

**GUIDELINES FOR DETERMINING THE LENGTH OF STAY (LOS)  
OF JUVENILES INDETERMINATELY COMMITTED TO  
THE DEPARTMENT OF JUVENILE JUSTICE (DJJ)**

**Effective October 15, 2015**

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## **1.0 PURPOSE**

*“Guidelines for Determining the Length of Stay (LOS) of Juveniles Indeterminately Committed to the Department of Juvenile Justice (DJJ)”* (LOS Guidelines) provide direction for determining the projected LOS for juveniles committed to DJJ for an indeterminate period of time.

These LOS Guidelines seek to promote accountability and rehabilitation by using data-driven decision making to support juveniles’ successful re-entry from commitment to the community. The LOS Guidelines provide consistency across determinations while allowing reasonable flexibility in accommodating case differences and treatment needs, as applicable and appropriate.

## **2.0 SCOPE**

The LOS Guidelines apply to all juveniles who are committed to DJJ for an indeterminate period of time pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-272 (excluding subdivision A 2) of the *Code of Virginia*.

The LOS Guidelines do not apply to juveniles determinately committed to DJJ as a serious offender under § 16.1-285.1 or subdivision A 2 of § 16.1-272 of the *Code of Virginia*.

The LOS Guidelines shall neither restrict nor limit the authority of the DJJ Director or designee to release juveniles under §§ 16.1-285 and 66-3 of the *Code of Virginia* or other applicable statutes and regulations.

## **3.0 AUTHORITY**

Section 66-10 of the *Code of Virginia* requires the Board of Juvenile Justice to “establish length-of-stay guidelines for juveniles indeterminately committed to the Department and to make such guidelines available for public comment.”

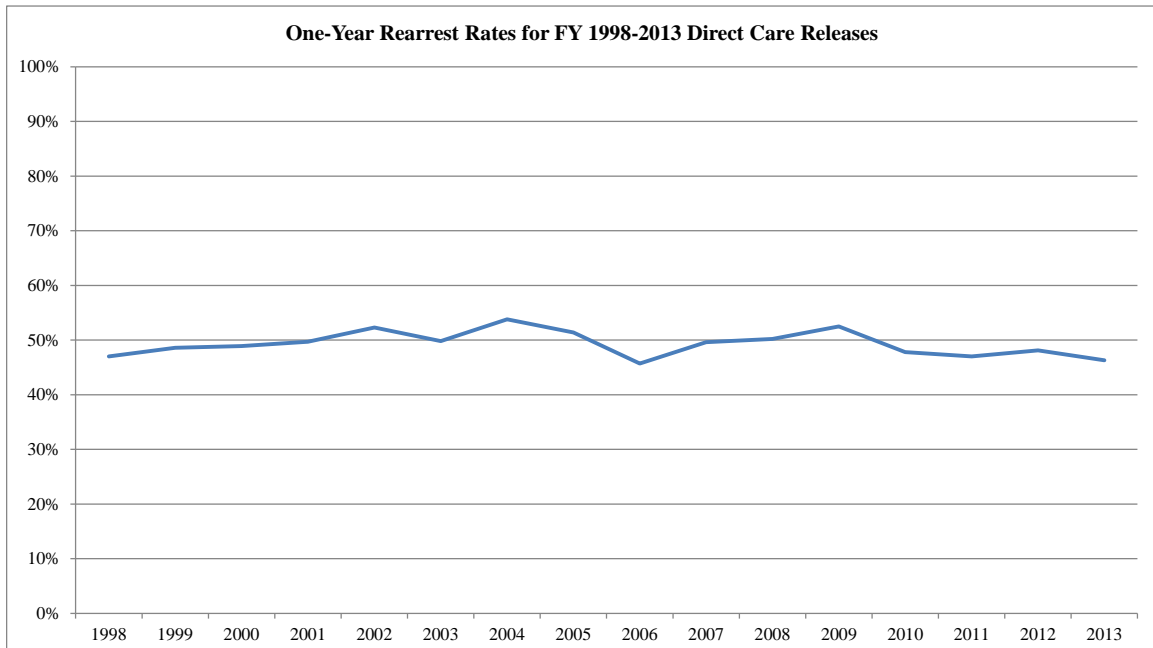
## 4.0 RATIONALE

Current policy regarding assigned LOS for indeterminately committed juveniles, which has been in place since 1998 and was slightly modified in 2008. The general structure of the guidelines has not been substantively reviewed or substantially modified since 1998 and is in need of revision based on three key findings:

### 4.1 *DJJ Direct Care Recidivism Rates*

One-year rearrest rates for juveniles released from direct care between fiscal years (FYs) 2011 and 2013 ranged from 46.3% to 48.1%. Three-year rearrest rates for juveniles released from direct care between FYs 2009 and 2011 ranged from 74.7% to 78.4%. Furthermore, one-year rearrest rates remained relatively stable between FYs 1998 and 2013. At the one-year follow-up period, rearrest rates ranged from a low of 45.7% in FY 2006 to a high of 53.8% in FY 2004. These high rates and lack of improvement over the FYs examined indicate that current policies and practices are not effective in preparing juveniles to be successful citizens in the community.

The chart below details the one-year rearrest rates for direct care releases between FYs 1998 and 2013:



## **4.2 National Standards**

The average actual LOS of juveniles admitted to DJJ is much higher when compared to national averages and comparable states. The average actual LOS for juveniles released from DJJ between FYs 2013 and 2014 was 18.2 months (15.6 months for indeterminate commitments and 29.8 months for determinate commitments). By comparison, using data from the 2011 Census of Juveniles in Residential Placement, the estimated national average LOS is 8.4 months, which is less than half of DJJ's actual average LOS. (This figure is based on the average number of reported days in custody on the census date for juveniles with a legal status of "committed" and placed in a long-term secure facility; it does not represent their final LOS.)<sup>1</sup> Additionally, the average LOS for juveniles from six comparable states (i.e., Indiana, Missouri, Massachusetts, Maryland, Colorado, and Oregon) was 9.1 months between 2011 and 2013.<sup>2</sup>

## **4.3 Best Practices and the Impact of LOS**

Juveniles in direct care in Virginia also stay much longer than what research suggests is the best practice. In general, research has found that juvenile incarceration fails to reduce recidivism and can, in certain instances, be counterproductive. If youth are placed out of home, evidence does not support longer LOSs. Several studies examining different populations and using various methodologies have found no consistent relationship between the length of out-of-home placements and recidivism.

In a meta-analysis of recent studies on juvenile incarceration, Lambie and Randell (2013)<sup>3</sup> found that incarceration in a secure residential setting had little to no benefits in the juvenile justice system. Incarceration negatively affected mental health and increased reoffending, and it was more expensive and less effective than community-based alternatives. Although this meta-analysis did not address the length of a secure residential stay, it found that incarceration, in general, was unwise for juvenile delinquents. Another meta-analysis combining the results of juvenile and adult studies and found that longer sentences were associated with a small increase in recidivism.<sup>4</sup>

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<sup>1</sup> Office of Juvenile Justice and Delinquency Prevention. (2012). *Census of juveniles in residential placement for 2011*. Washington, DC: U.S. Census Bureau.

<sup>2</sup> Data originally obtained by Chinn Planning on behalf of DJJ and updated where possible by Annie E. Casey Foundation. Reported averages for each state were weighted according to the number of admissions in each state. Averages were based on completed stays in placement.

<sup>3</sup> Lambie, I., & Randell, I. (2013). The impact of incarceration on juvenile offenders. *Clinical Psychology Review, 33*, 448-459.

<sup>4</sup> Smith, P., Goggin, C., & Gendreau, P. (2002). *The effects of prison sentences and intermediate sanctions on recidivism: General Effects and Individual Differences*. Ottawa: Solicitor General Canada.

Loughran and colleagues (2009)<sup>5</sup> studied the juveniles' institutional LOSs by examining four-year rearrest and self-report data of serious juvenile offenders, controlling for over 60 other variables that may have influenced risk. They concluded that for institutional stays lasting between 3 and 13 months, longer periods of confinement did not reduce recidivism.

A study in Florida found no consistent relationship between juvenile LOSs and recidivism, but longer stays were associated with some positive effects for males and for youth released from facilities for high-risk offenders.<sup>6</sup> An Ohio study found that, after controlling for juveniles' demographics and risk levels, those placed in state facilities for longer periods had higher rates of re-incarceration than those held for shorter periods.<sup>7</sup>

Research in the area of treatment duration is limited but suggests that the intensity and length of treatment should be consistent with the offender's risk level to reduce the likelihood of future offending. Although some research has demonstrated a relationship between longer treatment periods or more contact hours and reduced recidivism, there is general agreement that extended treatment times show diminishing returns after a certain point.<sup>8</sup> Other factors, such as the risk level of the offender and the characteristics and quality of implementation of programs, are key determinants in reducing recidivism, regardless of whether treatment is delivered in institutions or in the community.<sup>9</sup>

Virginia-specific data also do not support the long LOSs that are current practice. Recidivism data were analyzed for two years for juveniles released from direct care, matched with most serious committing offenses, Youth Assessment Screening Instrument (YASI) assessments at admission, and actual LOSs. Controlling for offense and risk and

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<sup>5</sup> Loughran, T., Mulvey, E. P., Schubert, C. A., Fagan, J., Losoya, S. H., & Piquero, A. R. (2009). Estimating a dose-response relationship between length of stay and future recidivism in serious juvenile offenders. *Criminology*, 47, 699-740.

<sup>6</sup> Kristin P. Winokur, et al., "Juvenile Recidivism and Length of Stay," *Journal of Criminal Justice* 36 (2008): 126-137. This study measured recidivism as a subsequent adjudication or conviction for an offense within 12 months of release to the community or to a conditional-release program.

<sup>7</sup> Brian K. Lovins, "Putting Wayward Kids Behind Bars: The Impact of Length of Stay in a Custodial Setting on Recidivism," (PhD dissertation, University of Cincinnati, 2013), [http://cech.uc.edu/content/dam/cech/programs/criminaljustice/docs/phd\\_dissertations/lovinsb.pdf](http://cech.uc.edu/content/dam/cech/programs/criminaljustice/docs/phd_dissertations/lovinsb.pdf). This study measured recidivism as a subsequent commitment to a juvenile or adult correctional facility for a new offense within a three-year follow-up period.

<sup>8</sup> James C. Howell and Mark W. Lipsey, "Research-Based Guidelines for Juvenile Justice Programs," *Justice Research and Policy* 14, No. 1 (November 2012): 17-34; Jeff Latimer, et al., Department of Justice Canada, "Treating Youth in Conflict with the Law: A New Meta-Analysis" (2003), [http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03\\_yj3-rr03\\_jj3/rr03\\_yj3.pdf](http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03_yj3-rr03_jj3/rr03_yj3.pdf); Mark W. Lipsey, "Primary Factors That Characterize Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview," *Victims & Offenders* 4, No. 2 (April 2009): 124-147; Mark W. Lipsey, David B. Wilson, and Lynn Cothorn, "Effective Intervention for Serious Juvenile Offenders," *Juvenile Justice Bulletin*, (April 2000).

<sup>9</sup> Howell and Lipsey, "Research-Based Guidelines for Juvenile Justice Programs"; Lipsey, "Primary Factors That Characterize Effective Interventions with Juvenile Offenders."

protective factors, the probability of rearrest within one year increased by 2.4% for every additional month of LOS. The probability of rearrest increased by 32.7% for every additional year of LOS. More specifically, the probability of rearrest within one year increased by 33.3% if the juvenile's LOS was longer than 15 months, and the probability of rearrest within one year was 44.3% higher for a juvenile with a LOS longer than 15 months compared to a juvenile with a LOS of 10 months or less. These differences indicate that holding juveniles longer in direct care lowered their chances of success in the community when controlling for offense and risk and protective factors.

## 5.0 OVERVIEW

The LOS Guidelines have been developed to achieve a balance of public safety, personal accountability, and competency development.

- Public safety places a primary emphasis on the fact that the citizens of Virginia have a right to safe and secure communities. Achieving this goal requires supervision strategies and techniques that provide for effective monitoring and control.
- Accountability requires that every effort be made by staff to instill in juveniles a recognition of the harmful consequences of their actions.
- Competency development requires juveniles to be provided opportunities to acquire or build on interpersonal, cognitive, and behavioral skills and strengths to ensure juveniles are released from direct care with increased likelihood of success when returning to the community.

In determining the projected LOS, this balance is achieved by weighing the juvenile's risk for rearrest and offense severity. The juvenile's risk for reoffending shall be determined by looking at levels of risk and protective factors on the most recently administered YASI at the time of admission to direct care. The juvenile's offense severity will be determined by looking at the most serious committing offense and determining into which of four tiers the offense falls.

The Board of Juvenile Justice and DJJ recognize that each juvenile is unique and that individual circumstances shall be considered for release from commitment. The projected LOS is a guide for release determinations. The decision for release, however, shall be case-specific, taking into account the juvenile's behavior, facility adjustment, and progress in treatment.

## 6.0 DEFINITIONS

“*Date of Commitment*” means the hearing date on which the court made the determination that a final order committing the juvenile to DJJ be issued.

“*Detention Assessment Instrument (DAI)*” is a detention screening tool used during court services unit intake to guide detention decisions using objective criteria.

“*Direct Care*” means the time during which a juvenile who is committed to DJJ pursuant to § 16.1-272 or subsections A 14 or 17 of § 16.1-278.8 of the *Code of Virginia* is under the supervision of staff in a juvenile residential facility operated or contracted by DJJ.

“*Dynamic Protective Score*” means the juvenile’s protective score on exclusively “dynamic” (changeable) items on the YASI. Examples of dynamic protective factors include relationships with pro-social adult role models, good school performance, pro-social peers, good parental supervision, usually obeying and following rules, consistently appropriate consequences from parents for bad behavior, consistently appropriate rewards from parents for good behavior, and involvement in two or more school activities.

“*Dynamic Risk Score*” means the juvenile’s risk score on exclusively “dynamic” (changeable) items on the YASI. Examples of dynamic risk factors include negative peer influences; negative family influences and failure to follow rules at home; school behavioral problems and poor school attendance; lack of empathy, dispositions favorable toward crime, and lack of receptivity toward change; and deficits in problem solving, interpersonal skills, and other cognitive skills that normally promote pro-social adjustment.

“*Early Release Date*” means the estimated minimum amount of time that indeterminately committed juveniles are expected to be in direct care, starting from their Date of Commitment.

“*Juvenile*” means a juvenile, either a minor or an adult, who is committed to DJJ and is residing in a juvenile residential facility. For the purposes of the LOS Guidelines, a juvenile is restricted to juveniles committed to DJJ pursuant to § 16.1-272 or subsections A 14 or 17 of § 16.1-278.8 of the *Code of Virginia*.

“*Juvenile Residential Facility*” means a publicly- or privately-operated facility, a secured custody facility defined in § 16.1-228 of the *Code of Virginia*, or an alternative placement for juveniles where 24-hour-per-day care is provided to juveniles under the direct care of DJJ.



“*Late Release Date*” means the estimated maximum amount of time that indeterminately committed juveniles are expected to be in direct care, starting from their Date of Commitment.

“*Overall Risk Score*” means the category of overall risk to reoffend, considering all domains that are part of the YASI. See the definition of YASI for a list of domains.

“*Projected Length of Stay (Projected LOS)*” means the projected duration, as calculated by the LOS Guidelines, a juvenile will spend in DJJ’s direct care after receiving an indeterminate commitment to DJJ. A juvenile’s actual LOS may vary from the projected LOS, based on the provisions of these guidelines.

“*Statutory Release Date*” means the date upon which DJJ’s legal authority to confine the juvenile expires. For indeterminately committed juveniles, with the exception of juveniles committed for murder or manslaughter, the statutory release date is the day before their 21<sup>st</sup> birthday or the date that occurs 36 continuous months from the latest Date of Commitment, whichever occurs first. Juveniles indeterminately committed for murder or manslaughter shall not be held in direct care after the day before their 21<sup>st</sup> birthday.

“*Youth Assessment and Screening Instrument (YASI)*” is the instrument used by DJJ to assess juveniles’ risk and protective factors. The full-screen measure includes 87 items across the following 10 domains: legal history, family, school, community and peers, alcohol and drugs, mental health, aggression, (pro-social and antisocial) attitudes, (social and cognitive) skills, and employment and free time.<sup>10</sup> The legal history accounts for previous intake contacts for delinquent offenses, age at first intake contact, intake contacts for offenses, felony offenses, weapon offenses, intake contacts for offenses against person, intake contacts for felony offenses against persons, placements, juvenile detention, DJJ custody, escapes, failure to appear in court, and violations of probation or rules of supervision.

## **7.0 CALCULATING THE PROJECTED LOS**

DJJ shall determine an appropriate projected LOS for every juvenile indeterminately committed to DJJ. This determination shall be made by the juvenile court services unit no later than three (3) business days following the Date of Commitment if a social history report was previously completed prior to disposition and a maximum of five (5) business days following the Date of Commitment if a social history report was not completed prior to disposition.

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<sup>10</sup> Orbis Partners, Inc. conducted a validation study of the YASI in New York in 2007. The National Council on Crime and Delinquency conducted a study comparing the validity, inter-rater reliability, and costs of juvenile risk assessments that included the implementation of the YASI pre-screen in Virginia in 2013.

The projected LOS will be made using two criteria:

1. The assessed Risk Level Category (A, B, C, D); and
2. The LOS most serious committing offense severity tier (I, II, III, IV).

### **7.1 *Determining Risk Level Category***

The committed juvenile's risk level shall be assessed as one (1) of four (4) categories. In determining the juvenile's risk level, static and dynamic risk and protective factors are assessed by the YASI based on responses to the questions in the 10 domains and are scored as being low through high or very high. The overall risk score takes into account the juvenile's historical information relating to intake contacts by offenses type, chronicity, compliance with rules of supervision, detainments and commitments, escapes, failures to appear in court, and violations of probation or rules of supervision. The categories are as follows in order of ascending levels of risk:

1. "*Risk Level A*" means the juvenile committed to DJJ has an Overall Risk Score of none/low or moderate on the juvenile's most recent YASI full screen assessment. This is the lowest possible level of risk;
2. "*Risk Level B*" means the juvenile committed to DJJ has (i) an Overall Risk Score of high and (ii) a Dynamic Protective Score of moderate-high to very high on the juvenile's most recent YASI full screen assessment;
3. "*Risk Level C*" means the juvenile committed to DJJ has (i) an Overall Risk Score of high, (ii) a Dynamic Protective Score of none to moderate, and (iii) a Dynamic Risk Score of less than very high; and
4. "*Risk Level D*" means the juvenile committed to DJJ has (i) an Overall Risk Score of high, (ii) a Dynamic Protective Score of none to moderate, and (iii) a Dynamic Risk Score of very high. This is the highest possible level of risk.

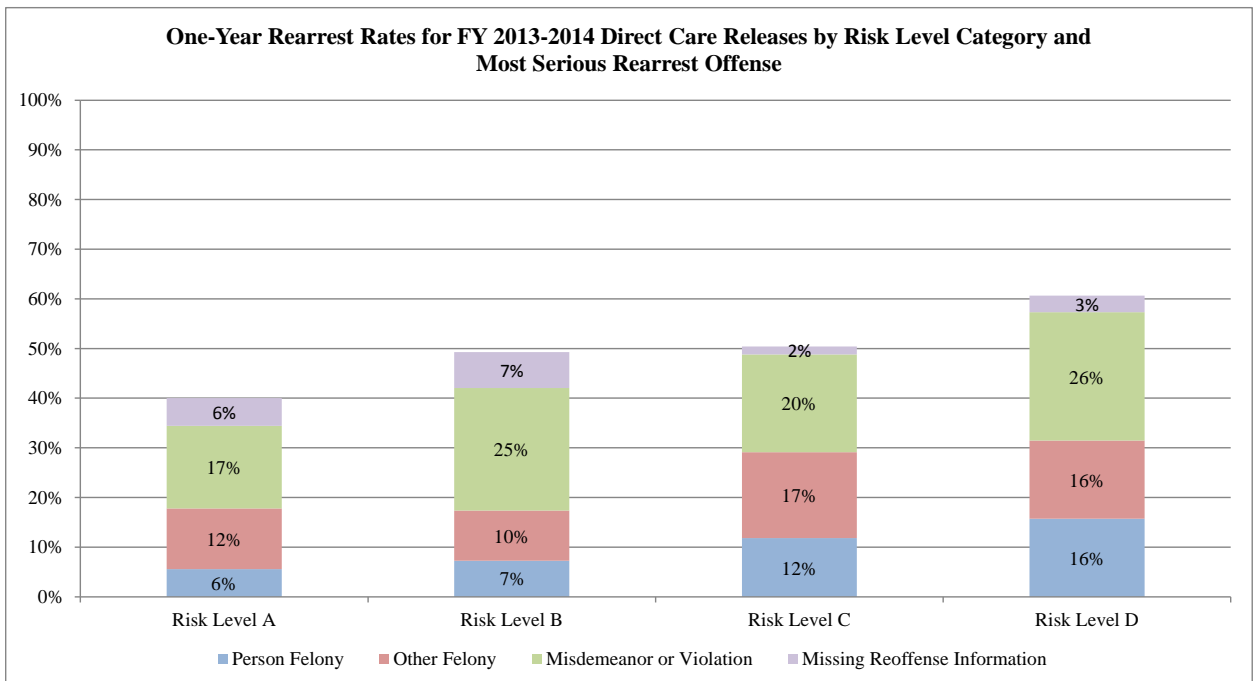
Appendix A provides a flow chart depicting how the LOS Risk Level Category is to be determined.

### **7.2 *Rationale for LOS Risk Level Hierarchy***

The decision on how to categorize and rank risk levels was determined by a review of DJJ data. Each progressive LOS Risk Level has a measurable increased risk for rearrest, either overall or for felony offenses, within one-year of release from direct care.

- The likelihood of rearrest rate for Risk Level A direct care releases is only slightly higher than probation placements. The total rate of rearrests within one year for probation placements averaged 35% between FYs 2011 and 2013. The rearrest rate within one year for direct care releases between FYs 2013 and 2014 who would have been classified as Risk Level A was 40%.
- Rearrest rates for Risk Level B and Risk Level C direct care releases during that same time period were considerably higher than Risk Level A at approximately 50%. Risk Level C releases were more likely to be rearrested for felony offenses than Risk Level B releases.
- Risk Level D releases had a 61% rearrest rate, roughly 22% higher than the rates for direct care releases at Risk Levels B and C, and roughly 53% higher than the rates for Risk Level A direct care releases and juveniles placed on probation. Risk Level D releases were more likely than other direct care releases to be rearrested for all three major categories of offense, except that their likelihood of being rearrested for a other felonies was the same as that for Risk Level C.

The chart below details these finding for FYs 2013 to 2014 direct care releases with YASI assessments completed:



### **7.3 *Determining the LOS Most Serious Committing Offense Severity***

Offenses are separated into four tiers which primarily use the same definitions established by the DAI offense categorization:

1. “*Tier I*” means the juvenile’s most serious committing offense fell into the DAI offense category of (i) misdemeanor against persons, (ii) any other misdemeanor, or (iii) violation of parole. This is the least serious of the LOS most serious committing offense designation;
2. “*Tier II*” means the juvenile’s most serious committing offense fell into the DAI offense category of (i) felony weapons or felony narcotics distribution or (ii) other felony and the felony offense is not punishable for twenty (20) or more years of confinement if the offense were committed by an adult;
3. “*Tier III*” means the juvenile’s most serious committing offense fell into the DAI offense category of felony against persons and the felony offense is not punishable for twenty (20) or more years of confinement if the offense were committed by an adult.
4. “*Tier IV*” means the juvenile’s most serious committing offense is a felony offense punishable for twenty (20) or more years of confinement if the offense were committed by an adult. These offenses are enumerated in Appendix B. This is the most serious of the LOS most serious committing offense designation.

Commitments on Violations of Probation shall be categorized as provided in section 7.33.

#### **7.31 *Only Current Committing Offenses will be Used***

Only current committing offenses (delinquent or criminal offenses for which the resident was committed for this admission to direct care) will be used to determine the projected LOS. Offenses not resulting in the current commitment, with the exception of Violations of Probation discussed below, shall not be considered in classifying the LOS most serious committing offense severity tier.

#### **7.32 *LOS Most Serious Committing Offense Severity Tier Overlap***

If a most serious committing offense falls within two LOS most serious committing offense severity tiers, it will be categorized into the most serious tier.

### **7.33** *Violations of Probation*

If a juvenile has been committed after violating the terms or conditions of his or her probation, for a violation of a court order, or for a violation of a suspended commitment, then the most serious underlying offense will be used to determine the LOS most serious committing offense severity tier.

When a juvenile is committed for a violation of probation along with another Class 1 misdemeanor or felony offense, both the underlying offenses for the Violation of Probation and the additional offenses shall be considered in determining the LOS most serious committing offense severity tier.

### **7.4** *Determining the Projected LOS*

Except as provided in section 7.5, the Risk Level Category and LOS most serious committing offense severity tier determinations shall be used to assign the juvenile a projected LOS range. The Risk Level Categories and the LOS most serious committing offense severity tiers are each ranked into four levels, ranging from low risk or severity to high risk or severity. Appendix C provides these projected LOS ranges in a table format.

#### **7.41** *Risk Level A Category*

The projected LOS for juveniles in Risk Level A by offense tier is as follows:

1. Tier I: 2-4 months
2. Tier II: 3-6 months
3. Tier III: 5-8 months
4. Tier IV: 6-9 months
5. Tier V: Treatment Override

#### **7.42** *Risk Level B Category*

The projected LOS for juveniles in Risk Level B by offense tier is as follows:

1. Tier I: 3-6 months
2. Tier II: 5-8 months
3. Tier III: 6-9 months
4. Tier IV: 7-10 months
5. Tier V: Treatment Override

**7.43 Risk Level C Category**

The projected LOS for juveniles in Risk Level C by offense tier is as follows:

1. Tier I: 5-8 months
2. Tier II: 6-9 months
3. Tier III: 7-10 months
4. Tier IV: 9-12 months
5. Tier V: Treatment Override

**7.44 Risk Level D Category**

The projected LOS for juveniles in Risk Level D by offense tier is as follows:

1. Tier I: 6-9 months
2. Tier II: 7-10 months
3. Tier III: 9-12 months
4. Tier IV: 9-15 months
5. Tier V: Treatment Override

**7.5 Treatment Override**

The following cases will be handled outside the projected LOS determinations above:

1. Juveniles committed on a sex offense who have been assessed as needing inpatient sex offender treatment; and
2. Juveniles who, regardless of committing offense, have been identified as needing inpatient sex offender treatment.

These cases will not be assigned a projected LOS. The juveniles who receive a Treatment Override will be eligible for consideration for release upon completion of the designated treatment program.

Note: if a juvenile is committed on a sex offense and the assessment does not indicate a need for inpatient sex offender treatment, that juvenile's projected LOS shall be determined pursuant to the provisions of section 7.3.

## **7.6 *Pending Charges***

In some cases, a juvenile may have pending charges (an alleged offense committed before the Date of Commitment on which there was not a final disposition or sentence prior to the determination of the projected LOS) on which the disposition or sentence results in a commitment to DJJ. If the pending offense that resulted in the commitment falls into a higher LOS most serious committing offense severity tier, the projected LOS shall be reassessed. The revised projected LOS shall run from the earliest Date of Commitment.

## **8.0 OTHER FACTORS AFFECTING LOS**

### **8.1 *Subsequent Commitments***

If a juvenile receives a subsequent commitment (a commitment to DJJ for an offense that a juvenile commits after the Date of Commitment), the case shall undergo a facility-level review. The facility-level review shall consider (i) how the behavior resulting in the offense may be addressed, if not already determined; (ii) whether the new committing offense would result in a higher LOS most serious committing offense severity tier; and (iii) whether the projected Early and Late Release Dates should be readjusted.

If the facility-level review recommends extending the projected LOS, the LOS may not be extended unless approved through a central review committee.

### **8.2 *Institutional Offenses***

When a juvenile earns an institutional offense (violation of the facility's code of conduct governing juvenile behavior), the case shall undergo a unit-based review to consider how the behavior resulting in the offense may be addressed and whether the projected Early and Late Release Dates should be adjusted.

If the unit-based review recommends extending the projected LOS, the decision shall undergo a facility-level review and may not be extended unless approved through a central review committee.

### **8.3 *Escape or Attempted Escape***

If a juvenile is found guilty, through DJJ's due process procedures, of escape, attempted escape, or aid and abetting escape, the juvenile's projected Early and Late Release Dates

may be administratively extended up to 12 months, as provided for in DJJ procedures, not to exceed the juvenile's statutory release date.

If the escape behavior is subject to prosecution in a court of competent jurisdiction and the court finds the juvenile guilty or not guilty, the juvenile shall not be subject to an administrative adjustment to the projected LOS, unless specifically provided in the court order. Such proceedings shall not affect or override other disciplinary actions imposed in accordance with DJJ procedures.

If the escape behavior is not adjudicated or tried on its merits, the juvenile may be subject to an administrative adjustment of the projected Early and Late Release Dates. Any such adjustment shall be recommended through a facility-level review and a central review committee and approved by the DJJ Director.

## **9.0 MANDATORY CASE REVIEWS**

To ensure that juveniles remain in direct care for the appropriate amount of time, each case shall be reviewed at the intervals as provided herein to (i) review progress, (ii) identify barriers to successful re-entry, and (iii) assess the appropriateness of the existing treatment plan.

No juvenile shall be held in direct care, without approval by a central review committee, beyond the following dates:

1. The Late Release Date for juveniles assigned a projected LOS pursuant to section 7.4; and
2. Twelve months past the Date of Commitment for juveniles who are not assigned a projected LOS as provided under section 7.5.

### **9.1 *Case Reviews for LOS Categories***

Juveniles who are assigned a projected LOS pursuant to section 7.4 shall, at a minimum, have their cases reviewed as follows:

1. If the juvenile is expected to be held beyond his/her Early Release Date:
  - a. The case shall undergo a facility-level review a minimum of thirty (30) days prior to the projected Early Release Date; and



- b. If the facility-level review recommends that the juvenile be held beyond his/her projected Early Release Date, the Early Release Date may not be extended unless approved through a central review committee.
2. If the juvenile's Late Release Date has passed:
  - a. The case shall undergo a facility-level review a minimum of thirty (30) days after the projected Late Release Date; and
  - b. If the facility-level review recommends that the juvenile remain in direct care for longer than 30 days from the date of the review, the case shall be reviewed through a central review committee. The juvenile shall not remain in direct care unless approved by a central review committee. The central review committee shall set a schedule for additional and on-going reviews for juveniles referred to it under this section.

### **9.2 *Case Reviews for Treatment Override Exceptions***

Juveniles who are not assigned a projected LOS due to a Treatment Override pursuant to section 7.5 shall have their cases reviewed through a facility-level review six (6) and twelve (12) months after the Date of Commitment. If the facility-level review recommends at either of these points for the juvenile to be held longer than 12 months past the Date of Commitment, the case shall be reviewed through a central review committee. The juvenile shall not remain in direct care unless approved through a central review committee. The central review committee shall set a schedule for additional and on-going reviews for juveniles referred to it under this section.

### **9.3 *Case Reviews by the DJJ Director***

Each indeterminately committed juvenile who remains in direct care for 15 months shall have their case reviewed through the DJJ Director. The information provided to the DJJ Director for review shall include (i) the juvenile's behavior, facility adjustment, and progress in treatment and (ii) the facility's and court services unit's plan to facilitate the juvenile's return to the community.

## **10.0 ELIGIBILITY AND REVIEW FOR RELEASE**

To encourage and enhance program participation, those juveniles who make substantial progress in their treatment plans will be given consideration for release at the Early Release Date of their projected LOS. Each juvenile's behavior and progress in treatment shall be considered at each review for release as provided herein.

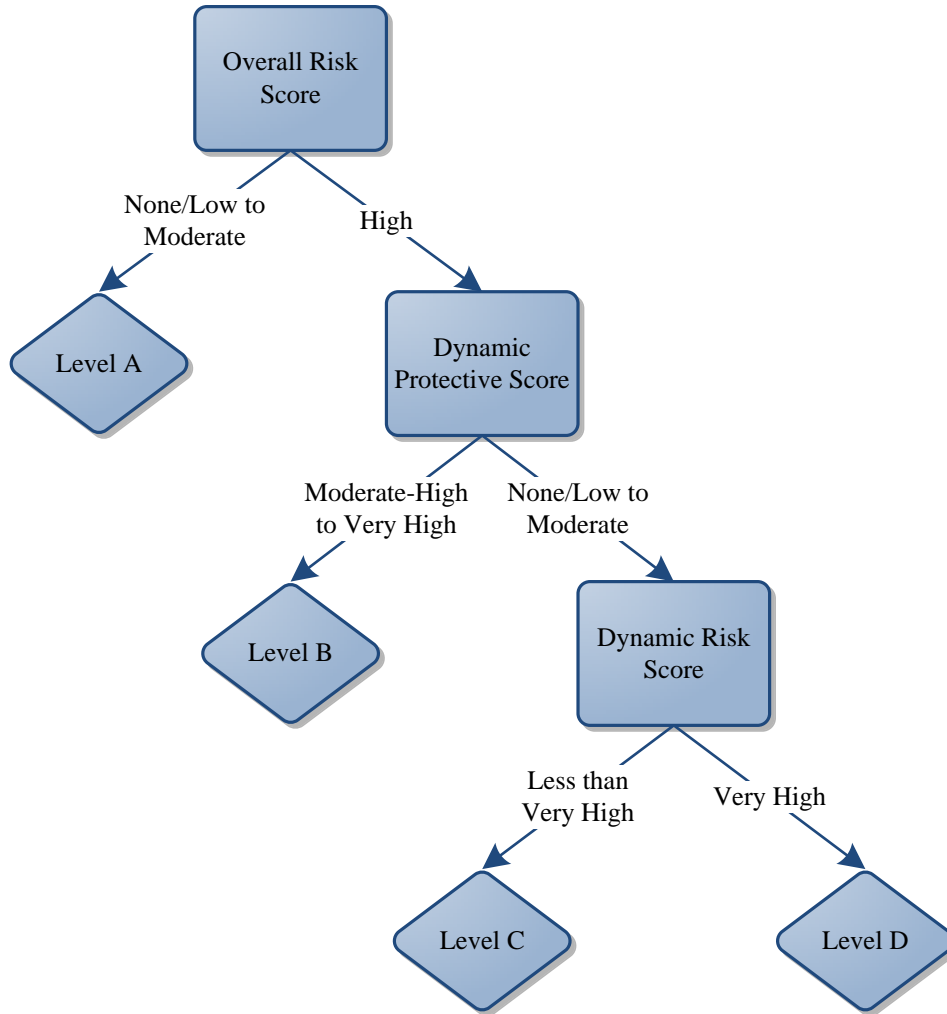
**11.0 STATUTORY RELEASE DATE**

DJJ has the authority to keep juveniles who are indeterminately committed in direct care until their statutory release date. At no point shall a juvenile remain on continuous direct care status longer than the statutory release date.

**12.0 DJJ DIRECTOR'S AUTHORITY TO RELEASE**

The DJJ Director or designee may extend or reduce the LOSs of any indeterminately committed juvenile if such change would serve the welfare of the juvenile, other juveniles, staff within a juvenile residential facility, or the public.

**APPENDIX A**  
**RISK LEVEL CATEGORY FLOWCHART**



**APPENDIX B**  
**TIER IV OFFENSES**

<b>OFFENSE</b>	<b>VCC</b>	<b>STATUTE</b>
<b>MALICIOUS WOUNDING</b>		
Pregnant victim, permanent impairment or pregnancy terminations	ASL-1340-F2	18.2-51.2 (B)
Stab/cut/wound w/ malicious intent of perm. impairment	ASL-1336-F2	18.2-51.2 (A)
<b>BURGLARY</b>		
Enter bank armed w/ intent to commit larceny	BUR-2207-F2	18.2-93
Occupied dwelling, enter w/ intent to commit a misdemeanor, w/ deadly weapon	BUR-2220-F2	18.2-92
Dwelling at night w/ intent to commit felony, w/ deadly weapon	BUR-2222-F2	18.2-89
Dwelling w/ intent to murder, etc., w/ deadly weapon	BUR-2212-F2	18.2-90
Other structure w/ intent to murder, etc., w/ deadly weapon	BUR-2215-F2	18.2-90
Dwelling w/ intent to commit larceny, A&B, etc., w/ deadly weapon	BUR-2214-F2	18.2-91
Other structure w/ intent to commit larceny, A&B, etc., w/ a deadly weapon	BUR 2217-F2	18.2-91
<b>KIDNAPPING</b>		
Abduction with the intent to defile	KID-1004-F2	18.2-48 (ii)
Extortion, abduct with intent for pecuniary gain	KID-1012-F2	18.2-48 (i)
Abduction of a minor, for manufacturing child pornography	KID-10220F2	18.2-48 (v)
Abduction of child under 16 years of age for prostitution	KID-1003-F2	18.2-48 (iii)
Abduction for the purpose of prostitution	KID-1023-F2	18.2-48 (iv)
<b>CAPITAL MURDER</b>		
Abduction, in the commission of	MUR-0913-F1	18.2-31 (1)
By person engaged in a continuing criminal drug enterprise	MUR-0926-F1	18.2-31 (10)
Furthering drug distribution of a Schedule I or II substance	MUR-0921-F1	18.2-31 (9)
Judge	MUR-0990-F1	18.2-31 (14)
Killing for hire	MUR-0922-F1	18.2-31 (2)
Killing in the commission of a terrorist act	MUR-0911-F1	18.2-31 (13)
Killing of child under 14 or younger by person 21 or older	MUR-0927-F1	18.2-31 (12)
Law enforcement officer	MUR-0923-F1	18.2-31 (6)
More than one person	MUR-0924-F1	18.2-31 (7)
More than one person in 3 year period	MUR-0961-F1	18.2-31 (8)
Pregnant victim	MUR-0920-F1	18.2-31 (11)
Prisoner	MUR-0932-F1	18.2-31 (3)
During rape, sodomy, object sexual penetration (or attempt)	MUR-0914-F1	18.2-31 (5)
During robbery or attempted robbery	MUR-0933-F1	18.2-31 (4)
Witness	MUR-0992-F1	18.2-31 (15)
<b>CAPITAL MURDER – ACCESSORY BEFORE THE FACT</b>		

Abduction, in the commission of	MUR-0913-F1	18.2-31 (1)
By person engaged in a continuing criminal drug enterprise	MUR-0926-F1	18.2-31 (10)
Furthering drug distribution of a Schedule I or II substance	MUR-0921-F1	18.2-31 (9)
Judge	MUR-0990-F1	18.2-31 (14)
Killing for hire	MUR-0922-F1	18.2-31 (2)
Killing in the commission of a terrorist act	MUR-0911-F1	18.2-31 (13)
Killing of person under 14 by person 21 or older	MUR-0927-F1	18.2-31 (12)
Law enforcement officer	MUR-0923-F1	18.2-31 (6)
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More than one person in 3 year period	MUR-0961-F1	18.2-31 (8)
Pregnant victim	MUR-0920-F1	18.2-31 (11)
Prisoner	MUR-0932-F1	18.2-31 (3)
During rape, sodomy, object sexual penetration (or attempt)	MUR-0914-F1	18.2-31 (5)
During robbery or attempted robbery	MUR-0933-F1	18.2-31 (4)
Witness	MUR-0992-F1	18.2-31 (15)
<b>NON-CAPITAL MURDER</b>		
First degree	MUR-0925-F2	18.2-32
Fetus of another, kill with premeditation	MUR-0937-F2	18.2-32.2 (A)
<b>SEX OFFENSES</b>		
Object sexual penetration of victim under 13 years (indicted as adult)	RAP-1154-F9	18.2-67.2 (A)(1)
Object sexual penetration of victim under the age of 13, with kidnapping, burglary, wounding	RAP-1152-F9	18.2-67.2 (A)(1)
Forcible Rape of victim under 13 years (indicted as adult)	RAP-1131-F9	18.2-61 (A)(iii)
Forcible Rape of victim under the age of 13, with kidnapping, burglary, wounding	RAP-1150-F9	18.2-61 (A)(iii)
Forcible Sodomy, victim under 13 years (indicted as adult)	RAP-1153-F9	18.2-67.1 (A)(1)
Forcible Sodomy of victim under the age of 13, with kidnapping, burglary, wounding	RAP-1151-F9	18.2-67.1 (A)(1)
<b>TERRORISM</b>		
Act of Terrorism, base offense 20 years or more	TER-8000-F2	18.2-46.5 (A)
Possess, etc., weapon of terrorism with intent to terrorize	TER-80002	18.2-46.6 (A)
<b>TREASON</b>		
Levying war against national or state government	TRE-0111-F2	18.2-481
<b>VANDALISM</b>		
Radioactive damage resulting in death	VAN-2915-F2	18.2-162
<b>WEAPONS</b>		
Possess Machine Gun in perpetration of crime	WPN-5227-F2	18.2-289
Possess Sawed-off Shotgun in perp. of a violent crime	WPN-5261-F2	18.2-300 (A)

**APPENDIX C**  
**PROJECTED LOS RANGES**

The Projected LOS Ranges below represent the *estimated* LOSs. A resident may be released early or stay longer depending on his behavior, adjustment, and progress in treatment.

Most Serious Committing Offense **		Risk Level			
		A	B	C	D
<b>Tier I</b>	<ul style="list-style-type: none"> <li>Misdemeanor Offenses</li> <li>Violations of Parole</li> </ul>	2-4 months*	3-6 months*	5-8 months*	6-9 months*
<b>Tier II</b>	<ul style="list-style-type: none"> <li>Non-person Felony Offenses</li> </ul>	3-6 months*	5-8 months*	6-9 months*	7-10 months*
<b>Tier III</b>	<ul style="list-style-type: none"> <li>Person Felony Offenses</li> </ul>	5-8 months*	6-9 months*	7-10 months*	9-12 months*
<b>Tier IV</b>	<ul style="list-style-type: none"> <li>Class 1 and 2 Felony Offenses</li> </ul>	6-9 months*	7-10 months*	9-12 months*	9-15 months*
<b>Tier V</b>	<ul style="list-style-type: none"> <li>Treatment Override</li> </ul>	Juveniles who have been assessed as needing inpatient sex offender treatment are managed as an exception to the grid.*^			

\* **Statutory Release:** A resident may be held in direct care due to negative behavior, poor adjustment, or lack of progress in treatment for any period of time until his statutory release date, which is reached after the resident committed for 36 continuous months (except murder and manslaughter) or his 21<sup>st</sup> birthday, whichever occurs first.

^ **Treatment Override:** These cases will not be assigned a projected LOS. The juveniles who receive a Treatment Override will be eligible for consideration for release upon completion of the designated treatment program.

\*\* **Violations of Probation:** Violations of Probation shall be categorized by the most serious underlying offense.