

**IN THE SUPREME COURT OF PENNSYLVANIA**

In re: the Petition of C.Z., A.O., and :  
Z.S.-W., on behalf of all similarly : 24 EM 2020  
situated individuals, :  
*Petitioners.* :

**ANSWER OF COUNTY COMMISSIONERS  
ASSOCIATION OF PENNSYLVANIA  
TO APPLICATION FOR EXTRAORDINARY RELIEF  
UNDER THE COURT’S KING’S BENCH JURISDICTION**

Founded in 1886, the County Commissioners Association of Pennsylvania (“CCAP”) is a statewide, nonprofit, bipartisan association representing the commissioners, chief clerks, administrators, and solicitors of Pennsylvania’s 67 counties. In 1955, under the Pennsylvania County Code, CCAP was officially recognized as a state association empowered to discuss and resolve questions arising in the discharge of the duties and functions of the respective officers of Pennsylvania’s counties, and to provide uniform, efficient, and economical means of administering the affairs of Pennsylvania’s counties. 16 P.S. §441(a). CCAP’s mission is, in relevant part, “to strengthen Pennsylvania counties’ ability to govern their own affairs and improve the well-being and quality of life of their constituents.”<sup>1</sup> To this end, CCAP supports county leadership that is responsive to the needs and circumstances of citizens and stands firmly against actions that

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<sup>1</sup> CCAP Vision and Mission Statement, <https://www.pacounties.org/AboutUs/Pages/default.aspx> (last accessed April 3, 2020).

promote state or federal fiscal, administrative or programmatic authority over locally developed standards. CCAP acts through its staff members, Board of Directors, and Committees, the latter two being comprised of representatives of CCAP member counties, who serve to direct the advocacy and efforts on behalf of those members.

Although not identified as a respondent in the above-captioned Petition, CCAP was notified of the filing as a potentially interested party. Because county commissioners themselves do not have the authority to admit or release juveniles in confinement, CCAP is not a proper party to the instant case (indeed, Petitioners have not identified any Respondents nor averred that any entity or person has actually violated any law). In any event, it cannot adequately respond within the timeframe provided to the matters raised in the Petition. Nevertheless, CCAP submits this limited response, not to address the substantive merits of the Petition but to focus on the scope of the requested relief and, in particular, (1) to advise the Court of the unique challenges faced by its member counties that operate juvenile detention facilities when responding to COVID-19, (2) to update the Court on the work that various stakeholders have already undertaken to address the issues raised in the Petition, and finally, (3) to urge the Court not to adopt a “one size fits all” approach to a matter that is best addressed at the local level.

CCAP recognizes that the COVID-19 pandemic is a crisis of unprecedented magnitude which has created numerous challenges for the judiciary and criminal justice system, including county-operated juvenile detention facilities. Currently, 11 of Pennsylvania 67 counties operate juvenile detention facilities. While Petitioners focus on a few juveniles, the facilities statewide vary greatly in terms of bed capacity, staffing, and access to resources. All Pennsylvania counties have received guidance from the Centers for Disease Control and Prevention (“CDC”) on management of COVID-19 in correctional and detention facilities.<sup>2</sup> The CDC stresses that its guidance “may need to be adapted based on individual facilities’ physical space, staffing, population, operations, and other resources and conditions,” emphasizing the need for a localized and individualized approach in responding to the pandemic.

In addition to the CDC, counties are guided and directed by other juvenile justice stakeholders in developing their responses to the COVID-19 crisis. The Juvenile Court Judges’ Commission (“JCJC”), recently issued guidance to all juvenile court judges and chief juvenile probation officers, key provisions of which are summarized in its March 2020 Newsletter.<sup>3</sup> In particular, the JCJC noted that

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<sup>2</sup> Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> (last accessed April 3, 2020).

<sup>3</sup> Newsletter of the Pennsylvania Juvenile Court Judges’ Commission, Vol. 31, No. 3, March 2020, [https://www.jcjc.pa.gov/Publications/Newsletters/March\\_.pdf](https://www.jcjc.pa.gov/Publications/Newsletters/March_.pdf) (last accessed April 3, 2020).

“despite these extraordinary times, judicial districts have continued to find ways to review cases and make release decisions on an individual basis in a method that takes all relevant matters into consideration,” noting that “[t]he means by which these hearings are being held has varied greatly.” In addition, JCJC recommended that “timely proceedings related to the review of juveniles in out-of-home placement remain a priority of juvenile court functions during the pandemic crisis” and that “[e]very consideration be given to the release of youth, or to alternative dispositions, when this can be accomplished in a safe manner and within the mandates of [JCJC’s] Balance and Restorative Justice mission.” Finally, the JCJC reminded courts that “every youth has their own individual characteristics and situations to be considered during these reviews” and indicated that “[c]onsideration of release is particularly important for youth with health issues that may make them . . . vulnerable at this time.”

CCAP is concerned that the scope of the requested relief is unrealistic and would overburden already closed courts and government resources that are now scattered, particularly the request for immediate judicial review of every juvenile’s situation and the presumptive right to release. CCAP believes that there are likely situations where release may be appropriate, but the request should be made by the juvenile at the county level and reviewed by the court based upon the circumstances presented by that individual. This is especially important as many

juveniles would be released to potentially far more risky environments than where they presently residing. Certainly, acceptable release plans and supervision are essential, while wholesale releases could overburden an already stressed system. In short, individualized assessments, not wholesale presumptive releases, with the burden on the applicants to show a need for release, are required.

In light of the guidance and directives referenced herein, CCAP asks the Court to consider the value of permitting counties to continue to respond to management of COVID-19 in juvenile detention facilities on a local level, particularly as consensus on best practices continues to change on a daily basis. As counties forge a path forward in responding to COVID-19, CCAP and other stakeholder organizations will continue to provide information, education and resources to counties as it becomes available. Accordingly, CCAP respectfully requests the Court to deny the relief requested by the Petitioners.

Respectfully submitted,

MCNEES WALLACE & NURICK LLC

Dated: April 3, 2020

/s/ Alan R. Boynton, Jr.

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Alan R. Boynton, Jr.

Alan R. Boynton, Jr., Esq.