



Administrative Policies and Procedures: 13.3

Subject:	Improper Commitments
Authority:	TCA 37-5-105, 37-5-106, 37-1-137, 37-1-131
Standards:	None
Application:	To All Department of Children's Services Juvenile Justice Employees and Family Service Workers with Juvenile Justice Responsibilities

Policy Statement:

Each Regional Administrator shall ensure that a process is in place to review each delinquency committal or delinquency adjudicative order for adherence to certain points and for bringing any possible defects to the attention to DCS Legal Counsel.

Purpose:

To provide a process for ensuring that youth adjudicated as delinquent are not committed in an improper or inappropriate manner and have access to the committing court for reconsideration if warranted.

Procedures:

A. Legality of a commitment order	<ol style="list-style-type: none"> 1. The Court Liaison or Family Service Worker (FSW) will, within twenty-four (24) hours, notify the DCS Regional Attorney of any questions or concerns regarding the content of an adjudicative or commitment order. 2. The DCS Regional Attorney will review the commitment order and determine the legality of the order and the next appropriate action if the order appears to be defective or reflects a legally questionable committal, such as an improperly imposed determinate sentence. 3. The DCS Regional Attorney will consult with the appropriate District Attorney, delinquency defense attorney, guardian ad litem or other appropriate personnel as needed.
B. Role of the DCS Legal Staff	The DCS Regional Attorney will review the concerns of the Department in cases where the court liaison or FSW presents such issues for legal opinion and will represent the Department as the legal custodian of the child in any resulting court proceeding if such representation becomes necessary. The DCS Regional Attorney and as applicable the DCS residential program staff or FSW will then determine appropriate remedies that may be pursued through the Court system.

<p>C. Status of order until further court action</p>	<p>In all cases, staff will conduct any questioned case based upon the premise that the youth committal and/or adjudicative order is valid. Court orders will be followed, until either stayed by a court or overturned by a court.</p>
<p>D. Handling of case records</p>	<p>In the event that the commitment of a youth adjudicated delinquent is determined to be improper and is reversed by the committing court or a court of appeal, and the youth is removed from the custody of DCS, the appropriate FSW will ensure that such reversal is documented in the case file before the FSW closes the case file after consultation with appropriate DCS Regional Legal Counsel.</p>
<p>E. Documentation</p>	<ol style="list-style-type: none"> 1. All information regarding an improper commitment will be documented on the appropriate screens in the <i>current child welfare information system</i>¹. 2. Unless other requirements are specified in policy for documentation, or events not documented elsewhere or requiring a broader explanation, all information required to be documented on the appropriate screens in the <i>current child welfare information system</i> must be entered within thirty (30) days from the date of the contact or occurrence.

<p>Forms:</p>	<p>None</p>
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<p>Collateral documents:</p>	<p>None</p>
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¹ **NOTE:** TNKids is the current DCS child welfare information system and will be replaced by the new system "TFACTS" in the near future. When TFACTS is fully implemented, all references to TNKids or "*current child welfare information system*" will mean TFACTS.