



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lt. Governor

### **EXECUTIVE ORDER NO. 2011-05**

**SUBJECT:** Relative to transferring the responsibility for the administration and operation of the juvenile detention facility or facilities from the Department of Community and Cultural Affairs to the Department of Corrections.

**AUTHORITY:** "The Governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration." CNMI Constitution, Article III, Section 15.

**WHEREAS,** Public Law 16-47 (PL 16-47) known as the Juvenile Justice Act of 2008 (the Act) governs juveniles detained in secure facilities and requires that secure facilities provide secure confinement, discipline and treatment of detained juveniles,

**WHEREAS,** Section 4(a) of the Act Designates the Division of Youth Services (DYS) of the Department of Community and Cultural Affairs (DCCA) as the agency responsible for the services and programs for juveniles falling within the jurisdiction of the Act,

**WHEREAS,** under Section 4(b) of the Act, "DYS shall be responsible for the administration and operation of the juvenile detention facility or facilities,"

**WHEREAS,** Section 15 of the Act delineates the purposes of a juvenile detention center,

**WHEREAS,** Section 16 of the Act delineates the minimum standards for the detention of juveniles provided for in the Act,

**WHEREAS,** Sections 26-34 of the Act delineates further legislative parameters for the administration and operation of secure juvenile detention facilities,

**WHEREAS,** in response to growing demands of the CNMI and its residents, the DCCA has taken on the responsibility for numerous human services type activities including, but not limited to: the Office on Aging, the Nutrition Assistance Program, the Commonwealth Council for Arts and Culture, the Division of Sports and Recreation, the Historic Preservation Office, and the Chamorro/Carolinian Language Policy Commission,

**WHEREAS,** the CNMI requested the Management Analysis Incorporated (MAI) to conduct an organizational review of the DCCA and to make recommendations for improved DCCA

operational efficiency, improvement in the current DCCA level of service, assurances that all local and federal laws and regulations are being complied with, and to produce cost savings,

**WHEREAS**, the CNMI entered into a Consent Decree with the U. S. Department of Justice in *United States of America v. Commonwealth of the Northern Mariana Islands, et al.*, Civil Case No. CV 99-0017 to meet federal correctional standards at CNMI correctional facilities including the Juvenile Detention Unit (JDU) operated by DCCA,

**WHEREAS**, the Department of Corrections' (DOC) management staff has a particular expertise in management of correctional facilities, is aware of the Consent Decree requirements and understands federal correctional standards,

**WHEREAS**, DOC has an internal investigative unit to investigate allegations of employee misconduct and the JDU has no such internal investigative unit,

**WHEREAS**, based on feedback from employees and management, its observations, expertise and analysis, MAI recommends that as part of a DCCA reorganization, the management and control of the JDU be transferred to DOC,

**WHEREAS**, because both the JDU and DOC have a rehabilitation focus, there is an opportunity for shared resources,

**NOW, THEREFORE**, to comply with the mandate of the Constitution and to promote efficient administration, it is hereby

**ORDERED:**

That the following provisions shall constitute a transfer of the JDU from the management and control of DCCA to the management and control of DOC:

DOC Commissioner in conjunction with the DYS Director shall be responsible for the services and programs for juveniles falling within the jurisdiction of the Act pursuant to Section 4(a) of the Act.

DYS shall relinquish responsibility for the administration and operation of the juvenile detention facility or facilities as prescribed in Section 4(b) of the Act; and DOC shall assume responsibility for the administration and operation of the juvenile detention facility or facilities as prescribed in Section 4(b) of the Act.

In the performance of its duties pursuant to Section 4(b) of the Act, DOC shall conform to the requirements of the Act in its entirety. DOC shall pay particular attention to Section 15 (Juvenile Detention Centers); Section 16 (Standards for Detention); Section 26 (Secure Facilities); Section 27 (Term of Commitment – Review After Commitment); Section 28 (Release from Custody of DYS); Section 29 (Review of Programs for Juveniles – Certification); Section 30 (Program Records as Property of Department – Control of Records); Section 31 (Restitution to Victims of Juvenile Offenders – Duties of Department); Section 32 (Distribution and Reporting Requirements for Commonwealth, Other Public and Private Contract Facilities); Section 33 (Reports by Department) and Section 34 (Compensation – Amount – Crediting Account of Juvenile – Juveniles not Employees – Accountability of Other Than Restitution Funds).

All records and property (including office equipment) of the JDU used primarily in the administration of the JDU, all the personnel used in the administration of the JDU (including employees whose chief duties relate to such administration) are hereby transferred to DOC. All personnel transferred pursuant to this Executive Order shall maintain their current positions and status in the classified civil service or in the excepted service as the case may be. The Office of Personnel shall ensure an orderly transfer of personnel.

The unexpended balances of appropriations, allocations, allotments, or other funds available for the use of the JDU on the effective date of the transfer are transferred to DOC on the effective date of this transfer. In the transfer of such funds, an amount may be included for the liquidation of obligations incurred prior to the transfer. Any portion of such balances not so transferred may be reprogrammed by the Governor. Subsequent to the transfer, JDU operations shall be reflected in the annual DOC budget.

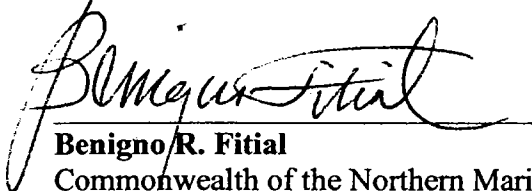
I have designated the Criminal Justice Planning Agency (CJPA) as the State Compliance Monitoring Authority for the Juvenile Justice and Delinquency Prevention Act in Executive Order No. 2010-07. Recognizing that the JDU is the recipient of federal funds from certain grants and the recipient of certain equipment from certain grant, I am tasking the CJPA to monitor the transfer I am directing in this executive order. CJPA is to ensure that no federal funds or federally purchased equipment are jeopardized as a result of this transfer; and that there is strict compliance with grant requirements during and after the transfer. CJPA is to consult with the DCCA Secretary and the DOC Commissioner to that extent.

While I am transferring the administration and management functions of the JDU to DOC, physical plants of the JDU and DOC shall remain separate and distinct entities. There shall be no comingling of the JDU juvenile population and the DOC adult population.

I anticipate a cooperative spirit between DCCA and DOC. There shall be regular communication between the DOC Commissioner, and or his designees and the DCCA Secretary and or his designees to ensure a smooth transition. This communication and cooperation shall extend beyond the transfer with the ultimate goal of optimal efficiency in the operations of the JDU. That is in the best interest of the juveniles and people of our Commonwealth.

This plan shall become effective immediately and remain in effect unless sixty days after submission to the Legislature, it is specifically modified or disapproved by a majority of the members of each house of the Legislature.

**SIGNED AND PROMULGATED** on this 27<sup>th</sup> day of April, 2011.



**Benigno R. Fitial**  
Commonwealth of the Northern Mariana Islands