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By the spring of 1991, Pennsylvania had spent 10 years transforming the way it uses secure detention for juvenile offenders. The process began in 1981, when the Juvenile Law Center (JLC) filed a class-action lawsuit challenging the state's law and practice of preventive detention; the process took hold in 1985, when the state's Juvenile Court Judge's Commission (JCJC) took an active part in settling the litigation and in developing new detention standards for Pennsylvania. New standards were introduced in 1986 as part of the settlement of the litigation. JCJC has collected comprehensive detention data in the process of monitoring compliance with the consent decree and insuring its implementation.

The Pennsylvania experience suggests that the use of secure detention can be minimized without a resulting impact on crime rate. It further suggests that JCJC's participation in the crafting of the settlement and in monitoring its implementation has created a culture in which secure detention retains an important, but more clearly defined, role in the state's juvenile justice system.

The Lawsuit

Coleman v. Stanziani (No. 81–2215, ED Pa.) was filed in 1981 as a federal court class action challenging the constitutionality of §6325 of
the Pennsylvania Juvenile Act, 42 Pa.C.S. §6325, which permitted the
secure detention of a child when it was “required to protect the person
or property of others or of the child or because the child may abscond
or be removed from the jurisdiction . . .”

The named plaintiffs were two juveniles who were arrested in a
stolen car and held in secure detention pending their adjudicatory
hearings. Representing a plaintiff class of allegedly delinquent Penn-
sylvania juveniles, they complained, inter alia, that Pennsylvania law
was unduly vague, which led to its arbitrary application. Defendants
were Pennsylvania’s Juvenile Court judges and juvenile probation of-
icers, who also had authority under Pennsylvania law to order pre-trial
detention (42 Pa.C.S. §6304).

The ambiguities of the case, which were made manifest by defeats
suffered by each side in 1983–84, led to serious negotiation. In Septem-
ber 1983, the district court dismissed the defendants’ motion to dismiss
the complaint, 570 F.Supp. 679 (E.D. Pa. 1983), a decision which was
affirmed by the Third Circuit Court of Appeals, 735 F.2d 118 (3d Cir.
1984), cert. denied 469 U.S. 1037 (1984). On the same day that the Third
Circuit affirmed the district court, the U.S. Supreme Court decided
Schall v. Martin, 467 U.S. 253 (1984), which upheld a New York deten-
tion statute similar to Pennsylvania’s. Both parties, uncertain how the
Pennsylvania scheme would be perceived by the federal courts, agreed
to explore a negotiated agreement. The negotiation was also encouraged
by the findings of the plaintiffs’ expert witness, John Goldkamp, whose
study of Pennsylvania detention practices, made possible through the
plaintiffs’ discovery, confirmed many of the plaintiffs’ allegations about
variations in Pennsylvania detention practice.

The Goldkamp Study

Goldkamp (1984) examined detention practices in six Pennsylvania
counties on October 7, 1981. The study was aimed at drawing “inference
about the use of detention from description of the juveniles” in
detention in the six counties, which were selected for their urban,
suburban, and rural characteristics. Two hundred seventy-eight cases
were examined for 87 items of descriptive information. The selection of
the 1981 date, which was almost one year prior to the study, also
permitted the collection of follow-up data.
The Goldkamp study showed wide variation in detention practices in the six counties. In five of the counties, more than half of the detained juveniles were held on felony-level charges; in one county only 36% were held for felonies. In one suburban county, 65% of the youths were held for crimes against persons; in another suburban county, only 18% were held for such offenses. Weapons, robbery, drug-related charges, and offenses involving injury to persons were relatively rare. In one rural county, 53% of the confined juveniles had never been previously arrested; except in Philadelphia county, the majority of confined juveniles had no prior arrests for crimes against persons.

Two Years Prior to Settlement

Two processes occurred during the roughly two years following the Supreme Court decision in Schall and the Third Circuit decision in Coleman. First, the parties undertook to negotiate a settlement. Second, the use of secure detention in the state continued the decline that had begun following the filing of Coleman in 1981.

Plaintiffs and defendants in early 1985 found a trusted mediator in Paul DeMuro, a former Pennsylvania Deputy Secretary who was responsible for state child welfare programs, including components of the juvenile justice system, and who had developed a private consultation practice after working for the National Council on Crime and Delinquency. DeMuro kept the negotiations moving, helped the parties define their interests, and pushed both sides towards a reasonable settlement.

At the same time, use of detention declined in Pennsylvania. In 1981, the year Coleman was filed, 25% of the total Juvenile Court dispositions involved the use of secure detention. In 1982 the percentage was 12%, in 1984 13%, and by 1987, one year after the Coleman settlement became effective, only 10% of the Juvenile Court cases involved the use of detention. Between 1982 and 1989, six detention centers closed in the state.

The Settlement

On April 18, 1986, the federal district court for the Eastern District of Pennsylvania approved the Coleman consent decree. The decree became effective on September 1, 1986 and will remain in effect until
August 31, 1996. It controls admission to secure detention in every Pennsylvania county except Philadelphia, whose secure detention practices are governed by a separate federal consent decree.

The settlement is a two-part document. The first part is the substance of the consent decree, which will be immutable for ten years; the second part consists of Pennsylvania's detention standards. The decree requires judges and juvenile probation officers to give statements of reasons for pre-trial decisions to use secure detention and to consider the use of less restrictive alternatives. The decree also prohibits the use of secure detention solely because of an absent parent or guardian.

The most significant aspect of the settlement is the requirement that there be a statement of reasons for detention. With the exception of situations where secure detention is ordered by a court subsequent to a finding that a child has committed a delinquent act, a contemporaneous written statement of reasons and facts must accompany every decision to detain a child in secure detention made by a judge, juvenile court master, or juvenile probation officer.

This statement of reasons must specify that there is a reasonable basis to believe the child has committed the act for which he is being detained (in the case of judicial authorities, that probable cause exists) and that the child is not excluded from the jurisdiction of the Juvenile Court by age or any other reason; that the child's detention is permitted under the "Standards Governing the Use of Secure Detention Under The Juvenile Act" promulgated by the Juvenile Court Judges' Commission pursuant to the settlement; which alternatives to secure detention were considered and rejected; and the reason or reasons why secure detention is required and why alternatives are not appropriate.

When secure detention is ordered by a court after a child is found to have committed a delinquent act but prior to the court's determination that residential placement will be ordered at disposition, the court must also indicate on the record or in a court order why secure detention is required and why alternatives are not appropriate (see copies of the forms authorizing detention). Once the court has determined that residential placement will be ordered, or continued if previously ordered, no statement of reasons is required regarding the use of secure detention pending the use of such placement.

Although the Standards permit the use of secure detention in extraordinary and exceptional circumstances where a child is not detention-eligible on the basis of other standards, the statement of facts and
IN THE COURT OF COMMON PLEAS _____ JUDICIAL DISTRICT

COUNTY

STATEMENT OF FACTS AND REASONS ACCOMPANYING THE DETENTION OF A CHILD
BY A PROBATION OFFICER/INTAKE OFFICER PURSUANT TO 42 PA. C. S. §§ 6304, 6225, and 6331.

I. Name of Child ___________________________ II. Date of Birth (Month) / (Day) / (Year)

III. Date Detention Authorized ___________________ (Month) / (Day) / (Year)

IV. Time Of Authorization ____________________ A.M. □ P.M. □

V. There is a reasonable basis to believe that the above named child:

A. □ has committed

1. ______ count(s) of ________ crime

2. ______ count(s) of ________ crime

3. ______ count(s) of ________ crime

4. ______ count(s) of ________ crime

5. ______ count(s) of ________ crime

6. ______ count(s) of ________ crime

If more than six crimes are alleged, list the six most serious crimes in the parentheses ( ). Provide the code letter for the type of crime as follows:

a = the crime of

b = an attempt to commit

c = solicitation to commit

d = conspiracy to commit

B. □ Other (explain) __________________________

VI. This child is not believed to be excluded from the jurisdiction of Juvenile Court by age or any other reason.

VII. This child's detention is permitted and authorized pursuant to Section(s) ___________________________ of the "Standards Governing the Use of Secure Detention Under The Juvenile Act" as set forth in the JJCJC Detention Handbook.

VIII. The alternatives to secure detention which were considered and rejected: □ parent(s)/guardian(es) □ in home detention □ relative(s) □ foster care □ shelter care □ other (specify) __________________________

IX. The reason or reasons why secure detention is required and alternatives are not appropriate __________________________

(If detention was authorized pursuant to Section 701 of the Standards, this statement must include an explanation of why an exception was warranted and why non-secure options were rejected)

Name of Probation Officer/Intake Officer Authorizing Detention:

Print Name ___________________________ Signature ___________________________ Date / / (Month) / (Day) / (Year)

Send WHITE AND YELLOW COPIES of this form, completed through Section 11, to the Detention Center within one court business day of this child's admission to detention.

To Be Completed by Detention Staff After Child's Admission to Detention:

X. Name of Detention Center ___________________________ XI. Date of admission of above named child ___________________________

XII. Time of Admission: □ A.M. □ P.M.

XIII. Detention/Release Status:

A. □ Child released prior to informal detention hearing: Date of Release / / (Month) / (Day) / (Year) □ A.M. □ P.M.

B. □ Child released at informal detention hearing: Date of Release / / (Month) / (Day) / (Year) □ A.M. □ P.M.

C. □ Child continued in detention following informal detention hearing: Date of Detention Hearing / / (Month) / (Day) / (Year)

D. □ Other (explain) __________________________

Name of Detention Center Staff Completing This Section:

Print Name ___________________________ Date / / (Month) / (Day) / (Year)

Complete Sections X-XIII upon the child's release from detention or following the informal detention hearing, whichever occurs first. Send completed WHITE COPY to the JUVENILE COURT JUDGES COMMISSION/P.O. Box 1234, Federal Square Station, Harrisburg, PA 17109 with the Monthly Detention Summary (JCJC-D-3) which reports this child's admission to detention.
IN THE COURT OF COMMON PLEAS _______ JUDICIAL DISTRICT

STATEMENT OF FACTS AND REASONS ACCOMPANYING THE DETENTION/CONTINUED DETENTION OF A CHILD BY A JUDGE OR MASTER PRIOR TO ADJUDICATION

I. Name of Child (Last) (First) (Middle Initial)
II. Date of Birth (Month) (Day) (Year)

III. Type of Proceeding/Order:
☐ Informal Detention Hearing pursuant to 42 PA. C.S. § 6332
☐ Hearing To Continue Pre-adjudication Detention pursuant to 42 PA.C.S. § 6335
☐ Order of Court/no hearing

IV. Detention Center ____________________________ V. Date Of Admission to Detention (Month) (Day) (Year)

VI. It has been determined that probable cause exists that the above named child
A. ☐ has committed:
   1. count(s) of (___) __________ crime
   2. count(s) of (___) __________ crime
   3. count(s) of (___) __________ crime
   4. count(s) of (___) __________ crime
   5. count(s) of (___) __________ crime
   6. count(s) of (___) __________ crime
   If more than six crimes are alleged, list the six most serious crimes. In the parentheses (___) provide the code letter for the type of crime as follows:
   a = the crime of
   b = an attempt to commit
   c = solicitation to commit
   d = conspiracy to commit

B. ☐ Other (explain) ____________________________

VII. This child is not believed to be excluded from the jurisdiction of Juvenile Court by age or any other reason.

VIII. This child's detention is permitted and authorized pursuant to Sections: ____________________________ of the "Standards Governing the Use of Secure Detention under the Juvenile Act" as set forth in the JJCJ Detention Handbook.

IX. The alternatives to secure detention which were considered and rejected:
☐ parent/guardian(s) ☐ in-home detention ☐ relatives
☐ foster care ☐ shelter care ☐ other (specify) ____________________________

X. The reason or reasons why secure detention is required and alternatives are not appropriate:

[Signature] [Signature]
Judge/Master Date

(Nosignature or date needed here if Order of Court entered below)

IN THE INTEREST OF: ____________________________

ORDER OF COURT

AND NOW, This ______ day of _______ , 19____, (☐ a hearing having been held)

it is hereby ☐ ORDERED ☐ RECOMMENDED

that the above named child be detained in the Detention Center until further Order of this Court.

RECOMMENDED: ____________________________

Send completed YELLOW AND PINK COPIES of this form to the detention center within one court business day of the Order of Court committing child to detention. If a separate Order of Court is used attached YELLOW AND PINK COPIES of this form to detention center copy of ORDER Detention Center. Send "YELLOW COPY" to the JJCJ, P.O. Box 1234, Federal Square Station, Harrisburg, PA 17108, with the Monthly Detention Summary (JJCJ-D-3) which reports this child's admission to detention.

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Reasons which accompany such detention decisions must include an explanation of why an exception was warranted and why non-secure options were rejected. The Consent Decree provides that detention under this section may not be authorized routinely or because non-secure alternatives do not exist in adequate numbers.

The second part of the settlement consists of the standards. The standards have the force of law, although JCJC, as noted below, may change the standards if JCJC provides appropriate notice to plaintiffs and publishes the standards through the state's regulatory process. JCJC has "coded" the standards to facilitate compliance and monitoring. (See appendix.) The standards provide judges and probation officers with definitions of who may be held in secure detention pre-trial, post-trial awaiting disposition, and post-disposition.

**Role of the Juvenile Court Judges' Commission**

Settlement in this case could not have been achieved without development of both the "Standards Governing the Use of Secure Detention Under the Juvenile Act," and a mechanism to monitor compliance with those Standards. In Pennsylvania there are no statewide Juvenile Court rules. Consequently, the concept of requesting the Juvenile Court Judges' Commission to establish detention standards as the basis for settlement became an attractive option.

The Commission consists of nine judges appointed by the Governor from a list of judges serving in the Juvenile Courts submitted by the Chief Justice of Pennsylvania. The agency is empowered to advise the Juvenile Court judges in Pennsylvania in all matters pertaining to the proper care and maintenance of delinquent children; to examine the administrative methods and procedures used in Juvenile Courts throughout the state; to establish standards and make recommendations to the courts; to examine personnel practices and employment standards used in probation offices in the Commonwealth; and to collect, compile, and publish such statistical and other data as may be needed to accomplish the reasonable and efficient administration of the juvenile courts in Pennsylvania.

Prior to this settlement, the Commission had developed standards governing a number of procedures and administrative matters within
Pennsylvania’s Juvenile Court system. Therefore, the concept of developing standards governing detention was regarded as consistent with the Commission’s prior experience in standards development. Although the members of the Juvenile Court Judges’ Commission were initially apprehensive about the prospects of reaching settlement in this case, they were nevertheless interested in the concept of seeking a settlement as a means of insulating Pennsylvania’s juvenile justice system from further intervention by the federal courts in the area of detention. At settlement, the Commission viewed the consent decree as a very favorable resolution of the litigation and believed that the requirement of a statement of facts and reasons for detention would enhance the Pennsylvania system. Although the Consent Decree made detention standards binding on all judges, masters, and juvenile probation officers, the content of those standards remains in the sole control of the Pennsylvania Juvenile Court judges through the Commission, and the standards can be amended if the need arises. At the time of settlement, the Commission believed strongly that its success would hinge on the effectiveness of the Commission and its staff in providing technical assistance, training juvenile justice staff, and continuously supporting the values which were the basis of the settlement.

Following settlement, JCJC held a series of regional training programs for judges, masters, and probation officers to explain the rationale for the settlement and to provide detailed training regarding the use of the standards in making detention decisions. JCJC continues to provide on-going technical assistance through a staff specialist whose primary responsibilities focus on detention issues.

The Consent Decree also obligated JCJC to assume significant responsibilities for monitoring compliance. The Commission, at a minimum, must provide for the collection of information of sufficient detail to enable the parties to determine, for each county, the degree of compliance with all aspects of the Consent Decree and Standards, as well as details regarding the application of the provisions of the Standards which govern “authorization for detention in cases of extraordinary and exceptional circumstances.” During the first two years of the settlement, Commission staff provided bi-monthly reports to counsel concerning compliance with the Decree. JCJC now issues reports on a semi-annual basis. These responsibilities necessitated the development of standard forms for use by judges, masters, and probation officers when making detention decisions. In addition, standard forms were
developed for use by juvenile detention centers, which also provide reports to our staff on a monthly basis.

Analysis of Data

The data collected by the Juvenile Court Judges’ Commission pursuant to the settlement suggest that the rate at which detention admissions occur in Pennsylvania has increased since the settlement. In 1987, there were 20,769 juvenile delinquency dispositions in the Commonwealth (excluding Philadelphia) and 5,875 secure detention admissions, which may be expressed as a detention rate of 28.3%. However, it should be noted that individual juveniles may have had more than one detention admission during the year and may also have had more than one juvenile court disposition. In 1988, there were 6,943 juvenile detention admissions and 22,090 juvenile delinquency dispositions for a detention rate of 31.4%. In 1989, there were 7,493 detention admissions and 23,013 juvenile delinquency dispositions, for a detention rate of 32.6%. On the basis of these statistics, the rate of detention increased approximately 10.9% between 1987 and 1988 and approximately 3.6% between 1988 and 1989.

Annual detention admission rates\(^3\) can also be expressed as a percentage of total juvenile population. In 1987, the Pennsylvania juvenile population, age 10 to 17, was estimated to be 1,138,509 (excluding Philadelphia). Using the detention admissions previously presented, the rate of detention admissions per 100,000 juveniles was 516 in 1987, rose to 610 in 1988, and to 658 in 1989. The rate increased 18.2% from 1987 to 1988 and 7.8% from 1988 to 1989.

The frequency of detention admissions for certain crimes decreased during the period 1987 to 1989 but increased dramatically for others. For example, there were 305 pre-adjudication detention admissions in 1987 based on robbery charges. This figure dropped to 270 in 1988 and to 211 in 1989. However, pre-adjudication detention admissions for aggravated assault were 296 in 1987, rose to 349 in 1988, and to 474 in 1989. Detention admissions involving a new felony charge where the individual was currently on probation involved 243 admissions in 1987, 296 admissions in 1988, and 456 admissions in 1989.

Particularly interesting are the increases in codes where the juvenile is detained because he or she presents an extraordinary risk to ab-
second, but is not otherwise detention-admissible under the standards. Detention under the Commission's 206 code (the child presents extraordinary circumstances requiring secure detention to prevent him or her from absconding) occurred in 795 cases in 1987, rose to 1,026 in 1988, and to 1,211 in 1989. Admissions under the 206 code involved drug violations in approximately 5% of the 1987 admissions, approximately 7% of the 1988 admissions, and approximately 16% of the 1989 admissions. Similarly, auto theft cases involving the 206 code occurred in 7% of the 206 admissions in 1987, 11% of the cases in 1988, and approximately 12% of the Section 206 admissions in 1989.

Also interesting is the increase which has occurred in the number of admissions admitted under Section 701 (the child is not otherwise eligible for secure detention pursuant to the preceding standards; however, the facts present extraordinary and exceptional circumstances which require the use of secure detention). When this code is used, the statement of reasons which accompanies the decision must include an explanation of why an exception was warranted and why non-secure options were rejected. In addition, the Standards specify that detention under this section may not be authorized routinely or because non-secure alternatives do not exist in adequate numbers but only in the exceptional and extraordinary case.

In 1987, 142 detention admissions involved Section Code 701. This rose to 294 cases in 1988, and dropped slightly to 286 cases in 1989. As was the case with the Section 206 codes, both drug law violations and auto theft played significant roles in the increased usage of these codes. In 1987, auto theft charges were involved in approximately 7% of the Section 701 admissions. In 1988, auto theft charges were involved in 21% of the 701 admissions, while in 1989, auto theft violations made up 8% of the Section 701 admissions. Drug law violations, on the other hand, made up 15% of the 1987 Section 701 admissions, 32% of the 1988 701 admissions, and 40% of the 1989 701 admissions.

It is important to note that the ability of the courts to utilize both the 206 code and the 701 code in auto theft and drug law violations has enabled the Juvenile Court Judges' Commission to avoid giving consideration to amending the standards to provide a specific code for certain types of auto theft and certain drug law violations involving sales, delivery, or possession with intent to deliver a controlled substance. Such a change would likely lead to a substantial increase in the use of secure detention for these offenses.
Conclusion

The Coleman litigation was a useful catalyst in elevating detention as an issue that required official attention and in describing the uneven uses of detention in Pennsylvania at the beginning of the decade. The litigation prompted Pennsylvania judges, probation, and other officials to examine their practices. While the litigation was pending, those officials substantially reduced the rate of detention in the state, and they closed nearly one quarter of the state's secure detention centers.

The use of Paul DeMuro as an expert mediator assisted the parties in finding common values and in developing standards that would provide the contours for a decade of Pennsylvania detention practice. The judges and probation officers who were responsible for implementing the settlement thus shared the values that were the settlement's underpinning.

Settlement of a lawsuit of this sort is often merely the beginning of protracted enforcement actions. The parties avoided such contention in this case by building in a six-month period of training and education before the standards became operative. Successful implementation was made possible by JCJC's willingness to train the state's Juvenile Court judges and probation officers, develop a detention handbook to ensure consistency in application of the standards, and assume responsibility for monitoring and correcting non-compliance with the Coleman standards.

The Pennsylvania experience is thus a model for changing state practice. Key to the model is the requirement of a statement of reasons and examination of alternatives to secure detention in every case prior to adjudication, as well as the requirement for judicial review every ten days for children remaining in detention. This model increased consistency in decision-making, resulted in fairer use of secure detention, and made secure detention practices consistent with the treatment philosophy on which the rest of Pennsylvania's juvenile justice system is based. To achieve that result, the parties relied heavily on the shared values and cooperation of the outside advocates and those inside the system charged with its fair and equitable operation.
Appendix

JUVENILE COURT JUDGES’ COMMISSION

Standards Governing
the Use of
Secure Detention Under The Juvenile Act
42 Pa. C. S. §6301, et seq.

The Standards which follow are a coded and annotated version of the Juvenile Court Judges’ Commission Standards which were promulgated pursuant to the settlement in Coleman, et al. vs. Stanziani, et al., CA No. 81-2215, approved on April 18, 1986 in the United States District Court for the Eastern District of Pennsylvania.

These Standards do not differ substantively from those filed with the Court. However, only those provisions which relate specifically to detention eligibility have been included, certain of which were restructured or rephrased for the sake of clarity.

This version of the Standards was developed solely to facilitate compliance with the settlement in Coleman. In all cases where it is necessary to cite a specific provision of the Juvenile Court Judges’ Commission “Standards Governing the Use of Secure Detention Under The Juvenile Act,” the relevant section of this document should be cited.
STANDARDS GOVERNING
THE USE OF
SECURE DETENTION UNDER THE JUVENILE ACT
(Coded and Annotated)

1. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE AUTHORIZED ON THE BASIS OF AN ALLEGED OFFENSE OR ON THE BASIS OF AN ALLEGED OFFENSE AND THE CHILD'S CURRENT STATUS WITH THE COURT OR PRIOR RECORD:

The child is alleged to be a delinquent child on the basis of acts which would constitute the commission of, conspiracy, solicitation, or an attempt to commit:

Section

101 Criminal homicide (18 Pa. C.S. §2502, Murder; §2503, Voluntary Manslaughter; §2504, Involuntary Manslaughter).

102 Rape (18 Pa. C.S. §3121).

103 Robbery (18 Pa. C.S. §3701).

104 Aggravated assault (18 Pa. C.S. §2702).


106 Kidnapping (18 Pa. C.S. §2901).


108 Burglary involving a structure adapted for overnight accommodation (18 Pa. C.S. §3502).

109 Terroristic threats (18 Pa C.S. §2706).

110 Causing or risking catastrophe (18 Pa. C.S. §3302).

111 Riot (18 Pa. C.S. §5501).

112 Felonious intimidation of witnesses or victims (18 Pa. C.S. §4952).

Note: The offense is a felony of the third degree if:

1) The actor employs force, violence or deception, or threatens to employ force or violence, upon the witness or victim or, with the requisite intent or knowledge upon any other person.

2) The actor offers any pecuniary or other benefit to the witness or victim or, with the requisite intent or knowledge, to any other person.

3) The actor's conduct is in furtherance of a conspiracy to intimidate a witness or victim.

4) The actor solicits another to or accepts or agrees to accept any pecuniary or other benefit to intimidate a witness or victim.

5) The actor has suffered any prior conviction for any violation of this title or any predecessor law hereto, or has been convicted, under any Federal statute or statute of any other state, of an act which would be a violation of this title if committed in this State.

Otherwise the offense is a misdemeanor of the second degree.
113 Felonious retaliation against witness or victim (18 Pa. C.S. § 4935)

Note: The offense is a felony of the third degree if:

(1) The actor employs force, violence or intimidation, or threatens to employ force or violence, upon the witness or victim or, with the requisite intent or knowledge upon any other person.

(2) The actor offers any pecuniary or other benefit to the witness or victim or, with the requisite intent or knowledge, to any other person.

(3) The actor's conduct is in furtherance of a conspiracy to intimidate a witness or victim.

(4) The actor solicits another to or accepts or agrees to accept any pecuniary or other benefit to intimidate a witness or victim.

(5) The actor has suffered any prior conviction for any violation of this title or any predecessor law hereto, or has been convicted, under any Federal statute or statute of any other state, of an act which would be a violation of this title if committed in this State.

Otherwise the offense is a misdemeanor of the second degree.

Section

114 The child is alleged to be a delinquent child on the basis of an offense which involved the use or possession of a firearm or explosives.

Note: An allegation of delinquency made solely on the basis of possession of a firearm or explosives can be the basis for ordering or authorizing detention under this section.

115 The child is alleged to be a delinquent child on the basis of an offense which involved the use but not mere possession of a deadly weapon other than a firearm or explosives, or an offense (other than mere possession) during which the child had in his possession a deadly weapon as defined at 18 Pa. C.S. § 2301.

Note: The mere possession of a firearm or explosives can be the basis for authorizing detention under Section 114.

Pursuant to 18 Pa. C.S. § 2301:

Deadly weapon. Any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or serious bodily injury, or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated to produce death or serious bodily injury.

Serious Bodily Injury. Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

116 The child is alleged to be a delinquent child on the basis of an offense which classified as a felony and the child is currently on probation, being supervised under a Consent Decree, or is otherwise under the supervision of the Court following an adjudication of delinquency.

117 The child is alleged to be a delinquent child on the basis of an offense which classified as a felony and the child has been found to be a delinquent child within the preceding 18 months.

118 The child is alleged to have committed any delinquent act and the child is on probation or is otherwise under the supervision of a Court following an adjudication of delinquency, based on a felony.

119 The child is on probation or is otherwise under the supervision of a Court following an adjudication of delinquency, based on a felony, and the child is alleged to have twice violated technical conditions of such probation or other post-adjudication supervision.
2. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE AUTHORIZED ON THE BASIS OF A CHILD'S STATUS AS AN ABSCONDER OR FUGITIVE; ON THE BASIS OF A CHILD'S RECORD OF FAILING TO APPEAR AT PREVIOUS JUVENILE PROCEEDINGS; OR BECAUSE OF EXTRAORDINARY CIRCUMSTANCES WHICH REQUIRE SECURE DETENTION TO PREVENT A CHILD FROM ABSCONDING:

Section

201 The child is an absconder from an institution or other placement to which he/she was committed as a result of a previous adjudication of delinquency.

202 The child has willfully failed to appear at the hearing on the petition (adjudication hearing) or other hearing after having been served with a court order or summons to appear.

203 The child has a recent demonstrable record of willful failure to appear at previous juvenile proceedings.

204 The child has been verified to be a fugitive from another jurisdiction, an official from which has requested that said child be detained.

205 The child absconded from shelter care or other non-secure placement ordered or authorized pending a court hearing or placement.

206 The child presents extraordinary circumstances requiring secure detention to prevent him/her from absconding. (Such circumstances may include, but are not limited to, the child's age, character, mental condition, drug or alcohol addiction or substance abuse.)

3. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE AUTHORIZED ON THE WRITTEN REQUEST OF THE CHILD OR CHILD'S ATTORNEY:

Section

301 The child has voluntarily, and in writing, requested to be placed in secure detention for his/her protection.

Note: Immediate release must occur upon the request of the child or child's attorney.

302 The child's attorney has voluntarily and in writing requested that the child be placed in secure detention for the protection of the child.

Note: Immediate release must occur upon the request of the child or child's attorney.
4. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE ORDERED PENDING DISPOSITION, SUBSEQUENT TO A FINDING THAT A CHILD COMMITTED A DELINQUENT ACT OR IS A DELINQUENT CHILD:

Section

401 The child was found to have committed a delinquent act, or adjudicated delinquent, on the basis of an offense for which detention was or could have been authorized or ordered pursuant to Sections 101-119.

402 The child was initially detained, was eligible for detention, or based on more recent information, would now be eligible for detention under Sections 201-206.

403 The Court has determined that placement of the child at disposition is probable and continued detention is required because the child may abscond or be removed from the jurisdiction of the court prior to disposition based upon consideration of the following factors:

(a) the nature of the substantiated offense;
(b) the child’s employment and student status;
(c) the nature of the child’s family relationships;
(d) the child’s past and present residences;
(e) the child’s age, character, mental condition, previous juvenile record, and drug or alcohol addiction or substance abuse;
(f) if the child has previously been released pending a court proceeding, whether the child appeared as required;
(g) any other facts relevant to whether the child has strong ties with the community or is likely to flee the jurisdiction.

Note: The Juvenile Act at 42 Pa. C.S. § 6341 (b), provides that upon entering a finding on the record that a child has committed the acts by reason of which he is alleged to be delinquent the Court “shall then proceed immediately, or at a postponed hearing, which shall occur not later than 20 days after adjudication if the child is in detention, to hear evidence as to whether the child is in need of treatment, supervision or rehabilitation and to make and file its findings thereon.”

However, in cases where the disposition hearing is to be continued by the Court, the following shall apply:

A child whom the Court has found to have committed a delinquent act or to be a delinquent child may not be held in secure detention pending disposition for longer than 20 days from such adjudication or finding absent an additional court appearance at which such period of detention is extended for good cause shown. Any such detention shall be subject to review by the Court at a hearing every 10 days.
5. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE ORDERED FOLLOWING DISPOSITION PENDING TRANSFER TO PLACEMENT:

Section

501 The child was found to be a delinquent child on the basis of an offense for which secure detention would be permitted pursuant to Sections 101-119.

502 The child was initially detained, was eligible for detention, or based on more recent information, would now be eligible for detention pursuant to Sections 201-206.

503 The child is awaiting placement in a Youth Development Center Secure Unit or other secure residential treatment program.

504 The child is awaiting placement and the Court has determined that secure detention is required pending transfer to such placement based upon consideration of the following factors:

(a) the nature of the substantiated offense;
(b) the child's employment and student status;
(c) the nature of the child's family relationships;
(d) the child's past and present residences;
(e) the child's age, character, mental condition, previous juvenile record, and drug or alcohol addiction or substance abuse;
(f) if the child has previously been released pending a court proceeding, whether the child appeared as required;
(g) any other facts relevant to whether the child has strong ties to the community or is likely to flee the jurisdiction.

Note: A delinquent child may not be held in secure detention under this section beyond 20 days from the date of the Order of Commitment or Placement in the absence of an additional court appearance extending such period of detention for good cause shown.

Any further detention shall be subject to review by the Court every 10 days. (This review need not involve a court appearance.)
6. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE AUTHORIZED ON THE BASIS OF THE CHILD’S STATUS PENDING OR SUBSEQUENT TO A DISPOSITION REVIEW PROCEEDING:

Section

601 A Disposition Review Proceeding is pending or has been held and the child is in placement in or is awaiting transfer to a Youth Development Center Secure Unit or other secure residential treatment program.

602 A Disposition Review Proceeding is pending or has been held and the child was returned from placement for failure to adjust.

603 A Disposition Review Proceeding is pending or has been held and secure detention is required based upon consideration of the following factors:

   (a) the nature of the substantiated offense;
   (b) the child’s employment and student status;
   (c) the nature of the child’s family relationships;
   (d) the child’s past and present residences;
   (e) the child’s age, character, mental condition, previous juvenile record, and drug or alcohol addiction or substance abuse;
   (f) if the child has previously been released pending a court proceeding, whether the child appeared as required;
   (g) any other facts relevant to whether the child has strong ties to the community or is likely to flee the jurisdiction.

7. CIRCUMSTANCES UNDER WHICH SECURE DETENTION MAY BE AUTHORIZED ON THE BASIS OF EXTRAORDINARY AND EXCEPTIONAL CIRCUMSTANCES.

Section

701 The child is not otherwise eligible for secure detention pursuant to the preceding standards; however, the facts present extraordinary and exceptional circumstances which require the use of secure detention. (The statement of reasons which accompanies any detention under this Section must include an explanation of why an exception was warranted and why non-secure options were rejected.)

Note: Detention under this section may not be authorized routinely or because non-secure alternatives do not exist in adequate numbers, but only in the exceptional and extraordinary case.

Secure detention is not to be used when a child alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the child.
Notes

1. Neither youth had any prior adjudications, and both had relatives present in court at the initial detention hearing. [Like many states, Pennsylvania requires that a detention hearing be held within seventy-two hours of a juvenile being placed in detention (42 Pa.C.S. §6332).] The Juvenile Court later dismissed the charges against one plaintiff, who had been detained for seventeen days prior to the adjudicatory hearing. The second plaintiff was adjudicated delinquent on charges of receiving stolen property and unauthorized use of auto. He remained in detention until his disposition hearing two weeks later, at which time he was placed on probation. He spent thirty-four days in detention.

2. The spirit of the settlement may endure beyond 1996. In the spring of 1991, Pennsylvania's multi-agency Juvenile Justice Task Force recommended that the Coleman standards continue as permanent criteria for admission to secure detention.

3. Annual detention admission rates will be higher, as a rule, than detention rates gleaned from point-in-time studies, in which analysis is made of the number of detainees on a particular day. Some juveniles may have been admitted several times during the year being analyzed.

Bibliography


Legal Cases

42 Pa.C.S. §6332.
42 Pa.C.S. §6304.
Coleman consent decree, April 18, 1986.