

April 7, 2020

The Honorable Gavin Newsom  
Governor  
State of California

The Honorable Toni Atkins  
President pro Tempore  
California State Senate

The Honorable Anthony Rendon  
Speaker of the Assembly  
California State Assembly

**Re: Recommendations for Urgent Action to Protect System Involved Youth & Their Families During the COVID-19 Pandemic**

Dear Governor Newsom, President pro Tempore Atkins, and Speaker Rendon:

We applaud your leadership in swiftly enacting bold emergency measures to protect the physical, mental and financial well-being of Californians during the COVID-19 pandemic. As you consider additional actions, we urge you to adopt the following measures to protect some of the most vulnerable in our state—our court-involved and incarcerated youth as well as low-income youth of color who are at a higher risk of becoming unnecessarily involved in the juvenile justice system during this crisis.

Our recommendations recognize the trauma associated with system involvement, such as separation from supportive environments like family and school and builds upon actions already taken to relieve some of the burdens facing the healthcare system and the financial pressures facing everyday Californians as a result of the pandemic.

Our recommendations also expand upon existing funding infrastructures created by grant programs like the Youth Reinvestment Grant, Tribal Youth Diversion Grant, and Fostering Success Fund—programs that recognize the tremendous value that community-based organizations possess in providing critical education, cultural healing, health, mental health, housing, and social services, and case management services to young people.

**Recommendation #1: Increase Investments in Local Diversion Programming through Existing State Programs and Grantmaking Infrastructure**

Due to COVID-19, youth in low-income and marginalized communities face major life disruptions with the closure of schools, more time in confined spaces, and reduced or suspended

<sup>[1]</sup> Juvenile Detention Profile Survey, Board of State and Community Corrections. Available at: [https://www.bscc.ca.gov/s\\_fsojuveniledetentionprofile/](https://www.bscc.ca.gov/s_fsojuveniledetentionprofile/). Data from Quarter 4 of 2019.

<sup>[2]</sup> Los Angeles Times. March 31, 2020. California to release 3,500 inmates early as coronavirus spreads inside prisons. Available at: <https://www.latimes.com/california/story/2020-03-31/coronavirus-california-release-3500-inmates-prisons>

<sup>[3]</sup> Ben Casselman and Patricia Cohen, *A Widening Toll on Jobs: "This Thing Is Going to Come for Us All,"* The New York Times, April 2, 2020

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interaction with community-based service providers who engage, serve, and often employ youth both during and outside of school hours. As a result, youth face heightened risk of system involvement as structured activities and ability for service providers to connect in-person have largely been halted and police presence has increased.

In 2018, there were 46,423 youth arrests reported by law enforcement agencies, 62.8% of which were for alleged misdemeanors and status offenses. Increasing state investments in local diversion programs will help protect public health and safety by redirecting resources to serve youth in their homes and communities. The proposed additional investments will provide critical support to community organizations serving justice-involved and other vulnerable youth. These investments will also offer ongoing economic and employment stability to marginalized communities of color that are most impacted by the pandemic.

- Allocate an additional \$100 Million to fully fund all new 2019–20 proposals for Youth Reinvestment Grants (YRF) (AB 1454) and Tribal Youth Diversion Funds (AB 1454) that meet the minimum eligibility threshold for funding.
- If additional funds remain after fully funding 2019–20 YRF and Tribal Youth Diversion Funds, distribute funding to augment the awards distributed to previous grantees of the Youth Reinvestment Grant (AB 1812, 2018); the Tribal Youth Diversion Fund (AB 1812, 2018); and the Fostering Success Fund (AB 1811, 2018) to increase their capacity to serve more youth, including acquisition of technological equipment to serve youth remotely.

### **Recommendation #2: Promote Guidelines to Limit New Juvenile Hall Intakes**

Research indicates that detention is harmful for young people under normal conditions. Within the context of the COVID-19 crisis, it is also life threatening. In 2018, there were 17,320 youth detained in a secure facility pre-adjudication. For the vast majority of these youth, detention was not statutorily required.

- Develop and promote guidelines for local probation departments to restrict the use of pre-adjudication detention to those cases in which the young person poses an imminent threat to public safety. The guidelines should clarify that no young person shall be detained after being accused of a misdemeanor or status offense, a felony offense not enumerated in WIC 707(b), or a violation of probation conditions.

### **Recommendation #3: Promote Guidelines for Early Release From Custody**

There are nearly 3,500 youth currently incarcerated in California’s local juvenile halls, camps and ranches.<sup>[1]</sup> Our incarcerated youth face tremendous risks to their lives and well-being every day that they remain in locked facilities that have high risks of rapid infectious disease spread and are not equipped to adopt the protective measures urged by our state and federal experts while safeguarding the dignity, health, and positive development of our youth. For example, facilities’ attempts to adopt social distancing, medical isolation, and quarantining practices have

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led to restrictions akin to solitary confinement, little to no appropriate provision of education, and suspension of key programming—often provided by organizations rooted in their own communities—that are needed now more than ever to support our youth experiencing greater anxiety, stress and separation from their families during this pandemic.

At its core, the juvenile justice system is about rehabilitation and public safety. In the face of the COVID-19 pandemic, public health and safety interests favor the release of young people from locked facilities. This is especially true for local juvenile detention facilities that hold youth who present little to no threat to public safety, such as youth charged with misdemeanors or low-level felonies, accused of technical probation violations, or awaiting placement at residential group homes.

Some actions have already been taken at the state and local level to reduce the number of incarcerated individuals forced to encounter the heightened risks to their well-being created by COVID-19. The California Department of Corrections and Rehabilitation are in the process of releasing 3,500 individuals, and the intake and transfer of youth into the state's four youth incarceration facilities have been temporarily halted.<sup>[2]</sup> In a number of counties, probation departments, courts, prosecutors, and law enforcement are exploring and implementing measures to release incarcerated youth and reduce the number of young people admitted to locked facilities. Despite these actions, the focus on early release has been inconsistent and often lacks adherence with the health and safety standards all must abide by during this crisis.

- Develop and promote guidelines which encourage DJJ and all counties to immediately assess the in-custody population of youth and release if:
  - Youth have a serious medical condition (e.g., heart disease, lung disease, diabetes) or are otherwise immunocompromised and can be placed in a safer alternative to the current facility;
  - Youth were committed to a facility after being adjudicated of a probation violation, misdemeanor or status offense;
  - Youth are in residential group homes, detention, and correctional facilities, and can safely return to their homes with community-based support and supervision.

#### **Recommendation #4: Fully Support Re-entry Services for Youth Exiting Custody**

As more youth are released back into their communities, the state must prioritize budget allocations to ensure youth returning home or to foster care placements have the resources and services they need. Without such services and supports, there will be increased levels of homelessness, exploitation, and entanglement with the juvenile and criminal justice systems.

- Repurpose the \$45 Million allocated in the 2019-20 budget for the transition of the Department of Juvenile Justice to the new Department of Youth and Community

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Restoration (a transition that has been delayed for one year) to expand the capacity of community-based organizations (CBOs), public schools, and social services agencies providing youth re-entry services to deliver education, mental health, mentoring, housing supports, pro-social activities, case management services, and basic needs to youth despite school closures and social distancing mandates.

- Allocate the \$45 Million to:
  - Enhance the ability of service providers to respond to and address their clients' existing needs as well as the additional trauma youth and service providers experience related to COVID-19, including the acquisition of technological equipment to provide youth services remotely.
  - Enhance capacity of community-based organizations to serve as navigators to help youth who are being released from incarceration as a result of COVID-19 to enroll in school; connect to essential mental health, education, housing, case management, and mentoring services; and, fulfill basic needs as they re-enter.

### **Recommendation #5: Investigate Health and Safety Standards in all Youth Facilities**

For those youth who are not released from secure facilities, affirmative protective measures must be put in place so that the health and well-being of detained youth, as well as the corrections staff, are not compromised. Detention and correctional facilities are designed to maximize control of the young people in their population, not to minimize disease transmission or to efficiently deliver health care. Transmission of infectious diseases in jails and prisons is incredibly common, especially those transmitted by respiratory droplets. Without enhanced oversight and enforcement, an outbreak of COVID-19 in youth detention and incarceration facilities would be devastating and surely result in the preventable loss of life.

- Temporarily establish an emergency state-level commission, outside of the Board of State and Community Corrections (BSCC), composed of public health, medical, and emergency services professionals and juvenile justice advocates—including people directly impacted by the justice system. This commission shall inspect, investigate, and enforce health and safety standards in all juvenile halls and youth prison facilities, and ensure compliance with laws protecting young people from use of solitary confinement.

### **Recommendation #6: Suspend Reporting and Community Service Requirements**

While system-involved youth and their families are experiencing profound hardship and growing economic insecurity, courts and probation departments across the state are continuing to require compliance by demanding in-person meetings, drug testing, and completion of community service requirements. Maintaining existing probation reporting requirements is dangerous and presents youth and their families with making the difficult choice between risking their lives and

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their freedom. Similarly, requirements to complete community service hours seem secondary to the importance of complying with the existing statewide shelter-in-place order.

- Develop and promote guidelines for local probation departments to suspend all probation reporting requirements to prevent unnecessary risk of spread and adhere to mandates of social distancing.
- Promote additional guidelines to waive any outstanding community service requirements for supervised youth.

### **Recommendation #7: Stop Assessment and Collection of Fines and Fees and Place a Moratorium on the Collection of Restitution**

The public health pandemic and resulting economic crises facing our state is particularly acute for low-income communities of color who are also disproportionately system-involved. The fragility of their health, safety, and economic situation is exacerbated by the lack of relief they are receiving during this moment of great need.

Fines, fees, and restitution relating to a youth's involvement in the juvenile system disproportionately impact low-income communities of color, those Californians least able to pay. These same communities are experiencing the effects of the COVID-19 pandemic most acutely as they face lost jobs and reduced income, housing and food insecurity, and decreased access to medical care. With the pandemic expected to result in an economic decline rivaling that of the Great Depression, California must take affirmative steps to provide long-lasting relief to juvenile system-impacted families from the burden of these fines and fees.<sup>[3],[4]</sup> The California Legislature recognized the negative impact that juvenile administrative fees have on youth rehabilitation, youth recidivism, and counties' fiscal interests by passing SB 190 (2018), which prohibits counties from charging these fees. However, California must address the millions of dollars in juvenile fines, fees, and restitution counties are still attempting to collect from families.

- Newly Assessed Juvenile Fines:
  - Order counties (and encourage courts) to immediately stop the assessment of new juvenile fines.
  - Pass legislation permanently eliminating the assessment of juvenile fines.
- Previously Assessed Juvenile Fines and Fees:
  - Order counties (and encourage courts) to immediately stop the collection of all previously assessed juvenile fines and fees (including recalling all garnishments, levies, liens and tax refund intercepts).

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- Pass legislation making all previously assessed juvenile fines and fees unenforceable and uncollectable and vacating all court judgements, stipulated agreements, and other instruments imposing such fines and fees.
- Restitution: Place a moratorium on the collection of restitution until a government-funded restitution fund is created to compensate victims without burdening youth and their families.

We respectfully offer these recommendations in partnership and as a way to enhance the critical measures you have already taken to minimize the harmful impacts of COVID-19 on the health and economic well-being of our most vulnerable children and families. We offer ourselves as a resource to you, and your respective teams, as you develop and implement emergency responses to COVID-19.

Respectfully,



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