

March 26, 2020

Valerie Boykin
Director, Virginia Department of Juvenile Justice
600 E. Main St.
Richmond, VA, 23219

Dear Director Boykin:

Thank you for your reply on March 23, 2020, to our letter to Governor Northam and his Cabinet detailing our concerns and recommendations for the Commonwealth's response to the COVID-19 crisis. We are grateful for the work you and your staff have already undertaken to meet the growing challenge of the virus and its impact. As I'm sure you well know, the youth detained in Virginia's Juvenile Correctional Center of Bon Air, the Juvenile Detention Centers (JDCs) around the state, and those placed by VDJJ in Community Placement Program (CPP) settings within the JDCs are among the highest risk and most vulnerable to contracting the COVID-19 virus due to their close proximity in these facilities, their reliance on others for hygiene products and sanitized spaces, and their isolation from family and other trusted personal contacts and health providers.

As we have seen in other correctional settings such as Rikers Island in New York, this virus is fast-moving, difficult to control, and deadly. We also know—contrary to initial myths—that children and youth are just as susceptible to the virus as adults. Further, precautionary measures taken in correctional settings are limited by insufficient space and resources—youth are either kept in intense isolation, which threatens their mental and emotional health, or in communal spaces that are difficult to keep clean enough to prevent transmission. Likewise, because facility staff can easily become vectors of virus transmission, correctional facilities often must either significantly reduce staff—which in turn reduces service provision to youth—or risk the dangerous community spread that can happen when infected staff come into contact with youth.

We know that you and your staff share our concerns for the health and safety of the youth in your custody—we take that as a given. In order to honor and fulfill our shared mission of keeping young people in the custody of DJJ safe, we urge you to: 1) publicly make available and regularly update your emergency plan for addressing COVID-19 in the juvenile justice system; 2) provide current data on the youth in the department's care and specific measures taken to assure their health and safety; and 3) incorporate our recommendations within our original letter to Governor Northam to reduce the DJJ population to help prevent the spread of the virus within the system. We also recognize many adjustments and reforms to the way our juvenile justice system operates are either underway or require collaboration with other agencies and entities, so

this letter is also being made available to other relevant parties to highlight their roles in enacting appropriate reforms and responses.

VDJJ Emergency COVID-19 Response Plan

We appreciate what the Department has released so far, but we ask that DJJ compile all of its information into a single resource, easily accessible and visible from the Department’s home page, and time/date stamp regular updates on the home page of the website.

In your letter, you directed us to the Department’s website for additional information. On the home page, we note your message “Currently, DJJ has no residents or staff affected by the Coronavirus.”—however, this message is not date/time stamped, so it is unclear if the data is current.

Providing proactive, regular, current, and specific information to youth, their families, and advocates—through the website, emails, calls, and social media will help all of us to partner with the Department to help assure all youth are safe and healthy.

Data and Current Practices

Having read through DJJ’s FAQs and other information, we have several questions regarding data and current practice within the facilities, and would appreciate your response:

Youth in DOC:

1. To DJJ’s knowledge, how many youth currently ages 14-21 tried and convicted as adults are currently placed in Va. Department of Corrections facilities (youth transferred to the adult system) and where are they placed?

Bon Air and CPP placements:

1. How many youth are currently in the custody of DJJ, and where are these youth placed (i.e., how many youth are in Bon Air; how many youth are in each CPP location, how many youth are elsewhere and what are those placements (e.g., CCCA, group homes, residential facilities)?
2. How many youth in DJJ or CPP placements, if any, have been tested for the COVID-19 virus, and what were the aggregate results? Is there a testing protocol in place for youth in DJJ/CPPs? If so, please share that protocol.

3. The Department's COVID-19 FAQ document specifies that if a youth were to become infected with COVID-19, he or she "will be taken to the Central Infirmary or alternate medical unit" and if a staff member were to become infected, he or she "will not be allowed to come back to work." Should either of these events occur, what measures will DJJ take to protect other residents and staff who may have had or may have contact with the youth or staff member?
4. Have any youth been released from DJJ custody based on COVID-19 response plans, and are cases being reviewed for early release, home placement, or other alternatives to JCC or CPP placement? If so, please provide data disaggregated by demographics (age, race/ethnicity, etc).

Court Service Units and Probation:

1. What is the COVID-19 response plan for Court Service Units (CSUs) and Probation, in terms of operations and staffing, case-handling, petitioning of charges, fulfilling diversion plans, limiting violations, and other functions during the crisis?
2. How many youth, by CSU, are currently under Probation supervision and/or CSU Diversion plans?

Juvenile Detention Centers:

1. Disaggregated by demographics, location, and type of detention (pre-trial, Post-D, etc.), how many youth are currently being held in Virginia's JDCs?
2. Will the Department be collaborating with JDC superintendents to develop guidance and best practices for JDCs to suspend all new admittances to and identify opportunities to release youth currently held in detention unless doing so would pose a substantial and immediate safety risk to others? If so, please provide as much detail as possible on such plans and their implementation.

Educational and Counseling Services:

1. How, if at all, has educational and counseling programming in Bon Air and the JDCs been affected by COVID-19 response? While we recognize the health and safety of youth must be paramount, please provide detail on access to educational, counseling, mental health, and other services for youth in facilities.

Specific Asks of Governor Northam, Director Boykin, Bon Air JCC Superintendent Jennings, the Va. Board of Juvenile Justice, and the Superintendents of the Juvenile Detention Centers

1. All juvenile correctional and detention facilities must have a written coronavirus plan that is publicly available. Plans should include specific information and data related to how the facilities expect to address any outbreaks, including providing youth with medical, mental health, and counseling services with no copay charges, access to free, appropriate, and unimpeded access to personal hygiene products, and significantly increased access to visitation, including increased time and access to video visitation and phone calls, and unlimited email free of charge.
2. VDJJ and JDC Superintendents should ensure that attorneys for incarcerated youth are provided consistent, adequate, meaningful, confidential, and regular access to their clients. **We commend Superintendent Jennings for already addressing this issue in the JCC and urge those practices to continue at Bon Air and to be instituted at all JDCs.**
3. DJJ and JDC Superintendents should examine all release protocols and mechanisms under their control and begin employing them liberally and expeditiously. Any youth in pre-trial detention, youth completing the remainder of their sentences in step-down programs, youth in detention centers, or youth with indeterminate sentences who do not pose an immediate and identifiable safety risk to others should immediately be reviewed for consideration of release—either outright, or under home care plans or other non-facility-based options, with appropriate health and safety plans and supports, including any Medicaid availability.
4. DJJ and JDC Superintendents should also identify any youth in custody who are “high-risk” for health or family complications related to COVID-19 or who have chronic health conditions such as diabetes or asthma or serious mental health needs, and collaborate with defense attorneys, Commonwealth’s attorneys, and the courts to facilitate their release to home or alternate safe placement with sufficient medical and family supports.
5. DJJ and JDC Superintendents should collaborate with Commonwealth’s attorneys and the courts to prevent any new admittances to JCC or JDC facilities unless an immediate and substantial safety risk to others is identified.
6. DJJ and JDC Superintendents should collaborate with defense attorneys, Commonwealth’s attorneys, and the courts to suspend or forgive any court fines and fees; jail or JCC stay fees and service charges; fees for court- or probation-ordered programs;

and any charges for basic needs items within facilities such as soap and other hygiene items.

7. DJJ should direct all Court Services Units and Probation to suspend violations for all but substantial and immediate safety risks. All youth should be able to access medical care, self-isolate, take care of themselves and their families, and forgo in-person attendance at probation meetings or other requirements without fear of violation or reprisal.
8. DJJ and JDC Superintendents should ensure incarcerated youth continue to have access to education services, access to confidential meetings with counsel, and access to family contacts.
9. In any JCC, JDC, or other facility, solitary confinement, room confinement, administrative segregation, and other punitive measures must not be used as a method of quarantine, and anyone who needs urgent medical care should be sent to a hospital without delay.
10. DJJ and JDC Superintendents should ensure incarcerated youth and their families have direct, clear, current, and regular updates about COVID-19 and any Department/facility response to the crisis.

Again, we appreciate and commend the Commonwealth and all its entities for taking this crisis seriously. We know that you and your staff are working tirelessly and diligently to respond to what are unprecedented and uncharted events in our lifetimes. Some of these recommendations may already be under consideration or underway, or they may require collaboration and agreement from other agencies and entities to enact. We stand ready as advocates to work with you all to protect the health, safety, rights, and needs of justice-involved youth, and we appreciate your attention to these matters.

As such, as soon as is practicable, we request a meeting by phone to learn and share more information about VDJJ current and future plans related to COVID-19 response. We look forward to hearing from you on a proposed date and time.

Sincerely,



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