

March 30, 2020

The Honorable Tim Walz, Governor of Minnesota
The Honorable Peggy Flanagan, Lieutenant Governor of Minnesota
The Honorable Lorie Skjerven Gildea, Chief Justice of the Minnesota Supreme Court
Commissioner Paul Schnell, Minnesota Department of Corrections
Attorney General Keith Ellison
Chair Carlos Mariani, Minnesota House of Representatives
Chair Warren Limmer, Minnesota Senate
Robert Small, Minnesota County Attorneys Association
William Hutton, Minnesota Sheriffs' Association
Andy Skoogman, Minnesota Chiefs of Police

To the officials responsible for the health and safety of youth in the Juvenile Justice system across Minnesota:

We are writing to share our concerns about the impact of the coronavirus disease (COVID-19) on incarcerated youth in Minnesota. Although many steps have been taken at both state and county levels to address the impact of COVID-19 on Minnesota's criminal justice system generally, it is critical that clear plans be developed and decisive action be taken to specifically protect our children during this crisis.

As our state takes steps to stop the spread of the COVID-19 virus, closing schools, canceling events, and shifting to supporting children in their homes and communities, one group of young people is being left behind: the hundreds of children in custody in the state of Minnesota.

Research by health care experts shows that incarcerated populations are most at risk during a public health crisis. In China and Iran, catastrophic COVID-19 outbreaks occurred in prisons. We must take decisive action to protect Minnesota's young people in those settings. Behind bars, youth have limited freedom to participate in proactive measures to keep themselves safe, such as social distancing, frequently washing hands, or staying in sanitized spaces. Infection control is a challenge in these situations as incarcerated youth are often in large congregate and communal settings.

Further, Minnesota's detention and correctional facilities are not equipped to meet the medical needs of youth if a COVID-19 outbreak should occur. Youth will not have many options to stay away from others if they become ill and there are limited infirmary beds. If staff become ill, it will be difficult to provide care and support to youth, and if lockdowns are utilized, that will only intensify virus infection rates.

During this public health emergency, we urge you to publicly share your emergency plan for addressing COVID-19 in Minnesota's juvenile justice system, including the adoption of these measures to protect youth under the supervision of the juvenile justice system:

1. Immediately halt new admissions to juvenile detention and correctional facilities and initiate the removal of youth from juvenile detention and correctional facilities by:
 - a. Ending new admissions to these facilities.
 - b. Releasing youth from detention and correctional facilities when the caregivers of such youth can provide a safe home, along with community-based supports and supervision.
 - c. Removing youth from secure settings who have COVID-19 symptoms; chronic illnesses, such as asthma or diabetes; other serious illnesses; or are in need of medical care. Youth should be quarantined in their homes or another safe, non-carceral setting pending the results of testing.
 - i. Isolation practices in secure settings can discourage youth from reporting symptoms if they fear it will lead to physical isolation and sensory deprivation for extended time.
 - d. Immediately releasing all youth that already have scheduled release dates within 90 days. Discharge planning should include connecting families to health care and other essential supports.
 - e. Providing emergency funding to community-based organizations to safely divert more young people from incarceration.
 - f. Evaluating the requirements for community-based placement options, such as group and foster homes, to allow youth to be placed nearer to their families and support networks.
2. For youth who are awaiting release or who must remain in secure facilities:
 - a. Provide written and verbal communications to youth about COVID-19 and access to medical care;
 - b. Provide written and verbal communication to youth, their families, and their legal counsel about the protocols in place if a staff or youth begin to exhibit symptoms of COVID-19;
 - c. Ensure continued access to education through distance learning platforms and other academic enrichment programming;
 - d. Ensure continued access to therapeutic treatments that were identified as necessary when the youth was placed in the secure facility, including access to mental health support through confidential visits or teleconferencing;
 - e. Ensure access to legal counsel through confidential visits or teleconferencing;
 - f. Do not allow facilities that hold youth to issue blanket no visitation policies, which would violate Minnesota state law. Where recommended public health measures can be followed, family members should be allowed continued visitation. When deemed inadvisable in individual cases, ensure access to family contacts and support networks through the use of unlimited, free phone calls and teleconferencing;
 - g. Deeply clean facilities (including clothing, bedding, dorms, and cells) on a regular basis, and use effective disinfectants as prescribed by epidemiologists given the health emergency COVID-19 represents;

- h. Ensure access for all staff and detained youth to disinfectant, handwashing, and – if recommended by health personnel or requested – to masks.
- 3. For youth on probation:
 - a. Eliminate incarceration as an option for technical violations of probation;
 - b. Allow youth to travel and access medical care as needed, stay isolated when necessary, and take care of themselves and their loved ones;
 - c. Eliminate requirements for in-person meetings with their probation officers;
 - d. Place a moratorium on all requirements to attend and pay for court and probation-ordered programs, community service, and labor.
- 4. For youth in the broader community:
 - a. Law enforcement should decline to make custodial arrests for minor disciplinary issues and curfew violations. Whenever possible, youth should be directed back home, diverted to safe places, or issued a citation.

While we appreciate that these are unprecedented times and that state and county agencies have already taken some steps to respond to this public health crisis, more must be done to ensure the safety and well-being of vulnerable youth. As ever, the imperative of the juvenile justice system is to balance what is in the best interest of the child with the safety of the general public. Today, those two obligations can be resolved through following the best advice from public health experts and implementing the recommendations provided above. We encourage regular updates on the impact of COVID-19 on youth involved in the juvenile justice system, transparency about the protocols you are putting in place, and would like to collaborate moving forward.

Sincerely,

Michael Friedman and Sarah Davis, Legal Rights Center
Bill Ward, State Public Defender
Gary Charwood, Minnesota Juvenile Justice Advisory Committee
John B. Gordon, ACLU Minnesota
Lilia Pantaleeva, Children's Law Center of Minnesota
Drew P. Schaffer, Mid-Minnesota Legal Aid and Minnesota Disability Law Center
Perry Moriearty, Associate Professor, University of Minnesota Law School
Leslie Redmond, NAACP Minneapolis
Justin Terrell, Council for Minnesotans of African Heritage
Cullin J. Smith, Neighborhood Justice Center
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Doran Schrantz, ISAIAH
Michelle Witte, League of Women Voters of Minnesota
Daisy Richmond, HACER

cc: Cathy Chavers, Bois Forte Band of Chippewa

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Shelley Buck, Prairie Island Indian Community
Darrell Seki, Red Lake Nation
Keith Anderson, Shakopee Mdewakanton Sioux Community
Kevin Jensvold, Upper Sioux Community
Michael Fairbanks, White Earth Nation

Note: Physicians for Criminal Justice Reform has more information in [this letter](#) about the dangers of incarceration during the COVID-19 pandemic.