



Program Statement

OPI: CCD
NUMBER: 5216.05
DATE: 9/1/99
SUBJECT: Juvenile Delinquents

1. **PURPOSE AND SCOPE.** To establish procedures required for juveniles under the age of 18 and those sentenced under the Federal Juvenile Justice and Delinquency Prevention Act (JJDPA).

The JJDPA (18 U.S.C. §§ 5031 through 5042) specifies the requirements for a juvenile who has not attained his or her 18th birthday and any juvenile sentenced under the JJDPA as a juvenile delinquent. The requirements are different for each of three groups of juveniles:

- those who have not attained their 18th birthday;
- those who have attained their 18th birthday but have not attained their 21st birthday; and
- those who have attained their 21st birthday.

2. **SUMMARY OF CHANGES.** This revision clarifies the limitations on placing juvenile offenders in Community Corrections Centers which also house adults. The Program Statement has also been changed to clarify the use of community service and the amount of subsistence to be paid by employed juveniles.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. Juveniles under the age of 18 or sentenced under the JJDPA will be placed in institutions or other facilities in accordance with the JJDPA and this Program Statement.

b. Juveniles will be properly identified and housed while in transit.

c. Disclosure of information and records of juveniles will be restricted to specified persons and purposes.

d. Juveniles will be placed only in facilities where adequate specialized programs and services are available to them.

3. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 5216.04 Juvenile Delinquents, Juvenile Justice and
Delinquency Prevention Act (10/14/98)

b. **Directives Referenced**

PS 5070.11 Study and Observation Report (12/31/97)
PS 5100.06 Security Designation and Custody
Classification Manual (6/7/96)
PS 5180.04 Central Inmate Monitoring System (8/16/96)
PS 5270.07 Discipline and Special Housing Units
(12/29/87)
PS 5280.08 Furloughs (2/4/98)
PS 5326.04 Marriage of Inmates (12/17/98)
PS 5800.07 Inmate Systems Management Manual (12/24/91)
PS 7300.09 Community Corrections Manual (1/12/98)

5. **STANDARDS REFERENCED**

a. American Correctional Association Third Edition Standards
for Adult Correctional Institutions: 3-4293

b. American Correctional Association Third Edition Standards
for Adult Local Detention Facilities: 3-ALDF-4B-03, 3-ALDF-4B-04

c. American Correctional Association Second Edition Standards
for Administration of Correctional Agencies: 2-CO-4B-05,
2-CO-4B-06

d. American Correctional Association Standards for Adult
Correctional Boot Camp Programs: None

6. **DEFINITION.** The term "juvenile" as used in this Program
Statement refers to anyone under 21 years old who has been found
delinquent under the JJDPA and anyone under 18 who has been
convicted of violating the United States Code.

7. **PLACE OF CONFINEMENT**

a. **Confinement of a Juvenile Under 18.** Any juvenile who has
not attained his or her 18th birthday shall be confined as
follows:

(1) **Limitation.** Any juvenile who has not attained his or her 18th birthday normally is to be placed in a juvenile facility. Title 18 U.S.C. § 5039 states:

"No juvenile committed ... to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges."

Juveniles may be placed in facilities for youthful offenders, such as those operated by the California Youth Authority, where they may have regular contact with youthful offenders who are serving state-imposed adult sentences.

Placement in a Community Corrections Center (CCC) which also houses adults is to be considered only for those juveniles ordered by the court to reside in a CCC as a condition of probation.

(2) **Placement Alternatives.** A juvenile who has not attained his or her 18th birthday is to be placed in a juvenile facility which has an appropriate level of programming and security.

18 U.S.C. § 5039 specifies that, when possible, a juvenile shall be committed:

"[T]o a foster home or community-based facility located in or near the home community."

A Bureau institution may not be designated for a juvenile who has not attained his or her 18th birthday unless that institution can ensure that the juvenile will not have regular contact with adults.

b. **Confinement of 18-to-21 Year-Old Juveniles.** Confinement of any juvenile who has attained his or her 18th birthday but has not attained his or her 21st birthday shall be as follows:

(1) For a juvenile who is sentenced as an adult pursuant to 18 U.S.C. § 5032, an institution must be designated in accordance with the Security Designation and Custody Classification Manual.

(2) For a juvenile who has no federal adult sentences and is found delinquent, placement is to be in accordance with the procedures in Section 7.a. above for persons under 18.

(3) If all concurrent federal adult sentences are less than the juvenile sentence, the inmate is to be treated as a juvenile for institution designation.

(4) If any concurrent federal adult sentence is equal to or greater than the juvenile commitment, the adult sentence must take precedence for designation of an institution, and the Bureau must notify the court which imposed the juvenile sentence that the federal adult sentence is to take precedence regarding institution designation.

(5) If there is a consecutive federal adult sentence, the inmate is to continue to be treated as a juvenile for institution designation while serving the juvenile sentence. When the juvenile sentence expires, designation is to be accomplished as described in Section 7.b.(1) above.

c. **Change in Placement.** When a juvenile sentenced as an adult attains his or her 18th birthday or a juvenile sentenced as a juvenile attains his or her 21st birthday:

(1) A Bureau institution may be designated, treating that juvenile as an adult, in accordance with the Security Designation and Custody Classification Manual, or

(2) The juvenile may remain in a contract juvenile facility for continuity of program participation.

8. PLACEMENT OF A JUVENILE. Juveniles are a special population with special designation needs. Each should be placed in a facility that provides the appropriate level of programming and security.

The following factors should be considered when making a placement:

- a. age;
- b. offense behavior, including violence and weapons involved in the offense;
- c. length of commitment;
- d. prior record;
- e. adjustment during prior commitments;
- f. mental and physical health;
- g. special needs;
- h. Central Inmate Monitoring assignments; and
- i. the safety of the community.

The Community Corrections Manager (CCM) who is responsible for a juvenile facility is knowledgeable about that facility and can

determine if a particular juvenile will fit that facility's security and program capabilities.

A CCM requesting a designation for a juvenile shall work with the Management Center Administrator and other CCMs to identify the most appropriate facility to designate for the juvenile.

In all cases the Program Statement on Central Inmate Monitoring must be followed.

9. **RESOURCES FOR JUVENILES.** A variety of resources are available for juveniles.

a. **Foster Homes.** A foster home may house one or two delinquents, but no more than two, in a family home, where there may also be natural or adopted children. The home must be state-licensed as a foster home. The foster parents may be a married couple or a single parent.

Because these homes are state licensed and house no more than two delinquents, a Bureau safety inspection of each home is not required.

The contract for foster care services is with the agency providing the service, not the foster parents.

b. **Juvenile Facilities.** Juvenile facilities may be operated by private agencies or units of government and may be secure or not secure.

(1) **Secure.** The facility is surrounded by a security perimeter, and the juveniles do not have regular, unescorted access to the community.

(2) **Not Secure or Community-Based.** These two terms are used interchangeably to describe a facility that is not surrounded by a security fence and/or that allows the juveniles to have regular, unescorted access to the community.

If an Intergovernmental Agreement is used for facilities operated by a unit of government, including a city, county, state, or an Indian Tribe, the CCM, in cooperation with the Community Corrections Branch (CCB) in the Central Office, must develop the Statement of Work.

Contracts with facilities operated by non-governmental agencies are to be solicited for through established procurement procedures using the Statement of Work for Juvenile Facilities, after it is modified, if needed, to apply it to the particular

procurement requirements. After determining the need for services, the CCM should contact the CCB to discuss the appropriate SOW to use. In turn, the CCB must work with the Privatization and Special Projects Branch to coordinate the procurement process.

10. **STUDY CASES.** Courts may order studies of juveniles under the provisions of 18 U.S.C. § 5037(d) to provide more information or under 18 U.S.C. §§ 4241 through 4246 to determine mental competency, sanity, or whether a mental disease or defect is present.

If the study is ordered to be conducted on an outpatient basis, it is to be arranged for and conducted under the supervision of the local U.S. Probation Office.

If the study is to be conducted in a contract facility, the Court will provide the Bureau with a list of the questions to be answered by the study. If such questions are not provided initially, Bureau staff must contact the Court, normally through U.S. Probation, to request them. The study will be conducted at a juvenile contract facility capable of providing the service.

In addition to answering specific questions from the Court, the study report will augment the Presentence Investigation Report that U.S. Probation prepares. It is expected to include the results of:

- a physical examination,
- psychological and educational testing, and
- a psychological and/or psychiatric examination.

The CCM is to assure the study report's timely completion.

11. **A JUVENILE WITH A MENTAL DISEASE OR DEFECT.** If a juvenile is found to have a mental disease or defect under any of the provisions of 18 U.S.C. §§ 4243 through 4246, he or she is to be held in a suitable facility until after his or her 18th birthday.

Suitable facilities may include juvenile facilities and mental health facilities and hospitals. The juvenile may not have contact with pre-trial or sentenced adults.

After the 18th birthday, the CCM must review the juvenile's case at least every six months to determine if a transfer to another facility will provide appropriate treatment for the mental disease or defect. When such a transfer is determined to be

appropriate and the transfer is to a Bureau-operated facility, it is to be accomplished through the Medical Designator, who must also review possibilities for alternative placements.

12. **JUVENILE HOLDOVERS.** When in transit, a juvenile who has not attained his or her 18th birthday, as well as a juvenile sentenced under the JJDPa who has not yet attained his or her 21st birthday, is to be held in a contract juvenile detention facility whenever one is available. If there is no approved juvenile facility, an adult contract jail with the capability to separate the juvenile from adult inmates may be used.

If neither of the above is available, as a last resort, a juvenile who is under 18, or who is sentenced under the JJDPa and is under 21, may be held at a minimum, low, or medium security Bureau institution for up to 24 hours. High security institutions may be used only for a juvenile 18 years of age and older.

Juveniles who have not attained their 18th birthdays or who are sentenced under the JJDPa and have not attained their 21st birthday, may be housed in Bureau institutions only with prior authorization from the Regional Director in the region where the institution is located.

When a juvenile who has not attained his or her 18th birthday, or is sentenced under the JJDPa and has not attained his or her 21st birthday, is held over in any adult facility, the juvenile must be kept completely separated from adult inmates.

Wardens may refuse to accept any juvenile who is under 18 or is sentenced under the JJDPa and has not attained his or her 21st birthday when it would be impossible to keep the juvenile separated from adult offenders.

13. **IDENTIFICATION IN TRANSIT.** The file or document accompanying a juvenile in transit who has not attained his or her 18th birthday, or is sentenced under the JJDPa and has not attained his or her 21st birthday, is to indicate clearly the juvenile's status as a juvenile, and, if applicable, that the juvenile has an adult sentence.

14. **PHOTOGRAPHS AND FINGERPRINTS.** Photographs and fingerprints of a juvenile who has not attained his or her 18th birthday, or is sentenced under the JJDPa, may be taken without the Court's permission to assure adequate identification and accountability of committed delinquents and to alert federal law enforcement

authorities in the event of an unauthorized absence from custody. Distribution of photographs within the facility is authorized to satisfy ordinary security and custodial requirements.

a. **Information Submission to the FBI.** Contract facility staff must submit a juvenile's fingerprints to the Federal Bureau of Investigation (FBI) on a Fingerprint Card (FD-249), upon admission to the facility with a notation in the "additional information" block that "the subject has been adjudicated a juvenile delinquent under 18 U.S.C. 5037" or "the subject has not attained his/her 18th birthday but was sentenced as an adult." The FBI will furnish the FBI number and the arrest history, if one exists, and return the Fingerprint Card.

b. **Disclosure Limitation.** Fingerprints and photographs of a juvenile who has not attained his or her 18th birthday, or is sentenced under the JJDP, may not be used as a method of exchanging arrest information between law enforcement agencies.

15. **DISCLOSURE OF JUVENILE RECORDS.** 18 U.S.C. § 5038 limits the release of information about juveniles. Therefore, when a request for information is received, no information can be provided until the source of the request can be verified and a legitimate "need to know" has been established. Normally, the information is to be given only to law enforcement officials and immediate family members.

Information generated at juvenile court proceedings is sealed, and the release of these records is restricted generally to courts, law enforcement agencies, victims, and treatment agency administrators. Juvenile records can be released only to meet the circumstances set forth in 18 U.S.C. § 5038.

Persons, such as juvenile facility administrators, who receive information about a juvenile sentenced under the JJDP, may not disclose that information to anyone else, except staff at the facility directly involved with the juvenile.

If the juvenile was found delinquent and adjudicated pursuant to 18 U.S.C. § 5031 *et. seq.*, state and local law enforcement, victims, and witnesses are not notified of the juvenile's furlough, escape, or release. However, release of information about the final disposition of the juvenile proceeding is permitted to the victim or, if the victim is deceased, to the victim's immediate family. Those waived to adult court are considered adults and treated accordingly.

Retirement and disposal of juvenile files shall be in accordance with the Inmate Systems Management Manual.

16. JUVENILE PROGRAMS AND SERVICES

a. **Contract Agency Policies.** The Statements of Work for Secure Juvenile Facilities and Community-Based Juvenile Facilities establish the types of programs and services required for juveniles.

Consequently, it is important that the CCM ensure that each juvenile contract agency's policies are consistent with Bureau directives and reflect sound correctional practices. The CCM must review these policies and practices during monitorings to ensure compliance.

b. **Furloughs, Escorted Trips, and Community Service.** Juveniles may be considered for furloughs, escorted trips, and community service. Good professional judgement must be used by both the contractor and the CCM when considering whether to allow a juvenile such privileges. To ensure that appropriate guidelines and procedures are followed, the CCM's review and approval are required for any furlough of a juvenile. Community service work must be unpaid and benefit the community directly.

When determining whether to request a furlough, escorted trip, or community service, contractors, whether governmental correctional agencies or private juvenile contractors, are to follow their policies which are reviewed and approved during contract negotiations.

In all cases, the Program Statement on Central Inmate Monitoring must be followed, and the contractor must contact the appropriate U.S. Probation Office(s) for their comments regarding a furlough.

c. **Financial Responsibility.** Employed juveniles are expected to pay subsistence. The amount should approximate 25% of the juvenile's gross weekly income.

Juveniles are expected to meet all legitimate financial obligations. Staff are to assist juveniles to develop a plan to meet these obligations.

Costs of incarceration are not charged to juveniles.

d. **Marriage.** If a juvenile desires to marry, advance approval is required, following the procedures described in the Program Statement on Marriage of Inmates if the juvenile is in Bureau custody and from U.S. Probation if the juvenile is in the facility as a condition of probation.

e. **Driving.** Unless approved in advance by the CCM, a juvenile may not drive while in Bureau custody. Permission to drive may not be granted unless the juvenile has a valid driver's license and permission from the owner of the car to drive the vehicle. The vehicle must be registered and have any insurance required by state law.

Permission from the CCM is required before a juvenile can take a driver's test or obtain a license.

/s/

Kathleen Hawk Sawyer
Director