

<b>GEORGIA DEPARTMENT OF JUVENILE JUSTICE</b>	Transmittal # 17-11	Policy # 15.3
Applicability: {x} All DJJ Staff {x} Administration {x} Community Services {x} Secure Facilities (RYDCs and YDCs)	Related Standards & References: ACA STANDARDS: 4-JCF-3A-01, 4-JCF-3A-11, 3-JDF-3D-01, 02, 3-JDF-5G-04 O.C.G.A. §§ 15-11-415, 15-11-507 DJJ 5.2, 5.5, 8.22, 14.2	
Chapter 15: RIGHTS OF YOUTH	Effective Date: 11/15/17	
Subject: YOUTH ACCESS TO COURTS AND COUNSEL	Scheduled Review Date: 11/15/18	
Attachments:	Replaces: 5/20/14	
A – Notice of Right to Bail	Division of Operations & Compliance	
	APPROVED: 	
	_____ Avery D. Niles, Commissioner	

## I. POLICY:

Youth in Department of Juvenile Justice (DJJ) facilities/programs shall have the right to uncensored, confidential contact with their legal representative by telephone, in writing, or in person. Youth in DJJ facilities/programs shall not be denied access to the courts. Youth shall be assured that seeking judicial relief will not be met with reprisal or penalty from any agent of the Department. These rights shall not be diminished or denied for disciplinary reasons.

## II. DEFINITIONS:

**Emergency:** There is a substantial risk of imminent danger of death or serious bodily injury to any person and the facility cannot reasonably complete the notice process in time to address that situation.

**Law Enforcement Officer:** A person who works for a law enforcement agency, such as a police department or sheriff's office. This includes a police officer, deputy sheriff, a police or sheriff's detective, or a police or sheriff's investigator, District Attorney's investigator, U.S. Marshal, FBI agent, or Immigration and Customs Enforcement (ICE) agent.

**Legal Representative:** A court-appointed or retained attorney or a paralegal, investigator, or other representative from the attorney's office who is acting on behalf of the youth.

## III. PROCEDURES:

### A. Youth Access to Court:

1. Youth placed in DJJ facilities/programs shall have reasonable access to the court. Any request by the youth for a court review or scheduling of a hearing will be made through the youth's legal representative or an agent of the court.
2. Staff may inform youth of the legal resources available to them, but at no time may staff engage in conversation that may be construed as offering legal advice.

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3. A youth desiring to secure the services of an attorney will be permitted to select one. No employee will recommend any specific attorney.

**B. Youth Access to Legal Representative:**

1. Youth placed in Department facilities/programs will have reasonable access to their legal representative. Youth's legal representative will be documented in the Juvenile Tracking System (JTS) demographics contacts by the Community Case Manager or Case Expeditor. Efforts to obtain the legal representative's information will be documented in JTS case notes. Any legal representative not an attorney must provide valid identification and proof or other court documents to show that he or she works with the youth's attorney.
2. A youth's attorney will have the right to meet with the youth at any reasonable time. Except in unusual circumstances, the attorney requesting the meeting should be encouraged to conduct the meeting when most convenient to the youth. All attorneys must present their Bar card in addition to any other required identification at the time of the visit. (See DJJ 8.22, Searches and Contraband Control.)
3. All appointments must be made through the facility Director or designee who will ensure the presence of the youth at the scheduled appointment.
4. The facility Director will request court documents to verify that the attorney represents the youth.
5. Legal services rendered to a youth by an attorney will be at no expense to the Department.
6. Youth records will be released in accordance with DJJ 5.2, Case Records, and DJJ 5.5, Health Records.

**C. Law enforcement officers and District Attorney's investigators may interview youth in the custody of DJJ suspected of being victims of sexual exploitation without permission from the parent/guardian or attorney.**

1. The law enforcement officer or DA's investigator requesting to interview youth suspected of sexual exploitation must complete and sign the Interview Notice Form (see below) prior to interviewing the youth.
2. The youth must read or have read to him/her Interview Notice Form (Attachment D, DJJ 14.2, Child Sexual Exploitation Referrals) and sign the form granting permission to be interviewed. If the youth refuses to sign the form or does not understand his/her rights, the youth will not be interviewed.

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3. If the youth agrees to the interview, he/she may terminate the interview at any time.
  4. DJJ staff will not order the youth to participate in the interview and will not discipline the youth for exercising the right to refuse to participate.
  5. The completed Interview Notice Form will be scanned into the Juvenile Tracking System Correspondence Module.
- D. If a law enforcement officer wants access to meet with a youth, the officer must make a request in writing to the facility Director and must contain a statement as to the purpose of the access.
  - E. Before the Director grants access to the youth, the Director must make reasonable attempts to notify the youth's parent(s)/legal guardian(s) AND the youth's attorney of the request, except as provided in Section C. Once contacted, the Director must provide notice of the written request and offer to provide a copy of the request to the parent(s)/legal guardian(s) and the attorney.
  - F. If the Director's attempts to notify the parent(s)/legal guardian(s) and attorney are unsuccessful, the Office of Legal Services must be consulted for further instructions.
  - G. If the parent(s)/legal guardian(s) and/or attorney object to the request, the Director will notify the law enforcement officer that the request is denied and inform Legal Services of the denial. A copy of the request, the contact information for all parties, and all supporting documentation must accompany the notification sent to Legal Services.
  - H. The Director must document all contacts or attempted contacts with the youth's parent(s)/legal guardian(s) and attorney; such documentation must be attached to the request for access. If the attorney indicates he/she does not represent the youth in this matter, the Director must specifically document the attorney's statement.
  - I. If access to the youth is allowed, the Director will provide an appropriate meeting place and provide such security as the Director deems appropriate.
  - J. DJJ shall provide the law enforcement officer access only. DJJ staff will not compel the youth to talk with the law enforcement officer or discipline the youth if he/she declines to talk with the officer.
  - K. Emergencies:
    1. In case of an emergency, DJJ may provide a law enforcement officer access to a youth before completing the notice process.
    2. In order to qualify as an emergency, the law enforcement officer's written request must contain specific facts showing the nature of the emergency. The

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Office of Legal Services is available to assist in ascertaining whether the request can be classified as an emergency.

3. If the Director provides pre-notice access to the youth, he/she must still go through the notice process, even if it is after the fact. If the notice occurs after the fact, then, in addition to the regular notice requirements, the Director must also report to the parent(s)/legal guardian(s) and attorney that the contact has taken place.
- L. If the only purpose for accessing the youth is to serve legal papers on the youth or to deliver paperwork to the youth, this policy will not apply.
- M. Communication by Phone with Legal Representative:
1. Youth will be allowed ongoing contact with their legal representative(s) by phone.
  2. A youth may make a phone call to his/her legal representative during the admission process.
  3. Staff will place a call to a youth's legal representative, upon the youth's request. Staff will verify the identity of the person as the youth's legal representative.
  4. If the legal representative is not available, a message should be left for the legal representative to return the call to the youth's Juvenile Detention Counselor (JDC). The JDC will make reasonable efforts to verify the identity of the legal representative and then allow for the youth to speak with the legal representative.
  5. Phone calls to legal representatives may be limited to one per day, but will not be limited by length of time. If a youth indicates that important information must be brought to the prompt attention of his/her legal representative, a call will be placed.
  6. All telephone communications with legal representatives will be unmonitored and confidential. Staff will not require that the youth or his/her legal representative to disclose the nature of the communications.
- N. Written Communication with Legal Representative:
1. A youth's written or dictated message to his/her legal representative will be undisturbed and will be mailed or transmitted by staff without unnecessary delay.
  2. Outgoing written communications between a youth and his/her legal representative will be confidential and uncensored. Incoming correspondence may be opened in front of the youth, but not read.

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3. Dictated messages will not be censored, modified or changed once the message has been completed and is ready for transmission.

O. The Notice of Right to Bail (Attachment A) will be posted prominently in a public access area of all DJJ operated facilities and Community Services Offices.

**IV. LOCAL OPERATING PROCEDURES REQUIRED: YES**