

United States Senate

WASHINGTON, DC 20510

May 26, 2020

Caren Harp
Administrator
Office of Juvenile Justice and Delinquency Prevention
810 7th St. NW
Washington, D.C. 20531

Dear Administrator Harp:

We write to express our concerns about the COVID-19 related safety and health risks to young people detained in juvenile facilities across the country. We request that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) make public the measures they have taken to ensure the health and safety of those in juvenile detention facilities and other facilities where juveniles may be incarcerated. Having removed children from their homes, the government is duty bound to protect them from COVID-19 and to provide opportunities for education, rehabilitation, and development consistent with the non-penal objectives of incarcerating juveniles.

COVID-19 thrives in juvenile detention facilities, where communal living arrangements make it difficult or impossible to follow the Center for Disease Control and Prevention's recommended public health measures such as maintaining social distance, self-isolating, and using Personal Protective Equipment. This reality substantially increases the risk of transmission for juvenile detainees and for the families to which they will be reunited and the staff assigned to supervise and educate them. As a result of the virus, young people are receiving fewer services while in confinement, continue to be isolated from family and community supports, and may have limited access to education and other programming. When a young person is quarantined and, through no fault of their own, removed from the general population, they are even less likely to receive education and treatment. The resulting treatment gap further compromises rehabilitation and contributes to longer stays in confinement.

As of October 2017, approximately 43,580 young people were incarcerated at state and local juvenile facilities across the country, with another 4,000 in adult facilities on any given day. The conditions in certain facilities have led to alarming rates of infection—as of May 19, 2020, 463 incarcerated young people and 534 staff members in juvenile detention facilities have been diagnosed with COVID-19. While COVID-19 poses a risk to the health and safety of all youth and staff within the facility, some youth are at higher risk as a result of underlying health

conditions. For these youth, additional testing and safety measures may be warranted. Furthermore, because the majority of youth in detention are Black or Hispanic, the spread of COVID-19 within juvenile detention may further perpetuate the disparate impact of the virus along racial and ethnic lines.

Outbreaks in juvenile detention facilities also impose a strain on family members and the surrounding communities. There are reports from several states indicating that some juvenile detention facilities have kept the families of incarcerated youth completely in the dark as to the spread of the virus and their child's health status. Without clear communication, concerned families are left uninformed as to their child's safety, and are unable to prepare for safe home confinement if their child is released into the community. More broadly, data from the National Commission on Correctional Health Care suggests that corrections staff have a higher infection rate than detainees, which poses a threat to local communities as staff travel to and from detention facilities.

While some states have released incarcerated youth into community care to stem the spread of disease, there is a lack of transparency regarding how juvenile detention facilities are handling the effects of the pandemic. Accordingly, we request that OJJDP publicly share information about how incarcerated youth are being kept safe during the pandemic and how facilities have prepared to respond to COVID-19.

Specifically, we request answers to the following questions by June 12, 2020:

- 1) What sanitation measures are recommended and applied at juvenile detention facilities and other facilities that house juveniles to prevent the spread of COVID-19? How is compliance monitored?
- 2) Has OJJDP provided juvenile detention facilities with guidance on face covering use? If so, please describe guidance for both youth and staff, including in what situations face coverings are required and how compliance is monitored.
- 3) Has OJJDP directed juvenile detention facilities to require medical screening and testing for COVID-19 and in what circumstances? If so, how is compliance monitored?
- 4) Has OJJDP provided facilities with medical screening and testing procedures for juvenile detainees and staff?
- 5) Has OJJDP directed juvenile detention facilities to continue and/or expand access to mental health care?
- 6) Are facilities providing opportunities for education, rehabilitation, and development consistent with the objectives of incarcerating juveniles?
- 7) How are facilities continuing to provide opportunities for education, rehabilitation, and development for young people who are sick, recovering, or in quarantine?
- 8) Does OJJDP have a plan to provide medical treatment to incarcerated youth that entails more than isolation? If so, please detail that plan.
 - a) Are facilities using social isolation as a means of social distancing?

- 9) How are facilities directed to make determinations for young people, who are close to completing their treatment, to be released to a community setting, step-down program, or home confinement?
 - a) Has OJJDP provided any direction for facilities to expedite determinations for compassionate release and home confinement?
 - b) Has OJJDP provided any direction for facilities and states to utilize the foster care system as a means for providing alternative care and services? If so, did OJJDP consult and coordinate with the Children's Bureau within the Department of Health and Human Services before providing such guidance.
- 10) Is OJJDP providing guidance to federal, state, and local judges to stop or reduce new detentions?
- 11) How are facilities assessing comorbidity and other risk factors for youth? What are facilities doing to protect the safety and health of young people in high-risk categories?
- 12) What direction has OJJDP provided on sharing information with incarcerated youths' parents and/or guardians regarding the spread of COVID-19 within facilities?
 - a) How are parents and/or guardians informed of a positive COVID-19 test result?
 - b) How are parents and/or guardians informed of ongoing medical treatment for incarcerated youth who have tested positive for COVID-19 or who have displayed symptoms consistent with COVID-19?
- 13) What arrangements are being made to provide free telephone calls and other means of electronic communication to incarcerated youth to ensure the maintenance of familial and community relationships?
- 14) What arrangements are being made to provide free, privileged and confidential telephone or video calls to incarcerated youth to ensure continuity in legal access and representation?
- 15) How are juvenile detention facilities coordinating with local public health departments to contain the spread of COVID-19 inside and outside their facilities?

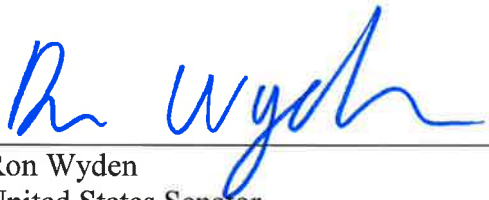
In addition to the above, please make public OJJDP grantee COVID-19 cases among youth and staff at a system wide level.

- 16) Specifically, please provide the following data, disaggregated by race, gender, and ethnicity, regarding incarcerated youth:
 - a) receipt of COVID-19 testing;
 - b) positive and negative test results;
 - c) the use of quarantines and medical isolation;
 - d) hospitalizations;
 - e) intensive care unit admissions; and
 - f) fatalities;

- g) number of early releases to community placement or step-down programs and releases to home confinement from March 2020 to May 2020.

We look forward to your response.

Sincerely,



Ron Wyden
United States Senator



Kamala D. Harris
United States Senator



Richard Blumenthal
United States Senator



Edward J. Markey
United States Senator



Sherrod Brown
United States Senator

/s/ Robert P. Casey Jr.

Robert P. Casey Jr.
United States Senator



Bernard Sanders
United States Senator



Jeffery A. Merkley
United States Senator



Kirsten Gillibrand
United States Senator



Cory A. Booker
United States Senator



Elizabeth Warren
United States Senator



Mazie K. Hirono
United States Senator

/s/ Chris Van Hollen

Chris Van Hollen
United States Senator



Christopher A. Coons
United States Senator



Amy Klobuchar
United States Senator



Tammy Duckworth
United States Senator