

States Must Do More to Protect Youth Behind Bars During COVID-19 Pandemic



NO KIDS IN PRISON

Overview

Every day, COVID-19 spreads in jails and prisons across the country and has impacted youth correctional facilities. As of Friday, May 8, 421 staff and 251 youth have tested positive for COVID-19 in youth prisons and juvenile detention facilities.¹ Despite these alarming rates of infection in youth prisons and juvenile detention facilities, and a nationwide call to action, state juvenile justice agencies, courts, and policy makers have not gone far enough to prevent or fully control the spread of COVID-19 among youth.

Infection control is a challenge in these situations as incarcerated youth are often in large congregate and communal settings. Even if youth are in individual cells, ventilation is often inadequate. Youth do not have many options to stay away from other youth 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 increase the virus infection rate. Detention and corrections staff may be afraid to go to work, call out sick or just not show up, and less staff means more incarcerated youth will be put into isolation which can exacerbate or create mental health issues. Staff who are infected also return to their homes and communities, furthering the spread of the virus among the general population.

While there has been much (needed) attention paid to the spread of infection in adult jails and prisons, far too little is known about the efforts across the country by state and local correctional agencies to control the spread of COVID-19 in youth prisons or the efforts to release incarcerated youth. It is vital that we focus decision-makers on the health and safety of incarcerated youth. And we must make clear that the most effective means to protect youth, corrections staff, and communities is to release these youth from correctional facilities with the necessary supports at home that will ensure their safety and that of the community.

1.) "COVID-19 in Juvenile Facilities." *The Sentencing Project*, last modified May 8, 2020. <https://www.sentencingproject.org/publications/covid-19-in-juvenile-facilities/>



Inventory Methodology

To identify and understand state efforts to protect incarcerated youth, Youth First:

- Reviewed the following websites for all 50 states:
 - *Governor's office*
 - *State juvenile justice agency*
- Reviewed all COVID-related executive orders for all 50 states
- Reviewed all relevant state supreme court orders
- Reviewed all relevant judicial orders
- Searched media and press reports for information on state-level releases from youth prisons.

With the exception of local media reports indicating release of youth in large numbers in Georgia, all inventory findings were corroborated by publicly available information on official state agency websites.

Importantly, our inventory could not capture actions that may have been taken but were not publicly reported by the state agencies (see, e.g., the Council of Juvenile Justice Administrators' [issue brief](#) on COVID-19 practice, policy, and protocols in state facilities).

Inventory Findings

To assess what states are doing to protect incarcerated youth, over the past two weeks Youth first conducted an inventory of publicly reported actions by governors and state juvenile justice agencies.

Overall, we found that few states reported any public information, data or actions to protect youth during the COVID-19 pandemic and only a handful of states publicly reported actions to adequately protect youth by releasing substantial numbers of youth from state custody, stopping new admissions to youth prisons and other placements in state care, or providing adequate supports to youth transitioning from youth prisons to their home communities.

Findings as of May 8, 2020 showed that:

- States publicly reported these efforts to release incarcerated youth:
 - *Two governors have issued executive orders:*
 - * In Colorado, the governor's executive order suspended the parole boards' authority to grant, deny, or defer parole for youth (except those classified as violent offenders) committed to the juvenile justice system and gave the juvenile justice system power to release youth after an individualized review. This has led to a 22% decline in Colorado's committed youth population.
 - * In Michigan, the governor's executive order strongly encouraged local detention facilities to release youth unless they are a "substantial and immediate safety risk to others" and issued a second executive order extending the first one.

- *Judges or juvenile justice agencies in seven states took action towards releasing youth:*
 - * Illinois has released 60 youth through judicial orders for a 25% reduction in the committed population.²
 - * After Maine’s Department of Corrections staff reviewed all cases to identify release-eligible youth, 20 youth were released for a 38% reduction in the state custody population.³
 - * As a result of a judicial order, judges in Maryland are evaluating all committed youth for community supervision, and so far nearly 200 youth have been released for a 30% reduction in the committed population.⁴
 - * New Jersey’s Juvenile Justice Commission had a 10% net decline in committed youth population since March 1.⁵
 - * Under the authority of the North Carolina Department of Public Safety, North Carolina reduced its detained youth population by 25% by having its state juvenile justice agency review all detained youth to find individuals who are candidates for electronic monitoring, pending judicial approval. Additionally, the state juvenile justice agency has reduced its committed population by 9%.⁶

2.) “April 7, 2020 Daily COVID-19 Press Update.” *Illinois Department of Public Health*, April 7, 2020, <http://www.dph.illinois.gov/topics-services/diseases-and-conditions/diseases-a-z-list/coronavirus/media-publications/daily-press-briefings?page=6>

3.) “MDOC COVID19 Web Dashboard 5-7-2020.” *Maine Department of Corrections*, May 7, 2020, <https://www.maine.gov/corrections/home/MDOC%20COVID19%20Web%20Dashboard%205-7-2020.pdf>

4.) “Maryland releases about 200 juveniles from detention centers,” *The Baltimore Sun*, last modified on April 27, 2020. <https://www.baltimoresun.com/coronavirus/bs-md-pol-jvenile-release-coronavirus-20200427-4mjlk5pawnbpnafusvm7a7b7g4-story.html>. “DJS data presented at Judiciary Committee Briefing.” *Department of Juvenile Services*, April 27, 2020. https://djs.maryland.gov/Documents/COVID-19/MD-DJS-Data-Presented-at-Judiciary-Committee-Briefing_04272020.pdf

5.) “Juvenile Demographics and Statistics,” *New Jersey Office of Attorney General Juvenile Justice Commission*, May 1, 2020. <https://www.nj.gov/oag/jjc/stats/2020-0501-Juvenile-Demographics-and-Stats.pdf>

6.) “State Juvenile Justice Officials Reduce Juveniles Held in Custody, Institute Operational Changes in Response to Coronavirus.” *North Carolina Department of Public Safety*, April 14, 2020. <https://www.ncdps.gov/blog/2020/04/14/state-juvenile-justice-officials-reduce-juveniles-held-custody-institute-operational>.

* Oklahoma’s Office of Juvenile Affairs has reduced its committed juvenile population by 18%, largely by granting more community passes and ensuring all those with a successful pass can remain in the community.⁷

* Virginia’s Department of Juvenile Justice made 46 releases of youth through diversion programs.⁸

— *One other state’s actions on releasing youth were covered by local media outlets:*

* According to press reports, Georgia released 99 youth early and placed them on electronic monitoring.⁹

State	Number of Youth Released	Proportion of State Custody Population
Maine	20	38% reduction
Maryland	200	30% reduction
Illinois	65	25% reduction
Colorado	N/A	22% reduction
Oklahoma	N/A	18% reduction
New Jersey	N/A	10% reduction
North Carolina	16	9% reduction
Virginia	46	N/A

Note: Most recently updated 5/8/20

7.) “Report on OJA’s Response to COVID-19.” *State of Oklahoma Office of Juvenile Affairs*, April 14, 2020. <http://oja.ok.gov/Websites/oja/images/documents/Report%20on%20OJA’s%20Response%20to%20COVID-19.pdf>

8.) “VA DJJ Response to Legal Aid Justice Center.” *Virginia Department of Juvenile Justice*, last modified April 27, 2020. <http://www.djj.virginia.gov/pdf/admin/Newsroom/News/VA%20DJJ%20Response%20to%20Legal%20Aid%20Justice%20Center%20042720.pdf>

9.) Pierrotti, Andy. “Georgia releases 99 youth offenders to limit coronavirus exposure.” *11 Alive*, April 27, 2020. <https://www.11alive.com/article/news/investigations/djj-releases-youth-offenders-amid-covid19/85-175854cf-48e5-4c24-94a7-9e0ceaea959b>

- Eight states (Alaska, California, Florida, Iowa, Kentucky, Massachusetts, North Dakota, and Oregon) reported putting in place procedures to expedite release of youth (no numbers were reported).
- Five states reported temporarily suspended intakes at one or more of their youth prisons while keeping them open: Alabama, California, Kansas, Texas and Wisconsin.
- Two states reported temporarily closing a juvenile detention center or youth prison due to a COVID-19 outbreak, transferring all youth there to other facilities in the same state: Kentucky and Vermont. Press reports identified additional closures in Maryland (The Savage Mountain Youth Center in Allegany County and the J. Deweese Carter Women’s Center in Kent County).¹⁰
- One state, New Jersey, reported that it will test all youth in their custody for COVID-19.¹¹
- The majority of states reported developing policies enforcing quarantine and isolation for at least some youth in custody. These policies include quarantining all transfers for 14 days before entry, or quarantining any youth with flu symptoms for 14 days.
- Nineteen states have made public updates on the safety procedures at their youth prisons, but have not given any indication that they intend to adopt new plans for the release or intake of youth: Alabama, Arizona, Idaho, Indiana, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Washington, and West Virginia.
- Eight states have no official, publicly available updates on their juvenile justice system’s COVID-19 operations: Arkansas, Hawaii, Mississippi, Montana, Ohio, Pennsylvania, Tennessee, and Wyoming.

10.) Gaskill, Hannah. “Dept. of Juvenile Services Reports Fewer Intakes, Less Racial Disparity.” *Maryland Matters*, April 27, 2020. <https://www.marylandmatters.org/2020/04/27/the-department-of-juvenile-services-reports-fewer-intakes-less-racial-disparity/>

11.) “NJISJ: Following Advocacy from Civil Rights and Youth Justice Advocates, Attorney General Grewal Announces All NJ Kids in JJC Facilities Will be Tested for COVID-19.” *Insider NJ*, April 28, 2020. <https://www.insidernj.com/press-release/njisj-following-advocacy-civil-rights-youth-justice-advocates-attorney-general-grewal-announces-nj-kids-jjc-facilities-will-tested-covid-19/>

Recommendations

(1) Judges, governors, and state juvenile justice agencies must use their full statutory and inherent powers to release youth from facilities. The authority to release youth from youth prisons varies by state, yet the power exists in each. State actors should be taking the following steps:

- Chief judges can issue orders to fellow judges encouraging communication with all juvenile justice stakeholders and setting criteria for expeditious case review for removal of youth in correctional facilities;
- Youth justice agencies should create parameters to remove youth quickly that ensure racial equity; and
- Governors can use their statutory authority to release youth from facilities to prevent further outbreaks.

(2) Judges and juvenile justice agencies must immediately halt new admissions to juvenile detention and correctional facilities and initiate the removal of youth from juvenile detention and correctional facilities. This can be achieved by:

- Examining all pre- and post-adjudication release processes and mechanisms and begin employing these as quickly as possible;
- Removing youth who have COVID-19 symptoms; chronic illnesses, such as asthma or diabetes; other serious illnesses; or are in need of medical care; and
- Eliminating any form of detention or incarceration for youth unless a determination is made that a youth is a substantial safety risk to others.

(3) Juvenile justice agencies should partner with community-based organizations and service providers to create transition plans to ensure the health and safety of youth coming back into the community. To create successful and sustainable transition plans, juvenile justice agencies should (at a minimum):

- Ensure immediate access to Medicaid;
- Utilize local, state and federal dollars to support community-based services;
- Identify and resource community-based services and supports for the youth and their families to address housing, food security, and other needs; and
- Provide released youths with financial resources, such as gift cards, and cell phones to check in with community service providers.

(4) Juvenile justice agencies must disclose and continually update their responses on actions taken to protect youth in custody during the COVID-19 pandemic. This includes, at a minimum:

- Reporting the number of youth and staff tested for COVID-19 and the results;
- Reporting the safety measures taken at each facility to protect youth and staff;
- Reporting actions taken to assess cases and expedite release for incarcerated youth;
- Reporting the number of youth released; and
- Measuring and reporting releases by race and ethnicity to provide transparency in the racial impact of release decisions.

Conclusion

Few state juvenile justice agencies have publicly reported actions to release youth during the pandemic or to halt new admissions to facilities with youth in the juvenile justice system. By contrast, a survey of juvenile detention centers in their network, released on April 23, 2020 by the Annie E. Casey Foundation, found that local juvenile detention facilities reduced their detained youth population by more than 24% during the month of March, 2020 through a combination of diversion, reduced admissions and releases, with the decline in admissions accounting for the most.¹²

Youth justice advocates in more than 35 states¹³ began warning state and local officials about the serious risks faced by the 43,000 youth detained or incarcerated in the juvenile justice system nearly two months ago, but still the outbreak continues in these facilities. Advocates have called on the nation's governors, lawmakers, judges, prosecutors, county officials, juvenile detention authorities, and corrections leaders to do everything in their power to ensure the health and safety of youth in the justice system during this pandemic. Supported by the expertise of physicians and current and former correctional leaders, they've urged officials to release youth from detention centers and youth prisons, and ensure they can return home to support systems that have been given sufficient resources to keep them healthy and safe.¹⁴

Youth incarceration has experienced a significant, and sustained, decrease over the last twenty years due to community advocacy efforts and the bold leadership of state and local leaders. This type of leadership is now needed to ensure the safety and health of incarcerated youth.

12.) "At Onset of the COVID-19 Pandemic, Dramatic and Rapid Reductions in Youth Detention." *The Annie E. Casey Foundation*, April 23, 2020. <https://www.aecf.org/blog/at-onset-of-the-covid-19-pandemic-dramatic-and-rapid-reductions-in-youth-de/>

13.) "Youth Justice Advocates in 35+ States Demand Governors and System Leaders Release Incarcerated Youth Amid COVID-19 Pandemic." *Youth First Initiative*, March 19, 2020. <https://www.nokidsinprison.org/youth-justice-advocates-in-22-states-demand-governors-and-system-leaders-release-incarcerated-youth-amid-covid-19-pandemic?fbclid=IwAR3qcigp9hboS-BZQFDH-YjG226TooHm-Lb8Hp9FoP3RGNQStLamkdJX42Sw>

14.) "Responding to the Needs of Youth Involved With the Justice System During the COVID-19 Pandemic." *American Academy of Pediatrics*, last updated May 6, 2020. <https://pfcjreform.org/covid-19-risks-for-detained-and-incarcerated-youth/>; <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/responding-to-the-needs-of-youth-involved-with-the-justice-system--during-the-covid-19-pandemic/>; <https://yclj.org/covid19statement>

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About the initiative

The Youth First Initiative is a national campaign to end youth incarceration and invest in community based supports, services and opportunities for youth. Youth First seeks to achieve a tipping point in ending youth incarceration and shifting resources towards investments in youth in their communities. The initiative is fiscally sponsored by the New Venture Fund, a 501 c 3 charity.



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