

# IJR 16 RESOURCES FOR JUVENILE JUDGES

*Bench Card*

## **GOALS**

Idaho Juvenile Rule 16 authorizes the juvenile court to order an investigation, a screening team or expand the juvenile case to a Child Protective Act (CPA) case. Advantages to a graduated approach include avoiding possible delay caused by ordering investigation or expansion, engaging the family in a less confrontational manner, and creating a problem-solving forum with all stakeholders at the table. In appropriate cases, the screening team approach can avoid the need to order an investigation or expand the juvenile case to a child protection case.

## **WHEN<sup>1</sup>**

At any stage of a Juvenile Corrections Act (JCA) proceeding, when the court has reasonable cause to believe that a juvenile living or found within the state is neglected, abused, abandoned, homeless, or whose parents or legal custodian fails or is unable to provide a stable home environment.

## **RESOURCES**

1. Investigation – Direct Idaho Department of Health and Welfare (IDHW) to investigate the facts and circumstances of the juvenile and the juvenile’s family and report to the court. (See JV Order for Investigative Report to the Court under IJR 16)
2. Screening Team – Order a screening team to convene and report to the court. (See JV Order for Screening under IJR 16)
3. Expansion – Expand the JCA proceeding into a Child Protection Act proceeding.<sup>2</sup> (See JV Order Expanding Juvenile JCA Proceeding to CPA Proceeding)

## **PURPOSE**

1. IDHW Investigation:  
An order for investigation is best used when there exist child protection issues but many facts are unknown and should be gathered for the decision makers before determining whether to use a screening team approach or expansion.
2. Screening Team:  
The purpose of the screening team is to develop a coordinated plan to safely meet the needs of the juvenile and the juvenile’s family, based on all resources available to the juvenile and the juvenile’s family.
  - a. The focus of the screening team is to assess the safety of the juvenile in the juvenile’s home and determine whether the juvenile’s needs, including services and treatment, can be addressed safely and appropriately (preferably in the juvenile’s home using community-based services).
  - b. The screening team prepares a written report to the court summarizing the findings and recommendations of the screening team.

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- c. The court may order both an investigation and screening team.
3. Expansion to a Child Protection Case:  
An expansion is best used when a crisis exists and/or imminent safety concerns for the child exist.
  - a. If the proceeding is expanded to a CPA case, the JCA court may, in its discretion, order the juvenile placed in shelter care. The CPA court must hold a shelter care hearing within 48 hours of the child being placed in shelter care, excluding Saturdays, Sundays and holidays.<sup>3</sup>
  - b. If the child is not removed, the CPA court must hold an adjudicatory hearing within 30 days of the JCA court's determination to expand the proceedings.<sup>4</sup>

### **REQUIRED FINDINGS (if expanded)**

1. There is reasonable cause to believe the juvenile is living or found within the state and is neglected, abused, abandoned, homeless, or the juvenile's parents or other legal custodian(s) have failed or are unable to provide a stable environment.<sup>5</sup>
2. If the court orders an expansion of a JCA proceeding and removal of the juvenile from the home or present surroundings, the court must make written, case-specific findings that:
  - a. the juvenile was placed in shelter care because continuation in the child's home or present condition or surroundings would be contrary to the welfare of the juvenile; and,
  - b. vesting legal custody of the juvenile with IDHW is in the juvenile's best interest.

### **ORDER**

1. The order expanding the JCA proceeding to a CPA proceeding must be in writing and contain the factual basis supporting the order.<sup>7</sup>
2. The order expanding the Juvenile Corrections Act proceedings to Child Protective Act proceedings, serves the function of the CP Petition.<sup>8</sup>

### **ENDNOTES**

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<sup>1</sup> I.J.R. 16(a).

<sup>2</sup> I.J.R. 16(a)(1)-(3).

<sup>3</sup> I.J.R. 16(b).

<sup>4</sup> I.J.R. 16(d).

<sup>5</sup> I.J.R. 16(f).

<sup>6</sup> 45 C.F.R. § 1356.21(c); I.C. § 16-1615(5); I.J.R. 16(a) and (f).

<sup>7</sup> I.J.R. 16(a).

<sup>8</sup> I.J.R. 16(h).

# IJR 16 EXPANSION FOR CP JUDGES

(CASES COMING FROM JUVENILE CORRECTIONS TO CP PROCEEDINGS)

*Bench Card*

## **PURPOSE<sup>1</sup>**

To conduct the initial and subsequent hearings in a child protection case that was expanded from a Juvenile Corrections Act (JCA) case.

## **WHEN**

1. If a JCA proceeding is expanded, the JCA court may, in its discretion, order the juvenile placed in shelter care.<sup>2</sup> The CPA court must then hold a shelter care hearing within 48 hours of the child being placed in shelter care, excluding Saturdays, Sundays, and holidays.<sup>3</sup>
2. The CPA court must hold an adjudicatory hearing within 30 days of the JCA court's determination to expand the proceedings.<sup>4</sup>

## **WHO MAY BE PRESENT**

1. The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case.<sup>5</sup>
2. The child may be excluded from hearings at any time at the discretion of the court.<sup>6</sup>
3. The Department of Juvenile Corrections has standing as an interested party in the CPA case if the juvenile is in the custody of the Department of Juvenile Corrections.<sup>7</sup>

## **EVIDENCE**

1. The Rules of Evidence do not apply to shelter care hearings held after the expansion of a JCA proceeding to a CPA proceeding; they do apply in the CPA proceeding only to that part of the adjudicatory hearing where jurisdiction and/or aggravated circumstances is/are determined.<sup>8</sup>
2. A counselor, friend, or other person may be permitted to remain in the courtroom at the witness stand as the child testifies.<sup>9</sup>
3. The burden going forward with the evidence at the adjudicatory hearing remains with the prosecutor.<sup>10</sup>

## **CPA PETITION**

1. The order expanding the JCA proceeding to a CPA proceeding serves as the petition in the CPA case.<sup>11</sup> No further petition is required.<sup>12</sup> The expansion order must be given to the juvenile's parent(s), guardian(s), or legal custodian(s), the Department of Health and Welfare, the prosecuting attorney or deputy attorney general and other counsel of record, and the Department of Juvenile Corrections, if the juvenile is currently under commitment.<sup>13</sup>
2. Notice of hearing will be served on the parents(s), the Department of Health and Welfare, the juvenile, the Department of Juvenile Corrections, if the juvenile is currently under commitment, as though a petition under the CPA has been filed.<sup>14</sup>
3. A petition may be filed in the CPA proceeding, to include other children that come within the jurisdiction of the CPA but who were not before the JCA court.<sup>15</sup>

# IJR 16 EXPANSION FOR CP JUDGES

(CASES COMING FROM JUVENILE CORRECTIONS TO CP PROCEEDINGS)

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## CONSOLIDATING HEARINGS<sup>16</sup>

The court may consolidate hearings under both the JCA and the CPA if the purposes of both acts can be served and the rights of the participants are not prejudiced.

## ENDNOTES

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<sup>1</sup> I.J.R. 16.

<sup>2</sup> I.J.R. 16(f).

<sup>3</sup> I.J.R. 16(f); I.C. § 16-1608(2).

<sup>4</sup> I.J.R. 16(h); I.C. § 16-1619(1).

<sup>5</sup> I.C. § 16-1613(1); I.J.R. 39(h), I.J.R. 52(a).

<sup>6</sup> I.C. § 16-1613(1).

<sup>7</sup> I.J.R. 16(j).

<sup>8</sup> I.R.E. 101(e)(6); I.J.R. 39(e), I.J.R. 41(c), I.J.R. 51(b).

<sup>9</sup> I.C. § 16-1613(2).

<sup>10</sup> I.J.R. 16(h).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> I.J.R. 16(g).

<sup>14</sup> I.J.R. 16(h).

<sup>15</sup> I.C. § 16-1603(2); I.J.R. 16(h).

<sup>16</sup> I.J.R. 16(i).

# STATUS OFFENDERS DETENTION PLACEMENT, AND THE VALID COURT ORDER EXCEPTION

## BENCH CARD

### PURPOSE

To ensure Juvenile Status Offender (JSO) placements in detention are in accordance with Idaho Juvenile Rule 17(e) and (f), Idaho Code § 20-520, and the Juvenile Justice and Delinquency Prevention Act (JJDP A).

### STATUS OFFENDER DEFINITION

The term “status offender” means a juvenile who is charged with or who has been adjudicated of an offense that would not be a crime if committed by an adult.<sup>1</sup> Status offenses can include: truancy, running away from or being beyond the control of parents, guardian, or legal custodian, tobacco possession, and curfew violations.<sup>2</sup>

### PRE-ADJUDICATION PLACEMENT OF A STATUS OFFENDER<sup>3</sup>

When a juvenile status offender is placed in detention by an officer prior to an adjudication the juvenile will:

1. not be placed in any jail facility;
2. be brought before the court no later than 24 hours, excluding weekends and holidays, for a detention hearing to determine where the juvenile will be placed.

### RESTRICTIONS ON THE PLACEMENT OF A STATUS OFFENDER POST ADJUDICATION

1. A juvenile adjudicated of a status offense or as a habitual status offender may not be placed in detention or other secure confinement.<sup>4</sup>
2. Status offenders may not be the subject of an order establishing any discretionary or unscheduled detention time.<sup>5</sup>

### VALID COURT ORDER EXCEPTION (*See JV Order for Detention (Status Offense)*)<sup>6</sup>

Following adjudication of a status offense, a juvenile may be subject to detention if, after notice and hearing, the court finds that the juvenile offender has violated the court’s decree imposing the sentence under circumstances that bring the violation under the valid court order exception, and the court’s order:

1. identifies the valid court order that has been violated;
2. specifies the factual basis for determining that there is reasonable cause to believe that the juvenile has violated such order;
3. includes findings of fact to support a determination that there is no appropriate, less-restrictive alternative available to placing the juvenile in such a facility, with due consideration to the best interest of the juvenile;
4. specifies the length of time, not to exceed seven days, that the juvenile may remain in a secure detention facility or correctional facility, and includes a plan for the juvenile’s release from such facility; and
5. states that the order may not be renewed or extended.

## STATUS OFFENDER PLACEMENT IN DETENTION BENCH CARD

The court may not issue a second or subsequent order described in this subsection relating to a juvenile unless the juvenile violates a valid court order after the date on which the court issues an order in this subsection.

### INTERSTATE COMPACT FOR JUVENILES (ICJ) EXCEPTION

A runaway or accused status offender from another state may be held in detention in accordance with the Interstate Compact for Juveniles, and qualify for the ICJ exception if:<sup>7</sup>

1. the juvenile is brought before the court within 24 hours (excluding weekends and holidays) of their placement in detention, and
2. an ICJ Form III (Consent for Voluntary Return of Out-Of-State Juveniles) is signed by the juvenile and the presiding judge.<sup>8</sup> If the juvenile refuses to sign ICJ Form III, a requisition hearing will be scheduled.<sup>9</sup>

### Best Practice Considerations

1. Placing juvenile status offenders in detention jeopardizes their safety and well-being, and may increase their criminal risk factors.<sup>10</sup>
2. Detention centers lack the resources to address the underlying causes of the status offense, and detention placements are not shown to deter future status-offending behaviors.<sup>11</sup>
3. Community-based interventions are more effective in helping juvenile status offenders develop life skills, pro-social relationships, strong social networks, and support systems needed to successfully to become a productive member of the community.<sup>12</sup>

### ENDNOTES

<sup>1</sup> 103 U.S.C. § 11103(42).

<sup>2</sup> I.C. § 18-1502(e), § 20-516(c).

<sup>3</sup> I.C. § 20-516(4).

<sup>4</sup> I.J.R. 17(e).

<sup>5</sup> I.J.R. 17(e) and (f).

<sup>6</sup> I.J.R. 17(e).

<sup>7</sup> 34 U.S.C. § 11133(a)11(A)(i).

<sup>8</sup> I.C.J. § 6-102.

<sup>9</sup> I.C.J. § 6-103.

<sup>10</sup> Justice Policy Institute. (2006). *The Dangers of Detention*. Washington, DC: Barry Holman and Jason Zidenberg. P. 4.

<sup>11</sup> Nelson, D. W. (2008). *A Road Map for Juvenile Justice Reform*. Baltimore, MD: Annie E. Casey Foundation. p. 9.

<sup>12</sup> *Id.*

# COMMITMENT TO DEPARTMENT OF JUVENILE CORRECTIONS, I.J.R. 19

BENCH CARD

## **PURPOSE** <sup>1</sup>

To determine eligibility of a juvenile to be committed to the Idaho Department of Juvenile Corrections (I.D.J.C).

## **ELIGIBILITY FACTORS**

Juvenile's history or charged offense(s) contain the underlying facts: <sup>2</sup>

1. of violence that either did or could reasonably have resulted in serious bodily injury or death to others; and/or,
2. of a sexual nature; and/or,
3. demonstrating a wanton and reckless disregard for the property rights of others, such that release constitutes a substantial risk to the community; and /or,
4. demonstrating a pattern of misdemeanor or felony criminal behavior, escalating in its impact on public safety or the juvenile's safety own well-being over time.

A juvenile under the age of 12 years shall not be committed unless the court finds extraordinary circumstances. The court shall not commit a juvenile under the age of 10 years. <sup>3</sup>

## **SCREENING TEAM**<sup>4</sup> (See *JV-Order for Screening Team Report I.J.R. 19*)

Prior to disposition on any offense for which a juvenile may be committed, the court shall order a screening team to convene and determine if a community plan, created by the team, can address the juvenile's risk to the community.

## **PARTICIPANTS IN SCREENING TEAM** <sup>5</sup>

1. The screening team shall include parents, custodians, or guardians of the juvenile, representatives from the county juvenile probation office, the Idaho Department of Juvenile Corrections and the Idaho Department of Health and Welfare.
2. In addition, the screening team should include the juvenile, the defense attorney, prosecuting attorney, local school officials, and any other persons that the screening team may deem appropriate.

## **HISTORICAL INFORMATION PROVIDED TO SCREENING TEAM** <sup>6</sup>

The following historical information will be made available to the screening team:

1. history of mental health issues or substance abuse treatment;
2. the family's structure and dynamics;
3. parental, guardian, or custodian, engagement in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior;
4. the juvenile's academic performance and behavior in an educational setting;
5. prior intervention and treatment efforts by the family and /or the community;
6. prior offenses; and,
7. current and prior risk/needs assessment.

## **FACTORS TO BE EVALUATED BY THE SCREENING TEAM** <sup>7</sup>

The screening team will use a strengths-based approach while evaluating the following factors to decide whether a community-based program or alternative can adequately address the risk and needs identified:

1. the family's strengths;
2. the parent's, guardian's, custodian's abilities and capacities for engagement in community based programs;
3. any barriers that may impede the parent's, guardian's, custodian's or juvenile's ability to participate in community-based programs;
4. whether or not community based programs which are needed are accessible to the juvenile and the juvenile's parents, guardians, or custodians;
5. whether or not the community-based programs are a cost-effective option.

## I.J.R. 19 SCREENING TEAM REPORT <sup>8</sup>

The county probation officer or other court designee will prepare a written report summarizing the screening team's recommendations, including all conflicting opinions of team members. The report will be made available to the court and all parties to the case at least 48 hours prior to the sentencing hearing, excluding Saturdays, Sundays, and holidays.

An I.J.R. 19 Screening Team Report Template and Facilitator Guide is available on the Idaho Supreme Court website.

## ISSUING AN ORDER OF COMMITMENT TO I.D.J.C. <sup>9</sup> (See *JV-Decree and Order of Disposition (Commitment)*)

Prior to issuing an order of commitment to I.D.J.C., the court will make findings on the record as to the underlying facts and circumstances that were relied upon in making the decision, and the specific facts relied upon to determine that a community-based alternative was not appropriate.

## Best Practice Considerations

1. An independent facilitator can ensure a fair process and increase collaboration of all participants.<sup>10</sup>
2. Diverse stakeholder participation will increase the likelihood of collaboration, removing barriers to participation, and development of effective community-based interventions for juveniles and their families.<sup>11</sup>
3. Evaluating both strengths and weakness equally will give the screening team and courts a more comprehensive understanding of the juvenile's capacity for success.<sup>12</sup>

## ENDNOTES

<sup>1</sup> I.J.R. 19.

<sup>2</sup> I.J.R. 19(a).

<sup>3</sup> I.J.R. 19(g).

<sup>4</sup> I.J.R. 19(b).

<sup>5</sup> I.J.R. 19(b).

<sup>6</sup> I.J.R. 19(c).

<sup>7</sup> I.J.R. 19(d).

<sup>8</sup> I.J.R. 19(e).

<sup>9</sup> I.J.R. 19(f).

<sup>10</sup> Terri L. Griffith, Mark A. Fuller, Gregory B. Northcraft Facilitator Influence in Group Support Systems: Intended and Unintended Effects, 1998.

<sup>11</sup> Lu Hong, and Scott E. Page.(2004).Groups of diverse problem solvers can outperform groups of high-ability problem solvers

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<sup>12</sup> Jimerson, S.R., Sharkey, J.D., Nyborg, V. et al. Strength-Based Assessment and School Psychology: A Summary and Synthesis. Contemp School Psychol 9, 9–19 (2004). <https://doi.org/10.1007/BF03340903> (last visited July 2020).