

ADA COUNTY JUVENILE DETENTION ADMISSION PROTOCOL

The attached Ada County Juvenile Detention Center Admission Protocol dated May 5, 2004 has been prepared as a guide to the admission process for juveniles.

We have reviewed the Protocol and find it appropriate that agencies within the juvenile justice system be provided a copy as a guide to accessing the Center. As the system evolves, the Protocol will be amended and agencies and providers will be notified.

Board of Ada County Commissioners

By: _____
Judy M. Peavey-Derr, Chairman

Ada County Undersheriff

Gary Raney

Fourth Judicial District

By: _____
Darla Williamson
Administrating District Judge

Boise City Police Department

James A. Tibbs, Chief of Police

Ada County Juvenile Court Services

By: _____
Kay Carter
Director

Meridian City Police Department

Wm. (Bill) Musser, Chief of Police

Ada County Prosecutor

Greg H. Bower

Garden City Police Department

James L. Bensley, Chief of Police

Ada County Public Defender

Alan Trimming

**ADA COUNTY JUVENILE DETENTION CENTER
ADMISSION PROTOCOL**

The following summary of the relevant statute, policies and procedures has been compiled as a guide for the various agencies in the juvenile justice system to the process for admitting juveniles to the Detention Center.

The summary has been reviewed by the various signatories to assure that the procedures accurately reflect each agency's role in the process. It is understood that various policies and procedures may change from time to time and all entities will make every effort to notify other participants in the process of such change. This protocol may also be amended to reflect such changes.

As is readily apparent to those who work in this field, unforeseen problems arise and complicating circumstances exist which require consultation. During normal working hours, advice and assistance can be obtained on those problems from:

- | | | |
|----|-------------------------------------------|----------|
| 1. | Ada County Detention Center | 577-4948 |
| | Shelly Smith, Detention Center Supervisor | 577-4940 |
| 2. | Ada County Prosecutor's Office | |
| | Denton Street Staff | 577-4900 |

After 5:00 PM for situations which are not covered in the following protocol, agencies and providers should call the Supervisor on Duty, Ada County Detention Center 577-4948.

THE DETENTION PROCESS

The statutory framework for the detention process is to be found at Idaho Code § 20-516. A copy of that provision is Exhibit 1 to this Protocol.

This Code provision provides the conditions under which a juvenile may be detained by a private citizen and/or taken into custody by a peace officer without a court order, and the procedures to be followed when the custody by the police officer is by warrant or written order of a judge. A juvenile may be taken into custody if the officer has reason to believe the act would be a misdemeanor or felony if committed by an adult; when a juvenile in the presence of a citizen or officer violates any local, state or federal law or municipal ordinance.

Juveniles believed to have committed status offenses (truancy; running away from or being beyond control of parents, guardian, or legal custodian; and curfew violations) shall not be placed in secure detention, but in shelter care facilities, unless the presenting officer can articulate why refusal to detain the juvenile in secure detention would constitute a risk to the community, the juvenile or others. Runaways from a foreign jurisdiction with a specific detention request from the jurisdiction may be held pending transportation arrangements.

The jurisdiction of the court (defined as any district court or magistrate division) attaches from the time the juvenile is taken into custody by the peace officer. Section 20-516 further provides that unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of the juvenile and society, such juvenile shall be released to the custody of his or her parent or other responsible adult upon a written promise to appear in court at a time stated. Only juveniles scoring seven (7) or below shall be released on an Order to Appear (OTA).

DETENTION CRITERIA

The statutory scheme is that the general presumption favors release of the juvenile rather than detention. But many factors may impact the detention decision. Those factors include the threat the juvenile poses to him or herself and the community at large, the severity of the alleged crime, or whether there have been numerous and repeat offenses.

In order to assure consistency in the admission process for detention, certain alleged acts will result in automatic admission to the Detention Center.

Any child, age fourteen to eighteen years, charged with any of the following offenses will be admitted to detention. Upon formal charge from the prosecutor the juvenile will be automatically waived, transferred to jail and treated as an adult: Arson I, Aggravated Arson, Murder, Attempted Murder, Robbery, Rape, Forcible Sexual Penetration by Use of a Foreign Object, Infamous Crimes Against Nature, committed by force or violence, Mayhem, Assault or Battery with intent to commit any of these serious felonies, Possession with Intent to Deliver within 1000 feet of a school, or actual Delivery of a Controlled Substance (listed in Idaho Code §§ 37-2705 and 37-2713) within 1000 feet of a school.

Any juvenile shall be admitted for detention under the following criteria:

- A. The juvenile is charged with a crime that would be a felony if committed by an adult and one or more of the following circumstances is present:
 1. The crime is a crime of violence or is of a sexual nature.
 2. The crime could reasonably have resulted in serious bodily injury or death to others.
 3. The crime demonstrates that the juvenile has exhibited such a wanton and reckless disregard of the property rights of others that release of the juvenile would more likely than not constitute a substantial risk to the community.
 4. The juvenile is documented to have been adjudicated/informally adjusted of two or more crimes within the previous twelve (12) months.
 5. The juvenile has been adjudicated of one or more felonies and is presently on a felony probation/felony informal adjustment.

- B. The juvenile is charged with a crime that would be a misdemeanor if committed by an adult and one or more of the following circumstances is present:
1. The crime involves physical injury to another person or battery on a family member in a domestic setting, Idaho Code § 18-903.
 2. The crime demonstrates that the juvenile has exhibited such a wanton and reckless disregard of the property rights of others that release of the juvenile would more likely than not constitute a substantial risk to the community.
 3. The crime is an assault or battery of a sexual nature.
 4. The crime is a battery occurring within a 1000 foot distance from school property.
 5. The crime is a violation of Idaho Code § 18-915, assault or battery upon certain personnel, that is, a judge, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, or an employee of the department of corrections.
- C. The juvenile is charged with any felony possession of a controlled substance.
- D. The juvenile is covered by any one of the following circumstances:
1. Is documented to be a fugitive or runaway from another jurisdiction.
 2. Is documented to be an escapee or absent without leave from a correctional institution operated by the State of Idaho or by any county in Idaho.
 3. Is the subject of a written order signed by a judge directing that the juvenile be taken into custody and placed in detention.
 4. Has violated the law, either misdemeanor or felony (including traffic charges, but excluding traffic warrants), while under the conditions of a Conditional Detention Release Order or violated material terms of the Conditional Detention Release Order.
 5. Committed a felony crime in Ada County and has been placed under the jurisdiction of another county for a felony and documentation is provided by the arresting law enforcement agency.

6. Is alleged to have carried a concealed weapon on school property, made threats toward others at school or otherwise threatened the safety of students or teachers.
7. Is alleged to have committed: Battery, Assault, Disorderly Conduct, Disturbing the Peace, Abuse of a School Teacher or Disrupting the Educational Process, when any of the above is accompanied by the threat of future violence and/or threat of the use of a weapon. Juveniles will also be detained for commission of the offense of Carrying a Concealed Weapon on School Property.

In the event that Detention staff refuses admission of any juvenile meeting the above criteria, the presenting officer shall have immediate recourse to the on-shift Detention Supervisor who shall admit the juvenile for detention.

Detention staff shall admit any juvenile to detention who does not meet the criteria spelled out above, but otherwise meets the criteria for admission under Idaho Code § 20-516 and Idaho Juvenile Rule 7(c), attached as Exhibit 2.

Upon accepting juveniles meeting criteria, detention staff shall administer the Risk Assessment Instrument (RAI). Juveniles scoring seven (7) or below on the decision scale of the RAI may be released on an Order to Appear (OTA), unless the presenting officer or the detention supervisor has articulated reasons on the RAI why such release presents a danger to the juvenile or others.

THE RISK ASSESSMENT INSTRUMENT (RAI)

Ada County Juvenile Court Services, under a grant from the Annie E. Casey Foundation, has been studying a Risk Assessment Instrument (RAI) to be used as part of the detention process.

The RAI is Exhibit 3 to this protocol. Once a juvenile is admitted for detention, detention staff will administer the RAI and based on that RAI make decisions concerning the detention accommodations appropriate for that juvenile.

The Administrative District Judge has in Administrative Order No. _____ approved the RAI. See Exhibit 4.

EXHIBIT 1

IDAHO CODE § 20-516

Apprehension and release of juveniles – Detention. –

(1) A peace officer may take a juvenile into custody, or a private citizen may detain a juvenile until the juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:

- (a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or
- (b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or
- (c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

(3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include, but are not limited to, the following:

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention facility; or
- (f) Community-based diversion programs.

(5) The person in charge of a detention facility shall give immediate notice to the court that the juvenile is in his custody.

(6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

(8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho state police which shall create a juvenile fingerprint file and enter the fingerprint data into the automated fingerprint identification system. The fingerprint data shall then be forwarded to the department to be maintained in a statewide juvenile offender information system. Access to the information in the juvenile offender system shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code. If the court finds good cause it may order the fingerprints and photographs of the juvenile expunged.

(9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 3, title 9, Idaho Code. [1963, ch. 319, § 11, p. 876; am. 1977, ch. 156, § 2, p. 399; am. 1982, ch. 126, § 1, p. 362; am. 1984, ch. 81, § 8, p. 148; am. 1990, ch. 213, § 11, p. 480; am. and redesign. 1995, ch. 44, § 17, p. 65; am. 1995, ch. 49, § 1, p. 115; am. 1995, ch. 277, § 5, p. 925; am. 1996, ch. 259, § 1, p. 854; am. 1996, ch. 379, § 2, p. 1284; am. 2000, ch. 469, § 54, p. 1450.]

Compiler's notes. Sections 53 and 55 of S.L. 2000, ch. 469, are compiled as §§ 19-5514 and 21-112A, respectively.

Ineffective assistance claims.

The Uniform Post-Conviction Procedures Act, (§ 19-4901 *et seq.*) was available to juvenile as a procedural mechanism to challenge the effectiveness of trial counsel; thus the appellate court declined to address this claim on direct appeal. *State v. Doe*, 136 Idaho 427, 34 P.3d 1110 (Ct. App. 2001).

EXHIBIT 2

IDAHO JUVENILE RULE 7(c)

Rule 7. Detention and hearing (J.C.A.) – Detention or protective supervision prior to adjudication.

(a)

(b)

(c) A court may order a juvenile taken into custody, or a peace officer may take the juvenile into custody as provided in paragraph (a) of this rule. If a juvenile is not released to the parent(s) or other responsible adult, the court shall thereafter hold a detention hearing not later than 24 hours from the detention, excluding Saturdays, Sundays, and holidays, to determine whether such juvenile should remain in detention, pursuant to I.C. § 20-516. The detention or protective supervision of a juvenile in a juvenile proceeding may be ordered by the court under the following circumstances and conditions:

(1) When the juvenile has run away from the parent(s), guardian, or legal custodian and the court has reason to believe that for said juvenile to remain away from the parent(s), guardian, or legal custodian would be detrimental to the juvenile's welfare; or

(2) The court has reasonable grounds to believe that the juvenile will not appear before the court or its officers at such time as the court may order; or

(3) The court has reasonable grounds to believe that said juvenile will, during the pendency of the juvenile proceeding, be subjected to an environment or to persons whose effect upon said juvenile would be injurious to said juvenile's welfare; or

(4) The court has reasonable grounds to believe that the release of said juvenile would endanger said juvenile or society.

EXHIBIT 3

RISK ASSESSMENT INSTRUMENT (RAI)

Ada County Juvenile Court Services

Admission Date: _____ **Date of Birth:** _____ **Age:** _____

Juvenile: _____ **Assessment by:** _____

Race: White Hispanic/ Latino Asian Black/ African American American Indian Other

Gender: Male Female

Mandatory Detention Cases

<input type="checkbox"/> Automatic Waiver crimes (Murder of any degree or attempted murder, Robbery, Rape, Forcible sexual penetration by the use of a foreign object, Mayhem, Infamous Crimes Against Nature, Assault or battery with the intent to commit any of the previous serious felonies, Arson I and aggravated arson, poss. w/intent to deliver or actual delivery w/in 1000' of school)	16	Detain
<input type="checkbox"/> Escape from County Detention or DJC Placement	16	Detain
<input type="checkbox"/> Use of weapon or firearm in commission of a felony	16	Detain
<input type="checkbox"/> Out-of-county warrants/detention orders	16	Detain

1. Most Serious Current Petition:

<input type="checkbox"/> Felony Sexual Offense (L&L)	12	<input type="checkbox"/> Misdemeanor – (person or drug)	3
<input type="checkbox"/> Aggravated Battery/Assault	10	<input type="checkbox"/> Misdemeanor – property	2
<input type="checkbox"/> Battery w/intent to commit serious felony	10	<input type="checkbox"/> Probation Violation	1
<input type="checkbox"/> Felony Poss. of CS w/Intent to deliver	10	<input type="checkbox"/> Warrant	1
<input type="checkbox"/> Other Felony Offenses	5	<input type="checkbox"/> Status Offenses	0

Score

Petition History:

<input type="checkbox"/> Prior DJC Commitment	6	<input type="checkbox"/> 5 + petitions in past 12 months	4
<input type="checkbox"/> Suspended DJC Commitment	5	<input type="checkbox"/> 1 - 4 petitions in past 12 months	3

Score

#2 _____

3. Sentencing(s) (past year):

<input type="checkbox"/> Multiple (3) or Violent Felony	5	<input type="checkbox"/> Probation Violations	1
<input type="checkbox"/> Felony findings	3	<input type="checkbox"/> Status offense	0
<input type="checkbox"/> Misdemeanor(s) findings	2		Score

#3 _____

4. Petitions Pending Adjudication:

<input type="checkbox"/> Three+ petitions pending	3	<input type="checkbox"/> One petition pending	1
<input type="checkbox"/> Two petitions pending	2		Score

#4 _____

5. Legal Status:

<input type="checkbox"/> On Electronic Monitoring or In Home	5	<input type="checkbox"/> ISP	3
<input type="checkbox"/> On Detention Release Order	4	<input type="checkbox"/> Detention Order (surrender)	2
<input type="checkbox"/> Detention Order (apprehended)	3	<input type="checkbox"/> Currently on Probation/IA	1

#5 _____ Score

6. Risk to Flee: (past year)

<input type="checkbox"/> Presently on Absconder Status	5	<input type="checkbox"/> Previous Failure to appear(s)	3
<input type="checkbox"/> Previously on Absconder Status	4	<input type="checkbox"/> Adjudicated (3+) runaways	3

#6 _____ Score

TOTAL SCORE

TOTAL SCORE FROM PAGE 1

7. Mitigating and Aggravating Factors:

Mitigating Factors- *Subtract 1 point for each that applies*

- | | |
|----------------------------------------------------------|----------------------------------------------------------------------------------|
| <input type="checkbox"/> Attending, Graduated, Employed | <input type="checkbox"/> No Law Violations w/in past year |
| <input type="checkbox"/> First Law Violation past 16 YOA | <input type="checkbox"/> Responsible Adult supervision to ensure return to court |

Subtract

Aggravating Factors- *Add 1 point for each that applies*

- | | |
|-------------------------------------------------------|--------------------------------------------------------------------------|
| <input type="checkbox"/> Inadequate Adult Supervision | <input type="checkbox"/> Possession of weapon during the instant offense |
| <input type="checkbox"/> Violation of release orders | <input type="checkbox"/> Multiple victims in instant offense |

Add _____

TOTAL RAI SCORE

OVERIDE

Officer information:

- No Articulated Concerns
- Articulated Concerns:

Signature of Arresting Officer Badge
Number

Agency

Administrative Override by Detention Shift Supervisor
Reason:

Signature of Shift Supervisor

Decision Scale	
Score 0 – 7	Release on OTA – At Detention Intake
Score 8 – 14	Release with restrictions (EM 12-14 <input type="checkbox"/> IH 10-12 <input type="checkbox"/> DRO 8-10 <input type="checkbox"/> Other <input type="checkbox"/>)
	Release in court only. No release at detention intake
Score 15 or more	Detain

Final Decision	<input type="checkbox"/> Detain	<input type="checkbox"/> Release on OTA	<input type="checkbox"/> Override
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Revised 05/04sms

See back for explanation of Mitigating and Aggravating Factors

MITIGATING FACTORS

* **Attending, Graduated, Employed**--Allows for occasional truancy (two to three unexcused absences in most recent school month). Employed assumes at least 15 hours per week if not attending school.

* **Responsible adult to ensure return to court**--Responsible adult would include a friend, neighbor, or relative who does not relate to the youth as a peer but rather as an individual who is concerned about youth's best interests and clearly agrees to appropriately supervise the youth and ensure their return to court.

* **No law violations w/in the last year**--(applies only to youth with prior history of law violations). Law violation referrals exclude any status offense such as curfew, beyond control, truancy.

* **First law violation past 16 yoa**-- Law violation referrals exclude any status offense.

AGGRAVATING FACTORS

* **Inadequate adult supervision**-- The youth is unable to provide information that can be verified by the PO/Intake Officer regarding residence (independent living, with friends or relatives), school enrollment or employment.

* **Violation of release order**-- Any violation of conditional release history within the past year that resulted in the youth's return to secure detention.

* **Possession of weapon during the instant offense**-- Any allegation brought before the court that involved the use of a gun, knife, or other object used as a weapon, either by threat or actual deed. A youth found to be in possession of a weapon when arrested, but made no threats or use of said weapon, subject to interpretation of the placement team.

* **Multiple victims in instant offense**-- Determination of whether there are multiple (3 or more) victims is established by the police report which clearly list each victim for the offense.

EXHIBIT 4

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

In the matter of:)
)
Implementation of a Risk Assessment Instrument) ADMINISTRATIVE ORDER
in the Ada County Juvenile Detention Center) NO. _____
)
_____)

The Administrative Judge of the Fourth District Court issues this Administrative Order this ____ day of _____, 2004, to adopt the Risk Assessment Instrument (RAI) for use in the Ada County Juvenile Detention Center.

RECITALS

WHEREAS, the Ada County Juvenile Detention Center is subject to an Operating Plan as provided in Administrative Order No. 2002-001, which is incorporated herein by reference; and

WHEREAS, Idaho Code § 20-516 provides for the manner and conditions in which a juvenile may be taken into custody and either released or held for detention; and

WHEREAS, Idaho Code § 20-517 provides for the types of detention accommodations that may be provided; and

WHEREAS, the jurisdiction of the Court attaches at the time a juvenile is taken into custody; and

WHEREAS, RAI's have been found to valuable tools in the proper placement of juveniles entering the juvenile justice system; and

WHEREAS, under the impetus of juvenile justice reform and the desire to impose best practices upon the detention process, this Court, the law enforcement entities of Ada County, the Board of Ada County Commissioners, the Ada County Prosecutor and Public Defender, and Ada County Juvenile Court Services have entered into a Protocol concerning the admission of juveniles to the Ada County Juvenile Detention, including the implementation of a RAI. Said Protocol is incorporated herein by reference;

WHEREAS, pursuant to that protocol, any juvenile meeting detention criteria may be presented to and accepted by Detention Staff. Appropriately trained and supervised Detention Staff will administer the Risk Assessment Instrument (RAI). Any juvenile scoring a seven (7) or below on the decision scale may be release with an Order to Appear (OTA).

Any officer presenting a juvenile meeting detention criteria who believes that such juvenile presents such a risk to him or herself or others and should not be released regardless of the RAI score should execute the override portion of the RAI, articulating the specific concerns presented by release. Such juvenile shall be admitted to detention and shall be released prior to the detention hearing only upon an Order to Appear (OTA) issued pursuant to specific Court order.

NOW, THEREFORE, under the authority of the statutes set forth above and Administrative Order No. 2002-001, this Court hereby recognizes the Protocol set forth above and orders the implementation of the RAI for the admission of juveniles to the Ada County Detention Center.

IT IS SO ORDERED, this ____ day of _____, 2004.

Honorable Darla Williamson
Administrative District Judge