19-health-race.
[28] https://www.americanprogress.org/issues/race/news/2020/03/19/481962/coronavirus-pandemic-racial-wealth-gap/
[29] https://www.thelancet.com/action/showPdf?pii=S1473-3099%2820%2930243-7

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who depend on schools for important services, and those without access to technology to enable distance learning.

People of working age will suffer more from the closure of non-essential businesses, and the attendant loss of income and employment, than people who are already retired. One analysis concludes that the poverty rate is likely to increase significantly, and that "working-age adults and children will face particularly large increases in poverty."[30] People who depend on employer-sponsored health insurance are also more at risk of losing health care than those over 65 who are on Medicare. Of course, people of retirement age are also disproportionately impacted by short-term effects on the stock market, which can significantly reduce their income, whereas younger workers will be able to ride out the impact of an economic recession on their investments.

What all of this means is that, although everyone will share in some central benefits from "flattening the curve" (they and loved ones will be protected from morbidity and mortality, or, if they do become ill, they are less likely to find an overwhelmed healthcare system), the benefits and burdens are distributed unevenly by age.

4. **How do the sets of policies affect individual liberties?**

Social distancing policies impose severe restrictions on individual liberty, which ordinarily requires justification. Governments are preventing individuals from associating in public spaces, and they are shuttering businesses. In some cases, people who violate shelter-in-place orders are being charged with crimes and issued fines.[31] Many object to infringements on individual liberty for the sake of promoting public health in other contexts—for example, some object that laws requiring motorcyclists to wear helmets are an undue limitation of individual liberty. Some have raised these concerns about social distancing policies, or even engaged in open civil disobedience.[32]

While social distancing involves familiar restrictions on movement, other reopening policies raise distinct liberty and privacy concerns. As noted, some proposals require mandatory testing for all citizens, including one calling for up to 35 million people tested per day.[33] While far less intrusive than shelter-in-place orders, such widespread testing of otherwise healthy people is at least inconvenient, and it may require an intrusive invasion of privacy. Other proposals recommend using mobile phone apps and user data to conduct instantaneous contact tracing, or even enforce self-quarantine requirements for newly infected patients.[34] Such measures involve significant expansions

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[30] https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5e9786f17c4b4e20ca02d16b/1586988788821/Forecasting-Poverty-Estimates-COVID19-CPSP-2020.pdf

[31] https://www.latimes.com/california/story/2020-04-13/7-get-1000-tickets-for-violating-coronavirus-shelter-in-place-order

[32] https://www.nytimes.com/2020/04/07/us/coronavirus-idaho-bundy-patriot.html; https://www.dailymail.co.uk/news/article-8225759/Protesters-swarm-Michigan-North-Carolina-Ohio-Utah-Wyoming-demonstrate-lockdown-orders.html

[33] https://www.vox.com/2020/4/13/21215133/coronavirus-testing-covid-19-tests-screening; https://paulromer.net/covid-sim-part2/; https://ethics.harvard.edu/test-millions

[34]https://ethics.harvard.edu/outpacing-virus; https://www.americanprogress.org/issues/healthcare/news/2020/04/03/482613/national-state-plan-end-coronavirus-crisis/; https://www.aei.org/research-products/report/national-coronavirus-response-a-road-map-to-reopening/

of government surveillance and raise questions about invasions of personal privacy. An important factor in evaluating any plan that would infringe civil liberties is whether it is likely that there would be adequate institutional safeguards to protect us from potential abuses of these greatly expanded surveillance powers. In evaluating the impact of a proposed plan on civil liberties, it is not sufficient to assume that best practices will be followed.

When assessing whether a public health benefit justifies an infringement of liberty or privacy, some bioethicists have argued that the infringement must be genuinely necessary to achieve the public health benefit, and the public health gains must be proportionate to the infringement.[35] In other words, severe restrictions of freedom of association (such as those in mandatory social distancing) or significant invasions of our privacy (such as tracking our movements) are justified only if they yield significant public health gains—gains proportionate to the significant loss of liberty or privacy. A natural question, then, concerns whether the expected gains are, in fact, proportionate to the infringement on individual liberty. A second question is whether these restrictions on liberty or invasions of privacy are genuinely necessary to control the spread of COVID-19, and whether there are less restrictive measures that would be comparably effective.[36]

Section III: So, What Should We Do?

After accounting for the risks and potential benefits of each policy package, as well as the competing values at stake, it is time to determine how to move forward. This involves answering two final questions.

5. **Considering the likely effects of each set of policies, which policies are the most justifiable all things considered?**

Step five of the framework asks you to assess which set of policies is most justifiable all things considered. Taking into account the full set of potential benefits and burdens, and their distribution across groups, which set of policies should we pursue?

Some ethics frameworks structure this "all things considered" question as a matter of balancing three kinds of considerations: well-being, autonomy and fairness. A policy is ethically justifiable if it strikes a reasonable balance between well-being (how the policy promotes or undermines the well-being of individuals and groups), autonomy (how the policy limits liberty, and how it promotes or reduces autonomy), and fairness (whether the benefits of the policy are fairly distributed, and whether the policy exacerbates or remedies background injustice). If a policy burdens some groups more than others in an unfair way, this unfairness must be justifiable in light of the overall benefits achieved by the policy. If a policy limits individuals' liberty or infringes on their autonomy, this must also be justifiable in light of the overall public health benefits achieved by the policy.

In short, when assessing a public health policy, the key question is often this: are the public health benefits of the policy (which represent an increase to collective well-being) significant enough to

[35] (Childress et al. 2002, p. 173).
[36] (*ibid.*; Kass 2001, p. 1780).

justify any infringements on individual liberties or autonomy, any harms to individuals, and any unfairness caused by the policy?

But in this case, a key issue is *which set of policies will even increase our collective well-being.* For example: will maintaining social distancing policies increase our collective well-being, given the significant harms associated with these policies and the significant uncertainty about the magnitude of the public health benefits? More precisely, at what point does maintaining social distancing policies undermine our collective well-being, even if it reduces COVID-19 mortality? Some worry that maintaining social distancing policies could be so harmful as to undermine the flourishing of society—for example, by causing economic carnage that cannot be reversed or adequately mitigated by relief bills and future policy efforts. In this way, our ethical reactions to social distancing policies and reopening policies may draw on conceptions of what it means for American society to flourish and our conceptions of our common good. These policies also raise all of the usual ethical concerns with public health policies and raise them in a severe form: severe restrictions on individual liberty, severe negative effects, and an unequal distribution of negative effects.

In light of this, how should individuals—policymakers, especially—go about reaching an all-things-considered judgment about whether social distancing policies are justifiable? Using the information gained by answering questions 1-4, **we suggest that decision-makers consider the following set of questions about each plan or set of policies:**

- Is it plausible that the policies under consideration would promote collective well-being as you understand it? Consider the public health benefits, as well as the public health costs, economic costs, and other costs. Consider the level of certainty and uncertainty of these effects.
- Do the policies under consideration strike a reasonable balance between saving the most lives during the current pandemic and protecting the flourishing of society and promoting the common-good longer-term?
- Do the policies under consideration strike a reasonable balance between preventing deaths from COVID-19 and protecting economic opportunity?
- Is the set of policies unfair to certain groups, and is this reason enough to reject it? Or is even significant unfairness justifiable, given the potential magnitude of the benefits?
- If the policies under consideration restrict individual liberty or privacy, is this justifiable given the potential magnitude of the benefit? Social distancing measures severely restrict liberty; is this justifiable given the potential magnitude of the public health benefit achieved (i.e. the high number of lives that might be saved)? Using cell phone data to track people raises privacy concerns; is this justifiable because it will allow us to ease up on social distancing measures sooner and thereby have significant economic and other benefits?
- What might be the long-lasting effects of the policies on our norms and expectations of government, and the long-lasting effects on our political system? Are these effects acceptable?

At the end of this exercise, we suggest attempting to structure a sentence or paragraph of the following form, filling in the details about the plan you're recommending: "Despite drawbacks a,b, and c, Plan X has the best chance of striking a reasonable balance of ethical considerations x, y, and z, because of its positive features 1, 2, and 3." This kind of clear articulation of the ethical

justification for a policy can be useful when communicating with the public – and the public is owed this kind of justification.

6. Once a policy decision has been made, how can the ongoing <u>negative effects and ethical harms be mitigated or remedied going forward?</u>

Any policy or set of policies adopted in response to COVID-19 will have significant negative effects even if everything is being done to mitigate these negative consequences. These negative effects are likely to include increased health risks for some, loss of income for many, and lost opportunities of all sorts. Moreover, these negative impacts may be distributed unequally in ways that are unfair or that exacerbate existing injustice. Even the best possible policy choices will result in significant negative effects of this sort.

Importantly, the fact that a policy is determined to be all-things-considered justified (Step 5) does not mean that these negative effects no longer matter. Even after a policy decision has been made, decision-makers must continue to evaluate how the ongoing negative effects of the policy can be lessened, and how the past negative effects can be remedied.

At this stage, it is especially important to prioritize those who suffer acute harms, those who are members of disadvantaged groups, and ways in which the policy exacerbates background or existing injustices. Any additional resources, when they become available, must be directed to those who are most negatively impacted by the policy decision.

When considering how to mitigate or remedy the negative effects of social distancing policies and reopening policies, some key areas to consider include:

- Mitigate the negative effects of school closings, especially the effects on low-income families. Clearly, programs that provide children with meals and to ensure that they are safe in their homes must be put in place in real-time. As more resources become available in the future, priority must be placed on reopening schools serving disadvantaged communities, and that students are provided with additional resources to make up for missed coursework and class time.[37]

- Provide financial support to the newly unemployed or under-employed in the short-term, and in the longer-term, consider implementing job training programs targeted at communities and industries that have been most negatively impacted.

- Protect essential workers from workplace risks of exposure to COVID-19 and take steps to their other needs are met so they can continue to work (e.g. healthcare, childcare, transportation, and nutrition needs). As we begin to end social distancing policies, some essential workers may become sick and get displaced by people who have recovered or are now immune. Consider providing such workers with additional sick-leave benefits, and a right to return to their prior jobs once they recover.

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[37] https://www.nytimes.com/2020/04/16/opinion/coronavirus-schools-closed.html

- Address urgent public health and safety problems, including mental health, addiction and domestic violence. Policies must be developed and rolled out in real-time to address these and other emerging public health side-effects of social distancing policies.

- Develop measures, such as a "right to be forgotten," designed to protect the privacy of individuals whose names or personal data are collected as part of surveillance or contract-tracing programs.

Conclusion

Policymakers face the daunting task of figuring out when and how to ease up on social distancing policies and of explaining and justifying their decisions to the public. As they do this, it is important to:

- **Have diverse experts in the room.** Ethically assessing social distancing policies requires having diverse experts in the room – not only public health experts.

- **Seek public input.**

- **Be transparent with the public.** This includes communicating clearly with the public about the modeling that is being used to guide decisions, the data underlying this modeling, and the level of uncertainty involved. It also includes being transparent with the public about the costs of social distancing. The public deserves a justification of social distancing policies that is transparent about uncertainty and trade-offs

- **Reassess policies as the situation changes and our evidence improves.** Even if aggressive social distancing policies are ethically justifiable or even ethically required now, at some point during the coming weeks and months, easing off some social distancing policies may make sense. As we learn more about COVID-19 and the effects of social distancing, this will change our assessment of social distancing policies.

Appendix

Table 1: Key Features of Different Plans

	Which social distancing policies does the plan end…and when?	*Which social distancing policies does the plan extend…and until when?*	*What new measures does the reopening plan include…and until when?*
Maintain All Social Distancing Policies	N/A	Indefinite shelter-in-place orders; school closures; shuttering non-essential businesses; banning large gatherings	N/A
The American Enterprise Institute Plan[38]	*Current distancing policies …until 14 consecutive days of sustained reduction in cases	*Recommended face masks *Gatherings limited to 50 or less …until herd immunity	*Implement COVID-19 Surveillance System *Enforced one-week isolation for new cases *Increased contact tracing capacity *Identify people with immunity and allow them to serve in high-risk or support roles …until herd immunity
The Center for American Progress Plan[39]	*Starting April 5, there should be a national stay-at-home policy, ban on non-essential travel… for a minimum of 45 days, or until the rate of transmission is reduced to 20 new cases/million	*50% reduced capacity for passengers for public transit *Gatherings limited to 50 or less *Recommended face mask use …until herd immunity	*Testing for all individuals with a fever *For every positive case, testing for all members of that household *Testing of a representative sample of homes *Use of mobile phone data for instantaneous contact tracing *Public alerts to locations where there have been positive cases …until herd immunity
The Harvard Safra Center for Ethics Plan[40]	*Keep existing "quarantine" policies in place until June 22, 2020. *Anticipated second quarantine period likely in winter 2020 and into 2021.	*Continue to use IT-based contact tracing *Testing of millions per day *Proof of (temporary) immunity and antibody screening *isolation of vulnerable populations … until the second wave hits and quarantine is again required.	*Movement tracked with QR scanning and thermal scanners in public spaces *During periods of quarantine, those with documented immunity are granted exemptions on the condition that they "volunteer" for the "Medical Reserve Corps"
Eric Romer's	Keep existing policies in place	In theory, we could eliminate social	*7% of population randomly

[38] https://www.aei.org/research-products/report/national-coronavirus-response-a-road-map-to-reopening/

[39] https://www.americanprogress.org/issues/healthcare/news/2020/04/03/482613/national-state-plan-end-coronavirus-crisis/

[40] https://ethics.harvard.edu/when-can-we-go-out

Plan[41]	until widespread testing is available.	distancing policies once widespread testing is available, retaining only isolation for those who test positive.	selected for testing each day for 500 days. Those who test positive are put into isolation.
White House Plan[42]	Keep all social distancing policies in place until "gating criteria" are met at a state or local level. Criteria include a 14-day downward trend in reported symptoms and confirmed cases, and robust testing available for at-risk healthcare workers.	Reopening of nonessential businesses (except schools and bars) with distancing protocols in place, and telework encouraged	States must establish screening, testing, contact-tracing and surveillance sites for both symptomatic and asymptomatic cases.

Table 2: Ethical Assessment for Users

	Step 1. *Identify aims of the set of policies, their feasibility, and overall likelihood of success*	*Step 2.* *Effects on overall well-being (including public health, economic, and other effects)*	*Step 3.* *How costs are distributed across groups and fairness of this distribution*	*Step 4.* *Effects on individual liberty and privacy*
Maintain All Social Distancing Policies				
The American Enterprise Institute Plan				
The Center for American Progress Plan				
The Harvard Safra Center for Ethics Plan				
Eric Romer's Plan				

[41] https://paulromer.net/covid-sim-part2/

[42] https://www.whitehouse.gov/openingamerica/

16

White House Plan				