

APPENDIX TO POLICY 3

Arrest, Transport, Booking and Temporary Custody

Strategies for Youth has created [12 Model Law Enforcement Policies for Youth Interaction](#) to provide law enforcement agencies and officers with guidance on how to interact with youth in developmentally appropriate, trauma-informed, equitable ways that comply with the law. This appendix contains additional source and background information for [Policy 3: Arrest, Transport, Booking and Temporary Custody](#).

Juvenile Justice and Delinquency Prevention Act (JDDPA)

34 U.S.C. § 11133(a)(11)(B) (Sight and Sound Contact)

This statute prohibits the following juveniles from being detained or confined in any institution in which they have sight and sound contact with adult inmates: (1) juveniles alleged to be or found to be delinquent; (2) status offenders; and (3) juveniles who are not charged with an offense and who are unauthorized immigrants or alleged to be dependent, neglected, or abused. This statute also prohibits juveniles who have been charged as an adult from being detained in an adult jail or lockup or having sight or sound contact with adult inmates in a secure adult facility. 34 U.S.C. §§ 11133(a)(12).

34 U.S.C. §§ 11133(a)(11)(A)(ii)(II), 11133(a)(23) (Valid Court Order Exception)

This statute provides that status offenders who are alleged to be in violation of a prior valid court order may be held in a secure facility if the state has a process to verify whether court orders used to place status offenders in these facilities meet certain requirements. These requirements include limitations on the length of time status offenders may be held in secure facilities, and a determination by a court that that there is no appropriate less restrictive alternative available. *See id.*

34 U.S.C. § 11133(a)(13)(B)(ii)(I)-(III) (Jail Removal Exceptions)

The JDDPA sets out three additional exceptions to the prohibition against holding youth in adult jail or lock-up: (1) juveniles accused of non-status offenses may be detained or confined in jails or lockups for adults for as long as 48 hours (excluding Saturdays, Sundays, and legal holidays) while awaiting an initial court appearance, when the jail or lockup is outside a metropolitan statistical, and the state has no existing acceptable alternative placement available (known as the “rural exception”); (2) states may detain a juvenile accused of a delinquent offense in an adult jail or lockup, if the facility is located where conditions of distance to be traveled or the lack of highway, road, or transportation does not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief

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(not to exceed an additional 48 hours) delay is excusable (known as the “travel exception”); and (3) if the adult jail or lockup is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), a juvenile accused of a delinquent offense may be detained therein and his or her court appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel (known as the “safety exception”). *See id.*

U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, POLICIES & PROCEDURES MANUAL FOR MONITORING COMPLIANCE WITH CORE REQUIREMENTS OF THE FORMULA GRANTS PROGRAM AUTHORIZED UNDER TITLE II, PART B, OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT 2-13 (2021)

<https://ojjdp.ojp.gov/compliance-monitoring-manual>

This manual informs states about the JJDPAs core requirements, and how compliance is monitored.

U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION, KEY AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION MADE BY THE JUVENILE JUSTICE REFORM ACT OF 2018 (2019)

<https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/252961.pdf>

This website describes the most recent amendments to the JJDPAs in 2018.

***Working for Youth Justice and Safety*, U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION**

<https://ojjdp.ojp.gov/>

This website describes the Office of Juvenile Justice and Delinquency Prevention, which administers the JJDPAs.

***JJDPAs Core Requirements*, U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION**

<https://ojjdp.ojp.gov/about/core-requirements#e2j8uh>.

This website describes the JJDPAs core requirements.

***State Compliance with JJDP Act Core Requirements*, U.S. DEP’T OF JUST. OFF. OF JUV. JUST. & DELINQ. PREVENTION**

<https://ojjdp.ojp.gov/states/state-compliance-jjdp-act-core-requirements#:~:text=If%20a%20state%20fails%20to%20demonstrate%20compliance%20with,each%20requirement%20with%20which%20the%20state%20is%20noncompliant>

This document describes states’ obligation to “achieve and maintain compliance” with JJDPAs Core Requirements, and the funding reduction if states fail to comply.

***Center for Coordinated Assistance to States*, CTR. FOR COORDINATED ASSISTANCE TO STATES INFO. HUB**

<https://ccastates.org/>

This website describes the JJDPAs core requirement on racial and ethnic disparities.

Impact and Aftermath of Youth Arrests

Akiva M. Liberman et al., *Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning*, 52 CRIMINOLOGY 3, 345–70 (2014)

This study found that juveniles' first arrests led to "greater likelihood of offending," and increased likelihood of rearrest). Researchers also found that the increased likelihood of subsequent arrest was not due to the increase in offending. Rather, researchers found, "[o]ur results suggest that the large labeling effect found on rearrest truly reflects secondary sanctioning—that is, differential societal response to a youth with an 'arrestee' or 'delinquent' label—and that this societal response is not mediated by differential offending behavior of the juvenile."

VICTOR J. ST. JOHN ET AL., REDUCING ADVERSE POLICE CONTACT WOULD HEAL WOUNDS FOR CHILDREN AND THEIR COMMUNITIES 4 (2022)

https://cms.childtrends.org/wp-content/uploads/2022/05/Policingtraumabrief_ChildTrends_June2022.pdf.

"When police place children and youth under arrest, their experiences are a form of childhood adversity given that witnessing or experiencing aspects of arrest encounters can lead to psychological distress (e.g., depression, anxiety, stigma, posttraumatic stress disorder, suicidal ideation and attempts) and other harmful outcomes. Despite a decrease overtime in the overall number of arrests, [a] child's experience of arrest can be devastating to their well-being. Apart from physical harm that can occur during a forceful arrest, the experience of an arrest can be humiliating and inflict psychological harm.... Arrest can be particularly concerning for children and youth with special health care needs—and even more acutely for those with significant behavioral or emotional concerns (e.g., an outburst at a school or mental health clinic)—who are already at a higher risk of being arrested." *Id.*

KRISTIN HENNING, THE RAGE OF INNOCENCE: HOW AMERICA CRIMINALIZES BLACK YOUTH 216 (2021)

"Police contact during and after arrest can trigger previous stress and depressive symptoms, especially if the youth believe their arrests were motivated by racism."

Youth Arrests for "Contempt of Cop" and Other Minor Offenses

HENNING, *supra*, at 149-56

In discussing youth arrests for "contempt of cop," described as "arrests for disrespecting the police," the author asserts that the potential for such arrests among youth are high, given youth's propensity for emotion and for such conduct as yelling, talking back, and refusing to do what they are told. See *id.*, at 152. The author notes data about youth arrests for disorderly conduct and obstruction of justice, including Black youth being disproportionately arrested for these offenses, and adds that there is "plenty of anecdotal evidence from across the country to show that Black teenagers are arrested and physically abused for being rude, giving attitude, and not submitting to an officer's authority." See *id.*, at 154.

Arrests for “Contempt of Cop”

CHRISTY LOPEZ, DISORDERLY (MIS)CONDUCT: THE PROBLEM WITH ‘CONTEMPT OF COP’ ARRESTS 2
(2010)

https://www.acslaw.org/issue_brief/briefs-2007-2011/disorderly-misconduct-the-problem-with-contempt-of-cop-arrests/

This issue brief states that “there is widespread misunderstanding of police authority to arrest individuals who passively or verbally defy them. There is abundant evidence that police overuse disorderly conduct and similar statutes to arrest people who ‘disrespect’ them or express disagreement with their actions.” In addition to causing “direct and significant harm to those arrested” and generally undermining “the appropriate balance between police authority and individual prerogative to question the exercise of that authority,” these arrests “appear to impact communities of color disproportionately and exacerbate tensions between these communities and law enforcement.” *Id.* The author argues that the harm caused by these arrests, and threats of arrest “far outweighs” their justification, and suggests a “roadmap for legislators, advocates, law enforcement officials, and others seeking to address this problem.” See *id.* at 3.

Use of Summons or Citation Rather than Pre-hearing Detention for Youth

N.J. ATT’Y GEN., L. ENF’T DIRECTIVE No. 2020-12, DIRECTIVE ESTABLISHING POLICIES, PRACTICES, AND PROCEDURES TO PROMOTE JUVENILE JUSTICE REFORM 15-18 (2020)

https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2020-12_Juvenile-Justice-Reform.pdf

This directive describes the use, as the default charging document for youth, of “complaint-summons,” which allow the youth to remain in the community until an initial court appearance, rather than using “complaint-warrants,” where the officer can take custody of the youth and detain them.

Supervision of Youth with Significant Medical, Mental Health, or Substance Abuse Concerns

U.S. DEPT OF JUST. BUREAU OF JUST. ASSISTANCE, MANAGING SUBSTANCE ABUSE WITHDRAWAL IN JAILS 1-6 (2022)

<https://bja.ojp.gov/doc/managing-substance-withdrawal-in-jails.pdf>

This guidance notes that “increasing and changing patterns of drug use demand that jails be prepared to provide immediate, lifesaving screening and requisite interventions to anticipate and prevent a medical crisis,” and encourages jails to: (1) establish a withdrawal management policy to comport with legal, regulatory, and clinical standards; (2) create withdrawal management protocols and maintain fidelity in implementing them; (3) ensure proper staffing and resources are in place to implement policies and protocols; (4) train staff to ensure their understanding of and readiness to implement policy and protocol; and (5) engage in continuous quality improvement and implement corrective action in a timely manner.

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NAT'L COMM'M ON CORR. HEALTH CARE, POSITION STATEMENT ON SUICIDE PREVENTION AND MANAGEMENT IN JUVENILE FACILITIES (2019)

<https://www.ncchc.org/position-statements/suicide-prevention-and-management-in-juvenile-correctional-settings-2019/>

This statement recommends “constant observation with 1:1 staff supervision” of youth at highest risk for suicide.