



PRESIDING JUVENILE JUDGE ORDER 2021-02
STATE OF COLORADO
FIRST JUDICIAL DISTRICT

ORDER RE: Juvenile Screening and Detention Guidelines

Rule 3.7 of the Colorado Rules of Juvenile Procedure (CJRP) requires the Chief Judge of each judicial district to designate a person or persons as officer(s) of the Court with authority to determine whether a juvenile taken into temporary custody should be released to a parent, guardian or a responsible adult approved by the parent/guardian, or admitted to a detention or shelter facility pending notification to the Court and a detention hearing. Chief Judge Order 2019-20 (CJO 19-20) delegates certain administrative duties to the Presiding Juvenile Judge, including the local plan for detention screening and placement guidelines. Specifically, CJO 19-20 provides that the Presiding Juvenile Judge is delegated the responsibility of “facilitat[ing] the approval of the Chief Judge and issuance of an administrative Judge Order to implement such plan.” This Order Replaces CJO 18-07.

The Colorado General Assembly intended to “limit the use of detention to only those children who pose a substantial risk of serious harm to others or that are a flight risk from prosecution” by passing the Juvenile Justice Reform Act, in which it adopted section 19-2-507.5 and amended sections 19-2-212, 19-2-507 and 19-2-508. See Ch. 294, sec. 4, § 19-2-211.5, 2019 Colo. Sess. Laws 2696. The General Assembly declared that:

[T]he placement of children in a detention facility exacts a negative impact on the mental and physical well-being of the child, and such detention may make it more likely that the child will reoffend. Children who are detained are more likely to penetrate deeper into the juvenile justice system than similar children who are not detained, and community-based alternatives to detention should be based on the principle of using the least-restrictive setting possible and returning a child to his or her home, family, or other responsible adult whenever possible consistent with public safety.

Ch. 294, sec. 4, § 19-2-211.5, 2019 Colo. Sess. Laws 2696.

NOW THEREFORE IT IS ORDERED THAT:

The First Judicial District (1st J.D.) Juvenile Services Planning Committee (JSPC), appointed under section 19-2-211, C.R.S., shall be responsible for detention screening guidelines, placement guidelines pursuant to C.R.J.P. 3.7 and the Colorado Children’s Code in its annual plan. The JSPC is authorized to enter into a

contract with the Jefferson County Juvenile Assessment Center (JCJAC) to administer services as described in section 19-2-508(1) and (7). The persons or agencies providing these services shall be designated as officers of the Court. As such, they are vested with the authority to screen those juveniles taken into temporary custody to determine the appropriate level of detention for the juvenile, subject to the provisions of this Order and the Colorado Children's Code. The 1st J.D. Colorado Youth Detention Continuum (CYDC) employees, as officers of the Court, shall have authority to set bail and set appropriate bond conditions for the initial period of release prior to a detention hearing.

POLICY:

(A) SCREENING TEAM

- (1) Screening team.** "Screening team" means the person(s) designated to make recommendations to the juvenile court concerning whether a juvenile taken into temporary custody should be released or admitted to a detention or shelter facility pursuant to § 19-2-508, C.R.S.¹ The screening team shall be responsible for detention screening and placement and shall have the specific responsibilities contained herein.
- (2) Screening & Assessment of all juveniles referred by Law Enforcement to make initial placement decisions.** In making placement decision, Screening Team shall be guided by the Children's Code § 19-2-508, C.R.S. and criteria developed pursuant to § 19-2-212, C.R.S.

(B) LEVEL 1 DETENTION²

(1) Limitations on Level 1 Detention.

- (a) Level 1 Detention is not permitted for the following:**³
 - (i)** Juveniles who have not committed, or have not been accused of committing, a delinquent act⁴ unless otherwise found in contempt of court;
 - (ii)** Delinquent and nondelinquent juveniles who have been placed in the legal custody of a county department of human or social services pursuant to a petition in dependency or neglect and are solely awaiting out-of-home placement;
 - (iii)** Juveniles who at admission require medical care, are intoxicated, or are under the influence of drugs, to an extent that custody of the juvenile is beyond the scope of the detention facility's medical service capacity;
 - (iv)** Juveniles who are solely assessed as suicidal or exhibit behavior placing them at imminent risk of suicide; and
 - (v)** Juveniles who have not committed a delinquent act⁵ but present an imminent danger to self or others or appear to be gravely disabled as a result of a mental health condition or an intellectual and developmental disability.

¹ See 19-2-103(15), 19-1-103(94.5)

² The definition of detention is found in 19-1-103(40): "Detention" means the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.

³ 19-2-507.5(1)

⁴ "Delinquent act" means a violation of any statute, ordinance, or order enumerated in 19-2-104(1)(a). If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense is determined by the statute, ordinance, or order that the petition alleges was violated. "Delinquent act" does not include truancy or habitual truancy. 19-1-103(36).

⁵ "Juvenile Delinquent" means a juvenile who has been found guilty of a delinquent act. 19-1-103(71);

- (vi) Juveniles who have been taken into custody for an alleged violation of a fish and game ordinance or a title 42 violation (unless the title 42 violation is a felony)
 - (vii) Juveniles who have been taken into custody for new alleged violation of municipal or county ordinance
 - (viii) Juveniles who have been taken into custody on a warrant issued with a clause stating: “to be assessed by the screening team”
 - (ix) Juveniles who have been taken into custody on a “Probable Cause” warrant issued by Denver Courts that does not have a JD case number and supporting documentation has not been provided specifically requesting that the juvenile be detained
- (b) A juvenile **shall not** be placed in Level 1 Detention **solely**:⁶
- (i) Due to a lack of supervision alternatives, service options, or more appropriate facilities;
 - (ii) Due to the community’s inability to provide treatment or services;
 - (iii) Due to a lack of supervision in the home or community;
 - (iv) In order to allow a parent, guardian, or legal custodian to avoid his or her legal responsibility;
 - (v) Due to a risk of the juvenile’s self-harm;
 - (vi) In order to attempt to punish, treat, or rehabilitate the juvenile;
 - (vii) Due to a request by a victim, law enforcement, or the community;
 - (viii) In order to permit more convenient administrative access to the juvenile;
 - (ix) In order to facilitate further interrogation or investigation; or
 - (x) As a response to technical violations of probation unless the results of a detention screening instrument indicates that the juvenile poses a substantial risk of serious harm to others or if the applicable graduated responses system adopted pursuant to section 19-2-925 allows for such a placement.
- (2) (Mandatory) Level 1 Secure Detention and not released prior to detention hearing.** Juveniles in the following circumstances shall be held in Level 1 secure detention and not released prior to a detention hearing:
- (a) Arrested for offense enumerated in § 19-2-508(3)(a)(V)(A)-(B), C.R.S. (rebuttable presumption that the juvenile poses a substantial risk of serious harm to others)⁷
 - (b) Escaped from a secure Department of Human Services facility;
 - (c) Outstanding bench warrant or court order from a District Court⁸ or County Court where the County Court judge is clear on the arrest warrant that the Juvenile is to be held in detention pending their next appearance in County Court;
 - (d) out-of-state runaway with an outstanding warrant for delinquent or criminal activity (but see (B)(4)(a))⁹;

⁶ 19-2-507.5(3)

⁷ Crime of Violence per 18-1.3-406; or alleged to have used or possessed and threatened to use, a firearm during the commission of any felony offense against a person (excludes BB gun, pellet gun, and gas gun per 19-2-508(3)(a)(VI)).

⁸ 19-2-503

⁹ Interstate Compact on Juveniles (ICJ) § 24-60-702 (https://www.juvenilecompact.org/sites/default/files/ICJ%20Rules_Final.pdf) (standard to detain is different than Colorado – danger to self or others)

(3) (Discretionary) Level 1 Secure Detention and not released prior to detention hearing, pending information. Juveniles in the following circumstances may be held in Level 1 secure detention and not released prior to a detention hearing, pending information that the juvenile is a substantial risk of serious harm to others, such that community-based alternatives are insufficient to mitigate that risk. Juvenile is taken into custody for a(n):

- (a)** Violation of restraining/protection order;
- (b)** Domestic violence enhancer;
- (c)** Unlawful carry of a concealed weapon;
- (d)** Possession of dangerous or illegal weapon;
- (e)** Unlawfully carrying a concealed weapon on school, college or university grounds;
- (f)** Possession of defaced firearm;
- (g)** Prohibited use of a weapon;
- (h)** Illegal discharge of a firearm;
- (i)** Illegal possession of a handgun by a juvenile; or
- (j)** Committing a credible threat against a school, school faculty or staff member(s), or student(s), and investigation into the threat continues, and community safety is not yet assured.

(4) OVERRIDES/EXCEPTIONS to Level 1 Detention Policies in sections (1)-(2) above.

(a) Out-of-state runaway. Juveniles with an out-of-state runaway warrant may be held at JCJAC and not detained if all of the following criteria are met:

- (i)** The warrant is only for an out-of-state runaway, and
- (ii)** The juvenile is not considered a flight risk, and
- (iii)** The Parent/guardians are able to pick up the juvenile within 24 hours.

(b) Override: INTO Level 1 detention (without scoring into Level 1). Juveniles who do not score into Level 1, via the Juvenile Detention Screening and Assessment Guide (JDSAG) or criteria above, may receive an override into detention, based on following criteria:

- (i)** substantial risk of flight from prosecution and community-based alternatives to detention are insufficient to reasonably mitigate that risk. Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent failures to appear at a scheduled court appearance.;
- (ii)** Currently being supervised on CYDC pre-trial supervision, diversion, or probation;
- (iii)** Victim resides within the same residence and no appropriate kinship care is available;
- (iv)** Prior criminal history;
- (v)** taken into custody for 1st degree aggravated motor vehicle theft used in the commission of a felony offense;

(c) Override: OUT of Level 1 detention (after scoring into Level 1). Juveniles who do score into Level 1 secure detention, via JDSAG or criteria above, may receive an override out of Level 1 secure detention, based on following criteria:

- (i)** Juvenile is between ages ten (10)-twelve (12) years old;

- (ii) If the female pod at Mount View Detention Center is at capacity, and the juvenile being screened is female and poses less risk to community compared to the juvenile who would be released through the Emergency release process;
 - (iii) The 1st JD CYDC has reached detention bed capacity and it has been determined that the juvenile being screened poses less risk to community compared to the juvenile who would be released through Emergency Release process;
 - (iv) Juvenile who is screened into detention primarily based on history and has significant protective factors;
 - (v) The arresting officer believes detention inappropriate for the juvenile;
 - (vi) Identified as a high-risk victim and they have appropriate supervision.
- (5) **Law Enforcement Agent's duty to consult regarding Level 1 offenses.** The Law Enforcement agent must contact the Law Enforcement liaison before charging and screening a youth for an offense of violation of a restraining/protection order, an offense that includes a domestic violence enhancer or an offense in § 19-2-508(3)(a)(V)(C), C.R.S. and listed in section (B)(3) above. Then, all state mandated screening procedures must be followed prior to Juveniles being taken into temporary custody to determine the appropriate levels of placement by the screening team (§ 19-2-507(2)).

(C) **PLACEMENT BASED ON SCREENING.** Based upon the screening assessment and subject to the provisions of section (B) above, screening team shall have authority prior to detention, to place/refer a juvenile screening result as below.

If the Juvenile is screened to:

(1) Level 1. Secure Detention:

- (a) The screening team shall contact staff at Mount View Detention center to authorize placement of Juvenile

(2) Level 2. Staff Secure Shelter¹⁰:

- (a) If available- the screening team may place Juvenile in staff secure facility under contract with 1st J.D.
- (b) If unavailable-the screening team will assess pursuant to protocol.
- (c) When unsure- contact Supervisor and/or Law Enforcement Liaison

(3) Level 3. Shelter¹¹:

- (a) If available- the screening team may place Juvenile in shelter under contract with 1st JD
- (b) If unavailable- the screening team will assess pursuant to protocol
- (c) When unsure- contact Supervisor and/or Law Enforcement Liaison

¹⁰ "Staff Secure Facility" means a group facility or home at which each juvenile is continuously under staff supervision and at which all services, including but not limited to education and treatment, are provided on site. A staff secure facility may or may not be a locked facility. 19-2-103(17) (staff secure facility is defined in section 19-1-103(101.5)); 19-1-103(101.5); "Shelter" means the temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement. 19-1-103(98).

¹¹ "Shelter" means the temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement. 19-1-103(98).

(4) Level 4. Home Detention Program:

- (a)** The Screening Team may release the juvenile to a parent/guardian (or a responsible adult with parent/guardian approval), under the condition of signing a home detention contract and signing a promise to appear in court at a specific time within 48 hours (excluding weekends and court holidays)
 - (i)** If the juvenile fails to appear in response to the Promise to appear, the court shall issue a bench warrant for the arrest of the juvenile.
 - (ii)** If deemed necessary, the screening team may refer the family for services.

(5) Level 5. Release to Parent/Legal Guardian (or a responsible adult with parent/guardian approval):

- (a)** Juvenile may be released pending the filing of a petition by the District Attorney
- (b)** If deemed necessary, the screening team may refer the family for services.

(D) OTHER

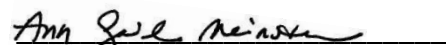
- (1) Detention Hearing.** At the detention hearing, the screening team's recommendation will be presented to the Court regarding the appropriate level of detention.
- (2) Unavailable Placement.** If placement not available at level assessed, the screening team shall determine next appropriate level
- (3) Circumstances/assessment level changes** (if circumstances change or a further assessment requires a change in the level of detention):
 - (a) Authority to Move Without Hearing:** prior to detention, the screening team has authority to make necessary changes in placement. The screening team must notify the juvenile's Parent/Guardian of any change in placement.
 - (b) Forthwith Hearing Required When:** if the Court orders services at levels 2, 3, or 4 and circumstances subsequently change/further assessment indicates that a different level of placement or supervision is appropriate, CYDC shall request a Forthwith hearing and notify all parties of hearing and ensure that the Juvenile is present for the hearing
- (4) Municipal Court:**
 - (a)** A municipal court can order child thirteen years of age and older but less than eighteen years of age to secure detention for failure to comply with lawful order of court.
 - (i)** Limitation on Detention. Any such confinement of a child for contempt of municipal court shall not exceed 48 hours. In calculating time for this subsection, Saturdays, Sundays, and legal holidays are included.¹²
 - (ii)** Alternatives Preferred. It is in general the policy of the 1st J.D. to locate and identify alternative community and family resources to avoid placement in a detention facility.

¹² 19-2-508(4)(e)(I)

- (5) **Children over 10 years of age and younger than 13-** may not be placed or sentenced to secure detention (including failure to comply (FTC) and Failure to appear (FTA) warrants)
- (a) **Exception-** Juvenile has been arrested/adjudicated for a felony or misdemeanor weapons charge that is listed in section 19-2-508(3)(a)(V)
- (6) **County Court.** The use of secure detention for juveniles with county court cases is limited to the following circumstances:
- (a) County Court Judge is clear on the arrest warrant that the juvenile is to be held in detention pending next appearance in county court
- (b) County Court Judge sentences a juvenile to secure detention.
- (i) Best Practice: avoid detaining for periods of time in excess of 45 days because it leads to increased recidivism. The County Court Judge should consider this when imposing secure detention for Juveniles with County Court offenses
- (7) **Youth with a warrant but inappropriate for secure detention pursuant to sections (B)(4)(c) or (C) of this Order.** JCJAC will modify the bond or warrant to a personal recognizant (PR) bond co-signed by the Parent/Guardian or legal custodian
- (8) **Youth with Domestic Violence Enhancer but inappropriate for secure detention.** JCJAC will issue a summons with the condition of no contact with the Victim

Each decision will take into consideration community safety and the best interest of the juvenile pursuant to § 19-2-102; as well as the general assembly's intent to "limit the use of detention to only those children who pose a substantial risk of serious harm to others or that are a flight risk from prosecution" pursuant to § 19-2-211.5.

DONE AND SIGNED on this 1st day of March, 2021



Ann Gail Meinster,
Presiding Juvenile Judge
First Judicial District