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FROM: JOHN J. FARMER, JR., ATTORNEY GENERAL

DATE: March 22, 2001

SUBJECT: ATTORNEY GENERAL LAW ENFORCEMENT
DIRECTIVE NO. 2001-2

JUVENILE JUSTICE COMMISSION MONITORING OF MUNICIPAL
LOCKUPS – JUVENILE ADMISSIONS LOG

Introduction

It is the responsibility of the Juvenile Justice Commission (JJC) to monitor law enforcement agencies in New Jersey for compliance with Federal regulations involving the handling of juveniles in custody. The State must remain in compliance with these regulations in order to maintain its eligibility for Federal grant money which is awarded through the Juvenile Justice Commission to develop delinquency prevention programs in counties and municipalities. Furthermore, the State must report annually to the Federal Office of Juvenile Justice and Delinquency Prevention (hereinafter OJJDP) on its level of compliance with these regulations.

As a result of a recent audit of the Juvenile Justice Commission's monitoring system by OJJDP representatives, the Juvenile Justice Commission has been directed to enhance its monitoring of local police departments. Accordingly, this Directive is hereby issued to facilitate cooperation and collaboration between the Juvenile Justice Commission and local law enforcement agencies so as to ensure compliance with Federal regulations and continued eligibility for grant funding.



Applicability

All facilities that may hold juveniles under court authority are monitored and, therefore, subject to this Directive. Currently, this includes approximately 500 lockups in the State used for the temporary holding of individuals. The vast majority of New Jersey's lockup facilities are located in local police departments. Other types of temporary holding facilities are included as well. This list of monitored facilities is revised and updated annually by the Juvenile Justice Commission.

Juvenile Admissions Log and Survey

In order for the State to monitor a facility for compliance with these regulations, it is necessary that a **Juvenile Admissions Log** be maintained by each facility. A copy of the admissions log and an explanatory memorandum from the Juvenile Justice Commission is enclosed herewith.

Semi-annually, each Chief Law Enforcement Officer, whose department is classified by the Juvenile Justice Commission as having a secure holding capacity, will be mailed a survey requesting information on juveniles handled within that facility. The data maintained in the log is required to complete the survey. The completed survey, not the log, must be transmitted to the Juvenile Justice Commission in a timely fashion. Staff from the Juvenile Justice Commission Monitoring Unit will visit facilities periodically in order to verify that proper documentation procedures are in place and that records are accurate. **If it is not already doing so, your department must begin using the Juvenile Admissions Log immediately.**

Compliance with Federal Statute and Regulations

This monitoring program focuses on compliance with three of the core requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, and accompanying regulations:

1. **Deinstitutionalization of Status Offenders.** The JJDP Act states that status offenders and non-offenders are not to be placed in secure detention or correctional facilities. 42 *U.S.C.* 5633, Section 223(a)(12)(a).
2. **Separation from Adults.** The JJDP Act states that all juveniles in custody within a secure lockup facility must be separated from detained adults. 42 *U.S.C.* 5633, Section 223(a)(13). Federal regulators have interpreted this provision as requiring "sight and sound" separation from detained adults. 28 *C.F.R.* 31.303(d)(1)(i). Furthermore, the *New Jersey Code of Juvenile Justice* provides that "...a juvenile may be held in a police station in a place other than one designed for detention of prisoners and apart from any adult charged with or convicted of crime for a brief period if such holding is necessary to allow release... ." *N.J.S.A.* 2A:4A-37(c)

3. **Jail and Lockup Removal.** The JJDP Act also provides that juveniles cannot be detained in any adult jail or lockup. 42 U.S.C. 5633, Section 223(a)(14). However, federal regulations allow a juvenile to be detained in a municipal lockup, while sight and sound separated from adults, for up to a maximum of **six hours** for the purpose of processing or holding until release to parents or guardians, or transfer to other authorities. 28 C.F.R. § 31.303(e)(2).

Level of Compliance

The Federal and State Monitors understand that facilities cannot attain perfect compliance with these regulations. In the real world, circumstances will arise that lead to occasional violations of these regulations. For example, regarding the Jail and Lockup Removal Regulation, travel time and difficulties in contacting parents or guardians may cause delays. In addition, juveniles may need to be held over six hours for questioning in serious cases. The New Jersey Supreme Court has held that police must wait for parents to be present prior to questioning juveniles. *State v. Presha*, 163 N.J. 304 (2000). This requirement is just one of many factors that may result in questioning that extends beyond the six hour time goal. However, these exceptions, as well as any other non-compliant incidents must be documented as such in the Juvenile Admissions Log.

Conclusion

A reasonable strategy is to plan for compliance and acknowledge barriers that prevent perfect compliance. Isolated violations will not significantly impact State grant eligibility. However, wherever there are patterns of violations in any particular lockup, Juvenile Justice Commission Monitoring Unit staff will work with that facility in an effort to resolve such situations.

Questions regarding the Monitoring Program should be directed to the Juvenile Justice Commission's JJDP Monitoring Unit at (609) 530-5005. Questions regarding the content of this Directive should be addressed to the Prosecutors and Police Bureau, Division of Criminal Justice, at (609) 984-2814.

enclosures (2)

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TO: All Police Chiefs

**FROM: Richard F. Case, Compliance Monitor
Office of Program Development & Prevention Services**

DATE: October 20, 2000

SUBJECT: Juvenile Admissions Log

The Juvenile Justice Commission (JJC) continues to monitor all municipal police departments in New Jersey for compliance with specific Federal regulations involving the handling of juveniles. When the State is in compliance it is awarded grant money from the Federal government which is funneled through the JJC to develop delinquency prevention programs in counties and municipalities. The Federal regulations involve three of the core requirements of *The Juvenile Justice and Delinquency Prevention Act (JJDP Act) of 1974*, as amended. There are also some State statutes and regulations that partly reinforce these Federal regulations. The State must report annually to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) on its level of compliance with these regulations. As a result of a recent audit of the JJC's monitoring system by OJJDP representatives, the JJC has been directed to enhance its monitoring of local police departments.

All facilities that may hold juveniles under court authority are monitored. This includes approximately 500 of NJ's **municipal lockups** used for the temporary holding of individuals. The vast majority of NJ's municipal lockup facilities are local police departments. However, the list also includes lockups located in court holding facilities, colleges and universities, highway and bridge authorities, sports/entertainment complexes, and so on. The following clarifies how these regulations apply to municipal lockups:

1. Deinstitutionalization of Status Offenders (DSO)

42 U.S.C. 5633 Section 223(a)(12)(a) of the JJDP Act states that status offenders and non-offenders are not to be detained or confined in secure detention or correctional facilities.

A **status offender** is a juvenile who is involved in behavior that would not constitute a crime for an adult - i.e. a runaway, truant, incorrigible, curfew violator, a youth charged with Possession/Consumption of Alcohol by a Minor, etc. A non-offender would be a dependent or neglected youth. In NJ, most status offenders and non-offenders are referred to as "**juvenile-family crisis**" cases.



An understanding of what constitutes **secure holding** is necessary in order for a department to be compliant with the intent of the DSO requirement. A facility is defined as secure when it provides the capacity to restrict the mobility of an individual by the use of hardware or architectural features. Therefore, **secure holding occurs when a juvenile is locked in a cell, holding room, processing area, or set of rooms, or, is cuffed to a stationary object.**

2. Separation

Section 223(a)(I 3) of the Act provides that all juveniles in custody within a secure lockup facility shall be **sight and sound separated** from detained adults. N.J.S.A. 2AAA-37(c) reinforces this requirement by stating that "...a juvenile maybe held in a police station in a place other than one designed for detention of prisoners and apart from any adult charged with or convicted of crime for a brief period if such holding is necessary to allow release...."

Sight contact is defined as sustained and clear visual contact between juveniles in custody and detained adults in close proximity to one another. **Sound contact** is defined as direct oral communication between juveniles in custody and detained adults. Sight and/or sound contact that is both brief and inadvertent, or accidental, is allowable.

3. Jail and Lockup Removal

Section 223(a)(14) of the Act, provides that juveniles cannot be detained in any adult jail or lockup. However, the Act does allow a juvenile to be detained in a municipal lockup, while sight and sound separated from adults, for up to a maximum of **six hours** for the purposes of identification, processing, and to arrange for release to parents or transfer to other authorities.

In summary, there are really only a few simple procedures that police staff must follow in order to be compliant with these regulations:

1. *After processing, hold the non-delinquent youth in a non-secure area, in a non-secure manner.*
2. *Keep all in-custody juveniles sight and sound separated from adult detainees.*
3. *Release, or transfer to other authorities, all juveniles in less than 6 hours.*

Juvenile Admissions Log: In order for the State to monitor Your facility for compliance with these regulations It is necessary that a **Juvenile Admissions Log** (see attached) be maintained. The comments of various law enforcement agencies and personnel within the State were solicited during the past year while this Log was being developed. If used properly, the Log will enable your staff to capture and organize pertinent information on the handling of juveniles. Data on **all** juveniles “in custody” within the facility -delinquent as well as non-delinquent youth, held securely or not - must be entered into the Log. This log may be handwritten or maintained electronically. It also may be modified to suit the needs of your department as long as the essential documentation remains.

Semi-annually, each Police Chief will be mailed a **Survey** requesting information on juveniles handled within your facility. Each Survey will cover a time span of six months. A well maintained Log will allow you or your staff to answer the Survey questions quickly and accurately. The Survey, **not the Log**, should then be faxed or mailed back to the Compliance Monitor of the JJC in a timely manner. Staff from the Monitoring Unit will visit facilities periodically in order to verify that proper documentation procedures are in place and that records are accurate.

The JJC has undertaken a more rigorous approach to monitoring municipal lockups within the last year. You may have noticed more phone inquiries, more frequent mailings and Surveys, and your facility may have received an actual site visit from JJC staff. You will receive another Survey, covering the six month period ending October 31, 2000, during the first week of November. In addition to the routine questions regarding Separation and Jail Removal (six hour rule), this Survey will also seek data related to the DSO requirement.

The Juvenile Justice Commission does not expect every facility to be in perfect compliance with these regulations. In the real world, circumstances will arise that may lead to occasional violations of these regulations, This can occur even when police staff are acting in the best interest and safety of juveniles. Furthermore, facilities vary widely in size, age, and layout which impact directly on compliance issues. Departments are also confronted with diverse juvenile populations and challenges, and respond to them with varying levels of staff availability and resources. A reasonable goal is to aim for as much compliance as possible and to acknowledge obstacles that get in the way. Isolated violations are not a significant concern. However, wherever problematic situations lead to a pattern of violations in any particular lockup, Monitoring Unit staff will cooperatively engage personnel of that facility in an effort to resolve those situations.

Your department is requested to begin using the Juvenile Admissions Log immediately if you are not doing so already. Thank you for your cooperation in this matter. Please direct any questions or concerns to **Rich Case** of the JJC at **(609)530-5005**.

