

OAC § 5120:1-8 Jail Standard Changes Standards for Juveniles Inmates: Fact Sheet for Jails

On April 20, 2014, new jail standards went into effect for Ohio's jails. This fact sheet covers the new provisions relating to the treatment of juveniles in full service jails.

Why do we need new standards for juveniles held in adult jails?

The prior Ohio jail standards contained very few provisions specifically relating to juvenile inmates in adult jails. The only three standards that addressed youth in adult jails required that processing and reception of juveniles be consistent with Ohio code and requiring that juveniles' classification and housing separated them by touch from adult prisoners. OAC 5120:1-8-01(A)(15), 5120:1-8-02(B)(4), 5120:1-8-04(G).

These standards needed to be updated to comply with several changes to Ohio and national law and regulations as well as a resolution from the American Jail Association. First, Ohio and the federal Juvenile Justice and Delinquency Prevention Act require that youth in jails be "sight and sound separated" from adults, not just by touch. [see JJDP A Compliance Manual 2.4 and ORC § 2152.26(F)(1)]

Second, the U.S. Department of Justice issued final standards for the Prison Rape Elimination Act (PREA), which contain three requirements for youth under age 18 in adult jails and prisons: 1) youth cannot be placed in a housing unit where they have contact with adults in common spaces, shower areas, or sleeping quarters, 2) outside housing units, youth must be "sight and sound" separated from adults unless they are directly supervised by staff, and 3) facilities should not put youth in isolation to comply with the PREA requirements as isolation "is known to be dangerous to mental health, especially among youth...[and] puts youth at greater risk of committing suicide." If facilities must put youth in isolation, youth must, to the extent possible, be given access to education, exercise, and other programs and work opportunities.

Finally, the American Jail Association has a resolution opposed to housing juveniles in adult jails unless the jails are "specifically designed for juvenile detention and staffed with specially trained personnel."

When can juveniles be placed in full service jails?- OAC § 5120:1-8-01(A)(12)

New Standard: Under the new standards in OAC § 5120:1-8-01(A)(12), *status offenders* (i.e., runaways and curfew violations) are prohibited from being placed in adult jails to comply with federal law. [Note: Ohio law currently permits these youth to be processed¹ in adult jails for under 3 hours.]

The new standards do not change when the following types of youth can be held in jails:

- 1) Youth accused of *juvenile misdemeanor delinquencies, delinquent truanancies, or traffic offenses*, who can be held for 3 hours for processing [ORC § 2151.311(C)(1)(b)];
- 2) Youth accused of *juvenile felony delinquencies*, who can be held for 6 hours for processing;
- 3) *Bindover youth under the age of 18*, who can be held in jails unless and until they are found guilty in adult court, and *juvenile court jurisdiction youth ages 18-21*, who can be held in adult jails until their juvenile court disposition is over or the youth turns 21. These youth can only be placed in the adult jail if the juvenile court judge finds they are "threat to the safety and security" of the juvenile detention facility and that placement in the jail is in the youth's best interest."

The new standards require that the youth listed above should only be held in jails in rare circumstances and should only be accepted when all of the following apply:

¹Processing as defined in the ORC includes fingerprinting and photographing the youth in a secure area or interrogation, contacting the child's parent/guardian, arranging placement, arranging for transfer of child in a nonsecure area. [2151.311(D)]

- There is a court order,
- All other alternative placements (including juvenile detention centers) have been considered and rejected, AND
- The jail has provided information to the juvenile court regarding the conditions under which the youth will be held and the jail's ability to comply with the juvenile specific standards described below.

In addition, the new standard calls for court stakeholders, such as jail administrators and juvenile and adult court judges, to make every effort to ensure that youth are held in jails for the minimum amount of time necessary.

How to Comply: When a juvenile comes into the jail and before the youth is admitted, jails should ensure that the youth 1) is not a status offender (i.e. a runaway, truant, etc.), 2) is there under a valid court order from either the juvenile or adult court for the youth to be placed in the jail, and 3) is there after the court has considered all other alternative placements for the youth.

Additionally, adult jails must provide information to the juvenile court regarding the jail's ability to comply with the new juvenile standards. This information must include the jail's ability to comply with the standards below and to describe the conditions under which youth will be housed in the facility. For more guidance on this section of the rules, please reference the attached template memo to juvenile court stakeholders.

How should juvenile inmates be processed during reception?

New Standard: The regulations for processing and releasing adult inmates also apply to juvenile inmates. However, as described above, certain types of youth may only be held in the jail for several hours for processing, while other youth may be held longer term.

For youth who are in the jail only for processing purposes (categories 1 and 2 above), these youth must be sight and sound separated from adults per federal law, be visually supervised by jail personnel, and not be handcuffed or physically secured to a stationary object during the detention. ORC § 2151.311(C)(1)(a) and (b). For youth with longer stays (categories 3 and 4), these youth must be sight and sound separated from adults and supervised at all times. ORC § 2152.26(F)(4)(e).

How to Comply: Jails should consider 1) identifying, training, and assigning a staff member for each shift who is familiar with the youth-specific standards to work consistently in the processing/holding area, or 2) training any staff who work in processing/holding on the standards outlined above.

What are the standards and guidelines regarding housing for juveniles, including separation from adult inmates?

New Rule: Juveniles must be kept out of sight and sound of all adult inmates during their stay in the jail, not just beyond the range of touch. OAC § 5120:1-8-04(K). However, youth must have access to all of the same programming and recreation as adult inmates (i.e., exercise, television, table games, reading material, alcohol and drug treatment, religious practices) as provided in OAC § 5120:1-8-11.

However, PREA compliance requires and the guidelines suggest that facilities should not place juveniles in single cells or segregation to achieve sight and sound separation. The PREA standards recommend that facilities 1) place youth in a separate unit with multiple youth, 2) enter into an agreement with an outside jurisdiction to create a regional youth unit, or 3) place youth in juvenile detention facilities instead of adult jails.

How to Comply: Jails have several options to avoid placing youth in isolation to comply with sight and sound separation. If a jail holds several youth, the facility can create a youth unit. If a jail only holds a few youth, the

facility may contract with another facility to create a regional youth unit; special consideration should be given both for transport costs and visitor access for youth. In both of these scenarios, the jail should establish ways for youth to access programming as required by the standards as laid out in the guidelines (i.e. achieving sight and sound separation architecturally or through policies and procedures like time phasing). Finally, jails could work with local stakeholders to place all youth in the county's juvenile detention facility for more guidance on this issue, see the attached fact sheet on jail removal for youth.

What types of physical and mental health services must be provided to juveniles?

New Rules: Under the new standards, juveniles – like adults – must receive quality, accessible, and timely health care and require that inmates should be referred to an appropriate setting when necessary medical, mental health, or dental care is not available at the facility. For juveniles, the guidelines provide youth with youth-specific needs shall be referred to providers with expertise in youth issues, including medical, mental health, and dental needs.

Often, youth health and mental health issues can present very differently than adults. For example, adults with depression may seem sad while adolescents may appear irritable. Additionally, some mental health issues, such as oppositional defiant disorder, are specific to youth. Medication dosages also can vary significantly between youth and adults. Finally, youth in adult jails are 36 times more likely to commit suicide than youth housed in juvenile detention facilities and segregating youth can create or exacerbate existing mental health issues.

How to Comply: If a youth is having difficulty adjusting to the facility – particularly while in segregation – or is having what staff perceives to be physical and mental health issues, including with medication, the jail should consider contracting with a physical or mental health professional specifically trained to work with youth.

What are the standards for placing juveniles in administrative segregation?

New Rule: Under the new standards, jails must have policies and procedures in place regarding segregation and the guidelines state that consideration should be given to limiting the amount of time that youth spend in segregation. OAC § 5120:1-8-15.

The PREA standards recognize that isolation “is known to be dangerous to mental health, especially among youth...[and] puts youth at greater risk of committing suicide.” A recent report indicates that juveniles are particularly vulnerable to the effects of solitary confinement. Juveniles, who are still growing and developing, may be unable to handle administrative segregation with the same resiliency as adults. Administrative segregation may be traumatic, which could affect a juvenile's ability to reenter their communities safely after incarceration. Administrative segregation may also exacerbate mental health problems.

How to Comply: Jail facilities should write an updated policy that limits the placement of youth in administrative segregation, particularly when the youth is not posing an imminent danger to himself or others in the facility.

What are the other options?

In some jurisdictions, juvenile inmates are not housed in adult facilities at all. If adult jails do not wish to house juvenile inmates at all, jails should work with courts and local elected officials, such as county commissioners, to ensure that juveniles are not placed in adult facilities. More information on this option is available in the attached fact sheet on jail removal for youth.