

Youth Law Center Statement on COVID-19 and Youth in the Juvenile Justice System

The COVID-19 pandemic has required unprecedented actions at the local, state, and federal levels to protect the health, safety, and wellbeing of people across the country. However, one of the most vulnerable populations, young people in the juvenile justice system, is being overlooked in the actions taken by government at every level to protect people during this pandemic. Traditionally, the juvenile justice system has relied on detention, confinement, and placement in institutional settings as well as other interventions that require young people and their families to come into contact with individuals in large group settings. Many of the COVID-19 containment measures cannot be effectively employed within the traditional intervention model used in the juvenile justice system. In juvenile justice facilities, youth are confined in close quarters with shift staff coming in and out of facilities that have limited ability to implement appropriate social distancing and to ensure adequate hygiene practices, sanitation, and access to healthcare. Therefore, the Youth Law Center calls upon federal, state, and local policymakers and other decision makers in the juvenile justice system to immediately implement the following recommendations.

Recommendations for All Jurisdictions

- Juvenile justice systems should release from detention and correctional facilities all youth who can safely return home or to other family settings in the community; stop new admissions to all juvenile justice institutions, including all detention, commitment, and residential facilities; and utilize alternatives (to incarceration and placement in institutional settings) that provide youth and their families with supports and services.
- While youth remain in juvenile justice institutions, facilities must comply with all health and safety regulatory and statutory standards for facility operations.
- In addition to complying with the statutory and regulatory requirements to provide youth with healthcare, facilities should provide youth with mental health services and emotional supports to address the impact of confinement during a pandemic.
- Youth confined in institutions must have the opportunity to visit regularly with family (in person or virtually), regularly communicate with family by telephone or electronically (such as by email, text, social media, or videoconferencing), and access attorneys, public officials, and other authorized persons who can address the fact of their confinement or conditions in confinement.
- Facility schools and education programs, including higher education, should continue to operate, and if classroom access is limited youth should be provided with access to distance learning and/or daily individualized coursework with instructional support.
- Facilities must provide programs and activities—including exercise, indoor and outdoor recreation (access to fresh air), opportunities for religious activities, and other programs to avoid idle time—and provide positive behavioral management approaches and supportive interventions to mitigate the trauma of confinement and the impact of the pandemic on youth in the facility.

- Facilities must end the use of chemical restraints (e.g., pepper spray) that adversely impact the respiratory system and other restraints and interventions that cause pain and trauma, including the use of pain compliance techniques and solitary confinement.
- Facilities must develop a COVID-19 safety plan that includes prevention strategies which do not rely on solitary confinement; contains protocols for sanitation, hygiene, screening, detection, and access to healthcare; and provides how young people will be given education and information regarding the virus and the safety plan.

Recommendations for California Jurisdictions

- Juvenile justice systems should release from detention and correctional facilities all youth who can safely return home or to other family settings in the community; stop new admissions to all juvenile justice institutions, including all detention, commitment, and residential facilities; and utilize alternatives (to incarceration and placement in institutional settings) that provide youth and their families with supports and services.
 - Juvenile justice systems should provide transitional and reentry services and supports including transitional planning and coordination for school enrollment; Medi-Cal reinstatement or application; medical and mental health services; SSI reinstatement or application; and other case management to assist with securing social services, access to technology, and community supports.
- While youth remain in juvenile justice institutions, facilities must comply with all health and safety regulatory and statutory standards for facility operations. California's regulations for the operation of local justice facilities provide a process for the temporary suspension of regulations directly affected by the emergency for up to 15 days and authorize the Board of State and Community Corrections to approve suspensions for a longer specified period. However, statutory requirements that are not in regulations may not be suspended.
- In addition to providing youth with healthcare as provided by law, facilities should provide youth with mental health services and emotional supports to address the impact of confinement during a pandemic.
- Youth confined in institutions must have the opportunity to regularly visit with family (in person or virtually), regularly communicate with family by telephone or electronically, (such as by email, text, social media, or videoconferencing), and access attorneys, public officials, and other authorized persons who can address the fact of their confinement or conditions in confinement.
- Facility schools and education programs, including higher education, should continue to operate. Facilities should work with the county office of education (or education authority) to develop and implement the plan for education. If classroom access is limited, youth should be provided with access to distance learning utilizing in combination the array of strategies needed to meet student needs including remote teaching through videoconferencing, online curriculum and learning platforms, computer labs, and daily individualized coursework with in-person or remote instructional support.

- Facilities and schools should continue to facilitate access to higher education opportunities through completion of courses in progress and financial aid and college enrollment applications, and through access to online community college classes for high school graduates, as mandated by SB 716 (2019). Additionally, facilities should make referrals when academically appropriate to college programming in outside facilities and provide all necessary records, transcripts, and other information.
- Facilities must provide programs and activities—including exercise, indoor and outdoor recreation (access to fresh air), opportunities for religious activities, and other programs to avoid idle time—and provide positive behavioral management approaches and supportive interventions to mitigate the trauma of confinement and the impact of the pandemic on youth in the facility.
- Facilities must end the use of chemical restraints (e.g., pepper spray) that adversely impact the respiratory system and other restraints and interventions that cause pain and trauma, including the use of shackling and solitary confinement.
- Facilities must develop a COVID-19 safety plan that includes prevention strategies that do not rely on solitary confinement; contains protocols for sanitation, hygiene, screening, detection, and access to healthcare; and provides how young people will be given education and information regarding the virus and the safety plan.

RESOURCES

Juvenile Justice COVID-19 Statements & Letters

Act 4 Juvenile Justice

“Statement Regarding Youth Justice Providers: For Use during COVID-19 Social Distancing Measures”

<https://www.act4jj.org/sites/default/files/resource-files/STATEMENT%20REGARDING%20YOUTH%20JUSTICE%20PROVIDERS-%20FOR%20USE%20DURING%20COVID%2019%20SOCIAL%20DISTANCING%20MEASURES%202020.pdf>

Pacific Juvenile Defender Center

“Pacific Juvenile Defender Center Statement on COVID 19”

<https://www.pjdc.org/pjdc-statement-on-covid-19-and-youth-in-the-juvenile-justice-system/>

Physicians for Criminal Justice Reform

“Open Letter: COVID-19 Risks for Detained and Incarcerated Youth (March 22, 2020)”

<https://pfcjreform.org/covid-19-risks-for-detained-and-incarcerated-youth/>

Youth Correctional Leaders for Justice

“Recommendations for Youth Justice Systems During the COVID-19 Emergency”

<https://yclj.org/covid19statement>

Other Resources

Centers for Disease Control and Prevention (CDC)

- COVID-19 Resource Index
<https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities
<https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

National Juvenile Defender Center

Resources for Defenders (restricted-login required)

<https://njdc.info/our-work/juvenile-defense-resources/>

National Juvenile Justice Network

COVID-19: A Call to Action to Keep Youth Safe - Resource List

<https://www.njjn.org/article/resources-compiled-regarding-covid-19-and-vulnerable-populations>

California Resources

Board of State and Community Corrections (BSCC)

- COVID-19, Additional Guidance to Juvenile Facilities March 30, 2020
<http://www.bscc.ca.gov/news/covid-19-additional-guidance-to-juvenile-facilities/>
- COVID-19 and BSCC Reporting Requirements
<http://www.bscc.ca.gov/news/covid-19-and-bscc-reporting-requirements/>
- Status of Local Juvenile Facilities - Emergency Suspensions of Regulations
<http://www.bscc.ca.gov/juvenile-facility-status-due-to-covid-19/>

California Department of Social Services (CDSS)

- Coronavirus Disease (COVID-19) Information
<https://www.cdss.ca.gov/#covid19>
- Child Welfare and Probation Visitation
https://www.cdss.ca.gov/Portals/13/Homepage/ACL_CWProbation_CORONAVIRUS.pdf
- Provider Information Notice 20-02 Coronavirus Information and Guidelines for Children's Residential Facilities (STRTPs, Shelters, Group Homes) (PIN-10-02)
<https://www.cdss.ca.gov/Portals/9/CCLD/PINs/2020/CRP/PIN-20-02-CRP.pdf>
- Providing Optimal Child Welfare and Probation Services to Children and Families
<https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2020/ACL20-25.pdf>

California Department of Education (CDE)

- Information and Resources Regarding Coronavirus (COVID-19) and California's Response
<https://www.cde.ca.gov/ls/he/hn/coronavirus.asp>
- Guidance for K-12 Schools
<https://www.cde.ca.gov/ls/he/hn/guidance.asp>