

44159

Utah Council on Criminal Justice Administration's
Project on Criminal Justice
Standards and Goals

CORRECTIONS

JUVENILE DETENTION

44159

Approved by
Utah Corrections Task Force and
Utah Council on Criminal Justice Administration
255 South 3rd East
Salt Lake City, Utah 84111



GALVIN L. RAMPTON
GOVERNOR

STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY

NCJRS

DEC 13 1977

ACQUISITIONS

Dear Citizens:

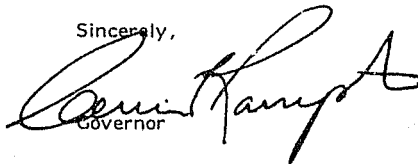
This pamphlet is one of a series of reports of the Utah Council on Criminal Justice Administration. The Council's five Task Forces: Police, Corrections, Judicial Systems, Community Crime Prevention, and Information Systems, were appointed on October 16, 1973 to formulate standards and goals for crime reduction and prevention at the state and local levels. Membership in the Task Forces was drawn from state and local government, industry, citizen groups, and the criminal justice profession.

The recommendations and standards contained in these reports are based largely on the work of the National Advisory Commission on Criminal Justice Standards and Goals established on October 20, 1971 by the Law Enforcement Assistance Administration. The Task Forces have sought to expand their work and build upon it to develop a unique methodology to reduce crime in Utah.

With the completion of the Council's work and the submission of its reports, it is hoped that the standards and recommendations will influence the shape of our state's criminal justice system for many years to come. Although these standards are not mandatory upon anyone, they are recommendations for reshaping the criminal justice system.

I would like to extend sincere gratitude to the Task Force members, staff, and advisors who contributed something unknown before--a comprehensive, inter-related, long-range set of operating standards and recommendations for all aspects of criminal justice in Utah.

Sincerely,


Governor

NCJRS

DEC 13 1977

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JUVENILE DETENTION

This report was published by the
Utah Council on Criminal Justice Administration with the
aid of Law Enforcement Assistance Administration funds.

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What is the Utah Council on Criminal Justice Administration (UCCJA)?

In 1968 the Omnibus Crime Control and Safe Streets Act was passed resulting in the creation of the Law Enforcement Assistance Administration (LEAA) in the U.S. Department of Justice. The act required the establishment of a planning mechanism for block grants for the reduction of crime and delinquency.

This precipitated the establishment of the Utah Law Enforcement Planning Council (ULEPC). The council was created by Executive Order of Governor Calvin Rampton in 1968. On October 1, 1975, the council was expanded in size and redesignated the Utah Council on Criminal Justice Administration (UCCJA).

The principle behind the council is based on the premise that comprehensive planning, focused on state and local evaluation of law-enforcement and criminal-justice problems, can result in preventing and controlling crime, increasing public safety, and effectively using federal and local funds.

The 27-member council directs the planning and funding activities of the LEAA program in Utah. Members are appointed by the governor to represent all interests and geographical areas of the state. The four major duties of the council are:

1. To develop a comprehensive, long-range plan for strengthening and improving law enforcement and the administration of justice . . .
2. To coordinate programs and projects for state and local governments for improvement in law enforcement.
3. To apply for and accept grants from the Law Enforcement Assistance Administration . . . and other government or private agencies, and to approve expenditure . . . of such funds . . . consistent with . . . the statewide comprehensive plan.
4. To establish goals and standards for Utah's criminal-justice system, and to relate these standards to a timetable for implementation.

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INTRODUCTION

Detention is the temporary care of children in physically restricted facilities pending court disposition or transfer to another jurisdiction or agency. It is designed only for those children who need secure custody for their own or the community's protection, cannot safely be left in the custody of their parents or guardians, or are under shelter care pending court disposition. Detention should not be used to detain children merely as a means of imposing restricted activities, for guidance, or for observation.¹

The standards in this pamphlet address detention care from two viewpoints. The first two standards are designed to keep children out of detention where it is an inappropriate alternative. The remaining two standards address the facility and staff of a detention center.

Following each standard, as adopted for Utah, is a brief description of the current practice and a suggested method to implement the standard.

STANDARD 4.1 ROLE OF POLICE IN INTAKE DETENTION

The Juvenile Court should immediately take the leadership in working out with local police agencies policies and procedures governing the discretionary diversion authority of police officers and separating police officers from the detention decision in dealing with juveniles.

1. Police agencies should establish written policies and guidelines to support police discretionary authority, at the point of first contact, as well as at the police station, to divert juveniles to alternative community-based programs and human resource agencies outside the juvenile justice system, when the safety of the community is not jeopardized. Disposition may include:

- a. Release on the basis of unfounded charges.
- b. Referral to parents (warning and release).
- c. Referral to social agencies.
- d. Referral to juvenile court intake services.

¹Minimum Standards of Care for the Detention of Children, revised October 1, 1972, State of Utah, Division of Family Services, p. 1.

2. Police should not have discretionary authority to make detention decisions. This responsibility rests with the court, which should assume control over admissions on a 24-hour basis.

When police have taken custody of a minor, and prior to disposition under paragraph 2 above, the following guidelines should be observed:

1. Under the provisions of Gault and Miranda, police should first warn juveniles of their right to counsel and the right to remain silent while under custodial questioning.

2. The second act after apprehending a minor should be the notification of his parents.

3. Without consent of the judge, no fingerprints shall be taken of any child taken into custody, unless the case is transferred for criminal proceedings.

4. Juvenile records should be maintained physically separate from adult case records.

UTAH STATUS AND COMMENTS

The utilization of police discretionary diversion authority is determined by existing police agency administrative policy and procedures, except for decisions directly involving detention of children. "The child shall then be released . . . unless his immediate welfare or the protection of the community requires that he be detained." (UCA 55-10-90). The provision of UCA 55-10-91 states that following a child's being brought to a detention facility, the judge may order that the child be held or placed in an appropriate facility if it is determined unsafe to release the child. Some city police agencies have taken the initiative to work out diversionary counseling programs or procedures for referring to agencies other than the juvenile court.

Referring to guidelines governing police procedures when a minor has been taken into custody, Utah Code and Supreme Court decisions are quite explicit. Under Rule 33 of the Juvenile Court Rules and Procedures (UJCR), a child " . . . may remain silent as a

right through any or all questions posed during such proceedings or interrogations that might tend to incriminate him and shall be so advised." Under UCA 55-10-96, "Parents, guardians, the child's custodian, and the child, if old enough, shall be informed that they have the right to be represented by counsel at every stage of the proceedings." These same rights are also protected under provisions of the Gault and Miranda decisions of the United States Supreme Court.

With regard to extra-judicial statements, under Utah law a statement obtained from a juvenile under 14 years of age without the presence of his parents, guardian, or attorney is not admissible since it is presumed that the child cannot intelligently waive or understand his rights. However, exceptions are made if evidence maintains the ability of the juvenile to comprehend and waive his rights.

UCA 55-10-116 stipulates that fingerprints of the juvenile cannot be taken without the judge's consent, unless the case is transferred for criminal proceedings. In their General Orders, the judges of the Utah State Juvenile Court ordered that fingerprints of persons under the age of 18 may be lawfully taken if the person has committed a felony, petit larceny, deprived a motor vehicle owner of possession, committed sexual exhibition, or has run away from home without consent. These orders are presently undergoing revision, which seem to be more in line with the proposed standard.

No provision for separate maintenance of juvenile records exists in the statutes. Most police agencies keep juvenile and adult records together.

METHOD OF IMPLEMENTATION

Through the revision of administrative policy and interagency coordination in the form of a joint resolution to meet the goals of the standard. Reference to the Beaser Report in the implementation of this standard should be adhered to.

The availability of a youth service bureau and other Division of Social Services programs should be considered in resolution. Copies of the standard should also be available to the Utah League of Cities and Towns for distribution to local administrations.

STANDARD 4.2 JUVENILE INTAKE SERVICES

The Juvenile Court should immediately take action, including the pursuit of enabling legislation where necessary, to establish within the court organized intake services, operating as a part of or in conjunction with the detention center. Intake services should be geared to the provision of screening and referral intended to divert as many youngsters as possible from the juvenile justice system, and to reduce the detention of youngsters to an absolute minimum.

1. Intake personnel, officers of the court, should have authority and responsibility to:

- a. Dismiss the complaint when the matter does not fall within the delinquency jurisdiction of the court or is so minor or the circumstances such that no intervention is required.
- b. Dismiss complaints which seem arbitrary, vindictive, or against the best interests of the child.
- c. Divert as many youngsters as possible to another appropriate section of the court or to alternative programs, such as mental health and family services, public welfare agencies, youth service bureaus, and similar public and private agencies.

2. Intake personnel should seek informal service dispositions for as many cases as possible, provided the safety of the child and of the community is not endangered. Informal service denotes any provision for continuing efforts on the part of the court at disposition without the filing of a petition, including:

- a. Informal adjustments;
- b. Consent decrees.

3. Informal service dispositions should have the following characteristics:

- a. The juvenile and his parents should be advised of their right to counsel.

- b. Participation by all concerned should be voluntary.
- c. The major facts of the case should be undisputed.
- d. Participants should be advised of their right to formal adjudication.
- e. A reasonable time limit (one or two months) should be adhered to between date of complaint and date of agreement.
- f. Restraints placed on the freedom of juveniles in connection with informal dispositions should be minimal.
- g. When the juvenile and his parents agree to informal proceedings, they should be informed that they can terminate such dispositions at any time and request formal adjudication.

4. A consent decree denotes a more formalized order for casework supervision and is neither a formal determination of jurisdictional fact, nor a formal disposition. A consent decree should:

- a. Have the same characteristics as an informal disposition, as described in paragraph 3 above.
- b. If the child doesn't comply with the decree, further proceedings should be based on the events out of which the proceedings arose.
- c. Not result in removal of the child from his family.
- d. Not be enforced more than three to six months.
- e. State that it does not constitute a formal adjudication.
- f. Be a formal written document stating the reasons for the decree, the factual information on which it is based, and the responsibilities of each party to the decree (i.e., parents, child, Juvenile Court, etc.).

5. Cases requiring judicial action should be referred to the court.

- a. Court action is indicated when:
 - (1) Either the juvenile or his parents request a formal hearing.
 - (2) There are substantial discrepancies about the allegations or denial of a serious offense.
 - (3) Protection of the community is an issue.
 - (4) Needs of the juvenile or the gravity of the offense makes court attention appropriate.
 - (5) After all diversionary and non-judicial adjustment efforts have failed to correct the behavior of a child that would not bring him/her to the attention of the court if he/she were an adult.
- b. In all other instances, court action shall not be indicated, and the child should be diverted from the court process.

6. Under the supervision of the court, review and monitoring procedures should evaluate the effectiveness of intake services in accomplishing the diversion of children from the juvenile justice system and reducing the use of detention, as well as appropriateness and results of informal adjustments.

7. Pre-detention screening of children and youths referred to court action should place into their parental home, a shelter, or non-secure residential care as many youngsters as may be consistent with their needs and the safety of the community. Detention prior to adjudication of delinquency should be based on these criteria.

- a. Detention should be considered a last resort where no other reasonable alternative is available.
- b. Detention should be used only where the juvenile has no parent, guardian, custodian, or other person able to provide supervision and care for him and able to assure his presence at subsequent judicial hearings.
- c. Detention decisions should be made only by court or intake personnel, not by police officers.

- d. **Prior to first judicial hearings, the juvenile ordinarily should not be detained longer than overnight.**
- e. **Juveniles should not be detained in jails, lock-ups, or other facilities used for adults.**

UTAH STATUS AND COMMENTS

Utah does not need any additional enabling legislation to establish an intake service. UCA 55-10-83 authorizes such a service, although not specifically the way the standard suggests. There is a separate intake division in the larger districts.

1. **Authority and Responsibility**

Intake personnel in Utah have the authority outlined in paragraphs 1a, b, and c.

When a child is brought to a detention facility, a report is to be promptly filed with an officer of the court. The officer investigates the matter and releases the child unless he has reasonable cause to believe that it is unsafe to release the child. The child may be held if he has an extensive delinquency pattern, may be involved in further delinquency within the near future, or requires detention for his own protection. He may also be held if his parents are unavailable or unwilling to accept responsibility for supervising, controlling, or bringing him to court. (Rule 9, UJCR, 1970)

At this point in the intake process, procedures are, for the most part, administratively determined. Although some latitude is given to intake officers, there is no specific statutory base or uniform administrative policy to either involve juveniles informally (without judicial action) or divert them from the system.

2. **Types of Informal Service Dispositions**

It is generally accepted by the court that petitions should be avoided and informal disposition rendered if at all possible, as suggested by the standard. (See guidelines published by the Board of Juvenile Court Judges, Setpember, 1971.)

There is a method to provide informal adjustments, which is discussed below. Informal probation and consent decrees as described in the standard are not available.

Once a complaint has been received, the alternatives for informal closure include such other options as using a form letter, closing for insufficient evidence or deletion—which means there are insufficient grounds for the initiation of a referral.

3. Informal Adjustment

UCA 55-10-83 provides that through its probation department, non-judicial adjustments may be made as long as it is practicable without a petition, provided the facts are admitted and consent of the parents and the child is obtained.

The probation officer may also schedule subsequent interviews in an attempt to adjust the matter without filing a petition. (Rule 3, UJCR, 1970)

The law specifies a 60-day limit, unless extended by a judge for an additional sixty days; thus, no informal or non-judicial action should extend beyond 120 days.

The court also operates a pre-probation program, which is a catch-all for informal dispositions. Cases may come to this program voluntarily after formal disposition or following a non-judicial action. The program is staffed by volunteers and students and focuses on big brother relationships as well as providing an opportunity to work off fines and restitution.

4. Consent Decree

Neither Utah law nor administrative procedure provides for the use of consent decrees as explained in the standard.

5. Cases Requiring Judicial Action

Utah generally follows this part of the standard. However, Utah brings children to the attention of the court for actions which would not bring them before the law if they were adults. UCA 55-10-77 specifies the jurisdiction of the Juvenile Court and those acts for which a child may be brought before the court. These acts include a neglected or dependent child, an uncontrollable child, or a habitual truant from school.

6. Predetention Screening

Minimum Standards of Care for the Detention of Children (1972) provides that detention should only be used for children

who have allegedly committed delinquent acts and for whom secure custody is required for their own or the community's protection. UCA 55-10-91 indicates that no child shall be held longer than 48 hours, excluding Sundays and holidays, unless ordered by the court.

Concerning the jailing of juveniles, UCA 55-10-49 stipulates that children under the age of 16 cannot be confined in jails, lockups, or police cells. UCA 55-10-91 further provides that a child 16 or older may, by order of the court, be detained in another place of confinement, including a jail. UCA 55-10-92 instructs that officials in charge of jails or adult facilities must immediately notify the juvenile court when a child who appears to be under the age of 18 is received at the facility, and make arrangements for his transfer to a juvenile facility. However, a Utah Supreme Court decision makes it possible for a child 16 years or older to be held in jail if he has committed a traffic violation and is to be tried in city court. (*Minimum Standards.*)

WHERE UTAH DIFFERS

Utah statutes and administrative policy generally follow this standard with the exception of:

1. Intake personnel have the authority to dismiss complaints as suggested in the standard, pursue a non-judicial adjustment, or pursue a formal petition and hearing. These alternatives are less comprehensive than those suggested in the standard.

2. There is no provision in Utah law for a consent decree.

3. Utah law specifies a 60-day time limit on non-judicial adjustments unless extended by a judge for an additional 60 days, which is more specific than the standard.

4. The jailing of juveniles is legal under some circumstances. Utah laws need updating and clarification to abolish this practice.

5. Utah law gives the Juvenile Court jurisdiction over children who have done things that would not be a crime if committed by an adult.

METHOD OF IMPLEMENTATION

Administrative policy alterations could bring most aspects of this standard into practice. Legislative changes will be needed to provide for the consent decree and to eliminate all jailing of juveniles. Additional study should be given to:

1. The placement of juvenile traffic violations:
 - a. Under the Juvenile Court.
 - b. Under the proposed Family Court concept.
2. The effects of youth service bureaus on the intake processes and the intentions of this standard.
3. The use of hearing officers for making consent decrees.
4. The authority of intake officers in the dismissal of complaints rather than just non-judicial closure which gives the child a court record and essentially enters him into the judicial process.
5. Additional and more specific use of informal adjustments.
6. More uniformity among juvenile court districts in intake philosophy and the use of informal adjustments.

STANDARD 4.3 JUVENILE DETENTION CENTER PLAN

When total system planning conducted as outlined in Standard 8.1, "Total System Planning," indicated need for renovation of existing detention facilities to accommodate an expanded function involving intake services or shows need for construction of a new juvenile detention facility, each jurisdiction should take the following principles into consideration in planning the indicated renovations or new construction.

1. The detention facility should be located in a residential area in the community and near court and community resources.
2. Population of detention centers should not exceed thirty residents. When population requirements significantly exceed this number, development of separate components under the network system concept outlined in the standard should be pursued.

3. Living area capacities within the center should not exceed 10 or 12 youngsters each. Only individual occupancy should be provided, with single rooms and programming regarded as essential. Individual rooms should be pleasant, adequately furnished, and homelike rather than punitive and hostile in atmosphere.

4. Security should not be viewed as an indispensable quality of the physical environment, but should be based on a combination of staffing patterns, technological devices, and physical design.

5. Existing residential facilities within the community should be used in preference to new construction.

6. Facility programming should be based on investigation of community resources, with the contemplation of full use of these resources, prior to determination of the facility's in-house program requirements.

7. New construction and renovation of existing facilities should be based on consideration of the functional interrelationships between program activities and program participants.

8. Detention facilities should be coeducational and should have access to a full range of supportive programs, including education, library, recreation, arts and crafts, music, drama, writing, and entertainment. Outdoor recreational areas are essential.

9. Citizen advisory boards should be established to pursue development of in-house and community-based programs and alternatives to detention.

10. Planning should comply with pertinent state and federal regulations and the Environmental Policy Act of 1969.

UTAH STATUS AND COMMENTS

Although not directly provided in the statutes or standards, all existing detention centers and hold-over facilities are located either in residential areas or with immediate access to these areas as intended by the standard. Court resources are also readily available.

With regard to detention center capacity, no specifications are established in existing statutes or standards. Present facility capacities are constructed to hold up to 40 residents with frequent overflow of that number, especially in Salt Lake County. Living area capacities seem to be in reasonable limits of the standard. Utah minimum standards provide for individual room occupancy with two-occupancy under special circumstances. (Utah Minimum Standards, 1972, p. 17.)

Security is only one of many requirements to be considered for building specifications.

A wide range of facility programming, including diagnostic, educational, recreational, work, volunteer, and religious programs are established in the Utah Minimum Standards. Indoor and outdoor recreational facilities are also available in detention centers. Utah detention facilities are coeducational, with generally separate programming. Some special activities are planned for coeducational participation. UCA 55-10-49.1 provides for a citizen's advisory board for detention facilities in each county. Minimum standards also specify for new construction or capital improvements to follow state and local health department and fire marshal regulations.

METHOD OF IMPLEMENTATION

All aspects of the standard could be emphasized and implemented through administrative policy. Significant areas for consideration of changes include individualizing detention rooms to provide a more homelike atmosphere. Encouragement of more coeducational programming and activity also needs to be stressed.

STANDARD 4.4 JUVENILE INTAKE AND DETENTION PERSONNEL PLANNING

Each jurisdiction should immediately reexamine its personnel policies and procedures for juvenile intake and detention personnel and make such adjustments as may be indicated to insure that they are compatible with and contribute toward the goal of reintegrating juvenile offenders into the community without unnecessary involvement with the juvenile justice system.

Personnel policies and procedures should reflect the following considerations:

1. While intake services and detention may have separate directors, they should be under a single administrative head to insure coordination and pursuit of common goals.

2. There should be no discriminatory employment practice on the basis of race or sex.

3. All personnel should be removed from political influence and promoted on the basis of merit.

4. Job functions and spheres of competency and authority should be clearly outlined and job specifications and pay schedules set accordingly, with stress of teamwork.

5. Staffing patterns should provide for the use of professional personnel, administrative staff, indigenous community workers, and counselors.

6. Particular care should be taken in the selection of line personnel, whose primary function is the delivery of programs and services. Personnel should be selected on the basis of their capacity to relate to youth and to other agencies and their willingness to cooperate with them.

7. The employment of rehabilitated ex-offenders, new careerists, para professionals, and volunteers should be encouraged in appropriate positions.

8. Staff development and training programs should be regularly scheduled.

9. The standards set forth in Chapter 3, "Manpower Development and Training," should be observed.

UTAH STATUS AND COMMENTS

UCA 55-10-49.3 instructs the State Division of Family Services to aid counties in the establishment and administration of detention centers. Therefore, the administration of detention facilities is maintained on a county basis. Juvenile Court personnel, which includes intake staff, are appointed with the approval of the Board of Judges. These positions are administered through the State Merit System.

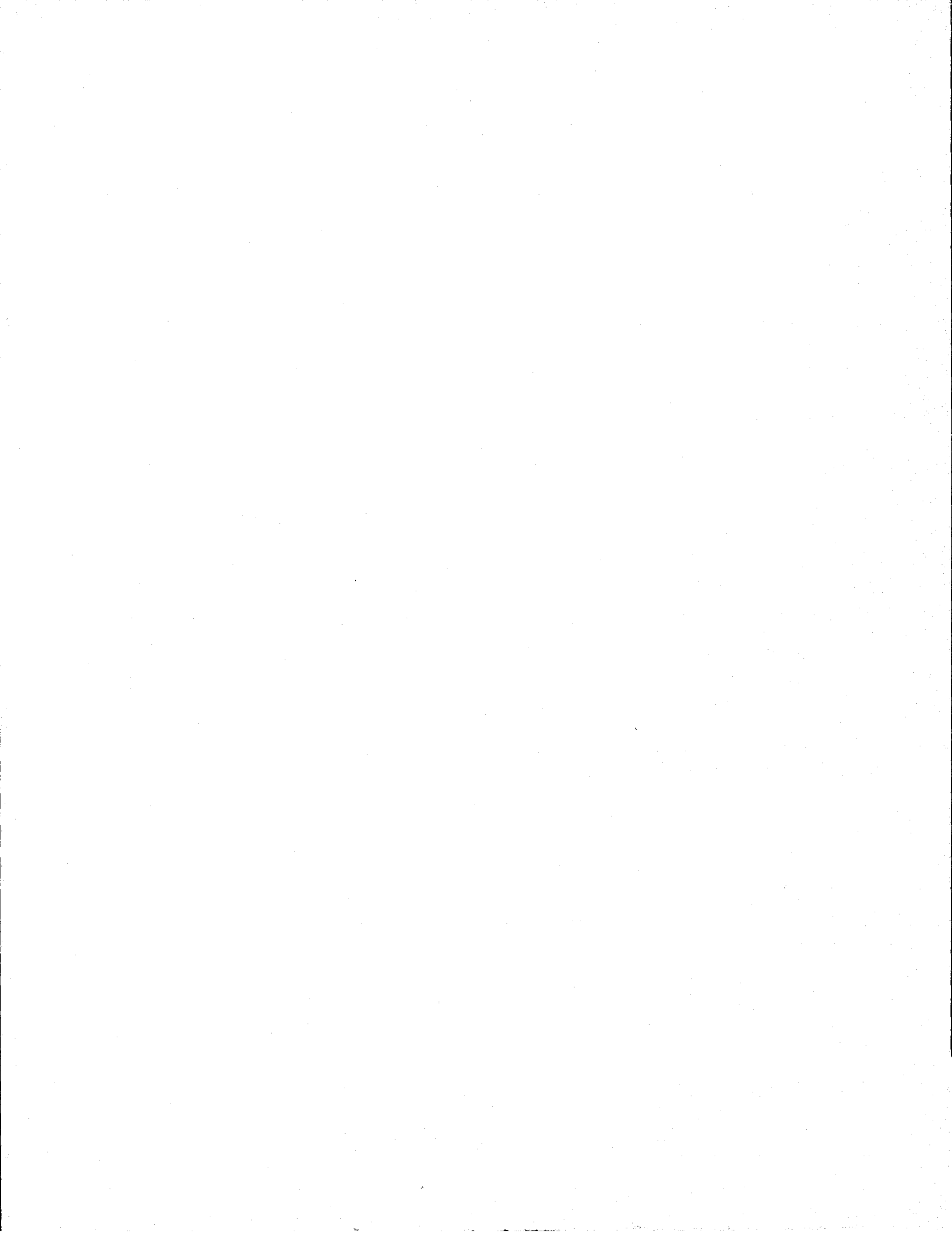
Both detention and intake positions are governed by either the state or county merit system, except in rural counties where staff size and population do not warrant such a system. The existing merit system procedures adequately control salary considerations, job specifications, and assure appropriate qualifications. Staffing patterns are handled administratively with positions being defined by law on the court level (UCA 55-10-73). Personnel in both agencies are hired from merit system registers.

Utah minimum standards provide for in-service training for all detention personnel. The responsibility for staff development and training of future personnel is established in the General Orders (No. 17) of the Juvenile Court Board of Judges.

METHOD OF IMPLEMENTATION

All aspects of this standard as recommended can be implemented through administrative policy and procedure.

If unification of intake and detention is considered, it would require major legislative action.



END