



# PHYSICIANS FOR CRIMINAL JUSTICE REFORM

*“Physicians advocating to eliminate the damaging health consequences that can result from negative interactions with the criminal justice system”*

**RE: COVID-19 Risks for Detained and Incarcerated Youth**

**To: State Governors, State and Local Juvenile Detention and Correctional Departments, and Juvenile Court Judges and Magistrates**

**From: Physicians for Criminal Justice Reform**

Because **detained and incarcerated populations are at high risk to contract a virus like COVID-19, which spreads through respiratory droplets**, we strongly urge governors, juvenile court systems, and state and local juvenile detention and correctional departments to address the ongoing global health pandemic by swiftly implementing the following recommendations:

- 1) Immediately release youth in detention and correctional facilities who can safely return to the home of their families and/or caretakers, with community-based supports and supervision, in order to alleviate potential exposure to COVID-19;**
- 2) Halt new admissions to detention and incarceration facilities to mitigate the harm from the COVID-19 pandemic; and**
- 3) Establish and share publicly a COVID-19 safety plan for all youth who remain in facilities to ensure they have proper access to cleaning and sanitation supplies, as well as resources, support, and contact with loved ones.**

## **I. Coronavirus Pandemic**

In light of the rapid global outbreak of the novel coronavirus disease 2019 (COVID-19), we want to bring attention to the serious risk of harms facing young people in juvenile detention and correctional facilities. United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency on January 31, 2020. Governors across the nation have declared public health emergencies, and a national emergency was announced on March 13, 2020.

As of March 21, 2020, there have been more than 300,000 confirmed cases worldwide, with more than 13,000 deaths. The U.S. has more than 26,000 confirmed cases, with at least 300 deaths. Public health experts expect the number of confirmed cases to rise exponentially and warn that the situation in the U.S. will get worse before improving, possibly requiring us all to shelter in place.

## **II. Public Health Conditions in Detention and Correctional Facilities are Already Poor**

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 adult jails and prisons is incredibly common, especially those transmitted by respiratory droplets. For example, it is estimated that up to one quarter of the U.S. prison population has been infected with tuberculosis<sup>i</sup>, a rate of active TB infection that is six to ten times higher than the general population<sup>ii</sup>. Flu outbreaks are regular occurrences in jails and prisons across the United States<sup>iii</sup>. With a mortality rate 10 times greater than the seasonal flu and a higher R0 (the average number of individuals who can contract the disease from a single infected person)<sup>iv</sup> than Ebola, an outbreak of COVID-19 in youth detention and correctional facilities would be devastating.

## **III. Risks of a COVID-19 Outbreak in Detention**

Emerging evidence about COVID-19 indicates that spread is mostly via respiratory droplets among close contacts<sup>v</sup> and through contact with contaminated surfaces or objects. Reports that the virus may be viable for hours in the air and possibly days on surfaces are particularly concerning. Though it is believed that people are most contagious when they are symptomatic, transmission has been documented in the absence of symptoms. In about 19 percent of cases, COVID-19 illness is severe, including pneumonia with respiratory failure, septic shock, multi-organ failure, and even death. Some people are at higher risk of getting severely sick from this illness, including people who have serious chronic medical conditions like asthma, lung disease, and diabetes, and those who are immunocompromised. There are currently no antiviral drugs licensed by the U.S. Food and Drug Administration to treat COVID-19, or post-exposure prophylaxis to prevent infection once exposed.

Community spread is in the U.S., and staff at juvenile facilities have tested positive for COVID-19. The number of cases is growing exponentially, and health systems are already being strained. Social distancing measures recommended by the Centers for Disease Control<sup>vi</sup> are nearly impossible in detention and correctional facilities, and testing remains largely unavailable. In facilities that are already crowded, large scale quarantines, which means isolation in many facilities, is neither feasible nor humane. Isolation may be misused and place young people at higher risk of neglect and death. COVID-19 threatens the well-being of detained youth, as well as the corrections staff who shuttle between the community and detention and/or correctional facilities.

COVID-19 cases have already been confirmed in detention facilities in which young people live in close quarters, which have subpar infection control measures in place, and whose population represents some of the most vulnerable. In this setting, we can expect spread of COVID-19 in a manner similar to that at the Life Care Center of Kirkland, Washington, at which over 50 percent of residents have tested positive for the virus and over 20 percent have died in the past month.

Given all we know about COVID-19 and the realities of juvenile detention facilities, the time to act is now. While this pandemic is unlike anything our country has seen before, it is important to ensure that all youth justice detention and corrections agencies develop a complete safety plan to ensure comprehensive and coordinated implementation across the entire agency. This not only includes typical health measures, such as ensuring all staff and youth have proper access to cleaning and sanitation supplies, and instructions to sanitize all surfaces throughout the day, but also ensuring mental health is not forgotten and that young people have resources, support, and contact with loved ones.

#### **IV. Incarcerating Children During this Crisis Exacerbates Trauma and Risks of Harm**

No one is sure when this crisis will abate, and we are all feeling fear and uncertainty about the future. However, it is magnified for the families who are separated from their children because their children are incarcerated. The anxiety and emotional distress youth may feel when removed from the home and incarcerated is certainly exacerbated by the current pandemic. Our youth are the future of our nation and, recognizing that the majority of young people in detention and correctional facilities across the nation are removed from their communities for non-violent charges and pose no threat to community safety, it is unacceptable to allow children to be separated from their families during this global crisis.

Many detention and correctional facilities have not communicated with youths' parents, except to tell them they cannot visit. As noted previously, we do not believe detention and correctional facilities are equipped to appropriately handle this crisis. However, this vast lack of communication increases the uncertainty, anxiety, and fear on the part of families and their children.

According to the CDC, children, teens, and people with preexisting mental health conditions are among those “who many respond more strongly” to the stress and fears associated with the outbreak of this disease<sup>vii</sup>. In essence, a preexisting mental health condition renders a youth more vulnerable to increased distress related to the current health crisis. Research has consistently demonstrated the prevalence of mental health disorders among youth in the detention center is at least twice that of youth who are not detained. These uncertain times are traumatic for the country and the world. According to the American Academy of Pediatrics, “[c]hildren who suffer potentially traumatic events are more likely to develop lasting emotional problems if they are not with their parents – or are separated from their parents – immediately after the event.”<sup>viii</sup> Allowing youth to “shelter in place” with their families can potentially reduce the negative emotional impact that this global crisis may have on their current well-being and long-term adjustment.

#### **V. Juvenile Courts Must Respond to this Public Health Crisis**

Juvenile courts have an obligation to avoid the preventable spread of COVID-19 amongst the youth in their care. The COVID-19 outbreak puts young people at unnecessary risk of illness and of becoming carriers of the disease. Recent public health recommendations indicate that the safest practice for all people is to remain at home with family members as much as possible. Worldwide trends indicate these recommendations will become more stringent guidelines sooner rather than later. Further detention and incarceration of any minors who can remain safely at

home with families and/or caretakers is inconsistent with the rehabilitative goals of the juvenile justice system and contrary to public health recommendations.

Especially now that the nation has moved into the community transmission phase of this global pandemic, the possibility of detention and correctional staff transmitting the virus to youth in their custody, and/or infected youth passing the virus to staff is a real risk. This public health crisis requires each and every one of us to re-evaluate how we conduct our lives and care for one another. Institutions responsible for the care and custody of vulnerable populations must take unique steps to “flatten the curve” and slow the spread of this virus. We strongly recommend that governors, juvenile court systems, and state and local juvenile detention and correctional departments across the nation **release youth in detention and correctional facilities who can safely return to the home of their families and/or caretakers with community-based supports and supervision, and be mindful of incarcerating as few youth as possible** in order to mitigate the harm from a COVID-19 outbreak.

Sincerely,

*Physicians for Criminal Justice Reform*

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<sup>i</sup> Lipsitch M, Cohen T, Cooper B, Robins JM, Ma S, James L, Gopalakrishna G, Chew SK, Tan CC, Samore MH, Fisman D, Murray M. Transmission dynamics and control of severe acute respiratory syndrome. *Science* 2003; 300:1966-70. PMC2760158.

<sup>ii</sup> Cohen T, Sommers B, Murray M. The effect of drug resistance on the fitness of *Mycobacterium tuberculosis*. *Lancet Infect Dis* 2003; 3:13-21.

<sup>iii</sup> Cohen T, Becerra MC, Murray MB. Isoniazid resistance and the future of drug-resistant tuberculosis. *Microb Drug Resist* 2004; 10:280-5. PMC2652757; Cohen T, Murray M. Modeling epidemics of multidrug-resistant *M. tuberculosis* of heterogeneous fitness. *Nat Med* 2004; 10:1117-21. PMC2652755.

<sup>iv</sup> Cohen T, Murray M. Incident tuberculosis among recent US immigrants and exogenous reinfection. *Emerg Infect Dis* 2005; 11:725-8. PMC3320369.

<sup>v</sup> Cohen T, Lipsitch M, Walensky RP, Murray M. Beneficial and perverse effects of isoniazid preventive therapy for latent tuberculosis infection in HIV-tuberculosis coinfecting populations. *Proc Natl Acad Sci U S A* 2006; 103:7042-7. PMC1459015.

<sup>vi</sup> Cohen T, Colijn C, Finklea B, Murray M. Exogenous re-infection and the dynamics of tuberculosis epidemics: local effects in a network model of transmission. *J R Soc Interface* 2007; 4:523-31. PMC2373405.

<sup>vii</sup> <https://www.cdc.gov/coronavirus/2019-ncov/prepare/managing-stress-anxiety.html> [accessed March 21, 2020]

<sup>viii</sup> Stafford B, Schonfeld D, Keselman L. *Pediatric Education in Disasters Manual: Module 9 - The Emotional Impact of Disasters on Children and Families*. Burman S, ed. July 2009.