



**JUVENILE JUSTICE &
DELINQUENCY PREVENTION
COMPLIANCE MONITORING**

ADULT FACILITY GUIDE

**A Guide to the Juvenile Justice and
Delinquency Prevention Act of 2002**

ALABAMA

LAW ENFORCEMENT

JUVENILE DETENTION MANUAL



A Guide to the Juvenile Justice and
Delinquency Prevention Act of 2002

Preparation and printing of this manual is funded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, through the Juvenile Justice and Delinquency Prevention Act, Title II Formula Grant Program

2017



ROBERT BENTLEY
GOVERNOR

JIM BYARD, JR.
DIRECTOR

STATE OF ALABAMA

MEMORANDUM

TO: Sheriffs and Chiefs
Department of Youth Services
Detention Directors
Trooper Post Commanders

FROM: William M. Babington, Division Chief
ADECA LETS Division

DATE: March 8, 2017

SUBJECT: Compliance Monitoring

A handwritten signature in blue ink, appearing to be "WMB", is written over the "FROM:" line of the memorandum.

The Alabama Department of Economic and Community Affairs (ADECA), Law Enforcement and Traffic Safety (LETS) Division is responsible for ensuring Alabama's compliance with the four Core Requirements of the Juvenile Justice and Delinquency Prevention Act (JJDP) related to the secure confinement of juveniles. These requirements include 1) Deinstitutionalization of Status Offenders; 2) Sight and Sound Separation; and 3) Jail Removal.

To comply with these requirements, information must be collected from all facilities in the state that have the potential to securely hold juveniles pursuant to public authority. These include all juvenile detention, correction and collocated facilities; and adult jails, lockups and court holding facilities.

To assist you with submitting this data, separate Secure Custody Reports have been developed for juvenile facilities and adult facilities. For electronic versions of these reports go to <http://adeca.alabama.gov/Divisions/lets/Pages/JuvenileJustice.aspx>.

Action Needed:

- Please return the quarterly report recording all juveniles held securely, within 15 days after the end of the quarter.
- Email the report to the secure email server at juvenilemonitoring@alacop.gov or fax to your Compliance Monitor. (Be aware that a fax WILL NOT be as secure as the email).
- Discard older forms and use the newer versions provided on the website. If you need hard copies of the form, please contact the Compliance Monitor for your facility.

The ADECA/LETS Division has contracted with Mike Rollins of *RMR Consultation and Compliance, LLC*, and Cynthiather (C.L.) May of *May Law Group, LLC* for monitoring services.

Compliance Monitor Contacts:

Adult Facilities: Mike Rollins – Phone: 256-454-2378; Fax: 256-782-2298
Juvenile Facilities: Cynthiather (C.L.) May – Phone/Fax: 205-208-8877

Thank you.

WMB:KC

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JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Background

Since its passage in 1974, the Juvenile Justice and Delinquency Prevention (JJDP) Act has changed the way States and communities deal with troubled youth. The original goals of the Act and of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) were simple: to assist State and local governments prevent and control juvenile delinquency and to improve the juvenile justice system. These goals were reaffirmed in the reauthorization of the JJDP Act of 2002. A second important element in the 1974 Act was to protect juveniles in the juvenile justice system from inappropriate placements and from the harm – both physical and psychological – that can occur as a result of exposure to adult criminal offenders. Yet another important element of the JJDP Act emphasized the need for community-based treatment for juvenile offenders. In passing the JJDP Act, Congress recognized that keeping children in the community is critical to their successful treatment.

The JJDP Act, through 2002 reauthorization, establishes four core protections with which participating States and territories must comply to receive grants under the JJDP Act:

- Deinstitutionalization of status offenders (DSO),
- Removal of juveniles from adult jails and lockups (jail removal),
- Separation of juveniles and adults in institutions (separation), and
- Reduction of disproportionate minority contact (DMC), where it exists.

Meeting the core protections is essential to creating a fair and consistent juvenile justice system that advances an important goal of the JJDP Act: to increase the effectiveness of juvenile delinquency prevention and control.

Deinstitutionalization of Status Offenders (DSO)

The DSO provision was included in the original JJDP Act. As enacted in 1974, the Act required States to “provide within two years... that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult (i.e., status offenders), shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities.”

As amended by the JJDP Act of 2002, the DSO requirement currently reads as follows: “...juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult – excluding juveniles who are charged with or who have committed a violation of Section 922(x) of Title 18 U.S.C. or of a similar State law; juveniles who are charged with or who have committed a violation of a valid court order; and juvenile who are held in accordance with the Interstate Compact on Juveniles as enacted by the State – shall not be placed in secure detention or correctional facilities.” In addition the 2002 Act states that “juveniles who are not charged with any offense and who are aliens or alleged to be dependent, neglected or abused shall not be placed in secure detention or correctional facilities.”

Separation of Juveniles from Adult Offenders (Separation)

Since the inception of the juvenile justice system, the practice of incarcerating juveniles with adult offenders has been criticized. The placement of juveniles in institutions where they are mixed with adult inmates is emotionally and physically traumatic, resulting in further victimization. Moreover, commingling juvenile offenders with adults provides an education in crime and undercuts the intent of a separate juvenile justice system designed to rehabilitate and treat juvenile offenders.

In one of the original provisions of the JJDP Act, Congress sought to provide separation between adult inmates and juveniles in institutional settings such as jails, lockups, prisons, and other secure facilities. The JJDP Act of 2002, provides that juveniles alleged to be or found to be delinquent, as well as status offenders and non-offenders, “will not be detained or confined in any institution in which they have contact with adult inmates.”

Removal of Juveniles from Adult Jails and Lockups (Jail Removal)

Although many of the juveniles taken into police custody and referred to the juvenile court can be released to parental custody to await court action, juveniles who have committed serious crimes and are a safety risk to the community may be removed from their homes and placed in secure facilities pending court hearings. Prior to the passage of the jail and lockup removal provision in the JJDP Act, this routinely resulted in placing juveniles in adult jails or lockups in danger of physical or emotional harm from adult prisoners.

For these reasons, Congress amended the JJDP Act in 1980 to include the jail and lockup removal requirement, which states that “no juvenile shall be detained or confined in any jail or lockup for adults,” a requirement reaffirmed by the JJDP Act of 2002.

The JJDP Act of 2002 provides the following exception: “ juveniles who are accused of non-status offenses who are detained in such jail or lockup for a period not to exceed 6 hours for processing or release, while awaiting transfer to a juvenile facility, or in which period such juveniles make a court appearance, and only if such juveniles do not have contact with adult inmates.”

Reduction of Disproportionate Minority Confinement (DMC)

As amended by the JJDP Act of 2002, the concept of disproportionate minority confinement has been broadened to address the disproportionate number of minority youth who come into contact with the juvenile justice system at any point. The 2002 Act requires states to “address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system.

MONITORING FOR COMPLIANCE: ADULT JAILS AND LOCKUPS

Definitions

Adult Jail. An adult jail is a locked facility administered by State, county or local law enforcement and correctional agencies. The purpose of a jail is to detain adults charged with violating criminal law, pending trial. Adult jails also hold convicted adult criminal offenders sentenced for less than 1 year.

Adult Lockup. An adult lockup is similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature that does not hold persons after they have been formally charged.

Collocated Facility. Collocated facilities are facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds.

Related complex of buildings. A related complex of buildings is two or more buildings that share physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or the specialized services such as medical care, food service, laundry, maintenance, engineering services, etc.

Status Offender. A status offender is a juvenile who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. The following are examples of status offenses:

- Truancy,
- Violations of curfew,
- Runaway,
- Possession and/or consumption of tobacco products,
- Possession and/or consumption of alcohol: This offense is considered a status offense, even though State or local law may consider it a delinquent offense.¹

Nonoffender. A non-offender is a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile.

Civil-Type Offender. A civil-type offender is a juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include non-criminal traffic violations and non-criminal fish and game violations.

Definitions Of Secure and Nonsecure Custody of Juveniles Held in Adult Jails

Secure Custody.

As used to define a detention or correctional facility, this term includes residential facilities having construction features designed to physically restrict the movements and activities of persons in custody (e.g., locked rooms and buildings, fences, or other physical structures). It does not include facilities where physical restriction of movement or activity is provided solely through facility staff (i.e., staff

¹ With regard to underage alcohol offenses, in many States it is a criminal offense for any person 18-20 years old to consume or possess alcoholic beverages. Because this time period is limited (i.e., three years) and the age at which this is not a criminal offense is very broad, these alcohol offenses must be classified as status offenses if committed by a juvenile. However, criminal offenses that apply to all adults (e.g., public intoxication) may be classified as delinquent offenses.

secure). Secure detention or confinement may result either from being placed in such a room or enclosure and/or from being physically secured to a cuffing rail or other stationary object.

Also considered secure are those facilities that contain doors with delayed egress devices that have not received written approval by the authority having jurisdiction over fire codes and/or fire inspections in the area in which the facility is located. The egress delay must never exceed the time delay allowed by the fire code applicable to the area in which the facility is located, and the maximum time delay allowed must be specified on the written approval. Facilities that contain devices that exceed a 30-second delay are always considered secure, even though local code may allow for a longer time delay.²

As examples, a juvenile placed in the following situations would be considered in a secure custody status:

- A juvenile placed in an unlocked room within the secure perimeter of an adult jail or lockup or a juvenile detention center.
- A juvenile handcuffed to a rail in an unlocked lobby area of an adult jail or lockup.
- A juvenile placed in a room that contains doors with unapproved delayed egress devices or approved delayed egress devices with a delay of more than 30 seconds.
- A juvenile being processed in a secure booking area where a non-secure booking area is available within a facility.
- A juvenile left in a secure booking area after being photographed and fingerprinted.
- A juvenile placed in a cell within an adult jail or lockup, whether or not the cell door is locked.

Nonsecure Custody.

A juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in a secure detention or confinement status. OJJDP's *Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups*³ states that all of the following policy criteria, if satisfied, will constitute nonsecure custody of a juvenile in an adult jail or lockup facility:

1. The area where the juvenile is held is an unlocked multipurpose area, such as a lobby, office, or interrogation room that is not designated, set aside or used as a secure detention area or is not part of such an area, or, if a secure area, is used only for processing purposes;
2. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
3. The use of the area is limited to providing nonsecure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
4. In no event can the area be designed or intended to be used for residential purposes; and

² This is the maximum delay allowed by the National Fire Protection Association, as published in the *Life Safety Code Handbook*. In order for these devices to be used the *Life Safety Code Handbook* dictates that other requirements must be met such as the existence of an approved supervised automatic sprinkler system.

³ Federal Register 53, no.212 (November 2, 1988): 44367

5. The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

In addition, a juvenile placed in the following situations would be considered in a nonsecure status:

- A juvenile handcuffed to a non-stationary object: If the five criteria listed above are adhered to, handcuffing techniques that do not involve cuffing rails or other stationary objects are considered nonsecure.
- A juvenile being processed through a secure booking area: Where a secure booking area is all that is available and continuous visual supervision is provided throughout the booking process and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules), the juvenile is not considered to be in a secure detention status. Continued nonsecure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
- A juvenile placed in a secure police car for transportation: The JJDP Act applies to secure detention facilities and secure correctional facilities; therefore, a juvenile placed in a police car for transportation would be in a nonsecure status.
- A juvenile placed in a nonsecure runaway shelter but prevented from leaving because of staff restricting access to exits: A facility may be nonsecure (i.e., staff secure) if physical restriction of movement or activity is provided solely through facility staff.
- A juvenile placed in a room that contains doors with delayed egress devices which have received written approval (including a specification of the maximum time delay allowed) by the authority having jurisdiction over fire codes and fire inspections in the area in which the facility is located and which comply with the egress delay established by the authority having jurisdiction over fire codes and fire inspections. In no case shall this delay exceed 30 seconds.

Related Alabama statutes may be found in **Appendix A**.

Compliance with the Deinstitutionalization of Status Offenders Requirement

Adult jails and lockups cannot hold status offenders, non-offenders, or civil-type offenders in a secure manner at any time. An accused status offender may be detained in a nonsecure area of an adult jail or lockup for processing while waiting transportation to a nonsecure shelter care facility or a juvenile detention center or while waiting release to a parent or guardian.

Adult jails and lockups should keep records of every juvenile who enters the facility. For status offenders, non-offenders, and civil-type offenders, the records should indicate if the juvenile was held securely or non-securely. If such a juvenile is held in a secure manner at any time, this hold would count as a violation of both DSO and jail removal. If held in a secure manner and not sight and sound separated from adult detainees while being held securely, the result would be a violation of DSO, separation, and jail removal.

Compliance with the Jail Removal Requirement

The JJDP Act states that “no juvenile shall be detained or confined in any jail or lockup for adults....” There are two exceptions, used by Alabama, to this requirement:

- A 6-hour holding exception for alleged delinquent offenders.

- An exception for juveniles waived or transferred to a criminal court.

Six-Hour Hold Exception.

OJJDP regulations allow for a 6-hour “grace period” that permits the secure detention in an adult jail or lockup of those juveniles accused of committing criminal-type offenses (i.e., offenses that would be a criminal offense if committed by an adult). Under this exception, the juvenile cannot have sight or sound contact with incarcerated adults during the time the juvenile is in a secure custody status in the adult jail or lockup. The 6 hours can be used in the following circumstances:

1. An accused delinquent could be detained for up to 6 hours for the purposes of identification, processing, and to arrange for release to parents or transfer to juvenile court officials or juvenile shelter or detention facilities. Any holding of juveniles should be limited to the absolute minimum time necessary to complete these purposes, not to exceed 6 hours.
2. An alleged or adjudicated delinquent could be detained for up to 6 hours before a court appearance and up to an additional 6 hours after a court appearance, but any hold of an adjudicated delinquent that is not related to a court appearance is a violation of jail removal.

The following is noted about this exception:

- The 6-hour time periods cannot be combined to extend the time frame. For example, a juvenile cannot be detained for 3 hours before and 7 hours after the court appearance.
- Once the juvenile has been placed in a secure custody status and the 6-hour period has begun, the facility cannot temporarily take the juvenile out of a secure custody status and begin the 6-hour time period again. For example, if a juvenile was placed in a secure custody status for 4 hours, then was taken to a nonsecure interview room for 1 hour, then was returned to a secure custody status for 2 hours, the total time to report for the jail removal provision is 7 hours and would be a violation of the 6-hour limit.
- A status offender, non-offender, or civil-type offender cannot be securely detained for any length of time in an adult jail or lockup.
- Adjudicated delinquents cannot be held for any length of time in adult jails or lockups as a disposition.
- A juvenile may not be transferred to a jail or lockup from a juvenile detention center for disciplinary reasons.
- Sight and sound separation from adult offenders must be maintained at all times pursuant to the separation requirement.

Compliance with the Sight and Sound Separation Requirement

Juveniles Shall Not Have Contact With Incarcerated Adults.

Separation must be achieved in all secure areas of the facility. Accused or adjudicated delinquent offenders, status offenders, and nonoffenders cannot have contact with adult inmates, including inmate trustees. Contact is defined to include any physical or sustained sight and sound contact. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

Sight and sound separation must be achieved in all secure areas of the facility. It may be accomplished architecturally or through policies and procedures such as time phasing the use of an area to prohibit simultaneous use by juveniles and adults. Brief and inadvertent or accidental contacts between juvenile offenders in a secure custody status and incarcerated adults in secure nonresidential areas of the facility do not count as violations.

Where a secure booking area is all that is available, continuous visual supervision is provided throughout the booking process, and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules), the juvenile is not considered to be in a secure detention status and separation would not apply during this time. Once the booking process has been completed, the juvenile must be separated immediately from adult inmates.

In accordance with current OJJDP policy and proposed regulation, the state must assure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section of an adult jail, lockup, or correctional facility as a disposition of an offense or as a means of modifying their behavior (e.g., Shock Incarceration or Scared Straight). Additional information may be found in **Appendix B**.

Transfer or Waiver Exception.

If criminal felony charges have been filed against a juvenile in a court exercising criminal jurisdiction, the juvenile can be detained in an adult jail or lockup. The jail and lockup removal requirement does not apply to those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed or to juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges. Note that waiver or transfer and the filing of criminal felony charges does not transform a juvenile into an adult. Therefore, such a juvenile can be detained (or confined after conviction) in a juvenile facility and commingled with juvenile offenders.

Transferred, Certified, or Waived Juveniles

A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court does not have to be separated from adult criminal offenders. This is due to the fact that such a juvenile is not accused or adjudicated delinquent (the juvenile is under a criminal proceeding not a delinquency proceeding). Likewise, an adult held in an adult jail or lockup for a delinquency proceeding (generally related to a crime committed before reaching the full age of criminal responsibility) can be held securely in an adult jail or lockup because the adult is not a juvenile alleged to be, or found to be, delinquent. Both types of individuals can be placed wherever the legislature or courts, where authorized, deem appropriate.

Alabama Code provides that the juvenile court loses jurisdiction over persons under 18 with regard to delinquent/criminal acts under the following code sections:

§12-15-203 provides that the juvenile court may transfer children over the age of 14 for adult prosecution. Once transferred, a conviction or youthful offender adjudication (excluding traffic violations) terminates the jurisdiction of juvenile court with regards to any pending or future delinquent acts, and

§12-15-204 provides that if a juvenile is 16 years of age and is charged with certain serious felony offenses, the person shall be charged, arrested and tried as an adult. Again, a conviction or youthful offender adjudication terminates the jurisdiction of juvenile court with regards to any pending or future delinquent acts

Juvenile Justice and Delinquency Prevention Act Commonly Asked Questions

DEINSTITUTIONALIZATION OF STATUS OFFENDER (DSO) REQUIREMENT

- 1. Under what conditions can a non-offender be detained?**
Non-offenders may be processed with no time limitations in a nonsecure facility or in a nonsecure status within a secure facility. Non-offenders cannot be held securely for any amount of time where they have contact with status or juvenile offenders.
- 2. Under what conditions can a status offender be detained?**
Status offenders may be held with no time limitations in a nonsecure facility or in a nonsecure status in a secure facility; they can be held securely in a juvenile detention facility for up to 24 hours excluding weekends and judicial holidays prior to an initial court appearance and for an additional period following an initial court appearance.
- 3. May we still transport status or non-offenders to the law enforcement facility?**
Yes. Status offenders may be processed, briefly, in a secure booking area of an adult facility if they are under the officer's continuous visual supervision. However, they must be removed immediately following the booking process and placed into a nonsecure area for interrogation, contacting parents or arranging for alternative placement.
- 4. If a status or non-offender is placed in a secured area, but their door is not locked, is it still a violation?**
Yes. Any area within an adult law enforcement facility that is designated, set aside or used for the specific purpose of securely detaining a person is considered secure. It is important to designate a nonsecure area for the holding of juveniles within the law enforcement facility.
- 5. If possession and/or consumption of alcohol are prohibited by some adults (persons between the ages of 18 and 21) aren't those charges then considered delinquent offenses rather than status offenses?**
No. Juveniles under the age of 18 who consume or possess alcohol are still considered status offenders under the DSO requirements of the JJDP Act. Offenders between the ages of 18 and 21 are not under the jurisdiction of the juvenile court nor the JJDP Act.
- 6. Is possession of a firearm by a juvenile a status offense?**
No. Section 922(x) of U.S.C. Title 18 of the Federal Criminal Code prohibits the possession of a handgun by a juvenile. A juvenile who violates this statute or a similar state law is exempt from this requirement.
- 7. If a status or non-offender is securely detained in an adult jail or lockup, how is this counted as a violation?**
It counts both as a violation of the DSO requirement and the Jail Removal requirement.

SIGHT AND SOUND SEPARATION REQUIREMENT

- 1. How does the JJDP Act define sight and sound contact?**
Sight contact is defined as clear visual contact between incarcerated adults and a juvenile within close proximity to each other and sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

2. **What is time-phasing?**
Time-phasing is the use of a common space within an adult jail or lockup for the short term processing and movement of juveniles through the facility. Clear policies and procedures may allow for the removal of all incarcerated adults from a common area prior to the entrance of a juvenile to guarantee maintenance of the separation requirement.
3. **If a juvenile and adult commit a crime together, do they need to be separated?**
Federal regulations do not address separation in a patrol car; therefore they can be transported together. However, once the juvenile enters the secure law enforcement facility, separation is required.
4. **Does the separation requirement apply to trustees or work release clients?**
Yes.
5. **Are youth attending a “scared straight” program within an adult facility considered separation violations?**
Yes. States must assure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or section of an adult jail, lockup, or correctional facility as a disposition of an offense or as a means of modifying their behavior.
6. **How do the requirements apply to a court holding facility?**
A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons pursuant to a court proceeding. Court holding facilities are subject to the separation requirement of the JJDP.

JAIL REMOVAL REQUIREMENT

1. **Under what circumstances may a juvenile be securely detained in an adult jail or lockup?**
An accused delinquent may be held securely in an adult jail or lockup, sight and sound separated from adults, for up to six hours for the purposes of identification, investigation, processing, release or transfer; or for up to six hours immediately before or after a court appearance.
2. **Can a juvenile charged with or sentenced for a traffic, game or fish violation be securely detained in a jail or lockup?**
No. A juvenile charged or adjudicated/convicted of a traffic offense, or a civil game and fish violation in any court (unless such offense constitutes a criminal act and criminal charges have been filed) cannot be detained in a jail or lockup over the 6 hour provision. Additionally, if a youth is arrested on a warrant with an underlying civil-type offense they may be held securely in a juvenile detention center for up to 24 hours to arrange bond or release.
3. **Can the six hour secure detention in an adult facility before or after a court hearing be combined?**
No. A juvenile may only be detained six hours before the court hearing, and up to an additional six hours after the court appearance.
4. **When does the six hour time clock start and stop?**
The six hour clock starts the moment the juvenile is placed into a secure environment. The clock cannot be stopped until the juvenile is permanently removed from the secure setting. The clock does not stop for bathroom breaks, interviews, phone calls, etc.

SAMPLE

Juvenile Custody Policy and Procedures
for Law Enforcement Departments

Date Issued: January 2013

Review Date: January 2014, and annually thereafter

Statement of Purpose: All juveniles taken into custody by this department shall be treated in a manner which provides for: the safety of all concerned, respect for human dignity, the preservation of the legal rights and property of the individual, accurate documentation and administrative efficiency. Juveniles, those persons under the age of 18, require considerations due to State law and Federal regulations.

Policy: This policy addresses the secure and non-secure custody of juveniles.

Definitions:

Secure Custody. Defined as being cuffed to a stationary object or cuffing rail, being placed in a secure holding cell or being placed in a locked room. Secure custody physically restricts the movements and activities of persons in custody.

Nonsecure Custody. Defined in the following requirements:

- a. The area where the juvenile is placed in an unlocked, multi-purpose location, such as a lobby, office, or an interview room, which is not designated, set aside, or used as a secure area
- b. The juvenile is not physically secured to a stationary object
- c. The use of the area is limited to providing nonsecure custody long enough and for the purposes of identification, processing, release, or transfer
- d. The area(s) is/are not designated or intended to be used for residential purposes, and
- e. Continual, visual supervision is provided by an officer or facility staff.

Time-phasing. The use of a common area for both juveniles and adults but not at the same time.

Sight contact. Is when a juvenile has clear visual contact with an incarcerated adult in close proximity.

Sound contact. Is when a juvenile can have direct oral communication with an incarcerated adult.

Status offenders. A juvenile who have been accused or charged with conduct which would not be an offense if committed by an adult. Status offenses include runaway, truancy, underage possession or consumption of alcohol or tobacco and curfew violations.

Non-offenders. A juvenile who is not charged with an offense and/or an abused or neglected child.

Accused Juvenile Offender. - A juvenile charged with an act, which, if done by an adult, would constitute the commission of a crime.

Civil-Type Offender – A juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include non-criminal traffic violations and non-criminal fish and game violations. This applies to FTA warrants for these offenses as well.

Procedures:

Status Offenders, Non-Offenders and Civil-type Offenders

1. Status offenders, nonoffenders and civil-type offenders shall **not** be placed in secure custody, handcuffed to a stationary object or cuffing rail, or placed into a locked room under any circumstances. Status and civil-type offenders may be cuffed to themselves.
2. Status offenders, nonoffenders and civil-type offenders shall be placed in a nonsecure area; lobby, office or general-purpose room, until release arrangements can be made and the juvenile leaves the facility.
3. The arresting officer is responsible to call or have dispatch contact the Juvenile Intake officer on call. The officer will observe the juvenile until the intake process is complete and placement arrangements are made.
4. Status offenders and civil-type offenders may be processed in a secured booking area, provided that there are no adults present and they are removed immediately following the booking process and taken to a non-secure area.
5. Underage drinking and possession of alcohol by a minor are status offenders pursuant to JJDP Act requirements. When dealing with an intoxicated juvenile, officers should determine whether emergency medical services are warranted.

Accused Juvenile Offenders and Criminal Traffic Offenders

1. It is the preference of this department to detain delinquents non-securely while in custody. Exceptions include violent or combative juveniles who cannot be subdued and pose a threat to the officer or themselves.
2. The arresting officer is responsible to call or have dispatch contact the Juvenile Intake officer on call. The officer will observe the juvenile until the intake process is complete and placement arrangements are made.
3. Accused juvenile offenders and criminal traffic offenders may be temporarily detained, in quarters with sight and sound separation from incarcerated adults for up to 6 hours from the time they enter a secure custody status OR for 6 hours either immediately before or after a court appearance awaiting release or transport to another facility.
4. In cases when a delinquent is securely detained, pending release or transfer, all of the following requirements must be satisfied:
 - a. The secured area is sight and sound separated from adult inmates including trustees.
 - b. There may be no adult prisoners in the booking area when juveniles are present. Separation may be achieved through time-phasing the common areas.
 - c. An entry must be made on the Juvenile Secure Custody Detention Log on all juveniles held in the facility noting whether the youth was held securely or not.

5. The six-hour holding time limit is for processing and release and never to be used as a punitive measure. The six-hour clock will begin when the juvenile enters a secure setting, and once the clock starts it cannot be turned off, even if the juvenile is removed from the secured area.
6. No juvenile offenders under public authority shall enter into the secure_section of the jail as a disposition of an offense or as a means of modifying their behavior. However, youth visiting voluntarily as part of a school or scouting project are not considered violations.
7. Juveniles formally waived to or transferred to criminal court for a felony may be held as an adult.

**JUVENILE JUSTICE and DELINQUENCY PREVENTION ACT
Rules and Regulations
for**

ADULT JAIL & LOCKUP FACILITIES

Definition of Terms:

Secure: When a juvenile is physically detained or confined in a locked room, or cell, or handcuffed to a stationary object. The juvenile is "not free to leave the building due to hardware or construction features".

Non-secure: The juvenile may be in custody but is "free to leave" the building. You may handcuff the juvenile to him/her, but you may not handcuff the juvenile to a stationary object. Juveniles may be placed in an unlocked area which is not designated or used as a secure area.

Type of Juvenile	JJDP Act Requirements
Non-offender (A juvenile who is dependent and neglected, abused, or with mental health needs.)	May not be held securely for any period of time.
Accused or Adjudicated Status Offender (A juvenile who has committed a crime that would not be a crime if committed by an adult, such as a runaway, truant, curfew violator or a minor in possession/consumption of alcohol or tobacco.)	May not be held securely for any period of time.
Accused Juvenile Offender	May be held for up to six hours in a sight and sound separated area for processing/questioning/release or transport
Misdemeanor & Criminal Traffic/Civil Offender	May be held for up to six hours in a sight and sound separated area for processing/questioning/release or transport
Juvenile Transferred to Adult Court for a felony offense	The JJDP Act and requirements do not apply once the juvenile is officially transferred to adult court.

Six Hour Rule: The six-hour "clock" starts the moment a juvenile is placed in a secure custody situation. Once the clock starts it cannot be turned off until the juvenile is permanently removed from secure custody. The six-hour rule does not apply when the juvenile is placed in a locked car or if the juvenile is handcuffed to him/herself.

Contact with Incarcerated Adults: Sight and sound separation of juveniles from incarcerated adults must be maintained at all times. No juvenile shall be placed for any amount of time as a disposition of an offense.

Reporting: All juveniles held in secure custody must be reported on the Law Enforcement Agency Juvenile Secure Custody Quarterly report.

For More Information on the JJDP Act:

Contact Mike Rollins at 256-454-2378 or by email at mrconsult@cablone.net or fax at 256.782.2298.
Contact Cynthiather May by phone or fax at 205-208-8877 or by email at cmay@maylawgrouppllc.com.

Appendix A: Related Alabama Statutes

The following Sections of the Alabama Juvenile Justice Act of 2008 became effective October 1, 2009:

(1) § 12-15-208(a)(1) – Generally, status offenders must not be held in “secure custody”

“Persons who shall not be detained or confined in secure custody include all of the following:

(1) Status offenders. Effective October 1, 2009, status offenders, as defined in this article, shall not be detained or confined in secure custody, except that a status offender who is charged with or who commits a violation of a valid court order may be detained in secure custody in a juvenile detention facility for up to 72 hours in any six-month period, provided that all conditions set forth in subdivision (3) of subsection (b) are satisfied. Short-term secure custody of accused status offenders may be necessary, such as detention in a juvenile detention facility for a brief period, not exceeding 24 hours, prior to formal juvenile court action, for investigative purposes, for identification purposes, or for the purpose of allowing return of a status offender to the parent, legal guardian, or legal custodian. Detention for a brief period of time pursuant to juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement.”

NOTE: This new subsection brings Alabama into compliance with the federal Juvenile Justice and Delinquency Prevention Act, which prohibits the use of secure facilities for status offenders and establishes specific procedural requirements that must be followed when a status offender is detained on the basis of an alleged violation of a valid court order. See 42 U.S.C. § 5633(a)(11).

“Status Offender” is defined in § 12-15-201(4) as “. . .an individual who has been charged with or adjudicated for conduct that would not, pursuant to the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. An adjudicated status offender who violates the terms of his or her probation or aftercare remains a status offender for purposes of Section 12-15-208(a)(1), unless the child is contemporaneously adjudicated for having committed a delinquent act that is not a status offense. Status offenses include, but are not limited to, the following:

- a. Truancy.
- b. Violations of municipal ordinances applicable only to children.
- c. Runaway.
- d. Beyond control.
- e. Consumption or possession of tobacco products.
- f. Possession and consumption of alcohol, which is a status offense by federal law, even though considered a delinquent act by state law.
- g. Driving under the influence pursuant to Section 32-5A-191(b), which is a status offense by federal law, even though considered a delinquent act by state law.”

“Secure custody” is defined in § 12-15-102(24) as follows:

“As used with regard to juvenile detention facilities and the Department of Youth Services, this term means residential facilities with construction features designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, including rooms and buildings that contain alarm devices that prevent departure, fences, or other physical structures. This term does not include facilities where physical restriction of movement or activity is provided solely through facility staff.”

Appendix B: Scared Straight Programs

Jail Preview/Tour and “Scared Straight” Programs and the JJDP Act of 2002

The JJDP Act describes the conditions under which a juvenile may be held in secure confinement/custody. Particularly relevant to jail tour and “Scared Straight” type programs are the core requirements of **jail removal** (removing juveniles from adult jails and lockups) and **sight and sound separation** (juveniles must be sight and sound separated from adults in those instances when both groups are held or processed in the same facility).

With the reauthorization of the federal JJDP Act in 2002, renewed emphasis has been placed on the States (by the federal Office of Juvenile Justice and Delinquency Prevention) to ensure that sight and sound separation requirements are not being violated, especially as they pertain to jail tour/“Scared Straight” programs. Some of these programs may violate, i.e., be out of compliance with the federal separation requirement.

These types of programs involve bringing juvenile offenders into jails or correctional facilities and into contact with the adult inmates being held therein for the purpose of “scaring” the juvenile offenders out of their delinquent behaviors. In some other instances, adult inmates are transported to a facility to “scare” or otherwise impart information designed to discourage continued delinquent behavior on the part of the juvenile offenders. Although traditional “Scared Straight” programs are not known to exist in Alabama, and are prohibited pursuant to Ala. Code §12-15-208(d), we would like to inform you of ways in which similar programs may be in violation of federal and State laws (particularly those that address the removal of juvenile offenders from adult facilities and for the sight and sound separation of adult and juvenile offenders).

Adult offenders include those who are incarcerated because they have been convicted of a crime and those awaiting trial on criminal charges. States are required to verify that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section of an adult jail or lockup or a correctional facility as a disposition of an offense or a means of modifying their behavior.

In order for a particular situation to be out of compliance, all three of the following criteria must be true:

The juvenile is participating in the program under public authority (e.g., if the juvenile is detained in the institution/facility under some form of public order such as a probation requirement, or held securely as part of committing an offense).

The facility in which the juvenile meets with adult offenders (as part of a program) is a physically secure facility (“secure” includes a juvenile being cuffed to a stationary object or being in a locked room that cannot be unlocked by the juvenile from within).

The juvenile has sight or sound contact with adult offenders/inmates.

Examples that are not violations:

A program that brings an incarcerated adult offender to a community center or church to speak to juvenile offenders would not be a violation of the separation requirement because the juveniles presumably would not be detained or confined securely in the otherwise non-secure setting.

A juvenile visiting his or her parent in a secure adult facility would be confined in that facility in which he/she has contact with an adult inmate, but would not be there under public authority, so separation would not apply.

A juvenile touring an adult jail/lockup as part of a high school class (or under other voluntary circumstances) would not be there under public authority, so separation would not apply.

In the case of a juvenile whose parent has arranged a jail tour for their child, separation would not apply unless the juvenile had been instructed (either verbally or in writing) to participate by a judge or other public official, such as a probation officer.

Instances that would be violations:

A juvenile offender who is placed in a juvenile detention center or youth development center or secure residential facility that participates in a jail visit would be counted as a violation because the juvenile is participating as part of his/her public court order that placed him/her in the facility.

A juvenile offender who is required to visit incarcerated adults as part of the juvenile's probation agreement would be counted as a violation because he/she would be visiting under the public authority of his/her court probation order.

An accused juvenile offender who is instructed to participate in a jail tour as a condition of dismissing (or not filing) charges would be counted as a violation because the juvenile's participation resulted from the public authority of the conditional agreement (in Alabama, this sort of authority is generally exercised through a "consent decree" or an "informal adjustment" agreement originating from a juvenile court).

If adult offenders who are currently incarcerated are brought to a juvenile detention center or secure residential facility, separation violations would be counted for every juvenile who had contact with the adult inmate.

Appendix C: Additional Resources

American Bar Association

<http://www.abanet.org/crimjust/juvjus/home.html>

American Correctional Association

<http://www.aca.org>

American Probation and Parole Association

<http://www.appa-net.org>

Blueprints for Violence Prevention

Center for the Study and Prevention of Violence
University of Colorado

<http://www.colorado.edu/cspv/blueprints/>

Center for Problem Oriented Policing, US Department of Justice

Problem Specific Guides

<http://www.popcenter.org/problems.htm>

Center for the Promotion of Mental Health in Juvenile Justice

<http://www.promotementalhealth.org>

Community Guide to Helping America's Youth

<http://www.helpingamericasyouth.gov>

DMC Resources

<http://ojjdp.ncjrs.org/dmc>

Exemplary and Promising Safe, Disciplined and Drug-Free Schools

Safe, Disciplined and Drug-Free Schools Expert Panel

<http://www.ed.gov/admins/lead/safety/exemplary01/exemplary01.pdf>

Foundation Center

<http://foundationcenter.org/>

GRANTS FOR NONPROFITS: Law and Criminal Justice

<http://staff.lib.msu.edu/harris23/grants/2gov.htm>

John D. and Catherine T. MacArthur Foundation

<http://www.macfound.org/>

Juvenile Detention Alternatives Initiative

Annie E. Casey Foundation

<http://www.aecf.org>

Juvenile Information Network

<http://www.juvenilenet.org>

Juvenile Law Center

<http://www.jlc.org>

Model Program Guide

Office of Juvenile Justice and Delinquency Prevention

<http://www.dsgonline.com>

National Center for Juvenile Justice

<http://www.ncjj.org>

National Council of Juvenile and Family Court Judges

<http://www.ncjfcj.unr.edu>

National Criminal Justice Reference Service

<http://www.ncjrs.org>

National Juvenile Detention Association

<http://www.njda.com>

National Mentoring Center

<http://www.nwrel.org/mentoring/>

National Association of Youth Courts

American Probation and Parole Association

<http://www.youthcourt.net/>

Strategies and Tools for Communities to Help Youth

<http://www.findyouthinfo.gov>

Strengthening America's Families, Effective Family Programs for Prevention of Delinquency

Department of Health Promotion and Education, University of Utah

<http://www.strengtheningfamilies.org>

Substance Abuse and Mental Health Services Administration (SAMHSA) Model Programs

U.S. Department of Health and Human Services

<http://modelprograms.samhsa.gov>

Truancy Prevention—Empowering Students, Schools, and Communities

Office of Juvenile Justice and Delinquency Prevention

<http://ojjdp.ncjrs.org/truancy/>

Vera Institute of Justice

<http://www.vera.org>

Youth Law Center

<http://www.ylc.org/>

Appendix D: Contacts

Juvenile Compliance Monitoring Contacts

Aisha Hassan
Human Services Unit Chief
Alabama Department of Economic and Community Affairs
Law Enforcement and Traffic Safety Division
401 Adams Avenue, Room 466
P.O. Box 5690
Montgomery, Alabama 36103-5690
Phone: 334-353-5309
Fax: 334-242-0712
Email: aisha.hassan@adeca.alabama.gov

Karen Clifton
Program Supervisor/Juvenile Justice Specialist
Alabama Department of Economic and Community Affairs
Law Enforcement and Traffic Safety Division
401 Adams Avenue, Room 466
P.O. Box 5690
Montgomery, Alabama 36103-5690
Phone: 334-353-5311
Fax: 334-242-0712
Email: karen.clifton@adeca.alabama.gov

Mike Rollins
Compliance Monitor
RMR Consultation and Compliance, LLC
P.O. Box 6102
Anniston, AL 36204
Phone: 256-454-2378
Fax: 256-782-2298
Email: rmrconsult@cableone.net

Cynthianther (C.L.) May
Compliance Monitor
May Law Group, LLC
P. O. Box 261
Birmingham, AL 35201
Phone & Fax: 205-208-8877
Email: cmay@maylawgroupllc.com

JUVENILE SECURE CUSTODY QUARTERLY REPORT

Facility: _____

Dates Covered: _____ 1/1/17 – 3/31/17 _____ 4/1/17 – 6/30/17 _____ 7/1/17 – 9/30/17 _____ 10/1/17 – 12/31/17

Person Completing Report: _____ Phone: _____

Certification: This form must be signed certifying the accuracy of the information provided

Facility Director's Signature: _____ Date: _____ E-mail: _____

Name	DOB	Sex	Race	Reason for Detention/ Charges	Date & Time Admitted into secure custody	Date & Time Released from secure custody	Release Placement

Forward quarterly to juvenilemonitoring@alacop.gov or fax to 256.782.2298

JUVENILE SECURE CUSTODY QUARTERLY REPORT

Name	DOB	Sex	Race	Reason for Detention/ Charges	Date & Time Admitted into secure custody	Date & Time Released from secure custody	Release Placement

Name of Facility _____

Date _____

Page ___ of ___

JUVENILE SECURE CUSTODY QUARTERLY REPORT

Instructions on completing the ALABAMA LAW ENFORCEMENT AGENCY JUVENILE SECURE CUSTODY QUARTERLY report:

If your facility has held or processed juveniles during the quarterly reporting period, then please complete this form recording all that were held securely. Secure is defined as the use of hardware to keep someone from leaving – holding cell, locked interview room or cuffing device. If your facility has not held juveniles in a secure manner as defined above during the reporting period, then please make that notation, sign the form and return it to where indicated.

Facility: Enter the name of this secure facility.

Dates covered: Please check the appropriate quarter being reported. Submit additional report forms if necessary.

Person Completing Report: Identify the person completing this report and his or her telephone number in case questions should arise.

Facility Director's Signature: This signature certifies that the submitted information is accurate.

Date and Email: The date the form was signed and the appropriate email address for follow-up correspondence about the form.

Name: Juvenile's name, as booked, with last name first.

DOB: Enter the month, day, and year of the juvenile's birth. If unavailable, enter the juvenile's age in years.

Sex: Enter "F" for Female, and "M" for Male.

Race: Enter "W" for White/Anglo, "B" for Black/African American, "A" for Asian, "C" for Chicano/Latino, and "O" for Other.

Charges/Offense: Record the most serious charge or offense for which the juvenile is being held.

Date and Time Admitted into Secure Custody: Enter the exact month, day, year, and time that the juvenile was admitted into secure custody.

Date and Time of Release from Secure Custody: Enter the exact month, day, year, and time that the juvenile was released from secure custody.

Who was the juvenile released to, or how was the juvenile released: Identify to whom the juvenile was released or what other placement was ordered.