

---

**GLENN A. GRANT, J.A.D.**  
Acting Administrative Director of the Courts

---

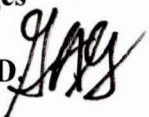
www.njcourts.gov • Phone: 609-376-3000 • Fax: 609-376-3002

**DIRECTIVE #11-17**

**[Supersedes Directive #08-04]**

[Questions or comments may be directed to  
(609) 815-2900, ext. 55350]

**TO:** Assignment Judges  
Family Presiding Judges  
Trial Court Administrators  
Family Division Judges

**FROM:** Glenn A. Grant, J.A.D. 

**SUBJECT:** Family - Juvenile - Entering Dispositions with Respect to Juveniles Held in Detention Center

**DATE:** June 23, 2017

---

This directive provides policy guidance to Family judges entering dispositions with respect to juvenile delinquents who are being held in a detention center. The Conference of Family Presiding Judges approved this policy, which necessitated changes in practice in some vicinages.

Prior to the promulgation of the original Directive, judges in some vicinages had on occasion postponed the entry of a juvenile disposition that included placement in a residential facility until a bed in an appropriate facility became available. As agreed by the Conference of Family Presiding Judges, in situations where no bed is available, instead of postponing the disposition, the judge should enter the disposition order immediately. If the juvenile must continue to be held in detention prior to being placed in accordance with the disposition, the judge should direct that the juvenile be returned to detention to await an appropriate placement. The Family Automated Case Tracking System (FACTS) had been modified to allow for recording post-dispositional reviews, without requiring the case to be reopened in order to allow for subsequent periodic detention reviews to be tracked.

The policy set forth here prescribes the court's prompt entry of the dispositional order even if a bed is not immediately available, but it does not otherwise change the post-dispositional steps taken by staff to complete the placing of the juvenile with the Juvenile Justice Commission (JJC), the Division of Child Protection and Permanency (DCP&P) or other placement.

The problem that rises under this procedure is that two distinct interpretations of N.J.S.A. 2A:4A-38(1) have arisen among those charged with caring for juvenile delinquents. That statute provides that “when a juvenile has been adjudicated delinquent and is awaiting transfer to a dispositional alternative that does not involve a secure residential or out-of-home placement and continued detention is necessary, the juvenile shall be transferred to a non-secure facility.” Some detention facility superintendents have interpreted the statute to imply that if a juvenile is awaiting a placement that is not in a 24-hour lockdown facility, the juvenile may not remain in detention. Under this interpretation, residential and out-of-home placements that have 24-hour supervision but are not 24-hour lockdown facilities would not qualify as “secure” facilities under the law. However, the plain language of N.J.S.A. 2A:4A-38(1) requires the transfer of a juvenile to a shelter facility only if the juvenile is awaiting a placement that is non-secure. As a matter of fact, most out-of-home placement and residential programs have some security component that would qualify them as “secure” placement under the statute.

Based on the legislative history, “secure” residential or out-of-home placement does not exclude a 24-hour supervised facility (e.g., DCP&P programs, JJC programs), which would normally be ordered as a disposition for criminal offenses, not disorderly person offenses.

As a practical matter, following this interpretation of the statute will improve the juvenile detention system. First, it will not contribute to overcrowding of detention facilities. Those same juveniles would be in detention awaiting disposition under the prior practice of holding the disposition while awaiting a placement bed and then scheduling a “disposition” once the bed is available. Thus, placing juveniles who are already in detention awaiting post-dispositional placements back in detention will in fact improve the system by providing a prompt determination to the adjudicated juveniles. Second, it will decrease the overall amount of time served in detention when it stopped its previous practice of postponing dispositions, an outcome attributed to the fact that DCP&P is required to make placements faster once an actual order has been issued. Finally, not postponing dispositions will encourage the development of alternatives to detention.

Assignment Judges and Family Presiding Judges had previously been asked to review this procedure with the stakeholders in their county system, particularly the director of the juvenile detention center, to ensure that there is a common understanding of this clarification of practice. The Juvenile Justice Commission (JJC), the agency statutorily responsible for monitoring Juvenile Detention Centers had agreed that this policy is consistent with their regulations and current law. The JJC had stated that this change in practice would ultimately hold placement agencies more accountable for the length of stay while awaiting placement and would enhance the court’s ability to seek placement most appropriate for and individual youth.

---

**EDITOR’S NOTE**

\*2017 Update - The reference to the Division of Youth and Family Services was changed to reflect the reorganization of the Department of Children and Families effective July 2, 2012.

Directive #11-17

June 23, 2017

Page 3

---

The Division of Youth and Family Services is now the Division of Child Protection and Permanency.

June 24, 2004 – Directive #08-04 -- Originally issued by Hon. Richard J. Williams, Administrative Director.

---

cc: Steven D. Bonville, Chief of Staff  
AOC Directors and Assistant Directors  
Ann Marie Fleury, Special Assistant  
Melaney S. Payne, Special Assistant  
David Tang, Chief  
Family Division Managers  
Vicinage Chief Probation Officers