

March 19, 2020

To:

Governor Jared Polis,
State Court Administrator Steven Vasconcellos,
Chief Justice Nathan Coats,
Colorado Department of Human Services Executive Director Michelle Barnes,
Colorado Department of Human Services Deputy Executive Director of Health Facilities Perry May,
Colorado Department of Human Services Director of the Office of Children, Youth and Families, Minna Castillo Cohen,
Colorado Division of Youth Services Director Anders Jacobson

Re: Request for immediate action to address COVID-19 in Colorado's juvenile detention and commitment facilities

We the undersigned organizations, write to call upon you — the state leaders of Colorado's juvenile justice system — to act immediately to reduce the impact of COVID-19 on incarcerated youth, and protect the lives of youth, their families, DYS staff, court staff, attorneys, probation officers, and the Colorado public from community spread of COVID-19.

As states across the country undertake 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 nearly 50,000 youth in custody in the United States. In Colorado there are on average over 620 youth in custody on any given day (there are over 1000 youth under DYS supervision and over 3000 additional youth on juvenile probation).

We understand that your offices are already at work to address some of the issues youth and staff are facing, and thank you for your ongoing efforts (and for your ongoing communication with us). We write to emphasize the serious need for implementation of a uniform, evidence-based, *state-wide* action plan for the youth in detention and commitment, and we offer ourselves as a resource as you develop that plan.

In our collective view, five urgent steps are needed: (1) immediately and safely decrease the number of youth in DYS secure facilities; (2) dramatic decrease of new admissions into DYS secure facilities; (3) change of court practice to dramatically decrease in-person appearances in court and in-person reporting to probation; (4) swift implementation of video visitation to allow family to contact their scared and isolated children and professionals and attorneys to contact their clients without requiring in-person visits to DYS facilities, and (5) evidence-based, humane and rights-affirming measures to protect the health and wellbeing of the youth and staff who spend the majority of their time in DYS facilities.

Youth and staff are at risk. Research by health care experts shows that incarcerated populations are most at risk during a public health crisis. COVID-19 spreads quickly in enclosed spaces such as cruise ships and nursing homes and it will spread just as quickly in DYS facilities, where incarcerated youth are in close quarters. In DYS secure facilities youth are not able 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. When traveling to and from court, hearings or legal appointments, it is harder to stop the spread of a virus while handcuffed.

While recent federal guidance recommends that people avoid any gatherings of more than 10 people, all of DYS's secure facilities house larger groups of youth and staff. The average daily population at Lookout Mountain, Platte Valley, and Mount View Youth Services Centers is often close to 100 youth per facility. The Gilliam, Spring Creek, Zebulon Pike, Marvin W. Foote, and Grand Mesa Youth Services Centers generally house between 40 and 60 youth per facility on any given day.

The health of DYS staff is directly tied to the health of the youth they serve. There is no line, thin or otherwise, between the health of these youth and the health of the staff who work with them daily.

The public is at risk. Youth in DYS facilities have persistent, daily, close contact with the public. DYS staff are, of course, members of the public. Every day they interact closely with incarcerated youth and then go home to interact closely with family and community members. Many other professionals enter DYS facilities routinely, including medical personnel, mental health professionals, teachers, outside contractors (food, delivery, maintenance, etc.), DYS client managers, legal professionals, social workers, guardians ad litem, and more. And youth are often required to appear before the court in person, where they often have sustained contact with many members of the public. Finally, youth are released from confinement to the public every day. Indeed, for detained youth, a short stay of on average 18 days is the norm before release. While youth may not always be significantly affected by COVID-19 themselves, they can carry and spread the disease, and detention facilities are a revolving door to and from community.

Illness can make facilities unsafe for youth and staff. DYS is already understaffed, and struggling to fill empty staff positions. DYS has indicated that staff turnover and a lack of staff have contributed to significant safety issues at Lookout Mountain Youth Services Center over the past year. If significant numbers of DYS staff fall ill and DYS facilities maintain the current population of incarcerated youth, this will further contribute to understaffing and put the remaining staff and youth at risk. We have already seen staffing shortages in youth facilities in Colorado contribute to a lack of safety in those facilities. Reducing the youth population is essential to continued safety for all.

Family contact is essential for youth. DYS has canceled most visits for youths' families. While limiting physical access to facilities is important, we believe that this is not a time for youth to be separated from their families. This will only exacerbate mental health issues and further isolate youth. To ensure the continued mental and physical health of our youth, which keeps facilities safer in many ways, video visitation for family must be implemented immediately. We understand that DYS is already making efforts to put video visitation in place for families and confidential video visitation in place for attorneys and want to thank DYS for these efforts. We hope the current availability of video visits at Grand Mesa, Lookout, and Gilliam Youth Services Centers will be extended to all facilities as quickly as possible, for both families and professionals, and appreciate DYS' efforts to reach this goal and Director Jacobson's ongoing communication with us about developments.

Medical care is inadequate. DYS facilities are not equipped to meet the medical needs of youth if a COVID-19 outbreak should occur. DYS facilities do not have doctors on campus; most facilities have

nurses available only during weekday business hours, and a doctor on call. To our knowledge DYS facilities do not have equipment like ventilators to treat sick children, some of whom may have underlying conditions. Youth will not have many options to stay away from other youth if they become ill and there are limited beds that allow for isolation. Moreover, the isolation of youth in juvenile correctional facilities has a detrimental impact on mental well-being. If staff become ill, it will be difficult to provide care and support to youth, and if lockdowns are utilized, that will only intensify both virus infection rates and the risk of mental health concerns and self-harm.

To prevent the spread of COVID-19, we urge you to adopt these measures to protect youth under the supervision of the juvenile justice system:

1. Immediately halt new admissions to DYS secure facilities.
 - a. In the absence of halting all new admissions, eliminate any form of detention or incarceration for newly arrested youth unless a determination is made that a youth poses a substantial and serious risk of physical harm to others, and, eliminate or stay commitment sentences for youth whenever possible to avoid putting new youth into commitment facilities.
 - b. Stop issuing arrest warrants, when the child does not pose a substantial and serious risk of physical harm to others, for failures to appear, technical violation of probation or pre-trial release, etc. Allow youth with outstanding warrants who are not a danger to call, rather than surrendering in person, to clear the warrant and schedule a future court date.
2. Initiate the removal of youth from juvenile detention and commitment facilities by:
 - a. Holding hearings for currently detained youth to reconsider bond/holds, and releasing all youth that can be safely released to the community as quickly as possible. Consider temporary placement with kin and other responsible adults, as permitted by statute, to find creative solutions for the safe release of youth.
 - b. Ordering the immediate release of any juvenile who is eligible for release but remains in detention (for example, because they are awaiting placement by county DHS). Juveniles who can be safely released should *never* be held in detention because they are awaiting action by child welfare, and are particularly at risk right now.
 - c. Examining all post-adjudication release processes and mechanisms and begin releasing committed youth who can be safely released to the community as quickly as possible. Initially focus on youth who are within six months of completing their commitment sentence and determine whether these youth can be released to a community setting immediately to complete their sentences. Release all youth who are able to be safely managed in the community as quickly as possible.
3. Remove youth who have COVID-19 symptoms; chronic illnesses or underlying conditions, such as asthma or diabetes; other serious illnesses; or are in need of medical care, to the community or to hospitals or facilities that can provide appropriate care. Create a written and public plan for how DYS will provide adequate care to youth in secure facilities in the event of an outbreak and increase medical resources, including staff and equipment, as necessary to execute this plan.
4. Swiftly implement video visitation at all facilities for families, and confidential video visits for professionals including attorneys, guardians ad litem, social workers, investigators, mental health

providers, and other professionals who must have access to youth for legal reasons or who can provide youth with mental health care or support during this stressful time.

5. While youth are awaiting release:

- a. Provide access to unlimited and free phone calls;
- b. Ensure ongoing family contact;
- c. Provide written and verbal communications to youth on COVID-19, access to medical care, and community based supports;
- d. Ensure continued access to education.

6. For youth on probation:

- a. Eliminate incarceration as an option for technical violations of probation;
- b. Allow youth to travel and access medical care, stay isolated when necessary, and take care of themselves and their families;
- 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.

Given the public health emergency we are facing, we ask that you exercise your powers as broadly as possible to prevent the detention and incarceration of youth, and thereby minimize exposure to family, staff, probation officers, attorneys, judges, transport officers, and all other justice partners. Releasing youth before they become exposed will protect all citizens in Colorado.



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