

## **Response by Juvenile Court to CJC Inquiries and Recommendations**

- 1. Provide feedback from Overview Item 1 to defense attorneys so they can provide their juvenile clients with information about the confidentiality (and accessibility) of their delinquency records.**

**Response:** Juvenile delinquency records are protected by statute, specifically T.C.A. § 37-1-153 and 154. Delinquency court files and law enforcement records are closed to the public with the exception of petitions and orders pertaining to transferable offenses if the juvenile is 14 or above. Most defense attorneys are familiar with these statutes. In future training sessions for defender panel attorneys, confidentiality and accessibility will be included as topics.

T.C.A. § 37-153(f)(1) provides for expunction of juvenile delinquency court files and records under certain conditions once the individual who has been adjudicated delinquent has attained age 18 and is a year removed from the most recent adjudication. Upon a petition for expunction, the Court in its discretion may order all or any portion of the requested expunction if the petitioner meets certain criteria evidencing responsible behavior without additional charges as an adult. [Please note this section does not apply to *law enforcement* records, files, fingerprints or photographs. Those are covered under T.C.A. § 37-1-155, which specifies the steps necessary for expunction.]

Additionally, the MOA with DOJ contains a provision that incorporates Tenn. Rules of Juvenile Procedure, R. 27, and Tenn. Supreme Court Rule 30 C (5). The MOA requires the Court to follow these rules to ensure that only persons who are properly concerned in a child's case or, in the Court's discretion only persons with a direct interest in the case, are admitted into any delinquency proceeding. This also will be referenced in future training sessions for defender panel attorneys.

**2. Provide information to the CJC about the best way that CJC members can direct the public on finding information about public meetings, taking tours of Juvenile Court, and asking questions about Juvenile Court practices and happenings.**

**Response:** Juvenile Court makes a concerted effort to inform the public about upcoming meetings. This is done through social media, direct notice to news media, and announcements at related forum meetings such as the Juvenile Justice Board and the JDAI Governing Committee. The Court is open to suggestions for other ways to inform the public of scheduled meetings.

On request the Court's *Volunteer Services Bureau* regularly conducts "virtual tours" of the detention center and otherwise serves to inform visitors, school groups, organizations, and individuals wanting to explore volunteer opportunities.

On site tours of the detention center and Hope Academy are coordinated through the CAO, Court Services Director, Detention Administrator, and Hope Academy principal. These tours are typically reserved for visitors such as local government and school officials, members of the county grand juries, members of approved local leadership groups, federal and state officials, and other international, state and local jurisdictions actively involved with juvenile justice.

Minors are not permitted to participate in on site tours because of privacy concerns and protection for the detainees. Members of the CJC are certainly welcome to tour the detention center at mutually convenient

dates and times to be coordinated by the office of the CAO (405-8518). The tours provide ample time for questions about Court practices.

- 3. Because there was some discussion about juvenile programs in Baltimore, Australia, and other places that have improved conditions for juveniles, the CJC would like to know more about alternative programs that are available to the Court so this information can be communicated to members of the public who have questions about such matters. The CJC would also like to know about the success rates of these programs, where available.**

**Response:** Juvenile Court has been actively engaged in extensive reform efforts for more than seven years. Many significant policies and programs have been developed and implemented to improve outcomes for juveniles charged with delinquency, and to help prevent juveniles from progressing deeper into the juvenile justice system. Some programs that have been adopted have been modeled after similar initiatives in other jurisdictions, such as Chicago-Cook County, Illinois, Philadelphia, Pennsylvania and Santa Cruz, California.

The designation of Memphis/Shelby County by the Annie E. Casey Foundation as a *Juvenile Detention Alternatives Initiative (JDAI)* site in 2012 brought technical advice and support and multiple opportunities to visit and learn from the reform efforts of other cities and states.

Some of the programs that have been developed by Juvenile Court in partnership with local law enforcement and schools over the past several years include: Hope Academy, Youth Court, School-based Probation Liaison, SHAPE, LEAP (the “call-in” program for officers in the field), Juvenile Summons program, Evening Reporting Center pilot project at JIFF (ERC), and a new Precinct-based Juvenile Court Liaison pilot project with MPD. All these programs track participation, outcomes and recidivism. Program

information and data is compiled, maintained and reported regularly and is available to the CJC.

- 4. Because Ms. Love is a school official who has regular contact with juveniles and their parents, the CJC would like information to be provided to her about the harm that can be done to a juvenile while in detention, especially to a juvenile who does not meet any of the thresholds for being placed in detention. The Court would like parents to be educated on not using detention as a means of teaching their children “a lesson.”**

**Response:** Juvenile Court implemented the Detention Assessment Tool (DAT) a risk assessment instrument in 2006 to more effectively screen juveniles brought to the Court by law enforcement officers. DAT scores help determine if a juvenile qualifies for admission to detention. Also, a psychological screening instrument is used to check whether the juvenile being considered for detention has any type of emotional, mental health or substance abuse issue that needs addressing by professionals.

The DAT factors in a juvenile’s prior history with the Court, nature and severity of the current charges, school status, home support resources, and other considerations. If in the course of processing a juvenile it is determined he or she does not need to be securely detained, immediate efforts are made to release the juvenile to a parent or guardian. Most are then released to parents within two to three hours after being brought to central intake by law enforcement officers.

The processing of juveniles does not take place in a secure location, and during this time they are not considered to be in a “detained” status. A juvenile being processed on a domestic assault charge will likely be assigned to a respite bed placement with Porter Leath for a 24-48 hour “cooling off” period and then released to parents.

Great care is taken to protect juveniles from harm while they are in detention. Policies are in place to help staff administer their duties with minimal use of force. Extensive training of staff is required to ensure juvenile safety. Suicide prevention policy and training is thoroughly observed. Medical and psychological staff is available 24-7. Every juvenile is encouraged and free to immediately report any incident, injury, or misconduct towards themselves or others. When and if incidents occur, they are investigated by administrators and if warranted by law enforcement and the Tennessee Department of Children’s Services.

It is helpful to remember the detention center is utilized for only the most serious offenders, those charged with violent offenses and considered likely to harm themselves or others. The detention facility is a short term, pre-adjudicatory facility. It functions to hold juveniles only while they are awaiting adjudication (trial) and disposition of their charges. It is not a post adjudication facility for incarcerating juveniles after disposition of their charges.

The acceptable reasons for detaining a juvenile are specified in a resolution adopted by the JDAI Governing Committee on July 25, 2013. The same criteria are incorporated into the Juvenile Court policy governing detention standards. As adopted the criteria for detention and for not detaining are as follows:

## **STATEMENT OF DETENTION POLICY**

### **Purpose of Detention**

“The purpose of the Detention Services Bureau is to ensure public safety and protection of the community. We are responsible for the health, safety, care, and humane treatment of all youth under our jurisdiction, and we are accountable to the people of Memphis and Shelby County.”

“The goal of the Detention Services Bureau is to provide a safe and secure environment for children prior to release or adjudication.”

A child **shall** be detained for the following reasons:

1. Committing a crime against a person resulting in serious injury or death of the victim; or involving the likelihood of serious injury or death to such victim; or
2. Possession of a handgun or carrying a weapon; or
3. Escape from a juvenile facility, institution, or other court-ordered placement.

A child **may** be detained for the following reasons:

1. Failure to appear at a juvenile court hearing; or
2. Violation of a court order.

A child **shall not** be detained for the infractions and reasons listed below:

1. Punishment; or
2. Treatment; or
3. To arrange for services; or
4. To meet the demands of the community, police, victim or school administrators; or
5. To provide convenient access to the child; or
6. To satisfy the demands of the child's parent(s) or guardian(s); or
7. To facilitate the interrogation of the child or investigation of the offense; or
8. To teach youth a "lesson."

Under this established policy juveniles may not be detained to "teach them a lesson." It is never appropriate to house a juvenile charged with a minor offense with others who have been charged with committing serious felony offenses. Even limited exposure to this environment has been proven harmful to minor offenders, with long term negative consequences.

Sometimes parents or other individuals express a desire that Juvenile Court admit a child to detention to “teach a lesson,” or become frustrated because a child is not detained. In such situations it would be very helpful if the CJC or its individual members would seize the opportunity to explain the real purpose of detention.

The laws and judicial rules prohibit a juvenile court judge such as Judge Dan Michael and other judicial officers from discussing cases referred to the Court by law enforcement. On the other hand, the CJC is uniquely positioned to provide general information to the public about policies and processes. That service will enhance community knowledge and understanding, correct misperceptions, and fulfill the role envisioned for the CJC.

Dated: September 1, 2015

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