

**SAMPLE
LAW ENFORCEMENT
JUVENILE CUSTODY POLICY AND PROCEDURE**

Date Issued: November 26, 2001

Review Date: July 1, 2006

Related Policies: All departmental juvenile policies
All departmental secure and non-secure custody policies

Related Legislation: Juvenile Justice and Delinquency Prevention Act of 2002
Colorado Children's Code
HB 06-1112

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 legal rights and property of the individual, accurate documentation and administrative efficiency. Juveniles, those persons under the age of eighteen, require special consideration due to State law and Federal regulations.

Policy

This policy addresses the secure and non-secure custody of juveniles. Secure is defined as hardware or construction fixtures designed to physically restrict the movements and activities of persons in custody, e.g., secure perimeter, cells (whether or not the door is closed), lockable rooms, or handcuffing to a stationary object. Non-secure as custody where physical restriction of movement is provided solely through law enforcement staff (the juvenile may be handcuffed to him or herself, but not to a stationary object).

In cases where a juvenile is placed in secure custody, all of the following requirements must be satisfied:

1. The secure area must be sight and sound separated from incarcerated adults, including trustees. Juveniles may not see, hear or touch an incarcerated adult.
2. There may be no adults being processed in the booking area when juveniles are present. Time phasing (using the same area for juveniles and adults, just not at the same time) is permitted and must be supported with policies and procedures.
3. The following information must be recorded on a Juvenile Holding Cell log on all juveniles placed in a secure setting:
 - a. Name or ID number
 - b. Sex
 - c. Race and Ethnicity
 - d. Most serious offense
 - e. Date and Time the juvenile was placed in the secure setting
 - f. Date and Time the juvenile was removed from the secure setting to go to court (if applicable)
 - g. Date and Time the juvenile was placed back in the secure setting after court (if applicable)
 - h. Date and Time the juvenile was permanently removed from the secure setting.
 - i. Location and to whom the juvenile was released to
4. The Juvenile Holding Cell log will be subject to periodic review by the Colorado Department of Public Safety, Division of Criminal Justice, Office of Adult and Juvenile Justice Assistance. It is up to the officer to complete the log and up to the supervisor to review the log periodically to ensure the information is being recorded.

Non-secure custody is defined as satisfying 1 - 5 below. When a juvenile is in a non-secure custody, state laws and federal regulations do not apply, therefore the Juvenile Holding Cell log does not need to be filled out.

1. The area where the juvenile is placed is an unlocked multi-purpose area such as a lobby, office, interview room and is not designed, set aside or used as a secure area; and
2. The juvenile is not physically secured to a stationary object; and
3. The use of the area is limited to providing non-secure custody only long enough and for the purpose of identification, processing, release and transfer of the juvenile; and
4. The area is not designed or intended to be used for residential purposes; and
5. Continual visual supervision is provided by an officer or staff person.

Procedures

Status and Non-Offenders

1. A status offender is defined as a juvenile who has committed an offense that would not be criminal if committed by an adult, e.g., runaway, underage drinking, underage possession of alcohol/tobacco, curfew violation, gambling and loitering (if the offense only applies to juveniles). If a juvenile is arrested on a warrant, FTA or FTP where the original charge was a status offense, they remain a status offender.
2. A non-offender is a juvenile who has not committed any offense, e.g., a dependent/neglected child or a juvenile picked up on a mental health hold with no delinquent charges.
3. Status offenders and non-offenders may not be placed in a secure setting, for any period of time. They may be cuffed to themselves. They may only be placed in a non-secure setting until such time as they are removed from the facility.
4. It is permissible to transport status offenders and non-offenders in a secured patrol unit.
5. If the department only has a secure booking area, and no non-secure booking area within any area of the facility, the status offender may be booked in the secure area provided that:
 - a. There is an officer with the juvenile at all times during the booking process; and
 - b. There are no adults in the booking area;
 - c. Once the booking is completed, the juvenile is removed immediately and does not languish in the booking area for any period of time.
 - d. The DCJ compliance monitor will work with this agency to determine what an acceptable amount of time for the booking process is. These juveniles must be recorded on the Juvenile Holding Cell log.

Delinquent Offenders

1. A delinquent is a juvenile who has committed a crime that would be criminal if committed by an adult.
2. It is the preference of this department to detain delinquents non-securely.
3. Accused or adjudicated delinquents may be temporarily detained in a secure setting provided they are sight and sound separated from incarcerated adults, including trustees.
4. Accused delinquents may be temporarily detained for up to 6 hours in a sight and sound separated area for processing purposes only. Once the 6-hour clock starts, it cannot be turned off until the juvenile is

permanently removed from the secured setting.

5. For example, placing a delinquent in a secure setting at 1 p.m., removing him/her at 2 p.m., placing him/her back in the secure setting at 4 p.m. and then permanently removing him/her at 6 p.m. counts as five hours in a secure setting.
6. Delinquents returning to the jurisdiction for a court appearance may be held for up to 6 hours before the court appearance and for 6 hours following the court appearance. Times are not interchangeable.
7. A delinquent may only be placed in a secure setting for processing purposes, not for punishment or not for the purpose of shaping behavior (Scared Straight or Shape Up).
8. When a delinquent is placed in a secure setting they must be recorded on the Juvenile Holding Cell log.

Violations Occur When

1. A status offender or non-offender is placed in a secure setting (counts as two violations, one under Deinstitutionalization of Status Offenders and one under Jail Removal).
2. A delinquent is held over 6 hours.
3. Any juvenile is held within sight and sound contact of an incarcerated adult.
4. A delinquent returning to the jurisdiction for a court appearance is held over 6 hours prior to the court appearance or for 6 hours following the court appearance.
5. Any juvenile is held for punitive purposes or for purposes unrelated to processing.

Colorado Children's Code

In 2006, in addition to supporting all of the above policy, the Colorado Legislature added a provision via HB1112 which states that any Sheriff or Police Chief who violates state law, and is unwilling to work toward correcting the non-compliant situation, may be subject to a civil fine of up to \$1,000.