

DECLARATION OF LEOLA M. HARDY, DEFENDER ASSOCIATION OF PHILADELPHIA, CHILDREN AND YOUTH JUSTICE UNIT

I, Leola M. Hardy, Esq. declare as follows:

1. I am the Chief of the Children and Youth Justice Unit of the Defender Association of Philadelphia.
2. The Defender Association of Philadelphia is a non-profit criminal defense law firm representing approximately seventy percent of children arrested in Philadelphia. The Association's Children and Youth Justice Unit works to ensure that the legal rights of children are protected at every phase of the criminal justice process.
3. The Defender Association continues to advocate for the children we serve, both legally and holistically, during the governmental closure. We file motions on behalf of children in pretrial detention and placement, requesting hearings and advocating for their release. We telephone our clients in residential placement to gauge their mental and physical health, and to ensure communication with their families.
4. Children are often forgotten in discussions around prison reform. The lexicon surrounding the incarceration of children is sanitized; for example, we use words like "residential placements" in lieu of prison, "detention" instead of jail, and "rooms" rather than "cells." While the vocabulary we use when discussing the detention of children is different than that we use for adults, the reality and the experiences are often exactly the same. Incarcerated children have the same vulnerabilities as incarcerated adults; many times, those vulnerabilities are heightened due to their young age and general immaturity.
5. Many of the children we represent suffer from underlying medical conditions, such as asthma or diabetes, that make them more susceptible to the COVID-19 virus. 62% of defender clients have a documented mental or medical health diagnosis. When the Philadelphia Family Court was closed on March 16, 2020, there were 41 clients of the Defender Association categorized as medically at-risk at the Juvenile Justice Services Center, our county detention center. As of this writing, approximately half of them continue to be detained. While our clients are forced to remain incarcerated, they routinely come into contact with staff members and newly detained children, all of whom have contact with

members of the outside community. Our county detention center does not have adequate screening measures in place to ensure that staff and incoming children do not unwittingly spread the virus within the detention center.

6. If a large number of youth need to be quarantined, most facilities are not structurally set up to do this. Our clients uniformly report that the on-grounds medical facilities have a negligible number of beds to accommodate youth who might become infected. Our clients report that none of the facilities where they are detained/incarcerated are enforcing social distancing. Staff, who come into contact with others from outside the facilities, are rarely wearing gloves, and almost none are wearing masks. Some juvenile facilities in Pennsylvania, such as Youth Forestry Camps #2 and #3 and Abraxas have dormitory-style living, including 8 to 24 young people living in one room; have youth housed and sleeping in bunk beds; and are at heightened capacity, making it impossible for youth to maintain distance, even when sleeping.
7. Youth across Pennsylvania, many held for low-level offenses, remain in juvenile detention and correctional settings. Pennsylvania frequently places youth for non-criminal acts and has particularly high rates of placement for technical violations. Four out of five youth in Pennsylvania have been placed for offenses not found on the violent crime index, and 26% of youth in Pennsylvania placements were committed for technical violations, compared to 15% nationally.
8. Black youth are nine times more likely to be incarcerated, and Latinx and Native American youth three times more likely to be incarcerated as white youth in Pennsylvania. Pennsylvania also has a significantly higher rate of juvenile court placement than other states across the country.
9. Like adults, children in a group or institutional setting are at risk. The very nature of incarceration means that social distancing is difficult to achieve in such a milieu without resorting to solitary confinement. Our office recently learned that 9 children at our local detention center are currently being isolated in their cells after exposure to a medical staff member who tested positive for COVID-19. Human contact for the children is at a minimum. Everything is done inside the cell, including eating meals and reviewing school packets. These youth are denied access to telephones; they cannot even communicate with their parents, guardians, or attorneys. Given what we know about adolescent brain

development, denying basic human contact to children is not only temporarily inhumane, it creates significant risks for long term emotional and developmental damage.

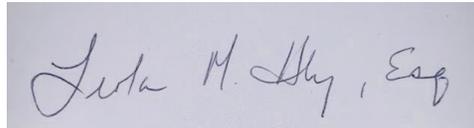
10. Direct File Juveniles, or children who are initially charged in adult court, are included in the population particularly vulnerable to solitary confinement as a measure to “protect” the rest of the prison population. These children are incarcerated in county adult prisons, both on the juvenile designated wing at Riverside Correctional Facility and those that have “aged out” to general population at adult prisons. New admissions must be quarantined for 14 days to prevent the spread of the virus. In adult prison settings, “quarantine” means solitary confinement. These children are held in custody, often with high bails, without family visitation. In our conversations with these youth, they are fearful of exposure to the virus. In addition, they have no access to teachers who often serve a supportive role in lieu of family to help calm their fears. Furthermore, these clients are missing court dates that would allow for a possible decertification to juvenile court, with no idea of when those court dates might be rescheduled.
11. Since the Governor’s order to close schools, there has not been a uniform effort to provide an education to children in both detention facilities and placements. Some children have absolutely no educational materials provided, some are being given packets to fill out without qualified teachers to provide assistance, and some youth are being provided instruction through computer learning. None of those “options” involve contact with teachers. However, many school districts are providing access to teachers for children who are at home with their families through online education.
12. Since the state of emergency was declared in Pennsylvania, family visits have stopped. Home passes have stopped. Phone calls are limited. Children cannot hug their parents, grandparents, siblings. Treatment, rehabilitation, and supervision cannot happen without family visits, family participation, and home passes. All youth spoken with across the Commonwealth have reported increased stress; those youth with mental health diagnoses report extreme anxiety.
13. Family Court Judges are only responding to petitions for release when the District Attorney’s Office, Probation, and the Defender Association are in agreement. However, our county detention facility is still housing

significantly more youth than it has in years. Court hearings for routine placement reviews scheduled to take place after the courts were closed have yet to be rescheduled. Children consistently ask when they can see their Judge.

14. Through this pandemic, we cannot forget that we are working with children; as one client told her attorney today, “I just want to hug my mom.” All children in detention or placement need judicial hearings to assess whether they can and should be released during this pandemic. Judges must err on the side of leniency, given these unusual historical circumstances, and our most vulnerable clientele.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 1, 2020

A rectangular box containing a handwritten signature in cursive script that reads "Leola M. Hardy, Esq".

Leola M. Hardy
Defender Association of Philadelphia
Children and Youth Justice Unit