



FFLIC

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Via Email

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Hon. Candice Bates-Anderson, Chief Judge Orleans Parish
Hon. Barron C. Burmaster, Chief Judge Jefferson Parish
Hon. Adam J. Haney, Baton Rouge
Hon. David Matlock, Chief Judge Caddo Parish
Hon. David Ritchie, Chief Judge Calcasieu Parish
Hon. Scott Gardner, St.Tammany Parish

RE: COVID-19 IS A JUVENILE JUSTICE CRISIS, COMMUNITY DEMANDS ACTION NOW!

Dear Elected Officials and Juvenile Justice Key Staff

With cases of COVID-19 multiplying by the day, it is only a matter of time before the virus enters Louisiana's jails and prisons - if it hasn't already. As states across the country undertake major 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.

Louisiana incarcerates hundreds of children across 13 locally operated pre-trial detention centers, four state operated secure care facilities (i.e., youth prisons), and a number of non-secure residential facilities. Like adult jails and prisons, juvenile facilities are inherently high-risk environments where the disease can spread quickly. Children are housed closely together in units or dormitory-style housing, precisely the kind of conditions that have led to the closure of universities all over the country. Even in well-run facilities, the social distancing recommended by the CDC is simply impossible. In such a setting, most of what we can do to protect against the spread of the virus is detrimental to children's well-being. Facilities are prohibiting visitors, meaning lawyers can't visit their clients and families can't visit their children. School and other programming is cancelled. The use of solitary confinement, which is deeply traumatizing for a child, is likely to increase. All of these factors not only put a child's emotional health at risk, they also jeopardize their long-term rehabilitation.

Research by health care experts shows that incarcerated populations are most at-risk during a public health crisis. COVID-19 spread quickly in enclosed spaces such as cruise ships and nursing homes and it will spread just as quickly in detention centers, prisons, and jails. Contagious viruses such as COVID-19 spread much faster in detention centers and prisons as incarcerated youth are in close quarters and sometimes in unsanitary conditions. Behind bars, 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. Even if youth are in individual cells, ventilation is often inadequate. When traveling to and from court, hearings or legal appointments, it is harder to stop the spread of a virus while handcuffed or shackled.

Further, youth detention and correctional facilities are unlikely equipped to meet the medical needs of youth if a COVID-19 outbreak inside juvenile detention or correctional facility should occur. Youth will 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, it will only intensify virus infection rates.

To stave off a public health emergency in our juvenile jails and prisons, we must immediately and dramatically reduce the number of children who are incarcerated. For those who remain in custody, we must do all we can to protect their health, safety, and constitutional rights. To that end, we call on state and local officials to take swift action on the following:

1. Immediately halting new admissions to juvenile detention and correctional facilities and initiating the removal of youth from juvenile detention and correctional facilities 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;
- Eliminating any form of detention or incarceration for youth unless a determination is made that a youth is a substantial and immediate safety risk to others.

2. No child should be arrested for normal adolescent misbehavior:

- Law enforcement should decline to make an arrest for minor disciplinary issues;
- If an arrest must be made, they should take full advantage of the option to counsel and release that is available to them under Louisiana Children's Code Article 814.

3. No child should be jailed for non-violent offenses, misdemeanors, or technical violations, including failures to appear:

- Children who are arrested should be released to their parents or guardians unless there is clear and compelling evidence that this cannot be done safely;
- If some level of supervision is required, home supervision programs should be utilized instead of detention;
- Jurisdictions that are preparing for the implementation of Act 147 should begin enacting detention screening practices now;
- If no screening process is in place, judges should review each case on an individual basis before any child is detained.

4. If detained, children should be released from detention as quickly as possible:

- Courts must continue to hold continued custody hearings, even if other court operations are suspended. These hearings should be held on the same day the child is arrested. If that is not possible, they should be held the next day. Arrangements should be made to hold hearings during weekends;
- Judges should exercise their authority to release children who are detained without a continued custody hearing;
- Judges should review a list of the children that they have ordered into detention and identify those who may be suitable for release daily;
- Rural jurisdictions that do not hear juvenile cases regularly, in particular, must take steps to speed up case processing;
- No child should remain in jail solely based on the inability to pay bail.

5. While youth are awaiting release:

- Provide written and verbal communications to youth on Covid-19, access to medical care, and community based supports;
- Ensure continued access to education;
- Ensure access to legal counsel through confidential visits or teleconferencing;
- Ensure access to family contacts i.e. via skype, facetime or other app that allows parents to see their kids ;

- Guarantee access to unlimited, free phone calls.

6. Create transitional plans for youth released from custody to:

- Ensure they have a place to live;
- Meet their basic needs;
- Receive immediate & adequate medical care;
- Ensure immediate access to Medicaid.

7. For youth on probation:

- Eliminate incarceration as an option for technical violations of probation;
- Allow youth to travel and access medical care, stay isolated when necessary, and take care of themselves and their families;
- Eliminate requirements for in-person meetings with their probation officers;
- Place a moratorium on all requirements to attend and pay for court and Probation- ordered programs, community service and labor.

8. Courts should postpone any hearings that do not pertain to a child's liberty, or are required to provide for due process:

- Continue all pre-trial cases for at least 30 days if a child is not in custody;
- Do not schedule any review hearings for children who are on probation for at least 30 days;
- Children in state custody who can return to the community safely should be sent home;
- Upon motions from the Office of Juvenile Judges and defense attorneys, judges should modify dispositions for children who have done well in confinement and are ready to return to the community;
- If children are on furlough and no problems have arisen, the Office of Juvenile Justice should allow the child to remain on furlough, or seek modification of the disposition so the child can remain at home;
- Other children who may be good candidates for furlough during this critical period should be identified and sent home;
- Judges should not sentence children to OJJ custody for non-violent offenses, misdemeanors, or probation violations.

9. Facilities must reduce the risk of exposure without compromising children's safety or rights:

- Allow children to have frequent contact with their family members—electronically or via phone— at no charge and without limitation;
- Provide quality soap, CDC-recommended hand sanitizer, comprehensive sanitation of facilities, and quality medical care free of charge;
- Ensure that children in custody have the same access to remote learning materials as children in the community do;
- Ensure children can speak with their attorneys confidentially over the phone;
- Develop and implement protocols to avoid spread of the virus that do not rely on isolation. Room confinement and unit lockdowns should not be used to quarantine children or to manage understaffing.

10. Expand community-based programs for youth in the justice system so they are effectively supported in their communities:

- Alternatives to confinement have been proven to be more effective and significantly less costly than incarceration;
- Holistic, restorative, and culturally responsive rehabilitative therapies support the whole child and family;
- Children are more likely to thrive under care and support of family and loved ones than in cages.

As a society, we have a shared responsibility to take care of our children, especially during such a dangerous and unprecedented global pandemic. If we are to have any chance at protecting incarcerated children, facility staff, and the larger community, the time to act is now.

Sincerely,

Undersigned Organizations

Agenda for Children

BreakOUT!

Citizen S.H.E. United

Families and Friends of Louisiana's Incarcerated Children

GNOHA/HousingNOLA

InsideOut Behavior Consulting Services

Insight-Out Development

Justice & Accountability Center of Louisiana

Louisiana Center for Children's Rights

Louisiana Fair Housing Action Center

Louisiana Public Health Institute

Louisiana Stop Solitary Coalition

Making Connections New Orleans

Operation Restoration

OPEN

Orleans Parish Prison Reform Coalition

OxFam America

Peace by Piece New Orleans

Power Coalition for Equity and Justice

Puentes

Rethink

Rich Family Ministries

Ubuntu Village New Orleans

Vayla

Voice of the Experienced