

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p style="text-align: center;">Title: Housing of Individuals Under 18</p>	<p style="text-align: center;">Page 1 of 5</p>
<p>Chapter: Facilities- General</p>	<p style="text-align: center;">#326.01</p>	<p>Supersedes: 326.01 (Dated 1/20/1992)</p>
<p>Attachments, Forms & Companion Documents:</p> <p>1. All forms and guidance documents are posted on the Department of Corrections' website.</p>		
<p>Local Procedure(s) Required: Yes - for establishment of written field and facility rules only and safekeeping of CI statements and DR recordings. (See Section 11 also.)</p> <p>Applicability: All staff (including contractors and volunteers)</p> <p>Security Level: "B" – Anyone may have access to this document.</p>		
<p>Approved:</p> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 20px;"> <div style="text-align: center;">  <hr style="width: 100%;"/> <p>Andrew A. Pallito, Commissioner</p> </div> <div style="text-align: center;"> <p><i>June 10, 2015</i></p> <hr style="width: 100%;"/> <p>Date Signed</p> </div> <div style="text-align: center;"> <p><i>July 1, 2015</i></p> <hr style="width: 100%;"/> <p>Date Effective</p> </div> </div>		

PURPOSE

This directive outlines special and necessary procedures for housing inmates who are under the age of eighteen. This procedure establishes appropriate placement for individuals who are under the age of 18 charged with adult crimes and placed in the custody of the Vermont Department of Corrections (DOC).

POLICY

The DOC's policy is to house individuals under the age of 18 in a manner that is safe and consistent with state and federal laws. No individual under the age of 16 will be housed within a DOC facility.

AUTHORITY

33 V.S.A. §§ 708(b) and 5293; 33 V.S.A. §, (g); 28 V.S.A. §759(b) and §808; 13 V.S.A. § 7559(d) and (c); 42 U.S.C. § 147; 28 C.F.R § 115.

REFERENCE

See Section on Authority, Guidelines promulgated by Federal office of Juvenile Justice and Delinquency Prevention.

PROCEDURAL GUIDELINES

1. Detained Under the Age of 18 Year Old Misdemeanants

- a. A juvenile who has been arrested for a misdemeanor shall be immediately released to his or her parent, guardian, or custodian or delivered to the superior court, criminal division.
- b. In the event that a juvenile is not released, the juvenile shall not be detained in a facility for adult offenders.
- c. The arresting officer will have obtained a mittimus ordering detention from the court or state in his/her affidavit that the court has been contacted and that detention has been ordered.
- d. DOC is responsible for providing detention services for individuals under 18 years of age who have been so ordered by the district court.
- e. DOC will contact the Department for Children and Families (DCF) in accordance with the current Memorandum of Understanding (MOU) between DOC and DCF to determine if placement at the Woodside Juvenile Rehabilitation Center (Woodside) is appropriate. If it is determined that placement at Woodside is not appropriate, DOC will require cooperation between field and facilities sites to find appropriate placement. Staff from Probation & Parole, as well as staff from facilities may be involved in providing appropriate housing.
- f. An individual under 18 years old, alleged to have violated conditions of release shall not be held in an adult correctional facility if arrested for this offense.¹
- g. Individuals under the age of 18 arrested on arrest warrants for misdemeanor offenses shall be processed as relating to non-jail placement.

2. Timing and Intake

- a. Provision Of Detention Services During Business Hours
 - i. During business hours, 7:45 a.m. - 4:30 p.m., Facility Superintendents shall instruct police and district courts that the point of intake for the detained juvenile will be the Probation and Parole offices in Barre, Bennington, Brattleboro, Burlington, Newport, Rutland, Saint Albans, Springfield, St. Johnsbury, and White River Jct.
 - ii. Superintendents and District Managers shall provide procedures for "booking" a juvenile on detention. Field sites are responsible for including the juvenile on their headcount. Such procedures shall include but not be limited to finger prints, pictures, ID face sheet, suicide probability scale, determination of medical and dietary needs and other issues covered in detention intake at the facility. Booking Procedures shall ensure that the juvenile does not enter the facility. Booking slips shall note that the person is a juvenile and placement is in an alternative placement.²

¹ Violating conditions of release is a misdemeanor as outlined by 13 V.S.A. § 7559 (d)-(e). Any following criminal contempt proceeding would dictate that anyone under the age of 18 years of age shall not be held in adult correctional facilities or lockups even though the original charge is a felony.

² Alternative placements include but are not limited to Woodside Juvenile Facility, 204 Depot, furlough, etc.

- iii. While the juvenile is detained at the Probation and Parole office, two DOC employees will provide supervision. One of the employees must be a Correctional Officer II, Community Correctional Officer, a Corrections Services Specialist, or Corrections Program Supervisor. Supervision over the juvenile means staying close enough to control the juvenile's actions by physical control techniques if necessary.
 - iv. Medical emergencies shall be handled through local rescue squads.
 - v. Superintendents shall ensure that procedures for phone use, visiting, and other issues germane to the business of providing alternative detention are promulgated in their respective regions.
- b. Provision Of Detention Services After Business Hours And On Weekends
- i. Superintendents shall instruct police and Superior Court, Criminal Divisions to contact the nearest correctional facility, with the exception of the Southeast State Correctional Facility, or such other contact office as may be appropriate when there is a court order for detention of an individual under the age of 18 charged with a misdemeanor offense after business hours and on weekends. After business hours will be 4:30 p.m. - 7:45 a.m. the next day Monday through Thursday. The weekend hours will begin at 4:30 p.m. on Friday.
 - ii. Superintendents shall ensure that the police or Superior Court, Criminal Division is given directions/instructions as where to bring the juvenile.
 - iii. The police officer will have obtained a mittimus ordering detention from the court or state in his/her affidavit that the court has been contacted and detention has been ordered.
 - iv. District Managers shall provide their assigned facilities a list of staff contacts for after hour detentions of juveniles. Probation and Parole staff will open the Field office, provide temporary detention space, and assist in intake and booking of the juvenile.

3. Alternative Placement

- a. DOC-DCF Interdepartmental Agreement.
 - i. In the case when a detained under 18 year old is placed using the DOC-DCF Interdepartmental Agreement, DOC staff are to follow the procedure outlined for accessing Woodside and 204 Depot for Youth Under 18.³
- b. Motel/Motel Detention
 - i. A juvenile may be detained in a motel/motel setting. Supervision shall follow DOC procedures.
 - ii. Superintendents and District Managers shall ensure that procedures are in place to cover motel placement.

³ This document is available as companion document on the DOC website.

4. Detained Under 18 Year Old: Probation Or Parole Violation Alleged.

- a. Procedures outlined under Detained under 18 year old misdemeanants shall be followed provided detention is needed pending probation or parole violation hearing. The court or Parole Board shall be involved and order detention pending hearing. Non-jail detention can occur provided the alleged violation is technical in nature or the new offense is a misdemeanor.
- b. If the alleged new offense is a felony the normal citing, bail setting, and possible jail placement can occur with the felony as the controlling charge. The juvenile may be held in jail on the probation violation, provided bail has not been furnished on the felony allegation. Should bail be furnished on the felony charge, the juvenile must be immediately removed from jail on the misdemeanor probation case.
- c. Under no circumstances can an individual under the age of 18 be held in correctional facilities and or lockups when the probation violation concerns a misdemeanor case and there is an absence of a felony charge.

5. Sentenced Inmates Under 18 Years Of Age Misdemeanants

- a. Juvenile convicted of misdemeanor crimes and ordered to serve a period of incarceration shall not be placed in a facility for adult offenders.
- b. Sentenced juvenile may be placed in accordance to section #3 of this directive.
- c. In the order listed below the assigned Corrections Services Specialist (CSS) will review the case to determine if the Juvenile is appropriate for:
 - i. Conditional Re-entry as outlined in Directive # 371.15
 - ii. Reintegration Furlough as outlined in Directive #371.26
 - iii. Home Confinement Furlough as outlined in Directive #371.27
 - iv. Compassionate Leave furlough as outlined in Directive 372.03
 - v. Medical, Treatment and Short Term Inpatient furloughs as outlined in directive #373.02

6. Juvenile Sentenced Under 18 Year Old Misdemeanant Probation Or Parole Violators

- a. Procedures for placement in non-jail settings outlined under sentenced misdemeanants shall be followed in probation or parole violation cases.

7. Under 18 Year Old Felons

- a. Under 18 Year Old Felons who are detained:
 - i. Individuals who have been arrested for a felony may be lodged in adult jails and lockups. In order to lodge said individual, one of the following criteria must be met:
 1. A felony charge been filed in district court;
 2. The district court has exercised jurisdiction over the matter and the State's Attorney has determined that a felony charge will be filed without delay;
 3. The court will have exercised jurisdiction over the matter during the bail setting procedure.

- ii. DOC shall confirm that one of the criteria listed under 7(a)(i) is met. Law enforcement officers will indicate such information on the affidavit that the State's Attorney will file a felony charge.
- iii. Individuals who are on probation or parole as a result of conviction for a felony may be placed in adult facilities due to alleged probation or parole violation. In situations where the violation is an alleged new offense and the new offense is a misdemeanor the juvenile may be held in adult correctional facilities and lockups provided he/she is incarcerated on the felony.
- b. Sentenced Over Age of 16, and Under 18 Year Old Felons
 - i. Individuals who have been convicted of a felony and sentenced to a term of imprisonment may be placed in a facility for adult offenders.

8. Housing of Inmates Under 18 Years of Age

- a. A juvenile inmate shall not be placed in a housing unit in which the juvenile inmate will have sight, sound, or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area, or sleeping quarters.⁴
- b. In areas outside of housing units, DOC shall either:⁵
 - i. Maintain sight and sound separation between juvenile inmates and adult inmates, or
 - ii. Provide direct staff supervision when juvenile inmates and adult inmates have sight, sound, or physical contact.
- c. DOC shall make best efforts to avoid placing juvenile inmates in isolation to comply with provisions 8 (a)-(b). Absent exigent circumstances, DOC shall not deny juvenile inmates daily large-muscle exercise or any legally required special education services to comply with this provision. Juvenile inmates shall also have access to other programs and work opportunities to the extent possible.⁶

9. Transfers

- a. Where it is appropriate to move a juvenile to another area or district, the process can be accomplished by transfer between probation and parole offices, or from facility headcount to the headcount of the receiving facility, or probation and parole offices for supervision in the receiving site. Booking slips shall reflect the fact the transaction concerns a juvenile or juvenile misdemeanant and alternative placement is needed.

10. Incapacitated Under 18 Year Olds

- a. Adult jails or lockups shall not be used for the protective custody of anyone under the age of 18 years old.

**TRAINING
QUALITY ASSURANCE**

⁴ 28 C.F.R. § 115.14(a)

⁵ 28 C.F.R. § 115.14(b)

⁶ 28 C.F.R. § 115.14(c)