

**An Overview of Statutory and Regulatory
Requirements for Monitoring Facilities for
Compliance with the Deinstitutionalization of
Status Offenders, Separation, and Jail
Removal Provisions of the Juvenile Justice
and Delinquency Prevention Act**

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I. Background

A. Purpose of Overview Document

The purpose of this document is to assist states in monitoring and achieving compliance with the core requirements specified in the Formula Grants Program authorized under the Juvenile Justice and Delinquency Prevention Act (JJDP) (34 U.S.C. §§ 11131-11133). Should anything within this document conflict with any provision of the JJDP or its implementing regulation at 28 C.F.R. Part 31, Subpart A, the statutory and/or regulatory provision will prevail.

Please note that this document describes the requirements applicable to awards made for fiscal year (FY) 2019 and previous years. This document does not apply to awards made for FY 2020 and subsequent years, as it does not incorporate amendments to the JJDP made by the Juvenile Justice Reform Act of 2018 (Pub. L. No. 115-385), most of which take effect on October 1, 2019. According to the JJRA “[t]he amendments made by this Act shall not apply with respect to funds appropriated for any fiscal year that begins before the date of the enactment of this Act.” The JJRA was enacted on December 21, 2018 (i.e., in FY 2019) and so the amendments do not apply to funds appropriated for FY 2019 or for previous years. Rather, the JJRA amendments apply to funds appropriated for FY 2020, which is the period beginning on October 1, 2019. Thus, this document describes the requirements applicable to awards made for FY 2019 and previous years.

This document rescinds and replaces a prior version, released in 2010, which was not fully consistent with the Attorney General’s Memorandum on Guidance Documents of November 16, 2017. This non-binding guidance document is just that: non-binding guidance to states restating existing requirements found in the JJDP and the Formula Grants Program regulation and does not itself have the force or effect of law beyond those statutory and regulatory requirements. Nor does this document constitute a final agency action. It has no legally binding effect on persons or entities outside the federal government and may be rescinded or modified in the complete discretion of the Department of Justice.

This document is not intended to establish binding standards by which the Department of Justice will determine compliance with JJDP and the Formula Grants Program. This document is not intended to compel anyone into taking any action or refraining from taking any action—indeed, the Department will not bring any enforcement actions based on noncompliance with this document. Rather, this document is intended to describe the various provisions of the statute and regulations in a simple and straightforward manner.

B. Overview of the Juvenile Justice and Delinquency Prevention Act

Since its passage in 1974, the JJDP has changed the way states and communities deal with troubled youth. The original goals of the JJDP and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) were simple: to help state and local governments prevent and control juvenile delinquency and to improve the juvenile justice system.

The reauthorization of the JJDP Act in 2002 reaffirmed these goals. A second important element in the 1974 JJDP Act was to protect juveniles in the juvenile justice system, including those detained in adult facilities, from inappropriate placements and from the harm—both physical and psychological—that can occur as a result of exposure to adult inmates.

To be eligible to receive a Formula Grants Program award, states must satisfy the 28 state plan requirements described at 34 U.S.C. § 11133(a). Within the 28 state plan requirements are four requirements that are deemed to be “core” because OJJDP will reduce a state’s annual Formula Grants award by 20 percent for each requirement with which the state is determined to be out of compliance. These core requirements are:

- Deinstitutionalization of status offenders (DSO) (34 U.S.C. § 11133(a)(11)).
- Separation of juveniles from adult inmates in institutions (separation) (34 U.S.C. § 11133(a)(12)).
- Removal of juveniles from jails and lockups for adults (jail removal) (34 U.S.C. § 11133(a)(13)).
- Addressing disproportionate minority contact (DMC) where it exists (34 U.S.C. § 11133(a)(22)).¹

Each participating state must describe in its state plan how it will achieve and maintain compliance with the four core requirements. Among the 28 requirements is one requiring the states to provide for an adequate system of monitoring of jails, lockups, detention facilities, correctional facilities, and nonsecure facilities to ensure that the state meets the DSO, separation, and jail removal requirements and reports the results to OJJDP each year.

II. Standards for Adequate Compliance Monitoring Systems

States participating in the Formula Grants Program must provide for an adequate system of monitoring jails, lockups, detention facilities, correctional facilities, and nonsecure facilities to ensure that they meet the core requirements, pursuant to the monitoring and reporting requirement at 34 U.S.C. § 11133(a)(14). The state’s monitoring system, if it is to effectively comply with the statutory and regulatory monitoring requirements, must identify all secure and nonsecure facilities in which a juvenile might be detained or confined pursuant to law enforcement or juvenile court authority.

States must ensure that they complete all compliance monitoring activities in sufficient time so that they can submit their annual compliance monitoring report to OJJDP by February 28 (see 28 C.F.R. § 31.303(f)(5)). Under this provision, the OJJDP Administrator may grant an extension of the reporting deadline to March 31, for good cause, upon a state’s request.

¹ The DMC requirement is not discussed in this document because states do not monitor individual facilities for compliance with DMC.

Although they are not required to do so under the JJDP Act or its implementing regulation, OJJDP strongly recommends that states provide at least one full-time staff person or the equivalent to coordinate all efforts relevant to compliance monitoring.² Pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(1), (2), and (14) and the Formula Grants Program Regulation at 28 C.F.R. § 31.303(f), OJJDP determines the adequacy of a state's compliance monitoring system based on the following elements.

A. Written Compliance Monitoring Policies and Procedures

Pursuant to 28 C.F.R. § 31.303(f)(1)(i), states must describe their compliance monitoring policies and procedures. OJJDP recommends that the Designated State Agency (DSA) make the procedures available on its website. At a minimum, the state's compliance monitoring policies and procedures must:

1. Specify the legal authority of the agency or agencies that monitor for compliance in all facilities, including adult facilities, in which a juvenile might be detained or confined pursuant to law enforcement or juvenile court authority (34 U.S.C. § 11133(a)(1) and (2)).
2. Provide a basic timeline denoting when and where compliance monitoring will occur (28 C.F.R. § 31.303(f)(1)(i)).
3. Specify how the state receives, investigates, and reports complaints of instances of noncompliance with the DSO, separation, and jail removal requirements (28 C.F.R. § 31.303(f)(1)(iii)).
4. Specify how the state develops and implements plans to address barriers it faces in implementing and maintaining an adequate monitoring system (28 C.F.R. § 31.303(f)(1)(ii)).
5. Specify how the state identifies, classifies, and inspects all facilities in which a juvenile might be detained or confined pursuant to law enforcement or juvenile court authority (monitoring universe) (28 C.F.R. § 31.303(f)(1)(i)(A)-(C)).
6. Specify how the state collects and verifies data from all facilities regarding compliance with the DSO, separation, and jail removal requirements (28 C.F.R. § 31.303(f)(1)(i)(D)).

B. Monitoring Authority

States are required under 34 U.S.C. § 11133(a)(1) and (2) to designate an agency (referred to as the Designated State Agency, or the DSA) and to provide satisfactory evidence that the DSA has authority, by legislation, if necessary, to administer the Title II Formula Grants Program, including monitoring for compliance with the DSO, separation, and jail removal requirements.

Monitoring for compliance with the above requirements inherently involves monitoring facilities in the state in which a juvenile may be detained or confined pursuant to a law enforcement or juvenile court authority. Consequently, the DSA needs to have authority

² As indicated above in text, states are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

to monitor all such facilities in order to fulfill this responsibility. The DSA's authority should be sufficiently broad to permit the monitoring agency to inspect and collect data from all facilities in the monitoring universe. The basic authority should permit the DSA, or agency with the responsibility or legal authority, to inspect and review records for all secure and nonsecure facilities that might detain or confine juveniles pursuant to law enforcement or juvenile court authority and to monitor for compliance with the DSO, separation, and jail removal requirements of the JJDP.

C. Monitoring Timetable

Pursuant to 28 C.F.R. § 31.303(f)(1)(i), states must provide a timetable for annually monitoring adult jails, adult lockups, secure detention facilities, secure correctional facilities, nonsecure facilities, and other institutions (secure facilities) in which juveniles might have contact with adult inmates.

D. Addressing Complaints of Noncompliance With the Core Requirements

Under 28 C.F.R. § 31.303(f)(iii), a state's monitoring system must include any procedures to receive, investigate, and report complaints of noncompliance with the DSO, separation, and jail removal core requirements. This should include any existing legislative and administrative procedures and sanctions.

E. Compliance Monitoring System Barriers

Under 28 C.F.R. § 31.303(f)(ii), as part of an adequate system of compliance monitoring, each state must describe the barriers that the state faces in implementing and maintaining a system for monitoring and reporting compliance with the DSO, separation, and jail removal requirements. In addition, the state must describe its plans to overcome those barriers.

F. Adherence to Federal Definitions

Definitions that states use for key juvenile and criminal justice terms may differ from those provided in the JJDP at 34 U.S.C. § 11103 and those found in the Formula Grants Program Regulation at 28 C.F.R. § 31.304 (see Appendix A). In order to demonstrate compliance with the Formula Grants Program requirements under the JJDP, states must apply the definitions in the JJDP and the Formula Grants Program Regulation – and clearly indicate they are using the federal definitions.

G. Identification of the Monitoring Universe

Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(A), states must ensure that they identify and include as part of the monitoring universe all state and local facilities that might detain or confine individuals pursuant to a law enforcement or juvenile court authority, including jails, lockups, secure detention facilities, secure correctional facilities, adult prisons, court holding facilities, and nonsecure facilities. Nonsecure facilities may include law

enforcement administrative offices or community-based facilities, such as group homes, shelters, or other residential facilities. Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), states must periodically inspect these nonsecure facilities to determine whether their physical characteristics have changed (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals), such that those facilities are now secure and required to report compliance data.

H. Classification of Facilities Within the Monitoring Universe

States are required under 28 C.F.R. § 31.303(f)(1)(i)(B) to classify all facilities in the monitoring universe to determine facility type, as listed below. This information is critical to determining the applicability of the DSO, separation, and jail removal requirements in each facility. In addition, classification determines whether each facility is secure or nonsecure, residential or nonresidential and whether the population is juveniles-only, adults-only, or juveniles and adults (note that some of these categories may overlap: e.g., all or part of a jail or lockup may also meet the definition of a secure detention or correctional facility):

1. Jail or lockup for adults
2. Secure detention facility (adult)
3. Secure detention facility (juvenile)
4. Secure correctional facility (adult)
5. Secure correctional facility (juvenile)
6. Institution (secure facility in which juveniles might have contact with adult inmates, such as a court holding facility)
7. Other secure facilities
8. Nonsecure facilities

I. State Inspection of Facilities

Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. Although they are not required to do so under the JJDP or the Formula Grants Program Regulation, OJJDP strongly recommends that states strive to inspect 100 percent of all secure facilities within the monitoring universe once every 3 years.³ States must periodically inspect nonsecure facilities to determine whether their physical characteristics have changed (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals), such that those facilities are now secure and meet the definition of a jail or lockup for adults, secure detention facility, secure correctional facility, or other institution (secure facility) in which juveniles might have contact with adult inmates.

The inspection must include a review of the:

³ As indicated above in text, states are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

1. Physical accommodations to determine whether it is a secure or nonsecure facility and whether adequate sight and sound separation between juvenile and adult inmates exists.
2. Recordkeeping system to determine whether sufficient data are maintained to determine compliance with the DSO, separation, and jail removal requirements.

J. Compliance Data Collection and Verification

Pursuant to 28 C.F.R. § 31.303(f)(1)(D) and (5), states must collect and verify data from all facilities in the monitoring universe that are required to report data for the 12-month federal fiscal year (FY) reporting period to determine whether the facilities are in compliance with the applicable requirements of DSO, separation, and jail removal. OJJDP will accept and review state compliance data only for the applicable reporting period. States that are unable to report data for 100 percent of facilities must report data for at least 85 percent of facilities within the state that are required to report and must extrapolate and report, in a statistically valid manner, data for the remaining facilities.

If the facility self-reports compliance data or an agency other than the DSA collects and reports compliance data, the DSA must have a documented and traceable process to review a statistical sample of facility admissions records and booking logs to verify that the data are accurate. The data collection and verification process must be completed prior to submission of the annual compliance monitoring report.

K. Compliance Data Analysis and Reporting

Under 28 C.F.R. § 31.303(f)(5), annual compliance monitoring reports are due from the states by February 28 of each year and must cover the previous federal fiscal year, except that the OJJDP Administrator may grant an extension of the reporting deadline to March 31, for good cause, upon a state's request. The DSA must have a documented and traceable process supporting how the agency analyzes and compiles compliance information reported in annual compliance monitoring submissions.

III. Core Requirements⁴

A. Deinstitutionalization of Status Offenders

Pursuant to 34 U.S.C. § 11133(a)(11), juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult shall not be placed in secure detention facilities or secure correctional facilities. Compliance with the DSO requirement has been achieved when a state can demonstrate that no status offenders or juveniles who are not charged with an offense and who are aliens or alleged to be dependent, neglected, or abused were placed in secure detention and correctional

⁴ As noted above, this document does not discuss the DMC requirement because individual facilities are not monitored for compliance with DMC.

facilities, or when the state's DSO rate falls below the established threshold annually posted on the OJJDP website.

The following JJDP A exceptions apply to the DSO requirement:

1. Youth Handgun Safety Exception

Under 34 U.S.C. § 11133(a)(11)(A)(i), the DSO requirement does not apply to juveniles charged with or found to have committed a violation of the Youth Handgun Safety Act (18 U.S.C. § 922(x)), or a similar state law, which prohibits a minor younger than 18 to possess a handgun. Such juveniles may be placed in secure detention or secure correctional facilities without resulting in an instance of noncompliance with the DSO requirement.

2. Valid Court Order Exception

The Valid Court Order (VCO) exception at 34 U.S.C. § 11133(a)(11)(A)(ii) provides that accused or adjudicated status offenders, and juveniles found to have violated a valid court order based on their status as a juvenile, may be placed in a secure juvenile detention or correctional facility.⁵ (Note that placement of a VCO violator in a secure detention facility or a secure correctional facility that also meets the definition of an adult jail or lockup, or in which juveniles have contact with an adult inmate, may result in an instance of noncompliance with the DSO, jail removal, and/or the separation requirement.)

The term valid court order is defined at 34 U.S.C. § 11103(16) as a juvenile court judge's order given to a juvenile (a) who was brought before the court and made subject to such order and (b) who received, before the issuance of such order, the full due process rights that the U.S. Constitution guarantees to that juvenile.

To use the VCO exception, states must comply with the following procedures set forth at 34 U.S.C. § 11133(a)(23) when a status offender is taken into custody for violating a valid court order:

- a. An appropriate public agency shall be promptly notified that the juvenile is held in custody for violating a valid court order.
- b. An authorized representative of that agency shall interview within 24 hours, in person, the juvenile who is being held.
- c. Within 48 hours during which the juvenile is held:
 - The agency representative shall submit an assessment to the court that issued the order regarding the immediate needs of the juvenile.

⁵ A juvenile who has committed a violation of a court order that is not related to his status as a juvenile (i.e., an offense with which an adult may be charged, such as failure to appear) is neither a status offender nor nonoffender and the DSO requirement does not apply.

- The court shall conduct a hearing to determine whether there is reasonable cause to believe that the juvenile violated the order and the appropriate placement of the juvenile pending disposition of the alleged violation.

Should the court order that the juvenile be detained pending the disposition, OJJDP recommends that the disposition hearing be held as soon as possible, allowing reasonable time for the court to obtain additional information to make a disposition in the best interest of the status offender.⁶

To demonstrate compliance with the statutory requirements governing the VCO exception, states must have a process in place to monitor compliance with those requirements. Specifically, states must have a process in place to verify whether court orders used to place status offenders (including juveniles who violate valid court orders related to their status as a juvenile) in juvenile detention centers comply with 34 U.S.C. § 11133(a)(23).

3. Interstate Compact on Juveniles Exception

Pursuant to the DSO requirement at 34 U.S.C. § 11133(a)(11)(A)(iii), status offenders may be held in accordance with the Interstate Compact on Juveniles, as the state has enacted it. States must verify that all status offenders subject to an out-of-state placement were held pursuant to the Compact. Where the interstate placement of status offenders was not in accordance with the Compact, the state in which the juvenile is placed must report the placement as an instance of noncompliance.

4. Juveniles Held in State or Local Facilities under Federal Authority

Because the Formula Grants Program addresses juveniles in state custody within a state juvenile justice system, placement, for purposes of the DSO requirement, refers to situations in which the state (or a local government) is acting as a sovereign (or a subdivision of a sovereign), rather than as an agent of the federal government. Thus, for example, when a state has contracted with a federal agency to detain or confine a juvenile alien in a secure detention or secure correctional facility, pursuant to federal law, the state has not placed the juvenile in the facility. Rather, the state is acting as an agent of the federal government, and the juvenile has been placed pursuant to federal authority. In this instance, although detained in a state facility, the juvenile is in federal custody, and the DSO requirement does not apply.

B. Separation of Juveniles from Adult Inmates

Pursuant to 34 U.S.C. § 11133(a)(12), juveniles alleged to be or found to be delinquent, status offenders, and juveniles who are not charged with an offense and who are aliens or alleged to be dependent, neglected, or abused may not be detained or confined in any institution in which they have contact with adult inmates.

⁶ States are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

1. Transferred, Waived, or Certified Juveniles

Juveniles who have been transferred, certified, or waived to criminal court, whether accused of or found to have committed a misdemeanor or a felony, are not under the jurisdiction of the juvenile court and thus are not covered by the separation requirement.

2. Juveniles Who Reach the Age of Full Criminal Responsibility After Arrest or Adjudication

Individuals who commit an offense while still a juvenile and who have reached the age of full criminal responsibility only after arrest or adjudication are not adult inmates and need not be separated from juveniles until they have reached the state's maximum age of extended juvenile jurisdiction.

3. Programs in Which Juveniles Have Contact with Adult Inmates

Programs in which juveniles are brought into contact with adult inmates as a means of educating juveniles about life in prison and/or deterring them from delinquent or criminal behavior (such as Scared Straight or shock incarceration programs) may result in instances of noncompliance with the separation (and possibly DSO and jail removal) requirements. Whether these programs result in instances of noncompliance will depend on the specific manner in which the program operates and the circumstances of the juveniles' participation in such a program.

Instances of noncompliance with the separation requirement may only occur if a juvenile's participation in such a program is pursuant to law enforcement or juvenile court authority. In addition, for violations to occur, the juvenile must not be free to leave or withdraw from participation, even if her/his parent/guardian has not consented to, or wishes to withdraw consent for, the juvenile's participation. States are encouraged to contact OJJDP for more detailed guidance about whether a particular program is resulting—or has resulted—in instances of noncompliance.

C. Removal of Juveniles from Jails and Lockups for Adults

Pursuant to 34 U.S.C. § 11133(a)(13), no juvenile shall be detained or confined in any jail or lockup for adults, with exceptions described below. Juveniles who are accused of status offenses, juveniles who are not accused of any offense, and juveniles who have been adjudicated as delinquent may not be detained or confined for any length of time in an adult jail or lockup.

The following four exceptions apply to the jail removal requirement, as long as juveniles accused of nonstatus offenses do not have contact with adult inmates and the state has in effect a policy that requires individuals who work with both juveniles and adult inmates in collocated facilities to have been trained and certified to work with juveniles:

1. The 6-Hour Detention Exception

The jail removal requirement at 34 U.S.C. § 11133(a)(13)(A) allows the detention or confinement in an adult jail or lockup of juveniles accused⁷ of delinquent offenses (i.e., offenses that would be a criminal offense if committed by an adult), under the following circumstances:

- a. A juvenile accused of a delinquent offense may be detained for no more than 6 hours for the purposes of processing or release or while awaiting transfer to a juvenile facility. OJJDP recommends that any detention of juveniles be limited to the absolute minimum time necessary to complete these purposes,⁸ but in any case, not to exceed 6 hours.
- b. Any detention of a juvenile adjudicated as a delinquent in an adult jail or lockup is an instance of noncompliance with the jail removal requirement.

The following is noted about this exception:

A juvenile accused of a delinquent offense may be detained in an adult jail or lockup for a combined total of no more than 6 hours, so long as the juvenile does not have contact with adult inmates, and the state has in effect a policy that requires individuals who work with such juveniles and adult inmates to be trained and certified to work with juveniles. This does not allow a state to detain an accused delinquent offender in a jail or lockup for adults for more than a cumulative total of 6 hours, for instance for 3 hours before, and then for an additional 4 hours following a court appearance.

The following three exceptions allow states to detain or confine juveniles accused of nonstatus offenses in adult jails or lockups for more than 6 hours while awaiting an initial court appearance and so long as the juveniles do not have contact with adult inmates, and the state has in effect a policy that requires individuals who work with such juveniles and adult inmates to be trained and certified to work with juveniles:

2. Rural Exception

The exception found at 34 U.S.C. § 11133(a)(13)(B)(ii)(I) provides that juveniles accused of nonstatus offenses may be detained or confined in jails or lockups for adults for as long as 48 hours (excluding Saturdays, Sundays, and legal holidays) while awaiting an initial court appearance, when the jail or lockup is outside a metropolitan statistical area (as defined by the Office of Management and Budget), and the state has no existing acceptable alternative placement available.

⁷ The statutory exceptions to the jail removal requirement do not apply to juveniles who have been adjudicated as delinquent, whose detention or confinement in an adult jail or lockup will result in a jail removal violation.

⁸ States are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

Pursuant to 28 C.F.R. § 31.303(f)(4), states must have received prior approval from OJJDP to use the rural exception.

OJJDP strongly recommends that jails and lockups for adults, in which juveniles are detained or confined, provide youth-specific admissions screening and continuous visual supervision of juveniles detained or confined pursuant to this exception.⁹

3. Travel Conditions Exception

Under 34 U.S.C. § 11133(a)(13)(B)(ii)(II), states may detain a juvenile accused of a delinquent offense in an adult jail or lockup, if the facility is located where conditions of distance to be traveled or the lack of highway, road, or transportation does not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable.

4. Conditions of Safety Exception

Under 34 U.S.C. § 11133(a)(13)(B)(ii)(III), if the adult jail or lockup is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), a juvenile accused of a delinquent offense may be detained therein and his or her court appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

IV. Establishment of Compliance Standards by OJJDP

In determining the compliance standards under 28 C.F.R. § 31.303(f)(6), the distribution of each set of compliance rates (i.e., for DSO, separation, and jail removal) using the average of 2 or more years of data (removing, when appropriate and applicable, one negative outlier each for DSO, separation, and jail removal) and applying a standard deviation factor of not less than one, will be analyzed to determine its mean and standard deviations therefrom. Based on this information, a compliance rate that is not less than one standard deviation above the mean rate will be set as the compliance standard. Once established, OJJDP will post the standards (in numerical form) on its website by August 31 of each year. OJJDP will determine any state that reports a compliance rate above this compliance standard to be out of compliance.

V. Monitoring Facilities for Compliance with DSO, Separation, and Jail Removal

In order to be able to demonstrate compliance with the core requirements, states must monitor facilities in which the core requirements may be implicated, specifically those in which juveniles may be detained or confined pursuant to law enforcement or juvenile

⁹ States are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

court authority. This monitoring will ensure that facilities are accurately classified and determine their compliance with the core requirements. Applicable facility types include adult jails or lockups (as defined at 34 U.S.C. § 11103(22)), secure detention facilities (whether for juveniles or adults) (as defined at 34 U.S.C. § 11103(12)), secure correctional facilities (whether for juveniles or adults) (as defined at 34 U.S.C. § 11103(13)), institutions, and other secure or nonsecure facilities.

A. Jails and Lockups for Adults

As defined in the JJDP A at 34 U.S.C. § 11103(22), the term jail or lockup for adults means a locked facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adults pending the filing of a charge of violating a criminal law; awaiting trial on a criminal charge; or convicted of violating a criminal law. Pursuant to the JJDP A, jail removal violations may only occur in facilities that meet this definition.

States must monitor jails and lockups for adults for compliance with the jail removal core requirement, pursuant to 34 U.S.C. § 11133(a)(14). Because all jails and lockups also meet the definition of an institution (i.e., a secure facility that a law enforcement or a juvenile or criminal court authority use to detain or confine juvenile or adult inmates),¹⁰ states must monitor them for compliance with the separation requirement as well. If all or a portion of a jail or lockup meets the JJDP A definition of a secure detention or correctional facility, it must also be monitored for compliance with the DSO requirement.

Jails and lockups for adults are, by definition, secure facilities. As a result, areas of police stations or other law enforcement offices that are not secure (e.g., lobbies, conference rooms, and other administrative areas that are not within a secure perimeter and do not contain cuffing rails or fixtures) would not be included as a part of the jail or lockup and need not be monitored for compliance with jail removal. Cells, lockable interview or interrogation rooms (such that occupants may be secured within) that contain cuffing fixtures, and other areas that fall within a secure perimeter, would all be appropriately classified as a part of the jail or lockup facility. Secure areas of a single police station or other law enforcement office that are noncontiguous but operate under common administrative control may be classified as a single jail or lockup facility.

It is important to note that patrol cars or other law enforcement vehicles are not facilities and therefore would not be considered as part of an adult jail or lockup (or other facility type).

Pursuant to 34 U.S.C. § 11133(a)(14), states must monitor, collect data, and report instances of noncompliance when juveniles are detained or confined in jails and lockups for adults. This monitoring must account for all juveniles who are in the jail or lockup for adults and have been *detained or confined*—i.e., are not free to leave.

¹⁰ See 82 Fed. Reg. 4787, Footnote 4 (January 17, 2017).

States must monitor to ensure that jails and lockups for adults document, at or near the time of detention, appropriate information on all juveniles detained or confined, including date of birth, date/time in, date/time out, and most serious offense. (See 34 U.S.C. § 11133(a)(11), (12), (13), and (14), and 28 C.F.R. § 31.303(f)(1)(i)(C)(2) and (D)).

OJJDP strongly recommends states to inspect each adult jail or lockup in the monitoring universe at least once every 3 years (see section II, subsection I - “State Inspection of Facilities”).¹¹

B. Secure Detention Facilities

The term secure detention facility means any public or private residential facility that includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and are used for the temporary placement of any juvenile accused of having committed an offense or any other individual accused of having committed a criminal offense. (See 34 U.S.C. § 11103(12).) Pursuant to the JJDP, DSO violations may only occur in facilities that meet this definition or the definition of a secure correctional facility. (See 34 U.S.C. § 11103(13).)

Common examples of secure detention facilities include juvenile detention centers, jails, and residential areas (if applicable) of adult lockups. In some instances, secure mental health or substance abuse facilities may also meet this definition.

States must monitor secure detention facilities for compliance with the DSO core requirement, pursuant to 34 U.S.C. § 11133(a)(11) and (14). Because all secure detention facilities also meet the definition of an institution (i.e. a secure facility that a law enforcement or a juvenile or criminal authority uses to detain or confine juvenile or adult inmates), states must monitor them for compliance with the separation requirement as well.¹² When a secure detention facility also meets the definition of a jail or lockup for adults, the state must also monitor for compliance with the jail removal requirement.

Secure detention facilities are, under the JJDP definition, both secure and residential in nature. As a result, areas that do not fulfill both of these criteria (e.g., administrative or other buildings that operate only during regular business hours, interview/interrogation rooms with no beds, rooms with cuffing rails but no beds) would not be included as a part of a secure detention facility, and need not be monitored for compliance with the DSO requirement. However, the jail removal and separation requirements may apply.

States must monitor secure detention facilities to ensure that they document, at or near the time of detention, information on all juveniles placed therein, including date of birth,

¹¹ States are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

¹² See footnote 10.

date/time in, date/time out, and most serious offense. (See 34 U.S.C. § 11133(a)(11), (12), (13), and (14), and 28 C.F.R. § 31.303(f)(1)(i)(C)(2) and (D)).

OJJDP strongly recommends that states inspect each secure detention facility in the monitoring universe at least once every 3 years (see section II, subsection I - “State Inspection of Facilities”).¹³

C. Secure Correctional Facilities

The term secure correctional facility means any public or private residential facility that includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody and is used for the placement of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense. (See 34 U.S.C. § 11103(13).) Pursuant to the JJDP, DSO violations may only occur in facilities that meet this definition or the definition of a secure detention facility.

Common examples of secure correctional facilities include adult jails, prisons, and juvenile correctional facilities or training schools. In some instances, secure mental health or substance abuse facilities may also meet this definition.

States must monitor secure correctional facilities for compliance with the DSO core requirement, pursuant to 34 U.S.C. § 11133(a)(11). Because all secure correctional facilities also meet the definition of an institution (i.e., a secure facility that law enforcement or a juvenile or criminal court authority uses to detain or confine juvenile or adult inmates)¹⁴, states must monitor them for compliance with the separation requirement as well. When a secure correctional facility also meets the definition of a jail, the state must also monitor for compliance with the jail removal requirement.

Secure correctional facilities are, under the JJDP definition, both secure and residential in nature. As a result, facilities or areas of a facility that do not fulfill both of these criteria (e.g., nonsecure lobbies, administrative offices, or public reception areas) would not be included as a part of a secure correctional facility and need not be monitored for compliance with DSO requirement. However, the jail removal and separation requirements may apply in a secure area.

States must monitor secure correctional facilities to ensure that they document, at or near the time of detention, information on all juveniles placed therein, including date of birth, date/time in, date/time out, and originating offense. (See 34 U.S.C. § 11133(a)(11), (12), (13), and (14), and 28 C.F.R. § 31.303(f)(1)(i)(C)(2) and (D)).

¹³ States are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

¹⁴ See footnote 10.

OJJDP strongly recommends that states periodically spot check adult prisons and inspect other secure correctional facilities at least once every 3 years (see section II, subsection I - “State Inspection of Facilities”).¹⁵

D. Institutions

The term institution means a secure facility¹⁶ that law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or adults who are accused of having committed a delinquent or criminal offense, awaiting adjudication or trial for the delinquent or criminal offense, or found to have committed the delinquent or criminal offense. Pursuant to the JJDPA, separation violations may only occur in facilities that meet this definition.

This term encompasses all facility types previously identified in this section. Common examples include jails and lockups for adults, secure detention facilities (adult or juvenile), secure correctional facilities (adult or juvenile), and court holding facilities, which are described in greater detail below

States must monitor all institutions for compliance with the separation core requirement. Where institutions also meet the definition of an adult jail or lockup, states must monitor them for compliance with the jail removal requirement as well. Where institutions meet the definition of a secure detention or correctional facility (adult or juvenile), the DSO requirement also applies.

Institutions are, by definition, secure facilities. As a result, facilities or areas of a building that are not secure (e.g., most court rooms, nonsecure hallways or elevators, lobbies, administrative offices, or public reception areas) would not be classified as a part of an institution, and states need not monitor them for compliance with the separation requirement. Nonetheless, as a best practice, OJJDP strongly recommends that facilities maintain sight and sound separation between juveniles and adult inmates in nonsecure areas at all times.

E. Court Holding Facilities

The separation core requirement is implicated in court holding facilities in which juvenile detainees may have contact with adult inmates. Therefore states must monitor, and report violations in, court holding facilities. Because all court holding facilities meet the definition of an institution, states must also ensure that there is sight and sound separation between detained juveniles and adult inmates, including when the juveniles and adults are moved within a court holding facility. OJJDP recommends that this process include a review of any holding logs and any written facility policies/procedures that address separation. OJJDP strongly recommends that states

¹⁵ States are not required to follow this recommendation, and should a state choose not to, it will not in itself result in noncompliance with Formula Grants Program requirements.

¹⁶ See footnote 10.

inspect each court holding facility in the monitoring universe at least once every 3 years (see section II, subsection I - “State Inspection of Facilities”).¹⁷

The DSO and jail removal core requirements are not applicable for court holding facilities because such facilities do not meet the definition of a secure detention or secure correctional facility or the definition of a jail or lockup for adults (see above and Appendix A).

F. Other Secure Facilities

The term “other secure facilities” refers to secure facilities that do not meet the definition of “jail or lockup for adults,” “secure detention facility,” “secure correctional facility,” or an “institution.” In these “other secure facilities,” the JJDP A core requirements would not apply. Examples of other secure facilities include secure mental health and secure substance abuse treatment facilities that are used not for detention or correctional purposes, but instead to provide mental health or substance abuse treatment for juveniles, generally, including those not under court jurisdiction. These facilities do not meet the definition of a secure detention or secure correctional facility, and need not be monitored for compliance with the DSO requirement.

G. Nonsecure Facilities

For the purpose of the JJDP A, nonsecure facilities are facilities that do not meet the definition of a “secure” facility because they do not have construction fixtures designed to securely detain individuals (e.g., locked cells or rooms that may be locked from the outside to securely confine a person therein, cuffing benches, rails, or bolts, or other construction fixtures to physically restrict the movements of individuals). (See 28 C.F.R. § 31.304(b) for the definition of a “secure” facility.) The following are examples of nonsecure facilities:

1. Nonsecure Law Enforcement Facilities

The term nonsecure law enforcement facilities refers to facilities, such as police administrative offices, that are administered by a law enforcement entity but do not have cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals. The nonsecure portions of a police station or other law enforcement building that include an adult jail or lockup would also be classified as a nonsecure law enforcement facility. Because nonsecure law enforcement facilities do not meet the definition of a secure detention or secure correctional facility, an institution, or a jail or lockup for adults, the DSO, separation, and jail removal requirements do not apply.

¹⁷ States are not required to follow this recommendation and should a state choose not to, it will not in itself result in the state’s noncompliance with Formula Grants Program requirements.

Nonsecure facilities in which juveniles may be detained or confined pursuant to law enforcement or juvenile court authority must be included in the monitoring universe and periodically spot checked to verify the facility's continued nonsecure status. In the event that such a facility becomes secure (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals), the facility must be reclassified and monitored as an adult jail or lockup, institution, and/or secure detention or correctional facility, as applicable.

2. Community-Based Facilities

The term community-based facilities refers to nonsecure group homes, shelters, or other residential facilities¹⁸ in which juveniles may be placed pursuant to law enforcement or juvenile court authority. Because nonsecure community-based facilities do not meet the definition of a secure detention/correctional facility or institution and are not jails or lockups for adults, the core requirements do not apply. Nonsecure community-based facilities are, therefore, exempt for the purpose of reporting data for compliance with the DSO, separation, and jail removal requirements.

Pursuant to the monitoring requirement at 34 U.S.C. § 11133(a)(14), however, states must include nonsecure facilities that could detain juveniles pursuant to law enforcement or juvenile court authority in the monitoring universe and periodically spot-check them to verify the facility's continued nonsecure status. If the facility's status changes and it becomes secure (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals), the state must reclassify the facility and monitor it as a secure detention or secure correctional facility, institution, and/or a jail/lockup for adults, as applicable.

H. Tribal Facilities

Where a Native American tribe exercises jurisdiction over juvenile offenders through an established tribal court and operates correctional institutions for juvenile and adult offenders and these activities are not subject to state law (i.e., the functions are performed under the sovereign authority of the tribal entity), the state cannot mandate tribal compliance with the core requirements. Therefore, facilities that tribes operate pursuant to tribal jurisdiction are not required to be included in the monitoring universe.

I. Federal Facilities

Because the core requirements apply to juveniles in state custody within a state juvenile justice system, placement, for purposes of the DSO requirement, refers to situations in which the state (or a local government) is acting as a sovereign (or a subdivision of a sovereign), rather than as an agent of the federal government. For

¹⁸ See 34 U.S.C. § 11103(1).

example, when a state has contracted with a federal agency to hold a juvenile alien in a secure detention or secure correctional facility, *pursuant to federal law*, the state has not placed the juvenile in such a facility. Rather, the state is acting as an agent of the federal government, and the juvenile has been placed pursuant to federal authority. In this instance, although detained in a state facility, the juvenile is in federal custody, and the DSO requirement does not apply.

VI. Compliance Monitoring Report Requirements

A. Compliance Plans

Pursuant to 34 U.S.C. § 11133(a)(14) and 28 C.F.R. § 31.303(f), states must annually submit a compliance monitoring plan as part of their Title II Formula Grants Program application, which must describe the state's plan, procedures, and timetable for annually monitoring jails, lockups, secure detention facilities, secure correctional facilities, court holding facilities, and nonsecure facilities. Pursuant to 28 C.F.R. § 31.303(f)(1), in its annual compliance monitoring plan, each state must describe its process for the following monitoring tasks:

1. Identification of the monitoring universe.
2. Classification of the monitoring universe.
3. Inspection of facilities.
4. Data collection and data verification.

In addition, in its annual compliance monitoring plan, each state must describe:

1. Any barriers the state faces in implementing and maintaining a monitoring system to report the level of compliance with the DSO, separation, and jail removal requirements.
2. Any legislative and administrative procedures established for receiving, investigating, and reporting complaints of instances of noncompliance with the DSO, separation, and jail removal requirements.

B. Compliance Data and Supporting Documentation

States must annually submit all compliance materials for OJJDP to determine the state's compliance with the DSO, separation, and jail removal requirements through OJJDP's Compliance Reporting System. OJJDP makes available to states a system for submitting their data that allows OJJDP to make determinations of their compliance with DSO, separation, and jail removal. (See the Title II Formula Grants Program solicitation for the required compliance data and supporting documentation for the relevant fiscal year.)

States that are unable to report on 100 percent of their facilities that are required to report data must provide data for at least 85 percent of their facilities and extrapolate and report, in a statistically valid manner, data for the remaining facilities, pursuant to 28 C.F.R. § 31.303(f)(5). A state that fails to comply with this requirement will be

presumed to have an inadequate system of monitoring, thereby failing to comply with 34 U.S.C. § 11133(a)(14) and thus ineligible for a formula grant award.

C. Reporting Periods and Due Dates for Submission

Pursuant to 28 C.F.R. § 31.303(f)(5), states must submit their annual compliance monitoring data by February 28, and the submission must cover the previous federal fiscal year. OJJDP will accept and review data to demonstrate compliance only from the applicable reporting period.

D. Certification of Compliance Plans and Compliance Data

The state bears the burden of ensuring that its submitted compliance data and supporting materials are complete and fully address the requirements for OJJDP compliance determinations. As part of its state plan, the state certifies that the information submitted to OJJDP for compliance determination purposes is valid and accurate. This certification is done as part of the electronic submission through OJJDP's Compliance Reporting System. The head of the DSA authorized to apply for Title II Formula Grants funds completes the submission and certification.

VII. OJJDP Annual Compliance Determination Assessment

Using compliance monitoring information and data that the state submits by February 28 of each year as part of its Title II Formula Grants Program application, OJJDP will determine whether the state has provided for an adequate system of monitoring, as described in its application and whether it is in compliance with each of the four core requirements. The comprehensive assessment will include (1) a review to assess the adequacy of internal controls over the state's compliance monitoring process for collecting and reporting compliance monitoring data and (2) verification and analysis of the data that the state submits to evaluate compliance with DSO, separation, and jail removal requirements. Based on a review of the state's compliance data and other supporting compliance monitoring information, the OJJDP Administrator will issue a compliance determination, including details regarding why OJJDP determined the state did not provide for an adequate system of monitoring or why OJJDP determined the state was out of compliance with any of the four core requirements.

	Due Date
Reporting Period	Federal fiscal year October 1 – September 30
Compliance Monitoring Report Due	February 28 of the following federal fiscal year (March 31, if an extension has been granted)
State Appeals Due	Within 30 calendar days of receipt of compliance determination
Projected Title II Award Date	No later than September 30

A. Determinations of Adequacy of System of Monitoring

Pursuant to 34 U.S.C. § 11133(a)(14), states must provide for an adequate system of monitoring jails and lockups for adults, secure detention facilities, secure correctional facilities (including adult prisons), and other institutions (secure facilities) in which juveniles are or may be detained, such that they have contact with adult inmates, (including court holding facilities), to ensure compliance with the DSO, separation, and jail removal requirements. Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), states must periodically inspect nonsecure facilities to ensure that they have not become secure (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals). See section II of this document for a discussion of the standards that OJJDP will use to determine the adequacy of a state's monitoring system.

B. Determinations of Noncompliance with the Core Requirements

As required by 34 U.S.C. § 11133(c)(1), OJJDP will reduce a state's Formula Grants funding by 20 percent for each core requirement with which OJJDP has determined the state to be out of compliance. In addition, pursuant to 34 U.S.C. § 11133(c)(2), a state subject to any such reduction is ineligible to receive *any* of its remaining formula grant award unless the state meets one of the following two conditions:

1. The state agrees in writing to submit a separate plan and budget as a condition of its award and to expend 50 percent of its remaining formula award for that fiscal year to achieve compliance with any core requirement with which it was found to be out of compliance, or
2. By the time of its grant award, the OJJDP Administrator grants a waiver after determining that the state has both:
 - a. Achieved substantial compliance with all core requirements with which it was found to be out of compliance.
 - b. Made, within a reasonable time and through appropriate executive or legislative action, an unequivocal commitment to achieve full compliance with the core requirements with which it was found to be out of compliance.

The waiver request must be in writing and documentation that addresses the two criteria noted above in paragraph 2 must support the request.

C. State Appeals of Denials, Terminations, or Reductions of Funding

Pursuant to 28 C.F.R. Part 18, a state that has been notified by OJJDP that (1) it has not provided for an adequate system of monitoring and is therefore ineligible for a Formula Grants award, or (2) it is out of compliance with one or more of the core requirements such that its Formula Grants funding will be reduced, may appeal the denial, termination, or reduction of funding to OJP's Office of the General Counsel,

OGC_OJP@ojp.usdoj.gov. The appeal request must be filed consistent with 28 C.F.R. § 18.5(c) within 30 calendar days of receipt of notification of the noncompliance determination, the termination, or denial of funding.

APPENDIX A

Definitions¹⁹

Adult inmate means an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense.

Collocated facilities means facilities that are located in the same building or are part of a related complex of buildings located on the same grounds.

Community-based facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service that maintain community and consumer participation in the planning, operation, and evaluation of their programs, which may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

Contact under 28 C.F.R. § 31.303(d)(1)(i), as in effect on December 10, 1996, means the degree of interaction allowed between juvenile offenders in secure custody and incarcerated adults. As per the aforementioned, the term contact is defined to include any physical or sustained sight and sound contact between juveniles in secure custody and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

Court holding facility means a secure facility other than an adult jail or lockup used to temporarily detain persons immediately before or after detention hearings or other court proceedings.

Criminal-type offender means a juvenile offender who has been charged who or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime, if committed by an adult.

Detain or confine means to hold, keep, or restrain a person such that he or she is not free to leave or that a reasonable person would believe that he is not free to leave. The exception is a juvenile that law enforcement holds solely to return him to his parent or guardian or pending his transfer to the custody of a child welfare or social service agency. In this case, the youth is not detained or confined within the meaning of this definition.

Facility means a place, institution, building or part thereof, set of buildings, or an area whether or not enclosing a building or set of buildings that is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public or private agencies.

¹⁹ Definitions may be found at 34 U.S.C. § 11103 or 28 C.F.R. § 31.304.

Institution means a secure facility that law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or adults (1) accused of having committed a delinquent or criminal offense, (2) awaiting adjudication or trial for the delinquent or criminal offense, or (3) found to have committed the delinquent or criminal offense.

Jail or lockup for adults means a locked facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adults (1) pending the filing of a charge of violating a criminal law, (2) awaiting trial on a criminal charge, or (3) convicted of violating a criminal law.

Juvenile offender means an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by state law, i.e., a criminal-type offender or a status offender.

Lawful Custody means the exercise of care, supervision, and control over a juvenile offender or nonoffender pursuant to the provisions of the law or a judicial order or decree.

Maximum age of extended juvenile court jurisdiction means the age above which a juvenile court may no longer exercise jurisdiction under state law.

Monitoring universe means all public and private facilities in which law enforcement or criminal or juvenile court authority detain juveniles and/or adult inmates.

Placed or placement refers to what has occurred:

1. When a juvenile charged with a status offense:
 - a. Is detained or confined in a secure correctional facility for juveniles or a secure detention facility for juveniles;
 - (1) For 24 hours or more before an initial court appearance;
 - (2) For 24 hours or more following an initial court appearance; or
 - (3) For 24 hours or more for investigative purposes or identification;
 - b. Is detained or confined in a secure correctional facility for adults or a secure detention facility for adults or with respect to any situations not described in paragraph (1) or (2) of this definition, is detained or confined pursuant to a formal custodial arrangement that a court has ordered or other entity authorized by state law to make such an arrangement; or
2. When a juvenile who is not charged with any offense, and who is an alien or alleged to be dependent, neglected, or abused, is detained or confined in a secure correctional facility for juveniles or adults or a secure detention facility for juveniles or adults.

Related complex of buildings means two or more buildings that share (1) physical features, such as walls and fences or services beyond mechanical services (heating, air conditioning, water and sewer or (2) specialized services, such as medical care, food service, laundry, maintenance, and engineering.

Residential means equipped with beds, cots, or other sleeping quarters and has the capacity to provide for overnight accommodations for juveniles or adults who are accused of committing or who have committed an offense.

Secure, as used to define a detention or correctional facility, includes residential facilities that include construction features to physically restrict the movements and activities of persons in custody, such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

Secure correctional facility means any public or private residential facility that (1) includes construction fixtures to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility and (2) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.

Secure detention facility means any public or private residential facility that (1) includes construction fixtures to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and (2) is used for the temporary placement of any juvenile who is accused of having committed an offense or any other individual accused of having committed a criminal offense.

State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Status offender means a juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

Twenty-four hours means a consecutive 24-hour period, exclusive of any hours on Saturdays, Sundays, public holidays, or days on which the courts in a jurisdiction otherwise are closed.

Valid court order means a court order that a juvenile court judge gives to a juvenile who was brought before the court and made subject to the order and who received, before the issuance of the order, the full due process rights that the U.S. Constitution guarantees to the juvenile.

APPENDIX B

Summary of the JJDP A: Jails and Lockups for Adults²⁰	
<p>Accused status offender, adjudicated status offender, or juvenile who is not charged with an offense and who is an alien or alleged to be dependent, neglected, or abused</p>	<p>Detention or confinement would result in an instance of noncompliance with the jail removal requirement.</p> <p>Detention or confinement such that the juvenile has contact with an adult inmate would result in an instance of noncompliance with the separation requirement.</p> <p>In adult jails or lockups that also meet the definition of a secure detention or correctional facility, placement of a status offender or juvenile who is not charged with an offense and who is an alien or alleged to be dependent, neglected, or abused for any length of time would result in an instance of noncompliance with the DSO requirement.</p>
<p>Juveniles accused of nonstatus (delinquent) offenses</p>	<p>Detention or confinement is limited to a cumulative total of 6 hours for processing or release, while awaiting transfer to a juvenile facility or during which the juvenile makes a court appearance.</p> <p>Juveniles accused of nonstatus (delinquent) offenses may also be detained or confined pursuant to the rural exception, the travel conditions exception, or the conditions of safety exception found at 34 U.S.C. § 11133(a)(13)(B).</p> <p>Juveniles must be sight and sound separated from adult inmates, so as not to incur a separation violation. In addition, the state must have a policy in effect that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, have been trained and certified to work with juveniles. 34 U.S.C. § 11133(a)(12).</p>
<p>Adjudicated juvenile delinquents</p>	<p>Detention or confinement results in an instance of noncompliance with the jail removal requirement.</p>
<p>Juvenile transferred to criminal court and charged with or convicted of a misdemeanor or a felony</p>	<p>The DSO, separation, and jail removal core requirements do not apply.</p>

²⁰ See 34 U.S.C. §§ 11103(22) and 11133(a)(13).

**Summary of the JJDP: Secure Juvenile Detention
or Correctional Facilities^{21, 22}**

Juveniles who are not charged with an offense and who are aliens or alleged to be dependent, neglected, or abused	Placement results in an instance of noncompliance with the DSO requirement.
Accused status offender	Placement results in an instance of noncompliance with the DSO requirement, unless one of the exceptions at 34 U.S.C. § 11133(a)(11)(A) applies. If none of the exceptions apply, accused status offenders may be detained or confined for not more than 24 hours (excluding public holidays, weekends, or days on which the courts in a jurisdiction are otherwise closed): (1) before an initial court appearance, (2) following an initial court appearance, or (3) for investigative purposes or identification.
Adjudicated status offenders	Placement results in an instance of noncompliance with the DSO requirement unless one of the exceptions at 34 U.S.C. § 11133(a)(11)(A) applies. If none of the exceptions apply, adjudicated status offenders may be detained or confined for 24 hours or less (excluding public holidays, weekends, or days on which the courts in a jurisdiction are otherwise closed) following an initial court appearance.
Status offender accused of violating a valid court order	Pursuant to 34 U.S.C. § 11133(a)(23), accused status offenders charged with violating a valid court order must be interviewed by an appropriate public agency within 24 hours of being placed in a secure detention or correctional facility. The court must receive an assessment from the public agency and the juvenile must have a reasonable cause hearing within 48 hours (excluding weekends and holidays). If these requirements are not met, placement results in an instance of noncompliance with the DSO requirement.
Status offender adjudicated as having violated a valid court order	As long as the requirements of 34 U.S.C. § 11133(a)(23) were met, placement does not result in an instance of noncompliance with the DSO requirement.
Accused or adjudicated juvenile delinquent	The DSO requirement does not apply.
Juvenile transferred to criminal court and charged with or convicted of a misdemeanor or a felony	The DSO, separation, and jail removal core requirements do not apply.

²¹ See 34 U.S.C. § 11103(12) and (13), and 34 U.S.C. § 11133(a)(11), (12), and (13).

²² Juveniles must be sight and sound separated from adult inmates, so as not to incur a separation violation. In addition, the state must have a policy in effect that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, be trained and certified to work with juveniles.

**Summary of the JJDP A: Secure Adult Detention
or Correctional Facilities^{23, 24}**

Juveniles who are not charged with an offense and who are aliens or alleged to be dependent, neglected, or abused	<p>Placement results in an instance of noncompliance with the DSO requirement and with the separation requirement, if the juvenile has contact with an adult inmate.</p> <p>If the facility also meets the definition of a jail or lockup for adults, detention also results in an instance of noncompliance with the jail removal requirement.</p>
Accused status offender	<p>Placement results in an instance of noncompliance with the DSO requirement and with the separation requirement, if the juvenile has contact with an adult inmate.</p> <p>If the facility also meets the definition of a jail or lockup for adults, detention also results in an instance of noncompliance with the jail removal requirement.</p>
Adjudicated status offender	<p>Placement results in an instance of noncompliance with the DSO requirement and with the separation requirement, if the juvenile has contact with an adult inmate.</p> <p>If the facility also meets the definition of a jail or lockup for adults, detention also results in an instance of noncompliance with the jail removal requirement.</p>
Status offender accused of violating or adjudicated as having violated a valid court order	<p>Placement results in an instance of noncompliance with the DSO requirement and with the separation requirement, if the juvenile has contact with an adult inmate.</p> <p>If the facility also meets the definition of a jail or lockup for adults, detention also results in an instance of noncompliance with the jail removal requirement.</p> <p>It is important to note that the VCO exception applies only in secure juvenile detention and secure juvenile correctional facilities and if the statutory requirements are met, pursuant to 34 U.S.C. §11133(a)(23).</p>
Accused juvenile delinquent	<p>Detention or confinement results in an instance of noncompliance with the jail removal requirement, if the facility also meets the definition of a jail or lockup for adults, and if the juvenile is not detained pursuant to the exceptions at 34 U.S.C. § 11133(a)(13)(B).</p> <p>If the accused delinquent offender has contact with an adult inmate, this would result in an instance of noncompliance with the separation requirement.</p>
Adjudicated juvenile delinquent	<p>Detention or confinement results in an instance of noncompliance with the jail removal requirement if the facility also meets the definition of a jail or lockup for adults.</p> <p>If the adjudicated delinquent offender has contact with an adult inmate, this would result in an instance of noncompliance with the separation requirement.</p>
Juvenile transferred to criminal court and charged with or convicted of a misdemeanor or a felony	The DSO, separation, and jail removal core requirements do not apply.

²³ See 34 U.S.C. § 11103(12) and (13), and 34 U.S.C. § 11133(a)(11), (12), and (13).

²⁴ Juveniles must be sight and sound separated from adult inmates so as not to incur a separation violation. In addition, the state must have a policy in effect that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, be trained and certified to work with juveniles. 34 U.S.C. § 11133(a)(12)(B) and (13)(A).

Summary of the JJDP: Other Facilities			
	Shelter, Group Home, Nonsecure Law Enforcement Facility, or Other Nonsecure or Staff Secure Facility	Court Holding Facility	Secure Mental Health Facility
Juveniles accused of or adjudicated as having committed a status offense	DSO, separation, and jail removal requirements do not apply in a nonsecure facility.	Juveniles must be sight and sound separated from adult inmates.	Status offenders may not be placed in a secure mental health facility that meets the definition of a secure detention or secure correctional facility (unless it is pursuant to one of the exceptions at 34 U.S.C. § 11133(a)(11)(B)). In a facility meeting one of these definitions, juveniles must be sight and sound separated from adult inmates.
Status offender accused of or adjudicated as having committed a violation of a valid court order	DSO, separation, and jail removal requirements do not apply in a nonsecure facility.	Juveniles must be sight and sound separated from adult inmates.	Status offenders may not be placed in a secure mental health facility that meets the definition of a secure detention or secure correctional facility. In a facility meeting one of these definitions, juveniles must be sight and sound separated from adult inmates.
Accused or adjudicated juvenile delinquent	DSO, separation, and jail removal requirements do not apply in a nonsecure facility.	Juveniles must be sight and sound separated from adult inmates.	Juveniles must be sight and sound separated from adult inmates.
Juvenile transferred to criminal court and charged with or convicted of a misdemeanor or a felony	The DSO, separation and jail removal requirements do not apply.	The core requirements do not apply.	The DSO, separation, and jail removal requirements do not apply.

APPENDIX C

Applicability of DSO, Separation, and Jail Removal Requirements²⁵

	WHO	WHAT	WHERE	EXCEPTIONS/EXCLUSIONS
<p>DSO</p> <p>34 U.S.C. § 11133(a)(11)</p>	<p>STATUS OFFENDERS</p> <p>JUVENILES WHO ARE NOT CHARGED WITH AN OFFENSE</p> <p>and who are aliens or are alleged to be dependent, neglected, or abused</p>	<p>shall not be PLACED</p>	<p>in a SECURE DETENTION FACILITY or a SECURE CORRECTIONAL FACILITY</p> <p>(Some jails and lockups also meet the JJDPa definition of a secure detention facility or a secure correctional facility at 34 U.S.C. § 11103(12) and (13), and must be monitored for instances of noncompliance with the DSO requirement.)</p>	<ul style="list-style-type: none"> • Juveniles charged with or who have committed a violation of the Youth Handgun Safety Act (18 U.S.C. § 922(x)(2)) • Juveniles charged with or who have committed a violation of a valid court order. • Juveniles held in accordance with the Interstate Compact on Juveniles <p><i>See</i> 34 U.S.C. § 11133(a)(11)(A).</p>
<p>SEPARATION</p> <p>34 U.S.C. § 11133(a)(12)</p>	<p>DELINQUENT OFFENDERS</p> <p>STATUS OFFENDERS</p> <p>JUVENILES WHO ARE NOT CHARGED WITH AN OFFENSE</p> <p>and who are aliens or are alleged to be dependent, neglected, or abused</p>	<p>shall not be DETAINED OR CONFINED</p>	<p>in any INSTITUTION in which they have CONTACT with ADULT INMATES</p>	<p>N/A</p>

²⁵ The core requirements apply only to individuals under juvenile court jurisdiction.

<p>JAIL REMOVAL</p> <p>34 U.S.C. § 11133(a)(13)</p>	<p>JUVENILES</p>	<p>shall not be DETAINED OR CONFINED</p>	<p>in a JAIL OR LOCKUP FOR ADULTS (Secure detention and secure correctional facilities that meet the JJDPa definition of a jail or lockup for adults must also be monitored for instances of noncompliance with the jail removal requirement.)</p>	<p>Juveniles accused of nonstatus (delinquent) offenses detained or confined for a limited time pursuant to:</p> <ul style="list-style-type: none"> • “6-hour” exception • “Rural” exception • “Travel conditions” exception • “Conditions of safety” exception <p><i>See 34 U.S.C. § 11133(a)(13)(A) and (B).</i></p>
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