

STATE OF UTAH

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# UTAH SENTENCING COMMISSION



## 2015 Juvenile Disposition Guidelines

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# 2015 Juvenile Disposition Guidelines

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**Utah Sentencing Commission  
Jennifer Valencia, Director**

**Utah State Capitol Complex  
P.O. Box 142330  
Salt Lake City, Utah 84114-2330  
Phone: (801) 538-1031  
Fax: (801) 538-1024  
Email: [sentencingcommission@utah.gov](mailto:sentencingcommission@utah.gov)**

This manual and interactive forms can be found at [www.sentencing.utah.gov](http://www.sentencing.utah.gov)

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## INTRODUCTION

The Utah Sentencing Commission, pursuant to its statutory authority and responsibility, under Utah Code Ann. §63M-7-404, promulgates the following 2015 Juvenile Disposition Guidelines which are statutorily intended to:

- Respond to public comment;
- Relate dispositional practices and correctional resources;
- Increase equity;
- Better define responsibility; and
- Enhance the discretion of Juvenile Court Judges while preserving the role of the Youth Parole Authority.

The Utah Sentencing Commission is charged to recommend and coordinate sentencing and release policy for both adult and juvenile offenders within the State of Utah. It consists of twenty-seven members who represent all facets of the justice system: judges, prosecutors, defense attorneys, legislators, victims, law enforcement, treatment specialists, ethnic minorities, corrections, parole authorities, and others.

It is important to note that these are Guidelines only. They are intended to inform the Juvenile Court Judge, but do not dictate their decision. They do not create any right, expectation, or liberty interest on behalf of the offender. The calculated matrix recommendation on the Form creates a starting point and reflects a recommendation for a typical case. However, aggravating and mitigating circumstances are considered by the Juvenile Court Judge. The Juvenile Court Judge also considers, consistent with the ends of justice, the best interest of the minor pursuant to Utah Code Ann. §78A-6-102(5)(g).

## BACKGROUND

In 1994, the Juvenile Justice Subcommittee of the Utah Sentencing Commission initiated review of sentencing of juvenile offenders. This Subcommittee developed a uniform system of dispositions based upon earlier intervention and more intensive supervision for chronic offenders. This system, titled the Presumptive Standards for Juvenile Sentencing, was widely endorsed but failed to gain funding during the 1996 General Legislative Session.

In 1996, a legislative task force was created to study major issues in the juvenile justice system, including the dispositions of juvenile offenders. Through a wide spread cooperative process, the Presumptive Standards evolved into the Juvenile Sentencing Guidelines in a matrix format. A unified voice including the Sentencing Commission, Juvenile Courts, the Division of Youth Corrections (now the Division of Juvenile Justice Services), and the Governor's Office recommended the Juvenile Sentencing Guidelines to the legislative task force, which, in turn, adopted them. The 1997 legislature funded them by means of passing SB 25 *Sentencing Guidelines*, which is now codified at Utah Code Ann. §63M-7-404 and §78A-6-605.

Since 1998, the Utah Juvenile Court and the Utah Division of Juvenile Justice Services have collaborated to improve practices in working with juvenile offenders by implementing evidence-based practices. The goal of this continuing process is to incorporate evidence-based practices into each component of the juvenile justice system. An in-depth description of the

development of evidence-based practices in Utah's Juvenile Courts from 1997 through 2013 can be located at [www.utcourts.gov/courts/juv/ebp/docs/Utah\\_EBP\\_Implementation\\_Timeline.pdf](http://www.utcourts.gov/courts/juv/ebp/docs/Utah_EBP_Implementation_Timeline.pdf).

### **Evidence-Based Practices**

Evidence-based practices within the juvenile justice system are those practices that have been empirically shown to improve offender outcomes and reduce recidivism through an emphasis on meta-analysis research, control of confounding variables through random assignment, and cross-site replication of results. The set of evidence-based practices adopted in Utah Juvenile Courts is also known as the "What Works" principles of effective intervention. "What Works" principles were developed based on more than thirty years of research and include four basic principles: *risk*, *need*, *responsivity*, and *program integrity*.

The principle of *criminogenic risk* is that interventions and services should be focused on moderate and high risk offenders. Mixing low risk minors with higher risk minors can result in peer contagion, with low risk minors learning negative behaviors from higher risk minors.

The principle of *criminogenic need* is that services provided should address the dynamic, changeable factors most directly associated with delinquent behavior. Programs that reduce criminogenic needs, such as: pro-criminal peers, antisocial attitudes, substance abuse, and education problems, are more likely to reduce recidivism. A detailed grid including criminogenic needs and treatment targets for each area is attached as Addendum A.

The principle of *responsivity* is that the services provided should be tailored to the individual characteristics of the minor. Relevant responsivity characteristics of the minor include: gender, culture, trauma, developmental stages, learning/cognitive disability, motivation, reading ability, personal characteristics, and mental health.

The principle of *program integrity* is that programs should be monitored for implementation quality and treatment fidelity to ensure that programs are delivered as designed and intended. The October 2014 audit of Juvenile Justice Services by the Office of the Utah Legislative Auditor General included specific recommendations regarding this principle, including: full implementation of the Correctional Program Checklist; developing comprehensive outcome measurements for standardized comparisons; and contractual changes with private providers of community programming that allows Juvenile Justice Services to audit program elements to ascertain whether programming is effective.

### **Criminogenic Assessments**

In order to identify the criminogenic risk and needs of a juvenile offender, a number of risk assessments and screening tools are utilized in Utah. Utah juvenile probation and Utah Juvenile Justice Services use two main risk assessment tools: the Pre-Screen Risk Assessment (PSRA) and the Protective and Risk Assessment (PRA). Both of these assessment tools are based on the Washington State Juvenile Court Assessment, and have undergone validation studies following adaptation with Utah-specific populations.

The Pre-Screen Risk Assessment is a brief risk and needs assessment

designed to screen minors in the preliminary stages of involvement with the juvenile justice system and to determine if additional assessment is needed. The Protective and Risk Assessment is a more in-depth assessment that examines a wide variety of factors related to the minor's strengths and challenges in ten different life areas called domains. These domains include: delinquency history, school, employment, relationships, environment, current living arrangements, alcohol and drugs, mental health, attitudes and behaviors, and skills. The assessment of each domain is based on identification of protective factors that are related to the reduced likelihood of reoffending and risk factors that are related to the increased likelihood of reoffending.

In addition to these core assessments, Utah juvenile probation and Utah Juvenile Justice Services also utilize a number of specialty assessments for minors with specific needs. For example, the Juvenile Sexual Offense Recidivism Risk Assessment Tool – II (JSORRAT-II) is used as a screening tool for minors who have offended sexually to determine if a more in-depth and comprehensive Sexual Behavior Risk Assessment (SBRA) is needed. The SBRA is a comprehensive assessment administered by a licensed therapist.

Evidence-based practices are applicable, not only in the case planning process, but in the disposition itself. Any disposition entered should be compatible with the case plan, should address identified criminogenic risk and needs, as well as take into consideration the responsibility issues of the minor. For more information on evidence-based practices and the use of risk assessment results into the case planning process, the Utah Case

Planning Toolkit for Juvenile Justice Practitioners can be located at [www.utcourts.gov/courts/juv/ebp/docs/Case\\_Planning\\_Toolkit\\_Abbreviated\\_Edition.pdf](http://www.utcourts.gov/courts/juv/ebp/docs/Case_Planning_Toolkit_Abbreviated_Edition.pdf).

## PHILOSOPHY STATEMENT

The philosophy and intent of Utah's juvenile justice system is based on the Balanced and Restorative Justice Model, which is comprised of three important and supportive goals:

- Community Protection;
- Offender Accountability; and
- Competency Development.

Utah's juvenile justice system also relies upon the foundational principles of judicial discretion and individualized justice when deliberating disposition and release decisions for juvenile offenders. The system values uniformity while, at the same time, ensuring that the Juvenile Court has the ability and flexibility to tailor sentences that best serve the needs of the community, victims, and the individual offender.

## Community Protection

Disposition decisions are considered with the overarching goal of community protection. In addressing community protection, dispositions should utilize:

- Assessments to efficiently and effectively focus intervention resources and to apply sanctions appropriately;
- A continuum of evidence-based, graduated sanctions that are designed and proven to reduce recidivism; and
- Case plans for minors being released from secure care which

engage the family, ensure appropriate living arrangements, and ensure access to additional interventions that reduce the likelihood of recidivism.

### **Offender Accountability**

Disposition decisions are also considered with the goal of fostering accountability on the part of the minor. Establishing clear, consistent, and timely consequences for violations of criminal law:

- Deters further violations of law;
- Ensures victim interests such as: safety and peace of mind, restitution, and participation in the process;
- Develops a sense of responsibility to the community and to victims through appropriate community service opportunities; and
- Engages the minor and family to capitalize on protective factors that exist to support their efforts at change.

### **Competency Development**

Disposition decisions are also considered with the goal of competency development on the part of the minor. Ongoing public safety is directly related to changing the behavior of the minor. Therefore, emphasis and attention should be given to meeting the needs of the minor that will foster lasting change. Disposition decisions can enhance a minor's chance of successful integration into the community through the use of:

- Individualized case plans that provide interventions that target delinquent behavior by focusing on dynamic risk factors and

criminogenic needs, as well as responsivity factors.

- Opportunities for the minor to reform his or her behavior by taking responsibility for past criminal conduct as well as future behavior through education, treatment, employment, and restitution payment programs.
- Incorporating the family unit when appropriate in rehabilitative and treatment efforts to create a safe and secure support system.

### **JUVENILE COURT PURPOSE**

The Juvenile Court is a court of equal status with the District Courts in the State of Utah. Pursuant to the Juvenile Court Act, fully enumerated at Utah Code Ann. § 78A-6-102(5), the Juvenile Court purpose is to:

- Promote public safety and individual accountability through appropriate sanctions for violations of law;
- Order appropriate measures to promote responsible citizenship and reduce recidivism;
- Order appropriate rehabilitation, reeducation, and treatment;
- Establish appropriate authority over minors who are beyond parental or adult control;
- Adjudicate matters related to abused, neglected, or dependent children;
- Remove a minor from parental custody only where the minor's safety or welfare, or the public safety, may not otherwise be adequately safeguarded; and
- Consistent with the ends of justice, act in the best interests

of the minor and preserve and strengthen family ties.

### **JUVENILE COURT JURISDICTION**

Except as otherwise provided by law, the Juvenile Court has exclusive original jurisdiction under Utah Code Ann. §78A-6-103 over proceedings concerning:

- A minor under 18 years of age who has violated any law or ordinance, excluding offenses listed in §78A-7-106(2);
- A minor under 21 years of age who has violated any law or ordinance before becoming 18 years of age, excluding offenses listed in §78A-7-106(2);
- A person over 21 years of age who has not complied with previous Juvenile Court orders;
- The treatment or commitment of a minor with an intellectual disability; a mental illness; or who is found incompetent;
- A habitual truant; and
- A minor under the Interstate Compact for Juveniles.

Despite the filing of a Petition in Juvenile Court alleging a violation of law, Juvenile Court proceedings are nevertheless civil in nature pursuant to Utah Code Ann. §78A-6-116. Thus, upon a finding that a minor under the Juvenile Court's jurisdiction has violated a law, no finding of guilt enters as it would in District Court. Rather, in Juvenile Court, a minor is adjudicated delinquent of a criminal offense and an appropriate disposition is entered. A disposition is similar in concept to a sentencing in District Court, but carries both a different purpose as well as different legal implications.

### **DISTRICT COURT JURISDICTION**

In limited circumstances, the District Court has jurisdiction over allegations of violations of law committed by minors.

#### **Statutory District Court Jurisdiction (Direct File)**

Pursuant to Utah Code Ann. §78A-6-701, the District Court has exclusive original jurisdiction over all persons 16 years of age or older charged with:

- An offense which would be murder or aggravated murder if committed by an adult;
- Any felony if the minor was previously committed to a secure facility; or
- Any offense if the District Court has previously taken jurisdiction over the minor.

#### **Certification to District Court (Discretionary Waiver)**

In the case of a minor 14 years of age or older, the prosecuting attorney may request the Juvenile Court waive its jurisdiction pursuant to Utah Code Ann. §78A-6-703 and certify the minor to the District Court for any alleged offense which would be a felony if committed by an adult. A preliminary hearing must be held in Juvenile Court to determine probable cause. The State has the burden of proving probable cause, as well as establishing that it would be contrary to the best interests of the minor or the public for the Juvenile Court to retain jurisdiction.

In making its decision, the Juvenile Court considers the following factors, enumerated fully in Utah Code Ann. §78A-6-703(3), with the Juvenile Court

determining the weight to be given to each factor:

- The seriousness of the offense;
- If the offense was committed with two or more persons;
- If the offense was committed in an aggressive, violent, or premeditated manner;
- The juvenile's maturity;
- The juvenile's previous history;
- The likelihood of rehabilitation;
- The desirability of trial;
- The desirability of disposition with co-defendants; and
- The use or possession of a firearm or dangerous weapon.

Written reports or other materials relating to the minor's mental, physical, educational, and social history may also be considered by the Juvenile Court pursuant to Utah Code Ann. §78A-6-703(5).

If a minor is certified to the District Court, the jurisdiction of the Juvenile Court and the Division of Juvenile Justice Services is terminated regarding that offense, any other offense arising from the same criminal episode, and any other subsequent violations of law. Juvenile Court and the Division of Juvenile Justice Services regain jurisdiction if there is an acquittal, a finding of not guilty, or dismissal of all charges in the District Court.

**Serious Youth Offender Transfer (Presumptive Waiver)**

There is a presumption under Utah Code Ann. §78A-6-702(1) that a minor 16 years of age or older will be bound over to District Court upon a finding of probable cause that the minor has committed the following offenses:

- Aggravated arson;

- Aggravated assault resulting in serious bodily injury to another;
- Aggravated kidnapping;
- Aggravated burglary;
- Aggravated robbery;
- Aggravated sexual assault;
- Felony discharge of a firearm;
- Attempted aggravated murder;
- Attempted murder; or
- Any other felony offense involving the use of a dangerous weapon if the minor has previously been adjudicated or convicted of a similar offense.

If probable cause is established by the State, the Juvenile Court can only retain jurisdiction upon clear and convincing evidence that bind over to District Court would be contrary to the best interest of the minor and the public. In making the determination, the Juvenile Court Judge considers only the following:

- Whether the minor was previously adjudicated delinquent for a felony offense involving the use of a dangerous weapon;
- The degree of the minor's culpability in relation to the co-defendants;
- The extent to which the minor's role was violent, aggressive, or premeditated;
- The number and nature of the minor's prior adjudications; and
- Whether public safety is best served in District Court or Juvenile Court.

**GUIDELINES PREMISE**

The Juvenile Disposition Guidelines should communicate a standard disposition recommendation to all involved in the system: prosecutors,

defense attorneys, juvenile offenders, probation officers, case managers, judges, and victims alike. All interested parties should have a general idea of a typical disposition in a case. This fosters equity in the system by promoting the practice of treating similarly situated offenders similarly. However, there should be no concrete expectation that a recommended disposition will be the one actually imposed by the Juvenile Court Judge. Juvenile Disposition Guidelines should also assist in managing current and future resources by serving as a predictive instrument. This approach brings more accountability to the entire system.

At the same time, Juvenile Disposition Guidelines need to preserve judicial discretion and individualized sentencing. Although all participants involved in the system are encouraged to refer to the Juvenile Disposition Guidelines, only the recommending authority is mandated by statute to consider them: "When preparing a dispositional report and recommendation in a delinquency action, the probation department or other agency designated by the court shall consider the juvenile sentencing guidelines . . . and any aggravating or mitigating circumstances." Utah Code Ann. § 78A-6-605(2).

As to the actual disposition, the Juvenile Disposition Guidelines are discretionary and do not bind the Juvenile Court. The Juvenile Disposition Guidelines include a non-exhaustive list of aggravating and mitigating factors for consideration when deviation is appropriate. An analysis of the best interests of the child pursuant to the statutory purpose of the Juvenile Court may also occur.

## **GUIDELINES AS A TOOL**

Utah law provides the basis for the disposition of juvenile offenders. By sound design these statutes allow significant latitude in decision making. The Juvenile Disposition Guidelines are an attempt to further structure decision making, yet still retain the flexibility to deal with atypical cases and the dynamic nature of the Juvenile Court. Utah's Juvenile Disposition Guidelines are intended to maintain the desirable functions of judicial discretion and at the same time incorporate a rational criminal justice philosophy, eliminate unwarranted disparity, and provide a tool to match resources with needs.

The Juvenile Disposition Guidelines, as structured, provide a forum for discussion regarding disposition and a common frame of reference on which to base discussion. Equally important, they provide a means for policy makers to assess the demand for resources.

## **POLICY IMPLICIT IN THE GUIDELINES**

These Juvenile Disposition Guidelines are a cooperative venture. The effort is to provide a mechanism for communication and improvement of key policy rather than to dictate practice by statute or rule. For the Juvenile Disposition Guidelines to function well, several policies are important. The policies need not be implemented exactly as stated, but their intent is critical.

### **Prosecution**

Prosecutors may use the Juvenile Disposition Guidelines to determine the implications of charging and plea

negotiations. The Juvenile Disposition Guidelines are intended to make the system predictable by making explicit the dispositional recommendation an offender with a given background is likely to receive. This makes charging decisions and plea negotiations even more critical.

Prosecutors should make it a policy to explain the effect of charging, plea negotiations, and the effect of any transfer to District Court in each individual case. Prosecutors should make clear that any recommendations to either the Juvenile Court Judge, or to the District Court Judge upon transfer, are recommendations only. It should not be presumed that prosecutorial recommendations will be the order of the Court. The disposition or sentence ultimately imposed in either Juvenile Court or District Court is subject to the sole discretion of the assigned Judge.

### **Recommending Authority**

The Juvenile Court probation department considers the Juvenile Disposition Guidelines when making dispositional recommendations to the Juvenile Court. The Juvenile Disposition Guidelines are included as part of the pre-dispositional report prepared and submitted by the probation department. If there is a deviation from the recommended Juvenile Disposition Guideline, the specific aggravating and/or mitigating factors should be outlined in the report.

### **Juvenile Court Judges**

Juvenile Disposition Guideline recommendations are included in the pre-dispositional report. Juvenile Court Judges are encouraged to consider the Juvenile Disposition Guidelines when rendering dispositions in delinquency

matters. When the recommendation deviates from the Juvenile Disposition Guidelines, aggravating and/or mitigating circumstances should be stated in open court and included on the record. Any other analysis pursuant to the best interests of the child should also be included on the record.

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## JUVENILE DISPOSITION GUIDELINES INSTRUCTIONS & DEFINITIONS

The Juvenile Disposition Guidelines are comprised of three fundamental parts: 1) the criminal episode history assessment, 2) the matrix with its continuum of dispositions, and 3) a list of aggravating and mitigating factors. Observation and assessment is not a specific disposition on the Juvenile Disposition Guidelines, but is explained below.

All offenses used in the Juvenile Disposition Guidelines are offenses grouped into episodes. A criminal episode is considered to include all offenses occurring on the same calendar day. Non-judicial closures or cases dismissed or found not true by the Court are not counted toward the Disposition Guidelines.

### CRIMINAL HISTORY ASSESSMENT

The Criminal History Assessment is located at the top of Form 1. It is divided into five levels of severity, rows I - V. This assessment determines the vertical axis (rows) located on the matrix. Ordinarily, when evaluating the criminal episode history, the probation officer should not include the most severe presenting episode because the presenting episode is counted separately on the horizontal axis of the matrix. To count the presenting episode in the history would be double counting, which is not intended by the Juvenile Disposition Guidelines. The only instance when a presenting criminal episode is to be counted in the history is a felony offense where the offender had previously been in a Juvenile Justice Service community placement. As

stated in Level V, described in detail below, *any felony after community placement, including the presenting offense*, should be counted in the history.

If multiple episodes are being adjudicated at the same hearing, they should be adjudicated in order from least severe to most severe. All except the last episode should be added to the offender's offense history. The last episode should be treated as the presenting episode offense.

Probation violations, contempt, and non-judicial actions are to be considered as aggravating factors within the Guidelines but are not to be considered as part of the criminal history assessment.

The five levels of criminal episode history severity are as follows:

**Level I** - 0 to 3 Misdemeanor Episodes or 0 Felony Episodes

**Level II** - 4 to 5 Misdemeanor Episodes or 1 Felony Episode

**Level III** - 6 to 7 Misdemeanor Episodes or 2 to 3 Felony Episodes

**Level IV** - 8 or More Misdemeanor Episodes or 4 Felony Episodes or 1 Person Felony Episode or 1 Firearm Felony Episode

**Level V** - 5 or More Felony Episodes or 2 or More Person Felony Episodes or 2 or More Firearm Felony Episodes or Any Felony After Community Placement (Including Presenting Offense)

### DISPOSITION ASSESSMENT

The disposition assessment is the matrix located on the bottom of Form 1. It is comprised of 50 cells within varying shaded areas of dispositions, e.g.,

probation or secure facility. The Criminal Episode History (vertical axis) is explained above.

### **Presenting Episode Severity**

The Presenting Episode Severity determines which column on the matrix should be used. The Presenting Episode Severity is based on the severity of the most serious offense within the presenting episode. The Juvenile Disposition Guideline Notice identifies the appropriate column.

All but the most serious presenting criminal episode should be included as part of the criminal episode history. Probation violations and contempt are to be considered as aggravating factors but not to be considered as part of the presenting episode severity analysis.

### **POSSIBLE DISPOSITIONS**

After determining the Level of Criminal Episode History and the Presenting Criminal Episode Severity, the probation officer should consult the matrix to determine the recommended disposition for a particular offender. The cell where the presenting episode severity and the criminal episode history intersect determines the recommended disposition.

The following describes the available graduated sanctions under the Juvenile Disposition Guidelines in order of descending severity.

#### **Secure Facility**

A secure facility is a facility operated by or under contract with the Division of Juvenile Justice Services that provides 24-hour supervision and confinement for

juvenile offenders committed to the Division for custody and rehabilitation. Secure facility placement is the most intrusive disposition option under the Juvenile Disposition Guidelines and should be reserved for the most serious or chronic offenders that remain in the juvenile justice system. The Juvenile Disposition Guidelines are designed to facilitate this design. These placements are generally long-term and involve behavioral and cognitive restructuring and an emphasis on victim reparation through restitution. The Youth Parole Authority, which decides the length of placement in secure facilities, has adopted release guidelines for the length of secure confinement.

#### **Community Placement**

Community placement involves a continuum of services which are both residential and nonresidential. The appropriate specific placement within this option depends upon the minor's particular needs balanced with the necessary level of supervision. Although it also involves a continuum of services, community placement is distinct from state supervision. Private providers play a large role in community placement and various alternatives include proctor homes, sex specific treatment group homes, and substance abuse treatment.

#### **State Supervision**

Utah Code Ann. §78A-6-117(2)(a)(ii) provides that the Juvenile Court may place a minor in state supervision with the probation department of the court, under the legal custody of: the minor's parent or guardian, the Division of Juvenile Justice Services, or the Division of Child and Family Services. Neither Juvenile Justice Services nor the Division of Child and Family

Services receive funding for state supervision. State supervision probation exists only for services provided in the home of the minor at this time.

State supervision was intended to provide a less intensive or restrictive level of intervention than a community placement with the Division of Juvenile Justice Services, but more intensive intervention than standard probation. State supervision was designed to deliver an intensified level of intervention for juveniles appropriate for probation, but not appropriate for a transfer of custody to Juvenile Justice Services.

### **Probation**

Probation is a legal status created by Juvenile Court order following adjudication for a violation of law or where the minor is permitted to remain in the minor's home under supervision by the probation agency, subject to return to the Juvenile Court for violation of any of the conditions.

Juvenile probation provides case planning, case management and supervision services for youth placed on formal probation by the Court. A case plan is developed utilizing evidence-based practices.

Motivational interviewing techniques are utilized in developing a case plan. Motivational interviewing techniques may also be utilized by others in the juvenile justice system, including Juvenile Court Judges. Further explanation of motivational interviewing can be located in the Case Planning Toolkit referenced previously on page 3.

### **Other Sanction**

The section shaded "other sanction" includes fines, restitution, and community service. The "other sanction" category could be a separate placement option on the Juvenile Disposition Guidelines or it could reflect additional sanctions imposed in addition to another placement option. Additional sanctions imposed under the other sanction category should still be consistent with evidence-based practices. Imposing a sanction under this section that is inconsistent or incompatible with the evidence-based principles utilized in developing a case plan is not recommended. Evidence-based sanctions and programs are those which have been evaluated through empirical research – not stories, anecdotes, intuition or personal beliefs about effectiveness.

Research indicates that well-intentioned sanctions can have unintended negative impacts. The following sanctions and/or programs have been demonstrated through research to not only be ineffective at reducing recidivism, but to potentially increase recidivism:

- Psycho-education
- Prevention classes focused on fear or emotional appeal
- Non-action oriented counseling (e.g. Freudian)
- Non skill-based programs (e.g. self-esteem)
- Fear-based programs (e.g. Scared Straight)
- Physical challenge programs
- Military models of discipline and physical fitness
- Intensive supervision without treatment
- Self-help programs
- Vague, unstructured rehabilitation programs

- Medical model
- Mixing low risk offenders with high risk offenders

Thus, while individualized dispositions and solutions are encouraged, any sanction imposed should consider its potential to increase recidivism. Any sanction imposed should also consider whether the sanction addresses the criminogenic risk and needs of the minor as identified by the assessment(s). Sanctions should also consider the ability of the particular juvenile to meet the sanctions imposed, previously discussed on page 2 of this document as the responsivity principle.

### **OBSERVATION AND ASSESSMENT**

Observation and assessment is not a disposition in and of itself on the Juvenile Disposition Guidelines. It is intended as a diagnostic tool only. The Juvenile Disposition Guidelines are intended to reemphasize the appropriate role of observation and assessment in assisting the Juvenile Court in finding the appropriate disposition. Observation and assessment outside the home should not be used for shock incarceration or time-out for juvenile offenders.

Observation and assessment outside the home is limited to 45 days with a potential extension at the request of Juvenile Justice Services for an additional 15 days with Juvenile Court approval. Observation and assessment may also be conducted in the minor's home.

### **DETENTION**

Detention is not listed specifically on the Juvenile Disposition Guidelines. However, a Juvenile Court may use detention as a disposition for any delinquent act, regardless of the criminal history. A minor may be committed to a place of detention or an alternative to detention for a period not to exceed 30 days subject to the Juvenile Court retaining continuing jurisdiction.

### **AGGRAVATING & MITIGATING FACTORS**

As mentioned, it is critical that the Juvenile Disposition Guidelines preserve judicial discretion and individualized dispositions. There are occasionally circumstances that compel deviation from the Juvenile Disposition Guidelines. Some of the more common reasons are listed for convenience on Form 2. Other reasons, as they occur, can be specified. Reasons should always be specified when the Juvenile Disposition Guidelines are not recommended. The listed factors are suggestions only; by no means do they constitute all of the justifications for departures, upward or downward. Often, there will be a combination of factors involved in a particular case that justify a departure from the recommended disposition.

An analysis of the aggravating and mitigating factors does not supplant an analysis of the best interests of the minor, which should occur in all cases consistent with the statutory purpose of the Juvenile Court.

**OTHER**

Minors transferred to the adult system either through the Certification process or the Serious Youth Offender process should not be considered within the context of the Juvenile Disposition Guidelines; neither should minors convicted of aggravated murder or murder. Infractions and status offenses are not within the scope of the Juvenile Disposition Guidelines; nor are moving and non-moving traffic violations unless they are drug related.

**ACTION RESEARCH APPROACH**

The Juvenile Disposition Guidelines are not intended to set policy in concrete. The philosophy, functioning, and problems of the juvenile justice system fluctuate constantly. The Juvenile Disposition Guidelines should be adaptable to change, and should even encourage such change. Certainly the best policy tools provide feedback and are self-correcting. This entire approach is one of the ongoing goals of the Sentencing Commission.

# FORM 1 JUVENILE DISPOSITION GUIDELINES

These are guidelines only. They do not create any right or expectation on behalf of the juvenile.

## Criminal Episode History Assessment

<b>I</b>	0 to 3 Misdemeanor Episodes or 0 Felony Episodes
<b>II</b>	4 to 5 Misdemeanors or 1 Felony Episode
<b>III</b>	6 to 7 Misdemeanor Episodes or 2 to 3 Felony Episodes
<b>IV</b>	8 or More Misdemeanor Episodes or 4 Felony Episodes or 1 Person Felony Episode or 1 Firearm Felony Episode
<b>V</b>	5 or More Felony Episodes or 2 or More Person Felony Episodes or 2 or More Firearm Felony Episodes or Any Felony After Community Placement (including Presenting Offense)

## Disposition Assessment Presenting Episode Severity

		A	B	C	D	E	F	G	H	I	J
		1st Degree Person Felony	2nd Degree Person Felony	3rd Degree Person Felony	1st Degree Property Felony	1st Degree Public Order Felony	2nd Degree Property & Public Order Felony	3rd Degree Order Felony	Class A Misdemeanor	Class B Misdemeanor	Class C Misdemeanor
Criminal Episode History	V	<b>SECURE FACILITY</b>									
	IV										
	III	<b>COMMUNITY PLACEMENT</b>									
	II	<b>STATE SUPERVISION</b>									
	I								Drug Related Not Drug Related		<b>OTHER SANCTION</b>

Disposition Suggested By Matrix: \_\_\_\_\_

Aggravating Circumstances (list number if applicable): \_\_\_\_\_

Mitigating Circumstances (list number if applicable): \_\_\_\_\_

Disposition Recommended: \_\_\_\_\_

Actual Disposition Imposed: \_\_\_\_\_

Revised: 12/2004  
\*Currently pending revision

## FORM 2

# JUVENILE DISPOSITION GUIDELINES AGGRAVATING & MITIGATING FACTORS

### Aggravating

1. Impact of Offense on Victim and Community: Offender's callousness and cruelty shock the conscience of the Court; offense involved substantial monetary loss; offender caused substantial physical or psychological injury to the victim; offender has offended against current victim on prior occasions; or the offender knew or should have known that the victim was particularly vulnerable.
2. Prior Violent Delinquent Conduct: Offender has demonstrated, by prior history of delinquency adjudications, a propensity for violent, delinquent conduct.
3. Substantial Adjudication History: Adjudication for the same or similar offense on two or more previous separate occasions; gross number of prior offenses; or the offender has been adjudicated delinquent.
4. Need for Out-of-Home Treatment: Treatment needs of the offender require an out-of-home placement.
5. Need for Secure Confinement: Offender presents a danger to the community that requires secure confinement.
6. Lack of Remorse: Offender has demonstrated a total lack of remorse or a lack of acceptance or responsibility with regard to the offense.
7. Supervision to Monitor Restitution: A long period of supervision is necessary to monitor the offender's restitution responsibilities.
8. Lack of Amenability with Lesser Sanctions: Offender has demonstrated a lack of cooperation with lesser restrictive sanctions; offender has probation violations, other contempt orders, or non-judicial actions that should be considered; or offender has previously been placed on or qualified for a higher sanction.
9. Lack of Attendance or Participation in Educational Programs: Offender has willfully failed to attend or participate in school or other appropriate educational or vocational programs.
10. Gang Involvement.
11. Other (specify) \_\_\_\_\_

### Mitigating

1. Significant Improvement Since the Offense: Offender has demonstrated significant improvement since the time of the offense; offender has voluntarily sought treatment; offender compensated or made a good faith effort to compensate victim.
2. Physical/Mental Impairment: Offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed; or the offender is mentally retarded as demonstrated by all of the following: (a) offender is significantly sub-average in general intellectual functioning (usually interpreted as an IQ score of 70 or less); and (b) offender demonstrates deficits in adaptive behavior (has insufficient life skills to get along without constant assistance from others); and (c) offender manifested the above handicaps during the developmental period. The voluntary use of intoxicants does not fall within the purview of this category.
3. Limited Adjudication History: Offender has no or only minor prior adjudications; long period of time since previous referral; or extreme length of time since the offense occurred.
4. Age and Maturity of Offender: Offender's age and maturity suggest that the offender did not fully understand the impact or nature of the delinquent conduct.
5. Current Status: Offender is currently in an appropriate level of treatment or supervision.
6. Treatment Needs Exceed Need for Punishment: The offender is in greater need of an available treatment program than of punishment through incarceration.
7. Other (specify) \_\_\_\_\_

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\*Currently pending revision

## ADDENDUM A

### Criminogenic Needs & Treatment Targets

Criminogenic Need	Treatment Targets
<p><b>Antisocial Behavior</b> Exploitive, aggressive, or harmful behavior toward others</p>	Increase pro-social behaviors by reinforcing prosocial beliefs supporting a crime-free lifestyle. Develop clear, consistent, and proximate reward and consequence system for addressing behaviors. Teach, model, and reinforce pro-social alternative behaviors, especially in high-risk situations.
<p><b>Antisocial Personality Pattern</b> Impulsive, sensation seeking, risk-taking, aggressive, manipulative and exploitive.</p>	Treatment target: increase self-control and delayed gratification skills, anger and conflict management, problem solving and reinforce prosocial, reciprocal interpersonal interactions.
<p><b>Antisocial Cognition</b> Values, beliefs, feelings, and cognitions that contribute to personal identity that favors and reinforces criminal behavior.</p>	Address cognitive distortions and rationalizations that maintain a criminal identity. Build, practice, and reinforce new cognitions and attributions that lead to positive outcomes through cognitive restructuring and cognitive-behaviors therapies.
<p><b>Antisocial Peers</b> Preferring to associate with pro-criminal peers and isolation from anti-criminal peers and social contexts.</p>	Reduce and eliminate association with delinquent peers and increase opportunities for regular association with anti-criminal peers and institutions (school, church, clubs, sports teams, and other structured and supervised activities).
<p><b>Family</b> Chaotic and poor-quality family relationships that have minimal or no pro-social expectations regarding crime and substance abuse.</p>	Increase pro-social communication, nurturance, structure, supervision, and monitoring in the family. Address dysfunctional boundaries and role confusion. Implement behavioral management system that provides for consistent rewards for pro-social family interactions.
<p><b>School/Work</b> Poor performance and limited engagement with school or work resulting in dissatisfaction and avoidance of these institutions.</p>	Increase school engagement and performance in work and school through remediation of barriers to satisfaction i.e. Individualized Education Plan, additional job training or alternate job placement. Implement monitoring and behavioral reinforcement program to increase consistent attendance at school and work.
<p><b>Leisure &amp; Recreation</b> Limited involvement in anti-criminal leisure activities.</p>	Expose youth to a variety of pro-social leisure and recreational activities. Increase opportunities for regular involvement in preferred activities and reward milestones in achievement.
<p><b>Substance Abuse</b> Use and abuse of alcohol, tobacco, or other drugs (ATOD).</p>	Reduce substance use through targeted treatment, increase supervision and reduce access to ATOD, and reduce exposure to ATOD using peers. Increase capacity to cope with stressors through lifestyle changes like regular exercise, sleep, and nutrition.

Butters, R.P. (2014) *Community Based Treatment Interventions*. In W. Church & D. Springer (Eds.), *Juvenile Justice Sourcebook*. New York, NY: Oxford University Press.