

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Manual of Standards for Juvenile Detention Facilities

Proposed Readoption with Amendments: N.J.A.C. 13:92

Proposed Repeal: N.J.A.C. 13:92-5.1

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Paula T. Dow, Attorney General and Chair, Carolyn Murray, Attorney General's Designee.

Authority: N.J.S.A. 2A:4A-37; 18A:7B-5; 47:1A-1 and 5; 52:17B-170(e)(6), (14), (15), (21) and (22); 52:17B-171a(1) and (5); and 52:17B-176a(6) through (9).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-256.

Submit written comments on or before December 31, 2010 to:

John Wolff

Administrative Practice Officer

New Jersey Juvenile Justice Commission

1001 Spruce Street – Suite 202

Trenton, New Jersey 08638

The agency proposal follows:

Summary

The New Jersey Juvenile Justice Commission proposes to readopt with amendments N.J.A.C. 13:92, Manual of Standards for Juvenile Detention Facilities. Pursuant to N.J.S.A. 52:14B-5.1c the rules in this chapter are scheduled to expire on April 2, 2011.

The rules under N.J.A.C. 13:92 govern the operation of county juvenile detention facilities, covering both physical facility and program requirements. The rules were most recently amended on November 7, 2005, at 37 N.J.R. 4283(a). The Commission has reviewed the rules at N.J.A.C. 13:92 and has determined that they are necessary, reasonable and proper for the purposes for which they were originally promulgated.

Currently, seven of the county juvenile detention facilities also operate detention commitment programs governed by rules at N.J.A.C. 13:93, which were last readopted on August 2, 2010 (see 42 N.J.R. 1741(a))

A description of the subchapters as contained in N.J.A.C. 13:92 are summarized as follows.

Subchapter 1, Introduction, provides definitions (mainly from the New Jersey Code of Juvenile Justice), as well as the objectives of juvenile detention.

Subchapter 2, Legal Provisions, provides rules concerning the legal authority of the Commission to specify where a juvenile may be detained. The subchapter specifies that the Commission shall inspect the facilities and enforce the standards set forth in this

chapter. Subchapter 2 further provides for variances to be issued by the Commission and requires facilities to comply with other legal authority applicable to the physical facility and program standards for juvenile detention facilities, such as public health, safety, fire codes and building regulations set forth by the State of New Jersey, the county and municipality in which a juvenile detention facility is located.

Subchapter 3, Organization and Administration, addresses the responsibilities of the county Board of Chosen Freeholders and the financial requirements for operating a detention facility.

Subchapter 4, Physical Standards, provides the physical facility standards for existing and new juvenile detention facilities, including location and building approval, juvenile population capacity, building and grounds, fire protection, sleeping rooms, bathing and toilet facilities, kitchens, dining areas, indoor and outdoor recreational areas, schoolrooms, office, reception and visiting areas, medical facilities and storage areas.

Subchapter 5, Intake and Admission, provides the statutory juvenile detention admission criteria, as well as facility procedures when juveniles are admitted into juvenile detention.

Subchapter 6, Records and Reports, delineates the records and reports required to be maintained by the facility, including intake information on juveniles, individual case records, master log book, medication log, log for the temporary restriction of juveniles and other reports as needed. It also addresses the confidentiality of records and reports.

Subchapter 7, Control, Discipline and Grievance Procedure, provides the standards for facility rules and regulations, grievance procedures, discipline, temporary restriction of juveniles in their rooms and the special daily schedule.

Subchapter 8, Physical Care of Juveniles, provides standards on food and nutrition, clothing, personal hygiene and household duties and work.

Subchapter 9, Program Services, delineates the program services that must be provided at juvenile detention facilities. These include medical, recreational, educational, community, social, psychological and psychiatric services, religious services, visiting, mail and telephone privileges.

Subchapter 10, Staff; General Requirements, provides the personnel requirements for the facility, as well as staff coverage, staff development requirements and standards regarding volunteers.

Subchapter 11, Staff; Responsibilities, provides the standards for the following positions at juvenile detention facilities: administrator; child care worker; social service worker; teacher; physician; clerical staff; food service staff; and maintenance and housekeeping staff.

Subchapter 12, Confidentiality of information sets forth requirements relevant to protecting the confidentiality of information and requirements for each facility to establish policies and procedures to ensure compliance with applicable laws and regulations governing the confidentiality of information.

Two Appendixes have been promulgated as part of N.J.A.C. 13:92, and would be readopted as part of the rules proposed for readoption:

N.J.A.C. 13:92 Appendix A is a report form used to report incidents, such as deaths, suicide attempts, escapes, alleged sexual assaults by juveniles or staff, fires, outbreaks of contagious disease or any other incidents that result in substantial injury to juveniles or staff and require medical attention outside of the facility, or substantial damage to the facility. Deaths, suicide attempts, fires, escapes and serious injuries must be reported as soon as practicable, but no later than within 24 hours of the occurrence. All other incidents must be reported within three working days of occurrence.

N.J.A.C. 13:92 Appendix B is a standardized “Individual Medication Administration Record” used to track all medication given to a juvenile, including a record of the underlying medication orders and professional notes.

The Commission is proposing to readopt N.J.A.C. 13:92 with the following amendments:

From time to time Commission personnel need to bring into juvenile detention centers equipment reasonable and necessary for it to carry out its monitoring responsibilities. This may include, but not be limited to, digital cameras, laptop computers, projectors, etc. As a result the Commission proposes to amend the inspection provisions of N.J.A.C. 13:92-2.2 to clarify that any equipment or materials deemed necessary to carry out the Commission’s inspection responsibilities shall be permitted into a facility.

The Commission proposes to amend N.J.A.C. 13:92-4.1 to require Commission approval before implementing any major change to county detention facility utilization. N.J.S.A 2A:4A-37(b) requires that the Commission approve all places where juveniles may be placed in detention. In view of current budgetary pressures upon all levels of

government to streamline and consolidate operations, the Commission believes it useful to provide clear and uncomplicated guidelines to be followed when county authorities propose major utilization changes. On April 7, 2008, the Commission issued Guidance for Juvenile Detention Facilities With Respect to Changes in Facility Utilization. The policy establishes standards and procedures to be followed both by the Commission and by county juvenile detention facilities in connection with proposals to significantly change detention facility utilization. The proposed amendment would codify this policy into N.J.A.C. 13:92-4.

Under this amendment a county must seek prior Commission approval of a written implementation plan before implementing any proposal:

- To close a county juvenile detention facility;
- To open such a facility to a shared use for purposes other than juvenile detention; or
- To transfer juveniles to other facilities for other than routine purposes.

Minimum content requirements for an implementation plan are clearly set forth in the proposed amendment, as are the standards that must be utilized by the Commission when reviewing an implementation plan.

The Commission seeks to amend N.J.A.C. 13:92-4.1 to prohibit the artificial manipulation of facility headcounts. N.J.S.A 18A:7F-24 requires the Department of Education to determine the amount of State funding available to a county detention facility each year based solely on the census on the last school day prior to October 16, known as "Count Day." The proposed amendment to N.J.A.C. 13:92-4.1 makes explicit that inter-county and other transfers of juveniles to and from a detention facility are

subject to monitoring and approval of the Commission, and that the population of a detention center may not be artificially increased, decreased or otherwise manipulated, in order to meet objectives unrelated to sound operational practices for secure detention facilities.

The Commission proposes to make two clarifications to N.J.A.C. 13:92-4.3(d), which addresses the installation of camera surveillance systems. The word “continuously” is being deleted because it can mistakenly be interpreted as meaning that all cameras must record continuously rather than by motion detection. In addition, the provision is being amended to clarify that written plans for the installation of camera surveillance systems must be submitted to the Commission in connection with the Commission’s review and approval authority.

N.J.A.C. 13:92-4.5 currently requires that mattresses be fire resistant, and that bed sheets and pillows preferably be of a fire-resistant type. The Commission proposes to enhance fire safety by amending the rule to require that pillows also be fire-resistant.

N.J.A.C. 13:92-5.1 essentially restates the statutory requirements incidental to initial placement of a juvenile in detention, quoting liberally and directly from N.J.S.A. 2A:4A-33 and 34. The provisions of this section have not been updated to reflect amendments to the statute and describe procedures not directly germane to the operations of a detention facility. Accordingly, the Commission proposes to repeal N.J.A.C. 13:92-5.1. Related to this, the Commission is deleting the references to N.J.A.C. 13:92-5.1 from both N.J.A.C. 13:92-5.2(a) and 5.3(a) and is deleting a related reference to “code” from N.J.A.C. 13:92-5.3(a).

N.J.A.C. 13:92-5.3 sets out requirements for intake and admission procedures, and

N.J.A.C. 13:92-5.3(a)9 requires that when a physician is not present at the time of the admission shower, a nurse, medication assistance staff worker or senior staff worker on duty must examine a juvenile's body for lice, bruises or abrasions, unusual marks and symptoms of any communicable diseases. The Commission seeks to amend N.J.A.C. 13:92-5.3(a)9 to require that a body chart be completed documenting the result of such an examination.

The Commission proposes new N.J.A.C. 13:92-5.4 to address electronic monitoring programs. The program would allow designated juveniles to live in the community while monitored by electronic monitoring devices. At present, N.J.A.C. 13:92 does not require written standards for a juvenile's placement on or removal from electronic monitoring. As a means to address this omission, the proposed rule requires that a county juvenile detention center submit an electronic monitoring plan to the Commission that clearly identifies the program's target population, as well the standards and procedures for placement in and removal from the program. In connection with this amendment the Commission proposes to change the heading of Subchapter 5 to include "electronic monitoring programs."

Subchapter 6 sets out various requirements relating to records and reports, including in N.J.A.C. 13:92-6.6 requirements related to maintenance of a mechanical restraint log. Subchapter 7 contains provisions related to control, discipline and grievance procedure, and N.J.A.C. 13:92-7.5 sets out substantive requirements for the use of physical and mechanical restraints. The Commission seeks to make two corrections to N.J.A.C. 13:92-6.6(a)8, in order to ensure that log requirements accurately reflect the substantive requirements of N.J.A.C. 13:92-7.5(j). These corrections are the replacement of "health

professional” with “administrator or designee” as the person authorizing the continued use of restraint; and reducing from 60 to 30 minutes, the amount of time triggering the need for such authorization.

The Commission proposes to amend N.J.A.C. 13:92-9.2(a) to clarify that either indoor or outdoor recreation, but not both, is required daily. The sentence is further modified to add the phrase “weather permitting” after outdoor recreation to clarify that outdoor recreation is not required during inclement weather.

N.J.A.C. 13:92-10.6 sets out staff coverage requirements, and subsection (g) establishes minimum childcare worker/juvenile ratios during both waking and sleep hours. The Commission proposes to amend N.J.A.C. 13:92-10.6(g) to clarify that only staff who directly supervise juveniles shall be included when calculating those ratios.

Two amendments are proposed to N.J.A.C. 13:92-10.7, staff development, in order to clarify that all custody staff shall receive a minimum of 24 hours of annual training time to attend professional institutes, workshops, conferences and formal in-service training programs at the detention facility and that such training be documented.

Finally, the Commission proposes to make six amendments to N.J.A.C. 13:92 in order to accommodate requirements of P.L. 2007, c. 315, (N.J.S.A. 52:17B-171.1 et seq) popularly known as Eddie’s Law, which sets out standards for screening and monitoring youth at risk for suicide in juvenile detention facilities. The provisions of the law are as follows:

- P.L. 2007, c. 315, §1 (N.J.S.A. 52:17B-171.1) requires that the Commission establish standards for suicide and mental health screening in county juvenile detention facilities;

- P.L. 2007, c. 315, §2 (N.J.S.A. 52:17B-171.2) establishes specific standards for suicide risk screening for youth admitted to county juvenile detention facilities;
- P.L. 2007, c. 315, §3 (N.J.S.A. 52:17B-171.3) modifies standards for overall mental health screening. Changes include reducing the time within which the Massachusetts Youth Screening Instrument - 2 (MAYSI-2) must be administered to a juvenile from 72 hours to 48 hours following admission, and permitting the designee of a social worker to administer the MAYSI-2;
 - P.L. 2007, c. 315, §4 (N.J.S.A. 2A:4A-60.2) contains restrictions on the disclosure and use of statements made by a juvenile in course of screening;
 - P.L. 2007, c. 315, §5 (N.J.S.A. 52:17B-171.4) prohibits placing a juvenile in isolation before undergoing the suicide and mental health screenings required by sections 2 and 3;
 - P.L. 2007, c. 315, §6 (N.J.S.A. 52:17B-171.5) requires that personnel who administer the suicide and mental health screenings required by sections 2 and 3 be certified by the Commission as qualified to perform such screenings;
 - P.L. 2007, c. 315, §7 (N.J.S.A. 52:17B-171.6) requires that the Commission, in conjunction with the Department of Children and Families, establish and maintain a confidential Statewide database of the screenings required by sections 2 and 3, to be used exclusively by persons performing suicide risk and mental health screenings;
 - P.L. 2007, c. 315, §8 (N.J.S.A. 52:17B-171.7) requires Commission monitoring of suicides occurring at county juvenile detention facilities and establishes certain minimum standards for that monitoring;

- P.L. 2007, c. 315, §9 (N.J.S.A. 52:17B-171.8) requires that all monitoring reports of county juvenile detention center operations, including any reports of corrective actions taken against or penalties imposed on a center, and the rated census capacity and the average monthly population for each juvenile county detention center, be published on the Commission's website;

- P.L. 2007, c. 315, §10 (N.J.S.A. 52:17B-171.9) establishes standards for the training of juvenile detention officers on the mental health needs of detained juveniles;

- P.L. 2007, c. 315, §11 (N.J.S.A. 52:17B-171.10) requires that the Commission, in conjunction with the Department of Children and Families, submit annual reports to the Governor and to the Legislature over the next seven years detailing the number of suicides and suicide attempts, the number of suicide and mental health screenings in each county juvenile detention facility, information on the number of juveniles referred for additional screening or evaluation and a summary of the diagnoses for juveniles who have received treatment;

- P.L. 2007, c. 315, §12 (N.J.S.A. 52:17B-171.11) requires that the Commission adopt rules and regulations necessary to implement the provisions of Eddie's Law;

- P.L. 2007, c. 315, §13 (N.J.S.A. 2A:4A-60.3) requires that reports or records relating to mental health services provided to a juvenile prior to an adjudication of delinquency or a finding of guilt, whether or not the mental health services were given with the consent of the juvenile, may be disclosed to a court only after an adjudication of delinquency or a finding of guilt has been entered, provided however, that an attorney representing a juvenile, with the juvenile's consent, may disclose such reports or records prior to the adjudication of delinquency or finding of guilt; and

- P.L. 2007, c. 315, §14 provides for immediate effectiveness of Eddie's Law.

In order to comply with the law the Commission proposes:

1. To amend N.J.A.C. 13:92-5.3(a)9 and 14 to require Commission certification of personnel who administer the suicide and mental health screenings as required by section 6 of the law, and, in conformance with section 3 of the law; and to further amend paragraph (a)14 to reduce the time within which the MAYSI-2 must be administered to a juvenile from 72 hours to 48 hours following admission. Paragraph (a)14 is also being amended to allow a designee of a social worker to administer the MAYSI-2, if certified, and to initiate follow-up questions and actions appropriate to the caution or warning areas identified in the MAYSI-2 screening;
2. To propose new N.J.A.C. 13:92-5.3(a)14iv, with a cross-reference in N.J.A.C. 13:92-12.1, confidential records and information, to incorporate the confidentiality provisions set out in section 4 of the law;
3. To propose new N.J.A.C. 13:92-5.3(a)18, which would implement the prohibition in section 5 of the law against the placement of a juvenile in isolation before undergoing suicide and mental health screenings;
4. To propose new N.J.A.C. 13:92-7.6(c) to further the requirements of section 11 of the law, which adds a requirement that juvenile detention centers report physical suicidal gestures and suicide attempts;
5. To propose as new N.J.A.C. 13:92-9.5(a)1, the requirement in section 13 of the law, concerning the disclosure of reports or records relating to mental health services provided to a juvenile prior to an adjudication of delinquency or a finding of guilt; and
6. To propose definitions for "gesture" and "isolation" to N.J.A.C. 13:92-1.2.

Because the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption and the proposed amendments will continue to have a positive social impact by making the Manual of Standards for Juvenile Detention Facilities (Manual) strong, clear, easy to understand and consistent with the legislation that established the Juvenile Justice Commission.

Pursuant to State statute, detained juveniles have been determined to be a threat to others or at risk of failing to appear for court hearings. The rules proposed for readoption and the proposed amendments will benefit the public at large by ensuring that local detention facilities provide secure settings for juveniles charged with delinquency offenses. The Manual will continue to specify minimum standards for security requirements regarding the physical plant, staffing and employee qualifications. The Manual will result in increased Statewide uniformity in new, renovated or consolidated juvenile detention facilities. The detention standards will also continue have a positive social impact on counties and local communities by supporting initiatives designed to protect the public, ensure juvenile accountability and foster rehabilitation of juvenile offenders.

The Manual takes into account national standards and the contributions of experts in the field of juvenile detention who are knowledgeable in the area of established

detention practices. These practices, resulting from years of experience, will ensure the adequate programming, safety and security of juvenile detention facilities.

The proposed amendments will enhance the Manual's positive social impact.

Prior Commission approval, as required in the proposed amendment to N.J.A.C. 13:92-4.1, of any county plan to close a county juvenile detention facility, open such a facility to a shared use for purposes other than juvenile detention, or transfer juveniles to other facilities for other than routine purposes has a positive social impact. It will enable the Commission to more effectively carry out its statutory responsibility to regulate juvenile detention facilities, will help to ensure that adequate juvenile detention center bed space is maintained Statewide, will ensure that appropriate detention facilities are available for each detained juvenile and that shared uses of detention facilities do not adversely affect the interests of detained juveniles. In addition, the proposed amendments promote administrative efficiency by providing clear procedural guidance to county detention facilities when initiating plans to change facility utilization.

The proposed amendment to N.J.A.C. 13:92-4.1 prohibiting manipulation of daily juvenile population, and proposed new N.J.A.C. 13:92-5.4, regulating electronic monitoring programs, promote the health and safety of juveniles. Both help to ensure that juveniles are not detained in a detention facility for reasons unrelated to sound correctional and operational practices. The changes also have a positive impact by promoting alternatives to detaining juveniles in secure facilities. These alternatives have been shown to improve outcomes for court-involved youth, allowing those who are not flight risks and who are not risks to public safety to remain in their communities.

The proposed amendment to N.J.A.C. 13:92-4.5(f), which would require fire resistant pillows would promote the safety and welfare of juveniles, as does the body chart requirement proposed for N.J.A.C. 13:92-5.3(a)9.

In addition, the amendment proposed for N.J.A.C. 13:92-10.6(g) promotes the welfare of juveniles by ensuring adequate staff coverage for the protection of juveniles.

Finally, the several amendments proposed in order to comply with Eddie's Law are all designed to identify and protect juveniles who may be at risk for suicide.

Economic Impact

The rules proposed for re-adoption will continue to have an economic impact on county juvenile detention facilities that derives from State regulatory oversight. This continues a status quo that goes back to January 11, 1980, when the State first promulgated rules governing the operation of such facilities. In order to comply with standards imposed by the rules proposed for re-adoption, counties will need to continue funding for staff, training, equipment needs and infrastructure required at juvenile county detention facilities under N.J.A.C. 13:92.

There will also continue to be an economic impact on those counties that choose to renovate or construct new juvenile detention facilities, in view of requirements that the Commission approve all such renovation or construction. The costs involved will vary depending on the size of the facility, the population served and whether a county is planning to renovate an existing facility or build a new one. In addition, juvenile detention facilities may be required to promote staff development and training in order to comply with requirements in this area.

Minimal additional personnel costs may be required in order to comply with the proposed new requirements, found in proposed N.J.A.C. 13:92-5.3(a)9 and 14, that staff attend one-day Commission provided training in the administering of suicide risk screening and the MAYSI-2 screening tool. Similarly, minimal additional personnel costs may be incurred as a result of the a proposed amendment to N.J.A.C. 13:92-5.3(a)14 that would require that the MAYSI-2 be administered within 48 hours following admission, rather than 72 hours as is now required.

Counties are also expected to experience a continuing economic benefit from the rules in N.J.A.C. 13:92. Employees are more informed and qualified to perform their duties; fewer accidents, incidents and injuries are expected because of the safer equipment and conditions in the facilities; and staff is better trained. Therefore, this should result in lower legal and health care costs.

Another positive economic impact would result from the proposed amendments to N.J.A.C. 13:92-4.1. Those changes anticipate county proposals to reduce costs either by closing county juvenile facilities, by allowing shared use of such facilities or by transferring juveniles to third-party detention operations. To the extent such proposals would result in detention operations that are in compliance with the requirements of N.J.A.C. 13:92, the Commission will work with counties to implement their proposals, thereby assisting counties in reducing their operating costs.

Currently, it is estimated that juvenile detention in New Jersey costs approximately \$60 million per year.

Federal Standards Statement

The rules proposed for re adoption with amendments and a new rule comply with 28 CFR 31.303 and do not exceed the standards or requirements imposed by Federal law.

Jobs Impact

The Juvenile Justice Commission does not anticipate that the rules proposed for re adoption with amendments and a new rule will result in the generation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for re adoption with amendments and a new rule will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for re adoption with amendments and a new rule do not impose reporting, recordkeeping or other compliance requirements upon small businesses. The facilities impacted by the rules are county-operated facilities and are not considered small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Smart Growth Impact

The Juvenile Justice Commission does not anticipate that the rules proposed for re adoption with amendments and a new rule will have any impact on the achievement

of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments and a new rule will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern only juveniles detained in county juvenile detention centers.

Smart Growth Development Impact

The rules proposed for readoption with amendments and a new rule will not have an impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules concern only juveniles detained in county juvenile detention centers.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:92.

Full text of the proposed amendments and new rules follow (additions are indicated in boldface **thus**; deletions are indicated in brackets [thus]).

SUBCHAPTER 1. INTRODUCTION

13:92-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

“Gesture” means the act of moving the limbs or body as an expression of thought or emphasis.

“Isolation” means the temporary restriction of a juvenile to his or her sleeping room or isolation room.

...

SUBCHAPTER 2. LEGAL PROVISIONS

13:92-2.2 Inspection provision

(a) (No change)

(b) Each juvenile detention facility specified for use by the Commission shall be subject to announced and unannounced inspection visits by the Commission. These visits shall be for the purpose of inspecting and observing the physical condition of the facility, the methods of management and operation[,] and the physical condition, care, treatment[,] and discipline of the juveniles detained therein. **In addition, any**

equipment or materials deemed necessary to carry out the Commission's inspection responsibilities shall be permitted into the facility.

(c) (No change)

SUBCHAPTER 4. PHYSICAL STANDARDS

13:92-4.1 Location, [and] building approval **and limitations**

(a) A juvenile shall be placed or remain in detention only in a facility approved for that purpose by the Commission.

[(a)] 1. No detention facility shall be part of, attached to, or in any way physically connected to a facility providing shelter care, as defined in N.J.S.A. 2A:4A-22(d)[.];

2. A detention facility must obtain Commission approval of a written implementation proposal that has been signed-off by all relevant entities prior to:

- i. Any shared or additional use of a facility;**
- ii. Any closure of facility or portion thereof; or**
- iii. Any transfer of juveniles, except for routine transfers for operational purposes.**

3. A written implementation proposal shall contain such elements as are determined to be necessary and appropriate by the executive director or designee, and shall include at a minimum:

- i. A clear explanation of the need to be addressed by the proposed action;
 - ii. A description of all policy options considered and rejected in favor of the proposed action, including why the proposed action best meets the need identified in (a)3i above;
 - iii. The estimated costs;
 - iv. A detailed projected time line for implementation; and
 - v. The review factors set forth in N.J.A.C. 13:92-4.1(a)5.
4. An implementation proposal that is complete and in compliance with the requirements of (a)3 above shall be approved, unless it is determined by the Commission that the implementation proposal:
 - i. Is unclear or facially inconsistent;
 - ii. Fails to comply with any requirements of State or Federal law pertaining to the detention of juveniles; or
 - iii. Otherwise proposes a course of action not conducive to the welfare of juveniles or to the best interests of the State, as determined by the Commission utilizing the review factors set forth in (a)5 below.
5. In making the determination provided for in (a)4iii, above, the Commission shall utilize the following review factors:
 - i. With respect to sending and receiving facilities:
 - (1) Access to family, legal services, community providers and local support groups;

(5) The implementation plan's anticipated impacts upon detention alternative programs run by the facility and by other agencies and organizations, together with a proposed course of action to remedy any negative impacts; and

(6) Impact upon law enforcement resources, including anticipated impact upon the transportation of juveniles to detention facilities from municipal or other lockup facilities.

6. Inter-county and other transfers of juveniles to and from a detention facility are subject to monitoring and approval of the Commission.

7. In any event:

i. The population of a detention center may not be increased or decreased, or otherwise manipulated, in order to meet objectives unrelated to sound operational practices for secure detention facilities; and

ii. No transfer of juveniles shall be permitted if, as a result of the transfer, the population in the receiving facility shall exceed the maximum population capacity assigned by the Commission, as provided for in N.J.A.C. 13:92-4.2(b).

(b) – (g) (No change.)

13:92-4.3 Building and grounds

(a) – (c) (No change.)

(d) In new or renovated facilities, camera surveillance systems shall be installed in all areas of the facility to which juveniles have access, excluding bathrooms, showers and sleeping rooms. The cameras shall be maintained and used to [continuously] record facility activity. [Plans] **Written plans** for the installation of the camera surveillance system shall be [reviewed and approved by] **submitted to** the Commission **for review and approval.**

(e) – (q) (No change.)

13:92-4.5 Sleeping rooms

(a) – (e) (No change.)

(f) Beds shall be equipped with comfortable fire and water-resistant mattresses **and pillows**, approved by the Commission. Sheets, [pillows and] pillowcases[,] and blankets shall also be provided, preferably of a fire-resistant type.

(g) – (i) (No change.)

SUBCHAPTER 5. INTAKE AND ADMISSION; **ELECTRONIC MONITORING PROGRAMS**

13:92-5.1 [Pre-admission procedures] (**Reserved**)

[(a) In regard to taking a juvenile into custody, N.J.S.A. 2A:4A-33(a) states: "Any person taking a juvenile into custody shall immediately notify the parents, or the juvenile's guardian, if any, that the juvenile has been taken into custody."]

(b) The code further states in N.J.S.A. 2A:4A-34(a): "Where it will not adversely affect the health, safety, or welfare of a juvenile, the juvenile shall be released pending the disposition of a case, if any, to any person or agency provided for in this section upon assurance being received that such person or persons accept responsibility for the juvenile and will bring him before the court as ordered."

(c) The code also states in N.J.S.A. 2A:4A-34(c): "A juvenile charged with delinquency may not be placed or retained in detention under this act prior to disposition, except as otherwise provided by law, unless:

1. Detention is necessary to secure the presence of the juvenile at the next hearing as evidenced by a demonstrable record of recent willful failure to appear at juvenile court proceedings or to remain where placed by the court or the court intake service; or

2. The physical safety of persons or property of the community would be seriously threatened if the juvenile were not detained and the juvenile is charged with an offense which, if committed by an adult would constitute a crime; or

3. When the criteria for detention are met and the juvenile is charged with an offense which, if committed by an adult, would constitute a disorderly persons or petty disorderly persons offense, the juvenile may be placed in detention temporarily. Police and court intake personnel shall make all reasonable efforts to locate a parent or guardian to accept custody of the juvenile prior to requesting or approving the juvenile's placement in detention. If, after the initial detention hearing, continued detention is necessary, the juvenile shall not be detained in a secure facility but shall be transferred to a shelter or other non-secure placement."

(d) Accordingly, the following procedures shall be adhered to before a juvenile is placed in detention:

1. A law enforcement officer taking a juvenile into custody shall notify the parents of the juvenile's apprehension. When it is not feasible to take the juvenile home, the juvenile's parents shall be contacted by phone immediately.

2. If a parent, guardian, or other responsible adult custodian is located and agrees to accept responsibility for the juvenile, and the code's other criteria for detention are not pertinent, the juvenile should be released to the custody of such person(s).]

13:92-5.2 Eligibility for admission

(a) Only juveniles charged with delinquency and meeting the criteria for placement in detention [as] provided for in N.J.S.A. 2A:4A-34(c) [(see N.J.A.C. 13:92-5.1, Pre-admission procedures] are eligible for admission.

(b) – (f) (No change.)

13:92-5.3 Intake and admission procedures

(a) When it becomes necessary to place a juvenile in detention [in accordance with the code's criteria for such placement as noted in N.J.A.C. 13:92-5.1,] the following intake and admission procedures shall be adhered to:

1. – 8. (No change.)

9. If a physician is not present at the time of the admission shower, the nurse, a medication assistance staff worker[,], or the senior staff worker on duty shall examine the juvenile's body for lice, bruises or abrasions, unusual marks[,], and symptoms of any communicable diseases. **A body chart shall be completed documenting the results**

of this examination. The juvenile shall also be screened for the risk of suicide. This screening shall be in accordance with the facility's written procedures governing suicide screening, prevention and intervention. The screening shall include, but need not be limited to, the use of a standardized suicide risk questionnaire identified by and available from the Juvenile Justice Commission. **No person shall administer the suicide risk questionnaire unless that person has been certified by the Commission as having successfully completed Commission training in administering the suicide risk questionnaire and qualified to perform such screening.** The findings shall be recorded and brought to the attention of the appropriate medical or mental health staff, as soon as possible.

i. – iii. (No change.)

10. – 13. (No change.)

14. Twenty-four to [72] **48** hours following admission, a social service worker **or designee** shall administer the Massachusetts Youth Screening Instrument - 2 (MAYSI-2) to each juvenile placed in detention. [The social service worker shall be trained to administer the MAYSI-2.] **No person shall administer the MAYSI-2 unless that person has been certified by the Commission as having successfully completed Commission training in MAYSI-2 screening and qualified perform such screening.** The MAYSI-2 shall be used to identify juveniles who may have special mental health needs. If a juvenile scores in a range indicating a caution or warning, the social service worker **or designee** shall initiate follow-up questions and actions appropriate to the caution or warning areas.

i. - iii. (No change.)

iv. Except as otherwise required by law, any statement made by a juvenile in the course of a suicide or mental health screening, conducted with or without the juvenile's consent, or reports or records produced pursuant to such suicide or mental health screening, shall not be:

(1) Disclosed, except by an attorney representing the juvenile and with the juvenile's consent, to the court, prosecutor or any law enforcement officer; or

(2) Used in any investigation, delinquency or criminal proceeding involving the juvenile that is currently pending or subsequently initiated.

15. – 17. (No change.)

18. No juvenile shall be placed in isolation (room restriction) before undergoing suicide and mental health screenings. However, if a juvenile's behavior warrants separation from the general population prior to receiving the required screenings, the juvenile shall be placed on a "special daily schedule" as provided for in N.J.A.C. 13:92-7.4(g). In addition, this juvenile shall be placed on, and remain under, increased supervision by staff until he or she receives all required screenings.

13:92-5.4 Electronic Monitoring Programs

(a) A detention facility may administer an electronic monitoring program, meaning a program in which designated juveniles live in the community and are

monitored by electronic monitoring devices. In such case, the facility shall submit an **Electronic Monitoring Procedures Manual** to the Commission that:

1. Identifies the program's target population; and
2. Sets forth standards and procedures for both initial placement in and removal from the program.

(b) On or before January 10th of each year, a detention facility shall submit a report to the Commission identifying any significant changes to its **Electronic Monitoring Procedures Manual**.

SUBCHAPTER 6. RECORDS AND REPORTS

13:92-6.6 Mechanical restraint log

(a) Whenever a juvenile is placed in mechanical restraints, such as handcuffs, leather restraints, restraint chair or leg irons, except when used during transportation outside the secure area, the following information shall be recorded in a log maintained for that purpose prior to the end of the shift on which the restraint occurred:

1. – 7. (No change)
8. The name and title of the [health professional] **administrator or designee** authorizing continued use of restraint, if necessary, beyond [60] **30** minutes.

SUBCHAPTER 7. CONTROL, DISCIPLINE AND GRIEVANCE PROCEDURE

13:92-7.6 Reporting of incidents

(a) (No change.)

(b) All suicide attempts by hanging [and all other attempts which require immediate emergency medical attention] **or by other means** shall be reported to the Commission as soon as practicable, but no later than within 24 hours of the occurrence.

(c) All physical suicidal gestures shall be reported to the Commission within three days of the occurrence, excluding weekends and State holidays.

[(c)] **(d)** Other incidents, such as alleged sexual assaults by juveniles or staff, outbreaks of contagious disease, group disturbances involving four or more juveniles, or any [other incidents which result in injury to juveniles or staff requiring] **situation that require medical or mental health** attention outside the facility **for juveniles or staff**, or substantial damage to the facility, shall be reported to the Commission within three days of the occurrence, **excluding weekends and State holidays**. However, fires and escapes shall be reported to the Commission as soon as practicable, but no later than within 24 hours of the occurrence.

[(d)] **(e)** The incidents identified in (a) through [(c)] **(d)** above shall be documented, legibly hand-printed or typed, on the Commission's "Incident Report" form set forth in [chapter] **N.J.A.C. 13:92** Appendix A, incorporated herein by reference.

SUBCHAPTER 9. PROGRAM SERVICES

13:92-9.2 Recreation

(a) The detention facility shall provide an appropriate range of daily indoor and/or outdoor **(weather permitting)** recreational activities, which are structured to meet the needs of juveniles of various ages, interests[,] and abilities.

1. (No change.)

(b) – (c) (No change.)

13:92-9.5 Psychiatric and psychological services

(a) Psychological and/or psychiatric services shall be made available for juveniles as needed. Arrangements for these services may be provided by purchase of service with private practitioners, arrangements with mental health resources in the community, sharing of staff with other agencies[,] or direct employment of staff.

1. Reports or records relating to mental health services provided to a juvenile prior to an adjudication of delinquency or a finding of guilt, regardless of whether such mental health services were provided with or without the consent of the juvenile, may be disclosed to the court only after an adjudication of delinquency or a finding of guilt has been entered; provided however, an attorney representing a juvenile, with the juvenile's consent, may disclose such reports or records prior to the adjudication of delinquency or finding of guilt. The provisions of this section shall not be construed to limit in any manner the applicability of any privilege or law that otherwise prohibits disclosure of a juvenile's mental health records.

(b) – (c) (No change.)

SUBCHAPTER 10. STAFF; GENERAL REQUIREMENTS

13:92-10.6 Staff coverage

(a) – (f) (No change.)

(g) The ratio of child care workers [on duty] to juveniles during waking hours shall be at least one worker to eight juveniles; during sleeping hours at least one worker to 16 juveniles.

1. These ratios shall only include child care workers who, by virtue of their deployment throughout the facility, directly supervise juveniles.

(h) – (j) (No change.)

13:92-10.7 Staff development

(a) – (e) (No change.)

(f) [There shall be budgeted] **Every custody staff member shall receive a minimum** training time of 24 hours per year [for each staff member] to attend professional institutes, workshops, conferences[,] and formal in-service training programs at the detention facility. This shall include, but not be limited to, maintaining certification in Cardiopulmonary Resuscitation (CPR) and First Aid.

(g) All training shall be fully documented. This documentation shall include type of training, date and number of hours.

SUBCHAPTER 12. CONFIDENTIALITY OF INFORMATION

13:92-12.1 Confidential records and information

(a) – (b) (No change.)

(c) For confidentiality required in connection with any statement made by a juvenile in the course of a suicide or mental health screening, conducted with or without the juvenile's consent or reports or records produced pursuant to such suicide or mental health screening, see N.J.A.C. 13:92-5.3(a)14iv.