

#COVID-19 Impacts on Youth Justice



Responses to a Survey of Public Defenders June 2020

The Youth Justice Research Collaborative (YJRC) uses participatory action research, joining experts with direct experience of youth prosecution and incarceration with academics and advocates so that our research is grounded in science and justice. During April and May of 2020, the YJRC surveyed public defenders representing youth in family court and the youth part of adult supreme court across New York City, as part of a project to evaluate the implementation of Raise the Age. With the onset of the COVID-19 crisis, we added a question to collect information about the pandemic's impact on the City's youth justice system.

The COVID-19 crisis has increased the risks facing youth who are arrested and detained and made navigating the juvenile and adult criminal justice system much harder for young people and their families. As the weather gets warmer and New York City begins the reopening process, we anticipate that an increase in arrests could further exacerbate these problems. As stakeholders have responded to reduce the spread of the virus, public defenders representing adolescents and young adults have raised significant concerns as well as recommendations for supporting youth through COVID-19:

Due Process Delays

- Lengthy adjournments by the Courts undermine young peoples' rights to a speedy trial. For some, this means sitting in detention or jail. For others, it means orders of protection extended for that much longer.
- Long delays of court appearances mean that youth are detained longer with more uncertainty about the resolution of cases.
- The longer cases drag on, the longer youth are subject to lengthy periods of probation supervision, causing additional stress to youth and their families.
- Many of the services that the Court usually orders are not available right now.

Barriers to Attorney-Client Relationships and Zealous Advocacy

- The inability of attorneys to meet face-to-face with clients limits the relationship-building necessary for quality representation.
- New arrests are handled remotely, without assurances that conversations between attorneys and youth clients are private and protected.
- Defenders are wary about conducting interviews and openly speaking with youth clients over video because they are concerned about confidentiality (at arrest, arraignment, in detention and placement).
- Because of necessary social distancing requirements, the ability to conduct robust investigatory work on behalf of their clients is limited.

Long Periods of Detention

- Youth who were arrested and detained pretrial are being held in detention facilities meant for short term stays.
- Defenders say that court delays and the uncertainty caused by cases not proceeding quickly are harder for youth to handle than adults..
- The availability of services, support and "rehabilitation" in detention is limited during this time.
- Youth cannot meaningfully participate in the preparation of their defense from inside a detention facility when all in-person visits have been suspended.

Remote Court Appearances Create Barriers

- Although defenders go to great lengths to meet with clients and family members in the community, court appearances normally provide important opportunities to check in with clients, especially young people who may lack reliable contact information. Remote court appearances can limit defenders' ability to speak to their clients directly, to collect information, and provide guidance or client counseling. This also limits the in-person connection with a reliable adult at a difficult point when that connection can be critical.
- Remote court appearances also limit the ability of defenders to engage with other staff working with their clients, including social workers and education advocates to connect youth with appropriate services and referrals that would improve results at disposition.

Few Alternatives to Detention and Supports for Staying in the Community

- Some youth are staying in detention longer or returning to detention because of a lack of safe, supportive housing in the community.

Conditions in Detention

- Youth have limited movement in the facilities and access to outdoor recreation.
- Youth have limited programming and other activities that have been suspended or curtailed during the pandemic.

Weakened Educational Supports

- Many youths do not have access to technology to participate in remote learning. Those that do, express feelings of being overwhelmed by taking all their classes online, and being suddenly disconnected from school.
- Youth do not report positive experiences with remote based services, which has made it more difficult to connect and engage.
- Students with disabilities are struggling to understand the work.
- Independent learning without live online instruction or in-person support is difficult for many youths.

Loss of Employment Training and Financial Support

- Youth have lost their part-time jobs completely or had their hours cut back, and all young people have lost the opportunity to participate in the Summer Youth Employment Program (SYEP). The loss of income hurts youth and their families and can lead to food insecurity.

Recommendations

Release Youth in Detention

- Even during ordinary times, youth are unsafe in jails. There is no set timeline for when courts will fully resume or when the pandemic will end. To stop the spread of the virus and to eliminate short term stays becoming indefinite, as many youths as possible who are detained pretrial should be released.

Recommendations

Bridge the Digital Divide

- All youth (including those who are incarcerated) should have reliable access to technology (laptops, tablets, phones) so that they can participate in remote learning, and stay connected with their families, attorneys/social workers, and other supports.
- To assist in improving communication, the courts and detention facilities need improved equipment to facilitate video contact, and the staff needs to be trained in the proper way to operate the equipment.

Provide Safe Housing in the Community

- Youth should be able to secure housing if they do not or cannot live with their guardians. Adolescents that are in the criminal justice system are old enough to learn independent living skills and live in shared apartments or rooms.

Ensure Private Communication

- Clients at arrest, arraignment, in detention or placement, need confidential spaces where they can communicate with their attorneys.

Restore Summer Supports

- The city can help by bringing back the Summer Youth Employment Program in some form, and providing other ways for young people to earn money, stay engaged, and avoid arrest.

Ensure Access to Education

- In detention and in the community, young people should have increased access to live instruction online and special education services.

Decriminalize Youth

- NYPD should limit contact with youth and use arrests only as a last resort.
- NYPD should not be part of COVID-19 public health enforcement.